



Funds Distribution Report

Recipient Organization:
National Indian Child Welfare Association

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<https://www.nicwa.org>

Organization's General Goals:
The National Indian Child Welfare Association (NICWA) works to eliminate child abuse and neglect by strengthening our families, tribes, and the laws that protect them.

Date of Award:	Level:
2018 Q1	\$5,001 to \$7,500

For more information, please read the attached report from National Indian Child Welfare Association.

8802 27th Ave NE
Tulalip, WA 98271
TulalipCares.org

Background

Last year, Tulalip Tribes Charitable Contributions led the charge in Indian Country by investing in the National Indian Child Welfare Association's (NICWA) Protect Indian Child Welfare Act (ICWA) Campaign (formerly ICWA Defense) and Tribal Family Advocacy Program. Since our inception in 1983, NICWA has vigorously pursued an agenda to guard critical protections provided by ICWA to Native children and families. Enacted in 1978, ICWA is a federal law that provides requirements for state and private child welfare agencies and state courts on how to effectively work with Native children and their families that have become involved in state child welfare systems. Prior to the passage of ICWA, between 25–35% of all Native children were removed from their families by state and private child welfare agencies and placed in out-of-home care, such as foster care or adoption, often unnecessarily, and primarily with non-Indian families.

Since the passage of ICWA, removal and placement rates of Native children have decreased substantially, and tribal nations, armed with new funding and recognition of their sovereign right to participate in state child custody proceedings involving their children and families, have made dramatic gains in collaborative tribal-state relationships and improving the overall practice of how state and private agencies work with Native children and families. With these significant improvements, and the passage of the 2016 federal regulations and guidelines that clarify the law's implementation, has come pushback from anti-tribal and anti-ICWA groups intending to eliminate the gains over the past 40 years and make it easier to remove Native children from their families and place them in non-Indian homes with little or no input from the child's tribe. These threats are the impetus for NICWA's Campaign and Program.

Accomplishments as a result of your support this last year

Education, media engagement, and advocacy are key components of NICWA's work to help ensure that all Native children and their families receive the protections afforded them under ICWA. With the gift from Tulalip Tribes Charitable Contributions, NICWA was able to expand our outreach and advocacy to help tribal, state, and private agencies improve their understanding of ICWA requirements and pursue proper implementation. The specific activities supported by your tribal funds include the following:

Brackeen (Texas) v. Bernhardt (formerly Zinke) Case

NICWA partners with other Native organizations and ICWA legal experts to strategize and effectively respond to the wave of anti-ICWA litigation occurring in state and federal courts. Since 2015, ICWA opponents have filed more than 14 federal lawsuits, including four cases petitioned for review by the U.S. Supreme Court. On October 4, the U.S. District Court for the Northern District of Texas handed down an unprecedented ruling declaring ICWA unconstitutional and the Act's accompanying 2016 regulations as unlawful. *Brackeen (Texas) v. Bernhardt (formerly Zinke)* is the case brought by Texas, Indiana, Louisiana, and individual plaintiffs with intervening tribes and the federal government as defendants. It is the first time in ICWA's history that a state has sued the federal government over the Act's constitutionality. This decision throws out hundreds of years of legal precedents and calls into question the very foundation of federal Indian law. It also threatens ICWA's vital protections for the most vulnerable Native children and families. These actions are some of the most extreme attacks on tribal sovereignty since the termination era in the 1950's. <https://www.nicwa.org/policy-update/>

Within days of the ruling, NICWA and our partners issued a joint press statement on the decision "vehemently rejecting" the ruling. Twenty-eight national and regional Indian organizations and tribal governments signed on to the release. Together with our partners, we've developed talking points for Indian Country and our allies, engaged extensively with the media, and created a comprehensive media strategy for the next several months. We are engaging key congressional members and participating in national and regional intertribal gatherings to talk directly to tribal leaders about the litigation, and its larger implications for tribes. https://www.nicwa.org/wp-content/uploads/2018/10/10.7.18-ICWA_statementNICWA_NCAI_AAIA_NARF-with-logos-FINAL.pdf

NICWA's role in this critical coalition defending Native children, families, and ICWA is to take the lead in coordinating across partner organizations, support litigation strategy, inform and carry out political strategies with state and federal policymakers, and facilitate support from our non-Native allies. Currently we are working with tribes to reach out to their key state officials to discuss the case and how they can support Native children and families. We are also contacting child welfare leaders who are outside Indian Country to build diverse support that will be necessary in the appeals process from groups such as non-Indian child advocacy organizations. This is in addition to presenting and sharing materials with tribes individually and at key national and regional gatherings.

NICWA fields a wide variety of interview requests from national, regional, and Indian Country media, averaging one media interview a week. We proactively pitch and draft news stories, op-eds, talking points, and other varieties of messaging to help drive national and regional conversations about the case. Currently, NICWA is preparing for the Fifth Circuit ruling in *Brackeen v. Bernhardt*. We actively track and monitor news and social media to ensure we respond timely to the messaging put out by our ICWA opponents. NICWA updated our ICWA materials online and created talking points that have already been shared broadly at a recent national conference with tribal leaders. We continue to seek opportunities to inform communications strategies and to speak at gatherings to further bolster and strengthen the coalition.

- https://www.washingtonpost.com/news/morning-mix/wp/2018/10/10/court-strikes-down-native-american-adoption-law-saying-it-discriminates-against-non-native-americans/?noredirect=on&utm_term=.f147d8e7beea
- <https://chronicleofsocialchange.org/child-welfare-2/nations-first-family-separation-policy-indian-child-welfare-act/32431>

On March 13, 2019 the Fifth Circuit Court of Appeals heard oral arguments in the *Brackeen v. Bernhardt* case. NICWA Executive Director and Board of Directors Policy Committee Chair attended the hearing to hear the arguments and provide an Indian Country presence. They were joined by several other tribal leaders and Native organization leaders. The court seemed receptive to the arguments being made by the defendants (intervening tribes and federal government) and used most of their time to question the arguments being made by the plaintiffs that brought the lawsuit. While we must be careful not to predict an outcome based on the oral argument, it was encouraging to see the defendants making some of the most compelling arguments and being well prepared to answer the court's questions. A decision is expected within six months of the oral argument.

Separately, the oral arguments provided a significant media engagement opportunity. NICWA was interviewed by the Associated Press just outside the U.S. Court of Appeals building in New Orleans, Louisiana, and our tweet chat hashtag attracted 1,500 mentions, dominating the social media space surrounding ICWA. As we wait for the ruling, NICWA continues to organize locally and nationally, disseminate resources, and engage in media campaigns. We are recruiting more spokespeople to join our movement to protect ICWA and ramping up national and local education efforts.

Mainstream media communications

Mainstream media outlets often struggle to understand and report accurately matters affecting tribal nations and their citizens. Issues regarding adoptions or foster care involving Native children and families are even more likely to be misunderstood and misreported. NICWA, working with Native partner organizations like the National Congress of American Indians, sought to "set the record straight" on many of the myths and misinformation that were being shared on social media and in mainstream media outlets. Since 2013, NICWA has been an increasing resource and voice for truth with local, regional, and national media correcting inaccurate information and confronting gross misrepresentations or stereotypes of tribal communities and tribal programs. Some of the anti-tribal and anti-ICWA organizations pursued campaigns that sought to distort what ICWA does and perpetuate ugly depictions of Native people. NICWA also responded by developing an electronic press kit for journalists and talking points for tribal officials that humanized the stories of Native children and families and provided reliable and accurate information on ICWA as well as partnering with the Native American Journalists Association to produce a reporter's guide to covering the Indian Child Welfare Act. As a result, we have seen a dramatic increase over the last four months in the number of media posts providing positive coverage of ICWA.

- <https://www.nicwa.org/wp-content/uploads/2018/10/Setting-the-Record-Straight-2018.pdf>
- <https://www.nicwa.org/press/>

We disseminated our *Heart of ICWA* short videos that tell the personal stories of Native caregivers, adult adoptees, and youth impacted by ICWA. NICWA provided viewings of the videos at tribal nation gatherings around the U.S. and discussed strategies for using the videos in education and advocacy with policymakers, state court judges, and state and private child welfare workers. Please view and share the videos, found at <https://www.nicwa.org/latest-news/#heart-of-icwa>

Family First Prevention Services Act

In February of 2018, Congress passed the Family First Prevention Services Act which provides new funding for prevention services to help children stay safely at home when they are at risk of being removed due to abuse or neglect. This landmark legislation is estimated to provide \$2 billion of new prevention services funding for tribes and states. With recent publication of the federal guidance on this law, NICWA is now focused on helping tribes and states identify effective ways to access the funding for Native children, parents, and relative caregivers in both tribal and state care. Previous to passage of this law, NICWA met with Senate and House leadership to ensure there was language to make tribes eligible for this funding and now is providing information and guidance to tribes and states to help them conduct strategic advocacy with the Department of Health and Human Services (DHHS) to ensure the law is implemented fairly and equitably. Already, NICWA has provided three significant sets of comments to DHHS regarding implementation of the law and is poised to provide additional information as needed, including at our annual conference and tribal/state forums around the country. NICWA will also continue to offer assistance to tribes as they examine the best options for interpreting the guidance and strategizing ways to access the funds themselves or with state partners.

Ongoing training to achieve ICWA compliance

The Bureau of Indian Affairs' first ever comprehensive regulations on ICWA became effective in December 2016. This capped almost 40 years of uneven and often non-compliant implementation of the law. With the new regulations, NICWA has seen renewed efforts on the part of tribal nations, state and private agencies, and state courts to improve their systems in support of Native children and families. NICWA's training department and program teams partner to provide education and outreach through developing new training materials, arranging meetings with federal officials to clarify certain regulation provisions, and setting up meetings with state and tribal officials to provide technical support on how to roll out the new regulations in their states. NICWA is conducting an average of at least one training on ICWA every month and could do more if additional resources were available.

<https://www.nicwa.org/training-institutes/>

<https://www.nicwa.org/conference/>

Requests for Information

NICWA receives over 1,000 calls each year from parents, relatives, service providers, and courts seeking help understanding ICWA. During the last year, NICWA provided telephone assistance to Native parents that called our office from all parts of the United States to ask for help understanding the law and regulations. See <https://www.nicwa.org/families-service-providers/>. Many of the families that received our assistance were able to speak out more confidently about their needs and rights under ICWA with their caseworkers and identify other resource people to help them, such as their tribe or legal counsel. In the last year, NICWA responded to 1,000+ unduplicated requests for information, totaling approximately 12,000+ minutes on the phone with constituents.

National policy monitoring and advocacy

NICWA closely monitors and advocates for Native children and families in several ways. First, we regularly testify before the House and Senate Appropriations Committees and before the Department of Health and Human Services Tribal Budget Consultation each year providing priority program recommendations to ensure that tribes receive the resources they need to carry out services to their children and families. Second, NICWA is also actively engaged in advocating for additional funding and support to tribal human services programming in reauthorizations of existing laws and new legislation in Congress. Recently the Child Abuse Prevention Treatment Act was being considered for reauthorization

in the Senate and House. NICWA began coordinating meetings with key Senate and House staff to advocate for increased funding for tribes from a community-based child abuse prevention grant program and authorizing a study to identify the successful child abuse prevention activities that tribes are carrying out in Indian Country. NICWA was successful in getting the Senate and House bills to include a much higher set-aside of funds for tribes and for a study by the General Accountability Office of promising tribal practices in child abuse prevention. All of these activities have touchpoints with ICWA implementation and prioritize making resources available for tribal communities so that they are able to care for their member citizens, most especially their most vulnerable citizens—children.

Conclusion

The challenges experienced by Native children and families are not without signs of hope for a better future. ICWA is one of those signs and Tulalip Tribes Charitable Contributions support moving the hearts, minds, and actions of people that come into contact with Native children and families is significant. In fact, this support is part of a larger movement to ensure that Native people have the right to self-determination, are granted the same authority as other governments, and have equitable resources. The work NICWA has been able to do because of this gift is making a difference in the lived experiences of Native children and families, and we greatly appreciate your support.

We are committed to making sure you, as leaders, have what you need to be effective advocates too. If you would like more information about the attacks on ICWA and NICWA's work, please let us know: Sarah Kastelic (skastelic@nicwa.org), executive director, or Kim Christensen (kchristensen@nicwa.org), development director, at (503) 222-4044. Where possible, NICWA is happy to meet and present before Tribal Council.

