

# Advocacy through Engagement: A Resource for Tribal Case Managers Involved in State Child Welfare Proceedings with Native Children and Families



**NICWA**  
National Indian Child Welfare Association  
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## Purpose:

The National Indian Child Welfare Association (NICWA) created this resource as a tip sheet for Tribal case managers involved in state child welfare systems serving Native children and families. This tip sheet provides guidance on how to advocate for improved services for Native children and families and compliance with the Indian Child Welfare Act (ICWA) (25 U.S.C. 1901 et seq.). **Tribal case managers play an integral role in ensuring state and private agency decisions improve protections and support for Native children and families and view Tribal sovereignty as a resource in meeting the needs of Native children and families.**



Tribal case managers intervene in state child custody proceedings involving Native children and families and advocate for appropriate services, placements, effective approaches to working with Tribal Nations effectively, and proper implementation of the Indian Child Welfare Act.

## Description:

**Tribal case managers play a pivotal role in cases involving Native children and families in state and private agencies and state court systems.** They provide specialized knowledge and culturally informed skills, coordinate Tribal and other cultural services and supports, recruit and license out of home placements, and provide training and coaching to state and private agency case workers on implementing the Indian Child Welfare Act and skills for working effectively with Tribal Nations and Native families. This resource is not meant to be exhaustive but offers practice tips for the Tribal caseworker to support the proper implementation of ICWA in state child custody proceedings and casework where there is reason to know a child may be an “Indian child” as defined in ICWA. Some of the areas discussed include intentional and consistent engagement with the child’s family and Tribe, provision of active efforts, recruitment and use of appropriate out of home placements, helps ensure Native families receive the support and services necessary to keep children safely at home, achieve reunification when removal occurs, and preserve the child’s connections to extended family, Tribal community, and culture. Below are practice tips designed to assist a Tribal caseworker when a Native child and family become involved with a state child welfare system.

## Navigating ICWA Inquiry, Notice, and Intervention:

1. Establish a process within your Tribal Child Welfare department and Tribal enrollment to coordinate responses to ICWA inquiries from state or private agencies. Develop strategies for different situations, including requesting more information from the state or private agency, ensuring the agency or court understands

your Tribe has an interest in the case until you have a final Tribal membership determination, and provide clarifying next steps and expectations with the state or private agency while a Tribal membership determination is being made.

2. Notify the state or private caseworker of the difference between inquiry and notice. The inquiry process starts with the state or private agency inquiring whether the child they are working with is a member or eligible for membership in a federally recognized Tribe. The notice process involves notifying the child's Tribe of a state court proceeding that is being scheduled that involves the Native child and their family. Help them understand how the Tribal enrollment process works and the Tribe's process to determine how and when they will intervene. Provide the names and contact information for Tribal enrollment and child welfare contacts.
3. Promptly respond to the notice and ask for extra time if needed. Clarify if the Tribe will be exercising the option under ICWA to request 20 additional days to prepare before a child custody proceeding can be scheduled. This is in addition to the requirement that a proceeding cannot be scheduled for at least 10 days after receipt of the notice (25 U.S.C. 1912(a)).
4. Ask for clarification on what key decisions have already been made and their basis and upcoming decisions that will need to be made. **Ensure the state or private caseworker understands the Tribe's right to intervene, receive case information, and participate in casework and court hearings.** Identify any concerns the Tribe may have regarding decisions already made and direction of the case going forward. Suggest a strategy for communication to ensure the Tribe is able to participate in key decision making throughout the life of the case (investigation, supports and services, placement, reviews, and permanency discussions).
5. Ensure the state court has made findings that the child is an "Indian child" (25 U.S.C 190(4)) and the proceedings are a child custody proceeding under ICWA (25 U.S.C. 1903(1)).
6. Educate the state or private caseworker about Tribal services and supports the Tribe may be able to provide in the case. Let them know the Tribe is interested in discussing services and supports the child and family needs.
7. If voluntary services or a placement are going to be used, let the state or private caseworker know that the Tribe would still like to be involved and that ICWA requirements, such as

## Jurisdiction

1. While the state court, with the Tribe's assistance, will determine jurisdiction of the case, the Tribal caseworker can be helpful by providing initial information to the state or private agency and state court regarding whether the child is currently a ward of the Tribal court and where the domicile of the child and parents resides.
2. If the Tribe decides to petition for a transfer of jurisdiction from state to Tribal court, the Tribal caseworker can ensure that all relevant and





important information in the case is shared with the Tribe (e.g. case record information, benefits eligibility documentation, and extended family, resource family, and support persons contact information).

3. Use a team approach to assessing the need to transfer a case from state to Tribal court and how to address the transition once transfer is granted. Work with the Tribal court, behavioral health, health care, extended family, schools, and other appropriate service providers to ensure the transfer goes smoothly and the transition for the child and family is as seamless as possible.

## Emergency Removals and Investigations

1. When appropriate, remind the state caseworker that ICWA requires the state to provide notice to the child's Tribe of an emergency removal and court proceedings. The notice does not have to be provided by registered or certified mail as is required in foster care and termination of parental rights (TPR) proceedings.
2. For cases that are closer to Tribal lands, consider developing an agreement with the state or county child welfare agency to notify the Tribe and provide an opportunity to participate in child protection investigations. This can be accomplished through an agreement with the state agency and/or law enforcement that respond to referrals of children alleged to be maltreated. In addition, consider asking the state or county agency to provide information about cases involving Tribal families where the state chose not to investigate or intervene formally and instead referred the family to services.
3. Ensure family risk assessment and safety plans used by the state or private agency reflect culturally sound methods for assessing safety risk and protecting Native children from existing safety threats. If the current assessments or plans are not culturally sound, work with the state or private agency to culturally adapt current methods.

## Active Efforts

1. Assist the state caseworker in determining what qualifies as active efforts in the case. Remind them that active efforts apply in any situation where there is a risk for removal of an Indian child, including during the provision of prevention services, and after removal during reunification efforts and the period between when a petition to terminate parental rights is filed and when the petition is acted upon by the state court. Also share with the state caseworker that active efforts are not dependent upon what services the state or county currently operates, but requires additional efforts and creativity. Utilize the 11 examples in the ICWA Final Rule as a starting place to

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plan for and assess whether active efforts are being provided (23 CFR 23.2).

2. Encourage the use of Family Group Decision-Making Meetings to ensure family members and trusted community members as identified by the family are appropriately engaged in case planning and can provide input regarding the needs of the family and appropriate services for them. Ensure family engagement methods and tools are culturally sound and accurately reflect the culture of the child and family.
3. Help locate resources that are culturally appropriate, including Tribal services or other services provided by Native organizations. Notify the state caseworker that the Tribe would like to discuss services and supports provided to the family to ensure they are culturally appropriate and meet active efforts requirements.

4. Help locate extended family and other supportive people as a resource. Extended family and other supportive people in the child's life can serve an important role in providing ongoing support and healing to the child and family, even while an out-of-home placement is being identified.

## Placement and Qualified Expert Witness

1. Work with the state or private agency caseworker to locate and train appropriate Qualified Expert Witnesses (QEW) to testify in foster care and termination of parental rights proceedings. Ensure the state or private agency caseworker understands how an ICWA QEW role differs from that of other expert witnesses that may testify in child custody proceedings.
2. Create and keep a list of Tribally approved QEWs. **Educate the state or private agency caseworkers on what specific knowledge and experience makes for an effective QEW in an ICWA case.**
3. Consider working with other Tribes to collaborate on the identification, training, and use of QEWs in your state or region. Ensure QEWs are familiar with state child custody proceedings, how cross-examination works, and understand what information is appropriate to share in court. Identify ongoing support for QEWs to help them feel comfortable and confident in their role.
4. Encourage state or private caseworkers to follow requirements under Title IV-E of the Social Security Act that require states to exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child within 30 days of a removal and assist them in becoming a placement for the child (42 U.S.C. 671(a)(29)).
5. Identify barriers to training and licensing that ICWA placement preference homes

may experience, especially relatives. Seek solutions to common barriers like lack of support for relatives and other placement families in negotiating criminal background checks, participating in required training, and addressing safety concerns in homes.

6. Consider having the Tribe conduct a home study for a proposed placement where a Native child will be placed. Utilize the requirement under Title IV-E of the Social Security Act that requires a Tribal home study be treated as equivalent to a state home study (42 U.S.C. 671(a)(26)(B)).
7. Encourage state or private caseworkers and foster care licensors to utilize the waiver authority under Title IV-E of the Social Security Act to waive any non-safety standards used in licensing foster homes that interfere with the ability of the placement home to be licensed (42 U.S.C. 671(a)(10)(D)).
8. Help resource families locate services like childcare and respite care and conduct regular check-ins to ensure resource families understand their role (e.g. foster care as a temporary placement, support of family reunification efforts, importance of cultural connectedness, appropriate understanding of bonding and attachment for children placed in out of home care). Ensure they are provided with ample support and time to prepare for transitions in the placement that may occur.
9. Create a master list of Tribally approved or licensed foster homes that can be shared with state or private caseworkers.
10. Provide information to the state or private agency caseworker and the court on the Tribe's placement preferences, if available, that can be used in lieu of ICWA's placement preferences.

## Termination of Parental Rights and Adoption

1. Monitor accuracy of information being used to substantiate need for TPR. Advise the court if any of the information is not accurate and how it could impact application of ICWA and achievement of case and treatment plan goals. Examples of questions to ask the state or private agency caseworker could include the following:

A. Is the court using ICWA's heightened standard of proof (beyond a reasonable doubt)?

B. Is information being used to determine if active efforts were provided accurately (were culturally appropriate services provided, when were active efforts started, how was Tribe involved in process, etc.)?

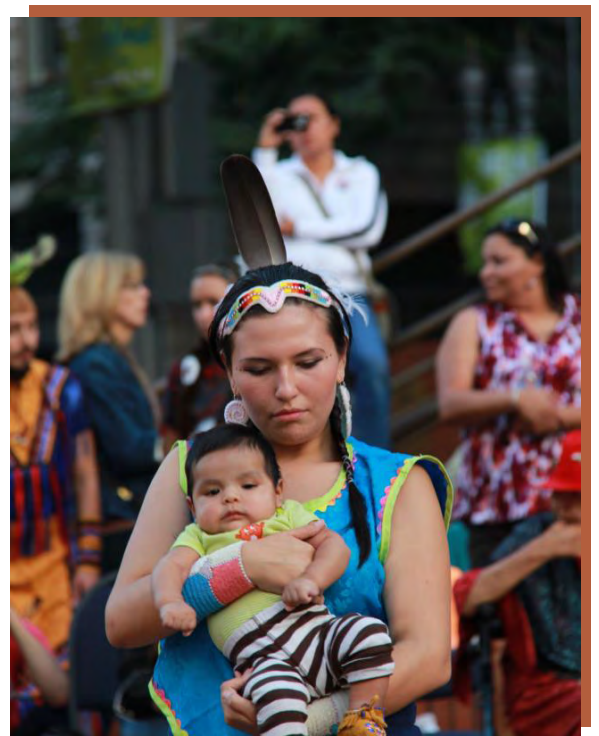
C. Did the QEW that testified in the proceeding provide accurate information?

2. If needed, supplement the QEW testimony with examples of Tribal community standards regarding the care and safety of children including Tribal practices, customs and policies.
3. Work with Tribal enrollment to identify all relatives of the child to explore permanent placement options.

4. Explore holding a Family Group Decision Making Meeting to discuss proposed TPR and/or adoptive placement to seek feedback and discuss ramifications.
5. Explore permanent placement alternatives that are acceptable to the child's Tribe and don't require TPR, such as Tribal customary adoption or guardianship.
6. Assist the state or private agency in providing full information to birth parents on their rights under ICWA and ramifications of different placement options.
7. Ensure parental consent to TPR or adoption was fully informed and performed according to ICWA requirements. Ensure the non-custodial parent received accurate information and had an appropriate amount of time to respond to the proposed placement.
8. Provide the state court an understanding of the importance of cultural connectedness and an appropriate understanding of bonding and attachment to assist in determination of whether the proposed adoptive placement is appropriate for the child.
9. Assist the adoptive family in accessing Tribal resources, adoption assistance payments (see individual state programs), and federal adoption tax credits that may be available. This includes helping the child establish or maintain their Tribal membership, including maintaining documentation of the child's adoption in Tribal enrollment records.

## Advocating in State Court as a Non-Attorney

1. Tribal caseworkers who are not attorneys may be able to intervene and participate in state child custody proceedings depending upon the rules of the state court where the proceedings are occurring. Contact the Law or Court Clerk for the state court to inquire about the rules regarding participation of non-attorneys in state child custody proceedings involving Native children.
2. Prepare and file a motion for Tribal intervention with the state court to ensure the court knows the Tribe is intending on participating as a legal party in the case. Inquire about alternative methods for participating, such as video conference.
3. If the child's Tribe has intervened, contact the Law or Court Clerk for the state court the case is appearing in and advise them you will be participating as a non-attorney representative for the Tribe in the next proceeding and that you would like to share information on the Tribe's perspectives. Try to make this call at least a week before the hearing.



4. Be prepared to answer questions from the state court judge if called upon or get the attention of the judge to share important information. Be prepared to speak to a range of topics including the progress of the case and treatment plans for the child and parents, active efforts, collaboration between the state caseworker and Tribal caseworker, placement options, and Tribe's priorities and plans going forward. You can also inquire about submitting a written report or affidavit to attest to facts or interactions with the state or private agency and have these put on the record.
5. Focus on your strengths. Stick to the facts in the case and prioritize your responses to issues that the state court does not understand.

## Resources

National Indian Child Welfare Association. (2025). ICWA Quick Resource Guide.  
<https://www.nicwa.org/wp-content/uploads/2025/04/ICWA-Quick-Resource-Guide-updated-7.29.25.pdf>

National Indian Child Welfare Association. (2025, May). Tips for Engaging and Supporting Native Families Caring for Children.  
<https://www.nicwa.org/wp-content/uploads/2025/05/Tips-for-Engaging.pdf>

Lummi Child Welfare. (2021, March). Comprehensive Guide to Active Efforts.  
<https://www.wacita.org/wp-content/uploads/2021/03/Comprehensive-Guide-to-Active-Efforts-Lummi-Nation-Published-3-26-21.pdf>

Bureau of Indian Affairs (n.d.). Indian Child Welfare Act.  
<https://www.bia.gov/bia/ois/dhs/icwa>

## Acknowledgement



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### About the National Indian Child Welfare Association

The National Indian Child Welfare Association (NICWA) protects the safety, health, and cultural identity of Native children and families today and for future generations. NICWA strengthens tribal capacity to prevent child abuse and neglect, advances policies that uphold tribal sovereignty, and promotes Native-led, culturally grounded approaches to child welfare.

Through advocacy, coalition-building, workforce training, and technical assistance to improve service systems, NICWA works at the tribal, local, state, and national levels to ensure that Native children can thrive within their families and communities.

**Learn more at [www.nicwa.org](http://www.nicwa.org).**