

and Education Assistance Act (ISDEA), Pub. L. 93-638, employ individuals in positions involving regular contact with or control over Indian children only if the individuals meet standards of character no less stringent than those prescribed under these regulations. Thus, the minimum standards of character as defined in these regulations will become the basis for Tribes or Tribal organizations to use when developing their own minimum standards of character that cannot be less stringent than as prescribed herein.

§ 136.402 Policy.

In enacting the Indian Child Protection and Family Violence Prevention Act, (the "Act") the Congress recognized there is no resource more vital to the continued existence and integrity of Indian Tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian Tribe. The minimum standards of character as prescribed by the regulations in this subpart are intended to ensure that Indian children are protected.

§ 136.403 Definitions.

Crimes against Persons means a crime that has as an element the use, attempted use, or threatened use of physical force or other abuse of a person and includes, but is not limited to, homicide; assault; kidnapping; false imprisonment; reckless endangerment; robbery; rape; sexual assault, molestation, exploitation, contact, or prostitution; and other sexual offenses. In determining whether a crime falls within this category, the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere shall be controlling.

Crimes of violence means a crime that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other crime that is a felony and that, by its nature, involves substantial risk that physical force against the person or property of another may be used in the course of committing the crime. In determining

whether a crime falls within this category, reference may be made to the applicable Federal, State, or Tribal law under which the individual was convicted or pleaded guilty or nolo contendere.

Indian means any individual who is a member of an Indian Tribe, as defined below.

Indian child means any unmarried person under the age of eighteen who is either a member of an Indian Tribe or eligible for membership in an Indian Tribe and is the biological child of a member of an Indian Tribe.

Indian Tribe means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.*, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Individuals means persons with duties and responsibilities that involve regular contact with or control over Indian children and includes but is not limited to the following:

(a) Persons in the competitive or expected service (including temporary employment), the Commissioned Corps, or the Senior Executive Service in the IHS;

(b) Persons who perform service for or under the supervision of the IHS while being permanently assigned to another IHS office or to another organization, such as a Federal agency, State, or Tribe;

(c) Persons who volunteer to perform services in IHS facilities;

(d) Persons who contract with the IHS to perform services in IHS facilities.

Must or shall indicates a mandatory or imperative act or requirement.

Offenses against children means any felonious or misdemeanor crime under Federal, State, or Tribal law committed against a victim that has not attained the age of eighteen years. In determining whether a crime falls within this category, the applicable Federal, State, or Tribal law under which the individual was convicted or