



## Objectives

1. Learn strategies for engaging with families in developing case-specific active efforts,
2. Legal requirements for Active Efforts and when they apply,
3. Learn about resources that can assist in meeting Active Efforts expectations,
4. Learn language to assist in the documenting of Active Efforts that fulfill the requirements, and
5. Tools will be shared and applied to case studies to aid in implementing Active Efforts in ICWA cases.

# Therapeutic Alliance

- Rapport building - demonstrating care and concern
- Active listening and acknowledgement of family circumstances
- Asking questions until true understanding has been achieved
- A non-judgmental environment regardless of circumstances
- Client input in case plan
- Unconditional motivational support



# Collaborative Behaviors

- Providing culturally responsive services
- Sharing of all case related information
- Awareness of services and supports available to assist the family
- Engaging other meaningful adults to assist in the process of making change.
- Provide training in performing tasks
- Seek overt commitment to task and goals

## Does ICWA Apply?



- Began the process of notifying the tribe.
- Do diligent work to determine the citizenship or eligibility for citizenship for the child.
- Complete a family genogram to the fullest extent possible at the start of services.
- Document Active Efforts made to determine citizenship.

## ND State policy



### Verifying the Child is a Tribal Member

- If the family identifies as American Indian, Alaska Native, or Native American, tribal citizenship must be verified. The In-Home case manager must send notice to the child's tribe via their designated tribal service agent for ICWA in order to:
  - Confirm that the child is a citizen; **OR**
  - Confirm that the child is eligible for citizenship **AND** confirm a biological parent's citizenship.

Note: If several tribes are identified by the child and family, the In-Home case manager must send the letter to all tribes identified. Best practice includes telephone contact also be made with the tribe's child welfare unit, enrollment office, and their designated tribal service agent for ICWA notice. Although this is not required by ICWA, it may help a case manager get quick confirmation that ICWA may apply to a case. Any phone conversation that confirms that ICWA may apply must be documented in the case record. Formal notice must still be sent to the tribe.

## Regulation 23.2 Meaning of Active Efforts

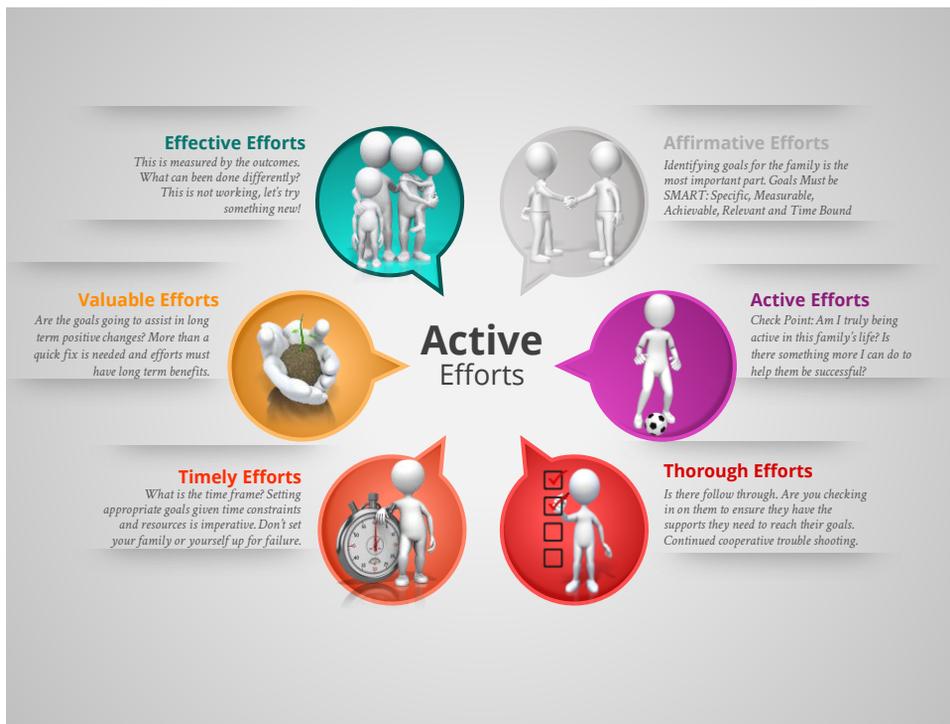
- *Active Efforts* means affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with his or her family...

### Guidelines

1. A protection against **unwarranted removal** and/or **quick reunification**
2. The focus is on the **quality** of the actions
3. These efforts will vary according to family needs
4. Courts have the discretion to consider all the info

#### Note

*Active efforts must begin at the moment of threat to remove. This includes the investigation and provision of family services. AND are to done if there is a reason to believe the child may be an Indian child; until it is so determined on record that the child is not an Indian child.*



# CPS Active Efforts

What active Efforts should be applied when an emergency removal happens?

- See if there is anyone the parent(s) can identify to take their children in this emergency situation.
- Involve the tribe, before removal if possible.
- Complete genogram with family at offset to identify kin and supports.
- Connect with culturally relevant services to prevent removal-active efforts start before custody.
- Remember parents cannot opt out of ICWA.
- Continual assessment of the family to provide reunification as soon as imminent danger or risk has been eliminated.

## Regulation 23.2 Active Efforts and the Case Plan

- § 23.2 ... Where an agency is involved in the child-custody proceeding, active efforts must involve assisting the parent or parents or Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan.

### Guidelines

1. Identifying resources is not sufficient in satisfying the active part of this very important effort.
2. Actively connect the family with resources while providing attention and additional resources to address any barriers they may have in attaining the services required.

## Regulation 23.2 Active Efforts and the Case Plan

- State and Tribal Case Management
  - Let's work together
    - Co-case management
    - Identification of tribal involvement
    - Communicate on status and progress of the family
    - Keep an up-to-date list of tribal services
    - Keep up to date list of county services
    - Communicate and troubleshoot alternatives for the family

## Regulation 23.2 Active efforts consistent with prevailing social and cultural conditions of the tribe

- § 23.2... To the maximum extent possible, active efforts should be provided in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's Tribe and should be conducted in partnership with the Indian child and the Indian child's parents, extended family members, Indian custodians, and Tribe.

### Guidelines

1. Who can help with social and cultural provision of services
  1. Extended Family
  2. Tribal Leadership
  3. Tribal Elders
  4. Spiritual Leaders
  5. Tribal programs
  6. Tribal Social Services
  7. Tribal ICWA worker
  8. Tribal Liaisons
  9. Qualified Expert Witnesses
  10. Local Families and Programs

## G. Active Efforts Required in ICWA Cases:

- “Active efforts” means not just an identification of the challenges a family faces and providing solutions. It also requires a foster care case manager make efforts to actively assist a family in making the changes necessary for an Indian child to return safely to their home and reunify with family.
- Active efforts must be undertaken to provide remedial services after an investigation and before a decision is made to place the Indian child out of the home. However, active efforts must also be provided after the Indian child has been removed in order to prevent the breakup of the family by working toward reunification.
- Active efforts can be demonstrated by the following:
  - 1. Making a strength-based evaluation of the family’s circumstances that takes into account the prevailing social and cultural conditions and way of life of the Indian child’s Tribe.
  - 2. Intervening only when necessary. Foster care case managers conducting such an intervention must:
    - a. Develop a case plan with assistance from the parents or Indian Custodian that involves use of Tribal Indian community resources; AND
    - b. Seek out the necessary family preservation services to support the family with the Indian child in the home, except where imminent physical or emotional harm may result; AND
    - c. Involve the child, if of sufficient age, in the design and implementation of case plan
  - 3. Assisting parents or Indian Custodian and Indian child in maintaining an ongoing family relationship, and
  - 4. Engaging the Indian child’s Tribe early and working closely with the Indian child’s Tribe to access culturally relevant resources and informal support networks.

### Regulation 23.2 Examples of active efforts

- § 23.2... Active efforts are to be tailored to the facts and circumstances of the case and may include, for example:



## Active Effort Focus Areas

- 1) A comprehensive assessment with a clear focus on maintaining or reunifying the family.
- 2) Identifying appropriate services and barriers.
- 3) Working with tribal representatives to provide services and support.
- 4) Diligently searching for extended family and identifying in what ways support can be offered to the family.
- 5) Culturally appropriate family preservation strategies.
- 6) Keeping siblings together or in contact.
- 7) Considering safety, visitation must be frequent and occur in the most natural setting possible.
- 8) Frequent monitoring of progress and participation in services.
- 9) Ensure the family has access to and is utilizing any and all local services.
- 10) Think outside of the box!!
- 11) Post reunification services and monitoring.

### Example

**One:**

Conducting a **COMPREHENSIVE** assessment of the circumstances of the Indian child's family, with a focus on **SAFE REUNIFICATION** as the most desirable goal;



The **Safety/Strength/Risk Assessment (SSRA)** was completed with the family. The assessment identified two areas that are in need of improvement: **Area 7 Condition of the home** and **Area 9 Caregiver's parenting skills**.

## Example

### Two:

Identifying appropriate services and helping the parents to **OVERCOME BARRIERS**, including actively assisting the parents in obtaining such services;

**Service Required:** SSRA Area 16 – Income

**Service Provider:** Career counseling at Career Services Center.

**Goals of Service:** Career testing and advisement, resume writing assistance and college information.

**Appointment Date:** 10/02/17

#### Potential Barriers:

1. Transportation to appointment:
  1. Client was given a bus pass.
2. Remembering the appointment:
  1. Utilized the client's smart phone to set up a reminder.



## Example

### Three:

Identifying, notifying, and inviting representatives of the Indian child's **TRIBE** to participate in providing **SUPPORT** and **SERVICES** to the Indian child's family and in child and family team meetings (permanency planning), and resolution of placement issues;

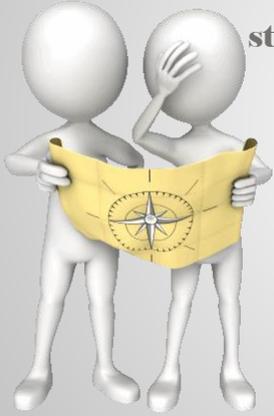
The tribe was notified by telephone and e-mail of the family's involvement in a situation that threatens removal of the children from the home. Tribe was given pertinent information and invited to participate in case management. Tribe has acknowledged awareness of the family situation and wishes to continue to be notified as the case progresses. The ICWA director has provided an updated list including contact information of tribal services available to the family.



## Example

**Four:**

Conducting or causing to be conducted a **DILIGENT SEARCH** for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parents;



**A genogram was completed with the family. Below is a comprehensive but not exhaustive list of people identified as supports for the children and family.**

**Renee Flood: Maternal Grandmother**  
**Support offered: Visitation with children in her home as frequently as possible.**

**Vine Deloria: Paternal Uncle**  
**Support offered: Offered to babysit for the children while Mom attends treatment.**

## Example

**Five:**

Offering and employing all available and **CULTURALLY APPROPRIATE FAMILY PRESERVATION** strategies and facilitating the use of remedial and rehabilitative services provided by the child's Tribe;

**Contacted the ICWA director to determine what services were available and appropriate for the family.**

**Tribal Identified Service: IHS – physical and mental health care.**

**Service Provided: Doctor appointments were set for all children.**

**Appointment information: Both appointments set for 10/10/17**

**Lucy: 10:00am with Dr. E. Mertz, Pediatrician**

**Fred: 11:00am with Dr. D. Arnez, Pediatrician**

**Outcome: Lucy and Lucas were both identified to be in need of Developmental assessments. Follow up appointments are set for 12/04/17.**

## **Example Five:** Culturally Appropriate Family Preservation



Ascertained with family to what extent they were involved in the traditional practices of their tribe. Families will have varying levels of involvement for various reasons. Still provide them with information as to various culturally relevant services have been identified and can be utilized.

A pow wow is scheduled for New Year's day and the QEW identified for this case is willing to introduce the family to people who can assist in strengthening cultural their cultural ties.

Connected family to Summer Day, a local community member, who will work with the family in providing cultural teachings.

Family has been connected with the American Indian Student Services Center. They work with families to explore educational opportunities. Family will have access to smudge and sweet grass.

## **Example**

### **Six:** Taking steps to keep **SIBLINGS** together whenever possible;



The children have been placed in separate homes. Lucy is with her biological father in Belmont, NY. Lucas remained in the local area and resides with his maternal grandmother.

Regular skype sessions have been scheduled to occur every other day at 7:30 pm. Lasting for a minimum of 10 minutes per session. Contact can occur at any time when convenient for both parties. Records of contact times are attached.

The children have been placed in separate homes in the same town.

Visits with Mom and Dad will be coordinated between all parties and the entire family will be together twice weekly in the comfort of their own home.

## Example

### Seven:

Supporting **REGULAR VISITS** with parents or Indian custodians in the most **NATURAL SETTING** possible as well as **trial home visits** of the Indian child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the child;



**Supervised Visitation** is set at three times per week for two hours per visit. Home will be in satisfactory condition and visits will occur in the children's home. Visitation will occur at 4:30 – 6:30 and the family will eat an evening meal together with unstructured visitation to follow.

## Example

### Eight:

Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or, when appropriate, the child's family, in **UTILIZING** and **ACCESSING** those resources;



**Housing:**

**Financial:**

**Transportation:**

**Physical Health:**

**Mental Health:**

**Substance Issues:**

**Peer Support:**

## Example

**Nine:**

**Monitoring PROGRESS and PARTICIPATION in services;**



**Progress and participation in identified services are monitored at intervals set by the Active Efforts Plan. Plan reminders are set in electronic calendars for both the case manager and family (children if applicable).**

**Overall case evaluation occurs at the Bi-weekly home visits when the case plan and any additional circumstances are evaluated.**

**Monitoring of progress and participation also occur at a more strategic level in the Child and Family Team Meetings which occur quarterly as needed.**

**Don't be afraid to switch gears or totally jump on another track!**

**If it is not working, TRY something NEW!!!**

## Example

**Ten:**

**Considering ALTERNATIVE WAYS to address the needs of the Indian child's parents and, where appropriate, the family, if the optimum services do not exist or are not available;**



**IDEAS???**

**How have you been creative in your work?**

## Example Eleven:

**Providing POST-reunification services and monitoring.**



**An in-home Active Efforts plan will be created with the family to ensure success in maintaining the children in the home.**

**Bi-weekly home visits will occur for the first month post-reunification. Following adequate progress home visits will occur monthly for no less than 5 months and continuing as needed.**



### Regulation 23.210 Providing active efforts

- § 23.120 How does the State court ensure that active efforts have been made?
- (a) Prior to ordering an involuntary foster-care placement or termination of parental rights, the court must conclude that active efforts have been made to prevent the breakup of the Indian family and that those efforts have been unsuccessful...



## Regulation 23.210 Providing active efforts

### Guidelines

- Earliest Point Possible
- Both parents must be considered.
- Court must monitor compliance.
- How long to provide active efforts?
- A child only needs to be ICWA eligible.



## Regulation 23.120 Documenting active efforts

- § 23.120 How does the State court ensure that active efforts have been made?

...(b) Active efforts must be documented in DETAIL in the record.

### Guidelines

- The issues the family is facing that the State agency *and the family* are targeting with the active efforts (these should be the same issues that are threatening the breakup of the Indian family or preventing reunification);
- A list of active efforts the State agency *and the family* determine would best address the issues and the reasoning for choosing those specific active efforts;
- Dates, persons contacted, and other details evidencing how the State agency provided active efforts;
- Results of the active efforts provided and, where the results were less than satisfactory, whether the State agency *and the family* adjusted the active efforts to better address the issues.





## Foster Care Case Scenario

**MOTHER:** Beth Eagle, age 30 –Enrolled Citizen of a Tribe

**FATHER:** Greg Eagle, age 35 –Enrolled Citizen of a Tribe

**CHILDREN:** Tianna Smith, age 12 – Bio Father is Pete Smith (non-Native), age 31

Wyatt Eagle, age 3 – Enrolled Citizen of a Tribe

Abby Eagle, age 9 months – Not currently enrolled citizen, but eligible for citizenship

## In-Home Case Scenario

- MOTHER:** **Samantha Gray, age 26** – Enrolled Citizen of a Tribe
- FATHER:** **Ray Banks, age 35** – Father of Robin Banks – Robin reports Ray is Native and from a Tribe in Wisconsin but is not sure if he is an enrolled citizen.
- FATHER:** **Daniel Fair, age 22** – Father of Lucas Gray, Non-Native
- CHILDREN:** **Robin Banks, age 2** – Tribal Citizenship not Determined
- Lucas Gray, age 5** – Tribal Citizenship not Determined

# Ultimately

I  you



**BEST  
INTEREST  
of the  
CHILD**

## References

- Bureau of Indian Affairs. (2016). Guidelines for implementing the Indian Child Welfare Act. U.S. Department of the Interior Office of the Assistant Secretary – Indian Affairs.
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- Lachini, A. L., Hock, R. M., Thomas, M., & Clone, S. (2015). Exploring the Youth and Parent Perspective on Practitioner Behaviors That Promote Treatment Engagement. *Journal Of Family Social Work, 18*(1), 57-73.



**Questions?  
More  
Information?**



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**E**

*Energy: lots of energy. This is not going to be easy. Change on any level is a difficult task, add in barriers and that equals a lot of hard work for everyone.*



*Fair: what self check do you have in place to ensure you are treating all families with the same zest and ambition. Fair does not mean equal.*

**F**

**F**

*Fortitude: focus on strengths. In crisis utilizing existing strengths is optimal. Don't be afraid to admit weaknesses. Weaknesses can be built upon.*



*Helping the family to stay Organized will help them reach their goals. Provide tools for organization, teach them how to use them and revise as needed.*

**O**

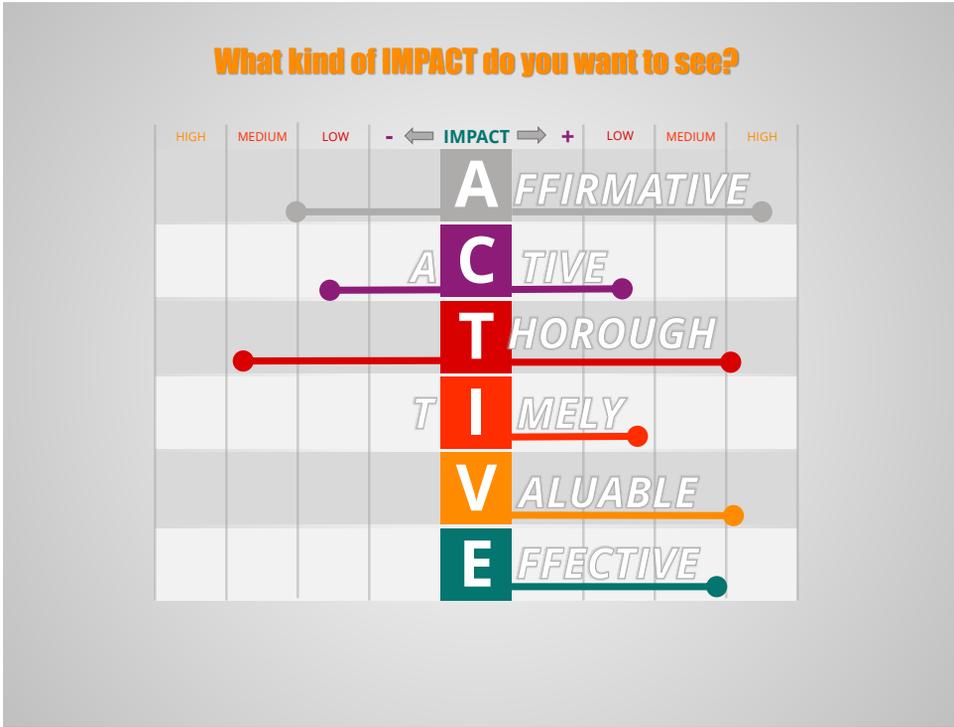
**R**

*Respect: respect is most often earned. Respect is vital to any relationship and once earned must be cultivated to maintain.*



*Trust is vital to success. Your relationships with your families are the key to unlock so many doors for long term change.*

**T**



## Being ACTIVE in your Efforts

### Reasonable Efforts

Referral for substance abuse treatment

Standard case management

Ensuring policy standards are met

Regular services provided

Updating relevant Tribal authorities

### Active Efforts

Identify any barriers to getting into a treatment program (child care, support system, transportation, etc.)

Proactive and diligent casework, Consistency in follow up and service provision

Ensuring family's needs are being met

Cultural services are provided at every opportunity

Co-case management when possible, regular open lines of communication