



**STATE OF WASHINGTON**  
**DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES**  
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To: Child Welfare Field Operations Staff

From: Tleena Ives, Director of Tribal Relations   
Kwesi Booker, Assistant Secretary for Child Welfare Field Operations 

Subject: Temporary Procedures for ICW Proceedings

On September 3, 2020, the Washington Supreme Court issued a unanimous opinion in *Matter of Dependency of Z.J.G.*, 196 Wn.2d 152, 471 P.3d 853 (2020), addressing when there is a “reason to know” a child is an Indian child and the state and federal Indian Child Welfare Acts apply. After that decision was issued, the Department of Children, Youth, and Families (DCYF) and tribal partners participated in a series of implementation workgroups. The Temporary Procedures below are based on those discussions and provide DCYF staff with immediate practice changes in light of the *Z.J.G.* decision. Although they are temporary in nature, they are effective immediately and until further notice—the policy affects all cases opened on or after September 3, 2020 where a placement was made or might have become necessary or in all cases where a petition (dependency, guardianship, or termination) was filed on or after September 3, 2020. Final permanent changes to DCYF Indian Child Welfare Policies and Procedures will be issued in the Fall of 2021 after a thorough review and revision by a tribal-state workgroup.

### **Reason to Know a Child is an Indian Child**

When a DCYF worker has a “reason to know” the child or youth in a case is or may be an Indian child—which includes instances where there is an indication of tribal heritage—the worker must apply the Washington Indian Child Welfare Act (WICWA), the Indian Child Welfare Act (ICWA) and the relevant [DCYF Indian Child Welfare Policies and Procedures](#) unless or until the court makes a determination on the record, based on tribal responses to inquiry and notice, that the child is not an Indian child.

DCYF workers must ask parents, children, and all other contacts in all new and current cases whether any child or youth, parent or other family member involved in a case has tribal heritage or may be a citizen or member of or eligible for citizenship or membership in a tribe. If any person, Indian Tribe, Indian Organization or Agency indicates that a child or youth has tribal heritage, is or may be a citizen or member of a tribe, or is or may be eligible for citizenship or membership in a tribe, then the DCYF worker has a “reason to know” that the child or youth is or may be an Indian child. An indication that a child or youth has tribal heritage ***does not require identifying a specific tribe***. For example, a family’s report of tribal ancestry—even if the specific tribe is unknown—is an indication that the child has tribal heritage.

If the worker has “reason to know” that they must apply ICWA and its practice standards unless or until the court makes a determination on the record, based on tribal responses to inquiry

and notice, that the child or youth is not an Indian child, or if as described below, the only indication of tribal heritage is a non-federally recognized tribe or a Canadian First Nations. To be clear, while the “reason to know” that a child may be an Indian child can come from multiple sources, as described herein, only tribes can determine citizenship or membership.

An indication that the child or youth has tribal heritage may include, but is not limited to, instances where DCYF staff is informed by any person involved in the case or discovers any information indicating that the child, youth or a member of their family:

- Is or may have tribal affiliation, heritage, ancestry, descendancy, or lineage.
- Is or may have been a ward of a Tribal court.
- Is or may have previously accessed services at a tribal clinic or Indian Health Board clinic.
- Is or may have been domiciled or a resident on or near a tribal community such as a reservation or Alaska Native village.
- Is or may have kinship ties to a household in a tribal community such as a reservation or Alaska Native village.

If an indication that a child or youth has tribal heritage but does not identify a specific tribe the DCYF worker must work with the family and case participants to attempt to determine specific tribal affiliations and follow the DCYF Indian Child Welfare Policies and Procedures for [Intake, Child Protective Services for Indian Children](#) and [Inquiry and Verification Processes](#).

If an indication that a child or youth is affiliated with a Canadian First Nations or a non-federally recognized Tribe and it is the **only** tribal affiliation and there is no report of tribal heritage with an unknown tribe, the DCYF worker must follow DCYF Indian Child Welfare Policies and Procedures for [Casework Services for Children and Families of Non-Federally Recognized Tribes and Canadian First Nations](#).

In all instances where there is a “reason to know” the child or youth is or may be an Indian child, including instances where there is an indication of tribal heritage, the DCYF worker must inform their Assistant Attorney General (AAG) and ensure that the court is informed that there is a “reason to know” the child or youth is or may be an Indian child.

### **Next Steps: Policy Revision Process**

In response to the *In re Z.J.G* decision and the efforts of the *Z.J.G.* workgroups, DCYF will work closely with our tribal partners to review and revise all of the [DCYF ICW Policies and Procedures](#). To accomplish this, DCYF will convene a tribal-state workgroup to provide recommendations to the leadership team. The leadership team will review recommendations for any operational or implementation concerns. Updated draft policies and procedures will then be shared with other stakeholders for review. From there, final updated draft policies and procedures will be returned to the tribal-state workgroup and a leadership team for review and approval followed by a formal Tribal Consultation.

The Office of Tribal Relations will keep you updated regarding the policy revision and development process. Please do not hesitate to reach out to [dcyf.tribalrelations@dcyf.wa.gov](mailto:dcyf.tribalrelations@dcyf.wa.gov) with any questions or to share any policy concerns or changes you would like to see considered in this process.

A Frequently Asked Questions (FAQ) document related to this policy is available here: <https://www.dcyf.wa.gov/tribal-relations/icw>. It will be updated regularly as questions continue to arise.

Thank you for all that you do to ensure that WICWA and ICWA are followed, and that Washington's Native families are supported.