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Protect ICWA Campaign Partners Applaud Lawsuit Challenging Data Collection Withdrawal in the Adoption and Foster Care Analysis and Reporting System (AFCARS) Final Rule

(Portland, OR, August 27, 2020)—Today we applaud the broad coalition of tribal nations and foster and LGBTQ+ youth organizations who filed a lawsuit challenging the 2020 Adoption and Foster Care Analysis and Reporting System (AFCARS) Final Rule. The 2020 Rule rolled back state foster care agency data reporting requirements and undermined the ability of tribal governments, states, policymakers, and advocates to understand the unique experiences and needs of specific populations, and establish effective interventions to keep children safe and end decades of overrepresentation of Indian children in state foster care systems.

In a lawsuit filed today in Federal District Court in the Northern District of California, plaintiffs California Tribal Family Coalition, Yurok Tribe, Cherokee Nation, and a broad array of organizations serving LGBTQ+ youth, assert that the U.S. Department of Health and Human Services, Administration for Children and Families (DHHS-ACF) violated the Administrative Procedures Act when the agency issued its May 12, 2020, AFCARS Final Rule. The Final Rule eliminated over 90 percent of the previous 60 plus AFCARS data elements for American Indian and Alaska Native children established within the 2016 AFCARS Final Rule. AFCARS is the federal government's largest source of data on children who are in out of home placement.

"While this may sound like a technical data issue, at its heart the decision to not require states to collect data acknowledging the unique political status and needs of Native children means we will continue to be unable to fully understand how Native children and their families experience the child welfare system and support effective solutions to stabilize families and reduce trauma to Native children. Not collecting data about Indian children and LGBTQ+ children in effect makes these children invisible. We won't see the important patterns and trends in their experience and know how to use existing federal protections like the Indian Child Welfare Act to improve their well-being," said National Indian Child Welfare Association executive director Sarah Kastelic.

"All of the 2016 AFCARS data elements are key to ensuring that Indian children and their cases are accurately tracked and handled throughout state systems going forward," said Kevin J. Allis, Chief Executive Officer of the National Congress of American Indians. "Erasing 90 percent of the Indian children data points erases their specific needs and cases from consideration. We should be expanding



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federal data on Indian children and not immediately erasing it after the Agency has done its due diligence in creating the vital data points.”

DHHS-ACF’s stated reasons for eliminating the data elements for Indian children and families are the perceived burden to states to collect new data and questions about the value of the data. Ironically, these same issues were addressed in detail in the 2016 Final Rule that established the new data elements for Indian children and families.

Read the [Complaint](#) from Plaintiffs in the lawsuit.
Read the AFCARS Final Rule on the [Federal Register](#).

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Protect ICWA Campaign

The Protect ICWA Campaign (the Campaign) was established by four national Native organizations: the [National Indian Child Welfare Association](#), the [National Congress of American Indians](#), the [Association on American Indian Affairs](#), and the [Native American Rights Fund](#). Together, the Campaign works to serve and support Native children, youth, and families through upholding the Indian Child Welfare Act. The Campaign works to inform policy, legal, and communications strategies with the mission to uphold and protect ICWA.