

## Massachusetts Department of Children and Families

### AFCARS ANPRM Comments – June 2018

Topic	Data Elements	Citation	Page	Comment
ICWA Data Elements	Child welfare agency actions to identify children coming under ICWA protection	1355.44(b)(3) 1355.44(b)(3)(i) 1355.44(b)(3)(ii) 1355.44(b)(3)(iii) 1355.44(b)(3)(iv) 1355.44(b)(3)(v) 1355.44(b)(3)(vi) 1355.44(b)(3)(vii) 1355.44(b)(4) 1355.44(b)(4)(i) 1355.44(b)(4)(ii)	90570	<p>We agree with the need to cast a wide net to determine if a child is an American Indian and if an Indian child comes under ICWA protection. However, we do not see the need to ask so many and such specific questions for every child in placement. We propose the following: Limit the questions required to be answered for all children in placement to one or two questions focused on determining the likely applicability of ICWA. For instance,</p> <p>a. Does the child have Native American or Alaskan Native ancestry Yes/no/unknown; or</p> <p>b. Does the state title IV-E agency know or have reason to know the child is an Indian child as defined by ICWA? Yes/no</p> <p>If the answer to the seminal question is “yes”, then require a question intended to determine if the child is entitled to ICWA protections. For instance,</p> <p>a. Is the child a member of or eligible for membership in a federally recognized Indian tribe? Yes/no/unknown;</p>
ICWA Data Elements	Court actions to identify children coming under ICWA protection	1355.44(b)(5) 1355.44(b)(5)(i) 1355.44(b)(5)(ii) 1355.44(b)(6) 1355.44(b)(6)(i) 1355.44(b)(6)(ii) 1355.44(b)(6)(iii) 1355.44(b)(7) 1355.44(b)(8) 1355.44(b)(8)(i) 1355.44(b)(8)(ii)	90570 - 90571	<p>It is not clear how this adds to or is essentially different from asking if the state agency has reason to know the child is covered by ICWA. We recommend these items be dropped.</p> <p>The court findings and other activity taking place before the court represent a shift away from a child welfare agency reporting on its own activity to reporting on the activity of an independent third party. Current counts indicate that there are 59 children in placement in Massachusetts for whom ICWA protections apply. To develop an interface with the court system to capture all the court data elements or to develop pages for case workers or lawyers to enter such detailed data on these children would have a high cost.</p>

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		1355.44(b)(8)(iii)		
Non-ICWA Data Element	Educational Stability	1355.44(b)(16) 1355.44(b)(16)(i) 1355.44(b)(16)(ii) 1355.44(b)(16)(iii) 1355.44(b)(16)(iv) 1355.44(b)(16)(v) 1355.44(b)(16)(vi) 1355.44(b)(16)(vii)	90572 - 90573	This provides at best a crude measure of stability. It will only capture one school move during a reporting period when there may be multiple moves and does not consider other education disruptions like poor attendance or multiple in and out of school suspensions. It will be difficult to obtain consistent actionable data and will create a significant data collection and documentation burden. Case reviews and other qualitative data will provide a better method for analyzing placement stability.
Non-ICWA Data Element	Pregnant as of the end of the report period	1355.44(b)(17)(i)	90573	Case workers would be required to record any pregnancy and its termination, as they became aware of these events, in order to have accurate data as of the report period end dates. This additional record keeping is burdensome for workers.
Non-ICWA Data Element	Prior adoption date	1355.44(b)(19)(i)	90573	A child's adoption prior to the current placement episode is currently recorded. Determining and recording the exact date of the adoption, particularly those which occurred outside the United States could be a time consuming effort for case workers without any casework benefit.
Non-ICWA Data Element	Prior adoption intercountry	1355.44(b)(19)(ii)	90573	Capturing whether a child's prior adoption occurred outside the United States is unnecessary record keeping and may not have any current relevance since international adoption regulations change over time.
Non-ICWA Data Element	Prior guardianship and date	1355.44(b)(20)(i) 1355.44(b)(20)(ii)	90573	Data on children with a prior in-state guardianship is available. If a child's prior guardianship occurred in another state, this would be another unnecessary data collection burden for case workers.
Non-ICWA Data Element	Child financial and medical assistance	1355.44(b)(21) 1355.44(b)(21)(i) 1355.44(b)(21)(ii) 1355.44(b)(21)(iii) 1355.44(b)(21)(vi) 1355.44(b)(21)(ix)	90573	Instructions issued with the December, 2016 rule indicated that financial and medical assistance for the child needed to be reported for periods when the child had been returned home but was still in state custody. Massachusetts does not currently collect this information for children who have been returned home. A number of interfaces would need to be expanded to collect this information or case workers would need to record it.

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				In addition, Massachusetts does not currently have an interface to collect data on child's SCHIP eligibility. A new interface would be required.
Non-ICWA Data Element	Siblings	1355.44(b)(23) 1355.44(b)(24) 1355.44(b)(25)	90573-90574	Sibling data is better captured as qualitative data due to the complexity and the possibility that a worker may not initially have access to complete information. Additionally, children and families may identify persons as siblings who do not meet the definition listed in the December, 2016 rule which included only a brother or sister by a biological, legal or marital connection, reducing the meaning of national data.
ICWA Data Elements	Termination of parental rights under ICWA	1344.44(c)(6) 1344.44(c)(6)(i) 1344.44(c)(6)(ii) 1344.44(c)(6)(iii) 1344.44(c)(7)	90574	These data elements pertain to court actions, not actions by the child welfare agency. We believe the data elements in this section should be eliminated or, at a maximum ,reduced to: Indicate whether one or both parents or the Indian custodian voluntarily relinquished parental rights. Yes/No a. If "yes", is there a court order indicating the voluntary consent was made in writing and recorded in the presence of a judge? Yes/No/Does not apply
ICWA Data Elements	Removals under ICWA	1344.44(d)(3) 1344.44(d)(3)(i) 1344.44(d)(3)(ii) 1344.44(d)(3)(iii)	90574 – 90575	These data elements pertain to court actions, not actions by the child welfare agency. We believe the data elements in this section should be eliminated
ICWA Data Elements	Available ICWA foster care and pre-adoptive placement preferences	1344.44(e)(8) 1344.44(e)(8)(i) 1344.44(e)(8)(ii) 1344.44(e)(8)(iii) 1344.44(e)(8)(iv) 1344.44(e)(8)(v)	90577	We strongly recommend the data elements in this section be dropped. The more salient questions are where the child was actually placed and, if the placement preferences were not followed, why not. Otherwise, this represents a significant and burdensome data documentation effort.

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ICWA Data Elements	Foster care and pre-adoptive placement preferences under ICWA	1344.44(e)(9)	90577-90578	We strongly recommend this data element be dropped. See comments for Available ICWA foster-care and pre-adoptive placement preferences.
ICWA Data Elements	Good cause under ICWA	1344.44(e)(10)	90578	We strongly recommend this data elements be dropped. See comments for Available ICWA foster-care and pre-adoptive placement preferences.
ICWA Data Elements	Basis of good cause	1344.44(e)(11) 1344.44(e)(11)(i) 1344.44(e)(11)(ii) 1344.44(e)(11)(iii) 1344.44(e)(11)(iv) 1344.44(e)(11)(v)	90578	We strongly recommend the data elements in this section be dropped. See comments for Available ICWA foster-care and pre-adoptive placement preferences.
Non ICWA Data Element	Child's relationships to foster parents	1355.44(e)(13)	90578	Family relationships are so varied and fluid that summary statistics are not likely to be meaningful. The instructions for how to define various combinations of relatives who make up the foster household took 39 lines in the December, 2016 regulations. This is best examined in a case review.
Non ICWA Data Element	Tribal membership of foster parents	1355.44(e)(15) 1355.44(e)(21)	90578 - 90579	Collecting tribal membership for foster parents would be burdensome for family resource workers because they would need to see documentation of the membership. This requirement does not contribute to good case work.
ICWA Data Elements	Active Efforts under ICWA	1355.44(f)(10) 1355.44(f)(10)(i) 1355.44(f)(10)(ii) 1355.44(f)(10)(iii) 1355.44(f)(10)(iv) 1355.44(f)(10)(v) 1355.44(f)(10)(vi) 1355.44(f)(10)(vii) 1355.44(f)(10)(viii)	90580	We feel that the data collection and data entry required by some of the elements in this section are unduly burdensome. We suggest the elements collected in this section be changed to the following: a. Completed comprehensive assessment of family. Yes/No b. Conducted or caused to be conducted a diligent search for the Indian child's extended family members for assistance and possible placement. Yes/No c. Invited representatives of the Indian child's tribe to participate in the

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		1355.44(f)(10)(ix) 1355.44(f)(10)(x) 1355.44(f)(10)(xi) 1355.44(f)(10)(xii) 1355.44(f)(10)(xiii)		proceedings. Yes/No d. Supported regular visits. Yes/No
ICWA Data Element s	Available ICWA adoptive placements	1355.44(h)(20) 1355.44(h)(20)(i) 1355.44(h)(20)(ii) 1355.44(h)(20)(iii) 1355.44(h)(20)(iv)	90582	As with foster care placements, we strongly recommend this section be dropped. The more salient questions are whether the preferences were followed in regard to the child's adoption and, if not, why not.
ICWA Data Element s	Adoption placement preferences under ICWA	1355.44(h)(21)	90582	As with foster care placements, we strongly recommend this element be dropped. See comments under Available ICWA adoptive placements.
ICWA Data Element s	Good cause under ICWA adoption	1355.44(h)(22)	90582	As with foster care placements, we strongly recommend this element be dropped. See comments under Available ICWA adoptive placements.
ICWA Data Element s	Basis for good cause under ICWA adoption	1355.44(h)(23) 1355.44(h)(23)(i) 1355.44(h)(23)(ii) 1355.44(h)(23)(iii) 1355.44(h)(23)(iv) 1355.44(h)(23)(v)	90582	As with foster care placements, we strongly recommend this section be dropped. See comments under Available ICWA adoptive placements.

