

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY	
	Tool Name: Procedure for Transfer of a Child to a Tribe or Tribal Agency	Effective Date: July 1, 2013
	Reference: 2.A (2.12 – Indian Child Welfare Act (ICWA))	Version: 1

DCS will work with tribal representatives to ensure a complete transfer of jurisdiction and responsibility for the placement and care of a IV-E eligible child to an Indian Tribe. DCS will take all steps necessary to secure the child’s IV-E eligibility, if possible.

PROCEDURE

If a motion to transfer is filed in an Indiana court having jurisdiction over a CHINS action involving an Indian child in the custody of DCS, the Court may issue an order approving or authorizing transfer of jurisdiction over the CHINS case to a Tribal Court. If the Tribal Court accepts jurisdiction, the CHINS case will be transferred to the Tribal Court. The Indiana Court will send a copy of the entire file to the Tribal Court before closing the Indiana CHINS case. If jurisdiction of a CHINS case for a IV-E eligible child is transferred to a Tribal Court, and the tribe is not a Tribal IV-E Agency, the child will lose IV-E eligibility. The child can only remain IV-E eligible if the tribe agrees, in writing or on the record in Court, DCS maintain jurisdiction and place the child with a tribe member. If this occurs, the DCS CHINS case will remain open.

The DCS Local Office Attorney (LOA) and the Family Case Manager (FCM) will work with representatives of a Tribal Agency to ensure that the transfer does not jeopardize the child’s eligibility for Title IV-E and Medicaid (or Indian Health Benefits). At a minimum, DCS will:

1. Establish the child’s eligibility for Title IV-E prior to the formal transfer, if an eligibility determination has not already been completed,
2. Provide the tribe with all essential documents and information used to determine the child’s eligibility for Title IV-E and Medicaid under Title XIX, including, but not limited to:
 - a. The Court’s order that the child’s continuation in the home from which they were removed was contrary to their welfare and that reasonable efforts outlined in 42 USC 471(a)(15) were made at the time the child was removed;
 - b. Documentation of the date the child was removed;
 - c. Any other information used to determine eligibility including information regarding the child’s household and resident’s income at removal, if the child’s IV-E eligibility was based on that income;
 - d. Information and documentation available to the agency regarding the child's eligibility or potential eligibility for other Federal benefits;
 - e. The child’s current Case Plan;
 - f. The child’s health and education records; and

- g. The child's current placement information, including the most recent resource home license or approval.
3. Close the case in the Management Gateway for Indiana's Kids (MaGIK) when the LOA provides the Court's final order of dismissal of the CHINS court case, and
4. Contact the LOA or an International and Cultural Affairs liaison with any questions at InternationalandCulturalAffairs@dcs.IN.gov.

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