

New York State Indian Nations/Tribes

Iroquois Nations:

Cayuga Nation

P.O. Box 803
Seneca Falls, NY 13148
(315) 568-0750

Oneida Indian Nation

Oneida Indian Nation Member Benefits
577 Main Street
Oneida, NY 13421
(315) 829-8337

Onondaga Nation

Onondaga Nation Council of Chiefs
P.O. Box 85
Nedrow, NY 13120
(315) 469-9196

Seneca Nation

Allegany Reservation
P.O. Box 231
Salamanca, NY 14779
(716) 945-1790 Ext. 3233

Cattaraugus Reservation
12837 Route 438
Irving, NY 14081
(716) 532-4035

St. Regis Mohawk Tribe

412 State Route 37
Akwesasne, NY 13655
(518) 358-4516

Tonawanda Band of Seneca

7027 Meadville Road
Basom, NY 14013
(716) 542-4244

Tuscarora Nation

2006 Mount Hope Road
Lewiston, NY 14092
(716) 264-6011 ext. 112

Algonquin Nations:

Shinnecock Indian Nation

P.O. Box 5006
Southampton, NY 11969
(631) 287-6143

Unkechaug Indian Nation

Poospatuck Reservation
P.O. Box 86
Mastic, NY 11950



For further information on Native American programs, see ***A Proud Heritage: Native American Services in New York State*** (OCFS Publication # 4629) and

A Guide to Compliance with the Federal Indian Child Welfare Act in New York State (OCFS Publication # 4757)

If you are unclear about your responsibility, please immediately contact the:
New York State Office of Children and Family Services
Native American Services
295 Main Street, Suite 545
Buffalo, NY 14203
(716) 847-3123

Andrew M. Cuomo
Governor

Sheila J. Poole
Acting OCFS Commissioner



Office of Children and Family Services

Indian Child Welfare Act Compliance Desk Aid for New York State Child Welfare Workers

The federal Indian Child Welfare Act (ICWA) became law in 1978. New York State amended the Social Services Law and State Regulations to reflect federal standards. Compliance is mandatory.*

Steps to Improve Compliance:

1. Identify Native American nation/tribe
2. Provide tribal notification
3. Engage tribe in service plan development
4. Follow placement preferences
5. Make active efforts to provide remedial services and rehabilitative programs

Who Is an Indian Child?

Definition of Indian Child: Section 2 (36) of the Social Services Law; U.S. Code: Title 25, Chapter 21 § 1903.

Indian child shall mean any unmarried person who:

- (a) is under the age of 18, or
- (b) is under the age of 21, entered foster care prior to his/her 18th birthday, who remains in foster care, and who:
 - is a member of an Indian nation/tribe; or
 - is eligible for membership in an Indian nation/tribe; or
 - is the biological child of a member of an Indian nation/tribe and is residing on, or is domiciled within, an Indian reservation.

What Does Tribal Enrollment Mean?

- Tribal rolls are the official record of legal status for Native American people.
- Being on the tribal rolls of a Native American nation/tribe is equivalent to citizenship in that nation/tribe.
- Every tribal government determines its own rules of enrollment criteria.
- The United States government maintains the tribal rolls through a cooperative arrangement with each Native American tribe.

How Do I Know If a Child Is Eligible for Tribal Membership?

- Ask the child's family if they are aware of any tribal affiliation.
- Find out if a parent or grandparent has a tribal enrollment card.
- Develop a family tree indicating the mother's and grandmother's maiden names and the names of the father and paternal grand-parents.
- Call the tribal office directly.
- Tribal membership is up to the tribe.

What About Clan Identification?

Clan identification can assist caseworkers in identifying extended family members for placement:

- Clans are matrilineal and identify traditional kinship resources.
- The clans of the Haudenosaunee (*Iroquois*) are Bear, Beaver, Deer, Eel, Hawk, Heron, Snipe, Turtle, and Wolf.
- The caseworker should ask if the family member knows the name of their clan.

Facts:

- There are nine recognized Native American nations/tribes in New York State and over 560 federally recognized tribes in the United States.
- The majority of Native Americans living in New York State do not reside on reservations. They live in rural areas as well as large urban centers, with an estimated 110,000 living in New York City.
- The New York State Office of Children and Family Services (OCFS) Native American Services office maintains a current list of tribal contacts who can assist you. Call: (716) 847-3123.

The provisions of the federal Multiethnic Placement Act (MEPA) do not affect the application of ICWA.

New York State Statutory and Regulatory Requirements to Implement the Federal Indian Child Welfare Act

Notification Requirements

OCFS Regulation, 18 NYCRR 431.18:

The social services district, in any involuntary child custody proceeding initiated by the district pursuant to Section 384-b of the Social Services Law or Article 7, 10 or 10-C of the Family Court Act, is required to notify the child's parent or Indian custodian and the child's Indian nation/tribe, by registered or certified mail, return receipt requested, of the pending proceeding and of their right to intervention. Such notice must also be sent to the secretary of the interior at the address noted below. If the identity or location of the parent or Indian custodian or the nation/tribe cannot be determined, notice must be given by registered or certified mail, return receipt requested, to the New York State Office of Children and Family Services (listed on pg.4) and to the federal government at this address:

**U.S. Department of Interior
Eastern Regional Office, Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214**

Tribal Notification Procedures

The contents of such notification of the child custody proceeding must include all of the following information:

- The child's name, date of birth, and child's place of birth;
- The name of each tribe in which the child is a member or may be eligible or membership if a biological parent is a member;
- The names of the child's parents (including maiden names, former names and aliases), their dates of birth, their places of birth, and their tribal enrollment number, if known;
- If known, the names, birth dates, birth places and tribal enrollment information of other direct lineal ancestors of the child, such as grandparents;
- A copy of the petition filed with the court, complaint, or other documents filed with the court to initiate the child's custody proceeding and, if a hearing has been scheduled, information on the date, time, and location of the hearing;
- A statement with the name of the petitioner and the name and address of the petitioner's attorney;
- And a statement of the rights of the biological parents/ Indian custodians to intervene in the proceeding;
- A statement of the right of the Indian tribe to intervene in the foster care or termination of parental rights proceeding;
- A statement of the right to be granted, upon request, up to 20 additional days to prepare for the child custody proceeding;
- A statement of the right of the parent or Indian Custodian to petition the court for transfer of the foster care placement or termination of parental rights proceeding to the tribal court;
- A statement of the potential legal consequences of the child custody proceedings in the future parental and custodial rights of the parent or Indian custodian;
- A statement that all parties notified must keep confidential the information contained in the notice and that the notice should not be accessed by anyone not needing the information to exercise rights under ICWA;
- A statement of the right to be granted, upon request, up to 20 additional days to prepare for the child's custody proceeding;

- A statement of the right under federal law to court appointed counsel; and
- The location, mailing address, and telephone number of the court.

Qualified Expert Witness

OCFS Regulation, 18 NYCRR 431.18 (a) and (b):

This section states that the testimony of a qualified expert witness is required in any foster care placement and in any proceeding for the termination of parental rights. This witness is defined as a person who is qualified to testify whether continued custody by the parents of an Indian child or an Indian custodian is likely to result in serious physical or emotional damage to the child.

Active Efforts to Prevent Placement of an Indian Child

ICWA requires that in any child custody proceeding initiated by the social services district pursuant to Section 358-a or 384-b of the Social Services Law or Article 7, 10 or 10-C of the *Family Court Act*, which involves an Indian child, the social services district must demonstrate that **active efforts** have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, and that these efforts have proved unsuccessful.

Foster Care Placement Preferences

OCFS Regulation, 18 NYCRR 431.18 (f) (1):

An authorized agency providing foster care to an Indian child in the absence of good cause to the contrary is required to place the child with:

- First**, a member of the child's extended family;
- Second**, a foster home certified, approved or specified by the Indian child's nation/tribe and approved by the appropriate social services district;
- Third**, an Indian foster home certified or approved by an authorized agency to provide foster care services; or,
- Fourth**, an institution for children approved by an Indian tribe or operated by an Indian organization, which has a program to meet the needs of the child.

Note: The nation/tribe may establish a different order of preference by tribal resolution.

Adoption Placement Preferences

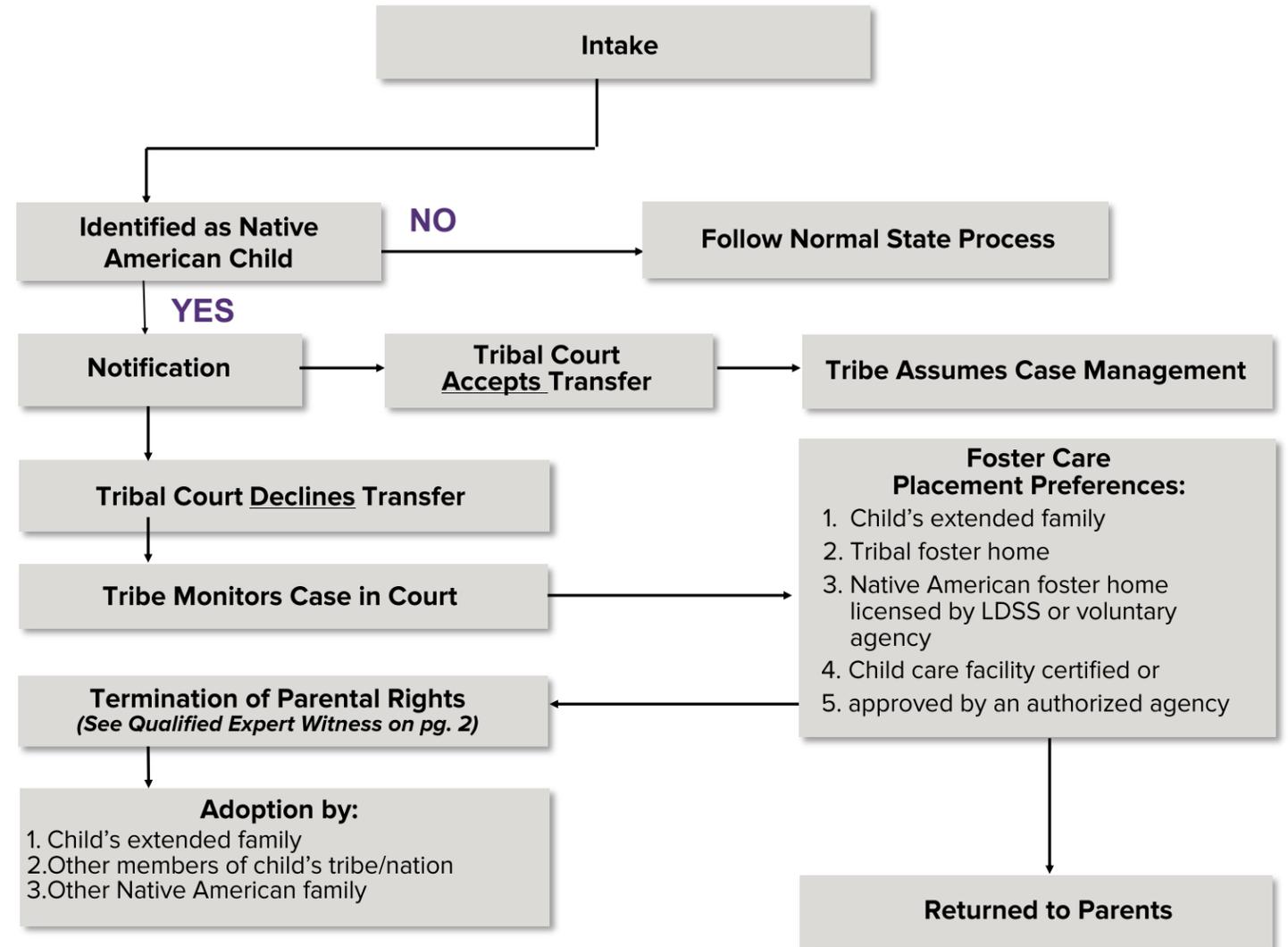
OCFS Regulation, 18 NYCRR 431.18 (g) (1):

This section establishes a required order of preference in an adoptive placement of an Indian child. An authorized agency providing adoption services to an Indian child is required, in the absence of good cause to the contrary, to place the child with:

- First**, a member of the child's extended family;
- Second**, other members of the child's Indian nation/tribe; or
- Third**, other Indian families.

Note: The nation/tribe may establish a different order of preference by tribal resolution.

Indian Child Welfare Process



Coding Guidelines

Once a child has been identified as a Native American child, it is necessary to identify the child as a Native American child with the Welfare Management System (WMS) and in Connections in the Activities Window.

When encoding the WMS Services Case, child welfare workers should enter **04 (Indian on NYS Reservation)** under the State Charge Field (SF).

If any children in the WMS Services Case are to be tracked in Activities Window, (meaning that they would be in receipt of protective, adoptive, or foster care services), **enter I** under the Ethnicity column. These children would also be in CONNECTIONS, where "**Native American**" should be checked in their Person Demographics.

WMS or Activities Windows questions should be submitted to **OCFS Legacy System Support at: (800) 342-3727**