

Native American Rights Fund

Indigenous Peoples' Rights

<https://www.narf.org/federal-government-issues-new-regulations-protect-native-children-first-time-since-1979-icwa-defense-project-praises-new-steps-toward-enforcement/>

Campaign and Advocacy

Yesterday, the Bureau of Indian Affairs (BIA) released binding regulations on the implementation of the Indian Child Welfare Act (ICWA). This marks the first time the agency has offered comprehensive enforceable regulations since the passage of the act more than three decades ago.



Congress passed ICWA in 1978 in response to the alarmingly high percentage of Indian children being removed, often unwarranted, from their families. The law is designed to protect the best interests of Indian children and promote the stability and security of Indian families.

This is a historic step toward guaranteeing greater safeguards for Indian children, said Dr. Sarah Kastelic, executive director of the [National Indian Child Welfare Association](#) (NICWA). These regulations offer an important and necessary line of defense as the child welfare system still falls short for our Native children.

Kastelic notes that even today, Native children are four times as likely as white children to be removed from their homes on their first encounter with the courts—even if the circumstances are exactly the same.

The regulations come at a critical time, as a well-resourced legal and public relations campaign coordinated by interest groups outside of Indian Country has prompted four national Native organizations: NICWA, the [National Congress of American Indians](#) (NCAI), the [Native American Rights Fund](#) (NARF), and the [ICWA Appellate Project](#) at Michigan State University College of Law to create the ICWA Defense Project.

The BIA has twice released guidelines for state courts and agencies, but until now compliance and implementation across states has been erratic and inconsistent, and there has been a complete lack of uniform enforcement, said Kathryn Fort, director of the ICWA Appellate Project.

[John Echohawk](#), executive director of NARF agreed, The regulations will ensure more families remain together, while providing clear, consistent rules for child placement decisions that will result in better, more reliable outcomes for Native children.

Highlights of the regulations include a requirement that state courts inquire whether ICWA applies in every child custody proceeding; clear articulation of the efforts that state courts and agencies must take to provide appropriate family services designed to keep families together; and procedures governing emergency removal of Indian children from their homes.

The unregulated status quo has contributed to widespread non-compliance with ICWA and the breakup of thousands of Native American families, said Jacqueline Pata, NCAI executive director. The BIA has truly advanced protections for our children with these new regulations.

About the ICWA Defense Project:

The ICWA Defense Project is a coalition of organizations working to serve and support vulnerable Native children. Together, we endeavor to promote the type of social and systems change that will create a world where Native children can grow up happy, safe, and culturally centered, and thrive in a loving community that values their unique strengths and needs as Native Americans.

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