INDIAN CHILD WELFARE POLICIES AND PROCEDURES

4. Reason to Know

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 on how to identify when there is reason to know children are or may be Indian children.

Scope

This policy applies to child welfare (CW) employees.

Laws

Chapter 13.38 RCW	Washington State Indian Child Welfare Act (WICWA)
25 U.S.C. Part 23	Indian Child Welfare Act

Policy

CW employees must:

1. Determine whether there is reason to know children are or may be Indian children by identifying when a child:
    a. Is a citizen or a member of a federally recognized tribe as identified by that tribe.
    b. Is eligible for citizenship or membership in a federally recognized tribe.
    c. Has tribal heritage or Indian ancestry in a federally recognized tribe or there is an indication of it. This includes but is not limited to, instances where information is received from any person involved in the case or discovered indicating that the child or parent have or may have:
        i. Tribal affiliation, heritage, ancestry, descendancy, or lineage. The name of a specific tribe is not necessary.
        ii. Been a ward of a tribal court.
        iii. Previously accessed services at a tribal clinic or Indian Health Board clinic or Indian boarding school.
        iv. Is domiciled or a resident on a reservation or Alaska Native village.
        v. Is affiliated with an Alaska Native Corporation.
2. Treat children where there is reason to know they are or may be Indian children as Indian children until it is determined by the court that they do not meet the definition of an Indian child.

Procedures

1. Determining Reason to Know
   Caseworkers must complete the following when determining whether there is reason to know children are or may be Indian children:
    a. The Indian Identity Request DCYF 09-761 form at the initial contact with the parents, guardians, or Indian custodians for each screened in intake for each child, including those who have not been identified as a victim. If the Indian Identity Request DCYF 09-761 form:

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i. Does not indicate tribal heritage or Indian ancestry, upload the form and proceed with the case without following ICWA or ICW policies.
ii. Indicates tribal heritage or Indian ancestry:
A. Complete a Family Ancestry Chart (FAC) DCYF 04-220 form.
B. Attempt to obtain the following information about the parents, guardians, or legal custodians, children, and grandparents:
I. Tribal heritage or Indian ancestry with federally recognized tribes.
II. Other tribal affiliations even if a specific tribe or federally recognized tribe is not identified.
III. Tribal heritage or Indian ancestry in the Canadian First Nations or non-federally recognized tribes.
IV. Residence and whether it is within the boundaries of a reservation.
C. Complete the following to verify whether children are recognized as Indian children with the tribes. If there is:
I. No court involvement, follow the Chapter 14. Tribal Inquiry policy.
II. Immediate court involvement, follow the Chapter 15. ICWA Notice policy. Following the Tribal Inquiry policy is not necessary.

b. During Shared Planning Meetings ask parents, guardians, or Indian custodians, children, and other relatives present, if the child, parent, and grandparent:
i. Has tribal heritage or Indian ancestry.
ii. Is or may be a member of or eligible for citizenship or membership in any federally recognized tribes.

c. At every case transfer staffing verify the:
i. Indian Identity Request DCYF 09-761 form was completed and updated for all children with the parents, guardians, or Indian custodians.
ii. Chapter 14 Tribal Inquiry or Chapter 15 Indian Child Welfare Act (ICWA) Notice policies were followed.

d. Before all hearings:
i. Ask parents, custodians, guardians, or Indian custodians, children, or any other relative present, unless the court determines the child does not meet the definition of an Indian child, about the child's, parent's, and grandparent's:
ii. I. Tribal heritage or Indian ancestry with federally recognized tribes.
A. Other tribal affiliations even if a specific tribe or federally recognized tribe is unknown.
B. Tribal heritage or Indian ancestry in the Canadian First Nations or non-federally recognized tribes.
C. Residence and whether it is within the boundaries of a reservation.

e. If alerted by the Relative Search Unit, review the Relative Inquiry DCYF 09-134 form with the family to confirm whether the children, parents, or grandparent save tribal heritage or Indian ancestry.

2. Caseworkers must follow Child Welfare Documentation policy to document all ICW communications and activities.
3. Supervisors must complete the following during every monthly clinical supervision meetings, until the court makes a determination of children's Indian status:
a. Verify caseworkers determined if there is reason to know children are or may be Indian children by asking if they:
i. Asked about parents, children, and grandparent's tribal heritage or Indian ancestry.
ii. Completed the following forms if there is reason to know children are or may be Indian children, the:
A. Indian Identity Request DCYF 09-761 and uploaded it into FamLink.
B. FAC DCYF 04-220 form in FamLink.

b. Verify an Inquiry Referral DCYF 09-135 form was sent to the Native American Indian Request Unit or the ICWA Notice Referral DCYF 09-103 form to the ICW Legal Unit.

c. Document the information was verified in the FamLink monthly clinical supervision notes.

Forms

Consent to Foster Care Placement by Indian Child's Parent or Indian Custodian (CON)
Washington Courts JU 03.0920
Dependency Petition (DPP) Washington Courts JU 03.0100
Family Ancestry Chart DCYF 04-220
ICWA Notice Referral DCYF 09-103
Indian Identity Request DCYF 09-761
Inquiry Referral DCFY XX-XXX
Relative Inquiry DCYF 09-134 form (located in the Forms repository on the DCYF intranet)
Voluntary Placement Agreement 09-004 (located in the Forms repository on the DCYF intranet)

Resources

25 CFR Part 23 ICWA Proceedings
Child Welfare Dependency Petition Process policy
Child Welfare Placement Out-of-Home and Conditions for Return Home policy
Child Welfare Present Danger policy
Child Welfare Safety Assessment policy
Child Welfare Voluntary Placement Agreement policy
Chapter 5. CPS and FAR policy
Chapter 7. Dependency Cases policy
Chapter 14. Tribal Inquiry policy
Chapter 19. Placement Preferences policy