
22. RESOURCES

Disclaimer: *A Practical Guide to the Indian Child Welfare Act* is intended to facilitate compliance with the letter and spirit of ICWA and is intended for educational and informational purposes only. It is not legal advice. You should consult competent legal counsel for legal advice, rather than rely on the *Guide*.

§ 1931. Grants for on or near reservation programs and child welfare codes

(a) Statement of purpose; scope of programs

The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to—

- (1) a system for licensing or otherwise regulating Indian foster and adoptive homes;
- (2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;
- (3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;
- (4) home improvement programs;
- (5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;
- (6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;
- (7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and
- (8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

(b) Non-Federal matching funds for related Social Security or other Federal financial assistance programs; assistance for such programs unaffected; State licensing or approval for qualification for assistance under federally assisted program

§ 1932. Grants for off-reservation programs for additional services

The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to—

- (1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

- (2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;
- (3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and
- (4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

§ 1933. Funds for on and off reservation programs

(a) Appropriated funds for similar programs of Department of Health and Human Services; appropriation in advance for payments

In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health and Human Services, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health and Human Services: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Appropriation authorization under section 13 of this title

Funds for the purposes of this chapter may be appropriated pursuant to the provisions of section 13 of this title.

Disclaimer: The above provisions of the Indian Child Welfare Act are set forth to facilitate consideration of this particular topic. Additional federal, state or tribal law may be applicable. Independent research is necessary to make that determination.



Frequently Asked Questions

- 22.1** **What federal sources of funding are federally recognized tribes eligible for that can assist in providing child welfare related services?**
- 22.2** **Indian Child Welfare Act, Title II Grants**
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- 22.11** **Do tribal governments serve only their member children and families or can they serve other children and families as well?**
- 22.12** **Are American Indian and Alaskan Native children and families eligible for state services?**

22.1 **What federal sources of funding are federally recognized tribes eligible for that can assist in providing child welfare related services?**

Federally recognized tribes are eligible to receive funding from a variety of federal programs, including the following:

22.2 **Indian Child Welfare Act, Title II Grants**—All federally recognized tribes are eligible to receive these grant funds, which are distributed by the Bureau of Indian Affairs (BIA) under the authority of the Indian Child Welfare Act (ICWA). 25 U.S.C. § 1931(a). The grant program supports a wide variety of tribal child welfare services, as well as activities related to the implementation of the

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ICWA. In Fiscal Year 2004, approximately \$18 million was allocated to tribes. You can learn more about this grant program by contacting your regional BIA office.

Bureau of Indian Affairs Social Services Program Grants—The BIA, under authority provided by the Snyder Act, 25 U.S.C. § 13 (2000), provides grant funds to eligible tribes to support social services related programming, including General Assistance (income maintenance), Child Assistance (foster care, guardianship, adoption or residential/institutional placement) and Services to Children, Elderly, and Families (family functioning, child protection and case management). This grant funding is only available to tribes serving Indian children and families who do not have access to a comparable federal, tribal, state, county or local service. 25 C.F.R. § 20.102 (2007). This results in not all federally recognized tribes being able to access these funds. You can learn more about these grant programs by contacting your regional BIA office.

22.3 Title IV-A Temporary Assistance to Needy Families Block Grant—This federal program provides states and tribes funding to assist families with children when the parents or other responsible relatives cannot provide for the family's basic needs. 42 U.S.C. §§ 601 *et seq.* This includes services to assist needy families so that children may be cared for in their own homes or in the homes of relatives, promotion of job preparation and work, reduction of out-of-wedlock pregnancies and promotion of marriage. In Fiscal Year 2005 there were fifty tribal grantees serving two hundred and thirty-four tribal governments with federal expenditures of approximately \$157.6 million. Some of the grantees also serve urban areas, such as Oakland, California or Anchorage, Alaska. For more information on this program contact your regional Administration for Children and Families (ACF) office (see question 22.8 below on contact information for regional ACF offices).

22.4 Title IV-B, Subpart One, Child Welfare Services—Title IV-B, Subpart 1, 42 U.S.C. §§ 620 *et seq.*, is a federally funded grant program that provides money for child welfare services to tribes and states. The program is designed to support services that emphasize family preservation. A broad range of services can be supported including, child abuse prevention, child protection, family support, placement and staff training. In Fiscal Year 2004 tribes received approximately \$5.2 million. For more

information on this program contact your regional ACF office.

22.5 Title IV-B, Subpart Two, Promoting Safe and Stable Families—Title IV-B, Subpart 2, 42 U.S.C. §§ 629 *et seq.*, is a federal grant program that provides funding for family preservation, community-based family support, time limited family reunification and adoption promotion and support services for tribes and states. The statutory funding formula for tribes only allows tribes that would qualify for at least \$10,000 to be eligible to receive funding. In Fiscal Year 2004 this resulted in approximately ninety-two tribal grantees being eligible to receive these funds with a total of \$5 million allocated for distribution to eligible tribes (includes nine Alaskan Native Non-Profit Corporations and the tribes they serve). For more information on this program contact your regional ACF office.

22.6 Title IV-D Child Support Enforcement—This federal program provides reimbursement for services provided by tribes or states designed to promote family self-sufficiency and child well-being. 42 U.S.C. §§ 651 *et seq.* Some key eligible services include helping locate non-custodial parents, establishing paternity, establishing child support orders and collecting child support. Tribes may use the funding to also develop capacity towards establishing a comprehensive child support enforcement program. This could include code development, program policies and procedures, training/technical assistance and court procedures. Because children and families in the child welfare or welfare system are often eligible to receive child support assistance these programs are often closely linked. In Fiscal Year 2004 there were thirteen tribal grantees. For more information on this program contact your regional ACF office.

22.7 Family Violence Prevention and Services Grants—The purpose of these federal grants is to assist state and tribal governments in establishing, maintaining, and expanding programs and projects to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents. Tribes received approximately \$12.6 million in Fiscal Year 2004. Funds are distributed to eligible tribes via a formula and are used primarily for counseling, advocacy, and self-help services for victims of domestic violence and their children. For more information on this program contact your regional ACF office.

22.8 How do I contact my regional Administration for Children and Families office?

The ACF is a federal agency within the Department of Health and Human Services that administers a variety of human service programs that tribal governments may participate. These programs broadly serve children and families in a variety of settings. Below is a list of the regional offices that can be contacted for information on available program, policy and funding announcements.

Region 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)
 Administration for Children and Families
 Boston Regional Office
 JFK Federal Building, Room 2000
 Boston, MA 02203
 Phone: 617-565-1020
 Fax: 617-565-2493

Region 2 (New Jersey, New York, Puerto Rico, Virgin Islands)
 Administration for Children and Families
 New York Regional Office
 26 Federal Plaza, Room 4114
 New York, NY 10278
 Phone: 212-264-2890
 Fax: 212-264-4881

Region 3 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)
 Administration for Children and Families
 Philadelphia Regional Office
 Public Ledger Building, Suite 864
 150 S. Independence Mall West
 Philadelphia, PA 19106
 Phone: 215-861-4000
 Fax: 215-861-4070

Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)
 Administration for Children and Families
 Atlanta Regional Office
 61 Forsyth Street, Suite 4M60
 Atlanta, GA 30303-8909
 Phone: 404-562-2800
 Fax: 404-562-2981

Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)
 Administration for Children and Families
 Chicago Regional Office
 233 N. Michigan Avenue, Suite 400
 Chicago, IL 60601-5519

Phone: 312-353-4237
 Fax: 312-353-2204

Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)
 Administration for Children and Families
 Dallas Regional Office
 1301 Young Street, Room 914
 Dallas, TX 75202-5433
 Phone: 214-767-9648
 Fax: 214-767-3743

Region 7 (Iowa, Kansas, Missouri, Nebraska)
 Administration for Children and Families
 Kansas City Regional Office
 601 E. 12th Street, Room 276
 Kansas City, MO 64106-2808
 Phone: 816-426-3981
 Fax: 816-426-2888

Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)
 Administration for Children and Families
 Denver Regional Office
 1961 Stout Street, Office 926
 Denver, CO 80294-3538
 Phone: 303-844-3100
 Fax: 303-844-1188

Region 9 (Arizona, California, Hawaii, Nevada, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Marshall Islands, Republic of Palau)
 Administration for Children and Families
 San Francisco Regional Office
 50 United Nations Plaza, Room 450
 San Francisco, CA 94102
 Phone: 415-437-8400
 Fax: 415-437-8444

Region 10 (Alaska, Idaho, Oregon, Washington)
 Administration for Children and Families
 Seattle Regional Office
 2201 Sixth Avenue, MS-70
 Seattle, WA 98121
 Phone: 206-615-2547
 Fax: 206-615-2574

22.9 Are there programs in urban areas that specialize in serving American Indian and Alaskan Native children and families?

There are organizations in some urban areas that have specialized knowledge and experience in assisting tribal children and families who are involved in the child welfare system. Some of these

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organizations provide child welfare related services directly to American Indian and Alaskan Native families, including assisting tribal governments who have children in these urban settings, while others provide more general services or help families secure services from other agencies. You can find contact information on these organizations in the Resources section of this Guide.

22.10 Do all tribal governments operate child welfare services for their children and families?

All tribes provide some level of support or services to their member children and families, but the level can vary significantly from one tribe to another. Some tribes are able to provide a full compliment of services, similar to their state counterparts, with an emphasis on culturally specific services that most states do not offer. Other tribes may offer more limited services and complement their own services with those of a state, county or local private agency. In both these examples, the tribes may also operate a tribal juvenile court where child custody proceedings may be heard and adjudicated. In some cases a tribe may rely more heavily on non-tribal services and offer case advocacy or general support to the families while they are participating in state or county programs.

Available funding is the primary factor in determining what level of support or service is available. For example, the primary sources of funding that support foster care or adoption assistance services for American Indian and Alaskan Native children are available through either the federal Title IV-E Foster Care and Adoption Assistance program or the BIA Social Services programs. Tribal governments are not eligible to directly receive Title IV-E funds and can only receive these funds if they have an agreement with a state. These agreements are not mandatory and currently less than twenty percent of tribal governments have these agreements. The BIA offers discretionary funding to support foster payments of American Indian and Alaskan Native children, but only to a limited number of tribal governments throughout the United States. Many tribal governments have no access to either of these foster care and adoption assistance funding sources. These examples exemplify a common trend in tribal access to child welfare funding that are present in other areas of tribal child welfare services as well.

22.11 Do tribal governments serve only their member children and families or can they serve other children and families as well?

Tribal governments, like other sovereign governments, have the authority to determine their own service population and service area in most cases, notwithstanding individual federal program requirements that place restrictions on this authority. Tribal governments can choose to serve other American Indian and Alaskan Native children and families, and in some instances, non-Indian children and families living in their service area. Related to service responsibility and authority in child welfare is jurisdictional authority. While these two areas are often discussed simultaneously, they have distinct applications and legal frameworks and are not interchangeable terms.

22.12 Are American Indian and Alaskan Native children and families eligible for state services?

American Indian and Alaskan Native children and families are citizens of both their tribal governments and the states in which they reside. With respect to federally funded services, which form almost all state- or county-provided child welfare services, states are not allowed to discriminate in the provision of services based upon political subdivisions, geographic location or racial background. Tribal children and families, regardless of whether they live on or off tribal lands, are eligible to receive federally funded services as long as they meet the basic eligibility criteria for those services. These policies guide the service responsibility of the state or county in providing services to American Indian and Alaskan Native children. A related, but legally distinct concept is jurisdictional authority. A state may have service responsibility, but not have jurisdictional authority over child welfare legal proceedings. This can complicate the coordination of services, but many tribes and states have found an effective response through the development of intergovernmental agreements that specify the boundaries and protocol of service responsibility and jurisdictional authority.



** Access to the full-text of opinions and additional materials is at www.narf.org/icwa **

The following list is representative of cases that discuss the topic. The list is not exhaustive. The practitioner should conduct independent research.

FEDERAL CASES

Circuit Courts of Appeals

Native Village of Stevens v. Smith, 770 F.2d 1486 (9th Cir. 1985)

District Courts

Meyers ex rel. Meyers v. Bd. of Educ., 905 F. Supp. 1544 (D. Utah 1995)

Navajo Nation v. Hodel, 645 F. Supp. 825 (D. Ariz. 1986)

