

California State Department of Social Services (CDSS)

ICWA WORKGROUP

November 18, 2014 • 1:00pm to 3:30pm

Hosted by the Tuolumne Band of Me-Wuk Indians

at The Hotel at Black Oak Casino Resort

19398 Tuolumne Road ♦ Tuolumne, CA 95379

Meeting Notes

SUMMARY OF ACTION ITEMS

1. Aggie Jenkins will forward to CDSS a copy of the letter she drafted from the county's perspective to the BIA regarding the negative impact their January 2014 modification of the Federal Register has had on tribes and counties. *[Emailed to CDSS on 11/19/14.]*
2. Tribal co-chairs will get back to CDSS with regard to a tribal host for the 22nd Annual ICWA Conference to be held in 2015.

Welcome/Introductions

Review Agenda and Minutes: Nancy Currie chaired this meeting. Participants were reminded to mute their phone lines and be aware that participants in the room can here other conversations. Participants and callers introduced themselves to the group.

Tribal News/Additions to Agenda: There was no new tribal news or additions to the agenda.

Follow-up on September Action Items: Action items from the September meeting were reviewed and a status update was provided during the meeting updates regarding those still in progress. They included the following: 1) SB 1460 (re: criminal background checks for Tribally Approved Homes (TAHs) by tribes). Language was put into this bill which would allow tribes that have an agreement with the California Department of Justice (DOJ) to go through their process to do background checks for TAHs without having to go through the county. These changes allow tribes to have a pool of foster parents approved in advance of an emergency that would warrant the need for placement of a tribal child. The bill was signed by Governor Brown on 9/29/14 and will go into effect on 1/1/15. An All County Information Notice (ACIN) and related documents are currently underway to assist in explaining these changes. *[Bill language was sent to the workgroup on 10/27/14.]* 2) Bureau of Indian Affairs (BIA)/Federal Register issue. This was a carry-over item from the May workgroup meeting regarding the BIA's January 2014 modification of the Federal Register, in which the tribal affiliations were removed from the list. Aggie Jenkins of Riverside County has drafted a letter to the BIA, from the county's perspective, to inform them of the negative impact their January 2014 modification has had. Aggie will forward an email of the letter to CDSS for distribution to the ICWA Workgroup.

CDSS Updates

Division 31 Regulations: Kelly Winston provided this update. The department's Office of Regulations Development (ORD) is making some formatting edits. We expect the regulations will be posted for public comment near the end of this fiscal year.

Children and Family Service Plan (CFSP): Kelly mentioned that Dave McDowell was originally scheduled to provide this update. However, he will not be available for this meeting, so we will table this discussion for the next workgroup meeting.

CDSS Tribal Consultation Policy Development: Scott Stevens provided this update. The Tribal Consultation Policy Committee (TCPC) last met on October 28th. One month prior to the meeting, CDSS emailed a draft policy for TCPC participants to review. At the 10/28 meeting, we broke into different groups assigned to work on a particular section pertaining to various elements of the policy. Jennifer Buchholz reminded the workgroup that funding was secured from the California Partnership for Permanency (CAPP) contract for two face-to-face meetings, one of which was the 10/28 meeting. Strict guidelines for reimbursement were sent out to TCPC members regarding this.

It is expected that the next TCPC in-person meeting will be held in January or February, pending CAPP's ability to secure additional funding for travel to more meetings. The California Health and Human Services (CHHS) Agency is also developing a tribal consultation policy. Therefore, CDSS needs to ensure that its policy aligns with CHHS Agency's policy.

Delia Parr suggested reviewing SB 18 (Chapter 905, Statutes of 2004) regarding consultation with federally recognized tribes. However, this bill requires cities and counties to conduct consultations with tribes before the local officials adopt or amend their general plans. These consultations are intended to preserve or mitigate impacts to Native American historic, cultural, sacred sites, features, and objects located within the city or county. Although CDSS' tribal consultation policy will look much different than that required by SB 18, there may be some elements that may be useful.

Scott explained how representation on the TCPC was handled with regard to requesting participation from federally recognized and non-federally recognized tribes. We currently have one non-federally recognized tribe participating on the TCPC. Working in representation for the urban tribes is a challenge, since they do not have an actual "government" to work with. All tribes and urban organizations will be invited to the consultations, but only those actually representing a tribe will be allowed to vote on issues.

Tom Lidot asked the question, "How are we going to make sure that the needs of urban areas are adequately served and represented (without allowing them to vote)? Also, what about representation for youth that have aged out of the system?"

Theresa Thurmond mentioned that the Independent Living Program (ILP) is a federal program that offered in each state to assist with youth that are transitioning out of foster care. Regardless of whether or not they are from a federally recognized or non-federally recognized tribe, services are available to all that are in foster care. An important issue is checking to make sure that the needed services will be provided on or near the reservation, since that is where many youth end up returning to when released from foster care.

Resource Family Approvals (RFA) Program and SB 1460

Jennifer Buchholz and Vevila Hussey gave this report. As mentioned earlier, SB 1460 (re: criminal background checks for Tribally Approved Homes (TAHs) by tribes) was signed by Governor Brown on 9/29/14 which will allow tribes that have an agreement with the California

Department of Justice (DOJ) to go through their process to do background checks for TAHs without having to go through the county. These changes allow tribes to have a pool of foster parents approved in advance of an emergency that would warrant the need for placement of a tribal child. This bill will go into effect on 1/1/15 and an All County Information Notice (ACIN) and related documents are currently underway to assist in explaining these changes.

Judicial Council of California Update

Ann Gilmour highlighted a few upcoming ICWA trainings, including one for the Los Angeles County Edelman's Children's Court in collaboration with Tribal STAR on December 5, 2014, one for San Bernardino County on January 8, 2015, and one for Los Angeles County probation on January 15, 2015. She also mentioned a proposal to amend rules of court to conform to the "In re Abbigail A" decision, amend form ICWA-030 to conform to the "In re SE" decision and amend rule 5.483 concerning transfers to tribal court in light of SB 1460. The forum and committee decided to defer any action on amending the rules and forms to conform to the Abbigail A and SE decisions until after the California Supreme Court rules on Abbigail A. The forum and committee decided to move forward with amendments to rule 5.483 governing transfers to tribal court.

Vida Castaneda talked about some of their collaborations, including those with the Bay Area Collaborative of American Indian Resources (BACAIR) and the Los Angeles County ICWA Stakeholders' Roundtable. Los Angeles County needs Tribally Approved Homes (TAHs). However, most Native Americans living in Los Angeles are urban Indians, so it is a challenge. There are still some missing pieces. The roundtable's focus right now is getting more TAHs in Los Angeles County. BACAIR's focus will be on transitioning aging youth.

County Updates

BIA Modification of Federal Register: Scott Stevens gave this report. This was a carry-over item from the May workgroup meeting regarding the Bureau of Indian Affairs' (BIA's) January 2014 modification of the Federal Register, in which the tribal affiliations were removed from the list. Aggie Jenkins of Riverside County has drafted a letter to the BIA, from the county's perspective, to inform them of the negative impact their January 2014 modification has had. Aggie will forward an email of the letter to CDSS for distribution to the ICWA Workgroup. *[Emailed to CDSS on 11/19/14.]* It was also recommended that multiple tribes should also send letters expressing their concerns as well. The main concern is that tribes are not getting timeline notice, as per the ICWA. This is also a county resource issue, as they rely on this information in order to send timely notice to tribes.

ACTION 1: Aggie Jenkins will forward to CDSS a copy of the letter she drafted from the county's perspective to the BIA regarding the negative impact their January 2014 modification of the Federal Register has had on tribes and counties. *[Emailed to CDSS on 11/19/14.]*

CWDA Central Valley Regional Representative: This item was not covered, but was discussed in the county/state morning meeting. No new representative has yet been selected.

California Kids Connection Website

Scott Stevens gave this report. California Kids Connection is a website maintained by Family Builders where children that are available for adoption can be posted on the website. In years

past, all children that were available for adoption (Indian and non-Indian) were posted on the website, until concerns were raised as to whether or not tribes wanted their children to be posted on the website. The website consists of two areas: 1) postings by county agencies and private agencies, and 2) public site; children that have been legally freed. Some tribes believe the website may provide more opportunities for an Indian child to connect with, be adopted and/or find a permanent placement with Indian family. However, some tribes do not want their children posted on the site. Since the intention of the ICWA is to stop the removal and adoption of Indian children out of tribes, this is a very sensitive issue. The topic was discussed with the ICWA Workgroup in September 2009, but put on hold until feedback was received from the workgroup's tribal caucus. More recently, the recommendation given by the workgroup's tribal co-chairs has been to allow each tribe to decide on a case-by-case basis as to whether or not to have their tribal children posted on the website. The workgroup participants agreed. It was also suggested that tribal children only be included on the site with the Tribal Council's permission.

Tribally Approved Homes and Out-of-State Tribes

This topic was already covered earlier in this meeting during the RFA discussion.

21st Annual Statewide ICWA Conference Debrief

Diana Orcino gave this report based on information provided by the North Fork Rancheria, who hosted the 2014 conference. The conference had over 200 attendees and reviews were mostly favorable. Some of the highlights included: 1) Panel discussion with Dusten Brown regarding "Baby Veronica." This was a very emotional panel discussion and most participants were weeping and overcome with emotion; 2) Active efforts and tribal customary adoption, which many felt were the most informative; and 3) Attorneys and judges alike expressed their overall gratitude to broaden their cultural awareness and participate alongside so many individuals who are in the trenches day after day.

Frank Canizales requested that the comments that were voiced at the Listening Session that was held at the 2014 ICWA Conference be honored as the TCPC are developing the CDSS tribal consultation policy.

Pre-Planning for Next ICWA Conference

The conference is set to be held in the northern region in 2015, but the tribal co-chairs will get back to CDSS with regard to a tribal host. The Pala Band of Mission Indians has offered to host the 23rd Annual ICWA Conference in 2016. The conference is set to be held in the central region in 2017. Nancy talked about the interest in forming a conference planning committee so that the hosting tribe is better organized with guidelines and tips from previous conference hosts.

<p>ACTION 2: Tribal co-chairs will get back to CDSS with regard to a tribal host for the 22nd Annual ICWA Conference to be held in 2015.</p>
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Next ICWA Workgroup Meeting Discussion

Topics for Next Agenda: Suggested items for the next workgroup meeting are: Transitional Housing Services, Child Welfare Core Practice Model, SB 1460, Child and Family Services Plan, Resource Family Approvals, and Qualified Expert Witness.

Proposed 2015 ICWA Workgroup Meeting Schedule: Diana alerted participants to the proposed workgroup meeting schedule for 2015.

Other Issues

Liz DeRouen expressed her concern about using qualified expert witnesses (QEWs) in California. Tribes have to use the QEW that the county has contracted with. If a QEW that the tribe wishes to use is not on the state's QEW list, then they cannot be reimbursed. There needs to be more work done regarding how QEWs are selected and compensated in California.

Nancy expressed her concern regarding conflicts of interest and QEWs. Although county workers cannot be a QEW for their own county, counties are using county workers from other counties as QEWs. The system is so adversarial already; we need to make decisions that are in the best interest of the children we are trying to serve. Tom Lidot expressed that counties seem to want to pick and choose who they want for a QEW. It seems very biased, but should be unbiased. Who ensures that the counties are using and selecting QEWs appropriately?

Ann Gilmour: Hiring a QEW is a county cost and so they look at it as their witness. Ann stated that this issue would require a legislative fix to effectively resolve the problem.

The group agreed that there needs to be a consistent process used throughout the state for qualifying and utilizing expert witnesses.

Adjournment

The meeting adjourned at 3:25 p.m.