

**THE NATIVE AMERICAN RIGHTS FUND
INDIAN EDUCATION LEGAL SUPPORT PROJECT**

“ Tribalizing Indian Education ”

**A Compilation of Federal and State Education Laws
regarding Native Language in Curriculum
and Certification of Teachers of Native Languages**



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INTRODUCTION

These materials are a compilation of the provisions of two major federal education laws and the education laws of sixteen states that address Native Languages in school curricula and the certification of teachers of Native Languages. The first federal Native American Languages Act (NALA) was passed in 1990. At that time only three states had constitutional and / or statutory provisions regarding Native Languages curricula and / or teachers. The NALA did not require but it expressly encouraged states to enact such laws. Within a little over ten years, sixteen states had such laws. Most of these laws are the result of concerted, cooperative efforts among state and tribal educators and policy makers who believe that offering Native Languages and allowing tribal teachers of the languages will improve the overall school attendance and academic performance of tribal students. In 2001 the federal No Child Left Behind Act was passed. Among its provisions applying to many schools serving Native Americans are stricter requirements for education standards, teacher qualifications, and English language proficiency. Questions have arisen about the impact of No Child Left Behind on the state Native Languages and Native Languages teacher certification laws.

These materials are intended to be a general resource for tribal, state, and federal officials, schools, and other interested persons. For further information and reference about Indian education law and policy and the rights and roles of tribal governments in education, please see the first seven sets of materials under this project dated October 1993, October 1994, October 1997, October 1998, October 1999, October 2000, and September 2003. None of these materials is intended to be legal advice for any particular tribe. Tribes should consult their legal counsel for specific advice about the existence and scope of their sovereign authority in education.

The Native American Rights Fund's (NARF) Indian Education Legal Support Project, "*Tribalizing Indian Education*," is supported by a grant from the W.K. Kellogg Foundation. Special thanks for their research assistance on this publication is extended to the National Indian Law Library and 2003 NARF Summer Law Clerk Heather Clinton.



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NATIVE AMERICAN RIGHTS FUND

INDIAN EDUCATION LEGAL SUPPORT PROJECT EXECUTIVE SUMMARY

The Native American Rights Fund

The Native American Rights Fund (NARF) is the national legal defense fund for American Indian and Alaska Native tribes. Founded in 1970, NARF concentrates on bringing cases and reforming laws that are of major importance to a great many Native people. NARF consistently has been at the forefront of issues and developments in Indian law in areas such as Indian treaty rights to land and water, Native religious freedom rights, and the rights of tribes as sovereign governments including tribal rights in education.

The NARF Indian Education Legal Support Project - Tribalizing Indian Education

NARF historically has represented Indian clients on a variety of education issues. Since 1987, NARF has represented the Rosebud Sioux Tribe of South Dakota in establishing a precedent-setting tribal education code and implementing that code through a tribal education department. As a result of its success with the Rosebud Sioux Tribe, NARF started a new project that has been funded primarily by the Carnegie Corporation of New York and the W.K. Kellogg Foundation. The project advances Native American education by emphasizing the legal rights of tribes to govern the formal education of tribal members in all types of schools – federal, state, and tribal.

NARF seeks to "tribalize" formal education through developing tribal education laws and reforming state and national Indian education legislation. Tribal education laws are essential to effective tribal governance of education, yet few tribes have such laws. Tribal laws are essential to defining each tribe's education rights and goals. Tribal laws are essential to delineating the forum and process for establishing tribal and non-tribal government-to-government relationships and working agreements on common education issues and goals.

The Need is Evident but Affirmative Steps Must Be Taken

Indian tribes are sovereign governments just as their state and federal counterparts. Many federal reports and some federal and state laws have focused on Indian education problems. Some reports and laws have pointed out the need to increase the role of tribal governments to address the problems. But instead of requiring active tribal government involvement, most federal and state education programs and processes circumvent tribal governments and maintain non-Indian federal and state governance over the intent, goals, approaches, funding, staffing, and curriculum for Indian education. And there are no effective programs to establish tribal education codes or operate tribal education departments.

The three sovereign governments in this country have a major stake in Indian education. Common sense dictates that tribal governments have the most at stake because it involves their children who are their most precious resource and their future. Some progress has been made because of Indian education programs, Indian parent committees, Indian school boards, and tribally-controlled colleges. Some progress has been made through a measured amount of tribal control and input under laws that include the Indian Education Act of 1988, the Indian Self-Determination and Education Assistance Act of 1975, the Elementary and Secondary Education Act of 1965, and the Impact Aid Laws of 1950.

Conclusion

More direct tribal governance of Indian education is needed, and more direct governance is the next logical step for many tribes. Federal reports and recommendations call for partnerships between tribes and state schools, tribal approval of state education plans, and tribal education codes, plans, and standards. Tribal governance of education is a fact of life in a small number of tribes and more tribal communities want to assume this role. But tribes have been denied this opportunity and responsibility and have been left "out of the loop" in terms of decision-making and accountability. For Indian education to succeed, federal and state governments must allow tribes the opportunity to regain governance of the education of tribal students, thereby shaping their children's future and their own future as tribes. NARF intends to ensure that tribes gain the legal governance over education that they deserve as sovereigns and that they must have for Indian education success.

NATIVE AMERICAN RIGHTS FUND

INDIAN EDUCATION LEGAL SUPPORT PROJECT

**A Compilation of Federal and State Education Laws regarding Native Language in Curriculum
and Certification of Teachers of Native Languages**

**GOALS OF THE PROJECT - TRIBALIZING
INDIAN EDUCATION**

1. To promote sovereign tribal rights and responsibilities in education, including the government-to-government interactions of tribal governments with the federal and state governments;
2. To increase the number of tribal governments that assess their education situation, develop education goals, and exercise sovereign rights through developing and implementing tribal education laws, tribal education standards, and tribal education plans;
3. To increase the number of tribal governments that assume more governance of education, including governmental responsibility and accountability;
4. To assist the federal and state governments in increasing their government-to-government education work with tribal governments and in monitoring that increase within their federal and state agencies and federal and state funded education programs; and,
5. To assist tribes in reforming federal and state Indian education laws and policies and in passing new laws and adopting new policies which enable tribal governance, ensure access to resources, and enhance other improvements in Indian education.

INDIAN EDUCATION LEGAL SUPPORT PROJECT

A Compilation of Federal and State Education Laws regarding Native Language in Curriculum and Certification of Teachers of Native Languages

THE NATIVE AMERICAN LANGUAGES ACTS

A. The Language of the Acts

1. The Native American Languages Act of 1990

Section 2901. Findings

The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native American languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

Section 2902. Definitions

For purposes of this chapter--

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 7491(3) of Title 20.

(3) The term "Native Hawaiian" has the meaning given to such term by section 7517 of Title 20.

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 450b of this title.

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 1452 of this title.

Section 2903. Declaration of policy

It is the policy of the United States to—

- (1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;
- (2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;
- (3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support--
 - (A) Native American language survival,
 - (B) educational opportunity,
 - (C) increased student success and performance,
 - (D) increased student awareness and knowledge of their culture and history, and
 - (E) increased student and community pride;
- (4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;
- (5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;
- (6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;
- (7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

Section 2904. No Restrictions

The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

Section 2905. Evaluations

(a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to--

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this chapter;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this chapter; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this chapter.

(b) By no later than the date that is 1 year after October 30, 1990, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this chapter.

Section 2906. Use of English

Nothing in this chapter shall be construed as precluding the use of Federal funds to teach English to Native Americans.

Title I, Sections 102 -107, Pub. L. No. 101-477, 104 Stat. 1153 (1990), codified at 25 U.S.C. Secs. 2901 - 2906.

2. The Native American Languages Act of 1992

Section 2991. Short title

This subchapter may be cited as the "Native American Programs Act of 1974".

Section 2991a. Congressional statement of purpose

The purpose of this subchapter is to promote the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives.

Section 2991b. Financial assistance for Native American projects

(a) Authorization for financial assistance to public and nonprofit agencies; consultation with other Federal agencies to avoid duplication

The Commissioner is authorized to provide financial assistance, on a single year or multiyear basis, to public and nonprofit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaska Native villages and regional corporations established by the Alaska Native Claims Settlement Act, 43 U.S.C.A. Section 1601 et seq., and such public and nonprofit private agencies serving Native Hawaiians, and Indian and Alaska Native organizations in urban or rural areas that are not Indian reservations or Alaska Native villages, for projects pertaining to the purposes of this subchapter. The Commissioner is authorized to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act. In determining the projects to be assisted under this subchapter, the Commissioner shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or projects and for the purpose of determining whether the findings resulting from those projects may be incorporated into one or more programs for which those agencies are responsible. Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Commissioner shall ensure that each project to be assisted under this subchapter is consistent with the priorities established by the agency which receives such assistance.

(b) Limitations of financial assistance; exceptions; non-Federal contributions

Financial assistance extended to an agency under this subchapter shall not exceed 80 per centum of the approved costs of the assisted project, except that the Commissioner may approve assistance in excess of such percentage if the Commissioner determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this subchapter. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. The Commissioner shall not require non-Federal contributions in excess of 20 per centum of the approved costs of programs or activities assisted under this subchapter.

(c) Assistance as addition to, and not substitution for, activities previously carried out without Federal assistance; waiver; nonreservation areas

(1) No project shall be approved for assistance under this subchapter unless the Commissioner is satisfied that the activities to be carried out under such project will be in addition to, and not in substitution for, comparable activities previously carried out without Federal assistance, except that the Commissioner may waive this requirement in any case in which the Commissioner determines, in accordance with regulations establishing objective criteria, that application of the requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes of this subchapter.

(2) No project may be disapproved for assistance under this subchapter solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area.

.....

Section 2991b-2. Establishment of Administration for Native Americans

(a) Establishment

There is established in the Department of Health and Human Services (referred to in this subchapter as the "Department") the Administration for Native Americans (referred to in this subchapter as the "Administration"),

which shall be headed by a Commissioner of the Administration for Native Americans (referred to in this subchapter as the "Commissioner"). The Administration shall be the agency responsible for carrying out the provisions of this subchapter.

(b) Commissioner

The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Duties

The Commissioner shall--

- (1) provide for financial assistance, loan funds, technical assistance, training, research and demonstration projects, and other activities, described in this subchapter;
- (2) serve as the effective and visible advocate on behalf of Native Americans within the Department, and with other departments and agencies of the Federal Government regarding all Federal policies affecting Native Americans;
- (3) with the assistance of the Intra-Departmental Council on Native American Affairs established by subsection (d)(1) of this section, coordinate activities within the Department leading to the development of policies, programs, and budgets, and their administration affecting Native Americans, and provide quarterly reports and recommendations to the Secretary;
- (4) collect and disseminate information related to the social and economic conditions of Native Americans, and assist the Secretary in preparing an annual report to the Congress about such conditions;
- (5) give preference to agencies described in section 2991b(a) of this title that are eligible for assistance under this subchapter, in entering into contracts for technical assistance, training, and evaluation under this subchapter; and
- (6) encourage agencies that carry out projects under this subchapter, to give preference to Native Americans, in hiring and entering into contracts to carry out such projects.

(d) Intra-Departmental Council on Native American Affairs

- (1) There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that involve the Department. The Director of the Indian Health Service shall serve as vice chairperson of the Council.

(2) The membership of the Council shall be the heads of principal operating divisions within the Department, as determined by the Secretary, and such persons in the Office of the Secretary as the Secretary may designate.

(3) In addition to the duties described in subsection (c)(3) of this section, the Council shall, within 180 days following September 30, 1992, prepare a plan, including legislative recommendations, to allow tribal governments and other organizations described in section 2991b(a) of this title to consolidate grants administered by the Department and to designate a single office to oversee and audit the grants. Such plan shall be submitted to the committees of the Senate and the House of Representatives having jurisdiction over the Administration for Native Americans.

(e) Staffing levels

The Secretary shall assure that adequate staff and administrative support is provided to carry out the purpose of this subchapter. In determining the staffing levels of the Administration, the Secretary shall consider among other factors the unmet needs of the Native American population, the need to provide adequate oversight and technical assistance to grantees, the need to carry out the activities of the Council, the additional reporting requirements established, and the staffing levels previously maintained in support of the Administration.

Section 2991b-3. Grant program to ensure survival and continuing vitality of Native American languages

(a) Authority to award grants

The Secretary shall award a grant to any agency or organization that is--

- (1) eligible for financial assistance under section 2991b(a) of this title; and
- (2) selected under subsection (c) of this section; to be used to assist Native Americans in ensuring the survival and continuing vitality of Native American languages.

(b) Purposes for which grants may be used

The purposes for which each grant awarded under subsection (a) of this section may be used include, but are not limited to--

- (1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;
- (2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to

- serve as interpreters or translators of such language;
- (3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;
- (4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;
- (5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language; and
- (6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project.

(c) Applications

For the purpose of making grants under subsection (a) of this section, the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

- (1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) of this section is requested, including a description of existing programs and projects, if any, in support of such language;
- (2) a detailed description of the project for which such grant is requested;
- (3) a statement of objectives that are consonant with the purpose described in subsection (a) of this section;
- (4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;
- (5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and
- (6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons.

(d) Participating organizations

If a tribal organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application

submitted under subsection (c) of this section.

(e) Limitations on funding

(1) Share

Notwithstanding any other provision of this subchapter, a grant made under subsection (a) of this section may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost--

(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(B) (i) may be provided from any private or non-Federal source; and

(ii) may include funds (including interest) distributed to a tribe--

(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

(II) from funds collected and administered by the Federal Government on behalf of such tribe or its constituent members; or

(III) by the Federal Government for general tribal administration or tribal development under a formula or subject to a tribal budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act, 25 U.S.C. 450f et seq., or tribal budget priority system.

(2) Duration

The Secretary may make grants made under subsection (a) of this section on a 1- year, 2-year, or 3-year basis.

(f) Administration

(1) The Secretary shall carry out this section through the Administration for Native Americans.

(2) (A) Not later than 180 days after October 26, 1992, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review--

(i) applications submitted under subsection (a) of this section;

(ii) evaluations carried out to comply with subsection (c)(4) of this section; and

(iii) the preservation of products required by

subsection (c)(5) of this section.

- (B) Such panel shall include, but not be limited to--
- (i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;
 - (ii) a designee of the regional centers funded under section 3215 of Title 20;
 - (iii) representatives of national, tribal, and regional organizations that focus on Native American language, or Native American cultural research, development, or training; and
 - (iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian tribes and tribal organizations.

- (C) The duties of such panel include--
- (i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;
 - (ii) reviewing applications received under subsection (c) of this section;
 - (iii) providing to the Secretary a list of recommendations for the approval of such applications--
 - (I) in accordance with regulations issued by the Secretary; and
 - (II) the relative need for the project; and
 - (iv) reviewing evaluations submitted to comply with subsection (c)(4) of this section.
- (D) (i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a) of this section--
- (I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and
 - (II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;
- for preservation and use consonant with their respective responsibilities under other Federal law.

(ii) Based on the Federal recognition of the sovereign authority of Indian tribes over all aspects of their cultures and language and except as provided in clause (iii), an Indian tribe may make a determination—

- (I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or
- (II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

(iii) Clause (ii) shall not be construed to authorize Indian tribes—

- (I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or
- (II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).

Section 2991c. Technical assistance and training

The Commissioner shall provide, directly or through other arrangements—

(1) technical assistance to the public and private agencies in planning, developing, conducting, and administering projects under this subchapter;

(2) short-term in-service training for specialized or other personnel that is needed in connection with projects receiving financial assistance under this subchapter; and

(3) upon denial of a grant application, technical assistance to a potential grantee in revising a grant proposal.

Section 2991d. Research, demonstration, and pilot projects

(a) Grants or contracts

The Commissioner may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise furthering the purposes of this subchapter.

(b) Objectives

The Commissioner shall establish an overall plan to govern the approval of research, demonstration, and pilot projects and the use of all research authority under this subchapter. The plan shall set forth specific objectives to be achieved and priorities among such objectives.

Section 2991d-1. Panel review of applications for assistance

(a) Establishment of formal panel; members

(1) The Commissioner shall establish a formal panel review process for purposes of—

(A) evaluating applications for financial assistance under sections 2991b and 2991d of this title; and

(B) determining the relative merits of the projects for which such assistance is requested.

(2) To implement the process established under paragraph (1), the Commissioner shall appoint members of review panels from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Commissioner shall give preference to American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives.

(b) Duties of panel

Each review panel appointed under subsection (a)(2) of this section that reviews any application for financial assistance shall—

(1) determine the merit of each project described in such application;

(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(3) submit to the Commissioner a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

(c) Notice to Congressional committee chairman; information required
Upon the request of the chairman of the Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 2991b or 2991d of this title, the Commissioner shall transmit to the chairman written notice—

- (1) identifying such application;
- (2) containing a copy of the list submitted to the Commissioner under subsection (b)(3) of this section in which such application is ranked;
- (3) specifying which other applications ranked in such list have been approved by the Commissioner under sections 2991b and 2991d of this title; and
- (4) if the Commissioner has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Commissioner for—
 - (A) approving the application with respect to which such notice is transmitted; and
 - (B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).

Section 2991e. Announcement of research, demonstration, or pilot projects

(a) Public announcements

The Commissioner shall make a public announcement concerning—

- (1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and
- (2) except in cases in which the Commissioner determines that it would not be consistent with the purposes of this subchapter, the results, findings, data, or recommendations made or reported as a result of such activities.

(b) Timing of announcements

The public announcements required by subsection (a) of this section shall be made within thirty days of making such grants or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results.

Section 2991f. Submission of plans to State and local officials

(a) Submission to governing body of Indian reservation or Alaska Native village

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out on or in an Indian reservation or Alaska Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(b) Notification to chief executive officer of State or Territory

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out in a State or Territory other than on or in an Indian reservation or Alaska Native village or Hawaiian Homestead, unless the Commissioner has notified the chief executive officer of the State or Territory of the decision of the Commissioner to provide that assistance.

(c) Notification to local governing officials of political subdivision

No financial assistance may be provided to any project under section 2991b of this title or any research, demonstration, or pilot project under section 2991d of this title, which is to be carried out in a city, county, or other major political subdivision of a State or Territory, other than on or in an Indian reservation or Alaska Native village, or Hawaiian Homestead, unless the Commissioner has notified the local governing officials of the political subdivision of the decision of the Commissioner to provide that assistance.

Section 2991g. Records and audits

(a) Records

Each agency which receives financial assistance under this subchapter shall keep such records as the Commissioner may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) Audits

The Commissioner and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any agency which receives financial assistance under this subchapter that are pertinent to the financial assistance received under this subchapter.

Section 2991h. Appeals, notice, and hearing

(a) Reasonable notice and opportunity

The Commissioner shall prescribe procedures to assure that—

- (1) financial assistance under this subchapter shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and
- (2) financial assistance under this subchapter shall not be terminated, and application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the assisted agency has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) Appeals

If an application is rejected on the grounds that the applicant is ineligible or that activities proposed by the applicant are ineligible for funding, the applicant may appeal to the Secretary, not later than 30 days after the date of receipt of notification of such rejection, for a review of the grounds for such rejection. On appeal, if the Secretary finds that an applicant is eligible or that its proposed activities are eligible, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration.

Section 2992. Evaluation of projects

(a) Description and measurement of project impact, effectiveness, and structure and mechanisms for delivery of services; frequency of evaluations

(1) The Commissioner shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this subchapter including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(2) The projects assisted under this subchapter shall be evaluated in accordance with this section not less frequently than at 3-year intervals.

(b) General standards for evaluation

Prior to obligating funds for the programs and projects covered by this subchapter with respect to fiscal year 1976, the Commissioner shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this subchapter. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this subchapter.

(c) Independent evaluations

In carrying out evaluations under this subchapter, the Commissioner may require agencies which receive assistance under this subchapter to provide for independent evaluations.

(d) Specificity of views

In carrying out evaluations under this subchapter, the Commissioner shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this subchapter about such programs and projects.

(e) Publication of results; submission to Congress

The Commissioner shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Commissioner shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) Evaluation results as United States property

The Commissioner shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this subchapter shall become the property of the United States.

Section 2992a. Labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this subchapter, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 to 3144, 3146, 3147 of Title 40. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 3145 of Title 40.

Section 2992a-1. Staff

In all personnel actions of the Administration, preference shall be given to individuals who are eligible for assistance under this subchapter. Such preference shall be implemented in the same fashion as the preference given to veterans referred to in section 2108(3)(C) of Title 5. The Commissioner shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.

Section 2992-1. Annual report

The Secretary shall, not later than January 31 of each year, prepare and transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives an annual report on the social and economic conditions of American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives, together with such recommendations to Congress as the Secretary considers to be appropriate.

Section 2992b. Administration

Nothing in this subchapter shall be construed to prohibit interagency funding agreements made between the Administration and other agencies of the Federal Government for the development and implementation of specific grants or projects.

Section 2992b-1. Additional requirements applicable to rulemaking

(a) In general

Notwithstanding subsection (a) of section 553 of Title 5, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this subchapter.

(b) Interpretative rule or general statement of policy; waiver of notice and public procedure regarding any other rule

(1) Subparagraph (A) of the last sentence of section 553(b) of Title 5 shall not apply with respect to any interpretative rule or general statement of policy—

(A) proposed under this subchapter; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this subchapter.

(2) Subparagraph (B) of the last sentence of section 553(b) of Title 5, shall not apply with respect to any rule (other than an interpretative rule or a general statement of policy)--

(A) proposed under this subchapter; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this subchapter.

(3) The first 2 sentences of section 553(b) of Title 5 shall apply with respect to any rule (other than an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice) that is—

(A) proposed under this subchapter; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this subchapter;

unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule) that notice and public procedure thereon are contrary to the public interest or would impair the effective administration of any program, project, or activity with respect to which such rule is issued.

(c) Effective date of rule or general statement of policy
Notwithstanding section 553(d) of Title 5, no rule (including an interpretative rule) or general statement of policy that—
 (1) is issued to carry out this subchapter; or
 (2) applies exclusively to any program, project, or activity authorized by, or carried out under, this subchapter;
may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of Title 5.

(d) Statutory citation required
Each rule (including an interpretative rule) and each general statement of policy to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

(e) Rule or general statement of policy necessary as result of legislation; time for issuance
Except as provided in subsection (c) of this section, if as a result of the enactment of any law affecting the administration of this subchapter it is necessary or appropriate for the Secretary to issue any rule (including any interpretative rule) or a general statement of policy, the Secretary shall issue such rule or such general statement of policy not later than 180 days after the date of the enactment of such law.

(f) Copy of rule or general statement of policy to Congressional leaders
Whenever an agency publishes in the Federal Register a rule (including an interpretative rule) or a general statement of policy to which subsection (c) of this section applies, such agency shall transmit a copy of such rule or such general statement of policy to the Speaker of the House of Representatives and the President pro tempore of the Senate.

Section 2992c. Definitions

As used in this subchapter, the term—

- (1) "financial assistance" includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;
- (2) "Indian reservation or Alaska Native village" includes the reservation of any federally or State recognized Indian tribe, including any band, nation, pueblo, or rancharia, any former reservation in Oklahoma, any community under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancharia, with allotted lands or lands subject to a restriction against alienation imposed by the United States or a State, and any lands of or under the jurisdiction of an Alaska Native village or group, including any lands selected by Alaska Natives or Alaska Native organizations under the Alaska Native Claims Settlement Act, 43 U.S.C.A. § 1601 et seq.;
- (3) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778;
- (4) the term "rule" has the meaning given it in section 551(4) of Title 5, as amended from time to time;
- (5) "Secretary" means the Secretary of Health and Human Services; and
- (6) the term "Native American Pacific Islander" means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.

Section 2992d. Authorization of appropriations

(a) There are authorized to be appropriated for the purpose of carrying out the provisions of this subchapter (other than sections 2991b(d), 2991b-1, 2991b-3 of this title, subsection (e) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations), such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002.

(b) Not less than 90 per centum of the funds made available to carry out the provisions of this subchapter (other than sections 2991b(d), 2991b-1, 2991b-3, 2991c of this title, subsection (e) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations) for a fiscal year shall be expended to carry out section 2991b(a) of this title for such fiscal year.

(c) There is authorized to be appropriated \$8,000,000 for each of fiscal years 1999, 2000, 2001, and 2002, for the purpose of carrying out the provisions of section 2991b(d) of this title.

- (d) (1) For fiscal year 1994, there are authorized to be appropriated such sums as may be necessary for the purpose of--
- (A) establishing demonstration projects to conduct research related to Native American studies and Indian policy development; and
 - (B) continuing the development of a detailed plan, based in part on the results of the projects, for the establishment of a National Center for Native American Studies and Indian Policy Development.
- (2) Such a plan shall be delivered to the Congress not later than 30 days after September 30, 1992.

(e) There are authorized to be appropriated to carry out section 2991b-3 of this title such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002.

Sections 1-4, Pub. L. No. 102-524, 106 Stat. 3434 (1992), codified at 42 U.S.C. §§ 2991 - 2992d.

B. The Legislative History of the Acts

The U.S. Senate has reported that the Native American Languages Act of 1990 (NALA 1990), Pub. L. No. 101-477, was the result of a hearing held on November 24, 1987 by the Senate Select Committee on Indian Affairs on "Culturally Relevant Early Education Programs," and two resolutions adopted at the Eighth Annual International Native American Languages Issues Institute, held in June 1988 in Tempe, Arizona. S. Rep. No. 101-250, at 2-3 (1990).

Testimony at the 1987 hearing

strongly indicated that where children are taught in their own languages by teachers of the same cultural background and who teach in methods appropriate to that culture, the results are that the children are brighter, higher-achieving, and have higher self-esteem than their native counterparts schooled in other environments. For this reason, it is additionally important that exceptions be made for teachers who are qualified to teach in native languages yet who do not have federal or state teacher certification. It is often the case that elders are used to teach native languages, which is desirable since many native cultures hold their elders in high esteem.

S. Rep. No. 101-250, at 2; *see also Oversight Hearing on Culturally Relevant Early Education Programs: Hearing before the Select Comm. on Indian Affairs*, 100th Cong. (1987).

At the 1988 Native American Languages Issues Institute, Institute members requested that the Senate Select Committee on Indian Affairs introduce legislation and urge its adoption as the policy of the United States. S. Rep. No. 101-250, at 3.

On September 15, 1988, Senator Inouye (D-Hawaii), for himself and Senators Evans, Daschle, DeConcini, McCain, Murkowski, Domenici, and Matsunaga, introduced Senate Joint Resolution 379, 100th Cong., 2nd Sess. (1988). S. Rep. No. 100-560, at 2 (1988). S. J. Res. 379 would establish as the policy of the U.S. the preservation, protection, and promotion of the rights of Indigenous Americans to use, practice, and develop Native American languages. S. Rep. No. 100-560, at 2.

S. J. Res. 379 was referred for consideration to the Senate Select Committee on Indian Affairs. S. Rep. No. 100-560, at 2. On September 21, 1988, the Committee ordered S. J. Res. 379 reported favorably and recommended its passage by the Senate. *Id.*

The Senate Select Committee on Indian Affairs stated the need for S. J. Res. 379 as follows.

A clear statement of Federal policy is mandatory to help prevent the silencing of Native languages, and ultimately, the destruction of the original cultures of this country. This resolution represents an acknowledgment that indigenous Americans have a right to practice their cultures and choose their own lifestyles. If native cultures are to survive, then the United States must do all it can to protect and encourage cultural practices.

In this regard, this resolution recognizes the right of native cultures to continue to survive, and that their indigenous languages may be used as a medium of instruction as well as an official language in their traditional territories.

In addition to this policy statement, the resolution recommends that educational institutions recognize indigenous languages in the same way that foreign languages are recognized, including the inclusion of such languages in academic curricula.

S. Rep. No. 100-560, at 2.

On October 23, 1989, Senator Inouye (D-Hawaii), introduced S. 1781 for himself and Senators DeConcini, Daschle, Reid, Conrad, Cochran, Matsunaga, Murkowski, McCain, and Burdick. S. Rep. No. 101-250, at 3. S. 1781 was referred for consideration to the Senate Select Committee on Indian Affairs. *Id.*

On November 14, 1989, an amendment in the nature of a substitute to S. 1781 was considered and ordered reported by the Committee. *Id.* The Committee recommended S. 1781's passage by the Senate. *Id.*

The Senate Select Committee on Indian Affairs stated the need for S. 1781 as follows.

A clear statement of Federal policy is mandatory to help prevent not only the extinction of Native languages, but to provide Native Americans with a tool to develop programs that they believe will enrich their children and perpetuate their cultures. This legislation is an acknowledgment that indigenous Americans have a right to practice their cultures and choose their own lifestyles. If native cultures are to survive and if Native Americans are to become full and productive participants in society, whether in a traditional or mainstream society or some combination of the two, then the United States must do all it can to protect and encourage cultural practices.

It is not the intent of this Act to create new Federal programs or to prohibit the teaching or use of the English language to Native Americans. It is important, however, that existing Federal programs are brought into conformity with this Act in order to assure maximum participation of Native Americans with government agencies in fulfilling the mandate of this Act.

S. Rep. No. 101-250, at 3.

The Senate passed S. 1781 on April 3, 1990. 136 Cong. Rec. D396-02 (1990). S. 1781 was incorporated into a substitute amendment to H. R. 5040, which the House passed on July 30, 1990. 136 Cong. Rec. S11136-01 (1990). The Senate passed H. R. 5040 the same day. 136 Cong. Rec. D978-02 (1990). NALA 1990 became law when President Bush signed it on October 30, 1990.

While NALA 1990 was a "significant first step" by Congress, it "served only as a declaration of policy." Administration for Native Americans, Administration for Children and Families, Department of Health and Human Services, *Notice of Availability of Competitive Financial Assistance to Promote the Survival and Continuing Vitality of Native American Languages*, 68 Fed. Reg. 2057-01 (Jan. 15, 2003).

On November 24, 1991, Senator Inouye (D-Hawaii), introduced in the Senate for himself and Senators McCain, Simon, Akaka, Burdick, Wellstone, De Concini, and Murkowski, S. 2044, a bill entitled, "the Native American Languages Act of 1991." 137 Cong. Rec. S18086-02 (1991). S. 2044 would authorize the Administration for Native Americans, within the U.S. Department of Health and Human Services, to make grants to tribes and Indian organizations to assist them in assuring the survival and continuing vitality of Native languages. *Id.* at 3.

Senator Inouye explained the need for S. 2044 as follows.

Even though the 1990 Act was widely applauded as a long-overdue recognition of the right of American Indians and other Native Americans to use their own languages and to have that right respected by government, it was largely a declaration of policy. It did not provide any authorization for appropriations that would assist tribal governments in pursuing its laudable goals. Without such assistance, there persists the risk that additional languages may be lost.

Senator Inouye added that S. 2044 "is a means of implementing the goals enunciated in the Native American Languages Act . . . [of 1990]." 137 Cong. Rec. S18086-02 at 4. "It is important that the Congress move ahead to implement the Native American Languages Policy Act." *Id.* S. 2044 was referred to the Senate Select Committee on Indian Affairs. S. Rep. No. 102-343, at 6 (1992).

On June 18, 1992, the Senate Select Committee held a hearing on S. 2044, now titled, the Native American Languages Act of 1992 (NALA 1992). S. Rep. No. 102-343; 138 Cong. Rec. S8210-01 (1992); 138 Cong. Rec. S8537-03 (1992); 138 Cong. Rec. D746-02 (1992). Testimony at the hearing provided

estimates that of the several hundred [Native American] languages that once existed, only about 150 are still spoken or remembered today. Furthermore, only 20 are spoken by persons of all ages, 30 are spoken by adults of all ages, about 60 are spoken by middle-age adults, and 45 are spoken by the most elderly.

Administration for Native Americans, Administration for Children and Families, Department of Health and Human Services, *Notice of Availability of Competitive Financial Assistance to Promote the Survival and Continuing Vitality of Native American Languages*, 68 Fed. Reg. at 2057.

On July 2, 1992, the Senate Select Committee on Indian Affairs, at a mark up hearing, considered an amendment proposed by Senator McCain (R-Ariz), in the nature of a substitute to S. 2044. S. Rep. No. 102-343, at 6; 138 Cong. Rec. S98885-02 (1992). The Committee agreed to the amendment, reported favorably on S. 2044 with the amendment, and voted unanimously to recommend that the bill in the nature of a substitute be passed by the Senate. S. Rep. No. 102-343, at 1.

As amended, S. 2044 would amend the Native American Programs Act of 1974 to authorize the Administration for Native Americans to award grants to tribes and Indian organizations to help assure the survival and continuing vitality of Native American languages. *See generally* S. Rep. No. 102-343. S. 2044 expressly encouraged tribes and other grant applicants to collaborate with schools and institutions of higher education. Sec. 803B(d), *reprinted in* S. Rep. No. 102-343, at 2.

On August 5, 1992, S. 2044 passed the Senate. 138 Cong. Rec. S11598-02 (1992); 138 Cong. Rec. D999-02 (1992). A similar bill, H. R. 5382, was introduced in the House of Representatives by Representative Matthew G. Martinez (D-Calif), on June 11, 1992. H. R. Rep. No. 102-1084, 46 (1992). H. R. 5382 was referred to the House Committee on Education and the Workforce. *Id.*

On October 2, 1992, H.R. 5382 was called up in the House under a Suspension of the Rules. H. R. Rep. No. 102-1084, at 7; 138 Cong. Rec. H10836-01 (1992). It passed the House the same day as amended by a voice vote. *Id.* On October 5, 1992, the Senate agreed to the House amendment and passed S. 2044. *Id.*; 138 Cong. Rec. S16642-01 (1992). President Bush signed the bill into law as Pub. L. No. 102-524 on October 26, 1992. *Id.* at 46. It is currently codified at 42 U.S.C. §§ 2991 - 2992d.

The agency that administers NALA 1992 recognizes that its passage

was an important second step in an attempt to ensure the survival and continuation of Native languages. It provided the basic foundation upon which tribal nations can rebuild their economic strength and enhance their rich cultural diversity. The Federal government recognizes the substantial loss of Native American languages over the past several hundred years . . .

Administration for Native Americans, Administration for Children and Families, Department of Health and Human Services, *Notice of Availability of Competitive Financial Assistance to Promote the Survival and Continuing Vitality of Native American Languages*, 68 Fed. Reg. at 2057.

For over ten years Congress has made appropriations to the Administration for Native Americans to award competitive grants to tribes and Indian organizations for the survival and continuing vitality of Native American Languages. *See, e.g.*, Administration for Native Americans, Administration for Children and Families, Department of Health and Human Services, *Notice of Availability of Competitive Financial Assistance to Promote the Survival and Continuing Vitality of Native American Languages*, 68 Fed. Reg. 2057-01.

THE NATIVE AMERICAN RIGHTS FUND

INDIAN EDUCATION LEGAL SUPPORT PROJECT

A Compilation of Federal and State Education Laws regarding Native Language in Curriculum and Certification of Teachers of Native Languages

STATE LAWS BY STATE, ALPHABETICALLY, ON NATIVE LANGUAGE IN CURRICULUM AND CERTIFICATION OF TEACHERS OF NATIVE LANGUAGES

When NALA 1990 was passed, only three states -- Hawaii, Minnesota, and Wisconsin -- had express provisions in their laws regarding Native language in curricula or the certification of teachers of Native languages. Within ten years after NALA 1990's passage, more than a dozen more states had addressed Native language curricula and teacher certification in their laws.

This Section of these materials shows the laws of sixteen states on these matters as of the date of this publication. Hawaii remains the only state to address the matter in its constitution. Most states have enacted legislation addressing the matters, and some states have addressed it in their Administrative Codes as well.

Of these sixteen states, twelve involve tribes either directly or indirectly, in the process of certifying, licensing, or endorsing the teachers of Native languages in the state public schools.

A. ALASKA

Alaska first addressed the certification of teachers of Native languages in 1992. *See* 1992 Alaska Sess. Laws Ch. 76, an Act relating to requirements for limited teacher certificates (1992). Its current laws read as follows.

1. Alaska Statutes, Title 14, Education, Libraries, and Museums, Chapter 30, Pupils and Educational Programs for Pupils, Article 7, Bilingual-Bicultural Education, Section 14.30.420, Native language education

(a) A school board shall establish a local Native language curriculum advisory board for each school in the district in which a majority of the students are Alaska Natives and any school district with Alaska Native students may establish a local Native language curriculum advisory board for each school with Alaska Native students in their district. If the local Native language curriculum advisory board recommends the establishment of a Native language education curriculum for a school, the school board may initiate and conduct a Native language education curriculum within grades K through 12 at that school. The program, if

established, must include Native languages traditionally spoken in the community in which the school is located. Each school board conducting a program of Native language education shall implement the program as a part of regular classroom studies and shall use

- (1) instructors who are certified under AS 14.20.020 or 14.20.025; and
- (2) to the maximum extent possible
 - (A) instructors and instructional materials available through the University of Alaska; and
 - (B) audio-visual, computer, and satellite technology.

(b) In this section,

- (1) "district" has the meaning given in AS 14.17.990;
- (2) "Native" means a person of one-fourth degree or more Alaskan Indian, Eskimo, or Aleut blood.

2. Alaska Statutes, Title 14, Education, Libraries, and Museums, Chapter 20, Teachers and School Personnel, Article 1, Teacher Certification, Section 14.20.025, Limited teacher certificates

Notwithstanding AS 14.20.020(b), a person may be issued a limited certificate, valid only in the area of expertise for which it is issued, to teach Alaska Native language or culture, military science, or a vocational or technical course for which the board determines by regulation that baccalaureate degree training is not sufficiently available. A limited certificate may be issued under this section only if the school board of the district or regional educational attendance area in which the person will be teaching has requested its issuance. A person who applies for a limited certificate shall demonstrate, as required by regulations adopted by the board, instructional skills and subject matter expertise sufficient to ensure the public that the person is competent as a teacher. The board may require a person issued a limited certificate to undertake academic training as may be required by the board by regulation and make satisfactory progress in the academic training.

3. Alaska Administrative Code, Title 4, Education and Early Development, Chapter 12, Certification of Professional Teachers, Section 12.043

- (a) The commissioner may issue a limited certificate (Type M) valid for five years in the specialty area of Alaska Native language or culture, military science, or a vocational or technical course if the commissioner determines that
- (1) baccalaureate degree training is not sufficiently available;
 - (2) the applicant has demonstrated both subject matter expertise and teaching competency, as verified by the local school district; and
 - (3) the school board, through its chief school administrator, has requested issuance of a limited certificate for the applicant.

(b) To demonstrate subject matter and teaching competency required under (a) of this section, the applicant must submit two letters of recommendation verifying the applicant's length of experience and competency in the specialty field and,

(1) in the Alaska Native language or culture specialty,

(A) submit a resume demonstrating competency in an Alaska Native language or at least four years experience involving an Alaska Native culture, as verified by the school district;

(B) submit additional information requested by the department relevant to the determination of expertise and teaching competency in this specialty.

...

(c) A limited certificate may be renewed any number of times upon submission to the department of evidence of

(1) satisfactory completion of

(A) three semester hours of credit; or

(B) additional training or work experience acceptable to the commissioner;

(2) satisfactory work performance under the limited certificate; and

(3) renewal of request for a limited certificate by the school board through its chief school administrator.

(d) The department may not require the applicant to possess a baccalaureate degree for issuance of a limited certificate.

(e) A limited certificate is valid only in the school district or regional educational attendance area whose school board requested the certificate.

B. ARIZONA

1. 101-0026 Ariz. Op. Att'y. Gen. (2001)

In November 2000, Arizona voters passed an initiative measure, Proposition 203. Proposition 203 repealed the Bilingual Programs and English as a Second Language law, and replaced it with English Language Education for Children in Public Schools law. The English Language Education law resolved that all children in Arizona public schools shall be taught English as rapidly and effectively as possible "by being taught in English and . . . placed in English classrooms." Ariz. Rev. Stat. § 15-751.

In 2001, at the request of state Senator Jackson, the Arizona Attorney General construed Proposition 203 and issued an opinion with the following conclusion:

Proposition 203 generally does not apply to Native American languages, and “State public schools may offer students classes in Native American languages and culture, whether or not such children are already proficient in English.”

2. Arizona Administrative Code, Title 7, Education, Chapter 2, State Board of Education, Article 6, Certification, Section R7-2-613, Endorsements

G. Elementary Foreign Language Endorsement –grades K-8

1. The elementary foreign language endorsement is optional.
2. The requirements are:
 - a. An Arizona elementary, secondary or special education certificate.
 - b. Proficiency in speaking, reading, and writing a language other than English, verified by the appropriate language department of an accredited institution. American Indian language proficiency shall be verified by an official designated by the appropriate tribe.
 - c. Three semester hours of courses in the methods of teaching a foreign language at the elementary level.

H. Bilingual Endorsement –grades K-12

1. A provisional bilingual endorsement or a bilingual endorsement is required of an individual who is a bilingual classroom teacher, bilingual resource teacher, bilingual specialist, or otherwise responsible for providing bilingual instruction.
2. The provisional bilingual endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, or special education, or vocational certificate; and
 - b. Proficiency in a language other than English or sign language.
3. The holder of the bilingual endorsement is authorized to teach English as a Second Language.
4. The requirements are:
 - a. An Arizona elementary, secondary, or special education, or vocational certificate;
 - b. Completion of a bilingual education program from an accredited institution or the following courses:
 - i. Three semester hours of foundations of instruction for non-English-language-background students;
 - ii. Three semester hours of bilingual methods;
 - iii. Three semester hours of English as a Second Language for bilingual settings;

- iv. Three semester hours of courses in bilingual materials and curriculum; assessment of limited-English-proficient students; teaching reading and writing in the native language; or English as a Second Language for bilingual settings;
- v. Three semester hours of linguistics to include psycholinguistics, sociolinguistics, first language acquisition, and second language acquisition for language minority students; or American Indian language linguistics;

...

- c. A valid bilingual certificate or endorsement from another state may be substituted for the courses described in subsection (H)(4)(b);
- d. Practicum in a bilingual program or two years of verified bilingual teaching experience; and
- e. Proficiency in a spoken language other than English, verified by the language department of an accredited institution except in the case of Spanish and American Indian languages. . . . American Indian language proficiency shall be verified by an official designated by the appropriate tribe.

C. HAWAII

Since 1978, the Constitution of the State of Hawaii has provided that

1. Article XV, Section 4

English and Hawaiian shall be the official languages of Hawaii

2. Article X, Section 4

The State shall promote the study of Hawaiian culture, history, and language.

The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian education program.

The following are among Hawaii's laws enacted to implement these constitutional provisions.

1. Chapter 304, University of Hawaii, Subpart O, Hawaiian Language College, Section 304-69, Creation

There shall be a Hawaiian language college at the University of Hawaii at Hilo. The college shall provide a Hawaiian liberal education program providing education primarily through the Hawaiian language. There shall be established a revolving fund into which revenues from the sale of Hawaiian language materials shall be deposited. Moneys deposited into this fund shall be expended to support the Hawaiian language college.

2. Chapter 304, University of Hawaii, Subpart O, Hawaiian Language College, Section 304-70, Functions

In addition to providing a quality education primarily through the medium of the Hawaiian language, the college shall:

- (1) provide an indigenous language outreach program to involve indigenous language scholars and to maintain and develop the program's Polynesian language database;
- (2) provide a Hawaiian medium teacher training program incorporating Nawahiokalani'opu'u school and other schools, as appropriate, as laboratory schools; and
- (3) maintain a Hawaiian language support center with educational specialists in the areas of research, curriculum development, language development, archival work, and educational technology.

D. IDAHO

Idaho's law was passed in 2002. It provides in relevant part that

Idaho Code, Title 33, Education, Chapter 12, Teachers, Section 33-1280, American Indian languages teaching authorization

- (1) As used in this section, "Indian tribe" is as defined in section 67-4001, Idaho Code.
- (2) It is the policy of the state of Idaho to preserve, protect and promote the rights of Indian tribes to use, practice and develop their native languages and to encourage American Indians in the state to use, study and teach their native languages in order to encourage and promote:
 - (a) The survival of native language;
 - (b) Increased student scholarship;
 - (c) Increased student awareness of the student's culture and history; and
 - (d) Increased student success.

- (3) The state board of education shall promulgate rules authorizing American Indian languages teachers to teach in public schools of this state.
- (4) Each Indian tribe may establish its own system of designation for individuals qualified to teach that tribe's native language. In establishing such a system, the tribe shall determine:
- (a) The development of an oral and written qualification test;
 - (b) Which dialects shall be used in the test;
 - (c) Whether the tribe will standardize the tribe's writing system;
 - (d) How the teaching methods will be evaluated in the classroom; and
 - (e) The period of time for which a tribal designation shall be valid.
- (5)
- (a) Each Indian tribe shall provide to the state board of education the names of those highly and uniquely qualified individuals who have been designated to teach the tribe's native language.
 - (b) Upon receiving the names of American Indian languages teachers designated by an Indian tribe, the state board of education shall authorize those individuals as American Indian languages teachers in accordance with rules of the board.
- (6) Notwithstanding any other provision of law, the state board of education shall not require an American Indian languages teacher who has obtained tribal designation to teach a native language to hold a specific academic degree or to complete a teacher education program.
- (7)
- (a) An American Indian languages teaching authorization shall qualify the authorized individual to accept a teaching position or assignment in any school district of the state that offers or permits courses in an American Indian language.
 - (b) A holder of American Indian languages teaching authorization who does not also have a teaching certificate as provided in section 33-1201, Idaho Code, may not teach in a school district of this state any subject other than the American Indian language for which he or she is authorized to teach.

E. MINNESOTA

Minnesota's premier and comprehensive American Indian Language and Culture Education Act was first enacted in 1988. *See* 1988 Minn. Sess. Laws Ch. 397. It was expressly based on the legislature's recognition of the unique educational and culturally-related academic needs of American Indians, and the need to increase the number of American Indian teachers in the state. It included substantive provisions on American Indian language and culture teaching licenses, recruitment and retention of American Indian teachers, and a Task Force and Committees on American Indian language and culture programs.

Minnesota's current teacher certification laws are as follows.

1. Minnesota Statutes, Education Code: Prekindergarten – Grade 12, Chapter 124D, Education Programs, American Indian Education, Section 124D.75, Licenses for American Indian language and culture education teachers; exemptions

Subdivision 1. American Indian language and culture education licenses. The board of teaching must grant initial and continuing teaching licenses in American Indian language and culture education that bear the same duration as other initial and continuing licenses. The board must grant licenses to persons that present satisfactory evidence that they:

- (1) possess competence in an American Indian language or possess unique qualifications relative to or knowledge and understanding of American Indian history and culture; or
- (2) possess a bachelor's degree or other academic degree approved by the board or meet such requirements as to course of study and training as board may prescribe, or possess such relevant experience as the board may prescribe.

This evidence may be presented by affidavits, resolutions, or by such other methods as the board may prescribe. Individuals may present applications for licensure on their own behalf or these applications may be submitted by the superintendent or other authorized official of a school district, participating school, or an American Indian school.

Subd. 2. Persons holding general teaching licenses. A person holding a general teaching license who presents the board with satisfactory evidence of competence in an American Indian language, or knowledge and understanding of American Indian history and culture may be licensed under this section.

Subd. 3. Resolution or letter. All persons applying for a license under this section must submit to the board a resolution or letter of support signed by an American Indian tribal government or its designee. All persons holding a license under this section on July 1, 1995, must have on file or file with the board a resolution or letter of support signed by a tribal government or its designee by January 1, 1996, or the next renewal date of the license thereafter.

Subd. 4. Employment of teachers. Teachers employed in an American Indian language and culture education program pursuant to sections 124D.71 to 124D.82 shall not be employed to replace any presently employed teacher who otherwise would not be replaced.

Subd.5. Teacher preparation programs. For the purpose of licensing American Indian language and culture education teachers, the board may approve programs at colleges or universities designed for their training subject to the approval of the commissioner of children, families, and learning.

Subd. 6. Persons eligible for employment; exemptions. Any person licensed under this section shall be eligible for employment by a school board or a participating school as a teacher in an American Indian education program in which the American Indian language or culture in which the person is licensed is taught. A school district or participating school may prescribe only those additional qualifications for teachers licensed under this section as approved by the board of teaching. Any school board or participating school upon request may be exempted from the licensure requirements of this section in the hiring of one or more American Indian language and culture education teachers for any school year in which compliance would, in the opinion of the commissioner, create a hardship in the securing of the teachers.

Subd. 7. Persons serving under exemptions; licensure; tenure. An American Indian language and culture education teacher serving under an exemption as provided in subdivision 6 shall be granted a license as soon as that teacher achieves the qualifications for the license. Not more than one year of service by an American Indian language and culture education teacher under an exemption shall be credited to the teacher for the purposes of section 122A.40 and not more than two years shall be credited for the purposes of section 122A.41; and the one or two years shall be deemed to precede immediately and be consecutive with the year in which a teacher becomes licensed.

Subd. 8. Compensation. A teacher holding a license or exemption under this section shall be compensated according to a schedule which is at least equivalent to that applicable to teachers holding general licenses.

Subd. 9. Affirmative efforts in hiring. In hiring for all positions in these programs, school districts and participating schools shall give preference to and make affirmative efforts to seek, recruit, and employ persons who share the culture of the American Indian children who are enrolled in the program. The district or participating school shall provide procedures for the involvement of the parent advisory committees in designing the procedures for the recruitment, screening and selection of applicants. This subdivision shall not be construed to limit the school board's authority to hire and discharge personnel.

2. Minnesota Administrative Code, Minnesota Rules, Chapter 8710, Board of Teaching, Teacher and other School Professional Licensing, Teacher Standards, Section 8710.4100, Teachers of American Indian Language, History, and Culture.

Subpart 1. Issuance of license authorized. The Board of Teaching shall, under this part and Minnesota Statutes, section 126.49, authorize the issuance of a license to teach American Indian language, history, and culture to an applicant who has achieved and demonstrated competence in an American Indian language or knowledge and understanding of American Indian history and culture.

Subp. 2. Scope of practice. A teacher of American Indian language, history, and culture is authorized to teach an American Indian language or an American Indian history and culture to students in kindergarten through grade 12. This part shall not prohibit a school board from employing a person to teach an American Indian language or American Indian history and culture who does not hold a license under this part.

Subp.3. License requirements. A candidate for licensure to teach American Indian language, history, and culture shall submit an application that:

A. specifies the American Indian language or history and culture to be taught;

B. includes certified copies of two resolutions attesting to the applicant's competence in an American Indian language or the knowledge and understanding of an American Indian history and culture. One of the resolutions must be from the tribal government governing the tribe or community speaking the language or representing the history and culture for which licensure is requested with the second resolution being from one of subitems (1) to (4):

(1) another reservation or business committee serving the tribe or community speaking the language or representing the history and culture for which licensure is requested;

(2) the local Indian education committee serving the tribe or community speaking the language or representing the history and culture for which licensure is requested;

(3) other bodies governing or serving the tribe or community speaking the language or representing the history and culture; or

(4) authorized officials or professional or learned societies, organizations, or institutions who are qualified to assess the applicant's competence in an American Indian language or the knowledge and understanding of the applicant of the American Indian history and culture.

The resolution shall confirm that the applicant has been assessed and is competent in the language to be taught or possesses knowledge and understanding of the American Indian history and culture to be taught.

Subp. 4. Continuing license. A continuing license shall be issued and renewed according to the rules of the Board of Teaching governing continuing licensure.

Subp. 5. Effective date. The requirements in this part for licensure as a teacher of American Indian language, history, and culture are effective on September 1, 2001, and thereafter.

F. MONTANA

In 1995, Montana passed an Act providing that English is the official and primary language of the state and local governments. *See* 1995 Mont. Sess. Laws Ch. 319. The Act, however, expressly did not apply to tribal governments. In addition, the law allowed school districts to provide for Native language instruction.

1. **Montana Code, Title 1, General Laws and Definitions, Chapter 1, General Provisions, Part 5, State Symbols -- Official Designations, Section 1-1-510, English as official and primary language of state and local governments**

(4) This section is not intended to limit the use of any other language by a tribal government. A school district and a tribe, by mutual agreement, may provide for the instruction of students that recognizes the cultural identity of Native American children and promotes the use of a common language for communication.

2. **Montana Administrative Rules, Title 10, Education, Board of Public Education, Chapter 57, Educator Licensure, Sub-Chapter 4, Classes of Licensure, Section 10.57.436, Class 7 American Indian Language and Culture Specialist**

(1) A class 7 American Indian language and culture specialist license shall be valid for a period of 5 years.

(2) The superintendent of public instruction shall issue a class 7 license based upon verification by the American Indian tribe for which the language and culture licensure is desired that the individual has met tribal standards for competency and fluency as a requisite for teaching that language and culture. Candidates for class 7 licensure must meet All non-academic requirements for licensure in Montana.

(3) The board will accept and place on file the criteria developed by each tribe for qualifying an individual as competent to be a specialist in its language and culture.

(4) Sixty units of renewal activities authorized and verified by the tribe will be required for renewal of a class 7 license.

(5) A school district may assign an individual licensed under this rule to only, specialist services within the field of American Indian language and culture under such supervision as the district may deem appropriate. No teaching license or endorsement is required for duties within this prescribed field.

G. NEBRASKA

Nebraska enacted its Native language teaching approval act in 1999. *See* 1999 Neb. Sess. Laws L.B. 475.

2. Nebraska Statutes, Chapter 79, Schools, Article 8, Teachers and Administrators, (A) Certificates, Section 79-802.01, American Indian language teacher; requirements

(1) Teaching American Indian languages is essential to the proper education of American Indian children. School districts and postsecondary educational institutions may employ approved American Indian language teachers to teach their native language. For purposes of this section, approved American Indian language teacher means a teacher who has passed the tribe's written and oral approval test.

(2) Approved teachers that do not also have a Nebraska teaching certificate shall not teach any subject other than Indian language they are approved to teach by the tribe.

(3) Each tribe shall develop both a written and an oral test that must be successfully completed in order to determine that a teacher is approved to teach the tribe's native language. When developing such approval tests, the tribe shall include, but not be limited to, which dialects will be used, whether it will standardize its writing system, and how the teaching methods will be evaluated in the classroom. The teacher approval tests shall be administered at a community college or state college.

2. Nebraska Administrative Code, Title 92, Department of Education, Chapter 10, Regulations and Procedures for the Accreditation of Schools, Section 003.01, Mandatory Requirements for Legal Operation, Teachers and Administrator Certification

The school system shall use only persons certified pursuant to 92 BAC 21 to be a teacher or administrator. Pursuant to 79-1603 R.R.S., persons conducting religion or prekindergarten classes in nonpublic schools which are not counted as part of the school's courses for purposes of complying with the requirements of this Chapter are excluded from this requirement. Pursuant to 79-802.01 R. R. S., American Indian language teachers who are approved by the tribe to teach their native language are also excluded from this requirement when conducting native language courses.

H. NEVADA

In 1998, Nevada adopted the following provision in its Administrative Code.

Nevada Administrative Code, Chapter 391, Education Personnel, Special Endorsements, Section 391.233, Endorsement to teach Great Basin Native American language

1. Except as otherwise provided in subsection 4, to receive an endorsement to teach a course in a Great Basin Native American language, a person must:
 - (a) Have a high school diploma or equivalent;
 - (b) Have completed 6 semester hours of course work that included, without limitation:
 - (1) Professional education and teaching methodology; or
 - (2) the study of Native American languages; and
 - (c) Be certified as a fluent speaker of the language person proposes to teach by:
 - (1) A council of a tribe of Native Americans who speak that language; or
 - (2) a qualified official of a university or college.
2. An endorsement issued pursuant to this section:
 - (a) Is valid for 3 years.
 - (b) Is renewable.
 - (c) May be used only to teach the language set forth on the endorsement.
3. An applicant for an endorsement issued pursuant to this section:
 - (a) Must submit with his application;
 - (1) The applicable documents and fees required for initial licensure pursuant to NAC 391.045; and
 - (2) Written documentation verifying his certification as a fluent speaker of the language he proposes to teach
 - (b) Is not subject to the provisions of NAC 391.030 and 391.036.
4. A person who does not possess the qualifications required by paragraphs (a) and (b) of subsection 1, but does possess the qualifications required by paragraph (c) of subsection 1, may teach a course in a Great Basin Native American language without an endorsement issued pursuant to this section if a licensed teacher is present in the classroom during instruction. Written documentation of person's certification as a fluent speaker of the language he proposes to teach must be provided to the department before he may begin teaching.

I. NEW MEXICO

In 2002, New Mexico passed a pathmarking comprehensive Indian education act. *See* 2002 N.M. Laws Ch. 153. Among other things, the new act amended the principal law regarding the certification of teachers of Native languages and cultures such that it now reads as follows.

1. New Mexico Statutes, Chapter 22, Public Schools, Article 10A, School Personnel Act, Section 22-10A-13, Native American language and culture certificate.

The state board may issue a Native American language and culture certificate to a person proficient in a Native American language and culture of a New Mexico tribe or pueblo who meets criteria established by the state board. A baccalaureate degree is not required for the person applying for this certificate. The Native American language and culture certificate shall be issued and renewable in accordance with procedures established by the state board.

2. New Mexico Administrative Code, Title 6, Primary and Secondary Education, Chapter 64, School Personnel, Competencies for Licensure, Part 10, Competencies for Entry-Level Bilingual Education Teachers, Section 6.64.10.9, Language other than English

(A) (1) The teacher communicates effectively orally and in writing (where the written form exists and is allowed) in the language other than English. For Native American languages which have locally developed tribal standards for language proficiency, tribal standards may be used.

J. NORTH DAKOTA

North Dakota enacted its Native American language and culture teacher certification law in 1995. *See* 1995 N. D. Laws Ch. 186. It currently provides as follows.

1. **North Dakota Century Code, Title 15.1, Elementary and Secondary Education, Chapter 15.1-13, Teacher Licensing, Section 15.1-13-22, Licensure of North Dakota American Indian language instructors**

The board may license an individual as an instructor of North Dakota American Indian languages and culture if the individual is recommended for licensure to teach North Dakota native languages by an indigenous language board created by tribal government in this state and if the individual:

1. Displays competence in North Dakota American Indian languages and culture and has successfully completed a three-semester-hour course in classroom instruction at a tribal college or other institution of higher education; or
2. Holds a baccalaureate degree and has knowledge of and experience in North Dakota American Indian languages and culture.

2. **North Dakota Century Code, Title 15.1, Elementary and Secondary Education, Chapter 15.1-18, Teacher Qualifications, Section 15.1-18-10, Specialty Areas (Effective after June 30, 2006)**

Notwithstanding the requirements of this chapter:

...

2. An individual may teach Native American languages provided the individual is an eminence-credentialed teacher.

3. **North Dakota Administrative Code, Title 67.1, Education Standards and Practices Board, Article 67.1-02, Teacher Licensure, Chapter 67.1-02-05, License Policies, Section 67.1-02-05-04, Endorsements, added degrees, and restrictions**

4. Restricted licenses. Programs that include a specialized rather than a regular professional education core are issued licenses that restrict the holder to teaching in that specialty area.

...

c. Restricted licenses are issued to those nondegree applicants in:

...

- (2) North Dakota American Indian language instructors as pursuant to North Dakota Century Code section 15.1-13-22.

K. OKLAHOMA

Oklahoma passed its Native American language act in 2001. *See* 2001 Okla. Sess. Laws. Con Res. 37. The act provides in relevant part as follows.

1. Oklahoma 2001 Session Law Service, Senate Concurrent Resolution No. 37

. . . the Oklahoma State Legislature encourages the teaching and learning of Native American languages at all levels of instruction.

. . . the Oklahoma State Legislature opposes artificial barriers to the instruction or learning of Native American languages and encourages all education authorities to take all appropriate steps to promote and encourage the instruction and learning of Native American languages.

. . . the Oklahoma State Legislature urges the Superintendent of Public Instruction to take appropriate measures to foster respect for Native American languages and to vigilantly address any situations that may occur where proper respect for Native American languages is not provided.

2. Oklahoma Administrative Code, Title 210, State Department of Education, Chapter 15, Curriculum and Instruction, Subchapter 5, Priority Academic Student Skills, Part 21, Languages (Foreign, Native American, and/or American Sign Language), Section 210:15-5-151, Overview

(a) The Oklahoma State Board of Education had identified languages (foreign, Native American, American Sign Language) as core curriculum along with science, mathematics, social studies, language arts, and the arts (visual art and general music). All districts are required to implement a sequential program of study of at least one language other than English in the curriculum.

(b) . . . The standards in the Oklahoma framework are for all languages taught in Oklahoma schools. Some languages, such as American Sign Language, Native American languages, and classical languages have unique characteristics that may require some modifications in the standards to reflect their special traits. For example, Latin places a stronger emphasis on reading, while oral skills receive less emphasis, Native American languages emphasize oral skills, while written skills receive less emphasis. American Sign Language emphasizes visual-gestural and interpretive communication. With communication and culture as the cornerstone for all language learning, the goal is for all Oklahoma students to learn "how, when, and why to say what to whom."

L. OREGON

Oregon also enacted its Native American language teacher licensure law in 2001. See 2001 Or. Laws Ch. 653.

1. **Oregon Statutes, Title 30, Education and Culture, Chapter 342, Teachers and other School Personnel, Licensing and Registration of Teachers and Administrators, Section 342.144, Licenses to teach American Indian languages**

(1) As used in this section, "American Indian tribe" means an Indian tribe as that term is defined in ORS 97.740.

(2) The Legislative Assembly declares that teaching American Indian languages is essential to the proper education of American Indian children.

(3) The Teacher Standards and Practices Commission shall establish an American Indian languages teaching license.

(4) Each American Indian tribe may develop a written and oral test that must be successfully completed by an applicant for an American Indian languages teaching license in order to determine whether the applicant is qualified to teach the tribe's native language. When developing the test, the tribe shall determine:

(a) Which dialects will be used on the test;

(b) Whether the tribe will standardize the tribe's writing system; and

(c) How the teaching methods will be evaluated in the classroom.

(5) The test shall be administered at an appropriate location that does not create hardship for the tribal members administering the test.

(6) The commission may not require an applicant to hold a specific academic degree, to complete a specific amount of education or to complete a teacher education program to receive an American Indian teaching license.

(7) (a) An American Indian languages teaching license qualifies the holder to accept a teaching position in a school district, public charter school, education service district, community college or state institution of higher education.

(b) A holder of an American Indian languages teaching license who does not have a teaching license issued under ORS 342.125 may not teach in a school district or education service district any subject other than the American Indian language they are approved to teach by the tribe.

(c) A holder of an American Indian languages teaching license who does not also have a teaching license or registration issued under ORS 342.125 may not teach in a public charter school any subject other than the American Indian language they are approved to teach by the tribe.

- (8) (a) As used in this subsection, "technical assistance program" means a program provided to an American Indian languages teacher by a licensed teacher with three or more years of teaching experience. A technical assistance program may include direct classroom observation and consultation, assistance in instructional planning and preparation, support in implementation and delivery of classroom instruction, and other assistance intended to enhance the professional performance and development of the American Indian languages teacher.
- (b) The holder of an American Indian languages teaching license who does not also have an administrative license, teaching license or registration issued under ORS 342.125 and who is employed by a school district, public charter school or education service district shall participate in a technical assistance program with a person holding a teaching license issued by the commission under ORS 324.125. The technical assistance program shall meet the guidelines specified in ORS 329.815 (1) to (3).
- (9) An American Indian languages teaching license shall be valid for three years and may be renewed upon application from the holder of the license.

2. Oregon Administrative Code, Chapter 584, Teacher Standards and Practices Commission, Division 60, Twenty-First Century Teaching Licenses, Section 584-060-0200, Requirements for an American Indian Languages Teaching License

Upon filing a correct and complete application in form and matter prescribed by the Commission, an applicant may be granted an American Indian Teaching License for one or more American Indian languages. The license shall be valid for three years and may be renewed upon application from the holder of the license.

- (1) The initial application shall be joint application from the prospective teacher and the tribe whose language will be taught. The tribe must certify that the applicant is qualified to teach the language of the tribe.
- (2) The initial application shall include the submission of fingerprint cards with the appropriate fees and a completed affidavit attesting to the review of laws prohibiting discrimination as found in the booklet entitled Discrimination and the Oregon Educator.
- (3) A holder of an American Indian languages teaching license who does not have a teaching license or registration issued under ORS 342.125 may not teach any subject other than the American Indian language they are approved to teach by the tribe.

M. SOUTH DAKOTA

South Dakota has the following Administrative Rules.

1. **South Dakota Administrative Code, Title 24, Department of Education and Cultural Affairs, Article 24:16, Teacher Preparation Program Approval, Chapter 24:16:08, Requirements for Basic Teaching Programs, Section 24:16:08:43, K-12 South Dakota Indian studies education program**

A K-12 South Dakota Indian studies education program shall comply with all standards in general education, professional education, and K-12 education program requirements, require coursework sufficient to constitute a major, with at least 50 percent in upper division coursework, and require study experience in the:

- (1) History of the South Dakota American Indian languages and how oral and written language is acquired, understood and used;
 - (2) Culture, social, political, and economic systems of South Dakota American Indians;
 - (3) Psychology, philosophy, and education of South Dakota American Indians;
- and
- (4) Contemporary literature of South Dakota American Indians and other Native Americans.

2. **South Dakota Administrative Code, Title 24, Department of Education and Cultural Affairs, Article 24:16, Teacher Preparation Program Approval, Chapter 24:16:08, Requirements for Basic Teaching Programs, Section 24:16:08:44, K-12 South Dakota Indian studies education endorsement program**

A K-12 South Dakota Indian studies education endorsement program requires a South Dakota Indian studies methodology course in addition to 12 semester hours in the language, history, culture, and literature of South Dakota American Indians. Study in the developmental characteristics of K-12 learners and a practicum, internship, or student teaching inclusive of K-12 learners is required in addition to the 12 hours, if not previously completed. Verified teaching experience in K-12 South Dakota Indian studies within the five-year period immediately preceding application may be accepted in lieu of the above field experience at the equivalency of one year's teaching experience for one semester hour credit for a maximum of three semester hours of the total credit hours required.

N. WASHINGTON

Washington has one of the most recent and extensive laws on Native American language teacher certification. It was adopted into its administrative code in 2003.

1. **Washington Administrative Code, Title 180, State Board of Education, Chapter 180-78A, Approval Standards for Performance-Based Preparation Programs for Teachers, Administrators, and Educational Staff Associates-Based Preparation Programs, Professional Certificate Programs, program Approval Standard, Specific Knowledge and Skills, Section 180-78A-700, First peoples' language / culture certification pilot program**

(1) findings. The state board of education endorses the following:

(a) Teaching first peoples' languages can be a critical factor in successful educational experiences and promoting cultural sensitivity for all students. The effect is particularly strong for native American students;

(b) First peoples' languages are falling silent. Despite tribal efforts, first people's languages are not fully incorporated into the school systems. This is a loss to the cultural heritage of the affected tribes and to the cultural resources of Washington state;

(c) recognition of native American languages under RCW 28A.230.090(3) and 28B.80.350(2), as satisfying state or local graduation requirements and minimum college admission requirements, while concentrating on promoting a positive impact on student learning through state policies, is insufficient to meet the educational needs of native American students:

(d) The potential to have a positive impact on student learning is in part dependent on the willingness of the local education agency to collaborate with the sovereign tribal government's language / culture program;

(e) It is within the statutory authority of the state board of education to enhance the learning opportunities for all students by helping prevent the loss of first peoples' languages through assisting the state's sovereign neighbors to sustain, maintain or recover their linguistic heritage, history and culture;

(f) From the Multi-Ethnic Think Tank position statement, June 2001:

(i) '... A culturally inclusive pedagogy will ensure the success of all students, who will develop greater appreciation of other cultures and worldviews;'

(ii) 'All students have prior experiences that frame their worldview; learn from childbirth and are lifelong learners; can academically achieve at high levels when they are appropriately taught; and are entitled to learn in a multicultural context;'

(g) Research has shown that students who study another language may benefit in the following ways: Greater academic success in other areas of study, including reading, social studies, and mathematics; a clearer understanding of the English language including function, vocabulary and syntax; and an increase on standardized test scores, especially in verbal areas;

(h) From the Native American Languages Act, Public Law 101-477, Section 102, 1990:

(i) 'The traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;'

(ii) 'Languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people'; and

(i) There are many sovereign tribal nations in the state of Washington and they serve the needs of many groups of first peoples, each possessing unique languages, cultures and worldviews.

(2) purposes. The purpose of this section is to establish a pilot program to accomplish the following goals:

(a) To honor the sovereign status of tribal governments in their sole expertise in the transmission of their indigenous languages, heritage, cultural knowledge, customs, traditions and best practices for the training of first peoples' language/culture teachers;

(b) Contribute to a positive impact on student learning by promoting continuous improvement of student achievement of the sovereign tribal government's language/culture learning goals, as established by each sovereign tribal government's language/culture program, and by supporting the goals for multicultural education included in the 2001 position statement developed by the Washington state Multi-Ethnic Think Tank;

(c) Contribute to the preservation, recovery, revitalization, and promotion of first peoples' languages and cultures;

(d) Meaningfully acknowledge that language is inherently integral to native American culture and ways of life;

(e) Implement in a tangible way the spirit of the 1989 Centennial Accord between Washington state and the sovereign tribal governments in the state of Washington.

(f) Provide a mechanism for the state board of education to recognize tribally qualified language/culture teachers as eligible to receive a Washington state first peoples' language/culture teaching certificate; and

(g) Provide the opportunity for native American students to learn first peoples' languages and cultures while at school and provide another avenue for students to learn core curricula through first peoples' worldviews.

(3) intent. It is the intent of the state board of education to work in collaboration with the sovereign tribal governments of Washington state to establish a Washington state first peoples' language/culture teacher certification program on a pilot basis in order to:

(a) Act in a manner consistent with the policy as specified in the Native American Languages Act, P.L. 101-477 Sec. 104(1) 'preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages';

(b) Act in a manner consistent with Washington state's government-to-government relationship with Washington state sovereign tribal governments and use the Washington state first peoples' language/culture certification pilot programs to model effective government-to-government relationships;

(c) Act in a manner consistent with the goal of the state Basic Education Act under RCW 28A.150.210;

(d) Act in a manner consistent with the following purposes of Public Law 107-110, 'No Child Left Behind Act':

(i) 'Holding schools, local education agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education,' Sec. 1002(4);

(ii) 'Providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time,' Sec. 1002(8);

(iii) 'Promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content,' Sec. 1002(9);

(iv) '... Supporting local education agencies, Indian tribes, organizations, postsecondary institutions and other entities to meet the unique education, culturally related academic needs of American Indian and Alaskan Native Students' Sec. 7102(a);

(e) Act on its involvement with and adoption of the 1991 joint policy statement on Indian education: 'K-12 American Indian dropout prevention is a priority of schools. Effective education needs to be implemented throughout the K-12 school system if the American Indian student is to achieve academic and personal success';

(f) Acknowledge that there is a public responsibility to make available to all students in the state of Washington an accurate and balanced study of the American Indian experiences with and contributions to life on this continent;

(g) Act on the following state board beliefs:

(i) In order to meet the needs of all students, highly qualified teachers are required;

(ii) All state board of education policies and activities should meet the needs of the state's diverse student population;

(iii) In order for all students to achieve at high levels, multiple learning styles and needs must be supported; and

(h) Act on the following goals from the state board's 2002-05 work plan:

(i) Professional education and certification requirements are aligned with education reform and support a positive impact on student learning;

(ii) All students shall be provided equitable educational opportunities.

(4) definitions

(a) 'Positive impact on student learning' shall mean:

(i) The same as under WAC 180-78A-010(8) and 180-16-220 (2)(b); and

(ii) (A) Supporting the goal of basic education under RCW 28A.150.210. to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives... ';

(B) Promoting continuous improvement of student achievement of the state learning goals and the sovereign tribal government's language/culture learning goals as established by each sovereign tribal government's language/culture program;

(C) Recognizing nonacademic student learning and growth related, but not limited, to: Oral traditions, community involvement, leadership, interpersonal relationship skills, teamwork, self-confidence, resiliency, and strengthened unique cultural identities;

(iii) Developing greater appreciation of other cultures and worldviews;

(b) A 'culturally sensitive environment' honors the unique history, culture, values, learning styles, and community of the student. For example, to demonstrate the value of the language and culture, the homeroom teacher participates in the language/culture classroom. A 'culturally sensitive environment' also includes those provisions as outlined in the Washington state joint policy on equity in education, revised in May 2000.

(c) For the purpose of this section, 'highly qualified teachers' shall mean those teachers who meet the standards of the sovereign tribal government's language/culture program.

(5) pilot program established. A Washington state first peoples' language/culture teacher certification program is established in February 2003 and will continue through the 2005-06 school year. At the end of the 2005-06 school year, the program will be extended, modified or made permanent, as determined by the state board of education in consultation with participating sovereign tribal governments.

(6) tribal eligibility to participate. Any sovereign tribal government in the state of Washington shall be eligible to participate individually on a government-to-government basis in the pilot program.

(7) project requirements.

(a) Each sovereign tribal government will appoint and certify individuals who meet the tribe's criteria for certification as instructors in the Washington state first peoples' language/culture pilot program.

(b) Each sovereign tribal government's language/culture project shall submit to the state board of education the following information for each eligible language/culture teacher desiring to participate in the pilot project:

(i) Written documentation that each designated teacher has completed the sovereign tribal government's language/culture teacher certification program;

(ii) Written documentation that each designated teacher has completed the background check required under RCW 28A.410.010 and WAC 180-79A-150 (1) and (2);

(iii) Written documentation that each designated teacher has completed a course on issues of abuse as required by RCW 28A.410.035 and WAC 180-79A-030(6);

(iv) Designation of which language(s), or dialects thereof, shall be listed on the Washington state first peoples' language/culture certificate;

(c) After meeting the requirements of subsection (8)(b) of this section and receiving state board of education approval, the office of the superintendent of public instruction shall issue each teacher a Washington state first peoples' language/culture teaching certificate;

(d) To support a positive impact on student learning, the local education agency in consultation with the sovereign tribal government's language/culture program is strongly encouraged to provide:

- (i) A minimum of one contact hour per day, five days a week;
- (ii) Access to the same students from year to year, to the extent possible, so that students who receive instruction during the first year of the project can continue to receive instruction throughout the three years of the project;
- (iii) A culturally sensitive environment as defined in subsection (4)(b) of this section; or
- (iv) Some combination of (d)(i), (ii), and (iii) of this subsection which will allow a positive impact on student learning;

(e) To support a positive impact on student learning, the sovereign tribal government's language/culture program will provide written documentation of how teaching the first peoples' language/culture has supported the promotion of continuous improvement of student achievement of the program learning goals as established by each sovereign tribal government's language/culture program;

(f) To support a greater understanding of the government-to-government relationship, the professional development and certification committee of the state board of education and the professional educator standards board are strongly encouraged to make site visits and attend meetings with the local education agency and the sovereign tribal government's language/culture program;

(g) Nothing in this section shall be interpreted as precluding any eligible tribe in consultation with the state or in consultation with any local education agency from entering into an inter-governmental agreement or compact related to the teaching of first peoples' languages and cultures in order to address unique issues related to individual sovereign tribal governments.

(8) assignment of teachers

(a) The holder of a Washington state first peoples' language/culture teacher certificate shall be deemed qualified to be a teacher of first peoples' language/culture with the ability to meet individual tribal competency criteria for language/culture, history, and English.

(b) A Washington state first peoples' language/culture teacher certificate qualifies the holder to accept a teaching position in a public school district.

(c) The holder of a Washington state first peoples' language/culture teacher certificate who does not also hold an initial or residency certificate shall be assigned to teach only the language(s)/culture(s) designated on the certificate, and no other subject.

(d) The Washington state first peoples' language/culture teacher certificate is recognized by the state of Washington for as long as the teacher holds a valid language/culture certificate from a participating sovereign tribal government.

(e) A Washington state first peoples' language/culture teacher certificate will serve as the endorsement in first peoples' language/culture for anyone holding an initial or residency certificate.

(9) reports

(a) Annually, for the duration of the pilot program, each participating tribe shall submit a report to the state board of education with documentation of how its particular project is having a positive impact on student learning.

(b) Not later than October 31, 2006, the professional development and certification committee of the state board of education, in consultation with the participating sovereign tribal governments and the professional educator standards board, shall create and submit a report to the state board of education with the following information:

(i) An end of program analysis of the positive impact on student learning of each pilot project;

(ii) An appraisal of the government-to-government relationships established under the program, at both the state and local levels; and

(iii) The report shall include a recommendation on whether to extend, modify or make permanent the Washington state first peoples' language/culture teacher certification pilot program.

O. WISCONSIN

Wisconsin first enacted its American Indian language and culture education law in 1979. *See* 1979 Wis. Laws Ch. 346. The current laws are as follows:

1. Wisconsin Statutes, Organization of State Government, Chapter 15, Structure of the Executive Branch, Subchapter II, Departments, Section 15:375, Attached Boards

(1) American Indian Language and culture education board. There is created an American Indian language and culture education board which is attached to the department of education under s. 15. 03. The board shall consist of 13 members appointed by the governor for staggered 4-year terms from recommendations made by the various Indian tribes, bands and other organizations in this state. The members shall include parents or guardians of American Indian children, American Indian teachers, school administrators, a school board member, persons involved in programs for American Indian children and persons experienced in training of teachers for American Indian language and culture programs. Members shall be appointed so as to be representative of all the American Indian tribes, bands and organizations in this state. In addition to its duties under subch.IV of ch. 115, the board shall advise the secretary of education, the board of regents of the university of Wisconsin system, the higher educational aids board and the technical college system board on all matters relating to the education of American Indians. The board does not have rule-making authority.

2. Wisconsin Statutes, Schools, Chapter 115, State Superintendent: General Classifications and Definitions; Children with Disabilities, Subchapter II, State Superintendent of Public Instruction, Section 115.28, General duties

The state superintendent shall:

...

- (17) American Indian language and culture education.
- (a) Establish by rule standards for certifying the abilities of teachers participating in American Indian language and culture education programs under subch. IV to read and write or speak an American Indian language and to possess knowledge of American Indian history and culture.
 - (b) Establish by rule standards for certifying the abilities of home school coordinators, counselors and aides participating in American Indian language and culture education programs under subch. IV to possess knowledge of American Indian history and culture.
 - (c) Promulgate rules which further define “American Indian” under s. 115.71(2)(d).
 - (d) Develop a curriculum for grades 4 to 12 on the Chippewa Indians’ treaty-based, off-reservation rights to hunt, fish and gather.

3. Wisconsin Statutes, Schools, Chapter 115, State Superintendent; General Classifications and Definitions; Children with Disabilities, Subchapter IV, American Indian Language and Culture Program, Section 115.72, Establishment of programs

- (1) Any school district enrolling American Indian pupils, or alternative school, may establish, on a voluntary basis, an American Indian language and culture education program. The program shall be designed to:
- (a) Make the school curriculum more relevant to the needs, interests and cultural heritage of American Indian pupils.
 - (b) Provide reinforcement of the positive self-image of American Indian pupils.
 - (c) Develop intercultural awareness among pupils, parents and staff.
- (2) The American Indian language and culture education program may include:
- (a) Instruction in American Indian language, literature, history and culture.
 - (b) In-service training and technical assistance for staff in regard to methods of teaching American Indian pupils.
 - (c) Vocational education and counseling for American Indian pupils.
 - (d) Modification of curriculum, instructional methods and administrative procedures to meet the needs of American Indian pupils.
 - (e) Tests of the academic achievement of the American Indian pupils enrolled.
 - (f) Identification of the educational needs of the American Indian pupils enrolled.
 - (g) Classification of American Indian pupils enrolled by grade, level of education, age and achievement.
- (3) The school board of a district establishing an American Indian language and culture education program may designate the school or schools in which the program shall be offered. The parent or guardian of an American Indian pupil may transfer the pupil to the school in which the program is offered, if it is in the same district, in order for the pupil to participate in the program.
- (4) American Indian language and culture education programs established under this subchapter shall be located in school facilities in which regular classes in a variety of subjects are offered on a daily basis.

4. Wisconsin Statutes, Schools, Chapter 118, General School Operations, Section 118.19, Teacher certificates and licenses

...

- (3) (b) The state superintendent shall permanently certify any applicant to teach Wisconsin native American languages and culture who has successfully completed the university of Wisconsin-Milwaukee school of education approved Wisconsin native American languages and culture project certification program at any time between January 1, 1974 and December 31, 1977. School districts shall not assign individuals certified under this paragraph to teach courses other than Wisconsin native American languages and culture, unless they qualify under par. (a).

5. Wisconsin Administrative Code, Public Instruction, Chapter PI 3, Licences, Subchapter IX, Indian Language, Culture and History, Section PI 3.44, Indian home-school coordinators, language and culture aids

(1) A regular license to serve as an aide or home-school coordinator in an American Indian language and culture education program shall be issued under s. 115-28 (17)(b), Stats., to an applicant who is recommended as competent to serve in the position by the employing school district administrator or the employing administrator of an alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee pursuant to s. 115.735, Stats.

(2) The designee of the tribal council or the local American Indian parent advisory committee shall be competent in the target Indian language and knowledgeable about the history and culture of the target Indian population.

(3) A license to serve as an aide in an American Indian language and culture program is not mandatory.

6. Wisconsin Administrative Code, Public Instruction, Chapter PI 3, Licenses, Subchapter IX, Indian Language, Culture and History, Section PI 3.45, Indian language, history and culture

(1) A regular license to teach Indian language or to teach Indian history and culture in an American Indian language and culture education program may be issued under section 115.28(17)(a), Stats., to an applicant who holds or is eligible for a regular teaching license and who is recommended by the employing school district administrator or the employing administrator of an alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee as possessing the following competencies and who provides the department with evidence of possessing the following competencies:

(a) Teacher of Indian language.

1. Ability to read, speak, write English and the target Indian language with fluency and accuracy.
2. Ability to teach the target Indian language.

(b) Teacher of Indian history and culture.

1. Knowledge and understanding of the history and culture of the target pupil population.
- 2.. Ability to teach the history and culture of the target pupil population.

(c) The designee of the tribal council or of the local American Indian parent advisory committee shall be competent in the target Indian language and knowledgeable about the history and culture of the target Indian population.

(2) (a) A 2-year license to teach Indian language or to teach Indian history and culture in an American Indian language and culture education program shall be issued under s. 115.28 (17) (a), Stats., to an applicant who does not meet the requirements of sub. (1) who is recommended by the employing school district administrator or the employing administrator of an alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee as possessing the following competencies and who provides the department with evidence of possessing the following competencies:

1. Teacher of Indian language.

- a. Ability to read, speak and write English and the target Indian language with fluency and accuracy.
- b. Ability to teach the target Indian language.

2. Teacher of Indian history and culture.

- a. Knowledge and understanding of the history and culture of the target pupil population.
- b. Ability to teach the history and culture of the target pupil population.

- (b) The designee of the tribal council or of the local American Indian parent advisory committee shall be competent in the target Indian language and knowledgeable about the history and culture of the target Indian population.
- (3) (a) Upon verification of 2 years of successful teaching experience by the school or district administrator, a regular license shall be issued to the applicant who has attended the biannual workshops sponsored by the American Indian language and culture education board or the equivalent or who has been exempted from attendance by the board and who is recommended by the employing school district administrator or the employing administrator of an alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee as possessing the following competencies:
1. Teacher of Indian language.
 - a. Ability to plan and organize instructional materials, units, and lessons designed to instruct pupils in the use of the target Indian language.
 - b. Ability to analyze the sound systems, grammatical forms, and syntax of the target Indian language and English and to apply that knowledge to the process of teaching the target Indian language.
 - c. Ability to develop drills and exercises that develop pupil awareness of the structure of both the target Indian language and English.
 - d. Ability to guide pupils toward informal conversation in the target Indian language.
 - e. Knowledge of the principles and theories of child, young adolescent, or adolescent growth and development, as appropriate to the level or levels of licensure, and the relationship of that knowledge to teaching the target Indian language at the elementary, middle, or secondary level.
 2. Teacher of Indian history and culture.
 - a. Ability to plan and organize instructional materials, units, and lessons designed to instruct pupils in the history and cultural traditions of the target Indian population.
 - b. Ability to classify the principal ways in which the target Indian culture resembles and differs from that of the non-Indian culture of the United States.
 - c. Ability to draw from personal experience in order to create a variety of learning situations which bring the reality of the target Indian culture closer to the pupil.
 - d. Ability to devise teaching methods appropriate to the culture of the target Indian population.

- e. Ability to develop, encourage, and promote pupil participation in activities and events which reflect the contemporary ways of life of the target Indian culture.
- f. Knowledge of the principles and theories of child, young adolescent, or adolescent growth and development, as appropriate to the level or levels of licensure, and the relationship of that knowledge to teaching the target Indian history and culture at the elementary, middle, or secondary level.

(b) The designee of the tribal council or of the local American Indian parent advisory committee shall be competent in the target Indian language and knowledgeable about the history and culture of the target Indian population.

7. Wisconsin Administrative Code, Public Instruction, Chapter PI 34, Teacher Education Program Approval and Licenses, Subchapter XI, Additional Licenses, Section PI 34.34

Licenses issued in the following categories do not require completion of an approved program or institutional endorsement from a college or university for issuance. Unless otherwise noted, licenses under this subchapter are issued for 5 years. Renewal requirements, if any, are specified under each license

...

8

(7) INDIAN HOME SCHOOL COORDINATOR, LANGUAGE AND CULTURE AIDE LICENSE.

- (a) A license to serve as an aide or home-school coordinator in an American Indian language and culture education program shall be issued as specified under s. 115.28 (17) (b), Stats., to an applicant who is recommended as competent to serve in the position by the employing school district administrator or the employing administrator of an alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee described under s. 115.735, Stats.
- (b) The designee of the tribal council or the local American Indian parent advisory committee shall be competent in the target Indian language and knowledgeable about the history and culture of the target Indian population.
- (c) A license to serve as an aide in an American Indian language and culture program is not mandatory.

(8) INDIAN LANGUAGE, HISTORY AND CULTURE LICENSE.

- (a)
 1. A license to teach Indian language or to teach Indian history and culture in an American Indian language and culture education program may be issued as specified under s. 115.28 (17) (a), Stats., to an applicant who holds or is eligible for a teaching license and who is recommended by the employing school district administrator or the employing administrator of an alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee described under s. 115.735, Stats., as possessing the following competencies and who provides the department with evidence of possessing the following competencies:
 - a. To teach Indian language, the applicant shall demonstrate the ability to read, speak, write English and the target Indian language with fluency and accuracy and the ability to teach the target Indian language.
 - b. To teach Indian history and culture, the applicant shall demonstrate knowledge and understanding of the history and culture of the target pupil population and the ability to teach the history and culture of the target pupil population.
 2. The designee of the tribal council or of the local American Indian parent advisory committee shall be competent in the target Indian language and knowledgeable about the history and culture of the target Indian population.
- (b)
 1. A two-year license to teach Indian language or to teach Indian history and culture in an American Indian language and culture education program may be issued as specified under s. 115.28 (17) (a), Stats., to an applicant who does not meet the requirements of par. (a) 1. who is recommended by the employing school district administrator or the employing administrator of an alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee as possessing the following competencies and who provides the department with evidence of possessing the following competencies:
 - a. To teach Indian language, the applicant shall demonstrate his or her ability to read, speak and write English and the target Indian language with fluency and accuracy and the ability to teach the target Indian language.
 - b. To teach Indian history and culture, the applicant shall demonstrate knowledge and understanding of the history and culture of the target pupil population, and the ability to teach the history and culture of the target pupil population.
 2. The designee of the tribal council or of the local American Indian parent advisory committee shall be competent in the target Indian language and knowledgeable about the history and culture of the target Indian population.

- (c) 1. A license under par. (a) may be issued upon verification of 2 years of successful teaching experience under par. (b) when recommended by the employing school or alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee as possessing the following competencies:
- a. To teach Indian language, the applicant shall demonstrate the ability to plan and organize instructional materials, units, and lessons designed to instruct pupils in the use of the target Indian language; the ability to analyze the sound systems, grammatical forms, and syntax of the target Indian language and English and to apply that knowledge to the process of teaching the target Indian language; the ability to develop drills and exercises that develop pupil awareness of the structure of both the target Indian language and English; the ability to guide pupils toward informal conversation in the target Indian language; knowledge of the principles and theories of child, young adolescent, or adolescent growth and development, as appropriate to the level or levels of licensure, and the relationship of that knowledge to teaching the target Indian language.
 - b. To teach Indian history and culture, the applicant shall demonstrate the ability to plan and organize instructional materials, units, and lessons designed to instruct pupils in the history and cultural traditions of the target Indian population; the ability to classify the principal ways in which the target Indian culture resembles and differs from that of the non-Indian culture of the United States; the ability to draw from personal experience in order to create a variety of learning situations which bring the reality of the target Indian culture closer to the pupil; the ability to devise teaching methods appropriate to the culture of the target Indian population; the ability to develop, encourage, and promote pupil participation in activities and events which reflect the contemporary ways of life of the target Indian culture; knowledge of the principles and theories of child, young adolescent, or adolescent growth and development, as appropriate to the level or levels of licensure, and the relationship of that knowledge to teaching the target Indian history and culture.
2. The designee of the tribal council or of the local American Indian parent advisory committee shall be competent in the target Indian language and knowledgeable about the history and culture of the target Indian population.

(9) INDIAN LANGUAGE AND CULTURE - SCHOOL COUNSELOR LICENSE.

A license to serve as a school counselor in an American Indian language and culture program may be issued under s. 115.28 (17) (b), Stats., to an applicant who holds or is eligible for a license as a counselor and who is recommended by the employing school district administrator or the employing administrator of an alternative school and by the designee of the tribal council or by the designee of the local American Indian parent advisory committee and who provides the department with evidence of possessing knowledge and understanding of the culture and traditions of the target pupil population.

P. WYOMING

Wyoming enacted its Native languages teacher certification law in 1993. *See* 1993 Wyo. Sess. Laws Ch. 217. The law currently provides as follows.

1. Wyoming Statutes, Education, Chapter 2, The Administration of the State System of Education at the State Level, Article 8, Wyoming Professional Teaching Standards Board, Section 21-2-802, Powers and duties; teacher certification; suspension and revocation; certification fees; disposition of collected fees

- (a) (ii) the board shall promulgate rule and regulation provide for:
 - A. Certification of teachers of the Arapahoe and Shoshoni language and in its discretion, the board may make other exceptions as to both teachers and administrators it determines necessary and proper in special circumstances;

2. Wyoming Administrative Code, Department of Commerce, Professional Teaching Standards Board, Chapter 13, Additional Endorsements, Section 1, Native Language Endorsement

- (a) Arapahoe or Shoshoni. This endorsement is granted in compliance with W.S. 21-2-802(a)(ii)(A) and is reserved solely for these languages.
- (b) Tribal Council approval. These regulations apply only to Arapahoe and Shoshoni Indian Language instructors who have been approved by a committee of the Tribal Council which determines the applicant's proficiency and capability for teaching the language.
 - (i) A two-year certificate may be issued to an applicant who has:
 - (A) been approved by the Tribal Council Committee; or
 - (B) been employed by a school district to teach the Arapahoe or Shoshoni Language.
 - (ii) The certificate may be renewed by an applicant who:
 - (A) receives the Tribal Council Committee's approval to renew; and
 - (B) is employed by a school district for the purpose of teaching the Arapahoe or Shoshoni Language.

THE NATIVE AMERICAN RIGHTS FUND

INDIAN EDUCATION LEGAL SUPPORT PROJECT

**A Compilation of Federal and State Education Laws regarding Native Language in Curriculum
and Certification of Teachers of Native Languages**

**SELECTED PROVISIONS OF
THE NO CHILD LEFT BEHIND ACT OF 2001**

The No Child Left Behind Act of 2001 (NCLB), Pub. L. No. 107-110, 115 Stat. 1425 (2001), is a six-year reauthorization of programs and appropriations under the Elementary and Secondary Education Act of 1965 (ESEA).

NCLB significantly reforms the ESEA by requiring greater accountability of schools for teacher quality and results of testing and other assessments; increasing local control of schools and their flexibility in using federal funding; providing new information to and options for parents; and, emphasizing scientifically based research instruction and other methods in schooling.

The following provisions of NCLB are among those that may impact Native language in curriculum, or the certification of teachers of Native languages.

**A. UNITED STATES CODE, TITLE 20, EDUCATION, CHAPTER 70,
STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND
SECONDARY SCHOOLS, SUBCHAPTER I, IMPROVING THE ACADEMIC
ACHIEVEMENT OF THE DISADVANTAGED, PART A, IMPROVING BASIC
PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES, SUBPART
1, BASIC PROGRAM REQUIREMENTS**

**1. Section 6311, State Plans, (a) Plans Required, (6) Language
Assessments**

Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student academic assessments are not available but are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification or appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

2. Section 6311, State Plans, (a) Plans Required, (8) Requirement

Each State plan shall describe—

...

(C) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(E), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-filed teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

3. Section 6311, State Plans, (h) Reports, (1) Annual State Report Card, (C) Required Information

...

(viii) the professional qualifications of teachers in the State, the percentage of such teachers with emergency or provisional credentials, and the percentage of classes in the State taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which, for the purpose of this clause, means schools in the top quartile of poverty and the bottom quartile of poverty in the State.

4. Section 6312, State Plans, (h) Reports, (1) Annual Local Educational Agency Report Card, (E) Public Dissemination, (6) Parents Right-to-Know

(A) Qualifications.

At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

- (ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.
- (iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.
- (vi) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

5. Section 6314, Schoolwide Programs, (b) Components of a Schoolwide Program, (1) In General

A schoolwide program shall include the following components:

...

(C) Instruction by highly qualified teachers.

6. Section 6315, Targeted Assistance Programs, (c) Components of a Targeted Assistance School Program, (1) In General

To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's challenging student academic achievement standards in subjects as determined by the State, each targeted assistance program under this section shall

...

(E) provide instruction by highly qualified teachers;

7. Section 6319, Qualifications for Teachers and Paraprofessionals

(a) Teacher qualifications and measurable objectives

(1) In general

Beginning with the first day of the first school year after January 8, 2002, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.

(2) State plan

As part of the plan described in section 6311 of this title, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005-2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum--

(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005- 2006 school year;

(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

(C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.

(3) Local plan

As part of the plan described in section 6312 of this title, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005-2006 school year.

(b) Reports

(1) Annual State and local reports

(A) Local reports

Each State educational agency described in subsection (a)(2) of this section shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002-2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency, in meeting the measurable objectives described in subsection (a)(2) of this section.

(B) State reports

Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002-2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2) of this section.

(C) Information from other reports

A State educational agency or local educational agency may submit information from the reports described in section 6311(h) of this title for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 6311(h) of this title.

(2) Annual reports by the Secretary

Each year, beginning with the 2002-2003 school year, the Secretary shall publicly report the annual progress of State educational agencies, local educational agencies, and schools, in meeting the measurable objectives described in subsection (a)(2) of this section.

(c) New paraprofessionals

(1) In general

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after January 8, 2002 and working in a program supported with funds under this part shall have--

(A) completed at least 2 years of study at an institution of higher education;

(B) obtained an associate's (or higher) degree; or

(C) met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment--

(i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

(2) Clarification

The receipt of a secondary school diploma (or its recognized equivalent) shall be necessary but not sufficient to satisfy the requirements of paragraph (1)(C).

(d) Existing paraprofessionals

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before January 8, 2002, and working in a program supported with funds under this part shall, not later than 4 years after the date of enactment satisfy the requirements of subsection (c) of this section.

(e) Exceptions for translation and parental involvement activities

Subsections (c) and (d) of this section shall not apply to a paraprofessional--

- (1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or
- (2) whose duties consist solely of conducting parental involvement activities consistent with section 6318 of this title.

(f) General requirement for all paraprofessionals

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

(g) Duties of paraprofessionals

(1) In general

Each local educational agency receiving assistance under this part shall ensure that a paraprofessional working in a program supported with funds under this part is not assigned a duty inconsistent with this subsection.

(2) Responsibilities paraprofessionals may be assigned

A paraprofessional described in paragraph (1) may be assigned--

- (A) to provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;
- (B) to assist with classroom management, such as organizing instructional and other materials;
- (C) to provide assistance in a computer laboratory;
- (D) to conduct parental involvement activities;
- (E) to provide support in a library or media center;
- (F) to act as a translator; or
- (G) to provide instructional services to students in accordance with paragraph (3).

(3) Additional limitations

A paraprofessional described in paragraph (1)--

(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with section 6319 of this title; and

(B) may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

(h) Use of funds

A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

(i) Verification of compliance

(1) In general

In verifying compliance with this section, each local educational agency, at a minimum, shall require that the principal of each school operating a program under section 6314 or 6315 of this title attest annually in writing as to whether such school is in compliance with the requirements of this section.

(2) Availability of information

Copies of attestations under paragraph (1)--

(A) shall be maintained at each school operating a program under section 6314 or 6315 of this title and at the main office of the local educational agency; and

(B) shall be available to any member of the general public on request.

(j) Combinations of funds

Funds provided under this part that are used for professional development purposes may be combined with funds provided under subchapter II of this chapter, other Acts, and other sources.

(k) Special rule

Except as provided in subsection (l) of this section, no State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 6316(c)(3) of this title.

(1) Minimum expenditures

Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005-2006 school year.

B. UNITED STATES CODE, TITLE 20, EDUCATION, CHAPTER 70, STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND SECONDARY SCHOOLS, SUBCHAPTER III, LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS, PART A, ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

1. Section 6812, Purposes

(7) to streamline language instruction educational programs into a program carried out through formula grants to State educational agencies and local educational agencies to help limited English proficient children, including immigrant children and youth, develop proficiency in English, while meeting challenging State academic content and student academic achievement standards . . .

2. Subpart 1, Grants and Subgrants for English Language Acquisition and Language Enhancement, Section 6825, Subgrants to Eligible Entities

(a) Purposes of Subgrants

A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children, by assisting the children to learn English and meet challenging State academic content and student academic achievement standards

3. Subpart 1, Grants and Subgrants for English Language Acquisition and Language Enhancement, Section 6826, Local Plans

(c) Teacher English Fluency

Each eligible entity receiving a subgrant under section 3114 shall include in its plan a certification that all teachers in any language instruction educational program for limited English proficient children that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.

4. Subpart 2, Accountability and Administration, Section 6842, Achievement Objectives and Accountability

(b) Accountability

...

(2) Improvement Plan

If a State educational agency determines, based on the annual measurable achievement objectives described in subsection (a), that an eligible entity has failed to make progress toward meeting objectives for 2 consecutive years, the agency shall require the entity to develop an improvement plan that will ensure that the entity meets such objectives. The improvement plan shall specifically address the factors that prevented the entity from achieving such objectives.

(4) Accountability

If a State educational agency determines that an eligible entity has failed to meet the annual measurable achievement objectives described in subsection (a) for 4 consecutive years, the agency shall

(A) require such entity to modify the entity's curriculum, program, and method of instruction; or

(B) (i) make a determination whether the entity shall continue to receive funds related to the entity's failure to meet such objectives; and

(ii) require such entity to replace educational personnel relevant to the entity's failure to meet such objectives.

5. Subpart 2, Accountability and Administration, Section 6845, Rules of Construction

Nothing in this part shall be construed

...

(3) to limit the preservation or use of native American languages.

6. Subpart 2, Accountability and Administration, Section 6848, Programs for Native Americans and Puerto Rico

Notwithstanding any other provision of this part, programs authorized under this part that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that the outcome of programs serving such children shall be increased English proficiency among such children.

7. Part B, Improving Language Instruction Educational Programs, Section 6892, Purpose

The purpose of this part is to help ensure that limited English proficient children master English and meet the same rigorous standards for academic achievement as all children are expected to meet, including meeting challenging State academic content and student academic achievement standards by--

- (1) promoting systemic improvement and reform of, and developing accountability systems for, educational programs serving limited English proficient children;
- (2) developing language skills and multicultural understanding;
- (3) developing the English proficiency of limited English proficient children and, to the extent possible, the native language skills of such children;
- (4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;
- (5) developing data collection and dissemination, research, materials, and technical assistance that are focused on school improvement for limited English proficient children; and
- (6) developing programs that strengthen and improve the professional training of educational personnel who work with limited English proficient children.

8. Part B, Improving Language Instruction Educational Programs, Subpart 1, Program Development and Enhancement, Section 6911, Financial assistance for language instruction educational programs

The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 6912 and 6913 of this title--

- (1) to develop and enhance their capacity to provide high- quality instruction through language instruction educational programs or special alternative instruction programs to limited English proficient children; and
- (2) to help such children--
 - (A) develop English proficiency and, to the extent possible, proficiency in their native language; and
 - (B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet under section 6311(b)(1) of this title.

9. Part B, Improving Language Instruction Educational Programs, Subpart 1, Program Development and Enhancement, Section 6914, Applications

(g) Contents

(1) In general

An application for a grant under this subpart shall contain the following:

...

- (E) An assurance that the applicant will employ teachers in the proposed program who, individually or in combination, are proficient in--
 - (i) English, with respect to written, as well as oral, communication skills; and
 - (ii) the native language of the majority of the children who the teachers teach, if instruction in the program is in the native language as well as English.

10. Part B, Improving Language Instruction Educational Programs, Subpart 1, Program Development and Enhancement, Section 6916, Programs for Native Americans and Puerto Rico

Notwithstanding any other provision of this part, programs authorized under this subpart that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

11. Part B, Improving Language Instruction Educational Programs, Subpart 2, Research, Evaluation, and Dissemination, Section 6935, Instruction materials development

(a) In general

The Secretary may make grants for the development, publication, and dissemination of high-quality instruction materials--

- (1) in Native American languages (including Native Hawaiian languages and the language of Native American Pacific Islanders), and the language of natives of the outlying areas, for which instruction materials are not readily available; and
- (2) in other low-incidence languages in the United States for which instruction materials are not readily available.

(b) Priority

In making the grants, the Secretary shall give priority to applicants for the grants who propose--

- (1) to develop instruction materials in languages indigenous to the United States or the outlying areas; and
- (2) to develop and evaluate materials, in collaboration with entities carrying out activities assisted under subpart 1 and this subpart, that are consistent with challenging State academic content and student academic achievement standards.