



The Kid Angle

Kid-focused news from First Focus on Children

Child welfare's "gold standard" in the balance at SCOTUS

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SCOTUS heard two cases this week whose outcomes could seriously hurt children.

On Tuesday, the Court heard [Health and Hospital Corporation of Marion County, Indiana v. Talevski](#), which could gut a child's right to health care under Medicaid and render any claims unenforceable. [See more here.](#)

The case heard Wednesday, which challenges a 1978 law governing the welfare of Native American children, could upend [what has long been considered the gold standard for protecting the best interests of the child in custody cases.](#)

The Indian Child Welfare Act (ICWA), at issue in [Brackeen v. Haaland](#), emphasizes reunification of Native American children with tribal families. The statute requires "active efforts" to prevent a Native American child from being removed from their home, and, once removed to keep the child within the tribe and reunify the child with family. The "active efforts" standard is a higher standard than the "reasonable efforts" standard required by other child welfare laws and child welfare experts widely consider it best practice.

Aubrey Edwards-Luce, First Focus on Children's Vice President of Child Welfare, argues that [we should actually be expanding the active efforts concept.](#)

"One of the overarching arguments in this case is that the Indian Child Welfare Act puts the rights of the tribe before best interests of the child, but in fact the opposite is true," she said. "The law's consideration of the child's connection to their community is an essential part of assessing their best interest. When Congress passed ICWA, it provided and increased levels of protection and respect for a child's connection to their culture and background and community. **We think that standard should apply to all children, especially those whose backgrounds have been used to marginalize them.**"

Aubrey, an attorney, leads **our Child Welfare and Racial Equity (CWARE) Collaborative**. The Collaborative, established in 2020 to transform the child welfare system, distinguishes itself from other coalitions by centering the expertise of children, youth, parents, kinship care givers, foster parents and others with lived experience in the child

welfare system. The Collaborative's goal is to promote the anti-racist transformation of the child welfare system through policy recommendations, events, tools, strategic plans and organizational connections.

To learn more about The Collaborative's plans for the 118th Congress, please contact Aubrey at AubreyEL@FirstFocus.org.



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