

<h1>ACF</h1> <p><b>Administration for Children and Families</b></p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
	Administration for Children and Families	
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4. <b>Key Words:</b> Title IV-E of the Social Security Act; Final Rule; Adoption and Foster Care Analysis and Reporting System (AFCARS); Indian Child Welfare Act of 1978 (ICWA)		

**INFORMATION MEMORANDUM**

**TO:** State, Tribal, and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act

**SUBJECT:** Final Rule on Adoption and Foster Care Analysis and Reporting System (AFCARS)

**RELATED REFERENCES:** Section 479 of the Social Security Act and 45 CFR §1355.41 through 1355.47

**PURPOSE:** The purpose of this Information Memorandum (IM) is to inform title IV-E agencies that a final rule was published amending the AFCARS regulations to require state title IV-E agencies to collect and report data elements related to the procedural requirements of the Indian Child Welfare Act of 1978 (ICWA). This final rule was published in the Federal Register on December 5, 2024 ([89 FR 96569](#)). Contained in this IM is basic information about the final rule; please consult the final rule for further details. Technical assistance related to implementation is forthcoming.

**INFORMATION:** The final rule requires state title IV-E agencies to collect and report additional information on:

- Whether the state inquired with certain individuals as to whether the child is an Indian child as defined in ICWA and when the agency first discovered information indicating that the child is or may be an Indian child as defined in ICWA.
- Whether the child’s parent or Indian custodian was sent notice in accordance with ICWA.
- Whether and when a court determined that ICWA applies for the child.
- Requests to transfer cases to Tribal court, whether the request was denied and the reason for denial.
- Information on voluntary and involuntary terminations of parental rights, and removals under ICWA.
- Information on meeting the placement preferences under ICWA.

- Whether the state title IV-E agency made active efforts to prevent the breakup of the Indian family.

**Implementation Timeframe:** We are providing three (3) Federal fiscal years for state title IV-E agencies to comply with the final rule. During the implementation period, state title IV-E agencies must continue to report to Administration for Children and Families (ACF) the ICWA-related data that is currently required in [§1355.44\(b\)\(3\)-\(6\)](#). It is essential for states to continue to report this information to ACF without interruption as AFCARS data is used for various reports, national statistics, planning, and monitoring under titles IV-B/IV-E. The first report period when state title IV-E agencies must begin collecting the information required in this final rule begins October 1, 2028, and the first data files containing this information will be due to ACF by May 15, 2029.

Additionally, ACF wants to clarify that states will be required to report the new/revised ICWA-related data elements required in this final rule for children who enter the Out-of-Home Care Reporting Population ([§1355.42\(a\)](#)) on or after the implementation date of the final rule, October 1, 2028. For children who enter and exit the Out-of-Home Care Reporting Population before October 1, 2028, only the [2020 final rule's](#) ICWA-related data elements will be reported ([85 FR 28410](#)). For children who enter the Out-of-Home Care Reporting Population before October 1, 2028, and exit on or after October 1, 2028, the state must report **only** §1355.44(b)(4)(i) and (ii) and (b)(6)(i) from this final rule. These data elements ask: whether the child is a member of or eligible for membership in a federally recognized Indian tribe; all federally recognized Indian tribe(s) that may potentially be the Indian child's tribe(s); and whether a court determined that ICWA applies or that the court is applying ICWA because it knows or has reason to know a child is an Indian child as defined in ICWA in accordance with 25 CFR 23.107(b)(2). This is outlined in this final rule's preamble and regulation text for §1355.43 ([89 FR 96576](#)). As already mentioned, technical assistance related to implementation is forthcoming.

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Commissioner  
Administration on Children, Youth, and Families  
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**LINK:** AFCARS final rule December 5, 2024 ([89 FR 96569](#))

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