

WSR 23-08-084
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed April 5, 2023, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-024.

Title of Rule and Other Identifying Information: WAC 110-110-0010
Foster care planning for Indian children—Definitions. More specifically, the definition of "Indian child."

Hearing Location(s): On May 9, 2023, telephonic. Oral comments may be made by calling 360-972-5385 and leaving a voicemail that includes the comment and an email or a physical address where the department of children, youth, and families (DCYF) will send its response. Comments received through and including May 9, 2023, will be considered.

Date of Intended Adoption: May 12, 2023.

Submit Written Comments to: DCYF rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by May 9, 2023.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-972-5385, email dcyf.rulescoordinator@dcyf.wa.gov, by May 4, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rules are needed for the delivery of child welfare services and, more specifically, for DCYF to better identify when to apply state and federal Indian Child Welfare Acts codified at chapter 13.38 RCW and 25 U.S.C. chapter 21, respectively. This rule making will address issues identified in the court's opinion in Matter of Dependency of Z.J.G., 196 Wn.2d 152, 471 P.3d 853 (2020).

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 74.08.090; chapter 13.38 RCW; and 25 U.S.C. chapter 21.

Statute Being Implemented: RCW 74.08.090; chapter 13.38 RCW; and 25 U.S.C. chapter 21.

Rule is necessary because of state court decision, Matter of Dependency of Z.J.G., 196 Wn.2d 152, 471 P.3d 853 (2020).

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Robert Smith, Olympia, 360-407-1602; Implementation and Enforcement: DCYF, state-wide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

April 5, 2023

Brenda Villarreal
Rules Coordinator

OTS-4324.3

AMENDATORY SECTION (Amending WSR 20-04-019, filed 1/27/20, effective 2/27/20)

WAC 110-110-0010 Foster care planning for Indian children—Definitions. For the purposes of this section through WAC 110-110-0100, the term "Indian child" is defined as any unmarried and unemancipated Indian person who is under age (~~eighteen~~) 18 and is, as determined by the Indian child's tribe or tribes, 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)~~).

[Statutory Authority: 2017 c 6. WSR 20-04-019, § 110-110-0010, filed 1/27/20, effective 2/27/20. 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.]