

STATE BOARD OF EDUCATION

HEARING TYPE: __X__ INFORMATION/ACTION

DATE: AUGUST 23-24, 2006

SUBJECT: **SHB 1495 AND TRIBAL LEADER CONGRESS ON
EDUCATION MEMORANDUM OF AGREEMENT UPDATE**

SERVICE UNIT: Edie Harding, Executive Director
State Board of Education

PRESENTER: Bernal Baca
State Board Member

BACKGROUND:

At the July 2006 meeting, the State Board of Education (SBE) began a dialogue with tribal leaders regarding the relationship between state graduation requirements and the history and culture of Washington State sovereign tribal nations.

Chair Ryan asked Dr. Baca to chair a subcommittee and appoint up to three members to discuss the Tribal Leader Congress on Education Memorandum of Agreement and report any recommendations at the August 2006 SBE meeting.

Substitute House Bill 1495 (2005 Legislative Session)

RCW 28A.230.090 (1) (a), amended by Substitute House Bill 1495 reads as follows:

“The state board of education shall establish high school graduation requirements or equivalencies for students.

Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.”

Attachments



Washington State School
Directors' Association



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

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

The Parties are entering into this Memorandum of Agreement for the purpose of enhancing the government-to-government relationship between the participating tribes and the state agency parties on issues related to education in the areas of tribal history and culture, and to help further the legislature's stated intent in enacting HB1495.

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

The Washington State School Directors' Association agrees to:

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

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

The Tribal Leader Congress on Education agrees to:

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

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

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

whether or not to include

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

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

DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF this signed Agreement becomes effective on the dates attested to below.

**Signatures and Dates
State Agency Parties**

Matthew Liffey *May 25, 2006*
Washington State School Director's Association Date

Jim Byrom *5/25/06*
Washington State Office of Superintendent of Public Instruction Date

Washington State Board of Education Date

**Signatures and Dates
Tribal Leader Congress on Education by participating Tribes**

James W. Kelly St. Lawrence 5/25/06
 Tribal Chairman/Delegate Tribe Date

Mariom Zuchase Tulalip Tribe 5/25/06
 Tribal Chairman/Delegate Tribe Date

Leann Furr Supai Tribe 5/25/06
 Tribal Chairman/Delegate Tribe Date

Condae R Kelly Northsack Indian Tribe 5-25-06
 Tribal Chairman/Delegate Tribe Date

Anna Bluff-Pope Kalispel Tribe 5-25-2006
 Tribal Chairman/Delegate Tribe Date

Thom Cooper Squaxin Island Tribe 5-25-2006
 Tribal Chairman/Delegate Tribe Date

William M. Lee Hoh Tribe 6-13-06
 Tribal Chairman/Delegate Tribe Date

John Barnett Cowlitz Tribe 6-13-06
 Tribal Chairman/Delegate Tribe Date

W. For Allen Jamestown S'Klallam 6-13-06
 Tribal Chairman/Delegate Tribe Date

Gloria Green Sauk-Suiattle 6/13/06

Tribal Chairman/Delegate Tribe Date

[Signature] Snogwamie 6/13/06

Tribal Chairman/Delegate Tribe Date

[Signature] Spokane 6/13/06

Tribal Chairman/Delegate Tribe Date

[Signature] Squaxin Island 6-13-06

Tribal Chairman/Delegate Tribe Date

[Signature] Stillaguamish 6-13-06

Tribal Chairman/Delegate Tribe Date

Mary M. Scott Upper Skagit Indian Tribe 6-13-06

Tribal Chairman/Delegate Tribe Date

Ralph R. Sampson Jr Yakama Nation 6-13-06

Tribal Chairman/Delegate Tribe Date

[Signature] James Chairman Tulalip Tribes 6-13-06

Tribal Chairman/Delegate Tribe Date

Ken Hoban BO D Tulalip Tribes 6-13-06

Tribal Chairman/Delegate Tribe Date

Marie Backuse BO D Tulalip Tribes 6-13-06

Tribal Chairman/Delegate Tribe Date

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1495

Chapter 205, Laws of 2005

59th Legislature
2005 Regular Session

TRIBAL HISTORY--COMMON SCHOOLS

EFFECTIVE DATE: 7/24/05

Passed by the House April 20, 2005
Yeas 79 Nays 17

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2005
Yeas 35 Nays 9

BRAD OWEN

President of the Senate

Approved April 28, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1495** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

April 28, 2005 - 1:05 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1495

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Education (originally sponsored by Representatives McCoy, Roach, Simpson, P. Sullivan, McDermott, Santos, Appleton, Darneille, Williams, Hunt, Haigh, Chase, Sells, Conway, Kenney, Kagi, Moeller, Ormsby and Blake)

READ FIRST TIME 03/07/05.

1 AN ACT Relating to teaching Washington's tribal history, culture,
2 and government in the common schools; amending RCW 28A.230.090; adding
3 a new section to chapter 28A.345 RCW; adding a new section to chapter
4 28A.320 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. Sec. 1. It is the intent of the legislature to
7 promote the full success of the centennial accord, which was signed by
8 state and tribal government leaders in 1989. As those leaders declared
9 in the subsequent millennial accord in 1999, this will require
10 "educating the citizens of our state, particularly the youth who are
11 our future leaders, about tribal history, culture, treaty rights,
12 contemporary tribal and state government institutions and relations and
13 the contribution of Indian nations to the state of Washington." The
14 legislature recognizes that this goal has yet to be achieved in most of
15 our state's schools and districts. As a result, Indian students may
16 not find the school curriculum, especially Washington state history
17 curriculum, relevant to their lives or experiences. In addition, many
18 students may remain uninformed about the experiences, contributions,
and perspectives of their tribal neighbors, fellow citizens, and

1 classmates. The legislature further finds that the lack of accurate
2 and complete curricula may contribute to the persistent achievement gap
3 between Indian and other students. The legislature finds there is a
4 need to establish collaborative government-to-government relationships
5 between elected school boards and tribal councils to create local
6 and/or regional curricula about tribal history and culture, and to
7 promote dialogue and cultural exchanges that can help tribal leaders
8 and school leaders implement strategies to close the achievement gap.

9 NEW SECTION. Sec. 2. A new section is added to chapter 28A.345
10 RCW to read as follows:

11 (1) Beginning in 2006, and at least once annually through 2010, the
12 Washington state school directors' association is encouraged to convene
13 regional meetings and invite the tribal councils from the region for
14 the purpose of establishing government-to-government relationships and
15 dialogue between tribal councils and school district boards of
16 directors. Participants in these meetings should discuss issues of
17 mutual concern, and should work to:

18 (a) Identify the extent and nature of the achievement gap and
19 strategies necessary to close it;

20 (b) Increase mutual awareness and understanding of the importance
21 of accurate, high-quality curriculum materials about the history,
22 culture, and government of local tribes; and

23 (c) Encourage school boards to identify and adopt curriculum that
24 includes tribal experiences and perspectives, so that Indian students
25 are more engaged and learn more successfully, and so that all students
26 learn about the history, culture, government, and experiences of their
27 Indian peers and neighbors.

28 (2) By December 1, 2008, and every two years thereafter through
29 2012, the school directors' association shall report to the education
30 committees of the legislature regarding the progress made in the
31 development of effective government-to-government relations, the
32 narrowing of the achievement gap, and the identification and adoption
33 of curriculum regarding tribal history, culture, and government. The
34 report shall include information about any obstacles encountered, and
35 any strategies under development to overcome them.

1 Sec. 3. RCW 28A.230.090 and 2004 c 19 s 103 are each amended to
2 read as follows:

3 (1) The state board of education shall establish high school
4 graduation requirements or equivalencies for students.

5 (a) Any course in Washington state history and government used to
6 fulfill high school graduation requirements (~~is encouraged to~~
7 ~~include~~) shall consider including information on the culture, history,
8 and government of the American Indian peoples who were the first
9 inhabitants of the state.

10 (b) The certificate of academic achievement requirements under RCW
11 28A.655.061 or the certificate of individual achievement requirements
12 under RCW 28A.155.045 are required for graduation from a public high
13 school but are not the only requirements for graduation.

14 (c) Any decision on whether a student has met the state board's
15 high school graduation requirements for a high school and beyond plan
16 shall remain at the local level.

17 (2) In recognition of the statutory authority of the state board of
18 education to establish and enforce minimum high school graduation
19 requirements, the state board shall periodically reevaluate the
20 graduation requirements and shall report such findings to the
21 legislature in a timely manner as determined by the state board.

22 (3) Pursuant to any requirement for instruction in languages other
23 than English established by the state board of education or a local
24 school district, or both, for purposes of high school graduation,
25 students who receive instruction in American sign language or one or
26 more American Indian languages shall be considered to have satisfied
27 the state or local school district graduation requirement for
28 instruction in one or more languages other than English.

29 (4) If requested by the student and his or her family, a student
30 who has completed high school courses before attending high school
31 shall be given high school credit which shall be applied to fulfilling
32 high school graduation requirements if:

33 (a) The course was taken with high school students, if the academic
34 level of the course exceeds the requirements for seventh and eighth
35 grade classes, and the student has successfully passed by completing
36 the same course requirements and examinations as the high school
37 students enrolled in the class; or

1 (b) The academic level of the course exceeds the requirements for
2 seventh and eighth grade classes and the course would qualify for high
3 school credit, because the course is similar or equivalent to a course
4 offered at a high school in the district as determined by the school
5 district board of directors.

6 (5) Students who have taken and successfully completed high school
7 courses under the circumstances in subsection (4) of this section shall
8 not be required to take an additional competency examination or perform
9 any other additional assignment to receive credit.

10 (6) At the college or university level, five quarter or three
11 semester hours equals one high school credit.

12 NEW SECTION. Sec. 4. A new section is added to chapter 28A.320
13 RCW to read as follows:

14 (1) Each school district board of directors is encouraged to
15 incorporate curricula about the history, culture, and government of the
16 nearest federally recognized Indian tribe or tribes, so that students
17 learn about the unique heritage and experience of their closest
18 neighbors. School districts near Washington's borders are encouraged
19 to include federally recognized Indian tribes whose traditional lands
20 and territories included parts of Washington, but who now reside in
21 Oregon, Idaho, and British Columbia. School districts and tribes are
22 encouraged to work together to develop such curricula.

23 (2) As they conduct regularly scheduled reviews and revisions of
24 their social studies and history curricula, school districts are
25 encouraged to collaborate with any federally recognized Indian tribe
26 within their district, and with neighboring Indian tribes, to
27 incorporate expanded and improved curricular materials about Indian
28 tribes, and to create programs of classroom and community cultural
29 exchanges.

30 (3) School districts are encouraged to collaborate with the office
31 of the superintendent of public instruction on curricular areas
32 regarding tribal government and history that are statewide in nature,
33 such as the concept of tribal sovereignty and the history of federal
34 policy towards federally recognized Indian tribes. The program of
35 Indian education within the office of the superintendent of public
36 instruction is encouraged to help local school districts identify

1 federally recognized Indian tribes whose reservations are in whole or
2 in part within the boundaries of the district and/or those that are
nearest to the school district.

Passed by the House April 20, 2005.

Passed by the Senate April 7, 2005.

Approved by the Governor April 28, 2005.

Filed in Office of Secretary of State April 28, 2005.