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May 14, 2015

Ms. Elizabeth Appel  
Office of Regulatory Affairs & Collaborative Action  
Indian Affairs, U.S. Department of the Interior  
1849 C. Street NW MS3642  
Washington, DC 20240

Re: Notice of Proposed Rulemaking/Regulation for State Courts and Agencies in Indian Child  
Custody Proceedings  
RIN 1076-AF25-Federal Register (March 20, 2015)

Dear Ms. Appel:

The Wyandotte Nation is in support of the issuance of proposed ICWA regulations by the Bureau of Indian Affairs. The Wyandotte Nation believe the regulations are extremely warranted if states are to fully comply with the Indian Child Welfare Act.

The Indian Child Welfare Act of 1978 was enacted on behalf of Indian children, families and tribes due to the large number of Indian children being separated from their family and tribe. Often the Indian children were placed outside of their families and reservations in non-Indian placements, including adoptions. In 1978 this Congressional act mandated legal requirements to be followed by state courts that were adjudicating the rights of Indian children and their families that lived outside of their Indian reservations.

Although some states follow ICWA, other states compliance can be erratic and state court decisions inconsistent with the intent of the act. Therefore, it is the position of the Wyandotte Nation that the federal government provide binding regulations to ensure that ICWA is enforced and applied in all states so our tribal children and families are protected.

Following are provisions in the proposed regulations the Wyandotte Nation supports:

1. Requiring that agencies and courts ask in every proceeding whether a child is Indian.
2. Recognizing the tribe's authority to determine tribal membership.
3. Rejection of the Existing Indian Family Exception.
4. Notice to tribes in voluntary cases. Allowing a tribe to verify membership.
5. Defining active efforts to prevent the breakup of our Indian families so immediate efforts may begin.
6. Limiting the discretion of state courts to deny transfer of a case to tribal court.
7. Emphasizing the need to follow the placement preference. It is imperative to keep our children in relative, tribal and Indian homes.

The basis for regulatory action is very strong due to the inconsistency in ICWA interpretations by state agencies. In support of the regulations in general, tribes believe it is important that the rationale for the authority to regulate be explained and that individual provisions should be justified with reference to supportive cases, state regulations and policies that reflect best practices and legislative history. Specifically that regulations should address the Adoptive Couple v. Baby Girl case: A. clarify that is should not be applied outside the private adoption context; and B. providing guidance on how the Supreme Court interpretation of the law should be effectuated in the state court and agency practice.

Thank you for the opportunity to comment on these regulations. Please adopt strong ICWA regulations to ensure that ICWA fulfills its essential purpose, and more importantly to protect the rights of all Indian children, families and tribes.

Sincerely,



Billy Friend, Chief  
Wyandotte Nation