

Active Efforts



U.S. Department of the Interior, Bureau of Indian Affairs
Final Rule: Indian Child Custody Proceedings
25 CFR § 23.2, § 23.120

What are active efforts?

Active efforts are affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with his or her family.

What must active efforts involve?

Where an agency is involved in the child-custody proceeding, active efforts must involve assisting the parent(s) or Indian custodian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan.

How should active efforts be provided?

To the maximum extent possible, active efforts should be provided in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's Tribe and should be conducted in partnership with the Indian child and the Indian child's parents, extended family members, Indian custodians, and Tribe.

Are active efforts tailored to each case?

Yes, active efforts are to be tailored to the facts and circumstances of the case.

When are active efforts required?

The active efforts requirement applies in any foster-care or termination-of-parental-rights proceeding involving an "Indian child" (see 25 CFR 23). The court must conclude, prior to ordering an involuntary foster-care placement or termination of parental rights, that active efforts have been made to prevent the breakup of the Indian family and that those efforts have been unsuccessful.

Must active efforts be documented?

Yes, the court will require active efforts to be documented in detail in the record.

Active efforts may include, for example:

- (1) Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal;
- (2) Identifying appropriate services and helping the parents to overcome barriers, including actively assisting the parents in obtaining such services;
- (3) Identifying, notifying, and inviting representatives of the Indian child's Tribe to participate in providing support and services to the Indian child's family and in family team meetings, permanency planning, and resolution of placement issues;
- (4) Conducting or causing to be conducted a diligent search for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parents;
- (5) Offering and employing all available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the child's Tribe;
- (6) Taking steps to keep siblings together whenever possible;
- (7) Supporting regular visits with parents or Indian custodians in the most natural setting possible as well as trial home visits of the Indian child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the child;
- (8) Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or, when appropriate, the child's family, in utilizing and accessing those resources;
- (9) Monitoring progress and participation in services;
- (10) Considering alternative ways to address the needs of the Indian child's parents and, where appropriate, the family, if the optimum services do not exist or are not available;
- (11) Providing post-reunification services and monitoring.