



Questions for Tribal Councils for Child in Need of Aid Hearings

When Tribes intervene in State Court Child in Need of Aid cases, the Tribes have a right to present their preferences on each issue decided by the Court. In certain cases, hearings can be delayed so that the Tribe can take an informed position. In other cases, hearings must move forward. Without knowing the Council's position on each issue, tribal representatives may miss opportunities to advocate for their Tribe's desired outcomes.

Initial Assessment (before there is a court case)

- Has the Tribe received the PSR (report of harm)?
- Does the Tribe think OCS needs to be involved with the family?
- Does the Tribe think that the child should be removed from the home?
- Does the Tribe know of suitable relatives for placement if OCS thinks removal necessary?
- Does the Tribe think a safety plan may be appropriate/possible so that the children can remain in the home?

Temporary Custody or Probable Cause (shortly after the petition is filed)

- Does the Tribe want to transfer jurisdiction to the Tribal Court?
- Does the Tribe want to intervene (become a party) to the case?
- Does the Tribe think that the child is a child in need of aid (that OCS needs to be involved)?
- Does the Tribe think that the child can be safely returned to the parents' home?
 - Could a safety plan keep the child safe in the home? If so, who can participate?
- Does the Tribe agree with the child's placement, for the time being?
 - What alternative placements should OCS explore?
- Did OCS make active efforts to prevent the family's breakup?
- Is the child in imminent danger, or should OCS be required to provide an expert's testimony on why the child should not be returned home?

Adjudication (within 120 days after the petition is filed)

- Does the Tribe agree that the facts in the petition are true/accurate?
- Does the Tribe agree that the child is a child in need of aid (that OCS needs to be involved)?
- Does the Tribe agree the child cannot be safely returned to the parents' home?
- Does the Tribe agree with the child's placement, for the time being?
 - If not, what alternative placements should OCS explore?
- Has OCS been making active efforts?
 - (Are parents getting the services and supports they need? Are the children? Has visitation been set up?)

Disposition (shortly after Adjudication)

- Did the Tribe get the disposition reports?
 - Due 15 days before the hearing from OCS and 10 days prior for the GAL
- Does the Tribe support the child remaining in OCS custody? For how long?
- Does the Tribe agree the child cannot be safely returned to the parents' home at this time?
- Does the Tribe agree that OCS has made active efforts to reunify the family?
- Does the Tribe agree with the child's placement, for the time being?
 - If not, what alternative placements should OCS explore?
- Does the Tribe agree with the facts included in OCS's and the GAL's reports?



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Permanency (a year after the case is filed, and annual while case is open)

- Did the Tribe get the permanency report? (should be distributed 10 days prior to hearing)
 - Does the Tribe agree with OCS's permanency goal?
 - Does the Tribe agree OCS has made reasonable efforts to achieve the permanency goal?
 - Does the Tribe agree with the child's placement as a possible permanent placement?
 - Is the child still a child in need of aid (does OCS need to be involved)?
 - Have the parents made progress on their case plans?
 - Does the Tribe agree with the facts in OCS's report?
 - Does the Tribe have any other concerns about this case?
 - For a child who will be adopted, has the family negotiated an adoption subsidy that will allow them to meet all of the child's needs after the adoption?

Extension of Custody (up to one year, following the original period of custody)

- Does the Tribe agree that the child remains a child in need of aid?
- Does the Tribe agree that the child should remain in custody for the length of time OCS is asking the court for?
- Does the Tribe agree with the facts in the petition for extension of custody?

Termination of Parental Rights (filed after child is out of home 15 of 22 months)

- Does the Tribe oppose termination of the parents' rights?
- Does the Tribe think that OCS has made active efforts?
- Does the Tribe think that continued custody by the parents would result in harm?
- Does the Tribe think that termination is in the child's best interests?

.087 hearings (for children in North Star or a secure residential psychiatric treatment facility)

- Does the Tribe agree that the child needs to be in the treatment facility?
- Does the Tribe agree that the child is mentally ill and likely to cause harm to self or others if not treated?
- Does the Tribe think that there is no other less restrictive placement that the child could be placed in without harm to the child or others?
- Does the Tribe agree that the child is likely to improve if in that placement or would deteriorate if not in the secured facility?
- Does the Tribe want the child to have family contact in the facility?
- Are there specific treatments the Tribe thinks the child should receive?
- Does the Tribe want the ICWA worker to be part of treatment team meetings?
- Does the Tribe have a position on youths' medication, if any?

Questions throughout the case

- Does the Tribe want to take jurisdiction (permitted, but not a *right* after termination of parental rights)?
- Is the child in an ICWA-compliant placement? Does the Tribe support the placement?
- Does the Tribe agree that OCS has diligently searched for relatives, or licensed Native foster homes?
- Is the placement licensed or getting other financial support? Do they want to be?
- Is the child getting all the services s/he needs?
- Are the parents getting the services they need? Is the case plan realistic?
- Is appropriate visitation being scheduled? (for parents, siblings, or other relatives, if appropriate?)
- Is the Tribe getting quarterly reports from OCS if the parents' rights are terminated?
- If the child is 16 or older, is s/he getting enough support to live independently?