NICWA NEWS

Quarterly Newsletter • Fall 2022



The LATEST INSIDE

Protect ICWA.

Protect Tribal

Sovereignty.



National Indian Child Welfare Association

5100 S Macadam Avenue, Suite 300 Portland, Oregon 97239

P (503) 222-4044 F (503) 222-4007 www.nicwa.org

Child Welfare Association (NICWA)

The National Indian Child Welfare Association (NICWA) is a nonprofit, membership-based organization dedicated to the well-being of American Indian and Alaska Native children and families. Headquartered in Portland, Oregon, NICWA serves tribes, individuals, and private organizations throughout the United States and Canada by serving as the most comprehensive source of information on American Indian child welfare and acting as the only national Native organization focused on building tribal capacity to prevent child abuse and neglect.

Our Mission

The National Indian Child Welfare Association is dedicated to the well-being of American Indian and Alaska Native children and families.

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NICWA News is the quarterly newsletter for members and donors of the National Indian Child Welfare Association.

Membership is available in multiple levels starting at \$35.

For reprint requests, additional copies, or other information, contact us at info@nicwa.org



(Pictured: Jamestown S'Klallam's Fireman Totem)

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Message from the Executive Director

Dear NICWA Members, Sponsors, Donors, and Friends,

Welcome to the fall issue of NICWA News, entitled "Protect ICWA: Protect Tribal Sovereignty." As members of our NICWA community you may be well aware of the threats to the Indian Child Welfare Act (ICWA), and in turn, the threats to tribal sovereignty. For 40 years, NICWA has been engaged in supporting tribes in developing tribal child welfare programs, training tribal and state workers, and helping states and tribes strengthen the implementation of ICWA.

Throughout this issue, we will discuss *Haaland v. Brackeen*, the case concerning the constitutionality of ICWA, that will be heard before the Supreme Court of the United States this November. We will share about the major policy developments to address challenges in ICWA implementation and compliance, details about the oral arguments coming up on November 9, and the powerful advocacy and public education strategies of the Protect ICWA Campaign.

Make no mistake that this attack on ICWA is an intentional attack on tribal sovereignty.

Well-organized, well-financed opponents who have no track record of working on Native child welfare issues and clearly don't know what is in the best interest of Native children are attacking ICWA. The opponents in *Haaland v.* Brackeen — Texas Attorney General Ken Paxton, The Goldwater Institute, and private interests — are ultimately motivated by profit and are not afraid to harm kids and families in order to accomplish their goals.

This clear insight has sparked powerful advocacy and unleashed the Protect ICWA Campaign's public education strategy and communications movement. Aiming to win over Americans in the court of public opinion by inviting White allies and people of color organizations to join our fight, our partnership with RALLY has brought a new level of capacity and expertise to bear in our work. As described in more detail on page six, NICWA and our partners, the Native American Rights Fund, National Congress of American Indians, and Association on American Indians Affairs, are building a broader bench of support for ICWA. Please join us in this movement and look for more information about how we're mobilizing to show overwhelming support for ICWA on the day the Supreme Court hears oral arguments in Haaland v. Brackeen, Wednesday, November 9th.

An attack on ICWA is an attack on tribal sovereignty, and Indian Country has strong allies who are standing with us to demonstrate unwavering and relentless support for ICWA and tribal sovereignty to the Supreme Court and to the world. Stand with us.

In solidarity,

Sarah L. Kastelic, PhD, MSW

Sarah J. Kastelic

(Alutiiq)

Policy

An Attack on ICWA is An Attack on Tribal Sovereignty

Under the Obama Administration, several major policy developments served to address challenges in ICWA implementation and compliance. First, Assistant Secretary of Indian Affairs Kevin Washburn, Interior Solicitor Hilary Tompkins, and dozens of key staff at the Department of the Interior (DOI), Health and Human Services (HHS), and Justice (DOJ), worked together in an intentional way over years to accomplish unprecedented policy victories. Assistant Secretary Washburn held listening sessions across the country, including at NICWA's 2015 conference. Many of you likely testified or bore witness to the compelling stories of Native children and families who were helped by ICWA's protections and were infuriated by the stories, including contemporary cases, where ICWA was disregarded or intentionally circumvented.

In 2015, DOI published updated ICWA guidelines for state courts. After the revised guidelines, in 2016, DOI published the first ever legally binding federal regulations governing the implementation of ICWA's protections by state agencies. HHS also promulgated regulations proposing to finally require states to collect data elements about ICWA implementation and cases to which ICWA applied. DOJ filed amicus briefs in cases contesting ICWA's protections. It is no surprise that this flurry of policymaking strengthening ICWA attracted the attention of ICWA opponents, resulting in a wave of backlash.

Eventually a constellation of interests, organizations, and agencies took up a political agenda to not only undermine the recent gains but to attempt to dismantle the law itself in service to subverting tribal sovereignty, calling into question the foundation of federal Indian law and over 200 years of legal precedent. It is no accident that well-organized, well-financed opponents who have no track record of working on Native child welfare issues and clearly don't know what is in the best interest of Native children are attacking ICWA at this moment in time. And the attack is much larger than ICWA. In January, the same law firm representing the non-Native foster parents in the Brackeen case filed a lawsuit called Maverick LLC v. U.S. that makes the very same constitutional claims about the Indian Gaming Regulatory Act that they make about ICWA in Haaland v. Brackeen.

This clear link has sparked powerful advocacy in the form of the Protect ICWA Campaign's public education work. NICWA with Protect ICWA Campaign partners, National Congress of American Indians, Native American Rights Fund, and Association on American Indian Affairs, together work to serve and support Native children, youth, and families through upholding ICWA through policy, legal, and communications strategies.

Join over 16,000 supporters who have signed onto our petition at bit.ly/protecticwapetition. Sign up for the dedicated

newsletter and follow our Twitter and Instagram @ProtectICWA to hear updates to ICWA and how you can get involved.

What to Know about November 9: Supreme Court Oral Arguments in Haaland v. Brackeen

The United States Supreme Court will hear oral arguments in the Haaland v. Brackeen case at 10:00 a.m. Eastern Time on November 9, 2022. The Supreme Court will hear arguments regarding whether ICWA is a constitutional law. The petitioners in the case, the state of Texas and private parties (non-Native foster/adoptive families), are arguing that ICWA is unconstitutional. The respondents, the federal government and five intervening tribes (Cherokee Nation, Morongo Band of Mission Indians, Navajo Nation, Oneida Nation in Wisconsin, and Quinault Nation), are defending the law and arguing that ICWA is constitutional. The stakes are high as the claims by the plaintiffs, if the Supreme Court were to accept them, could have serious implications for not just ICWA, but many other federal Indian laws too. To read the briefs filed in the case, you can visit the Supreme Court website.

To listen to a live stream of the oral argument on November 9, visit the Supreme Court's website at supremecourt.gov. You will find a quick link on the home page called "Live Audio" that will send you to a page where you can click on a live stream of the oral argument. In addition, the Supreme Court has resumed courtroom seating for the public, members of the Supreme Court bar, and the press. There are only a small number of seats. Anyone interested in attending should contact the Supreme Court to learn more about protocols and other logistics. The Supreme Court should hand down its decision in the case by June 2023.

The showing of support for ICWA has increased significantly since the *Haaland v. Brackeen* case began in 2017, and as support has increased, ICWA has been more widely recognized as the gold standard in child welfare practice and policy.

To learn about ICWA's supporters in this case, read some of the highlights of the amicus briefs on page six, read our <u>press</u> release, or read the latest <u>Child and Policy Update</u>. The Protect ICWA Campaign is grateful for your support and strongly encourages you to show your support for ICWA as we move closer to the oral arguments.

Inside NICWA



Further Your Advocacy: Become a NICWA Youth Board Member

NICWA values the insight, guidance, and perspectives of Native youth, and one way we incorporate youth voices and experiences into our work is by asking young Native people to serve as youth board members on the NICWA Board of Directors. As NICWA advocates for protecting ICWA and tribal sovereignty, it's vital that Native youth are woven into our organization's governance. This late fall/winter, NICWA will open applications for a new youth board member. This opportunity will be open to American Indian, Alaska Native, and First Nations youth aged 18–25, and applicants will be selected to join the slate of nominees to the NICWA board in spring 2023 based on a combination of the following factors:

- Interest in a career in Indian child welfare, social work, psychology, or other related fields
- Lived experience in tribal or state foster care, or experience interacting with other "helping systems" like children's mental health or family support (preferred but not required)
- Cultural engagement, values, skills, and interests

Joining the NICWA Board of Directors is an exciting opportunity to learn about board service, nonprofit

(Pictured left: Terry Cross [Seneca], NICWA founder and senior advisor, sharing his homemade strawberry rhubarb pie at NICWA's Pie Celebration to welcome staff back to the office in September.)

governance, and Indian child welfare and related fields; to network with leaders from across Indian Country; to shape policy and advocacy efforts; and to bring new resources to Indian child welfare. Please watch NICWA's social media and website for an announcement of the application period and deadline in the coming months. Please contact April Black at april@nicwa.org with any questions.

Better Integrating NICWA Members into Our Core Work

As part of our work to increase the value of NICWA membership, we've revamped NICWA's member relations manager role. We're currently recruiting for the right candidate for this new position, and our next member relations manager will be an integral part of NICWA's program department, which takes the lead on all of our community development, public policy, and research work.

The new member relations manager will help NICWA to develop a process for ongoing listening to our members. We'll create regular opportunities for members to identify emerging issues, highlight program and practice strategies, share resources, and identify challenges that they need help addressing. Additionally, we'll intentionally draw on all of the information that members share with us to inform our advocacy priorities and strategies, resources we develop, our workforce training opportunities, our conference programming, and funding proposals to support work that is meaningful and beneficial to you! If you genuinely love tribal child welfare and are interested in helping to lead this exciting transition to being in relationship with NICWA members in a new way, please consider applying for our member relations manager position. Application information and materials at www.nicwa.org/employment/.



Protect ICWA. Protect Tribal Sovereignty.

KEEPING SCORE: ICWA'S OPPONENTS VS. SUPPORTERS

AMICUS BRIEFS SIGNATURES	AGAINST ICWA	SUPPORT ICWA	
Former Foster Children of ICWA	0	13	
Children's Rights Organizations	0	64	
Medical and Psychological Associations	0	7	
Tribal Governments and Native Organizations	0	560	
States	2	23	
Members of Congress	0	87	
Professors and Academic and Law Associations	2 30		
Total Briefs Filed	4	21	

In a record-breaking show of support, <u>21 amicus briefs</u> were submitted to the U.S. Supreme Court in favor of upholding the Indian Child Welfare Act (ICWA) in August. This important update in the *Haaland v. Brackeen* case shows that support for ICWA is clear—and strong—across Indian Country and amongst government entities, child welfare organizations, and civil society.

The numbers are staggering.

Briefs were submitted by 497 tribal nations; 62 Native organizations; 23 states and the District of Columbia; 87 congresspeople; 27 child welfare and adoption organizations; and dozens of law professors, former foster children, and non-Native adoptive parents, among many others. This bipartisan coalition understands the implications of *Haaland v. Brackeen* for Native children and their families—along with the potential it has for the future of tribal nations.

ICWA opponents, on the other hand, have two things in common: deep pockets and minimal contact with Native tribes, organizations, leaders, or peoples. Only four amicus briefs were filed against ICWA—with no support from any tribal governments or Native organizations, child welfare organizations, or former foster children of ICWA.

The pro-ICWA briefs provide a clear picture of ICWA's constitutionality, as well as how the law serves the best interests of Native children and families.

Based on their decades of experience in child welfare, Casey Family Programs and 26 other organizations stated,

"Experts now agree on one overriding and universally applicable principle: Children are best served by preserving and strengthening their family and community relationships to the fullest degree that safety allows..."

They went on to write, "ICWA more than exemplifies these best practices; it helped shape them."

Former foster children also shared their firsthand perspectives about how ICWA helped them preserve and strengthen ties with their families and communities and deepen their cultural connections to their tribes.

Elaina Albers is descendant of Hoopa, Yurok, Wiyot, and Karuk people, and is a member of the Yurok Tribe. Of her experience in kinship care she shared,

"My foster families helped me connect to my other tribes as well. My foster families knew my biological parents' family tree. They knew how to reconnect me to where I come from. They helped me participate in ceremonies that helped me through adolescence. They helped me connect to my biological family. I was able to see where I came from and where I was going to go."

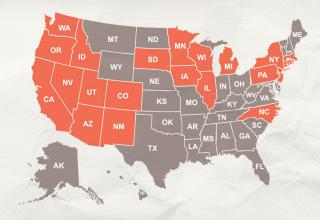
Autumn Adams (Yakama), who was removed from her mother's custody as a child and—consistent with ICWA's placement preferences—placed in foster care with family members on the Yakama Reservation, wrote,

"My brother and I lived in a multigenerational home where my grandmother taught us the Yakama language, history and traditions. We visited every Sunday with our biological mother and extended family at the longhouse, which gave me a lot of comfort and a strong sense of belonging as I grew up... Through these experiences and expectations, I learned the value of hard work, determination and perseverance, which contributed to my success so far and that I will carry with me my entire life."

The children and families with firsthand experience navigating the child welfare system are those whose lives will be most impacted if the protections of ICWA are dismantled. But a threat to ICWA is also a threat to tribal sovereignty as a whole. ICWA's opponents are not afraid to harm kids in order to accomplish their goals, and if they succeed in dismantling ICWA, they will have cleared the way for a larger attack on Native families, Native land, and tribal sovereignty.

As you have read in these pages, the Supreme Court will hear oral arguments for *Haaland v. Brackeen* on November 9, and their decision will ultimately determine whether or not the decades-old law that ensures Native kids remain connected to their culture, familial networks, and community will remain intact.

DID YOUR STATE SIGN THE AMICUS BRIEF FOR SUPPORTING ICWA?



23 states + the District of Columbia have signed on to support ICWA—each agreeing "ICWA is a critical tool for protecting Native children and fostering state-tribal collaboration." States Amicus Brief, pg. 4









(Pictured above left to right: ECC Washington State Implementation Team and NICWA in Jamestown S'Klallam Tribal Court, Jamestown S'Klallam Tribe's Carving Shed, Jamestown S'Klallam Tribe's Social & Community Services, and Teresa Smithlin from Jamestown SKlallam taking the team on a Totem Pole Tour.)

Jamestown S'Klallam Hosts NICWA and Early Childhood Courts Washington State Implementation Team

On May 12, 2021, Governor Jay Inslee of Washington State signed Senate Bill 5331 into law. SB 5331 creates a statewide standard of practice in Washington by establishing Early Childhood Courts (ECC). An ECC puts racial equity, parent voice, relationships, and safe reunification at the forefront of child welfare practice and service delivery. Essential to the ECC work is collaboration and building relationships with tribal communities throughout Washington State to inform the ECCs and determine how tribal communities and families would like to be involved in and benefit from this framework.

NICWA had the honor of working with the ECC Washington State Implementation Team, comprised of the Center for Children and Youth Justice (CCYJ) and the Administrative Office of the Courts (AOC), in helping them to gain foundational knowledge to working effectively with tribal communities in their state. As part of that work, NICWA staff provided technical assistance, training, and resources to support efforts to engage tribal populations and develop strong working relationships with tribes.

A highlight of this work was the opportunity to be hosted by the Jamestown S'Klallam Tribe for a community site visit and learning tour. The intent of the visit was to help the implementation team staff engage with and learn more about the tribe's history, their sovereign nation status, how they serve their community, and their successful advocacy for their community. Tribal Council Vice-Chair Loni Grinnell-Greninger provided a beautiful welcome that told the history of the tribe that included a legacy of advocacy as well as collaboration and relationship building for the betterment of their people set forth by the tribes' early leaders.

"It was a reverent experience and a blessing," said NICWA's Child Welfare Director Tara Reynon (Puyallup). "We were able to tour the tribal community with CCYJ and AOC staff, learn about the Jamestown S'Klallam Tribe's totem stories, and the extensive efforts that have and are being made to build a strong tribal community through the development of a tribal court system, robust social services, and community outreach utilizing a holistic traditional healing approach in meeting members' needs."

Programs

State of American Indian and Alaska Native Children Report

At the end of this month, we are proud to share our new State of American Indian and Alaska Native (AI/AN) Children Report funded by the San Manuel Band of Mission Indians. In six parts, the report presents current data on Native child and family well-being. At NICWA, we believe that research should be in service to Native communities. That means that we strive to gather and report the best available knowledge about current developments in child welfare to inform policy and practice.

Tribal communities are increasingly looking for data to help guide their services and to help secure funding for their child welfare, mental health, and family support programs. The NICWA research staff conducts research in partnership with communities in ways that are sensitive to historical traumas, respect tribal sovereignty, and acknowledge community needs, values, cultures, and traditions. When developing these data briefs, gaps and inconsistencies in the available data were revealed. This led to questions, posed in the concluding Future Directions brief, that may guide future data collection, evaluation, and research.

Below is a description of the six parts within the report. At the end of this month, to download and read the report, visit www.nicwa.org/latest-news/.

Part 1: How is the American Indian/Alaska Native Child Population Defined?

 Part one explores the complexities of defining a population with a unique political status in the U.S. and its implications for data collection and meaningful available data about this population.

Part 2: Economic Conditions

 Part two reports data related to economic conditions and their impact on child well-being. Data indicates Native people in the labor force were hit particularly hard during the initial months of the COVID-19 pandemic.

<u>Part 3: Adverse Childhood Experiences and Historical</u> Trauma

 Part three explores adverse childhood experiences (ACEs); the disparate number of ACEs that Native children experience; and the link to poor physical, mental, and behavioral health outcomes.

Part 4: Mortality Data

 Part four shares data related to Native mortality rates over time. Relative inequalities in Native mortality remain for most indicators, with higher risk of premature death among Native peoples persisting (especially in comparison with the White population) over time.

Part 5: Child Welfare

 Part five focuses on the experience of Native children and youth at the early to mid-points of their involvement in state child welfare systems—beginning with suspected maltreatment and followed by entry into the foster care system.

Part 6: Future Directions

• Part six explores questions to guide future directions in data collection, policy, practice, and research.

Positive Indian Parenting: A Unique Collaborative Study in the Age of COVID-19

The Positive Indian Parenting Train-the-Trainer continues to be NICWA's most popular training with thousands of trainers trained and providing it to their communities. With the passage of the Family First Prevention Services Act (FFPSA, P.L. 115-123), NICWA saw an opportunity for tribes and states to access a new funding stream for implementing this parent training in their communities. In order to access this funding, programs must be evidence-based and approved by the federal Prevention Services Clearinghouse. While there is anecdotal evidence that Positive Indian Parenting provides good outcomes for families, an evaluation of PIP that shows quantitative evidence of efficacy had not been conducted until now.

NICWA partnered with the Cowlitz Indian Child Welfare program, Child Trends, and Casey Family Programs to conduct a pilot evaluation study of PIP. Parent training of PIP was just about to start when the COVID-19 pandemic forced shutdowns worldwide. The study team worked to make several adaptations to the pilot study to accommodate social distancing requirements. Through this process there were many lessons learned, and NICWA, with project partners, documented these learnings in an article titled Positive Indian Parenting: A Unique Collaborative Study in the Age of COVID-19 published by the American Indian and Alaska Native Mental Health Research Journal: Adaptations made to research during COVID.

The journal article highlights lessons learned that include the importance of collaboration among study partners, including unique relationships with funders; the flexibility to innovate with PIP training delivery; the support of the community liaison position that provided invaluable input and feedback; the benefit and challenge of tribal child welfare workers providing PIP training to parents on top of their service delivery responsibilities; and specific strategies and tools that support virtual delivery and related fidelity monitoring. The full journal article is available online and can be found on NICWA's website at www.nicwa.org/our-research-expertise/.

Events and Trainings

NICWA's 41st Annual Protecting Our Children Conference

Conference Theme: Healing Our Spirits: Nurturing and Restoring Hope

As Indigenous peoples, we know a lot about healing. Healing is culturally specific and nonlinear. It happens collectively with our families and communities. It's not all or nothing, but a life-long journey of reestablishing our balance. Healing starts with truth telling and feeling all of our feelings because we're strong enough to feel them and survive. We have ways of commemorating loss, grieving, focusing on survival, and expressing gratitude for our ancestors. Our cultures guide us to heal ourselves, our families, and our communities. Through healing ourselves, we can stop the transmission of intergenerational trauma, help families heal together, and protect our children.... To read the full theme description, visit www.nicwa.org/call-for-presentations.

We are excited to invite you to attend our 41st Annual Protecting Our Children conference to be held April 2-5 at the Peppermill Casino in Reno, Nevada.

Our Call for Presentations are open and close on December 7, 2022. Early-bird registration for conference opens October 15, 2022. More details on registration times are listed in the table on this page.



Protecting Our Children Conference

Healing Our Spirits: Nurturing and Restoring Hope • April 2–5, 2023

Registration Types	Early Bird Registration (Must be received in full by March 1, 2023)	Full Registration (Payments received after March 1, 2023)	On-Site Registration
Member Registration (must use member email)	\$550	\$600	\$650
Non-member (includes one-year \$75 Abalone membership)*	\$625	\$675	\$700
Youth and Elder (youth 24 and under and elders 65 and over)	\$350	\$400	\$450
Foster/Adopted Person (current foster and adoptive parents, adult adoptees, and fostered individuals)	\$350	\$400	\$450
Presenter (up to three per workshop)**	\$300	\$350	\$375
Arts and Crafts Exhibitors	\$600	\$600	\$600
Government and For-Profit Exhibitors	\$700	\$700	\$700
Nonprofit Exhibitors	\$500	\$500	\$500

^{*}Price includes a one-year \$75 Abalone membership from the date of registration. As a new member, conference attendees are encouraged to attend the annual membership meeting held at conference.

^{**}Workshop presenters cannot be transferred once submitted.

Membership

January-February 2023 Trainings

January 31 – February 2, 2023 Portland, Oregon

Cross-Cultural Skills in Indian Child Welfare

Working effectively with Native youth and families in American Indian and Alaska Native child welfare requires knowledge and information on the diverse cultural nuances and history of tribal communities. Each tribe is diverse in nature, but there are common parallels shared among tribal cultures. Utilizing NICWA's Relational Worldview Model as a framework, this training will provide guidance on how to build cross-cultural skills and implement culturally responsive services to connect with tribal communities you serve. This training will be led by NICWA Founder and Senior Advisor Terry Cross (Seneca).

Qualified Expert Witness

This training prepares participants with information about the basic legal requirements of ICWA and will train participants on how to provide qualified expert witness testimony in ICWA cases as well as address the practice issues involved. This training will be led by long-time NICWA consultant Lorraine Brave (Mohawk).

Visit <u>www.nicwa.org/training-institutes</u> to register. Register by December 28 to take advantage of the early-bird discount.

NICWA Member Spotlight

We are pleased to spotlight Tara Hubbard as she shares about her work, the importance of advocacy for Native children and their families, and a closer look into the strengthened relationship between the State of Arizona and Pascua Yaqui Tribe.

Why did you become a NICWA member?

I became a NICWA member because I am passionate about ICWA. The work NICWA does is so important and being a member is invaluable in being kept up to date. Also, NICWA's trainings and resources are incredible. My favorite is NICWA's annual conference!

What is the most important thing people should know about Native children and families?

It is hard to define one most important thing people should know about Native children and families. I think it is important to remain humble and open to learning. Every family is unique and how best to help a family should be considered on a case-by-case basis. What works for one family may not work for another. This is why active efforts is so important because it requires tailoring services to the facts and circumstances of each case.

As governments, tribal nations have a key role in protecting Native children from abuse and neglect; helping families receive the support services they need; and ensuring children stay connected to their families,

culture, and communities. Please share with us a little about the strengthened relationship between the Pascua Yaqui Tribe and the State of Arizona.

I like to think that the Pascua Yaqui Tribe has a wonderful relationship with the State of Arizona. We are very involved in all of our cases and help our families however we can. We attend all court hearings and meetings, advocate for our families, and help with resources where we can. Since we go above and beyond for our families, we are often met with gratitude in response. After years of negotiation, we are about to enter into a Memorandum of Understanding with the Arizona Department of Child Safety that will help facilitate and strengthen our relationship with the State. We also work very closely with courts, especially the Pima County ICWA Court.

Thank you, Tara Hubbard, for your passionate and dedicated advocacy for Native children and families. Thank you for being a NICWA member!

Tara Hubbard is the ICWA Supervising Attorney who manages the ICWA Unit within the Pascua Yaqui Tribe's Office of the Attorney General. Tara has represented the Pascua Yaqui Tribe in child custody proceedings since 2016. Prior to working with the Tribe, Tara was an Assistant Attorney General with the Arizona Attorney General's Office where she represented the Arizona Department of Child Safety in Pima and Maricopa Counties. Tara graduated from the James E. Rogers College of Law at University of Arizona in 2012 and Arizona State University in 2008.





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National Indian Child Welfare Association 5100 S Macadam Avenue, Suite 300, Portland, Oregon 97239

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41ST ANNUAL **Protecting Our Children Conference**

Healing Our Spirits: Nurturing and Restoring Hope • April 2–5, 2023

Call for Presentations Now Open

Apply by Friday, December 2, 2022