INDIAN CHILD WELFARE POLICY AND PROCEDURES

21. Providing Confidential Records to Tribes

Original Date: September 1, 1991
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Sunset Review Date: January 31, 2028
Approved by: Frank Ordway, Chief of Staff

Purpose

The purpose of this policy is to provide guidance on protecting and safeguarding the privacy and confidential information of children when there is reason to know they are or may be Indian children and their families whom the Department of Children, Youth, and Family (DCYF) serves.

Scope

This policy applies to child welfare (CW) employees.

Laws

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
25 U.S.C. § 1912c	Pending court proceedings: Examination of reports or other documents
42 U.S.C. § 671	State plan for foster care and adoption assistance
42 U.S.C. § 5106a	Grants to States for child abuse or neglect prevention and treatment programs

Policy

1. Caseworkers must provide the following to tribes:
    a. When they are not participating in court hearings but request to be involved in cases where DCYF and the tribes have a child in common:
        i. Case records pertaining to children when there is reason to know the children are or may be Indian children as described in the Procedures section.
        ii. Case records pertaining to children:
            a. Identified as Indian children by a federally recognized tribe.
            b. Affiliated with Canadian First Nations or non-federally recognized tribes and authorized by their parents, otherwise only case records pertaining to them as described in the Procedures section.
    b. Discovery case records, in collaboration with discovery workers, if applicable, when any tribe or Canadian First Nation intervenes or participates in court-involved cases.

Procedures

CW employees must:

1. Provide known tribes with case records pertaining to children when:
    a. They have been verified as being Indian children.
    b. There is reason to know children are or may be Indian children during:
        i. Court proceedings when tribe has been made a party to the case by the court or allowed to participate in the case by the court according to any limitations imposed by the court.
        ii. Child Protective Services (CPS) investigations, or when Family Assessment Response (FAR) services are being provided, prior to a court proceeding, or when tribes are not participating in a court proceeding that:
            A. Can be used to verify the children's' tribal membership as determined by tribes.
            B. Assist the tribes in participating as a partner in the investigations and case planning.
            C. Fulfills the active efforts requirement.
    c. Children are affiliated with a non-federally recognized tribe or Canadian First Nation after either:
        i. The tribe has been made a party to the case by the court according to any limitations imposed by the court.
        ii. Their parents or guardians have signed their approval on the Consent DCYF 14-012 or Authorization DCYF 17-063 forms. If parents or guardians refuse to sign a consent form, provide only those records that are necessary to work with the tribe to:
            A. Locate relatives or other placement resources, including the:
                I. Children's' first and last names, genders, ages, grades in school, and special needs, if applicable.
                II. Parents' names.
                III. Name of the court, hearing date, and location.
            B. Provide services or support to the children or families, including the:
                I. Children's first and last names, genders, and ages.
                II. Parents' names.
2. Follow:
    a. The timeframes for providing information pertaining to the children to tribes in the following Indian Child Welfare policies:
        i. Chapter 4. Intake
        ii. Chapter 5. Child Protective Services and Family Assessment Response
        iii. Chapter 7. Dependency Cases
    b. The Child Welfare Bloodborne Pathogens and Other Potentially Infectious Diseases policy when disclosing information pertaining to bloodborne pathogens.
    c. DCYF Administrative policies:
        i. 13.04 Protecting Privacy and Confidential Information, when disclosing private and confidential information.
        ii. 13.05 Public Records Request and Disclosure, when responding to public disclosure requests on closed cases, including requests from the tribes.
        iii. 13.06 Records Management and Retention Procedures, when managing and retaining case records pertaining to children who are or may be Indian children.
3. In FamLink:
    a. Document:
        i. All contacts with the tribes.
        ii. Efforts to provide case records to the tribes.

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b. Upload signed Consent DCYF 14-012 or Authorization DCYF 17-063 forms into FamLink.

4. Send case records to the tribes in either hard copy via mail stamped confidential, secured fax, or secure email, per the DCYF Administrative 12.04 Acceptable Use of Information Technology Resources and the Internet policy.

Forms

Authorization DCYF 17-063
Consent DCYF 14-012

Resources

Chapter 4. Intake policy
Chapter 5. Child Protective Services and Family Assessment Response policy
Chapter 8. Dependency Cases policy
Child Welfare Bloodborne Pathogens and Other Potentially Infectious Diseases policy
DCYF Administrative 12.04 Acceptable Use of Information Technology Resources and the Internet policy (located on the DCYF intranet)
DCYF Administrative 13.04 Protecting Privacy and Confidential Information policy
DCYF Administrative 13.05 Public Records Request and Disclosure policy (located on the DCYF intranet)
DCYF Administrative 13.06 Records Management and Retention Procedures policy (located on the DCYF intranet)
Office of the Attorney General
Tribal/State Memorandums of Agreement
25 CFR Part 23 Bureau of Indian Affairs ICWA Regulations

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