



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

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NEW DEPENDENCY CASE LAW

ICWA

In re Alice M.--Filed April 9, 2008, Sixth Dist.

Docket No: H031794

Link to Case: <http://www.courtinfo.ca.gov/opinions/documents/H031794.DOC>

Child tested positive for methamphetamines at birth and was adjudicated a dependent. At the selection and implementation hearing, the court selected adoption as the permanent plan and terminated parental rights. Mother appealed on grounds that juvenile court failed to undertake the requisite inquiry regarding whether child was an Indian child, and the court of appeal reversed and remanded for compliance with the ICWA. Prior to the remittitur, the mother filled out a Form JV-130 indicating possible Navajo-Apache heritage. County agency sent notices to all of the federally recognized Navajo and Apache tribes, as well as to the BIA. Eight tribes responded to the notice by indicating child was not eligible for membership and three of the tribes failed to respond. The trial court determined that the ICWA did not apply and reinstated the prior order terminating parental rights. Mother appealed on the grounds that the ICWA notices were deficient.

Reversed. First, mother did not waive the issue by failing to raise it in the court below. The forfeiture doctrine does not bar consideration of the ICWA notice issues on appeal, even if the case has already been remanded once for compliance with the ICWA. Second, the notices to the three non-responsive tribes were deficient because WIC 224.2 requires that notice be sent to the tribal chairperson or a designated agent for service. The deficient notice was not cured by the fact that the county agency received signed return receipts from the tribes. Third,

under WIC 224.2, notice to the BIA was not an adequate substitute for the inadequate notice to the tribes. Section 224.3(a)(3) requires notice to all federally recognized tribes within the general umbrella identified by the child's parents or relatives.

New or Revised Los Angeles County Department of Children and Family Services Policies of Significance –

For Your Information (FYIs):

08-15 DCFS Group Home/FFA Contract Expiration Transition Plan 2008

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0819WholeFamTrainingFlyer.doc>
This FYI is to advise staff that effective October 31, 2008, the contracts of 32 group homes and 7 Foster Family Agencies will not be renewed. In order to ensure that the youth currently placed in these facilities are returned home or replaced, a transition plan has been developed. (SA)

08-16 Child Abuse Central Index (CACI) Review Hearings

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0816GomezCACIHearings.doc>
This FYI is to advise staff that effective May 1, 2008, the process by which individuals are notified that their name has been placed on the Child Abuse Central Index (CACI) will change. In addition, the review process for individuals who believe DCFS has incorrectly reported them to the Department of Justice or that their name was listed on the CACI in error will also change. (SA)

08-17 Assessing Child Safety For Children Residing In Out-Of-Home Care

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0817ChildSafety.doc>
This FYI provides staff with practical guidance to achieve best practice when assessing child safety for children residing in out-of home care during monthly home visits. (SA)

08-18 Annual \$100 Supplemental Clothing Allowance

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0818AnnualClothingAllowance.doc>
This FYI is to advise staff that the \$100 supplemental clothing allowance will be mailed out by April 18, 2008. (SA)

08-19 Referring Caregivers For Whole Family Foster Home Certification Training

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2008/FYI0819WholeFamTrainingFlyer.doc>
The FYI is to notify DCFS staff that community colleges will begin providing a 16- hour Whole Family Foster Home (W-Home) certification training at the end of May 2008, which will include training on how to develop the Shared Responsibility Plan (SRP). (SA)

Procedural Guides:

0100-520.35 (REV) Kinship Guardianship Assistance Payment (KIN-GAP) Program

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010052035v0408.doc>

This procedural guide has been revised to indicate that the Section 8 Housing Program has a maximum income limit for eligibility. However, the United States Department of Housing and Urban development has determined that Kin-GAP payments will not be considered as annual income for all initial certifications and annual re-certifications. (SA)

0500-501.40 (REV) Release of Case Record Information Regarding A Child Fatality

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0500/050050140ChildDeathreportingv0408.doc>

This procedural guide has been revised to clarify that the Division Chief of the Risk Management Division has been designated as DCFS' "Custodian of Records" for the purpose of reporting child fatalities.

0900-520.10 Bus Passes/Tokens/Coupons Ordering

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0900/090052010BusPassv0408.doc>

This procedural guide explains the different types of transportation assistance available, when they can be issued, to whom, and why. (SA)

0050-504.25 (REV) Recording Child Deaths At The Child Protection Hotline (CPH) And Submission Of The Soc 826, Child Fatality/Near Fatality County Statement Of Findings And Information

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0050/005050425reortingfatalityv0408.doc>

This procedural guide has been revised to reflect the procedures for DCFS staff to follow when the Child Protection Hotline receives a report of a child's fatality or near fatality, including reporting and public release of records. (SA)

80-504.15 (REV) Integration of California Work Opportunity And Responsibility To Kids (CALWORKS) Service Plans Into Case Plan Updates

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0080/008050415V0408.doc>

This procedural guide has been revised to include procedures for the Linkages program in which DPSS Greater Avenues for Independence (GAIN) Services Workers have been out stationed in regional offices to increase services to DCFS clients. This program is currently

implemented in the San Fernando Valley, Metro North, Torrance, Wateridge, Pomona, Santa Clarita, and Lakewood Offices.

1000-501.30 (REV) Dependency Investigation (DI) Criteria

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/1000/100050130DIAssv0408.doc>

This procedural guide was revised to include the assignment criteria for dependency investigators. (SA)

0200-513.01 (REV) Finalizing An Adoption

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020051301v0408.doc>

This procedural guide was revised to add instructions to ensure each qualifying undocumented child has received their Permanent Resident Card prior to the finalization of the adoption. Also, additional information was added regarding procedures for when termination of parental rights is on appeal. (SA)

0200-506.10 (REV) Applicant Assessment For The Adoption Of Children

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050610v0408.doc>

This procedural guide was updated to add guidelines to conform to the Adam Walsh Act, which requires a completed FBI criminal history check prior to approval of an adoption home study. In addition, the child abuse and neglect registry must be checked for any state that a prospective adoptive parent(s) or any other adult(s) residing in the home has resided in the past five years, if that state maintains a registry. This requirement also applies to any new adult(s) who move into a home of a prospective adoptive parent(s) on or after January 1, 2008, if the home study was approved prior to January 1, 2008. (SA)

0070-513.10 (REV) Downgrading And Upgrading Emergency Response Referrals By Regional Staff

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007051310v0408.doc>

This procedural guide was updated to inform staff that authorized users of DCFS' database can reopen an evaluated out referral to upgrade the referral and designate a response time without contacting the Child Protection Hotline. (SA)

0070-559.10 (REV) Summary Of Clearances

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007055910v0408.doc>

This procedural guide was updated to inform CSWs that the Adam Walsh Act now requires them to check the child abuse and neglect registry of any state in which a prospective

caregiver or any other adult in the home has resided in the past five years, if that state maintains a registry. (SA)

0090-506.30 (REV) Teen Parent DPSS Services Assessment (Non-Dependent Parenting Teens Referred By DPSS)

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0090/009050630v0408.doc>

The procedural guide was updated to add information about the relationship and activities between DPSS and DCFS in providing AFDC and/or other related services to non-dependent teen parents and their non-dependent children. (SA)

0300-503.15 (REV) Writing The Status Review Hearing Report

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0090/009050630v0408.doc>

This procedural guide has been revised to reflect recent legislation regarding preference for relative placement, required information to be provided to relative caregivers, out-of state placement, ICWA and education. It also includes new court reporting requirements regarding child's health, i.e. issues surrounding the child's Body Mass Index (BMI), incorporates current procedures/mandates regarding SSI disability screening and provision of information regarding SSI to emancipating youth, and completion requirements for the Concurrent Planning Assessment (CPA). (SA)

0300-503.16 (REV) Writing The WIC 366.3 Status Review Hearing Report

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050316v0408.doc>

This procedural guide has been revised to reflect recent legislation regarding preference for relative placement, required information to be provided to relative caregivers, out-of state placement, ICWA and education. It also includes new court reporting requirements regarding child's health, i.e. issues surrounding the child's Body Mass Index (BMI), incorporates current procedures/mandates regarding SSI disability screening and provision of information regarding SSI to emancipating youth, and completion requirements for the Concurrent Planning Assessment (CPA). (SA)

1200-502.00 Returning Runaway Youth Who Are From Other Jurisdictions: (Inside And Outside of California)

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050316v0408.doc>

This procedural guide provides guidelines to help CSWs with returning runaway youth to their home state or California home county. (SA)

0700-500.10 Youth Development: Education

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050316v0408.doc>

This procedural guide provides an overview of DCFS Educational policy for CSWs to ensure that the educational needs of children under DCFS supervision are identified and appropriately addressed. (SA)