

Richard Acevedo, Tribal Relations Manager

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Number: CW-IM-12-015

Issue date: 12/21/12

Topic: Other

Subject: Dual Enrollment

Applies to (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County DD Program Managers |
| <input type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Health Services |
| <input checked="" type="checkbox"/> Children, Adults and Families | <input type="checkbox"/> Other (please specify): |

Message: This IM is intended to clarify the process for identifying an “Indian child’s tribe”, when a child is eligible for membership in more than one tribe but is not yet a member of any single tribe.

The determination of the applicability of the Indian Child Welfare Act (ICWA), and identification of the *Indian child’s tribe* belong with the court. When the child is eligible in more than one tribe, the identification of the *Indian child’s tribe* should be based on a determination of with which tribe the child has had “more significant contacts”. The agency should provide the court with complete and factual information so that the court can make an appropriate determination. It is not the responsibility of the Department to advocate for a particular determination.

Every effort must be made to identify all the tribes in which a child might be eligible for membership. This includes completing a CF 1270, *Verification of ICWA Eligibility* for each biological parent, or close biological relative if the parent is not available. Additionally, the eligibility or membership of siblings and half siblings should be reviewed utilizing the Child Welfare Information System (ORKids).

1. If a child is determined to be a member of a tribe, that tribe should be considered the Indian child’s tribe. If there is a pending membership application in a tribe, that should also be considered the Indian child’s tribe.
2. When membership is neither determined nor pending, multi-lateral decision making should be utilized; involving at a minimum, the parents, the child (when developmentally appropriate), and representatives from the tribes where the child

is eligible.

- a. When the parents have a clear preference for membership in a one of the tribes, the Department should inform the court of the parent's position.
- b. When the parents do not state or are unable to agree on which tribe they want the child to be a member of, the Department should investigate and document the following criteria prior to reporting to the court:
 - i. Length of residence on or near the reservation of each tribe, and frequency of contacts with each tribe;
 - ii. Child's participation in activities of each tribe;
 - iii. Child's fluency in the language of each tribe;
 - iv. Whether there has been a previous adjudication with the respect to the child by any court;
 - v. Residence on or near one of the tribe's reservation (if applicable) by the child or the child's relatives;
 - vi. Tribal membership of custodial parent or Indian custodian;
 - vii. Interest asserted by each tribe in response to the agency's inquiry;
 - viii. The child's self-identification (if appropriate)

If you have any questions about this information, contact:

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