



## 2019 WASHINGTON STATE INDIAN CHILD WELFARE CASE REVIEW TOOL



Washington State Department of  
**CHILDREN, YOUTH & FAMILIES**

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## Vision

### Washington State Department of Children, Youth & Families Commitment

The Washington State Department of Children, Youth & Families (DCYF) commitment to the Indian Child Welfare Act (ICWA) <sup>1</sup>requires:

- Protecting the essential tribal relations and best interests of Indian children by promoting practices designed to prevent out-of-home placement of Indian children that is inconsistent with the rights of the parents, the health, safety, or welfare of the children, or the interests of their tribe.
- When placement away from the parent or Indian custodian is necessary, the placement reflects and honors the unique values of the child's tribal culture and is best able to assist the Indian child in establishing, developing, and maintaining a political, cultural, social and spiritual relationship with the tribe and tribal community.

## Purpose

### Washington State Indian Child Welfare (ICW) Case Review

DCYF follows a government-to-government approach to seek consultation and participation by representatives of tribal governments in policy development and service program activities. DCYF is committed to a government-to-government approach through consultation with Federally Recognized Tribes of Washington State, and to work in collaboration with Recognized American Indian Organizations and individual American Indians and Alaska Natives to ensure quality and comprehensive service delivery to all Indian children and families served.

To fulfill this commitment, the Washington State Indian Child Welfare (ICW) Case Review was developed in collaboration with Washington State Tribes and the former Children's Administration now DCYF's child welfare services to evaluate ICWA compliance and quality of ICW practice in all areas of the state through evaluating compliance in meeting:

- The Federal Indian Child Welfare Act (ICWA);
- The Washington Indian Child Welfare Act (WICWA);
- DCYF Indian Child Welfare Policies and Procedures; and
- Memoranda of Understanding between Washington State Tribes and DCYF.

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<sup>1</sup> Based on the legislative findings of the Washington State Indian Child Welfare Act, Laws of 2011, ch. 309 § 3.

## Goals of ICW Case Review

- Evaluating compliance with Washington State and federal ICWA. The state and federal ICWA apply to Indian children who are (1) members of tribes or (2) eligible for membership and the biological child of a member. The tribe must be a federally recognized tribe(s) including recognized Alaska Native regional corporations and Alaska Native villages.
- Evaluating the quality of culturally competent case management for all Indian families. This includes families where the child meets ICWA's definition of an Indian child, as well as families who self-identify as having Indian ancestry and cultural heritage with a non-federally recognized Tribe, a Canadian First Nation, and descendants of federally recognized tribes who are ineligible for membership.
- Enhancing staff development and understanding of ICW practice through utilizing the ICW Case Review Tool for training and skill building. The ICW Case Review Tool identifies ICWA requirements and the elements of sound culturally competent case management with references to the WICWA and DCYF ICW Policies and Procedures.

## Components of ICW Case Review

Cases included in the review are from all program areas served by DCYF which include:

- Child Protective Services (CPS) Investigations
- Family Assessment Response (FAR) Interventions
- Family Voluntary Services (FVS)
- Child and Family Welfare Services (CFWS)
- Family Reconciliation Services (FRS)

## Inquiry of Indian Status

### Directions

The questions in this section are designed to measure compliance and quality of practice regarding inquiry and determination of Indian status per WICWA.

Complete this section on all cases; however, some questions apply to ICWA cases only.

If there was more than one Indian child in the home, review as to one randomly selected child.

## All Cases

### 1. Was the father, Indian custodian or paternal relatives asked if the child had American Indian/Alaska Native ancestry?

(Documentation may be located on the Indian Identity Request form (09-761), FamLink case notes or other case documentation. The purpose of this question is to determine if there were good faith efforts to identify the child's Indian status on the paternal side of the family.)

#### Fully Achieved:

The child's American Indian/Alaska Native status was asked of the child's father or Indian custodian or paternal relatives if the father was not available, *or*

There is comprehensive detailed information located in an ancestry chart or the Indian Identity Request form indicating the Indian status of the father/paternal relatives, *or*

Correspondence (letters or e-mail) from the Tribe were located in the case file indicating the father's Tribal affiliation, *or*

There were other persons that reasonably could be expected to have information regarding the child's Indian status on the paternal side of the family and they were asked regarding the child's Indian status.

#### Not Achieved:

The American Indian/Alaska Native status was not asked of the father/Indian custodian or available paternal relatives.

#### Not Applicable:

The father/Indian custodian or paternal relatives were not identified or available, *or*

Paternity has not been established and the alleged father(s) does not acknowledge paternity.

**RCW 13.38.050 Determination of Indian Status:** "Any party seeking the foster care placement of, termination of parental rights over, or the adoption of a child must make a good faith effort to determine whether the child is an Indian child. This shall be done by consultation with the child's parent or parents, any person who has custody of the child or with whom the child resides, and any other person that reasonably can be expected to have information regarding the child's possible membership or eligibility for membership in an Indian tribe to determine if the child is an Indian child, and by contacting any Indian tribe in which the child may be a member or may be eligible for membership. Preliminary contacts for the purpose of making a good faith effort to determine a child's possible Indian status, do not constitute legal notice as required by RCW 13.38.070."

**RCW 13.38.040 (10):** "Indian custodian" means an Indian person who under tribal law, tribal custom, or state law, has legal or temporary physical custody of an Indian child, or to whom the parent has transferred temporary care, physical custody, and control of an Indian child. "

**RCW 13.38.040 (13):** "Parent" means a biological parent or parents of an Indian child or a person who has lawfully adopted an Indian child, including adoptions made under tribal law or custom. "Parent"

does not include an unwed father whose paternity has not been acknowledged or established under chapter 26.26 RCW or the applicable laws of other states.”

## ICW Policies and Procedures

### Chapter 3. Inquiry and Verification of Child's Indian Status

- Under the federal ICWA regulations, DCYF must use "due diligence" to "identify and work with all of the tribes of which there is reason to know the child may be a member (or eligible for membership), to verify whether the child is in fact a member (or a biological parent is a member and the child is eligible for membership)."DCYF must "treat the child as an Indian child, unless and until it is determined on the record that the child does not meet the definition" of an Indian child. 25 CFR 23.107 (a), (b)
- DCYF caseworkers must complete the Indian Identity Request (09-761) at the initial visit with the parent(s)/Indian custodian on **all** screened in cases for each child, including those who have not been identified as victims.

## All Cases

### 2. Was the mother, Indian custodian or maternal relatives asked if the child had American Indian/Alaska Native ancestry?

*(This can be documented on the Indian Identity Request form (09-761), FamLink Case Notes or other case documentation. The purpose of this question is to determine if there were diligent efforts to identify the child's Indian status on the maternal side of the family.)*

#### Fully Achieved:

The child's American Indian/Alaska Native status was asked of the child's mother or Indian custodian or the maternal relatives if the mother was not available, **or**

There is comprehensive detailed information located in an ancestry chart or the Indian Identity Request form indicating the Indian status of the mother/maternal relatives, **or**

Correspondence (letters or e-mail) from the Tribe were located in the case file indicating the mother's Tribal affiliation, **or**

There were other persons that reasonably could be expected to have information regarding the child's Indian status on the maternal side and they were asked regarding the child's Indian status.

#### Not Achieved:

The child's American Indian/Alaska Native status was not asked of the child's mother/Indian custodian or the maternal relatives.

#### Not Applicable:

The mother/Indian custodian and/or maternal relatives were not identified or available.

## All Cases

**3. If the mother, Indian custodian, maternal relatives were asked regarding the child's Indian ancestry, were they asked timely?** *(This question applies to cases that were opened within the past two years.)*

**Fully Achieved:**

The case opened within the last two years and the parents/Indian custodian/relatives were asked regarding the child's Indian ancestry in a timely manner which may include, but are not limited to, the following guidelines:

- The case was opened for CPS within the past two years, and the parents/Indian custodian/relatives were asked regarding the child's Indian status in the early phase of the CPS investigation.
- The parents/Indian custodian/relatives were asked regarding the child's Indian status within 30 days of when the parent/relative/Indian custodian whereabouts became known and the parent was available.
- There were extenuating circumstances related to court action or the safety of the child and the parents/Indian custodian/relatives were asked timely when the circumstances were resolved.

**Not Achieved:**

The case opened within the past two years, and the parents/Indian custodian/relatives were asked regarding the child's Indian status, however they were not asked in a timely manner.

**Not Applicable:**

The parents/Indian custodians/relatives were asked but the timeframe of when this occurred could not be determined, *or*

The parents/Indian custodian/relatives were asked regarding the child's Indian ancestry but it was prior to the last two years, *or*

The Tribe(s) determined the child's Indian status prior to the last two years, *or*

The parents/Indian custodians/relatives were not asked regarding the child's Indian status.

**4. If the father, Indian custodian, paternal relatives were asked regarding the child's Indian ancestry, were they asked timely?**

**Fully Achieved:**

The case opened within the last two years and the parents/Indian custodian/relatives were asked regarding the child's Indian ancestry in a timely manner which may include, but are not limited to, the following guidelines:

- The case was opened for CPS within the past two years, and the parents/Indian custodian/relatives were asked regarding the child's Indian status in the early phase of the CPS investigation.

- The parents/Indian custodian/relatives were asked regarding the child’s Indian status within 30 days of when the parent/relative/Indian custodian whereabouts became known and the parent was available.
- There were extenuating circumstances related to court action or the safety of the child and the parents/Indian custodian/relatives were asked timely when the circumstances were resolved.

**Not Achieved:**

The case opened within the past two years, and the parents/Indian custodian/relatives were asked regarding the child’s Indian status, however they were not asked in a timely manner.

**Not Applicable:**

The parents/Indian custodians/relatives were asked but the timeframe of when this occurred could not be determined, *or*

The parents/Indian custodian/relatives were asked regarding the child’s Indian ancestry but it was prior to the last two years, *or*

The Tribe(s) determined the child’s Indian status prior to the last two years, *or*

The parents/Indian custodians/relatives were not asked regarding the child’s Indian status.

## ICWA Cases

### **5. If it was known at case opening that the child was either (1) a member of a federally recognized Tribe(s), or (2) eligible for membership and the biological child of a member of a federally recognized Tribe(s), was the Tribe(s) contacted within 24 hours of being assigned the case per policy?**

(The purpose of this question is to determine if the child’s federally recognized Tribe was contacted within 24 hours of being assigned the case opening when there was reliable information that the child was a member, or eligible for membership and the biological child of a member with a federally recognized Tribe.) (This question applies to cases that were opened within the past two years.)

**Fully Achieved:**

The case opened within the last two years and at the time of case opening, there was reliable information that the child was either a member or the biological child of a member and eligible for membership with a Tribe(s), and the Tribe(s) was contacted within *24 hours of being assigned the case* to confirm the child’s Indian status and to notify the Tribe(s) of case assignment.

**Not Achieved:**

At the time of case opening there was reliable information that the child was a member or the biological child of a member and eligible for membership with a Tribe(s), and the Tribe(s) was not contacted within *24 hours of being assigned the case* to confirm the child’s Indian status and to notify the Tribe(s) of case assignment.

**Not Applicable:**

At the time of case opening there was no reliable information that the child was either a member or the biological child of a member and eligible for membership with an identified Tribe(s), **or**

The case opened prior to the last two years.

## ICW Policies and Procedures

### Chapter 5. Child Protective Services for Indian Children

The DCYF caseworker will:

- Contact the tribal social services program or the Indian Child Welfare Act (ICWA) representative within **24 hours** of being assigned the intake.
- Ensure the Washington state tribe received or receives a copy of the intake report DCYF (14-260) per the Washington State Tribes Intake Referral and After Hours Contact Information and document in the Intake Referral Tracking tab in FamLink.
  - a. Follow the tribe's Memorandum of Understanding (MOU), if applicable.
  - b. For families residing on the reservation, ask the tribe's designated social service or ICWA representative if the tribe will assume responsibility for the investigation or FAR intervention if the tribe and DCYF do not have an MOU.
  - c. Follow state and federal law if the family resides **on the reservation** and DCYF is requested to lead the CPS investigation.

### 6. Was the mother, Indian custodian or maternal relatives asked to complete the Indian Identity Request (IIR) form (#09-761) at the initial visit per policy?<sup>2</sup>

**Fully Achieved:**

The **mother, Indian custodian or maternal relatives** were asked to complete the IIR form regarding the child's Indian ancestry at the initial visit.

**Not Achieved:**

The **mother, Indian custodian or maternal relatives were** not asked to complete the IIR regarding the child's Indian status; or

The mother, Indian custodian or maternal relatives were asked to complete the IIR regarding the child's Indian ancestry but it was beyond policy time frame.

**Not Applicable:**

The **mother, Indian custodian or maternal relatives** were asked to complete the IIR but the timeframe of when this occurred could not be determined.

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<sup>2</sup> Reviewer Resource: ICW Policies and Procedures [Chapter 3. Inquiry and Verification of Child's Indian Status](#)

The **mother, Indian custodian or maternal relatives** were not available to be asked to complete the IIR.

**7. Was the father, Indian custodian or paternal relatives asked to complete the Indian Identity Request (IIR) form (#09-761) at the initial visit per policy?<sup>3</sup>**

**Fully Achieved:**

The **father, Indian custodian or paternal relatives** were asked to complete the IIR form regarding the child's Indian ancestry at the initial visit.

**Not Achieved:**

The **father, Indian custodian or paternal relatives** were not asked to complete the IIR regarding the child's Indian status; or

The father, Indian custodian or paternal relatives were asked to complete the IIR regarding the child's Indian ancestry but it was beyond policy time frame.

**Not Applicable:**

The **father, Indian custodian or paternal relatives** were asked to complete the IIR but the timeframe of when this occurred could not be determined.

The **father, Indian custodian or paternal relatives** were not available to be asked to complete the IIR.

**8. Was the Indian Identity Request form(s) uploaded into FamLink (#09-761)?<sup>4</sup>**

**Fully Achieved:**

Form(s) uploaded

**Not Achieved:**

Form(s) not uploaded

**Not Applicable:**

The parent(s)/Indian custodians were not available to be asked to complete the IIR.

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<sup>4</sup> Reviewer Resource: ICW Policies and Procedures [Chapter 3. Inquiry and Verification of Child's Indian Status](#)

## All Cases

**9. If Indian ancestry was identified with a federally recognized Tribe, did the worker provide a complete referral to the Native American Inquiry Referral (NAIR) Unit within 10 working days of learning this information? (A referral is not considered complete if returned to the worker for additional information.)**

**Fully Achieved:**

The worker made a complete referral to the NAIR Unit within 10 working days of Indian Ancestry identification, with a complete Family Ancestry Chart.

**Not Achieved:**

A complete referral was not made to the NAIR Unit within 10 working days of Indian Ancestry identification.

**Not Applicable:**

The parents/relatives/Indian custodians did not report Indian ancestry.

## ICW Policies and Procedures

### Chapter 3. Inquiry and Verification of Child's Indian Status

- Under the federal ICWA regulations, DCYF must use "due diligence" to "identify and work with all of the tribes of which there is reason to know the child may be a member (or eligible for membership), to verify whether the child is in fact a member (or a biological parent is a member and the child is eligible for membership)." DCYF must "treat the child as an Indian child, unless and until it is determined on the record that the child does not meet the definition" of an Indian child. 25 CFR 23.107 (a), (b)
- DCYF caseworkers must complete the [Indian Identity Request DCYF 09-761](#) at the initial visit with the parent(s)/Indian custodian on **all** screened in cases for each child, including those who have not been identified as victims.
- When a child may have Indian ancestry and be affiliated with a federally recognized tribe, DCYF caseworkers will:
  - Complete a [Family Ancestry Chart DCYF 04-220](#) and include:
    - Full names of child's birth parents, grandparents, and great grandparents (as far back as possible).
    - Mother's maiden name.
    - Mother's married name(s).
    - Any aliases used by individual(s) identified on the form.
  - Send a [Native American Inquiry Referral \(NAIR\)](#) to the Native American Inquiry Unit:
    - Within 10 working days of Indian ancestry identification for:
      - All **new** cases.
      - Cases with prior episodes when a tribe(s) responded but the family **has provided new information** which might change the tribe(s) response.

- After 18 months if a case is re-opened and a tribe(s) in prior episodes responded to the inquiry that the child was not a member or eligible for membership **and no new information has been provided** by the family.

**November 13, 2014 Memo from Jennifer Strus, Assistant Secretary, Children’s Administration:** All staff, other than the Spokane ICW unit, must use the centralized Native American Inquiry Request (NAIR) process. Staff have 15 days from the time Indian Ancestry is identified to complete the referral to the NAIR unit. Staff can find steps to complete this process on the ICW intranet page. By CA policy, the NAIR unit will use the following timeframes to complete the inquiry process:

- First inquiry letter will be sent by the NAIR unit within 30 days from the time Indian Ancestry is identified.
- Second inquiry letters will be sent by the NAIR unit 60 days from the initial inquiry (note: for out-of-state Tribes the NAIR unit will only complete two inquiry attempts).
- Third inquiry letters will be sent by the NAIR unit 60 days from the second attempt for Washington State federally recognized Tribes.

Workers are responsible for continued outreach after the NAIR unit has made two attempts for out-of-state federally recognized Tribes, and three attempts for Washington State Federally recognized Tribes.

## All Cases

**10. Was the initial inquiry to the federally recognized Tribe(s) completed within 30 days from the time Indian ancestry was identified?** (The purpose of this question is to determine the timeliness of the initial inquiry that was sent to federally recognized Tribes.) (This question applies to cases when the parent, Indian custodian or relative identified Indian ancestry within the past two years.)

**Fully Achieved:**

Indian ancestry with a federally recognized Tribe was identified by a parent, Indian custodian or relative within the last two years and initial inquiry with the Tribe(s) occurred within 30 days from the time Indian ancestry was identified. Inquiry was documented through one of the following:

- Inquiry letters or other formal correspondence was sent to all Tribes within 30 days
- Telephone contact with the Tribe was made within 30 days
- The case was in Tribal court, or there was coordination with the Tribe in case planning within 30 days
- There was documentation of confirmation of the child’s Indian status received from the Tribe within 30 days.

**Not Achieved:**

Indian ancestry with a federally recognized Tribe was identified by a parent, Indian custodian or relative within the last two years and initial inquiry with the Tribe(s) occurred, however one of the following also occurred:

- There was a delay of more than 30 days from the time Indian ancestry was identified.
- There was coordination with the Tribe in case planning however this was after 30 days from the time Indian ancestry was identified.

- Indian ancestry with a federally recognized Tribe was identified by a parent, Indian custodian or relative within the last two years and no initial inquiry with the Tribe(s) occurred.

**Not Applicable:**

Indian ancestry with a federally recognized Tribe was not identified within the last two years, *or*

It could not be determined when the initial inquiry occurred.

## ICW Policies and Procedures

### Chapter 3. Inquiry and Verification of Child's Indian Status

- Under the federal ICWA regulations, DCYF must use "due diligence" to "identify and work with all of the tribes of which there is reason to know the child may be a member (or eligible for membership), to verify whether the child is in fact a member (or a biological parent is a member and the child is eligible for membership)." DCYF must "treat the child as an Indian child, unless and until it is determined on the record that the child does not meet the definition" of an Indian child. 25 CFR 23.107 (a), (b)
- Upon receipt of the referral, the NAIR unit will send to the identified tribe(s):
  - First inquiry letter within 30 days from Indian ancestry identification.

#### Procedures:

- The NAIR unit worker will:
  - Send the Inquiry to Indian Tribe DSHS 09-539 and Family Ancestry Chart DSHS 04-220 to all identified tribes and:
    - Record tribe's responses in FamLink.
    - Forward the first completed inquiry letter and tribal response(s) to the primary DCYF caseworker to place in the ICW section in the current case file volume.

## All Cases

**11. Was comprehensive genealogical information gathered to complete the ancestry chart?** (This applies to cases in which an ancestry chart was needed to determine Indian status within the last two years.)

**Fully Achieved:**

An ancestry chart was needed for purposes of inquiry, and comprehensive information detailing the child's genealogy and Indian ancestry was gathered from the parent(s), relative, Indian custodian and/or other persons who reasonably could be expected to have information regarding the child's Indian ancestry, or through other government databases such as the Department of Health or the Automated Client Eligibility System (ACES). Information gathered when available included:

- Child's full name/date and place of birth/Tribe(s)
- Father's full name/date and place of birth/Tribe(s)
- Paternal grandfather/name/date and place of birth/Tribe(s)
- Paternal great grandfather/name/date and place of birth/Tribe(s)
- Mother's full name/date and place of birth/Tribe(s)

- Maternal grandmother/name/date and place of birth/Tribes(s)
- Maternal great grandmother/name/date and place of birth/Tribe(s) *or*

Attempts were made to gather genealogical information from the parent(s)/relative/Indian custodian or other persons who indicated Indian ancestry, but the person was not available or would not cooperate in providing more information, *or*

Attempts were made to gather genealogical information from the parent(s)/relative/Indian custodian or other persons who indicated Indian ancestry, but the person did not have any specific information.

**Not Achieved:**

An ancestry chart was needed for purposes of inquiry when the parent(s), relative, Indian custodian and/or other persons indicated possible Indian ancestry, and an ancestry chart was not located, *or*

An ancestry chart was needed for purposes of inquiry when the parent(s), relative, Indian custodian and/or other persons indicated possible Indian ancestry, and an ancestry chart was located; however, comprehensive information detailing the child's genealogy and ancestry was not gathered from persons who reasonably could be expected to have information regarding the child's Indian ancestry and there was no documentation that attempts were made.

**Not Applicable:**

The Tribe(s) determined the child was Indian without completion of an ancestry chart, *or*

The parent(s), relative, Indian custodian and/or other persons did not indicate the child had Indian ancestry, *or*

An ancestry chart was not needed to determine the child's Indian status within the last two years.

## ICW Policies and Procedures

### Chapter 3. Inquiry and Verification of Child's Indian Status

- When a child may have Indian ancestry and be affiliated with a federally recognized tribe, DCYF caseworkers will:
  - Complete a Family Ancestry Chart (04-220) and include:
    - Full names of child's birth parents, grandparents, and great grandparents (as far back as possible).
    - Mother's maiden name.
    - Mother's married name(s).
    - Any aliases used by individual(s) identified on the form.

## All Cases

**12. If a federally recognized Tribe(s) did not respond to the initial inquiry to determine Indian status, was a second inquiry made to the Tribe(s)?** (This question applies to cases when the first inquiry was made within the past two years.)

**Fully Achieved:**

The first inquiry was made to a federally recognized Tribes(s) within the past two years and the Tribe(s) did not respond to the first inquiry to determine Indian status. A second written inquiry was made to the Tribe, or second telephone contact was made with the Tribe.

**Not Achieved:**

A federally recognized Tribe(s) did not respond to the initial inquiry to determine Indian status and a second written inquiry was not made to the Tribe, or a second telephone contact was not made.

**Not Applicable:**

The Tribe(s) responded to initial inquiry of Indian status, *or*

There has been less than 60 days since the initial inquiry with the Tribe(s), *or*

An initial inquiry letter(s) or another form of contact was not made with the Tribe(s).

## ICW Policies and Procedures

### Chapter 3. Inquiry and Verification of Child's Indian Status

- Under the federal ICWA regulations, DCYF must use "due diligence" to "identify and work with all of the tribes of which there is reason to know the child may be a member (or eligible for membership), to verify whether the child is in fact a member (or a biological parent is a member and the child is eligible for membership)." DCYF must "treat the child as an Indian child, unless and until it is determined on the record that the child does not meet the definition" of an Indian child. 25 CFR 23.107 (a), (b)
- Upon receipt of the referral, the NAIR unit will send to the identified tribe(s):
  - Second inquiry letters within 60 days from the initial inquiry. (Out-of-state tribes only require two inquiry attempts).

#### Procedures:

- The NAIR unit worker will:
  - Send a second inquiry within 60 days to any tribe(s) who hasn't responded to the first inquiry and:
    - Record tribe's response(s) in FamLink.
    - Forward the completed second inquiry letter, Family Ancestry Chart and tribal responses to the primary DCYF caseworker to place in the ICW section in the case file.

## ICWA Cases

**13. Was the second inquiry to the federally recognized Tribe(s) completed within 60 days of the first inquiry?** (This question applies to cases when the second inquiry was made within the past two years.)

**Fully Achieved:**

A second inquiry was made to a federally recognized tribe within the last two years. The second inquiry was completed within 60 days of the first inquiry.

**Not Achieved:**

A second inquiry was made to a federally recognized Tribe(s); however, the second inquiry was completed more than 60 days after of the first inquiry.

**Not Applicable:**

The Tribe(s) responded to the initial inquiry and determination of the child's Indian status was confirmed, *or*

The initial inquiry was made within the last 60 days, *or*

An initial inquiry letter(s) or another form of contact was not made with the Tribe(s), *or*

A second inquiry was made but the timeframe could not be determined.

## ICW Policies and Procedures

### Chapter 3. Inquiry and Verification of Child's Indian Status

- Under the federal ICWA regulations, DCYF must use "due diligence" to "identify and work with all of the tribes of which there is reason to know the child may be a member (or eligible for membership), to verify whether the child is in fact a member (or a biological parent is a member and the child is eligible for membership)." DCYF must "treat the child as an Indian child, unless and until it is determined on the record that the child does not meet the definition" of an Indian child. 25 CFR 23.107 (a), (b)
- Upon receipt of the referral, the NAIR unit will send to the identified tribe(s):
  - Second inquiry letters within 60 days from the initial inquiry. (Out-of-state tribes only require two inquiry attempts).

#### Procedures:

- The NAIR unit worker will:
  - Send a second inquiry within 60 days to any tribe(s) who hasn't responded to the first inquiry and:
    - Record tribe's response(s) in FamLink.
    - Forward the completed second inquiry letter, Family Ancestry Chart and tribal responses to the primary DCYF caseworker to place in the ICW section in the case file.

## All Cases

**14. Was the case staffed with the Local Indian Child Welfare Advisory Committee (LICWAC) when inquiry was pending with a federally recognized Tribe?** (This question applies to cases open within the last two years for in-home or placement services with a pending inquiry with a federally recognized tribe.)

**Fully Achieved:**

The case remained open 60 days or more and child was in the custody of the Department through a Voluntary Placement Agreement (VPA), shelter care order or dependency order. Determination of the child's Indian status was pending with a federally recognized Tribe, and the case was staffed with the LICWAC, **or**

The case remained open 60 days or more and child was in the custody of the Department through a Voluntary Placement Agreement (VPA), shelter care order or dependency order. Determination of the child's Indian status was pending with a federally recognized Tribe, and the case was referred or scheduled to be staffed with the LICWAC.

**Not Achieved:**

Inquiry was pending with a federally recognized Tribe(s) on a case that remained open 60 days or more for a child who was in the custody of the Department through a VPA, shelter care order or dependency order, and the case was not staffed with the LICWAC and not referred or scheduled for a LICWAC staffing.

**Not Applicable:**

The Tribe(s) made a determination of the child's Indian status, **or**

Inquiry of Indian status was not pending with the Tribe(s) 60 days or more, **or**

The case did not remain open 60 days or more for in-home or placement services.

## ICWA Policies and Procedures

### Chapter 10. Local Indian Child Welfare Advisory Committees

- Staffing a Case with LICWAC
  - When the CFWS case involves:
    - Children whose status with a federally recognized tribe is pending.
    - Indian children whose tribe is unavailable.
    - Children whose tribe is requesting LICWAC involvement.
    - Children affiliated with a non-federally recognized tribe or Canadian First Nations. Conduct case staffing's with Local Indian Child Welfare Advisory Committees (LICWAC) with a signed Consent (14-012) from at least one parent.
  - Within timeframes determined by the following staffing type:
    - Permanency Planning - Within 60 days of original placement date.

- CPT - When requested.
- Out-of-home placements of an Indian Child in a Non-Indian home staffing - When requested.
- Administrative Reviews – When requested.

## ICWA Cases

**15. If the case was staffed with a LICWAC during the time inquiry was pending with the Tribe, did the LICWAC staffing occur timely?** (There is no DCYF policy on the timeframe to staff a case with a LICWAC; however, the intent of policy is to staff a case timely when there is no response from the Tribe. A timeframe of 60 days was agreed upon as a reasonable measure of timeliness for the case to be staffed with LICWAC when determination of Indian status was pending with a federally recognized Tribe.) (This question applies to cases staffed with LICWAC within the last two years during the time inquiry was pending with the Tribe.)

**Fully Achieved:**

The case was staffed with LICWAC within the last two years during the time inquiry was pending with a federally recognized Tribe and the LICWAC staffing occurred within 60 days of learning the child may be Indian, **or**

Attempts were made to schedule a LICWAC staffing within 60 days of learning the child may be Indian and inquiry was pending with the Tribe(s).

**Not Achieved:**

The case was staffed with LICWAC within the last two years during the time inquiry was pending with a federally recognized Tribe; however, the LICWAC staffing did not occur within 60 days of learning the child may be Indian, **or**

Attempts were not made to schedule a LICWAC staffing within 60 days of learning the child may be Indian and inquiry was pending with the Tribe(s).

**Not Applicable:**

The case did not remain open beyond 60 days for in-home or placement services, **or**

There was less than 60 days since learning the child may be Indian, **or**

Inquiry of Indian status was not pending with the Tribe.

## Active Efforts Collaboration with Tribes

### Directions

The questions in this section were designed to measure compliance and quality of practice regarding Active Efforts and collaboration with Tribes per federal and state ICWA.

Complete this section for all ICWA cases:

- A federally recognized Tribe(s) determined the child was a member, or a biological child of a member and eligible for membership; or
- The court determined there was a reason to know the child was an Indian child.

If there is more than one child in the family, review to the same randomly selected child identified in the Inquiry Section.

The review period is the last 12 months the case was open.

### ICWA Cases

**16. Were ongoing active efforts made to provide services to the father or Indian custodian, including ongoing engagement to complete services?** (This question applies to cases that stayed open beyond the CPS investigation or FAR intervention and applies to Indian and Non-Indian fathers.) (This applies to cases in which the child is either a member or a biological child of a member and eligible for membership with a federally recognized tribe and cases where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know)

**Fully Achieved:**

Ongoing active efforts were made to provide remedial and rehabilitative services to the father or Indian custodian to prevent the breakup of the family, or to safely return the child home, including engaging and actively working with the father or Indian custodian beyond simply providing referrals to services.

**Not Achieved:**

Ongoing active efforts were not made to provide remedial and rehabilitative services to the father or Indian custodian to prevent the breakup of the family or to safely return the child home including engaging and actively working with the father or Indian custodian beyond simply providing referrals to services.

**Not Applicable:**

The father or Indian custodian was not identified or located, *or*

The father or Indian custodian was deceased, *or*

The child was legally free, *or*

All federally recognized Tribes determined the child was not a member or the biological child of a member and eligible for membership, or the court determined that there was not a reason to know the child was an Indian child.

**RCW 13.38.040 (1) “Active Efforts” means the following:**

(a) In any foster care placement or termination of parental rights proceeding of an Indian child under chapter 13.34 RCW and this chapter where the department or a supervising agency as defined in RCW 74.13.020 has a statutory or contractual duty to provide services to, or procure services for, the parent or parents or Indian custodian, or is providing services to a parent or parents or Indian custodian pursuant to a disposition order entered pursuant to RCW 13.34.130, the department or supervising agency shall make timely and diligent efforts to provide or procure such services, including engaging the parent or parents or Indian custodian in reasonably available and culturally appropriate preventive, remedial, or rehabilitative services. This shall include those services offered by tribes and Indian organizations whenever possible. At a minimum "active efforts" shall include:

(i) In any dependency proceeding under chapter 13.34 RCW seeking out-of-home placement of an Indian child in which the department or supervising agency provided voluntary services to the parent, parents, or Indian custodian prior to filing the dependency petition, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs to prevent the breakup of the family beyond simply providing referrals to such services.

(ii) In any dependency proceeding under chapter 13.34 RCW, in which the petitioner is seeking the continued out-of-home placement of an Indian child, the department or supervising agency must show to the court that it has actively worked with the parent, parents, or Indian custodian in accordance with existing court orders and the individual service plan to engage them in remedial services and rehabilitative programs to prevent the breakup of the family beyond simply providing referrals to such services.

(iii) In any termination of parental rights proceeding regarding an Indian child under chapter 13.34 RCW in which the department or supervising agency provided services to the parent, parents, or Indian custodian, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs ordered by the court or identified in the department or supervising agency's individual service and safety plan beyond simply providing referrals to such services.

(b) In any foster care placement or termination of parental rights proceeding in which the petitioner does not otherwise have a statutory or contractual duty to directly provide services to, or procure services for, the parent or Indian custodian, "active efforts" means a documented, concerted, and good faith effort to facilitate the parent's or Indian custodian's receipt of and engagement in services capable of meeting the criteria set out in (a) of this subsection.

## ICW Policies and Procedures

### Chapter 5. Child Protective Services for Indian Children

The DCYF caseworker will:

- Complete active efforts on every case. For example, discuss with the tribe resources needed to meet the needs of the child, what services are available, etc.

- Make active efforts to prevent or eliminate the need for removal of an Indian child from his or her parents' care.
  - For a foster-care placement or termination of parental rights, the evidence must show a causal relationship between the particular conditions in the home and the likelihood that continued custody of the child will result in serious emotional or physical damage to the particular child who is the subject of the child-custody proceeding.
  - Without that causal relationship, evidence that shows only the existence of community or family poverty, isolation, single parenthood, custodian age, crowded or inadequate housing, substance abuse, or nonconforming social behavior does not by itself constitute clear and convincing evidence or evidence beyond a reasonable doubt that continued custody is likely to result in serious emotional or physical damage to the child. 25 CFR 23.121(c), (d).
- Immediately inform the tribe of the child's removal if a child has been placed in protective custody.
- Notify the tribe of the intent to provide services or to file a dependency petition, and **give the tribe** an opportunity to complete any of the following:
  - File the petition in Tribal Court.
  - Take primary responsibility for providing services.
  - Provide a placement resource.

#### Chapter 6. Casework Activities for Court Proceedings

- Placing an Indian child in out-of-home care  
The child welfare caseworker will:
  - Ensure active efforts for services and programs [25 U.S.C.1912(d)] were made, in partnership with the Indian child's tribe (when available), prior to any out-of-home placement except in emergent situations.
  - Follow the requirements in any memorandum of understanding in place with a Washington state tribe.
  - Follow child welfare ICW policies and procedures Chapter 3 Inquiry and Verification to determine the child's tribe per federal and state ICWA, if not already completed.
  - If placement is necessary, immediately contact the tribe to determine if the Indian child is a ward of a tribal court, domiciled, or a resident on an Indian reservation, and discuss the situation with the assigned AAG to determine tribal or state court jurisdiction.
  - Contact the tribe within one business day of placement if it was not possible to verify jurisdiction with a tribe(s) prior to the placement, and if the state retains jurisdiction continue to meaningfully involve the tribe if the child is an Indian child.

### ICWA Cases

**17. Were ongoing active efforts made to provide services to the mother or Indian custodian including ongoing engagement to complete services?** (This question applies to cases that stayed open beyond the CPS investigation or FAR intervention and applies to Indian and Non-Indian mothers.) (This applies to cases in which the child is either a member or a biological child of a member and eligible for membership with a federally recognized tribe and cases where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know)

**Fully Achieved:**

Ongoing active efforts were made to provide remedial and rehabilitative services to the mother or Indian custodian to prevent the breakup of the family, or to safely return the child home, including engaging and actively working with the mother or Indian custodian beyond simply providing referrals to services.

 **Not Achieved:**

Ongoing active efforts were not made to provide remedial and rehabilitative services to the mother or Indian custodian to prevent the breakup of the family or to safely return the child home including engaging and actively working with the mother or Indian custodian beyond simply providing referrals to services.

 **Not Applicable:**

The mother or Indian custodian was not identified or located, *or*

The mother or Indian custodian was deceased, *or*

The child was legally free, *or*

All federally recognized Tribes determined the child was not a member or the biological child of a member and eligible for membership, or the court determined that there was not a reason to know the child was an Indian child.

**25 CFR 23.2** Federal regulation defining Active Efforts and including 11 non-exclusive examples

<https://www.bia.gov/sites/bia.gov/files/assets/bia/ois/ois/pdf/idc2-041405.pdf>

## ICW Policies and Procedures

### Chapter 5. Child Protective Services for Indian Children

The DCYF caseworker will:

- Complete active efforts on every case. For example, discuss with the tribe resources needed to meet the needs of the child, what services are available, etc.
- Make active efforts to prevent or eliminate the need for removal of an Indian child from his or her parents' care.
  - For a foster-care placement or termination of parental rights, the evidence must show a causal relationship between the particular conditions in the home and the likelihood that continued custody of the child will result in serious emotional or physical damage to the particular child who is the subject of the child-custody proceeding.
  - Without that causal relationship, evidence that shows only the existence of community or family poverty, isolation, single parenthood, custodian age, crowded or inadequate housing, substance abuse, or nonconforming social behavior does not by itself constitute clear and convincing evidence or evidence beyond a reasonable doubt that continued custody is likely to result in serious emotional or physical damage to the child. 25 CFR 23.121(c), (d).

- Immediately inform the tribe of the child’s removal if a child has been placed in protective custody.
- Notify the tribe of the intent to provide services or to file a dependency petition, and **give the tribe** an opportunity to complete any of the following:
  - File the petition in Tribal Court.
  - Take primary responsibility for providing services.
  - Provide a placement resource.

#### Chapter 6. Casework Activities for Court Proceedings

- Placing an Indian child in out-of-home care  
The child welfare caseworker will:
  - Ensure active efforts for services and programs [25 U.S.C.1912(d)] were made, in partnership with the Indian child’s tribe (when available), prior to any out-of-home placement except in emergent situations.
  - Follow the requirements in any memorandum of understanding in place with a Washington state tribe.
  - Follow child welfare ICW policies and procedures Chapter 3 Inquiry and Verification to determine the child’s tribe per federal and state ICWA, if not already completed.
  - If placement is necessary, immediately contact the tribe to determine if the Indian child is a ward of a tribal court, domiciled, or a resident on an Indian reservation, and discuss the situation with the assigned AAG to determine tribal or state court jurisdiction.
  - Contact the tribe within one business day of placement if it was not possible to verify jurisdiction with a tribe(s) prior to the placement, and if the state retains jurisdiction continue to meaningfully involve the tribe if the child is an Indian child.

### ICWA Cases

**18. Were ongoing efforts made to engage the child in case planning on an ongoing basis?** (Answer this question for cases that remained open beyond the CPS investigation or FAR intervention. Ability to participate in case planning is determined by the developmental capacity of the child. Most children who are elementary school age or older can be expected to participate to some extent.) (This applies to cases in which the child is a member or a biological child of a member and eligible for membership with a federally recognized tribe and where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know)

**Fully Achieved:**

Ongoing active efforts were made to engage the child in case planning in terms the child could understand. This may include when applicable:

- The child’s voice was heard in order to understand and provide for their wants and needs.
- There was ongoing discussion with the child during health and safety visits and other contacts about the child’s plan.
- The child was encouraged to attend and participate in case planning meetings (age 12 and older).
- The child (age 12 and older) was encouraged to attend court hearings.

**Not Achieved:**

Ongoing active efforts were not taken on an ongoing basis to engage the child in the case planning process.

**Not Applicable:**

Developmentally, the child could not participate in the case plan, *or*

The child was not available, e.g. consistent runaway status.

## ICWA Cases

**19. If the child was a member or the biological child of a member and eligible for membership with a Washington State federally recognized Tribe, was the Tribe(s) contacted within 24 hours of case assignment to discuss jurisdiction?** (Consideration should be given if there is a Memorandum of Understanding (MOU) between the Tribe and DCYF, or a current written local protocol between the office and Tribe clarifying jurisdiction.)

Contacting the Tribe within 24 hours includes the following:

- When it is known at case opening that the child is a member or eligible for membership and a biological child of a member, the Tribe should be contacted within 24 hours from case opening.
- When it is discovered later in the case that the child is a member or eligible for membership and the biological child of a member, the Tribe should be contacted within 24 hours of discovering the child's membership status.
- When there has been an emergency removal or when initiating child custody proceedings at case opening or on an open case, the Tribe should be contacted within 24 hours.

**Fully Achieved:**

The child was a member, or eligible for membership and a biological child of a member with a Washington State Tribe(s), and the Tribe(s) was contacted or attempts were made to contact the Tribe(s) within 24 hours of assignment to discuss jurisdiction when a case was opened for a Child Protective Services (CPS) investigation, a Family Assessment Response (FAR) intervention, or when DCYF was initiating child custody proceedings, including any 72-hour emergency hold, *or*

There was a MOU between the Tribe and DCYF regarding jurisdiction and/or coordination and there were efforts to coordinate with the Tribe according to agreements/protocols. The following occurred when applicable:

- The case opened for CPS investigation or FAR intervention and the Tribe was contacted or attempts were made within one working day to discuss the coordination of the investigation between DCYF and the Tribe. Consider whether DCYF Intake notified the Tribe of the Intake within 24 hours of case assignment.
- The case opened due to a request for FRS or other voluntary services and the Tribe was contacted or attempts were made within 24 hours of case assignment to discuss the coordination of services.
- The Tribe was given an opportunity to exercise tribal jurisdiction prior to state court jurisdiction when the case was open and placement of the child was being discussed or planned.

- The Tribe was contacted within 24 hours of case assignment of an emergency placement to discuss jurisdiction.

**Not Achieved:**

The child was a member or the biological child of a member and eligible for membership with a Washington Tribe(s), and the Tribe(s) was not contacted or attempts were not made to contact the Tribe within 24 hours of case assignment to discuss jurisdiction or to coordinate efforts, **or**

There was a local agreement with the Department or written local protocols, and there were not efforts to coordinate with the Tribe according to agreements/protocols.

**Not Applicable:**

There was no reliable information that the child was either a member or eligible for membership and the biological child of a member of a Washington State Tribe, **or**

Contacting the Tribe within 24 hours of case assignment was not applicable due to the circumstances of the case during the period under review.

#### **RCW 13.38.060 Jurisdiction:**

- An Indian tribe shall have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of that tribe, unless the tribe has consented to the state's concurrent jurisdiction, the tribe has expressly declined to exercise its exclusive jurisdiction, or the state is exercising emergency jurisdiction in strict compliance with RCW 13.38.140.
- If an Indian child is already a ward of a tribal court at the start of the child custody proceeding, the Indian tribe may retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

## **ICW Policies and Procedures**

### **Chapter 5. Child Protective Services for Indian Children**

The DCYF caseworker will:

- Contact the tribal social services program or the Indian Child Welfare Act (ICWA) representative within **24 hours** of being assigned the intake.
- Ensure the Washington state tribe received or receives a copy of the intake report DCYF (14-260) per the Washington State Tribes Intake Referral and After Hours Contact Information and document in the Intake Referral Tracking tab in FamLink.
- Follow the tribe's Memorandum of Understanding (MOU), if applicable.
- For families residing on the reservation, ask the tribe's designated social service or ICWA representative if the tribe will assume responsibility for the investigation or FAR intervention if the tribe and DCYF do not have an MOU.
- Follow state and federal law if the family resides **on the reservation** and DCYF is requested to lead the CPS investigation.

## ICWA Cases

**20. Were there ongoing efforts to consult and collaborate with the Indian child's federally recognized Tribe(s) in case planning?** (This applies to cases in which the child is a member or a biological child of a member and eligible for membership with a federally recognized tribe, or where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know. Consider whether there are local agreements with the Tribe, and whether the Tribe has indicated that they wish to formally intervene or participate informally.)

**Fully Achieved:**

The child was a member, or a biological child of a member and eligible for membership, with a federally recognized Tribe(s), or the court determined there was a reason to know the child was an Indian child, and there were ongoing efforts to identify determine if the Tribe(s) wished to participate informally or formally intervene. There were ongoing efforts to consult and collaborate with the child's Tribe(s) according to the Tribe's direction regarding its involvement during the time the case was open for the following:

- CPS investigation;
- FAR Intervention;
- In-home voluntary services;
- Shelter care, dependency and out-of-home placement; and
- Trial return home

Ongoing consultation and collaboration in case planning occurred at important decision points of the case which may include the following:

- Identifying, assessing and addressing safety threats;
- Identifying appropriate services to the family to prevent the break up or to reunify the family;
- Meeting the child and family's cultural needs; and
- Placement and permanency planning decisions *and/or*

A Tribal LICWAC staffing occurred. (A Tribal LICWAC includes members of the child's Tribe).

**Not Achieved:**

The child was a member, or a biological child of a member and eligible for membership, with a federally recognized Tribe(s), or the court determined there was a reason to know the child was an Indian child, and there were not ongoing efforts to identify if the Tribe(s) wished to participate informally or formally intervene, *or*

The child was a member, or a biological child of a member and eligible for membership, with a federally recognized Tribe(s), or the court determined there was a reason to know the child was an Indian child, and there were not ongoing efforts to consult and collaborate with the child's Tribe(s) according to the Tribe's direction regarding its involvement on the case.

**Not Applicable:**

The child was not a member or eligible for membership with a federally recognized Tribe(s), *or*

The court determined there was not a reason to know the child was an Indian child.

## ICW Policies and Procedures

### Chapter 6. Casework Activities for Court Proceedings

The DCYF caseworker will:

- **Follow placement preferences** and notify the child's extended family per DCYF ICW policies and procedures Chapter 7 Indian child Placement Preferences and Relative Search.
- Make active efforts toward reunification with the child's parents or legal custodian unless the court terminates parental rights.
- Schedule an FTDM or shared planning meeting within 72 hours of placement (excluding weekends and holidays) and prior to return home.
- Develop a case plan with the family and the tribe (for available services and resources when involved) based on the assessment of the family's needs. The case plan must address the risk factors and the identified safety threat(s) for the child.
- Confirm that required notices were sent to the parent, Indian custodian (if any), and tribe(s) before hearings, and that there is documentation of the notice filed.

## ICWA Cases

**21. If the Tribe or LICWAC did not concur with the child's case plan and notified DCYF that an impasse existed, were the impasse procedures followed?** (This applies when the child is a member or a biological child of a member and eligible for membership with a federally recognized Tribe.)

**Fully Achieved:**

The child's federally recognized Tribe or LICWAC did not concur with the child's case plan and notified DCYF that an impasse existed and the following impasse procedures were followed when applicable:

- An impasse staffing was scheduled by the Area Administrator or Licensing Administrator. DCYF managers may attempt to mediate a resolution to the dispute at any point in the proceeding. If mediation was unsuccessful, the DCYF manager schedules the impasse staffing with the tribal designee within five working days of notification by the Tribe.
- If DCYF and the Tribe or LICWAC did not mutually resolve the impasse at the regional level the Assistant Secretary was notified and an impasse staffing occurred within three working days of notification.
- If DCYF and the Tribe or LICWAC did not mutually resolve the impasse at the Assistant Secretary's level, the DCYF Secretary was notified and a final impasse staffing was held within three working days of notification. The Secretary's decision on the impasse is final.
- Extensions to timeframe may be extended if DCYF and the LICWAC or Tribe mutually agrees to the extension.
- If a court hearing is imminent, the AAG will seek a continuance to provide additional time to reconcile any disagreement between DCYF and the Tribe.

**Not Achieved:**

The child's federally recognized Tribe or LICWAC did not concur with the child's case plan and notified DCYF that an impasse existed and the impasse procedures were not followed.

**Not Applicable:**

The child's federally recognized Tribe or LICWAC did not notify DCYF that an impasse existed.

## ICW Policies and Procedures

### Chapter 10. Local Indian Child Welfare Advisory Committees

- Conducting a LICWAC/CA Impasse Procedure DCYF must initiate impasse procedures if the DCYF caseworker disagrees with the LICWAC recommendations.
- DCYF will work with LICWAC to resolve issues at the lowest possible level including the use of mediation.
- If mediation is unsuccessful, DCYF and LICWAC will implement impasse procedures to resolve the conflict.
  - The DCYF AA or RA will schedule an impasse staffing within five business days (or longer when agreed and there is no imminent risk of serious harm) of learning about the impasse from a LICWAC designee. He or she will review the LICWAC recommendations section in Shared Planning Meeting (14-474) for points of disagreement.
  - The DCYF AA or RA must make every effort to include the following parties at every impasse staffing level:
- If the conflict or impasse is unresolved, the RA, or his or her designee will notify the DCYF Assistant Secretary and request an impasse staffing.
- The DCYF caseworker submits all case related documentation to the DCYF Assistant Secretary.

## Culturally Competent Case Management

### Directions

The questions in this section were designed to measure compliance and quality of practice regarding providing culturally competent case management.

Complete this section for all ICWA cases:

- The child was either (1) a member or (2) a biological child of a member of a federally recognized Tribe(s) and eligible for membership.
- The court determined there was reason to know the child was an Indian child.

Some questions in this section apply to Non-ICWA cases when:

- The child was not a member or the biological child of a member and eligible for membership with a federally recognized Tribe, and the court did not determine there was reason to know the child was an Indian child; however, the family self-identified as having Indian cultural heritage, e.g., Indian ancestry with a non-federally recognized Tribe, Canadian First Nation or a descendent of a federally recognized tribe but not eligible for membership.

If there is more than one child in the family, review to the same randomly selected child identified in the Inquiry Section.

The review period is the last 12 months the case was open.

## All Cases

### 22. Did a Family Team Decision Making (FTDM) staffing occur when placement of the child or a placement move was being considered?

**Fully Achieved:**

An out-of-home placement of the child or a placement move was being considered and an FTDM staffing occurred when applicable.

- Prior to removing a child from the family home;
- When out-of-home placement of a child was being considered;
- Within 72 hours of the child being placed in protective custody by law enforcement;
- Prior to the shelter care hearing;
- Prior to moving a child from one placement to another; and
- Prior to reunification of a child with parent(s) or exiting from care.

**Not Achieved:**

The child was placed out-of-home and an FTDM staffing did not occur, *or*

An out-of-home placement of the child or a placement move was being considered and an FTDM staffing was not scheduled, *or*

The child was placed in protective custody by law enforcement and a FTDM staffing did not occur within 72 hours, *or*

A shelter care hearing occurred and an FTDM staffing did not occur prior to the shelter care hearing, *or*

The child was returned home or exited from care and an FTDM staffing did not occur.

**Not Applicable:**

An out-of-home placement of the child or a placement move was not considered.

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Caseworkers must:

- Conduct a FTDM meeting within the following timeframes (Convene additional FTDM meetings as needed):
  - Prior to:
    - Removing a child and anytime out-of-home placement of a child is being considered.
    - Moving a child from one placement to another.
    - Trial return home or reunification of a child with parents.
    - The end of a Voluntary Placement Agreement.
  - No later than 72 hours after a child is placed:
    - Into protective custody by law enforcement and prior to the shelter care hearing.
    - With a new caregiver due to an unplanned change in placement.

- On a Voluntary Placement Agreement when there is an emergency and the FTDM cannot occur prior to placement.
- If the FTDM cannot occur within the required timeframe and is approved by the AA, the caseworker must document the reason, date of approval and notify the FTDM facilitator.

## ICWA Cases

**23. If a FTDM staffing occurred, was the child's federally recognized Tribe(s) notified and encouraged to participate in the staffing in a timely manner?** (This applies when the child is a member or eligible for membership and a biological child of a member with a federally recognized Tribe or where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know.) (An emergent FTDM is defined as a staffing that must occur within 48 hours and a non-emergent FTDM staffing is defined as one that may occur within one week.)

**Fully Achieved:**

The child is a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and an emergent FTDM staffing occurred and actions were taken to notify and encourage the Indian child's federally recognized Tribe(s) to participate in the staffing, *or*

The child is a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and a non-emergent FTDM staffing occurred, and actions were taken to notify encourage the Indian child's federally recognized Tribe(s) to participate, including scheduling the staffing when the Tribe(s) was available. Examples of non-emergent FTDM staffings may include staffing placement changes or return home.

**Not Achieved:**

The child is a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and an emergent FTDM staffing occurred and actions were not taken to notify and encourage the Indian child's federally recognized Tribe(s) to participate in the staffing, *or*

The child is a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and a non-emergent FTDM staffing occurred, and actions were not taken to notify and encourage the Indian child's federally recognized Tribe(s) to participate, including scheduling the staffing when the Tribe(s) was available. Examples of non-emergent FTDM staffings may include staffing placement changes or return home.

**Not Applicable:**

An FTDM staffing did not occur during the last year, *or*

The child was not a member or the biological child of a member and eligible for membership with a federally recognized Tribe, and the court determined there was not a reason to know the child was an Indian child.

## Non-ICWA Cases

**24. When ICWA did not apply, but the father self-identified Indian cultural heritage, was there ongoing engagement with the father in culturally competent case planning?** (This question applies to cases that stayed open beyond the CPS investigation or FAR intervention and applies to fathers who self-identified as having Indian ancestry and cultural heritage with a non-federally recognized Tribe, a Canadian First Nation, or a descendant of a federally recognized tribe ineligible for membership.)

**Fully Achieved:**

The father self-identified Indian cultural heritage and there was ongoing engagement with the father in case planning. Ongoing engagement with the father included identifying the father's cultural connections based on Indian heritage and involvement in the Indian community and developing a culturally competent case plan.

**Not Achieved:**

The father self-identified Indian cultural heritage and there was not ongoing engagement with the father in case planning, *or*

The father self-identified Indian cultural heritage and ongoing engagement with the father did not include identifying the father's cultural connections based on his Indian heritage and involvement in the Indian community and developing a culturally competent case plan.

**Not Applicable:**

The case was an ICWA case:

- The child was a member or a biological child of a member of a federally recognized Tribe(s) and eligible for membership;
- The court determined there was a reason to know the child was an Indian child, *or*

The father did not self-identify as having Indian ancestry and cultural heritage with a non-federally recognized Tribe, a Canadian First Nation or a descendant of a federally recognized tribe who was not eligible for membership, *or*

The father was not identified, located or was deceased, *or*

The father's parental rights were terminated.

## Non-ICWA Cases

**25. When ICWA did not apply, but the mother self-identified Indian cultural heritage, was there ongoing engagement with the mother in culturally competent case planning?** (This question applies to cases that stayed open beyond the CPS investigation or FAR intervention and applies to mothers who self-identified as having Indian ancestry and cultural heritage with a non-federally recognized Tribe, a Canadian First Nation, or a descendant of a federally recognized tribe ineligible for membership.)

**Fully Achieved:**

The mother self-identified Indian cultural heritage and there was ongoing engagement with the mother in case planning. Ongoing engagement with the mother included identifying the mother's cultural

connections based on Indian heritage and involvement in the Indian community and developing a culturally competent case plan.

**Not Achieved:**

The mother self-identified Indian cultural heritage and there was not ongoing engagement with the mother in case planning, *or*

The mother self-identified Indian cultural heritage and ongoing engagement with the mother did not include identifying the mother's cultural connections based on her Indian heritage and involvement in the Indian community and developing a culturally competent case plan.

**Not Applicable:**

The case was an ICWA case:

- The child was a member or a biological child of a member of a federally recognized Tribe(s) and eligible for membership;
- The court determined there was a reason to know the child was an Indian child, *or*

The mother did not self-identify as having Indian ancestry and cultural heritage with a non-federally recognized Tribe, a Canadian First Nation or a descendant of a federally recognized tribe who was not eligible for membership, *or*

The mother was not identified, located or was deceased, *or*

The mother's parental rights were terminated.

## Non-ICWA Cases

**26. When ICWA did not apply, but the child/youth self-identified Indian cultural heritage, was there ongoing engagement with the child in culturally competent case planning?** (Answer this question for cases that remained open beyond the CPS investigation or FAR intervention. Ability to participate in case planning is determined by the developmental capacity of the child. Most children who are elementary school age or older can be expected to participate to some extent.) (This applies to cases in which the child self-identified as having Indian ancestry and cultural heritage with a non-federally recognized Tribe, a Canadian First Nation, or a descendant of a federally recognized tribe ineligible for membership.)

**Fully Achieved:**

The child/youth self-identified Indian cultural heritage and there was ongoing engagement with the child in case planning. Ongoing engagement with the child/youth included identifying the child/youth's cultural connections based on Indian heritage and involvement in the Indian community and developing a culturally competent case plan.

**Not Achieved:**

The child/youth self-identified Indian cultural heritage and there was not ongoing engagement with the child/youth in case planning, *or*

The child/youth self-identified Indian cultural heritage and ongoing engagement with the child/youth did not include identifying the youth's cultural connections based on Indian heritage and involvement in the Indian community and developing a culturally competent case plan.

**Not Applicable:**

The case was an ICWA case:

- The child was a member or a biological child of a member of a federally recognized Tribe(s) and eligible for membership;
- The court determined there was a reason to know the child was an Indian child, *or*

The child/youth did not self-identify as having Indian ancestry and cultural heritage with a non-federally recognized Tribe, a Canadian First Nation or a descendant of a federally recognized tribe who was not eligible for membership, *or*

The child/youth did not have the developmental capacity to participate in case planning, *or*

The child/youth was not available to participate in case planning because the child/youth was absent from care (on the run).

## ICWA Cases

**27. Were timely and diligent efforts made to engage the parent or Indian custodian in reasonably available and culturally appropriate preventive, remedial, or rehabilitative services, including services offered by tribes and Indian organizations if possible?** (This applies to cases in which the child is a member or a biological child of a member and eligible for membership with a federally recognized tribe and cases where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know.)

**Fully Achieved:**

The child was a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was reason to know the child was an Indian child, and timely and diligent efforts were made to engage the parent or Indian custodian in reasonably available and culturally appropriate preventive, remedial, or rehabilitative services, including services offered by tribes and Indian organizations if possible. Examples of culturally appropriate preventive, remedial and rehabilitative services may include the following:

- Use of Tribal social services;
- Traditional Indian therapy administered by an Indian practitioner;
- Indian health services;
- Urban Indian resources when the child does not live on or near their reservation.

**Not Achieved:**

The child was a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was reason to know the child was an Indian child, and timely and diligent efforts were not made to engage the parent or Indian custodian in reasonably

available and culturally appropriate preventive, remedial, or rehabilitative services, including services offered by tribes and Indian organizations if possible.

**Not Applicable:**

The child was not a member or the biological child or a member and eligible for membership with a federally recognized Tribe, or the court determined that there was not a reason to know the child was an Indian child.

**RCW 13.38.040 (1):** "Active efforts" means the following:

(a) In any foster care placement or termination of parental rights proceeding of an Indian child under chapter 13.34 RCW and this chapter where the department or a supervising agency as defined in RCW 74.13.020 has a statutory or contractual duty to provide services to, or procure services for, the parent or parents or Indian custodian, or is providing services to a parent or parents or Indian custodian pursuant to a disposition order entered pursuant to RCW 13.34.130, the department or supervising agency shall make timely and diligent efforts to provide or procure such services, including engaging the parent or parents or Indian custodian in reasonably available and culturally appropriate preventive, remedial, or rehabilitative services. This shall include those services offered by tribes and Indian organizations whenever possible. At a minimum "active efforts" shall include:

(i) In any dependency proceeding under chapter 13.34 RCW seeking out-of-home placement of an Indian child in which the department or supervising agency provided voluntary services to the parent, parents, or Indian custodian prior to filing the dependency petition, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs to prevent the breakup of the family beyond simply providing referrals to such services.

(ii) In any dependency proceeding under chapter 13.34 RCW, in which the petitioner is seeking the continued out-of-home placement of an Indian child, the department or supervising agency must show to the court that it has actively worked with the parent, parents, or Indian custodian in accordance with existing court orders and the individual service plan to engage them in remedial services and rehabilitative programs to prevent the breakup of the family beyond simply providing referrals to such services.

**25 CFR 23.2** Federal regulation defining Active Efforts and including 11 non-exclusive examples  
<https://www.bia.gov/sites/bia.gov/files/assets/bia/ois/ois/pdf/idc2-041405.pdf>

## ICW Policies and Procedures

### Chapter 6. Casework Activities for Court Proceedings

Placing an Indian child in out-of-home care

The DCYF caseworker will:

- Make active efforts toward reunification with the child's parents or legal custodian unless the court terminates parental rights.
- Schedule an FTDM or shared planning meeting within 72 hours of placement (excluding weekends and holidays) and prior to return home.

- Develop a case plan with the family and the tribe (for available services and resources when involved) based on the assessment of the family's needs. The case plan must address the risk factors and the identified safety threat(s) for the child.
- Confirm that required notices were sent to the parent, Indian custodian (if any), and tribe(s) before hearings, and that there is documentation of the notice filed.

## Non-ICWA Cases

**28. When ICWA did not apply, but the family self-identified Indian cultural heritage, were efforts made to identify and encourage involvement in community services and resources specifically for Indian families?** (This applies when the child was not a member or eligible for membership with a federally recognized Tribe and the biological child of a member, or the court determined there was not a reason to know the child was an Indian child; however, the family self-identified Indian cultural heritage, e.g., the family identified Indian ancestry with a non-federally recognized Tribe, Canadian First Nation, or a descendent of a federally recognized tribe ineligible for membership.)

**Fully Achieved:**

The child or family was not a member or eligible for membership with a federally recognized Tribe, or the court determined there was no reason to know the child was an Indian child; however, the family self-identified Indian heritage including cultural connections or involvement in the Indian community. Efforts were made to identify and encourage the involvement of community services and resources specifically for Indian families. Efforts may include the following:

- Use of Tribal social services;
- Traditional Indian therapy administered by an Indian practitioner;
- Indian health services;
- Urban Indian resources when the child does not live on or near their reservation; and
- Indian caregivers who have skills to help the family, **or**

There was consultation with Tribal representatives or others knowledgeable with community resources and activities for Indian families to determine what resources were available.

**Not Achieved:**

The child or family was not a member or eligible for membership with a federally recognized Tribe, or the court determined there was no reason to know the child was an Indian child; however, the family self-identified Indian ancestry including cultural connections or involvement in the Indian community and efforts were not made to identify and encourage the involvement of community services and resources specifically for Indian families, **or**

There was no consultation with the Tribal representatives or others knowledgeable with community resources and activities for Indian families to determine what resources were available.

**Not Applicable:**

The child was a member or the biological child or a member and eligible for membership with a federally recognized Tribe, or the court determined that there was a reason to know the child was an Indian child, **or**

The family did not require services or resources.

## ICWA Cases

**29. When the child was placed in out-of-home care, were there ongoing efforts to support the child's contact with his/her parents and extended family members?** (This applies to cases in which the child is a member or a biological child of a member and eligible for membership with a federally recognized tribe and cases where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know.)

### Fully Achieved:

The child is a member or a biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and the Indian child was placed in out-of-home care. There were ongoing efforts to support the child's contact with parents and extended family members, examples include:

- Efforts to locate relatives to inquire if they were available for placement and/or visitation;
- Efforts to encourage and support the child's contacts with his/her parents and extended family members; and
- Visits and contacts were of sufficient frequency and quality to maintain or promote the relationship with the child.

### Not Achieved:

The child is a member or a biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and the Indian child was placed in out-of-home care. There were not ongoing efforts to search and locate relatives to inquire if they were available for placement and/or visitation, **or**

There were not ongoing efforts to encourage and support the child's contacts with his/her parents and extended family members, **or**

Visits and contacts were not of sufficient frequency and quality to maintain or promote the relationship with the child.

### Not Applicable:

The child was not a member or a biological child of a member and eligible for membership with a federally recognized Tribe, **or**

The court determined there was not a reason to know the child was an Indian child, **or**

The child was not placed in out-of-home care, **or**

The parent's whereabouts were unknown and no family members were identified, **or**

Contact with the parent(s)/family members was contrary to the best interest of the child.

## ICWA Cases

**30. When the child was placed in out-of-home care, were ongoing efforts made to encourage and support the child's participation in Tribal customs and activities specific to the child's Tribe?** (This applies when the child is a member or eligible for membership and a biological child of a member with a federally recognized Tribe, and when the court determined there was a reason to know the child is an Indian child until or unless the court determined there was no longer a reason to know.) (Consider attempts to encourage the child's participation in his/her Tribe's religion, tribal ceremonies and activities, as well as ensuring the child is provided information about his/her Tribe. For urban Indian children, consider attempts to involve the child in activities with urban Indian organizations.)

(Consider the child's view when evaluating his/her participation relating to participation with Tribal customs and activities.)

**Fully Achieved:**

The child is a member, or eligible for membership and a biological child of a member with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and the Indian child was placed in out-of-home care and there were ongoing efforts to encourage and support the Indian child's participation in Tribal customs and activities which may include the following:

The child was placed in an Indian home, *or*

The child was placed in a Tribal licensed home, *or*

The child was placed in a non-Indian home and there were ongoing efforts to encourage and support the child's participation in Tribal customs and activities, *or*

There was consultation with Tribal representatives or others knowledgeable in local resources to determine what Tribal activities were available.

**Not Achieved:**

The child is a member or a biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and the Indian child was placed in out-of-home care, and there were not ongoing efforts to encourage and support the Indian child's participation in Tribal customs and activities which may include the following:

The child was not placed in an Indian home, *or*

The child was not placed in a Tribal licensed home, *or*

The child was placed in a non-Indian home and there were minimal or no efforts to encourage and support the child's participation in Tribal customs and activities, *or*

There was no consultation with Tribal representatives or others knowledgeable in local resources to determine what Tribal activities were available.

**Not Applicable:**

The child was not in out-of-home placement, *or*

The child was not a member or a biological child of a member and eligible for membership with a federally recognized Tribe and the court did not determine there was a reason to know the child was an Indian child.

## ICW Policies and Procedures

### Chapter 7. Indian Child Placement Preferences and Relative Search

The DCYF caseworker will:

- If an Indian child is placed in out-of-home care, discuss with the parent(s) or the Indian custodian his or her placement preferences and follow federal and state ICWA placement preferences or any applicable tribal MOU unless the child's tribe identifies a different order of preference. Placement must be a good faith effort to be in a location where the parent can have regular access to the child without undue economic, physical, or cultural hardship. RCW 13.38.180. Without good cause the placement selected cannot be based solely on a person's socio-economic status. 25 C.F.R. § 23.132
- Follow the wishes of the parent where appropriate. The preference of the Indian child or parent shall be considered, provided that where a consenting parent indicates a desire for anonymity, the worker shall give weight to that desire in applying the placement preferences. 25 U.S.C. Sec. 1915(c); RCW 13.38.180(5).
- Place with other siblings or in close proximity to siblings, unless the placement would cause serious physical or emotional harm to one or more of the children; and follow Practices and Procedures Parent, Child, and Sibling Visits policy.
- Conduct a diligent search for a suitable placement, to include contact with the tribe(s) if known, within the order of preference before considering a non-preferred placement.
- Complete the relative search process per DCYF Practices and Procedures Relative Placement policy when an Indian child is placed in out-of-home care

## Non-ICWA Cases

**31. When ICWA did not apply, but the family self-identified Indian cultural heritage and the child was placed in out-of-home care, were ongoing efforts made to encourage and support the child's participation in Tribal customs and activities?** (This applies when the child was not a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was not a reason to know the child was an Indian child; however, the family self-identified Indian cultural heritage, e.g., the family identified Indian ancestry with a non-federally recognized Tribe, Canadian First Nation or was a descendent of a federally recognized tribe ineligible for membership.) (Consider attempts to encourage the child's participation in his/her Tribe's religion, tribal ceremonies and activities, as well as ensuring the child is provided information about his/her Tribe. For urban Indian children, consider attempts to involve the child in activities with Urban Indian organizations.) (Consider the child's view when evaluating his/her participation relating to participation with Tribal customs and activities.)

**Fully Achieved:**

The child was not a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined that there was not a reason to know the child was an Indian child; however, the family self-identified Indian heritage including cultural connections or involvement in the Indian community, and the child was placed in out-of-home care. There were ongoing

efforts to encourage and support the child's participation in Tribal customs and activities which may include the following:

The child was placed in an Indian home, **or**

The child was placed in a Tribal licensed home, **or**

The child was placed in a non-Indian home and there were ongoing efforts to encourage and support the child's participation in Tribal customs and activities, **or**

There was consultation with Tribal representatives or others knowledgeable in local resources to determine what Tribal activities were available.

**Not Achieved:**

The child or family was not a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was not a reason to know the child was an Indian child; however, the family self-identified Indian heritage including cultural connections or involvement in the Indian community, and the child was placed in out-of-home care. There were not ongoing efforts to encourage and support the child's participation in Tribal customs and activities which may include the following:

The child was not placed in an Indian home, **or**

The child was not placed in a Tribal licensed home, **or**

The child was placed in a non-Indian home and there were minimal efforts to encourage and support the child's participation in Tribal customs and activities, **or**

There was no consultation with Tribal representatives or others knowledgeable in local resources to determine what Tribal activities were available.

**Not Applicable:**

The child was not in out-of-home placement, **or**

The child was a member or a biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child.

## ICWA Cases

**32. Was the case staffed with the LICWAC for consultation when the child's Tribe(s) was unavailable, or the Tribe was in agreement with consultation with the LICWAC?** (This applies to cases in which the child is a member or a biological child of a member and eligible for membership with a federally recognized tribe and the child's Tribe was not available, e.g., declines involvement, withdraws from involvement, or requests that the LICWAC be involved with the case on behalf of the Tribe. (This does not apply to cases staffed at a Tribal LICWAC. A Tribal LICWAC includes members of the child's Tribe and is included in question #16 as consultation with the child's Tribe).

**Fully Achieved:**

The child's Tribe was not available, declined involvement or withdrew involvement, or the Tribe requested that LICWAC be involved on its behalf, and a LICWAC staffing occurred to provide case

planning consultation regarding children who were in the custody of the Department through a Voluntary Placement Agreement (VPA), shelter care order, or dependency order.

- The child was placed in a non-Indian out-of-home placement resource, a LICWAC staffing was requested, and the case was staffed with the LICWAC. This requirement does not apply to non-Indian relative placements or if no LICWAC staffing was requested, **or**
- The case was staffed with the LICWAC for permanency planning, **or**
- A referral was made to staff the case with the LICWAC and a LICWAC staffing was scheduled at the earliest time available.

**Not Achieved:**

The child's Tribe(s) was not available, declined involvement or withdrew involvement, or the Tribe requested that LICWAC be involved on its behalf, and a LICWAC staffing did not occur, or referral was not made to schedule a LICWAC staffing regarding the following:

- Permanency planning, **or**
- Upon receiving a request for a LICWAC staffing.

**Not Applicable:**

The child was not a member or a biological child of a member and eligible for membership with a federally recognized Tribe, **or**

The child's Tribe was available and did not request that LICWAC be involved with the case on behalf of the Tribe.

**Purpose of LICWAC:** The Local Indian Child Welfare Advisory Committees (LICWAC) serve in an advisory capacity to Division of Children and Family Services (DCFS) caseworkers and supervisors by recommending culturally appropriate case plans and services for Indian families. LICWACs offer assistance in the case management of these cases with respect to the needs and rights of Indian children and their families. LICWAC recommendations are included in the court report LICWAC members are considered volunteers, and are subject to the same confidentiality requirements as DCYF staff.

## Court Requirements

### Directions

The questions in this section were designed to measure compliance and quality of practice regarding notification to Tribes of court proceedings and providing an expert witness per federal and/or state ICWA.

Complete this section if:

The child was in the custody of the Department through a shelter care order or dependency order **and** the child was a member or eligible for membership and the biological child of a member with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child.

## ICWA Cases

**33. Was the child’s Tribe(s) given legal notice prior to dependency fact findings, Title 13 guardianship fact findings, and termination fact findings?** (This applies when the child is a member or a biological child of a member and eligible for membership with a federally recognized Tribe and cases where the court determined there was reason to know the child was an Indian Child until or unless the court determined there was no longer a reason to know.) (Federal and state ICWA requires notice to the child’s federally recognized Tribe(s) for dependency fact finding that resulted in out-of-home placement, Title 13 guardianship fact finding, and termination fact finding. Notice may have been completed by DCYF worker or the Attorney General’s Office.) (This applies to cases in which a dependency fact finding, Title 13 guardianship fact finding, or termination fact finding occurred within the last two years.)

**Fully Achieved:**

The child was a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or, the court determined there is reason to know the child is an Indian Child and the Tribe(s) was given legal notice prior to dependency fact finding hearings that resulted in out-of-home placement, Title 13 guardianship fact findings, and termination fact findings held within the last two years. If a child was a member or the biological child of a member and eligible for membership with more than one Tribe, or the court determined there was reason to know the child is an Indian child with more than one Tribe, notice was sent to each Tribe where the child is a member, is eligible for membership (if the child is the biological child of a member), or the court determined there is reason to know the child may be an Indian child through. Notice may have been completed by DCYF or the Attorney General’s office

**Not Achieved:**

The child was a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was reason to know the child was an Indian child, and the Tribe was not given legal notice prior to dependency fact finding hearings that resulted in out-of-home placement, Title 13 guardianship fact findings, and termination fact findings held within the last two years.

**Not Applicable:**

The child was not a member or the biological child of a member and eligible for membership with a federally recognized Tribe and the court determined there was no reason to know the child is an Indian Child, *or*

A dependency fact finding, Title 13 guardianship fact finding, or termination fact finding did not occur within the last two years.

**RCW 13.38.070 (1) Notice — Procedures — Determination of Indian status (1):** (1) In any involuntary child custody proceeding seeking the foster care placement of, or the termination of parental rights to, a child in which the petitioning party or the court knows, or has reason to know, that the child is or may be an Indian child as defined in this chapter, the petitioning party shall notify the parent or Indian custodian and the Indian child's tribe or tribes, by certified mail, return receipt requested, and by use of

a mandatory Indian child welfare act notice addressed to the tribal agent designated by the Indian child's tribe or tribes for receipt of Indian child welfare act notice, as published by the bureau of Indian affairs in the federal register. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the secretary of the interior by registered mail, return receipt requested, in accordance with the regulations of the bureau of Indian affairs. The secretary of the interior has fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe. The parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for the proceeding.

## ICWA Cases

**34. Was the child's Tribe(s) informed of all dependency reviews.** (This applies when the child is a member or a biological child of a member and eligible for membership with a federally recognized Tribe or the court determined there is reason to know the child is an Indian Child. DCYF policy requires staff inform federally recognized Tribes of all upcoming dependency review hearings. A permanency planning hearing is considered a review hearing for purposes of this question.) (Tribes may have been informed of upcoming hearings by the DCYF worker or the Attorney General's Office.) (This applies to cases in which a dependency fact finding, Title 13 guardianship fact finding, termination fact finding, or a dependency review occurred within the last year.)

**Fully Achieved:**

The child was a member or the biological child of a member and eligible for membership with a federally recognized Tribe(s), or the court determined there was reason to know the child was an Indian Child, and the Tribe(s) was informed of all upcoming dependency review hearings in the last year. If a child was a member or eligible for membership (and the biological child of a member) with more than one Tribe, or the court determined there is reason to know the child may be an Indian child through, each Tribe was informed, *or*

The requirement to notify the tribe was met because the child's Tribe(s) was provided with an updated Court Report prior to the dependency review hearings, *or*

**Not Achieved:**

The child was a member or the biological child of a member and eligible for membership with a federally recognized Tribe(s), or the court determined there is reason to know the child is an Indian Child, and the Tribe(s) was not informed of all upcoming dependency review hearings in the last year.

**Not Applicable:**

The child was not a member or the biological child of a member and eligible for membership with a federally recognized Tribe and the court determined there was no reason to know the child was an Indian Child, *or*

A dependency review hearing did not occur within the last year.

## ICW Policies and Procedures

### Chapter 6. Casework Activities for Court Proceedings: State court process

The DCYF caseworker will:

- Inform the tribe, parents, and/or Indian custodian(s), if applicable, of the date and time of the Shelter Care Hearing.
- In all situations that require sending notice (not membership inquiries done by NAIR), coordinate with the assigned AAG or prosecuting attorney to determine who is responsible for sending.
- Ensure the parent, Indian custodian (if/when identified), and tribe(s) are served with Indian Child Welfare Act Notice JU 03.0900, including Dependency Petition JU 03.0100 and Notice and Summons/Order JU03.200 which includes the date and time of the Fact Finding Hearing, by certified mail, return receipt requested. 25 C.F.R. Sec. 23.111(c)
  - Follow publication process per RCW 13.34.080 if unable to locate parent(s) on whom to serve legal notice in person.
  - Send a copy of the Indian Child Welfare Act Notice JU 03.0900, Notice and Summons/Order JU 03.0200 and Dependency Petition JU 03.0100 to the Portland Bureau of Indian Affairs (BIA) by certified mail, return receipt requested upon filing a dependency petition 25 U.S.C. § 1912(a)
- Immediately inform the child's parent(s), (including any alleged father), Indian custodian (if any), and the tribe of the time, date, and place of the Dispositional Hearing if it is scheduled at a different time, date and place than the Fact Finding Hearing.
- Provide a copy of the court report to the child's parent(s), Indian custodian (if any), the child's tribe, and any other legal party to the proceeding.
- Inform the parent(s), Indian custodian, if any, and the child's tribe(s) of all upcoming review hearings at least 14 calendar days prior to the Dependency Review Hearing.

## ICWA Cases

**35. Was there a qualified Indian expert witness for all dependency fact finding, Title 13 guardianship fact finding, and termination fact finding hearings?** (This applies when the child is a member or a biological child of a member and eligible for membership with a federally recognized Tribe and cases where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know.) (A qualified expert witness is required under the federal and state ICWA, in the dependency fact finding that results in out-of-home placement, in Title 13 guardianship fact findings, and in termination fact findings. A qualified expert witness assists the court in the determination of whether the continued custody of the child, or return of the child to the parent or Indian custodian, is likely to result in serious emotional or physical damage to the child.) (Rate this question for dependency fact finding, Title 13 guardianship fact finding, and termination fact finding hearings that occurred within the last two years.)

**Fully Achieved:**

The child was a member or eligible for membership and the biological child of a member with a federally recognized Tribe(s), or the court determined there was reason to know the child was an Indian child, and one of the following occurred:

The child's Tribe intervened, or the child's Tribe had entered a local agreement with the department for the provision of child welfare services, and the child's Tribe was contacted to identify or designate a qualified expert witness who was a Tribal member, or other person of the Tribe's choice who was recognized by the Tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices for any dependency fact finding that resulted in out-of-home placement, Title 13 guardianship fact finding, or termination fact finding hearing, **or**

The child's Tribe did not intervene, did not have a local agreement with the department for the provision of child welfare services, or did not identify a qualified expert witness timely, and the Department provided a qualified expert witness for any dependency fact finding that resulted in out-of-home placement, Title 13 guardianship fact finding, or termination fact finding hearing. The qualified expert witness was not the assigned DCYF worker or the assigned worker's supervisor, and met one or more of the following requirements in descending order of preference:

- A member of the child's Indian tribe or other person of the tribe's choice
- A person who had substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the child's Indian tribe
- A person who had substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and child rearing practices in Indian tribes with cultural similarities to the Indian child's tribe
- A professional person having substantial education and experience in the area of his or her specialty.

**Not Achieved:**

The child was a member or eligible for membership and the biological child of a member with a federally recognized Tribe(s), or the court determined there was a reason to know the child was an Indian child, and a qualified expert witness did not testify at a dependency fact finding or disposition hearing at which out-of-home placement was requested, Title 13 guardianship fact finding, or termination fact finding.

**Not Applicable:**

The child was not a member or eligible for membership and the biological child of a member with a federally recognized Tribe, **or**

The court determined there was no reason to know the child was an Indian child, **or**

A dependency fact finding, Title 13 guardianship fact finding, or termination fact finding hearing did not occur within the last two years.

**RCW 13.38.130: Involuntary foster care placement, termination of parental rights — Determination — Qualified expert witness.**

(1) A party seeking to effect an involuntary foster care placement of or the involuntary termination of parental rights to an Indian child shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(2) No involuntary foster care placement may be ordered in a child custody proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in

serious emotional or physical damage to the child. For purposes of this subsection, any harm that may result from interfering with the bond or attachment between the foster parent and the child shall not be the sole basis or primary reason for continuing the child in foster care.

(3) No involuntary termination of parental rights may be ordered in a child custody proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. For the purposes of this subsection, any harm that may result from interfering with the bond or attachment that may have formed between the child and a foster care provider shall not be the sole basis or primary reason for termination of parental rights over an Indian child.

(4)(a) For purposes of this section, "qualified expert witness" means a person who provides testimony in a proceeding under this chapter to assist a court in the determination of whether the continued custody of the child by, or return of the child to, the parent, parents, or Indian custodian, is likely to result in serious emotional or physical damage to the child. In any proceeding in which the child's Indian tribe has intervened pursuant to RCW 13.38.090 or, if the department is the petitioner and the Indian child's tribe has entered into a local agreement with the department for the provision of child welfare services, the petitioner shall contact the tribe and ask the tribe to identify a tribal member or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices. The petitioner shall notify the child's Indian tribe of the need to provide a "qualified expert witness" at least twenty days prior to any evidentiary hearing in which the testimony of the witness will be required. If the child's Indian tribe does not identify a "qualified expert witness" for the proceeding on a timely basis, the petitioner may proceed to identify such a witness pursuant to (b) of this subsection.

(b) In any proceeding in which the child's Indian tribe has not intervened or entered into a local agreement with the department for the provision of child welfare services, or a child's Indian tribe has not responded to a request to identify a "qualified expert witness" for the proceeding on a timely basis, the petitioner shall provide a "qualified expert witness" who meets one or more of the following requirements in descending order of preference:

(i) A member of the child's Indian tribe or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices for this purpose;

(ii) Any person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe;

(iii) Any person having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and child rearing practices in Indian tribes with cultural similarities to the Indian child's tribe; or

(iv) A professional person having substantial education and experience in the area of his or her specialty.

(c) When the petitioner is the department or a supervising agency, the currently assigned department or agency caseworker or the caseworker's supervisor may not testify as a "qualified expert witness" for purposes of this section. Nothing in this section shall bar the assigned department or agency caseworker or the caseworker's supervisor from testifying as an expert witness for other purposes in a proceeding under this chapter. Nothing in this section shall bar other department or supervising agency employees

with appropriate expert qualifications or experience from testifying as a "qualified expert witness" in a proceeding under this chapter. Nothing in this section shall bar the petitioner or any other party in a proceeding under this chapter from providing additional witnesses or expert testimony, subject to the approval of the court, on any issue before the court including the determination of whether the continued custody of the child by, or return of the child to, the parent, parents, or Indian custodian, is likely to result in serious emotional or physical damage to the child.

## ICW Policies and Procedures

### Chapter 6. Casework Activities for Court Proceedings: State court process

The DCYF caseworker will:

- Qualified Expert Witness:
  - Work with the local AAG or prosecuting attorney to identify a qualified expert witness for dependency disposition or termination hearings to meet the "clear, cogent and convincing" standard of proof that continued parental custody will likely result in serious emotional or physical damage to the child. 25 U.S.C. § 1912 (e) (f), 25 C.F.R. § 23.121 and 23.122
  - When the child's tribe has an memorandum of understanding with the Department, review the MOU to determine if it lists the contact information for the tribe's preferred qualified expert witness. For all other tribes, contact the Indian child's tribe at least twenty (20) days prior to any evidentiary hearing in which the testimony of a qualified expert witness is required to request that the tribe identify a qualified expert witness. If the tribe does not identify someone in a timely manner, follow RCW 13.38.130 (4)(b)(i-iv)-(c) to identify a qualified expert witness.
  - If additional assistance is needed in locating a qualified expert witness, contact regional ICW consultants or DCYF headquarters ICW program.

## Placement Preferences

### Directions

The questions in this section were designed to measure compliance and quality of practice regarding obtaining and following the placement preference of the Tribe.

Complete this section:

The child was a member or eligible for membership and the biological child of a member with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and the child was placed in out-of-home care.

The review period is the last 12 months.

### ICWA Cases:

**36. Were efforts made to identify the Tribe's placement preference?** (This applies when the child is a member or eligible for membership and a biological child of a member with a federally recognized Tribe

and cases where the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know.) (Review placements and placement changes that occurred during the past year.)

**Fully Achieved:**

The child was a member or eligible for membership and a biological child of a member with a federally recognized Tribe, or the court determined there was reason to know the child was an Indian child, and there were efforts to consult with the Tribe(s) prior to making non-emergent placement decisions for the child to identify the Tribe's placement preference, *or*

An emergent placement occurred and there was consultation with the Tribe(s) in a timely manner to identify the Tribe's placement preference, *or*

The child's Tribe(s) was unavailable (i.e. declined involvement or withdrew from involvement) and the child was placed in a safe and least restrictive setting which most approximated a family situation which was in reasonable proximity to the Indian child's home in which the child's special needs were met, with one of the following placement priorities:

- Extended family members;
- Foster home licensed, approved or specified by the Tribe;
- Indian foster home licensed or approved by an authorized non-Indian licensing authority;
- A foster care agency approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the child's needs;
- A non-Indian child foster care agency approved by the child's tribe, *or*

The child's Tribe(s) placement preference was not followed, or the placement priorities in ICWA/WICWA were not followed, but the court found good cause to depart from the placement preferences by clear and convincing evidence, *or*

During the last 12 months the child remained placed with the same out-of-home caregiver and the Tribe(s) was in agreement with the placement with the caregiver or the court found good cause to depart from the Tribe's placement preference by clear and convincing evidence.

**Not Achieved:**

The child was a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was reason to know the child was an Indian child, and efforts were not made to consult with the Tribe(s) to identify the Tribe(s) placement preference when placement decisions were made for the child, *or*

The Tribe did not establish a placement preference, the court did not find good cause to depart from the placement preferences by clear and convincing evidence, and the child was not placed according to the placement priorities as identified in the WICWA, *or*

During the last 12 months the child remained placed with the same out-of-home caregiver and the Tribe(s) was not in agreement with the caregiver, or had not been consulted to determine if they were in agreement with the placement with the caregiver, and the court had not found good cause to depart from the placement preferences by clear and convincing evidence.

**Not Applicable:**

The child was not placed in out-of-home care, *or*

The child was not a member or eligible for membership and the biological child of a member with a federally recognized Tribe(s), or the court determined there was no reason to know the child was an Indian child.

**RCW 13.38.180 Placement Preference:** (1) When an emergency removal, foster care placement, or preadoptive placement of an Indian child is necessary, a good faith effort will be made to place the Indian child:

- (a) In the least restrictive setting;
- (b) Which most approximates a family situation;
- (c) Which is in reasonable proximity to the Indian child's home; and
- (d) In which the Indian child's special needs, if any, will be met.

(2) In any foster care or preadoptive placement, a preference shall be given, in absence of good cause to the contrary, to the child's placement with one of the following:

- (a) A member of the child's extended family;
- (b) A foster home licensed, approved, or specified by the child's tribe;
- (c) An Indian foster home licensed or approved by an authorized non-Indian licensing authority;
- (d) A child foster care agency approved by an Indian tribe or operated by an Indian organization

which

has a program suitable to meet the Indian child's needs;

- (e) A non-Indian child foster care agency approved by the child's tribe;
- (f) A non-Indian family that is committed to:
  - (i) Promoting and allowing appropriate extended family visitation;
  - (ii) Establishing, maintaining, and strengthening the child's relationship with his or her tribe or tribes;

tribes;

and

(iii) Participating in the cultural and ceremonial events of the child's tribe.

(3) In the absence of good cause to the contrary, any adoptive or other permanent placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

- (a) Extended family members;
- (b) An Indian family of the same tribe as the child;
- (c) An Indian family that is of a similar culture to the child's tribe;
- (d) Another Indian family; or
- (e) Any other family which can provide a suitable home for an Indian child, such suitability to be

determined in consultation with the Indian child's tribe or, in proceedings under chapter 13.34 RCW where the Indian child is in the custody of the department or a supervising agency and the Indian child's tribe has not intervened or participated, the local Indian child welfare advisory committee.

## ICW Policies and Procedures

### Chapter 7. Indian Child Placement Preferences and Relative Search

The DCYF caseworker will:

- Follow federal and Washington state laws from initial placement through case closure/adoption when an Indian child is placed in out-of-home care.
- If an Indian child is placed in out-of-home care, discuss with the parent(s) or the Indian custodian his or her placement preferences and follow federal and state ICWA placement preferences or any applicable tribal MOU unless the child's tribe identifies a different order of preference. Placement must be a good faith effort to be in a location where the parent can have regular access to the child without undue economic, physical, or cultural hardship. RCW 13.38.180. Without good cause the placement selected cannot be based solely on a person's socio-economic status. 25 C.F.R. § 23.132
- Follow the wishes of the parent where appropriate. The preference of the Indian child or parent shall be considered, provided that where a consenting parent indicates a desire for anonymity, the worker shall give weight to that desire in applying the placement preferences. 25 U.S.C. Sec. 1915(c); RCW 13.38.180(5).
- Place with other siblings or in close proximity to siblings, unless the placement would cause serious physical or emotional harm to one or more of the children; and follow Practices and Procedures Parent, Child, and Sibling Visits policy.
- Coordinate emergent and non-emergent placements of an Indian child with the tribal child welfare agency prior to or within one business day of placement.
- Conduct a diligent search for a suitable placement, to include contact with the tribe(s) if known, within the order of preference before considering a non-preferred placement.
- Complete the relative search process per Practices and Procedures Relative Placement policy when an Indian child is placed in out-of-home care.

**RCW 13.38.180(3):** In the absence of good cause to the contrary, any adoptive or other permanent placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

- (a) Extended family members;
- (b) An Indian family of the same tribe as the child;
- (c) An Indian family that is of a similar culture to the child's tribe;
- (d) Another Indian family; or
- (e) Any other family which can provide a suitable home for an Indian child, such suitability to be determined in consultation with the Indian child's tribe or, in proceedings under chapter 13.34 RCW where the Indian child is in the custody of the department or a supervising agency and the Indian child's tribe has not intervened or participated, the local Indian child welfare advisory committee.

**ICWA Cases:**

**37. Was the Tribe's placement preference followed?** (This applies to the child's federally recognized Tribe when the child is a member or a biological child of a member and eligible for membership, or when the court determined there was a reason to know the child was an Indian child until or unless the court determined there was no longer a reason to know.)

 **Fully Achieved:**

The child was a member or the biological child of a member and eligible for membership with a federally recognized Tribe, or the court determined there was a reason to know the child was an Indian child, and the Tribe indicated a placement preference and one of the following occurred:

- The Tribe's placement preference was assessed for suitability and the child was placed with the Tribe's preferred placement.
- The Tribe's(s) placement preference was assessed for suitability and was not followed due to safety or well-being concerns for the child, and there were follow-up efforts to resolve the differences with the Tribe(s) in a timely and collaborative manner and a resolution was reached.
- The Tribe's(s) placement preference was assessed for suitability and was not followed due to safety or well-being concerns for the child, and there were follow-up efforts to resolve the differences with the Tribe(s) in a timely and collaborative manner, but a resolution was not reached. The court was notified of the Tribe's objection or concerns and this was documented in the child's Court Report. The court found good cause not to follow the placement preferences by clear and convincing evidence.

 **Not Achieved:**

The placement preference of the child's federally recognized Tribe(s) was not assessed for suitability or not followed, and there were no follow-up efforts to resolve the differences with the Tribe(s) in a collaborative manner to reach a resolution, *or*

There were efforts to resolve the differences with the child's federally recognized Tribe in a collaborative manner but a resolution was not reached and the court was not notified of the Tribe's objection and documented in the Court Report.

 **Not Applicable:**

The tribe(s) did not identify a placement preference, *or*

The child was not a member or the biological child of a member and eligible for membership with a federally recognized Tribe(s), or the court determined there was no reason to know the child was an Indian child, or

The court ordered placement that differed from the placement recommendations of DCYF and the Tribe

**RCW 13.38.180 (3):** In the absence of good cause to the contrary, any adoptive or other permanent placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

- (a) Extended family members;

- (b) An Indian family of the same tribe as the child;
- (c) An Indian family that is of a similar culture to the child's tribe;
- (d) Another Indian family; or

(e) Any other family which can provide a suitable home for an Indian child, such suitability to be determined in consultation with the Indian child's tribe or, in proceedings under chapter 13.34 RCW where the Indian child is in the custody of the department or a supervising agency and the Indian child's tribe has not intervened or participated, the local Indian child welfare advisory committee.

## Safety

### Directions

The questions in this section were designed to measure quality of practice regarding identifying, assessing and addressing risk safety threats for children.

Complete this section for all cases.

Review period is the last 12 months the case was open.

### All Cases:

**38. During the time the child(ren) was living in the family home, were risk and safety threats adequately identified, assessed and addressed?** (This applies to all children who were living in the family home any time during the last 12 months while the case was open to DCYF.) (The “family home” is defined as the home of the parent or guardian.)

**Fully Achieved:**

During the time the child(ren) lived in the family home, risk and safety threats were accurately identified and adequately assessed and addressed by the following when applicable:

- The CPS investigative activities were sufficiently comprehensive to identify risk (including imminent risk) and safety threats to the child and all safety concerns were adequately addressed;
- The FAR intervention was sufficiently comprehensive to identify risk and safety threats to the child and all safety concerns were adequately addressed;
- The decision to close the case, keep the case open for ongoing in-home services, or file a dependency petition met the safety needs of the child(ren);
- There was ongoing monitoring of the child’s safety and when needed Safety Plans were developed that met the safety needs of the child;
- Safety Plans were continually evaluated and monitored including encouraging family engagement in the tasks/services designed to keep the children safe; and
- A new CPS intake was generated when there were new allegations of abuse and neglect.

**Not Achieved:**

During the time the child(ren) lived in the family home, risk and safety threats were not accurately identified, adequately assessed or all safety concerns were not adequately addressed.

**Not Applicable:**

There were no children who lived in the family home during the last 12 months. All children were placed in out-of-home care.

**39. During the time the child was placed in out-of-home care, were risk and safety threats adequately identified, assessed and addressed?** (This applies when the child was placed in out-of-home care through a Voluntary Placement Agreement (VPA) or court action any time during the last 12 months.)

**Fully Achieved:**

Safety threats were accurately identified, adequately assessed and addressed during the time the child was placed in out-of-home care including the following when applicable:

- The child was placed with a safe relative, other suitable person, or foster home;
- If safety threats were identified regarding the child's out of home caregiver, all threats were assessed and addressed;
- Visitation for the child with parents and other family members occurred in a safe manner;
- There was adequate oversight and monitoring of the child through in-person visits to ensure that the child was safe; and
- If the child was on the run, there were ongoing and timely efforts to locate the child.

**Not Achieved:**

Safety threats were not accurately identified, adequately assessed and/or controlled during the time the child was in out-of-home care.

**Not Applicable:**

The child remained in the family home and was not placed in out-of-home care.

## Well-Being

### Directions

The questions in this section were designed to measure quality of practice regarding assessing and addressing the well-being needs of children.

Complete this section:

- For children placed in out-of-home care.
- When the case remained open for ongoing in-home services beyond the CPS investigation or FAR intervention.

Review period is the last 12 months the case was open.

**All Cases:**

**40. Were actions taken to assess and address the child(ren)'s educational/developmental needs?** (Documents in the case file or in FamLink that would have assessment and follow-up may include:

- CHET assessment (for children initially placed out of home) only covers up to the 30<sup>th</sup> day in placement.)
- Case notes, supervisory review notes
- IEP report
- EPSDT

 **Fully Achieved:**

For school age children including those in preschool, efforts were made to assess the child(ren)'s educational needs and appropriate services were provided when educational needs were identified, **or**

The child(ren) was two years old or younger and was assessed as having developmental delays that needed an educational (Birth to Three) approach rather than physical therapy or some form of physical health approach and a developmental assessment and/or appropriate services were provided, **and**

If the child was placed in out of home care and the child was receiving Native language instruction prior to the placement, and Native language instruction continued for the child.

 **Not Achieved:**

For school age children, including those in preschool, efforts were not made to assess the child(ren)'s educational needs.

 **Not Applicable:**

The child(ren) was not school age, or in preschool, and did not have developmental delays that needed an educational approach, **or**

The child(ren) remained in the home and there were no indicators that an assessment of the child(ren) educational needs was relevant to the case plan.

**All Cases:**

**41. Were actions taken to assess and address the child(ren)'s physical health needs?**

 **Fully Achieved:**

Actions were taken to assess the child(ren)'s physical health care needs and services were provided when physical health needs were identified. When possible resources were provided to relative care takers to support transportation to any necessary appointments, **and**

For out-of-home cases:

If the child entered care in the last 12 months and an initial health care screening such as an EPSDT occurred, and routine health and dental screenings (every 6 months from the time that teeth erupted) occurred.

**Not Achieved:**

Actions were not taken to assess the child(ren)'s physical health care needs and services were not provided when physical health needs were identified, *or*

For out-of-home cases:

An initial health care screening such as an EPSDT did not occur if the child entered care during the last 12 months, *or*

Routine health and dental screenings (every 6 months from the time that teeth erupted) did not occur.

**Not Applicable:**

The child(ren) remained in the home and there were no indicators that an assessment of the child(ren) physical health needs was relevant to the case plan.

## All Cases:

### 42. Were actions taken to assess the child(ren)'s mental/behavioral health needs and offer culturally appropriate services when needs were identified?

**Fully Achieved:**

Actions were taken to assess the child(ren)'s mental/behavioral health needs (including substance abuse) through formal or informal assessments and culturally appropriate services were provided if these needs were identified. Appropriate services may include:

- Ensure insurance/payment issues are taken care of
- Outpatient treatment;
- Inpatient mental health treatment;
- Substance abuse treatment;
- Individual therapy;
- Group therapy; or
- Family therapy

**Not Achieved:**

Actions were not taken to assess the child(ren)'s mental/behavioral health needs (including substance abuse) through formal or informal assessments.

**Not Applicable:**

Due to the age of the child an assessment of mental/behavioral health needs was not indicated, *or*

The child(ren) remained in the home and there were no indicators that an assessment of the child(ren) mental/behavioral health needs was relevant to the case plan.

## Permanency

### Directions

The questions in this section were designed to measure quality of practice regarding achieving permanency for children placed in out-of-home care.

Complete this section:

- If the child was placed in out-of-home care through a shelter care/dependency action during the last year. This includes children who may have returned home by the date of the review.

Review period is the last 12 months the case was open.

**Additional directions:** Document the type of placement the child was in: foster care or relative/kinship care.

### All Cases:

**43. If the child was placed in out-of-home care, were there sufficient and timely actions per policy, federal and state law, including active efforts when ICWA applies taken to complete the permanent plan?** (Review the actions taken in the last year to achieve permanency for the child) (The permanent plan is identified in the most recent Court Report or may be updated in a more recent Shared Planning Meeting.)

**Fully Achieved:**

Reunification was achieved and the child returned home from out-of-home care during the last year, *or*

The child remained in out-of-home care with a plan of reunification and sufficient and timely efforts were made to achieve reunification, *or*

A permanent plan other than reunification was achieved for the child during the last year, *or*

When reunification was ruled out as the permanent plan, there was consultation with the child's Tribe, or LICWAC when the Tribe was not available, to identify the permanent plan. Sufficient and timely actions were taken to achieve permanency for the child with one or more of the following permanent plans:

- Title 13 guardianship;
- Adoption;
- Tribal customary adoption;
- Third party custody (also known as permanent legal custody or nonparental custody);

- Long Term Relative or Foster Care, with written agreement (available only if the child is between ages sixteen and eighteen); and
- Independent living

**Not Achieved:**

During the last year reunification or another permanent plan was not achieved, *and*

Sufficient and timely actions were not taken to complete the permanent plan.

**Not Applicable:**

The child was not placed in out-of-home through a shelter care/dependency action any time during the last year, *or*

The case was in Tribal court.

**RCW 13.38.040 (16):** "Tribal customary adoption" means adoption or other process through the tribal custom, traditions, or laws of an Indian child's tribe by which the Indian child is permanently placed with a nonparent and through which the nonparent is vested with the rights, privileges, and obligations of a legal parent. Termination of the parent-child relationship between the Indian child and the biological parent is not required to effect or recognize a tribal customary adoption.

## Appendix

### Definitions

- **Foster care definition:** WAC 388-25-0010: "**Foster care**" means twenty-four-hour per day temporary substitute care for the child placed away from the child's parents or guardians and for whom the department or a licensed or certified child placing agency has placement and care responsibility.
- **Kinship care/ fictive kin definition:**
  - An adult who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or step-parent, even following termination of the marriage;
  - An individual, defined by the law or custom of the child's Tribe, as a relative of the child;
  - An individual, not related by blood or marriage, who has taken an active part in the caretaking of the child and for whom the child has developed a sustained psychological bond.