

**JUDGES ICWA CHECKLIST FOR ADOPTIONS:**

\_\_\_\_\_ 1. Jurisdiction:

\_\_\_\_\_ a. Inquiry is made to determine if child is ward of tribal court [25 U.S.C. §1911;

A.R.S. § 8-815(A)]

\_\_\_\_\_ b. Inquiry is made to determine if child resides or is domiciled on a reservation with jurisdiction over child custody matters [25 U.S.C. §1911; A.R.S. § 8-815(A)]

***If parents are domiciled on a reservation the child is also domiciled there, even if born off the reservation, and even if the child never resided on the reservation. [Mississippi Band of Choctaw Indians v. Holyfield, 490 U.S. 30, 109 S.Ct. 1597, 104 L.Ed.2d (1989)]***

\_\_\_\_\_ 2. Tribe has been properly notified

\_\_\_\_\_ Tribe received full notice of all proceedings for termination of parental rights [25 U.S.C. §1912]

\_\_\_\_\_ 3. If adoption requires termination of parental rights of a parent or Indian custodian, Tribe must be notified and no foster care hearing shall be heard until at least 10 days after receipt by Tribe

\_\_\_\_\_ 4. If adoption is voluntarily initiated by birth parents, see voluntary placements and custody checklist

\_\_\_\_\_ 5. Adoptive placement preference:

\_\_\_\_\_ a. The tribe has been contacted to see if they have their own order of preference 25 U.S.C. §1915(c)]

\_\_\_\_\_ b. Child is placed for adoption with a member of his/her extended family [25 U.S.C. §1915(a)]

\_\_\_\_\_ c. If child is not with extended family, a diligent search is on-going; [44 Fed. Reg. 67594-5];

\_\_\_\_\_ (i). child's mother has been asked for names of extended family

\_\_\_\_\_ (ii). child's father has been asked for names of extended family

\_\_\_\_\_ (iii). child has been asked for names of extended family members

\_\_\_\_\_ (iv). tribe has been asked to help with search for extended family

- \_\_\_\_\_ (v). American Indian advocate on case has been asked to help with
- \_\_\_\_\_ (vi). all possible extended family members have been contacted
- \_\_\_\_\_ d. If no extended family members are available after diligent search, child is placed for adoption with a member of child's tribe [25 U.S.C. §1915(a)]
  - \_\_\_\_\_ (i) tribe has been notified that their members will be given
- \_\_\_\_\_ e. If no extended family member or tribal member is available, child is placed for adoption in other Indian home [25 U.S.C. §1915(a)]
  - \_\_\_\_\_ (i) local and national Indian organizations and placement agencies are contacted []
- \_\_\_\_\_ f. If adoption is sought by someone who is not extended family member,
  - \_\_\_\_\_ (i). request of biological parents or child (if of sufficient age), shall be considered if appropriate
  - \_\_\_\_\_ (ii). extraordinary physical or emotional needs of the child -- such
  - \_\_\_\_\_ (iii). suitable families are unavailable despite a diligent search
- \_\_\_\_\_ 6. Copy of adoption decree to be sent to BIA, along with [25 U.S.C. §1951(a)]:
  - \_\_\_\_\_ a. Name and tribal affiliation of child
  - \_\_\_\_\_ b. Names and addresses of biological parents
  - \_\_\_\_\_ c. Names and addresses of adoptive parents
  - \_\_\_\_\_ d. Identity of any agency having files or information relating to the adoptive placement
  - \_\_\_\_\_ e. Affidavit of biological parent(s) who request confidentiality
- \_\_\_\_\_ 7. If adoption is set aside or adoptive parents voluntarily terminate parental rights, biological parent or prior Indian custodian shall be informed and shall be granted custody if he or she petitions for custody unless party opposing return of child meets standard under sections B and E of this outline [25 U.S.C. §1916; 44 Fed. Reg. 67595]
- \_\_\_\_\_ 8. Any adult who was adopted as a child shall be informed of tribal affiliation of biological parents and any other information necessary to protect that person's rights flowing from tribal membership [25 U.S.C. §1917; 44 Fed. Reg. 67595]