

Tribal Leadership Series
ICWA Advocacy





Introduction

The Indian Child Welfare Act (ICWA) (25 U.S.C. 1901 et. seq.) provides American Indian and Alaska Native (AI/AN) children and families with some of the most valuable federal protections available to any group of children. It is based upon what has been labeled the “gold standard” in child welfare practice by leading national child advocacy organizations (Brief of Casey Family Programs et al., 2013). ICWA’s focus on the integration of extended family, culturally appropriate care, utilizing community-based knowledge and wisdom, and reducing the need for removals of children through active engagement with families are all considered the standard for child welfare practice.

Tribal governments and communities are also beneficiaries too, as it ensures tribal governments can exercise their responsibility to their citizens to safeguard their children and improve the well-being of their families. The tribal leader role in helping set the direction for the tribe’s ICWA advocacy efforts, helping define roles of key staff, committing resources, and facilitating tribal-state relationships that support tribal families and tribal staff involved in state child welfare proceedings are central to the proper implementation of ICWA and the protection of AI/AN children and families.

This document is meant to be guide for tribal leaders on the basic requirements of ICWA, why ICWA advocacy is important today, different elements of ICWA advocacy, and tools and strategies to enhance tribal ICWA advocacy. The guide takes the position that tribal advocacy for AI/AN children and families is essential to the best interests of AI/AN children and families being met. Tribal advocacy can make the difference for AI/AN families between being lost in a very complex and often confusing system or having the confidence and resources to successfully engage with state child welfare system.

What is the Indian Child Welfare Act?

ICWA was enacted in 1978 to provide much-needed federal oversight to protect AI/AN children and families from the biased and sometimes abusive practices of state and private child welfare agencies and state courts. Prior to the passage of ICWA, a study performed by the Association on American Indian Affairs in 1969 and then again in 1974 revealed that 25%–35% of all AI/AN children had been removed from their homes and placed in out-of-home placements, often unnecessarily (H.R. Rep. No.

95-1386, 1978). Furthermore, 85% of those AI/AN children were placed in non-Indian families, often far from their tribal communities and extended families (H.R. Rep. No. 95-1386, 1978). ICWA provided federal requirements for state and private agencies and state courts to follow when working with AI/AN children and families involved in state or private child custody proceedings. In addition to new federal requirements, ICWA recognized tribes' inherent sovereignty to be involved in matters involving their tribal citizens, even in state court, and also authorized small grant programs to support on- and off-reservation Indian child welfare programs. Some key requirements of ICWA include:

- Requiring notice to an AI/AN child's tribe of child custody proceedings in state courts and allowing tribes to intervene in state child custody proceedings as a legal party (25 USC §1912[a])
- Allowing the child's tribe to petition the state court to transfer state child custody proceedings to tribal court (25 USC §1911[b])
- Requiring full faith and credit of tribal court orders in state child custody proceedings (25 USC §1911[d])
- Requiring active efforts be made to prevent removal of AI/AN children from their families and help them reunify with their families after a removal (25 USC §1912[d])
- Requiring placement of AI/AN children in foster care, guardianship, or adoption according to placement preferences that emphasize placement with extended family and tribal homes (25 USC §1915[a] and [b])
- Requiring higher evidentiary standards than states typically use to place AI/AN children in foster care or terminate the rights of their parents (25 USC §1912[e] and [f])
- Requiring the testimony of expert witnesses, preferably with tribal heritage and familiarity with tribal child rearing, before an AI/AN child can be removed and placed in foster care or their parent(s) have their parental rights terminated (25 USC §1912[e] and [f])

Why is ICWA Advocacy Important Today?

Today the numbers of AI/AN children being removed from their homes has decreased substantially since the passage of ICWA. This has been in large part due to the federal requirements for states contained within ICWA, but it is also due in large part to the efforts of tribes regularly and sometimes forcefully advocating for the proper implementation of ICWA. Even with ICWA's requirements, today we see the rate of removal of AI/AN children from their homes nationally is still over two times higher than their population rate. In some states the rate of disproportionality for AI/AN children is as high as 12 times their population rate (Sickmund, M., Ganasarajah, S. & Siegel, G., 2017).

Another measure of the continued need for ICWA and tribal advocacy is the disparate treatment of AI/AN children in state child welfare systems. Disparate treatment refers to unequal treatment of one group when compared to another. One study found, due in large part to systematic bias, where abuse has been reported AI/AN families were 2 times more likely to be investigated for allegations of child abuse, 2 times more likely to have allegations of abuse substantiated, and 4 times more likely to be placed in foster care than White children (Hill, R. B., 2007). Reports by numerous tribes across the United States have confirmed that systemic bias like that which ICWA was designed to address are still continuing today.

In 2013 the United States Supreme Court accepted review of an ICWA case involving an AI/AN father and non-Indian mother who was attempting to adopt their child out to a non-Indian family (*Adoptive Couple v. Baby Girl*, 2013). The case caught national headlines and pitted the birth father and tribes against well-funded opposition from private adoption interests and anti-tribal sovereignty groups. Later in 2016 the Bureau of Indian Affairs working with the Department of Justice responded by publishing first ever comprehensive federal regulations and revised earlier guidelines published in 1979 (*Indian Child Welfare Act Proceedings*, 2016 and U.S. Department of Interior, 2016). This spawned a wave of federal and state court challenges to ICWA coordinated by many of the same groups involved in the *Adoptive Couple v. Baby Girl* case. The challenges attack long held interpretations of the law and the constitutionality of providing these protections to AI/AN children and families. The backlash against ICWA will likely continue for some time, demonstrating the need for tribal leaders to be actively involved in ICWA advocacy to protect ICWA and the rights of their tribal member children and families.

In the sections below we will explore the different roles for tribal leaders in ICWA advocacy and the tools they can use to ensure its protections are available for tribal families. This includes, but is not limited to, passing legislation at the state and federal level, revising state administrative policies, securing new funding for tribal child welfare services, supporting relationship building and training with state government leaders and courts, establishing intergovernmental agreements with states and counties, and supporting a strong child welfare program in your community.

What Does ICWA Advocacy Look Like?

ICWA advocacy can take many forms, and tribal leaders have many opportunities to ensure greater protections for tribal children and families in state child welfare systems. Below are some examples of the different roles that tribal leaders can play in ICWA advocacy.

Intergovernmental Relationship Development

Child welfare is a very complex set of services and requires regular participation from administrative, judicial, and legislative branches of government. ICWA has requirements that touch all of these governmental areas, but especially administrative and judicial. In order for tribal advocates to ensure that ICWA is being carried out as intended by Congress numerous relationships with federal, state and sometimes county officials must be established. Some of the relationship work requires tribal leadership to initiate and even manage the relationship, while other relationships can be initiated and managed through delegation to other tribal staff, such as tribal child welfare directors, judges, attorneys, or community members.

One example of a federal requirement that involves intergovernmental relationships is federally-required consultation between tribal and state representatives under Title IV-B of the Social Security Act. This provision requires states to provide a description in their Title IV-B funding plan, developed in consultation with tribes and tribal organizations in the state, of the specific measures taken by the state to comply with the ICWA (see 42 USC 622(9)).



Having a clear plan to support relationship building and management of relationships is central to being successful in your ICWA advocacy. Charting out the critical relationships that are needed for successful ICWA advocacy, who is responsible for initiating and managing the relationship, what the goals are for the relationship, and how to address challenges in the relationship will help you create clear expectations and manage the relationships successfully.

State child welfare agencies that work closely with tribal child welfare agencies are more likely to be successful in meeting ICWA requirements especially with regards to placement decisions (GAO, 2005)

Tribal Child Welfare Program Support

One of the most demanding positions in any tribal government is in tribal child welfare programs. Whether it is the program manager or frontline workers, each day presents new challenges with families and children, some which can be life threatening for the children involved and present safety risks for the staff that must go into homes to check on children. They often have the pulse of the community when it comes to family needs and risk to children from abuse or neglect. They also regularly interact with state caseworkers who are assigned to child welfare cases involving tribal citizens. Often tribal child welfare staff co-case manage cases with state caseworkers that involve tribal members under state jurisdiction. A 2005 General Accountability Office study of ICWA implementation found that state child welfare agencies that work closely with tribal child welfare agencies are more likely to be successful in meeting ICWA requirements, especially with regards to placement decisions (GAO, 2005). Tribal child welfare administrators, supervisors, and caseworkers play a critical role in helping ensure proper case planning occurs with tribal families involved in state child welfare systems, including these functions

- Consulting with state caseworkers and state courts on proper identification of ICWA eligible children
- Locating and sometimes offering culturally appropriate in-home services, family support services, and treatment services for the child and family
- Locating and preparing expert witnesses from the tribe to testify in state court
- Helping investigate reports of child abuse and neglect with tribal families
- Recruiting caregivers for children that cannot stay at home and providing support to the caregivers
- Coordinating with the tribal attorney and state caseworker regarding court proceedings and providing testimony themselves
- Supporting tribal families that are not familiar with the state child welfare system and empowering them to advocate for themselves
- Training state child welfare staff and court personnel on ICWA requirements

Tribal child welfare staff occupy a highly visible and sensitive place in the community. Having regular opportunities for tribal child welfare staff to engage with tribal leadership and share their observations, discuss service trends, family needs, the state-tribal relationship, and ideas for solutions can be very empowering for staff and help tribal leadership stay informed of current challenges surrounding ICWA implementation. The tribal leadership role to provide oversight over tribal programs is a key reason for ensuring communication happens regularly and is provided not just when there are concerns regarding the tribal child program, but as a means to share positive information and support to the program, and collaborate on addressing tough ICWA challenges.

Tribal administrators can also be a resource for tribal leadership by participating with tribal leadership on state or national child welfare advisory groups. For example, in many states, tribal-state ICWA advisory committees exist to provide a policy forum to address issues that impact ICWA compliance and develop policy solutions. These forums tackle both policy and practice issues that impact ICWA compliance. Having tribal leadership at the table can enhance policy development efforts and provide important support to tribal program administrators on an advisory committee. Furthermore, many tribal child welfare staff have limited training or experience with policy work. Sharing the basics of how policy work is done and setting expectations for the staff's role in policy forums can be helpful for tribal child welfare staff as they work to

improve ICWA protections for tribal children and families. Some examples of information that can be helpful to share are:

- How are tribal representatives selected for outside policymaking bodies?
- What is the role for a tribal staff member when serving as a tribal representative?
- What is the protocol for how information from these forums is shared with tribal leadership?
- How are tribal decisions related to discussions at these forums made?
- How are tribal decisions communicated back to the forum leadership (i.e. state and other tribal representatives)?

Intergovernmental Agreement Development

Child welfare is one of the most highly regulated program areas of any in human services. This is in large part due to the high stakes related to children's safety and the subjective nature of accurately interpreting and predicting human behavior. Having well-defined processes to support good decision making in child welfare is very important. State child welfare systems involve large bureaucracies and numerous contracted service providers, and include a variety of different parties in court proceedings. States also have to answer to state policymakers and maintain compliance with different funders' requirements. As each of these entities interacts with an individual case many different perspectives can develop that will influence decisions for the children and families involved. This necessitates the development of intergovernmental agreements that define shared principles, roles of each party, guidance on the provision of service and decision making in child welfare cases involving tribal children and families. Many tribes have developed these types of agreements that help provide clarity and continuity in a dynamic and ever-changing child welfare system. The tribal leadership's role is critical in creating the right environment for the development of effective intergovernmental agreements and ensuring they meet the high level principles important to the tribal community. Some specific roles for tribal leadership in the process include:

- Facilitating relationship development with outside government officials to support an effective process and meaningful tribal participation
- Establishing principles of engagement and process for development of the intergovernmental agreement
- Providing support to and regularly communicate with tribal representatives and content experts as they work to develop intergovernmental agreements
- Intervene and facilitate solutions when conflict that can't be addressed at a tribal representative level occurs
- Review drafts of the agreement with tribal representatives and provide feedback
- Communicate tribal approval of the agreement when it is complete

Policy Development

Another opportunity to boost ICWA implementation is improving policies, whether federal or state, that may place barriers to children and families getting the assistance they need to provide a safe home for their children. While the ICWA law has not changed since 1978, there have been numerous other federal and state child welfare laws or policies enacted since that time that have a positive impact on AI/AN children and families in state and tribal child welfare systems. These laws and policies have supported ICWA's implementation in several different ways. They include:

- Increased federal and state funding for tribal child welfare services to help tribes offer more culturally-based services to tribal member families under state child welfare jurisdiction
- State legislation to recognize tribal customary adoptions in state child welfare proceedings.
- Federal administrative policy to increase collection of data on AI/AN children in state foster care systems
- Federal legislation that requires states to consult with tribes on implementation of ICWA
- Federal legislation that authorizes the Department of Health and Human Services to establish federal child welfare program requirements that support the use of culturally-based services by tribes instead of mainstream services mandated in law



- Federal legislation that allows flexibility by the Department of Health and Human Services when establishing non-federal match requirements for tribes that take into consideration tribal economic realities
- State policies and procedures that recognize ICWA types of protections for AI/AN children who are not technically eligible for membership in federally recognized tribe (i.e. kinship placement and case consultation with state recognized tribal officials)

The National Indian Child Welfare Association's (NICWA) website is a good place to learn about current federal legislation, administrative regulations, budget issues, and court cases that impact conditions and services for AI/AN children and families (see Child and Family Policy Update at www.nicwa.org).

Another source of policy related information is the First Kids 1st Initiative (<http://firstkids1st.org>). NICWA as a partner with the National Congress of American Indians, National Indian Education Association, and National Indian Health Board form the internal core partners that established the First Kids 1st Initiative beginning in 2007. This Initiative is a partnership of national AI/AN organizations, tribal leadership, mainstream advocacy groups, and other dedicated external partners committed to improving the well-being of AI/AN children and youth. First Kids 1st publishes an annual Native Children's Agenda that describes key national policy issues that the initiative is working on with recommendations for policy changes (see First Kids 1st website).

State policy development is another opportunity for improving ICWA implementation. It can happen in state-tribal advisory committees as described above or it can happen in coalitions (state or tribal). One common example of a coalition-based work is seeking to pass state legislation that supports ICWA purposes. Whether tribal, state, or private agency initiated, often coalitions work with a variety of allies supporting a specific policy goal, such as increasing funding for services or passing legislation that supports improved services. The opportunities can vary, but tribal leadership play a key role in ensuring the proposed policies meet their community's needs and the work is performed in a manner that respects tribal sovereignty and self-determination. When working on state policy it is not uncommon for non-Indian service providers and interest groups to be involved that have little knowledge of tribal governmental status, the unique policies that pertain to AI/AN children and families in child welfare, or experience partnering with tribes in policy development activities. In these situations, tribal leaders play a key role in educating coalition partners and helping maintain an appropriate and positive working relationship.



Finally, tribes can examine their own family or children's codes to see if there are places where they can support tribal children and families who are in state child welfare proceedings, such as creating a provision that establishes tribal placement preferences for use in state court proceedings as authorized under ICWA. Other examples include defining who a relative is for purposes of placement of children and foster care licensing standards for tribally-licensed foster care homes that can be used with tribal children needing a placement who are under state jurisdiction. Policy change can be a powerful tool in removing barriers for children and families and creating new opportunities to support their well-being.

In the sections below, we discuss several tools that can support effective ICWA advocacy: intergovernmental agreements, tribal-state court collaboration, state ICWA legislative coalitions, and national advocacy. Tribal leaders can investigate their community's needs and consider whether these tools support their desired advocacy goals and strategy. Each section includes resources where you can learn more, including examples of tribes who have already used the tools or resources.

Tools to Support ICWA Advocacy

Intergovernmental Agreements

As sovereign nations, tribes can enter into agreements with states to address any of the numerous issues that affect their citizens. Section 1919 of ICWA explicitly encourages states and tribes to enter into agreements with one another regarding a variety of child welfare purposes. While these agreements are not required, they can help clarify important functions and roles in child welfare between tribes and states and leverage limited resources. For example, an agreement can help resolve confusion over whether the tribe or the state has jurisdiction in cases, establish procedures for how tribes will assist states in implementing ICWA provisions, authorize the state to share funding or services with tribes, and define how grievances will be addressed. In addition, they establish uniform methods for providing services to AI/AN children and families that will apply in every case, regardless of staff turnover, and promote shared responsibility for the well-being of tribal children and families in the state child welfare system. The Association on American Indian Affairs published a survey of tribal-state ICWA agreements that discusses them in detail (Keller O'Loughlin, 2017). The Association on American Indian Affairs also published a report that examines tribal-state Title IV-E funding agreements (Trope and Keller O'Loughlin, 2014).

In Washington State, 13 of the 29 federally recognized tribes have entered into local intergovernmental agreements, which they call memoranda of understanding (MOUs). The MOUs provide each tribe an opportunity to address their specific concerns and priorities with the state child welfare agency separate from the more comprehensive statewide agreements (see description below). The MOUs are regularly reviewed together by the state and the tribe and updated as necessary. You can view examples of these agreements as well as a template form you may find useful at <https://www.dshs.wa.gov/ca/indian-child-welfare/tribalstate-memorandums-understanding>.

Further, Washington State also has two versions of a collective agreement—one for tribes with concurrent jurisdiction and another for tribes with exclusive jurisdiction—that apply to all of the tribes in the state. This agreement is more comprehensive than the local MOUs that can be found in the link above. You can view the collective agreements at <https://www.dshs.wa.gov/sesa/office-indian-policy/indian-policy-advisory-committee-ipac>. The development of these agreements took cooperation from all of the tribes in the state and were primarily driven by tribal interests and advocacy, as opposed to state interests. It may be useful to pursue these kinds of agreements similarly to the way you would form a coalition for state ICWA laws, which is discussed later.

Court Relationship and Tribal-State Forums

Tribal courts and state courts have a critical role in decision making in child welfare that impacts AI/AN children and families. Collaborations between the judicial branches of both governments are increasing and have yielded improvements in implementation of ICWA. These collaborations have the benefit of helping AI/AN children under both state and tribal jurisdiction. Most often, they do this by creating state-tribal court forums. These state-tribal child welfare court forums are often initiated by tribal leaders with the assistance of tribal judges and focus on improving court processes for AI/AN families and children, while improving compliance with ICWA. For example, in California, a tribal-state forum began with a request from a tribal court judge for a meeting with a state supreme court judge. You can also help initiate forums and relationship building by learning more about such forums, speaking with your tribal court officers (judges, prosecutors, attorneys for children and parents) that work on child welfare cases, and speaking with the state court officers that come into contact with your tribe's children and families who are in the state child welfare system. Supporting these efforts are federal Court Improvement Project funding under Title IV-B of the Social Security Act. States have been receiving these funds since 1994 and are required in their plans to demonstrate meaningful and ongoing collaboration with tribes (see 42 USC 638 (b)(1)(C)). In 2011, tribal governments were afforded this funding too. One million dollars of funding is currently available to tribal courts for purposes of improving training, data collection, and court processes that will improve outcomes for AI/AN children and families in tribal child welfare systems. You can find information about these tribal grants at <https://www.acf.hhs.gov/cb/resource/tribal-cip-grants>. The National Council of Juvenile and Family Court Judges provides resources on tribal-state court collaboration. A report from 2012 provides an overview of collaborations and discusses promising practices in the development and operation of these (Davis and Jackson, 2012).. You can also read more about the history, accomplishments, membership, and ongoing activities of the California Tribal Court-State Court Forum at <http://www.courts.ca.gov/programs-tribal.htm> and the New Mexico Tribal-State Judicial Consortium at <https://tribalstate.nmcourts.gov/>.

Using Coalitions to Create State ICWA Laws

Establishing state ICWA laws can be very beneficial because they not only reiterate the importance of the federal ICWA, but they can also create higher state law standards for individual ICWA requirements and provide additional clarification on provisions that the federal statute does not address fully. Forming a coalition to advocate for the development of a state ICWA law is labor intensive and requires getting state and tribal partners on board, but it also creates a meaningful opportunity to shape enforceable laws that protect some of your most vulnerable tribal citizens.

As Liz Mueller, Vice Chair of Jamestown S'Klallam Tribe in Washington, puts it, "Establishing a state ICWA law was a lot of work. To begin with, you have to make sure that you understand the problem. We

Data is critical to tribes and states understanding the specific strengths and challenges to ICWA implementation and the most effective means to improving outcomes for AI/AN children and families.

knew there were problems because of the large number of tribal children being taken into state foster care and then staying in foster care for a long time. We got the numbers from the state, and they weren't hard to get."

Vice Chair Mueller played a key role in getting a state ICWA law passed in Washington State in 2011 (RCW 13.38.010 et. seq.), and emphasizes that one of the most important things tribal leaders did was take "fifty questions" [about the experience of AI/AN children and families] and went to different areas in the state and pulled case files of AI/AN children in state custody. The questions looked at things

like whether the state contacted the tribes, parents—mother and father, grandparents—maternal and paternal grandparents. The case reviews revealed that notice [to the tribe about the proceeding] was not being sent out, that case workers were complaining that judges didn't believe in ICWA and so wouldn't listen to them, and that some state case workers were even falsely claiming AI/AN heritage so that they could serve as qualified expert witnesses.

Armed with their case review data, Vice Chair Mueller said that "once the state listened to the evidence, they were on board." With the tribes on board and the state house of representatives and state senate on board, the coalition worked on solving the specific problems they found in the case reviews. Today, the Washington State ICWA goes over and above the federal law by requiring notice, even in voluntary foster care and adoptive placements, listing out who may serve as a qualified expert witness, and detailing what is required by active efforts to help prevent removal and reunify children safely with their families.

In contrast, Michigan's legislative coalition was driven by their state's court improvement project. Stacey Tadgerson, Director of Native American Affairs at the Michigan Department of Health and Human Services, shared her perspective:

"We all met at the state court Hall of Justice, which really lent a lot of prestige to our work. Each time we met, there were packed rooms. There would be ten people sitting at ten plus tables, so there would be at least a hundred people at a time, each providing expertise and examples of ICWA compliance problems and successes. There was a lot of consensus building rather than a top-down parliamentary process. It was very collaborative. This was not all court-, state-, or tribally-led. It was just wonderfully perfect that the State Court Administrative Office could support this work as a convener of the many different people and governments."

The State Court Administrative Office (SCAO) managed the state law project by dividing "the law into sections within an Excel sheet." Director Tadgerson said, "We'd go through all of the sections one by one, looking at what the federal ICWA said, what we wanted Michigan's law to say, adding in whether there were any comments, and what was still needed, what was complete." In addition, if there were questions, or if there was a lack of consensus, the SCAO took the lead on tabling the discussion, doing background research, or assigning research to specific experts.

Just as with Vice Chair Mueller's experience, relationships played a key role in Michigan's process, especially those of tribal leaders. For instance, Director Tadgerson felt that several influential people were extremely helpful in getting the legislation to the finish line. For instance,

Then Director of Michigan Department of Health and Human Services, Maura Corrigan, was a former state supreme court justice. She played a huge part in working with the state senator who sponsored the legislation. There was also the United Tribes of Michigan, a coalition of tribes and tribal leaders within the state, who worked both collaboratively, and individually to pass resolutions and provide testimony on the legislation.



To see how the Michigan Indian Family Preservation Act (MCL 712B.1 – 712B.41) compares with ICWA, you can see a chart located at: <http://courts.mi.gov/Administration/SCAO/OfficesPrograms/CWS/CWSToolkit/Pages/ICWA-MIFPA.aspx> (see ICWA/MIFPA Comparison Reference Chart).

Data Collection

Because ICWA does not provide mandatory collection of ICWA data collection and accompanying review of compliance, tribes and states have had to turn to developing voluntary state data collection efforts. These efforts vary from state to state and only a few states regularly collect more comprehensive data on ICWA implementation. Washington State is one of the states that regularly collects ICWA data and their system allows for data to be collected and analyzed at both a state and regional level. The data is critical to tribes and states understanding the specific strengths and challenges to ICWA implementation and the most effective means to improving outcomes for AI/AN children and families. Vice Chair Liz Mueller explains,

“Now, the Indian Child Welfare Case Review Tool is used to review cases every two years, and each state region has to come up with a plan to address the problems discovered in the reviews. The Review Tool is also a great training tool for case workers, because it makes it so easy to understand what they’ll be reviewed on. They can keep it at their desks and check and make sure they’re doing things right.”

You can read more about Washington’s Indian Child Welfare case review at these websites:

- <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewArticles&issueid=139&articleid=3637>
- https://www.acf.hhs.gov/sites/default/files/cb/es2011_session_203_handout.pdf



National Advocacy

The federal trust relationship provides the basis for much of the policy infrastructure and resources that tribal governments and AI/AN people depend upon for their well-being. In Washington, DC, Congress writes many of the laws that guide tribal and state child welfare practice, and federal agencies like the Bureau of Indian Affairs and Administration for Children and Families administer the programs that provide funding to support tribal and state child welfare services. With these programs come legal requirements, often in the form of regulations, program guidance, or policy announcements, that shape how resources are allocated and how they can be used to support children and families in the child welfare system. While the actions of policymakers, whether they are congressional members or administration officials, can seem far removed from daily life in tribal communities, they have immense power to shape the critical resources that are needed to serve children and families. In many cases, federal child welfare policy says little about application to tribal children and families, but even when it is silent on application to AI/AN families, it can create barriers to using cultural services, be in conflict with ICWA requirements, or overlook the need for states to consult with tribes before making critical program decisions. Tribal leadership involvement is needed to ensure that federal policymakers are educated about the child welfare needs of AI/AN children and families and have access to policy solutions that can avoid inadvertent oversight of or barriers to effective services for this population.

The role of tribal leadership in national ICWA advocacy requires partnership with a variety of organizations and groups, particularly local tribal child welfare management and staff. Tribal child welfare staff can inform leadership about the local needs and issues that children and families are facing, and sometimes may have insight into the policy issues that are impeding good outcomes.

National policy expertise is a resource that can be obtained through NICWA or other Indian child welfare policy experts that practice on a state or tribal level. NICWA has led or participated in many state and national child welfare policy coalitions and has resources to help you plan tribal advocacy efforts. Developing a list of your tribe's child welfare policy priorities informs an effective national advocacy effort. On the national level, there are several opportunities each year to voice your needs and concerns to federal policymakers and administration officials. These forums include:

- U.S. Department of Health and Human Services (HHS) Annual Budget Consultation on programs impacting tribal communities—Tribal leaders participate and advocate for budget priorities that fall within HHS agencies, such as the Administration for Children and Families (ACF)
- Tribal Interior Budget Council—Tribal leaders participate and advocate for budget priorities that fall within the Bureau of Indian Affairs
- U.S. House of Representatives and Senate Interior Subcommittee Appropriations testimony—Public testimony invited on tribal programs that fall under the Bureau of Indian Affairs, such as ICWA and BIA Social Services
- Briefings and hearings in the U. S. House of Representatives and Senate regarding child welfare programming or issues—Each year the House and Senate hold a series of hearings and sponsor briefings on family well-being and child welfare issues
- Administration for Children and Families regional and national tribal consultation sessions—Each year ACF holds consultation sessions for tribes in their regional areas and one in Washington, DC, where tribal leaders can attend and learn more about ACF programs, discuss their needs, and make policy recommendations related to human service programs administered by ACF
- National Congress of American Indians (NCAI) Executive Council Winter Session—Each year NCAI hosts this session in Washington, DC where tribal leadership can come to hear from federal policymakers and administration officials and discuss critical issues to be addressed

In addition to these ongoing policy events, there are policy initiatives specific to a piece of legislation or set of administrative regulations that may be happening in any given year. These are often highlighted in NICWA's regularly updated Child and Family Policy Update (see www.nicwa.org). As your tribe develops its priority list of child welfare policy issues, please consider discussing it with NICWA to see if there are any federal policy initiatives that might be inclusive of the ones your tribe has prioritized. In addition, NICWA can help you locate additional resource materials and relationships that you may need to advance your tribe's policy agenda.

Conclusion

While much ICWA advocacy occurs in the context of individual child custody proceedings, the ability to create lasting, systems change can only occur with tribal leadership involvement. The case-by-case advocacy that is often the default in child welfare is not an effective method for successfully addressing chronic problems like disproportionate numbers of AI/AN children in state foster care, disparate treatment of AI/AN parents, and uneven implementation of ICWA protections with tribal families.

Tribal leaders have the unique authority and ability to carry messages and develop relationships with other policymakers that tribal program staff often do not have. With many different ICWA advocacy opportunities available, having a tribally developed plan that lists policy priorities and is developed with tribal administration and program staff will help direct advocacy efforts and resources to where they are most needed. Resources for tribal leadership related to ICWA advocacy are available from organizations like NICWA, and tribal leaders are encouraged to reach out for assistance. ICWA advocacy is a necessary component of helping tribal children and families access the help they need. It requires dedication, coordination, relationship building, and training to be successful, and is proven to improve outcomes for AI/AN children and families and build more stable, confident tribal child welfare programs.



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The First Kids 1st – Every Child is Sacred Initiative

is a national collaborative effort and is comprised of leading Native American organizations, allies, and partners from all backgrounds, focused on changing national, tribal, and state policy to create conditions in which American Indian and Alaska Native children can thrive. We are working to cultivate and nurture strategies and policies that build and strengthen equitable and local supports for vulnerable Native children in their communities.



A Partner With Communities Where Children Come First

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