INDIAN CHILD WELFARE POLICIES AND PROCEDURES

20. Placement Preferences

Original Date: September 1, 1991
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 when there is reason to know children are or may be Indian children and they:

- Are or may be placed in out-of-home care.
- Are experiencing or may experience a placement move.

Scope

This policy applies to child welfare and Licensing Division (LD) employees.

Laws

RCW 13.34.260	Foster home placement-Parental preferences-Foster parent contact with birth parents encouraged
RCW 13.38.180	Placement preferences
25 USC § 1915	Placement of Indian children

Policy

When there is reason to know children are or may be Indian children and they are or may be placed in an out-of-home placement or are experiencing or may experience a placement move, caseworkers must follow federal and WA State ICWA placement preferences criteria and applicable Tribal/State Memoranda of Agreements.

Procedures

1. Caseworkers must for children who are or may be Indian children and are being placed in out-of-home care or experiencing a placement move:
    a. Follow the Child Welfare Placement Moves policy when moving children from a relative or suitable person's home.
    b. Placement Preference Criteria
        i. Follow the federal and WA State ICWA placement preferences criteria and applicable Tribal/State Memoranda of Agreement unless:
            A. It's an emergent placement and efforts to find or place them according to the placement preferences were unsuccessful.
            B. The child's tribe identifies a different preferred placement or order of placement preference.
            C. The court finds good cause to deviate from the placement preferences.
        ii. Follow WA State ICWA placement preferences:

DRAFT

A. In emergent placements whenever possible and all non-emergent placement decisions, in the following descending order of priority, after seeking input from any known tribes, unless the courts find good cause to deviate:
    I. Extended family member.
    II. Foster home licensed, approved, or specified by the child's tribe.
    III. Indian foster home licensed, approved, or specified by an authorized non-Indian licensing authority.
    IV. Child foster care agency approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
    V. Non-Indian child foster care agency approved by the child's tribe.
    VI. Non-Indian family that is committed to:
        i. Promoting and allowing appropriate extended family visitation
        ii. Establishing, maintaining, and strengthening the child's relationship with their tribes.
        iii. Participating in the cultural and ceremonial events of the child's tribe.
B. Placement decision involving legally-free children, in the following order of priority after seeking input from any known tribes unless the courts good cause to deviate:
    I. Extended family members.
    II. Indian family of the same tribe as the child.
    III. Indian family that is of a similar culture to the child's tribe.
    IV. Other Indian family.
    V. Other family who can provide a suitable home for an Indian child. Suitability is determined either in consultation with the:
        i. Indian child's tribe.
        ii. LICWAC, if applicable.

c. Seek input about placement preferences from:
    i. Parents and Indian custodians.
    ii. Children or youth
    iii. The child's tribe, if known.
d. Follow child welfare policies, including:
    i. Placements Out-of-Home and Conditions for Return Home
    ii. Kinship Care: Searching for, Placing With, and Supporting Relatives and Suitable Other Persons
    iii. Family Time, and Sibling and Relative Visits
    iv. Placements with Unlicensed Relatives or Suitable Persons
    v. Family Team Decision Making Meetings
e. Place children in placements that are not on the WA State ICWA placement preferences only after the court has found good cause.
    i. Request a finding of good cause from the courts to deviate from the WA State ICWA placement preferences or the tribe's preferred placement by:
        A. Consulting with the assistant attorney general (AAG) to determine whether a good cause finding will be required

DRAFT

B. Discussing the case with the supervisor and AAG to decide whether to pursue a finding of good cause. This decision cannot be based on the:
    I. Socioeconomic status of any placement compared to another placement.
    II. Ordinary bonding or attachment that was established from time spent in a non-preferred placement that was made in violation of ICWA.

ii. Be prepared to testify to the placement preferences and, if applicable, the basis for deviating from the WA State ICWA placement preferences and tribal placement preferences.

f. Provide adoption attorneys, in adoption cases, with all relevant documentation related to WA State ICWA placement preferences and the need for a good cause finding.

g. When an Indian child is not placed in a preferred placement or the tribes disagree with the placement complete the following:

i. Continue efforts to locate a placement that align with the placement preferences.

ii. Follow the Child Welfare Kinship Care: Searching for, Placing With, and Supporting Relatives and Suitable Other Persons policy to:
    A. Initiate the extended relative search process.
    B. Seek suitable short and long-term placements by:
        I. Coordinating with the parents, Indian custodian, tribes, and any known extended family to identify potential placements in compliance with the WA State ICWA placement preferences.
        II. Referring the case to Local Indian Child Welfare Advisory Committee (LICWAC)per the Chapter 20. LICWAC policy if the tribe has not responded.

iii. Coordinate with the LD worker if there is a licensing issue, e.g., capacity, and determine if it is possible to place a child in a placement that aligns with the WA State ICWA placement preferences. If there are no child safety concerns, follow the Licensing State Foster homes policy to request either a:
    A. Relative Non-Safety Exemption
    B. LD Administrative Approval
    C. Waiver

iv. Inform:
    A. Caregivers:
        I. The placement is temporary and the child will be moved if a placement that meets placement preference requirements is identified.
        II. They cannot assume to become a permanent placement for the child.
    B. The parents, courts, and caregivers of the continued efforts to comply with the placement preferences via the Shared Planning Meetings and Court Reports policy.

h. Follow the Child Welfare Placement Moves policy if a move is identified.

i. Consult with the AAG if a Family Team Decision Making Meeting determined a placement move is needed. If so, request approval from the court to move the child as soon as practicable.

ii. Verify required activities in the Child Welfare Placements with Unlicensed Relatives or Suitable Persons policy are completed.

iii. Document the following in FamLink case notes:
   A. Efforts made to:
      I. Place a child who is or may be an Indian child, per WA State ICWA placement preferences and tribal placement preferences.
      II. Contact with the tribe to:
         i. Determine the tribe's preferred placement.
         ii. Discuss good cause to deviate from the WA State ICWA placement preferences
   B. The basis for not placing a child in a placement with WA State ICWA placement preferences, if applicable when there is reason to know they are or may be an Indian child.

2. LD workers must, when receiving a home study application for children who are or may be Indian children and are being placed in out-of-home care, follow these Child Welfare policies:
   a. Completing the Home Study
   b. Licensing State Foster Homes

Resources

A Parent's Guide to Relative Search (located on the CFWS Program DCYF CA intranet page)
Protocol for Completing Relative Search Requests (located on the CFWS Program DCYF CA intranet page)
Creating and Monitoring Your Relative Search Request (located on the CFWS Program DCYF CA intranet page)
Guidelines for Reasonable Efforts to Locate Children or Parents (located on the CFWS Program DCYF CA intranet page)
Chapter 14. Tribal Inquiry policy
Chapter 22. Local Indian Child Welfare Advisory Committees (LICWAC) policy
Child Welfare Completing the Home Study policy
Child Welfare Licensing State Foster Homes policy
Child Welfare Family Time, and Sibling and Relative Visits policy
Child Welfare Kinship Care: Searching for, Placing With, and Supporting Relatives and Suitable Other Persons policy
Child Welfare Placement Moves policy
Child Welfare Placements Out-of-Home and Conditions for Return Home policy
Child Welfare Shared Planning Meetings policy
25 CFR Part 23 Bureau of Indian Affairs ICWA Proceedings
25 CFR § 23.132 How a determination of "good cause" to depart from placement preferences is made