



COLORADO

Office of Children, Youth & Families

Department of Human Services

Date: June 5, 2019

To: All County Human/Social Services Directors

From: Minna Castillo Cohen, Director, Office of Children, Youth & Families

Regarding: Indian Child Welfare Act Annual Update of Pertinent Resources

Key Words: Indian Child Welfare Act, ICWA, Qualified Expert Witness, QEW, Federally Recognized Tribes

Number: IM-OCYF-2019-0005

Information Memorandum

This communication has been sent to all county human/social service directors. Please forward pertinent information on to staff members as you deem necessary.

Purpose: The purpose of this memo is to provide child welfare stakeholders with correct resources related to the Indian Child Welfare Act (ICWA). The following resources are outlined below: Tribal list, Qualified Expert Witness (QEW), and contact information.

Background:

1. A federally recognized Tribe is "an American Indian or Alaska Native tribal entity that is recognized as having a government to government relationship with the United States" (Bureau of Indian Affairs[BIA]). There are currently 573 federally recognized Tribes in the United States. Each of these Tribes has the right to self-govern, also commonly referred to as tribal sovereignty. The number of federally recognized Tribes may change depending on the number of Tribes that have completed the Federal Acknowledgment Process; which includes a) an act of Congress, b) by the administrative process of the Federal Acknowledgment Process and c) by a decision of a United States court.
2. The Division of Child Welfare, in partnership with the Office of the Child's Representative (OCR), created a QEW list as a resource to assist child welfare stakeholders in identifying potential QEWs. The list will be updated on a quarterly basis and posted on the QEW link. Please note that neither the Division of Child Welfare nor OCR specifically endorses the agencies and/or individuals included on the QEW list. The QEW list is merely a collection of QEWs identified by Tribes. Users have the personal responsibility of contacting and/or investigating an agency and/or individual included on the list before relying upon such agency/individual.

A QEW must testify in every child custody proceeding involving an Indian Child. Federal regulations state the following regarding QEWs (25 CFR § 23.122):

- (a) "A Qualified Expert Witness must be qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe. A person may be designated by the Indian child's Tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's Tribe."
- (b) "The court or any party may request the assistance of the Indian child's Tribe or the BIA office serving the Indian child's Tribe in locating persons qualified to serve as expert witness."

(c) "The social worker regularly assigned to the Indian child may not serve as a qualified expert witness in child-custody proceedings concerning the child."

3. Notices to Tribes or the BIA must be sent for all child-custody proceedings. If the specific Tribe(s) cannot be identified, Colorado notices must be sent to the following address:

Albuquerque Regional Director, Bureau of Indian Affairs
615 First Street, P.O. Box 26567
Albuquerque, New Mexico 87125.

Please also use the link below for the BIA link regarding ICWA for additional resources.

4. The Division of Child Welfare has a full time Indian Child Welfare Specialist. This position supports Counties and other agencies to answer questions regarding ICWA and provide additional training as needed. The Indian Child Welfare Specialist partners with child welfare agencies, judicial agencies and tribes to educate professionals and families on ICWA to best support the American Indian/Alaska Native community involved in the child welfare system. Please see contact information below.

Resource Links:

- [QEW link](#)
- [List of Federally Recognized Tribes](#)
- [Bureau of Indian Affairs ICWA resource link](#)
- [Capacity Center for Tribes ICWA resources link](#)

Contact for questions regarding the information Memorandum:

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Memo Website: <https://sites.google.com/a/state.co.us/cdhs-memo-series/home>