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Ohio Administrative Code

Rule 5180:2-53-07 Permanent surrender or parental consent to adoptive placement of Indian children.

Effective: March 15, 2023

(A) A public children services agency (PCSA) or private child placing agency (PCPA) may accept a permanent surrender of an Indian child by a parent or Indian custodian. The surrender shall be executed on a JFS 01666 "Permanent Surrender of Child" and recorded before a juvenile court, or a tribal court if jurisdiction has been transferred there.

(B) The agency shall act in accordance with the permanent surrender requirements set forth in rule 5101:2-42-09 of the Administrative Code with the exception that a permanent surrender for an Indian child cannot be executed until at least ten days after his or her birth.

(C) The agency shall provide notification of all juvenile court proceedings affecting their tribal member to the tribe's designated agent or tribal court even if the tribe has declined to be involved. The tribe retains the right to participate as an interested party or to intervene at any point in the proceedings.

(D) The agency shall recognize and adhere to the following rights of parents of Indian children relative to the withdrawal of permanent surrender or parental consent to adoptive placements:

(1) A parent or Indian custodian may withdraw a permanent surrender or consent to adoption for any reason, at any time prior to the entry of the final decree of adoption. To withdraw the permanent surrender or consent, the parent or Indian custodian must file a written document with the court or otherwise testify before the court. Upon such withdrawal, the Indian child shall be returned to his or her parent or Indian custodian as soon as practicable.

(2) Within two years after the entry of a final decree of adoption, the parent or Indian custodian may withdraw consent to adoption if the parent or Indian custodian can prove parental consent was obtained through fraud or duress. Upon court order to vacate the final decree of adoption, the Indian child shall be returned to the parent or Indian custodian.

(E) If the agency has reason to believe that the parent or Indian custodian will not understand the permanent surrender because of possible limited English proficiency, a copy of the JFS 01666 form shall be sent to the bureau of Indian affairs (BIA) area office nearest to the residence of that person, and a request shall be made of BIA to arrange for translation in the language that the parent or Indian custodian best understands.

(F) Upon application by an Indian who has reached age eighteen who was the subject of an adoptive placement, the agency that facilitated the adoption shall inform the individual of the tribal affiliations, if any, of the individuals' biological parents and provide such other information necessary to protect any rights, which may include tribal membership, resulting from the individual's tribal relationship.