

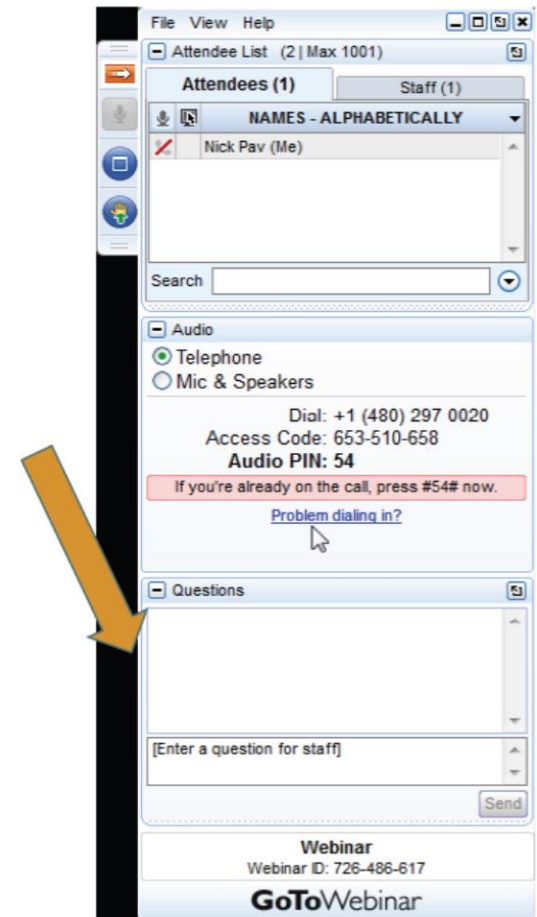


# **ICWA & RFA:**

## ***Family Placement Focus***

# Logistics

- Webinars are recorded and archived at <http://kids-alliance.org/webinars/>
- If you experience technical difficulties email Shanti Ezrine at [s.ezrine@kids-alliance.org](mailto:s.ezrine@kids-alliance.org)
- Slides and certificate of participation will be posted at <http://kids-alliance.org/webinars/>
- All attendees are muted
- Please submit questions using the “Questions” function on your GotoWebinar dashboard



# ICWA & RFA: *Family Placement Focus*

---

***Kristin Power***

Senior Policy Associate, Alliance for Children's Rights

***Delia M. Sharpe***

Executive Director, California Tribal Families Coalition

***Elise Weinberg***

Policy Attorney, Alliance for Children's Rights

***Marilyn Zhao***

Caregiver



# IMPLEMENTING ICWA & RFA

---

*Ensuring Compliance and Support for Tribal Children and Families*

## ICWA Focus on **Family Placement**

“Any child . . . shall be placed in the least restrictive setting which most approximates a family . . . In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a **placement with a member of the Indian child’s extended family.** . .

(25 U.S.C. § 1915; 25 C.F.R. § 23.131)

“It is therefore the intent of the Legislature to maintain children’s safety, well-being, and healthy development when they are removed from their own families by placing them, whenever possible and appropriate, **with relatives or someone familiar**, or, when this is not possible or appropriate, with other caregiving families that are able to meet their physical, social, and emotional needs until they can return home.”

(AB 403 - Chapter 773, Statutes of 2015 )

# ICWA Jurisdiction

---

- If the residence or domicile of the Indian child is on a reservation where the Tribe exercises exclusive jurisdiction over child-custody proceedings, the State court **must dismiss the State court child custody proceeding and ensure the Tribal court is sent all information regarding the Indian child custody proceeding.**
- If the Tribe does not have exclusive jurisdiction, there is concurrent jurisdiction between the State and the Tribe. The Indian child's parents, Indian custodians, and the Tribe have the right to petition the court for Tribal jurisdiction over the Indian child.
- If the Tribal jurisdiction is not asserted, the Indian child custody case continues under State court with the provisions of ICWA still enforced.

# ICWA Emergency Placement

---

- A county may place a child or NMD with a relative or NREFM on an emergency basis prior to RFA.
- Some but not all Tribal agencies have the authority to conduct emergency placement evaluations.
  - Consult with your Tribe to determine if the Tribe can conduct an emergency placement evaluation.
- If the Tribe does not have the ability to conduct the emergency evaluation, an emergency placement background check must be conducted by the county agency, inclusive of criminal records check and home assessment.

# ICWA Foster Care Placement

---

In any foster-care or preadoptive placement of an Indian child under State law, including changes in foster-care or preadoptive placements, the child must be placed **in the least-restrictive setting** that:

- Most approximates a family, taking into consideration sibling attachment;
- Allows the Indian child's special needs (if any) to be met; and,
- Is in reasonable proximity to the Indian child's home, extended family, or siblings.



# ICWA Foster Care **Placement Preference**

---

In any foster-care or preadoptive placement of an Indian child under State law, **preference must be given**, in descending order as listed, **to placement of the child** with:

- Member of the Indian child's extended family;
- Foster home that is licensed, approved, or specified by the Indian child's Tribe;
- Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- Institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the child's needs.

# ICWA Foster Care **Placement Preference**

---



Tribe's placement preferences apply, so long as the placement is the **least-restrictive setting appropriate to the particular needs of the Indian child** if the Indian child's Tribe has established by resolution a different order of preference than that specified in ICWA.

Court must, where appropriate, also consider **preference of the Indian child or the Indian child's parent.**

# ICWA Foster Care Placement Preference

---

- Placement preferences must be applied in any foster care, pre-adoptive, or adoptive placement **unless there is a determination that good cause exists to not apply placement preferences.**
- Court's determination of good cause to depart from the placement preferences must be made on the record or in writing and should be based on one or more of the following:
  - Request of one or both of the Indian child's parents, if they attest that they have reviewed the placement options, if any, that comply with the order of preference;
  - Request of the child, if the child is of sufficient age and capacity to understand the decision that is being made;
  - Presence of a sibling attachment that can be maintained only through a particular placement;
  - Extraordinary physical, mental, or emotional needs of the Indian child, such as specialized treatment services that may be unavailable in the community where families who meet the placement preferences live,
  - Unavailability of a suitable placement after a determination by the court that a diligent search was conducted to find suitable placements meeting the preference criteria, but none has been located.

# ICWA Foster Care **Placement Preference**

---

*How is a determination of “good cause” to depart from the placement preferences made?*



**May not depart from preferences based on the *socioeconomic status of any placement relative to another placement.***

**May not depart from preferences based solely on *ordinary bonding or attachment that flowed from time spent in a non-preferred placement that was made in violation of ICWA.***

# ICWA Foster Care Placement Search

---

- State agencies or other parties seeking placement should conduct a **diligent search for placements** that comply with the placement preferences.
- Diligent search should be thorough, ongoing and in compliance with child welfare best practices and should also involve:
  - *Asking parents for information about extended family, whether members of an Indian Tribe or not;*
  - *Contacting all known extended family, whether members of an Indian Tribe or not;*
  - *Contacting all Tribes with which the child is affiliated for assistance in identifying placements;*
  - *Conducting diligent follow-up with all potential placements and*
  - *Contacting institutions for children approved or operated by Indian Tribes if other preferred placements are not available.*

# ICWA Out-of-State Children

---

County in the receiving state is **required** to conduct assessment and background check if ICPC assessment is required for Indian children moving out of California.

Federally recognized Tribes outside California **do not** have authority to conduct their own background checks.



# RFA REQUIREMENTS

---

*Family-friendly and child-centered caregiver  
approval process*

# Emergency Placement CCR

---

## Compelling Reason

- Based on needs of the child
- After home environment approval completed
- Permanency assessment to be completed within 90 days

## Emergency Basis

- Must be with relative or NREFM
- Requires WIC 309 & WIC 361.45 assessments
- Home environment assessment must be initiated within 5 business days
- Caregiver must complete and sign RFA application



# Resource Family Approval

---

- Unified approval standards for relatives and NREFMs
- Includes **comprehensive home environment check and family evaluation**
- Prepares families to better meet needs of vulnerable children through **required training**



# Tribally Approved & Specified Homes **Exception**

---

*Tribes have the independent authority to establish socially and culturally appropriate standards and approve foster homes.*

- Tribally **Approved** Homes are **not required** to adhere to RFA standards.
  - Tribally Approved Homes shall continue to adhere to the licensing or approval standards established by the Tribe.
- Tribally **Specified** Homes are not approved or licensed by the tribe, but are specified by the Tribe as a home for possible placement and **must complete** RFA process.

# RFA Overview Tribally Specified

---



- Home Environment Assessment
  - Background Checks
  - Criminal Record Exemption



- Family Assessment
- Pre-Approval Training/Annual Training



- Written Report
- Annual Update Following Approval

# RFA Overview Tribally Specified

---

## Home Environment Assessment



- *Review of the home, including outdoor spaces, to ensure they are safe for the child*
  - Indoor and outdoor spaces are clean, safe, sanitary and in good repair
  - Medicines, disinfectants, cleaning solutions, poisons and other dangerous items are appropriately stored
  - Cellular, internet or landline service is accessible at all times and a list of emergency phone numbers is posted

# RFA Overview Tribally Specified

---

## Home Environment Assessment

- *Review of the adults residing in the home*
  - Criminal record clearance (and any necessary exemptions) of each applicant and all adults residing in, or regularly present in, the home
  - Consideration of substantiated allegations of child abuse or neglect
  - Total # of children shall not exceed 6
    - Unless exception granted to place siblings



# RFA Overview Tribally Specified

---

## Family Evaluation

- *Two face-to-face meetings to discuss interest, willingness and ability to care for the child and at least one with other adults residing in the home*

### Topics Include:

- Parenting approaches
- Childhood upbringing
- Adult experience and personal characteristics
- Risk assessment (substance and/or sexual abuse, etc.)
- Current marital status and relationship history
- Children in and out of the home
- Support system
- Employment and financial situation
- Motivation to become a resource family



# RFA Overview Tribally Specified Training

## Pre-Approval Training

- Minimum 12 hours and as required by county
- CPR and First Aid (within 90 days of approval)

## Post-Approval Training & Review

- Minimum 8 hours annually
- CPR and First Aid as required
- Home visits



# RFA Overview **Tribally Specified Training**

---



***Counties may require  
specific post-approval  
training***



# RFA Overview Tribally Specified Updates

---

## *Annual Updates*

Completed at least once a year or sooner if needed, including:

- Significant change in the family
- Relocation to a new home
- Removal or addition of Resource Parent to the approval



# RFA Overview **Adoptions**

---



## Completing an adoption:

- Tribally Approved Home may go through a standard adoption home study/assessment process OR Tribal Customary Adoption (TCA) process
  - Tribe or Tribal Designee conducts an adoption home study for a TCA
- RFA Tribally Specified Home will not need additional approvals to adopt

# FUNDING FOR CAREGIVERS

---

*Resources for Tribal Children and Families*

# Tribally Approved Home Funding

---

## *Emergency Assistance (for placements prior to approval)*

- Family that takes emergency placement of a child pursuant to WIC 309 or 361.45 or takes a placement based on a compelling reason is eligible for Emergency Assistance equal to the basic foster care rate.

## *AFDC-FC*

- Family home used only for the placement of an Indian child which has either been approved by that Indian child's tribe or the county agency is eligible for AFDC-FC.

## *CalWORKs*

- Indian children in care may be eligible for either a **California Tribal TANF Program** administered by each Tribe or Consortium or **CalWORKs**, so long as the child meets eligibility requirements of the program.

# Tribally Specified Home Funding

---

*Emergency Assistance*

*AFDC-FC or ARC*



*CA Tribal TANF or CalWorks*

# CAREGIVER'S VOICE

---

*Supporting Tribal Children and Families While  
Navigating ICWA/RFA*

# Navigating ICWA and RFA as a Caregiver

---

## *Marilyn's Story*

- Grandchild placed in home in May 2017
- Unfamiliar with child welfare system and ICWA
- Worked diligently to complete RFA
- Slow process marked by numerous negative interactions with caseworker
- **Successful outcome almost a year after placement** following intervention by CDSS after linking with advocacy organization

# Navigating ICWA and RFA as a Caregiver

---

## *Caseworkers should:*

- **Acknowledge** caregivers may not be familiar with child welfare system, RFA and ICWA
- Be **knowledgeable** about ICWA requirements
- Clearly **explain and follow** ICWA requirements
- Acknowledge and **be respectful** of Tribal customs and culture
- **Link** caregivers with Tribal ICWA Representatives as soon as possible



# Navigating ICWA and RFA as a Caregiver

---

## *Finding Support and Resources to Navigate Process*

- Tribal ICWA representatives
- Advocacy organizations
- Other caregivers
- CDSS Office of Tribal Affairs (OTA)

# POST PLACEMENT ENGAGEMENT

---

*Child and Family Teams*

# Child and Family Team Meetings

*Help family members define and reach their goals and develop a child and family-centered case plan **identifying supports and services needed to achieve permanency and enable youth to be in the least restrictive family setting that promotes normal childhood experiences.***

**Child and family members**

**Caregiver**

**Others invested in child and family's success:**

- Family, community and Tribal members, Tribal representatives and Indian custodians
- Friends and neighbors, CASA, school personnel, coaches, clergy, mental health staff, education rights holder



# Child and Family Team & Placement

---

**CFT must be consulted to identify most appropriate placement of child or youth, while always considering least restrictive placement option.**

- CFT should be convened to discuss any placement changes
- Placing agency must consider all CFT placement recommendations
  - Placing agency has ultimate responsibility to determine most appropriate placement
  - Must inform CFT of recommendation and reasoning prior to court hearing and after judge has made the placement order

# CCR & ICWA

---

*Supporting Tribal Children and Families*

# CCR & ICWA: *Supporting Tribal Children and Families*

---

ICWA regulations require **active efforts** to prevent breakup of the Indian family, including:

- **Comprehensive assessment of family**
- Identification of appropriate services
- **Inclusion of tribal representatives in placement decisions**
- Diligent search for extended family members
- **Maintaining sibling groups**

CCR helps further **active efforts** requirement:

- **Comprehensive assessments of family through RFA process**
- Children should not have to change placements to get services and support they need
- **Inclusion of community through the CFT in placement decisions**
- Preference that children live in a committed, permanent home
- **Maintaining sibling groups**

# Questions and Resources

---

To submit questions, click on the “Questions” panel, type your question, and click “Send”



PowerPoint slides, webinar recording, and certification of participation will be posted at [www.kids-alliance.org/webinars](http://www.kids-alliance.org/webinars)

## ***ICWA Guidelines***

<https://www.bia.gov/sites/bia.gov/files/assets/bia/ois/pdf/idc2-056831.pdf>

## ***CDSS RFA Written Directives v. 5***

<http://www.cdss.ca.gov/Portals/9/RFA/Final%20V5%20%202.6.18.pdf?ver=2018-02-06-084609-033>

## ***Step Up Coalition RFA Guide***

<https://kids-alliance.org/programs/system-wide-reform/resource-family-approval-toolkit/>

## ***CDSS Office of Tribal Affairs***

744 P Street, MS 8-17-35, Sacramento, CA 95814  
(916) 651-6160

[TribalAffairs@dss.ca.gov](mailto:TribalAffairs@dss.ca.gov)