



## Native Child and Family Policy Update

May 2026

A copy of this update with live links can be found on the National Indian Child Welfare Association's (NICWA) website at <https://www.nicwa.org/child-and-family-policy-updates/>

### Hot Topics

#### **Request for Public Comment: Protect ICWA Data Elements in AFCARS**

On March 30, 2026, the Administration for Children and Families (ACF) published a [Request for Public Comment](#) regarding the Indian Child Welfare Act (ICWA) data elements added to the Adoption and Foster Care Analysis and Reporting System (AFCARS) per the December 2024 [final rule](#). ACF is specifically requesting comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

NICWA is in the process of developing comments in response to this request and encourages Tribal Nations to reach out to their states to urge them to provide comments that underscore the importance of these ICWA data elements. Currently, ICWA is the only major federal child welfare law that does not have a structured and regular data collection system that tracks implementation. Establishing these data elements will provide Native children with the same opportunities to benefit from data that other children currently have and will inform responses that address the unique needs of Native children and families in both child welfare policy and practice.

**The comment period closes on May 29, 2026.** You can submit comments by emailing [infocollection@acf.hhs.gov](mailto:infocollection@acf.hhs.gov) and identifying your request by including the title of the information collection activity in the subject line (i.e., Proposed Information Collection Activity; Adoption and Foster Care Analysis and Reporting System (AFCARS)). To help support your comments submission, here is a [sample letter](#).

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## **Department of the Treasury Issues Guidance on Implementation of Tribal Adoption Tax Credit**

Tucked into the One Big Beautiful Bill Act (P.L. 119-21) is a provision that allows families that adopt through a Tribal court eligibility to receive the federal adoption tax credit. This federal tax credit has been available since 1997 for families that adopted a child with special needs through a state court, but the new law now extends that eligibility to adoptions performed in Tribal courts. The new law requires that a Tribe (or state) must make a determination that a child being adopted meets the Tribe's criteria for being special needs. Tribes and states are given flexibility to define what constitutes "special needs," which can include several factors, including the child's ethnic background or race, age, medical condition, or presence of physical, mental, or emotional disabilities. The tax credit includes the option to receive tax credits (lower tax liability) for reasonable costs associated with an adoption and the ability to seek full refundability for up to \$5,000 for associated costs.

After consultation with Tribal Nations and NICWA in September 2025 (see NICWA's comments [here](#)), the Treasury Department issued [guidance](#) on February 26, 2026, regarding implementation of the new law. The guidance recognizes Tribal customary adoptions and provides flexibility to Tribal Nations in how they determine special needs regarding eligibility for the tax credit. While accessing the tax credit is performed through the regular process of filing federal taxes, NICWA is encouraging Tribal child welfare agencies and courts to provide information to prospective adoptive parents to help them be aware of the resources available to them. NICWA previously hosted a webinar on March 24, 2026, to provide additional information on the new law and opportunities for families who adopt through a Tribal court. You can watch the recording [here](#). For additional information, contact Evan Roberts at [evan@nicwa.org](mailto:evan@nicwa.org).

## **Department of Health and Human Services Holds Tribal Budget Consultation in April**

Each year the Department of Health and Human Services (HHS) holds a Tribal Budget Consultation to gather input from Tribal Nations on HHS funding and policy-related priorities. The consultation happens early in the year as HHS begins development of their fiscal year 2028 budget recommendations that will be included in the President's budget and presented to Congress in early 2027. NICWA has provided testimony each year since the budget consultations began in 1999 and focuses on child welfare programs under the Administration for Children and Families and children's mental health programs funded under the Substance Abuse and Mental Health Services Administration.

NICWA submitted written testimony ahead of the consultation, and Vice Chairwoman Loni Greninger (Jamestown S'Klallam Tribe) provided NICWA's testimony, underscoring our commitment to advancing the well-being of Native children and families. NICWA's testimony included funding and legislative recommendations that would provide Tribal

Nations with more workable funding levels—after years of little or no increase—and to improve outcomes for Native children and families, whether in Tribal or state systems. You can read NICWA’s testimony [here](#).

## **White House Issues an Executive Order on Child Welfare**

On November 13, 2025, the Trump Administration issued Executive Order (EO) 14359 entitled “Fostering the Future for American Children and Families.” The EO directs federal agencies overseeing child welfare policy and programs, among other things, to review current child welfare policies to assess how data collection is used to evaluate whether a program is successful, expand the use of Artificial Intelligence (AI) and predictive analytics in child welfare services, speed up the placement of children into a permanent placement if they can’t return home, and increase partnerships between child welfare agencies and faith based organizations. Related to EO 14359, Assistant Secretary for the Administration of Children and Families under the Department of Health and Human Services, Alex Adams, has spoken about his goal to have a foster home for every child that needs a foster care placement and generally increase support for foster care families and at-risk families through prevention services in the United States child welfare system.

Some of the actions outlined in EO 14359 could support Tribal Nation priorities, including data collection of information indicative of child well-being and safety. The Adoption and Foster Care Analysis Reporting System data elements that measure implementation of the Indian Child Welfare Act (ICWA) with Native children in state child welfare systems are an example of this effort that could enhance positive outcomes associated with ICWA for Native children. The EO also directs the Department of Health and Human Services to publish an annual scorecard for states on achievement of key metrics and outcomes that include a number of data points important to Tribal Nations and associated with effective implementation of ICWA, such as 1) reducing unnecessary entries into foster care, 2) decrease the time between reports of child maltreatment and investigations, 3) reduce child injuries and fatalities caused by caregiver neglect and abuse, 4) increase caregiver recruitment and retention, 5) improve caregiver and child matching (relative care), 6) reduce placement disruptions, 7) decrease the average time that children spend in foster care, and 8) accelerate permanent placement for children when necessary (ICWA placement preferences).

However, there are also [concerns](#) with how AI and predictive analytics could be incentivized and implemented in child welfare. Predictive analytics, a data-driven process that has been used to assist child welfare agencies in making risk assessments, determining when children should be placed in out-of-home placements, and determining services, has been criticized for reinforcing biases against certain families, particularly against families of color. While some applications of AI in child welfare, such as improving digitization of case notes and training and skill development, could be beneficial, advocates are concerned about the use of AI in other areas that inform key decisions in child welfare. Using AI in child welfare also raises questions about how Tribal data and data on Native children and families in child welfare systems

might be used and how this would impact data sovereignty for Tribes and Native children and families.

NICWA, in partnership with Tribal Nations, is taking steps to learn more about the directives in this EO and talk with the Administration about their plans for implementing the EO with Indian Country, including consultation with Tribal Nations. We encourage you to read more about AI in child welfare and have conversations with your colleagues, state child welfare agency, and Tribal leadership.

## **Legislative Policy**

### **Senate and House Reintroduce Bill on Child Abuse Prevention and Treatment for American Indian and Alaska Native Communities**

On March 24, 2026, Senators Lisa Murkowski (R-AK) and Elizabeth Warren (D-MA), alongside Representative Adelita Grijalva (D-AZ), reintroduced the American Indian and Alaska Native Child Abuse Prevention and Treatment Act (AI/AN CAPTA). These bipartisan and bicameral bills ([S. 4179](#) and [H.R. 8048](#)) would amend CAPTA (P.L. 93-247) to increase the amount of funding available for Tribal Nations to support child abuse and neglect prevention activities and ensure Tribes receive equitable distribution of federal prevention grants.

AI/AN CAPTA would create a separate Tribal set-aside for child abuse prevention funding and increase the set-aside to 5%—supporting sustained investment in Tribal prevention programming and culturally relevant prevention strategies developed by Tribal Nations and Tribal organizations. Currently, Tribes and Tribal organizations share a 1% set-aside with migrant populations through a competitive grants program, funding only two Tribal grantees for each three-year grant cycle.

The Community-Based Child Abuse Prevention program, established under Title II of CAPTA, is only one of two dedicated funding programs that specifically target the design and implementation of prevention programs in Tribal communities. It empowers Tribes to create programs that will be truly effective at preventing child maltreatment—programs that are community-based and tailored to the needs of the local community. A Tribal set-aside would allow for a much-needed increase in the number of Tribes that can operate this program and would also support state efforts to prevent child abuse and neglect. This investment directly strengthens the safety and well-being of Native children, supports Tribal sovereignty, and ensures Tribal communities have the resources they need to protect their families.

NICWA encourages Tribal Nations, Tribal organizations, and advocates for Native children and families to contact their Senators and Representatives—calling on them to sign on to S. 4179 and H.R. 8048 as co-sponsors, and to support the passage of this legislation by the full Senate and House. You can find more information and submit a letter to your congressional representatives through [NICWA's Advocacy Center](#).

## Administrative Policy

### **The Trump Administration Continues Introduction and Implementation of Key Executive Orders**

Starting with President Trump's first day in office on January 20, 2025, his Administration began issuing numerous Executive Orders (EOs) and other policies that are expanding the scope of the Executive Branch's authority in the federal government and challenging constitutional norms regarding the powers of the Executive Branch. These actions are putting roadblocks up to accessing federal funding authorized for Tribal Nations by Congress, eliminating federal staff positions that help oversee and administer federal programs for Tribal Nations, and allowing federal agencies to change regulatory policy that impacts Tribal Nations without notice or consultation. As of January 20, 2026, the Administration has issued over 225 EOs, and the number is expected to grow. You can find a regularly updated list of EOs [here](#). NICWA has summaries of key EOs that impact Tribal Nations and Native Children and Families [here](#). Below are a few EOs and administrative policies that have impacts for Tribal Nation human service programs and Native children and families.

- **Office of Information and Regulatory Affairs, under the Office of Management and Budget (OMB), memorandum [“Streamlining the Review of Deregulatory Action”](#) (see also [EO 14192 on Unleashing Prosperity Through Deregulation](#))**. The OMB memo states the Trump Administration's goal to streamline and speed up the deregulation process for regulations that they consider “facially unlawful.” OMB says agencies shall evaluate and make determinations about what regulations are “facially unlawful” and adds that regulations that are identified as “facially unlawful” will not require notice or a public comment period before making changes. The memo specifically states that existing EOs on Federalism ([EO 13132](#)) and Tribal Consultation ([EO 13175](#)) that require federal agencies to conduct consultation on the impacts of regulatory policy should not be assumed to apply with this Administration's deregulatory process. This policy directive provides federal agencies with the justification for making changes to federal regulations on an expedited basis without any Tribal notice or input.
- **[EO 14332](#) Improving Oversight of Federal Grantmaking**. This EO establishes a “senior appointee” in federal agencies to review grants to “ensure that they are consistent with agency priorities and the national interest.” EO 14332 outlines that going forward, the Director of OMB should revise agencies' process of reviewing grant applications and require all discretionary grants to allow for termination by convenience, including if it is found that the award no longer advances agency priorities or the national interest. This is an additional level of review that could slow down the process of grantmaking and raise concerns on how senior appointees might interpret whether Tribal discretionary grants support agency priorities or the national interest.
- **[EO 14151](#) Ending Radical and Wasteful Government Diversity, Equity and Inclusion (DEI) Programs and Preferencing and [Executive Order 14173](#)**

### **Ending Illegal Discrimination and Restoring Merit-Based Opportunity.**

These EOs require federal agencies to assess programs, grants, and contracts within their agencies for DEI promotion or activities and eliminate the programs and funding that support them. While Tribal Nations and Native people have a unique political status that is the basis for federal programs and policies that address their needs and are separate from their racial status, there are numerous reports of federal programs and activities related to Tribal Nations being canceled based on them being considered DEI-related. This may also have an impact on technical assistance or other services being offered by Native organizations under contract with the federal government.

- **Repeal of Richardson Waiver in the regulatory process at HHS ([90 FR 11029](#)):** The Richardson Waiver has been used for a number of years to promote greater public knowledge and input into the federal agency regulatory process. Among other things, it allows public comments on proposed regulation changes. The Department of Health and Human Services has issued a Rule (policy statement) revoking the use of the Richardson Waiver and reducing or eliminating the use of public comments in the regulation process going forward. This will severely limit the ability of Tribal Nations to comment on HHS regulation changes and raises concerns about changes being made to regulations that introduce barriers to Tribal access and operation of federal programs and weaken protections for Native people contained in existing federal regulations.

Secretary of the Department of the Interior (DOI), Doug Bergum, issued [Secretary's Order 3415](#) that exempts the Department's treaty and trust obligations to Tribal Nations from DEI policies identified in Presidential Executive Order 14151. Following the DOI Order, the Office of General Counsel for HHS issued an [advisory opinion](#) (25-01) in response to a question about the application of EO 14151 to Indian Health Services programs. In their opinion, they state that EO 14151 and a number of related EOs should not be interpreted to rescind, eliminate, hinder, or impair the Department's legal obligations to Tribal Nations. While these departmental orders and opinions are helpful, there are still questions about how the policies of the new Administration will impact Tribal Nation human service program funding, federal staffing for programs that Tribal Nations administer, and changes for state programs that will trickle down to Native children and families in state human service systems.

If your Tribe or urban Native organization is seeing impacts from these or other Executive Orders, you can provide information to the Senate Committee on Indian Affairs by emailing them at [oversight@indian.senate.gov](mailto:oversight@indian.senate.gov). The Committee is tracking impacts to Indian Country from EOs and communicating concerns to the Administration. All information provided will be held confidential. You can also contact Evan Roberts at [evan@nicwa.org](mailto:evan@nicwa.org) to provide information on your experiences.

## **Appropriations**

## Senate and House Working on Fiscal Year (FY) 2027 Appropriation Bills

With the President's FY27 Budget Proposal released on April 3, 2026, House and Senate Appropriations Committees have opened their request portals for individual members of Congress and appropriation subcommittees are beginning to accept written testimony. The House is currently ahead in the process, with a few FY27 appropriations bills already approved at the committee level, while the Senate is still scheduling its subcommittee markups. There are 12 different appropriation bills that govern spending for the federal government and agencies. Formal subcommittee markups are expected to continue into early summer. The timeline for advancing FY27 appropriations could be affected by a second budget reconciliation package that seeks to provide additional targeted funding for Immigration and Customs Enforcement (ICE) and Border Patrol. There is also increasing discussion about a possible third reconciliation bill to address costs related to the military conflict with Iran or to pursue new tax cuts. All of this comes as mid-term elections are nearing, which also takes away from time Congress can dedicate to finishing appropriations work. If Congress cannot pass 12 individual appropriations bills or extend FY27 funding through a continuing resolution, there could be a risk for another government shutdown starting on October 1. Because congressional timelines shift frequently, check the [Appropriations Status Table for FY27](#) regularly for updates.

The President's FY27 Budget Proposal for the Department of Health and Human Services continues a pattern of restructuring and proposed elimination of existing programs and replacing them with new programs that align with the Administrations priorities, including behavioral health grant programs. Under the Administration for a Healthy America (formerly the Substance Abuse and Mental Health Services Administration), the President's budget request proposes to eliminate the existing Tribal Behavioral Health Grant Programs (two grant programs with a combined \$51 million—split between mental health and substance abuse prevention grants) and the Circles of Care children's mental health grant program (\$7.7M). These three grant programs are the only grant programs under the Administration for a Healthy America that Tribal Nations do not have to compete with states or local governments for. As a replacement, the Administration is proposing a new Behavioral Health Innovation Block Grant (\$4.1B) that would consolidate the Community Mental Health Services Block Grant, the Substance Use Prevention, Treatment, and Recovery Services Block Grant, and State Opioid Response into one block grant. These are state-controlled block grants with no clearly defined Tribal funding or parameters on how the funding could be used, meaning Tribal access would likely depend on having an agreement with a state or language contained in future Congressional legislation that addresses Tribal access. The Administration is also proposing another new program, the Behavioral Health and Substance Use Disorder Resources for Native Americans grant program (\$80M), which is the clearest dedicated Tribal behavioral health funding in the President's budget request, but its structure, eligibility, and how funds would be distributed are not clear and would likely require Congressional legislation to authorize the funding too. Rather than funding the existing programs that Tribes are familiar with, these new initiatives

could risk destabilizing critical behavioral health services for Tribal communities—especially if the new programs remain unauthorized and the long-standing programs they are meant to replace do not receive funding.

The President’s budget request outlines \$15.9 billion in discretionary budget authority for the Department of the Interior in FY27, a 12.9% reduction from FY26 enacted levels. The budget request indicates cuts to DOI energy and environmental programs as well as “duplicative and wasteful programs” more broadly. While the budget appears to maintain level funding for Bureau of Indian Affairs (BIA) social services and welfare assistance programs, the broader federal trend is unmistakable: reorganization across federal agencies and a focus on program cuts and eliminations followed by new initiatives aligned with the Administration’s priorities. The Administration’s pattern of restructuring across federal agencies suggests Tribal Nations should watch closely for shifts in funding requests, their impact on access to funds, and the long-term continuity and sustainability of programs that Tribal Nations depend on to meet community needs.

Check out [NICWA’s FY27 House Interior Appropriations Testimony on Bureau of Indian Affairs](#) programs.

*For more information relating to this update, please contact NICWA Director of Government Affairs and Advocacy David Simmons at [desimmons@nicwa.org](mailto:desimmons@nicwa.org).*