

# Chapter 110-110 WAC

## INDIAN CHILD WELFARE SERVICE

(Formerly chapter 388-70 WAC)

### WAC

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**WAC 110-110-0010 Foster care planning for Indian children—Definitions.** For the purposes of WACs 388-70-091, 388-70-092, 388-70-093, 388-70-095, 388-70-450, and 388-70-600 through 388-70-640, the term "Indian child" is defined as any unmarried and unemancipated Indian person who is under age eighteen and is one of the following:

- (1) A member of an Indian tribe; or
- (2) Is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

[WSR 18-14-078, recodified as § 110-110-0010, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-091, filed 6/22/16, effective 7/23/16; Order 1167, § 388-70-091, filed 10/27/76.]

**WAC 110-110-0020 Foster care for Indian children—Tribal sovereignty.** The licensing of Indian foster homes and placement and supervision of Indian children within the boundaries of an Indian reservation must not in any way abridge the sovereignty of an Indian nation or tribe. Compliance with these rules and regulations does not relinquish the sovereign authority of an Indian nation or tribe or the state of Washington.

[WSR 18-14-078, recodified as § 110-110-0020, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-092, filed 6/22/16, effective 7/23/16; Order 1167, § 388-70-092, filed 10/27/76.]

**WAC 110-110-0030 Foster care for Indian children—Services.** Documented efforts must be made to avoid separating the Indian child from his or her parents, relatives, tribe or cultural heritage. Consequently:

- (1) When a family identifies Indian ancestry under the federal and state Indian child welfare acts, the children's administration (CA) caseworker has fifteen calendar days, or ten business days, from the date of identification to complete a family ancestry chart and begin the membership inquiry

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process. A copy of the family ancestry chart will be retained in the child's most current case file volume.

(2) CA staff will contact all identified federally recognized tribes in the case of Indian children being placed in foster care by the department or for whom the department has supervisory responsibility.

(3) If requested by a federally recognized tribe, or if a federally recognized tribe is unavailable the local Indian child welfare advisory committees (LICWAC) as defined under WAC 388-70-600 will serve as resource persons for the purposes of cooperative planning and aid in placement.

(4) The resources of the tribal government, the Indian community, and the department must be used to locate the child's parents and relatives to assist in locating possible placement resources, and to assist in the development of a plan to overcome the problem that brought the child to the attention of the authorities, or the department, or both the authorities and the department.

(5) In planning foster care placements for Indian children, CA will follow the federal and state Indian child welfare acts with regard to placement preference. The case record must document the reasons and circumstances of case-work decisions and consideration in those regards.

(6) CA, in partnership with federally recognized tribes and CA contracted agencies, will develop training for staff and caregivers designed to meet the needs of Indian children and their families. CA may also partner with urban Indian organizations, CA LICWACs, national, state and local Indian child welfare organizations, and Native American/Alaskan Native consultants.

(7) The CA must make diligent and ongoing efforts to recruit facilities and/or homes particularly capable of meeting the needs of Indian children.

[WSR 18-14-078, recodified as § 110-110-0030, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-093, filed 6/22/16, effective 7/23/16; Order 1167, § 388-70-093, filed 10/27/76.]

**WAC 110-110-0040 Serious injury, death, abandonment, child abuse, neglect, incarceration of an Indian child.** When an Indian child in the care and custody of the department dies, is seriously injured, abandoned or incarcerated, in addition to other appropriate notifications, the department must notify the federally recognized tribe or tribes within twenty-four hours.

[WSR 18-14-078, recodified as § 110-110-0040, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-095, filed 6/22/16, effective 7/23/16; Order 1255, § 388-70-095, filed 12/1/77; Order 1167, § 388-70-095, filed 10/27/76.]

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**WAC 110-110-0050 Adoptive planning for Indian children by department staff.** (1) In planning adoptive or pre-adoptive placements for Indian children under WAC 388-70-091, CA will follow the federal and state Indian child welfare acts with regard to placement preference.

(2) An adoptive family must be considered Indian if one or both parents is:

(a) A member of a federally recognized tribe; or

(b) An Alaska Native and a member of a Regional Corporation as defined in Title 43 U.S.C. Sec. 1606.

(3) In adoptive planning for Indian children, the unique cultural, religious, and sovereignty of federally recognized tribes and communities must be recognized. The adoption of Indian children by Indian families is the primary goal.

(4) As a part of the total evaluation for approving a foster parent adoption of an Indian child, CA staff will document the foster family's past performance and future commitment in exposing the child to their Indian heritage.

(5) When an Indian child, in the custody of an out-of-state agency, is referred for potential adoptive parents residing in Washington, CA will follow the interstate compact and placement of Indian children policy of Washington state.

(6) When an Indian child, in the care and custody of CA, is referred for adoption out of Washington, CA will follow the interstate compact and placement of Indian children policy of Washington state.

(7) In the event of an international adoption CA will follow policy and ensure that placement preferences are followed per the federal and state Indian child welfare acts.

(8) CA staff may consult with a local Indian child welfare advisory committee in planning for adoptive placement of Indian children when a federally recognized tribe has chosen not to be involved.

[WSR 18-14-078, recodified as § 110-110-0050, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-450, filed 6/22/16, effective 7/23/16; Order 1167, § 388-70-450, filed 10/27/76.]

**WAC 110-110-0060 Local Indian child welfare advisory committee—Purpose.** The intent of WAC 388-70-091, 388-70-092, 388-70-093, 388-70-095, 388-70-450, and 388-70-600 through 388-70-640 are to ensure protection of the Indian identity of Indian children, their rights as Indian children, and the maximum utilization of available Indian resources for Indian children. To ensure the realization of this intent, information about each current and future case involving Indian children for whom the department of social and health services has a responsibility must be referred to a local Indian child welfare advisory committee on an ongoing basis when a federally recognized tribe has not responded, is unavailable, or requests LICWAC involvement according to procedures which recognize the privacy rights of the families.

The purposes of local Indian child welfare advisory committees are:

(1) To promote social service planning for Indian children.

(2) To encourage the preservation of the Indian family, tribe, heritage, and identity of each Indian child served by the department of social and health services.

(3) To assist in obtaining participation by representatives of tribal governments and Indian organizations in department-

tal planning for Indian children for whom the department has a responsibility.

[WSR 18-14-078, recodified as § 110-110-0060, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-600, filed 6/22/16, effective 7/23/16; Order 1167, § 388-70-600, filed 10/27/76.]

**WAC 110-110-0070 Local Indian child welfare advisory committee—Membership.** Local Indian child welfare advisory committees must be established within each region. The number and locations of the local committees must be mutually determined by the Indian tribal governments and urban Indian organizations served by that region and the DSHS regional administrator.

(1) The committee must consist of representatives designated by tribal government and urban Indian organizations. The regional administrator must appoint committee members from among those individuals designated by Indian authorities. These members should be familiar with and knowledgeable about the needs of children in general as well as the particular needs of Indian children residing in the service area.

(2) The committee may also include bureau of Indian affairs staff, Indian health service staff, and other community members.

(3) The CA regional administrator must appoint a member of his or her child welfare staff as a liaison member of the committee.

(4) The local Indian child welfare advisory committee is an ad hoc advisory committee not specifically authorized by statute. As such its members are not entitled to per diem and travel expenses for the performance of advisory committee functions.

[WSR 18-14-078, recodified as § 110-110-0070, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-610, filed 6/22/16, effective 7/23/16; Order 1167, § 388-70-610, filed 10/27/76.]

**WAC 110-110-0080 Local Indian child welfare advisory committee—Functions.** The functions of the local Indian child welfare advisory committee are to:

(1) Assist DSHS staff in cooperative planning for Indian children.

(2) Consult DSHS staff on behalf of Indian children, regarding the provision of the child's safety, well-being, and permanency on behalf of Indian children.

(3) Assist DSHS staff in providing culturally relevant services to Indian children; and

(4) Make requests to the CA administrator to initiate reviews of casework decisions that the committee believes to be detrimental to the best interests of Indian children.

[WSR 18-14-078, recodified as § 110-110-0080, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-620, filed 6/22/16, effective 7/23/16; Order 1167, § 388-70-620, filed 10/27/76.]

**WAC 110-110-0090 Local Indian child welfare advisory committee—Meetings.** Each committee and the CA local Indian child welfare advisory committee staff liaison will mutually agree as to time, place and frequency and conduct of official committee meetings.

[WSR 18-14-078, recodified as § 110-110-0090, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25

U.S.C. chapter 21. WSR 16-13-151, § 388-70-630, filed 6/22/16, effective 7/23/16; Order 1167, § 388-70-630, filed 10/27/76.]

**WAC 110-110-0100 Local Indian child welfare advisory committee—Confidentiality.** The members of the local Indian child welfare advisory committee must agree to abide by RCW 74.04.060 and the rules of confidentiality binding the DSHS staff.

[WSR 18-14-078, recodified as § 110-110-0100, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, chapter 13.38 RCW, and 25 U.S.C. chapter 21. WSR 16-13-151, § 388-70-640, filed 6/22/16, effective 7/23/16. Statutory Authority: RCW 74.15.030. WSR 89-05-063 (Order 2743), § 388-70-640, filed 2/15/89; Order 1167, § 388-70-640, filed 10/27/76.]