

## **Comments in Response to Proposed Information Collection Activity; Adoption and Foster Care Analysis and Reporting System (AFCARS)**

Federal Register, Vol. 91, No. 60, Monday, March 30, 2026

**RIN 0970-0422**

State of Utah, Department of Health and Human Services

Due 5/29/2026

The Utah Division of Child and Family Services (DCFS), operating within the Department of Health and Human Services (DHHS), serves as Utah's designated Title IV-E and IV-B agency. The DCFS vision: Safe children, strengthened families is operationalized through its mission to protect children from abuse and neglect and to provide domestic violence services by strengthening families and engaging with communities.

DHHS maintains that all children in foster care, including those protected under the Indian Child Welfare Act of 1978 (ICWA), have a right to physical and psychological safety. We recognize the importance of ICWA compliance and the value of reporting data that identifies eligible children. However, as we have begun implementing the data reporting requirements of published rule 2024-28072 (89 FR 96569), we have experienced numerous challenges and an increased administrative burden. Furthermore, we contend that these data reporting activities offer minimal insight into the partnership between the state and tribal nations or the quality of services rendered. Finally, we question whether the Adoption and Foster Care Analysis and Reporting System (AFCARS) is the most effective mechanism for ensuring that the procedural protections authorized under ICWA are fulfilled.

The following comments address these concerns and provide recommendations for alternative data collection methods that better align with the intended purpose of ICWA and published rule 2024-28072 (89 FR 96569). Our responses to the inquiries requested in the Federal Register are provided below:

**A: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.**

The regulations substantially increase the administrative burden on caseworkers, legal partners, and an already overextended child welfare system, and have required significant modifications to existing financial and data infrastructures. DHHS maintains that simply entering information into a database fails to capture the complexity and nuance of the policies and procedures guiding state actions. Quantitative data points cannot adequately

reflect the quality of coordination between states and tribes or the ultimate appropriateness of child placements. To continue implementation of the final rule, DHHS has had to shift focus from critical direct service work toward the mechanical collection of data. Over the long term, the reporting of these elements will consume significant caseworker time, further straining a workforce already burdened by high administrative demands.

While Title IV-E administrative funding may assist with some implementation activities, this rule has been a substantial unfunded financial burden. ICWA is not a funding source and no additional federal resources have been identified to offset one-time system modifications or the ongoing staffing costs associated with increased reporting. Consequently, the burden has fallen upon state funds to provide the required match and to cover costs for children who do not meet Title IV-E eligibility requirements.

DHHS acknowledges that select portions of the data collection may be valuable in defining the scope of ICWA's application and could potentially lead to improved practices for American Indian and Alaska Native children. However, we do not believe that all proposed elements provide value that informs quality practice or compliance. Many of the elements are overly burdensome and non-essential to ensuring the intent of ICWA is upheld. In light of the administrative effort required, these requirements counterproductively remove caseworkers from their primary mission of working with families.

The current regulations for the following measures are sufficient to verify ICWA requirements, as this data already exists within Utah's Comprehensive Child Welfare Information System (CCWIS) and is included in existing AFCARS reporting pursuant to the published rule 2024-28072 (89 FR 96569). This is particularly true for placement history, which is already captured for every case. The proposed enhancements to these specific elements do not provide sufficient utility to justify the additional data entry effort or the expense of new CCWIS programming, both of which detract from the agency's ability to provide substantive active efforts on behalf of children and families:

- § 1355.44 (b) (3) Researching reason to know a child is an "Indian Child" as defined in the Indian Child Welfare Act (ICWA)
- § 1355.44 (b) (4) Child's tribal membership and reason to know
- § 1355.44 (i) (6) Foster care and pre-adoptive placement preferences under ICWA
- § 1355.44 (i) (11) Adoption placement preferences under ICWA

## **B: The accuracy of the agency's estimate of the burden of the proposed collection of information**

Since the published rule 2024-28072 (89 FR 96569), DHHS has completed a comprehensive analysis of the elements proposed for the semi-annual AFCARS collection. Following a

careful review, DHHS concludes that the demands related to CCWIS development, administrative oversight, data collection, and necessary collaboration with Tribes and juvenile courts will require a substantial amount of time to effectively and accurately gather the required information.

Consequently, the current federal estimate of the time needed to ensure the quality, compliance, completeness, and timeliness of an AFCARS submission is inaccurate. As shown in the Annual Burden Estimates table, a "response" represents one semi-annual reporting period. States are required to submit 2 responses per year. The addition of ICWA elements has significantly increased the administrative workload, as it expanded the required AFCARS dataset by nearly one-third (adding 62 new data elements to the state recordkeeping burden). Therefore, the estimated time should be revised to more accurately reflect the true effort required of states, which DHHS suggests is closer to 11,000 hours per response.

### **C: The quality, utility, and clarity of the information to be collected**

DHHS continues to assert that the collection and reporting of some data elements constitute an excessive administrative burden that outweighs their practical utility. While we acknowledge the importance of identifying whether a child's foster care, pre-adoptive, or adoptive placement adheres to ICWA preferences (as mandated by 25 U.S.C. 1915(b) and (c)), the requirement to document every ICWA preference category and whether specific individuals were willing to accept placement is unnecessary. Consequently, DHHS recommends the elimination of these data elements:

- § 1355.44 (i) (5): Available ICWA foster care and pre-adoptive placement preferences
- § 1355.44 (i) (10): Available ICWA adoptive placements

The ICWA reporting requirements necessitate a response for every element but lacks a mechanism to cross-validate the quality of the information collected. This deficiency may lead states to make presumptions about the data gathered during the agency's engagement with the family, rather than reflecting the actual application of ICWA. Furthermore, the utility of this information is limited, as it often does not lead to different agency actions once a finding has already been made that ICWA applies. DHHS maintains that adherence to ICWA is more effectively evaluated through a Child and Family Services Reviews (CFSR)-type review, which can better determine if an agency satisfied the specific requirements, intent, and application of the law. This qualitative approach is particularly significant for evaluating high-stakes findings, such as the provision of "active efforts" and the elevated "burdens of proof" that are required when ICWA is applicable.

**D: Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.**

At present, bi-directional data exchanges between the Title IV-E agency and Tribes in Utah do not exist. Many Tribes may lack the technological infrastructure needed to support the collection and sharing of specific ICWA elements, such as notices received, Tribal enrollment, or other information that would expedite the application of the law. To minimize the administrative burden, federal support should focus on helping Tribes and legal partners develop the technology necessary for automated data sharing, rather than placing the reporting burden solely on state agencies.

DHHS supports the additions and revisions to demographic and placement data, as these align with the statutory objectives of AFCARS. However, DHHS does not endorse the expansion of AFCARS to serve as a mechanism for analyzing procedural protections. We maintain that the assessment of these protections is better suited to qualitative evaluation processes, such as the CFSR. The following data elements in section § 1355.44(i) are process-oriented and inherently lend themselves more to in-depth case reviews than to quantitative reporting:

- § 1355.44 (i) (1): Request to transfer to tribal court
- § 1355.44 (i) (2): Involuntary termination/modification of parental rights under ICWA
- § 1355.44 (i) (3): Voluntary termination/modification of parental rights under ICWA
- § 1355.44 (i) (4): Removals under ICWA
- § 1355.44 (i) (7): Good cause under ICWA, foster care
- § 1355.44 (i) (8): Basis for good cause, foster care
- § 1355.44 (i) (9): Active efforts
- § 1355.44 (i) (12): Good cause under ICWA, adoption
- § 1355.44 (i) (13): Basis for good cause, adoption

These elements are not captured in existing data systems and require a time-consuming, case-by-case review of individual court orders. Because a primary goal of these regulations is to evaluate the ICWA process, this analysis would be handled more effectively through established review processes like the CFSR. A CFSR-style review allows for the analysis of specific case circumstances and court order language, providing a much more comprehensive understanding of ICWA implementation.

We appreciate the opportunity to respond to the request for public comments.