

**INDIAN CHILD WELFARE ACT AGREEMENT
BETWEEN
THE SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN
AND
THE MICHIGAN DEPARTMENT OF HUMAN SERVICES**

This Indian Child Welfare Act Agreement (the "Agreement") is made by and between the Saginaw Chippewa Indian Tribe of Michigan ("SCIT" or the "Tribe"), a federally recognized Indian Tribe, and the Michigan Department of Human Services ("DHS" or the "Department"), collectively, the "Parties."

The Department and SCIT enter into this Agreement to further the national policy declared in 25 U.S.C. § 1902 to protect the best interests of Indian Children and promote the stability and security of Indian Tribes and families. The Act expressly authorizes the states and Indian Tribes to enter into agreements concerning the care and custody of Indian Children (defined below) and jurisdiction over Child-Custody Proceedings (defined below) involving Indian Children. *See* 25 U.S.C. § 1919.

The Tribe is further authorized under Tribal law to enter into this Agreement pursuant to Articles VI(1)(a), (i), (j), (n), and (o) of its Amended Constitution and By-laws (approved Nov. 4, 1986).

Under the laws of the State of Michigan, DHS has the authority and responsibility to support and strengthen the integrity of families and to protect and contribute to the welfare of children of the State through a comprehensive and coordinated program of public child welfare services. *See* Mich. Comp. Laws §§ 722.621, *et seq.*; 722.1104; *In re Morgan*, 140 Mich. App. 594, 601-05, 364 N.W.2d 754, 757-59 (1985) (the Indian Child Welfare Act trumps state law in child protection proceedings).

Part I. Introduction

A. History

Public Law 95-608, the federal Indian Child Welfare Act of 1978, codified at 25 U.S.C. §§ 1901 *et seq.* (the "Act"), was passed to remedy the problem of disproportionately large numbers of Indian Children being placed out of their homes. The law recognized "that there is no resource . . . more vital to the continued existence and integrity of Indian Tribes than their children" and that there had been a failure by non-Indian agencies "to recognize the essential tribal relations of Indian people and the culture and social standards prevailing in Indian communities and families." 25 U.S.C. § 1901. In passing the Act, Congress stated:

It is the policy of this Nation to protect the best interest of Indian children and to promote the stability and security of Indian Tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in

foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operations of child and family service programs.

25 U.S.C. § 1902.

The Act applies specifically to the provision of child-welfare services to Indian Children. Indian Children are also entitled to all rights granted other children under any other federal or state law when those rights are not in conflict with federal law. The Act takes precedence over all state laws and other federal laws that may conflict regarding Indian Child welfare cases, but state or other federal law that provides a higher standard of protection for the rights of the Parent(s) or Indian Custodian(s) (defined below) is permissible under the Act. *See* 25 U.S.C. § 1921; *see also* Mich. Comp. Laws § 722.1104 (recognizing supremacy of the Act). The goal of the Act is to ensure that Indian Children remain with their Parents whenever possible. If that is not possible, then a placement must still fall within the Act's placement preferences, which are designed to keep Indian Children within their extended families and tribes.

The Act is in line with overall federal Indian policy. The United States Supreme Court has determined that distinct congressional treatment of Indians is not a prohibited racial classification. Differential treatment of Indians under congressional acts is allowed by the "special relationship" that the federal government has established with Indian Tribes. This special relationship derives from the separate constitutional status of Indian Tribes under the United States Constitution. *See Morton v. Mancari*, 417 U.S. 535, 551-554 (1974). *See also Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989).

B. Purpose

The purpose of this Agreement is to protect the long-term best interests of Indian Children and their families by maintaining the integrity of the tribal family, Extended Family (defined below), and an Indian Child's tribal relationship. The Parties' intent in entering into this Agreement is to strengthen implementation of the letter, spirit, and intent of the Act. The Parties further intend to ensure that any Departmental regulations, directives, policies, manuals, or instructions are applied consistently with the terms of this Agreement and the Act. This Agreement must be construed to achieve a result consistent with the policy and intent of the Act and the following policies:

1. Indian Children should be kept with their families;
2. Indian Children who must be removed from their homes should be placed within their own Extended Families and tribe(s); and
3. The Department will follow the tribal order of placement preferences consistent with 25 U.S.C. § 1915.

Any ambiguity in this Agreement must be resolved in favor of a result that is most consistent with these policies.

C. No Alteration of the Act; Relationship to Michigan Court Rules

This Agreement does not alter the Act. To the extent that any aspect of this Agreement is ever construed to limit the protections of the Act, the Act controls. To the extent that this Agreement affords greater protection than the Act, this Agreement controls: “[i]n any case where State or Federal law applicable to a Child-Custody Proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian Custodian of an Indian child than the rights provided under this subchapter, the State or Federal court shall apply the State or Federal standard.” 25 U.S.C. §1921.

If the applicable Michigan Court Rules regarding the Act change at any time after the Parties enter in to this Agreement, the Rules are incorporated into this Agreement only to the extent that they do not conflict with this Agreement. If any conflict arises between the Rules and this Agreement, this Agreement controls.

Part II. Definitions

All terms used in this Agreement should be used in this Agreement as they are defined in the Act unless this Agreement states otherwise. The following definitions will apply to this Agreement unless the definition in this Agreement is inconsistent with the Act:

- A. “Acknowledge” means any action on the part of an unwed father to hold himself out as the biological father of an Indian Child (defined below). “Acknowledged father” also means a father as defined by tribal law or custom. The Act and this definition do *not* require acknowledgement of paternity as defined under State law, including under Mich. Comp. Laws §§ 722.1001 *et seq.*
- B. “Active Efforts” means a rigorous and concerted level of case work that uses the prevailing social and cultural values, conditions, and way of life of the Indian Child’s Tribe (defined below) to preserve the child’s family and to prevent an out-of-home placement of an Indian Child wherever possible, and if out-of-home placement occurs, to return the child to the child’s family at the earliest time possible.

Active Efforts requires a higher, more intensive, and prolonged standard of effort than the “reasonable efforts” standard found in Mich. Ct. R. 3.965(D).

“Reasonable efforts” are those rationally calculated to attempt to prevent removal, and are not required in all cases. All Indian Child-Custody Proceedings require Active Efforts to be made.

Active Efforts require acknowledging traditional helping and healing systems of an Indian Child’s Tribe and using these systems as the core to help and to heal the

Indian Child and family. *See* 25 U.S.C. § 1912(d); Bureau of Indian Affairs ("BIA") Guidelines, 44 Fed. Reg. 67,584, 67,595 at D.2 (Nov. 26, 1979).

Active efforts are required throughout the county DHS office's involvement with the family. Where a county DHS office is not involved in a particular Child-Custody Proceeding, and the proceeding is not a voluntary placement as defined in the Act, Active Efforts must be both made and funded by the party seeking to effect an out-of-home placement (such as in a third-party custody action).

The Parties identify the following examples of potential Active Efforts:

1. Notifying SCIT of a case, requesting SCIT's involvement to participate in the case at the earliest point possible, and actively soliciting SCIT's advice throughout the case.
2. Requesting that a Tribally designated representative with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Tribal community evaluate the family circumstances and assist in developing a Case Plan that uses SCIT and other Indian-community resources.
3. Providing the family with specific services and access to both SCIT and non-SCIT services including, but not limited to, financial assistance, food, housing, health care, and transportation when needed. DHS will provide these services in an ongoing manner throughout the case to directly assist the family.
4. Arranging visitation (including, whenever possible, transportation assistance such as providing bus passes or coordination with other low-income transportation assistance programs) that will take place, whenever possible, in the home of the Parent(s), Indian Custodian(s) (defined below), other family members, or other appropriate setting (using any institutional or DHS office setting only after consultation with SCIT and as a last resort or where necessary to accomplish court-ordered supervision) to keep the child in close contact with Parent(s), siblings, and other relatives, regardless of their age, and to allow the child and those with whom the child is visiting to have natural and unsupervised interaction whenever consistent with protecting the child's safety. When the child's safety requires supervised visitation, DHS will consult with a SCIT representative to determine and arrange the most natural setting that ensures the child's safety.
5. Consulting with SCIT about the availability of SCIT support for the family, including traditional and customary practices, as well as other existing tribal services, and using these tribally based family-preservation and reunification services whenever available. If no Tribally based

services are available, the Parent(s), Indian Custodians(s), and children will be referred to other Indian agencies for services.

6. Consulting with Extended Family Members (defined below) for help and guidance, and using them as a resource for the child. If there is difficulty working with the family, seeking assistance from an agency, including ACFS, with expertise in working with Indian families.
 7. Using available SCIT, other Indian agency, and state resources that exist and that are appropriate for the child and family.
 8. Providing services to Extended Family Members to allow them to be considered for placement of the child.
- C. "Adoptive Placement" means "the permanent placement of an Indian Child for adoption, including any action resulting in a final decree of adoption." 25 U.S.C. § 1903.
- D. "Agreement Compliance Contact" means either a person designated by SCIT or a person designated by the Department to represent each respective entity as a liaison between the Parties to implement this Agreement.
- E. "Anishnaabeg Child and Family Services" or "ACFS" means SCIT's social services agency, SCIT's counterpart to DHS.
- F. "Best Interests of an Indian Child" means compliance with and recognition of the importance and immediacy of family preservation and using tribal ways and strengths to preserve and maintain an Indian Child's family. The Best Interests of an Indian Child will support the child's sense of belonging to family, Extended Family, clan, and tribe. Best Interests of an Indian Child are interwoven with the best interests of the Indian Child's Tribe. Best Interests must be informed by an understanding of the damage that is suffered by Indian Children if a family and child's tribal identity is denied or if the child is not allowed contact with her or his family and tribe. Congress has not imposed a "best interest" test as a requirement for Indian Child-Custody Proceedings, state "best interests" standards that are applied in circumstances involving non-Indian Children are different than Best Interests of an Indian Child, and state "best interests" standards do not control either this Agreement or Indian Child-Custody Proceedings. *See BIA Guidelines*, 44 Fed. 67,584, 67,592 at D.3. (Nov. 26, 1979); *Mississippi Band of Choctaw Indians*, 490 U.S. 30, 43-47 (1989).
- G. "BIA" stands for the Bureau of Indian Affairs.
- H. "Case Plan" means a written plan prepared by the county DHS office jointly with the Parent(s), Indian Custodian or guardian of the child, the Indian Child's Tribe, and, where appropriate, the Indian Child, and in consultation with the guardian ad litem and the child's foster-care providers or representative of the residential facility where the child is placed. If the child is in placement solely or in part due

to the child's emotional disturbance, the child's mental-health provider will also participate in preparing the Case Plan. The focus of the Case Plan will be on family preservation and elimination of the issues underlying the Child-Custody Proceeding (defined below).

- I. "Child-Custody Proceeding" means any of the following:
1. "Foster-Care Placement," which means any action removing an Indian Child from her or his parent or Indian Custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian Custodian cannot have the child returned upon demand, but where parental rights have not been terminated;
 2. "Termination of Parental Rights," which means any action resulting in the termination of the parent-child relationship;
 3. "Preadoptive Placement," which means the temporary placement of an Indian Child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; or
 4. "Adoptive Placement," which means the permanent placement of an Indian Child for adoption, including any action resulting in a final decree of adoption.

Child-Custody Proceeding does not include a placement based upon an act which, if committed by an adult, would be deemed a crime or based upon a divorce-proceeding award of custody to one of the parents. 25 U.S.C. § 1903(1). *See also* Mich. Comp. Laws §§ 722.21 *et seq.*

Child-Custody Proceeding includes placement based upon juvenile status offenses. *See* Mich. Comp. Laws §§ 712A.2a(2)-(4). Child-Custody Proceeding also includes any third-party custody or *de facto* custody where custody of the Indian Child may be transferred to any individual other than the Indian Child's Parent.

- J. "Data" means all records, files (including microfilm or computer files), case notes, and all other information regarding an Indian Child, regardless of whether such files containing the information are open or closed.
- K. "Department of Human Services," "the Department," or "DHS" means the state agency with ultimate responsibility for the provision of state child-welfare services that has met the compliance requirements under P.L. 96-272 (the Adoption Assistance and Child Welfare Act of 1980) and received certification by the federal government.

- L. "Descendant Child" means a child who has Indian ancestry but who is not eligible for enrollment in a tribe or whose eligibility for enrollment cannot be determined.
- M. "Domicile" means a person's true, permanent home, or the place to which the person intends to return even though he or she actually resides elsewhere. For adults, Domicile is established by the adult's physical presence in a place and the adult's state of mind concerning her or his intent to remain in that place. Because most minors are legally incapable of forming the requisite intent to establish a domicile, their Domicile is determined by that of the custodial Parent. On occasion, a child's Domicile is in a place where the child has never been. "Domicile" is not necessarily the same as "residence," and a person can reside in one place but be domiciled in another. *See Mississippi Band of Choctaw Indians*, 490 U.S. 30, 48-53 (1989).
- N. "Emergency" means a condition caused by the action or inaction by an Indian Child's Parent or Indian Custodian that puts the child at risk of imminent physical damage or harm as contemplated in 25 U.S.C. §1922. An Emergency ends after the immediate risk has passed: "[t]he State authority official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provision of this subchapter transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian Custodian, as may be appropriate." 25 U.S.C. § 1922. The Parties must follow the BIA Guidelines regarding emergency removals and improper removals. *See BIA Guidelines*, 44 Fed. Reg. 67,584 at B.7-B.8.
- O. "Extended Family Member" "shall be defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent." 25 U.S.C. § 1903(2).
- P. "Foster Care Placement" is defined above in Child-Custody Proceeding. *See* 25 U.S.C. § 1903(1)(i). Foster Care Placement includes all initial and subsequent actions surrounding such a removal. *See also BIA Guidelines*, 44 Fed. Reg. 67,584 at D.1-D.4.
- Q. "Good Cause Not to Follow the Placement Preferences" means, for the purposes of Foster Care, Pre-adoptive, or Adoptive Placement, or other permanency placements, a court's determination that there is good cause not to follow the order of preference set out in the Act. Such determination should be limited to those cases where a court finds that one or more of the following considerations is present:

1. A competent biological parent(s) or child (when the child is 13 or older) requests that the court decline to follow the Placement Preferences, but if the sole basis for the preference of the parent or child is to avoid application of the Act, there is not Good Cause Not to Follow the Placement Preferences, and the court should reject the request;
2. Expert testimony establishes that the child's extraordinary physical or emotional needs require highly specialized treatment services; or
3. A diligent search, consistent with Active Efforts, for families meeting the preference criteria discloses no suitable families for placement that meet the Placement Preferences. If this circumstance occurs, SCIT will assist DHS to locate a suitable family for placement.

See generally BIA Guidelines, 44 Fed. Reg. 67,584, 67,595 at F.3.

Bonding or attachment to a foster family alone, without the existence of any of the above conditions, is generally not "good cause" to keep an Indian Child in a lower preference or non-preference home.

- R. "Good Cause Not to Transfer Jurisdiction to Tribal Court" has the meaning set forth below in Part III.I titled "Transfer to Tribal Courts."
- S. "ICWA" or "the Act" means the Indian Child Welfare Act, 25 U.S.C. §§ 1901-63.
- T. "Imminent Physical Damage or Harm" means a threat of immediate physical injury.
- U. "Indian" "means any person who is a member of an Indian tribe, or who is an Alaskan Native and a member of a Regional Corporation as defined in [the Alaska Native Claims Settlement Act, 43 U.S.C. § 1606]." 25 U.S.C. §1903(3); *see also* Mich. Ct. R. 3.002.
- V. "Indian Child" "means any unmarried person who is under age eighteen and is either (a) a member of an Indian Tribe or (b) . . . eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe . . ." 25 U.S.C. § 1903(4). A termination of parental rights does not sever the child's membership or eligibility for membership in a tribe or the child's other rights as an Indian. This statutory definition of an Indian Child applies without exception in any Child-Custody Proceeding.
A tribe's determination that a child is a member or eligible for membership in the tribe is conclusive. *See* BIA Guidelines, 44 Fed. Reg. No. 228, 67,584, 67,586 (Nov. 26, 1979); *In re I.E.M.*, 233 Mich. App. 438, 445-48, 592 N.W.2d 751, 755-57 (1999); *In re S.N.R.*, 617 N.W.2d 77, 84 (Minn. Ct. App. 2000).

The applicability of the Act to a Child-Custody Proceeding in no way depends upon whether an Indian Child is part of an "existing" Indian family or upon the

level of contact a child has with the child's Indian Tribe, reservation, society, or off-reservation community. The Parties expressly reject any application of the minority judicial rule recognized as the "Existing Indian Family Exception." *Accord In re Elliott*, 218 Mich. App. 196, 201-08, 554 N.W.2d 32, 34-37 (1996).

- W. "Indian Child's Tribe" "means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts . . ." 25 U.S.C. § 1903(5). If an Indian Child is a member of or is eligible for membership in more than one tribe, the determination of the child's tribe must be made by the respective tribes with whom the child is a member or eligible for membership. A court may only designate the child's tribe if the respective tribes cannot timely make the determination in the context of the Child-Custody Proceeding or if a dispute exists between the tribes. In such a circumstance, the Court should designate the tribe with which the child has more significant contacts as the child's tribe. A state court has no authority to bind a tribe to an enrollment determination, or to compel a tribe to enroll any child. Such a determination does not prohibit any other interested tribes from participating in a Child-Custody Proceeding. Any such participating tribes must be served with all notices and filings in the Child-Custody Proceeding.
- X. "Indian Child Welfare Act Contact Person" means the person designated by SCIT to receive formal notices regarding Child-Custody Proceedings involving SCIT Children or SCIT Descendent Children. Unless SCIT provides different contact information, all inquiries to SCIT in connection with any Indian Child-Custody Proceeding should be directed to: Director of Anishnaabeg Child and Family Services, 7070 E. Broadway, Mt. Pleasant, Michigan 48858.
- Y. "Indian Custodian" "means any Indian person who has legal custody of an Indian Child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child." 25 U.S.C. § 1903(6).
- Z. "Indian Tribe" means "any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in [43 U.S.C. § 1602(c)]." 25 U.S.C. § 1903(8).
- AA. "Isabella Indian Reservation" or "Isabella Reservation" has the meaning specified in the Order for Judgment entered by the United States District Court for the Eastern District of Michigan in *Saginaw Chippewa Indian Tribe of Michigan v. Granholm, et al.*, Case No. 05-10296-BC.
- BB. "Legal Custody" means the legally enforceable duty, responsibility, and authority to provide care and control of a child as interpreted by the State Court (defined below) or Tribal Court (defined below) when transferring legal responsibility for

care from a Parent, Indian Custodian, or legal guardian to DHS, a court services agency, or individual pursuant to a court order.

- CC. "Parent" "means a biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unmarried father where paternity has not been acknowledged or established . . ." 25 U.S.C. § 1903(9). An Indian Child may have a Parent who is not him- or herself Indian, but the Act nevertheless applies to the family.
- DD. "Permanency Planning for Indian Children" means a process designated to help Indian Children live in their own families as defined by the Act. This process should offer continuity of relationships with nurturing parents, Extended Family regardless of age, and tribal caregivers. This process is designed to provide the child an opportunity to develop and maintain lifetime familial relationships. When an Indian Child is unable to live with her or his own parents or Indian Custodians, permanency planning may include transfer of permanent legal and physical custody to a relative, long-term foster care, customary/cultural adoptions, or adoptions in State Court. Customary/cultural adoptions include traditional adoptions recognized by tribal practice, custom, or tradition. Nevertheless, the Parties acknowledge that the traditions, customs, and values of many tribes do not accept actions intended to terminate parental rights or other actions that can effect a severing of the parent/child relationship. The Parties acknowledge that all permanency options have the potential to extinguish the relationship between the parent and the child.
- EE. "Placement Preferences" means an Indian Child's Tribe's order of out-of-home placement preferences:
- (a) Adoptive placements; preferences

In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.
 - (b) Foster care or preadoptive placements; criteria; preferences

Any child accepted for Foster Care or Pre-Adoptive Placement shall be placed in the least restrictive setting which most approximates a family and in which her or his special needs, if any, may be met. The child shall also be placed within reasonable proximity to her or his home, taking into account any special needs of child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with--

- (i) a member of the Indian child's extended family;
- (ii) a foster home licensed, approved, or specific by the Indian child's tribe;
- (iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; and
- (iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian Child's needs.

25 U.S.C. § 1915.

SCYT follows the Act's Placement Preferences. An out-of-home placement of an Indian Child with her or his siblings or half siblings in a non-relative, non-Indian home does not meet the Act's placement-preference requirements. This type of placement does not constitute a placement with "family" or with "relatives." The child's family, relatives, or kinship relationships must be determined with reference to the Parent (s) and/or Indian Custodian(s), and not with reference to other children in the placement home.

FF. "Preadoptive Placement" is defined above in Child-Custody Proceeding. *See* 25 U.S.C. § 1903(l)(iii).

GG. "Qualified Expert Witness" refers to the witness required by the Act at 25 U.S.C. §§ 1912(e) and (f). The Act states that "[n]o Foster Care Placement may be ordered" without "a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the Parent or Indian Custodian is likely to result in serious emotional or physical damage to the child." 25 U.S.C. § 1912(e). *See also* BIA Guidelines, 44 Fed. Reg. 67,584 at D.3 (definition of "clear and convincing evidence"). Likewise, "[n]o termination of parental rights may be ordered" without "a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian Custodian is likely to result in serious emotional or physical damage to the child." 25 U.S.C. § 1912(f).

No court may hold a hearing for which the Act requires the testimony of a Qualified Expert Witness without such testimony.

HH. "Reservation" "means Indian country as defined in [18 U.S.C. § 1151] and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual subject to a restriction by the United States against alienation." 25 U.S.C. § 1903 (10).

- II. "Residence" means the place where a person currently lives or has established a place of abode; provided that, if the law or custom of the Indian Child's Tribe defines this term differently, then the tribal definition controls.
- JJ. "SCIT Child" means a child who is either enrolled in or eligible for enrollment in SCIT.
- KK. "SCIT Descendant Child" means a child who has SCIT ancestry but who is not eligible for enrollment in SCIT or whose eligibility cannot be determined.
- LL. "SCIT Tribal Court" means SCIT's Tribal Court, including trial and appellate levels.
- MM. "Secretary" means "the Secretary of the Interior." 25 U.S.C. § 1903(11).
- NN. "State" means the State of Michigan.
- OO. "State Court" means any juvenile or family court of the State of Michigan that has jurisdiction over a Child-Custody Proceeding.
- PP. "Termination of Parental Rights" or "TPR" is defined above in Child-Custody Proceeding. *See* 25 U.S.C. § 1903(1)(9)(ii). "No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian Custodian is likely to result in serious emotional or physical damage to the child." 25 U.S.C. § 1912(f). *See also* BIA Guidelines, 44 Fed. Reg. 67,584 at D.1-D.4. In addition, the petitioner must prove beyond a reasonable doubt one or more grounds for termination of parental rights pursuant to state statute. *See* Mich. Ct. R. 3.977. Termination of parental rights includes any voluntary or involuntary actions as part of a stepparent adoption and an adoption consent. *See* 25 U.S.C. § 1913; Mich. Comp. Laws §§ 710.21 et seq. (state adoption code).
- QQ. "Tribal Court" means "a court with jurisdiction over child custody proceeding and which is either a Court of Indian Offense, a court established and operated under the code or custom of an Indian Tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings." 25 U.S.C. § 1903(12).
- RR. "Tribal Representative" means a tribe's designated representative in connection with a Child-Custody Proceeding or investigation. A tribe may designate a single person as both a Tribal Representative and a tribal Qualified Expert Witness, and that person may participate in a Child-Custody Proceeding in either or both capacities.

- SS. "Tribal Social Services Agency" means a tribal program or a tribe's agent, however named, with responsibility for provision of social services to Indian families and children.
- TT. "Voluntary Foster-Care Placement" means Foster Care Placement away from the home of the Parent, Indian Custodian, or legal guardian, but where a Parent may have the child returned upon demand. The following requirements apply to Voluntary Foster Care Placements:

Where any parent or Indian Custodian voluntarily consents to a Foster-Care Placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian Custodian. The court shall also certify that either the parent or Indian Custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian Custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

25 U.S.C. § 1913(a).

Voluntary Foster-Care Placement also requires a written, voluntary-placement agreement that specifies the Indian Child's legal status and details the rights and obligations of the Indian Child, Parent(s) or Indian Custodian and a child-placement agency (if involved), including the duty of the foster parent or agency to return the child upon demand, and the agreement must be executed by all those with obligations under the agreement. *See also* BIA Guidelines, 44 Fed. Reg. 67,584 at E.1-E.3.

- UU. "Voluntary Termination of Parental Rights or Adoptive Placement" means the freely given, non-coerced consent of a Parent or Indian Custodian to permanently give up custody of a child, to have parental rights terminated, and then to have the child placed for adoption. The requirements of 25 U.S.C. § 1913(a) apply to all Voluntary Termination of Parental Rights or Adoptive Placements without exception. *See* BIA Guidelines, 44 Fed. Reg. 67,584 at E.1-E.4.
- VV. "Ward of Tribal Court" means an Indian Child who is considered by a Tribal Court to be a ward of that Tribal Court. A Ward of Tribal Court is not necessarily the same as a "state ward" who is available for adoption. An Indian Child may be a Ward of Tribal Court without having parental rights terminated.

Part III. Indian Child-Custody Proceedings

A. Cooperation between the Tribe and DHS

The fundamental purpose of the Act and of this Agreement is to secure and to preserve an Indian Child's sense of belonging to her or his family and tribe. The Parties agree that cooperating to combine their abilities and resources to provide effective assistance to Indian Children and their families is the best means to reach this shared goal.

The necessary understanding of SCIT's history, religion, values, mores, and child-rearing practices is best obtained from SCIT. DHS will cooperate and collaborate to obtain guidance from SCIT before taking actions that could disrupt a SCIT Child's relationship to her or his family and tribe. The Parties must work together to provide services that comply with the Act to each SCIT Child involved in a state Child-Custody Proceeding.

The State DHS must work with the county DHS offices to ensure that county DHS offices utilize ACFS services that are available for SCIT Children, Parents of SCIT Children, and SCIT Descendant Children. The DHS recognizes that collaboration between county DHS offices and tribes is crucial in obtaining the best results for a SCIT Child.

B. Services and Placement Protocol for SCIT Children

County DHS offices must immediately notify designated SCIT authorities when a SCIT Child, or a child whose SCIT Indian identity is not yet confirmed but for whom there are indicators of SCIT Indian heritage, is involved in either a child-welfare investigation or proceeding, including as soon as possible in emergency situations, regardless of where the child Resides or is Domiciled. To achieve the best protection for a SCIT Child and family, county DHS offices must work with SCIT authorities to conduct joint investigations and assessments of allegations of maltreatment and neglect of SCIT Children. County DHS offices, both at initial and subsequent case-planning stages and must give SCIT full cooperation including, upon request, access to all files concerning the child that the County DHS office is permitted by law to share to SCIT. At a minimum, this includes the disclosures mandated by 25 U.S.C. Section 1912(c): "[e]ach party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based."

C. Services and Placement Protocol for SCIT Descendant Children

Both Parties recognize that a collaborative approach may allow the county DHS and SCIT authorities to offer more services to SCIT Descendant Children and their families, even if it is determined that ICWA does not apply. For SCIT Descendant Children, the DHS must consult with SCIT and carefully consider SCIT comments for

issues including, but not limited to, appropriate potential placements, sibling visits, and Extended Family visits. Where allowed by law, county DHS must also coordinate with SCIT authorities in order to investigate and assess allegations of maltreatment and neglect of SCIT Descendent Children domiciled on the Reservation. DHS must also consider using joint investigations for SCIT Descendent Children Domiciled outside the Reservation.

D. Emergencies

This Agreement does not limit the ability of either SCIT or any county DHS office to take immediate action to protect any Indian Child in an Emergency situation, including temporarily removing any Indian Child from an unsafe or abusive home.

E. DHS Central Registry and ACFS History Mutual-Information-Sharing

The DHS will continue to share information from its Central Registry of Child Abuse and Neglect upon request of ACFS. SCIT agrees to share its case-history information through a two-part request system:

1. If DHS personnel have reason to believe a person they have contact with as part of an active investigation also may have been involved in an ACFS child protection investigation, DHS personnel may verbally ask ACFS personnel to confirm whether the person was ever involved in such an investigation. ACFS personnel must promptly research the request for confirmation and give DHS a yes-or-no verbal response.
2. If ACFS confirms that the person has been involved in an ACFS child protection investigation, DHS may submit a written request for the case/contact history involving the person. ACFS must then use its best efforts to promptly locate and produce a copy of the case/contact history for DHS.

F. Borrowed-Bed Agreements

State DHS will work with the county DHS offices to increase awareness of the acceptability of Borrowed-Bed Agreements, which continue a longstanding tradition of allowing State Court wards to be housed in SCIT-licensed foster-care homes that comply with SCIT licensing requirements, but not necessarily DHS licensing requirements. Borrowed-Bed Agreements are favored in cases where both the DHS and SCIT agree to the placement. Borrowed-Bed Agreements do not change ICWA placement preferences, but enable the placement together of non-Indian children with their Indian siblings, or a minor Parent and Indian Child together in a Tribally licensed foster home.

G. Notices of Child-Custody Proceedings and Emergency Placements

1. Child-Custody Proceedings

County DHS offices must timely notify SCIT by mail of every Child-Custody Proceeding either by sending a notice of proceeding, if one is issued, or by sending a writing with enough information to determine the nature of the action and the status of the SCIT Child (or SCIT Descendent Child, where allowed by law) so that SCIT may participate in a Child-Custody Proceeding or may choose to exert tribal jurisdiction over a SCIT Child in the circumstances prescribed by ICWA. 25 U.S.C. §§ 1911(b) and 1912(a). SCIT must make good-faith efforts to respond to any such notice it receives.

If the identity or location of a Parent or Indian Custodian or an Indian Child's tribe cannot be determined, county DHS offices must give notice to the Secretary of the Interior in like manner. *Id.* See also Mich. Ct. R. 3.905(c) and 3.920(c) (Proceedings Involving Juveniles, American Indian Children), 3.921(B)(2)(j) (requiring tribal notice in protective proceedings).

2. Emergency Placements

If the State takes any child that it knows or has reason to know is a SCIT Child into emergency-protective care, then as soon as possible and before any hearing takes place, the County DHS office must inform SCIT by telephone or facsimile of the date, time, and place of the emergency protective care hearing. This is in addition to all other notices required under this Agreement or Michigan Court Rules. *Id.*

H. Inquiries to SCIT

Unless otherwise notified, all inquiries to SCIT in connection with any Indian Child-Custody Proceeding should be directed to: Director of Anishnaabeg Child and Family Services, 7070 E. Broadway, Mt. Pleasant, Michigan 48858. SCIT must respond to all inquiries regarding enrollment or eligibility status with a determination regarding that status as soon as possible. If SCIT cannot initially determine eligibility, but a child has SCIT heritage, SCIT must provide the State with confirmation of SCIT Descendant status for purposes of permitting ICWA case planning at the earliest possible time, pending further review by SCIT.

I. Transfer to SCIT Tribal Court

Except in Emergencies, the following Child-Custody Proceedings *must* be transferred to SCIT Tribal Court:

1. all proceedings involving a Ward of SCIT Tribal Court; and
2. all proceedings involving a SCIT Child who Resides or is Domiciled within the Isabella Reservation. See 25 U.S.C. § 1911(a); Mich. Ct. R. 3.905.

Upon petition of a Parent, an Indian Custodian, or SCIT, any Child-Custody Proceeding involving a SCIT Child who does not Reside in and is not Domiciled in the Isabella Reservation *must* be transferred to SCIT Tribal Court *unless* there is good cause not to do so. A court may not consider socioeconomic conditions or the perceived adequacy of ACFS services or of SCIT Tribal Court to determine whether Good Cause Not to Transfer Jurisdiction to Tribal Court exists. Any party opposing transfer to SCIT Tribal Court based on a claim of good cause has the burden of proof. If a County DHS opposes transfer, it must provide to SCIT a copy of materials filed with the Court in support of any opposition to a transfer of jurisdiction. If SCIT or anyone else supports the transfer, there must be an opportunity for a full court hearing on the issue. See BIA Guidelines, 44 Fed. Reg. 67,584, 67,595 at C.3(b)(i)-(iv), (c),(d) (Nov. 26, 1979) (as modified); Mich. Ct. R. 3.905.

J. Tribal Intervention in State-Court Proceedings

In any state-court proceeding for the Foster Care Placement of or Termination of Parental Rights to any Indian Child, the Indian Custodian of the child and the Indian Child's Tribe have the right to intervene at any point in the proceeding. See 25 U.S.C. § 1911(c).

K. Full Faith and Credit for Public Acts, Records, and Judicial Proceedings of Tribes

Under the Act, "[t]he United States, every state, every territory or possession of the United States, and every Indian Tribe, shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian Tribe applicable to Indian Child-Custody Proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity." 25 U.S.C. § 1911(d). The Department must adhere to this mandate.

Part IV. Agreement Implementation, Training, and Related Terms

A. Continuing Department Responsibilities for Services

In addition to services specifically established for Indian families in this Agreement or elsewhere, the Department recognizes the responsibility of the State and county DHS offices to make available to the families of all Indian Children all of the other services available to any family. Existing services must not be reduced because of the availability of services through this Agreement. Moreover, the exercise of SCIT Tribal Court jurisdiction does not justify a withdrawal, decrease, or denial of county social services to any family or SCIT Indian Child. County DHS offices also must honor SCIT Tribal Court orders for placement and provisions of services in compliance with 25 U.S.C. § 1911(d), which requires every state to give full faith and credit to the public acts, records, and judicial proceedings of any Indian Tribe applicable to Indian Child-Custody Proceedings.

B. Agreement Compliance Contact

When the Parties sign this Agreement, each must designate an Agreement Compliance Contact for purposes of implementing this Agreement (below). Both parties must update their respective contact information if it changes.

C. Department's Social-Service Manual

To the extent the DHS Child Welfare Manual or other policy, or procedure is or may be in conflict with this Agreement, solely to the extent needed to resolve the conflict, this Agreement controls.

D. Application to Private State-Licensed Child-Placing Agencies

This Agreement applies not only to DHS directly, but also covers the work that DHS subcontracts or otherwise designates private, state licensed child placing agencies to do on its behalf in providing services to children and their families.

E. Training

1. Department, County DHS Office, and Private-Agency Staff Training

The Department must continue to provide training on the Act and must also provide training regarding this Agreement in its regular child-protection training. The Department must also provide training regarding the Department's Child Welfare Program Manuals and other relevant training to strengthen services to all Indian Children and families. The Department must continue to invite SCIT participation to jointly develop an annual plan for ongoing training. The Department further agrees to notify SCIT of child-welfare services training provided by the Department or others for staff of county DHS offices, private-child-placement agencies, and SCIT child-welfare services.

- a. Indian Child welfare service training must include but is not limited to the following areas:
 - i. The purposes of the Act and this Agreement;
 - ii. Child-welfare investigations and assessments;
 - iii. Procedures to be followed to implement this Agreement, the Act, and relevant Michigan law;
 - iv. Notice requirements;
 - v. Provision of protective services;
 - vi. Provision of Emergency Foster Care Placement services;

- vii. Legal requirements to effect involuntary Foster Care Placement or termination of parental rights;
 - viii. Voluntary Foster Care Placement and termination of parental rights;
 - ix. Indian Child Placement Preference requirements under the Act;
 - x. Active Efforts requirements under the Act;
 - xi. Qualified Expert Witness requirements under the Act;
 - xii. Record maintenance;
 - xiii. Adoption of Indian Children;
 - xiv. Indian Tribes in Michigan, including SCIT ; and
 - xv. Principles of tribal sovereignty and the government-to-government relationship between SCIT and the DHS.
- b. At a minimum, the knowledge and understanding required to accurately assess the welfare risk to an Indian Child should include, but not be limited to, evaluation of the following factors:
- i. The tribal values, belief, religion, customs, ways of being, and family recognition system of the child's tribe;
 - ii. Behaviors and responses stemming from traditional ways of life through assimilated ways of life;
 - iii. Socioeconomic context of the care and condition of the family's home and children;
 - iv. Importance of sharing resources with Extended Family;
 - v. Reality of negative historical experience of Indian people toward non-Indian governmental systems;
 - vi. Different cultural requirements of social interaction including reticence and passivity indicating respect;
 - vii. Recognizing tribal-family retention of traditional disciplinary methods and Extended Family clan support; and
 - viii. Condition of parenting skills due to historic isolation and abuse.

2. Judicial-System and Law-Enforcement Training

To the extent practicable, the Department and SCIT agree to offer cooperative ongoing training programs to educate judges, lawyers, law-enforcement personnel, advocates, guardians ad litem, and probation officers who are involved in Indian Child-Custody Proceedings about the provisions of this Agreement, the Act, and the special cultural and legal considerations pertinent to such proceedings.

3. Payment for Training

The Department will seek grants and/or reimbursement under Title IV-E, the Child Abuse Prevention and Treatment Act and other federal programs, for the training specified in this Agreement.

Part V. Miscellaneous Provisions.

A. Recruitment and Registry of Foster and Adoptive Homes

1. Recruitment

The Department and SCIT will cooperate to develop a plan to recruit Indian foster and adoptive homes. The recruiting plan may utilize the media, Indian-organization resources, mailing to members of such organizations, door-to-door solicitation with Indian communities, national and regional adoption-resource exchange, and other means likely to succeed in securing Indian foster and adoptive homes for Indian Children. The Department and SCIT must provide training to assist potential Indian foster care providers to comply with SCIT or state licensing standards for foster and adoptive homes.

2. SCIT Approved Foster Care Homes Master List

The Parties acknowledge that ICWA requires that an ICWA Foster-Care or Preadoptive Placement must be in "the least restrictive setting which most approximates a family and in which [the Indian Child's] special needs, if any may be met," "in reasonable proximity to his home, taking into account any special needs of the child." 25 U.S.C. § 1915 (b). The first Foster-Care or Preadoptive Placement preference is with "a member of the Indian child's extended family." *Id.* at (i). Where such a placement is not available, the second placement preference is in "a foster home licensed, approved, or specified by the Indian child's tribe." *Id.* at (ii).

The Department agrees to accept from SCIT a master list of all the available SCIT licensed and approved foster-care homes that may be available to receive state-court wards where the ward is: (a) a SCIT Child or a SCIT Descendant Child; (b) a sibling of a SCIT Child or a SCIT Descendant; or (c) the minor parent of a SCIT member or a SCIT Descendant. The Master List must identify the name, address, tribal affiliation of the home, and whether the home is available for Foster Care, Adoptive Placement, or both. The Master List must also identify for each home any preconditions to the acceptance of a child (such as willingness to only accept a relative, a member of SCIT, or a child

without mental or physical handicap) or state that the home has not indicated any preconditions. SCIT retains the absolute right to deny any attempt by the State to place a state-court ward in a SCIT licensed home. The State agrees to make the Master List available to all the County DHS Offices as a placement resource for SCIT connected children.

Before DHS places any child with a SCIT licensed foster family, it must first contact SCIT to request additional information regarding the family and must first secure a Borrowed-Bed Agreement with SCIT, as described in Part III.F of this Agreement.

Where placement with a tribally licensed foster home is not available, ICWA's third placement preference is "in an Indian foster home licensed or approved by an authorized non-Indian licensing authority." *Id.* at (iii). The Parties recognize that the State has a legal obligation to identify other Indian foster homes for placement of Indian Children. To the extent it does not already do so, the State must identify which State-licensed foster homes meet the third placement preference by recording any tribal affiliation, and must implement protocols to ensure that DHS generates and maintains a record of the tribal affiliation of all its foster care providers on an ongoing basis.

B. Interstate Compact on the Placement of Children

Whenever the Department is considering whether to place an Indian Child pursuant to the Interstate Compact on the Placement of Children, Mich. Comp. Laws §§ 3.711 *et seq.*, the Department must nevertheless follow the provisions of the Act and this Agreement, including the Act's placement preferences.

1. Indian Children Being Sent From Other States

If the Department receives child-transfer forms that indicate that a child is Indian, the Department must not approve the transfer or placement until it receives documentation stating that the child's tribe has been notified.

In responding to the sending agency's transfer request, the Department is governed by the Best Interests of an Indian Child as set forth in this Agreement. If the child is an Indian Child, and the proposed placement is not within the order of preference identified in the Act, the Department must not accept the child for placement in Michigan unless the placement meets the good-cause exception to the placement preferences as set forth in the Act and under this Agreement. In determining whether the good-cause exception to the placement preferences applies in a particular case, the Department must contact the sending state and request a letter from the Indian Child's Tribe providing the tribe's views of the placement. Where the Indian Child is a SCIT Child or SCIT Descendant Child, the Department must consider SCIT's position before making any final decision.

2. Review of Indian Children Currently in Placement

After the effective date of this Agreement, the Department must provide ACFS with information on all SCIT Children or SCIT Descendant Children who are currently in placement within the State, who have been sent under the Compact to another state, or who have been sent from another state to the DHS of Michigan. The Department must provide an annual written report to ACFS regarding all such placements. The report must include all information received by the Department regarding each child's placement, including the Interstate Compact Application Request to Place Child form used by the Department for the interstate placement of children.

If SCIT learns of a placement of a SCIT Child that does not meet the placement preferences set forth in the Act or this Agreement, upon notice from SCIT, the Department must cooperate with SCIT to remedy the placement so that it conforms with the Act, or the Department must show Good Cause Not to Follow the Placement Preferences.

3. Retention of Jurisdiction

The sending agency retains jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child that it would have determined if the child had remained in the sending agency's state. The sending agency continues to have financial responsibility for support and maintenance of the child during the period of placement.

C. Application of Other Federal Laws

1. Adoption and Safe Families Act

States must comply with both the Adoption and Safe Families Act ("ASFA") and the Indian Child Welfare Act. A provision of the ASFA recognizes that the provision does not "affect the application of the Indian Child Welfare Act." 41 U.S.C. § 674(d)(4). In addition, the United States Department of Health and Human Services has explained that its regulations implementing the ASFA do not supersede the Act's requirements. *See* 65 Fed. Reg. 4029 (January 25, 2000); *see also* 41 U.S.C. §§ 622 (b)(11) and 675 (5)(E); 45 C.F.R. Part 1356.21 (I).

2. Interethnic Adoption Provision

The federal Interethnic Adoption Provision must not be construed to affect the application of the Act. *See* 42 U.S.C. § 1996b(3).

D. Future Title IV-E Agreement

The parties reserve the right to enter an agreement under the Social Security Act's Title IV, Part E, 42 U.S.C. §§ 470 *et seq.*, Federal Payments for Foster Care and Adoption Assistance, in order to provide the Tribe with access to federal funding for

providers who are caring for children under the jurisdiction of the Tribal Court of the Tribe.

Part VI. Construction of Agreement

A. Duration and Termination of Agreement

This Agreement remains in effect until revoked by one of the Parties. This Agreement or any part thereof may be terminated upon 180-days' written notice to the other party. See 25 U.S.C. § 1919(b). The notice shall state the reasons for and the effective date of the revocation. Whenever possible, before giving such notice, a party considering termination shall seek to cooperatively explore with the other party ways in which to avoid termination. Before the effective date of any termination, the Parties agree to cooperate in assuring the termination does not result in a break in service or in disruption of the services provided to Indian Children and families.

B. Dispute Resolution

The Parties agree that prompt Tribe-to-State and Tribe-to-county resolution of problems that affect SCIT families' receipt of services is an effective way to ensure compliance with the Act. Accordingly, when a report of non-compliance is made or when a dispute arises between the Parties regarding the application or interpretation of the Agreement, the Department and SCIT through their designated representatives must take immediate steps to communicate with each other about the situation and to resolve the problem in good faith.

Use of this dispute resolution process does not affect in any manner the abilities of any party to use the termination remedies provided elsewhere in this Agreement. If a state, federal or SCIT law is amended, neither SCIT nor the Department are required to comply with any section of this Agreement that is contrary to the new law. Furthermore, nothing in this Agreement affects the rights of third parties to seek judicial or agency review regarding any topic of this Agreement.

C. No Creation of Third-Party Rights

This Agreement does not create a right in any third party to bring any action under this agreement or any action to enforce this Agreement.

D. No Waiver of Sovereign Immunity

This Agreement may not be construed as a waiver of either Party's sovereign immunity.

E. Funding

This Agreement does not commit the Department to spend any funds in excess of lawful appropriations.

F. Amendments

This Agreement can only be amended by a written instrument signed by the duly authorized representative of each Party. The Parties do not require Court approval or other filing to amend the Agreement under this provision.

G. Severability

The provisions of this Agreement are severable. If any provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement remains in effect, unless terminated as provided for in this Agreement.

H. Other Agreements Not Affected

1. This Agreement constitutes the entire Agreement between the Parties.
2. Upon the execution of this Agreement, the Parties mutually rescind all previously entered written Agreements between them regarding the topics in this Agreement.
3. If this Agreement conflicts with the Court Order, the terms of this Agreement govern.
4. Notwithstanding the foregoing, the Parties do not intend this Agreement to affect any existing agreements between SCIT and county DHS offices or other agencies to the extent those agreements use a higher standard of protection for Indian Children and their families and tribes than the standards contained in this Agreement, and as consistent with the Act. *See, e.g.*, 25 U.S.C. §§ 1919, 1921.

I. Calculation of Time

To calculate timelines under this Agreement, Saturdays, Sundays, and holidays are excluded for computation when the period of time is less than seven days. When the period of time is seven days or more, Saturdays, Sundays, and holidays are included in the computation.

J. Captions

The captions used for the sections of this Agreement are inserted only as a matter of convenience and in no way define, limit, or describe the scope or intent of this Agreement or any section of the Agreement.

K. Notices

All notices required or permitted to be given under must be made in writing to the following addresses, except as noted otherwise in this Agreement:

In the case of the Department, notices must be sent to:

Michigan Department of Human Services
Suite 715 Grand Tower
PO Box 30037
Lansing, MI 48909

State Agreement Compliance Contact:

Director, Office of Legal Affairs
Michigan Department of Human Services
Suite 715 Grand Tower
P.O. Box 30037
Lansing, MI 48909
Phone: 517-373-2082

In the case of the Tribe, notices must be sent to:

General Counsel
Legal Department
Saginaw Chippewa Indian Tribe
7070 East Broadway
Mt. Pleasant, MI 48858

Tribe's Agreement Compliance Contact:

Director
Anishnaabeg Child and Family Services
Saginaw Chippewa Indian Tribe
7070 East Broadway
Mt. Pleasant, MI 48858
Phone: 989-775-4901

L. Counterparts

This Agreement may be executed in several counterparts, each of which must be deemed an original, but all of which together constitute a single instrument.

J. Authority

The undersigned represent that they are authorized to execute this Agreement on behalf of the Tribe and Department, respectively.

K. Preparation of Agreement

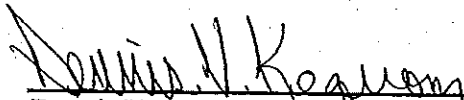
The Parties drafted this Agreement and entered into it after careful review and upon the advice of competent counsel. It may not be construed more strongly for or against either Party.


L. Effective Date

This Agreement is effective on the date that the Court Order is signed by the Court, provided that the Court enters the Court Order as it was approved by the State and Tribe. Changes to the form of the Court Order (e.g., pagination, fonts, margins, etc.) do not affect the effective date of this Agreement, but this Agreement is not effective and does not bind the parties if the language of the Court Order is not identical to the language approved by the State and Tribe.

SAGINAW CHIPPEWA INDIAN
TRIBE OF MICHIGAN

MICHIGAN DEPARTMENT OF
HUMAN SERVICES


Dennis Kequom, Sr., Tribal Chief


Ismael Ahmed, Director or
Susan Kangas, Chief Deputy Director

11-9-10
Date signed

11/8/10
Date signed

The United States District Court for the Eastern District of Michigan entered the Order for Judgment in Case No. 05-10296 on _____, 2010.