

## *Episode 6 Placement Preference*

Carrie Owen ([00:32](#)):

Hello everyone. I just spoke to you in the Dakota language, and I spoke to you in the Dakota language because that's one of the original languages of Minnesota. And what I said was, my native name is Ishta maza win, which means Iron Eyes Woman and I currently live at the Prairie Island Indian Community, one of the 11 reservations in Minnesota. And I'm also a member of the Omaha Tribe, enrolled member of the Omaha Tribe of Nebraska. And I'm a member of the Meskwaki Tribe of Iowa. And I'm also part Dakota. I'm one of the three ICWA compliance consultants in the American Indian Wellbeing Unit within the Department of Human Services, Child Safety and Permanency Division. I'm very excited about this podcast. These first six podcasts focus on six major provisions of the Indian Child Welfare Act, also known as ICWA, and the Minnesota Indian Family Preservation Act, also known as MIFPA.

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It is our hope that these six podcast sessions assist in expanding your knowledge of Iqua MPA implementation and practice application, which we hope to result in increased ICWA MIFPA compliance for county and private agencies who work with Indian children and families within the state of Minnesota. Compliance of these laws equals protection for all our native children and families who reside in Minnesota. Previously, the unit was utilizing webinars called the ICWA Coffee Talks, but we really felt like it was necessary to broaden our network. I also mention that during the course of these sessions, you may hear our team referenced as the ICWA Unit and the American Indian Wellbeing Unit. Recently we changed our name from the ICWA Unit to the American Indian Wellbeing Unit. So you may hear the two being used interchangeably. We made this change to encompass the wide range of services our unit provides beyond ICWA.

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Each podcast will begin with the legal definitions, which can be dry and seem like legal jargon, but please bear with us as the legal language is important and guides the application and practice, which is foundational. Then a team member will go over frequently asked questions, and then we'll end each podcast with the story regarding provisions, highlighting the importance that impacts ICWA and MIFPA. In the future, we hope to bring forward other podcast series to bring live personal stories and history of federal state laws along with the agreements. We thought it was important to share a Dakota prayer song at the beginning of each series. As you have heard. The Dakota Song sums up our beliefs that creator comes first before anything else and is often sung in the household by women in the morning to start the day. A way of acknowledging our children are sacred and gifts from the creator.

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I'd like to also mention I am honored to be on a team with such talented, knowledgeable people. My coworkers, which in native tradition equate to my relatives, each of them bring their cultural knowledge from their diverse tribal backgrounds. These are things that you cannot learn in any college or higher education setting. It must be lived, and they also bring their profound professional knowledge as well. And lastly, I want to say Mitakuye Oyasin, which is a central part of the Dakota worldview. Defining our relationship to each other and the land, meaning we are all related. Thank you.

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Today our provision we're talking about is Placement Preferences. It's the final provision we'll be talking about. However, you know, it's very, very important, just as important as the other provisions. So placement preferences. As I stated before, I'm ICWA Compliance Consultant, so I've been doing these reviews for five years or so.

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And when we're looking at placement preferences, we're really looking for all those, the communication you have with the tribe whenever there's placement involved with the child. Of course, that's sometimes usually at the beginning of a case. So I'm really looking how you're establishing those relationships with the tribe and you're talking to them about placement. Very, very important. Placement preferences talks about the placement of Indian children. So in adoptive placements, in any adoptive placement of Indian children under state law, a preference shall be given in the absence of good cause to the contrary. To placement with one member of a child's extended family; two, other members of the Indian child's tribe, and the third is other Indian families. So those are the order that workers need to take into consideration. Also, placement of foster care or pre-adoptive placements. Children accepted for foster care or pre-adoptive placement shall be placed in the least restrictive setting, which most approximates a family.

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And in which special needs, if any, are met. Children shall also be placed within reasonable proximity to their home, taken into account. Special needs, if any foster care or pre-adoptive placement preference shall be given in the absence of good cause to the contrary. So the placement to placement with these pre-adoptive placements. Again, the order of preference. Be one member of an Indian child's extended family. Two, a foster home or license approved or specified by Indian child's tribe, Indian Foster home licensed, approved by a authorized non-Indian license authority. And then fourth is an institution for children approved by an Indian tribe, or operated by the Indian organization with a program suitable to meet the Indian child's needs. Now we're going to be going into some frequently asked questions. I'll be turning this over to my coworker who will be going over a lot of the questions that we get here in regards to placement preferences.

Cindi Miller [\(07:21\)](#):

Hello there. My name is Cindi Miller, and I am an ICWA Compliance Consultant in the American Indian Wellbeing Unit. And I am going to review some frequently asked questions about placement preferences. First of all, it's really important to seek the guidance from the Indian Child's tribe to ensure that placement preferences are followed. The agency must always give due diligence in its efforts to follow the order and give consideration to all placements. There is an established placement preference order that the agencies required to follow without skipping, which was reviewed previously by my coworker, Carrie. Due diligence to follow these preferences should be well documented. Can a tribe have a different order of placement preference? Yes, they can. The ICWA allows a tribe to establish a different order of placement preference for foster care placements and adoptive placements. The tribe affects this change in placement preference order usually by resolution.

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Tribal input on placements of tribal children can also be the subject of a tribal state agreement pursuant to the ICWA. What is considered good cause not to follow the placement preferences? Because there are instances where a placement preferences cannot be followed, at least maybe initially in the beginning of a case. But again, that has to be well documented and the tribe needs to be notified of why these placement preferences are not being followed. Factors that could form the basis for good cause may be the reasonable request of the Indian child's parents. If one or both parents attest that they have reviewed the placement options that comply with the placement preferences and the reasonable request of the child, if the child is old enough to understand and comprehend that decision. Another basis for good cause may be the presence of a sibling attachment that can be maintained only through a particular placement.

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And another one is the extraordinary physical, mental or emotional needs of the Indian child, such as specialized treatment services that aren't available in the community where the family lives. And another one that comes up quite a bit for us when we're doing our reviews is the unavailability of a suitable placement after a determination by the court that a search was conducted to find a placement. So oftentimes at the beginning of a case, the child will go into a non ICWA home because they need to get into a home immediately. And then later on after the tribe has become involved in, you know, there, there's been a search for relative homes, the that placement will change. As long as the tribe knows about that and agrees with that, then that's fine. There's also testimony of qualified experts designated by the tribe and of necessary experts designated by the child's tribe with experience in delivery of children and family services to Indian families.

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Witnesses also have extensive knowledge of prevailing social and cultural standards that support placement outside of the order of placement preferences. Due to extraordinary physical or emotional needs of the child requiring highly specialized services, consideration really needs to be given to Indian children or their parents' preferred placement, but is not sole consideration when contemplating foster care or pre-adoptive placements. Tribal input is very important in these decisions and must be given consideration. What does not meet the standards of good cause from following placement. Placement preferences. Placements cannot depart from the preferences based on socioeconomic status of any placement relative to another placement, also based on or ordinary bonding or attachment that flowed from time spent in a non-preferred placement made in violation of ICWA. Now I'm gonna turn it over to my coworker, Richie Smith, who has a story about placement preferences. Take it away, Richie.

Richie Smith ([11:40](#)):

Hello, my name is Richie Smith. I'm an ICWA Compliance Consultant with DHS. I've been there for five years now. I'm gonna tell you a story about placement preference. Um, I had a case that had two boys placed up north. And the interesting thing about this case, I actually knew their father when I worked at the Golden Eagle Program many years ago. But this, I remember that child, cause he'd always tell me we'd be sitting on Bloomington and Franklin Avenue and said, Richie, look, there's a drug dealer, Richie, I know who that person is. He knew everyone, the whole community down there. And so basically with working with these two boys, I'm seeing like a repeated cycle in the child welfare system. So these, both these boys had been in foster care for two years now, and we really didn't have any options for these kids.

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Um, these children were placed up north, they were in an ICWA home, and I'd come see them monthly, but I could tell like they weren't loved. The kids were, you know, their needs were being met. And when I talked to the boys, you know, they'd say, oh, we're going to the activities, the sports activities, to the the foster parents kids. So they go, always go and watch 'em for the basketball tournaments, but they would never had their own activities. And so I went back into the court system and I asked for the judge, I asked for him to order a family group conference up in Leech Lake, and the judge did order that. Since we've been open for two years, we had to get to, we had to find some kind of relative, some kind of placement. So prepare for this. Um, as you're, I've been hearing from my colleagues again, we're, there's always these extra provisions that we're talking about and they always, um, active efforts is always involved into these provisions too.

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So to prepare for this, I was going up north, I was speaking to families, uh, what to expect, you know, if they were to, um, adopt these children and take custody of these children, I let 'em know about North Star. North Star was just new then. There was many, many regulations, a lot of hoops to jump through, so you wanted to prepare them. So I went with them. And so we fed our first family group conference up in Leech Lake and it went well. A lot of relatives came, but no one still stepped up. And one thing I just wanna throw in there, I, I know when, uh, sometimes we send letters out to family members, you know, requesting for them, for them to come or just to check out this family member I really believe like, uh, face to face, um, talking to family members is the best thing you can do to get more family involved.

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So, um, as I was going with the family group conference, I was saying no one stepped up. So I had to ask the judge again to court order another family group conference. And again, I went up to Leech Lake, I was up at eight o'clock at night knocking on the doors up at Leech Lake, um, talking to relatives, letting them know what to expect at a family group conference and the things that they'll need, need to do to prepare, um, if they're to get custody. So after that, after I reached out to them, we had a family group conference up in Leech Lake and we actually had a family member say that, uh, we would love to have these children in our home. These children have been out of home for two years, and the tribe was in agreement, the tribe was there actually. So it was kind of like a no-brainer. But, um, now these two boys, they have a family, they have a love, they have a connection to the tribe, and the best interest political status of the American Indian child is protected. So that's why it's important for placement preference to always reach out and speak to the tribe and speak to relatives in person. Miigwech

Carrie Owen [\(15:17\)](#):

Okay, well this is Carrie Owen. I just wanted to say this completes our ICWA. MIFPA podcast series on our provisions. I just wanna say thank you to everyone. I hope that this podcast was helpful in terms of ICWA MIFPA compliance, and I really wanna thank my coworkers for coming up with stories, for doing their part, for coming together and taking time to do this. We look forward to the future and perhaps coming out with other additional podcasts around ICWA and MIFPA. Thank you and have a great day.

Speaker 4 [\(15:53\)](#):

This podcast was supported in part by a grant from the Minnesota Department of Human Services, Children and Family Services Division,

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