



American Indian Education Laws, Policies and Initiatives

Five-Year Review

The Journey of American Indian Education:

A Five-Year Review of American Indian Education Laws, Policies and Initiatives

Introduction

The [Center for Indian Education](#) (CIE) at Arizona State University (ASU) is dedicated to advancing research and serving as a resource hub for American Indian/Alaska Native and Indigenous education at local, state, national, and international levels. Through a dynamic collaboration with the [American Indian Policy Institute](#) (AIPI), CIE reinforces its mission to provide research and policy-related services to Indigenous nations and the broader ASU community. As a result of the CIE-AIPI collaboration I, Brooke Curleyhair, was brought on board as a research analyst to focus on Indian education policy at the Tribal, State, and Federal levels. This strategic move empowers both ASU units to deliver in-depth analysis in a policy area that is critical to the well-being and advancement of Tribal Nations.

In addition to showcasing the shared commitment to Indian education through the CIE-AIPI collaboration, this document aims to establish a foundational overview for content featured in the [CIE Policy Corner](#) blog by examining the current landscape of Indian education. To fully absorb the content within this document and future publications, it is essential to understand four key elements: First, this document defines the “current” state of education as the past five years (2019-2024), a period that encompasses significant shifts in Indian education both pre- and post-pandemic, offering a contemporary perspective on the field. Second, the terms Indigenous, Native American, and American Indian are used interchangeably. It is vital to acknowledge and respect that preferences may vary by individual or community and usage of specific terms should be context-sensitive, acknowledging historical and cultural nuances. Third, this document is designed to offer an informative overview of the past five years, recognizing that some aspects may be omitted, with the intention of highlighting notable advancements and their alignment with historical documents that underscore the federal and local governments’ obligations to effectively serve Indigenous students. Finally, Indian education is examined within a K-16 framework, encompassing both the K-12 system and higher education (grades 13-16), traditionally defined as undergraduate education.

In short, this document emphasizes the CIE and AIPI's commitment to advancing the educational equity and excellence of Native American students by providing a comprehensive analysis of the evolving landscape of Indian education. By tracing the influence of historical court cases, pivotal legislation, and key policy developments over the past five years, this analysis offers a contemporary understanding of how these elements continue to shape K-16 education for Indigenous students. The focus on both the K-12 system and higher education reflects the ongoing efforts to honor the rich cultural heritage of Indigenous communities while promoting their future prosperity. Through these concerted efforts, the aspiration for educational equity remains within reach, guided by a deep respect for the historical and cultural nuances that define Native American education.

Historical Backdrop

Foundational principles of federal-tribal relations and their effects on Native American education were significantly recognized by the [Marshall Trilogy](#), which included the [Johnson v. McIntosh](#) (1823), [Cherokee Nation v. Georgia](#) (1831) and [Worcester v. Georgia](#) (1832) cases. These rulings recognized tribes as distinct political entities and affirmed Tribal sovereignty, which refers to the inherent authority of Indigenous tribes to govern themselves, manage their own affairs, and exercise legal and political control over their lands, resources, and people, independent of external governments. Additionally, the cases also laid the groundwork for the federal trust responsibility—a legal obligation of the U.S. government that aims to safeguard the rights and interests of Native American Tribes. This responsibility is rooted in historical treaties, statutes, and relationships and mandates specific things such as the provision of essential services including education, healthcare, and infrastructure. It is intended to uphold tribal sovereignty and self-governance. Understanding the trust responsibility's provisions is crucial because of its ongoing influence on law, policy, and practice related to Indian education.

The trust responsibility's legal framework is a crucial foundation for stabilizing ongoing shifts in Indian education. However, it is vital to understand that the trust responsibility was unexpectedly used to justify the establishment of boarding schools, wherein the federal government sought to fulfill its obligation to Native Nations by forcibly assimilating Native American children into Euro-American culture. The initial exposure of Native American children to Western education occurred through the establishment of boarding schools and profoundly shaped the long-standing tension between Native communities and educational institutions. During the [Assimilation Era](#) (1870s to 1920s), Native American¹ children were forcibly removed from their families and placed in federal Indian boarding schools, where they were systematically stripped of their cultural identities and languages to assimilate them into mainstream American society.

¹ While American Indian boarding school experiences are well-documented, it is vital to acknowledge that Alaska Native populations also experienced forced assimilation under similar federal policies and institutions – learn more at <https://archives.alaska.gov/education/boarding.html>

The harsh conditions and ineffective outcomes of these schools raised significant concerns about the federal government's management of Indian affairs.² In response, U.S. Secretary of the Interior, Hubert Work, commissioned the [Meriam Report](#) in 1928 to provide a comprehensive assessment and recommend reforms to improve the administration of Indian affairs. Based on its investigation, the Meriam Report found that assimilation practices were deeply flawed and detrimental to the well-being of Native American children and their communities. This threat to well-being not only undermined their physical and emotional health but also had long-term consequences on their educational retention, academic achievement, and self-efficacy.

As a result of the Meriam Report, the [1934 Indian Reorganization Act](#) (IRA) was enacted, marking a pivotal shift towards self-governance and economic self-sufficiency for Native American communities. Specifically, the IRA fostered cultural restoration and significantly reformed Native American education by advocating for local control over schools and curricula to better align with Indigenous cultures and needs. However, despite these efforts to improve prior policies and enhance educational conditions, the [Termination Era](#) (1940s-1950s) reversed progress by dismantling federal support and closing tribal programs, increasing social and economic challenges within Native communities. In the late 1960s, President John F. Kennedy requested an examination of Indian education in response to the failures of termination policies, persistent educational issues and advocacy from Indigenous communities. The resulting [Kennedy Report](#), published in 1969 by the U.S. Senate Special Subcommittee on Indian Education, exposed the horrific state of Indian education. Similar to the Meriam Report, the Kennedy Report unveiled the federal government's failure to serve Native American students adequately. Based on the report's recommendations, legislative efforts in subsequent years aimed to address historical injustices and enhance equitable opportunities for Native American students.

The following list of policies outlines the evolving nature of Indian education and the federal government's efforts to fulfill its obligations to Native American students.

- [The Indian Education Act of 1972](#): This act addressed the unique needs of Native American students by establishing the Office of Indian Education and the National Advisory Council on Indian Education.
- [The Tribally Controlled Schools Act of 1988](#): This act allows tribes to assume control of schools previously managed by the Bureau of Indian Education, promoting self-determination and local governance.
- [The Native American Languages Act of 1990](#): This legislation supports the preservation of Native American languages and educational programs that use these languages.
- [The Every Student Succeeds Act \(ESSA\) of 2015](#): ESSA includes provisions to support Native American students, requiring states to consult with tribes on education plans and creating programs to address their unique needs.

² The recent discovery of mass graves at former boarding schools across North America highlights the extreme measures of forced assimilation and the severe abuse inflicted on Indigenous children, further exposing the oppressive nature of these institutions.

Fostering a robust understanding of past events is essential for a thorough comprehension of the current educational landscape of Native American students. The federal trust responsibility and various policies on Indian education direct today's system to provide sufficient funding, resources and culturally relevant curricula that meet the unique needs of Native American communities. This historical backdrop ensures that government institutions and programs emphasize the preservation and promotion of Native American languages, cultures and educational autonomy. The forthcoming section will examine the Every Student Succeeds Act (ESSA) which is the current legislation governing the structure of K-12 education in the United States. Key provisions of ESSA will be highlighted to draw clear alignment to the trust responsibility which will explore how the contemporary K-12 education system has tried to fulfill historical provisions within the last five years.

Every Student Succeeds Act (ESSA) Provisions

The [Every Student Succeeds Act \(ESSA\)](#), signed into law by President Barack Obama on December 10, 2015, is the federal law that currently governs the K-12 education system in the United States. ESSA reauthorized the [Elementary and Secondary Education Act \(ESEA\)](#) and replaced the [No Child Left Behind Act \(NCLB\)](#). As a federal law, ESSA holds significant legal authority by stipulating that states must adhere to its provisions in order to secure essential federal funding. Despite the federal framework of ESSA, which operates within the context of federalism—the principle delineating the division of powers between national and state governments—states retain significant autonomy in shaping and executing educational strategies. This autonomy is instrumental, given that public school districts rely on federal funding to both enhance and sustain their academic programs. ESSA's overarching objective is to promote equitable and high-quality education for all students. The following bullet points delineate key aspects of ESSA, illustrating how its reauthorization of the Elementary and Secondary Education Act (ESEA) has introduced vital flexibility for states and local educational agencies, thereby fostering improvements within the K-12 education system.

- **Accountability:** Through empowering states, ESSA gives individual states the ability to create accountability systems to improve school performance, with flexibility in measures and inclusion of English learners.³
- **School Support and Improvement:** States are given the autonomy to identify and support schools needing improvement, including comprehensive and targeted support categories.⁴

³ 20 U.S.C. §§ 1001-1008

⁴ 20 U.S.C § 1003

- **Funding Flexibility:** States and districts can consolidate or transfer certain federal funds to better meet student needs. This includes states ability to reserve federal funds for direct student services, enhancing educational opportunities.⁵

While the four main ideas presented do not encompass all provisions of ESSA, they provide quick examples of how the ESEA reauthorization included significant flexibility to enable states and local school districts to meet their students' specific needs. For a thorough exploration of key ESSA provisions, review the [Parent Guide](#) for concise explanations and to understand the impact on various stakeholder groups.

In addition to enabling K-12 environments through flexibility, it is crucial to understand that ESSA includes specific mandates that address the unique educational needs of Native American students. These provisions uphold the federal trust responsibility through enhancing educational outcomes and closing achievement gaps, thereby honoring the federal commitment to Native American education. Refer to the table below for detailed ESSA provisions dedicated to serving Native American students.

Provision	Purpose and Description
Title VI – Indian, Native Hawaiian, and Alaska Native Education ⁶	Title VI is designed to meet the unique cultural, language, and educational needs of Native American students. Additionally, this program provides grants to tribes, schools and other entities to develop culturally relevant educational programs. This includes language immersion programs, curriculum development and culturally responsive teaching practices.
Consultation with Tribes ⁷	ESSA requires states and local education agencies (LEAs) to meaningfully consult with tribal organizations when developing state and local plans, ensuring that Native American perspectives are included in decision-making processes.
Supporting Culturally Relevant Education ⁸	Schools are encouraged to incorporate Native American history, culture and language into their curricula. This helps create a more inclusive and supportive learning environment for Native American students.

⁵ 20 U.S.C. § 6301 et seq.

⁶ 20 U.S.C § 6101

⁷ 20 U.S.C § 8538

⁸ 20 U.S.C § 6101

Data Disaggregation ⁹	<p>ESSA mandates the disaggregation of student performance data by ethnicity, including Native American students. This helps identify achievement gaps and address specific needs. This is particularly important for Indigenous students as population size differs across the nation which can affect programs resources and support.</p>
Tribal Education Agencies (TEAs) Collaboration ¹⁰	<p>ESSA promotes the involvement of Tribal Education Agencies in the development and implementation of education programs, providing tribes with greater control and input over the education of their children.</p>
Title I Funding ¹¹	<p>Many Native American students attend schools that receive Title I funding, which is targeted at improving educational outcomes for low-income students. This funding can be used to provide additional resources and support.</p>

Understanding ESSA is essential for educators, administrators, policymakers and stakeholders in the education sector to ensure compliance with federal requirements and to work effectively toward providing a high-quality education for all students. Although the establishment of ESSA falls outside the five-year parameter of this document, an overview of ESSA is crucial to lay the foundation because it is the current legislation governing K-12 education.

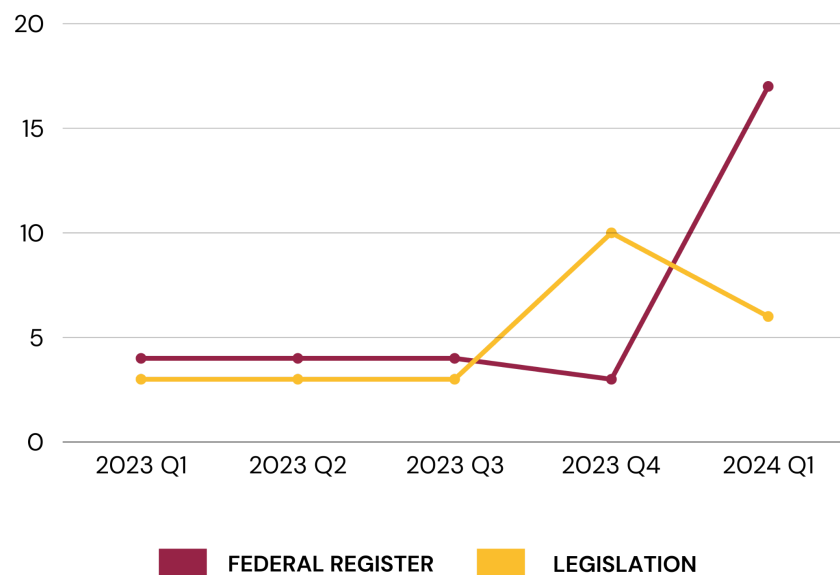
Current Landscape

Historically, legislation on Indian education has been limited, but recent years have seen an increase in proposed policies aimed at strengthening Indian education. The American Indian Policy Institute (AIPI) actively monitors these developments, ensuring Indigenous stakeholders are informed and prepared to serve tribal communities nationwide.

Through [quarterly legislative updates](#), AIPI provides Tribal nations with crucial insights into federal and state activities which enables Indigenous stakeholders to stay informed about the latest policy developments. This tracking supports the current Indian education landscape through supplying tangible data to analyze movement and identify trends. For example, the [Q1 2024 Legislative Update](#) highlighted 75 Congressional bills, 22 Arizona State Legislature bills,

⁹ 20 U.S.C § 1111
¹⁰ 20 U.S.C § 6101
¹¹ 20 U.S.C § 1111

and 272 Federal Register Notices. Of these, six bills and 17 Federal Register Notices were specifically related to tribal education—a notable increase from the [Q1 2023 update](#), which included only 4 Federal Register Notices and 3 bills concerning education. This increase signals a significant shift toward educational equity, reflecting a growing acknowledgment of the unique needs and rights of Native American communities. These legislative actions aim to address historical and systemic inequities and foster a more inclusive educational environment. For a visual representation, please review the accompanying graph.



Examining the shift in legislative momentum is essential; however, a thorough evaluation of pivotal laws, executive orders, and policies enacted from 2019 through 2024 is imperative. This section of the document will focus on three principal categories within Indian education: Language Preservation Acts, K-12 Funding and Initiatives, and Higher Education. Analyzing key legislative acts and initiatives within the three categories reveals significant advancements while emphasizing the continued necessity for advocacy and resiliency in the realm of education.

Language Acts

[S.256 - Esther Martinez Native American Languages Programs Reauthorization Act](#)

Passed in 2019, the Esther Martinez Native American Languages Programs Reauthorization Act aims to strengthen and support the revitalization and preservation of Native American languages. By providing grants to Native American language programs, the act ensures the continuity and growth of Indigenous languages, which are crucial for maintaining cultural heritage and identity. The act supports immersion programs and language nests that serve children and families, fostering intergenerational transmission of languages. This reauthorization highlights the federal commitment to sustaining Native languages as vital components of Native American education and culture. Learn more about current work through this program, [HERE](#).

[S.989 - Native American Language Resource Center Act of 2022](#)

The Native American Language Resource Center Act of 2022 establishes resource centers dedicated to the preservation and promotion of Native American languages. These centers provide technical assistance, training, and resources for language educators and learners. The act aims to create a collaborative network that supports language revitalization efforts across educational settings, from early childhood to higher education. By facilitating access to language resources and expertise, this legislation enhances the capacity of Native communities to preserve their linguistic heritage and integrate it into educational curricula. To learn about current efforts from this act explore the website, [HERE](#).

K-12 Funding, Initiatives and Legislation

[Tribal Education Departments National Assembly \(TEDNA\) Funding](#)

Although it was established in 2003, the Tribal Education Departments National Assembly (TEDNA) currently receives federal funds, with respect to tribal and private funding, to support the ongoing operation of Tribal Education Departments (TEDs). TEDs play a crucial role in managing and improving the education of Native American students by implementing culturally relevant curricula and educational policies. This funding supports tribes to exercise greater control over their educational systems, fostering environments that respect and integrate Native cultures, languages, and traditions into the K-12 education framework. Explore their resources page for students and families, [HERE](#).

[The Indian Boarding School Initiative](#)

The Indian Boarding School Initiative, launched in 2021, addresses the historical and ongoing impacts of Indian boarding schools on Native American communities. This initiative aims to document the experiences of boarding school survivors, provide resources for healing, and educate the public about this dark chapter in American history. By acknowledging and addressing these historical injustices, the initiative contributes to the broader effort of reconciliation and promotes the inclusion of accurate historical narratives in K-12 education. [Volume I](#) of this initiative was published in 2022 and [Volume II](#) was released this year, 2024.

[Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#)

Passed in 2020, the CARES Act provided economic relief in response to the COVID-19 pandemic, including financial support for education, healthcare, and small businesses. This funding significantly impacted Native American education by allocating emergency funding to address the educational disruptions caused by the COVID-19 pandemic. This financial support facilitated the development of remote learning infrastructure, provided essential resources for students and educators, and helped mitigate the pandemic's exacerbation of existing educational disparities in Native American communities. Two streams of funding from the CARES Act are highlighted below:

- [Coronavirus Relief Fund](#): Allocated directly to tribal governments, with discretion often used to support schools and local education.
- [Impact Aid Coronavirus Relief Act](#): Provided additional funds to school districts dependent on Impact Aid, including those serving Native American students.

[Strengthening Tribal Consultation in Schools](#)

Strengthening Tribal Consultation in Schools involves enhancing the processes through which schools engage with Native American tribes in decision-making. This initiative ensures that tribal voices are heard and respected in the development of educational policies and programs. Effective tribal consultation promotes culturally responsive education and aligns school practices with the values and needs of Native communities, fostering a more inclusive and supportive educational environment for Native American students. Learn more about tribal consultation engagement, [HERE](#).

[State Tribal Education Partnership \(STEP\) Program](#)

In 2021, the State Tribal Education Partnership (STEP) Program was established to support collaborations between tribal governments and state and local education agencies. By promoting partnerships, the STEP Program aims to improve educational outcomes for Native American students through culturally relevant and responsive educational practices. These partnerships enable the development of curricula and programs that reflect Native cultures and histories, enhancing the educational experiences and success of Native students.

[Native American Teacher Retention Initiative \(NATRI\)](#)

In 2023, the Biden-Harris administration launched the Native American Teacher Retention Initiative (NATRI) to address the critical need for Native American educators in K-12 schools. This initiative provides support and professional development opportunities for Native teachers, helping them to thrive in their roles and remain in the education profession. By promoting the retention of Native teachers, NATRI ensures that Native students have role models and mentors who understand their cultural backgrounds and can provide culturally relevant instruction and support. Explore the NATRI website, [HERE](#).

Higher Education

[Executive Order on the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities](#)

Issued in 2021, this Executive Order underscores the federal commitment to advancing educational equity and economic opportunities for Native Americans. It focuses on enhancing the capacities of Tribal Colleges and Universities (TCUs) to provide high-quality education and training. The order aims to address disparities in higher education access and success for Native American students by promoting policies and programs that support their academic and professional growth.

Higher Education Emergency Relief Fund (HEERF)

Established under the CARES Act, HEERF provided essential financial support to higher education institutions during the COVID-19 pandemic. Specifically, HEERF allocated funds to Tribal Colleges and Universities (TCUs) to mitigate the pandemic's impact, ensuring continued access to education for Native American students. This funding aligned with broader efforts to support American Indian education by addressing immediate challenges and promoting long-term educational equity within Indigenous communities. HEERF's targeted assistance to TCUs highlights the federal commitment to sustaining and enhancing educational opportunities for Native American students.

White House Council on Native American Affairs

Re-established in 2020, the White House Council on Native American Affairs facilitates inter-agency coordination to support Native American communities, including education. The council addresses various priorities, such as economic development, public health, and cultural resources, with a significant focus on improving educational opportunities and outcomes for Native American students. By fostering collaboration among federal agencies, the council aims to create comprehensive strategies that enhance the educational experiences and success of Native American students across all levels of education.

Conclusion

The collaborative efforts of the Center for Indian Education (CIE) and the American Indian Policy Institute (AIPI) at Arizona State University seek to advance the understanding and support of Indigenous education at multiple levels. Through their joint initiatives, comprehensive policy tracking, and focused research, both organizations have reinforced their commitment to support an understanding of Tribal sovereignty and addressing the educational needs of American Indian and Alaska Native communities.

This document has provided a detailed exploration of the historical and current landscape of Indian education, emphasizing the importance of federal trust responsibility and the continuous evolution of policies aimed at promoting educational equity, cultural relevance, and self-determination for Native American students. The review of key legislative acts and initiatives over the past five years highlights substantial progress in areas such as language preservation, K-12 funding, and higher education, showcasing the federal government's ongoing commitment to these critical issues.

By understanding the historical context and contemporary developments in Indian education, stakeholders can better advocate for policies and practices that support the unique needs of Native American students. The initiatives and provisions outlined, from the Every Student

Succeeds Act (ESSA) to recent language preservation acts and higher education executive orders, collectively contribute to a more inclusive and supportive educational environment for Indigenous communities.

The continued collaboration between CIE, AIPI, and other key partners helps to support advancements that are sustained and expanded, fostering an ecosystem of lifelong learning, capacity-building, and empowerment for Tribal nations. Through these concerted efforts, the goal of achieving educational equity and excellence for Native American students remains within reach, honoring the rich cultural heritage and promoting the future prosperity of Indigenous communities.

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