

The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES

Resolution Forming the Five Tribes Indian Child Welfare Working Group

Resolution No. 25-19



Chuck Hoskin Jr.
Principal Chief



Bill Anoatubby
Governor



Gary Ballton
Chief



David W. Hill
Principal Chief



Lewis J. Johnson
Chief

WHEREAS, the Inter-Tribal Council of the Five Civilized Tribes (ITC) is an organization that unites the tribal governments of the Cherokee, Chickasaw, Choctaw, Muscogee (Creek) and Seminole Nation, representing approximately 815,000 Indian people throughout the United States; and

WHEREAS, each Nation possesses a reservation, secured by treaty and affirmed to be Indian country as that term is defined at 18 U.S.C. § 1151(a), which reservations adjoin one another and collectively span more than thirty-two thousand (32,000) square miles; and

WHEREAS, each Nation organizes its own government pursuant to a constitution, duly ratified by its citizens or members, and governs its affairs in accord with laws enacted and implemented by its lawfully empowered legislative and executive authorities in accord with that constitution; and

WHEREAS, the Nations share parallel and often interrelated legal histories with respect to their respective course of dealings with the United States, which histories inform and shape their relations with one another, the special relationship each Nation has with the federal trustee, and the rights each Nation possesses which are protected by Federal law; and

WHEREAS, among these rights, each Nation possesses an inherent, recognized, and affirmed sovereign right to self-government free from the interference of any state; and

WHEREAS, among these rights, each Nation's inherent, recognized, and affirmed sovereignty vests it with the authority "to manage the use of its territory and resources by both members and nonmembers," *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 335 (1981) (citing *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 137 (1983); *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 151 (1980); *Montana v. United States*, 450 U.S. 544 (1981); 18 U.S.C. § 1162(b); 25 U.S.C. §§ 1321(b), 1322(b); 18 U.S.C. § 1165) (footnote omitted); and

WHEREAS, each of the participating Tribal Nations has entered into a separate "Intergovernmental Agreement Between the State of Oklahoma and Each of the Five Tribes Regarding Jurisdiction Over Indian Children Within Each Tribe's Reservation ("Agreement"); and

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WHEREAS, the Agreement and the Tribal Nations' tribal laws provide the legal framework for Tribal Nations to exercise jurisdiction over Indian children who reside within their respective reservations when it pertains to deprived child proceedings; and

WHEREAS, each Nation, individually, has consulted with its own legal counsel, and the Nations, collectively, have concluded their parallel and cooperative sovereign and other legal interests would be best served and protected by continuing work on these matters within a common interest attorney-client privilege; and

NOW THEREFORE AND BASED ON THE FOREGOING, the Nations each and together agree as follows:

A. Five Tribes Indian Child Welfare Working Group

1. Formation – The Nations hereby form the Five Tribes Indian Child Welfare Working Group (Working Group) for purposes of –

- (a) supporting comity among the Nations;
- (b) facilitating timely and effective intertribal communication and deliberation on matters within the scope of this agreement;
- (c) organizing and implementing efforts at effective intergovernmental engagement with Oklahoma agencies on matters within the scope of this agreement; and
- (d) preparing and proposing joint recommendations and plans to leadership of each Nation and the Nations regarding these matters, the implementation of productive intergovernmental relations, and the development and implementation of Indian Child Welfare initiatives within the scope of this agreement.

2. Composition – No later than October 15, 2025, each Nation will identify two representatives to serve as members of the Working Group –

- (a) A person with administrative responsibilities relating to the nominating Nation's management of Indian Child Welfare; and
- (b) A person serving as legal counsel to the nominating Nation who has familiar with the structure and operation of the Nation's legal systems and law relating to the scope of this agreement.

3. Working Group Activities and Responsibilities –

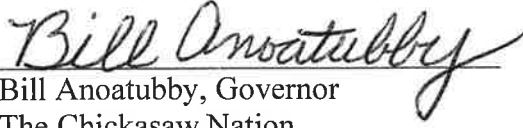
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- (a) In general – The Working Group will have no authority to bind any Nation or Nations to any commitment, pledge, agreement, recommendation, or contract, nor will the Working Group have authority to waive the sovereign immunity or any privilege of any Nation or Nations. The Working Group will serve as a communications and deliberative body for purposes of assisting each Nation's leadership and the Nations, collectively, in the implementation of this agreement, the inter-tribal collaboration of Indian Child Welfare issues, and the regulation of Indian Child Welfare within each Nation's respective reservation.
- B. Common Interest and Communications** – All communications between and among individual Working Group members and between the Working Group and the Nations shall be handled within a common interest privilege. Each Nation shall ensure its communications with its own appointed Working Group representatives will be appropriately handled within an attorney-client relationship, and the Nations shall ensure communications between the Working Group and the Nations will be appropriately handled within the common interest established among the Nations on these matters. Such common interest privilege may only be waived by a consensus decision by the Nations made collectively and not by any individual Nation, less than all of the Nations, or the Working Group.
- C. Mutual Support** – Within the common interest established among the Nations on the matters described in this agreement, each Nation will work cooperatively and in good faith with the other Nations in all matters relating to this agreement. Each Nation, through the Working Group, will endeavor to timely share information it learns of any effort by Oklahoma either to restore means for respectful and effective Tribal-State collaboration and cooperation in Indian Child Welfare policies by intergovernmental agreement or otherwise, or to enforce its Indian Child Welfare policies in a manner that would not conflict with or violate a Nation's or a Nation's members' or citizens' legal rights. In accord with its own procedures, each Nation will endeavor to support each other Nation's legal and intergovernmental efforts to validate, affirm, and protect such rights.
- D. Sovereign Immunity Not Waived** – Nothing in this Agreement waives the sovereign immunity of any Nation or the Nations for any reason, in any forum, or with respect to any party or claim.
- E. No Right of Action Created** – This Agreement is not intended to, does not, and shall not be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against any Nation or the Nations, their departments, agencies, entities, officers, employees, or agents, or any other person.


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CERTIFICATION

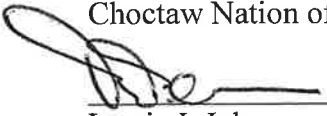
The foregoing resolution was adopted by the Inter-Tribal Council of the Five Civilized Tribes meeting in Tulsa, Oklahoma on this 11 day of July, 2025, by a vote of 5 for 0 against and 0 abstentions.


Bill Anoatubby, Governor
The Chickasaw Nation


David W. Hill, Principal Chief
Muscogee (Creek) Nation


Gary Borton, Chief
Choctaw Nation of Oklahoma


Chuck Hoskin Jr., Principal Chief
Cherokee Nation


Lewis J. Johnson, Chief
Seminole Nation of Oklahoma