

UPDATED INFORMATIVE DIGEST

Current laws and regulations provide procedures for county social workers in dealing with Indian child welfare, including but not limited to, adoption, placement, custody, and working with Indian tribes and California child welfare agencies.

Existing laws and regulations:

Indian Child Welfare Act, 25 U.S.C. Section 1901, Public Law (P.L.) 95-608
 Title IV-E of the Social Security Act, 42 U.S.C. section 670 et. seq.
 Senate Bill 678 (Chapter 838, Statutes of 2006) Pertinent sections: 29, 30, 31, 32, 33, 34, 35, 44, 45, 48, 49, 50, 52, 53, 54 and 55
 Assembly Bill 12 (Chapter 559, Statutes of 2010) Pertinent sections: 5, 13, 14 and 66
 Assembly Bill 1325 (Chapter 287, Statutes of 2009) Pertinent sections: 6, 7, 12, 15 and 16
 Assembly Bill 1695 (Chapter 653, Statutes of 2001) Pertinent sections: 2, 11.3 and 11.6
 Assembly Bill 1712 (Chapter 846, Statutes of 2012) Pertinent sections: 4, 15, 15.1, 15.2, 15.3, 21, 23 and 56
 Assembly Bill 2417 (Chapter 467, Statutes of 2010)
 Assembly Bill 2418 (Chapter 468, Statutes of 2010)
 Senate Bill 1460 (Chapter 772, Statutes of 2014) Pertinent sections 6, 8, 12, 14 and 15
 California Rules of Court, rules 5.480, 5.481, 5.482, 5.484, 5.552, and 5.690
 The Bureau of Indian Affairs (BIA) Guidelines of 2015, 80 Federal Register (FR) 10146 (February 25, 2015)

The following forms are incorporated by reference in the regulations:

AAP 4 (Rev. 9/13) - Eligibility Certification Adoption Assistance Program
 FC 2 (Rev. 11/04) - Statement of Facts Supporting Eligibility for Aid to Families with Dependent Children (AFDC) Foster Care
 FC 3 (Rev. 11/04) - Determination of Federal AFDC-FC Eligibility
 FC 3 A (Supplement) (Rev. 11/04) - AFDC-FG/U Worksheet
 ICPC-100A (Rev. 8/01) - Interstate Compact Placement Request
 ICPC-100B (Rev. 8/01) - Interstate Compact Report on Child's Placement Status
 ICWA-010(A)" (Rev. 1/08) - Indian Child Inquiry Attachment
 ICWA-020 (Rev. 1/08) - Parental Notification of Indian Status
 ICWA-030 (Rev. 1/08) - Notice of Child Custody Proceeding for Indian Child
 ICWA-030(A) (Rev. 1/08) - Attachment to Notice of Child Custody Proceeding for Indian Child
 KG-2 (Rev. 1/11) - Statement of Facts Supporting Eligibility for Kinship Guardianship Assistance Payment
 SOC 155C (Rev. 1/00) - Voluntary Placement Agreement Parent/Agency (Indian Child)

The AAP, FC, KG, ICPC and SOC forms are available on the California Department of Social Services (CDSS) website at: <http://www.cdss.ca.gov/cdssweb/PG19.htm>

The ICWA forms are available on the Judicial Council's website at <http://www.courts.ca.gov>

This regulation change is made for purposes of clarity and non-duplication as the requirements that currently are included in Sections 31-515 and 31-520 will now be included throughout the Manual of Policies and Procedures Division 31 regulations, which will cause these sections to be duplicative therefore they are being repealed in this change. Until now, the ICWA requirements were separated from the rest of Division 31 regulations (currently Sections 31-515 and 31-520). These regulations are amended because of Senate Bill (SB) 678 Statutes of 2006 which was passed to incorporate into various state codes, minimum federal standards for Indian child custody proceedings as required by the ICWA of 1978 (P.L. 95-608) codified in the U.S.C. at Title 25 section 1901, et. seq. The requirements specified by SB 678, apply at specific points throughout a child's case. State child welfare agencies and State courts must follow these requirements when removing Indian children from their homes and placing them into foster care or adoptive homes.

Feedback from social workers and stakeholders is that keeping the related standards and requirements separate from the rest of Division 31 regulations as Special Requirements, at Chapter 31-500 in Sections 31-515 and 31-520, diminishes the extent to which compliance with ICWA occurs. The ICWA requirements are more likely to be overlooked during the different stages of a child's case when an ICWA standard is required. The modification to include ICWA standards throughout Division 31 adds clarity and consistency by addressing each ICWA requirement at the various points in the life of a child's child welfare case when the ICWA requirements are applicable.

The anticipated benefits of the proposed changes to the Division 31 Regulations would be: improved state and county compliance with the requirements of the federal mandates of ICWA, as well as state law compliance regarding county child welfare service agencies involving Indian children. These changes will:

- greatly improve the working relationship between the State and California Tribes;
- promote better collaboration between child welfare agencies and tribes; and
- produce better outcomes for Indian children that come into contact with California child welfare agencies.

Determination of Inconsistency/Incompatible with Existing State Regulations

The CDSS has determined that the proposed regulations are not inconsistent or incompatible with existing regulations. The CDSS has evaluated the proposed regulations and found that these are the only regulations concerning county social workers activities dealing with Indian Child Welfare; therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

45-Day Public Notice Public Comment Period

These regulations were noticed to the public for a minimum of 45-days beginning July 31, 2015, and considered as Item #2 at the public hearing held on September 16, 2015, in Sacramento, California. The public comment period closed at 5:00 p.m. on September 16, 2015. Public comments were received during the comment period in writing and orally at the public hearing. The CDSS has put the public comments with responses in a separate document named Comment Response Matrix. The additional changes will be noticed to the interested public, as defined by Government Code sections 11347.1(b)(1) through (4), and made available for public inspection during a 15-day renote comment period.

15-Day Renote Public Comment Period

The additional regulation changes were noticed to the interested public, as defined by Government Code sections 11347.1(b)(1) through (4), and made available for public inspection during a 15-day renote comment period from May 10, 2016, to May 25, 2016. Two comments were received in favor of the regulations and no changes requested.