INDIAN CHILD WELARE POLICIES AND PROCEDURES

11. Adoption

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Approved by: Frank Ordway, Chief of Staff

Purpose

The purpose of this policy is to provide guidance for when there is reason to know children are or may be Indian children, are legally-free, and the permanent plan is adoption.

Scope

This policy applies to child welfare employees.

Laws

Chapter 13.34 RCW	Juvenile Court Act in Cases Relating to Dependency of a Child and the Termination of Parent and Child Relationship
Chapter 13.38 RCW	Washington State Indian Child Welfare Act (WICWA) Records not relating to commission of juvenile offenses-Maintenance and access-Release of information for child custody hearings Disclosure of unfounded allegations prohibited
Chapter 26.33 RCW	Adoption
25 U.S.C § 1917	Tribal affiliation information and other information for protection of rights from tribal relationships; application of subject of adoptive placement; disclosure by court

Policy

When there is reason to know children are or may be Indian children, Child and Family Welfare Services (CFWS) and adoption caseworkers must complete the following:

1. Contact and partner with children's tribes throughout the life of a child welfare care per Active Efforts and Tribal Collaboration policy.
2. Coordinate with the Office of the Assistant Attorney General (AAG) and the juvenile court to transfer the dependency case to the child's tribe, if the tribe wishes to assume jurisdiction.
3. Continue to actively involve the tribe in the adoption decision making, if the tribe doesn't assume jurisdiction but is a party to the dependency case, including how:
   a. The tribe will be involved in the monthly health and safety visits.
   b. To promote the Indian child's relationship with the tribe.
4. Seek to keep children connected to their tribes, community, and culture.
5. Follow the DCYF Administrative 13.05 Public Records Requests and Disclosure policy when records requests are received from the tribe for adopted children.

Procedures

1. Tribal Eligibility and Membership
   CFWS and adoption caseworkers must complete the following when new information has been found that give reason to know that the child is or may be an Indian child:

a. Follow the Chapter 13. Reason to Know and Chapter 15. Indian Child Welfare Act (ICWA) Notice to Tribes policies.
b. Verify whether the court has made any determinations about a child being an Indian child, if there is reason to know they are or may be Indian children.
c. Consult with the AAG or prosecuting attorney and regional leadership about the case if the court hasn't determined that the child meets the definition of an Indian child.
d. Complete and submit membership paperwork for the child when they are eligible and not currently a member. If the child is eligible for membership in one or more tribes:
    i. Provide each tribe with the other tribe's contact information and ask for a representative to participate in a Shared Planning Meeting (SPM).
    ii. Facilitate a SPM and determine in collaboration with all known tribes and children who are age eight and older, which tribes to pursue membership. If:
        A. The tribes cannot reach consensus during the meeting, obtain a tribal preference from the:
            I. Child, if they are age eight years and older.
            II. Child's guardian ad litem or attorney if they don't have a preference.
        B. The tribes don't participate in the SPM, assess whether to conduct a Local Indian Child Welfare Advisory Committee (LICWAC) meeting to determine which tribes to pursue membership.
        C. New information is obtained and creates reason to know the child is or may be an Indian child, consult with a headquarters AAG and regional leadership about the case.
e. If a tribe is already participating or wishes to participate in the ongoing dependency or adoption case:
        A. Follow: Chapter 21. Providing Confidential Information to Tribes when providing case record information to known tribes.
        B. Inform the tribe of the date, time, and location of next court hearing.
f. Determine if a tribe wishes to assume tribal jurisdiction. If so, follow the Chapter 25. Transferring Cases to Tribal Court policy.
g. Make efforts to enroll legally-free Indian children in their tribes before initiating the adoption process if they are eligible for membership in one or more tribes and not already a member per the Active Efforts and Tribal Collaboration policy.

2. Pre-Adoption Services
    a. CFWS and adoption caseworkers must complete the following when identifying adoptive families for children when there is reason to know they are or may be Indian children:
        i. Follow:
            A. ICW policies:
                I. Chapter 15. Indian Child Welfare Act (ICWA) Notice
                II. Chapter 7. Dependency Cases
                III. Chapter 23. Local Indian Child Welfare Advisory Committee (LICWAC)
            B. Child welfare policies:
                I. Identifying Adoptive Families
                II. Pre-Adoption Services and Adoption Finalization
                III. Health and Safety Visits with Children and Youth and Monthly Visits with Parents or Guardians and Caregivers
                IV. Court Report
                V. Adoption Support

VI. Kinship Care: Searching for, Placing With, and Supporting and Relatives and Suitable Other Persons

ii. Verify the:

A. Child's current placement and subsequent placements meet requirements in:

I. RCW 13.38.180.

II. Chapter 20. Placement Preferences policy.

III. The Tribal and State Memoranda of Agreement if the tribe has established a different order of preference.

B. Case record information continues to be shared with known tribes until the adoption decree is entered by the court and document this in FamLink, when applicable.

iii. Obtain the Consent for Release of Information DCYF 14-012 form from the prospective adoptive placement if the child is in their identified prospective adoptive placement to share the approved adoptive home study with a tribe.

iv. Upload the form in FamLink and label it "Adoption Parent Consent to Tribe."

v. Coordinate with the tribe, if the child isn't placed in a prospective adoptive placement, and:

i. Follow these policies:

A. ICW Chapter 16. Indian Child Placement Preferences

B. Child welfare:

I. Kinship Care: Searching for, Placing with, and Supporting Relatives and Suitable Other Persons

II. Identifying Adoptive Families

ii. Consider the tribe's placement recommendations and document in a FamLink case note whether the progress in seeking an adoptive placement is in line with the placement preferences.

iii. Provide the tribe all of the approved adoptive home studies of prospective adoptive families under consideration for placement of the child as outlined in ICW Chapter 21. Providing Confidential Records to Tribes once consent is obtained.

b. When a permanent adoptive placement has been identified for a legally-free Indian child:

i. Adoption caseworkers must:

A. Contact the tribe to obtain their written consent for the prospective adoptive placement and either:

I. Upload the written consent into FamLink legally-free case file.

II. Document the tribe's verbal consent in FamLink.

B. Ask the OTR regional consultant to reach out to the tribe to obtain written consent for the prospective adoptive placement, if the tribe doesn't respond.

ii. OTR must complete the following when requested by adoption caseworkers:

A. Contact or assist the caseworker in contacting the tribe for approval and document this in FamLink.

B. Inform the adoption caseworker of the contact or contact efforts if a tribal response wasn't received and to proceed with the case.

C. Document all efforts to obtain consent in FamLink.

iii. Adoption caseworkers must facilitate a discussion between known tribes and the prospective adoptive parent or request the adoption attorney speak with the tribes and prospective adoptive parent about including cultural

considerations in an agreement or the adoption decree. Considerations include but aren't limited to:

A. Regular contact with known tribes.
B. Attendance at Indian cultural events.
C. Receiving newsletters from tribes.
D. Follow Chapter 25. Impasse Procedures policy if the tribe opposes the adoptive placement.

3. Adoption Pre-Finalization
   Adoption Caseworkers must:
   a. Provide a copy of the Post Placement Report DCYF 09-107 form to the Indian child's tribes prior to the adoption finalization after either:
      i. Obtaining the adoptive parent's signed consent on the Consent for the Release of Information DCYF 14-012 form.
      ii. Redacting confidential information of any individual who has not provided consent.
   b. Immediately notify known tribes and supervisor and schedule a SPM if the prospective adoptive placement is at risk of disruption.
   c. Send a copy of the final adoption decree by:
      i. Email, to any tribe DCYF has been working with once the adoption is finalized.
      ii. Certified mail return receipt requested to any ICWA designated agents of other tribes DCYF hasn't been working with that the child is a member of or eligible for membership in.
4. Documentation
   CFWS and adoption caseworkers must follow the Child Welfare Documentation policy and:
   a. Email the tribal verification documents to the ICW Legal Unit.
   b. Document in FamLink requests made to the child's tribe to confirm their membership status and responses received, if applicable. Obtain a letter of certified degree of Indian blood or descendancy and provide the letter to the adoptive family once it is received, if available.
   c. Upload, if received:
      i. Membership information.
      ii. Letters of certified degree of Indian blood or descendancy.

Forms

Consent for Release of Information DCYF 14-012
Post Placement Report DCYF 09-107 (located on the Forms repository of the DCYF intranet)

Resources

Adoption Support policy
Bureau of Indian Affairs Chief, Division of Human Services 1849 C Street, N.W. MS-3645-MIB Washington, D.C. 20240
Chapter 7. Dependency Cases policy
Chapter 14. Tribal Inquiry policy
Chapter 15. ICWA Notice to Tribes policy
Chapter 20. Placement Preferences policy
Chapter 21. Providing Confidential Records to Tribes policy
Chapter 23. Local Indian Child Welfare Advisory Committee (LICWAC)policy
Chapter 25. Impasse Procedures policy

Child Welfare Kinship Care: Searching for, Placing With, and Supporting and Relatives and Suitable Other Persons policy
Child Welfare Court Report policy
Child Welfare Identifying an Adoptive Family policy
Child Welfare Pre-Adoption Services and Adoption Finalization policy
DCYF Administrative 13.04 Protecting Privacy and Confidential Information policy
DCYF Administrative 13.05 Public Records Request and Disclosure for disclosure requests (located on the DCYF intranet)
FamLink Adoption Quick Help Guides located on the DCYF Knowledge Web
Health and Safety Visits with Children and Youth and Monthly Visits with Parents or Guardians and Caregivers
Washington State Tribes and Children's Administration's Local Memoranda of Agreement

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