

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CALIFORNIA TRIBAL FAMILIES  
COALITION, *et al.*,

Plaintiffs -Appellants,

v.

No. 23-15010

XAVIER BECERRA, in his official capacity  
as Secretary of Health and Human  
Services, *et al.*,

Defendants-Appellees.<sup>1</sup>

**STATUS REPORT**

Pursuant to the Court’s order dated December 14, 2023 (Dkt. No. 17), Appellees provide the following status report to the Court and Appellants.

As previously reported, the Children’s Bureau, an office of the U.S. Department of Health and Human Services’s (“HHS”) Administration for Children and Families, has drafted Notices of Proposed Rulemaking (“NPRMs”) for AFCARS data reporting relating to tribal children and to sexual orientation and gender identity.

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<sup>1</sup> Per Federal Rule of Appellate Procedure 43(c)(2), a prior public officer’s successor is automatically substituted as a party.

The NPRM related to tribal children has gone through HHS clearance. On October 16, 2023, it was transmitted to the Office of Information and Regulatory Affairs (“OIRA”), the office within the Office of Management and Budget (“OMB”) that coordinates the review of Executive Branch regulations, for final clearance. Under Executive Order 12,866, after a rule is submitted to OMB, the review process must be completed within 90 days, a time period that may be extended by another 30 days. 58 Fed. Reg. 51,735 (Sept. 30, 1993). Once the NPRM is cleared, HHS intends to promptly publish it in the Federal Register to invite public comment.

The NPRM related to sexual orientation and gender identity remains in HHS clearance, and will be submitted to OIRA once HHS clearance is complete.

Pursuant to the Court’s order, the parties will file another status report on or before April 16, 2024.

RESPECTFULLY SUBMITTED,

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