



How tribal leaders and states can work together to benefit American Indian/ Alaska Native children

Background

In 1978, Congress enacted the Indian Child Welfare Act (ICWA). The goal was to address the alarmingly high number of American Indian/Alaska Native (AI/AN) children in the child welfare system. At the time, approximately one in three Indian children were removed from their families and placed into a foster or adoptive home. ICWA was established to address these removals and to reinforce the tribe's jurisdictional rights over the cases of their tribal children.

ICWA established the importance of kinship care as a placement option and created placement preference standards that placed children foremost within tribal communities. Further, ICWA established a higher standard to keep families together via "active efforts."

Current practice

Federal law requires that every state child welfare program follow the law according to ICWA. Six states (Washington, Nebraska, Minnesota, Michigan, Iowa, and Oklahoma) also passed state-specific legislation that spells out specific guidelines for ICWA compliance.

This is a template and guide for developing a Memorandum of Understanding (MOU) between a tribe and DCYF.

<https://www.dcyf.wa.gov/sites/default/files/word/moutemplate.docx>

Washington has thirteen formal tribal/ state agreements.

Some current helpful practices regarding tribal/state relations:

- Tribes individually set agreements with states on how to manage cases where there is shared jurisdiction
- Regularly planned meetings are conducted between the state and the tribes, alternating venues between tribal land offices and state-owned office buildings. States and tribes are both tasked with developing the agenda collectively
- Specific jobs should be created at the State and regional levels that are responsible for ICWA oversight and compliance
- Example: Washington State has implemented a State-level Tribal Policy Advisory Committee and has monthly ICW Subcommittee meetings.

Joint Recommendations
<ul style="list-style-type: none"> • Tribal child welfare agencies need to be able to access state data systems to track the well-being of children in which they jointly supervise. • States could expand the amount of their Title IV-E dollars if tribal state partnerships included data sharing opportunities that would allow tribal children under tribal jurisdiction to be claimed under federal reporting requirements. These dollars should then be funneled to tribes to support their child welfare programs.
Recommendations
<ul style="list-style-type: none"> • State leaders need to role model for their workers how much they value and respect ICWA. Workers will have greater buy in on ICWA compliance if they see state leadership prioritize it. • Tribes need to take the initiative to reach out to their state child welfare directors and hold them accountable for ICWA compliance. This includes not being afraid to challenge their State Child Welfare Director and/or State attorney generals on issues related to ICWA when noncompliance is observed or when the state attempts to circumvent the ICWA. • Tribes can ask for information from other states/tribes (i.e. CA, OR, WA) that have already built these relationships to use these lessons learned for replication in their own states
Recommendations for tribes
<ul style="list-style-type: none"> • Take the initiative to ensure to ask your states about how they are complying with ICWA • Ask states who are further along (CA, OR, WA) for information about how to build successful relationships between states and tribes that include active tribal participation in case management, CFSR case reviews, and other policy considerations involving Indian children protected under the ICWA • As sovereign nations, Tribal leaders can challenge state attorney generals about decisions that negate ICWA
Recommendations for the states
<ul style="list-style-type: none"> • All members of the child welfare workforce employed in state, private and tribal agencies should be trained on the ICWA statute and how to properly implement the law • State leadership model and value ICWA and respect tribal sovereignty • State leaders need to hold state employees accountable to ensure proper implementation of the law

Resources that can be used to Support ICWA Implementation

- Annie E. Casey Foundation: Race Equity Tool Kit:
<https://www.aecf.org/resources/race-equity-and-inclusion-action-guide/>
- Capacity Building Center for Tribes Toolkit: building an Effective Tribal State-Partnership:
<https://capacity.childwelfare.gov/tribes/>
- The California American Indian Enhancement Project's Implementation Toolkit:
<https://calswec.berkeley.edu/native-american-enhancement-toolkit>
- National Indian Child Welfare Association:
<https://www.nicwa.org/>

For more Information on WA State/Tribal Partnership Model, Contact:

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