INDIAN CHILD WELFARE POLICIES AND PROCEDURES

6. Voluntary Placements Agreements

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Approved by: Frank Ordway, Chief of Staff

Purpose

The purpose of this policy is to provide guidance on Voluntary Placement Agreements (VPAs) offered to parents or Indian custodians to voluntarily place children in out-of-home care and there is reason to know they are or may be Indian children whom are at least ten calendar days old.

Scope

This policy applies to caseworkers.

Laws

RCW 13.34.245	Voluntary consent to foster care placement for Indian children-Validation-Withdrawal of consent-Termination
Chapter 13.38 RCW	Indian Child Welfare Act
25 USC § 1901-1923	Indian Child Welfare Act

Policy

When using VPAs for parents or Indian custodians to voluntarily place their children in out-of-home placement and there is reason to know children are or may be Indian children, caseworkers must complete VPAs to place children in out-of-home care and:

1. Make efforts to coordinate with any known tribes with whom the children are or may be affiliated.
2. Complete VPAs in court before judicial officers.

Procedure

When VPAs are used with parents or Indian custodians to voluntarily place their children in out-of-home placement and there is reason to know they are or may be Indian children, caseworkers must:

1. When considering VPAs:
    a. Follow applicable policies, including but not limited to:
        i. Child Welfare Kinship Care: Searching for, Placing with, and Supporting Relatives and Other Suitable Persons
        ii. Tribal Inquiry
    b. Determine if the children are:
        i. Wards of a tribal court. If they are:
            A. Wards of a tribal court, immediately contact known tribes and the assistant attorney general (AAG) to verify the Department of Children,

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Youth, and Families (DCYF) has the authority to enter into a VPA with the parents or Indian custodians.

B. Not wards of a tribal court, follow this policy.

ii. At least ten calendar days old. If they are:

A. Follow this policy.

B. Not, a VPA is not allowed.

c. If DCYF has authority to enter into a VPA, collaborate with known tribes by:

i. Contacting tribes, the children are or may be affiliated with by phone, email, or fax to determine if a VPA is appropriate. For:

A. Known Washington State Tribes, use the Washington State Tribes Intake and After-Hours Field Response Contact Information.

B. Known Out-of-state tribes, contact the designated service agent for Indian Child Welfare Act (ICWA) and the tribe's social service department or the Office of Tribal Relations, if this information cannot be located.

ii. Completing the following if tribes:

A. Do not respond or support the VPAs:

I. Document the attempts to contact known tribes and their position.

II. Consult with their supervisor before proceeding with VPAs.

B. Respond after VPAs have been entered:

I. Discuss with known tribes and their supervisor the tribes' placement preference and other necessary services for the families and adjust as necessary.

II. Verify known tribes are invited to participate in Family Team Decision Making Meetings, if held.

iii. Continuing outreach efforts and following the Active Efforts and Tribal Collaboration policy throughout the life of the case.

d. Inform the parents, Indian custodians, or custodians that known tribes have been or will be contacted regarding the VPAs.

2. When completing VPAs:

a. Use the Consent to Foster Care Placement by Indian Child's Parent or Indian Custodian (CON) Washington Courts JU 03.0920 form.

b. Inform the parents or Indian custodians:

i. Of their rights to have their children returned to their custody within a reasonable time after DCYF receives their written request unless either of the following occurs:

A. A court order authorizing out-of-home placement is entered.

B. The children have been placed in protective custody by law enforcement.

ii. That VPAs end automatically if the children run away from placement.

iii. DCYF:

A. Reserves the right to file dependency petitions regarding the children if the issues which resulted in the VPAs have not been resolved.

B. Ends VPAs if another parent is identified and determined fit to parent and able to accept physical custody of the children and safety threats either do not exist or can be mitigated in the home through safety plans.

c. Follow the placement preferences as outlined in the Placement Preferences policy.

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d. Coordinate with the AAGs to complete and file petitions for the court to approve Consent to Foster Care Placement by Indian Child's Parent or Indian Custodian forms. The petition must include:
    i. The names, dates of birth, and residences of the children.
    ii. The names and residences of the consenting parents or Indian custodians.
    iii. The names and locations of the tribes in which the children are or may be eligible for membership.
    iv. Whether the Placement Preferences policy is being followed.
    v. The position of the tribes, if known.
    vi. The reasonable attempts made to learn the identities, locations, and custodial statuses of parents or Indian custodians who were not offered a VPA or why they cannot assume custody of the children.
e. Provide:
    i. Any known tribes with the dates, times, locations, and purposes of court hearings where the VPAs will be signed as soon as possible.
    ii. Parents or Indian custodians with the completed Consent to Foster Care Placement by Indian Child's Parent or Indian Custodian (CON) Washington Courts JU 03.0920 forms.
f. Documentation
    i. Document in FamLink case notes the efforts made to:
        A. Identify and collaborate with the tribes the children are or may be affiliated with.
        B. Follow Placement Preferences policy.
    ii. Upload a copy of the signed Consent to Foster Care Placement by Indian Child's Parent or Indian Custodian (CON) Washington Courts JU 03.0920 form in the legal section of the case files in FamLink.

3. If placements are still needed beyond 90 calendar days of the VPA being filed:
    a. Follow the Child Welfare Dependency Petition Process policy and Chapter 7. ICW Dependency Policy.
    b. File Dependency Petition (DPP) Washington Courts JU 03.0100 forms to continue their out-of-home placement.
4. When terminating VPAs:
    a. Immediately follow these policies if the parents or Indian custodians request to have their children returned to them and the children would be exposed to imminent physical danger or harm:
        i. Child Welfare Present Danger
        ii. Child Welfare Safety Assessment and
        iii. Child Protective Services (CPS) and Family Assessment Response (FAR) policies
    b. File written notifications to the court and send copies to:
        i. All parties in the VPA case, including the noncustodial parents, when applicable.
        ii. The tribes with whom there is reason to know children are or may be Indian children.

Forms

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Consent to Foster Care Placement by Indian Child's Parent or Indian Custodian (CON)
Washington Courts JU 03.0920
Dependency Petition (DPP) Washington Courts JU 03.0100
Family Ancestry Chart DCYF 04-220
Indian Identity Request DCYF 09-761

Resources

25 CFR Part 23 Bureau of Indian Affairs ICWA Proceedings
Child Welfare Dependency Petition Process policy
Child Welfare Placement Out-of-Home and Conditions for Return Home policy
Child Welfare Present Danger policy
Child Welfare Safety Assessment policy
Child Welfare Voluntary Placement Agreement policy
Child Protective Services (CPS) and Family Assessment Response (FAR) policy
Dependency Cases policy
Reason to Know policy
Tribal Inquiry policy
Pla cement Preferences policy

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