

Notify an Indian tribe in a minor guardianship case

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Use this if you're filing in a Washington State court to ask a judge to appoint a guardian for children who are (or might be) Indian children.

1. Fast facts

Why do Indian tribes need notice of a minor guardianship case?

Federal and state law provide extra protections to Native American families in certain types of court cases. Along with giving notice to the children's parents and any Indian custodians, you must give the children's tribes (or possible tribes) notice that you've filed a court case affecting custody.

This gives the tribe the chance to determine if the children are tribal members or eligible to be tribal members. If so, the tribe has the right to take part in the court case.

Giving the tribe notice is just one step in a procedure that can take a long time or feel complicated.

You must thoroughly investigate any tribal relative connections. If the child is an Indian child, you must prove to a judge that there were active efforts to provide services and programs to the children's

parents to try to keep the children with the parents.

If you don't correctly follow the required procedure, you risk not getting a court order or having your court order canceled later. Talk to a lawyer who's familiar with the ICWA.

When do I have to give notice to an Indian tribe?

When you file a guardianship case, here's when you must give an Indian Tribe notice:

- You know that the children are or may be tribal members.
- The children are eligible to be tribal members and have a parent who's a tribal member.
- You learn about a child's possible tribal heritage, **even if you learn this later in the case.**

You may have to give notice to more than one tribe. The children might be members of more than one tribe, or you might not be sure which tribe the children belong to. The instructions apply to all tribes the same.

You must investigate and give notice to every tribe with possible connections to the children. Only a tribe can determine if children are tribal members or eligible for tribal membership. Each tribe has different eligibility requirements.

How do I give the tribe notice?

You must send a special notice plus a copy of your Guardianship Petition to the Indian children's tribe by registered mail with return receipt requested. You must call the tribe or look online (<https://www.federalregister.gov/documents/2023/03/22/2023-05861/indian-child-welfare-act-designated-tribal-agents-for-service-of-notice#:~:text=The%20regulations%20implementing%20the%20Indian%20Child%20Welfare%20A>) to find out who to send it to (the tribe's **designated agent**) and the address where you must send it.

What if we don't know which tribe to give notice to?

You must instead mail the papers to the Secretary of the Interior's Regional Director, Bureau of Indian Affairs (BIA), in Portland, Oregon. The ICWA notice has the address listed on it.

The court forms assume you'll always send a copy to the BIA. You should do this to cover all possibilities.

What happens after I mail the notice?

Once you get back your receipts of delivery to the tribe or tribes and BIA, file the confirmations of receipt in your case. Your court case can't go forward until at least **10 days after the tribe gets notice**. The tribe can ask for an extra 20 days after that to get ready for any hearing scheduled.

The Secretary of Interior has 15 days to give notice to the tribe. If the Secretary can't verify within 15 days that the children meet the legal criteria of Indian children, or can't find the parents or Indian custodians, the Secretary will tell the court how much more time, if any, is needed to complete the verification or the search.

If a tribe responds, the tribe may choose to take part in the case if the children are tribal members or eligible for membership. If the tribe doesn't respond to written inquiries, make sure you mailed the notice to the correct address for the tribe's designated agent. You might get help contacting the tribe from the Portland BIA office (<https://www.bia.gov/regional-offices/northwest>) or the BIA's central office in Washington, D.C (<https://www.bia.gov/bia>).

2. Step-by-step

- 1. Make copies.** You need one copy of the completed ICWA notice for yourself, one for the judge, one for each parent, any Indian custodian, one for every tribe the child is or might be affiliated with, and one for the BIA. You must also make a copy of your completed Guardianship Petition for every tribe you must mail the ICWA notice to (and/or the Department of Interior, if you're giving them notice).

2. **Organize the copies in sets.** You'll need one set for every person and tribe you're sending notice to and one for the BIA. You don't have to include a copy of the Proof of Mailing. Put each set of papers into an envelope addressed to the parent, Indian custodian, BIA, and to each tribe, with your return address. You'll use these sets to give notice.
3. You must **use certified mail, return receipt requested to send a set of copies** to the parent, Indian custodian, BIA, and tribes.
4. **When you get all the green receipts back**, make copies and attach them to the Proof of Mailing. Keep the green receipts.
5. **File the originals.** Bring the original of the ICWA Notice and the Proof of Mailing, plus your copy of each, to the clerk's office for the Superior Court where you filed the Guardianship Petition. The clerk keeps the originals. Ask the clerk to date-stamp your copy of both forms.

3. Forms

Form attached:

Indian Child Welfare Act Notice (GDN M 401)

Form attached:

Indian Child Welfare Act Notice – Attachment (GDN M 402)

Form attached:

Proof of Mailing (Indian Child Welfare Act) (GDN M 403)

Tips for filling out the Indian Child Welfare Act Notice, GDN 401

To: In the blank, put the names of the children's parents.

Indian Custodian/s: The law defines "Indian custodian" as an Indian person who under tribal law, tribal custom, or state law has legal or temporary physical

custody of an Indian child, or to whom a parent has given temporary care, physical custody, and control of an Indian child.

If the child has an Indian custodian, put the custodian's name here. If they don't, put "none" here.

Designated ICWA Tribal Agent/s: Put the name or names of any tribal agents here.

Court Hearing: Check the first box if there's a hearing scheduled in the case. Make sure you include a copy of any hearing notice with the court papers you're sending the tribe.

To the Petitioner: make sure you follow these instructions.

Tips for filling out the Indian Child Welfare Act Notice Attachment, GDN M 402

Fill this out only if the guardianship case covers more than one child. Fill it out as completely as you can in the same way you filled out the main Notice.

Tips for filling out the Proof of Mailing, GDN M 403

Form section 2. If you're sending the tribe a hearing notice or other court papers, make sure you check **other documents** and list what you mailed besides the Petition and ICWA notice.

Indian custodian/s if any: Check the box and fill out this section only if the child has an Indian custodian.

Form section 3. Other information (if any): Most people won't put anything here.

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.

Superior Court of Washington, County of _____

In the Guardianship of:

Respondent/s (*minors/children*)

No. _____

Indian Child Welfare Act Notice
(Guardianship) (BIAN)

Clerk: Do not file in a public access file
(GR 22(c)(3), 25 CFR 23.11(e)(7))

Indian Child Welfare Act Notice (Guardianship)

To: Parent/s (*name/s*): _____

Indian Custodian/s, if any (*name/s*): _____

Designated ICWA Tribal Agent/s (*name/s and tribe/s*): _____

Regional Director: Portland Regional Director, Bureau of Indian Affairs, 911 NE 11th Avenue,
Portland, Oregon 97232.

I have filed a *Minor Guardianship Petition* to ask a Washington State Court for guardianship of children who are members of (or may be eligible for membership in) the Indian tribe/s listed above. The Court's decision may affect the rights of the children's parents, Indian custodians, and tribe/s. The children may be taken from their home temporarily or permanently.

The Court is located at:

Court's street address

Court's phone number

Court's mailing address (if different)

City *State* *Zip*

Court Hearing

- ☐ A court hearing (or hearings) have been scheduled. See attached hearing notice or case scheduling order.
- ☐ No court hearing has been scheduled in this case yet.

Rights

If you are the parent, Indian custodian, or agent of the children's tribe, you have these rights:

- To receive this notice at least 10 days before the first hearing in this case.
- To have up to 20 extra days to prepare for a hearing, if you ask the Court.
- To see all documents and evidence filed with the Court for this case.
- To be part of this case at any point (*intervene as a party*).
- To have the Court appoint a lawyer for you, if you are a parent or Indian custodian and the Court finds you are indigent (*cannot afford your own lawyer*).
- To ask this Court to transfer this case to the court of the child's tribe. This Court will approve the transfer to tribal court unless one of the parents objects or there is a good reason to keep the case in state court.

Warnings

- This case may affect the future parental and/or custodial rights of the child's tribe/s, the parents, and any Indian custodian of the child named above. The child could be removed from their home temporarily or permanently.
- You must keep this notice and all the information in it confidential. Only people that need this information to exercise rights under ICWA should see this notice.

➤ Information

The information below is to help determine the children's Indian status. Petitioner/s must make a good faith effort to provide this information.

1. Information about the person/s asking for custody of the children

Name: _____ Tel. No.: _____
Name: _____ Tel. No.: _____
Address: _____
Lawyer's name (if any): _____
Lawyer's address: _____ Tel. No.: _____

2. Child's information

Child's name: _____
Date of birth: _____ Place of birth: _____
Tribe/s child belongs to (or may belong to): _____
Tribal enrollment # or other tribal ID: _____

- ☐ This child or one of the child's parents or grandparents was adopted. The child or a birth relative may be eligible for tribal membership. (*Sections 3 through 5 below ask for information about legal relatives. Provide the same information for birth relatives and attach to this form.*)

- ☐ There are (#) _____ other children involved in this case. *(For each additional child complete form GDN M 402, "ICWA Notice – Attachment for Additional Child".)*

3. Parent 1's information

Parent's current name: _____
 Other names used, (if any): _____
 Date of birth: _____ Place of birth: _____
 Current address: _____
 Former addresses: _____
 Tribe/s Parent 1 belongs to: _____
 Tribal enrollment # or other tribal ID: _____

4. Parent 2's information

Parent's current name: _____
 Other names used, (if any): _____
 Date of birth: _____ Place of birth: _____
 Address: _____
 Former addresses: _____
 Tribe/s Parent 2 belongs to: _____
 Tribal enrollment # or other tribal ID: _____

5. Information about the child's grandparents and great grandparents

Parent 1's parents		
Current name & other names used		
Current address		
Former addresses		
Date and place of birth		
Date and place of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		
Parent 1's grandparents		
Current name & other names used		
Current address		
Former addresses		
Date and place of birth		

Date and place of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		

Parent 2's parents <i>(add pages, as needed)</i>		
Current name & other names used		
Current address		
Former addresses		
Date and place of birth		
Date and place of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		
Parent 2's grandparents <i>(add pages, as needed)</i>		
Current name & other names used		
Current address		
Former addresses		
Date and place of birth		
Date and place of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		

Signature *Date*

Print name

To Petitioner:

You must have this Notice and a copy of the Petition served by certified mail, return receipt requested, to the:

- Children's tribe/s, addressed to the agent identified by the tribe/s (tribal agents designated to receive ICWA Notices are listed in the Federal Register: www.FederalRegister.gov (search "ICWA Agent")),
- Children's parents,
- Indian custodians (*if any*), and
- Bureau of Indian Affairs.

Fill out and file a Proof of Mailing form (GDN M 403).

(In addition to this mailing, you must have the Summons and Petition personally served on the parents and any Indian custodian.)

ICWA Notice – Attachment for Additional Child

(Fill out this form for each additional child and attach to the ICWA Notice.)

6. Additional child's information

Child's name: _____

Date of birth: _____ Place of birth: _____

Tribe/s child belongs to (or may belong to): _____

Tribal enrollment # or other tribal ID: _____

(Check one):

- ☐ This child has the same parents as the child listed the ICWA Notice section 2. (You may delete the tables below.)
- ☐ This child has different parents than the child listed in the ICWA Notice section 2. (Fill out below.)

Information about the child's parents, grandparents, and great grandparents

Child's Parents	Parent 1	Parent 2
Current name & other names used		
Current address		
Former addresses		
Date and place of birth		
Date and place of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		

Parent 1's parents		
Current name & other names used		
Current address		
Former addresses		
Date and place of birth		
Date and place of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		

Parent 1's grandparents		
Current name & other names used		
Current address		
Former addresses		
Date and place of birth		
Date and place of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		

Parent 2's parents ☐ same as the child listed in section 2		
Current name & other names used		
Current address		
Former address		
Date and place of birth		
Date of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		

Parent 2's grandparents ☐ same as the child listed in section 2		
Current name & other names used		
Current address		
Former addresses		
Date and place of birth		
Date of death, if no longer living		
Tribe		
Tribal Enrollment # or other tribal ID		

Superior Court of Washington, County of _____

In the Guardianship of:

Respondent/s (*minors/children*)

No. _____

Proof of Mailing (Indian Child Welfare Act
Notice)
(AFML)

Proof of Mailing (Indian Child Welfare Act Notice)

I declare:

1. I am age 18 or older.
2. On (*date*): _____, I personally mailed copies of the:
 - Guardianship Petition
 - Indian Child Welfare Act Notice (Guardianship)

☐ Other documents: _____

to the following people by certified mail with return receipt requested:

Tribes/s (mail to the agent listed in the Federal Register)

(*Tribal agent*): _____

(*Tribe*): _____

street number or P.O. box city state zip

(*Tribal agent*): _____

(*Tribe*): _____

street number or P.O. box city state zip

(*Tribal agent*): _____

(*Tribe*): _____

street number or P.O. box city state zip

Parents

(Name): _____

street number or P.O. box city state zip

(Name): _____

street number or P.O. box city state zip

BIA

Regional Director, Bureau of Indian Affairs
911 NE 11th Avenue
Portland, OR 97232

☐ **Indian custodian/s (if any)**

(Name): _____

street number or P.O. box city state zip

3. Other information (if any): _____

I declare under penalty of perjury under the laws of the State of Washington that the statements on this form are true.

Signed at _____ Date: _____
city state



Signature

Print

Tape return receipt/s below: