



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 05, 2023

TIME: 9:55 AM

WSR 23-08-084

Agency: Department of Children, Youth, and Families (DCYF)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 23-04-024 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 110-110-0010 Foster care planning for Indian children-Definitions. More specifically, the definition of "Indian child."

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 9, 2023		Telephonic	Oral comments may be made by calling 360-972-5385 and leaving a voicemail that includes the comment and an email or a physical address where DCYF will send its response. Comments received through and including May 9, 2023 will be considered

Date of intended adoption: May 12, 2023 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DCYF Rules Coordinator

Address:

Email: dcyf.rulescoordinator@dcyf.wa.gov

Fax:

Other: <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>

By (date) May 9, 2023

Assistance for persons with disabilities:

Contact DCYF Rules Coordinator

Phone: 360) 972-5385

Fax:

TTY:

Email: dcyf.rulescoordinator@dcyf.wa.gov

Other:

By (date) May 4, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Rules are needed for the delivery of child welfare services and, more specifically, for the department to better identify when to apply state and federal Indian Child Welfare Acts codified at chapter 13.38 RCW and 25 U.S.C. ch. 21 respectively. This rule making will address issues identified in the Court's opinion in Matter of Dependency of Z.J.G., 196 Wn.2d 152, 471 P.3d 853 (2020).

Reasons supporting proposal: See Purpose.

Statutory authority for adoption: RCW **74.08.090**, chapter **13.38** RCW, and 25 U.S.C. chapter 21

Statute being implemented: RCW **74.08.090**, chapter **13.38** RCW, and 25 U.S.C. chapter 21

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

If yes, CITATION: Matter of Dependency of Z.J.G., 196 Wn.2d 152, 471 P.3d 853 (2020)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Children, Youth, and Families (DCYF)

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Robert Smith	Olympia	(360) 407-1602
Implementation:	DCYF	Statewide	
Enforcement:	DCYF	Statewide	

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: A cost benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328(5)(i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

Regulatory Fairness Act and Small Business Economic Impact Statement
 Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
 This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
 Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(3). Check all that apply:

<input checked="" type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: April 5, 2023

Name: Brenda Villarreal

Title: DCYF Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 20-04-019, filed 1/27/20, effective 2/27/20)

WAC 110-110-0010 Foster care planning for Indian children—Definitions. For the purposes of this section through WAC 110-110-0100, the term "Indian child" is defined as any unmarried and unemancipated Indian person who is under age (~~eighteen~~) 18 and is, as determined by the Indian child's tribe or tribes, one of the following:

- (1) A member of an Indian tribe; or
- (2) Is eligible for membership in an Indian tribe (~~and is the biological child of a member of an Indian tribe~~).