



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Division of Social Services

ROY COOPER • Governor

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for Human Services

DSS ADMINISTRATIVE LETTER

CHILD WELFARE SERVICES CWS-AL-01-2021

TO: COUNTY DIRECTORS OF SOCIAL SERVICES
ATTENTION: ALL CHILD WELFARE STAFF
DATE: OCTOBER 1, 2021
SUBJECT: EASTERN BAND OF CHEROKEE INDIANS (EBCI) PUBLIC HEALTH AND HUMAN SERVICES AGENCY (PHHS)
EFFECTIVE: IMMEDIATELY

Purpose

This notice is to inform and provide updates to county child welfare agencies about collaborative work with the Eastern Band of the Cherokee Indians ("EBCI" or "Tribe"), who "On October 1, 2015 with the approval of the Administration of Children and Families of the Title IV-E State Plan, EBCI initiated their unique child welfare system as part of the Integrated Child Welfare Model that includes behavioral specialists and mental health support" (Eastern Band of Cherokee Indians Public Health and Human Services Title IV-B Annual Progress and Service Report, 2016). EBCI operates these social services on the Qualla Boundary and other EBCI territories in Western North Carolina in 5 western North Carolina counties (Jackson, Swain, Cherokee, Graham, Haywood).

The Eastern Band of Cherokee Indians Public Health and Human Services (PHHS), the agency providing child protective services within EBCI jurisdiction, operates autonomously under the Cherokee Code of the EBCI. The Cherokee Code pertaining to child welfare differs from that of North Carolina in significant ways, including the statutory definitions giving rise to the need for intervention. The agency providing child protective services within the EBCI jurisdiction is the Family Safety Program (hereinafter "Family Safety"). The person in charge of the daily operations of Family Safety is the Family Safety Manager. Family Safety's Manager is supervised by the Director of Human Services, who answers directly to the PHHS Secretary, an appointed official answering directly to the EBCI's Principal Chief. With the initiation of the child welfare program, EBCI asserted its exclusivity in providing child protective services on Tribal lands. This assertion requires county child welfare agencies to receive express permission from PHHS prior to any entry onto Tribal lands for contacts or service provision.

For more information about PHHS and the many services provided, visit their website at <http://cherokee-phhs.com/family-safety/index.html>.

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

This notice outlines interactions only with the EBCI. Instructions regarding ICWA compliance and interactions with state recognized tribes and other federally recognized tribes are still in effect and outlined in the Cross Function Section of the Child Welfare Services Manual

<https://policies.ncdhhs.gov/divisional/social-services/child-welfare/policy-manuals/cross-function-2.pdf>,

Adoption Services manual <https://policies.ncdhhs.gov/divisional/social-services/child-welfare/policy-manuals/adoptions-1.pdf>, and Administrative Letters https://policies.ncdhhs.gov/divisional/social-services/child-welfare/administrative-letters/2011/cws_al_03-11.pdf/view, and <https://policies.ncdhhs.gov/divisional/social-services/child-welfare/administrative-letters/2013/cws-al-02-13.pdf/view>.

The goal of this letter is to assure safety, permanence and well-being of children in North Carolina when the provision of needed services transcends jurisdictions. Successful collaboration between North Carolina county child welfare agencies and Family Safety to provide seamless child welfare services to children and families is essential for the safety, permanence, and well-being of children. Following is critical information that county child welfare agencies need to know for successful collaboration.

Jurisdiction

The provision of child welfare services by the counties on Tribal trust land prior to October 1, 2015, was carried out with permission from the Tribe. Effective October 1, 2015, EBCI revoked that permission. As of that date and going forward, intake, child protection, foster care, licensing, adoption, and other child welfare services on the Eastern Band of Cherokee Indians' Tribal trust land are to be provided exclusively by the Tribe. The same child welfare services within North Carolina, but outside of Tribal trust land, will be provided exclusively by one or more North Carolina counties or, for the provision of certain services, the North Carolina Department of Health and Human Services (DHHS), subject to the Indian Child Welfare Act (ICWA) when applicable.

In addition, when county staff are communicating with staff from Family Safety regarding the provision of services, county staff should work with Family Safety as if EBCI is another state and follow the provisions in policy regarding the work of child welfare when two states are involved. The only exception to this provision is the transfer of child placement cases between the EBCI and North Carolina. ICPC is not invoked as the EBCI is not bound by ICPC regulations.

Communication

Policy requires that county child welfare agencies maintain consistent, frequent, and substantive communications to assure child safety, permanence and well-being when more than one jurisdiction is involved with a family, however small or large that involvement may be. To even a greater degree, county child welfare agencies must maintain open and frequent communication, verbally and in writing, when collaborating with Family Safety. Misunderstandings and miscommunications must be avoided in order for the collaborating agencies to fully discharge their responsibilities to mitigate risk to children known to county child welfare agencies and Family Safety and other EBCI agencies.

Communication with Family Safety regarding individual cases, as with any other agency, must first focus on **plans** for children's safety and building their family's capacity to assure that safety before discussing strategies and activities. A **clear understanding of the case plan goal** will frame the strategies and activities to assist the child and family.

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The county child welfare agency and Family Safety each have a role to assure safety and defining those roles in the context of the **plan** is essential before determining which agency will take the lead in service provision. In no instances should unilateral decisions be made regarding case management responsibility without a thorough and complete staffing of all information regarding a family between agencies.

Services to Children and their Families

Collaboration to assure safety of children requires that county DSS staff notify Family Safety as soon as possible about the potential need for inter-agency collaboration when it becomes evident to a county child welfare agency. Requests could include:

- Requests for assistance interviewing persons with relevant information in CPS assessments;
- Assistance in completing Fostering Connections Act relative searches within EBCI jurisdiction;
- Conducting home studies on potential kinship care arrangements;
- Verification of Tribal membership/eligibility;
- Tribal Central Registry inquiry;
- Locating absent parents;
- Researching benefits and services available to a child or family as Tribal members; and,
- Any other requests for information and assistance in support of safety, permanency and well-being of children.

For CPS issues or situations in which there are time constraints or issues of safety, the county agency should contact Family Safety at **828-359-1520**, and explain the nature of the request. All verbal requests for assistance must be later confirmed in writing.

CPS Intakes

When a county child welfare agency receives a CPS report regarding a child within EBCI jurisdiction, the information must be documented on the CPS Structured Intake Form (DSS-1402) and, if known at the time, the reporter must be informed that the information will be transmitted to Family Safety for screening. The reporter should also be provided the telephone number for Family Safety: 828-359-1520. Unlike reports received regarding children in other counties in which the report is screened, county child welfare agencies will not make screening decisions on these reports but will only provide the report information so Family Safety can make the screening decision.

There must be immediate, not to exceed two hours, direct telephone contact with a Family Safety social worker or supervisor before sending the written report. Upon receiving the CPS information, the county agency must contact Family Safety and provide the basic information to confirm residence on Tribal land and receive instructions regarding transmitting the report in writing. A report can be made to Family Safety by calling 828-359-1520 during working hours. On holidays, weekends, and after hours, call 828-497-4131 (EBCI Dispatch) and ask for the on-call social worker. Family Safety will screen the CPS report when it is received.

Conversely, if Family Safety receives a report regarding a child that resides off Tribal lands, Family Safety will document the information provided by the reporter, so the county child welfare agency can make the screening decision.

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There must be immediate, direct telephone contact with the CPS Intake at the county child welfare agency before faxing the CPS report. Upon receiving CPS information, Family Safety must immediately call the CPS Intake number for the county child welfare agency and provide basic information to confirm residence and receive instructions regarding transmitting the report to the county child welfare agency. All documented information should be transmitted in a agreed upon method that ensures the protection of identifying information within two hours of the receipt of the intake. The county child welfare agency will screen the CPS report when it is received. A directory of county child welfare agencies can be found at <https://www.ncdhhs.gov/divisions/social-services/local-dss-directory>.

Information Sharing

Safety of children is first and foremost. To effectively assure this goal, NCDHHS agrees to provide Family Safety with needed history from the Central Registry upon request. When requesting such information, Family Safety will provide the names and birthdays, if known, to NCDHHS. NCDHHS will notify Family Safety if there is case history in North Carolina. DHHS will share the name of the child, the county where there is CPS history, and the case decision. Perpetrator information is not included.

Any other needed information shall be obtained from the county where services were provided.

County agencies must provide all relevant information regarding children and families residing within EBCI jurisdiction. Conversely, Family Safety will ensure that all relevant information is provided to county agencies when there are concerns for children's safety and they reside within counties' jurisdiction. In addition, when Family Safety wishes to utilize a county placement resource, the county child welfare agency should follow policy for assisting Family Safety in determining the suitability of the placement. Conversely, when a county child welfare agency wishes to utilize a placement resource on tribal lands, Family Safety should follow its policy for assisting the county child welfare agency in determining the suitability of the placement.

Referrals for services to Family Safety on behalf of EBCI members/eligible members involved with county child welfare agencies can and should be made with the family's consent.

CPS In Home Services Case Transfers

There are times during a CPS Assessment or an open In-Home case that a family may move across jurisdictional boundaries. Any transfer of CPS In-Home cases between a county child welfare agency and Family Safety must be decided on a case-by-case basis and through mutual agreement.

When either agency makes an affirmative finding in a CPS Assessment and determines a need for In-Home services, the agency making the case decision should ensure that a plan goal is established, strategies for intervention are discussed, documented, and agreed upon with the family. There should be an immediate conversation between the county child welfare agency and Family Safety to determine which entity is best suited to serve and meet the needs of the family. Each agency should consider its own authorities and policies as well as best social work practice to ensure the child's safety and meet the plan goal. When there is mutual agreement to transfer a case, ideally, staff will arrange a joint visit by the county child welfare agency worker and the Family Safety worker, preferably through a Child and Family Team meeting, to facilitate the transfer of case responsibility.

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There are rare occasions when NCDHHS and EBCI policies are not in agreement about the authority to intervene with a family. Those circumstances are still under discussion and review and further direction will be forthcoming through the Memorandum of Understanding currently being considered. For now, these issues should be brought to the attention of the appropriate supervisors, managers, and directors in each agency's chain of command to facilitate a collaborative decision.

Permanency Planning Services

The EBCI maintains the right to intervene in any case that involves a child that is an enrolled member of the EBCI or whose parent is an enrolled member and the child is eligible for enrollment.

Foster Care 18 to 21 and EBCI Young Adults Aging Out of Care, Links and Chafee Funds

NCDHHS remains the recipient of Chafee Funds and thus, counties remain the provider of LINKS services to any child in the custody of EBCI's Family Safety Program who qualifies for LINKS. When working with a young adult who has been in the custody of EBCI's Family Safety Program on any Transitional Living Plan, staff should first ensure that the young adult receives all Links, ETV, and other Chafee funding for which the young adult may be entitled. Staff should also research and provide information to the young adult about benefits that may be available to them through EBCI's Education Program, although tribal funding should be accessed only to supplement any available Chafee Funds.

For ETV funds, young adults are required to complete the FAFSA application <https://studentaid.gov/h/apply-for-aid/fafsa>. After this process is completed, the young adult must then complete the ETV on-line application through Fostering Connections <https://www.fc2sprogram.org/north-carolina/>.

NC Division of Social Services staff will verify eligibility. Both the young adult and the Family Safety social worker will be notified of the decision. Any funding award is paid directly to the school the young adult is attending.

Foster Home Licensing

The EBCI and NC DHHS have agreed to reciprocal recognition of foster care licenses since they are both direct IV-E approved sovereignties. Neither jurisdiction can prove or disapprove each other's licenses. For children in the custody of Family Safety who are placed in NC licensed foster homes, the county agency shall provide to Family Safety a copy of the license materials. For children in the custody of a county who are placed in an EBCI licensed home, counties have access to the licensing information in the Legacy System. EBCI foster homes are given license numbers in the system that begin with an "E" representing EBCI. If a county child welfare agency has a child placed in an EBCI foster home, any issues regarding the foster home should be addressed with the Family Safety licensing I worker assigned to the family. At no time should a child be placed in an EBCI foster home without explicit approval of Family Safety.

Case Assists

When a county is need of an assist from a Family Safety social worker to provide services to a family on the boundary, to ensure the safety, permanence, and wellbeing of a child, county staff should contact a Family Safety social worker to determine the nature of the assist, whether Family Safety staff are able to assist, what steps will be taken, and who will complete the assist. Such agreements will be followed with an email

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between staff to ensure agreement. In the event that an assist is not possible and has been documented as such, there is agreement that counties may come onto the boundary to provide services.

The same process shall be following when the EBCI Family Safety social worker request an assist from a county. This includes their ability to provide services in a county when an assist cannot be made by the county and it is documented as such.

Settling Disagreements

When the county child welfare agency and Family Safety disagree about issues such as jurisdiction, management of cases, etc., discussions should follow each agency's organizational chart through the hierarchy to include the County Director and the Family Safety Manager. If agreement cannot be reached at that level, it will be escalated to a discussion between the PHHS Human Services Director and leadership from Division of Social Services. The decision reached will be honored by all parties. If no mutually-agreed-upon decision can be reached at that level, then each agency will follow its own law and policy and leadership will collaborate to work out the outstanding issues in future Family Safety and DHHS policy.

Child and Family Services Plan (CFSP) and Annual Progress and Services Review (APSR)

As NC DHHS implements its approved Child and Family Services Plan (CFSP), Family Safety will be kept informed of progress to assure their input and suggestions are incorporated. The primary forum for conveying information and receiving feedback will be ongoing established quarterly meetings between Family Safety, NC DHHS, and the surrounding counties. In addition, as North Carolina embarks on Child Welfare reform, the Family Safety will be invited to participate in listening sessions regarding the success of current work being performed and to provide feedback as to the steps that can be taken to ensure success in the future. The following counties shall be included in the quarterly meeting Jackson, Swain, Haywood, Graham, and Cherokee. There may be times when it is appropriate to include other counties; invitations shall be extended base on need and desire to participate.

The EBCI will receive a copy of the NC APSR and notified of any updates and amendments to assure ongoing input and collaboration in providing services to children and families.

Review of Collaboration Efforts

The information outlined in this letter will be reviewed as needed during the established quarterly meetings between Family Safety, NC DHHS, and county child welfare agencies. The letter will be reissued annually with any updates required to assure clear collaboration and communication between NC and the EBCI for child safety, permanence, and well-being. This letter shall remain in effect as policy until such time as it is formally rescinded, or an updated letter is issued.

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Sincerely,



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Senior Director of Child, Family, and Adult
Services Department of Health and Human
Services

Cc: Susan G. Osborne, Assistant Secretary for County Operations
Carla McNeill, Section Chief for Permanency Planning
Teresa Strom, Section Chief for County Operations
Kathy Stone, Section Chief for Child Protective Services and Prevention
Linda Waite, Section Chief for Regulatory and Licensing

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