

Module 10: Ongoing Obligations

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- Adult Adoptees' Rights to Information
- Notice of Change in an Adopted Child's Status
- Recordkeeping & Reporting

This module is important to ensure that information is maintained even after a child custody proceeding closes, so that the adult adoptee, parents or Indian custodian, and Tribe can protect their rights under the Act.

Module 10: Ongoing Obligations Adult Adoptees' Rights to Information

- Upon the application of an Indian who has reached age 18 and was the subject of an adoptive placement, the court that entered the final decree of adoption must:
 - Inform such individual of the Tribal affiliations, if any, of the individual's biological parents; and
 - Provide such other information necessary to protect any rights, which may include Tribal membership, resulting from the individual's Tribal relationship

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Notice of Change in Adopted Child's Status

- Notice of Change in an Adopted Indian Child's Status
 - The court must notify, by registered or certified mail with return receipt requested, the child's biological parent or prior Indian custodian and the Indian child's Tribe whenever:
 - A final decree of adoption of the Indian child has been vacated or set aside; or
 - The adoptive parent has voluntarily consented to the termination of his or her parental rights to the child

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Notice of Change in Adopted Child's Status

- Contents of Notice of an Adopted Indian Child's Status
 - The notice must:
 - State the current name, and any former name, of the Indian child;
 - Inform the recipient of the right to petition for return of custody of the child; and
 - Provide sufficient information to allow the recipient to participate in any scheduled hearings

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Notice of Change in Adopted Child's Status

- Waiver of Right to Notice of an Adopted Indian Child's Status
 - A parent or Indian custodian may waive his or her right to such notice by executing a written waiver of notice and filing the waiver with the court
 - Prior to accepting the waiver, the court must:
 - Explain the consequences of the waiver and explain how the waiver may be revoked;
 - Certify that the terms and consequences of the waiver and how the waiver may be revoked were explained in detail in English (or the language of the parent or Indian custodian, if English is not the primary language), and were fully understood by the parent or Indian custodian

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Notice of Change in Adopted Child's Status

- Waiver of Right to Notice of an Adopted Indian Child's Status (cont'd)
 - Where confidentiality is requested or indicated, execution of the waiver need not be made in a session of court open to the public but still must be made before a court of competent jurisdiction
- Revocation of Waiver
 - The biological parent or Indian custodian may revoke the waiver at any time by filing with the court a written notice of revocation.
 - A revocation does not affect any child-custody proceeding that was completed before the filing of the notice of revocation

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- States must:
 - Maintain a record* of every voluntary or involuntary foster-care, preadoptive, and adoptive placement of an Indian; and
 - Make the record available within 14 days of a request by an Indian child's Tribe or the Secretary

*See next slide for contents of record

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- Contents of Record of Every Foster-Care, Preadoptive, and Adoptive Placement of an Indian child
 - Each record must contain, at a minimum:
 - The petition or complaint;
 - All substantive orders entered in the child-custody proceeding;
 - The complete record of the placement determination (including, but not limited to, the findings in the court record and the social worker's statement); and
 - If the placement departs from the placement preferences, detailed documentation of the efforts to comply with the placement preferences

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- Record of Every Foster-Care, Preadoptive, and Adoptive Placement of an Indian child (cont'd)
 - A State agency or agencies may be designated to be the repository for this information
 - The State court or agency should notify the BIA whether these records are maintained within the court system or by a State agency
- States must also provide BIA with final adoption decree of each Indian child within 30 days
 - No request needed to trigger this requirement
 - See following slides

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- States Must Provide to BIA With Final Adoption Decrees: What & Where to Send
 - Any State court entering a final adoption decree or order in any voluntary or involuntary Indian-child adoptive placement must furnish a copy of the decree or order and additional information (see next slide) within 30 days to:
 - The Bureau of Indian Affairs, Chief, Division of Human Services, 1849 C Street NW., Mail Stop 4513 MIB, Washington, DC 20240, along with the following information, in an envelope marked “Confidential”:

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- Information to be Sent to BIA With Final Adoption Decrees
 - (1) Birth name and birthdate of the Indian child, and Tribal affiliation and name of the Indian child after adoption;
 - (2) Names and addresses of the biological parents;
 - (3) Names and addresses of the adoptive parents;
 - (4) Name and contact information for any agency having files or information relating to the adoption;
 - (5) Any affidavit signed by the biological parent or parents asking that their identity remain confidential; and
 - (6) Any information relating to Tribal membership or eligibility for Tribal membership of the adopted child

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- Final Adoption Decree Information to BIA
 - If a State agency has been designated as the repository for all State-court adoption information and is fulfilling the duties of sending adoption decrees and information to BIA, the State courts in that State need not fulfill those same duties

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- The State must maintain a record of **every** placement of an Indian child and make the record available within 14 days of a request by the Tribe or BIA
- States must automatically provide BIA with **final adoption decree** of each Indian child within 30 days
- If an adult adoptee asks the court for information on Tribal affiliation, the court that entered the final decree of adoption must provide them with information necessary to protect any rights from a Tribal relationship
- If an adoption fails, the court must notify the biological parent (or prior Indian custodian) and Tribe