



POLICY ANALYSIS

State and Federal Policy: Native American youth

ALYSSA RAFA


Many see education as the key to future opportunity and success for children of all backgrounds. However, deeply entrenched inequities can obstruct future opportunities and successes for many American Indian

ONLY 8 PERCENT OF NATIVE STUDENTS ATTEND FEDERALLY RUN SCHOOLS THROUGH THE BUREAU OF INDIAN EDUCATION, WHILE THE REMAINING 92 PERCENT ATTEND PUBLIC SCHOOLS.

and Alaska Native students (hereafter referred to as Native students).² These inequities are apparent in the substantial achievement gap

that exists between Native students and their white peers. On national reading and mathematics exams, Native students perform two to three grade levels below their white peers.³ Additionally, Native students face myriad difficulties outside of the classroom, including high levels of poverty and challenges with both physical and mental wellness.

Despite these problems, opportunities exist for action that could positively impact educational outcomes for Native students. This report provides an overview of the major education issues the Native student population faces and the current policies that exist to address those issues at the federal and state levels.



FOCUS IN.
Study up on important education policies.

Native students perform **well below** their white peers on **national reading** and **mathematics exams**.¹

ESSA provides **new opportunities** for states to consider when **enacting legislation** affecting Native students.

Related Education Commission of the States reports:

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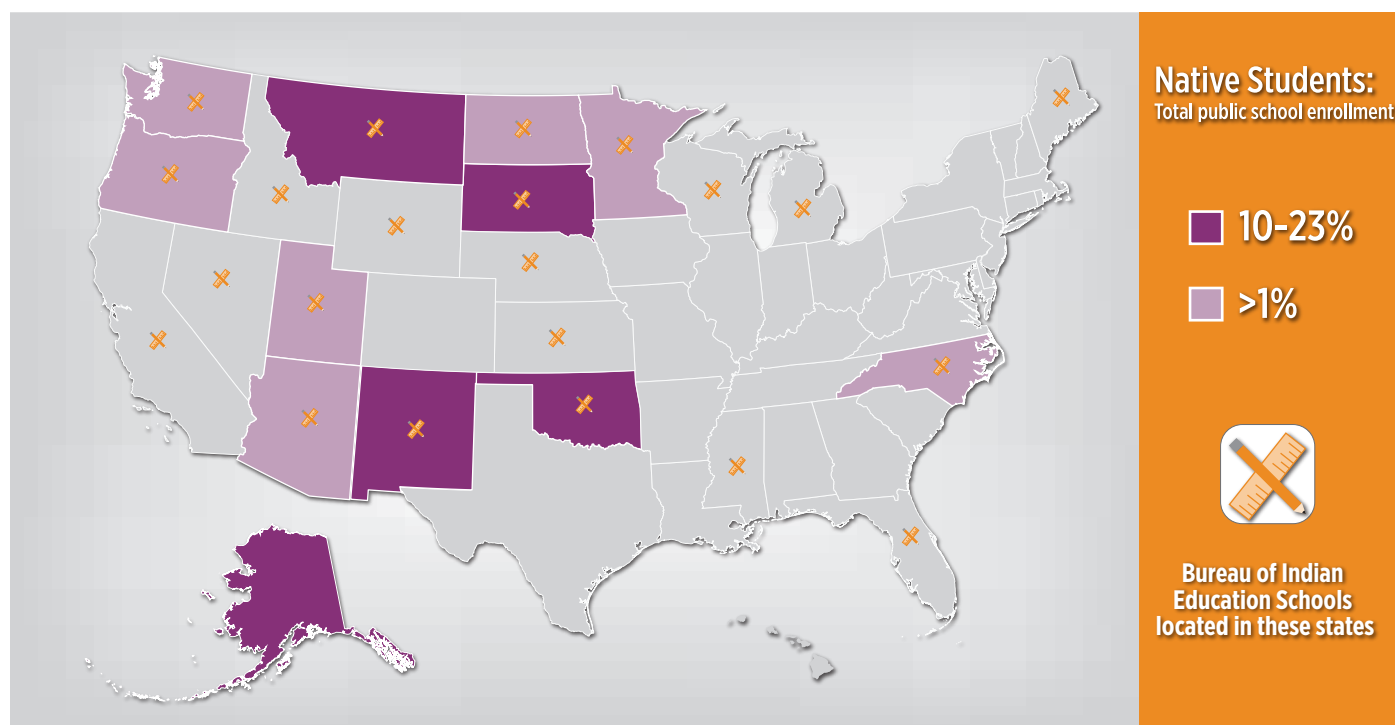
State and Federal Policy: **INCARCERATED YOUTH**

State and Federal Policy: **GIFTED AND TALENTED YOUTH**

Who are Native Students?

The federal government defines Native students as “a member or descendent of an Indian tribe or band, or an Eskimo, Aleut, or other Alaska Native.”⁴ Native students comprise about 1 percent of the national student population. The Bureau of Indian Education (BIE),⁵ the federal entity charged with providing education opportunities to Native students, currently oversees 183 elementary and secondary schools on 64 reservations in 23 states, serving a total of approximately 41,000 students.⁶ However, in recent years, this number represented only 8 percent of the total Native student population. The remaining 92 percent are educated within the public school system.⁷ Of those students attending public schools, more than 50 percent attend low-density public schools, or schools where less than 25 percent of the students are Native students.⁸

Significant regional differences in where Native students attend school also exist. The vast majority of Native students reside in 12 states, with the largest concentration of Native students in Alaska, Oklahoma, Montana, New Mexico and South Dakota.⁹ In these five states, Native students represent between 10-23 percent of the total elementary and secondary school enrollment.¹⁰

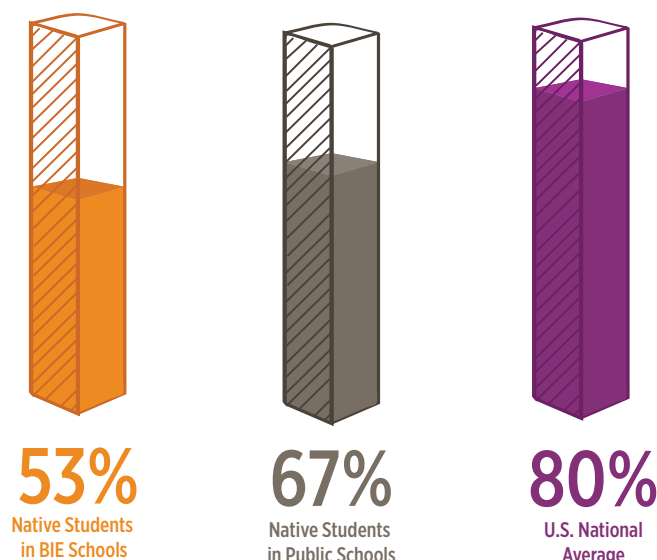


Education Challenges for Native Students

From difficulties with school readiness to struggles with graduation, Native students face many challenges. Data on educational outcomes demonstrate disparities between Native students and their non-Native peers. In 2011, just 22 percent of Native fourth graders scored at proficient or advanced levels in mathematics on the National Assessment of Educational Progress (NAEP), compared to the national average of 40 percent.¹¹ Reading performance on the NAEP improved for every other major ethnic group between 2005-2011, but Native students saw no such gain.¹²

Perhaps most startling is the Native student high school graduation rate which, at 67 percent in public schools and 53 percent in BIE schools, is far lower than the national average of 80 percent.¹³

FIGURE 1: GRADUATION RATES



In addition to disparities in educational attainment, Native students often face extreme poverty, as well as physical and mental health issues. According to a 2014 report issued by the White House, more than one in three Native children live in poverty, and suicide rates among 15-24-year-old Native youths are 2.5 times the national rate.¹⁴

States that are considering enacting policies geared toward addressing these educational disparities should be aware of the significant issues facing this population. The aforementioned White House report also outlined some of the key factors associated with these disparities.¹⁵ Those key factors include lack of genuine tribal control, challenges in recruiting and retaining highly effective teachers and school leaders, and lack of Native languages and cultures in schools. Since the vast majority of Native students attend public schools, it is important that policymakers consider both state-level options for policy action, as well as the guidance, programs and funding provided by the federal government under the Every Student Succeeds Act (ESSA).



BUREAU OF INDIAN EDUCATION

Approximately 8 percent of Native students attend schools administered by the BIE, under the U.S. Department of the Interior. The U.S. Department of the Interior is in the process of re-designing the BIE, as they attempt to shift it from a direct provider of education to a capacity-builder and service-provider to tribes with BIE funded schools.¹⁶ The U.S. Department of the Interior set several goals for this re-design, including strengthening and supporting the efforts of tribal nations to directly operate schools funded by BIE, recruiting and retaining highly effective teachers and principals in those schools, and fostering partnerships between parents, communities and organizations.¹⁹

Under ESSA, the BIE can determine whether the requirements established by the U.S. Secretary of Interior for standards, assessments and accountability are appropriate for their students. The BIE may apply for a waiver and submit a proposal for alternative standards, assessments and/or accountability systems.²⁰ Additionally, BIE is now eligible for discretionary funding that was previously only available to states, including grant programs for arts education, community schools and prevention and intervention programs for at-risk youth.²¹

Federal Guidance under ESSA

Under the “Federal Government’s unique and continuing trust relationship with...the Indian people,”¹⁶ the United States government is responsible for the education of Native students. Title VI of ESSA provides further guidance, with the aim of ensuring that Native students have access to high-quality programs that provide for basic elementary and secondary needs as well as unique, culturally related academic needs.¹⁷

While the federal government provides education to a small percentage of Native students through the BIE, the responsibility to educate Native students does not lie solely on federally run schools. ESSA includes several provisions that provide states with opportunities to improve educational outcomes for Native students. These provisions include mandated tribal consultation, cooperative agreements, the permanence of the State Tribal Education Partnership (STEP) and increased opportunities to institute Native language immersion programs.

Meaningful Consultation

Among other purposes, the “meaningful consultation”²² provision of ESSA is intended to improve collaboration between the entities invested in providing high-quality educational experiences to Native students. When developing state plans for Title I funding, ESSA requires states to engage in meaningful consultation with tribes in a timely manner. Additionally, local education agencies (LEAs) are required to consult with tribal education leaders in their areas before submitting a plan or application for a covered program under ESSA or under Title VI. To ensure compliance, tribes or tribal organizations must sign a written affirmation that consultation has occurred.

Cooperative Agreements

Under ESSA, states must coordinate with tribes in their efforts to support the education of Native students. The “cooperative agreements”²³ provision of ESSA authorizes LEAs to enter into cooperative agreements with tribes that represent at least 25 percent of that LEA’s Native student population. Additionally, other entities, including tribes, are now eligible to apply for Title VI (Native American Education) funding originally intended for LEAs if the LEA fails to establish a committee for the grant.

State Tribal Education Partnership

In order to promote expanded tribal control over the education of Native students, ESSA authorizes coordination and collaboration of tribal education agencies (TEAs) with state education agencies (SEAs) through the STEP program. Prior to the passage of ESSA, STEP was a pilot program. This program provides an opportunity for tribes to develop a TEA through a one-time, one-year funding opportunity.

Native Language Immersion

ESSA provides federal grant funding in an effort to support the use, practice and maintenance of Native American and Alaska Native languages. States may use grant funding for a number of purposes, including providing professional development for teachers and staff, refining or developing curriculum and creating or refining assessments written in the specific language of instruction. Through ESSA, tribes, TEAs, LEAs and BIE schools are all eligible for grants, among other entities. Additionally, ESSA authorizes a study, to be conducted by the U.S. Secretary of Education in collaboration with the U.S. Secretary of the Interior, to evaluate several factors related to Native language education in schools and programs. The study will focus on the use of Native American languages

to provide instruction, the assessment of academic proficiency in Native languages, the level of expertise and experience available within schools and student outcomes, including graduation rates.

State Policy Examples

Several states have enacted legislation aimed at improving the education of Native students in their schools. Those policies generally fall into four categories: collaboration between state and tribal entities, teacher recruitment and retention, Native language instruction and culturally relevant curriculum. Generally speaking, those states with larger Native student populations tend to legislate more actively in this area of policy.²⁴ As such, many of the examples below reference legislation in those states.

Tribal-State Collaboration

In order to effectively serve Native students, and to comply with ESSA requirements, it is important for state education leaders to consult with tribal education leaders during their decision-making processes. In recent years, several states have enacted legislation aimed at improving collaborative efforts. State policies around tribal-state collaboration usually create venues, such as offices and commissions, to facilitate the progress of this work.

- **Utah** created the American Indian/Alaska Native public education liaison position as a member of the team supporting the superintendent of public instruction. The liaison and members of various tribes and nations located in Utah are members of the American Indian/Alaska Native Education Commission, which is charged with creating the American Indian/Alaska Native education state plan to address the educational achievement gap and meet the educational needs of Native students in the state.²⁵
- **Washington** created an Indian education division, known as the Office of Native Education, within the office of the superintendent of public instruction. The office provides assistance to school districts to meet the educational needs of American Indian/Alaska Native students.²⁶
- Through state legislation, **Arizona** authorized the creation of an Office of Indian Education, as well as a state Commission on Indian Affairs.²⁷ Those entities have subsequently been established by the Arizona Department of Education.

Teacher Recruitment, Training and Retention

Research consistently shows that student achievement is greatly impacted by the quality of a student's teacher.²⁸ Unfortunately, there are marked difficulties with recruiting and retaining high-quality teachers in isolated rural areas, which tend to contain underperforming schools and offer low rates of compensation.²⁹ These difficulties greatly impact Native students, as almost half of Native students attend schools in rural locations.³⁰ Several states have enacted policies aimed at addressing these issues, which incorporate strategies for tuition assistance, specialized credential programs and professional development.

CURIOUS ABOUT COLLABORATION?

Below are a few documents intended to guide collaborative efforts between state and tribal leaders:

- **National Conference of State Legislatures: Models of Cooperation Between States and Tribes**
- **Tribal State Partnerships: Cooperating to Improve Indian Education**
- **Montana: Tribal Relations Handbook—A Guide for State Employees on Preserving the State-Tribal Relationship**

Funding of Native Student Programs

Programs that specifically address the educational needs of Native students are generally funded through one of three sources: BIE funding, the Indian Education Fund (IEF) and funds allocated by individual states.

Bureau of Indian Education Funding

In fiscal year 2015-16, the BIE provided \$553.5 million (\$13,401 per student) for the operation of tribal schools (those schools administered by tribes or by the BIE).⁴³ In addition, the BIE provided \$134.2 million (\$3,251 per student) to tribal schools for facilities maintenance and operations. These tribal schools are also entitled to receive all of the federal funding allocated to traditional public schools, including funding for low-income students (Title I), teacher/principle training and recruitment (Title II) and special education (Individuals with Disabilities Education Act).

Indian Education Fund

In fiscal year 2015-16, the U.S. Department of Education provided \$143.9 million to educate Native students through IEF.⁴⁴ The IEF provides grants to both traditional public schools and to tribal schools, with the grants averaging approximately \$300 per student. In fiscal year 2015-16 the U.S. Department of Education also provided \$33.4 million for Native Hawaiian students and \$32.5 million for Alaskan Native students.

State Funding for Native Students

A 2013 study found that most states do not provide additional funding for either tribal schools or for Native students attending traditional schools.⁴⁵ However, **Maine** does provide additional funding for tribal schools in the state. Under the Maine Indian Claims Settlement Act of 1980, the state must provide tribal schools with state funding above the amount of funding provided by the federal government. Currently, the state has three K-8 tribal schools that receive state funding. In addition, the state provides funding to students in ninth-12th grade that can be used as voucher to attend the public high schools of their choice. In the 2013 school year, the state's three tribal schools received between \$27,706-\$34,744 in total state funding per pupil. This compares to the state average expenditure per student in fiscal year 2013 of more than \$12,000.⁴⁶

- **South Dakota** established a paraprofessional tuition assistance scholarship program, which will be administered by the Office of Indian Education. The 2016 bill creating the program supports paraprofessionals employed by qualifying schools serving Native students as they pursue full teacher certification.³¹
- **California** requires the Commission on Teacher Credentialing to issue an American Indian language-culture credential – with an American Indian language authorization, an American Indian culture authorization, or both – to any teacher candidate who has met specified requirements.³² The state authorizes credential holders to teach in preschool, K-12 and adult education.
- In 2016, **Utah** created the American Indian and Alaskan Native State Plan Pilot Program, a five-year initiative to provide grants to districts and charter schools to fund recruitment, retention and professional development for teachers in schools with high concentrations of Native students.³³

Native Language Programs

While many factors impact student success, research suggests that culturally responsive schooling, including indigenous language instruction, increases academic achievement of Native students.³⁴ Many states provide for Native language education in their state laws, including funding immersion programs and language revitalization grants.

- In 2015, **Montana** enacted legislation encouraging school districts to create Indian language immersion programs. The bill also provided one-time funding to support districts.³⁵
- **Oklahoma** recognizes Native American languages as a language art, authorizes the teaching of Native American languages in public schools, allows Native American language courses to count as fulfilling core requirements, and allows qualified teachers to teach Native American languages.³⁶
- In 2012, **Alaska** established the Alaska Native Language Preservation Advisory Council to advise both the governor and legislature on programs, policies and projects to provide for the cost-effective preservation, restoration and revitalization of Alaska Native languages.³⁷
- In 2009, **Wisconsin** passed a bill permitting a school board or cooperative educational service agency, in conjunction with a tribal education authority, to apply to the state department of education for a Tribal Language Revitalization Grant. These grants are intended to support innovative, effective instruction in one or more American Indian languages.³⁸

Culturally Relevant Curriculum

In addition to the practice of Native languages, culturally relevant curriculum that emphasizes the traditional characteristics of each community has also been associated with Native student academic achievement.³⁹ Several states require the incorporation of Native American history and other culturally relevant curriculum into their lessons.

- Washington requires its public schools to teach the state's tribal history, culture and government.⁴⁰ While the state requires school districts to use curriculum developed by the office of the superintendent of public instruction, they are also authorized to modify the curriculum in order to incorporate elements that have a regionally specific focus or to incorporate culturally relevant curriculum into existing materials.

- **New Mexico** requires its Indian Education Division to develop or select culturally relevant curriculum for Native students in kindergarten through sixth grade that specifically prepares them for pre-advanced placement and advanced placement coursework in seventh-12th grade.⁴¹
- **Arizona** requires that all schools incorporate Native American history into appropriate existing curricula and that the curriculum includes the history of Native Americans in Arizona.⁴²

Policy Considerations

When determining the best way to positively impact Native students' educational experiences, policymakers may want to consider several opportunities for action, including:

Collaboration: Under ESSA, meaningful consultation with tribes must occur, and states can explore cooperative agreements. States may decide to pursue the creation of an office, commission or division dedicated to ensuring that they meet the educational needs of Native students.

Funding: States may consider opportunities to provide additional funding to support schools with a high concentration of Native students, whether public or tribal schools.

Teachers: State policymakers may consider focusing on the recruitment, training and retention of high-quality teachers in schools with a high concentration of Native students. In doing so, states may want to consider programs geared toward providing tuition assistance, specialized credentials and professional development opportunities.

Native Language: States may choose to implement native language immersion programs, ensure that schools offer credits for native languages, or provide grant funding for language preservation and/or revitalization.

Curriculum: States may consider creating or incorporating curriculum that addresses the histories and cultures of tribes in their state.

Additional Resources

- [Bureau of Indian Education](#)
- [National Congress of American Indians](#)
- [National Indian Education Association](#)
- [The Native American Rights Fund](#)
- [National Caucus of Native American State Legislators](#)
- [Center for Native American Youth at the Aspen Institute](#)

Endnotes

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AUTHOR

Alyssa Rafa is a policy researcher in the K-12 institute at Education Commission of the States. She has her master's degree in international relations from the University of Denver. Outside of the office, you can find Alyssa enjoying the great outdoors with her new husband, Mickey.

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