

INTERNAL

COMMUNICATION FORM

DEPARTMENT OF HUMAN SERVICES

Suspense

**Subject: INDIAN CHILD WELFARE ACT (ICWA):
TRANSFER OF A TITLE IV-E AMERICAN INDIAN
CHILD TO A TRIBAL AGENCY**

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586-5699

To: ALL CWS SECTIONS From: ACWSB/PD Date: 7/2/13 Memo No. 1

FOR INFORMATION:

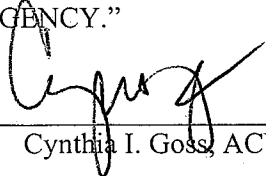
The Indian Child Welfare Act (ICWA) is a federal law that seeks to keep American Indian children with American Indian families. Congress passed ICWA in 1978 in response to the alarmingly high number of American Indian children being removed from their homes by both public and private agencies. The intent of Congress under ICWA was 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). ICWA sets federal requirements that apply to state child custody proceedings involving an American Indian child who is a member of or eligible for membership in a federally recognized tribe.

FOR ACTION:

New federal requirements were issued regarding the transfer of responsibility for the placement and care of an American Indian child under a State title IV-E plan to a Tribal title IV-E agency or an Indian Tribe with a title IV-E agreement. Requirements at a minimum are that the State agency transfer procedures:

1. Are established and maintained in consultation with Indian Tribes: CWS staff are to discuss the American Indian child's case with the American Indian Representative or Tribal consultant when identified regarding best efforts to provide for the American Indian child's well being and ICWA compliance.
2. Do not affect an American Indian child's eligibility, receipt of services, or payment under title IV-E or the medical assistance program operated under title XIX;
3. Establish eligibility for title IV-E at the time of transfer if possible, if an eligibility determination is not already completed; and
4. Provide for essential documentations and information necessary to continue an American Indian child's eligibility under title IV-E and Medicaid programs under title XIX to the Tribal title IV-E agency or an American Indian Tribe with a title IV-E agreement, including but not limited to the following:
 - All judicial determinations to the effect that continuation in the home from which the American Indian child was removed would be contrary to the welfare of the child and that reasonable efforts have been made;
 - Other documentation the State agency has that relates to the American Indian child's title IV-E eligibility;
 - Information and documentation available to the agency regarding the American Indian child's eligibility or potential eligibility for other Federal benefits;
 - The case plan, including health and education records of the American Indian child;
 - Information and documentation of the American Indian child's placement settings, including a copy of the most recent provider's license or approval.

The above additional requirements will be added to the CWS Procedure Manual, Part III: ICWA, as 10.8, "TRANSFER OF A Title IV-E CHILD TO A TRIBAL AGENCY."


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c: CWSBA/ACWSBA, SSDA, SSO, SDS, Heidi Lilo/UH Maui College

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