

LIFE OF AN ICWA CASE

	WHAT HAPPENS	ICWA'S ROLE
INVESTIGATION ↓	OCS and other State of Alaska Agencies required to provide active efforts to prevent removal	Investigate, support family preservation
TEMPORARY CUSTODY (probable cause) HEARING <i>WITHIN 48 HOURS</i> ↓	<p>OCS files Petition for Emergency Custody and/or Adjudication Unless parents stipulate, judge holds contested hearing and decides</p> <ul style="list-style-type: none"> • if OCS has proven child is in need of aid • if OCS has proven active efforts to prevent removal • if OCS has proven that either <ul style="list-style-type: none"> ○ removal necessary to prevent imminent physical harm or ○ (w/QEW) that child likely to suffer serious emotional/physical harm if home • if OCS followed placement preferences or proven good cause not to 	<p>Intervene Request and Review Discovery May call or question witnesses in court Argue for/against</p> <ul style="list-style-type: none"> • Return of Child to Home or • Placement with Relatives without OCS custody <p>Consider transfer to tribal court</p>
ADJUDICATION HEARING <i>WITHIN 120 DAYS</i> ↓	<p>Unless parents stipulate, judge holds contested hearing and decides</p> <ul style="list-style-type: none"> • if OCS has proven that child is in need of aid • if OCS has proven (with QEW) that child likely to suffer serious emotional/physical harm if returned home • has OCS followed placement preferences or proven good cause not to 	<p>Request and Review Discovery Argue position on</p> <ul style="list-style-type: none"> • whether child is in need of aid • whether removal is necessary • whether court should order OCS to file visitation plan <p>May call or question witnesses in court</p>
DISPOSITION HEARING ↓	<p>OCS Disposition Report 15 days before hearing; GAL Report 10 days before hearing Unless parents stipulate, judge holds contested hearing and decides</p> <ul style="list-style-type: none"> • if OCS has proven (with QEW) that child likely to suffer serious emotional/physical harm if returned home • if OCS has proven active efforts and unsuccessful result • has OCS followed placement preferences or proven good cause not to • how long child should be in state custody 	<p>Request and Review Discovery May file Disposition Report May call or question witnesses in court Argue for/against removal, length of state custody</p>
PERMANENCY HEARING <i>WITHIN 12 MONTHS</i> ↓	<p>OCS files Permanency Report 10 days before hearing Unless parents stipulate, judge holds contested hearing and decides</p> <ul style="list-style-type: none"> • whether to approve OCS proposed permanency plan • if OCS has proven active efforts and unsuccessful result • has OCS followed placement preferences or proven good cause not to 	<p>Request and Review Discovery May call or question witnesses in court Argue for a permanency goal: reunification, guardianship, cultural adoption, state court adoption, or APPLA</p>
TERMINATION HEARING <i>WITHIN 180 DAYS OF PETITION TO TERMINATE</i>	<p>OCS files Petition to Terminate Parental Rights Unless parents relinquish rights, judge holds contested hearing and decides</p> <ul style="list-style-type: none"> • if OCS has proven it provided active efforts and unsuccessful result • if OCS has proven <i>beyond a reasonable doubt</i> (with QEW) that custody with parent would likely result in serious emotional/physical harm to child • if termination is in the child's best interests 	<p>Request and Review Discovery May file Tribal Report regarding Termination May call or question witnesses in court Argue for/against termination</p>
PLACEMENT REVIEW	<p>Any party or anyone who requested placement can ask for a hearing at any time Judge decides:</p> <ul style="list-style-type: none"> • has OCS proven the proposed placement is "unsuitable" • If not, is the proposed placement a higher preference under ICWA <i>all relatives are equal preference unless Tribe resolves otherwise]</i> • If the proposed placement a NOT a higher preference, is there <i>some</i> good reason for OCS to deny it • If the proposed placement IS a higher preference, can OCS prove good cause to deny it (not bonding/attachment) 	<p>Request and Review Discovery May call or question witnesses in court Argue for/against a placement</p>
MEDIATION	Can be requested by any party at any time to resolve entire case or single issues — everyone must agree to mediate	