

To: DCF/DMCPS Administrator
DCF Area Administrators
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Group Home Providers
Tribal Social Service/Indian Child Welfare Directors
Private Child Placing Agencies
Residential Care Center Providers
Shelter Care Providers
Tribal Chairpersons

From: Fredi-Ellen Bove 
Administrator

Re: Changes to the Notice of Involuntary Child Custody Proceeding Involving an Indian Child and Voluntary Placement Agreement for an Indian Child

PURPOSE

This memo addresses eWiSACWIS updates made to the Notice of Involuntary Child Custody Proceeding involving an Indian Child and the Voluntary Placement Agreement for an Indian Child which will be released in June 2017. These changes are required per the legally binding 2016 Indian Child Welfare Act (ICWA) Regulations, <https://www.bia.gov/bia/ois/dhs/icwa> released by the Bureau of Indian Affairs (BIA).

BACKGROUND

The Indian Child Welfare Act was enacted by Congress in 1978 to address the alarmingly high rate of separation of Indian children from their families with the intent to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C. § 1902), http://www.nicwa.org/Indian_Child_Welfare_Act/ICWA.pdf. It established minimum requirements for child welfare proceedings involving Indian Children. In 2016, the BIA released a final rule to strengthen compliance with these minimum standards.

POLICY AND PROCEDURE REQUIREMENTS

The 2016 ICWA regulations add specific information to be included in certain procedures involving an Indian child. This new policy will be incorporated into two existing forms; Notice of Involuntary Child Custody Proceeding Involving an Indian Child and Voluntary Placement Agreement for an Indian Child. These new requirements are outlined below.

Notice of Involuntary Child Custody Proceeding Involving an Indian Child:

Current state and federal Indian Child Welfare statutes requires an official notice of the initial hearing (excluding emergency hearings) in a child custody proceeding be sent via registered mail, return receipt requested, to the Indian child’s parents, Indian custodian, if applicable, and any tribe the child is a member or eligible for membership. If the child’s tribe is unknown, the notice must be sent via registered mail, return receipt requested to the appropriate regional BIA office located in the region of any tribe the child is suspected to be a member or eligible for membership. The 2016 final rule adds the following requirements:

- Copies of notices sent to the parents, Indian Custodian(s) and Tribe(s) must be sent to:
 - Minneapolis Regional Director

Bureau of Indian Affairs
331 Second Avenue South
Minneapolis, MN 55401-2241

- An original or a copy of each notice must be filed with the court along with any return receipts.
- Notice must include the following:
 - Child's name, birthdate, and birthplace;
 - All names known (including maiden, married, and former names or aliases) of the parents, the parents' birthdates and birthplaces, and Tribal enrollment numbers if known;
 - If known, the names, birthdates, birthplaces, and Tribal enrollment information of other direct lineal ancestors of the child, such as grandparents;
 - The name of each Indian Tribe in which the child is a member (or may be eligible for membership if a biological parent is a member of a tribe), and;
 - A copy of the petition, complaint, or other document by which the child-custody proceeding was initiated and, if a hearing has been scheduled, information on the date, time, and location of the hearing.

The 2016 ICWA regulations also require certain information and rights to be included in this notice. This information has also been added to the notice form.

Voluntary Placement Agreement for an Indian Child:

The Wisconsin Indian Child Welfare Act requires a voluntary placement of an Indian Child or a delegation of powers by a parent be executed in writing, and recorded before a judge. The 2016 ICWA regulations also require the following information be contained within a consent document:

- Clearly set out any conditions of the consent;
- Name and birthdate of the Indian child;
- Name of the Indian child's Tribe;
- Tribal enrollment number for the parent and for the Indian child, where known, or some other indication of the child's membership in the Tribe;
- Name, address and other identifying information of the consenting parent or Indian custodian;
- Name and address of the person or entity, if any, who arranged the placement, and;
- Name and address of the prospective foster parents, if known at the time.

eWiSACWIS DOCUMENTATION

Changes to both documents described above are included in the June 2017 eWiSACWIS release. Either document can be created in the Documents Tab in the child's ICWA Record and are to be completed in a timely manner with thorough and accurate information.

ACTION SUMMARY

Any party seeking an involuntary child custody proceeding or a voluntary placement are required to comply with the requirements outlined in this memo when they know or have reason to know to the child is an Indian child.

REGIONAL OFFICE CONTACT: DCF Area Administrator

CENTRAL OFFICE CONTACT: Tribal Affairs Specialist
920-785-7839
dcfwicwa@wisconsin.gov

MEMO WEB SITE: <https://dcf.wisconsin.gov/cwportal/policy>

FORMS LINK: <https://dcf.wisconsin.gov/forms>

DCF-F-CFS2017-E, Notice of Involuntary Child Custody Proceeding Involving an Indian Child

DCF-F-CFS2425, Voluntary Placement Agreement for an Indian Child