

CONFERENCE OF CHIEF JUSTICES

Resolution 5

To Encourage Greater Collaboration Between State Courts and Tribal Courts to Protect Native American Children

WHEREAS, tribal courts serve the children and families of sovereign nations with the same authority and responsibility as state courts; and

WHEREAS, collaboration between state courts and agencies responsible for child protection and education has greatly contributed to the improvement of the process and outcomes of child protection cases around the country; and

WHEREAS, the federal Indian Child Welfare Act (ICWA) requires close communication and cooperation between state and tribal courts when a Native American child not residing in Indian Country is removed from her/his home or is offered for adoption; and

WHEREAS, close communication and cooperation between state and tribal courts have been inhibited by:

- the lack of contact information for tribal judges in many states;
- the difficulty in electronically exchanging information regarding child protection cases between tribal and state courts;
- the lack of information regarding the requirements of ICWA, the reasons for those requirements, and the relationship of ICWA to other federal legislation on child welfare such as the Adoption and Safe Families Act (ASFA) and the Fostering Connections Act;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices encourages each court system in states that include Indian Country to:

- (1) Encourage the state court judges who hear child protection and adoption cases to communicate and collaborate with their tribal court counterparts when a Native American child or family may be involved in a case;
- (2) Provide a brief discussion and description of the state's tribal courts in new judge orientation programs and materials;
- (3) Include on the state court website contact information for each tribal court in the state;
- (4) Offer each tribal court in the state the case management system module(s) on child protection used by the state; and
- (5) Present training on the requirements of ICWA and the relationship of ICWA to other federal legislation on child welfare such as the ASFA and the Fostering Connections Act for state court judges and invite tribal judges to participate in that training.

Adopted as proposed by the CCJ/COSCA Courts, Children and Families Committee, Tribal Relations Committee, and Access, Fairness, and Public Trust Committee at the CCJ Midyear Meeting, January 26, 2011.



DECEMBER WEBINAR SERIES - SAVE THE DATES!

Save the dates **now** for the NCJFCJ December dependency court best practice webinar series! These webinars will also be recorded and available online if you are unable to participate in person. This webinar series features:

Engaging Children in Court – An introduction to the newly released *Seen, Heard, and Engaged: Children in Dependency Court Hearings* technical assistance bulletin which was designed to provide information, guidance, and aspirational practice recommendations to dependency courts and dependency court judges with regard to bringing children to court for hearings related to their own dependency cases. This webinar includes information on best practice support for bringing children to court, the legal framework supporting children’s attendance at and participation in hearings, and concrete tools which will enable courts to successfully engage children of all ages in the hearing process.

When: Wednesday, December 5
12:00 p.m. PT, 1:00 p.m. MT, 2:00 p.m. CT, 3:00 p.m. ET

Presenters: Andrea Khoury, J.D., American Bar Association Center for Children and the Law; Elizabeth Whitney Barnes, J.D., National Council of Juvenile and Family Court Judges

Link to connect to the webinar: <http://ncjfcj.adobeconnect.com/december-webinar-series/>

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The NEW Resource Guidelines Sneak Peek – The Resource Guidelines were the ground-breaking publication on judicial practice in child welfare cases when they were published in 1995. Since 1995, new laws have been passed, new practices have been developed, and a new lens supporting children and families, especially those of color has evolved in the child welfare system. The Resource Guidelines enhancement process has revised the publication through a race equity lens, and will be published in 2013. Join us for a sneak peak to learn about what has been done so far and what is planned!

When: Wednesday, December 12
11:00 a.m. PT, 12:00 p.m. MT, 1:00 p.m. CT, 2:00 p.m. ET

Presenters: Honorable Patricia Escher (Ret.); Honorable Stephen Rubin (Ret.), Pima County Juvenile Court Administrator

Link to connect to the webinar: <http://ncjfcj.adobeconnect.com/december-webinar-series/>

NCJFCJ December Webinar Series - 2012

Legal Orphans ~ Permanent Families - This webinar will introduce the Technical Assistance Bulletin to be released in 2013 containing policy and practice recommendations to reduce the numbers of legal orphans aging out of foster care without permanent families. Judicial leadership, court practices, child welfare agency responses, and community partnerships will be discussed, with practical recommendations which will enable dependency courts and systems to assure permanent homes for many more legal orphans.

When: Thursday, December 13
12:00 p.m. PT, 1:00 p.m. MT, 2:00 p.m. CT, 3:00 p.m. ET

Presenter: Honorable Sharon McCully (Ret.)

Link to connect to the webinar: <http://ncjfcj.adobeconnect.com/december-webinar-series/>

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A Vision and Tools for 100% ICWA Compliance - NCJFCJ has asked Model Courts, Court Improvement Programs (CIPs), judicial educators, and courts across the country to join in a vision of 100% Indian Child Welfare Act (ICWA) Compliance. This webinar will focus on the importance of the law and understanding historical trauma, provide strategies to increase ICWA compliance performance through judicially led collaborative problem-solving groups, and give an overview of baseline data collection and action planning tools. A new soon to be released Technical Assistance Brief will be discussed and can be used as a companion to the webinar.

When: Tuesday, December 18
12:00 p.m. PT, 1:00 p.m. MT, 2:00 p.m. CT, 3:00 p.m. ET

Presenters: Honorable William Thorne, Utah Court of Appeals (additional faculty TBA)

Link to connect to the webinar: <http://ncjfcj.adobeconnect.com/december-webinar-series/>

Tribal-State Court Engagement & Collaboration: A Joint Jurisdiction Model – This webinar will focus on how tribal courts and state courts can work together to help children and families who experience the child welfare system. An example of a tribal-state joint jurisdiction court will be shared which has inspired others to begin to work together in innovative ways. The Cass/Itasca County/Leech Lake Tribal Wellness Court is the first tribal-state joint jurisdictional court in the U.S., serving as a model for intergovernmental cooperation. The court has been honored with the Harvard Honoring Nations Award, National Association of Drug Court Professionals Cultural Proficiency Courage Award 2012 and Outstanding Criminal Justice Program Award by the National Criminal Justice Association, and 2012 County Achievement Award from the Association of Minnesota Counties.

When: Wednesday, December 19th
12:00 p.m. PT, 1:00 p.m. MT, 2:00 p.m. CT, 3:00 p.m. ET

Presenters: Honorable Korey Wahwassuck, Leech Lake Band of Ojibwe Tribal Court; Honorable John P. Smith, Cass County District Court, Minnesota

Link to connect to the webinar: <http://ncjfcj.adobeconnect.com/december-webinar-series/>

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Judicial Leadership Off the Bench – The NCJFCJ, in partnership with the National Resource Center on Legal and Judicial Issues, developed a national judicial leadership curriculum, designed to create a more sophisticated approach to off-the-bench judicial leadership and effective systems reform. Using current research on effective leadership, as well as guidance offered by some of the nation's leading judicial educators (including judges themselves), this Curriculum focuses on specific areas of leadership development that form the basis for the development of effective leadership skills. Please plan to join us to learn more about the Curriculum, including a demonstration of one of the Curriculum's seven leadership skill-building modules, and to learn how the curriculum can be delivered in your jurisdiction. Faculty for this webinar are the Curriculum's co-author and co-lead faculty, Dr. Sophie Gatowski, and the Honorable Stephen M. Rubin (ret.), a judicial education consultant and co-lead faculty for the Curriculum.

When: Thursday, December 20
12:00 p.m. PT, 1:00 p.m. MT, 2:00 p.m. CT, 3:00 p.m. ET

Presenters: Honorable Stephen Rubin (Ret.), Pima County Juvenile Court Administrator; Sophie Gatowski, Ph.D., Director, Systems Change Solutions, Inc.

Link to connect to the webinar: <http://ncjfcj.adobeconnect.com/december-webinar-series/>



Addressing the Needs of Tribal Foster Youth

TRIBAL STAR TIPS FOR FOLLOWING PROTOCOL WHEN WORKING WITH TRIBAL COMMUNITIES

These tips for following protocol will focus on two areas: protocol in the context of others (group setting), and protocol to engage community leadership. *Merriam-Webster defines protocol as: 3 a: a code prescribing strict adherence to correct etiquette and precedence.* The ability to follow and understand protocol when working with Tribal communities will assist one's efforts to set a foundation for long-lasting and trusting relationships.

Because of a long history of broken treaties, attempted genocide (California policy in 1848), and federal policies that broke apart Native families, Native communities are hesitant to collaborate with health departments, non-Tribal social service agencies, and academic institutions. In both the distant and recent past, the "words" spoken by non-Natives when forming agreements were not honored which today results in much of the distrust and anger held by Natives toward non-Natives. Additionally, with the recent success of Tribal enterprises (gaming, retail, etc.), many Tribal members expect that any effort to build relations include a hidden agenda to seek financial support.

The use of protocol when engaging with Native community members can show Tribal gatekeepers that one has taken the time to learn the value of culture, tradition, and humility. Using protocol does not guarantee Tribal participation, it increases probability. The following recommendations are not based on the culture of any single tribe, but on the application of Tribal values to group and individual interaction.

A new frame of reference.

Tribal protocol requires behavior that demonstrates humility, respect, the awareness that all things are connected, and that our individual and group behaviors can help and hurt current efforts to solve community problems. Tribal values emphasize family/clan/group/Tribe, not the self or individual as in contemporary mainstream society. When working with Tribal entities it is important to behave as if one is acting on behalf of the group's greater good. Questions are best framed in a manner that conveys awareness that the "family" (or greater whole) may be affected, positively or negatively by the answer.

For example, when asking Tribal leaders to participate in an advisory capacity (or give input in a decision-making process) it best to ask for the "help and advice that will help impact the wellbeing and future of Tribal youth within the community". When hosting an event, one should approach one's role as though one were leading a large family reunion, making sure every individual is acknowledged, and that the group discussion and decision process is conducted in a respectful and harmonious manner, with an emphasis on ensuring the entire group benefits from each individual that is present.

*Tribal STAR is a project of the Academy for Professional Excellence,
San Diego State University School of Social Work
<http://theacademy.sdsu.edu>
6505 Alvarado Road, Suite 107, San Diego, CA 92120*



Here are four cornerstones that help encourage trust among Tribal people:

1. Demonstrate respect for Elders, Tribal Leaders, elected Tribal Leaders, and Spiritual Leaders by acknowledging and appreciating their roles in the community and seeking their advice as experts of the community.
2. Schedule meetings and events around meals, and impart the sense of importance of eating together combined with community sharing. This is a good time to recognize individuals new to the community, and to praise an individual's or organization's recent success.
3. Always publicly acknowledge Tribal participation at meetings and make sure non-Tribal participants know who, in attendance, is from one of the local reservations, and any who are recognized as leaders.
4. Model a spirit of cross-cultural collaboration by including and recognizing the efforts of both Tribal and non-Tribal entities throughout your event.

Engaging Tribal Leadership:

- ★ Know your local Tribe(s); know where the reservations are located, and if you are in an urban area, know which Tribe(s) is acknowledged to have occupied the land where you or your training is located.
- ★ Try to attend a local community event (fiestas, gatherings, pow-wows, storytelling, and cultural events), identify the leadership at the event, and humbly and respectfully introduce yourself.
- ★ When asking for support, frame your request in the context of how it will help Tribal Youth and the Community.
- ★ Be yourself, with sincerity and transparency, and follow through with each commitment you make verbally, or run the risk of being part of a continuous chain of broken promises and dishonor. Remember to "honor your own words".

When Hosting Your Event:

- ★ Ask representatives from the local Tribes to help officially welcome attendees.
- ★ When Elders and Tribal Leaders are attending, make sure to recognize them formally in front of the group.
- ★ When a new Tribal representative arrives (especially to standing meetings), make sure to personally take the time to introduce them to everyone before the meeting starts, so they can begin building on a face-to-face interaction.
- ★ Model cross-cultural collaboration by your own behavior, create the time and space for everyone's participation and point of view.

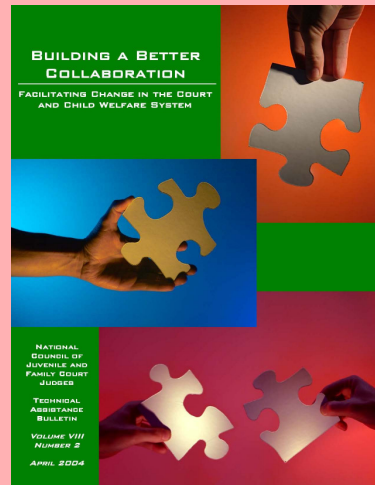
What Not To Do (Tips from Karan Kolb-Williamson):

Although it is important to know all you can about the history of Tribal people, be careful not to imply that you are an "expert" about a Tribe (especially when speaking to a member of the Tribe). Remember that much of the published literature about Tribal people was written by non-Natives, so it is improper to correct any Tribal person when they are speaking about Tribal or cultural affairs. At times, it is best to be silent. Don't try to impress or flatter Tribal people by dressing as a Tribal member, it could be interpreted as trying too hard to "fit in". For more information visit the Tribal STAR website at <http://theacademy.sdsu.edu/TribalSTAR>.

Tom Lidot, Tlingit, Karan Kolb-Williamson, Luiseno,
2005, Tribal STAR Program

Permanency Planning for Children Department

National Council of Juvenile and Family Court Judges



The Building A Better Collaboration publication offers a framework for thinking about facilitating change in the child welfare system and uses the experiences of Project Sites to illustrate ways in which these theoretical concepts can be implemented in the real world of child welfare reform. Drawing heavily upon proven theories of systems change and organizational management, this document outlines the key elements and strategies that support effective and sustainable change. This publication is designed to be useful for collaboratives at any stage in the process of engaging in systems change efforts.

Building a Better Collaboration: Facilitating Change in the Court and Child Welfare System

Interested in Ordering a Copy of Building a Better Collaboration: Facilitating Change in the Court and Child Welfare System? Please visit <http://www.ncjfcj.org/content/blogcategory/357/426/> to download the document directly and/or to purchase a copy.



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State Court Improvement Program Tribal Work

The State Court Improvement Program (SCIP) was authorized by Congress in 1993 to help state courts assess and improve the handling of child welfare cases (abuse, neglect, guardianship and adoption). The SCIP was expanded in 2006 to promote data collection and analysis and training for court personnel. The program requires state courts to participate in “meaningful and ongoing collaboration” with state child welfare agencies, and, where applicable, tribes. The requirement for ongoing collaboration with tribes remains intact even with the creation of the new Tribal Court Improvement Program.

While some State CIPs have worked effectively with tribes for some time, efforts have increased markedly in recent years. State CIP strategic plans submitted for federal fiscal year 2013 included an unprecedented number of ICWA and tribal collaboration related projects and activities, nearly all of which were multidisciplinary in nature. At present, twenty- two states are conducting ICWA and or tribal collaboration related projects and activities. The nature of these efforts ranges widely and includes, but is not limited to:

- inviting tribal leaders and judges to participate on SCIP multi-disciplinary task forces and steering committees;
- making site visits to meet with tribal leaders, learn about tribal customs and practices, better understand tribal priorities, and discuss areas for collaboration;
- establishing state and tribal judicial workgroups and committees;
- inviting tribal representatives to attend and participate in SCIP training events and activities;
- forming statewide work groups, task forces and committees specifically focused on ICWA compliance;
- creating of ICWA checklists for judges and attorneys;
- creating ICWA training curriculum;
- revising and amending judicial bench books to include ICWA material;
- creating and holding multidisciplinary ICWA training efforts;
- organizing statewide and regional ICWA summits;
- drafting and implementing data sharing agreements between tribal and state court systems; and
- conducting ICWA compliance assessments and audit projects.

To learn more about SCIP projects and activities with tribes, please contact:

David Kelly at the Administration for Children and Families, Children’s Bureau

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202-205-8709



Tribal Court Improvement Program

The Tribal Court Improvement Program (TCIP) was authorized by Congress in 2011 to help tribal courts assess and improve the handling of child welfare cases (abuse, neglect, guardianship and adoption). Congress appropriated one million dollars annually through 2016 to fund the TCIP through a competitive grant process. Seven tribes were awarded grants in the first round of funding: Confederated Salish and Kootenai Tribes; Pokagon Band of Potawatomi Indians; Navajo Nation Judicial Branch; White Earth Band of Chippewa; The Washoe Tribe of Nevada and California; Pascua Yaqui Tribe; and Nooksack Indian Tribe.

Tribal grantees proposed a range of projects and activities to assess current practice, evaluate needs and better train judges, attorneys, court personnel, and other key stakeholders. Those activities include, but are not limited to:

- Conducting a feasibility study for the establishment of a dedicated dependency court to hear child abuse and neglect cases;
- Assessing court handling of child welfare cases;
- Assessing legal representation for children and parents;
- Creating training curriculums and resources for judges and attorneys;
- Cross training court personnel and tribal social services on child welfare law and best practices;
- Reviewing, revising and updating tribal children's code and policy;
- Enhancing, improving and expanding court data collection and analysis;
- Crafting data sharing agreements between tribal courts and tribal social service agencies;
- Adapting Family Group Decision Making and integrating the practice into tribal court child welfare proceedings;
- Expanding the use of traditional peacemaking processes into child welfare proceedings;
- Developing and measuring the outcomes/impact of a parent advocacy/representation project; and
- Developing and measuring the outcomes/impact of a children's legal representation project.

To learn more about TCIP projects and activities with tribes, please contact:

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Addressing the Needs of Tribal Foster Youth

RECOMMENDATIONS FOR DEVELOPING AND MAINTAINING TRIBAL RELATIONSHIPS

- ◇ **Creativity** – “When collaborating with Native American organizations, unique welfare and Social issues combined with a distinct lack of precedent in collaboration demand a high amount of creativity in each stage of relationship development.”
- ◇ **Patience**– “In the Native Community, introduction is extremely important. It is also important to allow time for broad introductions of many Tribal members. Often, the “official” Tribal leaders will not be the first contact with the Tribe, at times it may be the “Elders” or other traditional members of the Community who can provide the information needed to build a strong collaboration. It is important to be willing to take the time to sit and talk with the members of the Tribe presented. Successful collaboration requires flexibility and understanding as well.”
- ◇ **Preparation and Planning** –“it is important to research the particular Tribes and Tribal cultures involved in the proposed collaboration” including asking about customs in a respectful way, knowing Tribal leaders names, governing structures.
- ◇ **Respect** – “By far, the most important aspect of successful collaboration with the Native American Community is sincere respect. It is crucial to be aware of the “Head of State” status that the Chief or Governor of the Tribe has. Remember that Native American women, people, and Tribes are the experts on their own lives. Mr. Rivera suggested walking into a collaboration with sincere sentiments, stating implicitly and explicitly that the goal is “to listen, understand, and learn to help.”

Conference Summary **Serving Native Americans with the** Barriers to Self-Sufficiency of Domestic Violence and Substance Abuse held in Dallas, Texas August 16-18, 2000 Workshop: Developing and Maintaining Effective Networks with Native American Service Providers, Panel Moderated by: Jose Rivera, Consultant, DHHS, SAMSHA

Members: Brenda Hill, Sacred Circle; Peggy Bird, Mending the Sacred Hoop; Rosemary Shaw, Director of Counseling Services, Osage Nation; Wayne Weston, Cangleska, Inc. <http://peerta.acf.hhs.gov/pdf/dallas2.pdf> retrieved 12/6/04

PROMISING PRACTICES FOR SUPERVISORS FOR ENGAGING TRIBES ON BEHALF OF TRIBAL YOUTH

Who To Contact First?*

- ◇ Make a personal phone call followed up by a letter and email to the nearest designated Indian Child Welfare Act (ICWA) representative or Tribal contact.

Here are questions you will want to ask:

- ◇ Is there anyone in the community that has a special interest in the needs of tribal foster youth?
- ◇ Who do people go to for advice in working with tribal foster youth and young adults?
- ◇ Who at the health center is working with ICWA and can assist identifying tribal youth eligible for IL services?
- ◇ Who should I contact at the tribal council about our project and what is the best way to approach them?

◇

First, begin to develop and cultivate contacts with the local Indian health center, social service programs, and become familiar with your local tribe. It may be that giving a presentation at the local tribal council is recommended. You may need to submit a written request and provide information about your project to the tribal secretary who will put you on the agenda. Be brief and keep tribal youth the center of your presentation. *Solicit support, input and guidance.*

What If I'm NOT Native?

- ◇ Learn as much as you can about the local tribe(s), especially their history and relationship with federal and state programs.
- ◇ Take the time to learn about the key tribal organizations.
- ◇ Show that you are committed to being part of the community: attend community functions (fiestas, pow wows, cultural gatherings, health fairs, etc.).

Engagement Strategies

1. Native Americans have an oral history tradition.
 - ◇ Face to face interaction is important. While today's technology facilitates communication in a variety of ways, it is culturally congruent to have face to face interaction, particularly on difficult matters. Regular face to face meetings should be considered. Additionally, initial meetings held on tribal land demonstrates a willingness to engage at sites that are significant to the tribes.
 - ◇ Traditional meeting formats may be off-putting to some tribal members. The give- and- take discussions maybe a new format for many tribal members. Consider engaging in a talking circle format, and negotiate communication strategies that are comfortable for both parties. Consider engaging in tribal traditions that open and close meetings, such as prayer, sharing of food and smudging.
2. There is a history of deep distrust of government, particularly of governments' effort to "help" Native American children.
 - ◇ Recognize that ICWA was in response to tribes being decimated with the removal of children from their tribes. Today, many of those children that had been removed in the fifties and sixties are today's elders, or part of the formal governing structures of the tribes. They may harbor painful memories, unresolved issues and anger, for what happened to them as children. Establishing long term relationships will help in re-establishing trust with Native Americans.
 - ◇ Recognize that first attempts at collaboration may be met with "resistance", that is phone calls may not be returned, meetings may not materialize, or tasks agreed to, may not be completed. Continue efforts by asking tribal members what would they need in order to move forward on goals.
 - ◇ Use empowerment strategies, asking tribal members their vision of successful collaboration and how they "see" success. Remain consistent in following through on promised actions.
 - ◇ Attend training on ICWA, local tribe history, engaging Native American communities, and rural child welfare practices.

3. Native values may conflict with current policies and practice.

- ◇ Traditional social work practice has is rooted in formal relationships with clients. Many Native American tribes value a connection on a more informal basis. Research also suggests that rural practice may require a more informal approach that may conflict with current professional “boundaries.” Consider working with agency administrators to re examine policies and procedures that may interfere with more culturally appropriate interventions with Native Americans and those in rural settings.

4. Partner with Tribes and ICWA Agencies

- ◇ Consider looking at the needs of the tribes, tribal children, and ICWA agencies. Are there some ways to partner on projects to achieve a goal?
- ◇ Consider partnering on grant funded projects. Can the government agency provide a grant writer and the financial know how when collaborating on grant applications?
- ◇ Consider if tribes, ICWA agencies are aware of federal, state or local funds they can access. For example, have the tribes and ICWA agencies leveraged funds from the Chafee Act? If not, why? Working with tribes and ICWA agencies to obtain needed funds are desired partnerships.
- ◇ Recognize that time may not have the same meaning for Tribal members. Meetings may not start on time or end on time because of valuing the process rather than the structure of the meeting. Consider building in “conversation time’ prior to and/or after the meeting, to allow for enough time to address issues and build connections.

Remember that the Native community is the expert and their support and guidance in creating long-lasting relationships will be an important factor in your ability to serve Tribal youth.

CULTURALLY RESPONSIVE COMMUNITIES, TRIBES AND NATIVE ORGANIZATIONS INCREASE CROSS-CULTURAL UNDERSTANDING THROUGH THE FOLLOWING ACTIONS:

- ◇ Establish a welcoming and supportive environment for new personnel moving to the community/organization and offer guidance in helping them learn the cultural ways of the area, including greeting them at the airport and assisting them in getting settled into the community.
- ◇ Assist local organizations, groups, tribes and communities that promote programs that enhance cross-cultural understanding.
- ◇ Sponsor regular meetings and in-service programs with community members, leaders, organizational staff, and supervisors in the community to develop ways to incorporate cultural values in their programs' service and outreach efforts.
- ◇ Assist organizational personnel with the involvement of Elders as the local culture-bearers to foster the incorporation of traditional knowledge, values and beliefs in all aspects of community and health and human services.
- ◇ Provide an annual open house/workshop (with food) for community, families and extended families of tribal staff and clients to discuss ways that organizations increase positive outcomes with communities.
- ◇ Develop mechanisms to coordinate services of all local and regional social services, health, economic, cultural and educational programs for mutual support and benefit to the communities.
- ◇ Provide encouragement and support for community members who show an interest in pursuing a career in social work, health and human services, and education and involve them as resources in cross-cultural orientation activities.
- ◇ Encourage all members of the youth services circle to take an active role in guiding newcomers to understand the local cultural practices and aspirations to become active contributors to community life.
- ◇ Implement a support structure for preparing the next generation of Elders.
- ◇ Provide opportunities for social service, health services, and educational staff to participate in cultural activities, and events that strengthen relationships to support cross-cultural collaboration.

(Source: Assembly of Alaska Native Educators (2003) Guidelines for Cross-Cultural Orientation Programs, Anchorage, AK.)