



Washington State School
Directors' Association



Memorandum of Agreement Between
The Tribal Leader Congress on Education, Washington State School
Directors Association, the State Board of Education, and the Office of the
Superintendent of Public Instruction

It is the intent of the legislature to promote the full success of the centennial accord, which was signed by state and tribal government leaders in 1989. As those leaders declared in the subsequent millennial accord in 1999, this will require "educating the citizens of our state, particularly the youth who are our future leaders, about tribal history, culture, treaty rights, contemporary tribal and state government institutions and contribution of Indian nations to the state of Washington." HB 1495 Sec. 1.

The Parties are entering into this Memorandum of Agreement for the purpose of enhancing the government-to-government relationship between the participating tribes and the state agency parties on issues related to education in the areas of tribal history and culture, and to help further the legislature's stated intent in enacting HB 1495.

The Tribal Leader Congress on Education, by authority vested through their respective Tribal Governments as sovereign nations, the Washington State School Directors' Association, the Washington State Board of Education and the Washington State Office of the Superintendent of Public Instruction agree in the spirit of mutual interest and good faith effort to the following duties and responsibilities.

The Washington State School Directors' Association agrees to:

- Submit by Dec. 1, 2008, in collaboration with the Tribal Leader Congress on Education, a biennial report which will include the progress made in the development of effective government to government relations, the narrowing of the achievement gap, and the identification and adoption of curriculum regarding Tribal history, culture and government to the education committees of the legislature.
- Provide time at regional WSSDA/tribal meetings and WSSDA's annual conference to discuss the intent and substantive provisions of HB 1495.

- Provide time at regional WSSDA/tribal meetings and WSSDA's annual conference meetings for state-tribal government-to-government training.
- Develop guidelines and resources for local school boards to assist in implementing HB 1495; such as guidelines for creating and successfully implementing government-to-government relationships, agreements promoting board liaison positions to enhance school board-Tribal relationships, and other resources aimed at fostering cooperative relationships with Tribes on education.
- Encourage school board members to meet with Tribal leaders to identify the extent and nature of the achievement gap and strategies necessary to close it.
- Increase school board's awareness and understanding of the importance of accurate high quality curricular materials about the history, culture and government of local Tribes
- Actively encourage school boards to identify and adopt curriculum that includes Tribal experiences and perspectives.

The Tribal Leader Congress on Education agrees to:

- Encourage individual TLC tribes to agree to host at least one local school board meeting yearly.
- Encourage and support Tribes in providing authentic training opportunities to local school district staff on tribal history and culture.
- Beginning in 2008, collaborate with the Washington State School Director's Association in preparing and submitting a biennial report which will include the progress made in the development of effective government to government relations, the narrowing of the achievement gap, and the identification and adoption of Tribally approved curriculum regarding Tribal history, culture and government.
- Provide information to the Office of Superintendent of Public Instruction identifying which school districts are on or near the reservations or ceded areas of each tribe.

The Washington State Board of Education agrees to: (This section will be negotiated upon completion of the reorganization of the Washington State Board of Education.)

- Initiate the process to formally consider the inclusion of Tribal history, culture and government as a graduation requirement by Dec. 1, 2006.
- On or before December 1, 2006, begin meetings and active consultation with the Tribal Leader Congress on Education and the Washington State School Directors Association on the inclusion of Tribal history, culture and government as a graduation requirement.
- Reach a decision on including Tribal history, culture and government as a graduation requirement by Dec. 1, 2007.

The Washington State Office of the Superintendent Public Instruction agrees to:

- Collaborate with school districts and Tribes on curricular areas and projects that are statewide in nature and contribute to the overall accomplishment of the intent of HB 1495.
- Help local districts identify federally recognized Indian Tribes whose reservations are in whole or in part within the boundaries of the district and/or those that are nearest to the school district.
- Report annually to the Tribes, TLC, the WSSDA, and the State Board of Education on how OSPI is assisting school districts to close the Native American student achievement gap.
- Provide accurate data on Native American student achievement and completion rate statistics to the Tribes, TLC, the WSSDA, the State Board of Education, including information on the reasons Native students are dropping out and ways to overcome barriers.
- Seek funding and other resources in participation with TLC, WSSDA, and others to develop curriculum resources and develop a Clearing House of existing authentic resources.

DEFINITIONS

Sovereign Nation – American Indian Tribes are recognized in federal law as possessing sovereignty over their members and their territory. Sovereignty means that tribes have the power to make and enforce laws, and to establish courts and other forums for resolution of disputes. The sovereignty that American Indian Tribes possess is inherent which means that it comes from within the tribe itself and existed before the establishment of the United States government. Tribal sovereignty is further defined by the unique relationship of the tribes to the United States. In addition to inherent sovereignty, tribal governments may also exercise authority delegated to them by Congress.

Collaboration – Any cooperative effort between and among governmental entities (as well as with private partners) through which partners work together to achieve common goals. Collaboration can range from very informal, ad hoc activities, to more planned organized and formalized ways of working together. Such collaboration should occur when any proposed policies, programs or actions are identified as having a direct effect on an Indian Tribe.

Government-to-Government – Federally Recognized Indian Tribes have a special *government-to- government* relationship with the U.S. government. *Government to government* is also used to describe the relationship and protocols between tribes and other governments such as states. Key Concepts:

- States/Tribes work directly with each other in a government-to-government fashion, rather than as subdivisions of other governments.

- Take appropriate steps to remove legal and procedural impediments to working directly and effectively with each other's governments and programs.
- Encourage cooperation between tribes, the state and local governments to resolve problems of mutual concern.
- Incorporate these Principles into planning and management activities, including budget, program development and implementation, legislative initiatives, and ongoing policy and regulation development processes.
- Coordinate and provide mutual assistance as the governments assume new regulatory and program management responsibilities.

Achievement Gap – The achievement gap is a race and poverty gap in education achievement.

Federally Recognized Indian Tribe – “Federally Recognized” means these tribes and groups have a special, legal relationship with the U.S. government. There are more than 550 federally recognized tribes in the United States, including 223 village groups in Alaska.

Guidelines – Documents published by various compliance agencies (tribal or non-tribal) for the purpose of clarifying provisions of a law or regulation and indicating how an agency will interpret its law or regulation.

Oral Histories – The practice or tradition of passing cultural or familial information to further generations by storytelling, word of mouth or songs. Oral histories shall be respected as Tribal intellectual and cultural property.

Tribal Intellectual and Cultural Property Rights - Cultural property includes not only land and other tangible property, but ideas, traditions, and other "intangibles". Tribes do not generally make this distinction, as all things, including knowledge, are gifts of the Creator and have real existence, power and life. Respect for tribal intellectual and cultural property rights is fundamental for the cultural survival and cultural sustainability of Tribes. Unlike individually-based intellectual property rights, cultural property belongs to the cultural group, rather than to an individual. As an individual has the right to control use or sale of his/her property, the cultural group has the right to control the use or sale of its property. Although individual tribal members may have exclusive rights to tell certain stories, sing certain songs or dance certain dances, and under customary law they may have the right to transfer these rights to others, the cultural property still remains under the customary laws of the Tribe as a collective right. This cultural property belongs to an Indian Tribe as a whole and not an individual, which has the ultimate authority to regulate conditions of access, transfer and use. Tribal intellectual and cultural property is entitled to protection in perpetuity and its protected status is not lost when it enters the public domain.

The State agency parties further agree to respect Tribal intellectual and cultural property rights and customary law in Tribally-created materials, Tribal stories and oral histories that are used in school curriculum. Access and use of Tribal intellectual and cultural property can only be made through the prior informed consent of Tribal authorities based on mutually agreeable terms.

The parties to this Memorandum of Agreement further agree to meet in good faith to resolve any issues of disagreement in implementing this Agreement and HB1495. Such dispute resolution meeting shall occur within 30 days of notice being provided requesting a dispute resolution meeting and identifying the parts of the agreement and issues that are in dispute.

This Memorandum of Agreement will become effective upon the signatures of the parties. The parties shall meet and review progress under this agreement on an annual basis. The Memorandum of Agreement may be amended by written agreement of the parties at any time. Any party may withdraw from this Memorandum of Agreement by giving the other parties 30 days written notice of its intent to withdraw.

Nothing in this agreement is intended to preclude or affect in any way the authority of individual Tribal governments, whether they are participating in the TLC or not, to work independently with State agencies and school districts on implementation of HB 1495.