



ADMINISTRATION FOR
CHILDREN & FAMILIES



Child Care and Development Fund Notice of Proposed Rulemaking (NPRM)

Tribal Consultation

February 11, 2016



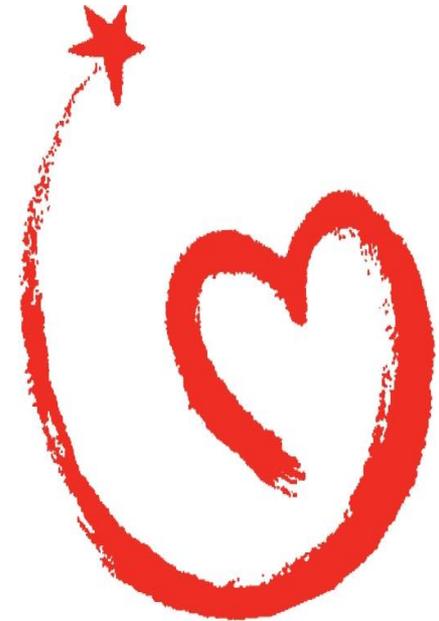
Overview of Tribal Consultation

- **Welcome & Introductions**
- **Testimonies from Tribes & Opening Remarks from Tribes**
- **Overview of NPRM**
- **Discussion**
- **Next Steps**



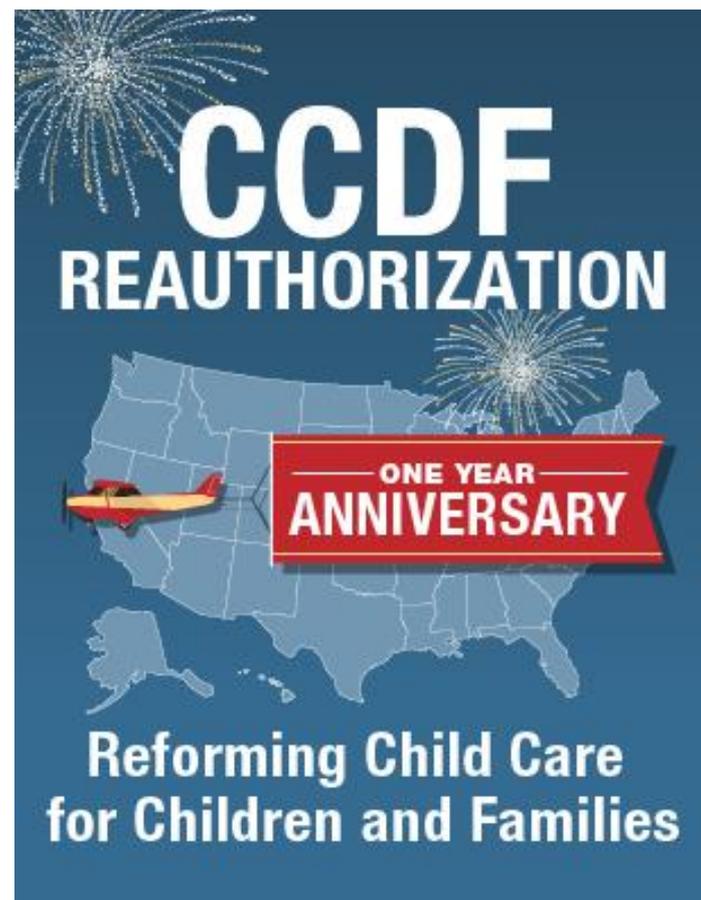
Tribal Consultation Panel

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Introduction

- In 2014, Congress passed the Child Care and Development Block Grant (CCDBG) Act of 2014 (P.L. 113-186) on a bipartisan basis.
- President Obama signed it into law November 19, 2014.
- The reauthorization was a historic re-envisioning of the Child Care and Development Fund (CCDF) program.
- This high-level overview of the NPRM does not include all details.
 - **For full text see the Federal Register at <http://federalregister.gov/a/2015-31883>**



What is a Notice of Proposed Rulemaking (NPRM)?

- Public notice of proposed federal regulations to address the law.
- The CCDBG Act provided opportunities to offer flexibility to Tribes in certain areas where there are unique needs.
 - **The proposed rule clarifies how the requirements apply to Tribes.**
- 60 day Public Comment Period
 - **Public Comment Period Ends: February 22, 2016**
- ACF will review public comments and issue final regulations.
 - **Projected final issuance: Summer 2016**

Development of Proposed Rule

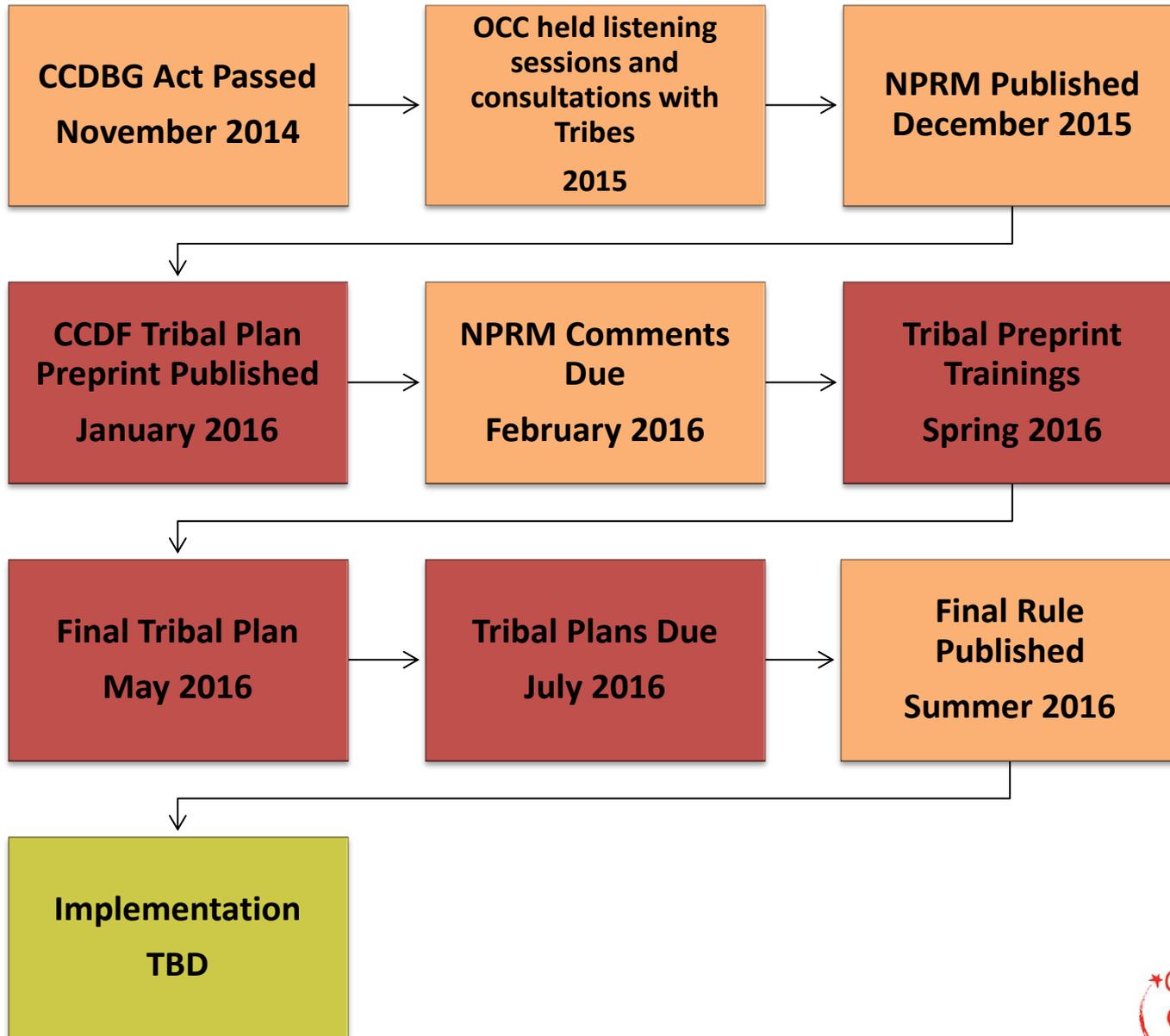
Reviewed public comments from 2013 NPRM

Established reauthorization web page to provide information on law

Conducted 5 consultation sessions with 109 people, representing 72 Tribes and Alaska Native villages

Held 4 listening sessions at the National Indian Child Care Association (NICCA) September 2015 conference

Timeline for Tribes



Revised Purposes of CCDF

The law enhanced the statutory purposes of the CCDF program to better balance the dual purposes of promoting children's healthy development and school success and to support parents who are working or in training or education. The revised purposes are *(Text added by Congress in bold)*:

- To allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within that State;
- To promote parental choice to empower working parents to make their own decisions regarding the child care services that best suits their family's needs;
- To encourage States to provide consumer education information to help parents make informed choices about child care services **and to promote involvement by parents and family members in the development of their children in child care settings;**

Revised Purposes of CCDF (cont.)

- To assist States **in delivering high-quality, coordinated early childhood care and education services to maximize parents' options** and support parents trying to achieve independence from public assistance;
- To assist States **in improving the overall quality of child care services and programs** by implementing the health, safety, licensing, **training, and oversight** standards established in this subchapter and in State law (including State regulations);
- **To improve child care and development of participating children;** and
- **To increase the number and percentage of low-income children in high-quality child care settings.**

Overview of the CCDF NPRM

This overview will address four focus areas:

Provide equal access to stable, high quality child care for low-income children.

Help parents make informed consumer choices and access information to support child development.

Protect the health and safety of children in child care.

Enhance the quality of child care and the early childhood workforce.

Tribes

The NPRM establishes three tiers of tribal grantees based on the size of their allocation, with reduced requirements for medium and especially smaller allocations.

Tribes with Small Allocations

- Under \$250,000
- 162 Tribes

Tribes with Medium Allocations

- \$250,000 - \$1 million
- 79 Tribes

Tribes with Large Allocations

- Over \$1 million
- 18 Tribes

Tribe Requirements by Allocation Size

Small Allocations (Under \$250,000)

Must spend their funds
in alignment with CCDF
goals and purposes

Exempt from the
majority of CCDF
requirements

Option to submit an
abbreviated CCDF Plan

Medium Allocations (\$250,000 - \$1 million)

Allowed the same
exemptions as the large
allocation category

Exempt from operating
a certificate program

Large Allocations (Over \$1 Million)

Subject to the majority
of CCDF requirements

Some Tribal-specific
exemptions

Tribes with Small Allocations (under \$250,000)

- Tribes with Small Allocations providing direct services are subject to:
 - Health and safety requirements
 - Monitoring requirements
 - Background check requirements
- **AND**
- Quality spending requirements
- 15% Administrative cost cap
- Fiscal, audit, and reporting requirements
- Any other requirement defined by the Secretary



Providing Equal Access to Stable, High Quality Child Care for Low-Income Children



Tribal Child Eligibility

- Allows **Tribes receiving Large or Medium Allocations** the option to consider any Indian child eligible, regardless of a family's work/income/training status if the Tribe's Median Income is below 85% of the State Median Income.
- **Tribes with Small Allocations** have flexibility to set their own eligibility requirements.
- Adds flexibility to align with other Tribal early childhood programs.

Promoting Continuity of Care

Tribes receiving Large and Medium Allocations are required to meet the requirements in the law:

(i) Minimum Period.-

(I) 12- Month Period.- The plan shall demonstrate that each child who receives assistance under this subchapter in the State will be considered to meet all eligibility requirements for such assistance and will receive such assistance, for not less than 12 months before the State or designated local entity redetermines the eligibility of the child under this subchapter, regardless of a temporary change in the ongoing states of the child's parent as working or attending a job training or educational program or a change in family income for the child's family, if that family income does not exceed 85 percent of the State median income for a family of the same size...

CCDBG Act of 2014 (P.L. 113-186) Section 658E(c)(2)(N)(i)(I)

Promoting Continuity of Care

Tribes receiving Large and Medium Allocations are required to meet the requirements in the law:

(iii) Period before Termination.- At the option of the State, the plan shall demonstrate that the State will not terminate assistance provided to carry out this subchapter on a factor consisting of a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 3 months, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance at a job training or educational program, as soon as possible.

CCDBG Act of 2014 (P.L. 113-186) Section 658E(c)(2)(N)(iii)

Ensuring Minimum 12-Month Eligibility for Child Care Assistance

Tribes receiving Large and Medium Allocations are also required to meet the requirements in the NPRM:

- Clarifies that minimum 12-month eligibility applies to initial and subsequent eligibility periods.
- Defines “temporary” to include at a minimum: specific time-limited absences from work or school (such as seasonal work or a school break), any reduction in work, training or education hours, and other changes to work, education, job training status that do not exceed three months.
- Prohibits shorter authorization periods within the minimum 12 month eligibility period.
- Clarifies that any additional Lead Agency eligibility criteria apply only at the time of initial determination or redetermination.

Continuity During Eligibility Periods

Requirements for Tribes receiving Large and Medium Allocations

- Requires families to notify CCDF Lead Agency if their income exceeds federal threshold of 85% GMI or, at Lead Agency option, they experience a non-temporary change in work, job training, or education status.
- Limits any requirements for reporting changes to items that impact a child's eligibility or a Lead Agency's ability to communicate with parents or providers.
- Requires Lead Agencies to allow families the option to report changes at any time and make any changes that would be beneficial to their amount of child care assistance or copayment level.

Providing a Graduated Phaseout

Requirements for Tribes receiving Large and Medium Allocations

- The law establishes a Graduated Phaseout for families who, at redetermination, exceed the initial CCDF Lead Agency income threshold.
- The NPRM specifies that CCDF Lead Agencies that establish income eligibility below 85% of Grantee Median Income (GMI) must establish two-tiered eligibility and set their second tier at 85% GMI.
- CCDF Lead Agencies have the option to:
 1. Allow a child to retain eligibility until the family exceeds 85% GMI, or
 2. Extend assistance for a limited period of time of at least a year.

Enhancing Provider Payment Rates

Requirements for Tribes receiving Large and Medium Allocations

- Requires Tribes to establish base payment rates that support the health, safety, and quality standards.
- Requires Tribes to set rates that provide parental choice for CCDF families to access care of comparable quality to care available to families with income above 85% of GMI.
- Prohibits charging parents fees above the family co-payment and sets a new benchmark of 7% of a family's income in the preamble.
- Sets limits on when co-pays can be adjusted.

Improving Payment Practices and Provider Stability

Requirements for Tribes receiving Large and Medium Allocations

- Requires that payment practices for CCDF providers reflect generally accepted payment practices, including paying on a part-time or full-time basis rather than smaller increments of time and paying for mandatory fees (such as registration fees) that providers charge private-paying parents (unless Lead Agency can provide evidence that such practices are not generally accepted).
- Requires, to the extent practicable, enrollment and eligibility policies that delink provider payments from a child's occasional absences by paying based on enrollment, full payment if a child attends 85% of the time or misses five or fewer days in a month, or an alternative approach.
- Requires timely payments for child care services (prospective payment or within 21 days of receiving invoice for services).

Protect the Health and Safety of Children in Child Care



Health & Safety Training and Standards

- All Tribes providing direct services must put in place training and health and safety requirements related to specified topics (first aid and CPR, SIDS prevention, etc.) for CCDF providers.
- Under the law, relative providers may be excluded from health and safety requirements (consistent with current regs).
- The NPRM:
 - Adds “recognition and reporting of child abuse and neglect” and “child development” to the list of required training.
 - Defines pre-service or orientation as within three months of starting.
 - Includes all caregivers, teachers, and directors.
 - Names Caring for Our Children Basics as a baseline for standards.
 - Asks for tribal comments on developing revised culturally-appropriate minimum health and safety standards

Monitoring

- The law requires monitoring requirements for licensed (pre-licensure and annual unannounced inspections) and licensed-exempt (annual inspection) CCDF providers.
- Requires child care providers to report to a designated Tribal entity any serious injuries or deaths of children occurring in child care.
- Allows flexibility for a Tribal Lead Agency to submit an alternative monitoring strategy in its Plan
- The NPRM:
 - Specifies that monitoring must cover the specified health & safety topics.
 - Allows use of differential monitoring or a risk-based approach for annual inspections, provided that the content covered by each visit is representative of the full complement of health & safety requirements.
 - Encourages coordination with other monitoring entities (e.g., licensing, QRIS, Head Start, CACFP) to meet monitoring requirements.
 - Allows the option of developing alternative monitoring requirements for care in the child's home.

Criminal Background Checks

- Child care staff members (including prospective child care staff members) of all licensed/regulated/registered child care providers and all child care providers eligible to deliver CCDF-funded services must complete comprehensive background checks.
- The NPRM:
 - **Defines the overlapping background check components in the law.**
 - **Requires background checks for child care staff, and for individuals age 18 or older residing in a family child care home.**
 - **Allows prospective staff members to provide services to children on a provisional basis (if supervised at all times) while the background checks are being processed.**
 - **Allows flexibility for a Tribal Lead Agency to submit in its Plan an alternative approach to conducting full background checks on other individuals residing in a family child care home**

Helping Parents Make Informed Consumer Choices and Access Information to Support Child Development



Information for Parents and Providers to Support Child Development

These requirements only apply to Tribes receiving Large and Medium Allocations. (Tribes receiving Small Allocations are exempt.)

- Making available provider-specific monitoring reports and results in a consumer-friendly and easily-accessible format.
- Resources about developmental screenings as part of the CCDF intake process, and to providers through training and education. Recommends, but does not require, all children receive a developmental screening within 45 days of enrollment.
- Information about policies regarding social-emotional health of children, including policies on suspension and expulsion for children birth to age 5.
- Research and best practices concerning children's development and meaningful parent and family engagement.

Consumer Education (cont.)

Requirements for Tribes receiving Large and Medium Allocations

- Requires a provider-specific consumer education statement be provided to CCDF parents. Must also include information on Tribal health and safety policies and procedures.
- Materials should use plain language and consider the abilities, languages, and literacy levels of the audience. Encourages translation of materials into multiple languages, and inform persons with disabilities how they can access aids or services and receive the information in an alternative format.

Enhancing the Quality of Child Care and the Early Childhood Workforce



Focus on Quality Improvement

All Tribes are required to spend a percentage of their total CCDF expenditures on quality improvement activities.

- Gradually increases, over a 5 year period, the mandatory quality set-aside from the current level of 4 percent annually to 9 percent by FY 2020.
- Adds a new 3 percent infant-toddler set-aside to enhance supply and quality starting FY 2017.

Quality Set-Aside Phase in

Federal Fiscal Year	% Quality Set-aside	% Infant and Toddler	Total Quality Set-aside
FFY 2016	7%	--	7%
FFY 2017	7%	3%	10%
FFY 2018	8%	3%	11%
FFY 2019	8%	3%	11%
FFY 2020 (and ongoing)	9%	3%	12%

Tribal Exemptions

All Tribes are exempt from the following requirements:

- Consumer education website
- Use of grants or contracts
- Licensing for child care services
- Market rate survey or alternative methodology
- Early learning and developmental guidelines
- Training and professional development framework
- Quality Progress Report

Temporary Waivers/Extensions

On a limited basis, HHS may approve two types of waivers/extensions for provisions or penalties in the law:

- 1. Transitional/legislative extensions to provide transitional relief from conflicting or duplicative requirements preventing implementation or an extended period of time in order for a grantee's legislature to enact legislation; or**
- 2. Temporary waivers for extraordinary circumstances, such as a natural disaster or financial crisis.**

Waivers provide temporary time-limited extensions.

Comment Process

We invite comments on:

- The Tribal CCDF Discretionary set-aside.
- Whether the *Caring for Our Children (CfoC) Basics* should replace the old HHS minimum standards as the new health and safety guidelines for Tribes.
- Proposal to require Tribes to meet minimum quality spending requirements, in particular as it relates to Tribes that receive small allocations.
- Whether 85 percent of State median income (SMI) is an appropriate threshold for allowing Tribes to consider children categorically eligible for CCDF based on Tribal median income.
- Tribe's ability to obtain FBI fingerprint checks.

Comment Process

- You may submit comments, identified by **Docket Number ACF-2015-0011 and/or RIN number 0970-AC67**, by either of the following methods:
 - **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
 - **Mail:** Submit comments to the Office of Child Care, Administration for Children and Families, 330 C Street SW, Washington, DC 20201, Attention: Office of Child Care Policy Division.

Comment Process

- All comments received are a part of the public record and will be posted for public viewing on www.regulations.gov , without change.
- We accept anonymous comments. If you wish to remain anonymous, enter “N/A” in the required fields.
- To ensure we can effectively respond to your comment(s), clearly identify the issue(s) on which you are commenting.
Provide:
 - the page number;
 - identify the column; and
 - cite the relevant paragraph/section from the Federal Register document, (e.g., On page 10999, second column, § 98.20(a)(1)(i).).

Questions & Discussion



Thank you for your continued work!

For more information:

- Child Care Technical Assistance Resources
 - <https://childcareta.acf.hhs.gov/ccdf-reauthorization>
- OCC Reauthorization Policy Resources
 - <http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization>



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