



STATE OF WASHINGTON
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January 25, 2001

TO: All Washington State Indian Tribes and Tribal Organizations

FROM: Marianna Conner, Acting Director
Division of Program and Policy Development
Children's Administration

SUBJECT: **INDIAN CHILD WELFARE MANUAL**

The revised *Indian Child Welfare Manual* is enclosed for your review and comment. Please provide your input to the address below before June 1, 2001.

As you know, we have been working with a group of our staff and representatives of Tribes and Indian organizations over the past four years to revise and update our *Indian Child Welfare Manual*, first issued in 1991. Attached for your review and comment is a copy of the draft revised manual. We have also included a comparison table to assist you in comparing the draft manual to our current manual.

Don Milligan facilitated the work group until his retirement, at which time Art Cantrall accepted that role. Among the many people who have been involved in the effort are:

- Debra O'Gara, Attorney at Law, Puyallup Tribe
- Donna Starr, Muckleshoot Tribe
- Fred LaRoque/Don Milligan, STOWW
- Rhetta Kutch, Region 1, DCFS
- Russ Haugen, Region 1, DCFS
- Helen Zack, Region 2, DCFS
- Charlene Ramirez, Region 3, DCFS
- Paula Bentz, Region 3, DCFS
- Faye Bates, Region 4, DCFS
- Su Phillips, Region 4, DCFS



- Diane Waddington, Region 5, DCFS
- Michelle Cook, Region 6, DCFS
- Bernie Gerhardt, Region 6, DCFS
- Lorraine Brave, ICW Program Manager, CA Headquarters
- Janice Banning, Acting ICW Program Manager, CA Headquarters
- Chris Robinson, Out-of-Home Services Supervisor, CA Headquarters
- Scott Minnick, Special Projects Supervisor, CA Headquarters

In addition, the following people attended various meetings when Donna Starr was unable to participate:

- Marilee Sweet, Muckleshoot Tribe
- Mary Boldt, Muckleshoot Tribe
- Elizabeth Penn, Muckleshoot Tribe
- Retta Howard, Muckleshoot Tribe
- Mary Pope, Muckleshoot Tribe

This draft reflects a nearly completed product of that long-term effort. We continue to work with the department's Forms and Records Section to finalize revision of the many ICW forms. Upon completion, samples will be included in chapter 13 of the final manual.

The revised manual generally follows the same chapter format as the current manual. However, we now provide a placeholder for regional and local tribal/state agreements as chapter 2. Legal and cultural articles have been moved to a new Appendix A, and an Index is included as Appendix B.

We have previously provided a copy of the draft manual to our Children's Administration Management Team and to our assigned Assistant Attorney General for review and comment.

We have retained our existing definitions of "Indian Child" in this manual so that we can continue current practices with respect to all Indian children. As we receive direction from the federal government with respect to the federal Multi-Ethnic Placement Act (MEPA) and the Adoption and Safe Families Act (ASFA), we may have to revise our definitions to conform to federal expectations. For your information, neither federal Act applies to children defined as "Indian" in the federal Indian Child Welfare Act (ICWA).

We hope to finalize and implement the revised manual by August 1, 2001. We are now providing the draft manual to you for review and comment.

Please provide any comments you may have directly to:

Indian Child Welfare Program Manager
P.O. Box 45710,
MS 45710,
Olympia, WA 98504-5710

We would appreciate receiving your comments by June 1, 2001.

Once we have those comments, we will make appropriate changes before sending the final manual to our Assistant Secretary, Rosalyn Oreskovich, for approval. Following the Assistant Secretary's approval, we will implement the manual.

Thank you for your attention to this important matter.

Enclosures

cc: Rosalyn Oreskovich
ICW Manual Committee
Indian Policy Advisory Committee
Indian Policy and Support Services
Stephen Hassett, AAG

CHILDREN'S ADMINISTRATION INDIAN CHILD WELFARE MANUAL

COMPARISON TABLE

CHAPTER/SECTION	CURRENT MANUAL -- 9/91	DRAFT MANUAL -- 1/01
Preface	None - Introductory Memo	Introductory Memo & memo introducing Current Manual
Chapter 1 - Introduction	<p>Section 10.60 - LICWAC Impasse Procedures</p>	<p>Becomes 01.50</p> <ul style="list-style-type: none"> • Requirements for department and child placing agency staff to follow all Children's Administration (CA) manuals; • Article "The Indian Child Welfare Act - How and Why it was Enacted"; • Guidelines for CA to coordinate and communicate with Tribes and Native Organizations in selection of staff and on performance concerns; • Limited authority for waiver of manual provisions; • LICWAC/State Impasse Procedures
Chapter 2 - Tribal/State Agreements	Culturally Competent Casework - Reserved; cultural and legal articles never included.	Tribal/State Agreements - Provides introduction to agreements and place to file regional and local agreements. Cultural/legal articles moved to Appendix A.
Chapter 3 - Verification of Child's Indian Status	<p>Sec. 3.10</p> <p>3.05</p> <p>03.25</p> <p>03.30</p> <p>03.35</p>	<p>Becomes 3.05</p> <p>3.10</p> <p>New Sec. 03.25</p> <p>Becomes 03.30</p> <p>03.35</p> <p>03.40</p> <ul style="list-style-type: none"> • Title changed to "Verification of Child's Indian Status"; • Sections reordered; • Introduction expanded for clarification of expectations; • Requires CA staff to involve child's Tribe throughout process even if the child does not meet federal definition; • Directs user to chapter 11 for Canadian First Nations and Unenrolled Indian Children; • Requires social worker to confirm documentation of child's status as Indian child at each case transfer; • Social worker continues to inquire about child's Indian status throughout life of case; • Clarification regarding "residence" and "domicile" for Indian children; • Adds considerations for identifying Alaska Native/ Native American children; • Social worker presumes any child to be an Indian child until social worker verifies that child is not an Indian child; • Describes methods for documenting Indian status.

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CHAPTER/SECTION	CURRENT MANUAL - 9/91	DRAFT MANUAL - 1/01
Chapter 4 - Confidentiality and Information Disclosure	<p>Sec. 04.10 04.15</p>	<p>New <u>04.15</u> Becomes 04.20 04.25</p> <ul style="list-style-type: none"> • Adds written agreement between CA and a Tribe or Indian organization for sharing of otherwise confidential information for provision of services; • Significantly expands guidelines for adult Indian adoptees to access tribal affiliation information; • Expands guidelines for parental role in disclosure of confidential information; • Clarifies circumstances under which information is disclosed with the child's Tribe.
Chapter 5 - Casework Services Prior to Court Involvement	<p>Sec. 05.15 05.25 05.30 05.35 05.40 05.45 05.46</p>	<p>Becomes 05.10 05.15 05.20 05.25 05.30 05.35 05.40</p> <ul style="list-style-type: none"> • Provides additional guidance for handling of FRS cases.
Chapter 6 - Court-Related Activities	<p>Sec. 06.11 06.12 06.13 06.14 06.15 06.16 06.17 06.20 06.21 06.22 06.23 06.24 06.25 06.26 06.27 06.28 06.30 06.40 06.41 06.42</p>	<p>Becomes 06.15 06.20 06.25 06.30 06.35 06.40 06.45 06.50 06.501 06.502 06.503 06.504 06.505 06.506 06.55 06.60 06.601 06.602</p> <ul style="list-style-type: none"> • Some sections re-ordered and renumbered; • Revised lists of federally recognized Tribes - Exclusive, Concurrent, and Self-Governance Jurisdiction; • Provides that CA, in non-emergency cases, files an action in state court if the Tribe declines to assert jurisdiction; • Describes circumstances in which the department would not return a child to the parent following withdrawal of a voluntary consent to place; • Provides for LICWAC staffing at the Tribe's request; • Provides for designation of Indian consultant if Tribe declines to participate and does not want LICWAC involved;

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CHAPTER/SECTION	CURRENT MANUAL - 9/91	DRAFT MANUAL - 1/01
Chapter 6 - Court-Related Activities	Sec. 06.43 06.44 06.45 06.46 06.47 06.48 06.49 06.50 06.51 06.52 06.53 06.54 06.55 06.56 06.60 06.70 & 6.71 06.80 & 6.81 06.90 06.91 06.92 06.93 06.94 06.95 06.96 06.97 06.98 06.99	Becomes 06.603 06.604 06.605 06.606 06.607 06.608 06.609 06.65 06.651 06.652 06.653 06.654 06.655 06.656 06.70 06.75 06.80 06.85 06.851 06.852 06.853 06.854 06.855 06.856 06.857 06.858 & 06.859 06.8510
		<ul style="list-style-type: none"> • Replaces ARP procedures with CHINS procedures to reflect change in state law; • Guidance for withdrawal of consent to adoption after final decree.

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CURRENT MANUAL - 9/91		DRAFT MANUAL - 1/01	
Chapter 06 - Court-Related Activities	Sec. 06.910 06.100	Becomes 06.8511 06.90	
Chapter 7 - Placement Activities	Sec. 07.71 07.72 07.73 07.74 07.80	New Sec. 07.015 Becomes 07.701 07.702 07.703 07.704 07.75 New Sec. 07.80	<ul style="list-style-type: none"> • Requirements for department and child placing agency staff to follow all Children's Administration (CA) manuals; • Article "The Indian Child Welfare Act - How and Why it was Enacted"; • Exempts Federally Recognized Indian Children from application of Adoption and Safe Families Act (ASFA) requirements; • Guidelines for CA to coordinate and communicate with Tribes and Native Organizations in selection of staff and on performance concerns; • Limited authority for waiver of manual provisions; • LICWAC/State Impasse Procedures
Chapter 08 - Adoption	Sec. 08.10 08.05 08.35 08.25 08.40 08.50 08.55 08.15 08.20 08.45 08.75	Becomes 08.05 08.10 08.15 08.20 08.25 08.30 08.35 08.40 08.45 08.50 08.55	<ul style="list-style-type: none"> • Chapter applies only to federally recognized Indian children; others are covered by chapter 11; • Exempts Federally Recognized Indian Children from MEPA/IEPA; • Exempts Federally Recognized Indian Children from ASFA; • Requires that Tribe agree with termination for Adoption to be an acceptable plan; • Some sections are re-ordered and renumbered; • Provides direction on archiving of adoption records.

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CHAPTER/SECTION	CURRENT MANUAL - 9/91	DRAFT MANUAL - 1/01
Chapter 8 - Adoption	Sec. 08.80 08.110 08.125 08.90 08.95 08.100 08.115 08.100 08.105	Becomes 08.75 08.80 08.90 08.95 08.100 08.105 08.110 08.115 New Sec. 08.120 08.125 08.130
Chapter 9 - Interstate Compact	08.130 08.135	New Sec. 09.01 09.05 09.10 09.15
		<ul style="list-style-type: none"> • Clarifies use of Interstate Compact on the Placement of Children (ICPC) for all Indian children when the department is making the placement into another state or receiving a child from another placement; • Outlines social worker responsibilities for use of ICPC; • The department may assist the Tribe with use of ICPC at the Tribe's request; • Indian children placed through ICPC or by Tribes into this state are eligible for services provided to Washington state Indian children; • Identifies ICPC program manager contact to identify ICPC administrators of other states.

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CHAPTER/SECTION	CURRENT MANUAL - 9/91	DRAFT MANUAL - 1/01
Chapter 10 - Local Indian Child Welfare Advisory Committee	<p>Sec. 11.01 & 11.05 10.35 10.20 10.25 10.30 10.35 10.40 10.45 10.50 10.55 10.60 10.65</p>	<p>Becomes 10.01 10.05 10.15 10.20 10.25 10.30 10.35 10.40 10.45 10.50 10.55 10.60 New Sec. 10.65</p> <ul style="list-style-type: none"> • Limits LICWAC only to staffing of cases in which the child's Tribe, Band, or First Nations is unavailable; • Defines LICWAC; • Outlines statutory provisions being implemented; • Describes purpose and procedures for LICWAC; • Outlines criteria for LICWAC involvement; • Requires that CA formally register LICWAC members as volunteers; • Precludes department employees, GAL, and CASA from serving as LICWAC members; • Provides for Regional Administrator appointment of member only if the person is found to have acceptable background following criminal history check; • The Regional Administrator may decline to appoint a person if the person would have conflicts of interest or for other documented good cause; • The LICWAC Liaison must document active efforts to recruit members from Tribes/Indian organizations; • Liaison must orient new members to Title IV-B requirements; • Outlines Liaison responsibilities when LICWAC serves as CPT; • Identifies who may request a staffing; • Addresses conflicts of interest on specific cases; • Describes Chairperson's responsibilities when opening meetings; • Requires agreements between DCFS and CPAs.

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CHAPTER/SECTION	CURRENT MANUAL - 9/91	Sec.	Becomes	DRAFT MANUAL - 1/01
Chapter 11 - Canadian First Nations and Unenrolled Indian Children		11.11	11.101	<ul style="list-style-type: none"> • Requires social worker to confirm documentation of Indian ancestry each time case is transferred; • Describes circumstances when child may be considered non-Indian. • Defines "Unenrolled Indian Child"; • Includes application of Adoption and Safe Families Act (ASFA) requirements to non-federally recognized Indian children while exempting Federally Recognized Indian Children; • Changes from "reasonable" to "active efforts"; • Requires "diligent" efforts to place within placement preferences; • Changes ARP to CHINS to reflect change in law; • Changes from "Guardianship" to "Dependency Guardianship" to accurately reflect C.A. role.
		11.12	11.102	
		11.13	11.103	
		11.14	11.104	
		11.20	11.15	
		11.30	11.20	
		11.31	11.201	
		11.32	11.202	
		11.33	11.203	
		11.34	11.204	
		11.35	11.205	
		11.36	11.206	
		11.40	11.25	
		11.41	11.251	
		11.42	11.252	
		11.50	11.30	
		11.51	11.301	
	11.52	11.302		
	11.53	11.303		
	11.54	11.304		
	11.55	11.305		
	11.56	11.306		
	11.60	11.35		
	11.61	11.351		
	11.62	11.352		

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CHAPTER/SECTION	CURRENT MANUAL - 9/91	DRAFT MANUAL - 1/01
Chapter 11 - Canadian First Nations and Unenrolled Indian Children	Sec. 11.63 11.64 11.65 11.66 11.70 11.71 11.72 11.73 11.74 11.75 11.76 11.77 11.78 11.79 11.80 11.83 11.84 11.85 11.86 11.87 11.88 11.89 11.80.1 11.80.2 11.80.3 11.80.4 11.80.5 11.80.6	Becomes 11.353 11.354 11.355 11.356 11.40 11.401 11.402 11.403 11.404 11.405 11.406 11.407 11.408 11.409 11.45 11.451 11.452 11.453 11.454 11.455 11.456 11.457 11.458 11.459 11.4510 11.4511 11.4512 11.4513

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Chapter 12 - Tribal & Bureau of Indian Affairs Information	<p>Sec. 12.05 & 12.40</p> <p>12.10</p> <p>12.15</p> <p>12.20</p> <p>12.25</p> <p>12.30</p> <p>12.35</p>	<p>Becomes 12.05 & 12.10 & 12.15</p> <p>12.20</p> <p>12.25</p> <p>12.30</p> <p>12.35</p> <p>12.40</p> <p>12.45</p>
Chapter 13 - Forms Chapter 14 - Definitions		<p>Addresses for federally recognized Washington State Tribes;</p> <p>Addresses for non-federally recognized Washington State Tribes;</p> <p>Addresses for Washington State Indian organizations;</p> <p>Maps of Washington State;</p> <p>Adds Snoqualmie Tribe and Cowlitz Tribe to list of federally recognized Tribes, while noting the Cowlitz recognition is under appeal;</p> <p>Addresses for Canadian First Nations and Metis communities by province;</p> <p>Includes e-mail addresses where available.</p> <p>Revised forms under development.</p> <p>Definitions added:</p> <ul style="list-style-type: none"> • Bureau of Indian Affairs • Canadian First Nations Child • Canadian Reserve • Centennial Accord • Child in Need of Services • Child in Need of Services Petition • Child Placing Agency • Child Protective Team • Children's Administration • Compelling Reason per ASFA • Concurrent Jurisdiction • Court of Competent Jurisdiction • Cultural Competence • Cultural Consultants • Cultural Diversity • Culturally Responsive • Culture • Custodian • Department • Disposition • Dispositional Hearing

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CHAPTER/SECTION	CURRENT MANUAL - 9/91	DRAFT MANUAL - 1/01
Chapter 14 - Definitions		<ul style="list-style-type: none"> • Documented Efforts • Duress • Eligible for Membership in an Indian Tribe • Ethnic • Exclusive Jurisdiction • Expert Qualified in the Placement of Indian Children in Non-Indian Homes • Extended Family Member • Federal Recognized Indian Child • Foster Care • Full Faith and Credit • Group Care • Guardian • <i>Guardian Ad Litem</i> • Guardianship • Impasse • Indian • Indian Child Welfare Act • Indian Health Service • Indian Tribe • Interstate Compact on the Placement of Children • Intervene • Involuntary • Least Restrictive Setting • Legally Free Child • Local Indian Child Welfare Advisory Committee • Medical History • Non-Federally Recognized Indian Tribe • Original Placement Date • unenrolled Indian Child • Out-of-Home Placement • Parenting Status • Placement • Prevailing Social and Cultural Standards • Psychological Relative

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CHAPTER/SECTION	CURRENT MANUAL - 9/91		DRAFT MANUAL - 1/01
Chapter 14 - Definitions			<ul style="list-style-type: none"> • Reassumption of Jurisdiction • Relinquishment • Right of Intervention • Standard of Proof • Termination of Parental Rights • Transfer of Jurisdiction or Proceeding • Tribal Intervention
Chapter 15 - Laws and Regulations	<ul style="list-style-type: none"> • References chapter 170, laws of 1987 (HB 480) • Contains various Washington Administrative Code (WAC) sections in chapters 388-15, 388-70, and 388-73 WAC. 	<p>Adds section numbers:</p> <p>15.01</p> <p>15.05</p> <p>15.10</p> <p>15.15 & sub-sections</p>	<ul style="list-style-type: none"> • Corrects statutory references to codified numbers of chapter and section; e.g., RCW 13.04.030; • WAC are being rewritten and recodified; new manual will include revised WAC when they are completed.
Appendix A - Cultural and Legal Articles	None		<p>Cultural/legal articles:</p> <ul style="list-style-type: none"> • <i>Building Strong, Stable Indian Communities Through the Indian Child Welfare Act</i>, Patrice Kunesch • <i>A Strengths Approach to Helping Native American Families</i>, John Romnau, Ph.D., ACSW & Patricia Shannon, MSW • <i>Family Structure and Value Orientation in American Indians</i>, John G. Red Horse • <i>The Destruction of American Indian Families</i>, William Byler • <i>Adoption and the Indian Child Welfare Act</i>, Craig J. Dorsey • <i>Reactions by Native American Parents to Child Protection Agencies: Cultural and Community Factors</i>, Charles Horejsi, Bonnie Heavy Runner Craig, and Joe Pablo • <i>Cultural Issues and Responses: Defining Cultural Competence in Child Welfare</i>, Terry L. Cross, ACSW • <i>The Canadian Metis</i> - Adapted from documents produced by the Metis National Council of Canada.
Appendix B - Index	None		<ul style="list-style-type: none"> • Topical index with page references.

