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INTRODUCTION TO CHILD PROTECTIVE SERVICES

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INTRODUCTION TO CHILD PROTECTIVE SERVICES

1.1 Virginia Children's Services Practice Model

[The Virginia Children's Service Practice Model](#) sets forth a vision for the services that are delivered by all child serving agencies across the Commonwealth. The practice model is central to decision making; present in all meetings; and in every interaction with a child or family. Guided by this model, the Virginia Department of Social Services (VDSS) is committed to continuously improving services for children and families by implementing evidence based practices, utilizing the most accurate and current data available and improving safety and well-being of children and families. The Practice Model is founded on these principles:

- All children and communities deserve to be safe.
- Practice is family, child, and youth-driven.
- Children do best when raised by families.
- All children and youth need and deserve a permanent family.
- Partnering with others is important to support child and family success in a system that is family-focused, child-centered, and community-based.
- How we do our work is as important as the work we do.

Child Protective Services (CPS) is just one component on a continuum of family services in Virginia that values the strengths of families.

The Code of Virginia authorizes the VDSS to establish the CPS Program. The purpose of CPS is to identify abused and neglected children and to provide services to prevent further abuse and neglect and to strengthen families by enhancing parental capacity to

nurture their children in a safe environment. The CPS Program is based on the following assumptions and values:

- CPS is a process that incorporates past, present and future.
- Implicit in the definition of abuse or neglect is the assumption of harm to the child or children, both real and threatened.
- CPS services and interventions should support the family.
- People can and do change, within the limitations of the individual, his or her environment, time and a worker's skills and perception.
- CPS services are available without regard to income.
- CPS services can be provided to children and their families when no formal complaint has been made, but for whom potential or threat of harm exists.

1.2 Legal authority and definitions

Child Protective Services are provided by local departments of social services (LDSS) under the supervision of the VDSS as authorized by [§ 63.2-1501](#) et seq. of the Code of Virginia. The Code of Virginia prescribes that each LDSS maintain the ability to receive and respond to reports alleging abuse or neglect of children.

To further clarify and support the Code of Virginia, the State Board of Social Services has promulgated regulations to guide the operation of CPS programs in Virginia.

The VDSS has developed and maintains this chapter within the larger guidance manual to assist the LDSS in administering the CPS program.

The Virginia Administrative Code (VAC) [22 VAC 40-705-10](#) provides the following definitions.

"Department" means the Virginia Department of Social Services.

"Local department" means the city or county local agency of social services or department of public welfare in the Commonwealth of Virginia responsible for conducting investigations or family assessments of child abuse and/or neglect complaints or reports pursuant to [§ 63.2-1503](#) of the Code of Virginia.

"Child protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse and/or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and

rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child protective services worker" means one who is qualified by virtue of education, training and supervision, and is employed by the local department to respond to child protective services complaints and reports of alleged child abuse and/or neglect.

1.2.1 Services for persons with limited English proficiency

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal funding from discriminating against individuals on the basis of race, color, or national origin. This has been interpreted to require meaningful access to information and services for those persons with limited English proficiency. Agencies receiving federal funding are mandated to comply with these requirements. Information is available on the VDSS public website *under the [State Plan](#) for the Office of Newcomer Services, Attachment 2C or the [U.S. Department of Health and Human Services website](#).*

1.2.2 Children of Native American, Alaskan Eskimo or Aleut heritage

Children of Native American, Alaskan Eskimo or Aleut heritage are subject to the Indian Child Welfare Act (ICWA). In the event such a child is in imminent danger and does not live on a reservation *where a tribe exercises exclusive jurisdiction*, the CPS worker has the authority to exercise emergency removal of the child. *Additional guidance regarding the removal of an Indian child can be found in Section 4, Family Assessment and Investigation, of this chapter. If a child is removed and placed into foster care, see Section 3 of the VDSS Child and Family Services Manual, [Section E. Foster Care](#).*

Although Virginia has no federally recognized Indian reservations, members of federally recognized tribes do reside in Virginia. A list of recognized tribes and List of Indian Child Welfare Act Designates is provided by the [U. S. Department of the Interior Bureau of Indian Affairs](#).

A child is covered by ICWA when the child meets the federal definition of an Indian child. Specifically, the child is an unmarried person under 18 years of age and is either:

- *A member of a federally recognized Indian tribe; or*
- *Eligible for membership in a federally recognized tribe and is the biological child of a member of a federally recognized Indian tribe.*

Under federal law, individual tribes have the right to determine eligibility and/or membership. However, in order for ICWA to apply, the child shall meet one of the criteria above.

If there is any reason to believe a child is an Indian child and is at risk of entering foster care, the LDSS shall treat that child as an Indian child, unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe. Once it has been determined the child is either a member or eligible for membership in a federally recognized tribe, the LDSS shall make active efforts to reunite the Indian child with their family or tribal community (if already in foster care). Active efforts shall begin from the time the possibility arises that a child may be removed from their parent, legal guardian or Indian custodian and placed outside of their custody.

Active efforts are more than reasonable efforts. Active efforts applies to providing remedial and rehabilitative services to the family prior to the removal of an Indian child from his or her parent or Indian custodian, and/or an intensive effort to reunify an Indian child with his/ her parent or Indian custodian.

Examples of active efforts include, but are not limited to:

- Engaging the Indian child, their parents, guardians and extended family members;*
- Taking necessary steps to keep siblings together;*
- Identifying appropriate services and helping parents overcome barriers;*
- Identifying, notifying and inviting representatives of the Indian child's tribe to participate in shared decision-making meetings; and*
- Involving and using available resources of the extended family, the child's Indian tribe, Indian social service agencies and individual care givers.*

An Indian child who is officially determined by the tribe to not be a member or eligible for membership in a federal tribe is not subject to the requirements of ICWA. In instances where ICWA does not apply, but the child is biologically an Indian child, part of a Virginia tribe that is not federally recognized or considered Indian by the Indian community, the LDSS should consider tribal culture and connections in the provision of services to the child.

Additional information is located in [Appendix A: Indian Child Welfare Act \(ICWA\)](#). Specific information related to court proceedings involving an Indian child can be found in Appendix D in Section 8, Judicial Proceedings of this manual.

1.3 CPS guidance manual format

The CPS guidance manual, which is incorporated into the larger VDSS Child and Family Services Manual, is organized in the following order:

Pertinent Code of Virginia sections are cited for easy reference, but usually not quoted verbatim – if it is quoted, it will be indented and denoted with a blue vertical line. The online version of this chapter provides linkages to the Code of Virginia and VAC. Familiarity with and accesses to the laws of Virginia are important to the LDSS, because the CPS program is based on state and federal law.

The federal [Child Abuse Prevention and Treatment Act](#) (CAPTA) is one of the key pieces of legislation that guides child protection. CAPTA was signed into law in 1974 (P.L. 93-247). It was reauthorized in 1978, 1984, 1988, 1992, 1996, and 2003, and with each reauthorization, amendments have been made to CAPTA that have expanded and refined the scope of the law. CAPTA was most recently reauthorized on December 20, 2010 by the [CAPTA Reauthorization Act of 2010](#) (P.L. 111-320, or 42 U.S.C. 5101 et seq.).

The basis for government's intervention in child maltreatment is grounded in the concept of *parens patriae*—a legal term that asserts that government has a role in protecting the interests of children and in intervening when parents fail to provide proper care. It has long been recognized that parents have a fundamental liberty, protected by the Constitution, to raise their children as they choose. The legal framework regarding the parent-child relationship balances the rights and responsibilities among the parents, the child, and the State, as guided by Federal statutes. This parent/child relationship identifies certain rights, duties, and obligations, including the responsibility of the parents to protect the child's safety and well-being. If parents, however, are unable or unwilling to meet this responsibility, the State has the power and authority to take action to protect the child from harm. Over the past several decades, Congress has passed significant pieces of legislation that support the States' duty and power to act on behalf of children when parents are unable or unwilling to do so.

The VAC has the impact of law for social services departments in Virginia. Regulations are approved by the State Board of Social Services and either restate law or provide clarification.

The four most relevant regulations for CPS are:

- [22 VAC 40-700-10](#) et seq. Child Protective Services Central Registry Information.
- [22 VAC 40-705-10](#) et seq. Child Protective Services Regulations.
- [22 VAC 40-720-10](#) et seq. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.
- [22 VAC 40-730-10](#) et seq. Investigation of Child Abuse and Neglect In Out Of Family Complaints.

CPS guidance will follow the Code of Virginia and regulation to provide further guidance or explanation, if needed. At times, the Code of Virginia or CPS regulation will require

no further explanation, so the Code of Virginia may only be cited, and/or the regulation provided, and no further guidance given. Anything written in italics indicates that it is new with this version of guidance.

Note: this guidance manual is set up to follow a logical sequence based upon how the CPS process proceeds with some generic issues at the beginning and end. There is additional information that supports best practice in the appendices of each section.

Additional information about CPS guidance:

- A transmittal will be issued when new guidance is developed, usually in January and/or July of each year.
- The transmittal itself has two columns – the first column provides the section of guidance that has been revised, and the second column provides a brief description of the guidance revisions.
- Broadcasts advise the LDSS of transmittals reflecting changes and also provide other important, new information. These broadcasts are available on the VDSS website. They should be reviewed and placed in your hard copy guidance manual.

1.4 CPS guidance development process

CPS guidance is based on the following:

- The [Child Abuse Prevention and Treatment Act](#) (CAPTA) is a federal law that lays the foundation for all state CPS programs.
- The Code of Virginia as enacted by the General Assembly builds on federal law and/or addresses issues unique to Virginia.
- The State Board of Social Services approves regulations.
- Best practice may dictate guidance changes.

While most guidance comes from law and regulation, VDSS continually receives input from local agencies. The CPS Advisory Committee is composed of local CPS staff who provide input and recommendations to the VDSS for CPS guidance. The VDSS also obtains information from three Citizens Review panels, which include the Child Fatality Review Team, the Child Abuse and Neglect Committee of the Family and Children's Trust Fund ([FACT](#)), and the Court Appointed Special Advocate/Children's Justice Act ([CASA/CJA](#)) Advisory Board.

The state regional CPS consultants provide case consultation and technical assistance to the LDSS, thus providing feedback from each region of the state. Check with your supervisor to determine how to access these consultants.

All CPS regulations are periodically reviewed and amended based on changes to the Code of Virginia as well as public comment. The VDSS issues a broadcast to announce the review of CPS regulations and the public comment period.

1.5 Uniform training plan for CPS workers

The VAC mandates uniform training requirements for CPS workers and supervisors. The uniform training requirements establish minimum standards for all CPS workers and supervisors in Virginia.

Having established core (fundamental and essential) competencies for both workers and supervisors, the resulting required training reflects both core competencies and critical training in guidance and law that is specific to the certain practice issues. The result is that all child welfare staff is trained in the same core competencies.

([22 VAC 40-705-180 A](#)). The department shall implement a uniform training plan for child protective services workers and supervisors. The plan shall establish minimum standards for all child protective services workers and supervisors in the Commonwealth of Virginia.

([22 VAC 40-705-180 B](#)). Workers shall complete skills and policy training specific to child abuse and neglect investigations and family assessments within the first two years of their employment.

([22 VAC 40-730-130](#)). Requirements: A. In order to be determined qualified to conduct investigations in out of family settings, local CPS staff shall meet minimum education standards established by the department including: 1. Documented competency in designated general knowledge and skills and specified out of family knowledge and skills; and 2. Completion of out of family policy training.

1.5.1 Training requirements for CPS workers, managers and supervisors

All CPS staff hired after March 1, 2013, who are designated to respond to reports of child abuse and neglect; manage or supervise CPS, shall complete the following as soon as possible after their hire date, but no longer than within the time frames put forth below:

1.5.1.1 First three (3) weeks training requirements

The following **on-line courses** are required to be completed no later than within the **first three (3) weeks of employment**:

- CWSE1002: Exploring Child Welfare (This course is available in the [Knowledge Center](#).)
- CWSE1500: Navigating the Child Welfare Automated Information System: OASIS (This course is available in the [Knowledge Center](#))
- CWSE5692: Recognizing and Reporting Child Abuse and Neglect – Mandated Reporter Training (This course is available on the [VDSS public website](#).)

1.5.1.2 First three (3) months training requirement

The following instructor led course is required to be completed no later than within the first three (3) months of employment:

- CWS2000: Child Protective Services New Worker Guidance Training with OASIS.

The following on-line course is required to be completed no later than within the first three (3) months of employment:

- *CWSE1510: Structured Decision Making in Virginia (This course is available in the [Knowledge Center](#)).*

1.5.1.3 First twelve months training requirement

The following Instructor led courses are required to be completed no later than within the first twelve (12) months of employment:

- CWS1021: The Effects of Abuse and Neglect on Child And Adolescent Development
- CWS1041: Legal Principles in Child Welfare Practice
 - *Note: There are two on-line courses that are prerequisites to this class. CWSE1041 and SCV: Child Dependency Case Processing in JDR District Courts. Both on-line courses are available in the [Knowledge Center](#).*
- CWS1061: Family Centered Assessment
- CWS1071: Family Centered Case Planning
- CWS1305: The Helping Interview
- CWS2011: Intake Assessment and Investigation

- CWS2021: Sexual Abuse
- CWS2031: Sexual Abuse Investigation
- CWS4020: Engaging Families and Building Trust-Based Relationships
- CWS5307: Assessing Safety, Risk and Protective Capacity

1.5.1.4 First twenty-four months training requirement

The following instructor led courses are required to be completed no later than within the first 24 months of employment:

- CWS1031: Separation and Loss Issues in Human Services Practice
- DVS1001: Understanding Domestic Violence
- DVS1031: Domestic Violence and Its Impact on Children
- CWS2141: Out of Family Investigation (if conducting out of family investigations pursuant to [22 VAC 40-730-130.](#))
- CWS5305: Advanced Interviewing: Motivating Families for Change

1.5.1.5 Additional training requirement for CPS supervisors

In addition to the courses listed below, all CPS supervisors hired after March 1, 2013 are required to attend the Family Services CORE Supervisor Training Series: SUP5701, SUP5702, SUP5703, and SUP5704. These courses are to be completed in the first two (2) years of employment as a supervisor.

1.5.1.6 Training requirements for CPS on-going staff

See [Section 6: Services](#) for training requirements for workers and supervisors who provide CPS on-going services.

1.5.2 Annual training requirements

CPS workers and supervisors are required to attend a minimum of 24 contact hours of continuing education/training annually. For those CPS workers and supervisors hired on or after March 1, 2013, the first year of this requirement should begin no later than 3 years from their hire date, after the completion of the initial training detailed above.

Continuing education/ training activities to be credited toward the 24 hours should be pre-approved by the LDSS supervisor or person managing the CPS program.

Continuing education/training activities may include, but are not limited to, organized learning activities from accredited university or college academic courses, continuing education programs, workshops, seminars and conferences.

Documentation of continuing education/training activities is the responsibility of the LDSS.

1.5.3 LDSS must ensure worker compliance

It is the responsibility of the LDSS to ensure that staff performing CPS duties within their agency has met the minimum standards. The CPS supervisor or the person managing the CPS program at the local level shall maintain training documentation in the worker's personnel record. The supervisor shall assure that the CPS workers who report to them complete the required training within the given timeframes.

A Training Job Aide is located on [the DSS internal website](#) and may be used by the LDSS to document and track all training requirements.

1.5.3.1 Training and direct supervision of new worker for sexual abuse investigations

Effective July 1, 2014 § [63.2-1505D](#) of the Code of Virginia requires direct supervision of CPS workers who conduct sexual abuse investigations unless they have completed CWS 2021: Sexual Abuse and CWS 2031: Sexual Abuse Investigations. Direct supervision requires a close review of all decisions made during the investigation by someone who has completed the required training. Only persons who have completed the required training may determine the final disposition of a sexual abuse investigation.

1.5.4 Training for staff not designated as CPS but performing CPS functions

The following course must be completed by local service workers who provide intake functions or respond to reports of abuse or neglect only during nights or weekends while "on call" and were hired after July 1, 2012:

- CWS 2000: Child Protective Services New Worker Guidance Training with OASIS.

1.6 Multidisciplinary teams

Child Protective Services are best provided in the context of community-based collaboration and support. The Code of Virginia § [63.2-1503 J](#) provides the statutory authority for the LDSS to develop multidisciplinary teams. [22 VAC 40-705-150 E](#) provides regulatory authority for an LDSS to support the development of multidisciplinary teams.

([22 VAC 40-705-150 E](#)). Local departments shall support the establishment and functioning of multidisciplinary teams pursuant to [§ 63.2-1503 J](#) of the Code of Virginia.

The purpose of multidisciplinary teams shall be to promote, advocate, and assist in the development of a coordinated service system directed at the early diagnosis, comprehensive treatment, and prevention of child abuse and neglect. It is the responsibility of the director of the LDSS to foster the creation and coordination of multidisciplinary teams either personally or through his designee. Functions of multidisciplinary teams shall include:

- Identifying abused and neglected children.
- Coordinating medical, social and legal services for the children and their families.
- Helping to develop innovative programs for detection and prevention of child abuse and neglect.
- Promoting community concern and action in the area of child abuse and neglect.
- Disseminating information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat abuse and neglect.

1.6.1 Composition of multidisciplinary teams

The VAC provides the regulatory framework for the composition of multidisciplinary teams:

([22 VAC 40-705-10](#)). "Multidisciplinary teams" means any organized group of individuals representing, but not limited to, medical, mental health, social work, education, legal and law enforcement, which will assist local departments in the protection and prevention of child abuse and neglect pursuant to [§ 63.2-1503 J](#) of the Code of Virginia. Citizen representatives may also be included.

1.6.2 Family assessment and planning teams

The Code of Virginia [§ 63.2-1503 J](#) also provides that family assessment and planning teams established by a locality may be considered multidisciplinary teams.

1.6.3 Investigation consultation by multidisciplinary teams

The Code of Virginia [§ 63.2-1503 K](#) allows multidisciplinary teams to provide consultation and assistance in conducting investigations. Multidisciplinary teams can provide better coordination between the professionals who are involved in complicated and serious CPS investigations to help avoid repeated interviews of a child.

1.6.4 Cooperation and exchange of information between the LDSS and multidisciplinary teams

The Code of Virginia [§ 63.2-1503 J](#) establishes statutory authority for The LDSS to develop agreements that govern the work of the multidisciplinary teams including the exchange of information among team members. LDSS are encouraged to develop written protocols for the operation of local multidisciplinary teams.

Multidisciplinary teams involved in case consultation can have access to confidential case information. All members of a multidisciplinary team abide by laws and policies related to confidentiality. More information about confidentiality and CPS can be found in the Section 9, Confidentiality, of this manual.

1.7 Family partnership meetings

Family engagement is a relationship focused approach that provides structure for decision making that empowers both the family and the community in the decision making process. Family partnership meetings (FPM) are grounded by value-driven principles that include:

- All families have strengths.
- Families are the experts on themselves.
- Families deserve to be treated with dignity and respect.
- Families can make well-informed decisions about keeping their children safe when supported.
- Outcomes improve when families are involved in decision making.
- A team is often more capable of creative and high quality decision making than an individual.

A FPM may be held any time to solicit family input regarding safety, services and permanency planning; however, for every family involved with the child welfare agency these are the decision points at which a FPM should be held:

- Once a CPS investigation or family assessment has been completed and the family is identified as “very high” or “high” risk and the child is at risk of out of home placement.
- Prior to removing a child, whether emergency or considered.
- Prior to any change of placement for a child already in care, including a disruption in the adoptive placement.

- Prior to *the development of a foster care plan for the foster care review and permanency planning hearings to discuss permanency options and for concurrent planning as well as consideration of a change of goal.*
- When requested by parent (birth, foster, adoptive or legal guardian), youth, or service worker.

The worker and supervisor should discuss the convening and timing of a family partnership meeting at these critical decision points. All family partnership meetings must be documented in the automated data system. For more guidance regarding family partnership meetings, please refer to the VDSS Child and Family Services manual, Family Engagement chapter on the [DSS public website](#) .

Course CWS4030 – Facilitator Training for Virginia’s Family Partnership Meetings is designed for individuals within the locality that will be responsible for facilitating family partnership meetings.

1.8 Structured Decision Making

Structured Decision Making (SDM) is a process that uses a set of research and evidence-based assessment tools to help case workers make appropriate decisions at key stages in the child welfare process, from screening referrals to closing cases. When partnered with clinical judgment and supervision, these tools are designed to increase the consistency of casework decisions and improve the validity of those decisions, thereby better protecting children from harm. The assessment tools apply to all CPS decisions, with the exception of out-of-family reports, which only require the use of the Intake Tool. The assessment tools must be completed in the automated data system. When accessed via the automated data system, each assessment tool has definitions available that assist the worker with making the best choices on the tool. It is critical that workers refer to the definitions in the tools for consistency in completing the tools. Guidance on when to use each tool is offered in subsequent parts of this manual.

Additional information on the SDM tools can be located in CWSE1510: Structured Decision Making in Virginia. This on-line course is available in the [Knowledge Center](#).

1.9 Domestic Violence

Domestic violence (DV) is an issue affecting many families receiving services through the LDSS. VDSS has added a new chapter to the VDSS Child and Family Services Manual, [Chapter H. Domestic Violence](#). This chapter presents an overview of DV and the related statutory requirements impacting LDSS and local DV programs. Information specific to Prevention, CPS and Foster Care is provided. Much of the specific information is applicable across program areas. This chapter also connects to the existing chapters of entire VDSS Child and Family Services Manual to ensure that specific DV information is readily available when needed.

Local DV programs provide services which focus on the safety of DV victims and their children. LDSS focus primarily on child safety. Both entities are focused on safety. LDSS and local DV programs work together, participate in multi-disciplinary teams together, occasionally are housed in the same buildings and often work with the same families.

Current data regarding the co-occurrence between DV and child maltreatment compel child welfare systems to re-evaluate existing philosophies, policies, and practice approaches towards families experiencing both forms of violence.

1.10 Sex trafficking of children

Sex trafficking is defined in the Trafficking Victims Protection Act of 2000 ([22 U.S.C. 7102](#)) as the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for the purpose of a commercial sex act. Research suggests that children currently or formerly in foster care are at a higher risk of being sex trafficked. Risk factors include but are not limited to:

- *limited or severed family connections;*
- *history of emotional trauma, physical or sexual abuse; and*
- *prior involvement with law enforcement.*

The Preventing Sex Trafficking and Strengthening Families Act ([P.L.113-183](#)) requires states to identify, document and determine the appropriate services for children and youth who are victims or at risk of being sex trafficked. The information obtained in this process may assist in identifying characteristics, signs and vulnerabilities to respond to youth who have been sex trafficked and inform communities how to help combat future incidents.

The Justice for Victims of Trafficking Act of 2015 ([H.R.181](#)) amends CAPTA to include victims of sex trafficking in the definition of an abused or neglected child.

Additional information regarding sex trafficking can be found in the on-line course, [CWSE4000: Identifying Sex Trafficking in Child Welfare](#). This course is available on the [VDSS public website](#) and in the [Knowledge Center](#).

1.11 Appendix A: Indian Child Welfare Act (ICWA)

The [Indian Child Welfare Act](#) (ICWA) is a federal law passed in 1978 that guides states in their process for placement of an Indian child that is in their custody. It requires that states seek placement for the child with that child's family, tribe and other American Indian homes before looking elsewhere. It generally does not apply to divorce proceedings, interfamilial disputes, juvenile delinquency cases or cases under tribal court jurisdiction.

While most of ICWA is related to children who have been removed and are in the custody of LDSS, there are specific elements of ICWA that require early identification of ICWA applicability. Early identification will promote proper implementation of ICWA at an early stage to prevent, as much as possible, delayed discoveries that ICWA applies. Early discovery of ICWA applicability will ensure that:

- proper notice is given to parents/Indian custodians and tribes;
- tribes have the opportunity to intervene or take jurisdiction over proceedings (as appropriate); and
- ICWA placement preferences are respected.

1.11.1 Active efforts

The requirement to engage in "active efforts" begins from the moment the possibility arises that the investigation, family assessment or case may result in the need for the Indian child to be placed outside the custody of either parent or Indian custodian in order to prevent removal.

Active efforts to prevent removal of the child must be conducted while investigating whether the child is a member of the tribe, is eligible for membership in the tribe or whether a biological parent of the child is or is not a member of a tribe.

Active efforts are intended primarily to maintain and reunite an Indian child with his/her family or tribal community and constitute more than "reasonable efforts" as required by Title IV-E of the Social Security Act.

Active efforts include, but are not limited to:

- Engaging the Indian child, the Indian child's parents, the Indian child's extended family members and the Indian child's custodian;
- Taking necessary steps to keep siblings together;

- *Identifying appropriate services and helping the parents to overcome barriers, including actively assisting (not just referring) the parents in obtaining such services;*
- *Identifying, notifying and inviting representatives of the Indian child's tribe to participate;*
- *Conducting or causing to be conducted a diligent search for the Indian child's extended family members for assistance and possible placement (if needed);*
- *Taking into account the Indian child's tribe's prevailing social and cultural conditions and way of life and requesting the assistance of representatives designated by the Indian child's tribe with substantial knowledge of the prevailing social and cultural standards;*
- *Offering and employing all available and culturally appropriate family preservation strategies;*
- *Identifying community resources and actively assisting the Indian child's parents or extended family in utilizing and accessing those resources; or*
- *Monitoring progress and participation in services.*

1.11.2 Indian child

Indian child means any unmarried person less than 18 years of age who is either:

- *A member of an Indian tribe; or*
- *Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.*

1.11.3 ICWA applicability

When does ICWA apply?

- *Whenever an Indian child is the subject of a child custody proceeding.*
- *In those cases in which the Indian child is not removed from the home, such as during an investigation, family assessment or case. This includes instances when a court orders the family to engage in services to keep the child in the home as part of a diversion, differential, alternative response or other program. LDSS and courts should follow the verification and notice provisions.*

- *If there is any reason to believe the child is an Indian child, the LDSS and court must treat the child as an Indian child, unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe.*

When does ICWA not apply?

- *Tribal court proceedings;*
- *Placements based upon an act by the Indian child which if committed by an adult would be deemed a criminal offense;*
- *An award in a divorce proceeding of custody of the Indian child to one of the parents; or*
- *Voluntary placements that do not operate to prohibit the child's parent or Indian custodian from regaining custody of the child upon demand.*

1.11.4 Determination of tribal membership

Only the Indian tribe(s) of which it is believed a biological parent or the child is a member or eligible for membership may make the determination whether the child is a member of the tribe(s); is eligible for membership in the tribe(s); or whether the parent of the child is a member of the tribe(s).

1.12 Appendix B: Virginia tribes

1.12.1 Treaty of 1677

Virginia tribes are organized as chartered corporations and their recognition from the state dates to their treaty with the Colony of Virginia in 1677. These tribes are eligible for federal recognition, and it is expected that federal recognition may be granted.

1.12.2 Federal funding for Virginia tribes

Virginia tribes do benefit from federal funds for education and community development the same as do federally recognized tribes.

1.12.3 Specific Virginia tribes recognized by the Commonwealth of Virginia

Virginia tribes and the year they were recognized by the state include:

- Chickahominy Tribe (1983),
- Eastern Chickahominy Indian Tribe (1983),

- Mattaponi Tribe (1983),
- Monacan Indian Nation (1989),
- Nansemond Indian Tribal Association (1985),
- Pamunkey Nation (1983),
- Rappahannock Indian Tribe(1983),
- Upper Mattaponi Indian Tribe (1983)
- Cheroenhaka(Nottoway) Indian Tribe (2010),
- Nottoway of Virginia (2010), and
- Patawomeck Indians of Virginia (2010).

1.12.4 Federally recognized tribes in Virginia

In July 2015, The United States Department of Interior granted federal recognition to the Virginia Pamunkey Indian Tribe. The determination was expected to go into effect October 6, 2015; however, a request for reconsideration was filed and the tribe's federal status is on hold in accordance with [25 CFR 83.11](#).

The Pamunkey Indian Reservation is located on the Pamunkey River and adjacent to King William County. Many families reside on the reservation and many tribal members live in Richmond, Newport News, other parts of Virginia and all over the United States.