POLICIES AND PROCEDURES

18. Active Efforts and Tribal Collaboration

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Approved by: Frank Ordway, Chief of Staff

Purpose

The purpose of this policy is to provide guidance on how to, when there is reason to know children are or may be Indian:

- Provide active efforts to prevent the children's removal or promote the timely reunification of Indian families.
- Understand the Indian Child Welfare Act (ICWA) active efforts requirement, which is distinct from requirements to make reasonable efforts in that it requires both a higher level of engagement and culturally appropriate services.
- Contact and partner with known tribes throughout the life of a child welfare case.

Scope

This policy applies to child welfare caseworkers.

Laws

RCW 13.38.040	Definitions
RCW 13.38.130	Involuntary foster care placement, termination of parental rights-Determination-Qualified expert witness.
25 U.S.C. § 1912	Pending Court Proceedings

Policy

When there is reason to know children are or may be Indian children, caseworkers must throughout the life of the case:

1. Provide ongoing active efforts to prevent the children's removal or promote the timely reunification of Indian families. Active efforts:
    a. Are required even if parents, guardians, or Indian custodians do not participate or participate inconsistently in the case plan.
    b. Are required regardless of whether a tribe is identified or participating in a case.
    c. Are tailored to the facts and circumstances of the case as well as the specific needs of the parents, guardians, or Indian custodians, children, and the family.
    d. Are provided in a manner consistent with the prevailing social and cultural traditions, culture and way of life of the Indian child's tribes.
    e. Include access to culturally appropriate services, to the maximum extent possible.
    f. Include meaningful efforts, beyond simply providing referrals, to initiate engagement and maintain a partnership with parents, guardians, or Indian custodians in the creation and implementation of a case plan to support reunification.
2. Collaborate with known tribes the children may be affiliated with.
3. Prioritize the best interests of Indian children.
4. Seek to keep children connected to their tribes, community, and culture.

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5. Contact the Office of Tribal Relations (OTR) when:
    a. There are no known tribes and the caseworker is unsure of how to provide active efforts to prevent the children's removal or promote the timely reunification of the family.
    b. There are known tribes but the caseworker is unsure about:
        i. How to provide active efforts to prevent the removal or promote the timely reunification of the family.
        ii. What cultural considerations to consider when providing active efforts.

Procedures

When providing active efforts to prevent the children's removal or promote the timely reunification of Indian families, caseworkers must throughout the life of the case:

1. Meaningfully partner with parents or Indian custodians and assist them in putting themselves in a position where they can avoid removal of or timely reunification by:
    a. Following Child Welfare policies:
        i. Case Plan and including relatives in the case plan development and implementation.
        ii. Protecting Privacy and Confidential Information.
    b. Participating in engagement and support activities that include, but are not limited to:
        i. Identifying needed and culturally appropriate services.
        ii. Actively providing parents, guardians, or Indian custodians the means to access and participate in their case and case plan, if implemented
        iii. Seeking to collaborate with parents to update the case plan, if implemented.
        iv. Assisting parents, guardians, or Indian custodians:
            A. In contacting the provider or completing paperwork.
            B. By offering to accompany, engage, and support them at meetings with providers.
            C. In identifying services and service providers that the parents feel comfortable and willing to work with.
        v. Determining if any barriers need to be removed to promote successful engagement in services.
    c. Considering:
        i. Cultural appropriateness of offered services and supports.
        ii. Informal services and supports from the parents', guardians', or Indian custodians' extended family and community as well as cultural activities and peer support.
        iii. Alternative methods when the most appropriate services are not available.
        iv. Contacting OTR for further recommendations and considerations when unsure of how to provide active efforts or access culturally appropriate services.
2. When considering out-of-home placements:
    a. Make efforts to locate all parents, guardians, or Indian custodians.
    b. Contact any known tribes to share information about the case and consult on:
        i. Child safety and preventative services.
        ii. Case decisions, including the decision to be removed from the home.
        iii. Out-of-home placement, if applicable.
    c. Follow policies:
        i. Indian Child Welfare Chapter 5. CPS and Family Assessment Response (FAR)
        ii. Child Welfare
            A. Present Danger and Safety Assessment

B. Safety Plan
C. Family Team Decision Making Meetings (FTDM)
D. Child Protective Services Family Assessment Response
E. Child Protective Services (CPS) Investigation
F. Family Voluntary Services
G. Shared Planning Meetings
H. Case plan

d. Follow the Child Welfare Family Assessment policy and comprehensively assess the child and family's needs and strengths and protective factors:
   i. To include but not limited to:
      A. Health, disability, and accommodations
      B. Mental health, substance abuse, and trauma treatment
      C. Personal trauma history
      D. Communication
      E. Language and literacy barriers
      F. Financial obstacles
      G. Housing
      H. Transportation
      I. Community engagement or family support
      J. Child care
      K. Cultural engagement and connection
      L. Services and supports
   ii. Using, when applicable, the FamLink
      A. Comprehensive Family Evaluation DCYF 10-480 form
      B. Investigative Assessment DCYF 09-967 form
      C. FAR Family Assessment DCYF 10-474 form

3. When children can safely remain in the home and:
   a. The case remains open for services, either:
      i. Obtain the parents', guardians' or Indian custodians' consent to participate in voluntary services. If they consent, follow the Child Welfare Case Plan policy. If they do not consent, consult with the supervisor to determine whether to file a dependency or close the case.
      ii. File a dependency if removal is not required but court intervention is needed.
   b. The case can be closed:
      i. Inform the parents, guardians, or Indian custodians that the case will be closed and refer the family to any needed community services.
      ii. Coordinate with the tribes prior to closing the case.
      iii. Close the case when appropriate.
4. When children must be removed:
   a. Collaborate regularly with the child, parents, guardians, Indian custodians, known tribes, and extended family if the parents, guardians, or Indian custodians consent to implement a case plan and a reunification plan.
   b. Keep siblings together, whenever possible.
   c. Consult with known tribes on case decisions, including but not limited to, placements and the permanency plan.
   d. Follow:
      i. ICW policies:
         A. Chapter 7. Dependency Cases
         B. Chapter 13. Reason to Know
         C. Chapter 14. Tribal Inquiry
         D. Chapter 15. Indian Child Welfare Act (ICWA) Notice to Tribes
         E. Chapter 20. Placement Preferences

F. Chapter 23. Local Indian Child Welfare Advisory Committees (LICWAC)

ii. Child Welfare policies

A. Placement Out-of-Home and Conditions for Return Home
B. Kinship Care: Searching for, Placing with, and Supporting realties and Suitable Other Persons
C. FTDM
D. Shared Planning Meetings (SPM)
E. Case plan
F. Family Time and Sibling and Relative Visits

e. Follow the Child Welfare Family Assessment and the Court Report policies and comprehensively assess the child and family's needs and strengths and protective factors:

i. To include but not limited to:

A. Communication
B. Transportation
C. Financial obstacles
D. Health and ability, needs, or treatment
E. Accommodations for health or ability
F. Mental health, substance abuse, and trauma treatment
G. Housing
H. Community engagement or family support
I. Language and literacy barriers
J. Child care
K. Cultural engagement and connection
L. Family time
M. Post-reunification support

ii. Using, when applicable, the FamLink:

A. Comprehensive Family Evaluation DCYF 10-480 form
B. Investigative Assessment DCYF 09-967 form
C. FAR Family Assessment DCYF 10-474 form

5. When collaborating with known tribes:

a. Contact the designated notice of service agent or tribal social services by phone, email, or using their tribal website regularly.

b. Consider:

i. Potential cultural differences and treat tribes and tribal culture respectfully.
ii. The government-to-government relationship that extends to the work between DCYF caseworkers and tribal caseworkers.
iii. The importance of building strong partnerships and relationships with tribes and successful outcomes for families.

c. Work towards mutually agreed approaches to partner successfully with known tribes by:

i. Employing effective listening skills with tribal partners, e.g., being attentive, nonjudgmental, and reflective.
ii. Respecting tribal partners' expertise, information, perspectives, and solutions and considering these when making decisions.
iii. Being open to available tribal support in the case management or services for families provided by DCYF.

d. Follow ICW policies:

i. Chapter 14. Tribal Inquiry and Chapter 15. ICWA Notice to Tribes when contacting known tribes to verify the child's eligibility of membership or enrollment.

ii. Chapter 13. Reason to Know to verify if a child is an Indian child.
iii. Chapter 21. Providing Confidential Records to Tribes, when:
A. Providing case records pertaining to the child.
B. Verifying the tribes have access to case records.

e. Follow the Child Welfare Court Report policy and seek known tribe's input.
f. Notify known tribes of court hearings at least seven calendar days in advance of the hearing or as soon as practical if the hearing is emergent.
g. Invite known tribes to FTDMs, SPMs, or other meetings when other participants, attorneys, service providers, etc., are invited.
h. Update known tribes as new information is learned and may change the case plan or placement of the child and before hearings and case meetings.

6. Tribal Membership
   a. If parents or guardians request assistance with tribal membership, provide the following help for children who are:
      i. Not legally free, assist parents and guardians, if willing, in completing the membership paperwork when the child is:
         A. Not a member but is eligible for membership.
         B. A member in one tribe and may be eligible for membership in another tribe where:
            I. The tribe consents to membership in another tribe.
            II. Tribes allow multiple memberships.
      ii. Legally free, consult with the tribe.
         A. If the tribe agrees, obtain a court-order to complete membership.
         B. If the tribe disagrees, do not proceed with membership.
   b. Parents and guardians sign the paperwork when they wish to apply for membership in a tribe; not caseworkers, volunteers, interns, or work study students.
7. Follow the Child Welfare Documentation policy and document active efforts to prevent removal and promote reunification in detail in the court report, petitions filed, and in an "Active Efforts" case note in FamLink under the Activities tab. Detailed documentation includes, but is not limited to:
   a. The active efforts determined to best address the family's issues and circumstances and the reasons for those chosen efforts.
   b. Dates, individuals contacted, and other information showing how the active efforts were provided.
   c. The outcomes of active efforts provided, identified obstacles, and any adjustments made, if applicable, to overcome the obstacles.
   d. The position of the tribe in case decisions.
   e. How services align with the children's and parents' culture.

Forms

Comprehensive Family Evaluation DCYF 10-480 (located in FamLink)
FAR Family Assessment DCYF 10-474 (located in FamLink)
Investigative Assessment DCYF 09-967 (located on in FamLink)

Resources

25 CFR § 23.2 Definitions
25 CFR § 23.120 How does the State court ensure that Active Efforts have been made?
Active Efforts Guide
Chapter 7. Dependency Cases policy
Chapter 13. Reason to Know policy

Chapter 14. Tribal Inquiry policy
Chapter 15. Indian Child Welfare Act (ICWA) Notice to Tribes policy
Chapter 20. Placement Preferences policy
Chapter 21. Providing Confidential Records
Chapter 23. Local Indian Child Welfare Advisory Committees (LICWAC) policy
Child Welfare Case Plan policy
Child Welfare Court Report policy
Child Welfare Family Assessment policy
Child Welfare Family Time and Sibling and Relative Visits policy
Child Welfare Family Team Decision Making Meetings policy
Child Welfare Kinship Care: Searching for, Placing with, and Supporting realties and Suitable Other Persons policy
Child Welfare Placement Out-of-Home and Conditions for Return Home policy
Child Welfare Shared Planning Meetings policy
Guidelines for Implementing the Indian Child Welfare Act C.8, E.1-E.6, H.4, and L.1.
Quality Improvement Center Reasonable and Active Efforts, and Substance Use Disorders Shared Planning MeetingsToolkit
The NACC Guardian Defining Active Efforts in the Indian Child Welfare Act
Washington State Tribes: Tribal Contact and Coordination Guidelines

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