Overview of Indian Education Laws and Policies

IHSL Statewide Training
Rutger’s Resort
Deerwood, MN
December 4, 2015

Dennis W. Olson, Director
Office of Indian Education

“Leading for educational excellence and equity. Every day for every one.”
11 Reservations and Communities in Minnesota

- Ojibwe Reservations
  - Mille Lacs Band of Ojibwe
  - Fond du Lac Band of Lake Superior Chippewa
  - White Earth Nation
  - Leech Lake Band of Ojibwe
  - Red Lake Nation
  - Bois Forte Band of Chippewa
  - Grand Portage Band of Ojibwe

- Dakota Communities
  - Prairie Island Indian Community
  - Shakopee Mdewakanton Sioux Community
  - Upper Sioux Community
  - Lower Sioux Indian Community
Where are Minnesota’s Tribal Communities Located?
Where are American Indian Students Concentrated?
Where do American Indian Students Attend School?

• Large majority of students attend public schools
  – 19,768 K-12 in 2014-2015
  – 2.3% of Total Student Population
  – 1/3 in 7-county metro
  – 2/3 in Greater MN

• 4 Tribal Schools (BIE Grant Funded)
  – 837 students statewide (4.2% of all Indian Students)
    ▪ Fond du Lac Ojibwe School (Fond du Lac)
    ▪ Nay Ah Shing Schools (Mille Lacs)
    ▪ Circle of Life Academy (White Earth)
    ▪ Bug O Nay Ge Shig School (Leech Lake)
Where do American Indian Students Attend School?

About **607,000 Native students** attend public and Bureau of Indian Education (BIE) schools.

Many people assume that most Native students attend Bureau of Indian Education schools. In reality, however, only **7 percent** of Native students attend BIE schools.

The vast majority — **93 percent** — attend regular public schools.

In fact, Oklahoma, Arizona, and California each educate more Native students than BIE does.

**STATES WITH THE LARGEST NUMBERS OF NATIVE STUDENTS**

<table>
<thead>
<tr>
<th>State</th>
<th>Number of Native students</th>
</tr>
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<tbody>
<tr>
<td>Oklahoma</td>
<td>116,597</td>
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<tr>
<td>Arizona</td>
<td>55,312</td>
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<tr>
<td>California</td>
<td>43,546</td>
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<tr>
<td>Bureau of Indian Ed</td>
<td><strong>41,962</strong></td>
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<tr>
<td>New Mexico</td>
<td>34,530</td>
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<tr>
<td>Alaska</td>
<td>30,433</td>
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<tr>
<td>Texas</td>
<td>23,607</td>
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<tr>
<td>North Carolina</td>
<td>22,199</td>
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<tr>
<td>Washington</td>
<td>17,570</td>
</tr>
<tr>
<td>Minnesota</td>
<td>16,296</td>
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</tbody>
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While Native students are more likely than their peers to attend rural schools, about **one-third** of students do attend urban or suburban schools.
Minnesota AMI Graduation Rate

AMI Graduation Rate 2011-2014

3-year increase of 8.19%

education.state.mn.us
Federal Indian Education: History, Policy, Programs
Sen. Walter Mondale, D-Minn., left, Sen. Edward Kennedy, D-Mass., center, and Sen. Peter Dominick, R-Colo., members of a senate subcommittee on Indian Education, report their findings at a news conference, Nov. 12, 1969, Washington, DC. They said federal efforts to provide American Indians with quality education have been marked with near-total failure. (AP Photo/Henry Griffin)
Federal Indian Education History Snapshot

• 1969: A Special Senate Subcommittee on Indian Education issues a final report "Indian Education: A National Tragedy - A National Challenge" focusing national attention on the educational situation of American Indian and Alaska Native students.
  – “The dominant policy of the federal government toward the American Indian has been one of coercive assimilation” and the policy “has had disastrous effects on the education of Indian children.”
  – Report addresses issues of drop out rates, low achievement levels, lack of American Indian principals and teachers, teacher attitudes about Indian students.

• 1969: NIEA created by Indian Educators in Minneapolis, MN. NIEA is the largest and oldest Indian Education organization in the nation (advocacy and policy)
Federal Indian Education History Snapshot

• The 1972 Indian Education Act was the landmark legislation establishing a comprehensive approach to meeting the unique needs of American Indian and Alaska Native students.

• The Indian Education legislation is unique in the following ways:
  – It recognizes that American Indians have unique, educational and culturally related academic needs and distinct language and cultural needs;
  
  – It is the only comprehensive Federal Indian Education legislation, that deals with American Indian education from pre-school to graduate-level education and reflects the diversity of government involvement in Indian education;
  
  – It focuses national attention on the educational needs of American Indian learners, reaffirming the Federal government’s special responsibility related to the education of American Indians and Alaska Natives
Federal Indian Education History Snapshot

• Indian Education Act of 1972 establishes:
  – U.S. Office of Indian Education
  – National Advisory Council on Indian Education.
  – The various parts of the Act authorized a formula program and several competitive grant programs for Indian children and adults.

• 1974: PL 93-380 amends the Act to add a teacher training program and a fellowship program.
Federal Indian Education History Snapshot

• 1988: PL 100-297 makes BIA funded schools eligible to apply for formula grants. Also creates an authorization for Gifted and Talented education.

• 1990: Native Languages Act passed by Congress who stated “the status of the culture and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to use, practice and develop these languages.”

• 1991: Indian Nations At Risk Report published which recommends:
  – Establishing the promotion of students’ tribal languages and culture
  – Training more American Indian teachers
  – Creating more scholarly work on curricula and textbooks that incorporate Native perspectives
Federal Indian Education Programs & Funding

• Title VII

• Johnson O’Malley Assistance Program (JOM)

• Impact Aid

• Demonstration Grants for Professional Development and Secondary Success

• New Initiatives in 2015 (GEN I, Community Grants)
Title VII Overview

- Federal Formula Grant administered by U.S. DOE – Office of Indian Education
- Eligibility
  - Enrolled member of a federally recognized tribe
  - 1st or 2nd generation descendant (parent or grandparent)
- ED 506 Form
  - Collected by the district
- Only students who qualify can participate
- Application developed with parents, teachers, and student input
Title VII Student Eligibility (ED 506 Form)

- ED 506 form must be completed, signed, and dated by child’s parent to certify eligibility
- A separate 506 form is required for each child
- A new 506 form does not have to be completed each year as long as a signed form is on file
- BIE schools have another option for how they count their students.
What are the requirements under Title VII for involving parents and the community?

- All formula grantees are required to establish a parent committee EXCEPT Bureau-funded schools or tribes applying in lieu of LEA.

- All applicants are required to have a parent committee and to develop their application with input and participation from the parent committee.

- The application must be developed in open consultation with parents of American Indian children, teachers, and where applicable, American Indian secondary students.
Who can serve on the Title VII Parent Committee?

• By statute the Title VII parent committee should be composed of, and selected by parents and guardians of American Indian children in the school district, teachers, and where applicable, secondary American Indian students.

• A majority of the members of the parent committee must be parents of American Indian students.
What are the requirements under Title VII for involving parents and the community?

• The applicant must obtain the parent committee’s written approval on all new and continuation application both targeted and school-wide programs.

  AND

• The comprehensive plan to be submitted with the application requires the applicant to provide the parent committee and community with information on the results of student assessments.
Duties of the Title VII Parent Committee

• Is advisory to the school district.

• Conducts regular and open meetings.

• Develops by-laws by which it conducts business, abide by them

• Consultation with and is involved in the school district’s development, operation and evaluation of the program.

• Has authority to approve the yearly grant application and any subsequent formal application amendments.

• Has authority to approve or deny the inclusion of Title VII funds in the Title 1 school-wide project.
Title VII Parent Committee Can Not

- Hire, fire, or supervise LEA or Title VII project staff
- Set policies and procedures for the LEA
- Develop bylaws that are not consistent with LEA policies and procedures not approved by the LEA.
- See confidential information about students (e.g. 506 forms, individual test results)
- Run a Title VII program separate from the district or it’s appointed designee
- Commit or obligate funds for the LEA
- Directly administer the project
In 1934, the Johnson O’Malley Act was enacted to direct the Department of Interior to provide assistance to Indians in the area of education, medical attention, agricultural assistance, social welfare, and relief of distress.

Legislators approving the 1934 JOM Act proposed to serve Indian students in public schools, rather than providing separate BIA schools. The JOM Act is one of the principal means for subsidizing public education for eligible Indian students in the United States.

The JOM Act has been amended various times but the main objective is to ensure that Indian children receive the educational opportunities that would not otherwise be provided.

The annual Federal Budget appropriations for Johnson O’Malley programs have been drastically reduced from $400 per-student (1970’s) to less than $65 per-student currently.
Students Eligible for JOM Programs

• 273.12 – Indian students from age 3 through grade(s) 12, shall be eligible for benefits...if they are $\frac{1}{4}$ or more degree Indian blood AND recognized by the Secretary as being eligible for Bureau services.

• PL 99-228 (12/28/85) – An individual who “is a member of or is at least one-fourth degree Indian blood descendant of a member of an Indian tribe...”
  
  – This criteria determines the eligibility of Indian students to participate in JOM programs.
Johnson O’Malley (JOM)

- Indian Education Committee (IEC)
  - Parents or legal guardians of eligible Indian students
  - Have rights and responsibilities greater than Title VII or State parent committees
  - Complete oversight and governance
  - Control hiring process
  - Control budget and how JOM money is spent
  - Need to work with other parent committees to provide a “comprehensive education program” to meet the unique academic needs of American Indian students.
“Blended Committees”

- JOM and Title VII Parent Committees have different requirements for parent involvement and for determining student eligibility.
- In most cases, an LEA should have two separate committees.
- For “blended” committees, all business should be separated.
- Exception – If membership of all Indian students counted under Title VII is through Federally recognized tribes and all students also qualify for JOM programs.
Impact Aid

- Impact Aid was designed to assist local school districts that have lost property tax revenue due to the presence of tax-exempt federal property or have experienced increased expenditures due to enrollment of federally connected children
  - Within Reservation boundary
  - Federally-connected children
  - Parents employed on Indian land
  - Military (not common in MN)
Impact Aid School Districts Must:

- Establish board-approved American Indian Policies and Procedures (IPP) that meet statutory requirement.
- Work with the tribe and American Indian parents in developing and approving (IPP).
- Maintain records of compliance.
- Annually review the IPP and submit with Section 8003 application.
- Amended IPP requires Tribal and American Indian parent review.
- Submit tribe’s approved waiver stating satisfaction with the LEA’s Educational Services.
- Law does not require a Parent Committee, however an established Parent Committee can be considered the same as the Indian parents in program requirements.
Minnesota Indian Education: History, Policy, Programs
History of Indian Education in Minnesota

- 1936 – MN State Board of Education entered into a contract for $80,000 with the BIA to educate American Indian students in public schools in northern Minnesota.

- 1954 – MN State Legislature appropriated $5,000 for scholarships for American Indian students.

- 1970’s – MN Legislature appropriation for grants to school districts for specialized Indian Education programs.

- Late 1970’s - began special education home/school liaison program (IHSL)

- 1982 – MN State Board of Education adopted a policy statement on Indian Education
History of Indian Education in Minnesota – 1982 Policy Statement

- State of MN recognizes self-determination, assuring maximum participation by Indian people and Tribes
- State of MN recognizes unique sovereign status, relationship with the Federal Government, urges legislature to recognize.
- Directs the Commissioner to take a leadership role in meeting the educational needs, recommends LEA’s do the same.
- Involvement of tribes, communities, youth and parents.
- Commitment to incorporate language, culture, and heritage into curriculum
History of Indian Education in Minnesota

- 1986 – A statewide needs assessment on Indian Education was conducted and a comprehensive plan was developed.
- 1988 – MN Legislature adopted the Indian Education Act
- 1996 – Conducted statewide Indian Education needs assessment
- 2000 – Indian Education, Post Secondary Preparation (PSPP), and American Indian Language & Culture grants were combined to form the “Success for the Future” program.
- 2001 – MN Legis. amended the Indian Education Act of 1988
- 2002 – Due to a large State budget deficit, the three Indian Education offices were combined and located in Roseville, MN.
Indian Education Act of 1988

The legislature finds that a more adequate education is needed for American Indian people in the state of Minnesota. The legislature recognizes the unique educational and culturally related academic needs of American Indian people. The legislature also is concerned about the lack of American Indian teachers in the state. Therefore, pursuant to the policy of the state to ensure equal educational opportunity to every individual, it is the purpose of sections 124D.71 to 124D.82 to provide for American Indian education programs. These programs are specially designed to meet these unique educational or culturally related academic needs or both.
State of Minnesota Indian Education Programs

- Success for the Future Grants (Ended FY 15)
- Minnesota Indian Teacher Training Program (MITTP)
- Tribal School Equalization (New Expansion)
- Tribal Early Childhood Family Education (ECFE)
- Ethel Curry American Indian Leadership Scholarship
- New Indian Education Formula Aid
Parent & Community Participation in Indian Education Programs

- MN Statute 124D.78 – School boards and schools must provide for the maximum involvement of parents of children enrolled in education programs.
- Per statute, must form a parent committee if 10 or more American Indian students are enrolled in a district.
- Programs must be planned, operated, and evaluated with the involvement of and in consultation with parents of children served.
Parent & Community Participation in Indian Education Programs

- Resolution of Concurrence
  - Indicate needs for training/TA
  - Provide dates passed and presented to the board
  - Attach recommendations
  - Needs Superintendent or representative signature
  - Due March 1 (Law Change)
Parent & Community Participation in Indian Education Programs

• Non-concurrence process
  – List the reasons for non-concurrence
  – Include specific recommendations
  – School Board must respond to each recommendation made by the committee
  – School Board needs to state reasons for not implementing recommendations
  – Opportunity for open dialogue and to address concerns
Commitment to Partnership Based on Consultation
Governor Dayton Issues Executive Order 13-10

- By March 10, 2014, all Cabinet-level Executive Branch agencies shall develop Tribal consultation policies.
- By February 1 of each year, each agency shall consult with MN Tribal Nations to identify priorities.
- Cabinet agencies shall consider input from consultation into their decision-making process…mutually beneficial.
- Each agency shall designate a staff member to assume responsibility for implementation and serve as point of contact.
- All agencies shall provide training for staff who work with MN Tribal Nations.
Creation of the Tribal Nations Education Committee (TNEC)

RESOLUTION 69-09

WHEREAS, the Minnesota Chippewa Tribal Executive Committee is the duly elected governing body of the Minnesota Chippewa Tribe, which is comprised of six member reservations (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth); and

WHEREAS, the Minnesota Chippewa Tribe Education/Human Services Subcommittee did meet on March 23, 2009 and did recommend Tribal Executive Committee approval, and

WHEREAS, the Minnesota Chippewa Tribal Executive Committee maintains Education and Education Programs and Services as a high priority, and

WHEREAS, education for American Indians is a treaty right, and

WHEREAS, S.F. No. 117, Article 5, Section 1 as introduced in Minnesota's 86th legislative session (2009-2010) proposes that the commissioner of education create an American Indian Education committee, and

WHEREAS, said committee shall advise the commissioner in the administration of the commissioner’s duties under sections 124D.71 to 124.82 (the American Indian Education Act) and other programs for the education of American Indian people as determined by the commissioner, and

WHEREAS, said committee already exists through tribal initiative as the Tribal Nations Education Committee, and

WHEREAS, the Tribal Nations Education Committee shall be consulted in all matters pertaining to the education of Minnesota's American Indian Communities, now

WHEREAS, the Tribal Executive Committee does hereby oppose the creation of the American Indian Education committee as proposed by S.F. No. 117, Article 5, Section 1, and

BE IT FURTHER RESOLVED, S.F. No. 117, Article 5, Section 1 be amended to recognize and utilize the Tribal Nations Education Committee as the primary liaison to the Department of Education to advise the commissioner's duties under sections 124D.71 to 124.82 and other programs for the education of American Indian people,

We do hereby certify that the foregoing resolution was duly presented and acted upon by a vote of 10 For, 0 Against, 0 Silent, at a Special meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum being present, held on March 23, 2009 at Mahnomen, Minnesota.

Norman W. Deschampe, President  
THE MINNESOTA CHIPPEWA TRIBE

Franklin B. Heisler, Secretary  
THE MINNESOTA CHIPPEWA TRIBE

• Minnesota Chippewa Tribal Executive Committee (TEC) Resolution – March 23, 2009
• Replace proposed American Indian Education Committee
• Committee already exists through tribal initiative
• TNEC shall be consulted in all matters pertaining to education of MN American Indian Communities
• MIAC Endorsement of TNEC
Tribal Consultation – Setting the Stage

- American Indian Listening Session with Tribal Leaders – November 8, 2011
- Governor’s American Indian Education Summit – January 9, 2012
2013 Minnesota Department of Education Policy Bill – Result of Consultation

• Codify Director of Indian Education Position within MDE - *MN Stat. 124D.791*

• Consultation with the Tribal Nations Education Committee (TNEC) - *MN Stat. 124D.79 Subd. 4*

• Annual field hearing with American Indian Community with report to Minnesota’s Tribal Nations – *MN Stat. 124D.79 Subd. 1*
MDE Tribal Consultation Policy Highlights

• At the request of Tribal Leaders, consult with TNEC first.

• Director of Office of Indian Education will serve as principal point of contact for elected & appointed officials.

• Establish Tribal priorities annually, meet with TNEC at least quarterly.

• Always available for individual consultation with Tribal Nations.

• TNEC does not preclude individual Tribal Nations from requesting consultation for unique issues.
Commitment to Government-to-Government Tribal Consultation

• 2011 - Listening Session with Tribal Leaders
• 2012 - Governor’s Summit on Indian Education
• 2013 - Language added for consultation with TNEC
• 2013 - Governor’s E.O. 1310 requiring agencies to engage in Tribal consultation
• 2015 - Indian Education Working Group (January)
Minnesota Indian Education Legislative Hearings

- Senate E-12 Committee
- House Education Finance Committee
- February 25, 2015
- TNEC/Working Group Testimony
- Shared “Indian Education: A Story of Hope”
- Shared recommendations of Governor’s Indian Education Working Group
Historic Investment for Indian Education in Minnesota

State poised to make historic investment in its 19,000 American Indian students – Star Tribune June 13, 2015

American Indian schools get big boost with new education bill – Pioneer Press June 14, 2015

Education bill includes ‘historic’ funding for American Indian students, schools – Bring Me The News June 16, 2015

Minnesota Boosts Funding for Native Schools, Students – Education Week June 15, 2015
Miigwech
(Thank You - Ojibwe)

Pidamaya
(Thank You - Dakota)

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