INDIAN CHILD WELFARE POLICIES AND PROCEDURES

25. Impasse Procedures

Original Date: January 2, 2024
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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 either of the following occur:

- The tribes and Department of Children, Youth, and Families (DCYF) agree to use impasse procedures.
- There is no agreement on a case between DCYF and either of the following, the:
  - Tribes
  - Local Indian Child Welfare Advisory Committee (LICWAC)

Scope

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

Laws

Chapter 43.376 RCW Government-to-Government Relationship with Indian Tribes

Policy

CW and LD employees must:

1. Resolve disagreements between DCYF and the tribes or LICWAC at the lowest supervisory level possible.
2. Follow impasse procedures if it is requested by tribes, LICWAC, or DCYF and the disagreement cannot be resolved through alternative dispute resolution procedures, including, but not limited to, procedures in the Tribal/State Memoranda of Agreement.

Procedures

1. CW and LD employees must follow the DCYF Administrative 10.03.01 Tribal Consultation policy when consultation is needed for topics not related to shared cases involving DCYF and the tribes or LICWACs.
2. If the tribes, LICWAC, or DCYF disagree about situations that include, but are not limited to, case or placement planning or LICWAC recommendations, CW and LD employees must attempt resolution in the following order:
   a. Discuss the disagreements and how to resolve them with their supervisor.
   b. Coordinate with the tribes or LICWAC and consider scheduling a shared planning meeting that includes their supervisor.
   c. Request their area administrator (AA) or designee to coordinate with the appropriate tribal personnel to:
      i. Resolve the disagreements.
      ii. Schedule an impasse meeting, if agreements cannot be resolved.

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3. Conducting Impasse Meetings
    a. When AAs or their designees receive DCYF, LICWAC or tribal impasse meeting requests, they must:
        i. Schedule an impasse meeting:
            A. Immediately, if there is imminent risk of serious harm to the children.
            B. Within five business days, if there is no imminent risk of serious harm to the children.
        ii. Invite the following individuals:
            A. Tribal designees, including, but not limited to, the tribal:
                I. Caseworker
                II. ICW department supervisor
                III. General manager or director
                IV. Council members
                V. Attorney
            B. DCYF designees, including, but not limited to, the:
                I. Caseworker
                II. Supervisor
                III. Office of Tribal Relations (OTR) designee
                IV. Assistant Attorney General (AAG) with expertise in ICW issues, if necessary
                V. Other appropriate DCYF employees, e.g., licensing, adoption, R-GAP gatekeeper
            C. LICWAC designees, when applicable.
        iii. Consider asking OTR or an agreed upon facilitator or mediator to facilitate the meeting.
        iv. Review LICWAC recommendations, if applicable, and relevant records and identify any possible solutions.
        v. If no agreement is reached with the AA or the tribes choose not to participate, inform the regional administrator (RA) and:
            A. Request a second impasse meeting.
            B. Send them case-related documentation.
    b. When RAs receive requests for impasse meetings, they must:
        i. Coordinate with the AA or designee and LICWAC or the tribe, as applicable, to schedule an impasse meeting.
        ii. Conduct impasse meetings as outlined in Procedures 3.
        iii. If no agreement is reached with the RA or the tribes choose not to participate, inform the CW Field Operations (FO) assistant secretary and:
            A. Request an impasse meeting.
            B. Send them case-related documentation.
    c. When the CW FO assistant secretary receives requests for impasse meetings, they must:
        i. Conduct impasse meetings as outlined in Procedures 3.
        ii. If no agreement is reached with the CW FO, inform the DCYF secretary and:
            A. Request an impasse meeting.
            B. Send them case-related documentation.
    d. When the DCYF secretary receives requests for impasse meetings, they must:
        i. Conduct impasse meetings as outlined in Procedures 3.
        ii. Consult with the LICWAC designee when the impasse involves a LICWAC recommendation, and the caseworker and supervisor in the other situations

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iii. Must attempt resolution, and if not possible, make the final decision.

4. DCYF employees must document impasse meeting decisions and the basis for their decisions in FamLink case notes.

Resources

DCYF Administrative 10.03.01 Tribal Agreement policy
LICWAC policy
Washington State 1989 Centennial Accord

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