

**JOIN HANDS FOR CHILDREN**  
**MINUTES FROM THE ADVISORY COMMITTEE ON LEGAL AND PRACTICE ISSUES**  
**August 9, 2010**

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**Committee Members Present:** Chris Wickham; Kris Powell; Jeanine Livingston (on phone); Steve Hassett; Jeanne McShane; Mary Meinig; Maureen McGrath; Samantha Evans; Gwendolyn Lawson Townsend; Patrick Dowd (alternate for Mary Meinig); Ken Nichols (on phone); Nancy Foll; Mary O'Brien; Tom Tremaine (alternate for Liz Mueller); Brett Ballew (alternate for Joanne Moore)

**Staff Present:** Julie Dunnington, Melissa Takade, and Benjamin Berres, Partners for Our Children; David del Villar Fox and April Potts, DSHS Children's Administration; Jennifer Strus, Washington State Senate Human Services and Corrections Committee; Sydney Forrester, Office of Program Research, Washington State House of Representatives

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Judge Chris Wickham, co-chair for the Advisory Committee on Legal and Practice Issues was detained, so Julie Dunnington of Partners for Our Children (POC) welcomed the committee members and the audience. She summarized the meeting's agenda and announced that the discussion of the "Roles and Responsibilities upon Entry/Exit to Care" would move to the beginning of the meeting because the Children's Administration (CA) presenter would have to leave the meeting early.

April Potts of CA began the discussion by asking for input from advisory committee members on when children should be referred to services. She also asked for input on the break-up of the roles and responsibilities between the CA social worker and the Master Contractor (MC) care coordinator. Jeanine Livingston said that contractors shouldn't be immediately held accountable for achieving outcomes because it would not be possible to provide the entire service array to clients right away.

Before the conversation continued, the Advisory Committee took a brief break for introductions.

After introductions, the Advisory Committee discussed a flow chart illustrating CA's Child Protective Services – Child Welfare Services Redesign. There was a question whether the CA social worker and supervisor have good intuition on which cases will be referred to the MC. There was also a question on whether the CA social worker would outline a set of outcomes or an array of services for each case. There is some thought that the social worker might point toward a specific outcome and the master contractor would create the array of services to achieve that outcome. The advisory committee was curious how much discretion the MC would have to direct the array of services.

The advisory committee also discussed the organization of Family Team Decision Making (FTDM) meetings. Specifically, when should the MC become involved? Many advisory committee members felt it would be best to have the MC at the table as early as possible simply because earlier is better, yet they were unsure of whether this would be an unnecessary duplication of services. Some advisory committee members expressed their concern that if social workers are responsible for creating an array of services for each case, they will check as many boxes as they can, which, ultimately, will put MCs over-budget. April Potts explained the purpose of the FTDM. Ken Nichols felt that it might be cost prohibitive to have MCs at the table for FTDMs. He estimated that in his region, there are approximately 50 FTDM's occurring every single month for all entry/exit/transition meetings. He estimated that it would take 2-3 FTEs to

have MCs be present at these meeting. Advisory Committee members felt that it is important to have MCs at the table for exit FTDM meetings

There was a short discussion about the creation of a dispute resolution mechanism for when disagreements arise between social workers and care coordinators over the development of a child's or family's services plan. April Potts said that CA is working on this dispute resolution plan.

Advisory Committee members requested a flowchart that illustrates the differing roles and responsibilities between social workers and care coordinators. Julie Dunnington asked if there would be a sub-set of advisory committee members interested in meeting to discuss the flowchart and to provide input. A number of advisory committee volunteered and their names were recorded. Details on this meeting will be forthcoming. There was a comment for CA to include on the flowchart the administrative policies and laws pertaining to the handling of Indian Child Welfare cases.

The advisory committee opened up the floor for public comment.

Roberta Nestaas of Lutheran Community Services asked CA about how the availability of resources influences the development of a particular case's service array.

Charlotte Booth of the Institute for Family Development said that because the MC's will be receiving a case-rate to provide services, she feels that MC's should be able to self-determine the array of services each child/family would receive. She also voiced her concerns about the possibility that the required ratio of care coordinators to cases that CA specifies in the MC contract may exceed the resources MC's allocate for this purpose.

Nancy Foll asked about the results of the Learning Lab CA conducted in E. Washington. In this pilot study, Partners for Families and Children provided case management services to approximately 45 children. Since the results weren't available yet, Nancy Foll asked to get the results when they are available. April Potts said that CA is working on compiling the "lessons-learned."

After the public comment period, the Advisory Committee took a brief break.

When the Advisory Committee reconvened after the break, Julie Dunnington and Benjamin Berres gave a brief update on the 2106 Children's Administration Service Provider Assessment. They spoke about the survey's progress and described some of POC's next steps. They said the survey would be posted the following week. Advisory committee members asked about the level of detail the survey would explore.

April Potts presented the latest details about CA's progress toward implementing Phase I. She said that CA is in the midst of conducting provider information sessions throughout the administrative regions and that they are receiving a lot of good questions.

After the update from CA, Tom Tremaine of the Northwest Justice Project and alternate to advisory committee co-chair Liz Mueller, gave a presentation on Indian Child Welfare rules, regulations and policies. He reviewed a PowerPoint presentation that is available for viewing at the Join Hands for Children [website](#). He discussed state and federal statutes and regulations, tribal-state agreements, LICWACs, and the Children's Administration Policy manual. Julie Dunnington reviewed the options available to Tribes who choose not to participate in the 2106 process. The Advisory Committee discussed some of the complexities in implementing and

complying with ICWA rules and regulations as well as ameliorating issues of racial disproportionality.

There was a discussion about whether CA should retain tribal cases. Jennifer Strus clarified that the act notification will remain with CA in Phase I, but if a Master Contractor were to discover that a child is Native American, then they must comply with notification rules and regulations. This expectation will be explicit in the Master Contractor contract. With regard to Phase II, Tribes will have the option to opt out because it could disrupt their existing government-to-government relationship. Advisory Committee members were concerned about children from out-of-state tribes. The Advisory Committee co-chair recommended that this issue be identified in the report for Phase II.

At this point in time, the Advisory Committee took time to break for lunch.

When the Advisory Committee reconvened after lunch, Trudy Marcellay gave a presentation regarding ICWA administrative policies. She discussed the dispute resolution process and partnership tactics that have been used to achieve best outcomes and different dispute resolution processes and ladders. She gave a brief update on Tribes thinking on 2106.

Judge Wickham opened up the floor for public comment.

Charlotte Booth of the Institute for Family Development asked if any Tribes are considering bidding for a full MC contract. Four are currently contemplating this option and weighing the pros and cons.

Laurie Lippold asked about the distinction between “active efforts” and “reasonable efforts” and whether one invokes a greater mandate to provide services. She asked if it would be generally better to aspire to “active efforts” for all cases. Tom Tremaine and Trudy Marcellay replied “yes.” Laurie asked if there is a way to quantify the difference between “active efforts” and “reasonable efforts.” Tom replied that it is difficult to discern the totality of the differences due to the existence of varying interpretations.

Marna Miller asked about the distinction between “Tribal Membership” and “Tribal Enrollment.” Tom Tremaine replied that “enrollment” is a formal process and can vary from tribe to tribe. These are often linked to a date-in-time. Congress chose “membership” because it relates to political relationships. Some tribes expect enrollment before membership and vice versa. Each Tribe determines their own process to formalize affiliation.

Steve Hassett spoke next. He reviewed a letter response from the Attorney General's Office regarding the scope of representation between the AGO and private agencies under Phase II. This issue does not relate to Phase I. The CWTDC has discussed the letter before, so Steve Hassett reiterated that the AGO relationship would retain with the state and not the private agency social worker. This informal opinion does not alter the existing attorney-client relationship. There were several questions about “joint and several liability” and what that means for Washington. The Advisory Committee discussed the likelihood of getting a Title IV-E waiver. There was also discussion about whether the private agency care coordinator would also show up in court to talk about a specific family's service utilization.

There was a detailed discussion on the issues and problems that may arise if there is not a knowledgeable person available to the court to bring forward pertinent case knowledge. April Potts suggested that there should be a discussion about what types of information is critical to make a determination from the bench.

The Advisory Committee adjourned.