

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



May 25, 1993

ALL-COUNTY LETTER NO. 93-33

TO: ALL COUNTY WELFARE DIRECTORS
ALL PUBLIC AND PRIVATE ADOPTION
AGENCIES
ALL SDSS ADOPTIONS DISTRICT OFFICES

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation Change
 Court Order or Settlement Agreement
 Clarification Requested by One or More Counties
 Initiated by SDSS

SUBJECT: ADDENDUM TO ALL-COUNTY LETTER NOS. 92-23 AND 92-92; FOSTER CARE AND ADOPTIVE PLACEMENT PRIORITIES

The Department has received several inquiries regarding the application of foster care and adoptive placement priorities mandated by AB 548 (Chapter 1581, Statutes of 1990) to children of Indian heritage. The purpose of this addendum is to clarify that foster care and adoption placement procedures and requirements of the federal Indian Child Welfare Act (ICWA) take precedence over provisions of AB 548 for children of Indian ancestry who are subject to the federal Act. Agencies shall not invoke provisions of AB 548 for purposes of circumventing ICWA requirements.

As stated in All-County Letter (ACL) 92-92, the primary purpose of placement preference in AB 548 is to compel agencies to place children with family members or a same race family at the time of their initial out-of-home placement or upon subsequent change in placement required as part of the court-approved case plan for the child. The ICWA at 25 USC Section 1915(a) requires that in any adoptive placement of an Indian child a preference shall be given, absent good cause to the contrary, to a placement with a member of the child's extended family, other members of the Indian child's tribe, or other Indian families. Section 1915(b) of Title 25 USC requires that in any foster care or preadoptive placement preference shall be given, absent good cause to the contrary, to a placement with a member of the Indian child's extended family; a foster home licensed, approved, or specified by the Indian child's tribe; an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs. The Department does not see a conflict between the general intent of the ICWA and AB 548; both require that for purposes of foster care or adoptive placement the child's family shall be considered first and then a same race family. However, for children subject to the ICWA, the Indian child's tribe may play a much greater role in designating appropriate placement resources.

Please review the manner in which your agency is implementing the provisions of State law and regulation and the ICWA to ensure that placement decisions are made in accordance with provisions of the applicable law.

Questions regarding this subject should be addressed to the Adoptions Policy Bureau at the above address or (916) 324-4228 or (ATSS) 492-4228.



MARJORIE KELLY
Deputy Director
Children and Family Services

c: CWDA