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To: Jan Rothstein,
Division of Policy
Children's Bureau, ACYF, ACF
1250 Maryland Avenue, SW., 8th Floor,
Washington, DC 20024
Email: CBComments@acf.hhs.gov

May 14, 2011

RE: Federal Monitoring of Child and Family Service Programs; Request for Public Comment
(45 CFR Parts 1355, 1356 and 1357)

Dear Ms. Rothstein:

The Child Welfare League of America (CWLA) and the National Association of State Indian Child Welfare Managers (NASICWM) have partnered together to raise awareness of Indian Child Welfare (ICW) issues for nearly ten years. This group includes a large portion of the country's state Indian child welfare managers and also has the participation of some child welfare services directors. By utilizing a listserv and monthly conference calls, we have researched areas of concern and developed several tools and resources to help improve the status of Indian Child Welfare throughout the country, and reduce the disproportionality of American Indian children in out of home placement / out of community placement. Through your solicitation for public comments, we are requesting that the Administration for Children and Families (ACF) join together with states and other stakeholders in examining and addressing the issues contributing to disproportionate representation of Native children in many of our systems; a state-of-affairs that we should seek to understand and exercise joint leadership to correct.

This group, along with CWLA continues to be interested in ways to strengthen the federal role in oversight of Indian Child Welfare practice in the states, and is particularly interested in how the Children and Family Services Review (CFSR) process could be enhanced as part of this effort. Back in September of 2005, we submitted a series of recommendations for ICW and enhancements needed for the CFSR process. We continue to be aware that Congress did not give explicit statutory authority to ACF (or any other agency) to provide comprehensive oversight of state implementation of ICWA. However, we believe that within ACF's existing state oversight authority for child welfare, it has the responsibility to

provide federal leadership ensuring that Native children and their families receive the services and supports they need through the state systems overseen by ACF, and we believe that ACF has requirements and roles already in place supporting this purpose. Indian Child Welfare is an important part of state child welfare practice, and its quality must be as important as that of any other area of child welfare practice. Our intent is to urge ACF to enhance the CFSR process to more consistently and comprehensively cover ICW practice as an important element of state child welfare performance.

Our intent is for Indian Child Welfare Act compliance (a federal law) to be added as a systematic factor required of every state, for tracking, monitoring, and support at minimum at least as well as any other federal requirement in child welfare. We also would like to encourage ACF to work with states to improve the opportunities, active efforts, and environment for the involvement of Tribes, Indian organizations, and other Indian Child Welfare experts as participants in the process, from consultation and pre-planning to assessment and completion, throughout the life of a Native child and family case.

As the Children's Bureau has asked for feedback as to the CFSR process, we feel that we are able to provide some feedback in regards to the two following questions: #7 and #8.

7. In light of the ability of Tribes to directly operate title IV-E programs through recent changes in the statute, in what ways, if any, should a Federal review process focus on services delivered to Indian children?

8. Are there examples of other review protocols, either in child welfare or related fields, in which Tribal/State/local governments participate that might inform CB's approach to reviewing child welfare systems?

While we realize there are very few states that are currently working with tribes in the operation of title IV-E programs, we feel that the need for the Federal review process to focus on services delivered to Indian children is universally important across all states in addressing these issues we have put into the process. In developing this compliance plan, we find the following areas as significant priorities:

1. To include an Indian Child Welfare subset to data collection requirements, which will help to better determine what is happening with Indian children and Indian Child Welfare practice within each of the outcome areas and systemic factors, so

that the states' responsibility to Indian Child Welfare is recognized as an element of child welfare.

Idea: ACF could utilize uniform data requirements to be included in state SACWIS systems regarding Native children and families, to include all the elements that would be necessary to assess ICW practice, tribal/state relations and outcomes for Native children, along with consideration of the technical and resource support states will need to revamp their state systems to meet these requirements.

2. For ACF to establish a minimum number of Indian Child Welfare cases to be reviewed in each state as part of the sample. For states with more significant Indian populations, this sample should be increased from that base and that greater numbers of Native people be engaged as case/record reviewers with concentration on ICW practice.

Idea: By collecting the data mentioned above, this would help to designate an indicator to help in the sample selection.

3. The systematic factor of Agency Responsiveness to Community should include the already-existing federal requirement that states consult with Tribes and available Indian organizations in developing their child and family services plans (5 year plans).

For Example: States like Washington, Oregon, California, Montana, Wisconsin, and Michigan currently do have processes in place for consultation between Tribes and the State. Several of our members are working toward this in their states as well, but this is not the case in most states in the nation.

4. The examination of state's efforts with respect to Indian families should be included in the assessment of Foster and Adoptive Parent Licensing, Recruitment and Retention.

For Example: Wisconsin has developed a process that appears to be working for them, and their communication between the State and Tribes has been developing into a collaborative and active group.

5. The review of the states' Quality Assurance programs should include an assessment of the states' operational efforts in monitoring and improving Indian Child Welfare practice in compliance with federal law.
6. The review of state training for child welfare agency staff should include the requirement that there be specific cultural training regarding working with Native American clients and the requirements of the Act.

Idea: There are many current-training programs available that could be utilized, such as those through organizations like The National Indian Child Welfare Association (NICWA) and The Native American Rights Fund (NARF). There is a start with the Children's Bureau "CFSR Fact Sheet for Tribal Child Welfare Officials", however instead of stating this guide is only "for Tribal Child Welfare Officials" it really should be directed at all child welfare officials. Every state has the potential for ICWA cases, even if there is not a federally or state recognized tribe in the state. It's the states that need the information in the brochure, even more than the tribes themselves, since the implementation of ICWA is seen primarily as a state responsibility.

States continue to need the support of the federal government in the area of Indian Child Welfare Practice, and building this in, as an important part of the CFSR process would bring additional attention at the state executive, legislative, and judicial arenas as well. State ICW managers have expressed their eagerness to assist in these changes, and they would be a useful group to engage regarding the details of data and other definitions and requirements to be considered and included in each outcome area and systemic factor. States have indicated they are interested in receiving more guidance as well.

On behalf of CWLA, the state ICW manager group, and state child welfare leaders, I thank you for your consideration of our suggestions for enhancements to Indian Child Welfare and the CFSR process.

Respectfully,

Rachelle Pavao Goldenberg, MSW
For the National Association of State Indian Child Welfare Managers (NASICWM)