

**THE EDUCATION OF AMERICAN INDIANS AND ALASKA
NATIVES,
AN HISTORICAL SKETCH**

By

Thomas (Tom) R. Hopkins

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CHAPTER 2 THE EDUCATION OF AMERICAN INDIANS AND ALASKA NATIVES, AN HISTORICAL SKETCH

The organization of this Chapter is influenced by my own experiences as a teacher and administrator in the BIA's Education program. Because of my experiences, this Chapter is not necessarily an exact chronological approach to the history of educating Indians-Natives.

There are two books on the history of educating American Indians, which includes Alaska Natives. One is by Evelyn C. Adams (1946) and the other one is by Margaret Szasz (1974). The Adams book provides an excellent history from the earliest colonial times through to the New Deal and 1946. Carol Barnhardt (1985) provides an excellent chronicle of Alaska Native education. Though not histories, there are two other publications that provide benchmark information of the education of Indian/Native. The first is *To Live on this Earth* by Estelle Fuchs and Robert Havighurst (Fuchs and Havighurst (1972). This was the National Study of American Indian Education that was completed in 1971. The other was a review of research written by Donna Deyhle and Karen Swisher (1997).

Adams demonstrates that from the earliest colonial times Eurocentric¹ style schools were superimposed on all Indian and Alaska Native peoples. An excellent overview of the histories of educating Indians-Natives was written in 1969 by Brewton Berry (1969), as a report for the *Senate Special Subcommittee on Indian Education*, (U.S. Senate, 1969) initiated by Senator Robert Kennedy and completed after his death by Senator Edward Kennedy, Berry reviewed over 1,500 items and settled on 708 to include in his *Survey*. Berry provides a succinct beginning of Eurocentric education in the Americas:

The discovery of America came at a time when the missionary zeal of the Christian church was at a high ebb. The prospect of converting millions of heathen in the New World posed a challenge, not only to the churches, but to the rulers and laymen as well.(p.5)

Writing some 20 years earlier, Adams links Indian-Native education to colonial

¹ The term Eurocentric refers to the general structure of formal schooling that has been in existence in the Americas since the earliest colonists arrived from Europe. Its antecedents can be traced back to the ancient Greeks.

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economics. Indeed, her first chapter is titled, "Economic Conflict and Education." Her interpretation was that, besides converting the heathen, Christian worship was to instill the Christian work ethic and thereby support European economic development in the colonies. As she says,

Educators worked diligently but in vain to stamp out Indian culture which was denounced as the source of Indian poverty. The white man's technological excellence and assured individual success were cited in glaring contrast. Indian schools were replicas of white schools and were relatively meaningless to the Indians because there was no connecting bridge over which two opposing concepts of life could intermingle and advance. A subsistence economy based on individual land allotments did not take hold. (p. 3-4)

Adams was one of the very few who mentioned the importance of culture in the education of Indians-Natives. It is noteworthy that Willard Beatty (1944), BIA Education Director from 1935 to 1951, titled a section in his edited book *Education for Action* "Culture: Background for Learning." The time period for this section was 1933-43. Since the 1940's, ironically, there has been only nominal attention paid to the culture of Indian-Native children. Unfortunately attention paid has not been consistent nor seriously related to developing a viable cross-culture education approach.

Following colonial times, and even though the BIA was established in 1834, for many years the U.S. military had responsibility for Indian Affairs. It should not be surprising that Indians, not necessarily Alaska Natives, grew to distrust Eurocentric education. Even if the cultural "bridge" had been established, it is unlikely Indians would have trusted the schools. Adams' ends with the New Deal and its version of schools with an Introduction to her book written by John Collier.

Following the military control of Indian Affairs the BIA schools became a political dumping ground. Then in 1926 Secretary of Interior, Hubert Work, requested that the Johns Hopkins University, Institute of Government Research, conduct a "Survey" of the social, economic and education conditions of American Indians. Lewis Meriam (1928) was the Principal Investigator and W. Carson Ryan did the Education work and writing on the Education Section. After the Meriam Report was completed, Ryan, a Swarthmore professor, joined the BIA as its Education Director. When he left the BIA the Directorship it was assumed by Willard Beatty. Both Ryan and Beatty were avowed Progressive Educators. The

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reform measures recommended in the Meriam Report were many but a few stand out. First, include Indian languages and culture in the school program; Professionalize the teaching staff; and phase out boarding schools to be replaced by day schools located close to the homes of the children. (Op.cit. Szasz, Chapters 3, 4)

It may be succinctly stated that formal Eurocentric colonial education was focused on converting the Indians to Christianity and the work ethic related thereto; next came the Indian wars and the territorial expansion of the U.S.; then there was the use of Indian schools in the political spoils system and from 1933 until 1953, the Progressive Education era.

As mentioned in the Introduction, I joined the BIA Education Program in September of 1953 as a teacher at Barrow, Alaska. At that time the immediate circumstances of teaching culturally and language different young adolescents and children did not leave much time for contemplating the grand policies at the top of the Government. We were too busy coping with the exigencies of daily teaching. The Principal did mention Dr. Beatty in glowing terms and introduced us to the *Minimum Essential Goals for Indian Schools* (USBIA, 1953) the BIA curriculum guides. The reader should keep in mind that 1953 was the beginning of the Termination of services to Indians era that continued for many years thereafter. Termination was made real to us at Barrow because a teaching couple had been at Egegik the previous year and the school had been transferred to the Territorial school system. Other than this observation, Termination did not enter into our Education lives. Without discussing the situation, in 1953 there was a vast disconnect between the school level and the Washington level of the BIA Education program. We taught based on how we had been taught to teach and on our experiences past and present none of which had any relationship to Indian/Native education. Basically, in was on-the-job training.

Before leaving this general discussion of the history of educating Indian-Natives, mention must be made of Lyman Tyler's (1973) book, *A History of Indian Policy*. Tyler defines and discusses how policy may be influenced by the Presidents, Congress, the Courts and Government Administrators. Even so, Congress which enacts laws and Presidents which sign them have the ultimate responsibility of Indian Policy. The observation on management and policy reflects my experiences.

. . . Also, the enactment of laws to effect a new policy does not automatically remove from the books all earlier laws that may prove to be in conflict with present policy. The dead hand of time rests heavily upon the employees and agencies of Government as on other human institutions. (p. 3)

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As I worked at the Washington level of Indian education it was evident that all employees did not share a common understanding of existing policy. Indeed, some non-Indian employees with much authority tried as best they could to enforce their own prejudices, racial and otherwise.

POLICY OVER THE YEARS

Recently, the Interior Department's (2008) Office of the Special Trustee for American Indians, Office of Trust Records contracted for a training program for its managers. The training material contained a succinct outline of Indian Affairs history, which follows:

- Formative Years – 1776 through 1870
 - Initially, respect tribal sovereignty and traditional forms of self government
 - After 1830's removal to reservations
- Allotment & Assimilation – 1871 through 1927
 - Dissolve communal tribal landholdings
 - Undermine or disband traditional forms of self-government
- Indian Reorganization – 1928 through 1952
 - Recognize tribal sovereignty
 - Recognize the right to self-government
- Termination Era – 1953-1967
 - Terminate the government-to-government relationship and trust relationship between the federal government and tribes
 - Dissolve communal tribal landholdings
 - Undermine or disband traditional forms of self-government
- Self-Determination – 1968 through 1981
 - Reaffirmation of tribal sovereignty
 - Re-cognition of right to self-governance
 - Affirmation of historical trust relationship
- Self-Governance – 1982 to Present
 - Continued recognition of self-determination
 - Strong assertion of the right to self-governance

Based on my professional experience within the BIA Education Program and external to it, this general outline 1953 through to today, is reasonably accurate and valid.

TERMINATING EDUCATION SERVICES TO INDIANS AND NATIVES

Termination of Recognized Indian Tribes was an official policy of the U.S. Government during the 1950's. Regarding policy, let us return to Tyler who defined policy as, “. . . a course of action pursued by any government and adopted as expedient for that government in its relations with any of the Indians of the Americas.”(Op.cit, Tyler, p.2) He

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further suggests three levels of policy: (1) basic ideas and long-range policies, “That influence the action of a government for extended periods of time.” (2) The Second level “Guiding principles adopted and pursued by a government during particular or limited periods of time.” (3) And the third “. . . consists of rules and procedural practices laid down by government administrators to put accepted policy into effect.” I was more involved with this third level of policy and in my career did initiate and formalize regulations for the *Code of Federal Regulations, Title 25, Indians*. Even so, an administrator cannot initiate rules without knowing the first two levels of policies especially any statutes passed by the Congress and signed by the President.

In 1953 the national policy which emanated from the Congress was to Terminate services to as many Indian tribes as possible. Within the Education Program there was a change of leadership from Willard Beatty to Hildegard Thompson. Beatty was located in Chicago and had line authority to all schools and Education personnel. Beatty's position had been that Federal schools operated by BIA were as good as if not better than public schools. Thompson's office was removed to Washington and the Education Branch Chief became a technical advisor to Government Administrators, Area Directors. This was a sea change in the administration of Indian-Native education. However, it was well suited to support the Termination policy in that Educators could be eliminated as resisting the cessation of Education services to Indians. Such cessation initiatives would be handled by Administrators whose substantive backgrounds were “Government Administration.” If the Termination initiative could be clothed in something as ambiguous as “Administration” then the implementation of the policy would be enhanced. Unpopular initiatives are frequently clothed in administrative ambiguity.

Starting in Fiscal Year (FY) 1952 (USBIA, 1952) which was also the beginning of Termination, the Branch of Education started issuing the annual publication, *Statistics Concerning Indian Education*. There was a narrative section at the front of each booklet which reflected policy. The following excerpt is from the narrative for FY 1952:

The Bureau of Indian Affairs is transferring the operation of Federal schools to local districts as rapidly as conditions are favorable and increasing the attendance of Indian children in schools where they have the same opportunities as any other group of Americans. ***Financial aid from the Federal Government should decrease as rapidly as Indians assume increasing responsibilities as citizens*** (emphasis added). (p. 6)

This paragraph will serve as a definition of Indian-Native Education Termination.

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The *Statistics* booklet for FY 1968 carries one of the very few Education Program references to President Johnson's 1968 message on Indians. It stated:

The education of Indian children is part of a National objective for Indians delineated by President Johnson in March of 1968 when he set forth these goals: A standard of living for the Indians equal to that of the country as a whole. Freedom of choice: an opportunity to remain in their homelands, if they choose, without surrendering their dignity; an opportunity to move to the towns and cities of America, if they choose, equipped with the skills to live in equality and dignity. Full participation in the life of modern America, with a full share of economic opportunity and social justice. (pp. 2-3)

Ironically, the FY 1968 *Statistics* also contained a paragraph reflecting Termination when it reported a “. . . net decrease of 21 facilities previous in operation.” Continuing, “In the Juneau Area, 1 day school opened and 10 day schools were transferred to the State of Alaska public school system for operation.” It seems from the *Statistics* booklet that Termination policy was continued underneath Johnson's goals for Indians.

To transfer Federal schools to public schools was the Education Termination activity in that it got rid of Federal school operations for Indians-Natives. To my knowledge, this annual publication became the best source of a printed, more or less official statement of Education policy. It is important that from 1967 through 1980 the Directorship of the BIA's Education Program was in flux with too many directors inexperienced in Indian-Native education as well as Indian Affairs policy. Hence, the lower lever civil servant who in this vacuum of leadership seemed to follow the Termination policy. Table 1, below, provides interesting enrollment data on BIA and public school enrollments.

Table 1 – BIA and Public School Enrollments

Fiscal Year	BIA	%	Public Schools	%	Total
1952	36,414	28.4	52,960	41.3	128,133
1964	44,132	29.9	79,286	53.8	147,366
1977	45,276	20	149,326	68	219,212
2005	47,917	19.6	196,370	80.4	244,287

For some unknown reason the BIA ceased publication of the *Statistics* in FY 1977 or perhaps FY 1979. There was an issue in 1979 but nothing since then on an annual basis. The 2005 data came from the BIA web site. The irony of the enrollment situation reflects a continuing need for Federally funded Indian schools.

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It is appropriate to reference President Nixon's 1970 (Public Papers, 1970) Message to Congress that became the formal Indian Self-Determination Policy. On Termination, Nixon said:

This policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. *Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit.* (Emphasis added) But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government. Down through the years through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide community services such as health, education and public safety, services which would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans.

This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the Federal government which arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship rights of any other American.

The exception to this is for Alaska Natives where the state assumed control of Native education. Ray Barnhardt (2005) reports that the last Alaska Native BIA school was closed in 1985. The Alaska Native situation is unique in that Termination of expenditures for schools was consummated by statute in 1983:

§ 292b. Establishment of single system of education in Alaska; transfer of Indian schools to State of Alaska

The Bureau of Indian Affairs shall not expend any other funds for the operation of any secondary education program or facility in the State of Alaska after June 30, 1983: *Provides*, That while consultation concerning day school transfers to the State of Alaska will continue with affected villages, **local concurrence is not required in this continuing effort to establish a single system of education envisioned by the State's constitution** (emphasis added): *Provided further*, That after June 30, 1984, the Bureau of Indian Affairs shall fund no more than ten day schools in Alaska: *Provided further*, That the Bureau of Indian Affairs shall not fund any schools in Alaska after June 30, 1985: *Provided further*, That \$9,350,000 of such amount shall be available until expended for transfer to the State of Alaska to assist in the rehabilitation or reconstruction of Bureau-owned schools which are transferred to the State: *Provided further*, That the \$9,350,000 appropriated in Public Law 97-394 available to the State of Alaska to assist in the rehabilitation of Bureau-owned schools which are transferred to the State may also be used for reconstruction: *Provided further*, That when any Alaska day school operated by contract is transferred, the State shall assume any existing contract pertaining to the operation or maintenance of such school for a minimum of two years or until the expiration of the negotiated contract, whichever comes first: *Provided further*, That nothing in the foregoing shall preclude assistance otherwise available

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under sections 452 to 457 of this title, or any other Act to such schools on the same basis as other public schools.
(Pub.L. 98-63, Title I, § 101, July 30, 1983, 97 Stat. 326.)

This is about as clear a legal statement of Termination as possible. It was done at the behest of a state constitution, which is probably a first. Federal law usually trumps state law. Yet, regarding Alaska Natives the state constitution trumped the Federal Trust Responsibility to Alaska Natives. To make this a more ignominious Federal Act, it was done during the existence of the Indian Self-Determination policy. The statute clearly makes consultation or involvement of Natives unnecessary and outright illegal.

The total Trust Responsibility toward Alaska Natives seems compromised by this statute while BIA continues its presence in Alaska – but not for schools.

Tyler (Op. cit. Tyler, pp. 172-181.) traces the Termination policy and it seems that as soon as formalized with House Concurrent Resolution 108 in 1953, resistance began. A few tribes were terminated but not that many. Nonetheless, the Education program through the Johnson O' Malley Act continued to attempt to phase out Federal school operations for Indians-Natives. But, as Table 1 above shows, Federal schools for Indians-Natives persisted.

In January, 1964, when I joined the staff of the Field Technical Unit, located on the campus of Intermountain Indian School, in Brigham City, Utah, I became an Education Specialist, Secondary. This was the only such position in the BIA system. An Education Specialist is a technical education employee and this one was at the National level of the BIA Education Program. It was at this time that national policy and concerns began to impinge on my consciousness and my approach to my work. For example, one of the first documents called to my attention was the publication *Doorway Toward the Light, the Story of the Special Navajo Program*, by L. Madison Coombs (1962). It seems that starting immediately after World War II it became obvious that there were grossly insufficient number of schools available for Navajos on their reservation. Not surprisingly, there were thousands of overage, unschooled Navajos who turned up at schools to attend them. While working as an Education Specialist at Window Rock, Arizona, the Capitol of the Navajo Nation, Hildegard Thompson, with the support of Willard Beatty, created the Special Navajo Program.

How was it that there were no school facilities available to Navajos and the Special Navajo Program had to be created? I had just been working in an Alaska boarding high

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school that took only a fraction of the eighth grade graduates because there were no high school facilities available to them. Now, I quickly learned the national Indian-Native education situation was also concerned with a basic lack of school facilities. How could the U.S. allow such a condition to exist among its Indian-Native citizens? There is a partial and partial answer to this question. Lyman Tyler in his *History of Indian Policy*(Op. cit. Tyler, p. 8) says:

Since committee members are usually very busy men, there is a great deal of dependence on staff for information, correspondence, drafting of reports and bills and the general operation of committee affairs. . . The role of staff members during the 1940's said to be opposed to the New Deal, to Collier, and to the Bureau, would be an interesting study in itself in the formation of Indian policy.

Perhaps congressional committee staff members bent on reducing Federal education support for Indians would let the need school facilities go unnoticed until an educational tragedy was created. I have had experience in working with committee staff members and found none of them were trained professional educators and all behaved politically to the extreme. All too often, they were smug in their perceptions on Indian-Native education and had little interest in an open mind and/or in learning about the complexity of cross-cultural education. One openly told us BIA educators he was “Going to do a job on you,” a negative report, on Indian education and we should get ready for it. Another was committed to closing off reservation boarding schools and to some extent, did succeed. Another was going to support Indian Self-Determination and was very effective in writing and getting legislation passed. His belief was that once a statute was passed, education reform would follow. Perhaps this was a prelude to the No Child Left Behind Act in which, I am told, he also provided technical assistance on Indian-Native education. But, none of these three were educators and none had any previous knowledge or experience in educating Indians-Natives.

Again, all too often, education ignorance and inexperience was accepted as a foundation for education innovation, a condition that remains in U.S. education today. In my experience ignorance and inexperienced education leaders perceive education as having an unlimited range for innovation. On the other hand, their ignorance and inexperience limits and drastically reduces education quality and effectiveness.

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INDIAN SELF-DETERMINATION

There was a gradual awakening in the Congress during the 1960's and early 1970's that eventually led to the formalization of the "Indian Self-Determination" policy and direction in Indian education. Perhaps the first such significant effort was Senator Robert Kennedy's "Special Subcommittee on Indian Education" (Op. Cit.U.S. Senate, 1969) study of the Indian-Native education situation. I well remember the requests the Committee staff made to the BIA Education officials to visit schools and provide data to them. Besides Berry's literature review, there was a final report which in the title described the education of Indians as a "National Tragedy – A National Challenge." The report said, "The failure of the Federal Government to provide adequate classroom space for thousands of Navajo and Alaskan native school-age children continues to be a tragedy and a disgrace." (p. 56) For those of us working in the Education Program who had experienced this lack of school facilities and its consequent negative impact of Indian-Native peoples, the recognition of the situation as a disgrace was welcomed. However, the report provided no explanation of how this disgraceful situation was allowed to exist in the first place. Generally, the report described the BIA Education Program as an abject failure. For those of us working within the Program, such an assessment seemed unjustified and unsubstantiated. It was the Congress, not BIA Education staff, who allowed the tragedy of insufficient school facilities to develop.

A tangible result of the Kennedy Report was the establishment the Office of Indian Education in the U.S. Department of Education. The various activities of the creation are covered in William G. Demmert's (1973) Harvard dissertation.

At the close of the 1960's President Johnson issued his message to the Congress on Indian Affairs.

On March 6, 1968, however, President Lyndon Johnson outlined to the Congress of the United States in a Special Message on Indian Affairs, a detailed program for the "Forgotten American." President Richard M. Nixon issued a Special Message to Congress July 8, 1970 that expresses his views concerning the directions Indian programs should take during his administration. His main thrust was a call for actions that would place Indian leaders in the role of decision makers.(Op. cit. Tyler, p. 3)

Senator Kennedy's report notwithstanding, the Federal Government was becoming concerned and interested in the education of Indians and Alaska Natives.

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It was my good fortune to have been present in Window Rock, Arizona in the summer of 1967 when the decision was made on creating Rough Rock Demonstration School on the Navajo Reservation as the first Indian controlled school. Broderick H. Johnson (1968) in his *Navajo Education at Roughrock*, book on the history of the school described how the school came to be and the respective roles individuals and the Government played in the decision. During one of my visits to Window Rick, Dr. William J. Benham, then Assistant Area Director for Education of the Navajo Area, said to me, “Tom, Wayne Holm thinks that we (the BIA) should give Dr. Roessel the new school at Rough Rock so he can go forward with his program that has not worked out well at Lukachukai. What do you think of the idea?” I replied, “Well, Buck (Dr. Benham’s nickname), it sounds good to me. We all know how that the program had problems at Lukachukai and this should be a good way to go.” Benham also said, “We have orders from the Commissioner to make the program successful.” Dr. Benham made the decision to offer the new school at Rough Rock to Dr. Roessel. Ironically, it was a BIA Education Administrator who initiated Indian control of schools. As I look back on it the coincidence that I was at Window Rock at this time in the history of educating Indians was fortuitous to say the least. Without knowing or planning it, in a minor role, I was in on the establishment of the first Indian controlled school, and the first real expression of Indian Self-Determination. We BIA Education employees (Wayne Holm, Principal of Rock Point Community School, Dr. William J. Benham [Creek Indian] and myself) without discussing the capability of Indians to control their own schools, simply, within our authority, said that why not go forward with Indian control. We obviously saw no problem in Indian control of education even though we all three had worked for years in a system that did not have a meaningful provision for Indian control of a school. The decision was not planned or discussed prior to its being suggested to Dr. Roessel. It should be kept in mind that the climate for Self-Determination was established by the Johnson Great Society Program which provided funds directly to Roessel through the Economic Opportunity program. We administrators could make a decision on Rough Rock with the understanding it was unlikely to be reversed.

Incidentally, later on, in 1992-1995, I had the opportunity to work directly with Dr. Roessel on the Navajo Ford Teacher Education Program. In my career, Dr. Roessel was one of the most creative and dedicated leaders I ever had the opportunity to work with. His

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brilliance was unsurpassed and all of it was dedicated to the education of Navajos.

Public Law 95-561, which was passed November 1, 1978 and, by statute, changed the BIA organizational structure and set Indian Self-Determination Policy in Federal Education programs. This is a massive law which includes about all the program aspects of the BIA Education Program. Since the BIA dispensed with the publication of the *Statistics* report in 1979, there has been no continuous publication from which progress or lack thereof regarding Self-Determination in Education could be made.

The BIE web site, especially since 2002 and the passage of the No Child Left Behind Act, does provide some information on the program but mostly on progress regarding NCLBA's Adequate Yearly Progress (AYP).

50 Years of BIA Education . It is interesting to look at the 50 years enrollment data in the BIA-BIE Education Program. We can start with a 1950 carbon-copy (Table 2) table inserted among the pages of the *FY 1952 Statistics* bulletin. Some Washington Office education specialists in the Branch of Education compiled the table from reports from field offices and schools. I have inserted 1947 general population data so one may compare the Indian data to it. In 1950, when Termination was germinating in the Congress, the education level of Indians was well below the general U.S. population.

Additions and/or Modifications to Indian-Native Policy. Over the next 50 years, the BIA Education program continued until today without great changes in the number of schools and total enrollment. Self-Determination did bring about changes and I will attempt to point them out. It is appropriate to update the historical policy outline from above:

Termination Era – 1953-1967 (Education Catch-Up)

- Terminate the government-to-government relationship and trust relationship between the federal government and tribes
- Dissolve communal tribal landholdings
- Undermine or disband traditional forms of self-government

Self-Determination – 1968 through 2001 (Transition of Control)

- Reaffirmation of tribal sovereignty
- Re-cognition of right to self-governance
- Affirmation of historical trust relationship

No Child Left Behind Act 2002 to the Present

I have added “Education Catch Up” to the “Termination Era” policy above. Catch-Up because building schools facilities, especially for Navajos, was taking place along side the Termination of BIA Education services. In addition, while there was continuous pressure to close ORBS they were kept open because they were being filled with overage, Special

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Navajo students and Alaska Native high school students.

Table 2 – Median School Years Completed, 1950

Median Schools Years Completed by Population 25 Years of Age or Over by Indian Agency Area 1950 United States Census of Population		
Agency Area ^{1/}	Median School Years Completed	
	Male	Female
Navajo	0.9	0.7
Papago	4.1	4.1
Turtle Mountain	4.8	6.3
Pueblo	5.8	6.5
Carson	6.4	6.0
Ft. Apache	6.8	6.0
Cherokee	6.4	6.7
Colorado River	6.6	7.0
San Carlos	6.8	5.9
Wind River	7.9	—
Five Civilized Tribes	7.0	7.0
Red Lake	7.7	—
Pima	7.1	7.2
Great Lakes	7.1	8.1
Consolidated Chippewa	7.2	7.9
Pine Ridge	7.4	7.4
Sacramento	7.6	7.8
Rosebud	7.7	8.1
Yakima	8.1	7.2
Western Washington	8.1	8.3
N. Y. Iroquois	8.0	8.0
Crow	8.2	—
Blackfeet	8.0	8.2
Colville	8.1	8.0
Cheyenne River	8.2	8.1
Mission	8.1	8.2
Menominee	8.5	8.2
Southern Plains	8.7	8.4
Means	7.04	7.01
1947 Census Ages 14-29 Years of School Completed	10.2	10.0

^{1/} Agency areas are those areas having an Indian population of 2500 or more.

The transition of school control from Federal to Indians was taking place during the 1968-2001 Self-Determination policy years. Also, I extended Self-Determination to the year 2001. It all started in Education with a contract for the local Navajo school board to operate the New Rough Rock boarding school. A change was also taking place within the BIA Education staff in that the Indian Preference law (USC 25 §46) was expanded from initial hire to apply to all personnel actions. This meant that Indian control of education was gradually shifting to total Indian control within as well as without of the BIA.

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The No Child Left Behind Act (NCLBA) was passed and implemented by the BIA-BIE in 2002. I will write more on the impact of the NCLBA later in this document.

Table 3 – BIA-BIE Education Program Statistics, 1953 - 2002

School	1953	1956	1959	1962	1965	1968	1971	1974	1977	2002
ON RES BOARD	70	68	64	59	63	60	60	60	55	42
ENROLL	8995	13737	13386	14679	17238	19130	24843	22361	20067	15301
OFF RES BOARD	21	15	15	15	17	17	17	17	14	8
ENROLL	10828	11507	11887	11602	11464	11044	9528	7598	5867	3132
DAY	226	184	179	166	178	145	123	116	107	120
ENROLL	15025	15972	15663	15447	15977	16139	16520	17068	14473	27994
DORMS		13	17	20	19	18	19	19	15	5
ENROLL		2150	3169	4132	4221	4204	4195	3384	2339	425
OTHER	7	54	27	23	19	4	3	13	27	2
ENROLL	124	439	246	124	103	43	133	2469	5537	118
TOTAL FACIL.	324	321	285	263	258	226	200	194	179	177
ENROLL	37697	41655	41182	42145	48003	51558	56786	48524	42937	46970

Sources: *Statistics Concerning Indian Education, fiscal years 1953-1977* and BIE Web Site, "School Report Cards, 2001-2002"

BIA-BIE 50 Year Enrollments. There has been a remarkable consistency in the number of Indian children and youth enrolled in BIA funded and controlled schools for the past 50 years.

Number of Schools and Dormitories Remain constant for Past 30 Years. Policy since 1974 has changed from Termination-Catching Up to Self-Determination. Yet, the number of education facilities has remained somewhat consistent. There have been changes within the program but enrollments and the number of facilities have remained constant. For example, Table 3 above the number of facilities from 1971 to 2001 decreased by 23, from 200 to 177 and the total enrollment decreased by 9,816.

Figure 1, below, illustrates the 50 year enrollment.

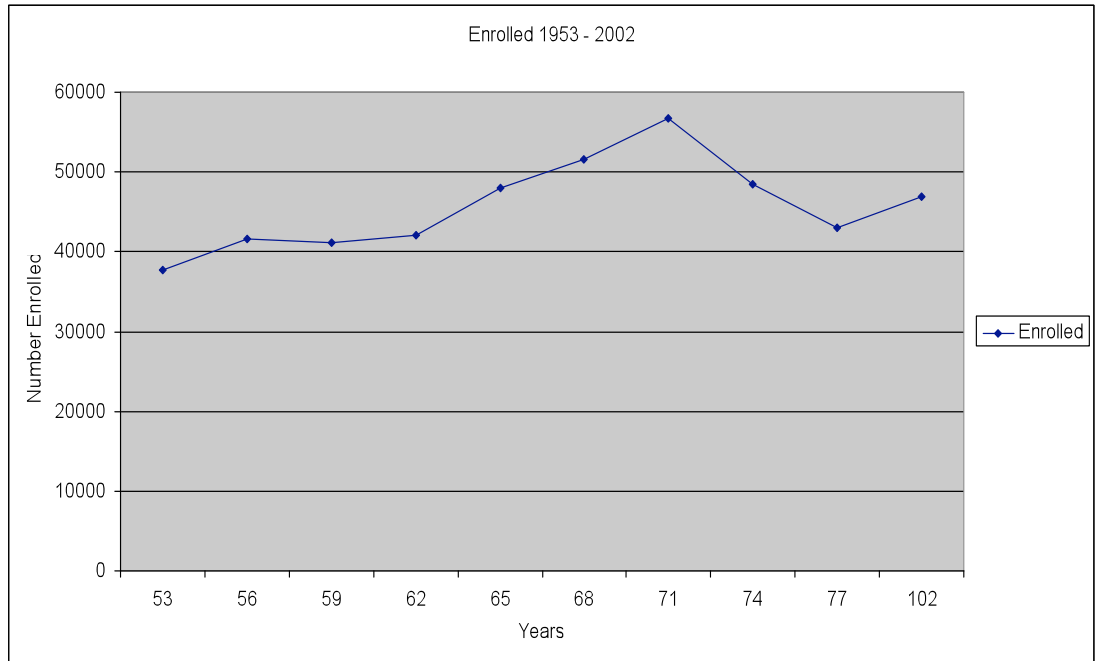


Figure 1 – 50 Year Enrollment in BIA Federal Schools

The changes within the Education Program have never been described in details. For example, during the time 1950-1970 ORBS were used to take care of insufficient school facilities in Indian communities. Starting in 1971 students enrolling in ORBS were mostly students seeking an alternative to some other school, mostly public schools. The purpose of contemporary ORBS, it seems to me, ranges from special purpose to providing jobs for the staff. For example, I visited one school in the late 1980's in early May and there were no more than 20 students in attendance and a full staff for two or three hundred students.

Off Reservation Boarding Schools . In 1974 there were 17 off Reservation Boarding Schools and in 2002 there were eight. Closed ORBS and 1977 enrollments were:

1. Concho in Oklahoma	326
2. Chilocco in Oklahoma	428
3. Fft. Sill in Oklahoma	236
4. Allbuquerque Indian	closed
5. Mt. Edgecumbe in Alaska	377
6. Wrangell in Alaska	closed
7. Seneca In Oklahoma	137
8. Phoenix Indian	714
9. Stewart in Nevada	477
Total	2,695

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There are no records to show what happened to all the students enrolled in the schools.

According to the 2001-2002 data reflects the following ORBS:

1. Circle of Nations
2. Flandreau, South Dakota
3. Santa Fe Indian, New Mexico
4. Riverside Indian, Oklahoma
5. Sequoyah, Oklahoma
6. Chemawa, Oregon
7. Sherman Indian, California
8. Navajo Preparatory, New Mexico

Previously Private Schools. Back in the 1970's mission schools were closing and with Self-Determination, Indian groups came forward with a plea to fund them with Federal monies. Historically, missionaries were the first to open schools for Indians and Natives. Then, in 1897 Congress passed a law prohibiting the funding of sectarian schools. This prohibition was circumvented when the mission schools came under the direction of an Indian school board and petitioned the BIA to become Federally funded contract school. From my files I found a table developed by BIA OIEP staff for a Reorganization Task Force, wherein 22 Previously Private schools were reported. Names of the schools were not provided. I am not aware of any of these schools being closed. Previously Private schools are yet but another way in which the Education Program purpose was changing but the numbers remained steady.

Quonset Hut Schools. There were a few schools that some Terminated or near Terminated tribes established with the aid of funds from the U.S. Department of Education, Office of Indian Education. The original operations could have been and in one instance, did open in a Quonset hut type building. Once the schools were operating they successfully petitioned the BIA for permanent Interior Department funding. These schools are included in the 01-02 listing. This practice was stopped as it became aware that there was no end in sight. So called Quonset Hut schools are yet but another way in which the Education Program purpose was changing but the numbers remained steady.

Grades Offered at Schools. Using the BIE 01-02 Report Card data, 79 percent fell within these three categories:

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K – 8	64 schools
K – 12	37 schools
9 – 12	17 schools

The remaining 39 schools offered a variety of grades, mostly at the primary level. i.e., K-3, K-4, Preschool – 12, etc. Most boarding schools indicated that they boarded kindergarten children, which would have been very different from when they were started in the late 1960's. When kindergartens were started in BIA schools boarding the children was not allowed. Even so, we had to keep a close watch as some principals would board the children anyway.

INDIAN CONTROL OF INDIAN EDUCATION

By the year 2000 control of Indian Education was mostly in the hands of Indians. Congress still sets basic policy and there is always the possibility they will do something to abridge Indian Self-Determination. But, for the most part, by 2000 Indians controlled Indian education which is funded via the Interior Department and U.S. Department of Education. I think Indian control was reflected in the BIE 01-02 data in the grade range of schools and the fact that new schools were created where no Indian schools had existed for decades. I have worked from the time of no Indian-Native control in 1953 to the present when Indians control, administer and teach in Indian schools. The one threat to Indian control has been the NCLBA which will be covered later on.

Increase in Educated Indians-Natives. I well remember the very few number of years of education of the adult Eskimo population in 1953-56. It is interesting to compare the 1950 years schooling completed from Table 2 and the 2000 Decennial Census for Navajos. The U.S. Census Bureau provided the Navajo Nation with a special computer program for their on-reservation population. The Census data was in the form of spreadsheets. Table 4 reports median .9 male and .7 female years of schooling. 40 and 50 years later the 1990 and 2000 Census reports the following Navajo information (Navajo Nation Government, 1993).

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Table 4 – 1990 and 2000 Census Data

25 Years and Older	1990 Percents	2000 Percents
Less than 9 th Grade	35	
9 th – 12 th No Grad	21.5	
H.S. Grad	23.5	55.9
Some College	9.4	
AA Degree	3.4	
BA Degree	4.7	7.3

The above Census data reflects dramatic educational progress by Navajos. The BIE 01-02 data reflect that 22 Navajo schools are Grant and 5 are Contract, which means that 27 schools are completely controlled by Navajos. Contrasted to 1950, no Navajos controlled any schools on or near the reservation. Though applied to Navajos, the 50 year education retrospective will hold for all Indians-Natives.

EDUCATION IGNORANCE AND INEXPERIENCE INFLUENCES ON INDIAN-NATIVE EDUCATION.

The reader should keep in mind that my historical sketch basically starts in 1950 when Dr. Willard Beatty was leaving the BIA Directorship of Education and Hildegard Thompson was taking over. Both of these individuals were thoroughly grounded in Education and experienced in educating Indian-Natives. When Thompson retired in 1965 an educator, Carl Marberger, inexperienced in Indian-Native was brought in to head the Education program. He was followed by Charles Zellers who was not an educator and was a graduate of the Harvard Business School. Zellers was brilliant but ignorant and inexperienced in Indian-Native education. Zellers was followed by several directors none of whom were experienced in Indian-Native education even though some were Indian-Native. In the mid 1970's President Carter appointed Mr. Lavis as Deputy Assistant Secretary who took over BIA Education. He was ignorant and inexperienced in Indian-Native education but devoted to closing ORBS.

In working with or trying to work with those leaders ignorant of and inexperienced in Indian-Native education communication was a basic problem. I never experienced an ignorant-inexperienced leader expressing a interest in learning what those of us who were

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experienced professional educators knew or recommended. Usually, they communicated mostly with other ignorant-inexperienced people and with staff who were willing to carry out unquestioned directives. Often, the ignorant-inexperienced individuals were appointed to “Shake-up the BIA education program.” The implication of the “Shake-Up” approach is that an authoritarian dictator-like approach to education operations is very effective. Most, though not all, were well intentioned but got their marching orders from other ignorant-inexperienced people. Usually, these ignorant-inexperienced individuals were morally upright and basically motivated to do what they thought was needed. But, being ignorant and inexperienced, they really didn’t have a chance at doing a good job. In my experience, it took an ignorant-inexperienced individual at least two years of concerned, commitment to Indian-Native children and youth, and hard work to develop a basic, minimally adequate understanding and knowledge necessary to begin to do a good job. Most did not last that long. For those with a closed mind, years on the job, if they lasted more than two years, would have made no difference at all. The ignorant-inexperienced era started in 1965 and to my knowledge lasted through the 1970’s.

COMMITMENT TO THE EDUCATION OF INDIAN-NATIVE CHILDREN AND YOUTH

Willard Beatty and Hildegard Thompson had fundamental commitments to the education of Indian-Native children and youth. Some committed leaders are so romantic about the Noble Indian, that they could not make reasoned decisions. The commitment notwithstanding, they could not be effective. There have been some who are ignorant and inexperienced but with their commitment, have, over time, stuck with the education of Indian-Native education and have become very knowledgeable and helpful to the overall enterprise. There were not many of this type in my experience. The basic commitment tempers all efforts of leaders. Also, being an Indian-Native does not always reflect a commitment.

COUNTING INDIANS-NATIVES, U.S. CENSUS AND BIA

One would think that the U.C. Census would have been the main counter of Indians. In my experience, the Census Bureau didn’t get serious about counting American Indians and Alaska Natives until the 1970 Decennial Census. During the 1960’s when I was working in

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BIA in Washington we staffers would occasionally get calls from the Census Bureau. Apparently they had been directed to develop strategies for counting Indians-Natives and were without experience related thereto. In past times the BIA was the Federal agency that would count Indians. The individuals we talked with at Census were long time Civil Servants with the Census Bureau and reflected complete ignorance on how to count Indians. As has been pointed out above, the BIA count of recognized Indians required a blood quantum of one quarter or more Indian. The Census Bureau individuals didn't know how to interpret this legal requirement for counting Indians-Natives. Quite rightly, they were not sure such a definition would fit the legal requirements of the Census Bureau.

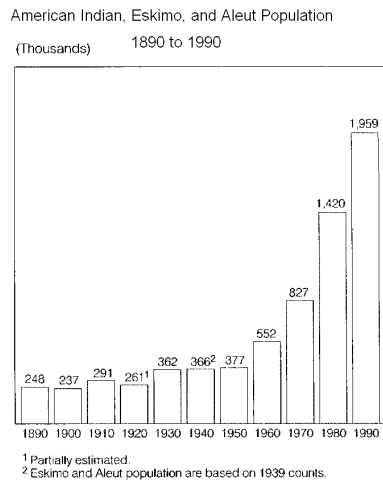
The reader should keep in mind that the publication, *Statistics Concerning Indian Education*, that was initiated in 1952 reported an “Annual School Census.” This census included children counted by field staff of children ages 6 – 18. For example, the report for 1953 reported a count of 127,213. Until the passing of P.L. 95-561 all BIA teachers worked 12 months and the School Census was an annual summer time task. This was lost with the passing of 95-561. Table 5 below provides the definition of Indian for Census purposes from 1930 to 2000.

Table 5 - U.S. Census Definitions of American Indian and Corresponding Decennial Count, 1930-2000 (Resta and Hopkins, 1984; U.S. Commerce 2006)

Decennial Year	Definition	Count
1930	Count full-bloods and those with mixed Indian and white blood*	332,399**
1940	Count full-bloods and those of mixed white and Indian blood if they were enrolled at an Indian Agency or Indian reservation.	333,969**
1950	Count full-bloods and those of mixed Indian and white blood if they were enrolled at an Indian Agency or Indian reservation. If not enrolled, report as Indian if the proportion of Indian blood is one-fourth or more or if regarded as Indian in the community where they live	343,410**
1960	Count full-bloods. Count mixed bloods if one-fourth or more Indian by blood quantum or if regarded as Indian in community where they live.	523,591**
1970	Individuals who regard their race American Indian or who did not indicate a specific race category but reported the name of an Indian tribe.	763,594***
1980	Individuals who regarded their race as American Indian or who did not indicate a specific race category but reported the name of an Indian tribe.	1,418,195
1990	Self-identified as American Indian	1,659,000
2000	People who reported only one American Indian tribal grouping. The corresponding alone-or-in combination population includes people who reported Indian tribal grouping and one or more races.	2,447,989
	*On March 16, 1931 Federal responsibility for the education of Alaskan Natives was transferred from the U.S. Office of Education to the Bureau of Indian Affairs.	

	Did not include Alaskan Natives *Did not include Aleut and Eskimos	
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Figure 2 below illustrates Table 4.



It is apparent from Table 5 that the Indian counts through 1960 were made by the BIA. It was not until the 1970 U.S. Census that the Census Bureau began to be the major source for Indian-Native counts.

POLICY AND JOHNSON O' MALLEY PROGRAM

I have cited the *Statistics Concerning Indian Education* (Op. cit USBIA) publication that the BIA Branch of Education initiated in 1952 for the 1951-52 school year. This booklet was a major source for Indian-Native Education policy information during the time it was published, 1952-1977. The 1952 two-page narrative contained the following paragraph:

The Johnson-O'Malley Act, which became law in 1934, authorizes the Secretary of the Interior among other things to enter into contracts with States for the education of Indians and to permit the use of Federal school buildings and equipment by local school authorities. As a result of the operation of this law, some States having large Indian populations do not have any Federal schools within their boundaries. In 1952 the Bureau of Indian Affairs negotiated contracts with 14 States and 26 districts in four other States. Of the 52,960 Indian children enrolled in public schools, approximately 31,000 attended schools that received aid under these contracts. *The Bureau of Indian Affairs is transferring the operation of Federal schools to local districts as rapidly as conditions are favorable and increasing the attendance of Indian children in schools where they have the same opportunities as any other group of Americans. Financial aid from the Federal Government should decrease as rapidly as Indians assume increasing responsibilities as citizens.* (Emphasis added)

The *Statistics* booklet for fiscal year 1977 contained the following paragraphs:

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For Indian children who are enrolled in public schools and are no longer a Federal education responsibility, (emphasis added) the Bureau must rely on the public school systems to provide census information. Indian mobility accounts for the children, 5 to 18 years, inclusive', who are shown under the caption "Information Not Available."

In line with the Bureau's policy of encouraging public school enrollment of Indian children, many students transfer to public schools when they reach the sixth grade and have become proficient in the use of the English language. This is a factor in the seemingly low numbers of graduates of Federal high schools. In Fiscal Year 1977, 1,614 high school students graduated, an increase of 214 students from 1976. (Emphasis added)

Those italicized sections above were first added in 1952 and again in 1977 to reflect the transfer (Termination) of Schools policy. As a division chief at the Washington level of the BIA Education Program for ten years I was never invited to provide input to the process of turning schools over to the public school systems. The transfer procedure was handled entirely through the Area Directors who were line officers to all Education personnel. The culmination of the transfer policy came with the Alaska Native Termination in 1983 through the passage of §292b establishing of single system of education in Alaska and the transfer of BIA schools to State of Alaska.

There was no oversight by BIA Education that school transition made sure the children-youth involved were to be in schools that would offer the same or a higher quality education. We should recall that Willard Beatty from 1935 to 1951 was the line officer to all Education personnel. He was concerned that BIA-Federal schools offered as good a quality of education as the public schools and possibly even a better education. He initiated two evaluations (Peterson, 1948, Anderson et al 1953) to test this proposition and Madison Coombs (Coombs et al, 1958) offered two more for a total of four research type evaluations of school quality. Madison Coombs was intimately involved in the last three evaluations. He designed the Bass (1971) study and was the "Contract Officer's Representative (COR). The Bass study was a longitudinal research project that tracked high school Indian students throughout their high school years. Bass controlled for background characteristics and found no statistically significant differences between Federal and public schools.

The Kennedy Report (Op. Cit. US Senate, pp. 52-54) did look at the public school education of Indian-Natives. What they found was not positive. Their summary findings were:

American Indians have little, if any, influence or control in the education of their children in the public schools.

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Public schools educating Indians rarely include coursework which recognizes Indian history, culture or language, and often 'use materials and approaches which are derogatory toward Indians.

Many school administrators and teachers consider Indian pupils inferior to white students, and thus expect them to fail, both in school and in life.

Little attention is paid to whether Indians want their students transferred from a Bureau of Indian Affairs-operated school to a public school, or whether the public school is ready to accept Indian students, when the decision to make such a transfer is made.

Lack of funding for Public Law 81—815 prevents any construction of public school facilities for Indian students.

While Indian education is receiving some financial assistance through Public Law 81—874, it is hardly enough to provide students with an equal educational opportunity.

The intent of the Johnson-O'Malley Act to provide for the special needs of Indian students is not being fully satisfied.

Professionally, it would have strengthened the findings if they had used more research technology to verify the findings of the many consultants they employed. For example the National Study of Indian Education (Op. Cit. Fuchs and Havighurst) as well as the Bass (Op. Cit. Bass) were going on at the time data was being gathered by the Kennedy Study staffers. Based on my experience with the lead Kennedy staffer, he had no intent to be objective in the findings. I maintained at the time that there was enough negative going on regarding the education of Indian-Natives that solid research findings would have strengthened the findings and the report. For the most-part, according to my experience with the staff, the study was basically political. Nonetheless, it was helpful to Indian-Native education.

Back in 1965, just before she retired, Hildegard Thompson (Op.cit. Szasz, Chapter 10, pp. 123-140) assigned Madison Coombs and an Education specialists to visit and report on Indian children-youth attending JOM supported public schools. I don't have a copy of the report but worked with my supervisor who was a member of Coomb's team. The main finding of the report was that all too often Indian children in integrated classrooms sat by themselves, usually at the back of the classroom, and did not participate in the activities.

Ironically, I was initially assigned to work with Madison but Mrs. Thompson intervened and removed me and assigned my supervisor to work with him. Given the impotent organizational position of the "Branch of Education" as a technical advisor to Area Directors, Thompson operated on the basis of deep loyalty to her which usually evolved over a period of years. Thompson's brand of loyalty overrode almost all other professional

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factors, i.e. hard data objectively analyzed. Being new to the Branch, I had not yet earned this level of loyalty. At the time, I did not understand the situation. Given the impossible organizational position of Education, one cannot fault Thompson for requiring something in order to impact education throughout the system. Government non-Education administrators, Area Directors, had the authority to even use limited amounts of Education appropriations for non-Education purposes. One procedure was to hire an education employee and then assign them totally on non-education tasks. What was one to do? Thompson implemented personal loyalty to her to partially overcome her lack of line officer control of the program and employees.

In 1971, the NAACP (1971) Legal Defense and Educational Fund did an evaluation of how Johnson O' Malley funds were being used by local school districts. Coombs was supposed to do this same task, but did not. Some of the findings were:

In LOS LUNAS, N.M. and SHANNON COUNTY, S.D. Johnson O' Malley kindergartens are open to non-Indians. (p.3)

The SUPREE INDEPENDENT SCHOOL DISTRICT in S.D. spent \$11,125 in Johnson O'Malley funds for mobile units to provide sufficient space for all students. Although there are only 89 Indian children out of a total enrollment of 257. (p.3)

The misuse of Federal funds designed to help Indian children is a real issue in Indian communities. Land has been stolen from Indians. Indian parents now see Federal funds being stolen from their children. Indian parents told us they wanted information about Federal programs so they could put a stop to thievery and deceit. (p.4)

All too often public schools have been perceived as a panacea for the education of Indian children. I don't think public school administrators would agree with the panacea perception of their schools. Unfortunately, the NAACP activity was the only such oversight effort in the history of public school education of recognized Indians. Basically, and for decades, the public school role and function in American society has, tacitly, been Congress's ultimate goal for Federal Indian school operations. Public schools are controlled by the state's legislatures and governors and their departments of education and local school boards take direction from them. There may be school board composed partially and/or totally by Indians-Natives, but they operate within state directives. In defense of public schools, I have never observed the teachers and school staff as being unconcerned about the education of their Indian-Native students. The fact is that public schools have a fundamentally different institutional purpose. They are constitutionally responsible for all the children in a state. On the other hand, BIA schools have the specific responsibility to

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meet the unique needs of Recognized Indian children and youth. Only BIA funded contract and grant schools have more or less complete authority over their operations, but even this was changed with Interior-BIA implementation of the No Child Left Behind Act.

THE LEGAL APPROACH TO INDIAN-NATIVE EDUCATION, 1978 – 2008

During the 1980's and 1990's I conducted training sessions for BIA Education employees. The title of one of my training topics was, "Statutes, Regulations and Administrative Procedures Governing Indian Education." (Hopkins, 1985) During one of my demonstrations I held up a copy of 25 CFR for 1975 and the "Subchapter E – Education," of almost six pages, and the contemporary one of 129 pages. The "Introduction" to the training manual stated:

Requirements in Indian Education

All who have been involved in the education of American Indians for more than five years, cannot help but be impressed with the ever increasing number of external requirements. External requirements refer to behaviors required of a school that are imposed from outside the immediate school. Some of these are requirements relate to certification of professional educators, requirements emanating for employee unions, accreditation requirements, tribal requirements, and requirements related to Federal laws, regulations and administrative procedures not to mention local requirements resulting from actions of school boards. The wonder is that the leader (administrator) at the school level has time to think and behave as an educator.

When the author started working as a teacher of Native American children in 1953, the main concern was for teaching in a bilingual/bicultural setting. The non-Indian teacher wondered how to communicate across cultures and then, wondered what to teach. The preoccupation of the, educator was the educational setting which was largely uninfluenced by external requirements. At that time, the Snyder Act was (and still is) the basic law providing authority for the Bureau of Indian Affairs Education Program. It states:¹

(The Snyder Act from above preceded this section.)

It is important to point out that the education language of the Snyder Act is an afterthought to the major concern of civilizing the Indians.

To describe in more understandable terms the meaning of increased requirements, let us refer to the United States Code Annotated, Title 25, Indians, the 1928 bound edition² contained 351 pages in one volume the 1963 edition contained 890 pages in one volume and the 1983 edition 1,332 pages in two volumes. Regarding education, in the 1928 edition there were ten pages on education, in the 1963 edition there were twenty and in the 1983 edition there were 57 pages. Further, The Code of Federal Regulations, Title (CF.R) reflects a similar expansion.³ The 1974 CFR had six pages and in 1984 there were sixty (60) pages devoted to "Subchapter E, Education." The 1984 CFR edition did not contain the proposed regulations on, "Academic Standards and National Dormitory Criteria," which will add an estimated twenty (20) Pages making an estimated total of eighty (80) pages of Education regulations. The Bureau of Indian Affairs Field Manual (BIAM) reflects a similar expansion with the most recent addition being a chapter on, "Computers in Education." Obviously, the contemporary requirements in

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Indian education are massive when compared to twenty, thirty and fifty years ago, and more importantly, they will no doubt continue to expand.

For some, there may be comfort in numbers in that the education of American Indians, has generally been influenced greatly by national movements in American education.⁴ Indeed, the BIA in its 1986 FY Budget Justifications states:⁵

. . .The Bureau believes this growth is attributable, in large part, to the country's reaction to the National! Commission on Excellence in Education Report on "A Nation at Risk" which highlights the need to improve basic educational, achievement at all grade levels.

On the other hand, there are no known circumstances where Indian education has influenced national movements. Currently, there is national movement to reform American education via laws passed by the Federal Congress and by state legislatures.⁶ For the first time in the history of our country over fifty (50) percent of the public monies spent on public education emanate outside the local communities, usually in the form of allocations from the state government(s). Consequently, state legislatures are less hesitant to impose requirements on local public schools.

The imposition of requirements on Indian education by government entities external to the local Indian community is not a new occurrence as the education of Indians on reservations has throughout most of American history been controlled from Washington. Ironically, the passage of P. L. 95-561, of which Title XI applied to education programs operated by the BIA, was intended, to give local Indian, school boards increased authority over the education of their children. It is this law that is responsible for the large increase of the mass of Indian education statutes, regulations, and administrative procedures which the BIA administers. Continuing the irony, just when the education of Indians is being turned over to Indians, there has been a very large increase in externally imposed requirements.

The efficacy of externally imposed requirements on American education in general and Indian education in particular has yet to be determined. Nonetheless, the requirements are there and local schools enrolling Indian children will have to follow them.

¹ United States Code Annotated, Title 25, Indians, St. Paul, Minn: West Publishing Co., 1963, pp. 17-18.

² United States Code Annotated, Title 25, Indians, St. Paul, Min.: West Publishing Co. 1928, 1963 and 1983.

³ U. S. Code of Federal Regulations, Washington, D. C.: U. S. Government Printing Office. It is customary to print a new edition of the CFR annually. The new edition for each year is usually available in July of the calendar year for which it is dated.

⁴ Ronald K. Goodenow, "The Progressive Educator and Native Americans," History of Education Quarterly, Summer 1980, pp. 207 - 216. In his essay, the author points out that Carson Ryan and Willard Beatty, both Directors of BIA Education, were also both President of the Progressive Education Association. He traces the influences of progressive education in BIA Indian education policies.

⁵ U. S. Bureau of Indian Affairs, "United States Department of the Interior Budget Justifications, F. Y. 1986, Bureau of Indian Affairs, p. BIA-6. Henceforth referred to as USBIA FY-86.

⁶ Ernest L. Boyer, "In the Aftermath of Excellence," Educational Leadership, Vol. 42 (March.1985), No. 6, pp. 10 - 15.

The above does not include the massive legal requirements introduced by the No Child Left

Behind Act.

Educators and Their Source of Professional Education for Direction

It is important to point out that these legal requirements were not educational in origin. Lawyers, not educators, developed the content of the statutes. The reader is reminded that Willard Beatty and Hildegard Thompson were both Progressive educators and paid little attention to the development of statutes and regulations. The 1935 – 1965 biweekly BIA Education publication, *Indian Education* (USBIA 1935-1965) contained articles written by Education personnel, administrators and teachers. The articles dealt with ways to improve practice at the school, classroom and/or dormitory levels. Beatty (1944 and 1953) and Thompson (1964) periodically gathered selected articles into books. It did not occur to either of these two leaders to take a primarily legal approach to the improvement of education. And, in fact, in practice the legal approach, i.e. passing of laws, seems to have an affect only on the administration of schools, not upon classroom activities or upon the activities of parents in a community or tribe.

Perhaps, in the future, lawyers should not, without serious, consistent consultation with experienced, professional educators, decide to make Education Law: after all, one trusts, professional educators will not try to fashion laws governing the administration and/or daily practices in the fields of Law or Medicine. How is it, then, that lawyers seem to feel fully qualified -- following, perhaps, a personal “look-see” into the professional field of Education -- to make Education Law? The ignoring of professional educators and the resulting derogation of professional education field by lawyers, many business men and legislators, have taken a heavy negative toll on our public education system. Ignorance is not now, never has been, and never will be anything but harmful wherever it reigns.

Education is a Teacher in a classroom of 20-35 wide-awake students at various age levels all of whom are exuding unbridled personal agendas based on their individualistic very active intellects, personalities and often distinctive sub-cultures. The teachers’ gaining the attention and respect of their students, leading (teaching) those students each day for 180 days a year is the heart of professional education. Lawyers without such teaching experience should be very cautious about making major education policy decisions as should business people with very little experiential or trained education knowledge. People at the top level of all policy-making education “enterprises” should move cautiously on such education

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decisions, and always in serious consultation with professional educators. *All education decisions at every level should focus first and fore most on the children-youth who are being educated.* Every education policy decision affects children-youth to some degree, sometimes it should be remembered, harmfully.

It is not fair to states and their public schools, without consultation, to tacitly saddle them with assessment outcomes of BIE funded schools. The public schools do not have to embrace the Trust Responsibility contained in the NCLBA. Nor do they have the same responsibility as does the BIE. On the other hand, one must wonder if the Interior Department lawyers carried a grudge against Indian children-youth.

Cost of Lawyers. Most contract-grant schools now must pay for the services of lawyers. Federal BIE schools do not have to pay for the services of a lawyer. Since there has been a large increase in legal requirements on the schools, school lawyers are increasingly needed in the administration of a contract-grant school. Consequently, problems have increased and when BIE meets with a contract-grant school, lawyers accompany the school and the BIE. Lawyers are necessary and expensive and no additional administrative (indirect) funds have been made available to the schools.

Back in 1982 I was asked by the then Navajo Division of Education to conduct a study of the cost of funding the BIA funded schools should the Navajo Nation assume responsibility for them (Hopkins, et al 1982). Table 5, below is taken from the report.

Table 5 – FY 1983 Federal Funding of Navajo Education

SOURCE	AMOUNT
BIA Education	\$100,642,108
BIA Non-Education	61,856,108
Other Federal Agencies	9,463,337
Total	\$171,463,632

The total appropriations to 63 funding entities (schools and dormitories) on Navajo is now much greater but probably less when controlled for inflation. An important finding of the research pertained to indirect-administrative costs. At about that time, 1982, the BIA was funding a broad range of indirect costs in P.L. 93-638 contracts. My findings on administrative-indirect costs is contained in the following paragraph from the report's

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Summary:

Most of the funds that support BIA Education program on the Navajo Reservation are appropriated to that program. However, there are large amounts that are appropriated to the "Administration" program of the BIA. Administration provides common services in procurement, personnel, school facilities, automated data processing, safety, and management of the Education program. ***33 percent of the total Navajo Education funding is appropriated to the Administration budget and BIA does not earmark these funds according to the support provided to its total scope of programs,*** (emphasis added) which necessitates estimating all Administration funds that support the Education program. There are smaller amounts appropriated to other BIA non-Education programs as well as federal agencies outside of the Interior Department that support the Navajo Education program. If and when the Navajo Tribe makes a move to assume responsibility for additional Education programs, especially school operations, extensive negotiations will be necessary as the BIA is constantly changing its administrative organization and its funding structure. As an example, this year, starting October 1, 1982, the Director of Education's office, with a budget of over two million dollars, will be funded under Administration. Other changes similar to this are being made almost on a constant basis, which makes it impossible for the total scope of information developed in this research project to totally apply to a decision that may be made by the tribe a year or two from now. Because of the unique and very large size of the BIA Education program on the Navajo Reservation, the Tribe must look at all levels of BIA operations to seek funds that support the Tribe's operating all Education programs. Normally, most thinking to this point restricted a Navajo Tribal Education Operation to the activities of the BIA on the Reservation, only. However, one of the important findings of this research, which' is apparent in the data, is that the Navajo Tribe must review carefully all levels of the BIA administrative structure, especially Education and Administration when taking over such a massive program as is the BIA Education program on the Navajo Reservation. (pp. vi-vii)

Indirect costs for schools has hovered between 18 percent and about 22 percent, well under the 33 percent of the research finding. The increased involvement of lawyers in the administration of contract-grant schools, in effect, becomes a serious unfunded requirement.

FEDERAL INDIAN-NATIVE EDUCATION ASSIMILATION PURPOSE CONTINUES

Over the decades, Indeed, centuries, it seems that the prevailing policy of the Congress has been outright assimilation of the Indians into U.S. society. This has not happened for a number of reasons most of which are associated with the reservation system. Based on Congressional actions, assimilation continues as the U. S. Congress's dominant Indian-Native education purpose. No doubt members of the House and Senate would deny assimilation as the dominant purpose and point to the Indian Self-Determination policy. On the other hand, with the assimilation purpose dominating, could Self-Determination become Self-Assimilation? There are two recent happenings which point out this possibility.

Alaska Native Education and Oklahoma Indians, Some Historical Similarities

The first happening pertains to Alaska Natives and the Claims Settlement Act and to

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how the State of Oklahoma was made a state. Starting in 1867 and continuing to 1931 Alaska Native education was the responsibility of the U.S. Office of Education which was then located in the Interior Department along side the BIA. On March 16, 1931 Alaska Native responsibility was transferred to the BIA (Hopkins, 1959). Later, in 1983, as discussed above, the Congress passed, “§292b. Establishment of single system of education in Alaska; transfer of Indian schools to State of Alaska,” which legally transferred education responsibility to the State of Alaska.

As pointed out by Adams in her book, economic influenced the education of Indians-Natives from the very beginning (Op. Cit. Adams). Consequently, oil became an important commercial influence in Alaska during World War II. When I arrived in Barrow in early September 1953, when de-boarding the Wein Airlines DC -3, I noticed stacks of oil drilling equipment adjacent to the airport. Having been raised in the Texas Panhandle and having worked in the oil exploration field for several summers, I knew oil drilling equipment when I saw it. I learned that the Defense Department conducted extensive oil exploration during WW II and left the equipment at the U.S. Navy Base at Barrow. Indeed, in 1953 the Barrow Navajo Base was completely heated and electricity generated by two natural gas wells drilled for this purpose during WW II. Later, during the 1960’s oil companies started pressuring the Government for leases in the Arctic and other Alaska locations until Interior Secretary Udall stopped them until there was an Alaska Native claims settlement.

The Alaska Native Claims Settlement Act (ANCSA) was passed and signed by President Nixon on December 18, 1971. The ANSCA granted 44 million acres of land to *twelve Native Regional corporations*, businesses, not reservations. Even though the “Alaska Reorganization Act” making Native reservations a possibility was passed in 1936, note that ANCSA included creating no reservations, only business corporations which could sell their land after 1991 were created (Barnhardt and Wallace, 1982). C. Barnhardt also describes and takes note of the fact that there are “227 federally recognized tribal governments in Alaska” and that the Alaska delegation to Congress complained when the Governor issued a statement which recognized and respected them. This meant that for years when and if the Congress was involved in Native Self-Determination, the Alaska delegation would work to suppress such an effort. This can be interpreted that assimilation was the expressed education purpose according to the Alaska Congressional delegation.

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Now let us turn to the five civilized tribes back around 1825 – 1835 were on the verge of being assimilated when commercial interests in their southern home states wanted their un-used land and they were forcefully moved to the Indian Territory, later Oklahoma (Prucha, 1984). The five civilized tribes both in their home territories and in the Indian Territory would not be left alone to manage their lands as they saw fit. Outside commercial interests wanted their un-used land and the Congress obliged them. In time, without reservations, Oklahoma Indians have become largely assimilated.

Though different in circumstances, commercial interests have help prohibit reservations in Alaska as they did in Oklahoma. Save the Tsimshian Annette Island Reservation, located in Southeastern Alaska, who elected not to participate in the ANCSA, the rest of Alaska is a no-Native-reservation land mass. This type of assimilation does not include cultural genocide as was the case back in the nineteenth century and until very recently, was the purpose of Canadian Indian boarding schools. Native cultures, as have the Oklahoma Indian cultures will endure in decades to come. On the other hand, the government to government relationship² that exists between reservation based Indian governments and the U.S. Government will no doubt be minimal regarding Alaska's 227 tribal governments. I have been told by Native friends that the Native corporations don't care about social issues, including education, but care only for business interests. For example, compared to the Navajo Government which reflects deep concern for the total life of Navajos, Alaska Native corporations care only for carrying out business enterprises, according to this Native individual.

The No Child Left Behind Act (NCLBA).(P.L. 107- 110)

The second assimilation happening pertains to the BIE's implementation of the No Child Left Behind Act. The BIA's then Office of Indian Education Programs (OIEP) now Bureau of Indian Education (BIE) took seriously the statutes assignment of them as the 51st state. They initiated developing and/or adopting curriculum standards and the development of a related criterion referenced test. This approach reflected the decades-old position that children-youth attending BIA funded schools had "Unique" educational needs. Then, apparently, sudden like, a non-Indian Interior Department level administrator, inexperienced and ignorant of education (similar to Mr. Lavis in the latter 1970's) in the Assistant

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Secretaries office over-rode this Education decision and in authoritarian-like manner told BIE to make the BIE-NCLBA program just like the states in which the schools were located. This decision cancelled the BIE's Education approach and substituted a non-education ideological approach. The fact that the official in the Secretaries office made this decision was passed on to me by a BIE Washington level official. Non-Education, Non-Indian, Interior Department administrators, inexperienced and ignorant of Education, are making Education decisions now for BIE and in most cases they have been harmful to innocent Indian-Native children-youth enrolled in BIE funded schools. The decision smacks of irrational and even racial under-tones.

Ignoring Self-Determination The administrator decision to turn over all BIA funded schools to state NCLBA programs completely ignored Indian Self-Determination and statutory requirements supporting it. The Act itself has many paragraphs which clearly support Self-Determination including making Education a Trust Responsibility and giving contract-grant school boards authority to waiver assessment procedures not designed by the board and do their own assessment. The Waiver section follows:

CONTRACT AND GRANT SCHOOLS.—For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by such school board under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

“(B) WAIVER.—The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the definition of adequate yearly progress established pursuant to paragraph (A) where such definition is determined by such body or school board to be inappropriate. If such definition is waived, the tribal governing body or school board shall, within 60 days thereafter, submit to the Secretary of Interior a proposal for an alternative definition of adequate yearly progress, consistent with section 1111(b), that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, shall approve such alternative definition unless the Secretary determines that the definition does not meet the requirements of section 1111(b), taking into account the unique circumstances and needs of such school or schools and the students served.

“(C) TECHNICAL ASSISTANCE.—The Secretary of Interior shall, in consultation with the Secretary if the Secretary of Interior requests the consultation, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks to develop

² The Northwest Regional Education Laboratory recently (2009) completed a policy survey of its five states. Alaska was the only state that did not recognize the government to government relationship to Native tribes.

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an alternative definition of adequate yearly progress.

At no time since the passage of NCLBA has Interior-BIE stressed or provided training on all the authority provided to contract-grant, Indian Controlled schools. Rather, they have made public standardized test scores and training on how to raise test scores and/or on the Act's "Restructuring" based on poor test scores as measured by state assessment programs. The Meriam Report of 1928 described public school education and Indian education rather accurately: (Op.cit. Meriam, p. 415)

Public Schools and Indian Children The present plan of the government to put Indian children into public schools wherever possible is commendable as a general policy. It will be necessary to make certain, however: (1) That the step is not taken too hastily in any given situation and as a mere matter of temporary saving of money; (2) that the federal authorities retain sufficient professional direction to make sure the needs of the Indians are met; (3) that the ordinary school facilities are supplemented by health supervision and visiting teacher work—types of aid most needed at present among Indians; (4) that adult education and other community activities are provided.

The net effect of the implementation is a tacit implementation of assimilation and obviously a complete over-riding of Indian Self-Determination changing it to Indian Self-Assimilation.

AFTERWORD

In Looking back 50 years there a few items that seem constant. They are:

1. There is a reluctance for the Federal Government to operate schools for Indian-Natives. The Government continues to fund Indian-Native education but on a reduced scale. For example, the population increase over the last 50 years has been large but the number of students in Federally funded schools has remained constant.
2. Once schools have been turned over to states, territory or tribes, the BIA-BIE ceases to be concerned about the children-youth who attend them. It is an open question of what will happen now that Education is a Trust Responsibility as no Trust program has been developed. Is this historical practice tacit Termination of education responsibility?
3. There no doubt will continue to be occasional Interior Department officials who will "Take Over" the BIA's Education program. There will also be Education Directors who are non-education professionals who will be appointed. History has shown that these individuals will always have a negative influence-impact on Indian-Native children.
4. In spite of these probabilities, given sufficient technical assistance and financial support, Indian people will always make good education decisions.

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