Sitka Tribe of Alaska

Tribal Government for Sitka, Alaska

INDIAN CHILD WELFARE ACT
STATEMENT OF POLICY

1.0 Purpose

The purpose of this policy is to establish guidelines for the Sitka Tribe of Alaska's intervention under the Indian Child Welfare Act in child custody proceedings as defined in Section 5.2 below. The Indian Child Welfare Act (ICWA) was originally enacted to stop the practice of removing native children from their homes by state and private welfare agencies and placing the children for adoption with non-native families or in state-run institutions and boarding schools. This policy addresses the role and responsibilities of the Sitka Tribe of Alaska (STA) under ICWA.

2.0 Revision History

Date	Revised	Changes	Sections Affected
1011/04	New policy		

3.0 Persons Affected

This policy affects all STA employees and Tribal Council members. The policy primarily affects Social Services and Sitka Tribal Court staff and judges.

4.0 Policy

The policy of STA is to ensure that state child welfare agencies and courts comply with the provisions of ICWA. The Social Services staff's main goal is to reunify native children taken into protective custody by state agencies with their parents. In the alternative, the Social Services staff works to ensure that the child is placed in a home that represents the child's native culture and protects the child's native identity.

4.1 Intervention

1. The Tribe will intervene in any child protective action or voluntary adoption proceeding involving a child enrolled with, or eligible to be enrolled with, STA.

2. If a child is eligible for enrollment with STA and another Tribe, STA will contact the other Tribe and determine which Tribe will be the primary Tribe.

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4.2 Placement Preferences: Foster and Preadoptive

1. When a child must be placed outside the home, STA will advocate for placement with an appropriate immediate family member first.

2. If no appropriate immediate family member is available, STA will advocate for placement with an appropriate extended family member as defined in Section 5.3 of this policy.

3. If no appropriate family placement is available, STA will advocate for placement with a licensed or able to be licensed native foster family living in Sitka or Southeast Alaska first, in Alaska second, and other places in the United States last.

4. If no family placement or licensed native foster placement is available, STA will support the best possible foster placement.

5. If no appropriate family placement or foster placement is available to meet the child's needs, STA will support placement in an institution for children.

6. STA will consider sibling, including half-sibling, relationships when advocating for a placement.

4.3 Placement Preferences: Adoptive

1. When an Indian child cannot be reunified with his or her biological parents, STA will advocate for adoption by an appropriate member of the child's immediate family first, and the child's extended family second.

2. If no appropriate family member is available, STA will advocate for adoption by other appropriate members of STA.

3. If no appropriate members of STA are available, STA will advocate for adoption by other Indian families.

4.4 Case Management

1. Each case will be assigned a caseworker. The caseworker has the following responsibilities:

   a. Appear at court hearings on behalf of STA, maintain contact with state agency social workers, family placements, other involved agencies or parties, and the child, if appropriate.

   b. Request discovery and records from state agencies and other parties as needed.

c. Advocate for the child's native culture and identity.

d. Ensure that active efforts are provided by state child protective agencies to prevent the break-up of the family.

e. Complete home studies as needed.

f. Document case contacts and maintain case files.

2. All cases will be staffed at a regular case management team meeting to develop a concurrent case plan that addresses the educational, safety, and health, and emotional needs of the child.

4.5 Tribal Attorney

The Tribal Attorney will participate in case management meetings and provide advice to case management staff concerning ICWA.

4.6 Transfer of Jurisdiction to Sitka Tribal Court

1. The Tribe may request transfer of jurisdiction of child protective proceeding from a state court to the Sitka Tribal Court if the following requirements are met:

   a. Both parents consent to the transfer,

   b. The primary parties to the case reside in Sitka, and

   c. The Sitka Tribal Court determines that it has the capacity, including personnel and funding, to handle the matter fairly and appropriately pursuant to the Tribal Court's Principles and Priorities.

4.7 Limitations

1. STA does not provide legal representation for parents. Parents are entitled to a court appointed attorney paid for by the state under ICWA.

2. Under ICWA, STA cannot intervene in any divorce or child custody proceeding. STA can only intervene in child protective cases.

5.0 Definitions

5.1 **Active Efforts** means the provision of remedial services and rehabilitative programs designed to prevent the breakup of the Indian family.

5.2 **Child Custody Proceedings means any of four different proceedings:**

Foster Care Placement means any action removing an Indian child from its parent or Indian Custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

Termination of Parental Rights means any action resulting in the termination of the parent-child relationship;

Preadoptive Placement means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in place of adoptive placement; or

Adoptive Placement means the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

5.3 **Extended Family** means the child's great-grandparents, great aunts and uncles, nieces, nephews, cousins, and clan relations.

5.4 **Immediate Family** means the child's parents, grandparents, aunt, uncle, brother, or sister, included step and adopted relatives.

5.5 **Indian Child Welfare Act (ICWA)**: Refers to the Indian Child Welfare Act of 1978, Public Law No. 95-608, codified at 25 U.S.C. § 1901-63.

5.6 **Indian Custodian** means any Indian person who has legal custody of an Indian child under tribal or state law or who has been granted custody by a natural parent.

5.7 **Voluntary Adoption** means a court proceeding where the biological parents voluntarily agree that a particular person or family should adopt a child.

6.0 Responsibilities

The Social Services Director is responsible for ensuring compliance with this policy.

7.0 ICWA References

At a minimum, STA refers to the following legal references for ICWA guidance:

California Judge's Benchguide: The Indian Child Welfare Act, Mary J. Risling, Esq., Californian Legal Services, 2000 ed.

The Indian Child Welfare Act Handbook, A Legal Guide to the Custody and Adoption of Native American Children, B.J. Jones, American Bar Association, 1995 ed.

CERTIFICATION

The foregoing Indian Child Welfare Act Statement Of Policy was adopted at a duly called and convened meeting of the council of the Sitka Tribe of Alaska held on October 20, 2004, at which a quorum was present, by a vote of 7 IN FAVOR, 0, AGAINST, 0, ABSTAIN, 0, ABSENT.

Sitka Tribe of Alaska – Tribal Chairman

Attest:

Sitka Tribe of Alaska – Tribal Secretary