TRIBAL EARLY INTERVENTION REPORT

December 2020



CALIFORNIA TRIBAL FAMILIES COALITION

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ACKNOWLEDGEMENTS

The Board of Directors and the staff at CTFC would like to acknowledge and give special thanks to the Bishop Paiute Tribe for their contribution to this project. In addition, a deep sense of gratitude is owed to the survey responders who took the time to provide thoughtful answers.





The mission of the California Tribal Families Coalition is to promote and protect the health, safety and welfare of tribal children and families, which are inherent tribal governmental functions and are at the core of tribal sovereignty and tribal governance.

https://www.caltribalfamilies.org/

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EXECUTIVE SUMMARY

The Individuals with Disabilities Education Act (IDEA) is a federal mandate which dictates that every child with a disability will receive a meaningful public education at no cost to the parent. IDEA serves eligible infants, toddlers, and youth. It also governs early intervention, related services, and specialized education.

The COVID-19 public health emergency highlighted possible needs and inequities in early intervention services, which CTFC found a need to investigate further. The Tribal Early Intervention Survey (TEIS) was conducted to measure the effectiveness of information distribution regarding the accessibility of these mandated services for tribal children and their families. TEIS findings indicate that, for the most part, Native American families are neither acquiring early intervention detection information or services for children within California. This is a direct violation of the California Education Code - EDC § 56301.

This dismal systematic failure of various agencies to disseminate information regarding available programs to Native American populations perpetuates a continuation of a modern caste system in which Native American families are regarded as "less than" in the eyes of agencies and perpetuates the subjugation of historical trauma for tribal families.

The systemic failure to provide outreach, training, early detection and intervention information to tribes and their education and child welfare programs by the California Health and Human Services is in violation of federal and states laws such as the Individuals with Disabilities Education Act, the Americans with Disabilities Act, and the Lanterman Act. This violation puts Native American children and families at risk.

CHILD FIND FAQ

What is Child Find?

"Child Find" is a component of the Individuals with Disabilities Education Improvement Act (IDEA) that requires states and Local Education Agencies (LEA's including school districts and charter schools) to identify, locate, and evaluate all children with disabilities residing in the State, (regardless of the severity of their disabilities) who are in need of special education and related services (34 CFR§ 300.111).

"Child Find" includes a collaborative effort to inform the public of early intervention services for children and families. This should be a continuous process of public awareness activities, screening, and evaluation designed to locate, identify, and evaluate children with disabilities who are in need of Early Childhood Intervention (ECI) Programs (Part C) or Special Education and Related Services (Part B). - Sec. 300.111 & 303.301

Who Does it Serve?



"Part C" of IDEA includes children from birth to 2.5 years of age who qualify, which identifies infants and toddlers who are "at risk of a developmental delay if early intervention services were not provided."

"Part B" of IDEA includes providing a "free and appropriate public education" (FAPE) for preschool age children with disabilities.

CHILD FIND FAQ CONT.

How Does it Work?

The LEA, through the Special Education Local Plan Area (SELPA) and with the cooperation of other public agencies is responsible for "Child Find."

From birth to 2.5 years of age, the lead agency "with the assistance of the state interagency coordinating council ensures that the system is coordinated with all other major efforts to locate and identify young children by other state agencies and programs including Maternal and Child Health Home Visiting Programs, Children's Health Insurance Program (CHIP), Early Hearing Detection and Intervention (EDHI), **Early Head Start**, **child protection and child welfare programs** including **foster care** and CAPTA, programs that provide services under the Family Violence Prevention and Services Act, **child care programs**, and **tribal agencies**."

"Child Find" should include pre-referral procedures, the public awareness program (34 CFR §303.301), central directory (34 CFR §303.117); referral procedures, timelines, and participation by the primary referral sources (34 CFR §303.303), post-referral procedures including screenings, evaluations, assessments, and timelines. It targets primary referral sources including hospitals, prenatal and postnatal care facilities, physicians, parents, child care programs and early learning programs, LEAs and schools, public health facilities, social service agencies, and other clinic and health care providers, public agencies and **staff in the child welfare system**, including child protective services and foster care, homeless family shelters and domestic violence shelters and agencies.

CHILD FIND FAQ CONT.

What Does "Child Find" Say About Tribes and Tribal Children?

The lead agency, as part of the "Child Find" system, must ensure that:

(1) All infants and toddlers with disabilities in the State who are eligible for early intervention services under this part are identified, located, and evaluated, including—

(i) Indian infants and toddlers with disabilities residing on a reservation geographically located in the State (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the State, based in part, on the information provided by them to the lead agency under §303.731(e)(1)); and

(ii) Infants and toddlers with disabilities who are homeless, in *foster care*, and wards of the State... [§303.302]



REPORT PURPOSE

This project seeks to investigate the basic awareness of early intervention and "Child Find" services within California's tribal communities before and during the COVID-19 pandemic.

The closure of California's public schools has heavily impacted tribal youth, whose achievement scores and graduation rates were well below the national average prior to the COVID-19 public health emergency. The removing of children from schools is being acutely felt by tribal children and families, many of whom live on reservations in rural areas with limited access to online instruction and limited access to the services required by special education plans.

Further complicating the educational landscape during this crisis, is the lack of screening and associated early intervention services for children aged 0-3 years. This is a critical window of time for children with development delays, with life-long consequences accruing as the result of the lack of early intervention services.

CTFC collected data from tribal representatives and tribal leaders across the state to evaluate state and federal government compliance with the legal mandates to serve the tribal community, particularly during this critical time of the COVID-19 public health emergency.

This report summarizes those findings and provides recommendations to increase compliance with applicable laws to better serve tribal children and families.

Section 1: LEGAL BACKGROUND

1954

Brown v. Board of Education

Ruled that segregation violated equal educational opportunity. While this decision was based on the injustice of racial segregation, it established a broad understanding that all people deserve equal access to a meaningful public education.

1969 Lanterman Act

Outlined how regional centers and other service providers are supposed to assist families with services and supports through an individualized program plan. [California Welfare and Institutions Code, starting at § 4500 – § 4905]

1975

Individuals with Disabilities Education Act (IDEA)

Originally called the Education of Handicapped Children Act, the 1990 revision clarified how states and other public agencies are to provide early intervention, special education, and related services. This mandates "Child Find" and early intervention services.

1990

Americans with Disabilities Act (ADA/504)

Federal legislation which was modeled after the Civil Rights Act of 1964. It prohibits discrimination and mandates "equal access" for people with disabilies. [U.S. Code § 12101]

Section 2: SURVEY FINDINGS

- The TEIS 19 questionnaire that was emailed to California tribes in the Southern, Northern, West and East Central BIA Regions demonstrates a systemic core failure of "Child Find" in it's mission to locate, identify, and evaluate children with disabilities and it's public awareness program.
- These statewide failures of "Child Find" violate the federal and state laws which govern equity, equal opportunity, and access to education for families

Seventy-five percent (75%) of respondents identified themselves as tribal social workers which indicates that more than half of the respondents work directly with parents who struggle with substance misuse disorders or who have substantiated cases of child abuse and/or neglect. According to Ross et al. (2015) this also means that these children are more likely to have children with developmental disabilities/delays or are at a higher risk of having a child with special needs.

More than sixty percent (60%) indicated that they have had more than ten years of tribal service which indicates that they are veterans in their field and would be regarded as having expert knowledge regarding services for families in need. In addition to tribal social workers, twenty five (25%) of the respondents identified themselves as tribal leaders.

Over seventy percent (75%) of all respondents describe their areas as remote and or rural to which approximately only sixty percent (60%) indicated that they had reliable internet access.

Findings "Child Find" programs are not reaching tribal communities

The CDC notes that systematic information regarding early intervention is a critical key for educational and functional success for Native American children and families. However, within their respective region, over ninety percent (90%) of tribal respondents report that they have not been contacted by LEA's (School District) SELPA or the Regional Center for the purpose of outreach and education. Thirty percent (30%) of tribal representatives had never heard of the Regional Center, sixty percent (60%) reported that they had never heard of the Lanterman Act. This information is deeply concerning as sixty percent (60%) had more than 10 years of public community service, which indicated a failure of systematically organized dissemination of information within the State of California's most needy population.

In addition, of the tribal representatives that had contact with Regional Centers, ninety percent (90%) reported that Regional Centers and other outside agencies were slow to respond and schedule assessments which in turn puts the child at risk. Over seventy percent (70%) of respondents that had heard of Regional Centers sought out this information on their own. Meaning, that less than forty percent (40%) of respondents were referred to Regional Centers by an outside resource such as a doctor or social worker. In sum, less than seven percent (7%) of respondents were contacted by an employee of a Regional Center.

Additionally, since the COVID-19 pandemic, one hundred percent (100%) of the participants indicated that there has been no communication or outreach from their respective Regional Center or District to discuss challenges, barriers, or updates regarding services.

California does not consult with tribes about developmental service programs

The California Health and Human Services (CHHS) Tribal Consultation Policy states: "Each department is responsible for regular and early consultation with tribes in order to promote effective collaboration. Departments are encouraged to conduct their outreach with annual meetings, and other meetings as needed for departments with programs that directly impact tribes and tribal communities. Tribal Chairpersons can request a consultation meeting with the Agency and departments for more specific needs and issues that arise."

CHHS holds responsibility for enforcement of the IDEA as it pertains to children birth to three years of age. Sec.303.302 of IDEA, clearly dictates that: "All infants and toddlers with disabilities in the state who are eligible for early intervention service under this part are identified, located and evaluated including Indian infants and toddlers with disabilities residing on reservations geographically located in the state (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the State based in part of the information provided by them to the lead agency under 303.731(e)(1))."

Additionally, federal regulations governing state child welfare agencies require states develop plans to address the specific developmental needs of foster children aged 0-5. These federal regulations dictate that states are required to consult with tribes in the development of these plans. As the state agency responsible for child welfare services, California Department of Social Services (CDSS) is thereby required to consult and collaborate with tribes to address the developmental needs of Indian foster children aged-0-5.

In spite these clear regulations for tribal consultation on this issue, in our TEIS survey, one hundred percent (100%) of the tribal leaders and representatives, reported that there was no communication, inquiry, or outreach from state agencies for the purpose of tribal consultation regarding "Child Find."



The qualitative portion of the TEIS survey is an open-ended question regarding the personal experience with the Regional Center and early intervention, special education needs, and outreach efforts in their area. The summarization of the respondent points directly to systematic neglect and abuse of a needy population that is continually attempting to improve on its situation and being denied. "Without naming people or your tribe, is there anything else that you would like to share regarding your experience with the Regional Center or about early intervention, special education, needs, and outreach efforts in your area that would be helpful"?

I have been a social services director for 8 years and I wasn't aware of them or their services until my own personal experience with my daughter led me to seek out information about resources. Once I learned about the regional center and what they do, I was astonished that being in the social services field for the tribe I work for, for 5 years at that time, that I had never heard of them prior. I was so excited about the resources and services available because I knew that so many of the families I worked with also had children with developmental delays and disabilities and could greatly benefit from services, especially in-home ones since getting the children to services seems to be one of the biggest barriers to assessment and services for our families. I asked my IFSP how they advertise their services and told her how shocked I was that in all my years, I had never been made aware of them. Her response blew me away. She told me that they do not advertise their services and that most families just learn about them through word of mouth. I was completely astonished how such a critical service to the community wasn't being widely and effectively shared by the masses, in particular to tribal communities because I feel like so many of our families have children with special needs. Since having learned about the regional center, we now routinely have our new child welfare cases where there are children under 3 be screened by the regional center because most of these children have been exposed to various things that put them at a higher risk for having a developmental disability or delay.

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There is an overall unwillingness to take the parent's concerns seriously and trying to get an IEP assessment can be very hard to actually get. The schools seem to not want to take the time to really get to the bottom of what is going on with a child when it comes to behavioral concerns and how it's impacting their education. The services are overall very limited.

Our region has a very hard time accessing services and getting assessments. It is very hard to get workers to call you back and if they get back to you, they are very inflexible with scheduling. If a family requests an assessment, they have to drive 2 hours to get the assessment done. It's been a real struggle in general to get services and the kids on our caseload are not getting reliable services. On a personal note, I have a child that had been assessed by the regional center up here in Northern California at the age of 2 1/2 and we had to drive 2 hours away to even get the assessment. The assessment tools used seemed questionable to say the least so I question the accuracy of their findings. They determined that my son was autistic and he received a formal diagnosis from the regional center, and we were supposed to receive an IFSP and receive services but never actually did. We ended up only receiving services once he started preschool. He had an IEP up until 2nd or 3rd grade and we had meetings and they did testing, but his IEP never actually had any formalized services or treatment plan for him. Parents need education on navigating IEP and their rights, Laws.

Overall my concern is that there is a huge disconnect our county/tribe has with the regional center because we are so far away from where they are.

Offering more educational meetings or workshops would be helpful for parents, there is not a lot of outreach from schools on an individual level and help, in general, is not being individualized by the child. Parents should know what services are available and the schools should also be working with the regional centers to coordinate outreach efforts.

Conclusions

The concerns presented by tribal representatives demonstrate the inequalities that California Tribes face with regards to the lack of public information and intervention including inequality of outreach efforts, and a denial of equitable early education.

Tribal representatives report little to no outreach by California agencies to comply with the IDEA Part C, which dictates the need for early intervention and early start programs to address, notify, and disseminate information regarding services for children birth to 3 years of age. Of particular concern, with Native American children highly overrepresented in the foster care system, are the lack of coordinated services meant to meet the developmental needs of Native American children age 0-5 in foster care, an especially vulnerable population.

Early intervention for children demonstrates a key role in ending generational poverty and trauma. Although policies and programs are in place, they are not readily accessible to the general tribal community due to insufficient dissemination of information regarding these programs. Until this is remedied, Native American children in California who are not receiving early intervention will continue to be at a higher risk for lifelong educational challenges.

Section 3: RECOMMENDATIONS



CHHS must comply with its tribal consultation policy, which was developed in accordance with Governor Edmund G. Brown's Executive Order B-10-11. This must include consultation specific to "Child Find" services.



CHHS must develop its own Office of Tribal Affairs. Additionally, CHHS must develop policies to ensure that CHHS, CDSS and DDS coordinate regarding tribal consultation related to early intervention services.



CHSS must develop policies mandating reserved seats for tribal representatives on committees and workgroups addressing early intervention services convened by the CHHS or any sub-agency.

CHHS must consult with tribes to establish funding for tribes wishing to establish their own early intervention services.

5

CHHS must, in consultation with tribes, develop an external audit review of early intervention services in tribal communities that includes IDEA Part C and the Lanterman Act "Child Find" services.

6

CDSS must consult with tribes regarding early intervention services for children in foster care as a part the development of its Title IV-B plan.

Section 4: APPENDIX

ORGANIZATION & REPORT AUTHORS' BIOS

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Dr. Watson is the founder and CEO of ABC4IEP, LLC. She has spent her adult life advocating for the rights of children as a teacher, program specialist, coordinator, county principal, and director of special education and student services. Graduating with her Ed.D from Walden University, her dissertation, "Inclusion: An Examination of Attitude Congruence Within Elementary School," has been widely cited for the importance of universal program development of inclusion in general education classrooms. Dr. Watson has also been an adjunct professor for Walden University and Concordia University with a specialization in special education law.

Project Staff

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Delia is the founding Executive Director of CTFC. Prior to her time with the CTFC, she was the Program Director for the Resource Center for Family-Focused Practice at UC Davis Extension's Center for Human Services. For the 10 years prior to that, she served as Directing Attorney for the Eureka Office of California Indian Legal Services.

Season Goodpasture (Susanville Indian Rancheria)

Season Goodpasture is the Development Director with the California Tribal Families Coalition. She is also the Director of Social Service of the Pala Band of Mission Indians Social Services. Season's passion has been to help tribes exercise their sovereignty through program development and increasing the capacity of their tribal courts and child welfare programs by utilizing a vast array of state and federal funding sources. Season's efforts to expand her social services program led to Pala being the first tribe in California to be able to conduct their own criminal background checks and ultimately paved the way for all other tribes to do so through the passing of SB 1460. Season is an AMFT and received her M.S. in Counseling Psychology from California Baptist University and is trained in the EAGALA method of equine-assisted psychotherapy.

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Blair Kreuzer currently serves as the Policy Director at California Tribal Families Coalition. Blair is a member of the Hoopa Valley Tribe and has worked as an advocate for social justice in urban and rural tribal communities for the past 16 years. Blair earned a Bachelor of Arts from U.C. Berkeley in Political Science and Native American Studies, and a Masters of Social Work from Humboldt State University. For the past eight years, Blair has worked in tribal agencies, focusing on Indian Child Welfare Act compliance, and the development of tribal child welfare systems.

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CTFC MEMBER TRIBES

PALA BAND OF MISSION INDIANS



SUSANVILLE INDIAN RANCHERIA



JAMUL INDIAN VILLAGE



RESIGHINI RANCHERIA



HOPLAND BAND OF POMO INDIANS



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KARUK TRIBE



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YUROK

TRIBE

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WILTON RANCHERIA



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