



Alaska Citizen Review Panel

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Alaska Citizen Review Panel evaluates the policies, procedures, and practices of state and local child protection agencies for effectiveness in discharging their child protection responsibilities. The Panel is mandated through CAPTA 1997 (P.L. 104-235), and enacted through AS 47.14.205.

MONTHLY PANEL MEETING

MINUTES

Tuesday, May 5, 2015

Noon to 1:00 p.m.

Teleconference

Roll Call – Diwakar Vadapalli, Margaret McWilliams, Jen Burkmire

Guests: Carla Erickson, Chief Assistant Attorney General, CINA cases

Did not approve previous meeting minutes

Due to a lack of a quorum, the April 7th CRP minutes were not approved.

Presentation on placement regulations –

Carla Erickson, Chief Assistant Attorney General, CINA cases

Carla Erickson spoke about ICWA placement preference and related regulation changes. Margie moderated the discussion as she is the Panel member most informed about the topic. Following is a summary of that discussion:

The basic rule is for children to be placed with families, but there are nuances within that basic rule. There are different rules for children covered by ICWA and for those who are not.

For children covered by ICWA: The ICWA rule is 25.US Code § 1915 which covers foster care placements and adoptive placements slightly differently since foster care placements are assumed to be temporary.

There are levels of placement options, in this order:

1. (best) extended family,
2. an Indian foster home licensed by an Indian tribe,
3. an Indian foster home licensed by a non-Indian tribal entity.

Tanana Chief Conference (TCC) is the only large tribal entity doing its own licensing so in most of the state the second option doesn't exist. Options for adoptive placements are less broad, in this order:

1. (best) option is a member of the extended family (the definition of who is extended family is the same as for foster placements),
2. another tribal member,
3. another Indian family of a different tribe, and
4. others.

The definition of family for this purpose is as defined by the tribe's law or custom. In the absence of that it includes aunts, uncles, grandparents, stepparents, and nieces or nephews.

For children not covered by ICWA: The State rule for non-ICWA children is AS 47.14 (e).

Placement options are in this order:

1. an adult family member which includes grandparents, aunts, uncles, an adult sibling, or the parent of a half sibling. These placements are not licensed.
2. a family friend; this is not defined. These placements must meet licensing requirements.
3. a non-family, non-family friend placement.
4. an institution.

The statute has a mechanism to deviate - "clear, convincing evidence" that a different option is preferable. If the child is old enough, this might be influenced by his/her preferences. The parent's preference is also considered. For example, if the parent is in Anchorage, but the child is from a village, the child may be placed in Anchorage so they can remain close to their parent. Children are frequently placed in Anchorage when they need medical care not available in their home community.

OCS and the courts are very aware of this list of placement options. Placement hearings are very common. OCS works with tribes and hold reviews for children in out-of-preference placements. OCS looks very hard for that first placement with family so that it can be the only placement.

There has been a shift recently. Historically the effort was to place children so they would be close to their parents. The standard was that they be "close to home," but what's home—where the child's parents are? Or their home community? Children, especially, younger children, were usually placed close to their parents, even if their parents were in Anchorage in hopes of reunification. Now children tend to be placed with a relative to comply with ICWA even if that means they are further from their parents. This is because of the Tununak case.

The Tununak case was a CINA case where the grandmother wanted her to adopt her grandchild, but had not filed a formal petition to adopt the child and thus was not considered as an adoptive placement. While the Tununak case was pending the Baby Veronica case was decided by the US Supreme Court. The Baby Veronica case ruled that if there are not two adoptive petitions in court then placement preference isn't considered. That decision is not popular. OCS is not happy with it and is figuring out how to address it. Filing a formal adoption petition is a high hurdle for many families, especially in rural Alaska. There is little or no access to attorneys.

OCS put out emergency regulations on April 15th this year in response to this ruling. It lists a number of actions by relatives that DHSS will consider equal to a formal petition to adopt such as coming to all court hearings in a case. However, the regulation does not change anything in court. Currently a formal adoption petition is still needed. A bill was introduced in the Alaska

Legislature this year to make the OCS regulations (moving away from requiring a formal petition) into law, but it did not pass. It will be taken up again next year.

OCS has been strengthening their requests for placements. They have sent program instructions on how to find relatives. They are reviewing the current adoption process to make it easier. Things are happening and this process will evolve over the summer. This will be a topic at the Tribal/State meeting tomorrow. The tribes are trying to help...this ruling is only three weeks old.

The court created a simplified "do-it-yourself" adoption petition so more families can meet the current court standard. It was sent out to the tribes for review, but was deemed still too complicated. It'll be revised and reviewed again.

Carla noted she's open to clarifying anything we don't understand and will keep us updated on the changes over the summer. Margie noted that OCS closely tracks children's placement status. A report on children in out-of-preference placements is a regular report to OCS managers.

Federal regulation have been updated. BIA guidelines had not been updated since 1979 so the new ones released in March were good. There are implementation issues across the country as there are significant changes to many things. It was encouraging that many of the things the new regulations require were things Alaska was already doing. This is important since Alaska has about half the federally recognized tribes in the country.

Some changes to the updated guidelines the feds proposed are needed. There's a difference in regulations versus guidelines. The regulations will be adopted in October. They will be controlling once they are adopted. Alaska is in opposition to a few items, but will have to yield to the method in the regulations once they are adopted in the fall.

Carla left the meeting.

Work Plan Goals

There was not a lot to update on the work plan goals. Diwakar stated he felt the Panel has enough on Goals 1-4 to address them in the annual report. Ben made progress on the data goal before he left and passed on that information. The Panel also has information on foster care from the recent presentations it received on the topic. It was noted that the Panel has to determine how much it can take on. Members can't be expected to do the work. There needs to be a better way.

Retreat

Jen asked what will be discussed at the retreat and whether the Panel would be making plans on work plan goals. It was noted that the Panel's primary task at the retreat is to draft the annual report. A change in how work plan goals are approached will also be discussed.

Once it was noted that only 3-4 Panel members would be able to make the proposed retreat dates a new plan was called for. After discussion it was determined that the Panel will meet for one full day in Anchorage in the second half of June. Sylvan will send a Doodle poll to determine the date. That day will be entirely devoted to writing the annual report as it is due June 30th. Sylvan will compile the draft of the report covering activities and membership and such prior to the meeting. She will also compile all the information the Panel has collected during the year on the work plan goals and send it to members before that meeting so a fruitful, productive conversation can be held to generate recommendations in one day.

A meeting will be held later in the summer or early fall to cover the other retreat topics and plan for the upcoming year. A date will be found at the annual report writing meeting. Members should bring their calendars.

Meeting adjourned