



# WHITE EARTH RESERVATION

**CHAIRMAN** Michael Fairbanks **SECRETARY-TREASURER** Leonard Alan Roy  
**DISTRICT I** Raymond Auginaush, Sr. **DISTRICT II** Kathy Goodwin **DISTRICT III** Eugene "Umsy" Tibbetts

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May 29, 2020

TO: Reservation Business Committee Members  
FROM: Alan Roy, Secretary/Treasurer  
SUBJECT: Secretary/Treasurer Report

White Earth Reservation Business Committee,

A report on the Band's finances is discussed in Section I of this report. Fiscal violations and recommendations can be found in Section II.

If there are any questions or feedback, I can be reached at [alan.roy@whiteearth-nsn.gov](mailto:alan.roy@whiteearth-nsn.gov) or 218-983-3285. The Administration is directed to publish a copy of this report to the website, the Anishinaabeg Today, and at the Administration front desk.

Sincerely,

Alan Roy  
Secretary/Treasurer

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## SECTION I – FINANCIAL REPORT

### Overview

The RBC's finances are reported annually through a Statement of Net Position and Statement of Activities. The most recent available statements are found in the RBC's Audit Report. These statements provide information about the activities of the Band as a whole and present a longer-term view of the Band's finances.

The Statement of Net Position presents information on all of the Band's assets and liabilities and deferred inflows and outflows of resources, with the difference reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Band is improving or deteriorating. The Statement of Activities presents information showing how the Tribe's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., earned vacation leave).

In the Statement of Net Position and the Statement of Activities there are two kinds of activities:

**Governmental Activities** – Most of the Band's governmental activities are reported here, which include general government, health services, education, human services, public safety, conservation of natural resources, transportation, economic development, culture and recreation, and community services. Shared taxes, charges for services, interest on investments, governmental contracts and grants, and transfers from the business-type activities finance most of the governmental activities.

**Business-Type Activities** – The Band's gaming and retail sales are reported here. Fees charged to customers is what primarily finance these activities.

### Fund Financial Statements

The fund financial statements provide detailed information about the most significant funds – not the Tribe as a whole. The RBC establishes funds by resolution to help it control and manage money for a particular purpose, or in order to demonstrate that it is meeting legal responsibilities for using certain grants and other money. The two fund types – governmental and proprietary – use different accounting approaches.

**Governmental Funds** – Most of the Band's basic services are reported in governmental funds. Governmental fund presentation focuses on how money flows into and out of those funds and the balances that are left at year-end and are available for spending. These funds are reported using an accounting method called modified accrual accounting, which measures cash and all other financial assets that can readily be converted to cash. Governmental fund information helps you determine whether there are more or less financial

resources that can be spent in the near future to finance the Tribe's programs. We describe and reconcile the relationship (or differences) between governmental and business-type activities and balances reported in the Statement of Net Position and the Statement of Activities and governmental funds and proprietary funds financial statements.

**Proprietary Funds** - When the Band charges customers for the services it provides - whether to outside customers, members of the Band or to other units of the Band - these services are generally reported in proprietary funds, which are reported the same way that all activities are reported in the Statement of Net Position and the Statement of Activities. In fact, the enterprise funds (a component of proprietary funds) present the same information as the business-type activities reported in the Tribe-wide statements but provide more detail and additional information, such as cash flows. We use internal service funds (the other component of proprietary funds) to report activities that provide supplies or services for the Band's other programs and activities - the cost of the Band's general, medical, and workers compensation insurance - which are then allocated to the various tribal units and funds. The governmental fund financial statements report the Band's operations in more detail, showing how these services were financed in the short term as well as what remains for future spending. Governmental fund financial statements also report the Band's operations in more detail than the Band-wide statement by providing information about the Band's significant funds.

### General Fund

The General Fund includes departments that operate more for the good of the Band members than to make a profit. Departments such as education and public safety are directly involved with the Band members. Other departments are indirectly involved with the Band members but perform functions for the Band's overall good.

As reported through audits, Special Revenue Funds were administered through: General Government, Health Services, Education, Human Services, Public Safety, Conservation of natural resources, Transportation, Economic development, Culture and recreation, Interest, and Public works.

The approved Fiscal Year 2020 RBC General Fund Budget was authorized at the September 2019 Regular Meeting.

### Fiscal Year 2020 – Quarter 2

See April 24, 2020 Secretary/Treasurer Report.

### Special Revenue Funds

The Special Revenue funds are used to account for the activities of various federal, state and other grant programs. This has been reported as *Other Governmental Funds* synonymously. The expenditure of grant funds is legally restricted to specified purposes. Program



expenditures are budgeted on a basis of each respective program's fiscal year, which varies by program, and generally may or may not coincide with the Band's fiscal year.

As reported through audits, Special Revenue Funds were administered through: General Government, Health Services, Education, Human Services, Public Safety, Conservation of natural resources, Transportation, Economic development, Culture and recreation, Interest, and Public works.

### **Behavioral Health Division**

See April 24, 2020 Secretary/Treasurer Report.

### **CARES Act**

#### **COVID Funding Utilization Plan**

The RBC is developing a utilization plan and budget for funds received to address the COVID-19 pandemic. The plan is scheduled for proposal on June 16, 2020 to the RBC by the EOC, and RBC Staff. It will include a budget and list of proposed expenditures to address the COVID-19 pandemic. The plan is being developed in consultation with the Tribal Council, the EOC, and Departments.

#### **COVID Funds Executive Summary**

As of May 5, 2020, funds associated with COVID that White Earth Nation has received equal \$26,618,777.00. Sources of these funds include: NAHASDA relief funding distributions, Tribal Nations Grant, MN Department of Health Covid-19 Response Funding, Tribal C3 CARES ACT Monies, Northwest MN Foundation Emergency Disaster Recovery Fund, West Central Initiative Grants, NW Regional Sustainable Development Partnership, Blandin Foundation COVID-19 Response Grant, U.S. Department of Transportation FTA, OEO Response to COVID-19- Heading Home Alliance, CDC Supporting Tribal Public Health Capacity in COVID Preparedness & Response, CARES Act (multiple areas), and Self Governance.

The CARES Act accounts for \$20,600,00.00 and Self Governance (COVID Related) covers \$2,400,000.00 to assist White Earth Nation.

The use of these funds is restricted for their intended purpose.

#### **Emergency Operations Center (EOC) Summary**

Operationally, the RBC has delegated authority to the EOC to address the COVID-19 pandemic. A summary of their activity has been provided by each section as of May 8, 2020.

#### **Overall Objectives - EOC has been in operation since 3/12/20**

Monitoring COVID-19 Locally, Statewide, and Nationally. Maintain essential function given the current mitigation actions. Providing Resources to our front-line staff

### **Drive Through Triage and Testing**

Plan and protocol for Rapid Antibody Testing completed prior to April 7, 2020.

This mission started on April 7, and as of May 8, 2020 we have completed 107 antibody tests all of which are negative (no antibodies detected). Added Oropharyngeal Swab Testing on May 1, 2020. 6 Oropharyngeal tests completed to date and results back on 5 tests - all undetected.

### **Feed our Families Initiative (FOFI)**

This mission started on March 30, 2020 and 694 boxes of food and an additional 150 boxes were delivered to the Urban community council for delivery. Donations have been received from USDA Foods, Bernatello's Pizza, Mille Lacs (120 hams), Becker County Food Shelf (pasta, sauerkraut, bakery items), Second Harvest Heartland (peas & beans).

### **ENP**

Consolidated at the SSC with 618 meals delivered daily throughout White Earth. ENP staff delivered household items and a mask to each elder who receives a meal.

### **One Call Center**

583 calls received, 232 outgoing calls completed, and 21 emails administered.

### **Energy Assistance**

149 total applications with 124 completed

### **Nursing Screens**

106 employees completed 14-day screen; 18 employees still being screened; 549 calls taken. As of May 8, 2020, 112 Triage Calls conducted.

### **Mental Health**

MH Support Line for Frontline Staff established.

### **For Months of April through the One Call Center**

Incoming: 20 (8) Connected with MH. Provider, (6) Connected with Crisis, Follow up: 11. Connected with Mental Health services through Red Cross to provide additional support. Working to bring back staff to provide support in areas of Domestic Violence & Anger Management.

### **Food Distribution**

915 clients served.

### **Medication Delivery**

Initiative started May 24, 2020 with ongoing service to pick up medications and deliver to those not wanting to go to the clinic.

## **Cultural Medicines**

Delivered: 550 Bags of Tea (Rhubarb Root, Licorice Root, & Prunella Tea, Swamp Tea, and other varieties), 730 Bags of Sage (shells provided upon request), 300 Tobacco Ties/Loose Tobacco, 820 Cedar Bags, 192 Elderberry Elixir. Continue to provide items as requested and put together additional supplies as items become available.

## **Logistics**

- Acquires supplies: medical/PPE, comfort care items, food, transportation, traditional medicines. Works on delivering supplies along with WE Transit/Food Shelf/ ENP. Project Launch.
- Election Board in the RV parking lot received supplies/equipment for a safer work environment.
- Approximately 650 Comfort kits made along with ENP deliveries. Urban delivery of food/toiletry items for approx. 150 were delivered. Urban also will receive testing supplies Frank Jr. was to receive.
- Donated and purchased masks (approx. 625) were delivered with ENP routes the week of 5/4. Cooler planning is in the works for the Chip Factory.
- Assisted in finding equipment to help Casino move gaming floor equipment. 21 boxes of food/comfort care items received from John's Hopkin's in Duluth were donated to dialysis clients.
- Assisted with Community Clean Up members to get supplies for safer clean up environments.
- Fit testing supplies were sourced so fit testing could resume for PD and Dialysis staff. If anyone else needs fit testing, please reach out to the EOC.
- Thank You cards were sent out to people who donated masks/food/supplies etc. Sanitizing units and refills were ordered for the RBC buildings (approx. 100 doors) with Facilities Manager.
- 75 LIFE Bags were prepared and delivered to area LIFE Participates (household/comfort items/diapers/wipes).

## **Planning**

- Leads daily planning meeting and morning briefings. Prepares the Incident Action Plans, Situation Reports, meeting minutes for morning briefings and cooperators meetings, as well as minutes for any other meeting upon request. Gather data and draft guidelines for specific events (Community Cleanup Day, Fishing Opener, outdoor gatherings etc.).
- Formulated guidance to Parks and Rec department.
- Compiled guidance for homelessness.
- Compiled charts based on local testing.
- Coordinated fatalities management guidelines with local funeral home.
- Assisted Food Sovereignty in initializing Garden tilling program.
- Research, Plans, Contingency Plans.
- Manage COVID-19 Requests - 129 requests to date.

- Collect and file ICS 214 reports.
- Manage Security Badges for EOC staff.
- GIS to assist several initiatives:
  - Weekly delivery maps for elder Feed our Family typically 15-25 locations
  - Provide recommendations on ENP delivery routes, changing from day to day. Time cut down on deliveries to the White Earth Area by 2 hours alone. 335 delivery locations daily.

### **Liaison**

- Working with our community councils. We have cooperator meetings 2 times a week, fill requests for supplies when possible.
- Working with Red Cross, area Fire Departments, City and County Governments.
- Coordinated the delivery of supplies and food for 150 families in the Urban area.
- Coordinates EOC up the Zoom meetings

### **Finance**

- Tracks expenses, works with our grant writers to determine if certain expenses fit within the grant guidelines.
- Working with finance to get correct fund numbers.
- Preparing Budgets for Programs that are happening out of the EOC

### **Public Information**

- Manages overall media relations and prepares and coordinates time-sensitive press releases.
- Prepares the Chairman's update.
- Oversees, reviews, curates, records, edits and posts timely videos and original content for release on whiteearth.com and all White Earth social media outlets.
- Meets and coordinates weekly with SSC Marketing on shared marketing efforts such as media analysis and collateral creation for COVID related programs.

# EOC Budget

WHITE EARTH RESERVATION					
Statement of Operations - Posted Transactions Only					
Summary					
		033100	GENERAL FUND		
		2020-05-01	2019-10-01	2019-10-01	
		2020-05-31	2020-05-31	2020-09-30	
		Current Period	Current Year		
		Actual	Actual	Total Budget	Total Budget Variance
<b>Revenues</b>					
Other/Misc Revenue					
43006	OTHER MISC LOCAL REVENUE	500.00	4,500.00	0.00	(4,500.00)
<b>Total Other/Misc Revenue</b>		<b>500.00</b>	<b>4,500.00</b>	<b>0.00</b>	<b>(4,500.00)</b>
<b>Total Revenues</b>		<b>500.00</b>	<b>4,500.00</b>	<b>0.00</b>	<b>(4,500.00)</b>
<b>Expenses</b>					
Salaries & Wages					
51006	OTHER PROFESSIONAL SALARY		2,316.09		(2,316.09)
<b>Total Salaries &amp; Wages</b>		<b>0.00</b>	<b>2,316.09</b>	<b>0.00</b>	<b>(2,316.09)</b>
Employee Benefits					
51200	FICA		176.71		(176.71)
51205	WORKMENS COMPENSATION		8.85		(8.85)
51206	STD LTD & LIFE INSURANCE		5.82		(5.82)
51207	STATE UNEMPLOYMENT INSURANCE		8.20		(8.20)
<b>Total Employee Benefits</b>		<b>0.00</b>	<b>199.58</b>	<b>0.00</b>	<b>(199.58)</b>
Purchased Services					
52010	CONSULTANT SERVICES	7,410.00	26,242.16	100,000.00	73,757.84
52040	PROFESSIONAL SERVICES			200,000.00	200,000.00
52200	RENTAL OR LEASE OF EQUIPM	27,397.26	27,397.26		(27,397.26)
52201	RENTAL OR LEASE OF BUILD		7,302.50		(7,302.50)
52301	MILEAGE		428.95		(428.95)
54006	OTHER PURCHASED SERVICES	49,310.21	71,508.29		(71,508.29)
<b>Total Purchased Services</b>		<b>84,117.47</b>	<b>132,879.16</b>	<b>300,000.00</b>	<b>167,120.84</b>
Supplies & Materials					
55000	GENERAL SUPPLIES	12,109.38	37,569.32		(37,569.32)
55102	OFFICE SUPPLIES		910.84		(910.84)
55104	MEDICAL SUPPLIES	530.78	4,764.23		(4,764.23)
55400	EQUIPMENT <5000		0.00		0.00
55500	FOOD SUPPLIES - GENERAL	34,957.11	194,324.29	300,000.00	105,675.71
55502	FOOD SERVICE - NON FOOD SUPPLY		0.00		0.00
<b>Total Supplies &amp; Materials</b>		<b>47,597.27</b>	<b>237,568.68</b>	<b>300,000.00</b>	<b>62,431.32</b>
Other Expenses					
58700	INDIRECT COST	10,721.74	18,287.63		(18,287.63)
59000	ASSISTANCE TO INDIVIDUALS	7,854.58	27,374.03	200,000.00	172,625.97
59018	BUDGETED EMERGENCY RESERVE		0.00	70,000.00	70,000.00
59019	GIFTS DONATIONS OR COUPONS	22,042.32	81,127.78	100,000.00	18,872.22
59025	DONATIONS USED (NON-RBC)			30,000.00	30,000.00
<b>Total Other Expenses</b>		<b>40,618.64</b>	<b>126,789.44</b>	<b>400,000.00</b>	<b>273,210.56</b>
<b>Total Expenses</b>		<b>172,333.38</b>	<b>499,752.95</b>	<b>1,000,000.00</b>	<b>500,247.05</b>
<b>Total Revenue over Expenses</b>		<b>(171,833.38)</b>	<b>(495,252.95)</b>	<b>(1,000,000.00)</b>	<b>(504,747.05)</b>

## Gaming

See April 24, 2020 Secretary/Treasurer Report.

## Financial Inquiries and Other Information

Indian Child Welfare (ICW) Policies and Audit Executive Summary

Page 1 of 1  
WERTC Resolution  
Child/Family Protection Code Approval

WHITE EARTH RESERVATION TRIBAL COUNCIL  
A/K/A WHITE-EARTH BUSINESS COMMITTEE  
WHITE EARTH BAND OF CHIPPEWA INDIANS

Resolution No. 019-17-001

- WHEREAS,** the White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Reservation pursuant to Article IV, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and
- WHEREAS,** the White Earth Reservation Tribal Council, also known as the White Earth Reservation Business Committee, is the duly authorized governing body of the White Earth Band, and
- WHEREAS,** the White Earth Reservation Tribal Council has previously determined that a new White Earth Child and Family Protection Code should be drafted, which such Code governing the rules, procedures and practices of child protection, child welfare, and judicial proceedings affecting these areas within the White Earth Tribal system, and
- WHEREAS,** a working group has developed and drafted a proposed revision of the White Earth Child and Family Protection Code, and such Code has been presented to the general public of the White Earth Band for a thirty (30) day comment period in accordance with Resolution No. 011-16-017A, and
- WHEREAS,** the comment period has expired and the working group has finalized the White Earth Child and Family Protection Code, and recommends the White Earth Reservation Tribal Council also adopt the same, to be effective March 1, 2017, now

**THEREFORE BE IT RESOLVED,** that the White Earth Reservation Tribal Council hereby adopts the White Earth Child and Family Protection Code as presented in the attached format, effective March 1, 2017.

We do hereby certify that the foregoing resolution was adopted by a vote of 3 for, 0 against, 0 silent, a quorum being present at a special meeting of the White Earth Reservation Tribal Council held on November 28, 2016 in White Earth, Minnesota.

Steve Clark vice Chair  
Torrence 'Terry' Tibbetts, Chairman

Tara Mason  
Tara Mason, Secretary/Treasurer

**WHITE EARTH BAND OF OJIBWE  
TITLE IV  
CHILD/FAMILY PROTECTION CODE**

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## CHAPTER ONE—GENERAL PROVISIONS

### § 1.01 Short Title

This Code shall be entitled "The Child/Family Protection Code."

### § 1.02 Declaration of Policy

1. It is the fundamental belief of the White Earth Band of Ojibwe that its children are the sacred responsibility of the Tribe.
2. The principles that shall guide decisions pursuant to this Code are:
  - a. Protection of the child's safety, well-being, and welfare;
  - b. Preservation of the child's identity as a tribal member and member of an extended family and clan; and
  - c. Preservation of the culture, religion, language, values, clan system, and relationship of the Tribe.

### § 1.03 Purposes of Code

The purposes of this Code are:

1. To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, cultural, and physical development; to ensure secure and safe custody for children; to promote the health and well-being of all children under the Tribe's care; and to prevent the occurrence of child abuse, abandonment, and neglect.
2. To provide a continuum of services for children and their families from prevention to residential treatment, with emphasis on prevention, early intervention, and community-based alternatives to encourage parents to act with *zoongide'win*, to acknowledge their personal weaknesses and develop the strength to combat them for the welfare of their children.
3. To exercise the White Earth Band of Ojibwe's sovereign right to govern over its people and the land on which it resides; in particular the Tribe's most vital resource, its children, through:
  - a. The efficient collaboration of both tribal and state resources in a manner that provides for the timely and effective handling of those cases involving the Tribe's children;

- b. The facilitation of inter-governmental relationships with other jurisdictions aimed at protecting Ojibwe children and families both on and off the Reservation; and
  - c. Ensuring that off-reservation courts will be willing to return tribal children to the Reservation.
4. To promote the belief that the Tribe's children deserve a sense of *manaaji'idwin*, respect, *zaagi'idwin*, love, permanency, and belonging throughout their lives and are entitled to knowledge about their unique cultural heritage, tribal customs, history, language, religion, and values.
  5. To provide for the best interests of the Tribe, tribal communities, tribal families, and tribal children.

#### § 1.64 Responsibilities of Tribal Departments

1. All Tribal Departments are mandated to aid in the execution of this Code to its fullest by showing *nibwakaawin*, an abundance of wisdom, regarding the particularities of this Code so it can be effectively communicated to all families involved in proceedings under this Code.
2. Aiding in the execution of this Code shall include providing any requested information or assistance as outlined in this Code to ensure Tribal children are raised in communities showing *manaaji'idwin*, respect, and *zaagi'idwin*, love, towards the children.

#### § 1.65 Definitions

1. **Abandon, Abandoned, Abandonment**—A situation in which the parent or legal custodian of a child, while being able, makes no provision for the child's support and has failed to establish or maintain a substantial and positive relationship with the child.
  - a. A substantial and positive relationship should include frequent and regular contact with the child through frequent and regular visitation or communication and the exercise of parental rights and responsibilities.
  - b. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.
  - c. The incarceration of a parent, legal custodian, or caregiver may support a finding of abandonment. The service of a parent, legal custodian, or caregiver in the U.S. Armed Forces will not support a finding of abandonment. Custody with extended family members or a voluntary consent to placement does not constitute abandonment.
  - d. Failure to maintain a substantial and positive parental relationship with the child, without just cause, for six months shall constitute prima facie evidence of abandonment.

2. **Abuse**—Any willful or threatened act that results in any physical, mental, or sexual injury or harm that is likely to cause the child's physical, mental, or emotional health to be significantly impaired.
  - a. Abuse of a child includes acts or omissions and failing to maintain reasonable care and treatment.
  - b. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.
  - c. Ojibwe customary discipline of a child by a parent or customarily appropriate person does not in itself constitute abuse when it does not result in harm.
3. **Active Efforts of a Tribal Social Services Department**—Active efforts made by any tribal social services department to provide social services or reunification services to any party participating in a case plan with the department.
4. **Adoptee**—The individual, child, or adult who is adopted or who is to be adopted.
5. **Adoption**—The creation of a legal relationship between parent and child where it did not exist biologically. Adoption declares the child to be legally the child of the adoptive parents and allows the child be entitled to all the rights, privileges, and obligations of a biological child.
6. **Adoptive Parent**—The person establishing or seeking to establish a permanent parent-child relationship with a child or adult who is not their biological child.
7. **Adult**—A person eighteen years of age or older or otherwise emancipated by order of a court of competent jurisdiction.
8. **Alleged Juvenile Sexual Offender**—A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse.
9. **Appellate Court**—The Appellate Court shall mean the White Earth Band of Ojibwe Appellate Court.
10. **Arbitration**—A process whereby a neutral third person or panel considers the facts and arguments presented by the parties and renders a decisions that may be binding or nonbinding.
11. **Assessment**—The gathering of information for the evaluation of a child's or adult's physical, psychiatric, psychological, or mental health, education, vocational, and social condition and family environment as it relates to the child's and adult's need for rehabilitation and treatment services.
12. **Authorized Agent, Authorized Designee**—An employee, volunteer, or other person or agency that is assigned or designated by the White Earth Band of Ojibwe to perform duties or exercise powers under this Code.
13. **Band**—The White Earth Band of Ojibwe.
14. **Best Interests of the Child**—A compilation of a variety of factors including, but not limited to:
  - a. the ability of the tribe and the reservation community to provide for the care of the child;
  - b. the wishes of the parents, parties, or tribe;
  - c. the preference of the child, if the child is of sufficient age to express a preference;
  - d. the intimacy of the relationship between the child and the parties;
  - e. the child's adjustment to home, school, and tribal community;

- f. the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
  - g. the permanence of the existing or proposed adoptive home as a family unit;
  - h. the mental and physical health of all individuals involved; and
  - i. the capacity and disposition of the parties to give the child love, affection, guidance, and to continue educating the child in the child's tribal culture and heritage.
15. **Best Interests of the Tribe**—A compilation of a variety of factors including, but not limited to:
- a. the ability of the tribe and its members to provide for the continuation of the tribe's culture, language, history, religion, traditions, and values through its children;
  - b. the hindrance of the ability of the tribe to continue as a viable cultural entity after the loss of its children; and
  - c. the tribal view that every child is a gift from the Creator and is crucial to the future of the tribe as a whole.
16. **Birth Parent**—The biological parent of a child.
17. **Caregiver**—The parent, legal custodian, permanent guardian, adult household member, or other person responsible for the child's welfare.
18. **Case Plan**—The document, as detailed in Chapter 7, prepared by the Gijzhawaaso (Indian Child Welfare) Department. The case plan follows the child from the provision of services through any protection, services, foster care, suspension or termination of parental rights, adoption proceedings, or related activities.
19. **Child**—A person who is less than eighteen years old and has not been emancipated by order of a court of competent jurisdiction.
20. **Child in Need of Protection And/ Or Services**—A child that the court has determined has been abandoned, abused, neglected, harmed, or has not received the needed services, or parenting necessary for the wellbeing and rearing of the child.
21. **CHIPS Petition**—A petition pertaining to a child in need of protection and/ or services, or any proceeding relating to the process of identifying or adjudicating a child in need of protection and/ or services.
22. **Child-on-Child Sexual Abuse**—Any sexual behavior that occurs without consent, without equality, or as a result of coercion, between two children.
23. **Child Protection Team**—A team established to involve and coordinate the child protection services of various agencies as set forth in Chapter 1, Section 1.12 of this Code.
24. **Child Protection Worker**—The child protection worker, social services work, law enforcement personnel, or any other person who performs the duties and responsibilities set forth in Chapter 1, Section 1.11 of this Code.
25. **Child Support**—A court ordered obligation for monetary support for the care, maintenance, training, and education of a child.
26. **Closed Adoption**—An adoption that is intended to sever all ties between the child and his or her biological family.
27. **Coercion**—The exploitation of authority or the use of bribes, threats of force, or intimidation to gain cooperation or compliance.
28. **Consent**—An agreement between two parties, including:



- a. understanding what is proposed based on age, maturity, developmental level, functioning, and experience;
  - b. knowledge of societal standards for what is being proposed; awareness of potential consequences and alternatives;
  - c. assumption that agreement or disagreement will be accepted equally;
  - d. a voluntary decision; and
  - e. mental competence.
29. **Court Administrator**—The Office of the Court Administrator, created pursuant to Chapter IV of the White Earth Band of Ojibwe Judicial Code, or any successor judicial administrator created by a future tribal judicial code.
  30. **Court, Children's Court**—The Children's Court of the White Earth Band of Ojibwe.
  31. **Custodian**—A person, other than a parent or guardian, to whom legal custody of a child has been given.
  32. **Customary Adoption**—A traditional tribal practice recognized by the community and the Tribe that gives a child a permanent parent-child relationship with someone other than the child's birth parents.
  33. **Customary Adoption Worker**—A staff person of the *Gishwasee* (Indian Child Welfare) Department whose job duties include carrying out customary adoptions in accordance with Chapter 11 of this Code.
  34. **Danger to Oneself**—As evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 72-hour period the child may attempt to commit suicide or inflict serious bodily harm on himself or herself.
  35. **Danger to Others**—As evidenced by violent or threatening activity, it is more likely than not that within a 72-hour period the child may inflict serious and unjustified bodily harm on another person.
  36. **Diligent Search**—The efforts of a tribal social services department or other party to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the existence of the parent is known, with the search progress reported at each Court hearing until the parent is either identified and located or the Court excuses further search.
  37. **Domicile**—A person's permanent home, legal home, or main residence. The domicile of a child is generally that of the custodial parent or guardian. Domicile includes the intent to establish a permanent home or the location the parent or guardian considers their permanent home.
  38. **Egregious harm**—the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care.
  39. **Emergency**—A situation when any individual has been injured or who is suffering from an acute illness, disease, or condition and it has been confirmed to a reasonable degree of certainty that a delay in the initiation or provision of emergency medical care or treatment would endanger the health or physical well-being of the individual.
  40. **Equality**—Two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.
  41. **Extended Family**—A group of individuals that care about a child, defined according to the tribal customs and traditions of the child's tribe.
  42. **Facility Investigation**—Situations of known or suspected child abuse, abandonment, or neglect in which the person allegedly perpetrating the child abuse, abandonment, or



neglect is an employee of a public or private school, public or private day care center, residential home, or child care institution, facility, or agency. The facilities must be located within the exterior boundaries of the White Earth Reservation, or licensed by the White Earth Band of Ojibwe.

43. **False Report**—Any report of abuse, abandonment, or neglect of a child that is maliciously made for the purpose of:
  - a. harassing, embarrassing, or harming another person;
  - b. personal financial gain for the reporter;
  - c. acquiring custody of a child; or
  - d. personal benefit for the reporting person in any other private dispute involving a child.
44. **Family Member**—A person related by blood or marriage who maintains some form of significant contact with a child. The term includes spouses, parents, children, siblings, aunts, uncles, grandparents, grandchildren, cousins, significant others, and any other persons who might be considered a family member under tribal law or custom.
45. **Forensic Interview**—A structured investigative conversation with a child intended to illicit detailed information about possible events the child may have experienced or witnessed. The purpose of a forensic interview is to illicit information from a child that may be help in a criminal or child protection investigation.
46. **Foster Care**—Care provided to a child in a foster family, child care institution, or any combination of similar institutions.
47. **Foster Care Program**—A program approved by the White Earth Reservation Tribal Council or their delegate to inspect and license foster homes under Chapter 5, Section 5.06 of this Code.
48. **Foster Home**—A home that has been licensed under Chapter 5, Section 5.06 of this Code.
49. **Gezhaanaajig Nejanisug (Gā zha na zhig Nā zha ni sug)** (Those who guard Children)—A person appointed by the Court to represent the child's best interests before the Court. Known as a "Guardian Ad Litem" in a non-indigenous setting.
50. **Gīzhawaaso (Indian Child Welfare) Department**—The tribal social services agency of the tribal government charged with ensuring the protection of Indian children in accordance with the Indian Child Welfare Act and this Code.
51. **Guardian**—A person assigned by a court of law, other than a parent, having the duty and authority to provide care and control of a child.
52. **Guardian Ad Litem**—See 49, Above.
53. **Guardian of Property**—A person appointed by the Court to manage the property of a child or incompetent person.
54. **Harm**—Harm to a child's health or welfare occurs when any person inflicts, or allows to be inflicted, upon the child a physical, mental or emotional injury. Harm may include, but is not limited to:
  - a. willful acts of physical, mental, or emotional injury;
  - b. leaving a child without appropriate supervision for his or her age and ability;
  - c. inappropriate or excessively harsh disciplinary action;
  - d. sexual assault, battery, or exploitation;
  - e. abandonment;
  - f. neglect;

- g. exposure to a controlled substance or alcohol, before or after birth;
  - h. restraint or isolation; or
  - i. withholding appropriate care, services, or treatments.
55. **Incompetent**—A person who is for any cause mentally incompetent and unable to take care of themselves and manage their property.
  56. **Indian**—Any person who is a member of, or who is eligible to become a member of, a federally recognized Indian tribe, band, or community. An Indian may also include any person considered by their community to be Indian.
  57. **Indian Custodian**—A person who has raised an Indian child under tribal law or custom.
  58. **Indian Tribe**—A federally recognized Indian tribe, band, or community.
  59. **Judge**—The Children's Court judge exercising jurisdiction pursuant to this Code.
  60. **Juvenile Counselor**—The juvenile counselor or juvenile probation officer or other appropriately titled person who performs the duties and responsibilities set forth in Chapter 1, Section 1.10(2) of this Code.
  61. **Juvenile Offender**—A child who commits a juvenile offense prior to his or her eighteenth birthday.
  62. **Juvenile Offense**—A criminal violation of the Tribal Code of the White Earth Nation that is committed by a person who is under the age of eighteen at the time the offense was committed.
  63. **Juvenile Sexual Abuse**—Any sexual behavior that occurs without consent, without equality, or as a result of coercion, between two children.
  64. **Legal Custody**—A legal status created by a court that vests in a custodian of the person or guardian the right to have physical custody of the child, the right and duty to protect, nurture, guide, and discipline the child, and the duty to provide the child with food, shelter, education, and ordinary medical care.
  65. **Maltreatment**—Any non-accidental act or series of acts of commission or omission by a parent or other caregiver that results in harm, potential for harm, or threat of harm to a child. Maltreatment of a child includes, but is not limited to, physical, sexual and psychological abuse, and emotional, medical, or educational neglect.
  66. **Mental Injury**—An injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability to function within the normal range of performance and behavior.
  67. **Necessary Medical Treatment**—Care that is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.
  68. **Neglect**—A situation in which a child is deprived, via acts or omissions, of necessary food, clothing, shelter, or medical treatment or the child's living environment causes the child's physical, mental, or emotional health to be significantly impaired. A neglectful situation cause primarily by financial inability will not be considered neglect, unless actual services for relief have been offered and rejected.
  69. **Open Adoption**—An adoption that is not intended to permanently deprive the child of connections to his or her biological family.
  70. **Out-of-Home**—A placement of a child outside of the child's domicile or the home of either of the child's parents.
  71. **Parent**—A biological or adoptive parent of a child, but not an individual whose parental rights have been suspended or terminated.

72. **Participant**—Any person who is not a party to a proceeding under this Code, but who should receive notice of hearings involving the child. Participants may be granted leave by the Court to be heard without the necessity of filing a motion to intervene.
73. **Permanency Goal**—The living arrangement identified for the child as the permanent living arrangement of the child. Permanency goals, in order of preference, are:
- reunification;
  - permanent placement with a relative;
  - permanent placement with a White Earth Tribal Member;
  - customary adoption;
  - placement in another planned and permanent living arrangement; and
  - adoption.
74. **Permanency Plan**—The plan that establishes the placement intended to serve as the child's permanent home.
75. **Permanent Guardian**—A legal relationship that a court creates between a child and a relative or other adult approved by the court that is intended to be permanent, relating to the protection, education, care, custody, and control of the child, as set forth under Chapter 13, Section 13.03 of this Code. (See definition of Legal Custody and Chapter 13, Section 13.03 of this Code.)
76. **Physical Injury**—Impairment of any body part, temporary or permanent disfigurement of any body part, or physical harm that is contrary to child rearing practices in the community, or death.
77. **Physician**—Any licensed physician, dentist, or optometrist, including any intern or resident.
78. **Post Adoptive Contact Agreement**—An agreement approved by the Court and entered into between the biological parent(s) and the adoptive parent(s) of the adoptee(s) in an open adoption proceeding to establish the parameters and method for continued contact between the biological parent(s) and the adoptee(s). In determining whether to approve a Post Adoptive Contact Agreement, the Court may consider the following factors: the nature of the relationship between the adoptee and his or her biological family; any pre-existing relationship, if applicable, between the adoptee's immediate family and the adoptive parents; maintaining a connection between the adoptee and the adoptee's tribal community; and any other factor the Court finds relevant and persuasive.
79. **Preadoptive Parent**—A person considering taking on the responsibilities of an adoptive parent, as detailed in Chapter 1, Section 1.05(6), for a child involved in a proceeding under this Code.
80. **Preventive Services**—Social services and other supportive and rehabilitative services provided to the parent or legal custodian of the child and to the child for the purpose of averting the removal of the child from the home. Social services and other supportive and rehabilitative services shall promote the child's need for:
- physical, mental, and emotional health;
  - a safe and stable living environment;
  - family autonomy; and
  - a strengthened family life.
81. **Prospective Parent**—Any person who claims to be, or has been identified as, a person who may be a mother or a father of a child.

82. **Protective Assessment**—The acceptance of a report alleging child abuse, abandonment, or neglect; the investigation of each report; the determination of whether action by the Court is warranted; the determination of the disposition of each report without Court or public agency action when appropriate; and the referral of a child to another public or private agency when appropriate.
83. **Protective Supervision**—A legal status in a CHIPS case that permits the child to remain safely in his or her own home or other placement while being under the direct supervision of the Giizhawaaso (Indian Child Welfare) Department.
84. **Reservation**—The White Earth Reservation located in northern Minnesota.
85. **Reunification Services**—Social services and other supportive and rehabilitative services provided to the parent of the child, to the child, and, where appropriate, to the relative placement, non-relative placement, or foster parents of the child for the purpose of enabling a child who has been placed in out-of-home care to safely return to his or her parent at the earliest possible time.
- a. The health and safety of the child shall be the paramount goal of social services and other supportive and rehabilitative services.
  - b. The services shall promote the child's need for physical, mental, and emotional health and a safe, stable, living environment, shall promote family autonomy, and shall strengthen family life.
86. **Safe Place**—a location for safely surrendering a newborn infant; Safe Places under this Code are as follows: the White Earth Police Department, the Giizhawaaso (Indian Child Welfare) Department, the Tribal fire departments and IHS clinics in the villages of White Earth and Naytahwaush, or any other facility designated as a Safe Place in writing by the Giizhawaaso Department; provided that a Safely Surrendered Newborn Infant is surrendered during the Safe Place's normal hours of operation with staff present to accept the surrendered infant.
87. **Safely Surrendered Newborn Infant**—An infant, not more than seven (7) days old as determined within a reasonable degree of medical certainty, surrendered by a mother, or someone acting with her permission, to surrender the infant to an appropriate safe place. The act of surrendering may be anonymous, but it must be voluntary.
88. **Social Worker**—Any individual who has a bachelor's, master's, or doctoral degree in social work.
89. **State Court**—A court of the state of Minnesota, or of any other state, having civil jurisdiction over the child who is the subject of a proceeding under this Code.
90. **Substance Abuse**—Using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in a manner as to induce physical or mental impairment beyond acceptable social norms.
91. **Substantial Compliance**—The circumstances that have caused an on-going child protection case have been significantly remedied by the parent or legal custodian to the extent that the well-being and safety of the child will not be endangered upon the child's remaining with, or being returned to, the child's parent or legal custodian.
92. **Suspension of Parental Rights**—The permanent suspension of the rights of biological parents to provide for the care, custody, and control of their child.
93. **Temporary Guardianship**—A guardian who has been granted temporary guardianship status as set forth in Chapter 13, Section 13.02 of this Code.

94. **Temporary Legal Custody**—The relationship that a court creates between a child and an adult relative of the child, legal custodian, agency, or other person approved by the court until a more permanent arrangement is ordered.
- a. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, nurture, guide, and discipline the child.
  - b. The temporary legal custodian is also required to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.
95. **Transfer of Legal Custody**—A transfer of legal status as custodian for a child (see Legal Custody) from one adult to another.
96. **Treatment Facility**—A secure, acute care facility that provides, at minimum, detoxification and stabilization services; is operated 24 hours per day, seven days per week; and is designated by the Giizhawauso (Indian Child Welfare) Department to serve individuals found to be substance use impaired.
97. **Tribal Council**—The Tribal Council of the White Earth Band of Ojibwe.
98. **Tribal Court**—The Tribal Court of the White Earth Band of Ojibwe.
99. **Tribe**—The White Earth Band of Ojibwe.
100. **Victim**—Any child who has sustained or is threatened with physical, mental, or emotional injury identified in a report involving child abuse, abandonment, or neglect, or child-on-child sexual abuse

#### **§ 1.06 Jurisdiction of the Children's Court**

1. There is hereby established for the White Earth Band of Ojibwe a court to be known as the White Earth Children's Court. The jurisdiction of the Children's Court shall be civil in nature and shall include the right to issue all orders necessary to insure the safety of children and incompetents within the boundaries of the Reservation, as well as other children who have been declared wards of the Children's Court.
2. The Children's Court shall have exclusive jurisdiction of all proceedings under this Code or of a child voluntarily placed with a Giizhawauso (Indian Child Welfare) Department.
3. The Children's Court shall have the power to enforce subpoenas and orders of restriction, fines, contempt, confinement, and other orders as are deemed appropriate.
4. The Children's Court shall have jurisdiction over the following persons:
  - a. Members of the Tribe under the age of eighteen years;
  - b. Persons under the age of eighteen who are eligible for membership in the Tribe;
  - c. Indians who are under the age of eighteen years and who are residing within the exterior boundaries of the Reservation;

- d. Children of enrolled members of the Tribe or other Indians, including adopted children, who reside within the exterior boundaries of the Reservation;
  - e. Children residing within the exterior boundaries of the Reservation within the home of an enrolled member of the Tribe or other Indians as long as the parents, guardians, or custodians have consented to the jurisdiction of the Children's Court. Consent, once given, may be revoked only with the permission of the Children's Court;
  - f. Incompetent persons residing or domiciled within the exterior boundaries of the Reservation; and
  - g. Any child whose family may wish to make itself subject to the jurisdiction of the Children's Court.
5. Where the Children's Court asserts jurisdiction over a child under Chapter 1, Section 1.06(4), the Court shall also have jurisdiction over the person's extended family whenever the Court deems it appropriate.
  6. Where the Children's Court deems it appropriate, the Court may retain jurisdiction over children and their extended families who leave the exterior boundaries of the Reservation.
  7. When the Court obtains jurisdiction of any child who has been found to be in need of protection and/ or services, the Court shall retain exclusive jurisdiction, unless relinquished by its order, until the child reaches eighteen years of age.

**§ 1.07 Transfer of Jurisdiction**

1. The Children's Court may apply the policies of the Indian Child Welfare Act, 25 U.S.C. §1901-1963, where they do not conflict with the provisions of this Code.
  - a. The procedures for state courts in the Indian Child Welfare Act shall not be binding upon the Children's Court unless specifically provided for in this Code.
  - b. The Children's Court may choose to apply or decline to apply the policies or individual provisions of the Indian Child Welfare Act, 25 U.S.C. § 1901-1963 for any reason.
2. In any proceeding before the Children's Court, the Court may transfer the proceedings to an appropriate state court or another tribal court where the state or the other Indian tribe have a significant interest in the child and the transfer would be in the best interest of the child.

3. The Children's Court may accept or decline, under the procedures set forth in this Code, transfers of child welfare cases from other federal, state, or tribal courts.
4. Procedures for Transfer from State Court
  - a. The tribal agent for service of notice of state court child custody proceedings, as defined by the Indian Child Welfare Act, shall be the tribal social service department.
  - b. The Giihawaaso (Indian Child Welfare) Department shall conduct an investigation and file a written report with the Court when transfer to tribal court is being sought.
  - c. The Tribe, through its attorneys, social workers, or child protection workers, may in their discretion, file a written request with the Court to accept a transfer of jurisdiction from any state, tribal, or other Court.
  - d. The Court may accept a transfer from state court if:
    - i. A parent or Indian custodian's petition to state court for transfer is granted; or
    - ii. The tribe's petition to state court for transfer is granted.
  - e. Upon receipt of transfer jurisdiction from state court, the juvenile counselor, tribal social worker, or tribal attorney shall file a CHIPS petition, and appropriate hearings shall be held in accordance with this Code.
5. Comity; Conflict of Laws
  - a. State child custody orders involving children over whom the Children's Court could take jurisdiction may be recognized by the Children's Court only after a full independent review of the state proceedings has determined:
    - i. The state court properly asserted jurisdiction over the child;
    - ii. The provisions of the Indian Child Welfare Act, 25 U.S.C. §1901-1963 were properly followed;
    - iii. Due process was provided to all interested persons participating in the state proceeding; and
    - iv. The state court proceeding does not violate the public policies, customs, or common law of the tribe.



- b. Court orders of other tribal courts involving children over whom the Children's Court could take jurisdiction shall be recognized by the Children's Court after the Court has determined;
  - i. That the other tribal court properly asserted jurisdiction over the child; and
  - ii. Due process was accorded to all interested parties participating in the other tribal court proceeding.
- c. The statutes, regulations, public policies, customs, and common law of the White Earth Band of Ojibwe shall control in any proceeding involving a child who is a member of the Tribe, or eligible for membership in the Tribe.

#### **§ 1.08 Immunity From Liability**

1. In no case shall employees of the Tribe or the Giizhawaaso (Indian Child Welfare) Department acting in good faith be liable for damages as a result of failing to provide services agreed to under any case plan, unless the failure to provide the services occurs as a result of bad faith or malicious purpose or occurs in a manner exhibiting wanton and willful disregard of human rights, safety, or property.
2. The inability or failure of the Tribe or of the Giizhawaaso Department or the employees or agents of the Giizhawaaso Department to provide the services agreed to under any case plan shall not render the Tribe or the Giizhawaaso Department liable for damages, unless the failure to provide services occurs in a manner exhibiting wanton or willful disregard of human rights, safety, or property.
3. Nothing in this Code constitutes a clear and unequivocal waiver of sovereign immunity.

#### **§ 1.09 Procedures and Authorizations**

1. The procedures in the Children's Court shall be governed by the White Earth Band of Ojibwe Rules of Civil Procedure that are not in conflict with this Code.
2. The Children's Court shall assist in the development of policies, procedures, and general orders for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this Code. All policies, procedures, and general orders must conform to accepted standards of care and treatment.
3. In all proceedings, the Court shall take and preserve an accurate stenographic or recording of the proceedings.
4. Orders entered pursuant to this Code that affect the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for a child shall take precedence over other orders entered in civil actions or proceedings. However, if the Court has



terminated jurisdiction, the order may be subsequently modified by a court of competent jurisdiction in any other civil action or proceeding affecting placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same child.

5. The Court shall expedite the resolution of the placement issue in cases involving a child who has been removed from the parent and placed in an out-of-home placement.
6. The Court shall expedite the judicial handling of all cases when the child has been removed from the parent and placed in an out-of-home placement.
7. Children removed from their homes by the Court shall be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement.
8. Social Services is authorized to cooperate fully with any federal, state, tribal, public, or private agency in order to participate in any foster care, shelter care, treatment, or training programs, and to receive grants-in-aid to carry out the purposes of this Code. This authority is subject to the approval of the White Earth Band of Ojibwe Tribal Council if it involves an expenditure of tribal funds.
9. The Children's Court shall utilize the social services furnished by any tribal, federal, or state agency, provided the services are economically administered without unnecessary duplication or expense.
10. Social Services may negotiate contracts with tribal, federal, or state agencies or their departments on behalf of the White Earth Band of Ojibwe Tribal Council for the care and placement of the children before the Children's Court, subject to the approval of the White Earth Band of Ojibwe Tribal Council before the expenditure of tribal funds.

#### **§ 1.10 Children's Court Personnel**

1. Children's Court Judge
  - a. The Chief Judge of the White Earth Tribal Court or his or her designee shall serve as Children's Court Judge.
  - b. In carrying out duties and powers specifically enumerated under this Child/Family Protection Code, judges of the Children's Court shall have the same duties and powers as judges of the Tribal Court, including but not limited to, the contempt power, the power to issue arrest or custody warrants, and the power to issue search warrants.
  - c. The Children's Court Judge shall ensure that, whenever possible, the Seven Grandfather teachings of *debwewin*, *zoangide'win*, *gweyakwaiditwin*, *manooji'idwin*, *zoogi'idwin*, *nibwaakaawin*, and *dabasendizowin*, are incorporated into the proceedings and used as a backdrop for the decisions made

under this Code.

- d. The rules on disqualification or disability of a Children's Court judge shall be the same as those rules that govern Tribal Court judges in the White Earth Judicial Code and Code of Judicial Conduct.

## 2. Juvenile Counselors and Juvenile Probation Officers

- a. The Children's Court Judge may appoint juvenile counselors or juvenile probation officers to carry out the duties and responsibilities set forth in this Code. The persons carrying out the duties and responsibilities set forth in this Section may be labeled "juvenile counselors" or "juvenile probation officers" or any other title the Court finds appropriate so long as they perform the duties and responsibilities set forth in this Section.
- b. The juvenile counselor must have an educational background or prior experience in the field of delivering social services to Indian youth.
- c. The juvenile counselor shall identify and develop resources on the Reservation, in conjunction with the Children's Court and the Tribal Council, to enhance each child's potential as a viable member of the tribal community.
- d. The juvenile counselor or juvenile probation officer shall:
  - i. Make investigations as provided in this Code or as directed by the Court;
  - ii. Make reports to the Court as provided in this Code or as directed by the Children's Court;
  - iii. Provide counseling services, if appropriate; and
  - iv. Perform other duties in connection with the care, custody or transportation of children as the Court may require.

## 3. *Gezhaanaajig Nejanisug* (Those who guard Children)

- a. At any stage of the proceedings conducted under this Code, the Children's Court may appoint separate counsel or spokesperson for the child to act as a *gezhaanaajig nejanisug* (those who guard children) representing the child's best interests.
- b. The *gezhaanaajig nejanisug* should *dabasondirowin* (humility), demonstrate sensitivity and compassion towards others, while always keeping the child's best interest at the forefront of any action.

- c. Appointing the *gezhaanaajig nejanisug* for the child will not affect the right to counsel of the parents, guardians, or other legal custodians.
- d. The *gezhaanaajig nejanisug* shall have the following duties:
  - i. to represent and advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;
  - ii. monitor the child's best interests throughout the judicial proceedings;
  - iii. conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the Court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;
  - iv. present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based; and
  - v. maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;
- e. The Court shall adopt rules outlining the process for the appointment, qualification, and procedures to be utilized by the *gezhaanaajig nejanisug*.
- f. Any individual appointed as a *gezhaanaajig nejanisug* by the Children's Court shall be subject to the Rules of Judicial Conduct for the White Earth Tribal Court.

#### 4. Additional Court Personnel

The Court may set qualifications and appoint additional juvenile Court personnel such as court appointed special advocates, Children's Court advocates, or referees whenever the Court decides that it is appropriate to do so.

#### **§ 1.11 Child Protection Workers**

1. Child protection workers may be employed by the Giizhawaaso (Indian Child Welfare) Department or the tribal law enforcement department.
2. The departments may cooperate with state and community agencies as necessary to achieve the purposes of this Code. The departments may negotiate working agreements

with other jurisdictions. These agreements shall be subject to ratification by the Tribal Council or its designate.

3. The qualifications of a child protection worker shall be set by the *Giizhawaaso* Department in rules promulgated by the Department Director. The tribal qualifications for a child protection worker, including a staff member who completes mistakes, shall supersede any requirement or qualification set by state or local law.
4. A child protection worker shall:
  - a. Recognize that children are the Tribe's most sacred resource, and must be treated with *zooqi' idiwon*, love, and *manooqi' idiwon*, respect, at all times.
  - b. Receive reports of abused, abandoned, or neglected children and be prepared to provide temporary emergency foster care for children on a 24 hour basis;
  - c. Receive from any source oral or written information regarding a child who may be in need of protective services;
  - d. Upon receipt of any report or information that a child is in imminent danger or harm, the *Giizhawaaso* Department shall immediately:
    - i. notify the appropriate law enforcement agency; and
    - ii. make a prompt and thorough investigation which shall include a determination of the nature, extent, and cause of any condition which is contrary to the child's best interests and the name, age, and condition of other children in the home.
  - e. Take a child into temporary custody if there are reasonable grounds to believe that child is suffering from illness or injury or is in immediate danger from his or her surroundings and that his or her removal is necessary. Law enforcement officials shall cooperate with social services personnel to remove a child from the custody of his or her parents, guardian, or custodian when necessary;
  - f. Evaluate and assess the home environment of the child or children in the same home and the risk to the children if they continue to be subjected to the existing home environment, and all other facts or matters found to be pertinent. They shall determine whether any of the children is a child in need of protective services. Every effort shall be made to provide services to the family to ensure the safety of the child while remaining in the home;
  - g. Offer to the family of any child found to be a child in need of protective services appropriate services which may include, but shall not be restricted to, protective services; and



- d. The child protection team should facilitate the development and implementation of a plan to promote the long-term well-being of the child and his or her family members.
3. The child protection team is technical and advisory in nature. In no way is it intended to undermine the authorities and responsibilities of individual agencies. Members of the child protection team should strive to ensure that all agencies and departments in connection with this Code *gwayakwadiitwot*, are correct and straight in everything they do, in order to facilitate the best possible outcome for the child and family involved.
  - a. It is designed to promote cooperation, communication, and consistency among agencies.
  - b. It is appropriate for the child protection team to debate what actions would best promote the well-being of a child in the context of Tribal customs and provide relevant information and advice to decision-making agencies.
  - c. The child protection team shall facilitate, not hinder, the decision-making process.
4. The child protection team shall provide oversight by:
  - a. Monitoring child abuse, abandonment, and neglect reports to ensure that adequate preventive, protective, and corrective services are provided;
  - b. Reviewing and tracking all child abuse, abandonment, and neglect cases that have been referred to the Children's Court;
  - c. Investigating cases to determine whether the best interests of the child are being met;
  - d. Continually reviewing case plans for their adequacy; and
  - e. Maintaining confidentiality of information between all parties involved.
5. The child protection team shall facilitate the provision of services by:
  - a. Accepting child abuse, abandonment, and neglect referrals;
  - b. Assigning individual case managers to track cases;
  - c. Identifying and suggesting available Tribal community resources, programs, and services;
  - d. Providing recommendations to various pertinent agencies;
  - e. Promoting cooperation, communication, and consistency among agencies;

- f. Providing a forum for debating what actions would best promote the well-being of Tribal and Indian children in a culturally sensitive manner; and
  - g. Responding to informational inquiries from the community, area child protection teams, and other individuals and groups.
6. The child protection team shall provide technical assistance by:
- a. Developing procedures to provide efficient preventive, protective, and corrective child abuse, abandonment, and neglect services;
  - b. Developing standards to determine which cases are to be investigated;
  - c. Providing information and technical recommendations to decision-making agencies;
  - d. Educating communities about child abuse, abandonment, and neglect problems and culturally appropriate solutions;
  - e. Identifying warning signs which prompt intervention or preventive actions;
  - f. Assisting in the development and implementation of plans to promote the long-term well-being of Tribal children and their families; and
  - g. Assisting in the development and implementation of strategies by Tribal communities to create environments that provide opportunities for community members to lead meaningful, productive, self-fulfilling, and rewarding lives. These environments should promote the dignity, self-worth, self-respect, and self-sufficiency of all Tribal community members and Tribal children.

**§ 1.13 Membership Eligibility Determinations**

The Giizhawaaso (Indian Child Welfare) Department shall be the agency responsible for determining whether a child is eligible for membership in the White Earth Nation, to the extent that the determination is necessary for an applicable child custody proceeding in accordance with the Indian Child Welfare Act, 25 U.S.C. § 1901, *et. seq.* (2012).

**§ 1.14 Records Concerning Children**

1. The case record of every child under the supervision of, or in the custody of, the Children's Court must be maintained in a complete and accurate manner. The case record must, at minimum, contain the child's case plan; the full name and street address of all shelters, foster parents, group homes, treatment facilities, or locations where the child has been placed; and a record of all judicial hearings and orders concerning the case.

2. Children's Court records and files and law enforcement records and files concerning a child shall be kept separate from the records and files of adults.
3. The Court shall make official records, consisting of all petitions and orders filed in a case arising pursuant to this Code and any other pleadings, certificates, proofs of publication, summonses, warrants, and any other writs that may be filed.
4. The Court shall keep records of all cases brought before it pursuant to this Code and shall preserve the records pertaining to a child in need of protection and/or services until 10 (ten) years after the file was closed.
5. Records of cases where orders were entered permanently depriving a parent of the custody of a juvenile shall be preserved permanently.
6. Notwithstanding any other provision of this Code, out of *manaqi'idiwin*, respect, for the child and his or her family, all records in a child's case record, including law enforcement records, shall be confidential and made available, upon request and at no cost, for inspection only to:
  - a. The child who is the subject of the record;
    - i. The Children's Court may release the information in a manner and setting that are appropriate to the age and maturity of the child and the nature of the information being released;
    - ii. The release of information may need to be released in a therapeutic setting; but
    - iii. This Subsection does not deny the child access to his or her own records.
  - b. The child's parents, guardian, custodian, or other individuals legally responsible for the child;
  - c. The preadoptive parents, who shall only have access to Children's Court records;
  - d. The child's counsel;
  - e. The child's *gezhaanaaqig nejanisug* (those who guard children);
  - f. Children's Court or law enforcement personnel directly involved in the handling of the case;
  - g. Any other person by order of the Court having a legitimate interest in the particular case; and
  - h. The Grizhawasso (Indian Child Welfare) Department.



7. The Children's Court shall have the options to place certain records under protective seal for purposes of preserving anonymity or preventing unnecessary risk to the health, safety, or welfare of the child.
8. If the Children's Court determines that sharing information in the child's case record is necessary to ensure access to appropriate services for the child, the Court may approve the release of confidential records or information contain within them, provided the party receiving the information may not release it to another entity without explicit Court permission.

#### **§ 1.15 Oaths: Confidential Information**

1. The judge, clerks or deputy clerks, bailiffs, or authorized agents of the White Earth Band of Ojibwe Police Department shall have the power to administer oaths and affirmations.
2. All information obtained pursuant to this Code in the discharge of official duty by any judge, court staff, authorized employee of a Giizhawaaso (Indian Child Welfare) Department, or tribal law enforcement agent is confidential and may not be disclosed to anyone other than those named in Chapter I, Section 1.14(6).
3. All orders of the Court entered pursuant to this Code shall be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.
4. No court record of proceedings under this Code shall be admissible in evidence in any other civil or criminal proceeding, except that:
  - a. Records of proceedings under this Code forming a part of the record on appeal shall be used in the White Earth Band of Ojibwe Appellate Court;
  - b. Records necessary shall be admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury;
  - c. A final order entered pursuant to an adjudicatory hearing is admissible in evidence in any subsequent civil proceeding relating to the placement of, access to, parent time with, adoption of, or parental rights and responsibilities for the same child or a sibling of that child; and
  - d. Evidence admitted in any proceeding under this Code may be admissible in evidence when offered by any party in a subsequent civil proceeding relating to the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same child or a sibling of that child if:
    - i. Notice is given to the opposing party or opposing party's counsel of the intent to offer the evidence and a copy of the evidence is delivered to the

opposing party or the opposing party's counsel; and

- ii. The evidence is otherwise admissible in the subsequent civil proceeding.
5. Final orders, records, and evidence in any proceeding under this Code that are subsequently admitted in evidence pursuant to Chapter 1, Section 1.15(4) remain subject to the confidentiality requirements in Chapter 1, Section 1.14(6).

**§ 1.16 Permanent Mailing Address Designation**

1. Upon the first appearance before the Court, each party shall provide to the Court a permanent mailing address where the party frequently receives mail.
2. The Court shall advise each party that this address will be used by the Court and the petition for notice purposes unless and until the party notifies the Court and the petition in writing of a new mailing address.

**§ 1.17 Court and Witness Fees**

In all proceedings under this Code, no Court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition or any parent or legal custodian or child named in a summons.

**§ 1.18 Right to Counsel**

1. At each stage of the proceedings under this Code, the Court shall advise the legal parents of their right to counsel. The Court shall ascertain whether the right to counsel is understood.
2. The Court shall appoint counsel for indigent parents.
3. When right to counsel is waived, the Court shall determine whether the waiver is knowing and intelligent.
  - a. The Court shall enter its findings on the record with respect to the appointment or waiver of counsel for indigent parents or the waiver of counsel by non-indigent parents.
  - b. A waiver of counsel may not be accepted if it appears that the parent is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.
  - c. A waiver of counsel made in Court must be of record.
  - d. If a waiver of counsel is accepted at any hearing or proceeding, the offer of assistance of counsel may be renewed by the Court at each subsequent stage of

the proceedings at which the parent appears without counsel.

4. Once counsel has entered an appearance or been appointed by the Court to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings. If the attorney-client relationship is discontinued, the Court may advise the parent of the right to have new counsel retained or appointed for the remainder of the proceedings.
5. This Section does not apply to any parent who has voluntarily executed a written surrender of the child and consents to the entry of a court order terminating parental rights.

**§ 1.19 Compensation for Appointed Counsel**

If counsel is entitled to receive compensation for representation pursuant to a court appointment in a proceeding pursuant to this Code, compensation shall be paid in accordance with court policies.

**§ 1.20 Time Limitations: Continuances**

1. Time is of the essence for a child in the protective system, and for reunification or establishing another permanency option for the child. In order to show *manaqj'idiwin*, respect, to the child, time limitations are a right that may not be waived, but only extended or continued at the request of a party and approved by the Children's Court.
2. Good cause may include the following:
  - a. Periods of delay resulting from a continuance granted at the request of the child's counsel or the child's *gezhaanaajig nejaning* (those who guard children), or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child;
  - b. Periods of delay resulting from a continuance granted at the request of any party if the continuance is granted because of:
    - i. An unavailability of evidence that is material to the case, if the requesting party has exercised due diligence to obtain evidence and there are substantial grounds to believe that the evidence will be available within thirty days;
    - ii. Allowing the requesting party additional time to prepare the case and additional time is justified because of an exceptional circumstance including, but not limited to, natural disasters, unexpected death of a party, unexpected death of legal counsel or *gezhaanaajig nejaning* (those who guard children);

- iii. Reasonable periods of delay necessary to accomplish notice of the hearing to any required party to the case; or
  - iv. Evidence unable to be procured due to its use in an impending criminal investigation;
3. In order to expedite permanency goals for a child (see Permanency Goals in § 1.05(73) of this Chapter), the total time allowed for continuances should be limited by the judge to those that are reasonable and necessary, keeping in mind the requirements of this Section 1.20, Subd. 1, above.
  4. A continuance or an extension of time is limited to the number of days absolutely necessary to complete a necessary task in order to preserve the rights of a party or the best interests of a child.

## **CHAPTER TWO—REPORTING CHILD ABUSE, ABANDONMENT, OR NEGLECT**

### **§ 2.01 Mandatory Duty to Report**

1. Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by any person or that a child is in need of supervision and care and is not receiving appropriate supervision and care shall have *zoongide'win*, a strong heart, and report this knowledge or suspicion to the Giizhawaaso (Indian Child Welfare) Department or tribal law enforcement department.
2. Reporters in the following occupation categories are required to provide their names within the report, although they will be held confidential:
  - a. Physician, osteopathic physician, medical examiner, chiropractic physician, dentist, optometrist, nurse, or any other medical or mental health professional or personnel engaged in the admission, examination, care, or treatment of persons;
  - b. Practitioner who relies solely on spiritual or traditional cultural means for healing;
  - c. School teacher or other school official or personnel;
  - d. Social worker, preschool or day care center worker, or other professional child care, foster care, residential, or institutional worker;
  - e. Law enforcement officer;
  - f. Judge, attorney, court counselor, clerk of the court, or other judicial system official (subject to the Rules of Professional Responsibility).

- g. Any other employee or contractor of the White Earth Band of Ojibwe who has direct or indirect contact with children, except domestic abuse advocates; and
  - h. Employees of the White Earth Housing Authority.
3. A professional who is hired by or enters into a contract or agreement with the Tribe for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, is not required to again report the abuse, abandonment, or neglect that was the subject of the referral for treatment.
  4. An officer or employee of the judicial branch is not required to again provide notice of reasonable cause to suspect child abuse, abandonment, or neglect when that child is currently being investigated by the Giizhawaaso Department, there is an existing dependency case, or the matter has previously been reported to the Giizhawaaso Department, provided there is reasonable cause to believe the information is already known to the Giizhawaaso Department. This paragraph applies only when the information has been provided to the officer or employee in the course of carrying out his or her official duties.
  5. Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that the death of a child might have been the result of child abuse, abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner or police department investigating that child's death.
    - a. The medical examiner shall accept the report for investigation and shall report his or her findings, in writing, to the Giizhawaaso Department, tribal law enforcement agency, and the appropriate tribal attorney.
    - b. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in Chapter 1, Section 1.14(6).
  6. A mandated reporter must make the verbal report immediately to the *Giizhawaaso* Department during business hours and to Tribal law enforcement after business hours; to be followed by a written report within twenty four (24) hours.

**§ 2.02 Penalty for Not Reporting Child Abuse, Abandonment, or Neglect**

1. Individuals mandated to report a case of known or suspected abuse, abandonment, or neglect who knowingly fail to report a suspected case, or willfully prevent another from doing so, may be subject to civil contempt and a misdemeanor criminal charge, as well as subject to possible employee disciplinary action.

**§ 2.03 False Reports**

1. Anyone who knowingly, or with reckless disregard for the truth, files or causes to be filed a false report of child abuse or neglect shall be guilty of a Class 4 criminal offense and subject to civil contempt.

#### **§ 2.04 Contents of Maltreatment Reports**

1. Each report of known or suspected child abuse, abandonment, or neglect and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the Giizhwaaso (Indian Child Welfare) Department or tribal law enforcement department.
2. The personnel receiving the reports shall encourage, but not mandate, all reporters to include:
  - a. The name, address, and tribal affiliation of the child and his or her parents, guardian, or custodian, if known;
  - b. The child's age;
  - c. The nature and content of the child's abuse, abandonment, or neglect;
  - d. Previous abuse, abandonment, or neglect of the child or his or her siblings, if known;
  - e. The name, age, and address of the person alleged to be responsible for the child's abuse, abandonment, or neglect, if known; and
  - f. The name, address and phone number of the person making the report.
  - g. Other information as may be required by applicable policies and procedures of the *Giizhwaaso* Department.
3. Reports involving known or suspected criminal offenses shall be immediately cross-reported to the applicable law enforcement agency.

#### **§ 2.05 Reports Outside Tribal Jurisdiction**

1. Any report received of known or suspected child abuse, abandonment, or neglect that occurs outside of the Tribe's jurisdiction and the alleged perpetrator and the child alleged to be a victim reside outside of the tribe's jurisdiction shall be transferred immediately to the appropriate jurisdiction by the mandated reporter. If the mandated reporter does not know about Tribal jurisdiction and makes the report to the *Giizhwaaso* Department or the Tribal law enforcement department, the department that receives the report shall inform the appropriate agency in the appropriate jurisdiction immediately upon receiving the report.

**§ 2.06 Immunity From Liability**

1. Any person, official, or institution participating in good faith in any act authorized or required by this Chapter, or reporting in good faith any instance of child abuse, abandonment, or neglect to the social services or law enforcement agency, shall be immune from any civil or criminal liability that might otherwise result because of this action.
2. Nothing contained in this Chapter shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, abandoned, or neglected a child, or committed any illegal act against a child, except as explicitly provided for by this Section.
3. No resident or employee of a facility serving children may be subjected to reprisal or discharge because of his or her actions in reporting abuse, abandonment, or neglect pursuant to the requirements of this Chapter.
4. Any person making a report under this Chapter shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of a reporting party by reason of his or her making a report. Any detrimental change made in the residency or employment status of a reporting party, including, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations within a prescribed period of time shall establish a rebuttable presumption that the action was retaliatory.

**§ 2.07 Safely Surrendered *Aabinoojiez* (Infants)**

1. Reports involving safely surrendered newborn infants shall immediately be transferred to the *Giizhawaaso* Department who shall arrange placement for the child; provided that the newborn is left with an employee on the premises of a safe place during its hours of operation, the newborn was born within seven (7) days of being left at the safe place, as determined within a reasonable degree of medical certainty; and that the newborn is left in an unharmed condition and exhibits no indication of abuse, abandonment, or neglect other than that necessarily entailed in the infant having been left at an appropriate Safe Place.
  - a. The *Giizhawaaso* Department, if it can reasonably determine that the newborn infant is of White Earth Anishinaabe descent, shall arrange placement for the child according to the placement preferences of Chapter 5, Section 5.04 of this Code.
  - b. If it cannot be determined that the newborn infant is reasonably of White Earth Band Anishinaabe descent, the *Giizhawaaso* Department shall notify the state abuse hotline of the surrendered newborn infant, and provide for the transfer of the child to a local county social service agency.

#### **§ 2.08 Release of Confidential Information**

1. All records kept in connection with this Code, including records that pertain to investigations of alleged abuse, abandonment, or neglect of a child, shall be presumed confidential, absent a showing of good cause by clear and convincing evidence for why the record should be made public.
2. Any person or organization may petition the Court for an order making public the records that pertain to investigations of alleged abuse, abandonment, or neglect of a child.
  - a. The Court shall determine, based on clear and convincing evidence, whether good cause exists for public access to the records sought.
  - b. In making this determination, the Court shall balance the best interests of the child who is the focus of the investigation and the interest of that child's siblings, together with the privacy rights of other persons identified in the reports, against the public interest.
3. In cases involving serious bodily injury to a child, the tribal law enforcement agency or the Giizhawaaso (Indian Child Welfare) Department may petition the Court for an order for the immediate public release of records that pertain to the protective investigation.
  - a. The petition must be personally served upon the child, the child's parent or guardian, and any person named as an alleged perpetrator in the report of abuse, abandonment, or neglect.
  - b. The Court shall determine, based on clear and convincing evidence, whether good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and Tribal and legal holidays, after the date the petition is filed with the Court.
  - c. In making a determination to release confidential information, the Court shall balance the best interests of the child who is the focus of the investigation and the interests of that child's siblings, together with the privacy rights of other persons identified in the reports, against the public interest for access to public records.
  - d. Any petition by the tribal law enforcement agency or the Giizhawaaso Department under this Subsection must be directly related to public safety, and must seek to reduce or mollify the imminent or immediate threat of harm to the public.
4. When the Court determines that good cause for public access exists, the Court shall direct that the law enforcement agency or Giizhawaaso Department redact the name and other identifying information of any person identified in any protective investigation report until the Court finds there is probable cause to believe the person identified committed an act of alleged abuse, abandonment, or neglect.



**§ 2.09 Confidentiality of Maltreatment Reports Concerning Child Abuse, Abandonment, or Neglect**

1. In order to protect and *manajji'idiwin*, respect, the mandated reporter, no maltreatment reports shall be released by the *Gizhawaaso* Department. Maltreatment reports shall be summarized to the Court as in initiating action for an assessment or investigation. Specific maltreatment reports are considered internal working documents of the Indian Child Welfare Program and are not subject to disclosure.
2. The Community has a right to confidentially report suspected abuse or neglect of children without fear that those who report abuse or neglect will have their identity disclosed.

**CHAPTER THREE—PROTECTIVE INVESTIGATIONS**

**§ 3.01 Investigation Timelines**

1. Upon receiving a maltreatment report, the *Gizhawaaso* Department shall review the information to determine what, if any, action is required. If the Tribal law enforcement department receives the report after normal business hours they shall review the information and response or make contact with the *Gizhawaaso* Department for assistance.
  - a. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee, that the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the *Gizhawaaso* Department or Tribal law enforcement department shall commence an investigation immediately, regardless of the time of day or night.
  - b. In determining whether to conduct an assessment or investigation on a maltreatment report, the *Gizhawaaso* Department shall consider the type of harm alleged in the report, including but not limited to the following:
    - i. the young age of the parents or legal custodians; the use of illegal drugs; the arrest of the parents or legal custodians on charges of manufacturing, processing, disposing of, or storing, either temporarily or permanently, any illegal substances; or domestic violence.
  - c. The *Gizhawaaso* Department shall work with law enforcement on criminal investigations involving maltreatment of children.
  - d. For reports not requiring an immediate assessment, the *Gizhawaaso* Department shall make contact or make significant attempts to make contact with the child within five (5) days. The Department shall maintain internal policies and

procedures to outline appropriate assessment actions.

**§ 3.02 General Investigation Procedures**

1. The tribal law enforcement agency and the Indian Child Welfare department staff are given responsibility for conducting a protective investigation. Any Child Protection file opened as a result of an investigation or assessment would be kept in compliance with the Indian Child Welfare Department's records retention policy.
2. Protective investigations shall be performed by the *Giizhawaaso* Department; provided that investigations outside of normal business hours may be conducted by the Tribal law enforcement department.
3. The *Giizhawaaso* Department shall maintain an internal operating procedure that ensures that all required investigatory activities, including a review of the child's complete child welfare history, are completed by the investigator and reviewed by the supervisor in a timely manner.
4. Upon commencing an investigation under this part, the Department staff shall inform any subject of the investigation of the following, unless it is determined that disclosure may result in further acts of abuse or flight:
  - a. The names of the investigators from the *Giizhawaaso* Department or the Tribal law enforcement department;
  - b. The purpose of the investigation;
  - c. The right to obtain his or her own attorney and ways that the information provided by the subject may be used;
  - d. The possible outcomes and services of the *Giizhawaaso* Department's response shall be explained to the parent or legal custodian;
  - e. The right of the parent or legal custodian to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem; and
  - f. The duty of the parent or legal custodian to report any change in the residence or location of the child to the investigator and that the duty to report continues until the investigation is closed.
  - g. If the *Giizhawaaso* Department staff decides to record any conversation with the parent or legal custodian, that staff member shall inform the parent or legal custodian prior to recording the conversation.

5. An assessment of risk and the perceived needs for the child and family shall be conducted in a manner that is sensitive to the social, economic, and cultural environment of the family.
  - a. In any case where the *Gizhwaaso* Department has received a report of maltreatment, in conducting an assessment or investigation of the child subject to the report, the department shall have the authority to access the child wherever he or she is located, and a public or private location shall allow the department's staff access to the child.
  - b. This assessment must include significant attempts to complete a face-to-face interview with or observation of the child, other siblings, parents, and other adults in the household.
  - c. The assessment may include onsite assessment of the child's residence to determine whether health and safety risks exist within the premises.
  - d. If the Department is denied reasonable access to a child by the parents, legal custodians, or caregivers, the department may seek an appropriate court order or assistance from the Tribal law enforcement department.
6. The person responsible for the investigation shall make a preliminary determination as to whether maltreatment occurred or is occurring.
7. The *Gizhwaaso* Department shall make a final administrative determination as to whether maltreatment occurred or is occurring must be made within forty five (45) days of the initiation of the assessment.
8. If either the preliminary or final assessment determines that the child is in need of further protection or services, the family may be referred for voluntary child welfare services; or the Department may place the child on a seventy two (72) hour health and welfare hold, or the family may be referred to the Tribal Children's Court for protective supervision or custody.
1. When a child is taken into custody pursuant to this Chapter, the *Gizhwaaso* Department shall request that the child's parent, caregiver, or legal custodian disclose the names, relationships, and addresses of all parents and prospective parents and all next of kin, so far as are known.

### **§ 3.03 Facility Investigations**

1. In reports involving facilities licensed by the White Earth Nation, *Gizhwaaso* (Indian Child Welfare) Department is responsible for conducting facility investigations. Indian Child Welfare has the authority to interview children without advance permission in order to complete investigations. A summary report of the investigations will be provided

by the Department to the facility or the facility's governing board. Written notification of interviews will be provided by the Department to the facility or parents.

2. In reports involving foster homes licensed by the White Earth Nation, The *Gitchowaso* Department shall be responsible for conducting facility investigations. No other entity, unless it is a conflict of interest for the Department, is authorized to conduct facility investigations on a foster home licensed by the White Earth Nation.
3. The *Gitchowaso* Department has policies and procedures that govern facilities investigations that outline the parameters by which the department will cooperate and share information with law enforcement. These policies and procedures are publicly available upon request to the department.

#### **§ 3.04 Photographs of Abused, Abandoned, or Neglected Children**

1. Any person required to investigate cases of suspected child maltreatment may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report.
2. Photographs or duplicates taken of physical abuse injuries shall be provided to the Indian Child Welfare department for inclusion in the investigative file and shall become part of that file. The Indian Child Welfare department has the authority to duplicate photographs for a criminal investigator or the Tribal Court.
3. Any photographs taken under this Section may only be released in accordance with the requirements of Chapter 1, Section 1.15(6) and Chapter 2, Section 2.08, due to the personal nature of the photographs and the need to *manaaji'idwin*, respect, the child.

#### **§ 3.05 Forensic Interviews of Children**

1. Any person required to conduct a forensic interview of a child alleged to be abused may take or cause to be taken audio or visual recordings of the interview.
2. Copies of the interview shall be provided to the *Gitchowaso* Department for inclusion in the investigative file and shall become a part of that file. The Department shall have the authority to duplicate the interview for a criminal investigator.

### **CHAPTER FOUR—INDIAN CHILD WELFARE COMMISSION**

#### **§ 4.01 ICW Commission Purpose Anishinaabe Neclawnisug (Anishinaabe children)**

1. Anishinaabe people hold our children sacred. They are the fundamental responsibility of a Tribe. Our old teachings inform us of the sacredness of a child, being selected by *Gitchi-Mandoo* as a spirit being, to travel through various worlds and experiences on it's

journey to life inside it's mother's womb. The worlds experienced by the little spirit are several, so that the spirit is taught how those other beings are, to respect them, and have a connection with them later as a human being. The little spirit is made then into a human being, given to that mother and father by the Creator, to nurture and care for, protect, teach, and raise. Parents are given this significant responsibility by the Creator, and is why we say human laws cannot sever the ties the Creator has given. However, at times parents are unable to meet the responsibility entrusted to them by *Gitchi-Manidoo*. When this happens then we as Anishinaabe people have the responsibility as a second set of parents to this child, to oversee their welfare and make decisions about that child. Children have a special place in our society. We want to nurture and protect them, while incorporating systems that promote the well-being of the family. Our internal systems need to meet the needs of our families and *our neejewinisug*; they require guidance at times from elders, community members, people invested in their well-being. A local child welfare commission can aid in providing this guidance.

## 2. Federal and Local Policy

- a. The Indian Child Welfare Act of 1978 (ICWA) (25 U.S.C. § 1901 et. Seq.) is a Federal law that governs the jurisdiction over adoption and custody of American Indian children. ICWA was originally enacted by Congress in 1978 due to the high removal rate of Indian children from their traditional homes and essentially from Indian culture as a whole. Before the bill was enacted, as many as 25 percent of all White Earth children were being removed from their Indian homes and placed in non-Indian homes, with presumably the absence of Indian culture.
- b. ICWA gives tribal governments a strong voice concerning child custody proceedings which involve Indian children by allocating tribes sole jurisdiction over the case when the child is domiciled on the reservation; and concurrent, but presumptive, jurisdiction over non-reservation Indian custody proceedings.
- c. The ICWA acknowledges tribal governments' sovereign ability to establish tribal courts to preside over child custody matters; and establishment of child welfare programs. A tribal court does not follow the ICWA because ICWA was established to address state court proceedings. Tribal courts operate under their own code, or laws, that reflect its own culture and beliefs. In White Earth we have a children's code that governs how we handle child welfare matters in our Tribal Court.
- d. In 1999 White Earth Tribal Court began transferring in some cases from district courts. The reason cases were accepted for transfer was to provide our parents and our children a more culturally appropriate alternative through the Tribal Court.
- e. In 2007 White Earth transferred all remaining child welfare cases open in Becker, Mahanomen and Clearwater counties. Our Tribe began exercising sole jurisdiction over child welfare without any county involvement on the Reservation.

- f. Cases off the Reservation continue to be the responsibility of the counties, with our Tribe participating as a party to the case. The ICW Department monitors the work of the county to ensure they provide active efforts to our families. The ICW Department also works directly with the Tribe's families to assist them with efforts and services. The ICW Department testifies in court proceedings, providing recommendations and expert witness testimony.
  - g. Some off-Reservation cases transfer into the Tribal Court in order to avoid a termination of parental rights and pursue culturally appropriate permanency. Some off-Reservation cases remain in district court for permanency when it's appropriate.
  - h. Guiding principles locally include the policies and procedures of the Gíizhawaaso (ICW) Program; the White Earth Tribal Court Children's Code; Foster Care Licensing Standards; and the White Earth Tribal Court Code of Conduct, which incorporates the Seven Grandfather teachings of the Anishinaabe. All are available to the Commission for reference and inclusion.
3. In determining the need to establish a Child Welfare Commission, the White Earth Tribal Council makes the following findings:
- a. A Child Welfare Commission is valuable and necessary to emphasize self-determination and traditional decision making regarding our children. The Commission has insight into their community's prevailing cultural and social standards for child rearing, and may voice a tribal perspective for their people, adults and children. Communities and adults have a responsibility to look out for the welfare of their children and a right to participate in oversight. The family is the basic unit of our society so its well-being should be respected. As Anishinaabe we need to balance family rights with our responsibilities to our children, using the least invasive method of protecting our children.
  - b. Our children are our fundamental responsibility as Anishinaabe, looking out for their best interests should be one of our primary considerations. There needs to be an equal focus between honoring the relationship established by *Gitchi-Manidoo* between the child and parents – and ensuring our children are afforded the chance to live in a safe, healthy, nurturing environment where they can be taught their Anishinaabe values. Intervening when children's needs and safety aren't met is usually invasive and not welcome. Protecting kids is complex. The *Gíizhawaaso* (Indian Child Welfare) Department is typically faced with criticism and feelings of betrayal when intervening to protect the needs of our Children. This Commission offers the opportunity for communities to have review, insight, input, and provide guidance to the Department. This Commission has the responsibility not only to address wrongful removal – but also to support appropriate decision making.

- c. On a systems level, this Commission has the authority to weigh in on Tribal Code and the Department's policies and procedures. The Commission may make systems suggestions to the *Gizhawaaso* Department Director in order to improve the delivery of services to our people.
- d. On an individual case level, this Commission has the authority to weigh in on Tribal and District Court cases when a parent, legal guardian or ICW requests review. This Commission may be asked by the parents or legal guardians to review their complaints or concerns. The Commission may be asked by the Department to review cases prior to permanency decision making, or when the Agency faces a tough decision they need to make on a case.
- e. While the Tribal Code legally governs cases and the best interests of children, the Commission traditionally advises the Court and the *Gizhawaaso* Department. The intent of the Commission is to support and guide the work of the Department as well as have critical input into programming, services, and case recommendations in their individual capacity and expertise.

**§ 4.02 Child Welfare Commission Composition**

1. The White Earth Tribal Council hereby establishes a Child Welfare Commission, and empowers the Commission as further described in this Section and this Chapter.
2. The Commission will be comprised of community members and elders. The White Earth Tribal Council has the authority to appoint up to two members each to the Child Welfare Commission. The *Gizhawaaso* Director or Assistant Director, and two additional *Gizhawaaso* employees will be members of the Commission. The *Gizhawaaso* Commission members shall be appointed by the Director. The members should be accessible and able to meet twice per month, with short notice. Members appointed by the Tribal Council may be compensated up to \$50 per stipend per meeting.
3. In order for a Quorum there must be at least three Child Welfare Commission members present in person, by virtual presence, or by telephone, with at least three members appointed by the Tribal Council present for the Commission to proceed in hearing information and making recommendations. If employee actions on a case are being discussed then the Commission will decide whether that employee should be present for part, none, or all of the meeting. If the Commission wants the employee present then the employee must make every effort to be there. Confidentiality statements will be signed by each community member appointed to the Commission.
4. Confidentiality will be adhered to by the Commission members. Following the Commission meetings there will be no discussion by any member of what happened during the Commission meeting, with the exception of providing parents, the Court, the Council (when requested), a summary of Commission decisions. *Gizhawaaso* employees will be subject to internal ethics violations and disciplinary action for violation of confidentiality rules. Community appointees will be subject to removal from the



Commission if they've violated confidentiality by discussing things outside of the Commission meetings; posting comments on social media; or similar actions. The Tribal Council shall make a final determination on any alleged violation of confidentiality and shall vote on whether to remove the Commission member and whether a new Commission member shall be appointed. A simple majority vote of the Tribal Council shall be sufficient to remove a Commission Community member. If the community member is also an employee of White Earth Nation, they may be subject to disciplinary action from the Tribe for violating confidentiality.

5. Each meeting shall begin with an Anishinaabe prayer. It will be conducted in circle style, with each person respecting other's values, opinions, and beliefs expressed. There will be a leader identified for each meeting. The meeting will continue until decisions or recommendations are made.
6. The location of the meeting may differ from meeting to meeting and will accommodate the members of the Commission. Deference shall be given to the appointed commission members from the communities. The only requirement is that the location will offer privacy, as the meetings are closed proceedings.
7. The Commission shall vote on matters in front of them. Majority rule shall be the deciding factor. Voting may be handled by silent ballot or handled traditionally in a Circle, with all members discussing their decision and reasons behind it. All votes shall be tallied and recorded. The tally shall be recorded in meeting minutes. The Commission shall not make any decisions by roll call vote.
8. The meeting shall be documented in writing. There shall be a record keeper from the *Gishkawazo* Department if requested, and the records shall be maintained in the *Gishkawazo* Department. The summary information in the meeting minutes shall include the individuals present at the meeting, the date of the meeting and outcomes. If appropriate a summary document outlining the date and location of the Commission meeting and outcome may be mailed to the family and the Court.
9. ICW Commissioners must review and be generally familiar with the Tribal Court Code of Judicial Conduct. ICW Commissioners shall be subject to and must comply with all terms and provisions of the Tribal Court Code of Ethics, including those canons governing conflicts of interest. The ICW Commissioners shall also attend and report on training specific to their responsibilities on the ICW Commission.

#### **§ 4.03 Duties of the Commission**

1. Improve the delivery of services to Anishinaabe children and their families
  - a. Closely examine the provision of services offered to the parents that addresses their behaviors or issues that led to the *Gishkawazo* Department's involvement.
  - b. Address areas where services are provided or needed in order to safely have children home.



- c. Address concerns or complaints by parents that they aren't being offered Active Efforts. The Commission may recommend additional services if they feel it is necessary.
  - d. Examine what services could have been provided through Family Preservation that prevent out of home placement.
  - e. Make recommendations on policy to the *Gizhkwano* Department Director that impact service provision.
  - f. Prior to any permanency trial review the services given to a family to recommend to the Court whether or not active efforts were provided by the *Gizhkwano* Department.
2. Review out of home placements
- a. Closely examine the circumstances summarized by the maltreatment intake report.
  - b. Closely examine the screening and assessment made by the Agency.
  - c. Closely examine the decision made by the Agency, address any lingering concerns the Commission has, and make recommendations to ICW.
3. Improve the *Gizhkwano* Department's ability to respond and treat the family
- a. Examine and make recommendations on the Department's Policies and Procedures
  - b. Examine the Tribal Court Children's Code and make recommendations
  - c. Examine the Foster Care Standards for the White Earth Nation and make recommendations
  - d. Make suggestions to improve culture, capacity and expertise
  - e. Make suggestions to improve accountability and oversight
  - f. Recognize systems strengths
4. Review compliance with Tribal Children's Code Requirements
- a. Examine active efforts provided by the Department
  - b. Examine relative placement efforts by the Department
  - c. Examine good cause to place outside of the placement preferences
  - d. Examine permanency recommendations made by the Department
  - e. Examine parental requirements and their actions in cases
  - f. Advise on permanency decisions
5. Review Best Interests of Children
- a. Examine best interests of children in emergency removal situations, and at permanency

- b. Advise on culture and child rearing
  - c. Advise on issues involving visitation, custody and placement preferences in light the children's best interests
6. Review Foster Care Licensing Appeals and make Determinations
- a. Accept documents for foster care licensing appeals
  - b. Review appeal documents and Agency responses
  - c. Review foster care standards
  - d. Interview appellant and Agency
  - e. Determine whether to uphold decision by Agency or reverse it
7. Review Difficulty of Care (DOC), Minnesota Assessment of Parenting for Children and Youth (MAPCY), or any other tool used to assess the needs of a child
- a. Accept documents to review an assessment determination from foster parents
  - b. Review appeal documents from foster parents and the Department
  - c. Review the tool used in determining the assessment
  - d. Determine whether to uphold the decision by the Department or to reassess the decision

## CHAPTER FIVE—REMOVAL AND PLACEMENT

### § 5.01 Emergency Removal

1. No child shall be removed from the home of the child's parent, guardian or custodian without the consent of the parent, guardian or custodian absent a specific order of the Children's Court, except as follows:
  - a. When failure to remove the child may result in a substantial risk of death, serious injury or serious emotional harm;
  - b. When the parent, guardian or custodian is absent and it appears, from the circumstances, that the child is unable to provide for her or his own basic necessities of life, and that no satisfactory arrangements have been made by the parent, guardian or custodian to provide for the necessities; or
  - c. When any person in charge of a hospital or similar institution, or any physician or licensed health care professional treating a child believes that returning the child to the care of the parents, caregiver, or legal custodian presents an imminent danger to the child's life or physical or mental health.

2. Tribal law enforcement or social services workers shall have the power to remove a child pursuant to this Chapter provided that:
  - a. Reasonable grounds existed at the time of the removal to believe the removal was necessary; and
  - b. The person removing the child ensures the safety and well-being of the child, until the time as the Children's Court assumes control over the matter; and
  - c. The person removing the child complies with the notice provisions in Chapter 5, Section 5.02.

#### **§ 5.02 Notice of Removal**

1. After a child is removed from his or her home, the person who removed the child shall attempt to contact the Children's Court within six hours. The attempt to contact the Court shall be documented. Actual notice to the Court shall be made, by the removing person, no later than 12:00 p.m. the next working day.
2. When Tribal law enforcement removes a child, the law enforcement officer shall notify the Indian Child Welfare department at the time, or by 12:00 noon the next working day.
3. The *Gizhwaaso* (Indian Child Welfare) Department shall make all reasonable efforts to immediately notify the parents, guardian or custodian that the child was removed.
4. Reasonable efforts shall include personal, telephone and written contacts at their residence, place of employment, or other location where the parent, guardian or custodian is known to frequent with regularity.
5. If the parent, guardian or custodian cannot be found, notice shall be given to members of the extended family of the parent, guardian, or custodian, or the extended family of the child, including after-hours contact information where Indian Child Welfare staff can be contacted by the parent for further information.
6. Notice to the parents shall include disclosure that they are to contact the Tribal Court regarding the emergency hearing so they are aware of when the emergency hold hearing will occur and that they are required to participate.

#### **§ 5.03 Emergency Order for Custody**

1. Pursuant to the provisions of this Section, the Court may, at any time, issue an emergency order for custody to prevent any act of child abuse.
  - a. The emergency order may be requested by the Indian Child Welfare department, a law enforcement officer, the *Gezhaanaajig Nejanisug* (those who guard children)

or upon the Court's own motion.

- b. Reasonable cause for the issuance of an order exists if there is evidence of child abuse or neglect, or if there is a reasonable likelihood of abuse or neglect occurring based upon a recent overt act or failure to act.
2. Notice shall be provided to the parties as set forth in the White Earth Court Rules of Civil Procedure, unless the child is reported to be in imminent danger, in which case the Court may issue an immediate injunction. If an immediate injunction is issued, the Court must hold a hearing on the next day of judicial business to dissolve the injunction or to continue or modify it in accordance with this Section.
3. If an injunction is issued under this Section, the primary purpose of the injunction must be to protect and promote the best interests of the child, taking the preservation of the child's immediate family into consideration.
  - a. The injunction shall apply to the alleged or actual offender in a case of child abuse or acts of domestic violence. The conditions of the injunction shall be determined by the Court and may include ordering the alleged or actual offender to:
    - i. Refrain from further abuse or acts of domestic violence;
    - ii. Participate in a specialized treatment program;
    - iii. Limit contact or communication with the child victim, other children in the home, or any other child;
    - iv. Refrain from contacting the child at home, school, work, or wherever the child may be found;
    - v. Have limited or supervised visitation with the child;
    - vi. Pay temporary support for the child or other family members; the costs of medical, psychiatric, and psychological treatment for the child incurred as a result of the offenses; and similar costs for other family members; or
    - vii. Vacate the home in which the child resides.
  - b. If the intent of the injunction is to protect the child from domestic violence, the conditions may also include:
    - i. Awarding the exclusive use and possession of the dwelling to the caregiver or excluding the alleged or actual offender from the residence of the caregiver;

- ii. Awarding temporary custody of the child to the caregiver, or
  - iii. Establishing temporary support for the child.
- 4. The terms of the injunction shall remain in effect until modified or dissolved by the Court.
  - a. The petitioner, respondent, or caregiver may move at any time to modify or dissolve the injunction.
  - b. The injunction is valid and enforceable as required by applicable tribal, federal, or state law.
- 5. A copy of an injunction issued pursuant to this Section shall be delivered to the protected party or to a parent, caregiver, or individual acting in the place of a parent who is not the respondent.
- 6. Law enforcement officers may exercise their arrest powers to enforce the terms of the injunction.
- 7. Any person who fails to comply with an injunction issued pursuant to this Section shall show cause to the Court why they should not be held in contempt.

**§ 5.04 Placement Preferences**

- 1. If a child is removed from his or her home, the child shall be placed in the least restrictive setting that most approximates a family and in which his or her special physical, mental, spiritual, or cultural needs may be met with an abundance of *zazgi'idwini*, love.
- 2. A child alleged to be abused, abandoned, or neglected may be placed by the Indian Child Welfare department in the following placements:
  - a. A non-custodial parent who is willing to guarantee that the child will not be returned to the alleged abusive or neglectful parent, guardian, or custodian, without the prior approval of the Court. The non-custodial parent may only be approved by the Indian Child Welfare department after a satisfactory review of the parent's criminal and child welfare history, and after the Indian Child Welfare department is reasonably certain placing the child in the custody of the non-custodial parent will not otherwise impede the child's safety;
  - b. A grandparent of the child who is willing to guarantee that the child will not be returned to the alleged abusive or neglectful parent, guardian, or custodian without the prior approval of the Court. The grandparent may only be approved by the Indian Child Welfare department after a satisfactory review the grandparent's criminal and child welfare history, and after the Indian Child Welfare department is reasonably certain placing the child in the custody of the

grandparent will not otherwise impede the child's safety;

- c. A member of the Extended Family or an Indian Custodian of the child who is willing to guarantee to the Court that the child will not be returned to the alleged abusive or neglectful parent, guardian, or custodian without the prior approval of the Court. The member of the Extended Family or the Indian Custodian may only be approved by the Indian Child Welfare department after a satisfactory review of the relative's criminal and child welfare history, and after the Indian Child Welfare department is reasonably certain that placing the child in the custody of the relative will not otherwise impede the child's safety;
  - d. A Tribally-licensed foster home authorized to provide foster care;
  - e. Any other suitable place that meets the standards for shelter care facilities established by the *Gizhwaaso* (Indian Child Welfare) Department; or
  - f. A juvenile shelter or mental health facility if reasonably necessary to meet the needs of the child.
3. Whenever appropriate, a child shall be permanently placed in a home with the following characteristics, which shall be given preference in the following order:
- a. A non-custodial parent, when it will not be harmful to the child's welfare;
  - b. A grandparent, if the child has the most significant and positive contacts with them;
  - c. An extended family member kin, or Indian Custodian;
  - d. A tribal member or person eligible for tribal membership in the child's tribe;
  - e. Other Indian persons, and;
  - f. A person who is recognized by the Tribe as having a significant relationship with the child and recognized by the Tribe to meet the child's special needs, if any.
4. The White Earth Children's Court has the ability to determine that the child's best interests require deviation from the preferences at any time.

#### **§ 5.05 Restrictions on Placement of Children**

1. The *Gizhwaaso* (Indian Child Welfare) Department shall conduct a criminal history records check on all persons being considered by the *Gizhwaaso* Department for temporary or permanent placement of a child. The criminal history records check shall be conducted for all members of the household, including children over the age of twelve

and any identifiable frequent visitors to the household.

2. A person who is seeking placement of a child, but is denied the placement because of the results of a criminal history records check has the burden of setting forth sufficient evidence of rehabilitation to show that the person will not present a danger to the child if the placement of the child is allowed. Evidence of rehabilitation may include, but is not limited to:
  - a. the circumstances surrounding the incident providing the basis for denying the application;
  - b. the time period that has elapsed since the incident;
  - c. the nature of the harm caused to the victim;
  - d. whether the victim was a child;
  - e. the history of the person since the incident;
  - f. whether the person has complied with any requirement to pay restitution; and
  - g. any other evidence or circumstances indicating that the person will not present a danger to the child if the placement of the child is allowed.

#### **§ 5.06 Foster Home Licensing Procedures**

The Indian Child Welfare department shall be responsible for licensing all tribal foster homes according to the standards approved by the White Earth Tribal Council. The Indian Child Welfare department shall maintain policies and procedures for foster care licensing standards as approved by the White Earth Tribal Council.

#### **§ 5.07 Authorization of Medical Treatment**

1. If a child requires medical treatment or a physical exam during the emergency custody phase, the Indian Child Welfare department may bring the child to a licensed physician or an emergency department in a hospital without the consent of the child's parents or legal custodian.
2. Consent for medical treatment shall be obtained in the following manner, provided that the Indian Child Welfare department shall be authorized to consent to routine treatment:
  - a. Consent for non-routine medical treatment shall be obtained from a parent or legal custodian of the child; or
  - b. A court order for treatment shall be obtained;

3. In the event of a serious medical event requiring treatment, the Indian Child Welfare department shall, with the assistance of Tribal law enforcement, attempt to locate the parents for notification and consent to treatment. If a parent, guardian, or legal custodian is not immediately available and cannot be found after reasonable effort in the circumstances of the case, the Court may authorize medical or surgical care for a child.
  - a. If it is after normal working hours, so that a court order cannot reasonably be obtained, the Indian Child Welfare department shall have the authority to consent to necessary medical treatment for the child.
  - b. The authority of the Indian Child Welfare department to consent to medical treatment in this circumstance shall be limited to the time reasonably necessary to obtain court authorization.
  - c. The Indian Child Welfare department shall continue to make efforts to notify the parents.
4. If a parent or legal custodian of the child is available but refuses to consent to the necessary treatment, a court order shall be required unless the situation meets the definition of an emergency in Chapter 5, Section 5.01 or Chapter 5, Section 5.07(1), or the treatment needed is related to suspected abuse, abandonment, or neglect of the child by a parent or legal custodian.
  - a. In these cases, the *Giizhawazo* Department shall have the authority to consent to necessary medical treatment.
  - b. This authority is limited to the time reasonably necessary to obtain Court authorization.
5. If a physician informs the Court orally or in writing that in his or her professional opinion, the life of the child would be greatly endangered without certain treatment, the Court may authorize medical or surgical care for a child.
  - a. If time allows in a situation of this type, the Court shall make every effort to grant the parents, guardian, or custodian an immediate informal hearing, but this hearing shall not be allowed to further jeopardize the child's life.
  - b. Oral authorization by the Court is sufficient for the care or treatment to be given and shall be accepted by any physician or hospital.
  - c. No physician or hospital, nor any nurse, technician, or other person under the direction of the physician or hospital shall be subject to criminal or civil liability in Court for the performance of care or treatment in reliance on the Court's authorization, and any functions performed shall be regarded as if they were performed with the child's and the parent's authorization.



6. In no case shall the *Gizhwaano* Department or the Court consent to sterilization, abortion, or termination of life support.

## **CHAPTER SIX—CHILD IN NEED OF PROTECTION AND/OR SERVICES PROCEEDINGS**

### **§ 6.01 General Process Provisions**

1. **Closed Hearings.** All hearings shall be closed to the public, unless excepted by special order of the judge, who may open any hearing to the public upon determining that the public interest or welfare of the child is best served by so doing. The court may allow interested extended family to attend any hearing if the court finds the child is best served by including them.
2. **Discovery.** The parents or legal custodians shall be allowed to obtain discovery pursuant to the [White Earth Court Rules of Civil Procedure](#), provided the discovery does not violate the confidentiality provisions of [Chapter 2, Section 2.09](#).
3. Hearings involving more than one child may be held simultaneously when the children involved are related to each other or were involved in the same case.
4. The child and the parents, caregivers, or legal custodians of the child may be examined separately and apart from each other.

### **§ 6.02 Filing a Child In Need of Protection and/ or Services (CHIPS) Petition**

1. The purpose of a CHIPS petition is the protection of the child and not the punishment of the person creating or allowing the adverse situation resulting in the need for protection and/ or services for the child.
2. The CHIPS petition shall set forth the following with specificity:
  - a. The name, birth date, sex, residence, and tribal affiliation of the child;
  - b. The basis for the Court's jurisdiction;
  - c. The names, residences, and tribal affiliation(s) of the child's parents, guardians or custodians, if known;
  - d. The names, relationship, and residences of all known household members, members of the child's extended family, and all former care givers, if known;
  - e. The specific allegations of abuse, abandonment, or neglect;

- f. A plain and concise statement of the facts upon which the allegations of abuse, abandonment, or neglect are based, including the date, time, and location at which the alleged facts occurred; and
  - g. Whether there has been a determination by the *Gizhawsawo* Department that voluntary services are not appropriate for the child or family in this situation.
3. If a child has been removed from the home, then a CHIPS petition shall be filed with the Court no later than 12:00 p.m. of the third working day following the removal, if the *Gizhawsawo* Department intends to file a CHIPS petition.
  4. The Court may not allow a petition to proceed under this Section if it appears that the sole purpose of the petition is to modify custody between the parents.
  5. The petition shall be verified by the person having knowledge of the facts and may be on information and belief. Unless otherwise provided by this Section or by rule or order of the Court, the tribal attorney shall draft the petition upon the showing of reasonable grounds to support the petition.
  6. After a petition has been filed and unless the parties hereinafter named voluntarily appear, the Court shall set a time for a hearing and shall issue a summons requiring the child's parents or legal guardian and any person who has legal custody of the child to appear before the Court at a time and place stated. The summons shall have a copy of the petition attached, and shall advise the parties of the right to counsel and of the consequences of failure to obey the summons. The Court shall give docket priority to any child in need of protection or services or neglected and in foster care, that contains allegations of child abuse over any other case.

**§ 6.03 Notification of Rights, Process, and Service**

1. All parties have the right to be treated with *manaaji'idiwin*, respect, throughout all of the proceedings under this Code, but in return are expected to communicate and act with *gwajakwaadziwin*, honesty and truthfulness.
2. A child who is the subject of a petition, and the parents, guardian, or legal custodian of the child have the right to participate in all proceedings on a petition, including the opportunity to personally attend all hearings.
3. All parties have a right to be represented by an attorney at their own expense in all proceedings under this Code, to introduce evidence, to be heard on his or her own behalf, to examine witnesses, and to be informed of possible consequences if the allegations of the petition are found to be true.
4. All parties shall be entitled to advance copies of Court documents, including petitions and reports, unless deemed inappropriate by the Court.

5. All parents or legal custodians must be notified of all proceedings or hearings involving their child, unless parental rights have been suspended or terminated.
  - a. If the identity or location of a parent or legal custodian is unknown, the Court shall conduct the following inquiry of the parent or legal custodian who is available, or, if no parent or legal custodian is available, of any relative or custodian of the child who is present at the hearing and likely to have the information:
    - i. Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.
    - ii. Whether the mother was living with a male at the probable time of conception of the child.
    - iii. Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.
    - iv. Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.
    - v. Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child, or in which the child has resided or resides.
  - b. The information above may be supplied to the Court in the form of a sworn affidavit by a person having personal knowledge of the facts.
  - c. If the inquiry identifies any person as a parent or prospective parent, the Court shall require notice of the hearing to be provided to that person.
  - d. If the inquiry fails to identify any person as a parent or prospective parent, the Court shall so find and may proceed without further notice.
  - e. If the inquiry identifies a parent or prospective parent, and that person's location is unknown, the Court shall direct the petitioner to conduct a diligent search for that person before scheduling a formal trial on the issues regarding the child, unless the Court finds that the best interest of the child requires proceeding without notice to the person whose location is unknown.
  - f. The diligent search required by Chapter 65, Section 6.02(4)(e) must include, at minimum:
    - i. Inquiries of all relatives of the parent or prospective parent made known to the petitioner;

- ii. Inquiries of all tribal departments likely to have information about the parent or prospective parent;
  - iii. Inquiries of other tribal, state and/or federal agencies likely to have information about the parent or prospective parent;
  - iv. A thorough search of at least one electronic database specifically designed for locating persons; and
  - v. Inquiries of appropriate law enforcement agencies.
- g. It is not necessary to the validity of a proceeding covered by this Code that the parents be present if their identity or residence is unknown after a diligent search has been made, but in this event the petitioner shall file an affidavit of diligent search prepared by the person who made the search and inquiry, and the Court may appoint a *gezhaanaajig nejanisueq* (those who guard children) for the child.
- h. When an affidavit of diligent search has been filed, the petitioner shall continue to search for and attempt to serve the person sought until excused from further search by the Court. The petitioner shall report on the results of the search at each Court hearing until the person is identified or located or further search is excused by the Court.
- i. If the inquiry and diligent search identifies a prospective parent, that person must be given the opportunity to become a party to the proceedings by completing a sworn affidavit of parenthood and filing it with the Court.
6. Personal appearance of any person in a hearing before the Court obviates the necessity of serving process on that person.
7. Upon the filing of a petition containing allegations of facts that, if true, would establish that a child is in need of protection and/ or services, and upon the request of the petitioner, the clerk of court or deputy clerk shall set an Admit or Deny hearing not more than 30 days after filing of the CHIPS petition.
8. The Court shall issue a summons to all parties.
- a. The summons shall require the person on whom it is served to appear for the CHIPS Admit or Deny hearing at a time and place specified.
  - b. The summons shall be directed to, and shall be served upon, all parties.
9. Upon the application of a party or the petitioner, the clerk of court or deputy clerk shall issue, and the Court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, and other tangible objects at any hearing.

10. Subpoenas may be served within the exterior boundaries of the Reservation by any person over eighteen years of age who is not a party to the proceeding. Subpoenas served outside the exterior boundaries of the Reservation must be made pursuant to the rules and procedures of the jurisdiction from which service is sought.
11. As described in the White Earth Rules of Civil Procedure, all process and orders issued by the Court shall be served or executed as civil process and orders of the Court
12. Service of the summons and service of pleadings, papers, subpoenas and notices subsequent to the summons on persons outside the exterior boundaries of the Reservation must be made pursuant to the rules and procedures of the jurisdiction from which service is sought.
13. The parent or legal custodian of the child, the tribal attorney, the *Giizhawaaso* (Indian Child Welfare) Department, the *gezhaanaajig nejanisug* (those who guard children), and all other parties and participants, including relatives who have been identified as interested parties, shall be given reasonable notice of all proceedings and hearings.
14. Notice by Publication. In a child and family protection case where it appears within the body of the petition or within an accompanying statement that the parent, guardian or custodian is a non-resident of the Reservation, or that their name, place of residence or whereabouts is unknown, as well as in all cases where after personal service or service by registered mail has been unable to be effected, the Court shall direct the petitioner to publish legal notice in a newspaper, printed in the county or on the Reservation, qualified to publish summons.
  - a. The notice shall be published once prior to the next hearing.
  - b. The first publication of the notice must be at least twenty-one days prior to the date fixed for the hearing.
  - c. This notice shall be directed to the parent, guardian or custodian if their names are known, or if unknown the phrase "to whom it may concern" may be used, applied to, and be binding upon any person whose names are unknown.
  - d. The name of the Court, name of the child, the date of the filing of the petition, the date of the hearing, and the object of the proceeding in general terms, shall be set forth.
  - e. There shall be filed with the clerk an affidavit showing publication of the notice.
  - f. The publication of the notice shall be paid by the tribe.
  - g. The publication of the notice shall be deemed equivalent to personal service upon all persons known or unknown who have been designated as provided in this Chapter.

15. The summons issued by the Court shall conspicuously display the words:

**NOTICE:** VIOLATION OF THIS ORDER IS SUBJECT TO PROCEEDINGS FOR CONTEMPT OF COURT PURSUANT TO CHAPTER VI OF THE WHITE EARTH BAND OF CHIPPEWA JUDICIAL CODE. THE COURT MAY FIND THE PARENT, GUARDIAN OR CUSTODIAN IN CONTEMPT FOR FAILURE TO APPEAR AT A COURT HEARING OR FOR FAILURE TO FOLLOW COURT ORDERS.

A PARENT, GUARDIAN OR CUSTODIAN PARTY TO THIS PROCEEDING HAS THE RIGHT TO COUNSEL. IF YOU CANNOT AFFORD TO HIRE YOUR OWN ATTORNEY, THE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT YOU.

16. Notice and appearance may be waived by a parent in writing before the Court in the presence of, and witnessed by, a clerk of the court, provided the parent has been apprised by the Court of the meaning and consequences of the child protection action. The parent who has executed a waiver shall not be required to appear at the hearing. Where the parent is a minor, the waiver shall be effective only upon approval by the court.

**§ 6.04 Answer to Petition**

1. No answer to the petition or to any other pleading need be filed by any child, parent, or legal custodian.
2. Any matters that might be set forth in an answer or other pleading may be plead orally before the Court or filed in writing.
3. Notwithstanding the filing of an answer or any pleading, the respondent shall be advised by the Court of the right to counsel and shall be given an opportunity to deny the allegations in the petition or to enter a plea to allegations in the petition before the Court.

**§ 6.05 CHIPS Admit-Deny hearing**

1. An admit-deny hearing on the allegations contained in the CHIPS petition shall be held no later than thirty (30) days after the filing of the petition.
2. The admit-deny hearing may be informal, and the Court may take testimony from the parents, guardian, or legal custodian of the child subject to the proceedings regarding the allegations contained in the CHIPS petition.

3. The purpose of the hearing is for the Court to determine whether there is a *prima facie* basis for finding that the allegations contained in the CHIPS petition are sufficiently true to merit a trial on the issues.

#### **§ 6.06 Alternative Dispute Resolution**

The Court may authorize the parties and participants in any child in need of protection or services to participate in any appropriate form of alternative dispute resolution including family group conferencing, peacemaking circles, and mediation when such alternative dispute resolution is in the best interests of the child. The Court may order that the child be included in the alternative dispute resolution process, as appropriate and in the best interests of the child. An alternative dispute resolution process, including family group conferencing, peacemaking circles, and mediation, may be used to resolve part or all of a matter before the Court at any point in the proceedings subject to approval by the Court that the resolution is in the best interests of the child.

#### **§ 6.07 Social Service Report**

1. The *Gizhawazo* (Indian Child Welfare) Department is required to submit a social service report to aid the Court in its decisions.
2. A report must be filed three business days prior to any formal trial on the issues or review hearing and must include:
  - a. A summary of the problems;
  - b. What steps, if any, the parent, guardian, custodian, or *Gizhawazo* Department have taken to correct the problems, including the active efforts made by all parties to comply with the case plan;
  - c. What services could be of benefit to the parent, guardian, or custodian, but are not available in the community;
  - d. A report on how the child is doing in his or her current placement since the last hearing;
  - e. Reasons for any change in placement that have occurred since the last hearing;
  - f. Number of days the child has been away from his or her home;
  - g. Number of times the child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for any change in placement;
  - h. Placement of the child's siblings, if any;



- i. Dates of contact with the parent, guardian, or custodian, and the child since the first hearing was held, the method of contact, the duration of the contact, and the subjects discussed;
- j. If there have been no contact with the parent, guardian, custodian, or social worker, what efforts have been made to contact the parties;
- k. An assessment of when the child is expected to return home;
- l. If the child has reached sixteen years of age, but is not yet eighteen years of age, the status of the provision of independent living services; and
- m. An update on the case plan, as developed under Chapter 7 of this Code.

**§ 6.08 Formal Trial on the Issues**

1. The formal trial on the issues will be set for no later than sixty days following the admit/deny hearing.
2. The records of the EPC hearing and the admit/deny hearing shall not be admissible at the formal trial. This shall not be construed to prevent the admissibility of any evidence that was presented at these hearings that would normally be admissible under the Rules of Evidence.
3. The general public shall be excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family, and other persons determined to be appropriate by the Court shall be admitted.
4. During the hearing, the Court shall advise the parties of the reason for the hearing and of their basic rights.
5. If the Court determines that it is in the best interests of the child and does not violate the rights of a party, the Court may allow the child to testify by means of a videotape deposition, closed circuit television, or other appropriate method. If the Court does allow these methods to be utilized, the Court shall specifically set out the reasons for this determination on the record.
6. The burden of proof lies with the petitioner.
  - a. The petitioner must prove that the allegations raised in the CHIPS petition are true by a preponderance of the evidence, and that the best interests of the child will be served by continued Court intervention.
  - b. In no instance shall allegations made in an anonymous report of abuse, abandonment, or neglect be sufficient to support an adjudication of a child in need of protection and/or services in the absence of additional corroborating evidence.



7. The Court has the discretion to continue the formal trial on the issues to a date certain to allow for the presentation of further evidence in support or against the petition, if the Court makes findings consistent with Section 1.20 of this Code.

#### **§ 6.09 Dispositions**

1. If the Court finds at the formal trial on the issues that the child named in the petition is not in need of protection and/ or services, it shall enter an order so finding and dismissing the case.
2. If the Court finds that the child named in the petition is in need of protection and/ or services, but finds that no action other than supervision in the child's home is required, it may enter an order briefly stating the facts upon which its finding is based, but withholding an order of adjudication and placing the child's home under the supervision of the *Giizhawano* Department.
  - a. If the Court later finds that the parents of the child have not complied with the conditions of supervision imposed, the Court may, after a hearing to establish the noncompliance, enter an order of adjudication and shall thereafter have full authority under this Code to provide for the child as in need of protection and/ or services.
  - b. If the child is to remain in an out-of-home placement by order of the Court, the Court must find the child in need of protection and/ or services.
3. The Court may find the allegations of the CHIPS petition to be true and order that the child remain out-of-home. The grounds for continuing removal from the home of a parent, guardian or custodian are that:
  - a. A child has no parent, guardian or custodian available, willing and capable to care for the child;
  - b. The child has suffered, or is likely to suffer, a physical injury inflicted upon him or her by other than accidental means;
  - c. The child has not been provided with adequate food, clothing, shelter, medical care, education, or supervision by his or her parent, guardian, or custodian, which is necessary for the child's health and well-being;
  - d. The child has been sexually abused or sexually exploited;
  - e. The child has committed juvenile offenses as a result of parental pressure, guidance, or approval;

- f. The child has been emotionally abused or neglected; or
  - g. The child has suffered, or is likely to suffer, emotional damage that causes or creates a substantial risk of impaired development.
4. The Court shall specify in its order the necessary intervention and appropriate steps, if any, that the parent, guardian or custodian must follow to correct the underlying problem.
  5. The Court may find the allegations of the CHIPS petition to be true and out-of-home placement necessary, but with the accomplishment of specified actions by the parent, guardian, or custodian, the child may be returned absent good cause to the contrary.
    - a. The order of the Court will specify actions and their time frames that parents, guardians or custodians must accomplish before the child is returned.
    - b. The order will also specify the responsibilities of any support agency or personnel to be involved.
  6. The Court may find the allegations of the CHIPS petition to be true and that out-of-home placement continues to be necessary and further that the child may not be returned to the home absent specific order of the Court.
    - a. The court order shall specify what steps the parents shall take to demonstrate their abilities to care for their child.
    - b. The court order shall specify to the parties what factors the Court will consider at a subsequent hearing to determine whether or not the child should be returned.
  7. The Court shall specify in its written order:
    - a. The placement or custody of the child;
    - b. Special conditions of placement and visitation;
    - c. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered;
    - d. The persons or entities responsible for supervising or monitoring services to the child and the parent;
    - e. Continuation or discharge of the *gezhaanaqig nejanisug* (those who guard children), as appropriate;
    - f. The date, time, and location of the next scheduled review hearing;

- g. If the child is in an out-of-home placement, child support, if any, to be paid by the parents, or the guardian of the child's estate;
  - h. If the Court does not commit the child to the temporary legal custody of an adult relative, legal custodian, or other adult approved by the Court, the disposition order shall include the reasons for its decision. It shall include a determination as to whether active efforts were made by the *Gizkawaso* Department to locate a relative or legal custodian; and
  - i. Any other requirements necessary to protect the health, safety, and well-being of the child.
8. If the Court finds that the prevention or reunification efforts will allow the child to remain safely at home or be safely returned to the home, the Court must make a specific finding of fact that the reasons for removal have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.
9. If the Court determines that the allegations of the CHIPS petition to be true and that out-of-home placement continues to be necessary, the order must include a written determination that it is contrary to the welfare of the child to remain at home and that removal of the child is necessary to protect the best interests of the child.
10. If the child was removed before the formal trial on the issues, the order must also include a written determination as to whether, after removal, the *Gizkawaso* Department has made active efforts to reunify the parent and child.
- a. For the purposes of this Chapter, "active efforts" means the exercise of due diligence and care by the *Gizkawaso* Department to engage the family in order to provide the services ordered by the Court or delineated in the case plan. Active efforts must be undertaken and documented prior to and until the commencement of the proceedings, and the Department must show that active efforts were unsuccessful.
  - b. In support of its determination as to whether active efforts have been made, the Court shall:
    - i. Enter written findings as to whether prevention or reunification efforts were indicated;
    - ii. Include a brief written description of what appropriate and available prevention and reunification efforts were made; and
    - iii. Indicate in writing why further efforts could or could not have prevented or shortened the separation of the parent and child.

- c. A Court may find that the *Ojibwa* Department made an active effort to prevent or eliminate the need for removal if:
    - i. The first contact of the Department with the family occurs during an emergency;
    - ii. The appraisal of the home situation by the Department indicated a substantial and immediate danger to the child's safety or physical, mental, or emotional health that could not be mitigated by the provision of preventative services; or
    - iii. The child cannot safely remain at home because there are no preventative services that can ensure the health and safety of the child.
11. When any child is adjudicated by the Court to be in need of protection and/ or services, the Court has the power, including, but not limited, through a court order to:
- a. Require the parent, legal custodian, and the child to participate in any treatment and services identified as necessary;
  - b. Require the parent, legal custodian, and child to submit to a substance abuse assessment;
  - c. Issue an order for protection in assistance, or as a condition, of any other order made under this Code;
  - d. Impose appropriate sanctions for noncompliance of a court order or case plan upon a person who has custody or is requesting custody of the child; and
  - e. Place the child under the protective supervision of the Department.

**§ 6.10 Default Judgment**

- 1. In accordance with Rule XXIV of the White Earth Rules of Civil Procedure, if the parent, guardian, or custodian fails to appear for the pretrial or the formal trial, the Court may find the parent, guardian, or custodian in default, and enter a default order of a child in need of protection and/ or services and order necessary intervention and appropriate steps the parents, guardian, or custodian must follow to correct the underlying problem.
- 2. Prior to finding a parent, guardian, or custodian in default, the Court must be satisfied actual notice has been given or that all reasonable possible steps have been taken to provide notice of the pretrial or the formal trial to the parent, guardian, or custodian.
- 3. The Court must also find that the petitioner can prove the elements of the CHIPS petition.

4. If the parent, guardian, or custodian is found in default, the Court shall specify the facts, grounds, and sections of this Code upon which it relied to make the decision.

**§ 6.11 Judicial Review**

1. The Court shall have continuing jurisdiction in accordance with this Code and shall review the status of any child adjudicated to be in need of protection and/ or services at least every ninety days, or more frequently if the Court deems it necessary or desirable, until the child reaches permanency status.
2. The initial judicial review hearing must be held no later than sixty days after the date the child was found to be in need of protection and/ or services.
3. Notice of a judicial review hearing will be provided to the parties present at the last court hearing and served by tribal social services on any additional parties deemed necessary.
4. At the review hearing, the Court shall determine whether or not the child should be returned home, returned home under supervision, remain in his or her current placement, or be transferred to another out-of-home placement. In making this determination, the Court should consider:
  - a. The parent's substantial compliance or non-compliance with the case plan;
  - b. The appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible;
  - c. The best interests of the child;
  - d. The best interests of the Tribe; and
  - e. Recommendations of the *Gizhwaaso* Department.
5. If continued Court intervention is determined to be necessary, the Court shall set forth the following in a written order:
  - a. What services have been provided or offered to the parent, guardian or custodian, to help correct the underlying problems;
  - b. The extent to which the parent, guardian, or custodian has visited or contacted the child, any reason why visitation or contact has been infrequent or not otherwise occurred;
  - c. Whether the parent, guardian, or custodian is cooperative with the Court and the Department;

- d. Whether additional services should be offered to the parent, guardian, or custodian;
- e. Whether the parent, guardian, or custodian should be required to participate in any additional programs to help correct the underlying problems; and
- f. When the return of the child to his or her parents can be reasonably expected.

#### **§ 6.12 Grandparent's and Extended Family Rights**

1. A grandparent, step-grandparent, or customary grandparent is entitled to reasonable visitation with his or her grandchild who has been adjudicated as a child in need of protection and/ or services or whose parents have had their parental rights suspended or terminated, unless the Court finds that visitation is not in the best interest of the child.
2. Reasonable visitation may be unsupervised, in the home of the grandparent and, where appropriate and feasible, may be frequent and continuing, subject to the approval of the Court. The grandparent shall pay for the cost of the child's transportation.
3. Any attempt by a grandparent to facilitate a meeting between the child and the child's parent or legal custodian after a suspension or termination of parental rights or with any other person in violation of a court order may jeopardize the future visitation rights of the grandparent.
4. When the child has been returned to the physical custody of his or her parent, the visitation rights granted pursuant to this Section shall terminate and the visitation rights shall return to those regularly accorded under the law.

### **CHAPTER SEVEN—CASE PLANS**

#### **§ 7.01 Case Plan Development**

1. The *Gizhwanaso* (Indian Child Welfare) Department shall prepare a case plan for each child receiving services under this Code. The Department should file a case plan within 30 days after the child protection petition is filed with the Court.
2. A parent of a child may not be threatened or coerced with the loss of custody or parental rights for failing to admit in the case plan of abusing, neglecting, or abandoning a child.
3. Participating in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect, and it is not consent to a finding of a child in need of protection and/ or services, suspension or termination of parental rights, or transfer of legal custody.

4. The case plan shall be developed subject to the following requirements:
  - a. The case plan should be developed, whenever possible, in a face-to-face conference with the parent(s) of the child, any Court-appointed *goshanashig nejanisug* (those who guard children), and, if appropriate, the child;
  - b. The parent may receive assistance from any person or *Gizhawaaso* Department in preparing the case plan. The Department and the Court, when applicable, shall inform the parent of the right to receive assistance, including the right to assistance of counsel;
  - c. In the event of placement, the parents' responsibility for financial support of the child;
  - d. If a parent is unwilling or unable to participate in developing a case plan, the *Gizhawaaso* Department shall document that unwillingness or inability to participate.
    - i. The documentation of the parent's inability or unwillingness to participate in the case plan development must be provided in writing to the parent when available for the Court record, and the Department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this Chapter.
    - ii. The unwillingness or inability of the parent to participate in developing a case plan does not preclude the filing of a CHPS petition, or adjudication of CHPS.
    - iii. The parent, if available, must be provided a copy of the case plan and be advised that he or she may request judicial review of any provision of the case plan with which he or she disagrees at any court hearing set for the child. The Department may require the parent to acknowledge receipt of the case plan.
5. The case plan must be written simply and clearly in English and, if English is not the principal language of the child's parent, to the extent possible in the parent's principal language. Each case plan must contain:
  - a. A description of the identified problem being addressed, including the parent's behavior or acts resulting in risk to the child and the reason for the intervention by the *Gizhawaaso* Department;
  - b. The permanency goal;
  - c. The date the compliance period expires; and





10. The case plan must be filed with the Court and copies provided to all parties no less than three business days before the formal trial on the issues.

**§ 7.02 Case Plan Tasks and Services**

1. The services described in the case plan must be designed to improve the conditions in the home and aid in maintaining the child in the home, facilitate the child's safe return to the home, ensure proper care of the child, or facilitate the child's permanent placement.
2. The services offered must be the least intrusive possible into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care.
3. The case plan must describe each of the tasks with which the parent must comply and the services to be provided to the parent, specifically addressing the identified problem, including:
  - a. The type of services or treatment.
  - b. The date the *Giizhwaaso* (Indian Child Welfare) Department will provide each service or referral for the service if the service is being provided by an agency approved by the Department.
  - c. The frequency of services or treatment provided.
  - d. The location of the delivery of the services.
  - e. The staff of the *Giizhwaaso* Department or service provider accountable for the services or treatment, and
  - f. A description of the measurable objectives, including the timeframes or dates specified for achieving the objectives of the case plan and addressing the identified problem.
4. The case plan must include all available information that is relevant to the child's care including, at a minimum:
  - a. A description of the identified needs of the child while in care;
  - b. A description of the plan for ensuring that the child receives safe and proper care and that services are provided to the child in order to address the child's needs; and

- c. To the extent available and accessible, the following health and education records of the child must be attached to the case plan and regularly updated:
  - i. The names and addresses of the child's health, mental health, and educational providers;
  - ii. The child's grade level performance;
  - iii. The child's school record;
  - iv. Assurances that the child's placement takes into account proximity to the school in which the child is enrolled at the time of placement;
  - v. A record of the child's immunizations;
  - vi. The child's known medical history, including any known problems;
  - vii. The child's medications, if any; and
  - viii. Any other relevant health, mental health, and education information concerning the child.
- 5. In addition to any other requirement, if the child is in an out-of-home placement, the case plan must include:
  - a. A description of the type of placement in which the child is living;
  - b. A description of the visitation plan, including sibling visitation if the child has siblings and is separated from them;
  - c. When appropriate, for a child who is sixteen years of age or older, a written description of the programs and services that will help the child prepare for the transition from foster care to independent living; and
  - d. A discussion of the safety and the appropriateness of the child's placement, which placement is intended to be safe, and the least restrictive and the most family-like setting available consistent with the best interest and special needs of the child and in as close proximity as possible to the child's home.

#### **§ 7.03 Case Plan Amendments**

- 1. After the case plan has been developed, the tasks and services agreed upon in the plan may not be changed or altered in any way except as provided in this Section.
- 2. The case plan may be amended at any time in order to change the goal of the plan, employ the use of concurrent planning, add or remove tasks the parent must complete to

substantially comply with the plan, provide appropriate services for the child, and update the child's health, mental health, and education records.

3. The case plan may be amended upon approval of the court if all parties are in agreement regarding the amendments to the plan and the amended plan is signed by all parties and submitted to the court with a memorandum of explanation, or after hearing and order of the court.
4. The need to amend the case plan may be based on information discovered or circumstances arising after the approval of the case plan for:
  - a. A previously unaddressed condition that, without services, may prevent the child from safely returning to the home or may prevent the child from safely remaining in the home;
  - b. The child's need for permanency, taking into consideration the child's age and developmental needs;
  - c. The failure of a party to substantially comply with a task in the original case plan, including the ineffectiveness of a previously offered service; or
  - d. An error or oversight in the case plan.
5. Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care.
6. A copy of the amended plan must be immediately given to all relevant parties involved, and filed with the court within seven (7) days after development.

#### **§ 7.04 Case Plans Without Parental Participation**

1. In the event the parents will not or cannot participate in preparation of a case plan, the *Gizhwaaso* (Indian Child Welfare) Department shall submit a full explanation of the circumstances and state the nature of its efforts to secure the parents' participation in the preparation of a case plan.
2. In a case in which the physical, emotional, or mental condition or physical location of the parent is the basis for the parent's nonparticipation, it is the burden of the *Gizhwaaso* Department to provide substantial evidence to the Court that the condition or location has rendered the parent unable or unwilling to participate in the preparation of a case plan. The supporting documentation must be submitted to the Court at the time the plan is filed.

3. The plan must still include the specific services to be provided by the Department, the goals and plans for the child, the time for accomplishing the provisions of the plan, and for accomplishing permanency for the child.
4. At least three (3) business days prior to the hearing in which the Court will consider approval of the case plan, all parties must be provided with a copy of the plan developed by the Department.
5. If the location of one or both parents is unknown, this must be documented in writing and included in the plan submitted to the Court. After the filing of the plan, if the location of an absent parent becomes known, that parent must be served with a copy of the plan.
6. Before the filing of the plan, the *Gizhkwano* Department shall advise each parent, both orally and in writing, that the failure of the parents to substantially comply with a plan may result in other permanent placement for the child, but only after notice and hearing as provided in this Code.

**§ 7.05 Court Approval of Case Plans**

1. All case plans and amendments to case plans must be approved by the Court. At the hearing on the case plan, which shall occur in conjunction with the CHIPS adjudication unless otherwise directed by the Court, the Court shall determine:
  - a. If the plan is consistent with previous orders of the Court placing the child in care;
  - b. In involuntary placements, whether each parent was notified of the right to counsel at each stage of the CHIPS proceedings, in accordance with the White Earth Court Rules of Civil Procedure;
  - c. Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan; and
  - d. Whether the plan is meaningful and designed to address facts and circumstances upon which the Court based the finding of dependency in involuntary placements, or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in out-of-home care voluntarily.
2. When the Court determines that any of the elements considered at the hearing related to the plan have not been met, the Court shall require the parties to make necessary amendments to the plan in accordance with Chapter 7, Section 7.03.
  - a. The amended plan must be submitted to the Court for review and approval within thirty days after the hearing.

- b. A copy of the completed amended plan must also be provided to each party immediately or as soon as possible, if the location of the party is known.
3. A parent who has not participated in the development of a case plan must be served with a copy of the plan developed by the *Gishawaso* Department at least three (3) business days prior to the Court hearing.
4. Any parent is entitled to, and may seek, a court review of the plan prior to the initial judicial review and must be informed of this right by the Department at the time the Department serves the parent with a copy of the plan.

## **CHAPTER EIGHT—SUSPENSION OF PARENTAL RIGHTS AND TRANSFER OF LEGAL CUSTODY**

### **§ 8.01 Rights During a Suspension of Parental Rights or a Transfer of Legal Custody Proceeding**

1. A parent has the right to refuse services provided by any *Gishawaso* (Indian Child Welfare) Department; however, a refusal to accept services may have a significant impact on the parent's ability to have contact with their child and may result in the filing of a suspension of parental rights or a transfer of legal custody petition.
2. The parents have all the rights enumerated in Chapter 6, Section 6.03 and Chapter 1, Section 1.18
3. If applicable in a proceeding under this Chapter 8, the biological parents and the petitioner have the right to move the Court for an independent medical, psychological or psychiatric evaluation of the child. In determining whether to grant a motion for an independent evaluation, the Court may consider the following factors:
  - a. The effect of the proposed evaluation on the child;
  - b. The necessity for the independent evaluation;
  - c. The records from the independent evaluation that will be released to the Court and the Parties;
  - d. What the independent evaluation should consist of; and
  - e. The cost of the evaluation and whether there is medical coverage for the evaluation.

**§ 8.02 Petition to Suspend Parental Rights or Transfer of Legal Custody**

1. Any adult or agency possessing custody of a child may file a petition with the Court Administrator seeking an order for the permanent suspension of the parental rights of a parent of a child or a transfer of legal custody away from one or both of the biological parents of the child. The petition shall contain the following information:
  - a. The name, birth date, sex, residence, and tribal affiliation of the child;
  - b. The name, address, and telephone number of the child's tribe;
  - c. The basis for the Court's jurisdiction;
  - d. The names, residences, telephone numbers, and tribal affiliations of the child's parent whose parental rights are to be suspended or affected in a transfer of legal custody;
  - e. The name, residence, telephone numbers, and tribal affiliation of the petitioner and the petitioner's relationship, if any, to the child;
  - f. The names, relationship, telephone numbers, and residences of all known relatives of the child who may have an interest in the care, custody or control of the child;
  - g. A statement as to why an order for the suspension of parental rights of the parent or a transfer of legal custody of the child is in the best interests of the child and the child's tribe;
  - h. A statement as to the basis for the request for the suspension of parental rights or transfer of legal custody of the child, supported by reports or testimony from medical records, psychiatric records, child protection worker records, family members (including extended family), or psychological records; and
  - i. A statement that no similar action is pending in a state or tribal court that has jurisdiction over the child.
2. The petitioner shall sign the petition in the presence of the Court Administrator or a notary public and shall affirm under oath that the contents are true and correct except as to those matters based upon belief and, as to those matters, the petitioner reasonably believes them to be true.

**§ 8.03 Relinquishment of Parental Rights**

1. Parental rights may be relinquished (voluntarily suspended) by a parent in writing, if signed by the parent in the presence and with approval of the court.

2. Relinquishment shall not be accepted or acknowledged by the court prior to thirty days after birth of the child.
3. The Court shall ensure that the parent understands the consequences of the voluntary suspension prior to approving it.
4. A parent who wishes to relinquish his or her parental rights shall be provided an interpreter if he or she does not understand English.

**§ 8.04 Notice of Hearing on Petition to Suspend Parental Rights or a Transfer of Legal Custody**

1. Upon the filing of a petition seeking an order for the suspension of parental rights or the transfer of legal custody of a child, the Court Administrator shall schedule a hearing to be held upon the petition.
2. Written notice of the hearing and a copy of the petition shall be served upon:
  - a. The child's tribe;
  - b. The *Gizhawaaso* Department;
  - c. The foster parent or legal custodian in whose home the child resides;
  - d. The parents of the child;
  - e. The *gezhaanaayig nejanisug* (those who guard children) for the child, or the representative of the *gezhaanaayig nejanisug* program;
  - f. The attorney for the child;
  - g. The child, if the child is twelve years of age or older;
  - h. Any preadoptive parents; and
  - i. Any other person as the Court may find necessary or desirable to be present.
3. Notice shall be served in accordance with the procedures outlined in Chapter 6, Section 6.03 of this Code and in the White Earth Rules of Civil Procedure.
4. If a parent who has been inactive in the proceedings up to those initiated in this Chapter 8 becomes active, the parent shall be provided notice that he or she has the right to request an attorney to represent him or her in the on-going proceedings. Any such request for representation at this stage shall be granted but shall not unreasonably delay the proceedings.

**§ 8.05 Hearing on a Petition to Suspend Parental Rights or a Transfer of Legal Custody**

1. All parties entitled to receive notice of a hearing on a petition to suspend parental rights or transfer legal custody have the right to attend the hearing.
2. The petitioner must be present at the hearing. The petitioner's failure to appear shall be grounds for dismissal of the petition.
3. The parents named in the petition should be present at the hearing. However, the parents' failure to appear shall not prevent the issuance of an order for suspension of parental rights or transfer of legal custody.
4. During the hearing, the Court shall advise the parties of the reason for the hearing and of their basic rights as provided for in Chapter 6, Section 6.03 and Chapter 1, Section 1.18 of this Code.
5. The Court shall inform all other parties of their rights under this Code and pursuant to the Indian Civil Rights Act, 25 U.S.C. §§ 1301-03 (1968) as amended.
6. The rules of evidence of the White Earth Tribal Court shall apply during the hearing.
7. The burden of proving the allegations of the petition shall be upon the petitioner.
8. The petitioner must prove the allegations of the petition by clear and convincing evidence and that a suspension of parental rights or transfer of legal custody will serve the best interests of the child and a tribe in which the child is eligible for enrollment or membership.
9. There shall be a legal presumption of the parent's ability to parent, until proven otherwise.
10. The Court may continue the hearing at the request of any party to the proceeding, upon a showing of good cause. The Court may then enter any just and reasonable temporary order.

**§ 8.06 Default Judgment**

1. If the parent fails to appear for the formal trial or pretrial, the Court may find the parent in default, and enter a default order of suspension of parental rights or transfer of legal custody.
2. Due to the finality of a suspension of parental rights or transfer of legal custody, the Court must be satisfied beyond a reasonable doubt that actual notice has been given or that all possible steps have been taken to provide notice of the formal trial to the parent.



3. The Court must also find that the petitioner can prove the elements of the suspension of parental rights or transfer of legal custody petition.
4. If the parent is found in default, the Court shall specify the facts, grounds, and code sections upon which it relied to make the decision.
5. A parent may move the Court to vacate a Default Judgment entered pursuant to this Section 8.06. Any such motion to vacate shall be governed by Rule XXIV, Section 3 of the White Earth Rules of Civil Procedure.

**§ 8.07 Final Order for Suspension of Parental Rights**

1. If the Court determines that it is in the best interests of the child and the child's tribe, it shall issue a final order for a suspension of parental rights within sixty (60) days of the close of the record. An order for the suspension of parental rights may include, but is not limited, to the following:
  - a. A permanent suspension of the parental rights of the parent including the suspension of the right to the care, custody and control of the child and allowing the child to be adopted;
  - b. A permanent suspension of the right of the parent to have contact with the child including contact in person, by mail, by telephone, or through third parties;
  - c. A contact agreement agreed upon by the parties to be ordered by the Court;
  - d. Restraining a parent from contacting the child, the child's foster parent, the child's adoptive parent or the *Gizhwaazo* (Indian Child Welfare) Department or agencies possessing information regarding the child;
  - e. Ordering that the biological parents' obligation to pay child support, except for arrearages, is hereby terminated;
    - i. Unless expressly ordered otherwise by the Court, any order support obligation existing prior to the effective date of the order suspending parental rights shall not be severed or terminated;
  - f. Ordering that any prior court order for custody, visitation or contact with the child is hereby terminated;
  - g. The parent shall have no standing to appear at, nor any notice of, any future legal proceedings involving the child;

- h. What active efforts were taken by the *Gizhawaaso* Department to reunify the parent and child or allow the child to remain in a permanent home;
  - i. For the purposes of this Chapter, "active efforts" means the exercise of due diligence and care by the Department to:
    - 1. Engage the family in order to provide the services ordered by the Court or delineated in the case plan;
    - 2. Seek out an appropriate, permanent living situation for the child, either in foster care or adoption; or
    - 3. Ensure the child is in the best possible permanent placement.
  - ii. In support of its determination as to whether active efforts have been made, the Court shall:
    - 1. Enter written findings as to whether prevention or reunification efforts were indicated;
    - 2. Include a brief written description of what appropriate and available reunification or permanency efforts were made; and
    - 3. Indicate in writing why further efforts could or could not have prevented or shortened the separation of the parent and child or placed the child in a more appropriate permanent situation.
  - i. The suspension of parental rights does not sever or affect in any way a child's relationship to his or her tribe or any rights of inheritance from the biological parents; and
  - j. Shall contain a statement regarding why it is in the best interests of the child and the child's tribe to enter this order.
- 2. Copies of any order for suspension of parental rights shall be served upon all parties given notice of the hearing as outlined in Chapter 8, Section 8.04.
- 3. Final orders for the suspension of parental rights may be modified by the Court at the request of the biological parent or agencies possessing custody of the child only if one of the following occurs:
  - a. An initial appeal is filed in accordance with Chapter 12 of this Code;
  - b. The adoption of the child fails;
  - c. The adoptive parent is deceased; or

- d. There is no final permanency placement in effect after a period of one (1) year from the entry of the final order suspending parental rights. In considering a motion to modify a final order under this Section 8.07 Subd.3(d), the petitioner must prove by clear and convincing evidence that:
  - i. There has been a substantial change in circumstances that supports a change in custody,
  - ii. The parent seeking return of custody has substantially completed the requirements of any child protection or reunification case plan, and
  - iii. The Court determines it is in the best interests of the child that custody of the child be returned to the parent(s).
4. Notice of this review shall be provided to all parties who received copies of the order for suspension of parental rights as outlined in Chapter 8, Section 8.04.
5. A parent may voluntarily suspend his or her parental rights upon verbal or written motion to the Court. If a parent voluntarily suspends his or her parental rights, he or she may petition the Court for a review of the final order granting the suspension pursuant to Section 8.07, Subd.3(d) above.
6. Upon petition of one or both of the biological parents whose rights were previously suspended by order of the White Earth Tribal Court, the court may reinstate parental rights under the following conditions:
  - a. The parent has not been found to have committed egregious harm to any child while the child was in the care, custody, and control of the parent petitioning for reinstatement;
  - b. The parent seeking reinstatement voluntarily agreed to suspend his or her parental rights at or before commencement of the pretrial hearing;
  - c. The final adoption order included a provision allowing the parent to petition for reinstatement of his or her parental rights;
  - d. The Indian Child Welfare department and the Adoptive Parents agree that the parental rights of one or both of the parents should be reinstated and custody of the child should be returned to one or both of the parents;
  - e. The parent seeking reinstatement of rights and return of custody has substantially completed the requirements of any child protection or reunification case plan; and
  - f. The court determines it is in the best interests of the child that the parents' rights be reinstated and custody of the child be returned to the parent(s).

**§ 8.08 Custody After Final Order for Suspension of Parental Rights**

1. If upon entering an order suspending the parental rights of a parent there remains no parent having parental rights, the Court shall commit the child to the custody of a *Gitchawaaso* (Indian Child Welfare) Department for the purpose of placing the child for adoption.
2. In the absence of an adoptive home, the agency may place the child in a licensed foster home for short or long-term foster care, with a relative, or take other suitable measures for the care and welfare of the child.
3. The custodian shall have the authority to consent to:
  - a. the adoption of the child;
  - b. the marriage of the child;
  - c. the enlistment of the child in the armed forces of the United States;
  - d. necessary surgical and other medical treatment for the child; and
  - e. any matters as might normally be required of the child's parent.

**§ 8.09 Future Review Hearings**

1. If a child has not been adopted or permanently placed within ninety days of the suspension order, another ninety day review hearing will be held, in accordance with Chapter 6, Section 6.11.
2. The six-month hearings will continue until the child is adopted or permanently placed.

**§ 8.10 Final Order for a Transfer of Legal Custody**

1. If the Court determines that it is in the best interests of the child and the child's tribe, it shall issue a final order for a transfer of legal custody within sixty (60) days of the close of the record. An order for a transfer of legal custody may include, but is not limited, to the following:
  - a. A permanent transfer of legal custody of the child to another parent or legal guardian, who must take responsibility for the care, custody, and control of the child;
  - b. Restraining a parent from contacting the child, the child's foster parent, the child's adoptive parent, or the *Gitchawaaso* Department possessing information.

- regarding the child;
- c. Ordering that any prior court order for custody, visitation or contact with the child is hereby terminated;
  - d. Ordering that the biological parents' obligation to pay child support, except for arrearages, is hereby terminated;
    - i. Unless expressly ordered otherwise by the Court, any order support obligation existing prior to the effective date of the order transferring parental rights shall not be severed or terminated;
  - e. The transfer of legal custody does not sever or affect in any way a child's relationship to his or her tribe or any rights of inheritance from the biological parents; and
  - f. Shall contain a statement regarding why it is in the best interests of the child and the child's tribe to enter this order.
2. Copies of any order for transfer of legal custody shall be served upon all parties given notice of the hearing as outlined in Chapter 8, Section 8.04.
3. Final orders for a transfer of legal custody may be reviewed by the Court at the request of any party if there has been a substantial change in circumstances, under the following conditions:
- a. The custodian wishes to voluntarily relinquish custody of the child to the agency;
  - b. The agency has filed a child in need of protection and services petition against the custodian; or
  - c. The parent wishes to have custody of the child returned to them; and
    - i. The parent has not been found to have committed egregious harm to any child while the child was in the care, custody, and control of the parent petitioning for reinstatement;
    - ii. The parent seeking reinstatement voluntarily agreed to transfer of legal and physical custody of the child at or before commencement of the pretrial hearing; and
    - iii. The order transferring legal and physical custody of the child contained a provision that the parent could petition for reinstatement of his or her parental rights; and
    - iv. The Court finds by clear and convincing evidence that:

1. There has been a substantial change in circumstances that supports a change in custody;
2. The parent seeking return of custody has substantially completed the requirements of any child protection or reunification case plan; and
3. The Court determines it is in the best interests of the child that custody of the child be returned to the parent(s).

## **CHAPTER NINE—TERMINATION OF PARENTAL RIGHTS**

### **§ 9.01 Purpose**

1. The purpose of this Chapter is to provide for the voluntary and involuntary termination of the parent-child relationship and for the substitution of parental care and supervision by judicial process.
2. This Chapter shall be construed in a manner consistent with the philosophy that:
  - a. All parties shall be secured their rights as enumerated in the Indian Civil Rights Act of 1968;
  - b. The family unit is of most value to the individual family members and the community as a whole when that unit remains united and together;
  - c. The parent-child relationship is of such vital importance that it should be terminated only as a last resort when, in the opinion of the Court, all efforts have failed to avoid termination; and
  - d. The parent-child relationship shall only be terminated when it is in the best interests of the child.
3. Parental rights may not be terminated without the filing of a petition, notice of the hearing, and a full hearing held in accordance with this Chapter.

### **§ 9.02 Grounds for Termination of Parental Rights**

1. Involuntary terminations of parental rights shall be considered only as a matter of last resort in the most egregious situations.
2. Grounds for termination of parental rights shall include clear and convincing evidence of:
  - a. Egregious harm;

- b. Willful acts of sexual abuse, sexual exploitation, or incest; or
  - c. Willful failure to maintain a normal parental relationship with the child in a case of total, or near total, abandonment.
    - i. Custody with extended family members or voluntary consent to placement does not constitute abandonment for the purpose of this Code.
3. The Court must consider the grounds for termination of parental rights in the context of the best interest of the child and the best interest of the tribe.

**§ 9.03 Petition to Terminate Parental Rights**

1. Any parent, extended family, kin, or the agency possessing custody of a child may file a petition with the Court Administrator seeking an order for termination of parental rights.
2. The petition shall contain the following information:
  - a. The name, birth date, sex, residence, and tribal affiliation of the child;
  - b. The name, address, and telephone number of the child's tribe;
  - c. The basis for the Court's jurisdiction;
  - d. The names, residences, telephone numbers, and tribal affiliations of the child's parent whose parental rights are to be terminated;
  - e. Where the child's parent is also a child, the names and addresses of the parent's parents or guardian, and where the parent has no parent or guardian, the members of the parent's extended family;
  - f. The name, residence, telephone numbers, and tribal affiliation of the petitioner and the petitioner's relationship, if any, to the child;
  - g. The names, relationship, telephone numbers, and residences of all known relatives of the child who may have an interest in the care, custody, or control of the child;
  - h. A statement as to why an order for the termination of parental rights is in the best interests of the child and the child's tribe;
  - i. The grounds on which termination is sought, under Chapter 9, Section 9.02, unless voluntary termination is sought;
  - j. A statement that:

- i. The court has entered an order which states what the parent was required to accomplish to correct their underlying problems;
    - ii. The *Gizhewaszo* (Indian Child Welfare) Department involved has made a good faith attempt to offer or provide all court ordered or necessary services that are reasonably available in the community and which are capable of helping the parent resolve his or her underlying problems;
    - iii. There is little likelihood the conditions will be remedied so that the child can be returned to the parents in the future;
    - iv. Continuation of the parent-child relationship clearly diminishes the child's prospects for successful placement into a permanent and stable home;
    - v. Not returning the child to the parent is the least detrimental alternative that can be taken; and
    - vi. Returning the child to either parent will result in serious emotional or physical harm to the child; and
  - k. A statement that no similar action is pending in a state or tribal court that has jurisdiction over the child.
3. The petitioner shall sign the petition in the presence of the Court Administrator or a notary public and shall affirm under oath that the contents are true and correct except as to those matters based upon belief and, as to those matters, the petitioner reasonably believes them to be true.

**§ 9.04 Notice of Hearing on Petition to Terminate Parental Rights**

1. Upon the filing of a petition seeking an order for the termination of parental rights, the Court Administrator shall schedule a hearing to be held upon the petition.
2. Written notice of the hearing and a copy of the petition shall be served upon:
  - a. The parents and the legal custodians of the child, unless terminated by court order;
  - b. The child's tribe;
  - c. The *Gizhewaszo* Department;
  - d. Any one else who has been granted party status by the court;
  - e. The attorney's for the parents or legal custodians;



- f. Where the child's parent is also a child, notice shall also be given to the parent's parents or guardian of the person;
  - g. The *gezhaanaajig nejanisug* (those who guard children) for the child, or the representative of the *gezhaanaajig nejanisug* program;
  - h. The attorney for the child;
  - i. The child, if the child has been granted party status; and
3. Notice shall be served in accordance with the procedures outlined in Chapter 6, Section 6.03 in this Code and in the White Earth Rules of Civil Procedure.

**§ 9.05 Hearing Procedures**

1. All parties entitled to receive notice of a hearing on a petition to terminate parental rights have the right to attend the hearing.
2. The petitioner must be present at the hearing. The petitioner's failure to appear shall be grounds for dismissal of the petition.
3. The parents named in the petition should be present at the hearing. However, the parents' failure to appear shall not prevent the issuance of an order for suspension of parental rights or transfer of legal custody.
4. During the hearing, the Court shall advise the parties of the reason for the hearing and of their basic rights as provided for in Chapter 6, Section 6.03 and Chapter 1, Section 1.18 of this Code.
5. The Court shall inform all other parties of their rights under this Code and pursuant to the Indian Civil Rights Act, 25 U.S.C. §§ 1301-03 (1968) as amended.
6. The rules of evidence of the White Earth Tribal Court shall apply during the hearing.
7. The burden of proving the allegations of the petition shall be upon the petitioner.
8. The petitioner must prove the allegations of the petition by clear and convincing evidence and that a termination of parental rights will serve the best interests of the child, and a tribe in which the child is eligible for enrollment or membership.
9. There shall be a legal presumption of the parent's ability to parent, until proven otherwise.

10. The court will make formal findings of fact and conclusions of law as a basis for the written order terminating the parent-child relationship.
11. The petitioner must be present at the hearing. The petitioner's failure to appear shall be grounds for dismissing the petition.
12. Any party has the right to contest the basis of a petition. The tribal attorney has the right to contest the basis of a petition filed by an individual who is not a tribal attorney or an agent of the Gízhwánsó Department.

**§ 9.06 Admit/Deny Hearing**

1. The Court shall hold an Admit/Deny hearing on a petition filed under this Chapter not less than ten (10) days after service of the summons and petition is complete upon the parties.
2. At the commencement of the hearing, the Court shall on the record:
  - a. verify the child's name, date of birth, gender, and the name of the child's tribe;
  - b. determine whether all parties are present and identify those present for the record;
  - c. advise any child and the child's parent or legal custodian who appears in court and is not represented by counsel of the right to representation;
  - d. determine whether notice requirements have been met, and, if not, whether the affected person waives notice; and
  - e. determine whether the child and the child's parent or legal custodian understand the grounds and the factual allegations set forth in the petition and, if not, provide an explanation;
3. After completing the initial inquiries set forth in paragraph 2 above, the court shall determine whether the petition states a prima facie case in support of one or more grounds set forth in the petition to terminate parental rights and a prima facie showing that a juvenile protection matter exists and that the child is the subject of the matter.
  - a. The court shall dismiss the petition if it finds that the petition fails to establish a prima facie showing that a juvenile protection matter exists and that the child is the subject of that matter.
  - b. If the Court determines that the petition states a prima facie case in support of termination of parental rights, the Court shall proceed with the case. If the Court determines that the petition fails to state a prima facie case in support of termination of parental rights, the Court shall:

- i. return the child to the care of the parent or legal custodian;
    - ii. give the petitioner ten (10) days to file an amended petition or provide supplementary information if the petitioner represents there are additional facts which, if presented to the court, would establish a prima facie case in support of termination of parental rights; or
    - iii. dismiss the petition.
4. Only the parents of the child are required to admit or deny the petition.
  - a. If the parent subject to the petition enters a denial, the court shall schedule further proceedings pursuant to Section 9.08 below.
  - b. If the parent subject to the petition enters an admission, the court must ensure the following conditions are met:
    - i. The admission must be made under oath;
    - ii. The person entering the admission must acknowledge an understanding of the nature of the grounds set forth in the petition, the right to representation, trial, subpoena, and offer testimony; and
    - iii. The person entering the admission acknowledges an understanding that the facts being admitted establish the grounds set forth in the petition.
  - c. The Court shall refuse to accept an admission unless there is a factual basis for the admission.
  - d. If the Court makes a finding that the admission is accepted and the grounds admitted are proved, the Court shall enter an order with respect to adjudication of the matter and proceed to disposition. If the Court makes a finding that the admission has not been accepted, the Court shall schedule further proceedings pursuant to Section 9.08 below.

#### **§ 9.07 Pretrial Hearing and Trial**

- i. The Court shall convene a pretrial hearing at least ten (10) days prior to trial.
  - a. The purpose of the pretrial hearing shall be to:
    - i. determine whether a settlement of any or all of the issues has occurred or is possible;
    - ii. determine whether the child shall be present and testify at trial and, if so, under what circumstances;

- iii. identify any unresolved discovery matters;
  - iv. resolve any pending pretrial motions;
  - v. identify and narrow issues of law and fact for trial, including identifying any factual allegations admitted or denied, any stipulations to foundation and relevance of documents, and any other stipulations, admissions, or denials;
  - vi. exchange witness lists and a brief summary of each witness' testimony;
  - vii. exchange exhibit lists;
  - viii. confirm the trial date and estimate the length of the trial;
  - ix. determine the need for, and date for submission of, proposed findings; and
  - x. determine any other relevant issues.
- b. The Court shall file a pretrial order within ten (10) days of the hearing and shall include all relevant information specified in Section 9.09(1)(a) above.
- ii. Trial
- ii. A trial regarding termination of parental rights shall commence within sixty (60) days of the first scheduled admit/deny hearing, and testimony shall be concluded within twenty five (25) days from the date of commencement of the trial and whenever possible should be over consecutive days.
  - b. At trial, the parties shall have the right to:
    - i. present evidence;
    - ii. present witnesses;
    - iii. cross-examine witnesses;
    - iv. present arguments in support of or against the grounds set forth in the petition; and
    - v. ask the court to order that witnesses be sequestered.
  - c. The trial shall proceed as follows:

- i. The party that drafted and filed the petition may make an opening statement confining the statements to the facts expected to be proved;
  - ii. The other parties, in order determined by the court, may make an opening statement or may make a statement immediately before offering evidence, and the statement shall be confined to the facts expected to be proved;
  - iii. the party that drafted and filed the petition shall offer evidence in support of the petition;
  - iv. the other parties, in order determined by the court, may offer evidence in rebuttal;
  - v. when evidence is presented, other parties may, in order determined by the court, cross-examine witnesses;
  - vi. at the conclusion of the evidence the parties may make a closing statement in order determined by the court;
  - vii. if written argument is to be submitted, it shall be submitted within fifteen (15) days of the conclusion of testimony, and the trial is not considered complete until the time for written arguments to be submitted as expired.
- d. If the Court finds the grounds set forth in the petition are not proved, the Court shall either dismiss the petition or determine that the child is in need of protection or services. If the Court determines that the child is in need of protection or services, the Court shall either enter or withhold adjudication and schedule further proceedings in accordance with Chapter 6 of this Code.
- e. If the Court finds that one or more grounds set forth in the petition are proved, the Court may terminate parental rights. In finding that one or more grounds are proved, the Court shall find that continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child, and that terminating parental rights is in the best interest of the child and a tribe in which the child is eligible for enrolment or membership. The findings and order shall be filed with the Court Administrator.

**§ 9.08 Default Judgment**

1. If the parent fails to appear for the formal trial, the Court may find the parent in default, and enter a default order of termination of parental rights.
2. Due to the finality of a termination of parental rights, the Court must be satisfied beyond a reasonable doubt that actual notice has been given or that all possible steps have been taken to provide notice of the formal trial to the parent.

3. The Court must also find that the petitioner can prove the elements of the termination of parental rights petition.
4. If the parent is found in default, the Court shall specify the facts, grounds, and code sections upon which it relied to make the decision.

**§ 9.09 Final Order for Termination of Parental Rights**

1. If the Court determines that it is in the best interests of the child and the child's tribe, it shall issue a final order for a termination of parental rights. An order for the termination of parental rights may include, but is not limited, to the following:
  - a. A permanent termination of the parental rights of the parent including the suspension of the right to the care, custody and control of the child and allowing the child to be adopted;
  - b. A permanent termination of the right of the parent to have contact with the child including contact in person, by mail, by telephone, or through third parties;
  - c. Restraining a parent from contacting the child, the child's foster parent, the child's adoptive parent, *Gizhawaaso* Department;
    - i. Ordering that the biological parents' obligation to pay child support, except for arrearages, is hereby terminated, unless specifically ordered by the Court.
  - d. Ordering that any prior court order for custody, visitation, or contact with the child is hereby terminated;
  - e. The parent shall have no standing to appear at, nor any notice of, any future legal proceedings involving the child;
  - f. The termination of parental rights does not sever or affect in any way a child's relationship to his or her tribe or any rights of inheritance from the biological parents;
  - g. What active efforts were taken by the *Gizhawaaso* Department to reunify the parent and child or allow the child to remain in a permanent home
    - ii. In cases filed by the Department, on the basis of egregious harm, the department shall be relieved of active efforts to reunify, but will still continue to seek an appropriate permanent living situation for the child and ensure the child is in the best possible permanent placement. In the event that tribal social department is not the petitioner, the Court shall make findings of all active efforts to provide the services ordered by the Court or contained in the case plan geared toward reunification as well as

those delineated above.

iii. In support of its determination as to whether active efforts have been made, the Court shall:

1. Enter written findings as to whether prevention or reunification efforts were indicated and/or whether the *Gizhwaaso* Department was relieved of active efforts;
  - h. The termination of parental rights excludes the parent from inheriting from the child; and
  - i. Shall contain a statement regarding why it is in the best interests of the child and the child's tribe to enter this order.
2. The rights of one parent may be terminated without affecting the parental rights of the other biological parent.
  3. Copies of any order for termination of parental rights shall be served upon all parties given notice of the hearing as outlined in Chapter 9, Section 9.04.
  4. Final orders for the termination of parental rights may be reviewed by the Court at the request of the biological parent or the agency possessing custody of the child only if one of the following occurs:
    - a. An initial appeal is filed in accordance with Chapter 12 of this Code;
    - b. A jurisdictional error occurred, including lack of notice or service.
  5. Notice of this review shall be provided to all parties who received copies of the order for termination of parental rights.

**§9.10 Custody After Termination Order**

1. If upon entering an order terminating the parental rights of a parent there remains no parent having parental rights, the Court shall commit the child to the custody of a *Gizhwaaso* Department for the purpose of establishing a permanent placement for the child.
2. If available, the *Gizhwaaso* Department may place the child in an adoptive home. In the absence of an adoptive home, the agency may place the child in a licensed foster home for short or long-term foster care, with a relative, or take other suitable measures for the care and welfare of the child.
3. In paragraphs 1 and 2 above, the Department and the Court shall be guided by what is in the particular child's best interest.

4. The custodian shall have the authority to consent to:
  - a. the adoption of the child;
  - b. the marriage of the child;
  - c. the enlistment of the child in the armed forces of the United States;
  - d. necessary surgical and other medical treatment for the child; and
  - e. any matters as might normally be required of the child's parent.

#### **§ 9.11 Future Review Hearings**

1. If a child has not been adopted or permanently placed within ninety (90) days of the termination order, a review hearing will be held to review the progress of the case, and the tribal social service agency's efforts to finalize the permanent plan for the child and to make a placement in a home that will commit to being the legal permanent family for the child.
2. The six-month hearings will continue until the child is adopted or permanently placed.

### **CHAPTER TEN— Voluntary Relinquishments of Parental Rights**

#### **§ 10.01 Voluntary Relinquishment of Parental Rights**

1. Parental rights may be relinquished by a parent in writing, if signed by the parent in the presence and with approval of the Court. In a customary adoption proceeding, the consent may be signed outside the presence of the court, if witnessed and attested to by the customary adoption worker.
2. If the child's tribe(s) have not been previously notified, the Court shall serve the petition for relinquishment and/or customary adoption to the child's tribe(s). The child's tribe(s) shall have thirty (30) days to respond to the notice; if no response is received within thirty (30) days to the Court or the *Gizkawaaso* Department, the child's tribe(s) will have been deemed to consent to the relinquishment and/or customary adoption.
3. Relinquishment shall not be accepted or acknowledged by the Court prior to thirty (30) days after birth of the child.
4. The court shall ensure that the parent understands the consequences of the voluntary relinquishment prior to approving it.



5. Nothing in this chapter applies to petitions for involuntary termination of parental rights filed under chapter 9.
6. A parent who wishes to relinquish his or her parental rights shall be provided an interpreter if he or she does not understand English.
7. Final orders for relinquishment of parental rights may be reviewed by the Court if there is an allegation that the relinquishing parent was under duress, coercion or fraud at the time of the relinquishment, or there is an allegation that a jurisdictional error occurred.

## CHAPTER ELEVEN—ADOPTIONS

### § 11.01 Purpose

1. The purpose of adoptions shall be to give the adoptive child a permanent home where he or she can grow up surrounded by *zaagi'idwin*, love, *manaaji'idwin*, respect, and an appreciation of his or her cultural heritage.
2. The purpose of adoptions is not to permanently deprive the child of connections to, or knowledge of, the child's natural family, except in the case of Closed Adoptions.
3. To further the purpose of giving an adoptive child a permanent home, the following shall apply and be contained in all adoptive orders and decrees:
  - a. The adoptive parents and adoptive child shall be treated under the laws as if the relationship was that of a natural child and parent, except as set forth within this Code.
  - b. The adoptive child shall have an absolute right, absent a convincing and compelling reason to the contrary, to information and knowledge about his or her natural family and his or her tribal heritage.
  - c. The adoptive child and members of the child's natural extended family, including biological parents, shall have a right of reasonable visitation with each other, subject to reasonable controls of the adoptive parents, unless it is a Closed Adoption as reflected in a contact agreement.
  - d. Adoption shall not serve to prevent an adoptive child from inheriting from a natural parent in the same manner as any other natural child.
  - e. An adoptive child shall be entitled to inherit from adoptive parents, and vice versa, in the same manner as if natural parents and child.
  - f. The natural parents shall not be entitled to inherit from an adoptive child in the same manner as parents would otherwise be entitled to inherit.

**§ 11.02 Filing Adoption Petitions**

1. Any person twenty one (21) years of age or older may file a petition for adoption.
2. The petition shall be initiated by the person proposing to adopt.

**§ 11.03 Contents of Adoption Petition**

1. The petition for adoption shall include the following, to the best information and belief of the petitioner:
  - a. The full name, address, and tribal affiliation of the petitioner;
  - b. The full name, sex, date and place of birth, and tribal affiliation of the proposed adoptee;
  - c. The name by which the proposed adoptee shall be known if the petition is granted;
  - d. The basis for the Court's jurisdiction;
  - e. If the proposed adoptee is a child, a full description and statement of value of all property owned, possessed, or in which the child has an interest;
  - f. The relationship of the petitioner to the proposed adoptee;
  - g. The names of any person, agency or tribe whose consent to the adoption is necessary;
  - h. A statement or copy of the final order suspending the parental rights of the biological parent(s);
  - i. A statement that no similar action is pending in a tribal or state court having jurisdiction over the child.
2. Where there is more than one proposed adoptee and these proposed adoptees are siblings, only one petition shall be filed containing the name of each sibling proposed to be adopted.
3. All petitions must be signed and dated by the petitioner and must be notarized or witnessed by a clerk of the court.

**§ 11.04 Consent to Adopt**

1. Written consent from the tribe shall be executed and acknowledged by the Court.

2. Written consent to an adoption is required of the child if he or she is over twelve years of age, unless the child chooses to consent orally either in open Court or in chambers with only the judge and a witness present.
3. Parental consent to an adoption is not required if:
  - a. The parent has abandoned his or her child;
  - b. The parent's rights have been suspended or terminated;
  - c. The parent has relinquished his or her parental rights; or
  - d. The parent has been declared incompetent.

#### **§ 11.05 Notice**

1. Upon the filing of a petition seeking an order for adoption, the Court Administrator shall schedule a hearing to be held upon the petition.
2. Written notice of the hearing and a copy of the petition shall be served upon:
  - a. If the child is eligible for membership or enrollment in another tribe, the designated representative of that tribe;
  - b. The Indian Child Welfare Department and, if applicable, a county social services department;
  - c. The preadoptive parents;
  - d. The *gezhaanaajig nejanisug* (those who guard children) for the child, or the representative of the *gezhaanaajig nejanisug* program;
  - e. The attorney for the child;
  - f. The child, if the child is twelve years of age or older; and
  - g. Any other person as the Court may find necessary or desirable to be present.
3. Notice shall be served in accordance with the procedures outlined in Chapter 6, Section 6.03 in this Code.
4. The Court may determine that it is unnecessary to give notice to specific individuals, including a parent who is not required to consent to adoption under Chapter 11, Section 11.04.

#### **§ 11.06 Home Studies**

1. When a petition for the adoption of a child is filed with the Court, the Court shall request that the Indian Child Welfare department or other qualified agency conduct a home study on the petitioner and report on the child.
2. In a private adoption pursuant to Section 11.12, the Court may request a home study under this Section 11.06 at the request of a party to the private adoption or *sua sponte* by the Court.
3. The home study and report to the Court shall:
  - a. Relate the circumstances of the proposed adoptive home;
  - b. Relate the physical and mental ability of the petitioner to assume the responsibilities of an adoptive parent;
  - c. Address the issue of whether or not the home most closely resembles that of the child's culture, identity, and where applicable, his or her tribal affiliation; and
  - d. Contain any other pertinent information that will assist the Court in determining the best placement for the child.
4. The home study or report shall not be required where the proposed adoptee is an adult.
5. A criminal background check shall be completed on the Petitioner(s) and the outcome submitted to the Court.
6. The home study shall be submitted to the Court no later than ten days before the initial hearing on the adoption petition.
7. The Court may order additional studies or reports as it deems necessary.

#### **§ 11.07 Withdrawal of Consent**

1. Any consent given under the provisions of this Chapter may be withdrawn by the person or agency that gave the consent up to ten (10) working days after the consent was signed and acknowledged.
2. No reason need be stated and no hearing need be held on the withdrawal of consent.
3. All withdrawals must be in writing and acknowledged before a notary public.
4. The original withdrawal must then be filed with the Court within ten (10) working days after the original consent was signed and acknowledged.
5. Within one year after the entry of a decree of adoption, the decree may be vacated upon a petition being filed and a showing that the consent which made the adoption possible was

obtained through fraud or duress. The Petitioner must demonstrate to the Court by clear and convincing evidence that their consent was obtained through fraud or duress. Upon the showing, the Court shall vacate the decree and return the adopted person to that status he or she had prior to entry of the adoption decree.

**§ 11.08 Adoption Preferences**

1. The preference of placement in adoption shall be in the following order:
  - a. An extended family member, kin, or Indian custodian;
  - b. A tribal member or person eligible for tribal membership in the child's tribe;
  - c. Other Indian persons, and;
  - d. Any person who has some knowledge of the child's tribal affiliation and his or her special needs, if any.
2. The White Earth Children's Court has the ability to determine that the child's best interests require deviation from the preferences at any time.

**§ 11.09 Hearing Procedures**

1. An adoption hearing shall be held within ninety days of receipt of an adoption petition from the preadoptive parents.
2. The Court shall conduct the hearing to determine if it is in the best interests of the child to be placed with the petitioner. In determining the best interests of the child, the Court shall examine:
  - a. Validity of written consent;
  - b. Suspension/Termination of parental rights order;
  - c. Length of time, if any, of the child's wardship by the Court;
  - d. Special conditions or needs of the child;
  - e. Status of contact agreement regarding the child;
  - f. Proposed adoptee's consent to adoption, if he or she is over twelve years of age;
  - g. Home studies or other reports, and;
  - h. Order of preference of placement.

3. The petitioner and the proposed adoptee shall appear personally at the hearing. During the hearing the Court shall advise the parties of their basic rights as provided in Chapter 6, Section 6.03 of this Code.
4. The judge shall examine all persons separately, and may, if satisfied that all other requirements of this Chapter have been met, enter a final decree of adoption. However, if the requirements are not met, the judge may place the person to be adopted, if a child, in the legal custody of the petitioner for a period of time not to exceed six months prior to entering a final decree of adoption.
5. If the Court is satisfied that the adoption will not be in the proposed adoptee's best interest, or finds that all of the requirements of this Chapter have not been met, it may deny the petition and make any other order it deems necessary for the care and custody of the child not inconsistent with this Code.
6. Proceedings for termination of the parent-child relationship and proceedings for adoption may be consolidated and determined at one hearing, provided that all the requirements of this Chapter as well as Chapter 9 of this Code are complied with fully.

#### **§ 11.10 Final Decree of Adoption**

1. If the Court finds that the requirements of this Chapter have been met and that the child's best interests will be satisfied, a final decree of adoption may be entered.
2. The Court shall make specific written findings of fact, state separately its conclusions of law, and enter an appropriate judgment or order.
3. A person, when adopted, may take the name of the adoptive parent.
4. Adoption declares the child to be legally the child of the adoptive parents and allows the child be entitled to all the rights, privileges, and obligations of a biological child.

#### **§ 11.11 Closed Adoptions**

1. In some situations, at the request of any party, adoption proceedings may be closed if deemed reasonable by the Court.
2. Closed adoption proceedings will proceed as the Open Adoptions indicated in Chapter 11, Sections 11.01-11.10.
3. In closed adoptions, the child shall be entitled to information regarding his or her biological family upon reaching the age of eighteen.
4. The child's biological family shall not be entitled to or have access to any information regarding the child.

### **§ 11.12 Right of Access to Records**

1. In some situations, a private adoption may be appropriate. Private adoptions will be conducted in a manner so to convey binding authenticity to the people of the White Earth Band of Ojibwe. Binding authenticity shall be conveyed upon:
  - a. Adoptions conducted in a manner that is long-established, continued, reasonable, and considered by the people of the White Earth Band of Ojibwe to be Customary; or
  - b. Adoptions organized as agreed to by all parties involved, with the consent of the Tribal Court.
2. Any parent seeking to sever his or her own parental rights or the parental rights of another biological parent, or an interested adult possessing a legitimate interest in the matter may file a petition with the Court Administrator seeking an Order for the private adoption of a minor child.
3. Private adoption proceedings will be consistent with adoption proceedings in Chapter 10, Sections 10.01-10.10 of this Code, with the following procedural inclusions:
  - a. Written consent to a private adoption is required of:
    - i. The current biological or adoptive mother;
    - ii. The current biological, adoptive, or acknowledged father;
    - iii. The current custodian, if empowered to consent; and
    - iv. The Court, if the current custodian is not empowered to consent.
  - b. An interpreter shall be provided if the person required to consent to the adoption does not understand English.
  - c. Required consent shall not be accepted or acknowledged by the Court prior to thirty days after the birth of the child.
  - d. Whether voluntary or contested, a statement by an expert witness that the private adoption ceremony was performed in a binding and authentic manner, or as agreed to by the parties involved, shall be filed with the Tribal Court.
4. Voluntary private adoption proceedings will proceed as the adoptions indicated in Chapter 10, Sections 10.01-10.11. The Petition for a private adoption shall be dismissed without prejudice unless the Petition includes:

- a. A statement as to why a private adoption is in the best interests of the child, parties involved, and Tribe; and
  - b. Certification that no similar adoption proceeding is occurring in any other Tribal and/or State Court.
5. When a private adoption is contested, adoption proceedings will follow the adoption proceedings indicated in Chapter 10, Sections 10.01-10.10, while strictly adhering to the hearing procedures in Chapter 10, Section 10.09. The Petition for a private adoption, when contested, shall be dismissed without prejudice unless the Petition includes:
- a. A statement as to why a private adoption is in the best interests of the child, parties involved, and Tribe;
  - b. Certification that no similar adoption proceeding is occurring in any other Tribal and/or State Court; and
  - c. A Tribal Court Preliminary Proposed Order recognizing that both parties are adequately represented by council, Elder, or authorized lay advocate.
6. The final certification of a private adoption proceeding is entitled to the same enforcement as any adoption decree issued by this Court.

**§ 11.12 Customary Adoptions**

- 1. In some situations, a customary adoption may be appropriate. A customary adoption shall be conducted in a manner that is long-established, continued, and reasonable, and that is considered by the people of the White Earth Band of Ojibwe to be binding and authentic.
- 2. Any adult may file a petition with the Court Administrator seeking an order for the customary adoption of a minor child. Customary adoption proceedings will proceed as the Open Adoptions indicated in Chapter 11, Sections 11.01-10.11, with the inclusion in the petition of:
  - a. A statement as to why a customary adoption is in the best interests of the child and the tribe;
  - b. Certification that no similar adoption proceeding is occurring in any other tribal or state court; and
  - c. A statement by an expert witness that the customary adoption ceremony was performed in a binding and authentic manner.
- 3. The final certification of a customary adoption proceeding entitled to the same enforcement as any open or closed adoption decrees issued by this Court.



### **§ 11.13 Adoptive Parent Relinquishment of Rights**

1. After the issuance of a final decree of adoption pursuant to Section 11.10 of this Chapter, a parent may request to voluntarily relinquish his or her parental rights in accordance with Chapter 10 of this Code. Based on the factors leading to the request for relinquishment of parental rights, the *Gitchiwago* Department shall recommend to the Court whether to grant the petition or not. The Court shall make a ruling consistent with Chapter 10 of this Code.

## **CHAPTER TWELVE—APPEALS**

### **§ 12.01 Appeals**

1. Any party to the proceeding who is affected by an order of the Children's Court may appeal a final order of the Children's Court.
2. A written notice of appeal must be filed with the White Earth Band of Ojibwe Appellate Court within thirty days of the final order, unless otherwise specified by the White Earth Band of Ojibwe Rules of Appellate Court Procedure.
3. The tribal attorney shall represent the Tribe and the Children's Court upon appeal and shall be notified of the appeal by the clerk.
4. The taking of an appeal shall not operate as a *supersedeas* in any case unless pursuant to an order of the Court. The child shall continue in custody under the most recent order until the appeal is decided.
5. The case on appeal shall be docketed, and any papers filed in the appellate court shall be entitled with the initials, but not the name, of the child and the court case number.
  - a. The papers shall remain sealed in the office of the clerk of court when not in use by the appellate court and shall not be open to public inspection.
  - b. The decision of the appellate court shall be likewise entitled and shall refer to the child only by initials and court case number.
6. A record of proceedings shall be made available to the child, his or her parent, guardian, or custodian, the child's counsel, and others upon court order. Costs of obtaining this record shall be paid by the party seeking the appeal.
7. All appeals shall be conducted in accordance with the White Earth Band of Ojibwe Rules of Appellate Court Procedure, so long as those provisions are not in conflict with the provisions of this Code. Any conflict between codes should be resolved in the best interest of the child.

8. The original order of the appellate court, with all papers filed in the case on appeal, shall remain in the office of the clerk of court, sealed, and not open to inspection except by order of the appellate court.
9. The clerk of court shall return to the Children's Court all papers transmitted to the appellate court from the Children's Court, together with a certified copy of the order of the appellate court.

## **CHAPTER THIRTEEN—GUARDIANSHIP**

### **§ 13.01 Types of Guardianship**

1. The Children's Court, when it appears necessary or convenient, may appoint a guardian for the person or property of a child under the Court's jurisdiction or an incompetent who has no guardian legally appointed by will or deed.
2. The types of guardianship shall include guardianship of the person or guardianship of property.
3. Guardianship of the person may be either temporary guardianship or permanent guardianship.

### **§ 13.02 Temporary Guardianship**

1. The Court may appoint a temporary guardian under the terms and conditions as the Court sets forth in its written order.
2. A temporary guardianship may be terminated if the Court determines that is in the best interests of the child or incompetent to change custody from the temporary guardian to a new guardian; return the child to the parent, guardian, or custodian; or the child is emancipated under Chapter 14 of this Code.
3. The child's or incompetent's parents and extended family shall be granted liberal visitation rights unless deemed inappropriate by the Court.

### **§ 13.03 Permanent Guardianship**

1. The Court may appoint a permanent guardian for the child or incompetent under the terms and conditions as the Court sets forth in its written order.
2. Permanent guardianship provides for permanent custody of a child or incompetent to someone other than the parents, although there is no suspension or termination of parental rights.
3. There shall be a presumption of continued permanent guardianship in order to provide stability for the child or incompetent.

4. The child's or incompetent's parents and extended family shall be granted liberal visitation rights unless deemed inappropriate by the Court.

**§ 13.04 Guardianship of Property**

1. The Court may appoint a guardian of the property of a child or incompetent person under the terms and conditions as the Court sets forth in its written order.
2. The guardianship may cover all property until the child reaches eighteen years of age or until the incompetent person becomes competent or it may be limited to only specific property or a specific legal action as set forth in the written order.
3. A temporary or permanent guardianship of the person may also include guardianship of the child's property if set forth in the written order.

**§ 13.05 Filing Guardianship Petitions**

1. Any person may file a petition for guardianship.
2. The petition shall be initiated either by the proposed guardian or by the proposed ward if she or he is at least fourteen years of age.

**§ 13.06 Contents of Guardianship Petition**

1. The petition for guardianship shall include the following, to the best information and belief of the petitioner:
  - a. The full name, address, and tribal affiliation of the petitioner;
  - b. The full name, sex, date and place of birth, residence, and tribal affiliation of the proposed ward;
  - c. The basis for the Court's jurisdiction;
  - d. The relationship of the proposed guardian to the proposed ward;
  - e. The name and address of the person or agency having legal or temporary custody of the proposed ward;
  - f. The type of guardianship requested;
  - g. In the case of alleged incompetent persons, the grounds for incompetency under Chapter 13, Section 13.10, and

- h. If guardianship of property is requested, a full description and statement of value of all property owned, possessed, or in which the proposed ward has an interest.
2. All petitions must be signed and dated by the petitioners and must be notarized or witnessed by a clerk of the court.

#### **§ 13.07 Guardianship Report**

1. Upon the filing of a guardianship petition, the Court shall immediately request that the social services department or other qualified agency conduct a report on the proposed guardian and on the proposed ward.
2. The guardianship report shall contain all pertinent information necessary to assist the Court in determining the best interests of the proposed ward.
3. No determination can be made on a petition for guardianship until the report has been completed, submitted, and considered by the Court.
4. The guardianship report shall be submitted to the Court no later than ten days before the initial guardianship hearing.
5. The Court may order additional reports as it deems necessary.

#### **§ 13.08 Guardianship Procedures**

1. Before making an appointment, the Court must ensure reasonable notice is given to any person entrusted with the care of the child or incompetent and to any other relatives of the child or incompetent residing on the Reservation as the Court may deem proper.
2. In cases of adult incompetents, the Court may cause notice to be given to the incompetent at least five days before hearing the petition.
3. If a child is under the age of fourteen years, the Court may nominate or appoint his or her guardian. If the child is fourteen years of age or older, he or she may nominate his or her own guardian who, if approved by the Court, must be appointed accordingly.
4. If the guardian nominated by the child is not approved by the Court, or if the child resides outside of the Reservation, or if, after being duly cited by the Court, he or she neglects for ten days to nominate a suitable person, the Court may nominate and appoint the guardian in the same manner as if the child were under the age of fourteen years.
5. When a guardian has been appointed by the Court for a child under the age of fourteen years, the child, at any time after he or she attains that age, may nominate his or her own guardian, subject to approval of the Court.

6. The procedures for guardianship hearings shall be held in accordance with Chapter 5, Section 5.02 and Chapter 6, Section 6.03.

**§ 13.09 Guardian Duties and Responsibilities**

1. A guardian appointed may, as specified by the Court, have the custody and care of the education of the ward and the care and management of his or her property until the ward arrives at the age of eighteen, marries, is emancipated by the Court under Chapter 14 of this Code, or until the guardian is legally discharged.
2. The guardian shall not have the authority, without express written consent of the Court, to dispose of any real or personal property of the ward in any manner, including, but not limited to, the ward's Individual Indian Money Account.
3. The guardian shall have the authority to consent to the medical care and treatment of the ward.
4. The Court may order that the Court disburse monthly reimbursement payments to the person or agency to whom custody is granted under this Code.
  - a. The reimbursement payments must be used by the person or agency with custody of the ward for the sole purpose of covering expenses incurred in the care and custody of the ward and shall not be used for any other purpose.
  - b. The use of reimbursement payments for any purpose other than that described in this Chapter shall subject the person or agency to contempt of court and to any criminal and civil penalties or remedies provided by the Tribal Code.
5. In the event that any guardian receives any money or funds of any child or incompetent during the term of the guardianship, the Court must require the guardian to complete a bond with sufficient surety to be approved by the Court, conditioned upon the guardian faithfully executing the duties of the guardianship, including:
  - a. Making an inventory of all the estate of the ward that comes into the guardian's possession or knowledge and returning the entire estate when ordered by the Court;
  - b. Managing and disposing of the ward's estate according to tribal, local, state, and federal laws;
  - c. Managing and disposing of the ward's estate in the best interests of the ward, considering the necessary and appropriate care, custody, and education of the ward;
  - d. Accounting all property, estate, money, proceeds, an interests of the ward, including the guardian's management and disposition to the Court, on oath, within

three months after the expiration of the guardianship or whenever requested by the Court; and

- e. Paying over, delivering, and settling all accounts, estate, monies, and effects of the ward to the Court, judge, ward if he or she has reached age eighteen, or the legal representative of the ward when the guardianship has ended.
6. The funds of any child or incompetent must be used by his or her guardian solely for the support and education of the child or incompetent.
    - a. The ward's funds shall only be expended by the guardian in a reasonable manner according to the circumstances and situation in life of the ward.
    - b. The guardianship must take into consideration the total income and estate of the ward before expending any of the ward's funds.
  7. If determined to be appropriate by the Court, the written order may set forth that the child's property may not be used for the child's care, but must be managed for the child until the child reaches the age of eighteen or is emancipated by the Court.

#### **§ 13.10 Incompetent Persons**

1. In case of incompetent persons, the Court may appoint a guardian of the person and estate within the powers and duties of a guardian specified in this Chapter.
2. A guardian may only be appointed for an incompetent person if there has been a full hearing and examination of the petition; at least two qualified physicians have certified that the person is incompetent as defined in Chapter 1, Section 1.05(55); and the Court agrees that the incompetent is not capable of taking care of him- or herself or of managing his or her property.
3. Every guardian of an incompetent person appointed as provided herein has the care and custody of the person of the ward and the management of his or her estate until the guardian is legally discharged; the guardian must give bond to an incompetent as described in Chapter 13, Section 13.09.
4. Any person who has been declared incompetent; the guardian of the incompetent; any relative to the third degree of the incompetent; or any close friend of the incompetent may petition the Court to have the incompetent's mental capacity judicially determined. The petition must be signed and dated by the petitioner, notarized or witnessed by a clerk of the court, and include:
  - a. The full name, address, and tribal affiliation of the petitioner;

- b. The full name, sex, date and place of birth, residence, and tribal affiliation of the incompetent;
  - c. The basis for the Court's jurisdiction;
  - d. The relationship of the petitioner to the incompetent;
  - e. The name and address of the person or agency having legal or temporary custody of the incompetent; and
  - f. The grounds for the revocation of incompetency and determination of competency.
5. The Court shall require notice to be given to all necessary parties of a hearing upon the competency petition.
6. At the competency hearing, the petition and any relevant witnesses shall be examined and the Court shall make a judicial determination whether the incompetent should or should not be declared sound of mind and capable of taking care of himself or herself and his or her property.
7. If the court ordered the petition granted and the restoration of competency, the guardianship of the incompetent shall cease, unless the incompetent has not yet reached eighteen years of age.

## **CHAPTER FOURTEEN—EMANCIPATION**

### **§ 14.01 Emancipation**

1. A child over the age of sixteen may petition the Court for emancipation.
2. The Court shall grant emancipated status when the child proves to the Court that the child is capable of functioning as an independent and responsible member of the community.
3. The Court must consider the child's best interest in determining whether the child should be emancipated. The child's best interest may include the:
  - a. Child's age;
  - b. Mental and physical ability of the child;
  - c. Ability of the child to manage his or her own wages and assets; and
  - d. Ability of the child to provide his or her own basic material support, including food, shelter, clothing, and medical care.





**WHITE EARTH NATION  
LICENSING STANDARDS FOR FOSTER FAMILY HOMES**

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## **Section 1 Mission**

### **Mission:**

The mission of the White Earth Nation foster care program is to provide care on a Tribal level to our abinoojihn (children) when their parent or caretaker is unable to do so. We recognize the sacredness of our children and strive to provide them with a safe, caring, nurturing Tribal family. The Tribal family is to be committed to the sacredness of our children: respecting, honoring, and nurturing them when they are faced with the trauma of being separated from their parents. The Tribe and foster parent are responsible for ensuring that children receive the highest care possible.

### **Purpose:**

This document prescribes the standards for licensure as a foster family home by the White Earth Nation. The document describes application and initial licensing policies and procedures. It also outlines standards to remain continuously licensed.

### **Responsible Agency:**

Gilzhaawaaso (Indian Child Welfare) Abinoojilshikaw (raise children for somebody) is the agency designated by the White Earth Nation to oversee the foster care program, and will use these standards in making determinations for licensure. The program assigns a licensing worker to each Tribal family, who is responsible for monitoring that standards are adhered to.

### **Term of Licensure:**

The license is valid for two years, as long as there aren't significant changes in the home that would impact licensure; and given the home continues to follow licensing standards. The home will be specifically licensed for a particular number of children, genders, and ages that meets the family's needs and licensing standards.

### **Collaboration and Communication:**

The foster care licensing worker will visit the foster home once monthly when children are placed in the home. This is an opportunity to communicate and collaborate. The case manager assigned to the children will meet with the children once per month privately. The case manager is to meet with the foster home at the same time of the licensing worker once per quarter, and monthly with the foster parent if requested.

## Section 2 Definitions

### Definitions:

- 1) **Adam Walsh Child Protection and Safety Act** is a federal statute that was signed into law by U.S. President George W. Bush on July 27, 2006. The Adam Walsh Act organizes sex offenders into three tiers and mandates that Tier 3 offenders (the most serious tier) update their whereabouts every three months with lifetime registration requirements. Tier 2 offenders must update their whereabouts every six months with 25 years of registration, and Tier 1 offenders must update their whereabouts every year with 15 years of registration. Failure to register and update information is a felony under the law.

The Act also creates a national sex offender registry and instructs each state and territory to apply identical criteria for posting offender data on the internet (i.e., offender's name, address, date of birth, place of employment, photograph, etc.) The Act was named for Adam Walsh, an American boy who was abducted from a Florida shopping mall and later found murdered.

The "Adam Walsh" background checks also search for significant crimes against children or people.

Applicants must pass a federal background check, under the Adam Walsh Act, before being fully licensed as a IV-E eligible foster home.

- 2) **Agency - Indian Child Welfare (ICW)** is the duly delegated representative of the Reservation Tribal Council (RTC) to oversee child welfare and foster care.
- 3) **Agency Requirements** - Those portions of the standards binding upon the agency (ICW) but not upon the provider, and so marked. Failure of the agency to meet one or more agency requirements is not a defense for the providers' failure to meet provider requirements.
- 4) **Applicant** - Entity who has submitted an application form for foster care licensing through the White Earth Nation.
- 5) **Background check** - means individuals 18 years of age or older: a criminal history check via fingerprints that are submitted to the State of Minnesota and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate. In addition for individuals 18 years of age or older: a check of the Social Services Information System (SSIS) and other state child protection systems, as appropriate, to determine whether an

individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and• a check of the Statewide Child Sex Offender Registry.

- 6) **Capacity** - The maximum number of foster children who can reside in the licensed home.
- 7) **Child** - A person under 18 years of age or still attending high school or post-secondary schools, but under 21 years of age.

**Infant** - A child from birth through 12 months.

**Toddler** - A child from 1 year to 3 years old.

**School Aged child** – A child who is five years old or older and who will attend school in August or September of that year.

**Adolescent** – A child from 12-18

**Young adult** – An adult whose chronological age is between 18 and 21 years, who is currently in a family foster home, and continues to need foster care services.

- 8) **Child care assistant** - means an adult, 18 years of age or older, (whether a volunteer or an employee) who assists a licensed foster parent in the care of children within the foster home; is known to the Agency; and has passed background checks.
- 9) **Child care facility** - means any person or agency, providing day care to a child.
- 10) **Child in care** – A child placed into a foster or adoptive home by the Tribe, who has temporary custody of the child.
- 11) **Child passenger safety seat system** – An infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.
- 12) **Classifiable fingerprints** - means fingerprints obtained through an electronic or ink printing process that were determined to provide sufficiently clear impressions to identify the individual from whom the prints were obtained.
- 13) **Closed** - Includes foster parent decision, expired license, mutual, individual, or Agency decision to end licensure, and close out the foster care License.
- 14) **Common parentage** - means having the same biological or adoptive father, the same biological or adoptive mother, or the same biological or adoptive father and mother or being raised together per tribal custom.

- 15) **Complete application** - means all documents required by the agency for licensure have been completed by the applicant and submitted to the agency for review.
- 16) **Corporal punishment** - means cruel or unusual or culturally unacceptable punishment of a child, including but not limited to: hitting, slapping, hair pulling, spanking, beating, shaking, pinching, throwing, and other measures that produce either physical, emotional, or mental harm; and also includes threatened injuries that do not have to result in a physical injury.
- 17) **Customary Adoption** - means a living arrangement with a family that is culturally appropriate directed toward establishing additional relatives as the child's legal parents.
- 18) **De-escalation** – Strategies used to defuse a volatile situation, to assist a child to regain behavioral control, and to avoid a physical restraint.
- 19) **Department** - White Earth Indian Child Welfare Foster Care Department.
- 20) **Discipline** - means culturally acceptable ways of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways. Discipline does not include the use of corporal punishment as defined.
- 21) **Educational advocacy training** - means training that prepares foster parents to effectively advocate for the special educational needs of the children in their care by providing information on children's educational rights and foster parents' responsibility to protect those rights.
- 22) **Expanded capacity Waiver**- means the foster family home has been issued a temporary waiver from the Department authorizing the foster family to accept more children for care (including the family's own children under age 18 and all other children under age 18 receiving full-time care). Expanded capacity waivers are typically issued for sibling placements or relative placements.
- 23) **Food service** – The preparation or serving of meals or snacks.
- 24) **Foster Family Home** – a family who is licensed to provide foster care by the White Earth Nation, in their home  
**Tribal Home:** A family foster home caring for children in court ordered out of home placement, and whole family placement. Must be a member of a federally recognized Tribe. This licensure does not require the need to be related to children they care for.

**Relative Home:** A family foster home caring for children in court ordered out of home placement or whole family placement, which is related/kin to those in placement.

**Respite Care Home:** A foster home designated for respite care only, typically for periods of 7 days or less, as relief for another foster parent.

**25)Foster Parent training** - means:

- Agency approved training;
- Foster parent conferences or trainings sponsored by the Agency;
- Agency required training;

**26)Garbage** – Food or items that when deteriorating cause offensive odors and/or attract rodents, insects, and other pests; that cannot be in excess around the foster home.

**27)Godparent** - is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent.

**28)Healthcare precautions** means an approach to infection control. The Agency sponsors training on healthcare precautions for blood borne pathogens.

**29)License:** A document issued by the White Earth Nation, which authorizes the applicant to provide foster care.

**A. Non-IVE License:** up to 90 days, signed by ICW

**B. IVE License:** 24 months authorized by the Tribal Council or its designate Board

**30)Licensed physician** - means a person licensed to practice medicine in the State of practice.

**31)Licensed provider** - means those individuals who hold a foster care license issued by the White Earth Nation to have direct responsibility over raising children placed into their home.

**32)Licensing worker** - means person authorized by the Department to perform foster care licensing activities.



- 33)Home study** - means an interview, written review and assessment of an applicant for licensure, and the collection and review of supporting documents, to determine whether someone should be licensed by the White Earth Nation for foster care.
- 34)Maintenance rate** - is the funds received by the foster parent for room and board, food and supervision, clothing, transportation and incidentals. This is not considered a form of employment. Funds for foster children received for foster care must be spent on foster children.
- 35)Member** - A person who is a member of the White Earth Nation or another federally recognized tribe, and can demonstrate proof of membership.
- 36)Member of the household** - means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address, or staying frequently at the household.
- 37)Minor traffic violation** - means a traffic violation which is punishable solely by fines as a petty offense.
- 38)MAPCY** – Minnesota Assessment Parenting Children and Youth.
- 39)Non-active status** - means a licensed foster home has no foster placements and maintains continuous compliance for licensure, does not receive regular licensing monitoring visits by the Department.
- 40)Non-ambulatory** – A child that is only able to move from place to place with assistance, such as a walker, crutches, a wheelchair, or prosthetic leg.
- 41)Non-mobile** – A child that is not able to move from place to place, even with assistance.
- 42)Out of Home Placement Plan** – A plan created by the case manager that identifies a child's basic and specific needs and how those needs will be met while in foster care. It includes mental, physical, emotional, spiritual needs. It includes visitation with parents and siblings and extended family.
- 43)Person legally authorized to give consent** – The person legally authorized to give consent for foster children's services, education, medication, and medical issues is the case manager, Director, or foster care licensing worker of ICW.
- 44)Personal Stipend** –clothing per month / sports / activities / outings / field trips / school pictures / year books / sports fees for a child in foster care.

- 45)**Petty offense** - means a misdemeanor that may not affect the foster care license.
- 46)**PRN** - A standing order or prescription that applies "pro re nata" or "as needed according to circumstances." ICW needs to authorize PRN's.
- 47)**Prescription** - written instructions from a physician, dentist, etc, to a pharmacist stating the form, dosage strength, etc, of a drug to be issued to a specific patient. ICW must approve any and all prescriptions for a foster child. Any prescription must be maintained in a lock box and visually dispensed to the foster child by the foster parent according to the prescription.
- 48)**Psychotropic drug**- Any drug capable of affecting the mind, emotions, and behavior. ICW must attend appointments and sign for any medication in this classification prior to a foster child taking them. This classification of drugs must be maintained in a lock box and visually dispensed to the foster child by the foster parent according to the prescription.
- 49)**Relative/ Kin** – A person related to the child by tribal recognition or blood.
- 50)**Reputable character** - means there is satisfactory evidence that the moral character of the applicant is trustworthy, or that they are in good standing in the Indian Community.
- 51)**Respite Care** - Temporary care for a child for another foster parent or guardian usually lasting 7 days or less. Respite foster care is provided to foster children in order to give the fulltime caregivers a rest from care giving responsibilities. It is a paid function if preapproved by the Agency and typically provided 2 days per month.
- 52)**Responsible** - means trustworthy performance of expected duties that serves the best interests of the foster children as evidenced by established child welfare standards, State and federal law, and the rules of the Tribe.
- 53)**RTC** - The Reservation Tribal Council (RTC) is the duly elected and federally recognized governing body of the White Earth Nation.
- 54)**SSIS**- means the Social Service Information System operated by the Minnesota Department of Human Services.
- 55)**Seat Belt** – A lap belt and any shoulder strap included as original equipment on or added to a motor vehicle.



- 56) **Smoke detector or detector** - means a smoke detector of the ionization or photoelectric type that complies with all the requirements of the rules and regulations of the Minnesota State Fire Marshal.
- 57) **Specialized care**- means care provided to a child who has developmental, emotional, behavioral, or medical needs and who has been determined to require specialized care. The need for specialized care shall be re-determined once every six months by the Agency.
- 58) **Supervising agency** – White Earth Indian Child Welfare.
- 59) **Suspended** - Includes mutual, individual, or agency decision to put a license on a temporary hold. This can be extended up to 12 months
- 60) **Terminated** - Includes an agency decision to end licensure for violations of criminal backgrounds, standards, or when it's in the best interests of Tribal children.
- 61) **Therapeutic Home** - A foster home who is licensed to provide specialty care for children with higher needs.
- 62) **Transitional Living Plan** - A plan designed to serve children 16 years old or older for whom the treatment goal is basic life skills development toward independent living. A transitional living plan includes basic life skills training and the opportunity to practice these skills, i.e. cooking, cleaning, laundry, budgeting, driving, job skills.
- 63) **Tribal Court** – the jurisdictional body created and regulated by the White Earth Nation to oversee civil regulatory actions among members.
- 64) **Unit** – foster care pays for overnight stays for a child and begins as of the 1<sup>st</sup> overnight. Day out is not considered a paid unit.
- 65) **Waa Aa** – someone who gives you your name, or is along with you in life, to raise or teach you about culture, help you out, culturally mentor, help you or be with you at ceremonies.
- 66) **Waiver** - Written exception to a foster care standard for the licensed entity, as provided only by the Indian Child Welfare; when it does not impact safety.
- 67) **Water activities** – Activities related to the use of splashing pools, wading pools, swimming pools, or other bodies of water.

### **Section 3 Application and Licensing Procedures**

**Application Procedure** \*Applications to provide foster care are available at White Earth Indian Child Welfare 218-983-4647 and available to anyone who requests one.

**1) Application** for license as a foster family home needs to be completed, signed by the foster parent applicants, and given to the ICW Foster Care program. A complete application must be received by ICW foster care department to begin the licensing process. ICW licensing staff can assist with any questions.

**2) Criminal Background Checks**, each foster family home applicant and or the household shall authorize background checks in accordance with Adam Walsh Act and shall submit to fingerprinting to determine if the individual has ever been charged with a crime, and if so, the disposition of the charges. In addition, members of the household ages 16-17 must have state and local background checks. Background Check forms are included in the initial application packet. Fill out and return forms to ICW. ICW runs the criminal background checks for state and local offenses; this may take up to three days for ICW to receive results. ICW will arrange for all household adults to have FBI fingerprints checks done at separate time. This may take significantly longer to receive results back.

#### **Background Inquiry**

- 1) Foster Parents shall tell the Agency about any offenses (other than minor traffic violations) for which they have been alleged, pending, and or convicted of.
- 2) The Background checks completed by the department will identify disposition of charges.
- 3) The Department will review the Background checks before proceeding on with other licensing criteria.
- 4) All members of the foster family who transport foster children shall submit to the Department verification of their driver's license and automobile liability insurance.
- 5) When applicants pass the criminal background check process they automatically move on for other licensing requirements, such as a home study and home safety inspection.
- 6) When applicants have something questionable on the criminal background check the Agency will review it with the Applicant for additional information, including:
  - a) The type of crime for which the individual was convicted;
  - b) The number of crimes for which the individual was convicted.

- c) The nature of the offenses;
  - d) The age of the individual at the time of conviction;
  - e) The length of time that has elapsed since the last conviction;
  - f) The relationship of the crime and the capacity to care for children;
  - g) Evidence of rehabilitation; and
  - h) Opinions of community members concerning the individual in question.
- 7) When applicants have something on their background check that prohibits licensure, the Agency will meet with them to discuss it, show them the background check that prohibits licensure, and explain it. The licensing process stops at this point.

#### **Criminal convictions that Prevent Licensure**

- 1) If the foster parent, applicants or any adult member of the household has been convicted of any sexual offense against a minor or adult they will be denied licensure.
- 2) If the foster parent, applicants, or any adult member of the household has been convicted of a serious crime against a child they will be denied licensure.
- 3) If the foster parent, applicants, or any adult member of the household has been convicted of a serious crime against another adult they may be denied licensure.
- 4) If the foster parent, applicants or any adult member of the household has been convicted of committing or attempting to commit one or more of the following serious criminal offenses, the elements of which are similar and bear a substantial relation to any of the criminal offenses specified below, this conviction will serve as a bar to receiving a foster home license or permit:
  - **HOMICIDE**
  - **KIDNAPPING AND RELATED OFFENSES**
  - **SEX OFFENSES**
  - **DOMESTIC VIOLENCE**
  - **SERIOUS BODILY HARM**
  - **ATTEMPTED MURDER**
  - **FEDERAL DRUG OFFENSES**

The Agency may consider licensure as a non-Adam Walsh home if **all** of the following requirements are met

1. The relevant criminal offense or offenses occurred more than 15 years prior to the date of application or renewal.
2. The applicant had previously disclosed the conviction or convictions to the Department for the purposes of a background check, and;
3. The applicant meets all other requirements and qualifications to be licensed as a foster family home under the Child Care Act and the Department's administrative rules, and;
4. The applicant has a history of providing a safe, stable home environment and appears able to continue to provide a safe, stable home environment, and;
5. The explanation for the crime is consistent with the extensive review of the court history documents for the conviction, and:  
The applicant is identified by the Indian community as not being a danger to anyone, especially children, if they are licensed, and this is verified by the child welfare commission.

### **3)SSIS Checks**

ICW will check adult household member's names through the child protection data system. This does not require anything additional from the applicant.

ICW will ensure that adult household members are free from child protection activity and child maltreatment by checking SSIS for this type of history. Child protection history may result in denial of licensure. Child protection history may reveal physical abuse, mental abuse, sexual abuse not criminally prosecuted, or serious or chronic neglect of children which may result in denial of licensure

### **4) Home Study**

The Department will make an appointment with applicants to conduct a home study. The Home Study measures personal and family make-up, through qualifications questions and answers session. The home study is conducted by the Agency in person with the applicant, going through a standard form of questions. The Agency will type a final home study that goes into the applicant file.

If there are any concerns for the Agency triggered by the home study, criminal background or child protection records check the Agency may request additional information or assessments.

### **5. Qualifications of Foster Parents** (*ability to live bimaadiziwin*)

- A) Foster parents shall be stable, law abiding, responsible, mature individuals, at least 21 years of age.
- B) Each foster parent will be able to assume appropriate responsibilities for the child or children received for care.

- C) Foster parents must be free of illegal substance abuse; prescription pill abuse; and alcohol abuse.
- D) Foster parents need to willingly abide by Agency standards.
- E) Foster parents need to work cooperatively and respectfully with the Agency.
- F) Foster parents willingly accept Agency supervision over children placed in their home.
- G) Foster parents will adequately supervise the children in their care to assure compliance with law, code, and standards.
- H) Foster parents will respect and support the child's ties to their parents, biological family and cooperate with visitation.
- I) Foster parents will assist the Agency with the service plan for the child.
- J) Foster parents will treat children placed into their home with care, nurturing, and respect.
- K) Foster parents will provide foster care for children because they care about them and not for other reasons.
- L) Foster parents need to be kind, patient, and understanding with the children placed into their home.
- M) Foster parents need to be open with the Agency when they are needing to take a break, feel overwhelmed, or feel that the placement is not working out.
- N) Foster parents need to model appropriate child rearing in the Indian community without abuse, neglect, or ill treatment of foster children.

**General Qualifiers to Become Licensed:**

Foster parents must be honest with the licensing Agency about who is residing in their home at all times. The foster family is responsible for reporting to the Department that an individual may be sharing the living arrangements prior to the individual moving into the home. The individual will be subject to the same requirements as other members of the household, background checks as required in Adam Walsh Child Protection and safety act (Background Checks). The individuals living in the home must also have the ability to live bimaadiziwin. Family members staying the weekend to visit are not subject to these checks, but the foster parent is responsible to ensure they are not any sort of threat to children – including being free from chemical use.

Traditionally as Anishinaabe we do not turn family away however- as a licensed foster parent your duty is to inform your licensing worker and get clearance for anybody staying longer than a week.

Parents of foster children are not allowed to live in the home

### **Health of Foster Family**

- a) Foster parents and all members of the household shall disclose any communicable diseases that affect the ability of the family to provide care to the department.
- b) Foster parents and all members of the household shall disclose any physical or medical conditions that affect the ability of the family to provide care.
- c) Foster parents and all members of the household shall disclose any mental or emotional conditions that affect the ability of the family to provide care.
- d) Foster parents and all members of the household shall disclose any use of prescription pain killer, muscle relaxants, benzodiazepines, stimulants.

If there is a question regarding any of the foster parent's members of the household clinical reports that the Agency feels needs to be further evaluated for safety of a foster child, then further evaluating will be required by the Department.

### **6. Home Safety Inspection**

The purpose of a home safety inspection is to ensure safety of a foster child residing in your home. The primary objective is to make sure the home is safe from major hazards.

A licensing worker will come to your home with Home Safety checklists. They will check for fire hazards, electrical hazards, water hazards, other hazards (weapons, knives, chemicals, cleaners) and space requirements.

There may be a need to lock up some items in a lock box (knives, guns, prescriptions) that the Agency recommends prior to licensure. There may be a need to store chemicals and cleaners differently that the Agency will recommend, for example, as a result of the home safety inspection.

Items noted on the home safety inspection will need to be completed prior to licensure.

- a) The foster home shall be clean
- b) The home should have enough space for children,
- c) The home needs to be well ventilated
- d) The home needs to be free from observable hazards
- e) The home needs to be properly lighted and heated
- f) The home needs to be free of fire hazards.

The water supply of the foster family home shall comply with the requirements of the local health departments. If the foster family home accepts children under age ten or who are developmentally disabled, the maximum hot water temperature from all showers and bathtubs shall be no more than 120° Fahrenheit. If well water

is used, a copy of the Inspection Report may be requested.

#### Water Hazards Protection

- 1) All in-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate.
- 2) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5-foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, pool's steps shall be removed or the pool shall be otherwise protected to insure the pool cannot be accessed.
- 3) Any hot tub not enclosed with a 5-foot fence shall have a securely locked cover or be drained.
- 4) Any portable wading pool (kiddie pools) shall be emptied daily.
- 5) Licensees in foster family homes with pools, hot tubs, ponds, outdoor fountains, decorative water ponds, fishponds, or are located on a lakeshore must have current CPR certification and a high level of supervision skills for children placed into their home.
- 6) 5 gallon pails or larger cannot be left full of water, where a child can reach it.
- 7) Open holes in the ground deeper than 12" cannot be full of water.
- 8) Open wells need to be covered old wells need to be covered so that children cannot fall into them.

In general, wells and sewers must be in good working order.

#### Safe Use and Storage of Dangerous Items

Portable space heaters may be used as a supplementary source of heat if they have an Underwriters Laboratories sticker attached and are used in accordance with local building and fire codes, and must shut off automatically if they are tipped over. Portable space heaters may not be used in rooms where children are sleeping. Portable and fixed space heaters in areas occupied by children shall be separated by fire resistant partitions or barriers to prevent contact with the heater. Cords cannot be frayed and must not have anything placed on top of them.



Dangerous household supplies, chemicals, and dangerous tools shall be kept in a safe place inaccessible to children under 12 years of age. These items shall remain inaccessible to children during disposal.

Prescription and nonprescription drugs shall be kept in places that are not accessible to children.

Any and all firearms and ammunition shall be locked up at all times and kept in places inaccessible to children. No firearms possessed in violation of a State or federal law or a local government ordinance shall be present in the home at any time. Loaded guns shall not be kept in a foster home unless required by law enforcement officers and in accordance with their law enforcement agency's safety procedures. Ammunition must be locked in a place separate from locked firearms.

The foster home shall comply with all requirements of the Local laws and Tribal codes for pets. Certificates of vaccinations for pets shall be available for inspection.

#### Telephone for Emergency Communication

The foster home shall have an operating telephone on the premises (Landline or Cellular) at all times without any lapse in service. This is to guarantee safety of foster children placed in the home. If a home needs to call 911 they need a working phone. If the Agency needs to call the home there must be a working telephone; and likewise if the home needs to reach the Agency they need a working telephone.

#### Fire and Escape Plans

The foster home shall have fire and emergency evacuation plans that are to be discussed and rehearsed quarterly with the children. Post them. Include meeting place outside.

The foster home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics, kitchen, laundry rooms, furnace rooms, and bedrooms. It is highly recommended to use relayed smoke detectors.

A foster home must be equipped with a minimum of one approved working carbon monoxide detector within 15 feet of every sleeping room.

#### Requirements for Bedrooms

a) Each foster child shall be provided his own separate bed or crib. A waiver may be granted for some siblings under age 8 to share a full, queen, or king bed.



- b) If children placed in foster care exhibit sexual behavior, sleeping arrangements shall comply with the requirements of a safety plan approved by the Department.
- c) Children two and under years of age may share a bedroom with children of the opposite sex who are also under age two if each child is provided with a separate bed or crib.
- d) Closets or dressers must be provided for foster children within their bedroom.
- e) A foster child may share a bedroom with his or her own biological children of either sex if each child is provided a separate bed or crib.
- f) A foster child shall not share the bedroom with an unrelated adult except under emergency medical situations preapproved by the Department.
- g) When adulthood (age 18) is reached by a foster, biological or adopted child for whom sharing the bedroom with a foster child under eighteen years of age has been determined to be in the best interests of the foster child, the Department shall approve such arrangements.
- h) The Department may approve the use of a multi-purpose room for use as a bedroom in order to enable children of common parentage to be placed together or placed with a relative. This will be granted as a written waiver noted in the foster family's file held by the Agency.
- i) There shall be a minimum of 40 square feet, excluding the closet and wardrobe area, for the first child occupying a bedroom and a minimum of 35 square feet for each additional child sharing the room. However, Department may approve a smaller room size on an individual case basis when such approval is in the best interests of the children. Such approvals shall be in writing and shall contain the names and birth dates of the children for whom the approval was issued. These approvals shall be reviewed at each license renewal.
- j) The room shall be exposed to an outside window.
- k) The springs and mattresses on each bed requiring such shall be level, clean, unsoiled with no rips, tears or sags in the mattress or mattress cover, and not contain insects (lice or bedbugs, for example). The bedding shall be suitable for the season and be ample to keep children warm.
- l) Linens shall be changed at least weekly for all children and as frequently as needed for children not toilet trained and for those who are enuretic (wet the bed).

m) Waterproof mattress covers shall be provided for all beds or cribs for enuretic children.

n) Sleeping rooms shall be comfortable and shall be furnished suitably for the age and sex of the child.

o) Every child under 24 months of age must sleep in their own crib or bassinette, free of hazards.

p) Basements and Attics

1) Basements and attics may be used for sleeping for children who are mobile, capable of self preservation, and able to understand and follow directions with minimal assistance in an emergency.

2) To be used for sleeping, basements and attics shall have two exits with one exit leading directly to the outside with means to safely reach the ground level. The second exit may be an easily accessible outside window that provides an unobstructed opening, operable from the inside without the use of tools, and large enough to accommodate an adult. Children need to easily exit without adult assistance in the event of an emergency.

3) No basement or attic shall be used for sleeping without the approval of the Department.

q) The sleeping area shall be separated from the furnace and utility areas.

- Foster parents shall respect children's rights to privacy while sleeping, bathing, toileting, and dressing

## **7. Licensing Forms**

Several forms require signatures from applicants to ensure knowledge and understanding of the program.

Licensing workers will review each form with applicants to explain prior to obtaining signatures.

## **8. Drug Testing**

ICW will drug test all applicants and individuals living in the home prior to licensure.

ICW wants to ensure safe environments free from drugs for children in our care. Foster homes are prohibited from illegal substance use; as well as substance abuse.

Prescription medication use must include a valid, current prescription for the individual using the medication. Failure to abide by this may result in immediate denial of licensure.

Prescription medication cannot be excessive or interfere with care of children nor pose any safety concerns to children.

Illegal substances may result in immediate denial of licensure.

THC use or excessive alcohol use will require a rule 25, needing to follow recommendations and repeated drug testing until clean.

Foster parents are allowed to smoke tobacco products, but cannot in a foster family home, or motor vehicle while transporting a foster child.

Foster parents are allowed to consume alcohol, but not to excess and not where it impedes ability to care for foster children.

## **9. References**

Applicants need to provide names of 3 unrelated people who could provide character references. ICW will mail out those references and needs at least 2 returned. If they are not received back, the agency will mail out a second time. If not received back, then the applicant needs to provide additional names to the agency. If not received back, then the applicant needs to provide additional names to the agency. If not received back to the Agency may close out your application.

Character references are required from the community because they attest to your ability to care for children. If the community does not support you as a foster parent the agency may deny licensure.

## **10. Non-IVE Eligible Licensure**

Once the necessary forms are complete the supervisor of ICW will review the file, they will determine whether everything meets licensing criteria explained here in approval will result in a signed temporary license.

A three month temporary license may be issued by the ICW Director when:

- A) The application, state and local background checks, all forms; SSIS checks; UA's; home study; and home safety inspections pass.

- B) Acknowledgments that the temporary license is time limited and issuance of a full license is contingent upon the results of the federal criminal background check;
- C) Acknowledgments that the temporary license may be canceled and the Department will refuse to issue a license if the results of the Federal criminal background check are unfavorable; and
- D) Acknowledgments that any children placed in their care may be removed without prior notice if information provided during the application process has been falsified or the applicants have a Federal criminal history.
- E) Temporary licenses shall not be transferred to another person.
- F) Temporary licenses shall not be valid for a name or address different from the name and address shown on the issued license.
- G) Temporary licenses shall be renewable, until a full licensure is ready for presentation to Tribal Council.
- H) The foster family shall adhere to the provisions or restrictions specified on the license.
- I) There shall be no fee or charge for the license.
- J) Once a home is issued a temporary license they are eligible for foster care benefits

**IVE Eligible Licensure**

The license will be presented to Director or assistant Director for approval signature.

This full license is valid for 2 years as long as the licensee continues to abide by the foster care standards.

a) A foster family home license is valid for two years unless revoked by the Department or voluntarily given up by the licensee.

b) The number of children cared for in the foster family home shall not exceed the license capacity and must conform to the requirements for the number and ages of children specified on the license.

- c) The foster parents' biological and adopted children under 18 years of age and all other children under 18 years of age receiving full-time care shall be counted when determining license capacity.
- d) The license shall not be transferred to another person or other legal entity.
- e) The license shall not be valid for a name or an address other than the name and address on the license. If the foster parents move they need to let the Agency know ahead of time so the new address can be licensed.
- f) A current license shall be available in the foster home at all times.
- g) There shall be no fee or charge for the full license.
- h) The foster family shall adhere to the provisions or restrictions specified on the license.
- i) Foster care licensures will present all Foster homes to tribal council bi-annually for review. Tribal council will have the authority to revoke a license.

## **Section 4 Number of Children in a Licensed Foster Home**

### **Number of Children in a Foster Family Home**

- 1) When determining how many children a foster family home may accept for care, the maximum number of children shall be determined by;
  - Sleeping arrangement
  - Gender of children
  - Age groups of children
  - Needs of the children
  - Personal characteristics of a foster parent
  - Number of other permanently residing children in the home
  - Number of parents in the home and the number of stay at home parents.
- 2) The maximum number of children permitted in a foster family home shall be eight children not including foster parents own children.

#### **Four Children Under Age Six**

No more than four children under six years of age, including the foster parent's own children, shall receive full-time care in a foster family home at any one time.

#### **Two Children Under Age Two**

No more than two children, including the family's own children, shall be under two years of age unless the foster family home is accommodating a sibling group on a temporary basis.

### **Expanded Capacity License Provisions for Foster Family Care**

Foster parents may be licensed to care for more than eight children on a fulltime basis only if the foster parents are otherwise in compliance with the requirements, can meet the licensing standards for the additional children and have demonstrated competency in caring for the ages and characteristics of children for whom they are seeking the expanded capacity license. Expanded Capacity may be granted if it is to keep children of common parentage together.

#### **1) Four Children under Age Six**

No more than four children under six years of age, including the foster parent's own children, shall receive full-time care in a foster family home at any one time.

#### **2) Two Children under Age Two**

No more than two children, including the family's own children, shall be under two years of age unless the foster family home is accommodating a sibling group on a temporary basis.

## **Section 5 Agency Monitoring**

### **Licensing Worker and Case Worker Visits**

A licensing worker will be in foster homes at least once a month to monitor compliance with foster care standards. The Licensing worker will meet with the foster parents and children in the home once a month.

Foster parents are to notify the agency of anything affecting their license or children immediately.

Foster parents are to notify and gain approval of the Agency for childcare providers of the children, including daytime respite, full time child care, and overnight or extended respite. The Agency will assist the foster parent in locating appropriate arrangements. The Agency will monitor alternative caregivers, including requests for background checks, drug testing, and child care licenses.

Case Managers for the children are responsible to meet face to face with the child once monthly in the home. Case managers shall meet individually with the children in the foster home, separately from the foster parents. Case Managers are allowed to talk to children about home, school, activities, interests, etc.... and attempt to ensure the child is in a good environment.

Foster parents shall cooperate with Agency staff. The Agency may suspend or terminate foster care licenses if foster parents are uncooperative, disrespectful, name call, deny access to the home, or otherwise degrade the Agency.

Complaints regarding licensing workers, case managers need to be addressed verbally or in writing with the Agency Director or Assistant Director. If the situation is not remedied then the complaint can be sent to the ICWA Commission to review conduct and application of standards by the Agency.



## **Section 6 Drugs and Alcohol**

### **Drug Testing**

Random Drug testing means the unscheduled, unannounced drug testing of randomly selected Foster homes.

Suspicion Drug Testing means the unscheduled, unannounced drug testing of foster homes that might have a report from the community, child, or law enforcement.

ICW wants to insure safe environments free from drugs for children in our care. Foster homes are prohibited from illegal substance use, as well as substance abuse. Illegal substances may result in immediate suspension or termination of licensure.

Under random or suspicion drug testing, the foster licensing worker or Social worker will request a drug test from the foster parents. These usually are done by urinalysis, but may also include an oral swab of saliva or hair follicle. This sample will be collected and sent off to a laboratory where a medical report officer will determine with your prescribing doctor (if there are prescribed medications) the results.

If the Agency requests drug testing the foster parents need to comply within prescribed time limits. If the foster parent refuses drug testing it will be grounds for suspension and removal of foster children for other placement. If this happens, and the foster parents want to test the next day, it will be refused by the Agency. The foster parents may be placed on a random schedule for a period of time to assure the Agency there isn't any drug use occurring, in order to be reconsidered for licensure.

If the drug test is positive for THC the Agency will require the foster parent to undergo a chemical health assessment within 14 days, list the Agency as collateral, and expect the foster parent comply with the recommendations of the chemical health assessment. The Agency will continue to test THC levels until they decrease to zero.

Prescription medication cannot be excessive or interfere with care of children nor pose any safety concerns to children. Higher doses, frequent doses, or multiple prescriptions for pain killers, muscle relaxers, stimulants, may result in a denial or termination of licensure if they impair ability to care for children.

Excessive alcohol use will require a rule 25, including ICW as a collateral, follow recommendations of the assessment, and contract with the Agency. Repeated testing that checks levels may occur.

### **Gambling Abuse**

The Agency experiences problems at times with foster homes who appear to have gambling issues. Issues of concern include:

- Supervision of foster children while the licensee is gambling
- Continuous gambling leads to lack of personal care for foster children
- Gambling foster care money and not having money to provide for the needs of the children as expected in these standards

If the Agency knows that the foster parents are exhibiting any of the concerning issues above, the Agency will meet with the foster parents to discuss it. The result may be a compliance contract with the Agency to curb time spent away from the home gambling, and curb amounts spent on gambling. There may be a referral for a gambling assessment and to follow recommendations of that assessment. If the issues are not rectified then the Agency reserves the right to terminate the licensure.

## Section 7 Training

### Training Requirements:

<b>Respite Home</b>	CPR, Car Seat, AHT, SUID
<b>Interim Home</b>	CPR, Car Seat, AHT, SUID and 18 hours of additional training in elective areas.
<b>Relative</b>	CPR, Car Seat, AHT, SUID, and 12 hours of Annual Training in elective areas.

**Foster home trainings for children in these age categories should be trained in these before, or within 30 days of licensure.**

<b>Infants</b>	<b>0-1</b>	CPR	Car Seat	AHT	SUID
<b>Toddlers</b>	<b>2-3</b>	CPR	Car Seat	AHT	
<b>Children</b>	<b>4-11</b>	CPR	Car Seat		
<b>Juveniles</b>	<b>12-18</b>	CPR			

**CPR** Cardiopulmonary resuscitation

**SUID** Sudden, Unexplained Infant Death

**AHT** Abusive Head Trauma

**CAR SEAT** An approved certified car seat training

The Agency provides and arranges for trainings in each of the four core areas listed above for foster parents. Foster parents need to work with their licensing worker to obtain and document these trainings.

Elective training areas for Interim and Relative homes can be in any training areas related to care of children. They can include medical, spiritual, emotional, physical, mental health trainings. The Agency has resources to offer foster parents in meeting elective training requirements. In addition, monthly foster parent meetings are a way to achieve training. Each monthly foster parent training equals 2 hours of annual training credit. If the foster parent would like training in a specific area they should ask their licensing worker to arrange it.

The foster care worker will go over training hours during monthly home visits. The worker will document any training hours you completed that month. The training hours will be totaled for both foster parents, for example if there are two parents in the home and each completed 2 hours of training that would count toward 4 hours.

At the end of the yearly license if you fail to provide training hours the Agency will grant an extension of your license for 30 days to complete the training requirements and will assist you in locating trainings, which may include books, DVDs, online training.

However, if after 30 days the trainings are not complete, the Agency may:

- A) Suspend the License
- B) Contract to complete Training hours within 7 days to avoid suspension.

If a license is suspended due to training hours after the Agency has made these active efforts, then it will be up to the applicant to complete training on their own, document it, and present it to the Agency to reinstate licensure.

Some foster homes have medically needy children in their care. The Agency will consider part of the training foster homes go through with medical providers as part of their annual training hours. For example:

Initial appointment for PT/OT, Speech, PCIT, Mental Health, Medication, any Therapy, or any specialty medical issue will result in 1 hour of training.

In addition, ongoing medical appointments that the foster parent attend, participates in, and has to carry out at home will be counted as follows below:

Speech	3 hours of training per year
PCIT 1 hour a week 16 weeks long allow	3 hours of training per year
Mental Health Therapy	3 hours of training per year
Medication for child	1 hour per year
Physical or Occupational Therapy	3 hours per year
Early Childhood Education Services	3 hours per year
Other therapies	up to 3 hours per year

Local Training and conferences will be credited by the amount of hours of the training and must apply to issues concerning children.

Other trainings applicable to caring for children will be counted, and may be obtained by:

Library Videos, local training, conferences, monthly foster care meetings, books, Foster care library Videos, Books, Audio Books, Pod Cast, and Kindle.

### **Section 8 Records to be maintained by Foster Parents**

Records to be maintained by the foster family shall include:

- 1) The name and date of birth of the child,
- 2) Medical assistance number of the child
  
- 3) A record of immunizations the child has received while in their care
- 4) Physical problems or limitations noticed while child is in their care
- 5) Allergies the child has
- 6) Current recommendations for special medical, mental health or other care
- 7) Record of Medical ,dental or physiological appointments
- 8) Testing or screenings or assessments done for the child
- 9) The name, address, and telephone number of the child's physician, guardian, and supervising agency;
- 10)A log of medication prescribed and given;
- 11) The names, addresses, and telephone numbers of persons to contact in case of emergency;
- 12) The names of people to whom the child may be released;
- 13) A record of waivers for immunizations;
- 14)A record and/or receipts of clothing purchased monthly;
- 15) A record of mental health appointments for the child
- 16)A record of school performance (report cards)
- 17)Any other important information regarding the child, including incident reports

:

It is helpful to maintain this record for the child, so that it can go with the child when they leave your home. The Agency may request a copy of any of this information to maintain in the child's file. The Agency requires this information to be kept confidential by the foster parents on behalf of the foster children.

## **Section 9 Confidentiality of the Foster Children**

### **Confidentiality of Information**

Foster parents are entrusted with confidential information about children in their care, and learn additional confidential information about children and their families as a result of their work as foster parents.

It is the children's right and expectation that confidential information will be respected and safeguarded by the foster family.

As partners in the provision of children's services, foster parents are bound by the same expectations of protecting confidential information as are agency social work staff members. This means that no information learned as a result of their work as foster parents is to be shared outside of that professional service, even if identities are "disguised."

Casual conversations about children or their family's information with friends, other foster parents, and others not involved with direct services to the client are **prohibited**.

Foster parent should never be overheard out in public discussing detailed information about the child, nor their parents, nor what's going on with respect to the child protection case. When asked in public, foster parents are to respectfully inform the other party they can't discuss confidential information.

Public Media discussions about the children or their parents by the foster parents is prohibited.

Public Media postings of pictures of foster children is prohibited unless approved by the Agency or the child's parents.



## **Section 10 Visitation of Foster Children with Parents**

### **Visitation with parents – Scheduled by the Agency**

In most situations children in foster care are expected to visit with their parents. There are circumstances where children were subjected to egregious harm or trauma by their parents and there will not be visitation. However, this is not typically the case.

In general, children will be expected to visit with their parents. The foster parents should expect the Agency have a schedule for visitations. If they don't have one, they can ask for one so they can make accommodations ahead of time.

Visitations usually begin as supervised by the Agency for the foster children and their parents. As the parent's stability increases the visits may expand to unsupervised, overnights, weekends, and extended time. Foster parents are encouraged to express their concerns before or following visitations with their licensing worker or the child's case manager.

Visitation is not easy on children. It is difficult to see parents and then separate again, so it is expected that following visitation the foster parents will need to spend extra time, patience, and nurturing to assist the child. Although visitation is difficult on the child and the biological and foster parents, it is still necessary. Foster parents are expected to assist with preparing the child for visits with parents and to assist the child with emotional needs after the visits.

Foster parents are prohibited from denying or blocking visitations with parents when they are appropriately scheduled by the Agency.

### **Visitation with Parents – Supervised by Foster Parents**

Foster parents may not schedule visits for the children with their parents unless it's approved by the Agency. Foster parents may not allow parents to come into their home, to watch the children, or leave children alone with parents unless it is approved by the Agency. Failure to abide by this may result in immediate suspension or termination of the license and result in the children being moved.

If approved by the Agency, foster parents may schedule visits in their home with the parents as long as the foster parents are supervising them at all times.

No foster parent will be expected to supervise visits between parents and children if they aren't comfortable doing so.

### Section 11 Required Written Consents

The foster parent shall ensure that prior written consent is given by their worker for the following before pursuing for foster children:

- 1) Health care and treatment, including medical, surgical, psychiatric, psychological, and dental;
- 2) Use of psychoactive drugs;
- 3) Use of any prescribed medication
- 4) Induction into the armed services,
- 5) Driver's licenses.
- 6) Out of state travel
- 7) Use of photographs for publicity or other purposes; and
- 8) Consent to marriage for child under age of 18.
- 9) Consent for a child for getting a tattoo and piercing.



## **Section 12 Business and Employment of Foster Parents**

The operation of a commercial rooming or boarding house on the premises is not permitted.

The operation of other business enterprises on the premises is permitted but shall not interfere with the care of the child or endanger the health, safety and welfare of the child. The supervising agency must know and approve of any business operation.

Employment outside of the home is encouraged but shall not interfere with the proper care of the foster child. When foster parents are employed outside the home, provision shall be made for adequate supervision of the children. The provision for supervision of the foster children shall be approved in writing by the supervising agency prior to placement of children in the home or at the time of employment. A copy of the approval shall be maintained in the supervising agency's licensing file and shall be sent to the foster parent.

Foster children have a choice whether to or not to work for you. They must be financially compensated in a fair manner according to Federal employment laws or Tribal Code.

## **Section 13 Licensing Violations**

### **Licensing violations**

Foster parents must adhere to the ongoing expectations to maintain their license. Failure to abide by the standards may result in a correction contract, forfeiture of foster care dollars, suspension of license, or termination.

Any alleged violation will be investigated by the Agency. The foster parent will have the right to know about the allegations and have the opportunity to respond. Children and collateral witnesses may be interviewed and may not be retaliated against for their statement.

### **Procedure:**

#### **Investigation**

The Agency will obtain clear and complete information from the individual filing the report. The Agency will attempt to obtain names, dates, witnesses, collaterals, and thorough information to make a determination as to whether or not to proceed with the facility investigation.

The report will be screened within ICW by the intake worker, the foster care worker, and a supervisor. The information will be screened to determine whether it is a malicious report, whether it has credible information or not.

If the report is deemed credible and includes a violation of any standard the Agency will interview any witnesses. This may include foster children and biological children.

The Agency will meet with the foster parents to discuss the report, to obtain their statements and history of events.

The Agency will make a determination based on reports, interviews, examinations of documents whether a licensing violation has occurred or not.

The Agency may place the license in non-active status pending completion of investigation.

The agency may withhold additional placement or need to move children until the investigation is complete, depending on the seriousness of the report and credibility of the report.

The Agency may increase supervision and monitoring of the children if they are left in the home during investigation.

The agency shall have up to 30 days to complete the investigation and another 15 days to compile a written determination to provide to the foster parents.

If the allegations are unfounded the license will return to active status and a letter determining unsubstantiation placed in the foster care file.

If the allegations are found to be true then the agency will take appropriate action. Actions ICW May:

- Remove kids from home
- Require additional training for foster parent
- Provide a Correction contract with monitoring
- Provide additional monitoring in the home
- Reduce the number of kids allowed in the home
- Forfeit Foster care dollars if standards are violated
- Suspend the license up to 90 days
- Issue a Verbal Warning – which will be noted in the file
- Or Terminate licensure

#### **Section 14 Termination of license**

If a foster home's license is terminated by the Agency for foster care licensing standards violations, the home will be notified in writing of the exact reasons why their license is terminated.

Any foster children in the home will be removed and placed elsewhere if the license is terminated for violations. The Agency has to notify the foster home, in writing, that their license is terminated. The mailed postmark on the envelope begins the 30 day appeal process.

The foster home has a right to request, in writing, an appeal of the termination. The written appeal must contain valid reasons why the Agency erred in their determination. The written appeal must be received by the Agency within 30 days of the determination to terminate licensure.

The Agency will forward, within 72 hours, the written appeal request to the Commission. The Commission has the discretion to review the appeal request and determine whether a basis exists or not for an appeal.

If the Commission determines there is a basis for an appeal it does not mean the Agency erred in its determination – but that the Commission wants to hear from the foster parents. The Commission will arrange for an appeals hearing within 60 days upon receipt and acceptance of the appeal request.

If the appeals hearing results in affirmation of the termination of licensure then there is not another appeals process. The licensure will not be reinstated.

If a foster home has maltreatment of a child substantiated by the Agency they are subject to a permanent ban from the Tribal Council.

If a foster home has a less egregious violation, the foster home may reapply after 12 months, to request reconsideration and demonstrate their circumstances have changed. The applicants will complete an application and include an essay detailing how they demonstrate circumstances have changed. The agency will process the Application if the essay has clearly demonstrated that the applicant's circumstances have changed dramatically enough to be safe for foster children.

## **Section 15 Care of Children**

### **Meeting Basic Needs of Children**

- a) All children in the foster family shall be treated equitably.
- b) Children shall receive supervision appropriate to their developmental age at all times.
- c) All children in the foster home shall be protected from exploitation, neglect, and abuse. Suspected child abuse or neglect shall be reported to the supervising agency and to the Department immediately.
- d) Foster parents shall provide the child with ongoing opportunities to explore a wide variety of interest areas to expand his or her knowledge of learning possibilities that may lead to the child's systematic and lifelong involvement in one or more interest areas.
- e) Each child shall be given the opportunity to develop social relationships through participation in schools, cultural and other community and group activities. Each child shall have the opportunity to invite friends to the foster home and to visit in the home of friends.
- f) Each child of sufficient age shall be allowed to participate in school sports. Foster parents are to pay fees, provide after school money for practices and games.
- g) Care shall be exercised in giving permission for the foster child to visit overnight with friends or relatives of the child or foster parents. Extended trips away from the foster home must be approved by the Department.
- h) Personal allowance money shall be available to the children based upon the child's age and ability to manage the money. Adolescents may be allowed to earn additional spending money.
- i) Children should receive monthly money for spending money. Children ages 10-12 \$20 per month and children ages 13-18 \$40 per month.
- j) Teenage children will have the opportunity to learn and work outside the foster home and foster Parents will assist with job skills and transportation.
- k) Foster parents shall assist the child in the proper handling of money.
- l) Each child shall have the opportunity to learn to assume some responsibility for himself and for household duties in accordance with his age, health, and ability. No child shall be permitted to do tasks which are hazardous, dangerous or risk harm to the child.

m) Youth should be allowed the opportunity to complete driver's education, drivers training, driving opportunities and obtain their drivers license.

n) Foster parents shall provide \$75.00 dollars a month for clothing for the foster children.

- Diapers and Wipes are not included.

o) Children shall receive \$25 a month for toys or electronics that will belong to the child.

p) The supervising agency shall immediately be notified of any serious situation or incident involving a foster child.

q) Foster parents shall provide the foster children with cultural opportunities

r) Foster parents shall provide the foster children with mental health services by collaborating with the child's worker.

s) Specialty clothing for events such as prom, homecoming, graduation, elementary programs, shall be provided by the foster parents.

#### **Hair Cutting**

The hair of Anishinaabe children is sacred.

Prior to cutting hair of children in foster care, foster parents need to consult with the child's case manager.

Hair cutting involving 2 inches or more requires preapproval by the Agency.

Hair trimming is allowable.

Longer hair cutting (3 inches or more) may require consult of parent or grandparent. Longer hair cutting may require a ceremony beforehand to teach children Anishinaabe beliefs.

Hair dye and drastic changes require approval from the case manager and or parent.

#### **Health Care of Children**

a) Upon an initial placement in a foster placement child must have a well child check in 72 hours and the follow up appointments are the responsibility by the foster parents.

b) Each foster child shall have a dental checkup within 60 days with follow up required by foster parents.



c) Each foster child shall see the eye doctor checkup within 60 days with follow up required by foster parents.

d) In case of sickness or accident, immediate medical care shall be secured for the child and notify ICW.

e) Immunizations and tests, unless exempt on religious grounds, or parental wishes shall be administered.

f) Foster parents shall keep the department informed of any of the child's health concerns.

g) Prescription drugs or prescription medicines shall not be given to a foster child without a physician's prescription and department approval. When administering prescription medication, the foster parent shall follow the directions of the physician and all prescription medication administered by the foster parent shall be documented. Foster parent should not deny child of prescriptions without department consent.

Any medication a child is taking should be documented and reported to the social worker prior to dispensing it.

h) Foster parents should explain to anyone caring for the foster child in their absence any medication a child is taking should be documented and reported to the social worker.

i) Any child who is suspected of having a serious contagious disease shall be separated from other children until a medical determination has been received that the disease is not contagious or is no longer contagious, or a plan for appropriate care and protection of other household members has been approved by the supervising agency after consultation with a licensed physician.

#### **Emergency Care of Children**

In the case of an emergency requiring the absence of the foster parent from the foster home for a period of 24 hours or longer, the department must be notified so that appropriate arrangements may be made for the care of the child.

If a child is taken to the emergency room, taken by ambulance, or taken to the hospital, the foster parent must notify the Agency within 10 minutes. If the foster parent does not have phone numbers available at the time, they can call White Earth Dispatch and request to speak to an ICW worker immediately.

### **Nutrition and Meals**

- a) The foster home shall provide at least three balanced meals (meat, fruit, vegetables, grains, and Dairy) per day in quantities sufficient to meet the recommended dietary allowances for nutritional needs of children. For proper growth and development. The time span between meals during the day shall not exceed 6 hours.
- b) Food products from home-raised animals shall meet the standards of the Departments of Agriculture and Public Health.
- c) Milk must be offered to children who are 12 months and older.
- d) When a physician has prescribed a special diet for a child, the home shall provide the special diet.
- e) Caregivers must feed an infant whenever the infant is hungry. Infants formula must be prepared according to directions and not watered down. WIC helps offset formula costs but ICW pays you to buy the rest of the formula.
- f) The foster home shall consider the child's nutritional needs in relationship to the sex, age, religious beliefs and cultural background of the child.
- g) Meals served to children shall be substantially the same as those served other family members unless a variation based on medical needs or religious beliefs is required.
- h) Meals shall be served in an unhurried manner, under clean and sanitary conditions.
- i) Children shall be encouraged to eat the food that is served, but shall not be subjected to coercion or forced feeding.

#### **If a child refuses to or cannot eat a meal or snack:**

The caregiver must offer a child a meal or snack but the caregiver may not force the child to eat.

j) The caregiver does not have to offer other food to a child who:

(1) Refuses a meal or snack.

k) The caregiver must discuss recurring eating problems with child placement staff and the child's parent.

l) If a meal or snack is not appropriate to meet a child's individual needs, for example food allergies or religious reasons, then you must offer the child an appropriate nutritional substitute.



m) A caregiver may not use food that meets a child's nutritional requirements as a reward or punishment or as part of a behavior management program. Food cannot be withheld.

n) Caregivers may offer a child in care different food choices than what the family is eating

Children may be allowed to assist in meal preparation under adult supervision.

Snacks must be provided hourly.

Kids need to be fed nutritious food when hungry. Gorging issues will be addressed in a separate plan, prepared with the child's social worker.

(a) A caregiver must offer a child in care the same food choices that other children in the home are offered, unless medically contraindicated for the child.

(b) A caregiver must offer a child in care food choices that are at least comparable to what the adults in the home are eating, unless medically contraindicated for the child.

o) If a child requires a therapeutic or special diet

(a) For a caregiver to serve a therapeutic or special diet to a child, you must have written approval in the child's record from a licensed physician or a registered or licensed dietician. This approval must be in the child's record.

(b) If a child requires a therapeutic or special diet, you must have approval from the agency.

(c) Caregivers must make dietary alternatives available to a child who has special health needs as instructed by a licensed health-care professional.

(d) Caregivers must feed a child with primary medical needs according to his medical and developmental needs.

(e) A licensed physician must prescribe tube feeding. A dietician or physician must plan the diet that the physician prescribes.

(f) Children must eat in an upright position unless the service planning team's recommendations are to the contrary.

(g) Food service practices for children receiving treatment services for primary medical needs or mental retardation, including non-mobile children, must encourage self-help and development.

(h) A toddler or older child must eat or be fed in the dining area, unless the service planning team's recommendations are to the contrary.

(i) Infants must be held during feedings, unless the service planning team's recommendations are to the contrary.

(j) If a child is tube fed a registered or licensed dietician, physician, or a registered nurse must ensure and document that the caregiver that prepares formula is adequately trained and has demonstrated competency in preparing the formula.

- (1) Tube-feeding formulas must supply the recommended dietary allowance for each child.
- (2) Caregivers must prepare and store the formula:  
According to directions; or  
As prescribed by a health-care professional.

**Food Storage**

All food items must be:

- (1) Covered and stored off the floor;
- (2) Stored on clean surfaces;
- (3) Protected from contamination;
- (4) Stored in a container that is protected from insects and rodents;
- (5) Refrigerated immediately after use and after meals, if the food requires refrigeration;
- (6) Covered when stored in the refrigerator.

**Maintenance of food prep and serving area.**

- (a) Caregivers must keep furniture, equipment, food contact surfaces, and other areas where food is prepared, eaten, or stored clean and well repaired.
- (b) Utensils and containers intended for one-time use, such as paper and plastic dishes, must not be used more than once.

**Food Allergies**

A food allergy is caused by the body's immune system reacting inappropriately to a food or food additive. Symptoms may include wheezing, difficulty breathing, diarrhea, rashes, itching, hives, and headaches. Food allergies are most common in infants, due to their immature digestive systems. Food allergies are usually outgrown during the preschool years. Although any food may cause an allergic reaction, six foods are responsible for most of these reactions in children. These foods are:

- Peanuts;
- Eggs;
- Milk;
- Tree nuts;
- Soy; and
- Wheat.

It is best not to offer children under two to three years old peanuts or peanut products, such as peanut butter and foods containing or cooked in peanut oil, because of the potential of developing this life-threatening and often life-long allergy. Foods that cause allergic reactions should be eliminated from the diet. However, it is important that the diet still contain a variety of foods for healthy growth and development. A child should receive a medical evaluation if food allergies are suspected.

**Food Intolerance**

Food intolerance is an adverse food-induced reaction that does not involve the body's immune system. Lactose intolerance is one example of food intolerance. A person with lactose intolerance lacks an enzyme needed to digest milk sugar. When that person

eats milk products, gas, bloating, and abdominal pain may occur. It is best to provide food substitutions for children with food intolerances who cannot consume the regular meal.

### **Choking**

Research has shown that 90% of fatal choking occurs in children younger than four years old. Examples of foods that present a risk of choking include hot dogs sliced into rounds, whole grapes, hard candy, nuts, seeds, raw peas, dried fruit, pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than can be swallowed whole.

### **Education**

- a) Foster parents shall encourage each child to attend school daily
- b) Complete high school or vocational training in accordance with their aptitude.
- c) Foster parents shall cooperate with the Department in the child's educational plan.
- d) No foster child shall be allowed to be truant.
- e) Foster parents are to assist kids with their homework and ensure good grades.
- f) Children shall be permitted and encouraged to participate in extra-curricular activities including sports, art and music to the extent of their interests, abilities, and talents. Foster homes will pay any fees for the children to participate.
- g) The foster parent shall ensure that the foster parents shall maintain contact with those serving the educational needs of their children and seek their cooperation to assure that children are placed in appropriate grades and program.
- h) Foster parents shall attend conferences and IEP meetings and any other meetings that the school deems necessary.
- i) The foster parent shall ensure that each child is provided with the necessary school supplies, materials, equipment, and school pictures.
- j) The foster parent shall be responsible for the transportation of child to school when the school transportation is no longer available.

### **Discipline of Children**

**Discipline** - means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways. Discipline does not include the use of corporal punishment as defined in this Part.

- a) consequences shall be appropriate to the developmental age of the child, developmental abilities of the child, take into consideration prenatal exposure of the child, related to the child's act, and shall not be out of proportion to the particular inappropriate behavior.
- b) Consequences shall be handled without prolonged delay. If a child is disciplined already at school or childcare or elsewhere then they should not be dual punished at home if under age 6. The foster parent is to talk to the child about the behavior that occurred elsewhere and try to reinforce, through talking, about making better choices.
- c) if it is a significant offense involving a child in elementary or high school the foster parent may remove some privileges up to 3 days for the child, including television, electronics, social media, video games. It needs to reflect the child's developmental age and abilities of the child and must include notification of the Agency. The foster parent must talk to the child and explain things, and encourage making better choices, using it as a teaching moment.
- d) Special or additional chores may be assigned as a disciplinary measure, as approved by the department.
- e)

Discipline shall never be delegated to a child's peer or peers, nor to persons who are strangers to the child. A foster care parent cannot tell another child to hit or discipline another child.

Foster parents should work effectively together to appropriately address the consequences.

### **No child shall be subjected to corporal punishment**

**Corporal punishment** - means hitting, spanking, beating, shaking, pinching, and other measures that produce physical pain. And any form of physical force intended to cause pain. Anything to cause humiliation or pain. Binding locking a child in a confinement. Run followed by a car behind them.

No child shall be subjected to verbal abuse, threats, or derogatory remarks about him or her or their family.

No child shall be deprived of a meal or part of a meal as punishment.

No child shall be deprived of visits with family or other persons who have established a parenting bond with the child as a means of punishment.

No child shall be deprived of clothing or sleeping in their bedroom as punishment.

A child should have timeouts according their age. One minute per year example 5 years old five minutes. Children cannot be confined when in a time out. Foster parents must talk to the child after the timeout to discuss the reason for the timeout.

The personal spending money of a child may not be used as a form of consequence.

### **Religion and spirituality**

The spiritual beliefs and rights of children is legally protected.

Each child shall be given religious instruction the faith or spirituality identified by their parents or by the child.

A child may participate in another spirituality of faith of the foster parents if the biological parents or social worker consents.

Children shall be taught and encouraged to smudge, and pray unless their biological parent objects.

Children shall be taught and allowed to attend sweats ceremonies and other spiritual events, unless their biological parent objects.

If foster parents don't have access to teachings or resources to fulfill these requirements they can ask their licensing worker or the child's case manager. The Agency has the responsibility to ensure these are put into place for the child if the foster parent or child makes them aware of the need.

### **Recreation and Leisure Time**

- a) Foster parents should encourage appropriate indoor and outdoor recreation.
- b) In warm weather children should be encouraged to play outdoors
- c) Families are encouraged to do family events together
  - Pow Wows
  - Walks
  - Out to eat

Movies  
 Cooking  
 Family movie nights

d) Kids should be encouraged to do age appropriate outing and school events

**Transportation**

**Vehicle requirements to transport foster children**

Vehicles used to transport foster children must be:

- (1) Maintained in safe operating conditions at all times; and
- (2) Registered and insured.

**Transporting foster children**

The driver and all passengers must follow all federal, state, and local laws when driving, including laws on the use of child passenger safety systems, seat belts, and liability insurance.

<b>Proper Child Restraint Recommendations Conditions</b>	<b>Infants</b>		<b>Toddlers</b>	<b>Other Children</b>
<b>Weight and Age</b>	Birth to at least 1 year old AND at least 20 pounds	Birth to at least 1 year old More than 20 pounds and less than 35 pounds	More than 1 year old, more than 20 pounds, up to approximately 40 pounds	More than 40 pounds, ages 4-8 unless 4'9" tall
<b>Type of Seat</b>	Infant only or rear-facing convertible	Rear-facing convertible designed for heavier infants	Convertible or forward-facing seat with harness	Belt-positioning booster (high-back or no-back)
<b>Belt-positioning booster (high-back or no-back)</b>	Rear-facing only		Forward-facing	Forward-facing

<b>Forward-facing</b>	Harness straps are at, or below, shoulder level.	Harness straps should be at or above shoulder level-check manual.	Belt-positioning booster seats are used with lap/shoulder belt combination only.
<b>Remember</b>	Do not place infants in the front seat of vehicles with active air bags.	5-point harnesses provide the best protection	Make sure the lap belt portion fits low and tight to avoid abdominal injuries.

Children 12 and under are safest when properly restrained in the rear seat. Keep children rear-facing as long as possible. Always refer to the child safety seat instructions and vehicle manufacturer's instructions for weight and height limits, proper use and installation.

#### **Teaching foster children to drive**

- (a) Caregivers may teach or supervise foster children in learning to drive. You must document your approval in the child's record.
- (b) Only the caregiver responsible for instruction and the child(ren) learning to drive may be present in the vehicle.

Children must be inside the vehicle when transported. The back of a pick-up truck is not considered inside the vehicle. Children must never be transported in the bed of a pick-up truck, while standing on runners, or while on the hood or trunk of any vehicle.

#### **Tobacco Use**

Policies must be enforced regarding tobacco products.

- 1) A child may not use or possess tobacco product (unless it is for spirituality and approved.)
- 2) Caregivers and other adults may not smoke in the home, this would also include vaping and use of e-cigarettes.
- 3) No one may smoke tobacco products in a motor vehicle while transporting children, this would also include vaping and use of e-cigarettes

#### **Serious Incidents must be reported immediately**

A serious incident is a non-routine occurrence that has or may have dangerous or significant consequences on the care, supervision, and/or treatment of a child.

You must report and document the following types of serious incidents involving a child in your care. The reports must be made immediately to ICW:

- a) A critical injury or illness that warrants treatment by a medical professional or hospitalization, including dislocated, fractured, or broken bones; RSV; Seizure; concussions; lacerations requiring stitches; second and third degree burns; damage to internal organs; and dog bites.
- b) Allegations of abuse, neglect, or exploitation of a child; or any incident where there are indications that a child in care may have been abused, neglected, or exploited.
- c) Physical abuse committed by a child against another child. For the purpose of this subsection, physical abuse is:
  - physical injury that results in substantial bodily harm and requiring emergency medical treatment, excluding any accident; or failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial bodily harm to the child.
- d) Sexual abuse committed by a child against another child. For the purpose of this subsection, sexual abuse is:
  - conduct harmful to a child's mental, emotional or physical welfare, including nonconsensual sexual activity between children of any age, and consensual sexual activity between children with more than 24 months difference in age or when there is a significant difference in the developmental level of the children; or failure to make a reasonable effort to prevent sexual conduct harmful to a child.
- e) A child is indicted, charged, or arrested for a crime, not including being issued a ticket at school by law enforcement or any other citation that does not result in the child being detained.
- f) A child is absent from a foster home and cannot be located, including the removal of a child by an unauthorized person.
- g) A child in your care contracts a communicable disease
- h) A suicide attempt by a child.
- i) Any incident that renders all or part of your operation unsafe or unsanitary for a child, such as a fire or a flood.
- j) An emergency that requires to need respite or take a break from foster care.
- k) An adult who has contact with a child in care contracts a communicable disease .
- l) If a child is found using drugs.
- m) Medically routine incidents for that child, such as seizures, that do not rise to the level of a serious incident. Needing outside medical care, School incidents resulting in disciplinary action.
- n) Behavioral incidents

(b) Foster parents must immediately report any serious incident directly to their social worker, foster care worker, or dispatch, if the incident involves a child under the care of the foster parent.



**How to document a serious incident**

A serious incident must be documented in a written report that includes the following information:

- (1) The name of the foster home;
- (2) The time and date of the incident;
- (3) The name, age, gender, and date of incident of the child or children involved;
- (4) The names of all adults involved and their role in relation to the child(ren);
- (5) The names or other means of identifying witnesses to the incident, if any;
- (6) The nature of the incident;
- (7) The circumstances surrounding the incident;
- (8) Interventions made during and after the incident, such as medical interventions, contacts made, and other follow-up actions;
- (9) The treating licensed health-care professional's name, findings, and treatment, if any; and
- (10) The resolution of the incident.

Get the written documents to ICW within 24 Hours after you made the verbal report.

## **Section 16 Foster Care Benefits from the Agency to Foster Parents**

### **Foster Care Vouchers**

The licensing worker will show the foster parents how to fill out monthly payment vouchers. It is the responsibility of the foster parent to get their voucher turned in to the Agency by the deadline established each month to be paid that week. It is the foster parents responsibility to check to make sure it was received if they emailed, faxed, or mailed it to the agency.

The foster parent can expect vouchers to be mailed to them within 45 days of a child's placement for foster care payment. If a foster home needs emergency assistance during this period it is their responsibility to request that from the Agency. The Agency will assist, if funding is available, with emergency clothing, food, diapers, formula, bedding for the children.

### **Difficulty of Care Assessment - MAPCY**

The Agency will conduct a difficulty of care assessment on any new child placed into a foster home within 30 days.

The Agency will notify the foster parent in writing within 30 days what that assessment determined for payment levels.

If the foster parent disagrees with the benefit level they have 30 days to appeal the determination to the Agency, in writing.

The Agency will have an additional 30 days to reassess the levels and inform the foster parent in writing. If there is still a discrepancy the foster parent may appeal it with the ICWA Commission in writing within 30 days.

The ICWA Commission will have 30 days to review and send the decision to the Agency and the foster parents. This decision is final.

The MAPCY assessment is completed, scored, and approved inside SSIS (Social Service Information System). Different sub tools are used for three different groups, and they are updated on a regular basis.

- 1) Child ages birth – 12yrs
- 2) Youth 13 up to 21 including youth extended foster care who are not in Extended Foster Care- Supervised Independent Living
- 3) Extended Foster Care- Supervised Independent Living for youth 18-21

### **Monthly Foster Parent Newsletter**

The Agency will issue a Monthly Foster Parent Newsletter. This identifies news, trainings, monthly foster parent meetings, and voucher due dates.

### **Monthly Foster Parent Meetings**

Monthly Foster Parent Trainings are conducted by the Agency. There are trainers at times for these meetings. All meetings count toward annual training hours.

### **Specialty Trainings**

The Agency does pay for some specialty trainings for foster parents when it can afford it. These will be announced in foster parent newsletters and monthly foster parent trainings.

### **Respite Care**

Respite: Foster parents are allowed 2 nights a month paid by ICW, and must be approved and arranged by ICW. Respite nights may not accumulate or be banked from month to month. If foster parents don't use it, then they are forfeited.

A licensed foster family home may receive an expanded capacity license to care for a maximum of eight children( including the foster parents own children under age of 18 and all other children under age of 18 receiving full time care care.), if the home provides respite foster care. Any children received for respite care shall be counted in the maximum of eight children.

### **Child Care**

Child Care: When funding is available the program assists with child care costs for foster children under school age, and during summer months.

Child Care assistance is built into the foster parent payment and may not cover the entire bill, but will be close.

- o Child care should be discussed with Social Worker or Foster care licensing worker and providers need to have backgrounds done and preapproved by ICW before child care (Babysitting) takes place.
- o Child care is available for working foster parents.
- o Child care may be allowed in circumstances warranting it.

## Section Policies and Procedures for License Renewal

### Renewal of License

- a) Application forms for license renewal shall be mailed or brought by the foster care worker to the foster parent at least three months prior to the expiration date of the license.
- b) The completed, signed application needs to be received by the department no later 30 days before the license is due to expire.
- c) Upon receipt of the application for license renewal, the Agency shall conduct a license study in order to determine that the foster home continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the supervisor and signed by the worker performing the study.
- d) When a licensee has made timely and sufficient application for the renewal of a license and the Agency fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 90 days until the final Agency decision has been made. This period can account for delays in criminal background checks and or timelines to the Tribal Council or Commission decision.
- e) As part of the renewal application, each foster family home applicant and member of the household 17 and older shall authorize criminal background checks in accordance with 89 Ill. Adm. Code 385 (Background Checks) and shall submit to fingerprinting, if fingerprints are not already on file with the Department, to determine if the individual has ever been charged with a crime and, if so, the disposition of the charges. (In addition, members of the household ages 16 and older must authorize a SACWIS check and a check of the Child Sex Offender Registry.)
- f) The foster home will receive a confirmation from the Agency regarding the status of their license. This will include a letter of denial if it is not approved, or a copy of the fully executed license.



## WHITE EARTH RESERVATION

CHAIRMAN Michael Fokhuakis SECRETARY-TREASURER Leonard Alan Roy  
DISTRICT I Raymond Aughoush, Sr. DISTRICT II Kirby Goodwin DISTRICT III Eugene "Urney" Tibbets

May 14, 2020

To: Reservation Business Committee  
P.O. Box 435 White Earth, MN 56591

From: Laurie York, ICW Director  
P.O. Box 358 White Earth, MN 56591

Subject: CFSR, IVE Audit, and Comparison report  
Child Protection Code, and Foster Care Licensing Standards

White Earth Reservation Business Committee,

Please accept this summary report from White Earth Indian Child Welfare regarding Child Family Service Review, Title IVE Audit, and Comparison report. Also included, White Earth Child Protection Code, and Foster Care Licensing Standards. If there are any questions or feedback I can be reached at [Laurie.york@whiteearth-ism.gov](mailto:Laurie.york@whiteearth-ism.gov) or 218-401-1207.

Miwegch,

Laurie York

White Earth Indian Child Welfare

Director





## WHITE EARTH RESERVATION

VICE-CHAIR & DISTRICT III Eugene "Urney" Tibbets SECRETARY-TREASURER Leonard Alan Roy  
DISTRICT I Raymond Aashish, Sr. DISTRICT II Kathy Goodwin

Secretary-Treasurer Mr. Alan Roy,  
White Earth Reservation Business Committee

May 06, 2020

Regarding Summary of Child and Family Service Review Report

Dear Mr. Roy,

Please accept this summary report from White Earth Indian Child Welfare regarding Child and Family Service Review. The information below is a summary of the items that have been requested. There are additional attachments for reference, and information directly from Mr. Steve Johnson DHS.

The (CPSR) is Children and Family Services Review. Which is a statewide measurement on how agency perform. The purpose of the review is to identify the strengths of the Tribal Child and Family programs, as well as areas needing improvement. Case reviews will help the department gain a better understanding of practice, identify service gaps, and identify systemic barriers across agencies. The goal is to continue to improve services to children and families. The review focuses on programs such as children's mental health and child protection intake, assessments, case planning and case management. It also looks at programs for children in foster care and for children needing adoptive homes.

The instrument that is used to collect the data is the Statewide Automated Child Welfare Information System (SACWIS) data system. SACWIS Statewide Automated Child Welfare Information System is designed to support foster care and adoption assistance case management practice through a comprehensive and automated case management tool. The system should collect and manage the information necessary to facilitate the delivery of child welfare support services, including family support and family preservation. SACWIS supports the reporting of the data for both the Adoption and Foster Care Analysis Review System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS), a voluntary national data collection and analysis system. A State does not have to implement a SACWIS. If it does, however, and received Federal funding, then the Children's Bureau conducts a 1-week, onsite review to assess its functionality after the State or Tribe's system has been operational. These reviews are known as SACWIS Assessment Reviews.

The Minnesota Department of Human Service and White Earth Indian Child Welfare are jointly reviewing the quality of services for children and families at White earth. These reviews are conducted in Counties and Tribes throughout the state of Minnesota.

As part of the review, Minnesota Department of Human Services department staff conduct interviews with several people who are receiving services now, or who have received services in the past, from White Earth Indian Child Welfare. Interviews are also held with service providers, professional and community representatives who share an interest in the child and family services in the Tribe.

Interviews are with the child (school aged and if appropriate), the child's parent, the child's foster parent, pre-adoptive parents, other caregiver, and family case worker. Quality Assurance consultant occurs to ensure it is appropriate on who should be interviewed.

Case related interviews are critical component to the Child and Family Service Review process. The input of the key person's involved in the case is necessary in order to make complete and well-documented findings on the performance items and outcomes covered by the case review process. The case related interviews provide an opportunity to learn what has occurred in the case, confirm case record documentation, collect information missing from the record, and obtain the input and perspective of children and families with regard to the services they have received.

Interviews take about an hour and focus on the quality of services provided, the outcomes of services and the needs of the families served by the programs. Comments of individuals will not be identified by name but will be used along with other information to provide a summary of the findings of the review. Individuals who do not want to be interviewed will not suffer any adverse effects to the services they receive now or may receive in the future.

There are three main areas that are reviewed, Safety, Permanency, and Well-being.

**Safety Outcome 1:** Child are, first and foremost, protected from abuse and neglect. Measured by Item 1: Timeliness of Initiative assessments.

**Safety Outcome 2:** Children are safely maintained in their home wherever possible and appropriate. Measured by Item 2: Services to family to protect child(ren) in the home and prevent removal or re-entry into foster care and measured by Item 3: Risk and safety assessment and management.

**Permanency Outcome 1:** Children have permanency and stability in their living situations. Item 4: Stability of foster care placement. Item 5: Permanency goal for child. Item: 6 Reunification or transfer or permanent legal and physical custody to a relative

**Permanency Outcome 2:** The continuity of family relationships and connections is preserved for children. Item 7: Placement with sibling. Item 8: Visiting with parents and siblings in foster care. Item 9: Preservation of connections. Item 10: Relative Placement. Item 11: Relationship of child in care with parents.

**Well-being Outcome 1:** Families have enhanced capacity to provide for their children's wellbeing Item 12: Needs and services of child, parents and foster parents. Item 12: Needs and services of child, parents and foster parents. Item 13: Child and family involvement in case planning. Item 14: Worker visits with child. Item 15: Worker visits with parent(s).

**Well-being Outcome 2:** Children receive appropriate services to meet their educational wellbeing Item 16: Educational needs of the child.

**Well-being Outcome 3:** Children receive adequate services to meet their physical and mental wellbeing Item 17: Physical health of the child. Item 18: Mental/behavioral health of the child.

The Summary of findings from White Earth Nation Child Welfare Cases reviewed through Minnesota Department of Human Services, Child and Family Service Review (CFSR) process. The summary includes ratings for the FIVE cases that were reviewed between January 2018 and February 2020. In addition to the ratings for the five cases reviewed, the summary included brief comments regarding identified strengths as well as circumstances that resulted in rating of needing improvement. Due to the small number of cases reviewed, identified results cannot be used to make generalizations related to practice, however, the results may provide areas the agency would like to pursue further.

**Safety Outcome 1:** Child are, first and foremost, protected from abuse and neglect. Measured by Item 1: Timeliness of Initiative assessments

**White Earth ICW Substantially Achieved, and Not Achieved in this safety outcome area 1.** Three out of five cases did not apply to this safety outcome. One of five Substantially achieved the outcome, and One out of five did not achieve this outcome. This did not apply to the other 3 cases.

"In both applicable cases, reports of maltreatment were screened in within 24 hours of receipt and assigned for a response on the same day as screened. In one of the cases, children were seen within required timelines."

**Safety Outcome 2:** Children are safely maintained in their home wherever possible and appropriate. Measured by Item 2: Services to family to protect child(ren) in the home and prevent removal or re-entry into foster care and measured by Item 3: Risk and safety assessment and management.

**White Earth ICW Substantially Achieved in Safety Outcome area 2.** "Each of the cases reviewed involved children who had been in out-of-home placement. Providing services to prevent children's re-entry into out-of-home placement was consistently identified as a strength in the cases reviewed."

"Assessing risk and management safety issues often occurs through regular caseworker contact with children and families. In the cases reviewed, performance in this area was impacted by unexpected changes in caseworkers, due to both caseworkers turn over and approved leave of absence."

**Permanency Outcome 1:** Children have permanency and stability in their living situations. item 4: Stability of foster care placement. Item 5: Permanency goal for child. Item: 6 Reunification or transfer or permanent legal and physical custody to a relative.

**White Earth ICW Partially Achieved Permanency Outcome 1**

"Overall, the agency established appropriate permanency goals for children in out-of-home placement in a timely manner. In some cases, children experienced unplanned moved from one placement setting to another due to foster parents being unable to meet children's behavioral needs. Performance on achieving permanency in a timely manner in the cases reviewed was mixed: some children with a goal of reunification had been in placement for more that 15 months and reunification had not been achieved."

**Permanency Outcome 2:** The continuity of family relationships and connections is preserved for children. Item 7: Placement with sibling. item 8: Visiting with parents and siblings in foster care. Item 9: Preservation of connections. Item 10: Relative Placement. Item 11: Relationship of child in care with parents.

**White Earth ICW Partially Achieved Permanency Outcome 2**

"In the cases reviewed, agency practices related to keeping siblings together and maintaining their connections with extended family and community were consistently noted as strengths. Practices were less consistent in maintaining children's connections with their parents through visitation and engaging parents in other activities, e.g., school meetings, medical appointments etc."

**Well-being Outcome 1:** Families have enhanced capacity to provide for their children's wellbeing Item 12: Needs and services of child, parents and foster parents. Item 12: Needs and services of child, parents and foster parents. Item 13: Child and family involvement in case planning. Item 14: Worker visits with child. Item 15: Worker visits with parent(s).

**White Earth ICW Partially Achieved Wellbeing Outcome 1**

"In the cases reviewed, the agency consistently assessed the needs of children and foster parents and provided services to meet identified needs. The agency also consistently engaged children in case planning. Practices in assessing needs, providing services, and engagement in case planning were less consistent with parents (both mothers and fathers)."

Note\* Efforts were strong with legal custodian; typically, with mom, and not as often with fathers. Best practice would be to have both parents involved in a case plan.

In some cases, there were limited efforts to locate parents whose whereabouts were unknown as a result; there was not a lot of comprehensive assessment of needs done.

"The frequency of caseworker visits with parents and children was impacted by caseworker turnover and leaves of absence. When visits occurred, they were high quality visits focused on case goals and service delivery."

**Well-being Outcome 2:** Children receive appropriate services to meet their educational wellbeing Item 16: Educational needs of the child.

**White Earth ICW Substantially Achieved Wellbeing Outcome 2**

"In all cases reviewed, children's educational needs were assessed, and services were provided to meet identified needs."

**Well-being Outcome 3:** Children receive adequate services to meet their physical and mental wellbeing Item 17: Physical health of the child. Item 18: Mental/behavioral health of the child.

**White Earth ICW Substantially Achieved Wellbeing Outcome 3**

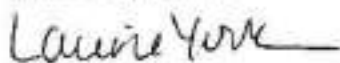
"In all cases reviewed, the agency assessed children's physical (including dental) and behavioral health needs, and services were provided to address identified needs."

In closing, of this particular report, I would like to reiterate that the case review sample was FIVE cases over a 2-year period of time. As Mr. Steve Johnson stated in his summary letter; due to the small number of cases reviewed, identified results cannot be used to be used to make generalizations related to practice; however, the results may provide a starting point for areas we may want to pursue further.



As an Initiative tribe we are nationally unique, White Earth Indian Child Welfare has a system of checks and balances that includes 3 systems, Tribal, State and Federal levels. Our Initiative agreement with the state, and the Title IV-E contract have solid systems of monitoring and are closely watching our compliance.

Respectfully Submitted,



Laurie York  
White Earth Indian Child Welfare  
Director



Child Safety and Permanency Division  
P.O. Box 64943  
St. Paul, MN 55164-0943

May 4, 2020

Laurie York, Director  
White Earth Nation Child Welfare Services  
P.O. Box 70  
Noyahwaush, MN 56566

Dear Ms. York:

As you requested, enclosed is a summary of findings from White Earth Nation child welfare cases reviewed through the Minnesota Department of Human Services, Child and Family Service Review (CFSR) process. The summary includes ratings for the five White Earth cases reviewed between January 2018 and February 2020.

In addition to showing the aggregate ratings for the five cases reviewed, the summary includes brief comments regarding identified strengths, as well as circumstances that resulted in ratings of needing improvement.

Due to the small number of cases reviewed, identified results cannot be used to make generalizations related to practice; however, the results may provide a starting point for areas you may want to pursue further.

If you have questions, please contact me at 651-230-2532 or [steve.h.johnson@state.mn.us](mailto:steve.h.johnson@state.mn.us).

Sincerely,

A handwritten signature in black ink that reads 'Steve Johnson'.

Steve Johnson  
Continuous Quality Improvement

CC: Leri Munsterman

*Equal Opportunity Employer*

Summary of Child and Family Service Review (CFSR) Case Ratings - White Earth Nation

July 2019 - July 2022

Specific case case reviews were completed: Nov. 21, 2019; May 26, 2020; Nov. 4, 2020; Dec. 20, 2020

Interventive Area or Outcome	Performance Case Ratings			Children's Safety				Supervision Case
	Strength	Partial Meeting	Not Meeting	Children's Safety Adherence	Protective Services Adherence	Child Abuse Adherence	All Adherence	
<b>Outcome 1</b> Children are safe and protected, unharmed from abuse and neglect.	60% 1/1	40% 0/1	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 1</b> Reduction of Substantiated Investigations of Reported Child Abuse/Neglect	60% 1/1	40% 0/1	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Outcome 2</b> Children are being substantiated in safe homes, appropriate placements and arrangements.	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 2</b> Services to Family as a result of being substantiated in the home and removal of children from Public Care	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 3</b> Plan and safety management and management	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Outcome 3</b> Children have permanency and stability in their living situations	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 4</b> Stability of Public Care Placements	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 5</b> Permanency plan for child	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 6</b> Addressing Priorities, Coordination, Alignment, or Other Plan or Treatment Using Interventions	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Outcome 4</b> The availability of health, educational and community services to children	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 7</b> Placement with Birth/Step	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 8</b> Working with Parents and Relatives in Foster Care	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 9</b> Fostering Connections	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 10</b> Relative Placement	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%
<b>Item 11</b> Substantiation of Substantiated Case with Parents	100% 1/1	0% 0/0	0/0	100% 1/1	100% 1/1	100% 1/1	100% 1/1	100%

Performance Area or Outcome	Performance Area Budget				Outcome Budget				Appropriation Code
	FTE		M		M		M		
	Strength	Applicable	Available	Applicable	Available	Applicable	Applicable		
<p><b>Child Abuse</b></p> <p>Provide best assessment capacity to families for any children's health.</p> <p>Item 12</p> <p>Needs and Services of Child, Parents, and Family Members</p> <p>Item 13A</p> <p>Ready Assessment of Services to Children</p> <p>Item 13B</p> <p>Health Assessment and Services to Parents</p> <p>Item 13C</p> <p>Health Assessment and Services to Family Members</p> <p>Item 13D</p> <p>Child and Family Involvement in Case Planning</p> <p>Item 14</p> <p>Case-related with VETS Child</p> <p>Item 15</p> <p>Case-related with VETS Parents</p> <p><b>Child Abuse</b></p> <p>Child abuse reporting capabilities to meet the needs of children's health.</p> <p>Item 16</p> <p>Child Abuse Reporting Capabilities to meet the needs of children's health.</p> <p>Item 17</p> <p>Physical Health of the Child</p> <p>Item 18</p> <p>Behavioral Health of the Child</p>	20%	100	20%	100	20%	100	20%	100	040
<p>Year-long Outcome 1</p> <p>In the case reviewed, the agency consistently addressed the needs of children and foster parents and provided services to meet identified needs. The agency also consistently engaged children in case planning.</p> <p>Practice is assessing needs, providing services, and engagement to case planning were less consistent with parent (both mother and father). In conversations, case planning assessments of needs (both case) in other cases there were limited efforts to locate parents while information was obtained.</p> <p>The frequency of caregiver visits with parents and children was impacted by discontinuity between and across of agencies. When visits occurred, they were high quality visits focused on case plan and service delivery.</p> <p>Child abuse reporting capabilities to meet the needs of children's health.</p> <p>In the case reviewed, child's behavioral needs were assessed and services were provided to meet identified needs.</p> <p>Year-long Outcome 2</p> <p>In the case reviewed, the agency assessed children's physical (including dental) and behavioral health needs, and services were provided to address identified needs.</p>	20%	100	20%	100	20%	100	20%	100	040
<p>Year-long Outcome 3</p> <p>In the case reviewed, the agency consistently addressed the needs of children and foster parents and provided services to meet identified needs. The agency also consistently engaged children in case planning.</p> <p>Practice is assessing needs, providing services, and engagement to case planning were less consistent with parent (both mother and father). In conversations, case planning assessments of needs (both case) in other cases there were limited efforts to locate parents while information was obtained.</p> <p>The frequency of caregiver visits with parents and children was impacted by discontinuity between and across of agencies. When visits occurred, they were high quality visits focused on case plan and service delivery.</p> <p>Child abuse reporting capabilities to meet the needs of children's health.</p> <p>In the case reviewed, child's behavioral needs were assessed and services were provided to meet identified needs.</p> <p>Year-long Outcome 2</p> <p>In the case reviewed, the agency assessed children's physical (including dental) and behavioral health needs, and services were provided to address identified needs.</p>	20%	100	20%	100	20%	100	20%	100	040



## White Earth Indian Child Welfare

P.O. Box 358  
White Earth, Minnesota 56591  
Tel. (218) 983-4647  
Fax (218) 983-3712

Director  
Leslie York

Assistant Director  
Lynn Lund

Clinical Supervisor  
Loretha Haskely

Quality Assurance  
Mike Thompson

Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Thank you for agreeing to be interviewed as part of the child and family service review for White Earth ICW. Your interview has been scheduled for:

Date: \_\_\_\_\_  
Time: \_\_\_\_\_ to \_\_\_\_\_  
Location: \_\_\_\_\_

Please let us know as soon as possible if this appointment will not work, or if you later decide you do not wish to be interviewed.

To confirm the purpose of the interview, the Minnesota Department of Human Services and White Earth ICW are jointly reviewing the quality of services for children and families at White Earth. These reviews are conducted in counties and tribes throughout the state. The purpose of the review is to identify the strengths of tribal child and family programs, as well as areas needing improvement. The review focuses on programs such as children's mental health and child protection intake, assessment, case planning and case management. It also looks at programs for children in foster care and for children needing adoptive homes.

As part of the review, state human service department staff will conduct interviews with several people who are receiving services now, or who have received services in the past, from White Earth ICW. Interviews will also be held with service providers and professional and community representatives who share an interest in the child and family services in the county.

Interviews should last no longer than one hour and will focus on the quality of services provided, the outcomes of services and the needs of the families served by the programs. Your perspective is important to the review process and highly valued.

Information from the interviews will be used in preparing a report on the tribe's child and family services. Comments of individuals will not be identified by name but will be used along with other information to provide a summary of the findings of the review. Your participation in the review is entirely voluntary. Individuals who choose not to be interviewed will not suffer any adverse effects to the services they receive now or may receive in the future.

Thank you again for your help in this important review.

Sincerely,

White Earth Indian Child Welfare

## CFSR PIP Measurement Plan

### Statewide measurement

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**Includes:** Item 1.

**Instrument:** Minnesota SACWIS data

**Method:** Use of statewide SACWIS data (Method #3 in TB #9)

**Description of measure:**

Timeliness is calculated for all reports that were closed during the sample period. The percentage uses (a) the number of alleged victims having face-to-face contact with a caseworker within the time-limit specified by MN state statute (i.e., 24 hours for investigations with substantial endangerment and 5 days for reports with no substantial endangerment alleged) divided by (b) the total number of alleged victims in those same reports. The time to contact is measured from the date and time the intake was received to the first completed face-to-face contact. (Attempted contacts are not included in determining timeliness of initial contacts.)

- Only child maltreatment reports that were closed during the specified time periods will be included in the measure.
- Only alleged victims identified in both (a) the initial intake workgroup and (b) the resulting assessment/investigation workgroup are included in the calculations for timeliness.
- Reports with initial intake end reason of 'Open for assessment' are included
- Reports with an intake end reason of 'Refer to current workgroup' are included if there are new alleged victims in that intake. If there is no new alleged victim in a 'Refer to current workgroup' intake, the intake is excluded; no exclusions for other end reasons are made.

**Baseline:**

Baseline for the statewide timeliness measurement will be established using a 1-year sample timeframe to account for seasonality of maltreatment reports and subsequent timeliness of face-to-face contacts. The timeframe for the one-year baseline calculation will be October 1, 2015 – September 30, 2016.

**Progress reports:**

Reporting on progress will be shown at the state-level and at the level of each county or tribal agency for every month in the reporting period. Progress reports will be made at 6-month intervals. Each progress report will include a rolling 12-month reporting period.



## Case reviews using statewide random sample

**Includes:** Items 2, 3, 4, 5, 6, 12, 13, 14 and 15

**Instrument:** Onsite Review Instrument (OSRI); Documented in Online Monitoring System (OMS)

**Method:** Prospective Method (#2 in TB #9)

### Case sampling:

Two statewide random samples will be compiled for the baseline and each subsequent reporting period: One for in-home cases and one for foster care placement cases using the parameters in the table below. The sample will be pulled from all eligible cases throughout the state. Specifically, all eligible cases will be assigned a 38-digit number between 0 and 1. (The random number generator is built into the sampling code using the SQL Oracle [DBMS\\_RANDOM](#) package.) Once all eligible cases have been assigned a random number, they will be sorted and the cases at the top of the list will be selected until the necessary number of cases have been reviewed.

The process for using a statewide sample case review will be replicated throughout the PIP cycle. Rolling time periods will be used to pull random samples on a quarterly-basis; case selection will come from the full sample. (See Attachment A for descriptions of Minnesota in-home cases.) Approximately 1/3 of the cases selected for review will be in-home cases; the remaining 2/3 placement cases. (See "Baseline" and "Progress reports" sections for specific numbers of each type of case.)

In-home cases	Placement cases
<ul style="list-style-type: none"> <li>• Case management workgroup was open for at least 45 consecutive days during the sample period, or began a 45-day consecutive period during the sampling period</li> <li>• Program was any of the following:               <ul style="list-style-type: none"> <li>○ Child welfare</li> <li>○ Child protection</li> <li>○ Children's mental health</li> <li>○ Early intervention</li> <li>○ Minor Parent</li> <li>○ Parent support outreach program</li> </ul> </li> <li>• Children were under 18 at the beginning of the sample period</li> <li>• Remove any cases where there was an associated placement (&gt; 24 hours long) any time during the review period</li> </ul>	<ul style="list-style-type: none"> <li>• Child was in an AFCAAS placement for at least 24 hours during the sampling period</li> <li>• Children were under 18 at the beginning of the sample period</li> <li>• Remove cases where the only applicable placement location is either:               <ul style="list-style-type: none"> <li>○ Trial home visit OR</li> <li>○ Locked correctional facility</li> </ul> </li> </ul>

If the random selection does not result in at least 15 percent of cases per quarter from Hennepin County (Minnesota's largest jurisdiction) each quarter, the sample will be manually modified to ensure that at least 15 percent of the cases reviewed each quarter are from Hennepin County. This will be done by continuing down the random sample until the minimum number of Hennepin cases is included.

**Baseline:**

The baseline will be established during a 6 month period, Dec. 1, 2017 – May 30, 2018. A minimum of 80 cases (26 in-home and 54 placement cases) will be reviewed to establish the baseline. All eligible cases will be identified, and 40 (13 in-home and 27 placement) randomly sampled cases will be reviewed each quarter of the baseline.

	Case reviews conducted	Quarter	Sample size	Sample period	Period under review
Baseline (6 months)	Dec. 2017 – Feb. 2018	Q1	40	Jan. 2017 – June 2017	Jan. 2017 – date of rev.
	Mar. 2018 – May 2018	Q2	40	Apr. 2017 – Sept. 2017	Apr. 2017 – date of rev.

**Progress reports:**

After the baseline period, a minimum of 40 randomly selected cases from across the state will be reviewed each quarter (13 in-home and 27 placement cases). Case sampling will occur using the procedure described above.

Minnesota will review the random sample for the second quarter of the measurement period, and if a case is not applicable to a measurement item(s) (Items 2, 3, 4, 5, 6, 12, 13, 14 and/or 15), the case will be replaced using the next case down on the random sample list that is applicable to the item(s). When making adjustments, Minnesota will maintain a similar proportion of cases by types and at the metro site.

Progress reports will be submitted to the Children's Bureau every 6 months. Progress reports will include case review findings from the two most recent quarters (n=80).

	Case reviews conducted	Quarter	Sample size	Sample period	Period under review
Year 1	June 2018 – Aug. 2018	Q1	40	July. 2017 – Dec. 2017	July. 2017 – date of rev.
	Sept. 2018 – Nov. 2018	Q2	40	Oct. 2017 – Mar. 2018	Oct. 2017 – date of rev.
	Dec. 2018 – Feb. 2019	Q3	40	Jan. 2018 – June 2018	Jan. 2018 – date of rev.
	Mar. 2019 – May 2019	Q4	40	Apr. 2018 – Sept. 2018	Apr. 2018 – date of rev.

This cycle will repeat throughout the PIP implementation and non-overlapping evaluation period.

**Case elimination criteria:**

The same case elimination criteria that was used for the Minnesota 2015 CPSR will be utilized for case selection throughout PIP reporting. Minor adjustments were made to account for differences in the use of a statewide sample during the PIP cycle (versus the three sites for the CPSR). (See Attachment B.) Case elimination will be tracked using the "Case Elimination Worksheet". (See Attachment C.)



*Case review process:*

Cases will be reviewed by Minnesota Department of Human Services (DHS) Quality Assurance (QA) staff and/or teams of peer reviewers trained by DHS QA staff using the OSRI and documented in OMS.

Case reviews will include a review of the electronic (SACWIS) and paper case file, and interviews with key case participants. (See Attachment D for policies/procedures regarding case-related interviews.)

First and second level QA will be completed by DHS QA staff. (See Attachment E.)

## Minnesota In-home Case Types

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### Child Protection

When a report of suspected abuse or neglect is "screened in" for a child protection response, reports are assigned to one of three tracks:

- Family investigation
- Family Assessment (Minnesota's differential/alternative response system)
- Facility investigation

At the conclusion of an investigation, two determinations are made:

- Whether maltreatment occurred, and
- Whether ongoing child protective services are needed.

At the conclusion of a Family Assessment, no determination as to whether maltreatment occurred is made; however, a decision is made as to whether ongoing child protective services are needed.

Once a case is opened for ongoing child protection case management services, there is essentially no difference in whether that case started as a Family Investigation or a Family Assessment. The services available to families are not different, court petitions can be filed in both types of cases, etc.

To reiterate, Family Assessment (differential/alternative response) is a child protection response. Cases are only assigned for a Family Assessment if there has been a report of child abuse or neglect that meets statutory definition for a child protection response.

### Children's Mental Health

Children's mental health case management services are available to children who meet the statutory definition of having a "severe emotional disturbance" as diagnosed by a mental health professional, or other criteria identified in statute (e.g., the child has been admitted within the last three years or is at risk of being admitted to inpatient treatment or residential treatment for an emotional disturbance; the child has significantly impaired home, school or community functioning, etc.).

### Child Welfare

Child welfare cases are those that do not "fit" into one of the more specific categories of child protection or children's mental health. They may include cases involving parent/child conflict issues, etc. (As mentioned below, juvenile corrections cases are also identified as child welfare cases in Minnesota's SACWIS.)

### Early Intervention

Cases opened to provide early intervention services to infants and toddlers with disabilities.

**Juvenile Justice**

Juvenile justice cases are identified in SSIS as "child welfare" cases. Only certain types of agencies will have juvenile justice cases entered in Minnesota's SACWIS system (SSIS):

- Those that are considered umbrella agencies, meaning their social services and corrections departments are under the same administration
- Agencies with Title IV-E agreements between social services and juvenile justice/corrections departments.

**Minor Parents**

Cases opened to provide services to minor parents.

**Parent Support Outreach Program (PSOP)**

The Parent Support Outreach Program provides voluntary support for at-risk families identified through screened out child maltreatment reports, community referrals, and parent self-referrals. The program is voluntary on the part of families, and intended to provide early intervention services to address the needs of families at risk of child maltreatment. Services to families are designed to reduce or remove barriers to child safety, family and child well-being. Service decisions are based on the needs assessment of a family, and a family's interest in specific services. Service options include case management, counseling, parent education, and activities that enhance parent/child interaction. Also included is the provision of basic needs of food, clothing and shelter to address risks of future child maltreatment such as neglect.

## Attachment B – Case Elimination Criteria and Process

### Case Elimination Criteria and Process

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#### Case Elimination Criteria

Listed below are the specific case elimination criteria for in-home service and foster care cases being reviewed during the CFSR PIP cycle. The list includes Children's Bureau and Minnesota specific criteria. Any case that meets one or more of the following criteria will be eliminated from the case sample.

#### All Cases (whether an in-home or foster care case):

- A case appearing multiple times in the sample. Only one case per family will be reviewed through the CFSR. Situations in which the same case may be included multiple times in the case sample are:
  - A case that involves siblings in foster care in separate cases.
  - An in-home services case that was opened more than one time during the sampling period. (E.g., the family had a child protection case that closed during the period under review. Two months after closing the case, the agency received another child protection report and opened another case. Only one of the child protection cases would be selected for review; however, all case information must be made available for the review.)
  - A family case that has separate case openings in multiple program areas (e.g. a child protection and children's mental health case are open concurrently). In this situation, even though only one of the family's "cases" would be selected for review, all case files and information from all program areas must be made available for the review.
- A case in which the target child (or only child in an in-home case) reached the age of 18 before the period under review.
- A case that is open for payment purposes only, and no case management or other services are being provided directly by the local social services agency.

#### In-home Services Cases:

- An in-home services case open for fewer than 45 consecutive days during the period under review.
- An in-home services case in which any child in the family was in foster care for more than 24 hours during the period under review.
- An in-home services cases that was opened only to "assessment" (not "case management").

#### Foster Care Cases:

- A foster care case in which the child is in foster care for fewer than 24 hours during the period under review.
- A foster care case in which a child was on a trial home visit (placement at home) during the entire period under review.
- A foster care case in which the child was discharged or case was closed before the sample period start date.
- A case open for subsidized adoption payment only and not open to other services.

## Attachment B – Case Elimination Criteria and Process

- A case in which the target child reached the age of 18 before the period under review.
- A case in which the selected child is or was in the care and responsibility of another state, and Minnesota is providing supervision through an Interstate Compact on the Placement of Children (ICPC) agreement.
- A foster care case in which the child's adoption or guardianship was finalized before the period under review and the child is no longer under the care of the state child welfare agency.
- A case in which the child was placed for the entire period under review in a locked juvenile facility or other placement that does not meet the federal definition of foster care.

### Case Elimination Process

The following process will be followed for initial identification of cases to be eliminated from the final review sample.

- Minnesota DHS QA staff will provide each local social service agency with the list of case(s) from that agency that are included on the sample list. The list of cases will be provided to the agency director, manager and/or supervisor. It will be requested that they complete an initial review of the list using the above criteria.
- Minnesota DHS QA staff will discuss the list of cases individually with each local site, specifically cases that the local site has identified as meeting one of the above criteria for elimination.
- Cases that the local agency contact and DHS staff agree meet criteria for elimination will be documented on the "Case Elimination Worksheet" (including the reason for elimination from the sample).
- The completed "Case Elimination Worksheet" will be provided to the supervisor and manager of the DHS QA unit.
- The final decision on whether a case will be eliminated from the sample rests with the DHS. This decision will be made following consultation to discuss reasons for the proposed elimination. The consultation will include information gathered from:
  - Local agency contact
  - Other staff from the local site that can speak to the specifics of the case
  - Minnesota DHS QA staff working with the local agency
  - DHS QA Unit supervisor and manager.

If, during the process of preparing the case for review and scheduling case-related interviews, a local agency believes a case should be eliminated from the sample, they will notify their designated MN DHS QA staff to discuss. In no situation can a case be eliminated from the sample without the approval from the QA Unit supervisor and/or manager.

If a case is eliminated, the next case in the statewide sample will be prepared for review.

**Attachment C – Case Elimination Worksheet**

**Minnesota Case Elimination Worksheet**

Quarter: \_\_\_\_\_  
 Sampling Period: \_\_\_\_\_  
 PJP Reporting Period: \_\_\_\_\_

**In-Home Services Cases**

Sample No.	Agency	Case WQ_ID	Workgroup Name	Reason for Elimination	DNR Comments	Revised WQ Sample #	QA Consultant
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
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18							
19							
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21							
22							
23							
24							
25							

Attachment C – Case Elimination Worksheet

Minnesota Case Elimination Worksheet

Quarter:  
 Sampling Period:  
 PP Reporting Period:

Foster Care Cases

Sample No.	Agency	Case #/C_ID	Child's Name	Reason for Elimination	DFSS Comments	Replaced with Sample #	QA Consultant
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
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25							

## Attachment D – MnCFSR Case-Related Interviews

### MnCFSR Case-Related Interviews

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#### Purpose of case-related interviews

Case related interviews are a critical component to the Child and Family Services Review process. The input of key persons involved in a case is necessary in order to make complete and well-documented findings on the performance items and outcomes covered by the case review process. The case related interviews provide an opportunity to learn what has occurred in the case, confirm case record documentation, collect information missing from the record, and obtain the input and perspective of children and families with regard to the services they have received.

#### Required interviews with key case participants

Interviews with the following individuals are required unless they are unavailable or unwilling to participate:

- The child (school-age)
- The child's parent(s) and/or caregivers
- The child's foster parent(s), pre-adoptive parent(s), or other caregiver(s), e.g., group home staff if the child is in a congregate care setting
- The family's caseworker. (If the caseworker has left the agency or is no longer available for interview, the caseworker's supervisor must be scheduled for an interview.)

As needed, on a case-by-case basis, other individuals with relevant information about the case may also be interviewed, e.g. the child's guardian ad litem, service providers, other family members, etc.

The DHS Quality Assurance consultant assigned to the review will consult with the agency regarding identifying key case participants. The following guidance should be considered when identifying key case participants who should be interviewed.

#### Children

Only school-age children will be interviewed unless other arrangements are made. Cases involving children younger than school age, children who are developmentally younger than school age, or children who are incapacitated due to physical or mental health issues or delays may be reviewed but do not require an interview with the child. The primary case worker, along with the child's parents and/or foster parents, should consider the emotional stability and other needs of the child when determining the appropriateness of scheduling children for interviews. While the interviews are not designed to provoke an emotional reaction, some children may have a less than positive response to discussing their situation with a stranger. The local agency should ensure that children who participate in an interview receive support from their case workers, as appropriate.

Child in in-home cases include:

- All children in the family home.

Children in foster care cases include:

- The target child (the DHS-QA consultant will provide information on who the target child is)



## Attachment D – MnCFSR Case-Related Interviews

- Other children in the family home are optional depending on case circumstances. There may be cases that warrant interviews with other children in the home because they are included in the assessment of safety outcomes; however, this will be considered on a case-by-case basis.

### *Parents/Caregivers*

When scheduling interviews, agencies should keep in mind that there are often multiple parents and/or caregivers who should be included in the review process.

#### *Parents/caregivers in in-home cases include:*

- Parents/caregivers with whom the children were living when the agency became involved with the family and with whom the children will remain (for example, biological parents, relatives, guardians, adoptive parents).
- If a biological parent does not fit the definition above, he or she may need to be included in interviews based on the circumstances of the case. Some things to consider in this determination are the reason for the agency's involvement, the identified perpetrators in the case, the status of the children's relationship with the parent, the nature of the case (court supervised or voluntary), and the length of case opening. If, during the period under review, a biological parent indicated a desire to be involved with the child and it is in the child's best interests to do so, the parent should be included in the case review and should be interviewed.

#### *Parents/caregivers in foster care cases include:*

- Parents/caregivers from whom the child was removed and with whom the agency is working toward reunification
- Biological parents who were not the parents from whom the child was removed
- Adoptive parents, if the adoption has been finalized during the period under review.

If it has been documented that it is not in a child's best interests to involve a parent in case planning, or if the parent did not want to be involved in the child's life during the entire period under review, that parent does not need to be interviewed.

### *Foster parents*

Foster parents include relative and non-relative foster parents who have been given responsibility for care of the child by the agency while the child is under the placement and care responsibility and supervision of the agency. This includes pre-adoptive parents if the adoption has not been finalized. If there are multiple foster parents during the period under review, all foster parents should be included for interviews.

#### *Potential exceptions to conducting interviews*

- Preschool-age children
- Parents who cannot be located despite the agency's demonstrated efforts to locate them, or a parent who lives outside of the United States
- There is a safety or risk concern in contacting any party for an interview

## Attachment D – MnCFSR Case-Related Interviews

- Any individual who is unable to consent to an interview due to physical or mental health incapacity
- Any individual who refuses to participate in an interview and the agency can document attempts to engage him or her
- Any individual who is advised by an attorney not to participate due to a pending criminal or civil matter.

### Unacceptable exceptions to conducting interviews

- An age cut-off that does not take into account a child's developmental capacity; e.g., a policy of not interviewing children under age 12
- An individual who refuses to participate in an interview but the agency did not attempt to engage him or her beyond a letter
- An individual who has a pending criminal, civil, or procedural matter before the agency; e.g., appeal of termination of parental rights
- An individual who cannot be located but the agency has not made attempts to locate the individual
- An individual who speaks a language other than English.

### Scheduling interviews

Schedule interviews to begin no earlier than 9:00 a.m., when possible. This will provide reviewers with an opportunity to review case record documentation prior to interviews and properly prepare for interviews.

Face-to-face interviews are preferred but telephone interviews may be an appropriate way to eliminate barriers such as distance or scheduling constraints. Whenever possible, schedule interviews at the local agency's office. If family members are not comfortable being interviewed at the agency, interviews can be scheduled at the family's home or at another neutral location. To allow case reviewers sufficient time to complete the case review process, travel time from the office cannot exceed 30 minutes (one way).

The primary caseworker, or agency representative making the contacts for case related interviews should ensure that persons to be interviewed understand:

- The general purpose of the review
- That case related interviews are critical to the success of the review
- That participation in the review is their option and will not in any way affect the services they are receiving currently or might receive in the future.

Any issues with scheduling should be discussed with the DHS QA consultant assigned to the review. Please note that the QA consultant may ask for documentation of attempts to engage and/or contact a key case participant for an interview if the agency is indicating that the individual is refusing to participate after attempts to engage, and/or the individual cannot be located.

## Quality Assurance on Case Reviews and the OSRI

---

All cases reviewed for the MnCFSR will undergo a first level quality assurance process, and a secondary level QA will be completed on a sample of cases utilizing the Online Monitoring System.

### First level quality assurance process

The first level quality assurance process assists in ensuring reviewers are accurately rating cases and properly applying federal and state instructions.

#### *Cases reviewed by DHS QA staff:*

Cases that are reviewed by DHS QA staff will undergo an initial quality assurance process administered by another DHS QA staff.

#### *Cases reviewed by a peer review team:*

The DHS QA consultant(s) assigned to the review will conduct the initial quality assurance process on cases reviewed by a peer review team. The assigned QA consultant will engage and consult with the peer review team as they are reviewing and rating each case, ensuring that all sections of the OSRI have undergone a review prior to finalization of the tool.

### Second level quality assurance process

The focus of the second level quality assurance process is to ensure consistency across all cases reviewed.

The second level QA will be completed by the DHS Quality Assurance Unit supervisor or manager, either on-site or remotely.

Second level QA will be completed on a minimum of 10 cases per quarter; two from each of the DHS QA consultants (either that the QA consultant reviewed themselves or, in the event that a peer review team completed the case review, a case that the consultant completed the first level QA).

**Attachment F – PIP Goal Calculation Worksheet**

Child and Family Services Review (CFSR) Round 3  
 Minnesota: PIP Measurement Plan Goal Calculation Worksheet  
 Case Review Items Requiring Measurement in the PIP  
 Prospective Matched Living Case Reviews Conducted (Dec. 1, 2017 - May 31, 2018) and Statewide Aggregate Data for Item 1 to Establish PIP Baselines and Goals

CFSR Items Requiring Measurement	Item Description	Z value for 85% Confidence Level	Number of applicable cases	Number of cases of cases of cases Strength	PIP Baseline	PIP Goal	Adjusted PIP Goal	CFSR Performance
Item 1*	Timeliness of Initiating Investigations of Reports of Child Maltreatment (Statewide Aggregate Data)	1.96	41,674	28,823	69.2%	69.6%	NA	55.2%
Item 2	Services to Family to Protect Child(ren) in the Home and Prevent Removal or Re-Entry into Foster Care	1.28				NDIV/01	FNAMET	50.0%
Item 3	Risk and Safety Assessment and Management	1.28				NDIV/01	FNAMET	43.1%
Item 4	Stability of Foster Care Placement	1.28				NDIV/01	FNAMET	65.0%
Item 5	Permanency Goal for Child	1.28				NDIV/01	FNAMET	67.5%
Item 6	Achieving Reunification, Guardianship, Adoption, or Other Planned Permanent Living Arrangement	1.28				NDIV/01	FNAMET	80.0%
Item 13	Needs and Services of Child, Parents, and Foster Parents	1.28				NDIV/01	FNAMET	38.5%
Item 13	Child and Family Involvement	1.28				NDIV/01	FNAMET	40.3%
Item 14	In Case Planning	1.28				NDIV/01	FNAMET	55.4%
Item 14	Careworker Visits With Child	1.28				NDIV/01	FNAMET	55.4%
Item 15	Careworker Visits With Parents	1.28				NDIV/01	FNAMET	35.1%

## Attachment F – PIP Goal Calculation Worksheet

### Explanatory Data Notes:

- <sup>1</sup> Z-scores: Represents the standard normal (Z) distribution of a data set and measures the number of standard errors to be added and subtracted in order to achieve our desired confidence level (the percentage of confidence we want in the results). In order to have 80% confidence in the results of the sample data, a Z-value of 1.28 is used to calculate the margin of error.
- <sup>2</sup> Minimum Number of Applicable Cases: Identifies the minimum number of applicable cases used to establish the baseline. Measurement samples must be equal to or greater than the number of applicable cases used to establish the baseline for each item.
- <sup>3</sup> PIP Baseline: Percentage of applicable cases reviewed rated a strength for the specified CPSR item.
- <sup>4</sup> Baseline Sampling Error: Represents the margin of error that arises in a data collection process as a result of using a sample rather than the entire universe of cases.
- <sup>5</sup> PIP Goal: Calculated by adding the sampling error to the baseline percentage. If the state has an improvement goal above 90% and is able to sustain performance above the baseline for three quarters, the Children's Bureau will consider the goal met even if the state does not meet the actual goal.
- <sup>6</sup> Adjusted PIP Goal: Identifies the adjusted improvement goal that accounts for the period of overlap between the baseline period and the PIP implementation period. The adjustment is calculated using an adjustment factor that reduces the sampling error up to one half based on the number of months of overlap, up to 12 months.
- <sup>7</sup> CPSR Performance: Identifies the percentage of applicable cases reviewed rated a strength based on the state's CPSR onsite review and final report. For reference information only.
- <sup>8</sup> Item 1 Measurement: Minnesota is using state case management aggregate data as the measurement approach for item 1. A 95% confidence level is applied (Z value = 1.960) as a lower confidence level would yield a very minimal improvement goal. The baseline period represents aggregate CPS report data for October 2015 - September 30, 2016. The description of the aggregate data measure is detailed on page 1 of the PIP Measurement Plan.



## MNCFSR Orientation for County and Tribes

Minnesota Child and Family Services Review Team

5/1/2015

1



ADMINISTRATOR FOR  
**CHILDREN & FAMILIES**



## Purpose of Presentation

We hope this will support agencies in:

- Learning more about the Onsite Review Tool
- Learning more about the Review Process
- Informing County and Tribes on how they can prepare for Case Reviews



Minnesota Child and Family Services Review Team

3



## What to expect when you have a case selected

- Your agency will receive an email from a CQI consultant providing information on the case(s) selected. This will include:
  - Type of case (In-Home or placement)
  - Case Name/Identified child
  - Period Under Review (PUR) the CQI staff will be looking at for the case review
  - Week the CQI staff would like to review the case
- CQI staff will schedule a meeting with your Agency to discuss next steps

## What to expect when you have a case selected

- As a part of the review process, we will need to schedule case related interviews with:
  - Mothers, Fathers, Children, Foster Parents, Caseworker(s)
  - Others – Discuss with your CQJ consultant
  - Stakeholder Interviews – Discuss Applicability with your CQJ consultant
  - When scheduling individual interviews, allow 45-60 minutes per interview
  - Interviews can be in person at the office, or phone in extreme circumstances, please discuss with your CQJ consultant.

## What to expect when you have a case selected

- Prior to review day, complete the Case Summary and Interview Schedule and send to your identified CQJ consultant
- On the day of the review – the CQJ consultant will need access to the following:
  - Private space/room for interview
  - Access to Wi-Fi
  - Case records (paper files or electronic files)

## Purpose of Case Review

- Please keep in mind that this is not audit of your county or tribe, but rather part of a larger review we are conducting across the state
- Case Reviews will help the department gain a better understanding of practice, identify service gaps, and identify systemic barriers across agencies
- One goal is to develop better feedback loops that can support practice using the information we learn from agencies

# MnCFSR Continuous Quality Improvement Consultants

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O 651-431-4691

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**Steve Johnson**

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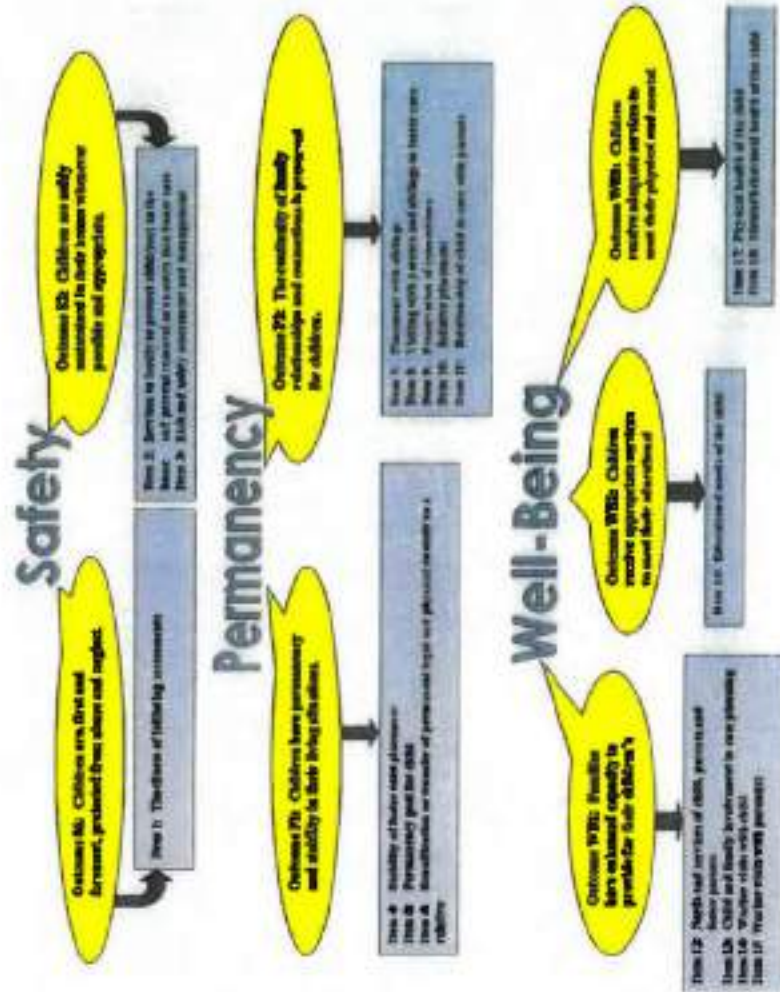
C 651-230-2532

**Niki Hoglund**

[Nichola.Hoglund@state.mn.us](mailto:Nichola.Hoglund@state.mn.us)

O 651-431-6168

**Thank You!**  
**MN CF SR Team**







March 26, 2018

Dear County and Tribal Directors:

In preparing for the 2019 federal Title IV-E Foster Care Eligibility Review, the Minnesota Department of Human Services (department) recently held the statewide Title IV-E Pretest. Approximately 229 foster care cases were reviewed for Title IV-E eligibility compliance. Our Title IV-E Team reviewed county and tribal foster care cases internally at the department, as well as onsite at several county and tribal agencies.

Overall, the 229 cases reviewed showed that as a sample, cases were in substantial compliance with federal Title IV-E requirements. Of the 229 cases reviewed, only nine cases contained errors. We have contacted those county and tribal agencies to reconcile the Title IV-E claiming for those error cases. As a part of the process, the team identified several Title IV-E compliance areas that need improvement:

- AFDC relatedness eligibility issues, such as household composition or financial need determinations.
- Valid Removal/Coincide: Throughout the state, we saw children remaining in the home after a court ordered removal or after a VPA. This practice is not Title IV-E compliant.
  - A removal is not valid under Title IV-E when a child is removed from home through a VPA or a court order, and remains home under the agency's supervision. If the removal does not take place by the end of the next business day the child is ineligible for Title IV-E for the entire foster care episode unless there is an extenuating circumstance that delays physical removal. (See [472 (a) (1)] of the Social Security Act and [45 CFR 1356.21 (k)] and [45 CFR 1356.21 (i) (2)]).

An aside issue, not a structured part of the Title IV-E review process, is that several agencies did not address Child Foster Care Report proofing messages in a timely, expedient and effective manner. If agencies do not address and reconcile Title IV-E proofing messages within the allotted five claiming federal quarters, agencies may lose substantial Title IV-E funding.

With each Title IV-E pretest and federal review, the department strives to maintain Minnesota's compliance with Title IV-E requirements and claiming. Systems changes have been implemented in SSIS. The department runs periodic data queries for different types of Title IV-E foster care claiming. Also, in fall of 2017, the department began partnering with several tribes to provide onsite technical assistance and review for Title IV-E licensing and safety (Adam Walsh) requirements.

Agency directors are encouraged to work with the county or tribal Title IV-E coordinator and regional Title IV-E Eligibility Determination Trainer to review these Title IV-E practice and claiming issues. The federal period under review (PUR) for the 2019 Federal Title IV-E Foster Care Eligibility Review will be April 1, 2018, to September 30, 2018. Any Title IV-E claiming issues should be addressed and reconciled ideally before the April 1, 2018, PUR begin date and no later than the September 30, 2018, PUR end date.

Thank you for your efforts to keep children safe and ensure that they receive the protections and benefits afforded them under Title IV-E of the Social Security Act. If you have questions or want additional assistance reviewing your Title IV-E claiming, you may contact your Title IV-E Eligibility Determination Trainer listed below.

Paula Katzenmeyer, SW Region, [paula.j.katzenmeyer@state.mn.us](mailto:paula.j.katzenmeyer@state.mn.us)  
Deborah Miller, NE Region, [deborah.miller@state.mn.us](mailto:deborah.miller@state.mn.us)  
Debbie Ketterath, SE Region, [debbie.ketterath@state.mn.us](mailto:debbie.ketterath@state.mn.us)  
Deborah Trotter-Kovar, NW Region, [deborah.a.trotter@state.mn.us](mailto:deborah.a.trotter@state.mn.us)

Sincerely,

**Maale Ann Rockymore, MSW**

Manager | Foster care & Title IV-E  
Minnesota Department of Human Services

O: 651-431-4667  
C: 651-238-8924  
F: 651-431-7491  
[mn.gov/dhs](http://mn.gov/dhs)



**Laurie York**

---

**From:** Trotter, Deborah A (DHS) <deborah.a.trotter@state.mn.us>  
**Sent:** Thursday, October 25, 2018 9:17 AM  
**To:** Laurie York; Katie Olson  
**Cc:** Rockymore, Maxie A (DHS); Kelsey, Mary C (DHS); Miller, Deborah X (DHS); Buckner, Amber (DHS)  
**Subject:** White Earth TSSA training and technical assistance for Title IVE licensing  
**Attachments:** White Earth Homes to Review in November (002) 3rd Q-18.xlsx; Title IVE Tribally Licensed Home Review Checklist Draft Rev 3.docx

**Importance:** High

Good Morning: Lauri and Katie:

4 of us are planning to be onsite at White Earth TSSA Nov. 28<sup>th</sup>, (weather permitting) to do the 3rd quarter licensing review and provide technical assistance. .

This is the date that we can get our staff together on site. Would this date work for your staff?

Attached is the list of 19 cases we will be going over. Please have your staff complete the attached checklist for each case. We will go through each checklist and review the case file documents.

We will be reviewing only cases that have been newly licensed since July 1 –September 30, 2018 and any that the licenses have expired since the last review.

Thank you, and have a great rest of the week. Deb TK

**Deborah Trotter-Kovar**  
Human Services Program Rep, NW Region IDIV Child Safety & Permanency

Minnesota Department of Human Services  
Office/Fax: 319-681-0936  
[deborah.kovar@state.mn.us](mailto:deborah.kovar@state.mn.us)



Caution: This e-mail and attached documents, if any, may contain information that is protected by state or federal law. E-mail containing private or protected information should not be sent over a public (nonsecure) internet unless it is encrypted pursuant to DHS standards. This e-mail should be forwarded only on a strictly need-to-know basis. If you are not the intended recipient, please: (1) notify the sender immediately, (2) do not forward the message, (3) do not print the message and (4) erase the message from your system.

Possible Errors \_\_\_\_\_  
No problems \_\_\_\_\_  
Possible Ineligible Payment \_\_\_\_\_

Child's Name: \_\_\_\_\_ Placement Start Date \_\_\_\_\_ Placement Out Date \_\_\_\_\_  
Child's Name: \_\_\_\_\_ Placement Start Date \_\_\_\_\_ Placement Out Date \_\_\_\_\_  
Child's Name: \_\_\_\_\_ Placement Start Date \_\_\_\_\_ Placement Out Date \_\_\_\_\_  
Child's Name: \_\_\_\_\_ Placement Start Date \_\_\_\_\_ Placement Out Date \_\_\_\_\_

### Title IV-E Licensed Foster Homes File Review

Completed by: \_\_\_\_\_ Review Date: \_\_\_\_\_

Licensing Agency: \_\_\_\_\_

(The following items are not an inclusive list of requirements for licensed foster care homes, but requirements specifically relate to agency compliance with licensing standards; federal criminal records check; and, safety requirements for Title IV-E foster care eligibility.)

PERIOD UNDER REVIEW (PUR): \_\_\_\_\_

1. Does the provider have a license/approval certificate during the period under review (PUR)? Yes or No  
What is the effective date of the license? \_\_\_\_\_  
What is the expiration date of the license? \_\_\_\_\_

Foster parent 1: \_\_\_\_\_

Foster parent 2: \_\_\_\_\_

Date of family foster care provider's initial full licensure/approval: \_\_\_\_\_

If the date of family foster care provider's initial licensure/approval is October 1, 2008 or after\*

2. Was a fingerprint based (Adam Walsh) Criminal Records Check (CRC) of the National Crime Information Database (NCID) completed on each foster parent? Yes or No  
If "yes," when was it completed?  
• Foster Parent 1 completed: Date: \_\_\_\_\_  
• Foster Parent 2 completed: Date: \_\_\_\_\_

3. Was a check of the child abuse and neglect registries (CANR) in all states where the foster parent(s) have resided in the last five years completed? Yes or No  
Please note: If a tribe has the Minnesota Department of Human Services (DHS) complete their background studies, the CANR check is completed as a part of the DHS background study.  
If "yes," when was it completed?  
• Foster Parent 1 completed: Date: \_\_\_\_\_  
• Foster Parent 2 completed: Date: \_\_\_\_\_

4. Was a check of the child abuse and neglect registries (CANR) completed in all states where other adults in the home have resided in the last five years completed? **Yes or No or NA**

*Please note: If a tribe has the Minnesota Department of Human Services complete their background studies, the CANR check is completed as a part of the DHS background study. This is NOT a fingerprint based check. The CANR check for all additional adults in the home is a federal requirement for child safety, however, it does NOT cause an error or ineligible payment during the federal review.*

If "yes," when was it completed?

- Adult 1 completed: Name: \_\_\_\_\_ Date: \_\_\_\_\_
- Adult 2 completed: Name: \_\_\_\_\_ Date: \_\_\_\_\_
- Adult 3 completed: Name: \_\_\_\_\_ Date: \_\_\_\_\_

5. Did the CRC or child abuse registry check reveal any prohibited felonies for any adult in the household? **If yes, the home CANNOT be licensed under Title IV-E regulations.** **Yes or No**

6. Was the foster home's initial license/approval effective date after the agency received the CRC results? **Yes or No**

7. Did the CANR completed results from question 5 above include any prohibited felonies? **Yes or No**

8. Are the following documents in the file? (Please check the box for EACH document that is in the file)

A copy of the provider license certificate

Documentation of the Criminal Records Check (CRC) (one of the following documents):

- Actual results of the CRC approval, which must include a fingerprint-based check of the NCID, conducted by the licensing agency. (Preferred documentation) OR
- Letter or report signed by appropriate title IV-E agency staff or licensing staff that details the CRC results, OR
- Electronic documentation of the CRC results maintained in the title IV-E agency's automated information system OR
- Other official evidence that: (1) clearly verifies that a fingerprint-based CRC of the NCID is completed for the period in question; (2) sufficiently substantiates that the foster parent is not convicted of one of the prohibited felonies listed in §§ 471(a)(20)(A)(i) and (ii) of the Act and (3) the CRC requirement is met for the period that the title IV-E foster care maintenance payment is made.

*Please note: If the documentation presented is not the actual results of the CRC, the documentation will be accepted based upon the degree to which the documentation clearly specifies (1) the date the fingerprint-based CRC is completed, (2) the name of the foster parent on whom the CRC is completed, (3) whether the foster parent has convictions of prohibited felonies, (4) the evidence reviewed, and (5) the name of the individual performing the check. A statement that simply declares something like "all CRCs were completed and person cleared" is not sufficient documentation. As noted, the documentation must explicitly reflect the reference reviewed.*

#### License Status Check





Child's Name: \_\_\_\_\_  
Placement Start Date: \_\_\_\_\_  
Placement End Date: \_\_\_\_\_  
Date that Title IV-E claims started: \_\_\_\_\_

Child's Name: \_\_\_\_\_  
Placement Start Date: \_\_\_\_\_  
Placement End Date: \_\_\_\_\_  
Date that Title IV-E claims started: \_\_\_\_\_

Child's Name: \_\_\_\_\_  
Placement Start Date: \_\_\_\_\_  
Placement End Date: \_\_\_\_\_  
Date that Title IV-E claims started: \_\_\_\_\_

Child's Name: \_\_\_\_\_  
Placement Start Date: \_\_\_\_\_  
Placement End Date: \_\_\_\_\_  
Date that Title IV-E claims started: \_\_\_\_\_

Child's Name: \_\_\_\_\_  
Placement Start Date: \_\_\_\_\_  
Placement End Date: \_\_\_\_\_  
Date that Title IV-E claims started: \_\_\_\_\_



December 4, 2018

Dear Social Services Directors:

The federal Department of Health and Human Services, Administration for Children and Families (ACF), will conduct a federal Title IV-E foster care eligibility review in Minnesota in March 2019.

The Title IV-E review involves a sample of 80 cases plus an over-sample of 20 cases, randomly selected by the ACF office. Cases will be reviewed for compliance with Title IV-E foster care maintenance requirements for children in out-of-home placement. The review period is Apr. 1, 2018, through Sept. 30, 2018. Federal and state staff will review the sample of cases at the Minnesota Department of Human Services (department), 444 Lafayette Road North, St. Paul, during the week of Mar. 11-15, 2019.

In early January 2019, the federal review team will provide department staff with the list of 100 cases selected for review. As soon as possible after that date, an email will be sent to county and tribal Title IV-E coordinators to notify them of the cases that have been selected for review from your county or initiative tribe.

Case files identified as part of the review sample need to be prepared and sent to the department in advance of the federal review week, similar to prior reviews. The deadline for cases in the sample to be received at the department is Friday, Feb. 15, 2019, at 3 p.m.

The sample of cases pulled for the federal review is based on Minnesota's Adoption and Foster Care Analysis and Reporting System (AFCARS) data from Apr. 1, 2018, through Sept. 30, 2018. The criteria for inclusion in the initial sample is:

- A child's MAXIS eligibility results indicate that they have basic Title IV-E eligibility for the current placement episode, and
- A foster care payment for the child was issued during the period under review (PUR).

It is important to understand that inclusion in the initial sample is based on payments made to a foster care provider rather than Title IV-E claims submitted through the Child Foster Care Report. Once federal staff select the sample, it is sent to department staff who must verify that an agency actually received Title IV-E reimbursement for the foster care maintenance payment during the PUR for each child in the sample. Department staff can ask the federal agency to remove children from the sample if:

- Payment history indicates that a child did not receive Title IV-E reimbursement for the foster care maintenance payment made during the PUR, or
- A child exited foster care before the PUR (even though a payment for the child was issued during the PUR).

Federal review staff require supporting documentation, including complete payment history, to consider removal of children from the sample under the above criteria. The final decision of which cases comprise the sample resides with federal staff, not the department.

Department staff will provide training via WebEx to assist agencies with preparing case files for the review. Each county and tribal agency that has cases selected as part of the review must have staff attend this training and technical assistance session on case preparation. Information about the WebEx training will be provided in January 2019.

Background information on the review process is attached. Prior to sending case files to the department for the review, department staff request that agency staff:

- Review case files and complete a separate Title IV-E eligibility review instrument for each case selected
- Use a method of tabbing and numbering documents in the case file to show which document in the case file corresponds to each relevant item on the review instrument.

It is important to rely on your agency's Title IV-E coordinators to help prepare cases once you are notified. For additional assistance with Title IV-E case preparation, contact the regional Title IV-E foster care eligibility determination trainers (EDTs): Paula Katzmeier, Debbie Rottenath, Deborah Trotter and Deborah Miller (see attached regional EDT map).

Case records should be sent via certified mail. They must be received at the department by Friday, Feb. 15, 2019. Case records will be kept in a secure location. Only authorized staff will have access to the files. Send case records to:

ATTENTION: Mary Kelsey  
 Title IV-E Foster Care Eligibility Review  
 Minnesota Department of Human Services  
 Child Safety and Permanency Division  
 P.O. Box 64943  
 St. Paul, MN 55164-0943

Note: For county and tribal agencies that prefer hand delivery of cases, contact Angela Gruber at 651-431-4713, or [angela.gruber@state.mn.us](mailto:angela.gruber@state.mn.us) to arrange a specific delivery time on either Thursday, Feb. 14, or Friday, Feb. 15, 2019.

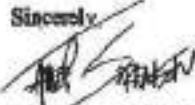
Tribal social service directors and private foster care agency directors are also receiving notification of the Title IV-E review. See attached copy of the letter.



For questions, contact Mary Kelsey, Title IV-E foster care policy specialist at 651-431-4386, or [mary.kelsey@state.mn.us](mailto:mary.kelsey@state.mn.us).

Thank you for your cooperation in this critical review process.

Sincerely,



Janice Soerensen, Director  
Child Safety and Permanency Division  
Minnesota Department of Human Services  
444 Lafayette Road North  
St. Paul, MN 55155

**Attachments:**

Title IV-E Foster Care Program  
Title IV-E Foster Care Eligibility Reviews Fact Sheet  
Title IV-E Region EDT Map  
Memo to tribal and private social service agencies

## Title IV-E Foster Care Program

Title IV-E foster care provides federal reimbursement for Minnesota's out-of-home placement costs. Approximately 50 percent of county agency and Initiative tribe foster care maintenance costs are reimbursable for eligible children. Some training and administrative costs are also reimbursable.

Title IV-E was created in 1980 as an amendment to the Social Security Act of 1935 to address three major concerns:

- Children were removed from their families too frequently, without good reason and adequate placement prevention efforts
- Efforts were not being made to reunite children with their families, and they often lost contact with their families permanently
- Children spent years in foster care, without a real sense of family or permanency.

To claim federal reimbursement for costs of providing foster care, the state agency must establish that both an individual child and placement setting, either a family foster care home or child care institution, meet Title IV-E eligibility requirements. Reimbursement can be claimed for a child when initial Title IV-E eligibility has been established, and all continuing eligibility requirements are met during the entire out-of-home placement.

Minnesota will participate in a critical federal Title IV-E foster care eligibility review in 2019. The review will assess compliance with Title IV-E requirements for children for whom foster care maintenance reimbursement claims were made. The federal review will examine:

- Judicial determinations regarding contrary to the welfare/best interests and reasonable efforts
- Voluntary placement agreements
- Responsibility for placement and care vested with the state agency
- Placements in a licensed family foster home or child care institution (appropriate type of facility with valid license for the duration of placement and meets safety requirements), and
- Eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect on July 16, 1996.

Minnesota successfully passed the federal review in 2016, with three error cases and four non-error cases with ineligible payments; this finding did not exceed the threshold for substantial compliance. To be in substantial compliance, the error rate must be 5 percent or less. Of 80 cases selected for review, four or fewer could have Title IV-E claims in error.

If the state is found not to be in substantial compliance during the 2019 review, it will be required to develop a program improvement plan. In addition, a secondary review will be conducted during which 150 cases will be reviewed. If Minnesota fails to pass that review, the payment disallowance will include all Title IV-E foster care maintenance payments and administrative costs associated with the ineligible payments, covering the entire period of ineligible payments.

The federal review process will examine case records, including payment documentation and licensing records for a child, and all providers, for a six-month period. All cases selected for the review will need a complete payment history, starting from the beginning of the current foster care placement episode and continuing through the period under review.

Revised 11/30/2018



## Title IV-E Foster Care Eligibility Reviews Fact Sheet

Published March 12, 2018

Subject: Monitoring

Topic: Title IV-E

Tags: Title IV-E Services Implementation, Needs, and Support for Title IV-E Services

### History and Purpose

The 1984 Amendments to the Social Security Act (the Act) authorize the Children's Bureau to review state-child and family services programs to ensure compliance with the requirements of Title IV-B and IV-E of the Act. This includes systematic monitoring of the Title IV-E Foster Care Program, which provides funds to the MAC agencies (states and Tribes) to assist with the costs of foster care maintenance for eligible children; administrative expenses to manage the program; and training for staff, foster parents, and certain private agency staff. Title IV-E foster care funds are allocated to the 50 states, the District of Columbia, Puerto Rico, and federally-recognized Indian Tribes, Indian Tribal organizations and Tribal councils with approved Title IV-E plans, and are available as open-ended entitlement grants through single-year appropriations. The program's focus, which is authorized in statute, is children eligible under the pre-existing Adams Act to Families with Dependent Children (AFDC) program and removed from foster homes due to maltreatment, lack of care, lack of supervision, or other problems attributed to a relative caregiver. Specifically, the program provides Title IV-E agencies to claim reimbursement for a portion of foster care expenditures for children who are removed from homes and placed in foster care, and who are eligible based on the former AFDC program (in effect July 16, 1995).

In 2000, HHS published a final rule in the Federal Register to establish a new approach to existing state Title IV-E agencies.

### Title IV-E Foster Care Eligibility Reviews

The Children's Bureau conducts Title IV-E foster care eligibility reviews (IV-E reviews) in accordance with 48 CFR § 985.711 to monitor the Title IV-E agency's substantial compliance with certain requirements of the IV-E at § 472(a) of the Act and implementing federal regulations at 48 CFR Parts 1955 and 1956 pertaining to:

- Judicial determinations regarding "reversible effects" and "return to the status"
- Voluntary placement agreements
- Responsibility for placement and care vested with the Title IV-E agency
- Child's eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect July 16, 1995
- Child's placement in a licensed foster family home or child care institution
- Safety requirements set out by the child's foster care provider

The IV-E reviews are conducted by a team of federal and Title IV-E agency representatives. The review team examines a random sample of foster care cases, provider files and payment documentation on children for whom the Title IV-E agency/ claims reimbursement of Title IV-E foster care maintenance payments. The IV-E reviews particularly monitor the Title IV-E agency's compliance in meeting Title IV-E eligibility requirements; verify the accuracy of the agency's claims for reimbursement of Title IV-E payments made on behalf of children in foster care; and identify and measure improper payments.

The IV-E reviews, through a systematic examination of case record and payment documentation, provide a snapshot of disparities about the child's foster care episode and, thus, the agency's child welfare practice and fiscal accountability. As such, the IV-E reviews help to ensure fiscal accountability, improve child welfare practice and support the goals of child safety, permanency, and well-being.

### The Review Process

During the on-site review, the review team examines child case records, including placement and payment histories, court orders, provider licensing and safety documentation, and other relevant case materials. The review team complies with Title IV-E Foster Care Eligibility On-Site Review instructions and instructions for each case in the review sample (which at least one Title IV-E foster care maintenance payment was made for a period during the 6-month period under review). The review is conducted on-site during a 5-day period.

The IV-E agencies undergo a primary review and, where necessary, a secondary review. In a primary review, a sample of 30 foster care cases is reviewed. A finding of fair or lower case counts allows a Title IV-E agency to be found in substantial compliance with the eligibility requirements. The IV-E agencies determined in substantial compliance based on the primary review are reviewed at 2-year intervals. If fair or lower cases in the primary review do

not meet federal requirements, the title IV-E agency is determined not to be substantially compliant. Title IV-E agencies determined not to be substantially compliant are required to develop and implement a Program Improvement Plan (PIP) to correct areas of non-compliance, improve performance on future reviews and strengthen overall program operations.

Following the PIP completion date, the Children's Bureau conducts a secondary review that assesses a sample of 60 cases. If the title IV-E agency exceeds the compliance threshold of cases that do not meet the state foster care risk, the agency is not in substantial compliance and an additional deficiency is assessed on the basis of the agency's total foster care population for the 6-month period under review. The title IV-E agency undergoes both a secondary review 8 years from the date of the secondary review, regardless of the compliance outcome of the secondary review.

Each title IV-E review determines the title IV-E agency's performance level in regard to the review's threshold for compliance; the amount of disbursements that must be recovered for ineligible title IV-E payments claimed; and the amount of underpayments that the title IV-E agency may claim for eligible title IV-E payments not claimed previously. Each eligibility review also details the strengths and weaknesses of the title IV-E agency's program and identifies technical violations for further program improvement.


More detailed commentary on the history and procedures of the title IV-E reviews can be found in the Title IV-E Foster Care Eligibility Review Guide (<https://www.acf.hhs.gov/wh/teas/iv-e-foster-care-review-guide>), which is available on the Children's Bureau website.

Last reviewed: June 22, 2017

**m DEPARTMENT OF  
HUMAN SERVICES**

DATE: December 4, 2018

TO: Tribal Social Services Directors  
Private Foster Care Agency Directors

FROM: Junie Sorenson, Director, Child Safety and Permanency Division 

SUBJECT: Federal Title IV-E foster care eligibility review documentation of safety requirements for licensed foster care facilities

In March 2019, the federal Department of Health and Human Services, Administration for Children, Youth and Families, will conduct a federal Title IV-E foster care eligibility review in Minnesota.

The federal Title IV-E review involves 80 randomly selected child welfare cases, plus an oversample of 20 additional cases that will be reviewed for compliance with Title IV-E requirements for children in out-of-home placement. The review period for selected cases is Apr. 1, 2018, through Sept. 30, 2018. Cases will be received and prepared at the Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, beginning Feb. 11, 2019.

The federal review includes safety requirements for children placed in foster care in accordance with the Code of Federal Regulations, Title 45, Vol. 4, Parts 1356.21, 1356.30 and 1356.71. Documentation that an Adam Walsh background study was conducted for every prospective foster and adoptive parent must be provided. County and Initiative tribes' social services staff members are responsible for providing the necessary documentation for each case selected for review, including a licensing file for each foster or adoptive placement a child experienced during the review period.

County and Initiative tribes' social services staff may contact your tribal or private agency for documentation needed for cases selected for review. If a child has been in placement in a tribally approved or state licensed foster home, information from these case files is necessary to demonstrate compliance with Title IV-E safety requirements.

For state licensed foster homes, acceptable documentation required to comply with Title IV-E eligibility requirements include:

- A copy of the foster care license
- A copy of the complete Minnesota Adoption and Foster Care Application, DHS-4258A
- Copies of the Minnesota Department of Human Services background study clearance letters for provider(s) and household members.

For tribally approved foster homes, provide information directly to the Minnesota Department of Human Services that verifies that safety considerations with respect to caregivers have been addressed. Also include a copy of the certificate of licensure or letter of approval.

**ATTENTION: Mary Kelsey**  
Title IV-E Foster Care Eligibility Review  
Minnesota Department of Human Services  
Child Safety and Permanency Division  
P.O. Box 64943  
St. Paul, MN 55164-0943

For questions, contact Mary Kelsey at 651-431-4386, or [mary.kelsey@state.mn.us](mailto:mary.kelsey@state.mn.us). Attached are handouts that provide a brief explanation of the Title IV-E foster care program and an overview of the Title IV-E foster care eligibility review process.

Thank you for your cooperation.

Attachments: Title IV-E Foster Care Program  
Title IV-E Foster Care Eligibility Reviews Fact Sheet

**Final Report  
State of Minnesota  
Primary Review  
Title IV-E Foster Care Eligibility  
Report of Findings for  
April 1, 2018 – September 30, 2018**

**Introduction**

The Children's Bureau of the Administration for Children and Families (ACF) conducted a primary review of the Minnesota title IV-E foster care program. The title IV-E foster care review (IV-E Review) was conducted during the week of March 11, 2019, in collaboration with Minnesota and was completed by a review team comprised of representatives from Minnesota's Department of Human Services (DHS), the Children's Bureau's Central and Regional offices and the ACF Regional Grants Management office.

Key purposes of the IV-E Review are (1) to determine whether Minnesota's title IV-E foster care program is in compliance with eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of the state's financial claims to ensure appropriate payments are made on behalf of eligible children.

**Scope of the Review**

The IV-E Review encompasses a sample of the state's foster care cases in which a title IV-E maintenance payment is claimed for an activity that occurs in the six-month period under review (PUR) of April 1, 2018 – September 30, 2018. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from data the state submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, all of which were cases drawn from the original sample.

In accordance with federal provisions at 45 CFR 1356.71, the state is reviewed against requirements of title IV-E of the Act and federal regulations regarding:

- Judicial determinations regarding reasonable efforts and contrary to the welfare as set forth in §472(a)(2)(A) of the Act and 45 CFR §§1356.21(b) and (c), respectively;
- Voluntary placement agreements as set forth in §§472(a)(2)(A)(i) and (d)-(g) of the Act and 45 CFR §1356.22;
- Responsibility for placement and care vested with state agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(ii);

- Eligibility for Aid to Families with Dependent Children (AFDC) under the state plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v);
- Placement in a licensed foster family home or child care institution as defined in §§472 (b) and (c) of the Act and 45 CFR §1355.20(a) and 1356.71(d)(1)(iv); and
- Safety requirements for the child's foster care placement as required at §471(a)(20)(A) of the Act and 45 CFR §1356.30.

The case record of each child in the selected sample is reviewed to verify title IV-E eligibility. The foster care provider's record also is looked at to ensure the foster family home or child care institution where the child resided during the PUR is fully licensed and meets safety requirements. Payments made on behalf of each child also are reviewed to verify expenditures are properly claimed under title IV-E and to identify underpayments eligible for claiming.

A sample case is assigned an error rating when the child is not eligible on the date of activity in the PUR for which title IV-E maintenance is claimed. A sample case is cited as non-error with ineligible payment when the child is not eligible on the activity date outside the PUR or the child is eligible in the PUR on the date of an unallowable activity and title IV-E maintenance is claimed for the unallowable activity in either situation. In addition, underpayments are identified for a sample case when the state unintentionally has not claimed an allowable title IV-E maintenance payment for an eligible child within the 2-year filing period specified in 45 CFR §95.7 and the filing period has not expired.

The Children's Bureau and Minnesota agreed the state would have one week following the onsite review to submit additional documentation for a case during the onsite review identified as in error. However, the state did not submit additional documentation resulting in the case being established as being in error.

### **Compliance Finding**

The review team has determined 79 of the 80 sample cases have met all eligibility requirements (i.e., are deemed non-error cases) for the PUR. One case was determined as being in error for not meeting eligibility requirements for a period that includes the PUR.

The Children's Bureau has determined Minnesota's title IV-E foster care program is in substantial compliance for the PUR. Substantial compliance in a primary IV-E Review means the total number of error cases is four or fewer cases determined as not meeting eligibility requirements for the PUR. Since the state is in substantial compliance, a secondary review of 150 sample cases is not required. The next primary review will be held in three years.

In addition to the above one error case, two cases have periods of eligibility for which the state has not claimed allowable title IV-E maintenance payments and have been determined to be underpayments.



**Case Summary**

The following charts record the improper payment cases comprised of one error case and two cases with underpayments; reasons for improper payments; improper payment amounts; and federal provisions for which the state did not meet compliance mandates. Calculation of improper payments is based on the federal financial participation (FFP) rates of maintenance payments at the state's Federal Medical Assistance Percentages (FMAP) for applicable year(s) for each sample case.

**Error Case:**

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2018 – September 30, 2018	Improper Payment (FFP)
# 73	A judicial determination of reasonable efforts to finalize permanency plan not made by the Leech Lake Band of Ojibwe Tribal Court within the required 12-month period. The judicial finding was due by 07/10/2018 and was made 11/19/2018. [§472(a)(2)(A)(ii) of the Act; 45 CFR §1356.21(b)(2)] Ineligible: 08/01/2018—10/31/2018	\$3,178 Maint. \$1,628 Admin.

**Total: \$4,807**

**Underpayment Cases:**

Sample Number	Improper Payment Reason & Ineligibility Period April 1, 2018 – September 30, 2018	Improper Payment (FFP)
# 19	Beltrami County did not claim foster care maintenance payments even though the child was eligible and in a title IV-E allowable placement. Eligible: 07/01/2018—09/30/2018	\$1,656 Maint.
# 63	Ramsey County did not claim foster care maintenance payments even though the child was eligible and in a title IV-E allowable placement. Eligible: 09/01/2018—09/30/2018	\$632 Maint.

**Total: \$2,288**

**Areas Needing Improvement**

**Issue #1: Timeliness of Judicial Determinations Regarding Reasonable Efforts to Finalize a Permanency Plan.** One case was in error because the judicial requirement of "reasonable efforts to finalize a permanency plan" was not satisfactorily met. Minnesota, like most states, incorporated the federal requirement for a judicial

determination of "reasonable efforts to finalize a permanency plan" into its court proceeding for the 12-month permanency hearing. In this case, the court conducted a permanency hearing within the 12 month period, but during the court hearing and in the resulting court order the court did not make the required judicial determinations that the agency made reasonable efforts to finalize the permanency plan. It should be noted that the state was given a week after the onsite review to provide a transcript of this hearing, however, none was provided.

Title IV-E Requirement: For a child who is judicially removed and remains in foster care for 12 months or more, federal provisions at §472(a)(2)(A) of the Act and 45 CFR §1356.21(b)(2) require the state to obtain a judicial determination of whether the state has made "reasonable efforts to finalize a permanency plan" for the child. The judicial finding must occur at regular 12-month intervals for the duration of the foster care episode and no later than 12 months from the month in which the prior determination is obtained. If the judicial determination of "reasonable efforts to finalize" is not explicitly documented in a court order or court transcript or is not timely, the child becomes ineligible from the beginning of the first month after it is due and remains ineligible until the month the judicial determination is made.

Recommended Corrective Action: The requisite judicial determination need not be tied to a permanency or other court hearing. The judicial determination may be rendered by the court at any point during the 12-month period. The state should continue to develop and implement procedures with tribal and county courts to ensure timely judicial determinations of "reasonable efforts to finalize the permanency plan" regardless of the timing of the permanency hearing. The accuracy and reliability of eligibility determinations generally are increased through training of the judiciary and other court officials to correct delays in judicial findings as well as to secure court orders that reflect title IV-E criteria on legal authority, best interests and reasonable efforts. Staff training will help to ensure workers make eligibility decisions based on the correct elements needed for compliance and to eliminate the authorization of payments prior to establishing compliance with requirements.

Issue #2: Underpayments. During the IV-E Review it was noted that Minnesota's Social Services Information System (SSIS) and the automated system that is used to determine eligibility for public assistance and health care (MAXIS, interface and have many safe guards in place to help ensure that IV-E claims are only made on the behalf of eligible children in eligible placements and will automatically stop IV-E claiming if all of the IV-E requirements are not met. However, once a child regains her IV-E eligibility status, the agency must go into the SSIS/MAXIS systems and manually complete a process to reinstate the ability for the agency to begin claiming IV-E for the child. When this manual step is not completed correctly or timely, it may result in underpayments, such as the two cases that were identified in this review.

Recommended Corrective Action: The Children's Bureau recommends that the state develop a method of prompting the agencies to reassess a child's IV-E eligibility status frequently when a child temporarily becomes ineligible due to situations such as a delayed, judicial determination of reasonable efforts to finalize the permanency plan or a

child's moving from a licensed foster home to a relative home that is not yet licensed. An enhancement in the state's SSIS/MAXIS systems that can prompt a review of a child's eligibility and/or additional training in this area will allow the state to enhance its oversight, minimize the frequency of underpayments, and ensure that the state is maximizing reimbursements for allowable costs of care for eligible children under title IV-E.

**Issue #3:** The DHS Licensing Division is directly responsible for the licensing of most child caring institutions in Minnesota; however, through an interagency agreement and collaboration the state's Department of Corrections also licenses a small number of child caring residential facilities. During the on-site review of licensing records, some child caring institution licenses issued by the Department of Corrections did not clearly indicate on the license the specific residential setting type for the individual facilities. The licenses for agencies holding numerous and different placement settings listed all of the possible residential settings (i.e. group home, shelter, or secure correctional facility) that the agency possesses on the license rather than the specific setting type for each of the institutions being licensed. This issue made it difficult to determine from the license if the child caring institution is an allowable placement setting under title IV-E.

**Title IV-E Requirement:** As provided by the provisions at 45 CFR § 1356.71, the IV-E review assesses whether the child's foster care placement during the PUR is fully licensed and whether or not the placement type is consistent with a foster care setting that is allowable under title IV-E.

**Recommended Corrective Action:** The DHS Child Safety and Permanency Division, DHS Licensing Division and the Department of Corrections should work collaboratively to ensure that each child caring institution license clearly indicates the type of residential setting for each facility being licensed. This change will enhance the state's ability to designate the specific placement type and accurately determine if a placement setting is meeting the IV-E eligibility requirements.

### **Program Strengths and Promising Practices**

Minnesota's continued commitment and willingness to improve its program and practice is evidenced by the following positive practices and processes of the title IV-E foster care eligibility program. These approaches seem to have led to improved program performance and successful program operations.

**IV-E Quality Assurance Program:** In 2014, Minnesota DHS developed a IV-E eligibility quality assurance program named the Continuous Monitoring Program (CMP). This program has reviewed cases from all of the 87 counties and tribes (with IV-E tribal/state agreements) for IV-E eligibility accuracy and provided written feedback and extensive technical assistance around the area of IV-E determinations. In addition, this program has dedicated four (4) staff as IV-E Claiming Trainers who work solely with the counties and tribes throughout the state on a regular basis, providing any needed IV-E eligibility training and consultation regarding IV-E eligibility determinations. This program meets monthly with the DHS fiscal and policy departments to discuss issues related to improving the state's programming and administration of the state's title IV-E foster care

program. These collaborative efforts have resulted in the development of policy guidance to strengthen the IV-E claiming as well as adding SSIS/MAXIS system integration enhancements. The state's implementation of this program appears to have a positive impact on the state's ability to provide the proper oversight of Minnesota's IV-E foster care maintenance program as the number of error cases and ineligible payments continue to decrease with each IV-E Review.

Court Orders and Judicial Findings: During the on-site review, it was noted that the strong involvement and commitment of the Court Improvement Program (The Minnesota Children's Justice Initiative) along with the collaborative training efforts between DHS and Tribal and County Courts contributed to strong and efficient judicial processes. These collaborative efforts seem to have reduced the likelihood of improper title IV-E foster care maintenance payments. The following promising judicial practices were evidenced in the case records:

- In the majority of cases reviewed, court orders were clear, comprehensive and contained individualized and case-specific judicial determinations;
- Timely judicial findings of Contrary to the Welfare and Reasonable Efforts to Prevent Removal were well-documented. Reasonable Efforts to Prevent Removal findings were often found in the first court orders;
- Placement and Care language in court orders was clear and well-documented;
- Best Interest findings for Voluntary Placement Agreement cases were occurring within 180 days of the agreement being signed;
- Emergency court proceedings for placement were being conducted within 72 hours in accordance with state policy and court orders often included adjudication findings.

AFDC Eligibility Determinations: Minnesota uses SSIS and MAXIS through an automated interface to determine and document title IV-E foster care eligibility, including the AFDC relatedness components. Relevant placement information and court determinations are entered and maintained in SSIS where final eligibility determinations are completed within the MAXIS system. The DHS provides ongoing training and technical assistance to counties and tribes on AFDC eligibility policy statewide and as it relates to title IV-E eligibility. The following program practices were noted during the on-site review and seemed to have contributed to the state's compliance with AFDC eligibility in all of the sample cases:

- FDC worksheets demonstrating the path to eligibility were complete and easy to read;
- The month court proceedings were initiated or voluntary placement agreement was signed for the child's removal, which is required to determine AFDC eligibility, was correctly and clearly identified;
- Correct specified relatives, from whom the children were removed and who were the subject of the contrary to welfare judicial determinations or who signed the voluntary placement agreement, were identified;

- Deprivation and dependency were well-documented in the files; and
- Documentation supporting financial need of the family unit was detailed and complete.

Safety Requirements for Child-Caring Institutions: Minnesota continues some promising practices regarding safety checks on individuals working in child caring institutions. Minnesota has a law (§245.05) where the Departments of Corrections and Probation are required to notify DHS Licensing of an individual's conviction for a potentially disqualifying offense if the individual has been affiliated with a program licensed by the Department of Human Services, Minnesota Department of Health and/or Minnesota Department of Corrections. In addition to the above mentioned collaborative effort, DHS has a statewide automated system where it receives daily reports of individuals with findings of maltreatment of minors and vulnerable adults. The DHS Licensing Division on a daily basis runs the names of those individuals against all previous background studies submitted. This process allows the state to notify agencies and/or facilities if they have identified an individual that has a finding of maltreatment of a minor or vulnerable adult so the appropriate action can be taken. Furthermore, a statewide database of individuals disqualified from working with children has been developed and is utilized to further strengthen the background study practice. These processes seem to have led to enhanced and improved program performance and successful program operations as there were no ineligible title IV-E payments attributed to safety checks for caregiving staff of child caring institutions. During the on-site review of safety check records for 11 child caring institutions the following was noted:

- The initial background studies on individuals working in child caring institutions were being conducted timely and as required by Minnesota law. In the licensing files provided for each of the institutions reviewed, reviewers found evidence of the automated daily checks of individuals working in the child caring institutions against the findings of child abuse and vulnerable adults statewide registry. Additionally, all of the agencies were able to provide the dates of direct supervision for each employee that worked until the results of the background studies were completed and the staff were cleared to work independently as required by Minnesota law.

Collaborative Efforts between Child Welfare Agencies and Law Enforcement: In Minnesota, children most often enter foster care via a 72-hour police health and welfare hold. The police are responsible for notifying the county and tribal agencies of a child's removal from the home. Evidence in the case records showed police assisting agencies with placements for children, working with the courts and agencies to ensure that emergency protective hearings are scheduled and conducted within the 72-hour requirement and that the agencies and courts were provided with detailed reports around the conditions in the homes that prompted the removal. Case records contained indications of the strong working relationship among county and tribal law enforcement, child welfare agencies, and county and tribal courts. The state attributes some of these positive interactions to trainings for law enforcement such as the annual Time for Effective Action on the Maltreatment of Minors (T.E.A.M) training that is provided to law enforcement entities across the state. We encourage Minnesota to expand their

collaborative efforts with law enforcement to build upon this strong working relationship. These collaborative efforts are paramount to ensuring the state's successful operation of the title IV-E program for children and families.

#### **Disallowances**

A disallowance in the amount of \$3,178 in maintenance payments and \$1,628 in related administrative costs of FFP is assessed for title IV-E foster care payments that are claimed for the error case. The total disallowance as a result of this IV-E Review is \$4,807 in FFP.

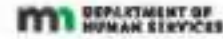
Minnesota also must identify and repay any ineligible payments for the error case that occurred for periods subsequent to the PUR. No future claims can be submitted on the case until it is determined all eligibility requirements are met.

#### **Next Steps**

Since Minnesota was found to be in substantial compliance, no formal corrective action plan is required in follow-up to this review. We commend the state for its ongoing efforts in examining program deficiencies and implementing measures that have resulted in improvements to its title IV-E program. As part of the state's continued efforts to improve its title IV-E foster care eligibility program, Children's Bureau recommends that DHS examine the identified program deficiencies and develop measurable, sustainable strategies that target the root cause of any areas that may be preventing the state from operating an accurate foster care eligibility program. The Children's Bureau Region 5 Office staff is available to assist the state in identifying corrective action and obtaining support available through our national network of capacity building centers to help the state address issues and concerns raised during this IV-E Review.



# State Measures: Agency Details



## How to use this page:

1. Examine performance over time  
(Select the same agency)
2. Compare up to three agencies  
(Select the same year)

Agency 1	Agency 2	Agency 3
Minnesota	Minnesota	Minnesota
Year 1	Year 2	Year 3
2017	2018	2019

Dashboard Filters

		Minnesota	Minnesota	Minnesota
	Performance Standard	2017	2018	2019
(1) Overall Timeliness	100.0%	83.7% 25,985,795,384 (100.0%)	88.4% 26,942,791,685 (100.0%)	88.1% 26,985,991,970 (100.0%)
(1a) 24 hour response: Family Investigation	100.0%	87.0% 1,111,014,100 (100.0%)	88.2% 1,174,203,600 (100.0%)	85.6% 1,110,291,100 (100.0%)
(1b) 5 day response: Family Investigation	100.0%	80.0% 8,299,715,600 (100.0%)	89.5% 9,079,214,400 (100.0%)	91.1% 9,193,717,900 (100.0%)
(1c) 5 day response: Family Assessment	100.0%	83.6% 20,314,096,400 (100.0%)	88.3% 20,290,091,000 (100.0%)	88.5% 20,391,701,000 (100.0%)
(2) Caseworker Visits	95.0% or greater	81.1% 88,400,710,000 (100.0%)	82.3% 88,304,701,000 (100.0%)	82.8% 88,100,700,000 (100.0%)
(3) Relative Care	35.7% or greater	57.0% 1,670,129,715,700 (100.0%)	59.1% 1,642,207,077,800 (100.0%)	60.2% 1,615,888,638,000 (100.0%)
(4) Physical Health at Entry	70.0% or greater	62.5% 4,091,094,700 (100.0%)	62.0% 4,030,710,000 (100.0%)	59.5% 3,980,711,000 (100.0%)
(5) Maltreatment Rereporting	15.2% or less	20.3% 8,300,000,000 (100.0%)	20.3% 8,300,000,000 (100.0%)	19.5% 8,000,000,000 (100.0%)
(6) Aging Out of Foster Care	70.0% or less	65.0% 304,934 (100.0%)	66.2% 303,000 (100.0%)	69.9% 304,000 (100.0%)

## Federal Measures: Agency Details

### How to use this page:

**1. Examine performance over time**

(Select the same agency)

**2. Compare up to three agencies**

(Select the same year)

Agency 1 Minnesota	Agency 2 Minnesota	Agency 3 Minnesota
Year 1 2017	Year 2 2018	Year 3 2019

Dashboard Filters

		Minnesota	Minnesota	Minnesota
	Performance Standard	2017	2018	2019
(1)		9.0% 754 / 8,413 (Met)	9.0% 759 / 8,421 (Met)	6.2% 471 / 7,562 (Met)
(2) Maltreatment in Foster Care	8.5 victimizations or less per 100,000 days in care	9.2 victimizations 315 / 3,436,820 (Not Met)	7.4 victimizations 255 / 3,459,144 (Met)	7.4 victimizations 230 / 3,124,760 (Met)
(3) Foster Care Reentry	8.3% or less	17.3% 521 / 3,018 (Not Met)	15.9% 463 / 2,920 (Not Met)	15.6% 463 / 2,974 (Not Met)
(4) Permanency: 12 Months	40.2% or greater	47.5% 3,279 / 6,908 (Met)	48.6% 3,372 / 6,933 (Met)	49.5% 3,084 / 6,229 (Met)
(5) Permanency: 12-23 Months	43.6% or greater	51.2% 1,127 / 2,201 (Met)	58.9% 1,457 / 2,474 (Met)	55.5% 1,296 / 2,317 (Met)
(6) Permanency: 24 Months	30.3% or greater	28.9% 474 / 1,642 (Not Met)	34.0% 567 / 1,958 (Met)	33.2% 670 / 2,015 (Met)
(7) Placement Stability	4.12 moves or less per 1,000 days in care	3.9 moves 4,163 / 1,078,641 (Met)	3.7 moves 3,771 / 994,335 (Met)	3.9 moves 3,369 / 873,989 (Met)



# State Measures: Agency Details



## How to use this page:

1. Examine performance over time  
(Select the same agency)
2. Compare up to three agencies  
(Select the same year)

Agency 1	Agency 2	Agency 3
White Earth ..	White Earth ..	White Earth ..
Year 1	Year 2	Year 3
2017	2018	2019

Dashboard Filters

	Performance Standard	White Earth Band of Ojibwe	White Earth Band of Ojibwe	White Earth Band of Ojibwe
(1) Overall Timeliness	100.0%	50.5% 201,708 (201,847)	72.2% 203,788 (282,847)	78.4% 201,739 (259,041)
(1a) 24 hour response: Family Investigation	100.0%	65.2% 15,024 (23,040)	79.2% 18,014 (22,731)	75.0% 15,024 (20,032)
(1b) 5 day response: Family Investigation	100.0%	14.3% 1,7 (119,143)	41.7% 5,022 (12,041)	75.0% 1,7 (2,281)
(1c) 5 day response: Family Assessment	100.0%	50.3% 202,042 (402,161)	72.8% 292,034 (400,161)	78.9% 307,206 (389,161)
(2) Caseworker Visits	95.0% or greater	69.2% 3,589,733 (5,194,142)	71.1% 3,526,724 (4,945,142)	75.8% 3,705,070 (4,881,142)
(3) Relative Care	35.7% or greater	50.7% 48,893,794,121 (96,787,588)	49.1% 46,115,941,588 (92,231,837)	46.5% 32,598,01,888 (70,115,941)
(4) Physical Health at Entry	70.0% or greater	48.1% 77,034 (160,141)	36.6% 70,032 (191,141)	50.6% 42,032 (83,141)
(5) Maltreatment Rereporting	15.2% or less	24.7% 70,294 (284,141)	29.3% 102,411 (349,141)	28.0% 102,207 (365,141)
(6) Aging Out of Foster Care	70.0% or less	81.0% 1,702 (2,114)	76.9% 1,602 (2,084)	73.7% 1,402 (1,914)

## Federal Measures: Agency Details DEPARTMENT OF HUMAN SERVICES

### How to use this page:

**1. Examine performance over time**

(Select the same agency)

**2. Compare up to three agencies**

(Select the same year)

Agency 1  
White Earth Ba..

Agency 2  
White Earth Ba..

Agency 3  
White Earth Ba..

Year 1  
2017

Year 2  
2018

Year 3  
2019

Dashboard Filters

	Performance Standard	White Earth Band of Ojibwe 2017	White Earth Band of Ojibwe 2018	White Earth Band of Ojibwe 2019
(1) [ ]		0.0% 0/0 (Met)	0.0% 0/22 (Met)	0.0% 0/26 (Met)
(2) Maltreatment in Foster Care	8.5 victimizations or less per 100,000 days in care	2.5 victimizations 3 / 121,254 (Met)	10.2 victimizations 12 / 117,076 (Not Met)	0.0 victimizations 0 / 88,179 (Met)
(3) Foster Care Reentry	8.3% or less	15.8% 3 / 19 (Not Met)	13.3% 6 / 45 (Not Met)	32.7% 18 / 55 (Not Met)
(4) Permanency: 12 Months	40.5% or greater	31.2% 58 / 186 (Not Met)	43.5% 70 / 161 (Met)	45.7% 74 / 162 (Met)
(5) Permanency: 12-23 Months	43.6% or greater	51.4% 36 / 70 (Met)	58.9% 56 / 95 (Met)	57.8% 49 / 83 (Met)
(6) Permanency: 24 Months	30.3% or greater	41.4% 41 / 99 (Met)	39.0% 30 / 77 (Met)	36.0% 27 / 75 (Met)
(7) Placement Stability	4.12 moves or less per 1,000 days in care	5.0 moves 146 / 29,280 (Not Met)	2.8 moves 89 / 31,712 (Met)	2.5 moves 39 / 15,017 (Met)

## State Measures: Agency Details



### How to use this page:

**1. Examine performance over time**

(Select the same agency)

**2. Compare up to three agencies**

(Select the same year)

Agency 1  
Minnesota

Year 1  
2018

Agency 2  
White Earth ...

Year 2  
2018

Agency 3  
Leech Lake S...

Year 3  
2018

Dashboard Filters

		Minnesota	White Earth Band of Ojibwe	Leech Lake Band of Ojibwe
	Performance Standard	2018		
(1) Overall Timeliness	100.0%	88.4% 26,462 / 29,936 (Not Met)	72.2% 102 / 141 (Not Met)	65.3% 110 / 169 (Not Met)
(1a) 24 hour response: Family Investigation	100.0%	88.2% 6,780 / 7,699 (Not Met)	79.2% 13 / 16 (Not Met)	100.0% 5 / 5 (Met)
(1b) 5 day response: Family Investigation	100.0%	89.5% 4,870 / 5,441 (Not Met)	41.7% 5 / 12 (Not Met)	60.0% 3 / 5 (Not Met)
(1c) 5 day response: Family Assessment	100.0%	88.3% 62,461 / 70,771 (Not Met)	72.8% 181 / 247 (Not Met)	64.4% 123 / 191 (Not Met)
(2) Caseworker Visits	95.0% or greater	82.3% 88,561 / 107,587 (Not Met)	71.1% 2,116 / 2,986 (Not Met)	46.7% 1,226 / 2,624 (Not Met)
(3) Relative Care	35.7% or greater	59.1% 1,942,267 / 3,285,849 (Met)	49.1% 46,113 / 94,100 (Met)	66.8% 46,173 / 69,126 (Met)
(4) Physical Health at Entry	70.0% or greater	62.0% 3,603 / 5,811 (Not Met)	36.6% 10 / 27 (Not Met)	12.0% 3 / 25 (Not Met)
(5) Maltreatment Rereporting	15.2% or less	20.5% 8,095 / 39,456 (Not Met)	29.3% 103 / 351 (Not Met)	30.8% 125 / 406 (Not Met)
(6) Aging Out of Foster Care	70.0% or less	66.2% 303 / 459 (Met)	76.9% 17 / 22 (Not Met)	77.8% 1 / 1 (Not Met)

## Federal Measures: Agency Details

### How to use this page:

**1. Examine performance over time**

(Select the same agency)

**2. Compare up to three agencies**

(Select the same year)

Agency 1 Minnesota	Agency 2 White Earth Ba..	Agency 3 Leech Lake Ban..
Year 1 2018	Year 2 2018	Year 3 2018

Dashboard Filters

		Minnesota	White Earth Band of Ojibwe	Leech Lake Band of Ojibwe
	Performance Standard	2018	2018	2018
(1) <b>Abuse and Neglect</b>		9.0% 788 / 8,421 (Met)	0.0% 0 / 22 (Met)	0.0% 0 / 2 (Met)
(2) <b>Maltreatment in Foster Care</b>	8.5 victimizations or less per 100,000 days in care	7.4 victimizations 255 / 3,459,144 (Met)	10.2 victimizations 12 / 117,076 (Not Met)	0.0 victimizations 0 / 85,012 (Met)
(3) <b>Foster Care Reentry</b>	8.3% or less	15.9% 403 / 2,520 (Not Met)	13.3% 6 / 45 (Not Met)	30.8% 4 / 13 (Not Met)
(4) <b>Permanency: 12 Months</b>	40.5% or greater	48.6% 3,372 / 6,933 (Met)	43.5% 70 / 161 (Met)	16.0% 16 / 100 (Not Met)
(5) <b>Permanency: 12-23 Months</b>	43.6% or greater	58.9% 1,457 / 2,474 (Met)	58.9% 56 / 95 (Met)	20.3% 12 / 59 (Not Met)
(6) <b>Permanency: 24 Months</b>	30.3% or greater	34.0% 667 / 1,969 (Met)	39.0% 30 / 77 (Met)	38.9% 25 / 60 (Met)
(7) <b>Placement Stability</b>	4.12 moves or less per 1,000 days in care	3.7 moves 1,721 / 464,325 (Met)	2.8 moves 88 / 31,712 (Met)	2.4 moves 35 / 13,343 (Met)

## Federal Measures: Agency Details

### How to use this page:

**1. Examine performance over time**

(Select the same agency)

**2. Compare up to three agencies**

(Select the same year)

Agency 1 Minnesota	Agency 2 White Earth Ba..	Agency 3 Leech Lake Ban..
Year 1 2019	Year 2 2019	Year 3 2019

Dashboard Filters

	Performance Standard	Minnesota 2019	White Earth Band of Ojibwe 2019	Leech Lake Band of Ojibwe 2019
(1)		6.2% 471 / 7,567 (Met)	0.0% 0 / 26 (Met)	0.0% 0 / 2 (Met)
(2) Maltreatment in Foster Care	8.5 victimizations or less per 100,000 days in care	7.4 victimizations 230 / 3,124,760 (Met)	0.0 victimizations 0 / 88,179 (Met)	0.0 victimizations 0 / 66,979 (Met)
(3) Foster Care Reentry	8.3% or less	15.6% 463 / 2,974 (Not Met)	32.7% 18 / 55 (Not Met)	23.1% 3 / 13 (Not Met)
(4) Permanency: 12 Months	40.9% or greater	49.5% 3,084 / 6,229 (Met)	45.7% 74 / 162 (Met)	6.1% 5 / 82 (Not Met)
(5) Permanency: 12-23 Months	43.6% or greater	55.5% 1,296 / 2,317 (Met)	57.8% 48 / 83 (Met)	25.4% 15 / 59 (Not Met)
(6) Permanency: 24 Months	33.3% or greater	33.2% 670 / 2,016 (Met)	36.0% 27 / 75 (Met)	38.1% 37 / 97 (Met)
(7) Placement Stability	4.12 moves or less per 1,000 days in care	3.9 moves 3,369 / 873,589 (Met)	2.5 moves 33 / 13,017 (Met)	3.4 moves 11 / 3,205 (Met)



## State Measures: Agency Details



### How to use this page:

**1. Examine performance over time**

(Select the same agency)

**2. Compare up to three agencies**

(Select the same year)

Agency 1  
Minnesota

Year 1  
2019

Agency 2  
White Earth...

Year 2  
2019

Agency 3  
Leach Lake E..

Year 3  
2019

Dashboard Filters

	Performance Standard	Minnesota 2019	White Earth Band of Ojibwe	Leach Lake Band of Ojibwe
(1) Overall Timeliness	100.0%	88.1% 28,362/30,513 (92.3%)	78.4% 211/268 (78.7%)	67.3% 144/214 (67.3%)
(1a) 24 hour response: Family Investigation	100.0%	85.6% 8,295/9,701 (85.6%)	75.0% 11/15 (73.3%)	66.7% 9/12 (75.0%)
(1b) 5 day response: Family Investigation	100.0%	91.1% 9,132/10,032 (91.0%)	75.0% 11/15 (73.3%)	8.0% 1/12 (8.3%)
(1c) 5 day response: Family Assessment	100.0%	88.5% 28,281/31,962 (88.5%)	78.9% 117/148 (79.1%)	67.3% 144/214 (67.3%)
(2) Caseworker Visits	95.0% or greater	82.8% 25,263/30,513 (82.8%)	75.8% 2,299/3,032 (75.8%)	45.8% 1,130/2,467 (45.8%)
(3) Relative Care	35.7% or greater	60.2% 1,318,194/2,188,048 (60.3%)	46.5% 12,899/27,528 (46.9%)	69.0% 46,220/67,114 (68.9%)
(4) Physical Health at Entry	70.0% or greater	59.5% 1,261/2,119 (59.5%)	50.6% 47/93 (50.5%)	21.4% 3/14 (21.4%)
(5) Maltreatment Rereporting	15.2% or less	19.5% 2,298/11,784 (19.5%)	28.0% 288/1,027 (28.0%)	21.2% 21/70 (30.0%)
(6) Aging Out of Foster Care	70.0% or less	69.9% 145,269 (69.9%)	73.7% 14/19 (73.7%)	100.0% 1/1 (100.0%)

## SECTION II – FISCAL VIOLATIONS AND RECOMMENDATIONS

### Audits

A copy of the audit schedule and status is provided in the table below.

<b>Audit Area</b>	<b>Auditor/Legal</b>	<b>Status</b>	<b>Objective</b>
Behavioral Health Funds (2016)	Hogen Adams Law	Complete	Violation Reporting
Fiscal Year Audit (2019)	Brady Martz	In Progress	Annual Reporting
Other Government Project	Garbow Law	Complete	Violation Reporting
Behavioral Health Funds (2019)	White Earth Tribal Attorney	In Progress	Fiscal Recovery
Great River Energy - Star Lake Casino Arbitration	Garbow Law	In Progress	Fiscal Recovery
White Earth Housing Furnaces	WIPFLI	In Progress	Violation Reporting
Medure Settlement	Gates Law	In Progress	Fiscal Recovery

## Audit Executive Summary

Executive Summary from White Earth Legal Department to Reservation Business Committee

April 29, 2020

White Earth Reservation Business Committee  
PO Box 418  
White Earth, MN 56591

Re: Executive Summary following Audits/Investigations

Dear Respected Members of the White Earth RBC,

Below is a summary of the findings (Summary) of the audits/investigations performed throughout 2019. Please note that I write this in an attorney-client manner and this is work-product so this document is technically confidential. I understand that there may be a public interest for this information. If this summary is anticipated to be released, I must suggest the RBC balance the need to protect sensitive and potentially damaging information with the need to disclose this information publicly, or possibly consider releasing an unsearchable and redacted version after review. Any areas I feel are too sensitive to be released to the public will be flagged for redaction. Ultimately the decision to disclose all, none, or some of this Summary rests with the RBC.

Please note that any mention of actions taken by individuals is what the investigations have independently determined. To my knowledge, no individuals named in this summary have been criminally charged at the time of this Summary. Unless and until those individuals have been criminally charged and convicted, we cannot say that they committed a crime. The results of some of the investigations/audits were turned over to law enforcement for review of potential criminality.

Overall, you may notice similarities throughout the audits/investigations which include failure to supervise, failure to verify credentials, and failure to follow established policies and procedures to name a few. My recommendations are simple: 1) the RBC should take action to ensure that all White Earth tribal officials and employees follow established policies and procedures, including monitoring the compliance to the policies, 2) that there is a clear chain of command and supervision established at all levels of management for the purposes of accountability and consistency, and 3) that the credentials and qualifications employees and contractors are heavily scrutinized. Specific recommendations for each audit can be found in the associated sections below.

This summary will specifically address the following:

- Wipfli LLP's Forensic Analysis of Circle of Life Academy (COLA), specifically reviewing department policies and procedures, grant spending, NWEA test reporting, expenditure transactions related to school trips, incentive payments, email and GoogleDoe documents and selected accounting transactions for COLA for the 2017-2018 academic school year.
- Other Government Project's (OGP) investigation into the Central Minnesota Land Company, LLC, the Star Lake Project site, and associated individuals. Audit/investigation performed by the Other Government Project and legal review performed by attorney Mike Garbow of Garbow Law Office, P.A.

Redacted Executive Summary re: Audits - Page 1 of 8



Executive Summary from White Earth Legal Department to Reservation Business Committee

- Review of transfer of behavioral-health 3<sup>rd</sup>-party billing revenue to the Tribe's general fund. Audit performed by Eide Bailly and legal review performed by Vanya Hogen of Hogen Adams PLLC.

**WIPPLI LLP'S FORENSIC ANALYSIS OF CIRCLE OF LIFE ACADEMY (COLA)**

**STATUS:** Investigation completed to the extent of our resources. Wippli LLP completed their analysis consistent with the scope of the Tribe's request. Unclear where the review for criminality is at with the BCA and/or FBI.

**Remaining tasks on the COLA audit:**

Formally adopt all, none, or some of the recommendations outlined above.

Follow up with BCA and FBI. The results of the review of this material by the BCA and FBI have not been determined. It is anticipated that we meet with Mr. Newhouse and Mr. Montgomery to determine whether there are elements of this investigation that meet the threshold of criminal activity.

- 1) Maintain frequent contact with the BIE to verify that COLA is in good standing.

Continue review and revision of the COLA Bylaws, with plans to implement them as soon as possible.

**SUMMARY:** The key findings from Wippli's analysis showed that COLA administrators manipulated NWEA standardized testing results to make the results appear better than they actually were. There were "Data Walls" at the COLA that listed every student by their student number and provided a color-coded classification for whether the student was proficient or not. The NWEA Data was separated in five (5) categories/colors; Superintendent White's version was separated in four (4) categories/colors; the version reported to the Bureau of Indian Education (BIE) had three (3) categories/colors. Further, NWEA reported 186 students were tested in Fall 17-18 in Reading while the data wall only showed 168; in Fall 17-18, NWEA showed 186 students tested in Math while the data wall only showed 169. The data was inconsistent, with a student counted more than once in the same grade or students listed in one result but not appearing on the others corresponding record. The number of proficient students appeared exaggerated to the benefit of the school.<sup>1</sup> Proficiency ratings were assigned to 12<sup>th</sup> graders however NWEA indicated that status norms are only available through 11<sup>th</sup> grade.

Wippli reports that there may have been (unconfirmed as of the time of this report) a sanction of COLA Superintendent White and there may be an ongoing investigation at the Bureau of Indian Education and in Washington DC relating to Superintendent White for his failure to report testing results. Additionally COLA staff reported that there were threats from BIE threatened to cut funding and grants to COLA based on failure to submit necessary financial reports to the BIE. Further information supporting these statements has not been received as of the date of this Summary.

<sup>1</sup> Beginning-of-Year (BOY) Reading: Reported 36% proficient, actual was 23.66%.

BOY Math: Reported 36% proficient, actual was 24.44%.

Middle-of-Year (MOY) Reading: Reported 27% proficient, actual was 19.89%.

MOY Math: reported 31% proficient, actual was 21.86%.

End-of-Year (EOY) Reading: reported 28% proficient, actual was 15.17%.

EOY Math: reported 37% proficient, actual was 16.76%.

Executive Summary from White Earth Legal Department to Reservation Business Committee

Wipfli found that there were insufficient records to determine whether payments to COLA staff were for services actually provided by staff in addition to their standard duties. It appeared that there was no documentation which identified the purpose or supported the calculation and payment of bonuses/stipends to COLA staff. The Tribal Finance Division relied heavily on COLA to track and maintain records for pay in excess of normal wages. At that time, the Tribal Finance Division did not review coding and disbursements as that was viewed as the total responsibility of the Business Manager and the Superintendent at COLA.

Wipfli also determined that COLA did not have documented policies and procedures regarding its financial expenditures. In fact, no COLA policies or processes were identified or reported to exist by staff. Tribal finance policies (as outlined in the Accounting and Finance Manual) along with adequate internal controls were not in place nor were they enforced at COLA, and COLA finance staff failed to maintain reliable accounting and recording methods for expenditures. Not all COLA expenditures followed relevant Tribal policies including certain expenditures that did not have adequate documentation showing they were for the benefit of COLA or that goods/services were actually received.

The RBC did create a COLA school board however the process to be on the school board, the overall function of the school board, and the oversight authority as developed by the bylaws were either flawed or were manipulated by Superintendent White. The lack of this oversight authority allowed Superintendent White to exploit the Superintendent role and those who served on the school board by capitalizing the relations of those on the school board, as well as leveraging his relationships with individuals in the tribal government structure. As the bylaws were written at the time, any Superintendent would have complete responsibility and the ability to conduct all financial transactions for the school without oversight. There was a general perception that Superintendent White was viewed as being in charge of COLA and that if he requested funding for an expenditure, the Tribal Finance Division would provide the funds.

**RECOMMENDATIONS:** the RBC should consider developing the following policies and procedures, including developing procedures to implement the policies, training staff to following the policies, and monitoring the compliance to the policies.

1. Develop comprehensive policies and procedures addressing all key aspects of COLA's operations, including organizational structure, planning, budgeting, coordinating, reporting, and communication.
2. Develop and implement management oversight for COLA, including the COLA School Board, by revising its bylaws, to provide performance and financial oversight of school management, including periodic reports to the RBC on key performance indicators (i.e. – student achievement, school activities, financial performance, etc.).
  - a. In late 2019, White Earth Education Division Director Ronald Buckanaga provided the legal department with a draft of bylaws and in early 2020, current COLA Superintendent Jenna Leadbetter provided the legal department with another draft of bylaws.
3. COLA should develop and implement procedures to accurately report revenues, expenses, and assets, including periodic reconciliations and management review of key accounts.

Executive Summary from White Earth Legal Department to Reservation Business Committee

4. Develop and implement adequate training so that key COLA staff understand the proper procedures to report student achievement and financial data to the appropriate tribal departments and governmental agencies.
5. Develop and implement procedures to accurately and securely administer and report on standardized testing to tribal and governmental agencies.
6. Develop, implement, train, and monitor compliance with policies related to adequate recordkeeping and reporting of items impacting financial reporting and monitoring.
7. Consider eliminating the use of cash for approved functions. Alternatives should be explored such as COLA using an organizational credit/purchasing card, or other policy directing and authorizing a process for COLA to secure, food, lodging, travel, etc.
8. Consider eliminating staff incentives explicitly tied to student performance, or adopt and implement an objectively measured system.
9. Consider eliminating the use of financial incentives for student and parent participation.

The results of investigation were turned over to Minnesota Attorney General Keith Ellison's office, Don Newhouse at the Bureau of Criminal Apprehension (BCA) and to Justin Montgomery at the Federal Bureau of Investigations (FBI). Attorney Veronica Newcomer attempted to contact the Associate Deputy Director of Tribally-Controlled Schools at the BIE to corroborate the information but there was no response.

**OGP'S INVESTIGATION INTO THE CENTRAL MINNESOTA LAND COMPANY, LLC, THE STAR LAKE PROJECT SITE, AND ASSOCIATED INDIVIDUALS.**

**STATUS:** Investigation completed to the extent of our resources. OGP completed their investigation consistent with the scope of the Tribe's request. Unclear where the investigation is at with the BCA and/or FBI. Insurance claim is initiated and status of claim is unknown at the time of this report. Status of arbitration between Great River Energy and the Tribe is also unknown at the time of this report.

**Remaining tasks on the Star Lake Project audit:**

- Formally adopt all, none, or some of the recommendations outlined above.  
Follow up with BCA and FBI. The results of the review of this material by the BCA and FBI have not been determined. It is anticipated that we meet with Mr. Newhouse and Mr. Montgomery to determine whether there are elements of this investigation that meet the threshold of criminal activity.
- Determine status of arbitration with GRE and follow it until resolution.  
Determine status of insurance claims submitted and follow it until resolution.

**SUMMARY:** The key finding from the OGP's investigation into the Central Minnesota Land Company, LLC, the Star Lake Project site, and associated individuals is that there is compelling evidence supporting the allegation that former White Earth Secretary-Treasurer Tara Mason, former White Earth Tribal Attorney Joe Plumer, former Shooting Star Casino General Manager William Marsh, and former Shooting Star Casino CFO Nicolas Valentinic associated themselves together and, in their various capacities, are alleged to have committed wrongful acts that negligently caused the White Earth Nation to expend tribal funds (\$9,397,200.78) on the Star Lake Casino Project that had no chance of completion, and those wrongful acts were in violation of the MCT Revised Constitution and Bylaws, as well as White Earth Ordinance 1-65.

## Executive Summary from White Earth Legal Department to Reservation Business Committee

The OGP investigation concluded that between July 2014 and May 2018, tribal funds were spent without proper oversight and without a properly approved business plan and budget in place for the Star Lake Project. The investigation determined that the Tribe paid much more than the appraised value for the property at Star Lake. Unfortunately the Tribe had an ill-conceived financing plan which involved Red-Horse Financial Group promoting a predatory lender despite the lender's prior federal charge and conviction for crimes related to bribing foreign officials, and despite the advice of Mr. Plumer recommending due diligence before continuing to explore a relationship with the predatory lender. It is also alleged that Ms. Red-Horse and former Secretary-Treasurer Mason submitted a request for a USDA loan, indicating the plan for the funds would go toward developing the land for housing, business, and general economic development (including a casino/hotel), and that none of the funds would go to the construction of the casino/hotel, and the funds to repay the loan would come from sources other than casino/hotel revenue. The USDA loan request was rejected for vagueness and ultimately rejected because the proposed commercial buildings were a casino/hotel, which had recreational components.

Additionally, proper permits were not in place prior to the Tribe spending its resources on the project. It is alleged that the RBC was provided with inaccurate legal information regarding the newly-purchased land being used for the Star Lake Project and the ability to have that land placed into trust, as well as inaccurate information about using the existing trust land for use in building a casino outside the exterior boundaries of the White Earth Reservation. The OGP also found it problematic that accurate financial data regarding the upfront spending and the projected costs on the Star Lake Project were not provided to White Earth tribal membership. In August 2017, the Ottertail County Board of Commissioners determined that an Environmental Impact Statement (EIS) was needed before the Star Lake Project could move forward.

The OGP investigation determined that the land purchases for the Star Lake Project were done through a non-tribally-owned LLC (Central Minnesota Land Company, LLC) in violation of the White Earth LLC Code. The OGP also determined that Mr. Plumer and Mr. Marsh formed the Central Minnesota Land Company, LLC outside of the RBC resolution approval, and concluded that it was inappropriate to name Mr. Marsh as the sole owner/member of that LLC.

In 2016, the Tribe entered into an Electric Service Agreement and Memorandum of Understanding (MOU) which were the agreements of the Tribe and Lake Region Electric Company (LREC) and Great River Energy (GRE) to provide electricity to the Star Lake Project. In October 2018, Great River Energy sent the Tribe a letter and an invoice for \$1,172,194.50 as the Tribe terminated the project and GRE had no plans to extend its system in the area of the cancelled project. Arbitration was initiated to resolve the dispute between the Tribe and GRE.

In February 2019, OGP initiated an insurance claim with the Tribe's insurance provider a potential insurance claim for Tribal Officials Errors and Omissions Liability, indemnifying the Tribe against loss or expense arising out of a wrongful act committed by an "Assured" while acting in his/her capacity as a tribal council member, director, commissioner or board member, or officer and which results in a claim. In April 2020, additional information was provided to the

insurance claims examiner for further review and processing of the claim so the status of that claim is undetermined.

**RECOMMENDATIONS:** As stated above, the RBC should consider developing policies and procedures as it relates to large projects for the Tribe, including developing procedures to implement the policies, training staff to following the policies, and monitoring the compliance to the policies.

1. Ensure mechanisms are in place for oversight authority, including frequent updates regarding large projects (deferring to the RBC to determine what it considers to be large projects). In review of the summary submitted by OGP, it appears that there were several instances of "putting the cart before the horse," possibly as a result of pushing a project too quickly with too many moving pieces.
2. Regarding specific projects, limit the amount of individuals who have decision-making authority and who are able to bind the Tribe into agreements/obligations. One way this could be accomplished is with a broad resolution at the beginning of the project outlining who specifically has authority to manage the project, whether they have the authority to bind the Tribe into agreements or sign documents, and designating how frequently the "project manager" must make a written report to the RBC about the status of the project and any foreseeable barriers to project completion.
3. RBC should provide clear direction to the project about the RBC's expectations. If the RBC selects an RBC official(s) to spearhead a project, that decision should be clearly communicated from the RBC to the project group. This will avoid future conflict if there is ever a claim that the individual RBC official was acting in furtherance of their own self-interests versus in the interests of the Tribe as a whole.
4. Per the MCT Constitution, all expenditures of Reservations funds under control of the RBC shall (*must*) be in accordance with a budget, duly approved by resolution in legal session, and the amounts so expended shall be a matter of public record at all reasonable times. It is recommended that the budget for a project also include an idea of funding that has yet to be secured. It is probably best practices to apply the same requirement to all expenditures of funds received from any source (state, federal, grant, etc.), not just Reservation funds under control of the RBC. This helps provide accountability, transparency, and consistency for the expenditures of all the funds under control of the RBC.

The results of the OGP investigation were also turned over to Don Newhouse at the Bureau of Criminal Apprehension (BCA) and to Justin Montgomery at the Federal Bureau of Investigations (FBI).

**AUDIT AND REVIEW OF TRANSFER OF BEHAVIORAL-HEALTH 3<sup>RD</sup>-PARTY BILLING REVENUE TO THE TRIBE'S GENERAL FUND.**

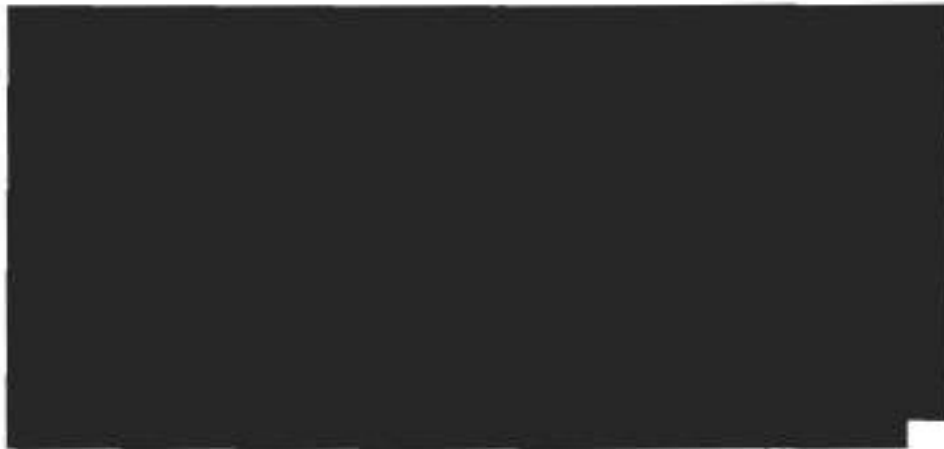
**STATUS:** Audit and review completed to the extent of our resources. Eide Bailly completed their forensic accounting examination consistent with the scope of the Tribe's request. Attorney Vanya Hogen completed her legal review of the matter consistent with the scope of the Tribe's request. Ms. Hogen submitted additional recommendations on March 26, 2020.

**Remaining tasks on the Behavioral Health audit:**

Executive Summary from White Earth Legal Department to Reservation Business Committee

- Follow up with IHS about how we move forward to address this situation.  
Determine status of insurance claim submitted and follow it until resolution.

**SUMMARY:** Eide Bailly's forensic accounting examination of White Earth's Behavioral Health Funds, specifically the examination of the treatment of revenues over expenditures within the Behavioral Health Fund during fiscal years 2010 through 2016, concluded that during fiscal years 2010 through 2015, the Behavioral Health programs reported a deficit totaling \$4,232,348.77, where Oshki Manidoo accounted for 78% of the deficit. For fiscal years 2010 through 2014, White Earth recorded transfers from the General Fund to cover Oshki Manidoo's losses. During fiscal year 2016, Behavioral Health implemented several new programs, which resulted in revenue exceeding expenditures by \$4,000,015.63, the majority of which was earned from the MOMS program. The surplus revenues earned by Behavioral Health in fiscal year 2016 were retained in the Tribe's General Fund as a way to "reimburse" the General Fund for covering Behavioral Health's deficits from fiscal year 2010 through 2015. This was done despite no accounting entries made from fiscal year 2010 through 2015 indicating a receivable or "due from" Behavioral Health to the General Fund. Former Behavioral Health Director Jeri Jaska issued a report regarding her concerns and repeated attempts to have the Tribe's Finance department transfer the surplus funds earned in 2016 to Behavioral Health from the General Fund. Ms. Jaska was of the opinion that keeping the surplus funds in the General Fund put the Tribe at risk to lose their ability to bill Medicare and Medicaid. Ms. Jaska provided a 2014 OIG alert to Tribes informing them that using reimbursements to cover General Fund deficits is improper. Eide Bailly's forensic accounting and summary were provided to attorney Vanya Hogen for legal review and conclusion about whether those Behavioral Health funds could be used to "repay" the Tribe's general fund.





**RECOMMENDATIONS:**

1. The RBC should designate an individual to reach out to IHS about ways to resolve a possible violation. That individual should provide regular updates to the RBC and associated directors about the status of resolving this matter. Ms. Hogen has offered to assist in the follow-up if needed.
2. Verify that all employees understand the scope and limitations of their individual authority. In this situation, it appears that it was a conflict of authorities where Mr. Omlid, in his capacity as the Chief Financial Officer, felt he was within his authority to proceed as he did and where Ms. Jasken felt it was within her authority to manage the funds as the director of Behavioral Health since the funds were to be used for health-related purposes.

As a reminder, my review of the information and subsequent recommendations are based on information available to me at the time of this Summary. Much of the information was gathered via independent investigation from the various entities the Tribe partnered with. Should additional information become available that may change the recommendations above, I am happy to supplement this Summary with respect to the newly available information and additional analysis.

Sincerely,

Veronica S. Newcomer  
Tribal Attorney

