

5101:2-53-08

Placement preference of Indian children.

(A) The placement preference requirements shall be in accordance with the Indian Child Welfare Act (ICWA) (1978), based on the prevailing social and cultural standards:

- (1) In which the parent or extended family resides; or
- (2) With which the parent or extended family members maintain social and cultural ties.

(B) When an Indian child must be removed from his or her home and placed into substitute care (nonadoptive), the public children services agency (PCSA) or private child placing agency (PCPA) shall:

- (1) Select the least restrictive setting, in a most family like setting to meet the child's needs.
- (2) Place within reasonable proximity to his or her home, taking into account any special needs of the child.

(C) In any substitute or preadoptive placement consideration, the agency shall consider placement preference to the following in order from least restrictive to most restrictive:

- (1) A member of the Indian child's extended family.
- (2) A foster home licensed, approved, or specified by the Indian child's tribe.
- (3) An Indian foster home certified by the Ohio department of job and family services (ODJFS) or another state agency with such authority.
- (4) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(D) When the Indian child's tribe establishes a different order of preference by resolution for a substitute care placement (nonadoptive) or an adoptive placement, the agency or court effecting the placement shall abide by the tribe's order so long as:

- (1) The placement is the least restrictive setting appropriate to the particular needs of the child.
- (2) Where appropriate, in a voluntary placement agreement only, the preference of the Indian child or parent shall be considered. If a consenting parent evidences a desire for anonymity, the court shall give weight to such desire in applying the preferences.

(E) In any adoptive placement of an Indian child, a placement preference shall be given, to the following:

(1) A member of the child's extended family.

(2) Other members of the Indian child's tribe.

(3) Other Indian families.

(F) If the agency believes that there is good cause not to abide by the order of placement preference, then its findings shall be based on one or more of the following considerations:

(1) The request of the biological parents or, when age-appropriate, by the Indian child.

(2) The extraordinary physical or emotional needs of the child as determined by a qualified expert witness.

(3) The unavailability of preferred families after a diligent search for such families has been conducted.

(G) The burden of establishing the existence of good cause not to follow the order of placement preference is the responsibility of the agency, if the agency's decision is that the placement preference not be followed.

Replaces: 5101:2-42-56
Effective: 04/20/2008
R.C. 119.032 review dates: 02/01/2013

CERTIFIED ELECTRONICALLY

Certification

03/10/2008

Date

Promulgated Under: 119.03
Statutory Authority: 5103.03, 5153.16
Rule Amplifies: 5103.03, 5153.16
Prior Effective Dates: 3/20/87