Providing Special Education Advocacy Across Systems for Native Students with Disabilities

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Breanna Bollig, Equal Justice Works Fellow and Attorney at California Tribal Families Coalition, completing a two-year project designed to promote tribal sovereignty over education and to ensure that child welfare, education, and tribal systems work together to protect and promote the health, safety, and welfare of tribal youth in California’s child welfare system.
California Tribal Families Coalition

California Tribal Families Coalition is a Coalition of 50 tribal nations in California whose mission 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://caltribalfamilies.org/education/
Theme for Today

• Children and families do best when professionals around them support students’ rights to education – your expertise is critical!
• Partnering with tribes is also essential when advocating for tribal youth!
Learning Objectives

At the end of this presentation, participants will be able to:

• Acquire new knowledge on important requirements for information-sharing with tribal governments.

• Identify major education disparities for Native youth, including Native youth with disabilities and Native foster youth.

• Understand key special education protections for Native students with disabilities.
Tribes as Partners. Why?

- As sovereign nations, tribes have distinct federal and state rights that allow them to better support tribal families and hold larger systems accountable.

- Tribe’s interest and child’s best interest are inherently tied together.

- To support the continued existence of tribes.

- To support the cultural connections and identity development of the child.

- To remedy 500 years of historical oppression.
## California Student Enrollment
### 2021 - 2022 School Year

<table>
<thead>
<tr>
<th></th>
<th>All Students</th>
<th>NA/Al Students</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>5,892,240 (100%)</td>
<td>27,001 (100%)</td>
</tr>
<tr>
<td><strong>Students with Disabilities</strong></td>
<td>745,513 (12.65%)</td>
<td>4,713 (17.45%)</td>
</tr>
<tr>
<td><strong>Foster Youth</strong></td>
<td>31,060 (0.53%)</td>
<td>506 (1.87%)</td>
</tr>
<tr>
<td><strong>Foster Youth with Disabilities</strong></td>
<td>9,389 (0.16%)</td>
<td>171 (0.63%)</td>
</tr>
</tbody>
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Source: California’s Failure to Support Native Students, California Tribal Families Coalition (2023)
Percent of California High School Graduates Meeting UC/CSU Course Requirements 2021 - 2022 School Year

- Total
- Students with Disabilities
- Foster Youth
- Foster Youth with Disabilities

Source: California’s Failure to Support Native Students, California Tribal Families Coalition (2023)
Tribes as Partners. Why?

Tribes can meet tribal families where they are on the advocacy spectrum:

• A family who has capacity, resources and support to navigate and engage with complex systems independently and prefer autonomy in doing so
• A family who is engaged with education advocacy with some guidance
• A family who is engaged with education advocacy but needs LOTS of guidance
• Parents who are disengaged and advocacy for the child comes from other family and/or professionals
• A child who is under the jurisdiction of a court and has a child welfare social worker and/or a tribal social worker doing the lion's share of the advocacy and follow through. Tribe is a legal party to their case.
Tribes as Partners. In What Ways?

“It’s not how you integrate culture into services, but how you integrate services into the culture.”

• In assessments - tribe often has extensive knowledge of the family and their history in the community.
• In the development of culturally relevant plans, engagement and teaming with the family.
• In the provision of services beyond those available in the mainstream community.
• In helping the family navigate complex systems and being an advocate.
• In identifying cultural connections and supports for the child & family.
• In bridging the cultural humility gap between school staff and the family.
Information-Sharing with Tribal Governments

• Federal and state laws generally prohibit the disclosure of student educational information and records.

• Important Exceptions for Tribal Students:
  – Judicial Order
  – Parent or Eligible Student Consent
  – MOU Agreements with Tribal Governments
  – The Uninterrupted Scholars Act
  – Indian Child Welfare Act (ICWA)
Key Special Education Protections

• The Individuals with Disabilities Education Act (IDEA)
  – 34 C.F.R. §300 et. seq.

• Section 504 of the Rehabilitation Act
  – 29 U.S.C. §794
  – 34 C.F.R. §104
Key Special Education Protections

‘Child Find’ – IDEA and Section 504 requires local educational agencies to identify and locate students with disabilities and provide eligible students with an Individualized Education Plan (IEP) or a 504 Plan.

• Excessive student absences or other behavioral problems are an indicator that a student may have an underlying disability and special education services and accommodations are needed.

• Student absences or behavioral problems are also a sign that a student’s current special education plan is inadequate.
## California Student Chronic Absenteeism
### 2021 - 2022 School Year

<table>
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<tr>
<th></th>
<th>All Students</th>
<th>NA/Al Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>30.0%</td>
<td>43.6%</td>
</tr>
<tr>
<td>Students with Disabilities</td>
<td>40.6%</td>
<td>50.9%</td>
</tr>
<tr>
<td>Foster Youth</td>
<td>54.7%</td>
<td>46.5%</td>
</tr>
<tr>
<td>Foster Youth with Disabilities</td>
<td>49.4%</td>
<td>55.0%</td>
</tr>
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Source: California’s Failure to Support Native Students, California Tribal Families Coalition (2023)
California Suspension Rate
2021-2022 School Year

Source: California’s Failure to Support Native Students, California Tribal Families Coalition (2023)
Key Special Education Protections

• What can you do?
  – Advocate for special education evaluations!
  – Understand that there are additional protections from suspensions, expulsions, and involuntary school transfers for students with disabilities.
  – Help ensure that the student’s special education plan provides adequate services and accommodations.
Key Special Education Protections

Individualized Education Program (IEP) – a legal document designed to meet the educational needs of a student with a disability under IDEA.

• The IEP should contain important information, including:
  – The student’s present levels of academic achievement and functional performance
  – Measurable annual goals, including academic and functional goals
  – The services and accommodations the student will receive
  – The student’s educational placement, including the amount of time the student will spend out of the regular classroom
  – A transition plan no later than the first IEP after the student turns 16 years old
Key Special Education Protections

IEP Team - the group of individuals who develop, review, and revise the student’s IEP.

• Who can be a part of the ‘IEP Team’?
  – **Parents** - 34 C.F.R. 300.322
    • Right to notice of the IEP meeting early enough to ensure an opportunity to attend.
    • Right to the IEP being scheduled at a mutually agreed time and place.
  – **Other Professionals** – 20 U.S.C. § 1414
    • The School and the Parent have the right to invite other individuals who have ‘knowledge or special expertise’ regarding the student.
Questions for the Audience

In what ways have you or your tribe been involved in special education advocacy?

What are some of the challenges you have seen Native students and families face?
Presenter Contact Information

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California Resources

• Foster Youth Education Toolkit, Alliance for Children’s Rights
• Court Companion to the Foster Youth Education Toolkit, Alliance for Children’s Rights
• California Special Education Reference, California Department of Education
• Special Education Rights and Responsibilities (SERR), Disability Rights California
• Special Education Basics Toolkit, Disability Rights California
• Special Education Rights for Children and Families, Judicial Council of California
• Understanding Disabilities in American Indian & Alaska Native Communities Toolkit Guide, National Council on Disability