

ICWA COMPLIANCE CHECKLIST

ICWA Checklist

Identification of Indian Ancestry & Diligent Search

- Inquiry made of all children
- Form 1270 with Family Tree completed by both parents
- Intake information coded for Indian ethnicity
- Suspected Indian children handled as an ICWA case until ruled out
- Inquiry letters sent to Tribes that child may be eligible for enrollment to
- If child eligible, Tribal enrollment application completed and returned
- If child ineligible, documentation of such in case file on Tribal letterhead
- FACIS modified for ICWA determination

Tribal Notification

- Written Notice has been sent, return receipt requested, to the Tribe.
- Case file identifies the Tribal contact, address, and phone number for written notification of all Court proceedings and scheduled reviews.
- Tribal contact includes Notice of, and invitation to, scheduled Family Decision-Making meetings and critical reviews.
- Case file identifies the Tribe's delegated Expert Witness(es) for Court hearings; if none identified, advance preparation is done to recruit an Indian Expert Witness for crucial Court Hearings.
- The ICWA Manager has been contacted if Tribe fails to respond.

- ❑ Inquiry made to the Tribe to determine if child is already under Tribal custody wardship.
- ❑ Courtesy Notices are sent to Canadian, Mexican or non-recognized US Tribes as Oregon law allows intervention as "Legal Intervenors".

Transfer of Jurisdiction

- ❑ DHS supported Tribal Petitions to Transfer Jurisdiction of enrolled children to the Tribal Court holding jurisdiction for his or her Tribe.
- ❑ DHS Branches provided support, or assistance, in the transfer of the child once the Transfer is ordered by the State Court.
- ❑ DHS has assured that the Tribe has considered all aspects in the Transfer including IV-E eligibility, medical assistance, or other benefits to the child that may be adversely effected by the move.
- ❑ Occasionally a Tribe will petition for a Transfer of Jurisdiction and request that the child continue with current placement and services; advance legal preparation occurred to avoid confusion in what is being requested by the Tribe and the State Court. Consultation with the ICWA Manager was requested if problems arose.

Tribal Intervention

- ❑ If Indian child eligible for, or enrolled to a Tribe, and Tribe has filed Motion to Intervene, ICWA protections apply: active efforts, expert witness, placement preferences, transfer of jurisdiction, and clear & convincing evidence; to all voluntary and involuntary child custody proceedings.
- ❑ If the Indian child is ineligible for enrollment, but a descendant of a Tribal member, the Tribe has intervened for "legal intervenor" status but ICWA protections do not apply. DHS continued to work with Tribe in the best interests of child and to address cultural needs.
- ❑ For Oregon Tribes, existing ICWA Agreements require 24 hour telephonic notification and Tribe may not formally intervene but are viewed as legal intervenors and ICWA protections apply.

Active Efforts to Prevent the Breakup of an Indian Family or Reunify

- DHS caseworker engaged Tribe to participate in family decision-making meetings, and the development of service agreement/letter of expectations.
- Expert Witness used to testify towards preventing the break-up of the Indian family at jurisdictional hearing-the burden of proof.
- Service agreement reflects active effort to reunify family; active effort is demonstrated through the provision of assistance in engaging family member in available and accessible services; active effort included utilization of available cultural resources; ongoing reviews were held to monitor family progress towards service agreement goals; and Tribe was notified when problems arose with family progress.

Placement of Indian Children

- The Tribe was contacted and utilized to assist in relative searches or identification of a Tribally designated or approved foster home, institution or residential program.
- When there was no Tribal involvement, effort was made to place an Indian child in an Indian home.
- When an Indian child is placed in a non-Indian home, the Court modified the order of ICWA placement preference by showing good cause to the contrary.
- A written record exists documenting each placement and the efforts made to comply with the mandates of ICWA placement preferences.
- When there was a change of placement, the Tribe and parent/custodian was notified in writing.

Termination of Parental Rights or Relinquishment

- A written record exists documenting active efforts to reunify Indian child with parent(s) or custodian.
- Expert Witness testimony was sought to support evidence beyond a reasonable doubt favoring termination of parental rights.

- A written record exists documenting the diligent search for ICWA mandated placement preferences for Indian children and "good cause" for placement outside of these preferences for pre-adoptive or adoptive homes.
- Written notice was sent to the Tribe, parent(s) or custodian of any changes or disruptions in pre-adoptive or adoptive placements.
- ICWA mandates were complied with when voluntary relinquishment of parental rights occurred that was fully understood by the parent(s) and was not taken fraudulently or when parent was under duress.