

# Are Tribal Compact Schools the Answer to Improving Native Student Success in Washington? <sup>1</sup>

By Teresa Winstead, John Hopkins, Michael Vendiola<sup>2</sup>

**Abstract**<sup>3</sup> *This case describes the recent Tribal Compact School movement in Washington State which aims to address persistent issues in the educational experiences of Native students. The case explores the rationale for tribal compact schools and other educational initiatives in Washington and the experience of three tribes--- the Suquamish, the Muckleshoot, and the Lummi Tribes---that have established tribal compact schools.*

## Introduction

This case explores the recent Tribal Compact School movement in Washington State, which aims to address persistent issues with the educational experiences and outcomes of Native students. In 2013, Senator John McCoy and Representative Sharon Tomiko Santos worked together to sponsor House Bill 1134 establishing Tribal Compact Schools (Appendix 1). To their surprise, the bill passed quickly without much resistance.<sup>4</sup> The bill allows tribal governments and current Bureau of Indian Affairs schools to enter a contract with the State to establish tribal compact schools and grants tribal communities more direct control over their schools. This legislation intends to address the high dropout rates and low graduation rates for American Indian students by fostering Native American cultural identity while promoting indigenous knowledge, language, values, and practice (Governor's Office of Indian Affairs, 2008).

The new legislation contributed to a growing body of state policy based on strengthening government-to-government relations and improving education. Granting tribes the ability to enter a compact to control their schools also serves to promote and assert tribal educational sovereignty. It "affirms the state's commitment to honor the government-to-government relationship between OSPI, Tribes, and currently funded Bureau of Indian Education tribal schools" (Governor's Office of Indian Affairs, 2015). The compact brings the Office of the Superintendent of Public Instruction and tribes, or already existing Federal Bureau of Indian Education schools, into an agreement that authorizes tribes to serve as proxy education agencies or school districts.

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<sup>1</sup> Copyright 2018. The Evergreen State College. For teaching notes and other cases go to <http://nativecases.evergreen.edu>. Special thanks to Washington State Senator John McCoy, Joan Banker, Kay Turner, Joe Davalos, Bernie Thomas, Barbara Leigh Smith, and many others mentioned in this case for their leadership and generosity in providing information to help us write this case.

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<sup>3</sup> In this case study we capitalize Indigenous, Native, and American Indian, following the convention articulated by Gregory Younging in "The Elements of Indigenous Style: A guide for writing by and about Indigenous Peoples (2018).

<sup>4</sup> [RCW 28A.715 / WAC 392.800]

This case explores how these tribal compact schools enhance Native education and engages in a discussion of the pros and cons of this approach. We share the experiences of three Tribes who were approved as State-Tribal Education Compact Schools (STECS) in 2014: the Suquamish Tribe's Chief Kitsap Academy; the Lummi Nation's Lummi Nation Schools; and the Muckleshoot Tribe's Muckleshoot Indian School.

### **Sovereignty and Indigenous Education**

The colonizing experiences of Indigenous peoples have contributed to unequal educational conditions, access, and attainment placing Native students at disadvantages in comparison to other groups. The national high school graduation rate (school year 2015-16) for American Indian/Alaskan Native students enrolled in public schools is 72 percent (National Center for Education Statistics, 2018), the lowest of any demographic group. This is especially concerning when compared to the national average graduation rate of 84 percent. According to the National Center for Education Statistics, only 39 percent of Native students who enrolled in a four-year institution in the fall of 2004 completed a bachelor's degree by 2010, compared to 62 percent of White students (Knapp, et al. 2012). The challenges faced by Native youth do not exist only within the walls of our educational institutions. According to the U.S. Department of Health and Human Services, suicide is the second leading cause of death for Native youth from 15 to 24 years old (Mackin, et al., 2012). Longstanding disparities in economic status, educational outcomes, and overall health have contributed to systematic challenges faced by Native youth today.

Currently Indigenous peoples are actively engaged in the political recognition and promotion of tribal sovereignty in education. Recent calls to recognize the right of Indigenous peoples and their sovereignty have been supported by the international community. The 2007 United Nations' *Declaration of the Rights of Indigenous Peoples* states that Indigenous groups have an inherent right to educate their communities and children according to their own cultures, languages, and traditions (United Nations, 2007). In a statement marking the tenth anniversary of the UN Declaration, Mariam Aboubakrine said, "Despite good intentions, good laws and progressive human rights instruments, there remains a gap between words and actions. Indigenous peoples continue to face marginalization, discrimination and violations to their rights. While there has been progress, it has been slow, uneven and not able to make a difference in the lives of many indigenous peoples" (2017).

Sovereignty refers to "a tribe's right to retain a measure of independence from outside entities and the power of regulating one's internal affairs" (Wilkins, 2000, p. 48). Wilkins explains that American Indians are "the original—the indigenous—inhabitants of North America...[tribes] are nations in the most fundamental sense of the word" (p. 48). As sovereign nations, tribal peoples possess governmental, political, and economic control over their own lands, territories, and communities and the inherent power and right to define their own cultures and identities in ways they determine to be relevant for present and future generations. Sovereignty continues to be recognized by treaties and sustained in the nation-to-nation relationship with the federal government.

The connection of tribal sovereignty to education involves regenerating and revitalizing traditional cultures, languages, and epistemologies at all levels of Indigenous education. Although tribes have sustained cultural continuity despite intentional efforts of colonization, many struggle to preserve their cultures, languages, and epistemologies apart from the paternalism and assimilation agendas of dominant educational systems. There is thus urgency within many tribal communities to teach children their traditional languages to preserve the worldviews of the community (McPherson & Rabb, 2011). According to UNESCO, only 20 of the 175 indigenous languages in North America are still being learned by first generation speakers (Krauss 1998, McCarty 2011). This makes language loss an especially crucial issue for small tribes who are rapidly losing speakers as tribal elders age and pass on. Recent research in Indigenous education has focused on the need to infuse indigenous language knowledge systems more concretely into the curriculum and teacher training programs (Brayboy, 2005, McCarty 2011).

### **History of Indian Education**

The education of Indigenous peoples has been an important part of colonialism since the first interactions between Europeans and Native groups. Early Christian missionaries believed their purpose was to civilize and Christianize Indigenous peoples. By the late nineteenth century, the federal government funded off-reservation boarding schools to serve as the primary mechanism to assimilate Native children into American society. The policies of boarding schools were clear: separate children from the broader influence of tribal communities; eradicate the traces of tribal customs and languages; and socialize children into mainstream society, religion, and industry. The separation of Native children from the broader influences and care of tribal communities not only engendered untold emotional damage. It also fragmented the coherence of tribes and diminished the self-concept of Native children.

The 1928 Meriam Report highlighted the many failings of the federal handling of Indian affairs, including the boarding school system (Szasz, 1999). Among other things, the report called for returning Native youth to their communities, more relevant curricular materials, and involvement of tribal communities. In the wake of the Meriam Report, John Collier was appointed the Commissioner of Indian Affairs. He embraced the criticisms of Indian education laid out by the report's authors as his guiding mission to improve the education of Native children. Collier and his reformers promoted progressive education policies and enacted new legislation under the guiding principles of democracy.

At the center of Collier's administration was the Indian Reorganization Act of 1934 (IRA) which sought to preserve Native cultures and maintain Indian rights. The IRA empowered tribal communities "to make the important decisions regarding their affairs" (Gover, 2007, p. 190). The IRA granted tribes the right to establish local government and corporations, giving them greater responsibility over their own political and economic decisions. Most important, the IRA authorized tribes to exercise more sovereignty over their own economic and educational affairs. It sought to improve the economic, political, and education conditions of Indigenous peoples by promoting rather than diminishing tribal sovereignty.

During the IRA, Indian education policies and practices began to reflect the tenets of progressive education. One example involved the construction of more reservation day schools so that children could remain in their communities. Between 1933 and 1941 nearly one hundred day schools were constructed on numerous reservations (Calloway, 2004).

By the mid-1940's, the progressive reforms of the IRA began to shift towards conservative policies. The federal government sought to terminate its fiduciary responsibilities and treaty obligations to tribes. Congress passed the Termination Act of 1953 and the Relocation Act of 1956. These laws sought to "subject [Natives peoples] to...the same privileges and responsibilities as are applicable to other citizens of the United States" (Gover, 2007, p. 193). These laws also sought to relocate Native peoples into urban centers. Under relocation, the government promised adequate housing, jobs, and services, but these promises failed to materialize. Native peoples entering urban life faced the same high rates of unemployment and poverty as they had experienced on reservations.

Native peoples resisted the attempt of the federal government to eradicate their tribal sovereignty and treaty rights. In 1944, Native peoples from twenty-seven states and over fifty tribes formed the National Congress of American Indians (NCAI). The NCAI challenged termination and relocation laws and "fought to maintain Indian' legal rights and cultural identity" (Cowger, 1999, p. 3). Critical to the mission of NCAI was the need to promote educational opportunities for Native peoples and to "educate the general public regarding American Indian and Alaska Native governments, people, and rights" (National Congress of American Indians, n.d.).

The growing number of relocated Native peoples that resulted from termination had the unintended consequence of producing Native activism. In the 1960's and 1970's, urban Indian youth formed political organizations. These included the American Indian Movement (AIM), Indians of All Tribes (IAT), and Women of All Red Nations (WARN). These political organizations sought to rebuild tribal communities according to their own traditions and cultures. The leaders of AIM, for example, worked with Native parents in Minneapolis and St. Paul to establish survival schools. Survival schools "diverged from the public school model that had alienated many Native children" (Davis, 2013, p. 101). These schools immersed Native children in indigenous language, culture, spirituality, and identity.

Indigenous activism during this era established a new political discourse of self-determination in the 1970's. President Nixon's special message to Congress on Indian Affairs captures the government's new attitude: "It is long past time that the Indian policies of the Federal government began to recognize and build upon the capacities and insights of the Indian people" (Reyhner & Eder, 2004, p. 254). This political discourse of self-determination led to landmark legislation that emphasized the need for tribes to govern their own affairs in education, including the Indian Education Act of 1972 and the Indian Self-Determination and Educational Assistance Act of 1975 (Jaimes, 1992).

Indigenous peoples continue to promote self-determination strategies. In the K-12 context, there are now more tribally controlled Bureau of Indian Education (BIE) schools, with tribes controlling 130 of the 183 total BIE schools (Bureau of Indian Education). With ninety

percent of Native students attending public schools, recent research emphasizes the need to infuse indigenous knowledge, culture, and language into all schools and curriculum (Brayboy, 2005; McCarty & Lee, 2014). A number of states have now also taken a variety of steps to improve Indian education, including the Indian Education for All curriculum movement in Montana, and various legislation in Wyoming, Washington and Oregon. Taken together, these strategies seek to put Indigenous education in the hands of Native peoples and tribes such that Indigenous peoples “become active participants and creators of [their] own education” (Cajete, 2012, p. 155).

### **Washington Indigenous Education History**

Developments in Indian Education in Washington State followed the same general trends as the national history of Indian education described above, with some noteworthy differences in recent years. The recent initiatives in Washington State to include tribal history in public schools and establish tribal compact schools fits into the general movement in this region to increase American Indian student success in school through political, curricular, and community relationship building strategies.

During the mid-1800’s the federal government entered into treaties with Indigenous nations that included commitments to support education. For example, the Medicine Creek Treaty of 1854 promised to establish schools on the Nisqually, Squaxin, Puyallup, and Steilacoom tribes’ reservations. These schools operated from the 1870’s until their closure in the 1890’s. Mission schools also played a role in the education of Native children. In 1857, Father Chirouse founded the Tulalip Mission School, which sought to educate “young Indian children in English...[and] the Christian tradition” (O’Brien, 2013, p. 85). Cushman Indian School on the Puyallup reservation began in the 1870’s and became the largest school in the region until its closure in 1920 (Marr, n.d.). With these closures, Chemewa Indian School in Oregon served as the primary boarding school for many Native children. By 1920, Chemewa “enrolled 903 students from ninety tribes...as far away as Alaska” (O’Brien, 2013, p. 84).

By the 1960’s, Washington State tribes began to advocate for their sovereignty and treaty rights. The National Indian Youth Council (NIYC) worked alongside northwest tribes to protest the erosion of their fishing rights. Known as the “fish-ins,” Native peoples publicly asserted their treaty rights to fish in their accustomed places, despite ongoing arrests and racism from the local authorities and surrounding communities (Shreve, 2011). This led to litigation that eventually reached the US Supreme Court. In 1974 the court issued the Boldt Decision (*US v Washington*), which allowed “tribes an opportunity to harvest one-half of the salmon passing their off-reservation fishing places” (Wilkinson, 2005, p. 202). This was a critical turning point in the pursuit for fully articulated political sovereignty, self-determination, and respect for Native treaty rights in Washington State.

Indigenous activism engendered a cultural renaissance and interest in developing tribally controlled education systems. Important early innovations came in the 1960’s when the Makah Tribe offered informal culture and language classes in their public school (Renker & Gunther,

1990).<sup>5</sup> In 1974, the Lummi Indian School of Aquaculture was established and became the Lummi Community College in the early 1980's. In 1989, it became Northwest Indian College. The Lummi Nation is the site of one of the tribal compact schools we discuss in this case study.

In the late 1980's, an innovative approach to Indian education involving political partnerships between the State of Washington and tribal communities began to emerge that is built on the ideas of self-determination and tribal sovereignty. In 1989, the Centennial Accord was signed between the Governor's Office and all the federally recognized tribes in Washington except the Yakama and Kalispell tribes.<sup>6</sup> Three additional, then unrecognized tribes—the Samish, the Cowlitz, and the Snoqualmie—later signed the Accord. The aim of the Accord is to improve services delivered to people by the parties and better achieve mutual goals through an improved relationship between their sovereign governments. The Accord included strong language recognizing tribal sovereignty and a detailed process for implementing the goals of the Accord including annual meetings with state departments at which joint strategies and specific agreements would be discussed.

In 1999, tribal and state leaders met for a Tribal and State Leaders' Summit to review progress and form the Millennium Agreement. The Millennium Agreement reiterated many of the commitments in the Centennial Accord and added specific new language about their commitment to Indian education:

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 relations and the contribution of Indian Nations to the State of Washington to move us forward on the Centennial Accord's promise that, The parties recognize that implementation of this Accord will require a comprehensive educational effort to promote understanding of the government-to-government relationship within their own governmental organizations and with the public (Governor's Office of Indian Affairs, 1999).

Combined, these agreements emphasized the State's commitment to recognize the government-to-government relationship between the State and tribes by “empowering tribes to take greater responsibility for improving the educational achievement outcomes for tribal students” (WAC 392-800-820, 2014). In 2012 the Centennial Accord was codified into law becoming RCW 43376 after the passage of House Bill 1287.

Despite all this progress in building stronger government-to-government relationships between tribes and the state, persistent challenges facing Native students in Washington state schools remained a top concern for tribes. Aggressive steps were taken over the next years to

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<sup>5</sup> See the case study by Tanya Alstatt Menchaca “Enhancing Native Student Achievement: What Works?” for an account of recent educational improvement efforts in the Makah public schools. Available at the Native Cases website <http://nativecases.evergreen.edu>

<sup>6</sup> For a case study on the Centennial Accord see Smith, *The Centennial Accord: What has been the Impact?* (2018).. Enduring Legacies Native Case Collection at <http://nativecases.evergreen.edu>

## Recent Washington Legislative Milestones in Indian Education

- Centennial Accord (1989)
- Millennium Agreement (1999)
- HB2406 History and Culture Bill (2004)
- HB 1495 Encouraging inclusion of tribal history in schools (2005)
- SB 5269 Establishing First Peoples language & culture certification program (2007)
- Legislature commissions study of the achievement gap in Indian Education, *From Where the Sun Rises: Addressing the Achievement of Native Americans in Washington* (2008)
- HB 1134 Tribal Compact School legislation (2013)
- HB 1511 Mandating inclusion of tribal history in schools (2015)
- SB 6474 Allow tribal compact schools to make changes in policies and practices to better accommodate students (2018)
- HB 2034/SB 5028 requiring teacher ed programs to include Native curriculum

better support Native student success through a series of reports and legislative actions. Local tribal leadership groups led the effort with the recently elected State Representative from Tulalip, John McCoy, playing a crucial role in gaining legislative support for measures supporting this goal. (See timeline of legislative milestones)

Tribal members and Native language teachers who were concerned about the education of Native youth joined together to form a committee called the First Peoples Language and Culture committee (FPLC)<sup>7</sup>, to revive and promote Native languages and support Native students' academic success. In 2003 the vision created by the FPLC contributed to important conversations about Native student wellness and academic success in the Indian Education Summit, called *Leave No Indian Child Behind*<sup>7</sup> (Governor's Office of Indian Affairs, 2003). Participants at this gathering spoke passionately about the importance of teaching Native culture and history to foster growth and success of Native and non-native students alike. The report identified some of the persistent issues in Indian education. It called for more intentional involvement of Indian communities in educational efforts and the inclusion of language and culture for Native students in their K-12 educational experience.

*A holistic, interactive, individualized, family, community, and culturally-based approach to education of our children is the most valuable intervention tool...currently available to us. ...Indian education means involving families, integrating culture and generations, having high but realistic expectations, of all children, and is fun, promoting a 'show-me' relevant curriculum using storytelling to allow children their individual voice to tell their stories. (Governor's Office of Indian Affairs, 2003, p. 25-26)*

By the end of this meeting, there was a clear call for a political strategy to include history and culture in the public school curriculum. The State Representative to take up that charge was John McCoy. In the following 2004 legislative session, McCoy introduced the Tribal History and Culture bill (HB 2406), to make the inclusion of tribal history and culture part of the state

graduation requirements. It took several efforts to get the bill passed, but eventually McCoy and other tribal education advocates prevailed and in the spring of 2005, HB 1495 was passed.

<sup>7</sup> See the Native Case Studies Institute case study, "Waiting Patiently 500 years," by Denny Hurtado and Barbara Leigh Smith, available at: <http://nativecases.evergreen.edu/collection/cases/waiting-patiently-500-years>

The original intention of the bill was to make inclusion of Native history *mandatory* in all Washington State schools (Hurtado 2007, McCoy 2012). One of the critical changes that occurred in the process of modifying the bill to speed its passage was the removal of the mandatory language regarding the inclusion of native curriculum for all state public schools, Native and non-Native alike. Furthermore, the bill included no funding to support implementation.

Many tribal representatives expressed disappointment about this change and some considered abandoning the bill altogether because it no longer accomplished its original mission. Representative McCoy remembers: “It was hard for me to accept, but we had to make a number of changes...and the tribes were not happy when the mandatory inclusion language was dropped.” (Hurtado and Smith, 2007, pg 6.)

Denny Hurtado, Washington State’s Office of Indian Education Supervisor at the time, said that it is this kind of response that tells us that Native students are still not being welcomed in Washington schools. He explains:

One goal is really just to educate non-Indians more about who we really are as a people, what our government is like, what treaties mean, and what it is like to be oppressed and deprived of our language, culture, and history for so many years. Many people are like, ‘Wow, that was done to you? We didn't know that.’ So it's really about educating people about who we are as a people. (Education Committee, 2005)

As Hurtado states, the goal of these curricular efforts to include indigenous history in the state’s educational policy was, in part, to reach both native and non-native students with more information about sovereignty, governance, and contemporary tribal life. The legislation took a few years to implement, but in 2006 a Memorandum of Agreement to encourage tribal history and culture in public schools was signed by the 29 federally recognized tribes, the Washington State School Directors Association (WSSDA), and the State Board of Education. The curriculum at the center of the Tribal History and Culture bill, created through The Office of Native Education (ONE), is called the “Since Time Immemorial Curriculum.”<sup>8</sup> It offers lessons on Washington State indigenous history and culture, through to the present day, for grades k-12.

Another critical step in the education reform effort was taken in 2008 when the Legislature commissioned reports on the educational achievement of the various ethnic groups. Michael Pavel, then a professor at WSU, and his team wrote *Where the Sun Rises: Addressing the Achievement of Native Americans in Washington* (GOIA 2008), which called on Washington State leaders to advocate for an education system that honors Indigenous students’ languages and cultural heritages. The authors held numerous listening sessions to document tribal members’

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<sup>8</sup> See Native Case Studies, Since Time Immemorial curriculum at [www.indian-ed.org](http://www.indian-ed.org). and cases by Smith and Hurtado, *Waiting Patiently 500 Years*, and Smith, Brown and Costantino, *Since Time Immemorial: Developing Tribal Sovereignty Curriculum for Washington’s Schools* at <http://nativecases.evergreen.edu>. by Barbara Leigh Smith, Shana Brown and Magda Costantino. Available at: <http://nativecases.evergreen.edu/sites/nativecases.evergreen.edu/files/case-studies/sincetimeimmemorialcase.pdf>

voices on issues related to Native student education. The result was a comprehensive analysis of the problems faced by students, teachers, tribes, and administrators. A plan emerged to focus on pre-service training and professional development for all critical stakeholders in order to foster the health and well-being of native youth, and in the process help to support their families, academic achievement and attainment, and assessment of student learning.

In the next decade Senator McCoy worked strategically to push forward a model for Indian Education in Washington State that would continue to emphasize tribal involvement in policy-making, promotion of tribal sovereignty, and public education inclusive of the history and culture of Native Americans in Washington State. Not content with the Tribal History and Culture bill as simply an encouragement, Senator McCoy helped to pass a revision of it in 2015. McCoy's HB 1511 changed the **encouragement** of tribal history into a **requirement**, as the 2005 legislation originally intended. Another bill in 2018 required inclusion of this curriculum in all of the State's teacher education programs.

One measure of the success of these efforts is the inclusion of the Since Time Immemorial Curriculum in Washington's schools. Since the curriculum was completed, the Office of Native Education reports that participants from 93 school districts, 4 private schools, 9 tribal schools, 24 Tribes, and many other organizations, universities, museums, and government agencies from inside and outside Washington have participated in the Since Time Immemorial trainings (Governor's Office of Indian Affairs, 2015). Of course, the real test of the impact of this new curriculum is whether, how, and where, it has been used. This is, as of yet, an unanswered question.

Thinking back on the beginning of the compacting legislation, McCoy recalls that he had just finished working on another area of state legislative policy involving protecting tribal sovereignty, the revision of PL 280. He says he was at a gathering with Tribal Leaders, and after they concluded their meeting, he recalls asking: "What more do you need?" And, Senator McCoy can't recall which of the Tribal Leaders it was, because he says Leonard Forsman, Bernie Thomas, and Joe Davalos were all present. But, he says that one of them said: "We'd like our own schools." And this was the birth of the Tribal Compact Schools legislation.

In fact, McCoy recalls, it was a surprise that the bill to establish State Tribal Education Compacts [HB1134] passed into law so quickly. One reason for this was that the bill clearly and substantively contributes to the trend in Washington State focused on supporting the well-being of Native youth through government-to-government cooperation between the State and the tribes. Importantly, it aims to accomplish this goal without requiring additional funding from the State but by promoting educational initiatives that forefront culture and language, Native identity formation, community integration, and sovereignty in schools that are controlled by the Tribes. The legislation identifies that entities that eligible to engage in a Tribal Education Compact include tribal governments in Washington State and schools that already operate through the Bureau of Indian Education.

## Washington Tribes and Schools<sup>9</sup>

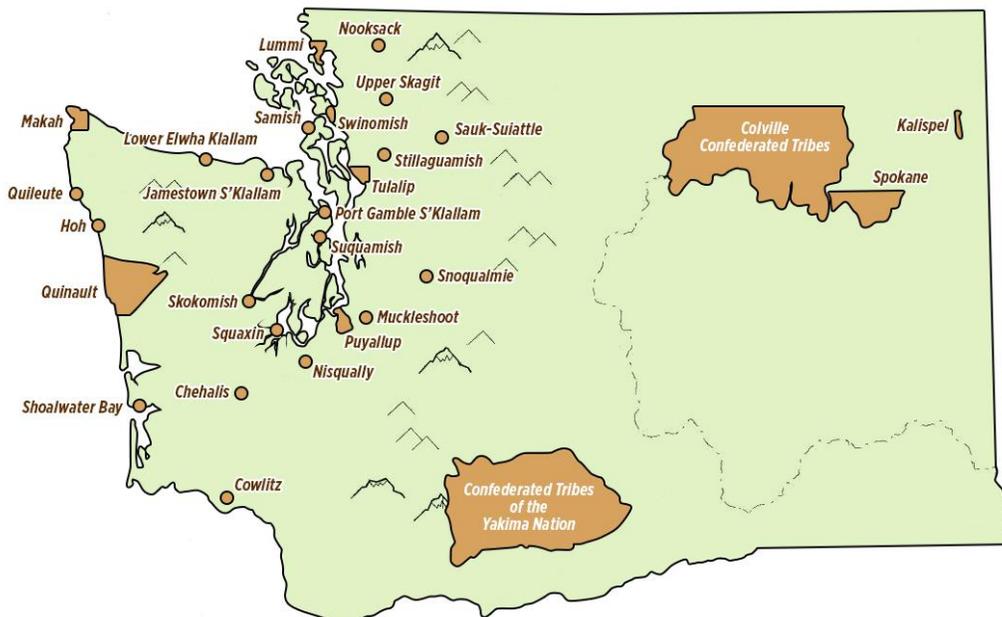
Washington has 29 federally recognized tribes that vary considerably in size. The overwhelming majority of the reservations in the State are served by public schools. Native students make up 6.2 percent of the total student population (65,327 Native students) in the state and twenty-five percent or more of the student population in fifty-seven schools across the State (OSPI 2015). Districts that have a significant percent of their students identified as Native include Wellpinit, Tahola, Toppenish, Omak and North Kitsap (ONE, 2012, p. 10). All of these schools are located near reservations. Schools serving Native youth can be public, private, Charter, Bureau of Indian Education, and now Tribal Compact schools.

Currently, the number of Native students enrolled in BIE schools in Washington is approximately 2,174. There are eight Bureau of Indian Education schools in Washington and all are tribally controlled through contracts with the Bureau of Indian Education. Five are now approved tribal compact schools. The three earliest compact schools, established in 2014, were interviewed for this case are Muckleshoot Tribal School, Lummi Nation School, and the Chief Kitsap Academy, which serves the Suquamish Tribe. Compact schools have more recently been established at Wa-He-Lut and Quileute as well. The other BIE schools are Chief Leschi (K-12), Pascal Sherman at Omak (K-9), and Yakama (9-12).

The current public education system in Washington State includes the legislature, the Office of Superintendent of Public Instruction (OSPI), the State Board of Education (SBE), the Professional Educator Standards Board (PESB), and the Washington State School Directors' Association at the state level, regional educational service districts (ESDs), and school districts at the local level. These institutions work together to establish state education policies and administer and supervise the public schools. The policy environment in which education is managed in Washington State is dominated by principles that emphasize maintaining local control while empowering legislative and state agencies to help facilitate positive educational management, evaluation, and change.

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<sup>9</sup> Our thanks to Joan Banker, Gil Mendoza, Gail Pauley, at OSPI, and State Senator John McCoy for talking with us about the development and implementation of the Tribal Compacting legislation.



Washington has many small tribes with the Puget Sound Salish tribes numbering approximately 20,832. The majority of Native American people live off reservations in the urban areas of Seattle-Tacoma-Bellevue and the Spokane area. Substantial numbers of American Indian people in Washington State are members of out of state tribes. A large number are Alaska Natives. Seattle is the home of the Alaska Native Corporation Region 13 (now largely non-operative) which was set up to serve Alaska Natives in the lower 48 states.

It is difficult to get a precise number of Native Americans currently residing in Washington State. Some reports only use one of the three categories in the census: American Indian or Alaska Native-Hispanic. While reports that are more accurate also roll up and include two other categories- American Indian or Alaska Native-Not Hispanic and American Indian of Alaska Native-Two or More Race(s). An additional complication comes from the fact that many of the people who self-identify as American Indian are not officially enrolled in a federally recognized tribe at all because they do not meet the tribal enrollment criteria, such as minimum blood quantum or residence. These individuals cannot usually receive support for education or other services. To complicate the picture, tribes also vary considerably in their resources available to support education. Many prospective students are ineligible for their tribe's education benefits simply because they do not live within the radius that tribes require them to live in to be eligible for education assistance. Most of the schools on reservations in the Pacific Northwest (and in other states) are public schools.

According to the Office of the Superintendent of Public Instruction,<sup>10</sup> Native students make up approximately 6% of the student population (65,327 Native students) in Washington

<sup>10</sup> Special thanks to Joan Banker, Office of Native Education Program Assistant, for verifying these numbers for this case study.

State. This cumulative number includes the Native students enrolled in BIE schools (according to BIE data, approximately 2,174) and the Native students in public schools (according to OSPI data, approximately 63,153). 10% of the total population of American Indian and Alaskan Native people in Washington State lives at or below poverty level. According to the American Community Survey data, Washington’s American Indian and Alaska Native population showed higher percentages of living in poverty (31%) compared to the White population (11%), and suicide is the second highest leading cause of death for Native youth, 2.5 times the national rate (Hyde, 2011). In Washington State, according to data from 2003-2007 Native communities “have the highest mortality rates for all causes than any other population in the state, with specific causes including but not limited to suicide, injury, chronic liver disease, Chronic Obstructive Pulmonary Disease, and heart disease” (Washington State Department of Health, 2010, p. 3). The real concerns about poverty and overall health of Native communities in Washington State inform long-term efforts, like the State-Tribal Educational Compact Schools, to develop innovative educational opportunities for Native youth.

### **Tribes Interviewed for this Case**

The Muckleshoot Tribe is located near Seattle and Tacoma. It is one of the “three big” tribes in terms of economic development with a population of about 1500. The Lummi Tribe is located near Bellingham Washington in the northwestern part of the State with a population of about 2500. The Suquamish Tribe is located near Poulsbo on the Olympic Peninsula near the wealthy community on Bainbridge Island. The current student population of these schools is described below in Table 1. Table 2 provides a snapshot of the graduation rates in each school, but it should be noted that this data is quite preliminary.

**Table 1: Student Population (OSPI 2018)**

<b>Current student populations Spring 2018</b>	
<b>Muckleshoot:</b>	470
<b>Lummi:</b>	294
<b>Chief Kitsap:</b>	76

**Table 2: Graduation Rates**

<b>2016-17 Graduation Rates</b>	<b>4-year graduation</b>		<b>5-year graduation</b>		<b>Total student population Spring 2017</b>
	n=	%	n=	%	
<b>WA State (all students)</b>	81,041	79.10%	80,564	81.90%	
<b>Chief Kitsap Academy</b>	12	83.30%	no data	no data	76
<b>Lummi Nation School</b>	20	55.00%	30	66.70%	265

<b>Muckleshoot Tribal School</b>		30	46.70%	24	62.50%	391
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Tribal compact schools are required to provide a curriculum and educational program that meet state requirements. This includes participating in the state assessments of learning goals across all grade levels. They must also meet state employment guidelines and criteria for engaging certified instructional staff and follow all state employment laws regarding non-discrimination. In addition, they must comply with all accounting principles and are subject to state auditing procedures, if necessary. Like other state funded schools, compact schools cannot participate in sectarian practices in the educational program or employment practices of the school. In 2018, the State Legislature passed Senate Bill 6474 which established a pilot program allowing alternatives to promote culturally relevant curriculum and testing, but this has not yet been implemented at the time this case was written.

### **Muckleshoot Tribal Compact School<sup>11</sup>**

The colonizing education of the Muckleshoot Indian Tribe began during the treaty and settlement era in the mid and late 1800's. In 1870, a *Report of the Commissioner of Indian Affairs* described the Muckleshoot Tribe as part of the Tulalip Agency. The Tulalip Agency had "established a government school, under the charge of Rev. C.C. Chirouse and a few Sisters of Charity, which is doing well and would affect greater good were Congress to make a more liberal appropriation" (Office of Indian Affairs, 1870, p. 10). With the closure of boarding and mission schools in the Puget Sound region, Chemawa Indian School in Oregon became the primary off-reservation boarding school for Muckleshoot children. By the 1960's, the Muckleshoot Tribe experienced a resurgence in tribal culture, history, and sustainability. Educational programs, such as "Headstart facilities, a library...and educational training programs," emerged as vital components of promoting tribal self-sufficiency and self-determination (Ruby and Brown, 1986, p. 141).

In 1984, the Muckleshoot tribe opened the Muckleshoot Tribal School under the direction of the Bureau of Indian Affairs and interacted with the State through an interlocal agreement with the Enumclaw school district. During these early years, the tribal school only offered Kindergarten through eighth grade. In 1997 the school expanded to include high school grade levels. In November of 2007, the Tribe "broke ground...on a new \$40-million, 107,000-square-foot K-12 school that opened with 500 students in the academic year 2009-10" (Ruby, Brown, and Collins, 2010, p. 200). The school's website captures the energy of the new facility:

The Muckleshoot Tribal School moved into a world-class, state of the art campus in 2009. With the use of 21st century technology, the school provides grade level instruction for Native American Students from Kindergarten through Twelfth grade" (Muckleshoot Tribal School).

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<sup>11</sup> Our thanks to Kay Turner (State Tribal Education Compact Compliance Officer at Muckleshoot Indian Tribe) for taking time to talk with us about the Muckleshoot Tribal School's transition to becoming a Tribal Compact school.

In the 2015 – 2016 school year, the enrollment of the tribal school stood at 417 students with 98.8% of students and 31% of teachers identified as American Indian/Alaska Native (OSPI).

In 2014, the Muckleshoot Indian Tribe became one of three tribal compact schools in the State of Washington. Interviews with key administrators offered their perspectives on the tribal compact's challenges and benefits. According to these administrators, one phrase best summarizes the tribal-compact relationship: "We don't know what we don't know." This phrase indicates the tricky ground of the tribal school navigating the new tribal compact process. It also indicates the excitement of entering a new relationship with Washington State. One of the key administrators at the tribal school, Kay Turner, serves as State Tribal Education Compact Compliance Officer. Turner has been a leading voice in guiding the Tribe through the compact process. She has also proven to be a critical resource for other tribal compact schools.

Turner offered some critical observations about the tribal school's situation prior to the tribal compact relationship, saying, "There was too much control by the school district and the district kept too much money allocated to the tribal school. The tribal compact puts the tribal school in a government-to-government relationship."

Turner's reference to the school district's control over resources is important. Prior to the tribal compact relationship, the tribal school fell under the auspices of local school districts. A large percentage of the funds would be allocated to the district for transportation, student services, and general administrative expenses. The remaining budget would go to the tribal school. Turner recognized the immediate financial benefits of becoming a tribal compact school. "Because of the tribal compact, the Muckleshoot Tribal School is now its own district and connects directly with the Office of Public Instruction. All the funds go directly to the tribal school which means greater access to grants, student statistics, and test scores." Another administrator commented that the tribal compact has allowed the school to be more competitive in hiring quality teachers: "Now the tribal school can hire and retain highly qualified teachers and offer competitive salary, whereas before this was very challenging"

Becoming a tribal compact school also introduced certain challenges. As Turner said, "we had to figure out what we don't know." There were a number of challenges including not having answers from OSPI ahead of time to complete the necessary paperwork for reporting purposes, including student demographics and test scores; tribal compact schools being unaware of systems knowledge, e.g., how tribal compact schools fit into the broader structure of public schools both on the state and federal level. Tribal schools were also caught up in the conflict between the federal and state levels of accountability, with differing reporting methods and deadlines for special education results, and tribal schools at first followed the federal guidelines but when state funds came in the school had to follow state guidelines.

Turner identified tribal sovereignty also as a key issue for tribal compact schools: "Tribal schools need to understand tribal sovereignty and follow the contract signed by the tribal council. This ensures there is less conflict between the state and tribes." The understanding of sovereignty translated to a more explicit commitment by the tribal school to teach Indigenous language, culture, and traditions in the classroom, when these commitments were limited before becoming

a tribal compact school. Turner recounts how the tribal school looked at the Hawaiian language immersion programs. Ideas generated from these observations led to educational programs and classes that promoted and sustained Muckleshoot culture, languages, and traditions: “Twenty culture experts from the tribe are present in the class, not just as para-educators but as co-teachers. We see that kids want to be at the Muckleshoot Tribal School, whereas before the school was not that appealing.”

Another administrator confirmed Turner’s assessment: “The school now focuses on Native culture and language, bringing in cultural experts as teachers, called cultural aids...[the tribal compact] gives the school the ability to be who they are, a tribal school.”

To enhance the tribal compact process, Turner suggests several strategies: “Tribal compact schools from around the state need to better connect and teach each other. [OSPI staff] are very supportive, but training needs to be offered at the outset of becoming a tribal compact school.” Specific advice ranged from OSPI and the Office of Native Education creating a checklist of steps tribal compact schools should follow to encouraging tribal schools to participate in ongoing trainings that help current and potential tribes understand the tribal compact process.

In addition, Turner’s experience with the challenges of the tribal compact process taught her “someone needs to be knowledgeable about the Bureau of Indian Education, the State of Washington, and the tribal compact legislation and requirements.” Turner noted significant tensions that proved challenging between these three levels of policy. Turner advises potential tribes: “understand how to provide education in an appropriate way for your children and community, one that is culture centered.”

Turner’s interview reveals challenges related to navigating the tribal compact process, but the benefits of being a tribal compact school were clear. Turner and the administrators interviewed agreed that the Muckleshoot Tribal School was no longer just another Indian school as a result of becoming a tribal compact school. Because the tribal compact status elevated the tribal school to a district. It opened the school to more resources and situated the Tribe in a more explicit government-to-government relationship with the State of Washington. Together with a dynamic facility and culturally relevant curriculum, the school’s retention and graduation rates increased, and their reputation as a quality school improved. As one administrator stated, it was now “cool to be smart” at the school. Now the question is how the tribal school, tribal council, and OSPI can work together to address the challenges that promotes both tribal sovereignty and meets the federal and state guidelines of educational accountability.

### **Chief Kitsap Academy – Suquamish Tribe<sup>12</sup>**

The Suquamish people have lived in the Central Puget Sound region for thousands of years. Their name is derived from the traditional Lushootseed phrase for "people of the clear

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<sup>12</sup> Our thanks to Joe Davalos, Superintendent of Suquamish Education and the Suquamish Tribal Council for taking time to talk with us about the Compacting process and Chief Kitsap Academy.

water." The Suquamish Tribe has been a federally recognized tribe since the signing of the Point Elliot Treaty in 1855.

Like many tribes, the Suquamish Tribe has struggled with school success and graduation rates of their youth and has made many attempts to try to foster school success over the years. Like other tribes, they have been concerned with poor attendance beginning in kindergarten, below grade level scores in math and reading in all K-12 grades, and a 50 % graduation rate in the local high schools were many tribal youth enroll. Joe Davalos, Superintendent of Suquamish Education explained in an interview with the authors, that

“...after the boarding schools closed in the mid 20<sup>th</sup> century, each tribe tried to figure out how to support their students’ education, whether it was inside the public schools or though homework or summertime support. But not knowing how to navigate the institution of public schools, the cultural difference in the public schools has presented a challenge for Tribal advocates and parents alike.”

About 15 years ago, the Suquamish Tribe was awarded a Gates Grant to establish its own high school based on the research informed strategy of providing access to college credit during high school through an Early College in High School for Native Youth Initiative. This was part of a national Early College High School project developed with Antioch University’s Center for Native Education.<sup>13</sup>

The Early College High School Initiative started in 2002, focusing on young people for whom the transition into postsecondary education is now problematic. Its priority was to serve low-income young people, first-generation college goers, English language learners, and students of color, all of whom are statistically underrepresented in higher education and for whom society often has low aspirations for academic achievement. The initiative increased the number of these young people who attained an Associate’s degree, two years of college credit, and/or the opportunity to attain a Bachelor’s degree—tuition free.

The Early College High School Initiative was funded by the Bill & Melinda Gates Foundation, along with Carnegie Corporation of New York, the Ford Foundation, the

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<sup>13</sup> In 1990 the State of Washington established the Running Start program as an equivalent of the Early College High School model. Running Start offers qualified high school students the opportunity to take dual credited courses on the college campus, and Early College High Schools qualify the school’s teachers as adjunct professors so dual credited courses can be taught on the high school campus. This allows students to learn amongst their age and grade-level peers and cuts transportation expenditures in traveling to a college campus. High school students enroll in college classes for free and earn dual credit towards high school completion and college credit. In the five-year period between 2011-12 and 2015-16, the program grew by more than 30% enrolling 24,217 students (Long). A majority of these students go on to earn a bachelor’s degree and finish college well ahead of the US average. The director of the community college system notes that the underrepresentation of students of color is a concern.

W.K. Kellogg Foundation, the Dell Foundation, Lumina Foundation for Education, the Walton Family Foundation, and other local foundations.

Through the Early College High School Initiative, 13 partner organizations created or redesigned over 250 schools that blend high school and college. Jobs for the Future coordinated and supported the partners and are still actively helping create and redesign early colleges through Early College Design Services. (Jobs for the Future website [www.jff.org](http://www.jff.org))

More than supporting students' transition to college, the grant resulted in the newly formed Tribal school as part of a tripartite partnership with Olympic College Poulsbo and Suquamish Tribe. A working MOU was developed and resulted in the eventual opening of Chief Kitsap Academy (CKA) as a viable option for North Kitsap students. The Suquamish Tribe provided the budget to operate the new school; the local school district provided about 5% of the cost for enrollment. The first year CKA enrolled about 25 students and eventually had about 40 students. Chief Kitsap is the only tribal compact school in Washington that started from scratch since it was not a former BIE school. The program was re-organized and resumed in the 2010-11 school year.

When the legislation to allow tribal compacting occurred, the enrollment was expected to double. Now Chief Kitsap Academy enrolls about 85 students and serves as a comprehensive secondary school grade 6-12. About 75% of the students are Native American.

Chief Kitsap Academy reports success across many indicators since becoming a compact school, with student attendance above 90% as well as a 90% plus graduation rate. Joe Davalos, Superintendent of Education for the Suquamish Tribe, said the ability to hire Suquamish Tribal Elders to teach language and culture has really had a profound impact on what the school is able to do with its students. Leonard Forsman, Tribal Chairman, explained, "Culture and education is very important to me personally, as a member of Suquamish. Seeing young people engaged in traditional song and dance and language, and also in making of our art, seeing young people engaged in weaving, carving canoes, carving paddles and engaged in in cultural ceremonies is very satisfying to me."

Davalos says being a compact school allows them to focus on offering classes relevant to their students, maintain small class sizes, and establish authentic and community-connected relationships with students. He shares, "These 'culture-saturated' and community focused elements are a central reason the school has been so successful." According to Davalos, the cultural elements inform all the other requirements necessary for students to be prepared for the next step, college and/or post high school training. In fact, Davalos recalls describing to the Suquamish Tribal Council all the traditional cultural activities occurring at the school, and having one of the council members ask, with a joking manner, "You all still do any math?" Chief Kitsap Academy is thankful for the opportunity to create their own school that is meeting the needs of students whose needs were not being met. And, it seems to be working, as their graduation rate (98%) demonstrates.

## The Lummi Nation School History and Compacting<sup>14</sup>

Like other tribes in the Puget Sound region, before the arrival of Europeans, the Lummi occupied an expansive area of the Salish Sea region, including the San Juan Islands, in Washington State and extended into British Columbia, Canada. In the 1855 Treaty of Point Elliott, the Lummi Nation ceded all but a small portion of their traditional lands to the United States government but retained the right to fish in their “usual and accustomed” places. One of the obligations of the treaty focused on the education of Native children. The treaty stipulates that the United States would establish “an agricultural and industrial school, to be free to children...[and] provide the said school with a suitable instructor or instructors” (Point Elliot Treaty, 1855). Yet it would take several decades before the treaty’s obligations were fulfilled. As Lummi elder Pauline R. Hillaire recalls, “there was no school at Lummi until the Lummi Day School opened in 1880, twenty-five years after the treaty was signed. It was open, off and on, until the BIA built a school in 1907” (Hillaire and Fields, 2016, p. 146).

From the 1860’s to the 1890’s, Lummi children attended the Mission of St. Anne’s located on the Tulalip reservation (Riddle, n.d.). In the early twentieth century, when the federal government began running St. Anne’s, Lummi children attended Cushman Indian School in Puyallup and the Chemawa Indian Boarding School in Oregon (Marr, n.d.). These off-reservation boarding schools served Lummi children, among other Native children, from the 1920’s until 1946 (Thomas, 2016). However, during these decades some families sent their children to Catholic School, such as the Assumption Catholic School in Bellingham, or the local public schools. Bernie Thomas, Lummi Nation School Education Director, recalls that his father attended Catholic school in Bellingham during this period. In 1934, the Bureau of Indian Affairs under John Collier operated a Day School on the Lummi reservation until 1955. Experiences in these schools were far from supportive of Indian identity, language, and tradition. Bernie Thomas remembers hearing about a family member’s experiences attending Tulalip Boarding School. Thomas explains:

While she was there, some of the older girls were mean to her, and while she was five years old, a nine-year-old girl would protect her by carrying her around the school on her hip. She said when her protector turned 12 years of age, she committed suicide.<sup>15</sup>

Another family member attended Chemawa Indian School, where the students were punished for singing their songs or speaking in their native language. Thomas remembers this family member explaining what happened to boys who sang their traditional songs:

A number of the boys were singing traditional songs they remembered, and as punishment they were forced to spend the night in a tin shed with no lights, heat, and only a dirt floor in the freezing winter weather.<sup>16</sup>

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<sup>14</sup> Our thanks to Bernie Thomas and Kali Hillaire for taking time to talk with us about the history of education for the Lummi people, and the experiences they have had fostering the success of the Lummi Nation School Tribal Compact.

<sup>15</sup> Bernie Thomas, personal communication, 2018.

<sup>16</sup> Bernie Thomas, personal communication, 2018.

He also explained that the children were punished in different ways. For example, a boy's tongue was burned for speaking in his own native language. It is important to understand, Thomas explains, that after these experiences in the education system of the late 19<sup>th</sup> century, tribal members would return to the reservation to re-join the rest of the family and they would no longer speak the language and would not know how to integrate into the cultural traditions of their community. This caused friction between those who had been away at mission and boarding schools and their tribal community at home. Thomas understands that the long-term impact of the trauma caused by colonial schooling model created a wounded generation "filled with all sorts of compunctions and lacking in traditional, healthy ways of socializing" which in turn created physical, emotional, and social stress and encouraged people to turn to alcohol and drugs. This phenomenon has become known as "inter-generational trauma," which has inspired contemporary tribal schools to focus on tribal culture, history, and language, in part, to assuage tribal students' adverse childhood experiences commonly known among the tribes to have stemmed from boarding schools and other federal laws and policies designed to rid the United States of the "vexing Indian problem" and such politically designed solutions as Richard Pratt's mantra of 1892, "kill Indian in order to save the man" (Pratt, 1892).<sup>17</sup>

Another outcome of the history of indigenous peoples in North America, Thomas contends, is the growth of the cultural practice of community outreach and healing among tribes in the Northwest. He explains,

We are the original peace maker people – as characterized by the tradition of the Potlatch. These ceremonies helped tribes through a traumatic history, evoking a widespread cultural characteristic in our communities of generosity and hospitality toward one another and new comers.

Thomas argues that the goal of reclaiming educational policy is to overcome the challenges of the past, and to move toward an emphasis on tribal culture, history and languages in tribal schools. This move toward augmented tribal educational sovereignty validates tribal ways of knowing and supports a positive identity. Thomas says that identity culminates in the ideas that "we receive from ourselves and others, over time. Providing our students with the academic and social and emotional tools, and with wrap-around services of our tribal governments, and State Tribal Education Compact Schools, allows them to seek to restore positive ideas about belonging, safety, security and supports for one another to ensure the success of the tribe as a whole."

From 1956 through 1980, however, Lummi Nation students were required to attend schools in Bellingham or nearby Ferndale Public Schools. After the *U.S. vs Washington State* decision, validating Indian treaty fishing rights, many Lummi students dropped out of public schools as a result of the political backlash over the court's decision.

In the 1970's significant shifts in Lummi education advocacy began to emerge. Lummi students were not persisting successfully in public schools, dropping out as early as fifth grade and finding few outlets on the reservation. As Hayes (1990) describes, "[Lummi] students in pre-teen and teen years refused to enter the local public middle school" (p. 2). In order to remedy low academic achievement, the Tribe's education committee "submitted proposals to the Office of

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<sup>17</sup> Bernie Thomas, personal communication, 2018.

Indian Education for programs under the Indian Education Act, Title IV” (Hayes, 1990, p. 2). Lummi tribal members and parents used their knowledge of the political system now open to Indigenous communities to push for basic early childhood programs, such as Johnson O’Malley funds and Headstart (Hayes, 1990). This educational advocacy led to the construction of an alternative middle school. In 1981, the Bureau of Indian Affairs provided needed financial assistance to begin the Lummi Nation School, a K-8 school, in the Marietta School building. The Bellingham Public Schools previously operated this building. In 1989, Hayes (1990) reports that “the enrollment was 119 students in grade kindergarten to eight” (p. 3).

In 1986, Dr. Robert Lorence, President of Northwest Indian College, visited Buffalo, New York where the public schools were experimenting with a middle college high school model.<sup>18</sup> He brought this concept to the Northwest Indian College on the Lummi Indian Reservation. In 1992, the Middle College High School Program became the Lummi Nation High School of the Bureau of Indian Education. In 1996, the Lummi Nation entered into an Inter-local Cooperation Agreement with Ferndale Public Schools for the purpose of passing through Washington State Basic Education funding to the Lummi Nation School. In 1997, the Lummi Indian Business Council adopted a pattern of governance to include the Lummi Education Commission and placed the operation of the Lummi Nation School and Lummi Nation High School under its authority.

In 2001 the Bureau of Indian Education provided funding for the design and construction of a new school building, and the students moved into the newly constructed building during the 2003-2004 school year. However, certain tensions emerged between the Lummi Nation School and the local school district. In 2012, the Lummi Nation entered a dispute with the Ferndale Public School District’s Superintendent over a matter internal to the Lummi Nation School personnel, where the Superintendent sought control. This tension led to the Lummi Nation School reconsidering the relationship between the tribal school and the Ferndale district. As Thomas described, “[the Lummi Nation School] has been a poor step-child for so long.”

In 2013, the State Tribal Education Compact Schools law was enacted and in 2014 the Lummi Nation School became a Washington State Tribal Education Compact School. Since receiving Washington State Basic Education direct funding from the State, the school now has twice the state funding available compared with the Inter-local Cooperation Agreement between the Lummi Nation and Ferndale Public Schools. The benefits of becoming a compact school allowed the Lummi Nation to address the Tribe’s pervasive education issues directly. “Throw education a bone every now and then,” Thomas stated, “but mixed with ‘layer upon layer’ of social dilemmas [barriers] that parents are faced with, such as drug/alcohol abuse, unemployment, etc., students are not likely to succeed. High stakes tests don’t do a damn thing for these kids. In this type of situation, we can’t scare these kids straight. We have to care them into becoming better educated.” (Thomas, 2015). For Thomas the compact process presented opportunities for the Lummi Nation School to address these barriers with a caring approach that had been unavailable under their relationship with the public school district.

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<sup>18</sup> Northwest Indian College is the only tribal college in Washington State and serves about 1200 (headcount) students with a main campus at Lummi and off campus sites at Muckleshoot, Nisqually, Nez Perce (Idaho), Port Gamble, Swinomish, and Tulalip.

The additional funding provided by the Compact Contract has allowed Lummi to increase teacher salaries and benefits and allows the Lummi Nation School to recruit and retain more qualified teachers. As Thomas described, we are able “to pay teachers a lot more than if we were just a Bureau school.” Thomas explained that the Lummi Nation could now behave more like a sovereign nation in the operation of the school. The previous arrangement, as an Interlocal contract with the Ferndale school district, made Lummi Nation School seem like a sub-district within the Ferndale school district, which created many misunderstandings about sovereignty between the district administrators and the Lummi Nation School. Thomas states this clearly: “We are not a sub-district of the district. We are a separate sovereign nation.”

During our interviews for this case study, Hillaire and Thomas both identified the “bureaucratic learning curve” as the biggest challenge in the transition from a BIE school to becoming a compact school in direct relationship with all the state reporting systems. As Hillaire described, “[the tribal compacts is] so different than other school systems that it can be difficult to find someone with direct right answers for their needs.” Thomas added they have made great progress getting all the reporting systems figured out and “it’s nice to be able to focus on the kids and not so much on maintaining a relationship with another school district.” When we spoke to Thomas, they were in the second year of the compacting relationship and he said: “They can feel more success coming down the road.”

In addition to improved teacher recruitment and retention, the Lummi Nation School is able to provide curriculum particularly attuned to the Lummi Nation’s culture and history and also connected to the needs and job market in the Lummi community. The school’s curriculum includes forestry, fishery, and seafood curriculum and that focuses on the historical importance of Lummi traditional lifeways and the deep connection to the surrounding ecosystem of the San Juan Islands. It is also connected to real world problem-solving and economic development issues of the existing community. In addition to the curricular and career-based improvements brought on by the autonomy of tribal compacting, the Lummi Nation School is developing a Comprehensive School based health center, including mental health counselors, a dentist, a medical doctor and nurses with a focus on physical and mental well-being, in order to make sure students are ready to be at school. School autonomy, teacher retention, and the tribal language and culture curriculum that the school provides with the additional funding create what Thomas calls a school culture of “meaningful caring” where the students are held accountable in a curricular environment that is more connected to their needs, relevant, and more connected to their identity than it was before.

However, navigating the culturally based curriculum with the common core requirements of Washington State has presented challenges. As one administrator noted “You can offer Tribal history, culture, and language and stuff like that but you have to keep the Common Core state standard curriculum first... the Common Core state standard crowds out any legitimate opportunity to centralize culture, history, and language.” At the center of this challenge is the tension between a tribally controlled education system to determine its own curriculum and the

curricular standards of the State. Thomas explains, “we are not against testing, but now STEC schools administer testing over 80-plus days per 180-day school year.”<sup>19</sup>

Under a new pilot program, established by Senate Bill 6474, tribal compact schools will be able to count days when students are involved in cultural activities outside of school, events like cultural celebrations, fishing, and agriculture, and to encourage teaching and learning frameworks for each of these events. The pilot program will begin in 2020 and run through 2030. Cultural and educational events can be incorporated into more traditional testing in a culturally appropriate way. This legislative approach allows the tribal governments to develop comprehensive tribal policies that define what constitutes an educated enrolled tribal member. This policy shift will, for example, provide for the ability of the STECS to define teaching and learning frameworks for fishing, language, funerals, and hunting and gathering, instead of counting those deeply meaningful cultural teaching opportunities as missed days.

Thomas and the other administrators said that tribes considering becoming Tribal Compact Schools should understand that the existing Compact schools have paved the way for them. This is particularly true in reporting student data. As Thomas described, “splitting away from Ferndale [helped us] learn that we need to know how to manage data and [that we] need support, and someone who knows and understands process.” Tribal compact schools turned towards each other for support. Thus, the new schools would be entering a very supportive professional community that is ready to help support them. They also advised that new schools should consider implementing all grade levels at once. “It’d be crazy,” states Thomas and the administrators, “not to implement all grade levels from the start. It’s [the] same amount of work. It is administratively and symbolically best to start with all grade levels.” The Lummi Nation School administrators report that becoming a compact school has allowed them to address many of the persistent issues pertaining to Native student success. “We have a relationship,” state the Lummi Nation school administrators, “between the State and Tribe to increase knowing about each other.” This relationship helps the school to better “implement the *Since Time Immemorial* curriculum [and develop an] education system that is rooted in understanding the needs of Native students and providing [our] type of education.” Certainly, challenges still exist. But for these administrators the compact school has allowed them to implement a “meaningful, caring education.”

### **Are compact schools the solution to improving Native education?**

Operating a tribal compact school brings some challenges. Perhaps the greatest challenge is the potential impact that the compacting process could have on tribal sovereignty. This is because the treaties that were signed during the mid-1850’s in the Northwest Territories and that preceded the establishment of Washington State in 1889 were between the Coast Salish communities and the federal government. The U.S. Constitution highlights treaties with Indian tribes as the “supreme law of the land.” In general, this clause acknowledges the tribal sovereignty of federally recognized tribes and is the basis for many cases where the U.S. government has defended tribes against state encroachment upon tribal sovereignty. Thus, any

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<sup>19</sup> Bernie Thomas, personal communication, 2018.

agreement between tribes and states may risk diminishment because the U.S. Constitution protects the legal authority of the treaties.

While the compacting process cites the Centennial Accord and the Millennial Agreement as justification for this direct relationship, empowering tribes through recognition of the government-to-government relationship between tribes and state agencies, there has been some concern from tribes that engaging in state compacts may jeopardize tribal sovereignty. Mel Tonasket, a longtime Colville leader, refers to this as “piecemeal termination” whereby the tribes give up their sovereignty piece by piece through negotiations with the State. Often these negotiations require tribes to follow state requirements, thus limiting their ability to assert their own educational aims and interests.

Another challenge is the legal definition outlining which tribes are eligible to enter a compact. Under the current law a Compact school can only be established by a federally recognized tribe or Bureau of Indian Education (BIE) school. An exception is the Wa He Lut Indian School, located at the southern tip of the Salish Sea on the banks of the Nisqually River, which became a Tribal Compact School in the 2017-2018 school year. The Franks Landing Indian Community (FLIC) governs Wa He Lut. Although not a federally recognized tribe, FLIC is one of the few Native American communities across the nation that is Congressionally recognized as a tribal community. Wa He Lut rescinded their application at the school board level but reapplied under the BIE requirement. This example demonstrates the problems of eligibility based on federal recognition of tribes and their affiliation with the BIE.

In terms of daily processes, another challenge is that the BIE and Washington State have incompatible annual reporting protocols. This has implications for how this incompatibility is resolved, and the possible pathways for resolution are murky at best, either through the BIE, through the state, or through the Educational Service Districts (ESD). Each ESD is operated separately and administrated by superintendents. Currently, ESDs are jockeying for position to serve STECs and their unique attributes, including technological incongruity, small “district” status, redesigned BIE/state relations, and government-to-government relations. These new innovations and territory raise the question “ who is in control of the Compact schools?” If the intention of the law is to promote greater control of education by tribal communities but the STECs contract with an ESD for basic operations, is it really fulfilling the intention of the law? Currently, STECs are utilizing ESDs to become stabilized but a long-term relationship should be strongly scrutinized.

An additional major concern is that most of the Native students in Washington State are enrolled in the public school system and do not have access to attending a Tribal Compact school. Some tribes such as the Makah have had major success in working out new relationships to improve their public schools showing different pathways to improving Native education are possible. At the same time, finding ways for those interested in improving Indian education to work together is of crucial importance if we are to support the growth and development of all Native students in Washington State. Organizations such as the Washington State Indian Education Association and the Office of Native Education at the Office of the Superintendent of Public Instruction are important in convening and supporting this work.

The legislation creating State Tribal Education Compact Schools (STECS) allows Washington tribes to contract directly with Washington State to control their own schools. This direct relationship with the State allows the Tribes to leverage funds previously paid to school districts for educational enrichments that directly benefit Native students in these schools. The benefits of Tribal Compact Schools include more Indigenous history, culture, and language in the curriculum, and a more intimate community-supported experience for Native students.

What can we learn from these schools? Is the impact on sovereignty warranted? What are the most important changes these schools are making to improve Native education? These are a few of the questions we can ask about this new era in Tribal education in Washington State.

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