



Policy: Report and Services Involving Indian Children

ChildNet Number: CN 004.022

Original Approved Date: May 16, 2003

Policy Revised Date(s): December 10, 2009, May 20, 2010, July 9, 2014

Policy Sunset Date:

COA Standard(s): AS 2.04, 9.07, FKC 2.04, 6.04

Statement of Policy:

ChildNet is to meet the needs of Indian children under its supervision in accordance with Federal and State laws in order to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families, to include the placement of these children, when removed from their parents' care, into foster or adoptive homes which is to reflect the unique values of Indian culture.

Board Chair's Signature:

Date:

07-29-14



Procedure: Report and Services Involving Indian Children

ChildNet Number: CN 004.022

Original Approved Date: May 16, 2003

Procedure Revised Date(s): December 10, 2009, May 20, 2010, February 10, 2011, July 9, 2014, April 25, 2018

Procedure Sunset Date:

COA Standard(s): AS 2.04, 9.07, FKC 2.04, 6.04

Definitions (If any):

1. "American Indian or Alaska Native Child" means any unmarried person who is under age eighteen and is either a member of a federally recognized American Indian tribe or who is eligible for membership in a federally recognized Indian tribe and who is the biological child of a member of such an American Indian tribe.
2. "Extended Family Member" in cases involving American Indian children, means those persons established by the tribal law or custom of the American Indian child's tribe to be extended family members, or, in the absence of such law or custom, a person who is at least eighteen years of age and who is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin or stepparent.
3. "Indian Child Welfare Act (25 U.S.C. 1901 et seq.)" Means the act which governs all dependency actions, including status offenses. The act does not apply to divorce custody or delinquency actions.
4. "Indian Custodian" Means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child.
5. "Indian Tribe" Means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary, United States Department of Interior, Bureau of Indian Affairs, because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims settlement Act (85 Stat. 688, 689) as amended [42 USCS § 1602 (c)]
6. "Parent" Means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledge or established.



Statement of Procedure:

This operating procedure describes the special requirements for reports and actions relating to Indian Children as relates to children under all phases of ChildNet supervision, to include protective supervision, foster care and adoptions.

A. Procedures in ICWA Cases

1. From the inception of a child being placed under ChildNet's supervision, Child Advocate/Dependency Case Manager or designee inquire of the parents, and if not available, the relatives, as to any Native American affiliation or heritage for the child(ren). This inquiry is to be made regardless of where a child resides or the child physical appearance. Efforts regarding this inquiry are to be made, at a minimum, at all court proceedings, the case staffings, and supervisory review until this issue of whether a child is of any Native American affiliation or heritage has been resolved and documentation provided to the Court. (This information is obtained from inception of the case by Broward Sheriff's Office (BSO) and if not by BSO, then it is obtained by ChildNet, but it is not asked at all staffings or court proceedings).
- 1) Documentation of any initial information received by the investigator or Child Advocate/Dependency Case Manager regarding possible eligibility will be recorded by completing the CF/FSP 5323 (Verification of Indian Child Welfare Act Eligibility) and entering relevant information in the appropriate screens and in the case notes of Comprehensive Welfare Information System (CCWIS).
2. The CF/FSP 5323 is a tool used to document the results of the initial American Indian ancestry inquiry. The parent history family tree chart is completed to the best of the parent's ability for each birth parent that has indicated American Indian ancestry as this will assist the tribe in identifying the family's possible connections to their tribe.
3. Instructions for completing the CF/FSP 5323 Form:
 - A. Check the case file and Comprehensive Child Welfare Information System (CCWIS) for any previous forms or information regarding American Indian ancestry or ICWA eligibility that may exist. For new children coming into care, or children returning to care, a new eligibility form must be completed if the information is more than twelve months old.
 - B. CF/FSP 5323 is to be completed and signed by each birth parent of each child. The related children may be listed together on the form signed by their birth parent. The CA/DCM should assist the parent in completing the form. Do not allow the parent to take the form home for completion. When unable to locate a birth parent, document efforts to find the absent parent in the case file and CCWIS. Attempts should be made to contact the relatives of the absent parent



if tribal affiliation is alleged. Document the identity and relationship of the “informant” if other than the parent.

- C. If the birth parent responds “no” to the Indian ancestry question, have the parent sign and date the CF/FSP 5323, file in the case record and document the response in CCWIS
 - D. If a birth parent responds “yes” to any known or suspected American Indian or Alaskan native ancestry, a diligent search for the child’s tribe and a subsequent inquiry to determine whether Indian Child Welfare Act protections apply must be completed. Discuss with the family any information that will identify a tribe, or tribes, to which the parent and/or child may have connections, affiliation or membership.
 - E. If the parent or child is already enrolled or a member of a tribe, obtain a copy of the tribal enrollment or membership card, if available, or indicate the enrollment or membership number on the CF/FSP 5323. If proof of enrollment or membership is not available, complete Page 1 of the CF/FSP 5323, record any information that will support and assist the search process, and include any relative who may have helpful information. Be as thorough as possible in completing the Parent History Chart for the birth parent as the tribe(s) will use this information to determine eligibility for enrollment or membership of the child and/or birth parent. The family will likely not have all the information requested but gather as much as possible.
 - F. When the CF/FSP 5323 is complete, provide a copy to the person who will be conducting the diligent search process. Do not alter Page 1 of the original signed form. Copies of the form can be altered as needed in conducting the search. The final altered copy can be added to the case file as supporting documentation. Some tribes require separate copies for each child.
4. The Child Advocate/Dependency Case Manager is to obtain information from the parent(s) or relatives as to the tribe to which the child may belong as well as the demographic information of the parents, grandparents and other relatives who may be of Native American ancestry. This information is provided to ChildNet Legal, who will prepare and send all required correspondence. ChildNet staff should continue to follow up with the tribe until the tribe either accepts jurisdiction or declines to accept jurisdiction. If the tribe determines that the child is eligible to be enrolled and the tribe does not assume jurisdiction of the case, the tribe must continue to receive notice of all hearings and be kept informed of significant changes in the status of the case since the tribe has the right to assert jurisdiction or intervene at any time.
5. Once a child has been identified as being of any Native American affiliation or heritage, the Child Advocate/Dependency Case Manager is to staff with ChildNet Legal for legal review. After legal review, as appropriate, ChildNet Legal is to send



the initial notification to the tribe(s) and/or the Bureau of Indian Affairs. The following three tribes have reservations located in Florida, or near Florida borders, and should be contacted immediately if a child known or believed to be a member of one of these tribes is identified during an investigation or in a case management services case:

- Miccosukee Tribe of Indian of Florida
Dr. John De Gaglia, Director, Social Services Program
Post Office Box 440021
Miami, Florida 33144
Phone: (305) 223-8380 X 2267 Fax: (305) 223-1011
 - Poach Band of Creek Indians
Carolyn White, ICWA Social Worker, Department of Family Services
5811 Jack Springs Road
Atmore, Alabama 36502
Phone: (251)368-9136 X 2602 Fax: (251)368-0828
 - Seminole Tribe of Florida
Family Services Department
Designated Tribal Agent for ICWA
Attention: Helene Buster, Director
Kristi Hill, Family Preservation Administrator
3006 Josie Billie Avenue
Hollywood, Florida 33024
Phone: (305)965-1314 Fax: (954)965-1304
6. Once notification has been sent, any response from the tribe(s) or the Bureau of Indian Affairs is to be provided by ChildNet Legal to the respective Child Advocate/Dependency Case Manager, who is to file a copy of the correspondence with the court. In addition, ChildNet Legal is to provide notification directly to the tribal representative for those tribes with whom there is an established contact and notification process
7. ChildNet has no authority to conduct business on an Indian reservation unless ChildNet has a signed agreement with the tribe, has explicit permission from the tribe, or is accompanied by a tribal official or designee. ChildNet may conduct business in situations in which the Indian child does not live on a reservation. However, immediate contact must be made with tribal officials, if known, or with the Bureau of Indian Affairs, if tribal officials are not known.
8. If the tribe assumes jurisdiction, it must receive all ChildNet file information (except the reporter's name) and the child must be released to the tribe. If a shelter hearing has already been held, the child welfare attorney must schedule an emergency review hearing to transfer jurisdiction to the tribe. The Child Advocate/Dependency Case Manager may be called as a witness in tribal court just as he or she would in



the dependency division of circuit court. Indian children may be entitled to other social services provided by the Department of Children and Families such as economic services or a referral to the child protection team, even though the tribe has jurisdiction.

9. Even if the tribe does not assume jurisdiction, ChildNet and the court are required to attempt placement in an Indian home. Further, in any state court proceeding for the foster care placement of, or termination of parental right to an Indian child, the Indian custodian of the child and the Indian child's tribe is to have a right to intervene at any point in the proceeding.
10. ChildNet will collaborate with the tribe or Indian organization to assess the child's needs and determine the most appropriate plan for the child and to maintain connections between the child and his or her tribe. The standard for approval for out-of-home placement must be Indian community standards, not department licensing standards. Only if all of these options fail can placement be made in a non-Indian home.

B. Voluntary Foster Care

Placements must be explained in court as a judge must determine that the Indian parents understand the nature of their consent. The parents can withdraw their consent at any time and the department must return the child to the parents. If the child remains in voluntary foster care and the circuit court maintains jurisdiction, ChildNet must hold judicial reviews in accordance with state law until the child is released.

C. Remedial Services and Rehabilitative Program

Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under state law is to 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, including community services and culturally appropriate programs and that these efforts have proved unsuccessful. Active efforts include full engagement with the family, the provision of more intensive services, and caseworkers who actively assist the family in accessing necessary services. Resources available through the tribe should be considered during case plan development. When a tribe has been identified for the child, collaborative efforts between the agency and the tribe should be made throughout all aspects of service planning and provision, permanency planning and case closure.

D. Foster Care Placement Orders

No foster care placement may be ordered in such proceedings 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 of



Indian custodian is likely to result in serious emotional or physical damage to the child. Placement preferences are in the following order: 1) relatives, 2) other members of the child's tribe, 3) a tribal foster home, and 4) an institution approved by a tribe or operated by an Indian organization. Other foster care settings may be considered under special circumstances.

E. Permanency

Tribal definitions of permanency must be recognized and incorporated into any permanency plan. Tribal representatives should be involved in this process.

1. Parental Rights Termination Orders. No termination of parental rights may be ordered in such proceedings 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. ICWA includes specific procedural requirements.
2. Adoption. When an Indian child is subject to adoption, the extended family has first priority. Second and third priorities go to the child's tribe and to members of other Indian families, respectively. Tribal order of placement preference is to be, if established by tribe resolution, govern the priority of placement.

President's Signature: _____

Date: _____

05-04-18