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Duplicate

THE NEED FOR
FULL FUNDING OF FEDERAL INDIAN EDUCATION PROGRAMS

A PRESENTATION

TO

THE OFFICE OF MANAGEMENT AND BUDGET
Old Executive Office Bldg.
Washington, D.C.

October 4, 1973

BY

REPRESENTATIVES OF
NATIONAL INDIAN EDUCATION ASSOCIATION
NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION
AMERICANS FOR INDIAN OPPORTUNITY
NATIONAL CONGRESS OF AMERICAN INDIANS
COALITION OF EASTERN NATIVE AMERICANS
NATIVE AMERICAN LOBBY
INSTITUTE FOR THE DEVELOPMENT OF INDIAN LAW
COALITION OF INDIAN CONTROLLED SCHOOL BOARDS
WITH LETTER OF SUPPORT FROM
NATIONAL TRIBAL CHAIRMENS ASSOCIATION

PREPARED BY

GERALD M. CLIFFORD
CONSULTANT TO

COALITION OF INDIAN CONTROLLED SCHOOL BOARDS, INC.
811 LINCOLN ST.
DENVER, COLORADO
80203
(303) 573-9016



Introduction

The purpose of this paper is to provide a document essentially duplicating our oral presentation to the Office of Management and Budget on October 4, 1973. The presentation was made with a set of visual aids outlining a rationale for full funding not only for Title IV, P.L. 92-318, The Indian Education Act, but also a rationale showing the need for continued funding of the Johnson O'Malley Act, and P.L. 874, Impact Aid. For this reason, I will reproduce the content of the visual aid and provide a summary of the accompanying oral presentation.

Although a recommendation is included for funding through Fiscal Years 1975-1978, this recommendation was made primarily for the O.M.B. planning process and by no means indicates that we are not recommending full funding for FY 1974. The Congress has voted to appropriate 40 million dollars for FY '74; 25 million for part A, 12 million for part B, and 3 million for part C. If the President does not include this amount in his FY '74 budget message to Congress the Indian Community will be in exactly the same position we were in last year which resulted in an anti-impoundment lawsuit culminating in the Court ordering the Office of Education to release the 18 million dollars appropriated for FY '73. We are therefore emphatically recommending that the appropriated amount be included in the expenditures projected by the Administration for FY '74. We will note here that the present authorization is for three years, FY 1973 through FY 1975. Our understanding from discussion with the Congressional people is that the Bill will be reauthorized thus we have projected beyond FY 1975. Part D of the Act establishes the Office of



Indian Education, the Administrative arm of O.E. which administers the Indian Education Act, in addition it establishes the National Advisory Council on Indian Education. Part D states, (d) "From the sums appropriated pursuant to section 400(c) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section." We had not included in our initial presentation the amount of money necessary under part D to Administer the program as well as to carry out the activities of the National Council. After consulting with the Executive Director of the National Advisory Council on Indian Education we understand that the minimal figure for carrying out the duties of the National Council as required by law is an initial \$260,000.00 with a projected 5% increase per annum. We understand also that the Office of Education has projected a 2.5 million initial annual administrative budget for carrying out this program. However, since this Administrative figure must be justified by O.E. we would rather not make any projections for the Office of Education.

The almost unanimous support by the Indian Community for funding and implementation of the Indian Education Act as documented by the history of the appropriations process, the lawsuits, the application process for grants and entitlements, as well as the unanimity of support for this presentation is a phenomenon that can only be understood by a careful consideration of the facts herein presented.



INDIAN EDUCATION

The purpose for this presentation is to focus upon one subject;
INDIAN EDUCATION. We will further restrict our focus to Indian
Education in Public Schools. This will become apparent as we proceed
through the presentation.



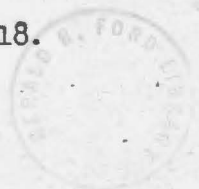
WHO PARTICIPATES IN INDIAN EDUCATION?

1. The Federal Government
 - a) Interior
 - b) H.E.W.
 - c) U.S.D.A.
2. State Educational Agencies
3. Local Educational Agencies
4. Private Organizations

By participation we mean the Agency either provides funds for the operation or support of schools attended by Indian children and/or actually operates the school.

The Federal Government participates through the Interior Department's Bureau of Indian Affairs in the actual operation of B.I.A. schools, it provides Johnson O'Malley monies to public schools and contracts with a token number of Indian Communities which run their own school operations. We will not discuss the B.I.A. participation in Indian Education today, although we fully intend to address ourselves to this subject and hope to be able to make a presentation to you focusing on the B.I.A. Educational Effort in the very near future.

The Office of Education in H.E.W. participates through various programs, primarily Impact Aide, PL-874, and the most recent and controversial being the Indian Education Act, Title IV, of PL-92-318.



Page 2 - WHO PARTICIPATES IN INDIAN EDUCATION?

The Agriculture Department participates to the extent that School lunch programs find their way into schools attended by Indian students.

Other participation is by State, local and private organizations.

These are the participating Agencies but where does the primary responsibility lie?



WHO IS RESPONSIBLE FOR INDIAN EDUCATION?

The Federal Government provides education to all Indian children. Non-Indian children are the responsibility of the residing state.

Has the Federal Government met its responsibilities in Indian Education?

No! The American Indian is the most abandoned member of society. The Federal Government is retreating by turning its responsibilities over to state and local governments without proper financing and safeguards.

The Federal Government is responsible for educating all Indian children. This responsibility is attested to by the treaty documents between Indian tribes and the Federal Government all the way back to treaties which were signed by George Washington. In every instance every treaty wherein the United States gained territory for itself at the expense of Indian tribes, a responsibility was acknowledged and promised by the United States to provide educational services to Indians. We can provide you with documentation of assertions later if you wish to dispute this but would like to proceed with our presentation based upon this principle.



Our second assertion is that the Federal Government has not met its responsibilities. It has not provided an adequate financial base, nor has it provided a mechanism with adequate safeguards to insure that the dollars appropriated for Indian Education are indeed used for that purpose. These are two very important subjects which must be discussed. We can reduce them to a) School Financing and b) school control. In this presentation we will focus upon the first, that is school financing. Again we have many things to say about school control - particularly from the vantage point of the Indian School Boards represented by the Coalition of Indian Controlled School Boards, but feel that another meeting should be held to discuss this problem. We will dwell briefly upon the problems which accompany lack of control.



FEDERAL DOMINATION AND STATE CONTROL RETARDS PROGRESS OF INDIAN PEOPLE. INDIANS ARE DEPRIVED OF OPPORTUNITY TO DEVELOP LEADERSHIP SKILLS FOR SELF-GOVERNMENT. INDIANS NEED EFFECTIVE VOICE TO PLAN AND IMPLEMENT EDUCATIONAL PROGRAMS FOR INDIAN NEEDS AND GOALS.

This administration has acknowledged this in the principle of Self-determination without termination. Indeed the President has asserted in his historic declaration of Indian Policy in 1970; "Consistent with out policy that the Indian Community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own schools". In spite of the statement of policy and the support of that policy by the Indian Community as a whole, we continue to struggle along with only superficial acknowledgment of these principles by the Governmental Agencies. We believe that the key to lasting development of the Indian people is an Educational program adequately financed by the Federal Government in accordance with its responsibilities but of equal if not greater importance, adequately controlled by the Indian Community.



INDIAN YOUTH PROFILE

300,000 TOTAL - Of these:

52,000 ON RESERVATIONS ATTEND B.I.A. SCHOOLS

18,000 ON RESERVATIONS ATTEND MISSION SCHOOLS

100,000 ON RESERVATIONS ATTEND PUBLIC SCHOOLS

130,000 OFF RESERVATIONS ATTEND PUBLIC SCHOOLS

STUDENT ACHIEVEMENT IS BELOW ALL OTHER MINORITY GROUPS.

PRE-HIGH SCHOOL GRADUATION DROP-OUT ESTIMATES RANGE FROM 45% TO 62%.

DROP-OUTS BEGIN IN 4th GRADE.

The figures which we are presenting here are from an Administration Study conducted by H.E.W. initially entitled "The 1970 Survey of Comprehensive Education" and are taken from the chapter devoted specifically to Indians. This survey has been renamed and is now under the jurisdiction of the National Center for Educational Statistics. You will note that 230,000 of 300,000 total Indian students in 1970, or more than 75% of the total Indian student population attended public schools. We can state without hesitation that there is adequate documentation both in this study as well as other studies that student achievement is below all other minority groups. We think that the Pre-high school graduation drop-out estimates are low. We know of a community on the Pine Ridge Reservation which graduates from High School only 10% of those students who enter first grade. Why is this the case?



62% OF CLASSROOM TEACHERS FOR INDIAN CHILDREN HAVE NO TRAINING IN TEACHING ACADEMICALLY DISADVANTAGED STUDENTS.

70% OF CLASSROOM TEACHERS FOR INDIAN CHILDREN HAVE HAD NO PARENTAL CONTACT.

ETHNIC BACKGROUND OF CLASSROOM TEACHERS OF INDIAN CHILDREN:

14% BLACK

78% WHITE

8% OTHER I.E., SPANISH SURNAMED, ORIENTAL AND INDIAN. (WE ESTIMATE THE FIGURE FOR INDIANS TO BE 1/2 OF 1% TO A MAXIMUM OF 2%.)

Whatever be the outcome of a detailed causal analysis of the phenomenon of the unusually high drop out rates of Indian students we would predict that the statistics quoted from the same study are indicative of one of the root causes. Teachers of Indian students are not prepared to teach Indian students nor do they have any awareness of the particularly unique family and tribal structure of Indian students. The relevance of Indian teachers vs. non-Indian teachers in an Indian school is not quantifiable if we measure only formal teaching techniques, intelligence, and acquired knowledge. Yet we believe it can be shown that an understanding of a child's home situation and an appreciation of his emotional needs relative to classroom and group learning situations must be a prerequisite for any teacher of Indian students. An effort must be made to both increase the number of quality Indian



teachers in Indian Schools as well as to re-educate the 98% of non-Indian teachers of Indian students to their special needs. We added our estimate of the percentage of Indian teachers to the above figures based on a known figure that 1/2 of 1% of teachers of Navajo children are Indians.



INADEQUATE TAX BASE

75% OF INDIAN STUDENTS LIVE IN DISTRICTS WITH A STATE AND LOCAL
PER PUPIL EXPENDITURE LESS THAN \$300 WITHOUT FEDERAL SUPPORT.

EXAMPLE: HAMMON, OKLAHOMA

100 CHILDREN: 50 WHITE, 50 INDIAN

STATE AND LOCAL SUPPORT	\$300.00
B.I.A. (JOHNSON O'MALLEY)	150.00
PL - 874 (SAFA)	100.00
E.S.E.A. TITLE I	<u>50.00</u>
TOTAL P.P.E.	\$600.00
STATE OF OKLAHOMA P.P.E.	\$660.00

CONCLUSION: SYSTEM NEEDS NOT MET WITH FEDERAL SUPPORT AT PRESENT LEVEL.

The 75% figure quoted above is taken from the report issued by the
"PRESIDENTS COMMISSION ON SCHOOL FINANCING." We want to call your attention
to the fact that 75% of Indian Students live in districts with a per
pupil expenditure of less than \$300.00 per student. The National
average is \$860.00 per student. The same study shows that the tax
effort, that is, the rate at which property is taxed in these same
districts is the highest in the nation. As an example North Dakota
has the highest tax effort in the Nation, and yet has one of the lowest

P.P.E. in the Nation. We can give you an immediate answer to the question why? Such School Districts are taxing property which the United States Government originally set aside as Indian Country or Reservations. To the extent that the non-Indian has acquired this property within boundries still designated as Reservations, to that extent the land is taxable. It was the United States Governments own estimation that the land was worthless in the first place that led to its being designated as RESERVATION.

We want to emphasize that we are not a public school district lobby. I personally find it extremely repugnant to be placed in the position of arguing for funds to go to public-school districts. Yet our basic argument is not for funds for public school districts but rather for funds to address the needs of Indian students who in fact attend public schools.

Turning to our example: Hammon, Oklahoma. We used this school both because the per pupil expenditures are ideal for demonstrating our position, but also to show that this is the root cause of an IRREVERSIBLE BREAK that has occurred in the community. As of this date the Indian community of Hammon has broken off from the school district to start its own school. The Federal monies are intended to provide for special needs of Indian students. The Indian Community is aware of this and have asked the School Board and Administration to render an accounting of expenditures, to provide them with some measure of control and to employ members of the Indian community in the school. The RESPONSE from the School Board was negative, in fact repressive to the point where Indian children were subjected to abusive

treatment by teachers and administration. In no way can we justify that schools response to the legitimate concerns of the Indian Community but we can offer a reason for their panic. They are using the Federal monies for basic school operations because they simply have no other source of revenue. Even maintaining J.O.M., Impact Aid, and Title One at present level that school district still doesn't have a per pupil expenditure equal to the state effort not to mention the national effort. We want to see a maximum tax effort in these districts and believe there should be an evaluatory mechanism yet at the same time we acknowledge the fact there simply isn't enough taxable property, nor does the answer lie in an effort to tax Indian lands which such counties engage in. This is a Federal Responsibility which must be addressed by the Federal Government.



SIXTH GRADE INDIAN STUDENT NEEDS

READING ASSISTANCE	46%
MATH. TUTORING	47%
LANGUAGE ASSISTANCE	47%
CULTURAL IDENTITY PROBLEMS	50%
HEALTH PROBLEMS	21%
PSYCHOLOGICAL COUNSELING	21%
MALNUTRITION	3%

The figures above represent figures for critical needs of sixth grade Indian students as cited in the 1970 Survey of Comprehensive Education. The figures were obtained by a Survey of teachers in schools teaching throughout the nation. There were small variations from region to region. The above figures are a means of the needs in each region. We will acknowledge that the figures are the assessment of teachers who for the most part don't understand Indian students in the first place, yet they still are indicative of critical needs. We also point out that a significant amount of Indian students have dropped out of school before reaching the sixth grade. The percentages above indicate that the teachers assessment is that 46% of Indian

students need special assistance in reading, 47% of Indian students need special tutoring in math. Without belaboring this point we would say that without this special assistance as we progress through the grades from 1st to 12th grade it would not be unreasonable to project that these figures can be applied to all Indian students.

Given this assumption it would not be unreasonable to project that 47% of the 300,000.00 Indian students or 141,000 Indian students need special assistance in language and math. Given the above assessment by teachers as well as the dropout rates. We don't think you will argue with us that there are no special needs of Indian students. What will it cost to deal with these needs?



FINANCIAL REQUIREMENTS

BECAUSE OF SPECIAL NEEDS AND BASIC FINANCIAL SUPPORT, ADEQUATE SERVICES WILL COST \$1,800.00 to \$2,000.00 PER CHILD.

We have quoted from documents which substantiate the fact of critical needs in Indian Education. How can we put a cost figure to these needs? Again we turn to an effort by the Federal Government to deal in a comprehensive manner with all the needs of students in a select number of school sites. The follow through Program administered by the Office of Education has set a figure of \$1,800.00 to \$2,000.00 per child to provide what is hoped to be comprehensive services which meet student special needs as well as provide basic financial support. We think this is a low figure for Indian schools yet it is a figure used by the Administration and we feel that you can more readily accept it as justifiable.



RECOMMENDATIONS

1. CONTINUED FUNDING OF JOHNSON O'MALLEY PROGRAMS
2. FULL FUNDING OF P.L. 91-874 (SAFA)
3. FULL FUNDING OF I.E.A. TITLE IV, PL-92-319

ACCORDING TO THE FOLLOWING SCHEDULE:

<u>FY</u>	<u>PART A</u>	<u>PART B</u>	<u>PART C</u>
75	\$80 Million	\$35 Million	\$5 Million
76	\$120	50	10
77	\$160	50	15
78	\$200	50	15

TITLE IV, PL 92-318 IS THE ONLY FEDERAL PROGRAM DESIGNED TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EVERY INDIAN CHILD.

We have not used the figure of \$1,800.00 to \$2,000.00 in the above recommendations. Even using the recommendations for FY '78 of a total \$265 million dollars and the 1970 figure of 300,000 Indian students. We arrive at a figure of approximately \$880.00 per student which when added to the average P.P.E. in Indian school districts including J.O.M., S.A.F.A. and TITLE I Federal monies, we arrive at a total of approximately \$1500 per student. We will not go into this breakdown at length. We feel what is most important at this time is the acknowledgment by the Administrative of its responsibility and the financial needs to meet that responsibility. We have demonstrated that Title IV is not a duplication of existing efforts, in fact existing efforts no way approach

meeting basic operational needs We believe that Title IV at this point is the only Federal program which has the potential for addressing the special needs of all Indian children. We have limited ourselves to a discussion of financial needs although we indicated a need for a serious look at Safeguards or control by the Indian Community. We believe that Indians should control the Educational Institutions in their communities. For that reason we do not endorse Title IV, J.O.M., S.A.F.A. or any current Federal program as the ultimate answer. We would be happy to work with both the administration and congress to develop a more adequate legislation that includes both Federal Responsibility for financing as well as adequate safeguards in terms of Indian control.



October 12, 1973

Mr. Dave Page
New Executive Office Building
Room 8006
17th and Pennsylvania
Washington, D.C. 20503

Dear Mr. Page:

I strongly felt that our meeting on October 4, was an initial step towards the establishment of a mutually gainful dialogue between your office and Native American community of this land. Therefore, I am recommending that meetings such as this be held prior to the submission of annual budgets for Indian-related programs and agencies.

I am sure you had detected, as I had, during the course of the meeting that the need for a person of true Indian ancestry, knowledgeable in the whole spectra of Indian involvement in the U.S. Congress and the government, be employed on the staff of the Office of Management and Budget to oversee all Indian funding efforts of the U.S. government.

Enclosed is the synopsis of the presentation given by Gerald M. Clifford to your office on behalf of several Indian organizations who were in attendance at the October 4 meeting. Should you have any questions regarding this matter, do not hesitate to ask us.

Sincerely,

Birgil L. Kills Straight
Birgil L. Kills Straight
President

BLKS/lh

Enc.

cc:

National Advisory Council on Indian Education
Americans for Indian Opportunity
National Congress of American Indians
Coalition of Eastern Native Americans
Native American Lobby
Institute for the Development of Indian Law
National Tribal Chairmens Association

*COALITION OF INDIAN-CONTROLLED SCHOOL BOARDS, INC.

September 23, 1974

MEMORANDUM FOR:

THE COMMISSIONER OF EDUCATION

SUBJECT:

Seneca Nation Letter re: Part A
of Title IV of the Indian Education
Act

I would appreciate it if you would respond to the attached letter on behalf of the President. (My understanding is that there is a study now under way to examine the possible overlaps in this area and that pending the outcome of that study no appropriations for Part A were requested.)

Kindly send me a copy of your response.

Bradley H. Patterson, Jr.



September 23, 1974

MEMORANDUM FOR:

THE COMMISSIONER OF EDUCATION

SUBJECT:

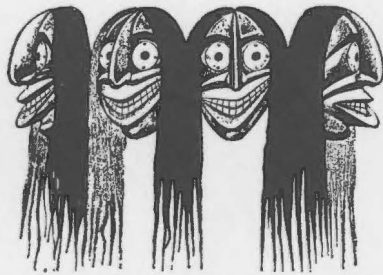
Seneca Nation Letter re: Part A
of Title IV of the Indian Education
Act

I would appreciate it if you would respond to the attached letter on behalf of the President. (My understanding is that there is a study now under way to examine the possible overlaps in this area and that pending the outcome of that study no appropriations for Part A were requested.)

Kindly send me a copy of your response.

Bradley H. Patterson, Jr.





SENECA NATION OF INDIANS
EDUCATION PROGRAM
BOX 201, IRVING, NEW YORK 14081

September 11, 1974

BP
President Gerald Ford
The White House
Washington, D. C.

The Honorable President:

We, the Seneca Nation Education Program, wish to extend to you our sincere best wishes for your success in this time of need for decisive leadership and integrity in the changing political climate of our Nation's Capitol. I cannot share your feelings regarding Mr. Nixon, it is your system of laws and it appears that the rich and powerful receive "justice" which the common man never knows. We, the Education Program, hope you can attain all the goals which your Administration has thus far outlined.

To briefly introduce our Program, we are funded under Title IV, Part B of the Indian Education Act of 1972. Our aim is three-fold:

To improve the reading and mathematical skills of Seneca children now performing below grade level.

To broaden their education through a summer program which is both cultural and remedial.

To preserve and teach the culture of the Seneca to make our reservation community as a whole, more aware of their rich cultural heritage.

Your predecessor had a policy regarding Native Americans which was designed to provide self-determination for our people. One of the results of this policy was the signing of the Indian Education Act of 1972. This act has since been severely limited by the appropriations asked for and received to fund it; for example, no appropriation has been requested to this date for Part A, of Title IV for 1975. This money is money which goes to public schools and is an entitlement based on the Native American per pupil enrollment. Each year the actual budget for Title IV has been steadily decreasing in proportion to the number of Native Americans asking for assistance.



President Gerald Ford

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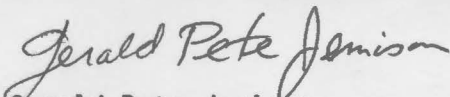
September 11, 1974

We have a wealth of human and spiritual resources to effectively utilize educational funds. We still, however, require federal assistance to have our ideas and hopes become a reality.

WE ARE THEREFORE, EXTREMELY INTERESTED IN WHAT POSITION YOU WILL TAKE REGARDING INDIAN EDUCATION. Are you going to live up to the commitments which the U. S. Government made to Native Americans? Will you be requesting an appropriation for Title IV, Part A of the Indian Education Act for 1975? Will any Native Americans be appointed to high level administrative positions in the Office of Indian Education or will we forever be bound by civil service red tape? Do you plan to consult any Native American national organizations and tribal representatives to hear their views of our needs and goals?

We will anxiously be awaiting your reply.

Respectfully yours,



Gerald Pete Jemison
Education Director

GPJ/sa

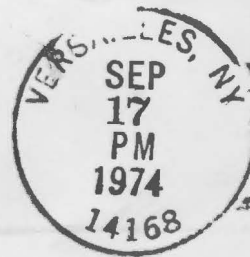




**SENECA NATION OF INDIANS
EDUCATION PROGRAM
BOX 201, IRVING, NEW YORK 14081**

PHONE (716) 532-3341

President Gerald Ford
The White House
Washington, D. C.





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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20242

IN REPLY REFER TO:

Dr. Robert A. Roessel, Jr.
Superintendent of Schools
Chinle Public Schools
Box 587
Chinle, Arizona 86503

OCT 1 1974

Dear Dr. Roessel:

Your letter of August 1, 1974, addressed to Mr. Bradley Patterson, has been forwarded to me for reply. An information copy of this letter will go to Mr. Patterson.

I understand your concern about the terminology used in the June 28, 1974, proposed JOM regulations.

I am sure you are now aware that the regulations published in the Federal Register on August 21, 1974, restricted the eligibility for these services to those now eligible for BIA services. The BIA Manual, to be released very soon, will further specifically limit services to those Indian students living on or near reservations and eligible for other BIA services.

We have discussed these regulations with Mr. Hadley Thomas and others in the Arizona State Department of Education, and some of their thinking will be incorporated into the new manual. The Window Rock Area Office can furnish you with a copy of this manual revision as soon as it is released.

Thank you for your continuing interest in Indian education.

Sincerely yours,

(SGD) CLENNON E. SOCKEY

Clennon E. Sockey
Director, Office of Indian
Education

cc: Mr. Bradley H. Patterson, Jr., Washington, D. C.



THE WHITE HOUSE
WASHINGTON

September 5, 1974

Mr. Sockey --

I tried one answer to
Bob Roessel but evidently missed
his point. Why don't you try the
second time, and please send me a
copy of your response.

Bob



CHINLE SCHOOL DISTRICT NO. 24

P. O. BOX 587

CHINLE, ARIZONA 86503

BOARD OF TRUSTEES

Frank Adakai - President
Mary Ina - Clerk
Pat J. Ashley
Thomas H. Begay
Jerald LaFont

August 1, 1974

Dr. John W. McCoy
Superintendent

Mr. Bradley Patterson, Jr.
The White House
Washington, D.C.

Dear Brad:

I am taking the opportunity of replying to your letter, dated July 23, 1974, in which you feel that my concern about the new proposed regulations are not entirely valid. Let me quote for you the Section I am concerned about and the Sections that a group of Arizona Tribal Leaders plus certain State Officials are also concerned about as they interpret these new regulations in the same manner that I have.

On June 28, 1974, Commissioner Thompson sent to Mr. John Artichoker, Area Director, Phoenix Area Office, the enclosed letter and draft the new proposed regulations. The specific part that I am concerned about is under Definitions on Page 2, Part J, which declares: "Educational Agencies means any State school district, Inter-Tribal Corporation, Indian Corporation directly engaged in providing educational services or any public or private Indian controlled school or institution." That would appear to make it possible for an educational agency being eligible to receive Johnson O'Malley funds regardless of its location. There is nothing in that definition of an eligible education agency which restricts it to reservation based operations. Mr. Hadley Thomas, who is one of the key State of Arizona negotiators in the new proposed Arizona Johnson O'Malley plan declared in a public meeting that his interpretation was that these new proposed regulations would make it possible for any school district with Indian students within the State of Arizona to receive Johnson O'Malley money. It is this position that is a great grave concern to me. In fact, he specifically mentioned the school district I suggested in my letter as illustrating the case in point. He stated that Phoenix Union High School District under the new regulations proposed by Commissioner of Indian Affairs, Morris Thompson, in the attachment to his June 28th letter would make it mandatory that the State of Arizona provide funds to such a school district.



Mr. Bradley Patterson, Jr.
The White House

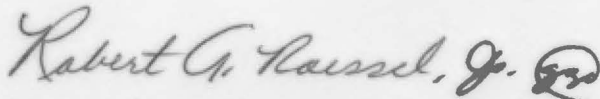
August 1, 1974
Page 2

Furthermore, in talking with the Indian Education Officials, at the State of Arizona, these are individuals that are part of the State Department of Public Instruction Staff, they concurred in this definition and were gravely concerned about this extension of coverage with only a minimal proposed extension or additional funds.

Your quotations under the definition of an Indian are not in my estimation the key issue. In other words a Navajo Indian living in Phoenix would be a member of an organized band of Indians recognized by the Secretary of the Interior and when that individual attended School in Phoenix, the definition of an educational agency combined with the definition of Indian would make such a person eligible. This is exactly what I am disturbed about.

I regret that I did not make myself clear in my earlier letter but I continue to be gravely upset about the proposed new regulations.

Sincerely,



Robert A. Roessel, Jr., Superintendent of Schools
Chinle Public Schools

RAR:ggd

Enclosure

cc: Mr. Morris Thompson, Commissioner of Indian Affairs



July 23, 1974

Dear Mr. Roessel:

I have reviewed the various proposals of regulations dealing with the Johansen-O'Malley Act and I have found nothing to substantiate your belief that any Indian group other than those which are "federally recognized" will be eligible for funding.

As you may know, three sets of regulations have been proposed at this time. They are 1) the original proposal submitted by Commissioner Thompson on January 2, 1974, as published in the Federal Register of January 14, 1974; 2) the proposal submitted by a coalition of Indian groups, commonly known as the "Red Regs", published on February 23, 1974; and 3) a revised federal proposal submitted on June 26, 1974.

The eligibility sections in all three proposals make it clear that only "federally recognized" tribes, bands or groups of Indians are eligible for Johansen-O'Malley funding. Proposal 1 defines "Indian" as "an individual who is a member of a tribe, band, or other organized group of Indians, including Alaska natives, which is recognized by the Secretary of the Interior as being eligible for Federal Services." Section 33.2 of this proposal states "Contracts may be entered into... for the education of Indian children of 1/4 or more degree Indian blood, unless excepted by law..."

The "Red Regs" define "Indian" identically with the original federal proposal. Section 33.2 of the "Red Regs" states "Contracts may be entered into for the education of Indian children...", again emphasizing the term "Indian" as defined.

The most recent proposal also defines "Indian" identically with the original proposal, and then states in Section 33.2(a) that the funds are to be used for the Education of Indian children.



- 2 -

Therefore, I think I can assure you that according to the three proposals of which I am aware, there is nothing to indicate that any persons other than "Indians" who are recognized by the Secretary of the Interior as being eligible for federal services will be eligible for Johnson-O'Malley funding.

It was good to be with you a few weeks ago!

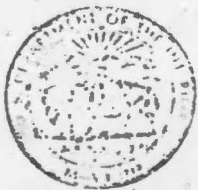
Cordially,

Bradley H. Patterson, Jr.

Mr. Robert A. Roessel, Jr.
Superintendent of Schools
Chinle Public Schools
Box 587
Chinle, Arizona 86503

bcc: Mr. Clennon Sockey (BIA)





IN REPLY REFER TO:

Ed. 1000

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C. 20245

Handwritten notes on right margin: "I am not sure if this is the right person to contact. But I will try to get it done."

June 28, 1974

Mr. John Artichoker
Area Director
Phoenix Area Office
Bureau of Indian Affairs
Phoenix, Arizona 85011

Dear Sir:

We are enclosing for your review and consideration proposed new regulations for the Johnson-O'Malley Program to replace 25 CFR, Part 33. This proposed regulation is a result of comments made by you and others to our draft revisions of the Johnson-O'Malley regulations, dated January 2, 1974. Our purpose in revising the regulations is to assure that the Johnson-O'Malley program meets the needs of Indian people as Indian people themselves determine.

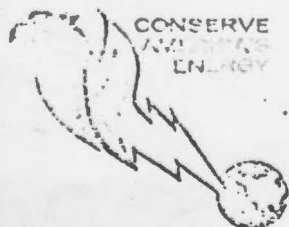
In order to submit a revision in time for publication, we are asking that you let us have your comments, suggestions, or objections to the proposed regulations no later than July 29, 1974. Please address your remarks to Dr. Clennon E. Sockey, Director of Education Programs. Enclosed is a self-addressed envelope for your convenience.

We appreciate your assistance in this matter which is of such great importance to Indian people.

Sincerely yours,

Morris Thompson

Commissioner of Indian Affairs



Save Energy and You Serve America!



Proposed Revision Part 33, Chapter I, Title 25, Code of Federal Regulations to read as follows:

Part 33 - Special Programs for the Education of Indian Children

Section

33.1 Definitions.

33.2 Contract Eligibility.

33.3 Community Participation.

33.4 General Requirements for Contracts.

33.5 State School Laws.

33.6 Public School Use of Federal Property.

AUTHORITY: The provisions of this Part 33 issued under Sec. 3, 48 Stat. 596, as amended; 25 U.S.C. 454, unless otherwise noted.

§ 33.1 Definitions.

Whenever used in this part the terms defined in this section shall have the meaning herein stated:

(a) "State" means a State of the United States of America or any subdivision thereof.

(b) A "school District" is the local unit of school administration as defined by the laws of the state in which it is located.

(c) An "Indian" is an individual either of 1/4 or more degree of Indian blood or a member of a tribe, band, or other organized group of Indians, including Alaska Natives, which is recognized by the Secretary of the Interior as being eligible for Federal Services throughout the United States.



(d) An "Indian Advisory School Board" is a board elected by Indian parents within a school district to plan, program, review, and evaluate programs for the education of eligible Indian students.

(e) "Commissioner" means the Commissioner, Bureau of Indian Affairs.

(f) "Basic support payments" means payments made in support of school operational costs in order to meet minimum educational standards established by the State.

(g) "Special and Supplemental" programs are to meet the special needs of Indian students which may result from the financial status of the parents, or from cultural and language differences, or other factors, so that Indian students can receive the maximum benefit from the basic educational program.

(h) An "Indian Corporation" is a corporation which is wholly controlled by Indian shareholders and which is chartered under State law, under Tribal authority, or a federally chartered corporation under the Indian Reorganization Act, 25 U.S.C. §477.

(i) An "Educational Plan" is a plan for the programmatic accountability and expenditure by an Educational Agency under a contract for the education of eligible Indian students under this part.

(j) "Educational Agency" means any state, school district, intertribal corporation, Indian corporation directly engaged in providing educational services, or any public or private Indian controlled school or institution.

(k) The Johnson-O'Malley Act means the Act of April 16, 1934, 48 Stat. 596, as amended by the Act of June 4, 1936, 49 Stat. 1458, 25 U.S.C. §452-454.

(l) "Secretary" means the Secretary of the Interior.

*trust land
regularly in*



(m) "Area Director," means the officer in charge of a Bureau of Indian Affairs Area Office.

§ 33.2 Contract Eligibility.

(a) Contracts may be entered into under the provisions of the Johnson-O'Malley Act with any educational agency for the education of Indian children in kindergarten through grade 12.

(b) All funds appropriated for expenditure under Part 33 shall be apportioned annually among the states and among the educational agencies within each state on an equitable basis. (1) All such funds shall be apportioned among all states on the basis of the number of eligible students for whom funds are sought, with allowance being made for the actual cost of delivering educational services in each state. For the purpose of determining the actual cost of delivering educational services in each state, the Commissioner shall refer to the average per-pupil expenditure of each state. (2) Absent extraordinary or exceptional circumstances, funds allocated for educational agencies shall be apportioned to the agencies so that each contracting educational agency will receive approximately the same amount for each eligible Indian student. The Commissioner may make exception and authorize a contract with an educational agency having special cultural, social, linguistic, or educational needs which provide the agency with more than the average per pupil sum received by educational agencies.

(c) The contracts may authorize payments for educational programs in two categories in the following priority: (1) In payment for the costs of providing special or supplemental programs to meet the special needs of Indian students, as determined by the Indian Advisory School Board, which may result from the financial status of the parents, or from cultural and



language differences, or other factors, so that Indian students can receive the maximum benefit from the basic educational programs of a school. (2) In support of a basic state school program offered to all students, to meet educational standards established within the state, only if authorized by the Educational Plan, in writing, and only under extraordinary or exceptional circumstances. The contracts may authorize payments for basic program aspects only upon satisfactory proof of all the following: (a) a reasonable tax effort; (b) exhaustion of all other sources of financial aid, including P.L. 874; and (c) a high percentage enrollment of eligible Indians.

(d) Equal educational opportunities: (1) Contracts shall specify that all state school districts receiving funds under the provisions of this part shall provide educational opportunities to all Indian children within that school district on the same terms and under the same conditions that apply to all other students. School districts receiving funds under this part must insure that Indian children receive all aid from the State, and other proper sources other than this contract, which other schools in the district and other school districts similarly situated in the state are entitled to receive. In no instance shall there be discrimination against Indians or schools enrolling such Indians. (2) When informed by a complaint or through its own discovery that possible violations of Title VI of the Civil Rights Act of 1964 exist within a state school district receiving Johnson-O'Malley aid, the Department of the Interior shall, in accordance with Federal requirements: (i) notify the Department of Health, Education and Welfare of the possible violation of Title VI and pursuant to Memoranda of Understanding between the Secretary of the Interior and



the Secretary of the Department of Health, Education and Welfare conduct an investigation into the matters alleged. (ii) If the report of investigation conducted by the Department of Health, Education, and Welfare in (i) above discloses a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue financial assistance under the Johnson-O'Malley Act or by any other means authorized by law. As delineated in 43 CFR Sections 17.1, 17.8 and 17.9, such other means may include reference to the Department of Justice with a recommendation that appropriate legal proceedings be brought by the United States to secure compliance or by formal hearing before the head of the bureau or office administering the federal financial assistance, or at his discretion, before an administrative law judge designated in accordance with section 11 of the Administrative Procedure Act. The Secretary of Interior, may, by agreement with one or more other Federal departments, provide for the conduct of consolidated or joint hearings as prescribed in 43 CFR Section 17.8(e).

(e) Programs conducted through contracts under this part must be designed for the exclusive benefit of eligible Indian students.

§ 33.3 Community Participation.

(a) Parental involvement at the local level is an important means of increasing the effectiveness of programs provided by funds under this part. Accordingly, it is the policy of the Commissioner, in regard to funds contracted under this part, to require the maximum participation by the community affected. Contracts shall provide that this participation shall



include, but shall not be limited to, the provisions of this section.

In the case of contracts with Indian Corporations all provisions of this part relating to Indian Advisory Boards shall be required.

(b) Each educational agency having a contract under this part shall work with the Indian Advisory Board established for each school community involved pursuant to subsection (c). Each educational agency shall, subject to the limits prescribed in its contract, make available part of its Johnson-O'Malley funds for conducting elections of Indian Advisory Boards, for attendance of members of Indian Advisory Boards at state-wide meetings, workshops, board training and for other reasonable expenses incurred by an Indian Advisory Board in relation to its duties and in the planning, development, evaluation and monitoring of programs funded under this Act.

(c) All Indian Advisory Boards shall be nominated and elected by procedures determined by the Indian community affected. Each Board shall file a copy with the Area Director of its organizational papers and by-laws, together with a list of its officers and members, including their current addresses. Members of the Board shall be elected by the Indian people in the community affected, and where the program or project will serve secondary school students, Indian secondary school students. Election of members shall not limit the continuing participation of the Indian community in the operation and evaluation of the program.

(d) Each Indian Advisory Board shall be authorized to: (1) make an initial assessment of the needs of Indian children in the community affected, (2) participate in negotiations concerning contracts under this part, (3) participate in the planning, development, evaluation, and monitoring of programs, (4) hear complaints by Indian students and their parents,



(5) meet regularly with the professional staff serving Indian children and with the local educational agency, (6) hold Board meetings at least once a month which are open to the public, (7) approve all programs and expenditures of funds before contracts are concluded with educational agencies, (8) establish rules for conducting its meetings, and (9) have such additional powers as are consistent with these regulations.

§ 33.4 General Requirements for Contracts.

(a) Educational Plan. To become eligible for consideration to obtain a contract, an educational agency must formulate an educational plan and submit it to the appropriate Area Director. Such plan shall become a part of any contract awarded. Programs shall be designed to meet the special needs of Indian students, which may result from the financial status of their parents, from cultural and language differences, or from other factors.

(b) Budget Estimates and Financial Information. Each educational agency must submit to the Area Director such budget information as is necessary in order to determine eligibility to contract for the funds requested. If funds are sought for basic support services, the contractor has the burden of meeting the standards set out in 33.2(c).

This information shall include records of receipt of funds from all sources, and if a state educational agency requests supplemental funds for special need programs, shall specify line items in each school district's program for which funds from this program are to be expended. When supplemental funds are sought, full information on programs funded from other supplemental sources shall be furnished. In every case where a contract is awarded for basic support, formal written findings shall be made by the Area Director and incorporated into the contract.



(c) Reporting. Information shall be furnished by the education agency as to the type of expenditure for which reimbursement is sought under the terms of the contract. An adequate accounting system shall be maintained that enables identification and audit of expenditures of funds contracted for under this section.

(d) Educational Standards. Contracts shall provide that the minimum educational programs required by established State standards must be maintained.

(e) Staff. In contracts where special or supplemental programs are funded, a provision must be included in the contract that special consideration for the selection of personnel shall be given to those individuals with special expertise in the areas of Indian culture, customs, society, history, and language, etc. In these areas, academic qualifications need not be a factor.

(f) Inspection of Programs. Educational agencies, including schools operated by them, receiving funds shall be open to visits for purposes of program audit and inspection by duly accredited representatives of the Federal government and the Indian Advisory Board. The Educational Agency shall furnish the Area Director with a detailed report describing the accomplishments during the previous school year, due before October 15 each year, which shall contain an evaluation of the effectiveness of the program. The Area Director shall audit program effectiveness and the financial expenditure for each such contract during the first half of each contract year. The records involved in any claim or expenditure which has been questioned shall be further maintained until final determination has been made on the questioned expenditures by the Commissioner.



(g) Each contract shall include provisions that the Educational Agency will comply in full with the requirements concerning community participation, as set forth in subsection 33.3 of this part.

(h) The contract shall provide that Educational Agencies receiving funds will be open to visits and consultations by duly-accredited representatives of the federal government, by parents in the community, and by tribal representatives.

(i) Copies of all contracts, records, reports, budgets, budget estimates, plans, and other documents pertaining to the administration of the program shall be made available by the Educational Agency to each member of the Indian Advisory Board. Such documents shall be made available, upon request, to members of the public by Educational Agencies and local school officials for inspection. Educational Agencies and local school officials shall provide, free of charge, single copies of such documents upon request.

§ 33.5 State School Laws.

State employees in those states where P.L. 280, 28 U.S.C. § 1360 and 25 U.S.C. § 1311, does not confer civil jurisdiction may be permitted to enter upon Indian tribal lands, reservations, or allotments if the duly constituted governing body of the tribe adopts a resolution of consent, for the purpose of: (a) Inspection of educational conditions in the public schools located thereon; (b) to enforce state compulsory school attendance laws against Indian children, parents, or other persons in loco parentis.

§ 33.6 Use of and Transfer of Federal Property.

The use of federally-owned facilities for public or private school purposes may be authorized when not needed for Federal activities. Transfer of title to such facilities may be arranged under the provisions of the



Act of June 4, 1953 (67 Stat. 41).

(a) Insurance covering nonexpendable property: When nonexpendable Government property is turned over to public or private school authorities under a use permit, the permittee shall insure such property against damage by fire, windstorm, vandalism, snow, and tornado in amounts and with companies satisfactory to the superintendent or officer in charge of the Indian agency responsible for the property. In case of damage or destruction of such property by fire, windstorm, vandalism, snow or tornado the insurance money collected shall be expended only for repair or replacement of property; otherwise, insurance proceeds shall be remitted to the Bureau of Indian Affairs.

(b) Maintenance of Buildings: The permittee shall maintain the property in a reasonable state of repair consistent with the intended use and educational purposes.



OFFICE OF EDUCATION FUNDING FOR EDUCATION
FOR INDIANS
(Dollars in thousands)

Duplicate 10 copies

	FY 1973			FY 1974		
	Primarily for Indians Reserva.	Non-Reserva.	For Indians Among Others	Primarily for Indians Reserva.	Non-Reserva.	For Indian Among Other
puty Commissioner for Development						
Environmental Education	53	75		53	75	
NCET			1,000			1,000
Health and Nutrition	148	63		148	63	
Drug Education	170	112		170	112	
NCIES	1,660	1,660		2,500	2,500	
puty Commissioner for School Syst.						
EEO			2,000			2,000
EAUTE			3,548			3,712
BESE	35,050		13,075 ^{1/}	39,154		12,652 ^{2/}
ELH			781 ^{3/}			859 ^{4/}
puty Commissioner for Higher Ed.						
BEES						
Talent Search	300	300		300	300	
Upward Bound	1,127	1,127		1,127	1,127	
Special Services	406	406		406	406	
Teacher Corps	2,250	250		2,250	250	
to figure for student aid is given since the amount is still being negotiated.	\$41,164	\$3,993	\$20,404	\$46,108	\$4,833	\$20,223
	TOTAL FY 1973: \$65,561 plus \$16,450 to BIA			TOTAL FY 1974: \$71,164 plus \$16,595 to BIA		

Plus \$15,000 to BIA
Plus \$15,000 to BIA
Plus \$1,450 to BIA
Plus \$1,595 to BIA



Duplicate

OE COMMITMENTS TO EDUCATION FOR INDIANS
(dollars in thousands)

The following is a listing of amounts submitted by the various bureaus as planned expenditures for education of Indians in FY 1973. It should be noted that, in some cases, the amounts listed may be too high (i.e., they reflect projects in which only some of the participants are Indian.) This list is being revised to include only direct expenditures for Indians.

Deputy Commissioner for School Systems

BESE

Title I	\$ 9,000,000	(to LEA's)
	(+ 15,000,000	to BIA)
Title III	1,275,000	
Title VIII Bilingual	2,799,732	
P.L. 874	32,450,000	
P.L. 815	2,600,000	
ESA	2,000,000	

BEH

	781,000	
	(+ 1,450,000	to BIA)

BAVTE

	3,548,000	
--	-----------	--

Deputy Commissioner for Higher Education

DHE*

Talent Search	600,000	
Upward Bound	2,254,000	
Special Services	812,000	

Deputy Commissioner for Development

NCET	1,000,000	
NCIES	3,320,000	
Health & Nutrition	211,129	
Drug Education	282,000	
Environmental Education	128,000	

Teacher Corps

	2,500,000	
--	-----------	--

\$65,561,861

*No figure is shown for student aid since this amount is still being negotiated.