

# How MN, WY, and WA are Supplementing BIE Schools

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## Minnesota Statute

### **124D.83 STATE REVENUE FOR AMERICAN INDIAN TRIBAL CONTRACT OR GRANT SCHOOLS.**

#### **Subdivision 1. Authorization.**

(a) Each year each American Indian-controlled tribal contract or grant school authorized by the United States Code, title 25, section 450f, that is located on a reservation within the state is eligible to receive tribal contract or grant school aid subject to the requirements in paragraphs (b) to (d).

(b) The school must plan, conduct, and administer an education program that complies with the requirements of either this chapter and chapters 120A, 120B, 121A, 122A, 123A, 123B, 125A, 125B, 126C, 127A, 129, and 268A or Code of Federal Regulations, title 25, sections 31.0 to 45.80.

(c) The school must comply with all other state statutes governing independent school districts or their equivalent in the Code of Federal Regulations, title 25.

(d) The state tribal contract or grant school aid must be used to supplement, and not to replace, the money for American Indian education programs provided by the federal government.

#### **Subd. 2. Revenue amount.**

An American Indian-controlled tribal contract or grant school that is located on a reservation within the state and that complies with the requirements in subdivision 1 is eligible to receive tribal contract or grant school aid. The amount of aid is derived by:

(1) multiplying the formula allowance under section [126C.10, subdivision 2](#), less \$170, times the difference between (i) the resident pupil units as defined in section [126C.05, subdivision 6](#), in average daily membership, excluding section [126C.05, subdivision 13](#), and (ii) the number of pupils for the current school year, weighted according to section [126C.05, subdivision 1](#), receiving benefits under section [123B.42](#) or [123B.44](#) or for which the school is receiving reimbursement under section [124D.69](#);

(2) adding to the result in clause (1) an amount equal to the product of the formula allowance under section [126C.10, subdivision 2](#), less \$300 times the tribal contract compensation revenue pupil units;

(3) subtracting from the result in clause (2) the amount of money allotted to the school by the federal government through Indian School Equalization Program of the Bureau of Indian Affairs, according to Code of Federal Regulations, title 25, part 39, subparts A to E, for the basic program as defined by section [39.11, paragraph \(b\)](#), for the base rate as

applied to kindergarten through twelfth grade, excluding small school adjustments and additional weighting, but not money allotted through subparts F to L for contingency funds, school board training, student training, interim maintenance and minor repair, interim administration cost, prekindergarten, and operation and maintenance, and the amount of money that is received according to section [124D.69](#);

(4) dividing the result in clause (3) by the sum of the resident pupil units in average daily membership, excluding section [126C.05, subdivision 13](#), plus the tribal contract compensation revenue pupil units; and

(5) multiplying the sum of the resident pupil units, including section [126C.05, subdivision 13](#), in average daily membership plus the tribal contract compensation revenue pupil units by the lesser of \$3,230 for fiscal years 2016 and 2017 or \$1,500 for fiscal year 2018 and later or the result in clause (4).

### **Subd. 3. Waiver.**

Notwithstanding subdivision 1, paragraphs (b) and (c), a tribal contract or grant school:

(1) is not subject to the Minnesota Election Law;

(2) has no authority under this section to levy for property taxes, issue and sell bonds, or incur debt; and

(3) may request through its managing tribal organization a recommendation of the commissioner of education, for consideration of the legislature, that a tribal contract or grant school not be subject to specified statutes related to independent school districts.

### **Subd. 4. Early childhood family education revenue.**

A school receiving aid under this section may apply annually to the commissioner to receive an early childhood family education grant to provide early childhood family education programs for parents and children who are enrolled or eligible for enrollment in a federally recognized tribe. The grant must be used for programs and services that comply with section [124D.13](#), except that the school is not required to provide a community education program or establish a community education advisory council. The program must be designed to improve the skills of parents and promote American Indian history, language, and culture. The school must make affirmative efforts to encourage participation by fathers. Admission may not be limited to those enrolled in or eligible for enrollment in a federally recognized tribe.

### **Subd. 5. Tribal contract pupil units.**

Pupil units for pupils enrolled in tribal contract schools shall be used only for the purpose of computing tribal contract aid according to this section.

## Wyoming Statute

### **ARTICLE 6 - EDUCATION PROGRAMS ON THE - WIND RIVER INDIAN RESERVATION**

21-4-601. Education programs on the Wind River Indian Reservation.

(a) The legislature finds that, through education programs provided by the Eastern Shoshone and the Northern Arapaho Indian Tribes to school age Indian children residing on the Wind River Indian Reservation, the state can address conditions of unemployment, poverty and lack of adequate job skills which exist on the reservation. Maintenance of these education programs unique to Indian students is of mutual benefit to the tribes and the state, reducing future financial needs of those students as tribal members and as Wyoming residents for public education, job services, substance abuse services and income supplements.

(b) Subject to amounts appropriated by the legislature, the state superintendent of public instruction shall enter into negotiations with the individual or joint business councils of the Eastern Shoshone and Northern Arapaho Indian Tribes to determine the appropriate contractual arrangements for the provision of education programs and services addressing Indian students at risk of failure in school and other programs and services essential to the success and welfare of these students as specified under subsection (a) of this section. Contractual arrangements entered into under this subsection shall include a requirement that the expenditure of contractual amounts, as verified annually in writing, is for programs tied to improvement of student performance on the statewide assessment. For purposes of this section, the state superintendent shall include an amount within his biennial budget request which is computed in accordance with subsection (c) of this section to provide a per student amount that when nonstate funding sources are considered, is comparable to per student amounts provided for public schools under the Wyoming education resource block grant model.

(c) To arrive at a biennial funding amount for purposes of subsection (b) of this section, an estimate shall be computed as follows:

(i) Determine a combined average per student funding level under the Wyoming education resource block grant model for Fremont County school districts number fourteen (14), number twenty-one (21) and number thirty-eight (38);

(ii) Multiply the per student amount determined under paragraph (i) of this subsection by the number of students enrolled in education programs and services provided by the joint business council pursuant to subsection (a) of this section;

(iii) Subtract from the amount computed under paragraph (ii) of this subsection all Federal Bureau of Indian Affairs funds for K-12 programs received by the joint business council for education programs and services provided under subsection (a) of this section.

(d) The joint business council of the Eastern Shoshone and the Northern Arapaho Indian Tribes shall annually report to the governor, the state superintendent of public instruction, the joint education interim committee and the select committee on tribal relations on the expenditure of contractual amounts as required under subsection (b) of this section.

## Washington Statute

Enacted 2013

### STATE-TRIBAL EDUCATION COMPACTS AUTHORITY

#### 28A.715.005

##### Findings—Intent—Purpose.

(1) The legislature finds that:

(a) American Indian and Alaska Native students make up 2.5 percent of the total student population in the state and twenty-five percent or more of the student population in fifty-seven schools across the state.

(b) American Indian students in Washington have the highest annual drop-out rate at 9.5 percent, compared to 4.6 percent of all students in each of grades nine through twelve. Of the students expected to graduate in 2010 because they entered the ninth grade in 2006, the American Indian on-time graduation rate was only fifty-eight percent, compared to 76.5 percent of all students.

(c) The teaching of American Indian language, culture, and history are [is] important to American Indian people and critical to the educational attainment and achievement of American Indian children.

(d) The state-tribal education compacts authorized under this chapter reaffirm the state's important commitment to government-to-government relationships with the tribes that has been recognized by proclamation, and in the centennial accord and the millennium agreement. These state-tribal education compacts build upon the efforts highlighted by the office of the superintendent of public instruction in its 2012 Centennial Accord Agency Highlights, including: The Since Time Immemorial (STI): Tribal Sovereignty in Washington State Curriculum Project that imbeds the history surrounding sovereignty and intergovernmental responsibilities into this state's classrooms; the agency's regular meetings with the superintendents of the seven current tribal schools, as well as the federal bureau of Indian education representatives at the regional and national level on issues relating to student academic achievement, accessing of funding for tribal schools, and connecting tribal schools to the K-20 network; and the recent establishment, in statute, of the office of native education within the office of the superintendent of public instruction.

(e) School funding should honor tribal sovereignty and reflect the government-to-government relationship between the state and the tribes, however the current structure that requires negotiation of an interlocal agreement between a school district and a tribal school ignores tribal sovereignty and results in a siphoning of funds for administration that could be better used for teaching and learning.

(2) The legislature further finds that:

(a) There is a preparation gap among entering kindergartners with many children, especially those from low-income homes, arriving at kindergarten without the knowledge, skills, and good health necessary to succeed in school;

(b) Upon entry into the K-12 school system, the educational opportunity gap becomes more evident, with children of color and from low-income homes having lower scores on math, reading, and writing standardized tests, as well as lower graduation rates and higher rates of dropping out of school; and

(c) Comprehensive, culturally competent early learning and greater collaboration between the early learning and K-12 school systems will ensure appropriate connections and smoother transitions for children, and help eliminate or bridge gaps that might otherwise develop.

(3) In light of these findings, it is the intent and purpose of the legislature to authorize the superintendent of public instruction to enter into state-tribal education compacts.

## **28A.715.010**

### **Authority to enter into compacts—Process—Rules.**

(1) The superintendent of public instruction is authorized to enter into state-tribal education compacts.

(2) No later than six months after July 28, 2013, the superintendent of public instruction shall establish an application and approval process, procedures, and timelines for the negotiation, approval or disapproval, and execution of state-tribal education compacts.

(3) The process may be initiated by submission, to the superintendent of public instruction, of a resolution by:

(a) The governing body of a tribe in the state of Washington; or

(b) The governing body of any of the schools in Washington that are currently funded by the federal bureau of Indian affairs, whether directly or through a contract or compact with an Indian tribe or a tribal consortium.

(4) The resolution must be accompanied by an application that indicates the grade or grades from kindergarten through twelve that will be offered and that demonstrates that the school will be operated in compliance with all applicable laws, the rules adopted thereunder, and the terms and conditions set forth in the application.

(5) Within ninety days of receipt of a resolution and application under this section, the superintendent must convene a government-to-government meeting for the purpose of considering the resolution and application and initiating negotiations.

(6) State-tribal education compacts must include provisions regarding:

(a) Compliance;

(b) Notices of violation;

(c) Dispute resolution, which may include nonjudicial processes such as mediation;

(d) Recordkeeping and auditing;

(e) The delineation of the respective roles and responsibilities;

(f) The term or length of the contract, and whether or not it is renewable; and

(g) Provisions for compact termination.

(7) The superintendent of public instruction shall adopt such rules as are necessary to implement this chapter.

## **28A.715.020**

### **Operation of schools.**

(1) A school that is the subject of a state-tribal education compact must operate according to the terms of its compact executed in accordance with RCW [28A.715.010](#).

(2) Schools that are the subjects of state-tribal education compacts are exempt from all state statutes and rules applicable to school districts and school district boards of directors, except those statutes and rules made applicable under this chapter and in the state-tribal education compact executed under RCW [28A.715.010](#).

(3) Each school that is the subject of a state-tribal education compact must:

(a) Provide a curriculum and conduct an educational program that satisfies the requirements of RCW [28A.150.200](#) through [28A.150.240](#) and [28A.230.010](#) through [28A.230.195](#);

(b) Employ certificated instructional staff as required in RCW [28A.410.010](#), however such schools may hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW [28A.150.203](#)(7);

(c) Comply with the employee record check requirements in RCW [28A.400.303](#) and the mandatory termination and notification provisions of RCW [28A.400.320](#), [28A.400.330](#), [28A.405.470](#), and [28A.405.475](#);

(d) Comply with nondiscrimination laws;

(e) Adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor, including annual audits for legal and fiscal compliance; and

(f) Be subject to and comply with legislation enacted after July 28, 2013, governing the operation and management of schools that are the subject of a state-tribal education compact.

(4) No such school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

(5) Nothing in this chapter may limit or restrict any enrollment or school choice options otherwise available under Title [28A](#) RCW.

### **28A.715.030**

#### **Tuition—Fees—Admission—Enrollment priorities.**

(1) A school that is the subject of a state-tribal education compact may not charge tuition except to the same extent as school districts may be permitted to do so with respect to out-of-state and adult students pursuant to chapter [28A.225](#) RCW, but may charge fees for participation in optional extracurricular events and activities.

(2) Such schools may not limit admission on any basis other than age group, grade level, or capacity and must otherwise enroll all students who apply.

(3) If capacity is insufficient to enroll all students who apply, a school that is the subject of a state-tribal education compact may prioritize the enrollment of tribal members and siblings of already enrolled students.

### **28A.715.040**

#### **Student enrollment reporting—Funding apportionment and allocations—Retention of moneys in accounts.**

(1) A school that is the subject of a state-tribal education compact must report student enrollment. Reporting must be done in the same manner and use the same definitions of enrolled students and annual average full-time equivalent enrollment as is required of school districts. The reporting requirements in this subsection are required for a school to receive state or federal funding that is allocated based on student characteristics.

(2) Funding for a school that is the subject of a state-tribal education compact shall be apportioned by the superintendent of public instruction according to the schedule established under RCW [28A.510.250](#), including general apportionment, special education, categorical, and other nonbasic education moneys. Allocations for certificated instructional staff must be based on the average staff mix ratio of the school, as calculated by the superintendent of public instruction using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act. Allocations for classified staff and certificated administrative staff must be based on the salary allocations of the school district in which the school is located, subject to conditions and limitations established by the omnibus appropriations act. Nothing in this section requires a school that is the subject of a state-tribal education compact to use the statewide salary allocation schedule. Such a school is eligible to apply for state grants on the same basis as a school district.

(3) Any moneys received by a school that is the subject of a state-tribal education compact from any source that remain in the school's accounts at the end of any budget year must remain in the school's accounts for use by the school during subsequent budget years.