

Quick Reference Sheet for Adoption Institution



U.S. Department of the Interior, Bureau of Indian Affairs
Final Rule: Indian Child Custody Proceedings 25
CFR 23

The Indian Child Welfare Act (ICWA) is a federal law that was enacted in 1978 which sets requirements for the placement of an "Indian Child".

The only voluntary placement to which ICWA does **not** apply to is a voluntary placement where the parent or Indian custodian can regain custody of the child **upon demand** – meaning simply upon verbal request, without any formalities or contingencies.

Who: ICWA is applied to the custody proceeding involved an "Indian Child". Indian Child means any unmarried person who is under age 18 and either

- (1) Is a member of citizen of an Indian Tribe; or
- (2) Is eligible for membership or citizenship in an Indian Tribe and is the biological child of a

member/citizen of an Indian Tribe.

What: This ICWA does:

- (1) Clarify when placement preferences apply and what placement preferences apply in foster care, preadoptive, and adoptive placements, and establish parameters of what is "good cause" to depart from the placement preferences.
- (2) Confirm adult adoptees' rights to information about their Tribal affiliation.
- (3) The final rule does require taking all reasonable steps to verify whether the child is an Indian child, if there is a reason to know that he or she is an Indian child. This may include contacting the Tribe of which it is believed the child is a member (or eligible for membership and of which the biological parent is a member) to verify the child's status.

When: The child involved in the custody proceeding is an "Indian Child" or there is a reason to know whether he or she is an Indian child.

How: Please contact the BIA, Regional Social Worker further detail.