

## Office of Ombudsperson for AMERICAN INDIAN Families

Ombudsperson for American Indian Families

November 8, 2021

### September 14, 2015 – MIAC Resolution

*"NOW, THEREFORE, LET IT BE RESOLVED, that the Indian Affairs Council supports the decision of the Community Specific Board for American Indian Families as follows:*

- 1. Separate out the Ombudsperson for American Indian Families from the Office of Ombudsperson for Families.*
- 2. The Ombudsperson for American Indian Families shall receive adequate funding and resources from the State of Minnesota, the Department of Human Services and other agencies as allowed under the law.*
- 3. Amend the legislative statute to allow the American Indian Community Specific Board and the Ombudsperson for American Indian Families to seek grants and other monies from tribes, individuals, government and non-governmental sources.*

### 2021 Legislative Session

#### **Minn. Stat. § 3.9215 OMBUDSPERSON FOR AMERICAN INDIAN FAMILIES**

*Subdivision 1. Scope. In recognition of the sovereign status of Indian Tribes and the unique laws and standards involved in protecting Indian children, this section creates the Office of the Ombudsperson for American Indian Families and gives the ombudsperson the powers and duties necessary to effectively carry out the functions of the office.*

*Subd. 7. Duties and powers. (a) The ombudsperson has the duties listed in this paragraph.*

*(1) The ombudsperson shall monitor agency compliance with all laws governing child protection and placement, public education, and housing issues related to child protection that impact American Indian children and their families. ...*

*(b) The ombudsperson has the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to American Indian children. ...*

*(c) The ombudsperson may apply for grants and accept gifts, donations, and appropriations for training relating to the duties of the ombudsperson. Grants, gifts, donations, and appropriations received by the ombudsperson shall be used for training. The ombudsperson may seek and apply for grants to develop new programs and initiatives and to continue existing programs and initiatives. These funds may not be used for operating expenses for the Office of the Ombudsperson for American Indian Families.*

#### **Minn. Stat. § 3.9216 AMERICAN INDIAN COMMUNITY-SPECIFIC BOARD**

*Subd. 6. Grants, gifts, donations, and appropriations.*

*The board may apply for grants for the purpose of training and educating the American Indian community on child protection issues involving American Indian families. The board may also accept gifts, donations, and appropriations for training and education. Grants, gifts, donations, and appropriations received by the board shall be used for training and education purposes. The board may seek and apply for grants to develop new programs and initiatives and to continue existing programs and initiatives. These funds may also be used to reimburse board members for reasonable and necessary expenses incurred in aiding and assisting the Office of the Ombudsperson for American Indian Families in Office of the Ombudsperson for American Indian Families programs and initiatives, but may not be used for operating expenses for the Office of Ombudsperson for American Indian Families.*

### **Some Issues from Cases for the Period of This Report**

- Petitioners (Non-Native father and his wife) brought a private Petition to Terminate the Parental Rights of the Native mother. Sent a letter to the Court, with copy to all parties of record, regarding possible violations of ICWA/MIFPA as to notice and service. As standard for all letters sent to the Courts, asked Court to waive the Court's filing fee. [No court has ever denied the request to waive the Court's filing fee.] On November 4, 2021 received a response from the County Court Administration:
  - *I am unable to file your documents via email/fax and without the filing fee of \$295.00. If the county brought the petition, then there is no filing fee. If it is a privately brought CHIPS Petition, then parties pay the filing fee.*
  - *Also, since you are a licensed attorney, as of July 1, 2016, the use of eFile and eServe (eFS) is mandatory for attorneys, government agencies, and guardian ad litem in all court cases.*
- On October 25, 2021, a Court issued an Order and referenced a letter from the Ombudsperson [Note: this was an action brought by Petitioners – a private petition-- not brought by the county.] [Emphasis added.]
  - *Petitioners were granted temporary "Letters of Emergency Guardianship." (Ex. C (Letters of Emergency Guardianship)). The Tribe first became aware of the guardianship proceeding on or around March 30, 2021. (Ex. D ¶ 11 (Affidavit of Rebecca Grey Bull ("Grey Bull Aff.))). The Tribe intervened in the guardianship proceeding on April 7, 2021. (Id. ¶ 17). Petitioners' temporary emergency guardianship expired on April 9, 2021. (Id. ¶ 18; see also Letter from Jill Kehaulani Esch., Minn. Ombudsperson for American Indian Families, to Judge Moynihon, at 2-3 (May 24, 2021) (noting Petitioner's emergency guardianship lapsed April 9, 2021 and other deficiencies)).*
- On October 15, 2021, Native grandmother said that no one from the county asked her daughter if the children were Native and they are. The case was proceeding with the permanency proceedings. On October 18, 2021, Ombudsperson sent communication to the County attorney about the case and also sent communication to the Court and asked that it be circulated to all attorneys of record. Also made standard request: *"I am asking the Court to waive any filing or circulation fees that may be associated with my request."* Request was granted.

### **ICWA Education and Continued Community Outreach**

- Ramsey County ICWA Advisory Board Meeting , 9/13/2021
- MUID Family Preservation Educational Planning Meetings and Presentation, 8/30/2021 to 11/4/2021
- MUID Family Preservation Planning Meetings re: Hosting Lower Sioux Tribal Child Welfare , Sept. 2021
- MUID Family Preservation Planning Meetings and Presentation re: Meet and Greet, Sept to Nov 1, 2021
- MUID Family Preservation Monthly Meeting, 10/26/2021
- Carlton County ICWA Court Meetings/ Feedback when unable to attend meetings, Sept. to Nov. 2021
- Indian Law Seminar - provided reports and information about new agency, 10/15/2021
- Webinar on Sex Trafficking of Boys and Men - provided info in Chat re: new agency, 10/20/2021
- Blood Memory Panel Discussion - provided information in Chat re: new agency, 11/3/2021
- Sent communication to State Court Administration re: issue of Statewide filing fee waiver, 11/4/2021
- Citizens Review Panel Meetings for Chisago, Hennepin, Ramsey and Winona
- Children's Justice Initiative Meetings for Dakota, Itasca, Ramsey and Scott Counties

### **Recognized by Minnesota Lawyer Diversity and Inclusion Committee as a 2021 Honoree**

*Minnesota Lawyer is pleased to recognize members of the legal community for their contributions to diversity in the practice of law in its fifth annual Diversity and Inclusion Awards. These honored groups and individuals have made a significant impact with respect to diversity and inclusion on the greater community or within their organizations. They will be feted at an awards celebration on Oct. 7. The honorees were chosen by an independent panel based on their achievements and their commitment to the Minnesota diversity and inclusion community.*