# INDIAN CHILD WELFARE (ICW) POLICIES AND PROCEDURES

## 23. Local Indian Child Welfare Advisory Committees (LICWAC)

**Original Date**: October 27, 1976
**Revised Date**: January 2, 2024
**Sunset Review Date**: January 31, 2028
**Approved by**: Frank Ordway, Chief of Staff

### Purpose

The purpose of this policy is to provide guidance on establishing, participating in, and supporting the process for Local Indian Child Welfare Advisory Committees (LICWACs). The purposes of the LICWACs are:

- To promote case planning for children in Department of Children, Youth, and Families (DCYF) placement care and authority when:
  - There is reason to know they are or may be Indian children or have reported ancestry with a non-federally recognized tribe or Canadian First Nation.
  - The case meets specific criteria.
- To encourage the preservation of the Indian family, tribe, heritage, and identity of Indian children served by the DCYF.

### Scope

This policy applies to child welfare (CW) employees.

### Laws

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| RCW 4.92.060 | Action against state officers, employees, volunteers, or foster parents-Request for defense |
| RCW 4.92.070 | Actions against state officers, employees, volunteers, or foster parents-Defense by attorney general-Legal expenses |
| Chapter 13.38 RCW | Washington State Indian Child Welfare Act |
| RCW 13.50.100 | Records not relating to commission of juvenile offenses-Maintenance and access-Release of information for child custody hearings-Disclosure of unfounded allegations prohibited |
| RCW 26.44.030 | Reports-Duty and authority to make-Duty of receiving agency-Duty to notify-Case planning and consultation-Penalty for unauthorized exchange of information-Filing dependency petitions-Investigations-Interviews of children-Records-Risk assessment process |
| RCW 74.04.060 | Records, confidential-Exceptions-Penalty |
| Executive Order 12-04 | Amending the Use of Community Protection Teams |
| 25 U.S.C. §1901-1923 | Indian Child Welfare Act |

### Policy

1. DCYF must seek legal representation from the Office of the Attorney General for LICWAC members if they become involved in tort actions as a result of their LICWAC membership activities.
2. Regional administrators (RAs) or their designees must, in collaboration with the Office of Tribal Relations (OTR):

    a. Establish and maintain at least one LICWAC within their region.
    b. Designate a LICWAC liaison.
3. LICWAC liaisons must:
    a. Coordinate the LICWAC applicant and membership processes.
    b. Collaborate with the LICWACs to establish the time, place, frequency, and conduct of the LICWAC meetings.
    c. Verify required LICWAC cases are staffed in a timely and regular manner at a frequency determined by the LICWAC.
    d. Provide support to CW employees and the LICWAC members prior to, during, or after the LICWAC meetings.
4. Caseworkers must:
    a. Provide support to the LICWAC liaisons prior to, during, and after the LICWAC meetings.
    b. Resolve disagreements between DCYF and the LICWACs in collaboration with their LICWAC liaison:
        i. At the supervisory level, where possible.
        ii. As outlined in Chapter 24. Impasse Procedures policy, for disagreements not resolved at the supervisory level.

**Procedures**

1. Maintaining LICWACs
   When maintaining LICWACs, RA's or their designees must:
    a. Work with Indian tribal governments and Recognized American Indian Organizations (RAIO) served by that region to mutually determine the number and locations of the LICWACs within their region.
    b. Maintain at least one LICWAC within their region, in collaboration with the Office of Tribal Relations (OTR).
    c. Contact the OTR if there are disagreements about the number of LICWACs in their region.
2. LICWAC Membership
   When selecting LICWAC members and alternates, RAs or their designees, in collaboration with OTR and LICWAC Liaisons:
    a. Must:
        i. Contact tribal governments and RAIOs when needed to request individuals to serve as LICWAC members or alternates when there is a vacancy.
        ii. Select members or alternates who:
            A. Are recommended by the tribal governments or RAIOs.
            B. Have no history of founded CPS findings unless of certificate of parental improvement has been issued.
            C. Have a personal or professional history demonstrated by a resume, curriculum vitae, letter of reference, etc., of:
                I. Protecting the identity and rights of Indian children.
                II. Familiarity with the local and regional services available to Indian children and families that can be utilized when tribes have not intervened in a case.
            D. Are not DCYF employees.
        iii. Verify with the Torts Division of the AOG the recommended LICWAC members and alternates are not involved in in tort actions against DCYF.
    b. May:

i. Select the LICWAC members or alternates who are Bureau of Indian Affairs, Indian health service employees or other community members if they are recommended by a tribal government or RAIO.
ii. Permit the LICWAC members to serve in multiple regions.
iii. End an individual's LICWAC membership if they:
A. Resign.
B. Are no longer suitable to serve on the committee, after seeking input from the LICWAC and recommending tribe or RAIO.
C. Breach confidentiality requirements.
D. Violate volunteer requirements.
E. Do not follow DCYF policies.

3. LICWAC Applicant Process
Once receiving the names and contact information of prospective members selected by RAs, the LICWAC liaisons must:
a. Verify that the prospective LICWAC members:
i. Complete the following forms:
A. Volunteer Application DSHS 15-186
B. Volunteer Registration DSHS 15-054A
C. LICWAC Confidentiality Agreement DCYF 09-126
ii. Do not have any CPS founded findings in FamLink.
b. Notify the RA and OTR if prospective members have founded findings in FamLink.

4. LICWAC Member Trainings
a. LICWAC liaisons must:
i. Provide orientation training, in coordination with the LICWAC coordinator, to the LICWAC members when they join the LICWAC.
ii. Coordinate with The Alliance and OTR to provide annual trainings to the LICWAC members that include the following topics:
A. LICWAC functions and procedures.
B. Confidentiality requirements, as outlined in RCW 74.04.060 and RCW 13.50.100.
C. Federal and State ICWA and other Washington laws impacting Indian children and families.
D. Mandatory reporting of abuse or neglect.
E. Brief overview of any changes to CW policies and procedures.
F. Volunteer liability, including any coverage through the Department of Labor and Industries and AOG representation.

5. LICWAC Meetings
a. OTR must host bi-annual meetings with LICWAC members to:
i. Gather feedback about the LICWACs, their processes and procedures, and strengths and areas for improvement.
ii. Share LICWAC best practices.
iii. Discuss DCYF child welfare and Indian Child Welfare policy changes, if necessary.
b. Prior to LICWAC meetings:
i. LICWAC liaisons must:
A. Coordinate with caseworkers to schedule timely and regular LICWAC meetings for cases involving:
I. An Indian child if the tribe is not participating in the case.
II. A child when there is reason to know they are or may be an Indian child and there are no known tribes identified.

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III. An Indian child when a federally recognized tribe that has intervened in the case has requested LICWAC involvement.
IV. A child with reported ancestry with a non-federally recognized tribe or Canadian First Nation when either:
i. One parent has signed a Consent for Release of Information DCYF 14-012.
ii. Both parents are absent and have not participated in the case for 60 days from the original placement date and DCYF has made diligent efforts to locate the parents.

B. Review information received from the caseworkers and verify:
I. The previous LICWAC recommendations are included, if applicable.
II. There are signed consent forms from children using the Protected Health Information Decision Tree DCYF CWP_0006 form to determine the age of consent.

C. Notify the LICWAC members of the meeting at least five business days in advance.

D. Provide records to the LICWAC members. This includes collaborating with the LICWAC members to determine what records they need, e.g., court, provider, or GAL reports, to prepare for the LICWAC meetings and a timeline for providing them.

E. Invite the following to participate in the LICWAC meetings at least seven calendar days in advance:
I. Parents, guardians and Indian custodians
II. Children, based on their age, developmental level, and facts of the case as determined by the assigned caseworker
III. Foster parents, relatives, or support persons, as agreed by the assigned caseworker and LICWAC members
IV. Indian child's tribal representatives
V. A representative of any tribe requesting that a LICWAC be held
VI. Attorneys, as agreed by the assigned caseworker and LICWAC members
VII. Guardians ad Litem
VIII. Caseworker's supervisor

F. Arrange alternative methods of participation for all participants, when available, e.g., conference calls, video conferencing.

G. Notify the LICWAC members of meeting cancellations.

iii. Caseworkers must:

A. Notify the child's known tribes about the LICWAC meetings and invite them to participate.

B. Provide relevant case-related information to the LICWAC liaison.

C. LICWAC Meeting Cancellations
I. Notify the LICWAC liaisons that the tribe is participating in the case, when applicable, and indicate the LICWAC meeting is not necessary.
II. Email their supervisor or designee for approval if they need to reschedule the meeting with an explanation of the reasons. If:
i. Approved, contact the LICWAC liaison to reschedule.
ii. Denied, continue with the LICWAC meeting.

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iv. Supervisors must determine whether to approve or deny a caseworker's request to reschedule the meeting.

a. During LICWAC meetings
   i. Caseworkers must:
      A. Present an oral review of cases to the LICWACs using the Shared Planning Meetings DCYF 14-474 form and other related case records.
      B. Describe efforts to:
         I. Contact the tribes and verify the child's status as an Indian child.
         II. Place the child with family or according to placement preferences, when the child is affiliated with a federally recognized tribe.
         III. Provide the child and their families with culturally relevant services and active efforts, when the child is affiliated with a federally recognized tribe.
         IV. Reunify the family.
   ii. LICWAC liaisons must, at each meeting:
      A. Offer the LICWAC members who are present the opportunity to designate a chairperson.
      B. Invite LICWAC members to provide additional information related to the child's tribal heritage or Indian ancestry.
      C. Verify:
         I. There are at least three LICWAC members present to achieve a quorum. In the event a LICWAC member cannot attend and prevents a quorum, the LICWAC may proceed or a LICWAC member from a different region may be invited by the LICWAC liaison or caseworker to create a quorum.
         II. LICWAC meetings begin with:
            i. An explanation of the LICWAC process and confidentiality requirements if there are new members or a new DCYF employee.
            ii. A reminder that LICWAC members are required to declare if they have a personal or professional relationship with the child or family, or if they have any other conflicts of interest before the cases are presented. If any conflicts of interest are identified, the LICWAC liaison must inform the member they are no longer able to participate in the meeting regarding those cases.
            iii. The current volume of the child's hard file or electronic file is available for the LICWAC members' review, if requested. Records must include, but are not limited to:
               i. Psychological reports
               ii. Medical reports
               iii. Counseling reports
               iv. Professional correspondence, not including attorney-client privileged communications
               v. Police reports
               vi. Pictures
               vii. Verification of Indian child status
               viii. Indian Identity Request DCYF 09-761

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ix. Court reports
x. Court orders from the last six months

D. Coordinate with the LICWAC members to:
I. Make recommendations if the child:
i. Is an Indian child or there is reason to know the child is or may be an Indian child:
i. Regarding:
i. The child's:
i. Safety, well-being, and permanency.
ii. Membership in a tribe if known.
ii. The provision of culturally relevant services available.
iii. How assistance will be provided to the parents in establishing tribal membership, if applicable.
ii. And comply with:
i. Chapter 19. ICW Placement Preferences policy, including whether the court has found good cause to the contrary.
ii. DCYF making active efforts, per RCW 13.38.130, to prevent the breakup of the Indian family and the efforts made so far.
iii. The child's culture.
ii. Has reported ancestry with a non-federally recognized tribe or Canadian First Nation, regarding:
i. Locating a relative or other tribal placement for children.
ii. Obtaining services or resources for children and families.
iii. Culturally relevant services.
II. Follow the Child Welfare Notification to Foreign Consulates policy if the child has membership in a Canadian First Nation.
III. Identify and recommend resources for children who are or may be Indian children and children who have reported ancestry with a non-federally recognized tribe or Canadian First Nation to:
i. Meet their cultural and specific needs.
ii. Identify gaps in resources to meet their cultural and specific needs.
IV. Include the LICWAC Recommendations in the Shared Planning Meeting DCYF 14-474 form.

b. After the LICWAC meetings:
i. Caseworkers must:
a. Fully implement the recommendations, unless they do not agree and there is an impasse.
b. Present the recommendations during shared planning meetings.
c. Include the LICWAC recommendations in the Comprehensive Family Evaluation.

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d. Invite the LICWAC members and the LICWAC liaison to future shared planning meetings, when applicable.
e. Provide the ICW Legal Unit and AAGs if there is any new information about reason to know gathered during the LICWAC meeting.

ii. LICWAC liaisons must notify the area administrator if there is an impasse and follow the Chapter 24. Impasse Procedures policy.

iii. Area administrators must follow the Chapter 24. Impasse Procedures policy if notified of an impasse.

**Forms**

Consent for Release of Information DCYF 14-012
Family Ancestry Chart DCYF 04-220
Indian Identity Request DCYF 09-761
LICWAC Confidentiality Agreement DCYF 09-126
Shared Planning Meeting DCYF 14-474
Volunteer Application DSHS 15-186 (located in the Forms repository on the DCYF intranet)
Volunteer Registration DSHS 15-054a (located in the Forms repository on the DCYF intranet)

**Resources**

Chapter 19. Placement Preferences policy
Chapter 24. Impasse Procedures policy
Child Welfare Notification to Foreign Consulates policy
Consent Decision Tree DCYF CWP_0006
LICWAC Brochure DSHS 22-194 (located on the Programs page of the CA intranet)
WAC 110-110-0060 Local Indian child welfare advisory committee—Purpose
WAC 110-110-0070 Local Indian child welfare advisory committee—Membership
WAC 110-110-0080 Local Indian child welfare advisory committee—Functions
WAC 110-110-0090 Local Indian child welfare advisory committee—Meetings
WAC 110-110-0100 Local Indian child welfare advisory committee—Confidentiality

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