

NCUIH Urges Federal Agencies to Protect All Native Children in the Child Welfare System

Category: Policy Blog

written by Alex Sampson | November 7, 2023

On September 15, 2023, the National Council of Urban Indian Health (NCUIH) submitted written comments to the Department of Health and Human Services' (HHS) Administration for Children and Families (ACF) Assistant Secretary, January Contreras, Department of Interior (DOI) Assistant Secretary, Bryan Newland, and Department of Justice (DOJ) Deputy Assistant Attorney General, Gina Allery (collectively "the agencies") in response to a [request for input](#) on strengthening the Indian Child Welfare Act (ICWA). In its comments, NCUIH urges the agencies to consider the needs of American Indian and Alaska Native (AI/AN) children and families living in urban areas in their efforts to promote federal protections for AI/AN children and their parents and caregivers.

NCUIH's Recommendations

In its comments, NCUIH requested that the agencies:

- Actively inform state courts and child welfare agencies about the need to utilize urban Indian organizations (UIOs) to meet their obligations under ICWA.
- Assist Tribes in coordinating with UIOs to strengthen resources and efforts to ensure ICWA is properly implemented.
- Engage directly with UIOs to improve implementation of ICWA.

By including UIOs in strengthening ICWA, the agencies can ensure that all AI/AN children in the child welfare system, regardless of location, are able to access the protections afforded by ICWA.

Background on ICWA

Congress enacted ICWA in 1978 to re-establish tribal authority over the adoption of Native American children (25 U.S.C. § 1903.) The goal of the Act was to strengthen and preserve Native American family structure and culture. [Studies](#) conducted in advance of ICWA's drafting showed that between 25% and 35% of all Native children were being removed from their homes by state child welfare and private adoption agencies. Of those, 85% were placed with non-Native families, even when fit and willing relatives were available. ICWA was established as a safeguard that requires:

1. Recognition of Tribal jurisdiction over decisions for their Indian children;
2. Establishment of minimum Federal standards for the removal of Indian children from their families;
3. Establishment of preferences for placement of Indian children with extended family or other Tribal families; and
4. Institution of protections to ensure that birth parents' voluntary relinquishments of their children are truly voluntary.

According to the National Indian Child Welfare Association (NICWA), [ICWA](#) "[l]essens the trauma of removal by promoting placement with family and community . . . [p]romotes the best interest of Indian children by keeping them connected to their culture, extended family, and community, which are proven protective factors . . . [and] [p]romotes placement stability by ensuring that voluntary

adoptions are truly voluntary.”

On [June 15, 2023](#), the Supreme Court reaffirmed and upheld the constitutionality of ICWA in a 7-2 ruling. [Read more about the ruling here](#).

NCUIH Work on ICWA

NCUIH is a strong supporter of ICWA and has advocated for the appropriate application of ICWA to all welfare proceedings involving AI/AN children, regardless of where they live. On August 19, 2022, NCUIH and five UIOs [signed on](#) to the National Indigenous Women’s Resource Center’s (NIWRC) [amicus brief](#) to the Supreme Court in support of the constitutionality of ICWA in the Haaland v. Brackeen case. NCUIH worked directly with NIWRC to engage with UIOs to ensure that the submitted brief was inclusive of urban AI/ANs. On September 7, 2022, NCUIH submitted [written comments](#) to the Bureau of Indian Affairs and ACF on the agencies’ efforts to promote the consistent application of ICWA and protect children, families, and Tribes.

A **full archive** of our work on ICWA can be found on the [NCUIH website](#).

Next Steps

NCUIH will continue to advocate for the appropriate application of ICWA to all welfare proceedings involving American Indian and Alaska Native children, regardless of whether the child is located in an urban or rural community.