

**COMMENTS OF THE NATIONAL INDIAN CHILD
WELFARE ASSOCIATION REGARDING THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
CLEARINGHOUSE HANDBOOK OF STANDARDS AND
PROCEDURES, VERSION 1.0, TITLE IV-E
PREVENTION SERVICES CLEARINGHOUSE**

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NICWA

National Indian Child Welfare Association
Protecting Our Children • Preserving Our Culture

Introduction

The National Indian Child Welfare Association (NICWA) is pleased to provide comments on the Department of Health and Human Service's Title IV-E Prevention Services Clearinghouse Handbook of Standards and Procedures, Version 1.0. NICWA is a national, nonprofit Indian organization located in Portland, Oregon that was founded in 1983. NICWA provides community development technical assistance services to tribal communities, training to tribal, state, federal, and private agency workforces, research on American Indian and Alaska Native issues, and development of improved policies and resources for tribal nations and urban Indian organizations. Our comments will focus on the impacts and issues related to American Indian and Alaska Native children, families, and tribes.

Background

While the movement to learn more about the intended and non-intended effects of child welfare programs and services through evidence-based studies is laudable, it also contains risks for excluding culturally based services, promotion of mainstream programs and services that pose harm to American Indian and Alaska Native (AI/AN) children and families, and disincentivizing the use of culturally based services. The potential benefits of evidence-based programs and services are only present for AI/AN populations when there is an equitable distribution of resources to support studies of tribal culturally based services, studies are designed and led by AI/AN researchers, and findings are appropriately interpreted by individuals with substantial knowledge of AI/AN culture and traditions in determinations of subsequent alignment with statutory and regulatory requirements.

What are the risks for excluding the appropriate study of AI/AN culturally based services within the existing clearinghouse framework and related field of evidence-based services? Several risk factors exist. First, funding announcements and award of funding within existing DHHS child abuse and neglect grant funding provides little to no focus on AI/AN priorities and is frequently structured to one size fits all efforts. This creates incentives for studies of larger populations and programs and services that serve populations that are more in alignment with mainstream researchers' skills and knowledge. Evidence of the impact of these barriers comes when reviewing the very low number of federally funded research and demonstration grants awarded to tribal nations or studies that are led by AI/AN researchers. Secondly, the relationships that are needed to successfully develop and promote research studies with universities and larger research institutions are not as available to AI/AN researchers. Lastly, because the AI/AN population is smaller, it can create more challenges for researchers to establish the appropriate sample size, and as we have learned over the last few decades, it is not uncommon for researchers to set out to include a sample of AI/AN subjects in their study and then later decide to exclude their data from the findings because of sample size concerns. One additional factor is the increasing desire of tribes to have a seat at the table in research studies involving their communities, which can challenge mainstream researchers who are not used to collaborating with tribal communities. While DHHS does not control the larger field of evidence-based research, it could be more aware of these inequities and challenges and establish efforts with tribal nations to address these barriers.

While tribal nations that operate the Title IV-E program directly through the federal government are provided flexibility to define and determine which prevention services under Title IV-E they can submit reimbursement for, tribal nations that are in a Title IV-E agreement with a state or tribes that are working with a state on Indian Child Welfare Act (ICWA) cases under state

jurisdiction are subject to the same evidence-based requirements as states. ICWA requires that states provide active efforts to AI/AN families to prevent removal of their children from home and help them rehabilitate from the issues that brought them into care originally. Federal regulations require that active efforts engage tribal nations and seek out culturally appropriate services. The current list of approved prevention and services from the clearinghouse contains no AI/AN culturally based programs or services and only a few mainstream prevention services that have experience with AI/AN families (culturally adapted). For states that want to maximize the funding available under Title IV-E prevention services, they will be pushed to adopt mainstream evidence-based services that likely are not effective with AI/AN families and may even pose harm. This can disincentive efforts to support culturally based services provided by tribal nations that are working in coordination with states.

The concern with mainstream programs and services being further promoted with AI/AN families is not just about the ineffectiveness of those programs and services, but the potential harm they can create within AI/AN children, families, and communities. The legacy of federal and state assimilationist policies and practices with the AI/AN population is replete with efforts to destroy the legitimacy of Indigenous thought and way of life. The boarding school system in the United States, which was in operation for over 100 years until the 1970's, forcefully and involuntarily removed thousands of AI/AN children from their families and placed them in military style boarding schools that tried to extinguish their culture, language, and connections to their families and communities. Estimates are almost half of the children taken to boarding schools never returned to their communities, perished at the hands of governmental and private or religious agencies that oversaw boarding school operations. This trauma was intergenerational and profound, and the legacy is still present in current generations that struggle to heal from the immeasurable grief that still grips these communities. Even before the boarding school era ended there were further attempts to remove AI/AN children by state and private child welfare agencies because the thinking was that they would be better served by growing up in predominately white families. This thinking is still alive in many public and private child welfare agencies in the United States and has manifested itself in the disproportionate removal of AI/AN children from their homes and communities. These efforts were and often continue to be based in mainstream notions of what is in the best interest of AI/AN children and ignorance of the harm that this thinking and subsequent efforts brought to tribal communities. While well intentioned, the current clearinghouse framework imposes mainstream processes in the determination of what is an eligible evidence-based prevention service, and ultimately prevention programs and services, upon AI/AN children and families. This is highly significant, because as is often heard in Indian Country, AI/AN children and families who are in child welfare systems are most often there because of the historic trauma and intergenerational grief that has manifested itself in substance abuse, family violence, and mental/emotional instability. In order for them to heal, culturally based studies and processes must be used in the determination of what prevention programs and services will best serve AI/AN children and families.

The Federal Register Notice invited comments on the clearinghouse handbook related to the President's Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. As discussed above, NICWA does not believe the current system for supporting and approving prevention programs and services under the clearinghouse handbook achieves racial equity and is in need of fundamental changes to approach a determination of achieving racial equity in our opinion. Critical changes in funding support for culturally based programs and services, AI/AN involvement in development and operation of approval processes for evidence-based programs and services, and timely consultation with tribal nations on any and all policy implicated in this work are needed to achieve racial equity in the future. While we understand the statutory requirements for approving

evidence-based prevention services under Title IV-E constrain DHHS in some areas, there is still much more that DHHS can improve that is under their control. In addition to our comments above we are providing comments specific to different chapters of the handbook where we feel DHHS can make adjustments and additions to improve the support and approval of evidence-based programs and services for AI/AN people.

Additional Comments and Recommendation for the Clearinghouse Handbook

Chapter 1 Identify Program and Services

- Include language that recommendations from tribal nations can be viewed as criteria for initiating a review.
- Include language that lists recommendations from the Bureau of Indian Affairs and Indian Health Services in list of federal agencies that can be viewed as criteria for initiating a review.
- Include language to recognize identification of AI/AN evidence-based services from other state and tribal clearinghouses besides those listed in the current handbook.

Chapter 2 Select and Prioritize Programs and Services

- 2.1.1. Eligible mental health services should include tribal healing services and programs and not be confined to western mental health definitions.
- 2.1.1. Eligible substance abuse prevention and treatment services and programs should include tribal healing services and programs and not be confined to western substance abuse prevention and treatment definitions.
- 2.1.1. Programs that help people get into treatment should be included. These are often integrated with prevention and treatment programs and are a part of the critical prevention services continuum.
- 2.1.1. Clarify that eligible in-home parent skill-based services should include interventions that can be done in home, but are also provided in out-of-home settings (e.g. parent support and counseling that may be provided in a group setting).
- 2.1.1. Kinship navigator services should include tribal programs and services that help prospective caregivers as they become approved or licensed.
- 2.1.2. Concerns regarding requirement that written manuals/handbooks must be accessible by the public: Evidence-based programs and services that incorporate sensitive tribal spiritual and cultural protocols should be exempt from this requirement. Without this exemption, it will disincentivize the use of tribal healing services and could lead to cultural appropriation by mainstream providers.
- 2.2. Research and practice developers must be required to be consulted during and before the review is complete, including those that have adapted the practice when applicable. This will help ensure that reviewers are not misinterpreting cultural information and provide a fair review process.
- 2.2. Representation of tribal practices should also be a consideration for prioritization.
- 2.2.1. We have a concern that reviewers' knowledge and understanding of what constitutes child safety, child permanency, child well-being, and adult well-being in a tribal context (access to services, referral to services, and satisfaction with services in relation to kinship navigator) will not be understood and could lead to misinterpretations that could affect review outcomes for AI/AN prevention services.
- 2.2.2 We have concerns regarding criteria that materials must be available in English and programs and services must be considered to be actively in use. Some tribal practices are written in the tribal nation's language, either in full or in part, which is imperative to its success with tribal citizens. We suggest language that would require OPRE to work with tribal representatives to work towards translating tribal language

descriptions into English where needed that would assist the review process. This could also include contracting with tribal people to help facilitate this process.

- 2.2.3 We have concerns regarding criteria and definitions related to fidelity and implementation supports, specifically what would constitute a written manual and supports in relation to tribal practices.

Chapter 3 Literature Search

- 3.1 We have concerns that reliance on academic literature reviews, other clearinghouses, and websites for grey literature scans will leave out sources that may have more information about tribal practices. To remedy this, it is suggested that OPRE work with experts in tribal practices to ensure critical sources of reviews and literature are not missed.

Chapter 4 Study Eligibility Screening and Prioritization

- 4.1.1 The date of publication criteria establishes a standard that we believe is arbitrary for study eligible of tribal cultural practices. Many tribal practices have been used for centuries and have a variety of evidence to support their benefit that should be recognized outside of mainstream academic standards.
- 4.1.2 Identify possible sources of publication that include tribal or Indian organization reports.
- 4.1.3 Related to our comment under Chapter 3 we believe it should not be required that the original publication of an AI/AN prevention program or service must be in English.
- 4.1.5 Target Outcomes. Child safety indicators includes measures that assess child maltreatment, but there needs to be cultural context considered to avoid misinterpretation of tribal data and outcomes. It is suggested that OPRE always consult with AI/AN people that have expertise in child welfare before making determinations.
- We have a concern that child permanency indicators are weighted heavily to western interpretations of permanency and don't include tribal definitions.
- We have concerns that child well-being indicators are weighted heavily towards western interpretations of well-being and don't include tribal worldview or definitions. We recommend that OPRE consult with tribal experts to develop tribal measures.
- Adult Well-Being. Same comments as those for child safety, permanency, and child well-being.
- 4.1.6 Program Adaption. The handbook seems to allow only one version of a prevention program or service to be reviewed at a time which could lead to tribal cultural adaptations being delayed for review and influenced by other versions that are reviewed ahead of the tribal adaptations.
- 4.1.6 Program Adaptation. We have concerns with how cultural adaptations will be reviewed. OPRE needs tribal expertise to ensure misinterpretations do not occur and a fair process is available.

Chapter 5 Evidence Review

- 5.2 Design and Execution Rating Categories. What is considered low, moderate, and high support of casual evidence could have cultural implications and needs AI/AN expertise.

Chapter 6 Program or Service Ratings

- 6.2.2 Usual Care or Practice Settings. The definition and interpretation of what is a usual care or practice setting could be problematic for tribal programs and services. There needs to be care taken to incorporate tribal context before determinations are made.
- 6.2.3 Beyond the End of Treatment. We have concerns with the clearinghouse determining what the end of treatment is for tribal prevention programs and services. Mainstream values and assumptions may not be valid in making these determinations

and require special expertise from AI/AN experts to ensure misinterpretations don't occur.

Chapter 7 Prevention Services Clearinghouse Procedures

- 7.1 Prevention Services Clearinghouse Team. OPRE needs to have AI/AN expertise available and actively use resources outside their agency to accurately and comprehensively evaluate tribal prevention services being proposed for review.
- 7.2 Procedures for Identifying Eligible Studies of Selected Programs and Services from Search Results. We have a concern that studies or information on AI/AN practices will not be carried out fully (not recognizing alternative publications) combined with the general lack of academic, mainstream publications of AI/AN studies.

Conclusion

The task of ensuring that AI/AN prevention programs and services are fairly and accurately identified, reviewed, and approved is a significant challenge within the existing framework and handbook the clearinghouse is using. Our general view is it is not possible to ensure a fair and accurate process for AI/AN prevention programs and services in the current system. OPRE and even ACF do not have the requisite knowledge or expertise of AI/AN practices and should avoid trying to shoehorn them into the current review process. The better option would be to consult with AI/AN experts in the field to review what a more culturally competent process would require and then collaboratively plan for the implantation of such a process. Thank you for the opportunity to provide these comments. If you have any questions about our comments or recommendations, please contact David Simmons at desimmons@nicwa.org.