

TRIBAL CHILD WELFARE PRIORITIES 2009

Priority Number 1: Identifying Children as Indian Children

Issue Statement

Too often, children are not being identified as Indian children, either at all or at some point later in the child welfare process than should occur. In some cases, if a child does not have an Indian name or does not “look Indian,” it is assumed that the child is not Indian. Child welfare practice should be altered so that all children are assumed to be Indian until it is determined that they are not.

Outcome Objective

Diligent efforts shall be made, at the point of entry into the child welfare system and at appropriate subsequent points:

- to determine if a child or a member of the child’s family is Indian,
- to determine what the tribal affiliation is, and
- To notify the appropriate tribe or tribes of the child’s involvement in the child welfare system.

Action Steps

Action	By Whom	Notes
Clarify language CPS notice to the tribal agent requirements in Ch 48.981 and the ICWA notices requirements in eWiSACWIS. Amend language in Ch. 48.981 for clarifying notice procedures.	<i>-Intertribal Child Welfare Committee -Office of Legal Counsel DCF Legislative Liaison DSP -ICWA Consultant DSP - eWiSACWIS</i>	
The Department of Corrections and county juvenile justice staff need to identify JJ children that are subject to ICWA. Add ICWA compliance to DOC consultation policy	<i>ICWA Consultant DCF OLC ICW – Committee</i>	
eWiSACWIS expanded to include requirements in ICWA (WICWA) and placed prominently in eWiSACWIS ICWA Screen <ul style="list-style-type: none"> • Notice • Placement Preference eWiSACWIS will initiate ‘ticklers’ at the	<i>ICW – Committee ICWA Consultant DSP - eWISACWIS</i>	

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Action	By Whom	Notes
identification of an Indian Child and at notice provided to the child's tribe		
Investigate tribal wide child welfare management system. <ul style="list-style-type: none"> • Share at MAST meeting 	<i>OLC</i> <i>ICW Committee</i>	
Codify ICWA into Chs. 48 * 938	<i>State of Wisconsin</i>	
Review existing licensing administrative rule to ensure language reflects ICWA.	<i>Office of Legal Counsel</i> <i>ICW – Committee</i> <i>ICWA Consultant</i> <i>Bureau of Permanence and Out of Home Care</i> <i>Other Stakeholders</i>	
Research models for a Compliance Review Board <ul style="list-style-type: none"> • Regular monitoring compliance • Process to receive complaints be developed • Institute in DCF Consultation Policy Tribal Meeting on Compliance Review 	<i>ICW – Committee</i> <i>ICWA Consultant</i> <i>OLC</i> <i>(Tribes)</i> <i>DSP Division Administrator</i> <i>Office of Performance and Quality Assurance</i>	
The Department should identify policies and mechanism for applying sanctions to public and private agencies including a process of progressive sanctions and requirement for corrective action plans.	<i>ICW – Committee</i> <i>ICWA Consultant</i> <i>OLC</i> <i>Office of Performance and Quality Assurance</i> <i>(Tribes)</i> <i>DSP Finance Bureau</i>	
CQI ICWA tool implemented and integrated into Wisconsin QSR process.	<i>DCF Bureau Directors</i> <i>Office of Performance and Quality Assurance</i>	

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Priority Number 2: Training on ICWA, Tribal Codes/Ordinances, and Cultural Issues

Issue Statement

Staff and administrators of a variety of child welfare agencies and organizations do not have adequate knowledge of the intent and content of the ICWA that supports the implementation of the law in either legal or practice situations. Staff of the Department, the DOC Division of Juvenile Services, counties, private agencies, tribes, and legal staff (e.g., judges, Guardians ad Litem, District Attorneys/Corporation Counsel) require ongoing training related to the content, history, and purpose of the Indian Child Welfare Act and implications for implementation in Wisconsin. All training should include a qualified Indian co-trainer as recommended by the Intertribal Child Welfare Committee.

Outcome Objective

All training participants listed above will demonstrate an understanding of the philosophical and legal concerns around removal of Indian children from their homes, placing Indian children in out-of-home care, terminating parental rights, and placing Indian children for adoption, all recognizing that there are differences among tribes.

Action Steps

Action	By Whom	Notes
Define training focus on specific groups.	<i>ICW – Committee ICW Training Partnership</i>	
Institute comprehensive training program with changes impacted by the codification efforts including several disciplines involved in Indian Child Welfare cases. Recruit and train Indian co-trainers to provide tribal perspectives in child welfare application.	<i>ICW – Committee DCF-DSP - ICWA Consultant DSP – Bureau of Permanence and Out of Home Care Children’s Court Improvement Program</i>	
The University of Wisconsin schools of social work and related programs should include a component on ICWA required for completion of the degree for those with an emphasis on child welfare and for those in the IV-E graduate program.	<i>ICW – Committee (UW Board of Regents) Social Work Advisory Committees UW – Stevens Point UW – Superior</i>	
Institute core foundation training by Partnerships	<i>ICW – Committee</i>	

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Action	By Whom	Notes
	<i>DCF ICW Training Partnership</i>	
Incorporate into state licensing rules that licensed agencies must be trained in ICWA	<i>DCF-DSP Bureau of Permanence and Out of Home Care OLC Bureau of Safety and Permanence</i>	

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Priority Number 3: Adoptions

Issue Statement

Tribes are not always involved in cases involving Indian children and the decisions that affect the outcome of the case, including removal from the home, placement in out-of-home care, termination of parental rights, and adoption. As a result, Indian children may experience outcomes that are not in the best interest of either the child or the tribe or both.

Outcome Objective

DCF and County Staff and Managers, Private Agency staff, and Legal Counsel must involve tribes in all planning, implementation, and evaluation related to removal from the home, placement in out-of-home care, termination of parental rights, and adoptions to enable Indian children to experience positive measurable outcomes in adoptive services.

This includes the legislative intent of the ICWA relative to paternity and determination of the best interests of the child as defined in the Indian Child Welfare Act of 1978, and assessing the appropriateness of adoptive placements.

Action Steps

Action	By Whom	Notes
Provide technical assistance on and strengthen laws and policies regarding efforts to determine paternity, including DNA testing prior to the termination of Parental Rights	<i>OLC Alternative Funding workgroup DSP – Legislative Liaison Bureau of child support Bureau of Permanence and Out of Home Care</i>	
Require documented proof of the Indian heritage of potential adoptive families.	<i>DCF Bureau of Permanence and Out of Home Care Safety and Permanence, Licensing</i>	
DCF will contract with tribes to administer all adoptions involving Indian children.	<i>DCF-DSP Bureau of Permanence and Out of Home Care Tribes ICW Committee</i>	
	<i>ICW Committee</i>	

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Chapter 48 and DWD, look at adoption/child support language	<i>OLC DCF-DSP Bureau of Permanence and Out of Home Care Bureau of Child Support</i>	
Adoption home studies and agreements should specifically state how the child's Indian heritage will be preserved. (Special needs adoptions addressed)	<i>ICW Committee OLC DCF-DSP Bureau of Permanence and Out of Home Care</i>	
Infant Relinquishment	<i>ICW Committee Bureau of Permanence and Out of Home Care Safety Well Being OLC Tribes Legislative State Tribal Relations Committee</i>	
Adoption Assistance Programs	<i>Bureau of Permanence and Out of Home Care</i>	
Provide tribes with Updated listing of DCF contract agencies doing special needs adoptions.	<i>DCF –DSP Bureau of Permanence and Out of Home Care</i>	

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Priority Number 4: 161 Agreements

Issue Statement

161 agreements were created pursuant to 1983 Wisconsin Act 161 and were designed to identify the responsibilities of each agency in terms of the funding of placements of children ordered by tribal courts. Problems encountered by Tribes in using 161 Agreement have included:

1. Counties refusing to enter into a 161 Agreement
2. Counties entering into a 161 Agreement and not fully complying with the terms

Over the years, additional issues have been added to 161 Agreements, including identification of which agency will determine IV-E eligibility, which agency will develop and implement case plans, which agency will develop and review permanency plans, etc. In addition, it has been recommended that these agreements also include other child welfare related determinations (e.g., how CPS investigations will be handled) and the inclusion of juvenile justice cases. In recent times, other issues have arisen, such as the implications of either party not signing the agreement and the lack of sanctions for not abiding by the agreement. In addition, there has been much discussion regarding whether the agreements should be between tribes and the state rather than tribes and counties.

Outcome Objective

Counties, in collaboration with DHFS, will consult with tribes to assess the effectiveness of the collaborative planning, implementation, and evaluation of 161 Agreements and implement any corrective action that may include continuance, modification, or elimination.

Action Steps

Action	By Whom	Notes
Define the content of 161 Agreements	<i>ICW Committee DCF OLC ICWA Consultant Bureau of Permanence and Out of Home Care Alternative Funding Workgroup</i>	
Consider establishing a direct state-tribal 161 Agreement relationship for placement funding.	<i>DCF OS OLC ICW Committee ICWA Consultant Alternative Funding Workgroup Bureau of Permanence and Out of</i>	

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Action	By Whom	Notes
	<i>Home Care</i>	
Consult with BIA regarding CPS and related funding issues	<i>ICW Committee ICWA Consultant BIA</i>	
Identify implications of either a county or a tribe not signing a 161 Agreement.	<i>ICW Committee DCF OLC</i>	
Include measurable outcomes in 161 Agreements that include timelines and commitment of funds for services.	<i>ICW Committee</i>	
Community Aids for Tribal Social Services	<i>DCF Alternative Funding Workgroup ICW Committee (Committee on Tribal Studies)</i>	
Consider replacing 161 Agreements with Tribal/County or Tribal/State child welfare agreements that are more comprehensive	<i>ICW Committee ICWA Consultant DCF – OLC Bureau of Permanence and Out of Home Care Tribes</i>	

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Priority Number 5: Foster Home Placements and Resources

Issue Statement

Currently, there is some disagreement regarding the authority of tribes under the Indian Child Welfare Act to license foster homes outside of the boundaries of reservations or public trust lands. Our statutes and administrative rules are silent on this issue. There should be official determination of whether this authority exists or does not exist and that determination should be formalized in either statute or administrative rule.

There have also been some concerns related to “**full faith and credit**” not being given by counties and adoption agencies to foster homes licensed by tribal agencies. To a certain extent, this is due to the fact that tribes may, but are not required to; use the Wisconsin foster home licensing administrative rule.

As well, there is disagreement among counties and between some counties and DCF, as to whether relatives may be licensed as foster parents at the discretion of that relative. There is no question that relatives do not need to be licensed to care for a child, but they must be licensed if they wish to receive a foster care payment rather than a Kinship Care payment.

Outcome Objective

DCF will consult with tribes to establish a State Statute or Administrative Rule recognizing “**full faith and credit**” of the tribal licensing process and foster placement costs “on or off/near” the reservation.

Action Steps

Action	By Whom	Notes
Clarify state statutes regarding whether relatives may apply for and be granted a foster home license when a child has been placed with them by court order.	<i>DCF - OLC Bureau of Permanence and Out of Home Care</i>	
Clarify the authority of tribes to license foster homes on or near reservation or public trust lands and determine whether this authority extends to	<i>ICW Committee DCF - OLC ICWA Consultant</i>	

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homes off of the reservation or public trust lands. Define state and federal polices as they related to tribal court orders.	<i>Bureau of Permanence and Out of Home Care BIA</i>	
Include “full faith and credit” language for tribal-licensed foster homes in 161 Agreements and Chs. HFS 56 and 38, Adm. Code.	<i>ICW Committee DCF OLC Bureau of Permanence and Out of Home Care ICWA Consultant</i>	
Investigate new Kinship policies surrounding added requirements for Kinship when the child is court ordered placement and its impact to tribal kinship homes. Tribal Definition/state definition of Kinship	<i>ICW committee ICWA Consultant DCF-OLC Bureau of Permanence and Out of Home Care Alternative Funding workgroup</i>	
DCF eWiSACWIS access is needed to assist tribal agency to perform background checks on prospective tribal foster care candidates	<i>ICW Committee ICWA consultant eWiSACWIS Systems Unit</i>	
Ongoing training for tribal foster care homes	<i>ICW Committee</i>	
Comprehensive Recruitment methods and process will be extended to tribal child welfare agencies.	<i>DCF OS Division of Prevention and Service Integration Bureau of Permanence and Out of Home Care</i>	

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Priority Number 6: Safety of Children in Their Own Homes and in Out-of-Home Care

Issue Statement

DCF has, in recent years, developed policies and provided technical assistance and consultation to county agencies on the concepts involved with the safety of children, including in-home family-managed safety plans, in-home agency-managed safety plans, and out-of-home care. Similar efforts should be undertaken to assure that tribal child welfare agencies are aware of these safety concepts and practices.

Agencies providing services to Indian children must be aware of the higher standard of “active” efforts to prevent unwarranted removal of Indian children from their homes and the court-ordered plan for reunification of children with their families, including the appropriateness of reunification conditions. This concept must be considered when establishing, implementing, and evaluating both family-managed and agency-managed in-home safety plans and both prior to and after any placement of the child in court-ordered Kinship Care or other type of out-of-home care.

Outcome Objective

Tribes and Counties will enter into collaborative planning, implementation, and evaluation of measurable services related to the safety plans for Indian children in their own homes, in court-ordered Kinship Care, and in out-of-home care. (Define how active efforts pertain to state safety and ongoing service standards.)

Action Steps

Action	By Whom	Notes
DCF, counties, and tribes should confer on the development, implementation, and evaluation of all types of safety plans, including plans for reunification.	<i>ICW Committee DCF Selected County Agencies Bureau of Safety and Wellbeing</i>	
County agencies must provide the earliest possible notification to tribes when a referral on an Indian child is received, when a case is opened, and at other required steps in the case process.	<i>DCF Area Administrators ICW Committee ICWA Consultant DCF – Legislative Liaison</i>	
Tribal child welfare staff should attend safety training (including content and use of tools to determine safety) designed specifically for ICW	<i>ICW Committee ICW Training Partnership Child Welfare Training Partnership</i>	

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staff.	<i>Bureau of Safety and Wellbeing</i>	
State Prevention funds will be allocated to tribal child welfare agencies	<i>DCF Division of Prevention and Service Integration</i>	

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Priority Number 7: Title IV-E Funding for Tribes

Issue Statement

In October 2008 the Fostering Connections Bill was enacted to extend the ability for tribal governments to enter into a direct Title IV – E agreement with the Administration for Children and Families. Wisconsin’s Department of Children and Families in conjunction with tribal ICW Directors, tribal social services directors and tribal attorneys created language for a tribal state Title IV – E agreement. The tribes and DCF continue the efforts to develop an active tribal state agreement for Title IV –E reimbursement costs for maintenance, administrative costs for out of home care.

Outcome Objective

DCF and tribal designated representatives will continue to develop a collaborative agreement that allows tribes to contract directly with the State Of Wisconsin for Federal Fiscal Year 2009 Title IV-E funds that may include:

1. Maintenance Costs
2. Training Costs for Child Welfare Staff and Foster Parents,
3. Administrative Costs

Action Steps

Action	By Whom	Notes
Research the implication for Tribes to enter direct federal agreement vs. entering into a tribal-state Title IV-E Agreement. Analyze impact of federal IVE requirements on tribal child welfare programs.	<i>DCF – Division of Safety and Permanence Alternative Funding workgroup ICW Committee</i>	
Consider federal laws that may be included in tribal-state Title IV E agreement.	<i>ICWA Consultant</i>	
DCF will provide technical assistance to tribes for IVE Agreements	<i>DSP IVE Coordinator DCF Finance Bureau</i>	

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Priority Number 8: Institute a child welfare communication model within DCF structure

Issue Statement: Executive Order #39 stipulates Wisconsin's Departments to develop and create consultation policy with the eleven tribal governments where the policies confirm a government to government relationship. As DCF strengthens its relationship and partnership with tribal governments and tribal social service/child welfare agencies, communication structures must be expanded and created to accommodate the increased exchange of policies, services and agreements between the sovereigns and entities. Open communication between the entities is critical to successful and meaningful outcomes that benefit Indian children and families.

Objective: By the end of 2009, DCF and the tribal sovereigns through existing tribal committees will develop a communication model to maintain a government to government relationship in the arena of tribal child welfare and social services.

Action	By Whom	Notes
Define relations between Tribal governmental entities and DCF	<i>Alternative Funding workgroup DCF – SO DCF (OLC, ICWA Cons) DCF Division Administrators</i>	
Institute structural entity within DCF Organization authorized to respond to tribal, state, federal policies.	<i>Alternative Funding Workgroup ICW Committee Consultation Priority DCF SO and Staff DCF Division Administrators</i>	
Create a communication and decision making model <ul style="list-style-type: none"> • Any proposals by DCS be forwarded to Tribes or ICWA Director to see how it affects Tribes include Department policies • Complete tribal positions within the DCF • New positions will report to tribal governing body on a quarterly basis 	<i>Alternative Funding Workgroup ICW Committee Consultation Priority</i>	
Federal laws impacting tribal child and family services on and off reservations. Provide analysis of federal laws to tribes	<i>ICWA Consultant DCF Legislative Liaison</i>	

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Action	By Whom	Notes
Seek state and federal child welfare funds available to tribal agencies.	<i>DCF OS Tribal Staff ICWA Consultant Division of Prevention and Service Integration</i>	
Develop of Bureau of Native American Children and Families •	<i>ICW Committee DCF</i>	Located within the Office of Secretary Section "Tribal Affairs." Specific Division of Safety and Permanence, Bureau of Native American Children and Families

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