

5101:2-53-09

Procedures for the transfer of Indian children to a tribal Title IV-E agency or an Indian tribe with a Title IV-E agreement.

(A) An Indian tribe may request transfer of jurisdiction from a county court to a tribal court at any point throughout the life of the case. In order to ensure a Title IV-E eligible child remains eligible when transferring jurisdiction to a tribal court, the tribe must be a tribal Title IV-E agency or enter into a Title IV-E agreement with the public children services agency (PCSA). The tribe may request:

- (1) Transfer of jurisdiction to a tribal court. If the jurisdiction is transferred to the tribal court, the tribe assumes transfer of placement and care responsibility.
- (2) Transfer of placement and care responsibility to a tribe. The tribe may assume placement and care responsibility of an Indian child, while the jurisdiction remains with the county court.

(B) Upon a tribe's request for the transfer of jurisdiction or the transfer of placement and care responsibility to the tribe, the PCSA shall consult, collaborate, and coordinate with the tribe to establish a Title IV-E agreement and procedures to ensure the transfer of jurisdiction is in compliance with federal regulations as outlined in 45 C.F.R. 1356.67 (2012).

(C) The PCSA that has placement and care responsibilities for the child shall:

- (1) Determine foster care maintenance eligibility at the time of transfer, if an eligibility determination is not already completed.
- (2) Provide a copy of the Title IV-E determination and supporting documentation to the tribe to support the Title IV-E determination. This documentation includes:
 - (a) All judicial determinations to the effect that continuation in the home from which the child was removed would be contrary to the welfare of the child in accordance with rule 5101:2-47-13 of the Administrative Code;
 - (b) Reasonable efforts that have been made to prevent the removal in accordance with rule 5101:2-47-22 of the Administrative Code;
 - (c) Documentation of how the child met the relatedness to the aid to dependent children (ADC) program authorized under Title IV-A of the Social Security Act as of July 16, 1996 in accordance with rule 5101:2-47-14 of the Administrative Code.

(D) In order to facilitate consistency in the structure of the file transfer and for purposes of the continuity of eligibility and services to the child, the PCSA shall ensure the records are organized and include the following:

- (1) A file stamped copy of all judicial orders and court reports for the foster care

episode, especially those orders that include judicial determinations supporting continued Title IV-E eligibility.

(2) A copy of the child's placement history for the foster care episode, which shall include:

(a) A copy of the initial complaint;

(b) A copy of the caregiver's license or approval for the child's most recent placement, including background check documentation verifying clearances for all adults in the caregiver's household; and

(c) If a child is currently placed out-of-state by the PCSA pursuant to the Interstate Compact on the Placement of Children (ICPC), the approved JFS 01661 "Interstate Compact Placement Request (ICPC 100A)" (rev. 6/2009) and JFS 01662 "Interstate Compact Report on Child's Placement Status (ICPC 100B)" (rev. 6/2009), or equivalent forms, including copies of reports by the supervising agency.

(3) Journalized copies of all case plans including case plan goals for the foster care episode and documentation of services provided to the child and family.

(4) A current copy of the child's health and education forms.

(5) Other federal benefit documentation including information about the child's eligibility for medicaid, child support, social security, supplemental security income (SSI), or other benefits, which are known to the PCSA and/or are in pending status.

(E) When a child is placed under the ICPC, upon receipt of the petition to transfer, the PCSA shall notify the receiving state that the jurisdiction over the child may be transferred to a Title IV-E tribe or tribal agency. PCSAs are encouraged to initiate and foster communication between the tribe or tribal agency and the receiving state in order to avoid disruption of the placement and/or federal eligibility for foster care maintenance payments to the child's caregivers.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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