

**ICWA 2050 >>**

**PROTECT, PRESERVE, PROGRESS**

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# INTRODUCTION

## ICWA 2050

### Protect, Preserve, Progress:

*Realizing the Spirit of ICWA*

ICWA 2050 is a set of principles with many expressions. It is a uniting vision spanning decades and sectors. It is a commitment to a future where Native children are woven back into the fabric of our cultures with care and intention. It inspires us to work together and with determination.

For years, Native child welfare practitioners and advocates have been forced by limited resources and draining challenges to operate in the short term: What can be done *this* year or in *this* moment? Systems transformation requires long-mindedness. Our most pressing challenge and greatest opportunity right now is how we work together toward a future that stretches beyond our lifetimes.

25 years is a generation. Starting in 2024, in the wake of *Haaland v. Brackeen*, ICWA 2050 is a commitment to *one* generation of work in service to the thriving futures of many generations of Native children.<sup>1</sup> There is no fixed agenda that can address the interwoven and multi-faceted systems we aim to change, from funding to policy to courts and changing popular narratives that have been unhelpful. Leaning into the generational timeframe, ICWA 2050 intentionally names a goal but not specifically how we arrive there; it is a commitment to being nimble in response to evolving opportunities, adjusting strategies, and learning together.

ICWA 2050 represents three principles:

- **Protect** the safety, well-being, and spiritual strength of current and future generations of Native families
- **Preserve** ICWA as the gold standard of child welfare policy and bolster inherent tribal sovereignty
- **Progress** and strengthen ICWA; move beyond the status quo to expand tribal capacity and funding in service of tribal self-determination

Together, we can accomplish things that none of us can do alone.

# ACKNOWLEDGEMENTS

## PROTECT ICWA

The Protect ICWA Campaign was established by the National Indian Child Welfare Association, the National Congress of American Indians, the Association on American Indian Affairs, and the Native American Rights Fund, in response to legal challenges to the Indian Child Welfare Act (ICWA). Together, we work to serve and support Native children, youth, and families by protecting ICWA. The Campaign works to inform policy, legal, and communications strategies with the mission to uphold and protect ICWA. Each partner contributes unique strengths and focuses on distinct priorities.



We are deeply grateful to the following organizations that have contributed expertise and collaborative spirit to ICWA 2050.

Affiliated Tribes of Northwest Indians  
Alaska Native Justice Center  
California Tribal Families Coalition  
Inter-Tribal Council of Nevada  
Intertribal Council of Arizona  
Midwest Alliance of Sovereign Tribes

National Congress of American Indians  
National Urban Indian Families Coalition  
Oklahoma Indian Child Welfare Coalition  
Rocky Mountain Tribal Leaders Council  
United South and Eastern Tribes

# BACKGROUND

The Indian Child Welfare Act (ICWA) [25 U.S.C. 1901 et seq.] was enacted in 1978 after studies conducted by the Association on American Indian Affairs (AAIA) revealed widespread removals of Native children into state and private child welfare systems. AAIA, in partnership with tribal nations, conducted an 11-year effort to raise awareness, develop legislation, and advocate for the passage of ICWA. ICWA is a restorative response to the widespread forced removal of Native children from their families and communities by state and private child welfare agencies. These removals, rooted in a century of failed federal policies aimed at the destruction of Native nations and the assimilation of Native people, including federally supported and operated boarding schools, resulted in lasting intergenerational trauma in Native communities and families.

In 1975, shortly before the passage of ICWA, federal policy shifted from a focus on assimilation to a recognition of inherent tribal sovereignty and tribal self-determination, acknowledging tribal nations' right to govern their affairs, including in child welfare. The Indian Self-Determination and Education Assistance Act (P.L. 93-638) enabled tribal nations to contract for social services previously operated by the federal government. Following this shift, Title II of ICWA authorized the first dedicated child welfare funding for tribal nations to address child welfare under both tribal and state jurisdiction. This funding, though initially disbursed through competitive grants, allowed tribal nations to develop child welfare programs and services that reflected their cultural values, traditions, and beliefs. Since 1978, advocates for Native children have expanded access to federal funding sources supporting tribal child welfare programs and services, although they still lack parity with states.

ICWA provides federal requirements for state courts and state child welfare agencies that address child custody proceedings involving Indian children as defined by the law. ICWA recognizes inherent tribal sovereignty and jurisdiction and provides minimum federal standards to prevent the unnecessary removal of Indian children from their homes, ensure active efforts to strengthen Indian families, provide placement preferences when Indian children need to be placed in out of home care, and support the transfer of jurisdiction from state court to tribal court when appropriate. ICWA's requirements are a direct response to the bias and large scale removals that occurred in state child welfare systems and are still needed today to address concerns like disproportionate placement of Native children in state foster care systems.

# BACKGROUND

Before 2013, legal challenges to ICWA primarily focused on state court interpretations of ICWA requirements in individual cases. However, following the 2013 U.S. Supreme Court decision in *Adoptive Couple v. Baby Girl* (No. 12-399), a small, but well-funded group of attorneys and conservative advocacy organizations began challenging ICWA's constitutionality. Between 2014 and 2017, 14 federal lawsuits were filed by or with help from this anti-ICWA coalition. In 2023, the U.S. Supreme Court upheld ICWA as constitutional in *Haaland v. Brackeen* (No. 21-376) in a 7-2 decision, marking a monumental victory for Indian Country and safeguarding ICWA's protections for Native children and families.

Following the *Haaland v. Brackeen* decision, the National Indian Child Welfare Association (NICWA), the Protect ICWA Campaign, and regional tribal organizations began conducting listening sessions with tribal leaders and tribal child welfare leaders. The goal was to identify priorities for protecting ICWA and strengthening the capacity of tribal child welfare programs. Leveraging the momentum from the Brackeen decision, we saw an opportunity to develop a long-term strategy for the dual purposes of protecting ICWA and strengthening tribal child welfare programs. The NICWA Board of Directors submitted a resolution ([NC-24-005](#)) seeking an endorsement of this plan as ICWA 2050 at the 2024 National Congress of American Indians (NCAI) Mid-Year Convention. The resolution, which referred to the plan as ICWA 2050, was adopted by NCAI's Executive Committee, demonstrating tribal support and leading to the development of ICWA 2050 as a strategic plan.

# PURPOSE

ICWA 2050 has two overarching goals. First, to provide recommendations for a 25-year strategy to **strengthen ICWA's protections and ensure consistent implementation and compliance**. Second, to recognize and support the critical role that tribal nations play in protecting Native children, helping families in tribal child welfare systems, and assisting states as they implement ICWA. This work builds on efforts that began many years ago at local and state levels, often led by tribal nations. Our intention is to enhance these efforts and create more opportunities to raise awareness and strengthen support for them. ICWA 2050 also recognizes the vital support and services that many urban Indian organizations provide to Native families in urban areas in collaboration with states and tribal nations. The strategic plan outlines the following key goals:

- Increasing tribal child welfare capacity.
- Improving outcomes in state child welfare systems by strengthening tribal-state relations and improving tribal advocacy.
- Enhancing tribal-federal partnerships in child welfare.
- Improving communication about ICWA as the gold standard of child welfare policy and the importance of honoring tribal sovereignty in child welfare.

# INCREASING TRIBAL CAPACITY IN CHILD WELFARE »»

**Goal: Increase funding and support to tribal nations so that every tribe can provide the full range of child welfare services needed by their children and families.**

- ✓ **Objective 1:** Increase federal funding for tribal nations to a level that is equitable to state funding and responsive to the needs of tribal nations. Priorities include establishing a 5% tribal set-aside from the Social Services Block Grant, full funding for the Indian Child Protection and Family Violence Prevention grant programs, and amending the Temporary Assistance for Needy Families program (TANF) so tribal nations will not rely on states to determine the federal or non-federal share, allowing tribal nations to access full funding (federal and non-federal) directly from the federal government. More specifically, tribal access to federal entitlement programs, capped and uncapped, must be reformed to allow improved tribal access and operation.
- ✓ **Objective 2:** Expand federal funding and technical assistance to help tribal nations develop and operate tribal courts that adjudicate child welfare matters for children and families under tribal jurisdiction. This includes increasing the Tribal Court Improvement Program funding to \$5 million annually, increasing base funding to meet tribal court operational needs, and establishing a tribal juvenile/family court technical assistance center.
- ✓ **Objective 3:** Ensure every tribal nation that seeks to provide relative care, foster care, and other out-of-home placements has sufficient funding to recruit, license, and support caregivers. Tribally licensed or approved homes should have the resources and support needed to provide quality care to Native children.
- ✓ **Objective 4:** Equip tribal leaders with information on developing and operating effective tribal child welfare programs and services, the importance of representation in state child protection cases, supporting tribal-state relationships, and proper implementation of ICWA.
- ✓ **Objective 5:** Improve access to culturally based and culturally adapted child welfare programs and services. Ensure information is available in a variety of formats that align with a tribe's current capacity and future goals, including practice model examples, program policies and procedures, codes, intergovernmental agreements, training, technical assistance, and a variety of easily accessible materials.



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- ✓ **Objective 6:** Equip tribal nations with access to information and resources that address critical issues in recruiting, hiring, and maintaining a professional and qualified tribal child welfare workforce that aligns with each tribe’s current capacity and local conditions. Advocate for increased state and federal support for education, hiring, and training for the tribal child welfare workforce, including front-line workers, supervisors, program managers, and department directors.
- ✓ **Objective 7:** Increase federal funding and access to information and resources to support culturally based and culturally adapted child welfare services for urban Indian organizations, including training, peer-to-peer consultation, technical assistance, and a variety of easily accessible materials.

# IMPROVING OUTCOMES IN STATE CHILD WELFARE SYSTEMS BY STRENGTHENING TRIBAL-STATE RELATIONS AND IMPROVING TRIBAL ADVOCACY >>

**Goal: Establish strong working relationships between tribes and states so that ICWA is rigorously implemented and all Native children and families in child welfare systems have the benefits of culturally based services and supports that improve outcomes.**

- ✔ **Objective 1:** Encourage every state to enact a comprehensive state ICWA law and intergovernmental agreement, developed with tribal leaders, that supports and improves the implementation of the federal ICWA and addresses local implementation concerns.
- ✔ **Objective 2:** Provide every state with resources and peer-to-peer consultation grounded in the principles of tribal sovereignty, detailing the importance and benefits of honoring tribal sovereignty and engagement in improving outcomes for Native children and families in both tribal and state child welfare systems. This information should address effective practices and policies to support positive tribal-state relationships and support for state efforts to improve child welfare programs and services from state officials, tribal leaders, and experts in tribal child welfare.
- ✔ **Objective 3:** Establish state-level review systems to measure ICWA compliance, notwithstanding federal efforts to develop an ICWA review system that guides state and tribal efforts to evaluate ICWA implementation and improve policy and practice. These review systems will include collecting necessary data, coordinating data analysis between states and tribal nations, jointly identifying plans to improve state ICWA compliance, and establishing ongoing forums and processes to maintain progress, address challenges, and build joint ownership of the efforts.
- ✔ **Objective 4:** Increase state awareness of tribal nation and urban Indian organizations contributions to state efforts to comply with ICWA and support for services to Native children and families in state child welfare systems. These efforts will detail the level of support tribal nations provide to state child welfare systems, in terms of expertise and financial contributions, and encourage advocacy to increase state financial support to tribal nations.

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- ✓ **Objective 5:** Include tribal representatives on state court advisory committees and engage them in state court improvement programs to improve state court knowledge of ICWA, awareness of the challenges in implementing the law in state courts, and opportunities for state court systems to engage with tribal nations and their court systems to develop solutions and improve cooperation between tribal and state court systems.
- ✓ **Objective 6:** Equip states with resources and funding to develop ICWA courts and case units, offering training, consultation, technical assistance, and a variety of easily accessible materials to improve ICWA compliance, engagement with tribal nations, and outcomes for Native children and families.
- ✓ **Objective 7:** Provide individuals or relatives seeking to become state-licensed foster care, relative care, guardianship, or adoptive placements for a Native child with detailed information on ICWA, their role in supporting family relationships and reunification, and support throughout the licensing, placement, and transition phases. This information will include advocacy materials and information on improving state licensing and support for Native caregivers and improving related state and federal policies.
- ✓ **Objective 8:** Ensure all college and university social work programs and Indian law programs have access to Native-developed curriculum on tribal sovereignty, the tribal-federal relationship, ICWA, and their implications for social work and legal practice. This curriculum should also be shared with relevant professional organizations and state workforce training providers like the Council on Social Work Education, National Association of Social Workers, National Association of Social Workers State Chapters, state Title IV-E/child welfare workforce training providers, and the American Bar Association.

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- ✓ **Objective 9:** Implement state policies that prioritize active efforts with Native families and encourage voluntary, preventive services that do not require the removal of the child to support child safety and the family. This includes policies that encourage early engagement of the child’s tribe and local urban Indian organizations, even when child abuse or neglect referrals are screened out.
- ✓ **Objective 10:** Provide urban Indian organizations with resources and support to develop and implement promising practices in urban Indian child welfare services, including training, consultation, technical assistance, and a variety of easily accessible materials.
- ✓ **Objective 11:** Strengthen tribal representation in state child protection cases by ensuring funding for and technical assistance to attorneys representing tribal nations in state court cases and advocating for fee waivers and exemptions for out-of-state tribal attorneys to gain access to temporary licensure when appearing in state cases governed by ICWA.

# ENHANCING TRIBAL-FEDERAL PARTNERSHIPS IN CHILD WELFARE >>

**Goal: Establish a federal-tribal relationship that rigorously monitors and supports ICWA compliance and establishes increased child welfare capacity for every tribal nation and urban Indian organization to provide the culturally based services their communities need and assist them in helping support state ICWA implementation.**

- ✓ **Objective 1:** Federal agencies, in consultation and collaboration with tribal nations, intertribal organizations, and urban Indian organizations, will establish a formal comprehensive review system to measure state ICWA compliance and tribal engagement and create mechanisms to improve state ICWA compliance and tribal engagement.
- ✓ **Objective 2:** Federal agencies will collaborate with tribal nations to formally evaluate federal funding streams available to tribal nations to support ICWA implementation and provide trauma-informed, culturally based programs and services for children and families within their communities. This analysis will identify available funding to support Native family needs, gaps in access to federal funding, administrative barriers that prevent access to and effective operation of federal programs, and flexibility to provide trauma-informed, culturally based services responsive to the needs of different tribal families and communities.
- ✓ **Objective 3:** Federal agencies will collaborate with tribal nations to address funding gaps, reduce administrative barriers, and increase flexibility for tribes and tribal organizations to provide trauma-informed, culturally based programs and services through legislative, regulatory, and other policy guidance. This includes establishing a 5% tribal set-aside to the Social Services Block Grant, increasing funding under the Indian Child Protection and Family Violence Prevention Act grant programs to authorized levels, and reducing non-federal matching payments for tribes under the Social Security Act programs and amending the Temporary Assistance for Needy Families program (TANF) so tribal nations do not have to rely on states to determine the federal or non-federal share and will have access to full funding (federal and non-federal) from the federal government. Tribal nations shall have the opportunity to operate the full array of federal programs through Public Law 93-638 contracting or self-governance mechanisms.

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- ✓ **Objective 4:** Federal agencies will engage with tribal nations and ICWA legal experts to monitor legal challenges to ICWA and advance preventive measures, including education of state and federal court systems, to clarify ICWA’s intent and requirements. The federal government will work with tribal partners to vigorously defend ICWA against legal challenges.
- ✓ **Objective 5:** Federal agencies will collaborate with urban Indian organizations to identify federal child welfare funding needs of urban Indian communities, develop strategies to increase access to federal funding for these communities, address administrative barriers to accessing existing funding and operating programs that support trauma-informed, culturally based services, and secure culturally relevant technical assistance to improve urban Indian organization capacity.

## **IMPROVING COMMUNICATION ABOUT ICWA AS THE GOLD STANDARD OF CHILD WELFARE POLICY AND THE IMPORTANCE OF HONORING TRIBAL SOVEREIGNTY IN CHILD WELFARE >>**

**Goal: Increase public awareness about ICWA as the gold standard of child welfare policy and the importance of honoring tribal sovereignty in child welfare through the voices of lived experience spokespeople, the use of data that identifies positive outcomes related to ICWA implementation, and strong media relationships with Indian Country and its allies.**

- ✓ **Objective 1:** Ensure every tribal nation and ICWA ally has access to resources, training, and support to effectively engage in media relations that highlight ICWA as the gold standard of child welfare policy and the importance of honoring tribal sovereignty to support improved services to and better outcomes for Native children and families. This will involve training and resources for tribal leaders, social workers, policy advocates, service providers, and community advocates.
- ✓ **Objective 2:** Center media and communications on ICWA and the role of tribal sovereignty in child welfare around the voices of those with lived experience, such as birth parents, extended family, foster care alumni, adult adoptees, relative care providers, tribal child welfare directors, and tribal leadership. This includes launching a campaign to recruit, prepare, and support those spokespeople in effectively engaging with the media.
- ✓ **Objective 3:** Engage non-Native allies in child welfare and related fields to amplify ICWA, the role of tribal sovereignty in child welfare and related fields, and the voices of lived experience experts and tribal nations. This includes identifying ICWA allies, assessing their media engagement capacity, and developing strategies for supportive messaging.
- ✓ **Objective 4:** Review existing messaging and target audiences to identify and reach new audiences, such as judges, legislators, and media influencers, that have a role in supporting positive court decisions and policies to protect ICWA and the critical role of tribal nations in child welfare.

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