



a report on
Federal funds for Indian children
in
public school districts



AN EVEN CHANCE

by the
NAACP Legal Defense
and
Educational Fund, Inc.
with the cooperation of
The Center for Law and Education,
Harvard University

OVERVIEW

Indians have a unique claim on the United States government for the support of their children's education. That claim is based on treaties signed by Indian Nations and the United States government and on laws passed by Congress which provide funds specifically for the education of Indian children.

Almost every treaty signed with an Indian tribe commits the Federal government to provide education for Indian children. Congress made its first appropriation for Indian education one hundred and seventy years ago. Since that time, it has provided funds for the education of Indian children in mission schools, Federal boarding schools, and public schools.

Today, two thirds of all American Indian children attend public schools. While they have a special claim to Federal support, Indian children are entitled to the same educational opportunities as other children. They have a constitutional right to equal protection under state and Federal laws, and as state citizens to state aid for public schools. Those rights and the reality of public education that they are in fact provided are two quite different things.

Estimated Indian School Age Population (1968)	240,700
Estimated Indian Public School Enrollment (1968)	177,463
Estimated Number of Indian Children as Johnson-O'Malley Enrollment (fiscal year 1968)	62,676
Indian Enrollment in Schools Operated by BIA (fiscal year 1968)	51,558

They are also entitled to benefits from three Federal financial programs – Impact Aid, Johnson-O'Malley, and Title I of the Elementary and Secondary Education Act. These commit over \$66 million annually for the support of Indian children in public schools.

Impact Aid provides the largest source of money for Indian children (\$27.9 million in fiscal year 1969). The number of children whose parents live and/or work on Indian reservations determines how much Impact Aid money a district will receive. Indian children frequently “earn” more for their district than non-Indian children who are ineligible for Federal assistance.

Title I of the Elementary and Secondary Education Act of 1965 provides money to school districts with high concentrations of low-income children. It is intended to assure “something extra” for children designated as educationally deprived. Because of severe poverty in Indian communities, and because Title I must be spent on those with the greatest educational needs, Indians are especially qualified for Title I assistance. Since the amount of Title I funds allocated per child in the Title I formula is \$148, and if we assume that, conservatively, there are 150,000 Indian children in public schools who meet the Title I eligibility criteria, then Indian students are entitled to receive approximately \$22 million from Title I.

The Johnson-O'Malley Act, passed by Congress in 1934, provides \$16.4 million (in fiscal year 1969) for Indian education. Money under that Act is to be spent only for Indians.

Indian children bring millions of Federal dollars each year into public school districts. Indian students are counted three times, under three different statutes, in order to make a school district eligible for Federal funds. These funds are supposed to support both the basic educational program in Indian schools and special programs designed to meet the unique needs of Indian children.

This is the legal framework. But what really happens to the money? How are Indian children faring in the public schools? How well has the American government honored its historic commitment to Indian children?

By every standard, Indians receive the worst education of any children in the country. They attend shabby, overcrowded public schools which lack even basic resources. They are taught by teachers untrained, unprepared, and sometimes unwilling to meet their needs. They enter school late and leave early. The percentage of Indians who drop out of school is twice that for all other children. Among the Indian population, fully two-thirds of the adults have not gone beyond elementary school, and one-quarter of Indian adults are functionally illiterate — they can't read street signs or newspapers. The educational system has failed Indians. The Federal government's obligation to support Indian education has not been fulfilled.

One reason for this failure lies in the misuse of Federal dollars intended to benefit Indian children. That is the heart of our story. Those dollars have been used for every conceivable school system need *except* the need that Congress had in mind. Impact Aid and Johnson-O'Malley dollars support general operating expenses of local school districts, and thus make it possible for those districts to reduce taxes for non-Indian property owners. Special programs — which should serve Indian needs — in fact serve the total school population. Title I and Johnson-O'Malley dollars purchase systemwide services. Those dollars pay for teachers' aides who serve all the children, not just the educationally deprived Indian children. They buy fancy equipment for every child, not just the eligible Indian children. They provide kindergarten classes for all children, not just the eligible children. They buy mobile classrooms which become permanent facilities for all students. In sum, Indians do not get the educational benefits that they are, by law, entitled to receive.

Some examples of this misuse:

The TUCSON ELEMENTARY SCHOOL DISTRICT in ARIZ, which enrolls 460 Indian students, illegally spent \$1.3 million of Title I funds as general aid to the entire district in the belief that it was wrong to spend it just on poor children.

In the DULCE MUNICIPAL SCHOOLS in N.M., a district with an enrollment of 76% poor Indian children, Title I funds have been spent on a closed-circuit TV system and a TV receiver in every classroom for the entire student body.

In PIERRE INDEPENDENT SCHOOL DISTRICT in S.D., one school listed in the Title I project application as eligible to receive funds, had not a single poor child in it, although that district has 152 Indian students.

In WAKPALA, S.D., school taxes were lowered, and per-pupil expenditures dropped \$30 from one school year to the next. To counteract this drop, school

officials included every student in the district in the Title I program, or approximately \$66 per child.

The BENNETT COUNTY HIGH SCHOOL DISTRICT in MARTIN, S.D., which has 40 educationally deprived Indian children, spent some of its Title I funds on golf sets, tennis rackets and balls, and archery bows and arrows.

The Johnson-O'Malley Act provides \$2 million annually for free school lunches for needy Indian children, yet Navajo parents have been known to sell their sheep and pawn their jewelry in order to pay the lunch bill sent home by school authorities.

In many public schools eligible children are required to declare each day, "I am poor" in order to get their lunch. They are made to stand in separate lines; they are given different tickets; and in many unobtrusive ways are branded as second-class citizens. Their crime? Asserting their Federal educational entitlement.

School officials do not spend available Federal money on Indian language and history classes — the programs Indians most want — in the almost unanimous belief that the purpose of education is to wipe out Indian culture and language and replace it with the "superior" culture of white middle-class America.

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

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

What we have found out about Indian education in the course of this study is not new, especially to Indians. The history of education for American Indians is a history of reports, studies, task forces, and more studies. They all make the same sharp criticism and similar recommendations. Somehow the rhetoric never translates into action. One glaring omission in these reports: they have never made it plain the ways Indians themselves could change the conditions under which they are educated.

Indians have good reason to be cynical about another report. As one Indian woman whom we interviewed said: "What will change from this interview? Or will it be put on a shelf?" We hope that this report provides the tools for change, and that it can and will be used by Indian parents and tribes to bring about that change.

The time for such action may well be at hand. Indian parents are increasingly outraged over the public schools' failure to educate their children. Indians want to control educational decisions affecting their children. In some communities Indians are demanding a say in educational decisions. They want to know how Federal money is being spent. In a very few places, Indians have taken over complete control of local schools.

The misuse of Federal funds designed to help Indian children is a real issue in Indian communities. Land has been stolen from Indians. Indian parents now see Federal funds

being stolen from their children. Indian parents told us they wanted information about Federal programs so that they could put a stop to thievery and deceit.

This report is designed to enable Indian parents to find out what Federal programs are supposed to do and to demand that Federal money serve the needs of their children. It is designed to help parents to know their rights, understand what the law requires, and force changes in the way public schools use Federal funds.



CHAPTER I

IMPACT AID AND INDIAN CHILDREN

Indian children qualify public school districts for Federal money under the Impact Aid legislation because their parents live and work on Federal property. The two Impact Aid Laws—P.L. 874 and P.L. 815—were passed by Congress in the 1950s, primarily as a result of the military and defense activities of the Federal government.¹ Their purpose was to provide Federal financial assistance where Federal activities, chiefly military installations, created a financial burden on local school districts. Congress wanted to compensate school systems for the loss of part of their tax base when Federal installations were established in the community.

There are two categories of Impact Aid assistance: P.L. 874 provides funds to local school districts for general operating expenses paid in lieu of local taxes and P.L. 815 provides for school construction in districts where there are Federally-connected children.

P.L. 874 General Operating Expenses

Indians were not included in P.L. 874 when it was first enacted into law. They were excluded at the request of State directors of Indian Education who feared that districts in their states would lose Johnson-O'Malley funds if they received Impact Aid money. In 1958 Congress decided to permit "dual funding," a concept which allowed a school district to receive payments from both Impact Aid and Johnson-O'Malley on the theory that Impact Aid would provide general operating funds in lieu of taxes and Johnson-O'Malley would support special programs for Indians.²

While the original purpose of the law was unrelated to Indian education, Impact Aid has become the major source of Federal funds for school districts which have Indian children. Indian children qualify a district for Impact Aid under Section 3a and 3b.

Section 3a applies to children whose parents live and work on Federal property, and Section 3b applies to children whose parents either live on Federal property *or* work on Federal property, but not both.

The amount of P.L. 874 money a district may receive is based on a formula which takes into consideration the "local contribution rate" (that is the expenditure per child coming from local taxes), plus the average daily attendance count for eligible children. Districts receive 100% of the average local contribution rate for Section 3a children and 50% of the average local contribution rate for 3b children.

In the fiscal year 1969 the Federal government provided \$27.9 million for school districts on the basis of eligible Indian students.³

P.L. 815 School Construction

When P.L. 815 was first enacted by Congress, the law provided that a district had to have an enrollment increase in order to qualify. That did not apply to districts where Indian children were enrolled, since the problem in those districts was that many Indian children were not in public schools because there were no facilities for them, and that the local district could not afford to construct schools.

The law was amended in 1953 to include such districts. Section 14 was enacted specifically to provide funds to local districts to assist them in building schools for Indians. Since 1953, the Federal government has spent \$55,233,523 for schools for 48,497 Indian pupils.⁴ Congress spent \$86,345,649 for construction under P.L. 815 in fiscal year 1969, but no money has been appropriated for Section 14 — Indian schools — in the past three years because of limited appropriations and money freezes. The present estimated need for construction in public school districts that serve Indian children is \$82.2 million.⁵

Two factors account for the backlog: First, until this year, Congress established a priority for the distribution of P.L. 815 funds for schools hit by natural disasters and for schools operated by the Federal government on military bases. Since 1967, all appropriations have gone into these two categories and none into construction of schools for Indian students. A second reason for the backlog is the Federal freeze on construction imposed by the White House and the Bureau of the Budget in 1969 which was an effort to combat inflation.⁶

Congress amended the law in 1970 to give Indian schools "equal priority" with other requests,⁷ but the Office of Education still will not be able to fund all the back requests under Section 14. The fiscal year 1971 appropriations of \$15 million for P.L. 815 will support only \$6 million in Section 14 requests. It is likely that the only Indian districts that will receive P.L. 815 money this year will be small districts where almost all the students are "unhoused."⁸

Accountability

Indians frequently believe that they are being used to qualify a district for Federal funds, yet their children receive an inferior education. They cite overcrowded and substandard facilities, inadequate supplies and materials, high drop-out rates, inadequate and insensitive teachers, and a lack of special programs and classes to help Indian students overcome language barriers and other handicaps.

The fact that a school district receives Impact Aid funds based on a count of Indian children does not mean that Indians necessarily get their fair share of that money or of the district's total revenues. Federal payments go directly into the general operating fund

of the district together with all other revenues. The money is used as general aid and no reporting or accounting of funds is required.

There is, for example, no Federal requirement that districts demonstrate that Indian children have received a share of the Impact Aid funds equal to that of all other children. Nor is there any requirement that districts demonstrate that they have not discriminated against Indian students in the allocation of state and local resources.

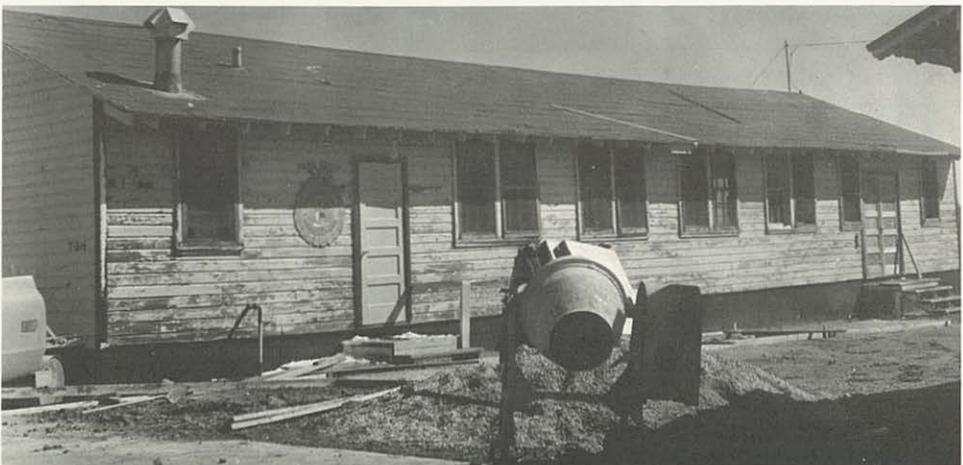
In large districts where Indian enrollment is concentrated in certain schools close to the reservation, there is typically a vast difference in the quality of education, the condition of the school, and the provision of books and supplies offered in these schools from those offered in the predominantly non-Indian schools. The differences are so obvious as to lead to the inescapable conclusion that Indian children are not receiving an equal share of anything.

Of all the districts we surveyed, the GALLUP-MCKINLEY COUNTY SCHOOL DISTRICT in N.M. (a predominantly Indian district with a total enrollment of 12,000) provides the clearest example of inequalities between schools.

The difference between predominantly Indian schools and predominantly non-Indian schools is great. For example, the Indian Hills Elementary School which has an enrollment of 294 of which only one-third is Indian is located in a middle-income area of the town of Gallup. The school has a split level, carpeted music room; a carpeted library; uncrowded and well-equipped classrooms; a gymnasium and a separate cafeteria. There are plenty of showers, toilets, and drinking fountains. There is a paved courtyard. The school has closed-circuit TV. Although Indian Hills Elementary is not a Title I target school, our interviewers found Title I equipment there.⁹

Five miles away from Indian Hills School is the Church Rock Elementary School with a 97% Navajo enrollment. The school is a barrack-like structure surrounded by mounds of sand that drift in through cracks in doors and windows. The "all purpose" assembly hall serves as a cafeteria, gymnasium and assembly hall. There are four temporary classrooms which have no extra sanitary facilities. The classrooms are dark and crowded, the furniture worn and old.

The Thoreau Elementary and High School is predominantly Indian. The main structure of the elementary school is surrounded by 12 metal mobile classrooms. The mobiles permit a doubling of the enrollment, but no additional toilet or water facilities exist. All students must share the same lunch room.¹⁰



A Building at the Thoreau Senior High School, Gallup-McKinley County Public Schools, N.M.

The Thoreau High School is the most overcrowded school in the system. Although it is only three years old, the school, which was built with P.L. 815 funds, was inadequate and overcrowded when it opened. A reporter for the Gallup *Independent* described the six classrooms surrounding the school as "wooden shacks," four of which were not fit to be used.¹¹ Built just after World War II these buildings are in such a state of disrepair that during the winter, it is not uncommon for teachers to find an inch of snow on the classroom floor. Students in science and home economics classes have to stand and watch the experiments and projects because of lack of space and equipment. The library is located in a classroom too small to hold all the books.

In the Gallup district as a whole, the predominantly Indian schools are overcapacity and the predominantly non-Indian schools are at or below capacity. The graph on the following page illustrates the extent of overcrowding in Indian schools.

The inferior and substandard education which Indian children receive in districts such as Gallup is especially galling because Indian children bring in more money per child than non-Indians. In that district Navajo and Hopi parents are often intimidated into thinking that they should have less voice in school affairs because they are not property owners and do not contribute their share to the school district's budget. In fact this is not the case. In the GALLUP-MCKINLEY COUNTY SCHOOL DISTRICT, Indian children bring in twice as much as other children in the district. Indian children¹² qualifying under Section 3a bring in \$306.70 per student. The children of Bureau of Indian Affairs and Public Health Service employees who do not live on the reservation but who work for the Federal government, bring in one-half of the amount paid for 3a pupils, or \$153.35. Local taxes for non-Federally connected children pay approximately \$127 per child.¹³ Thus, Indian children in Gallup "earn" twice as much for the local district as other children.

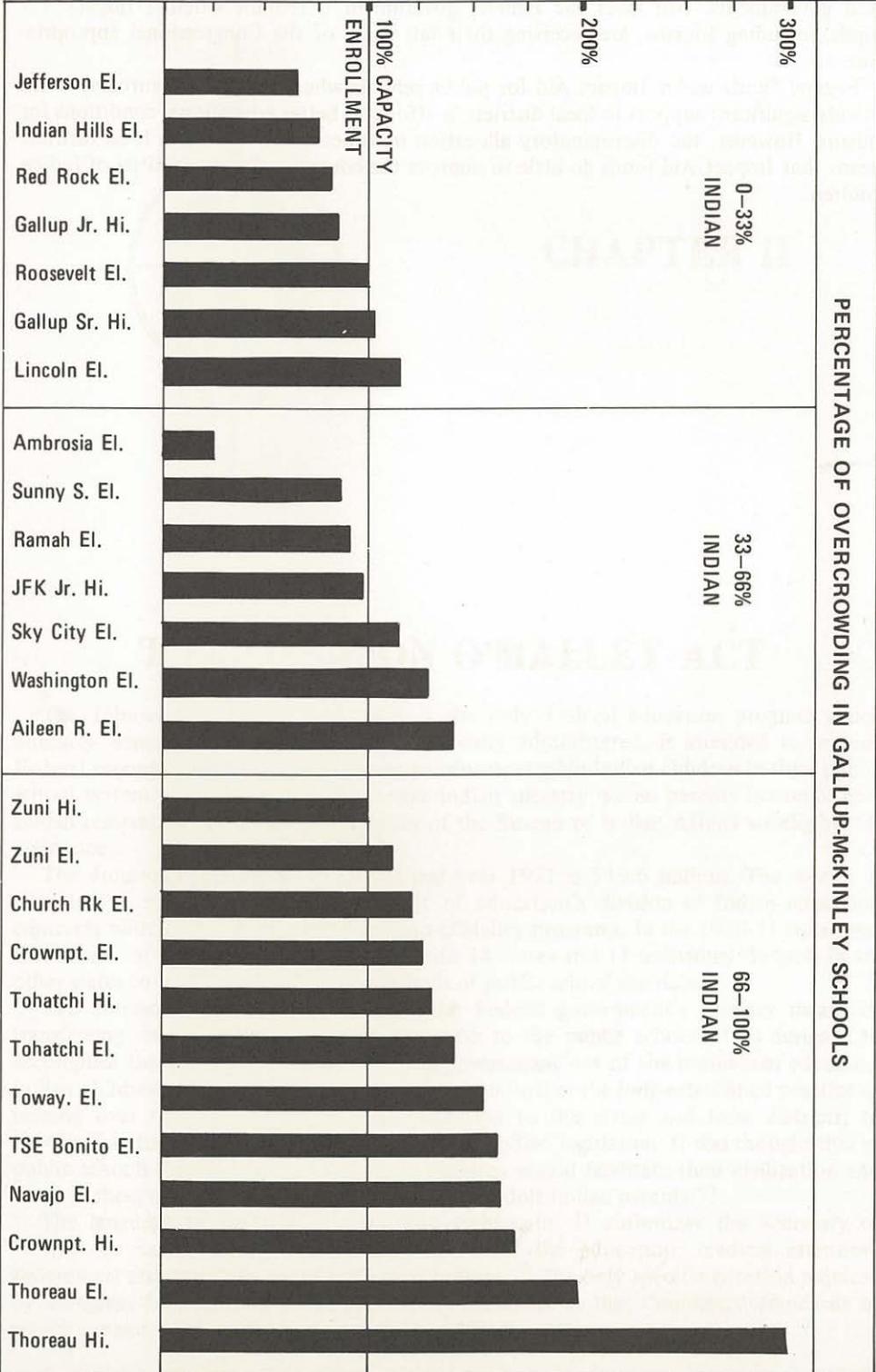
**Chart 1. Impact Aid Funds Per Child Contrasted With Local Revenue
Per Child, Gallup-McKinley County Public Schools, N.M.**

Type of Child	Amount Paid for Year 1970
Indian Child Whose Parents Live and Work on Reservation (3a)	\$306.70 per child
Child of Federal Employee (3b)	\$153.35 per child
Local non-Federally connected child	\$127.00 per child

In Impact Aid funds alone, Gallup receives approximately \$1.3 million. Gallup also receives a substantial amount of other Federal funds, for a total of 40% of its budget. The Title I budget brings in \$563,650; the Johnson-O'Malley budget is \$505,384; and it receives another half a million dollars from various other Federal programs.¹⁴ In addition to Federal money, every child regardless of status qualifies for state aid.

The Office of Education which administers the Impact Aid legislation takes the position that the Federal government is not in the business of investigating the "suitability" of public education, which is considered the responsibility of the state and

Chart 2.



local governments. Nor does the Federal government determine whether Impact Aid pupils, including Indians, are receiving their fair share of the Congressional appropriations.¹⁵

Federal funds under Impact Aid for public schools where Indians are enrolled could provide significant support to local districts in efforts to better educational conditions for Indians. However, the discriminatory allocation of educational services in local districts means that Impact Aid funds do little to improve the educational opportunities of Indian children.



CHAPTER II

THE JOHNSON O'MALLEY ACT

The Johnson-O'Malley Act of 1934 is the only Federal education program which uniquely benefits Indians. The law, as currently administered, is intended to provide Federal money to states to enable them to educate eligible Indian children in their public school system. All children of one-quarter Indian ancestry whose parents live on or near Indian reservations under the jurisdiction of the Bureau of Indian Affairs are eligible for assistance.

The Johnson-O'Malley budget for fiscal year 1971 is \$19.6 million. The money is allocated to states; the state department of education's division of Indian education contracts with school districts for Johnson-O'Malley programs. In the 1970-71 fiscal year the Bureau of Indian Affairs contracted with 14 states and 11 individual districts in six other states to provide assistance to hundreds of public school districts.

The Johnson-O'Malley Act has been the Federal government's primary means of transferring responsibility for Indian education to the public schools. It is designed to accomplish three things: to get the Federal government out of the business of educating Indian children; through financial inducement, to further the long-established practice of turning over responsibility for Indian education to the states and local districts; to "civilize" Indians, the historical goal of Federal Indian legislation. It was thought that in public schools "daily contact with white children would facilitate their civilization and through them contribute to the enlightenment of adult Indian parents."¹

The language of the Act is broad and ambiguous. It authorizes the Secretary of Interior to make contracts with any state "for the education, medical attention, agricultural assistance and social welfare of Indians."² The only specific criterion required by Congress for receiving Johnson-O'Malley assistance is that "minimum standards of service are not less than the highest maintained by the states. . . ."

There have been few amendments since 1934. A 1936 amendment permitted the BIA to contract with incorporated tribes and private, non-profit groups as well as with states.³ The major changes in the administration of the law have come in the regulations issued by the Bureau of Indian Affairs. These changes chiefly addressed the question of eligibility of public school districts for financial assistance under the Act. As presently administered, the chief criterion for eligibility is "the unmet financial needs of school districts related to the presence of large blocks (sic) of nontaxable, Indian-owned property in the district and relatively large numbers of Indian children which local funds are inadequate to meet."⁴ This criterion, however, did not emerge in the Bureau of Indian Affairs Manual until 1951 and in the Regulations until 1957. Prior to that time, the eligibility criteria did not include the presence of tax-exempt land or the residence of eligible Indian children on reservations.⁵ Furthermore, prior to the 1957 regulations, non-reservation Indians received Johnson-O'Malley assistance.⁶

The most significant change in the administration of JOM over the years – limiting its use to Federally recognized Indians living on reservations – came at the same time as the Federal government's policy of termination. Under this policy, the Congress and BIA sought to end all Federal responsibility for Indian matters and to end the special relationship of Indian tribes with the U. S. Government. This policy had a major impact on all matters relating to Indian affairs, including Indian education.⁷ At Congress's urging, the Bureau of Indian Affairs began terminating Federal services to Indians and relocating Indians off reservations. In 1953 Congress transferred Federal jurisdiction over law and order on reservations to the states, and in 1953 the House of Representatives called for an end to Federal services to Indians.⁸

The termination policy affected the operation of the Johnson-O'Malley program by restricting eligibility to school districts which had Federally recognized Indians enrolled, and by withdrawing services to certain tribes, particularly to California Indians. California had been the first state to contract with BIA under the Johnson-O'Malley Act. Until 1953, the state received \$318,500 a year, but the annual assistance was gradually reduced, and in 1958 the JOM program in California was discontinued altogether. A combination of circumstances led to the withdrawal of JOM assistance from California, but the main factor was the 1953 House Concurrent Resolution #108 which specifically named California Indians as among those to whom assistance should be curtailed. JOM funds to California were withdrawn in 1958 and were not restored until 1970 when the state received \$35,000.⁹ Although the State of California supported California Indians in their efforts to restore Johnson-O'Malley funds, when the money was reinstated the California State Department of Education failed to use the money for its intended purpose.¹⁰ Although the Federal policy of termination for all California Indians by the Federal government was the primary reason for withdrawal of JOM, a majority of California Indians were never, in fact, terminated.

ELIGIBILITY AND ALLOCATION OF FUNDS TO STUDENTS AND DISTRICTS

The Bureau of Indian Affairs acknowledges that its policy of excluding non-reservation Indians from JOM dates from 1951. It justifies that policy on the basis of Congressional sanction,¹¹ limited appropriations, greater needs of reservation Indians, and the availability of state and local services to Indians who reside off reservations.¹² The BIA has maintained this policy despite demands from Indians, Indian organizations, and Federal legislators in both houses of Congress that it be changed. Because of this policy, only an estimated 62,000 Indian children were targeted for JOM assistance in the 1968-69 school year (about one-third of the estimated 177,000 Indian children in public

schools.) The educational needs of those Indian children living in urban areas, those living on trust lands recognized by states, those living in scattered communities, and those never recognized by the Federal government are not met by Federal assistance, despite the government's historic and legal obligation to Indian education and explicit Congressional authority to do so.

Financial Need

The major criterion for assistance — apart from the JOM regulations excluding certain categories of Indian children — is the financial need of the school district for supplemental funds. JOM is designed in most instances to balance the district's operating budget. The amount which a district may get is supposed to be that sum of money which a district needs to operate an "adequate school" for Indian children after all other sources of local, state and Federal money have been counted.¹³ This amount will vary from district to district and from state to state depending upon the amount of state aid, the district's local tax base, and other financial considerations. For example, the MADDOCK DISTRICT #9 in N.D. has 38 Indian children (out of a total enrollment of 432) who live in an off-reservation BIA dormitory; it receives \$805 per child,¹⁴ while NEW TOWN, N.D., with 233 Indian children, receives only \$155 per child.¹⁵ Arizona with a JOM enrollment of 11,818 receives \$252 per child;¹⁶ New Mexico with a JOM enrollment of 12,204, receives only \$132 per Indian student.¹⁷ As these figures demonstrate, JOM is not an entitlement program providing a fixed amount for each eligible child. It is a program whose allocations are based on the school districts' financial needs, and not the educational needs of Indian students. Johnson-O'Malley allocations to states are arbitrary and bear no real relationship to financial need. For example, Arizona received 43.7% of its education revenue from local and other sources but it receives \$120 more per Indian child from Johnson O'Malley funds than New Mexico which received only 23.3% of its education revenue from local sources.¹⁸

Prior to 1958 when Impact Aid became available to districts serving Indian children, Johnson-O'Malley was the basic program of Federal financial assistance to districts enrolling Indian students. In 1958 Congress decided that Impact Aid should be available "in lieu of taxes" for general operating expenditures while special programs would be supported by Johnson-O'Malley to meet the special needs of Indian children.

However, Johnson-O'Malley funds continue to be used to support the general operating expenditures of districts. The JOM regulations provide that where school districts are eligible for Impact Aid funds, JOM is supposed to be limited to "meeting educational problems under extraordinary and exceptional circumstances."¹⁹ This refers specifically to districts enrolling a substantial number of Indian students where the amount of money received from Impact Aid and from state and local sources is thought not sufficient to meet general school operating costs. Thus, despite the obligations of states and local tax payers to support Indian education and despite other assistance provided by Congress, JOM continues to be used in lieu of taxes. Until quite recently, most JOM funds paid for operating expenses. In fiscal year 1968, \$6 million out of a total budget of \$9 million was spent as general aid.²⁰ By fiscal year 1970, there had been a shift from general support; \$5.6 million out of a total budget of \$16.4 million was spent for this purpose.²¹

Policies concerning the eligibility of students and districts vary from state to state. Some states, like South Dakota, simply adopt the Federal eligibility requirements in the State Plan.²² But in Oklahoma, the State Plan requires districts to tax at least 20 mills in order to qualify for Johnson-O'Malley Act funds, and any Oklahoma district receiving Impact Aid is ineligible for general support from JOM.²³ Until recently in New Mexico,

Indian children of Federal employees were ineligible for Johnson-O'Malley assistance of any kind, including free lunches.²⁴ The Arizona State Plan creates two categories of eligibility – major impact and minor impact districts – both of which are based on the total deficit need in the school district's budget.²⁵

Equal Educational Opportunities

The most significant Federal requirements in the Johnson-O'Malley regulations are those pertaining to the provisions of equal educational standards and opportunities for Indian children. There are three separate provisions:

1. *Equal Educational Opportunities.* Contracts shall specify that education for Indian children in public schools within the state shall be provided upon the same terms and under the same conditions that apply to all the citizens of the state.
2. *Uniform Application of State Law.* States entering into a contract. . . shall agree that schools receiving Indian children, including those coming from Indian reservations, shall receive all aid from the State, and other proper sources which similar schools of the State are entitled to receive. In no instance shall there be discrimination by the State or subdivision thereof against Indians or in support of schools receiving such Indians, and such schools shall receive state and other non-Indian Bureau funds or aid to which schools are entitled.
3. *Educational Standards.* The State shall provide in all schools that have Indian pupils adequate standards of educational service, such standards to be equal to those required by the State in respect of (sic) professional preparation of teachers, school equipment and supplies, text and library books, and construction and sanitation of buildings.²⁶

The interesting thing about these sections of the regulations is that they seem to contemplate that JOM money is to be spent in addition to the regular school program provided by local authorities, and required by state law. These provisions are, of course, inconsistent with other provisions of the regulations requiring a district to demonstrate financial need in order to be eligible. Thus, some JOM regulations assume that state and local districts will provide "an equal education for Indians," from local and state funds, wholly apart from JOM aid. Other sections provide for assistance to support Indian schools only if the local district can demonstrate a financial need. Thus, there is a conflict between using JOM as supplementary assistance to Indians and using it as general aid. In fact, Johnson-O'Malley does both. The BIA provides funds for general operating expenditures for the whole district and for special programs and parental costs which relate specifically to the special needs of Indian students.

The equal education provisions of the regulations have a further significance. They confer broad authority upon the Bureau of Indian Affairs to require that states and school districts upgrade Indian education and remedy the substantial disparities in education received by Indians compared to non-Indians as a condition of Federal assistance. Further, the regulations require each state to make available to BIA access to records, reports and to the schools themselves "to enable [it] to conduct inspections of

the school program related to the contracts."²⁷ This provides authority for the Bureau of Indian Affairs to monitor school districts where Indians are enrolled and to determine whether the conditions of the contract have been complied with.

GENERAL SUPPORT

Johnson-O'Malley funds are spent in two major categories — general support and special programs.

Approximately one-third of all JOM funds are used for general support. The allocations vary considerably from state to state. For example, in 1970 Arizona spent one-half of its total JOM expenditures — \$2.6 million — for general support.²⁸ In Oklahoma, however, a small percentage of the total JOM payments was spent for general support — only \$34,611 out of \$737,666 in fiscal year 1970.²⁹ In South Dakota \$695,000 of the total allocation of \$1,132,021 was earmarked as general aid in fiscal year 1970.³⁰ But in Montana in the same year, no JOM money was allocated for general support.³¹

Accountability

In almost every district, even if the state did not use Johnson O'Malley for general support, school superintendents told us that Johnson-O'Malley funds were combined with the school system's general fund and they could not account for how the money was spent. Once JOM funds are used in this manner, no accountability is possible. There is no way to determine whether Indian schools or children receive support for their basic educational needs. In a few states, such as New Mexico and North Dakota, school districts have recently been instructed to identify JOM funds in their school budget, but this has not changed the problem of lack of accountability. The business manager of the GRANTS MUNICIPAL SCHOOL DISTRICT in N.M. confirmed that there is no accounting of JOM funds in that district. He assured our interviewer that the money did reach Indian children through the "good faith" of school administrators. In most districts, superintendents were not even able to give that assurance. They said they did not know whether the money reached Indian children. Most of them thought of Johnson-O'Malley funds as money "in lieu of taxes" for which they did not have to account.

The use of JOM as general support has come under criticism from the General Accounting Office in its recent audit of JOM funds in New Mexico, Arizona, and South Dakota. Although the regulations never contemplated that JOM would pay the full cost of educating Indian children, several states had been using funds in precisely that way. Under the Arizona State Plan which was in effect until 1968, JOM payments to school districts provided the entire per-pupil cost of educating Indian children—not withstanding the fact that Arizona districts were also eligible for state aid and for Impact Aid payments for each Indian child. In addition, state and county contributions of \$20 per child were not included as district revenue before determining how much JOM assistance per child would be awarded. Under this method of payment, each Indian child earned money for the district well beyond the cost of his own education. The General Accounting Office concluded that these practices "did not financially assist the education of eligible children, but rather reduced the school district's cost for the education" of non-Indian children.³² It also provided an indirect benefit to local property owners — virtually all of whom were Anglos or Spanish-Americans — by keeping tax rates low. In response to the GAO audit, Arizona revised its State Plan effective July, 1969 and ceased this method of payment for most, but not all, districts in the state.³³

Indirect Aid to Non-Indians

Johnson-O'Malley money often benefits white property owners by providing a positive incentive to keep taxes low. If income from local taxes is low, there tends to be a larger budget deficit with which to justify using Johnson-O'Malley money for general support. The General Accounting Office audit found that school districts in Arizona and South Dakota in the 1966-67 school year which received JOM funds typically had much lower tax rates than the state's average school district tax rate.³⁴ Our survey found no indication that this practice had changed substantially. Several districts had reduced their overall per-pupil expenditures in recent years. As a result Federal funds received by school systems based on Indian enrollment and intended to benefit Indian children, are used, at least in part, to maintain a reduced financial effort on the part of local property owners.

Peripheral Dormitory Program

Another form of indirect aid to non-Indians, is the Peripheral Dormitory Program funded by JOM. In some parts of the Navajo Nation and reservations in other states school districts educate Indian children living in off-reservation Federal dormitories. Under twenty-year agreements with the Bureau of Indian Affairs, these districts may receive JOM payments of as much as \$1000 per student to establish school facilities and to support the full instructional costs for each Indian child. For example, in 1968-69, peripheral dormitory expenditures in Arizona amounted to \$771,584. In some cases, however, these school districts are collecting full tuition costs from Johnson-O'Malley Act funds and receiving, in addition, state aid payments for each Indian student.³⁵ Thus, once again, local districts have failed in their constitutional obligation to treat Indian children fairly in the allocation of non-categorical local, state, and Federal funds. Rather, Indian children have been used as pawns by the education establishment to obtain additional funds to service the non-Indian population.

One such district is SNOWFLAKE, ARIZ., which has a total enrollment of 742 children, of whom 128 are Indian. Snowflake received state aid for each Indian student. In addition, the district received \$697 per Indian child under the Johnson-O'Malley Act for instructional cost — plus \$110 per child for parental costs. The district also was allocated \$6,912 for lunches.³⁶

The GAO audit found that the Peripheral Dormitory Program is inconsistent with the BIA's fundamental policy of state responsibility for Indian education. It recommended that these contracts be renegotiated. However, state and Federal authorities have decided to allow these contracts to run their course before altering JOM payments.³⁷ Therefore, while these districts profit financially because of the presence of Indian students, non-Indian students benefit from a program designed to aid only Indians.

School systems do not qualify for JOM funds unless eligible Indian children actually attend school. School authorities are known to encourage Indian children to attend school at the time of official enrollment counts. Indian children are promoted through the grades irrespective of their performance in order to keep them on school attendance rolls. Districts continue to receive payments throughout a school year, even if children have dropped out or have transferred to Federal boarding schools. Some principals reportedly have children marked present who were absent so that the school system will retain its Federal funds. Indeed, many school officials frankly admit that they encourage Indian children to remain in school for this reason. The Federal projects director in LOS LUNAS MUNICIPAL SCHOOL DISTRICT in N.M. told our interviewers that Indian

children in her system were urged to attend public school to "get Federal funds."

Thus, a combination of slothful BIA policies and greedy local practices deprives Indians of the full benefits to which they are entitled under the JOM general support allocations. There is no way to determine whether general support money does provide basic assistance for Indian education since the funds are combined with general funds. Local school officials are not held accountable to the Federal government or to the Indian community.

SPECIAL PROGRAMS

Special programs funded by the Johnson-O'Malley Act are designed to benefit Indian children uniquely by supplementing regular school programs. Special programs include a wide variety of projects under two broad budget categories — parental costs and special projects. Neither the BIA Manual or the Johnson-O'Malley Act regulations mention special programs — except parental costs — but expenditures in this category have increased markedly in recent years. In fiscal year 1970, \$9.5 million dollars of the JOM budget was spent for special programs of all kinds. Expenditures for parental costs, including lunches, were \$3.6 million, and expenditures for special projects, including kindergarten, were \$5.8 million.³⁸

Parental Costs

Most State Plans provide that JOM funds can be used to pay for school lunches, transportation, books, supplies, and any other item not furnished by the district to *all* children. We found that Indian children suffer more inequities and injustices in the administration of these JOM supported costs than in any other area.

JOM funds are supposed to meet educational costs which Indian parents cannot afford to pay. For example, school districts may provide books, school supplies, graduation and athletic fees and other educational necessities free to Indian children and defray expenses from JOM. The average Indian family which earns \$1500 a year cannot afford these costs.

School districts in Arizonia, for example, do not use Johnson-O'Malley funds for parental costs (with the exception of school lunches and some transportation) and Indian parents do not know that Federal money is available. Our interviewers in the Navajo Nation reported that many Indian students simply drop out of school because they cannot pay their fees or buy supplies. No school officials have bothered to tell them that they are entitled to Federal dollars to meet these needs.³⁹

In New Mexico, parental costs are not included in the regular JOM budget. However, districts are reimbursed for parental costs, usually on the basis of a telephone call or letter.

In GRANTS, N.M. we found that in the 1969-70 school year the district was reimbursed \$285.75 for physical education equipment and course fees, and \$191.75 for boys' gym shoes⁴⁰. Yet, our interviewers found that some eligible Acoma children in Grants High School paid their own course fees in home economics and wood shop. Parents reported that if a student did not pay all his fees, he did not receive his grade. Students were also supposed to be supplied gym shoes, but our interviewers could find only one Indian parent whose child received gym shoes in the last school year.

In contrast, after Laguna and Acoma parents confronted the superintendent, and the LDF interviewer made public the fact that the school system had received JOM funds for boys' gym shoes, all JOM students in the Laguna - Acoma school were provided with free gym shoes.

Transportation

An important cost that can be met with Johnson-O'Malley Act funds is the financial burden of busing Indian children over great distances to the public schools. Indian families often live in small isolated communities where special bus trips must be scheduled. Transportation is expensive in school districts covering large geographic areas and enrolling many Indian students. If these expenses are not met, however, the only alternative may be a Federal boarding school or no school at all.

Despite the fact that money may be available for transportation, Indian students often do not receive the full benefits of JOM. Our interviewer in the Navajo Nation reported that there were students who preferred to attend public schools but were forced to attend Federal boarding schools because of lack of transportation and space.

In some districts, the JOM budget provides for "special transportation." In GRANTS, N.M. \$1,440 was allocated for "special transportation" in the 1969-70 budget,⁴¹ but all JOM parents had to pay fees for such transportation. Our interviewer reported that there was no observable way to account for the discrepancy. We were unable to ask the superintendent to explain because he refused to be interviewed. Laguna and Acoma parents complained that the buses in the GRANTS MUNICIPAL SCHOOLS which Indian children ride are old, overcrowded, and frequently break down, yet white children ride the newer buses.

Sioux parents in LITTLE EAGLE, S.D. reported that non-Indian children received door to door bus service, yet Indian children must walk as much as a mile to the bus stop.

In CROWNPOINT, N.M. Navajo children did not get home until after dark in winter months. The school bus delivered white children to their homes in town before making the trip to Indian homes.

No transportation was provided for Indian children in DUNSIETH, N.D. who had to stay after school. Children had to walk long distances in cold winter weather.

An Indian bus driver in NEW TOWN, N.D. drove out of his way to pick up Indian children in bad weather. Indian parents reported that he was told to stick to the route or he would be fired.

In MCLAUGHLIN, S.D. a crippled Indian boy had to walk on his crutches three miles to the highway to get the school bus. When the weather became cold, the boy dropped out of school. Our interviewer reported that the school bus could have picked him up easily.

We found that some districts were making special efforts to provide transportation to Indian children for after-school programs and sports events. This contributed to the student's involvement in school affairs. But too often, unless Indian parents know that this money is available, transportation for Indian students is either inadequate or unavailable.

School Lunches

The largest item of parental cost is for school lunches. JOM is most often used to supplement the National School Lunch Program's free and reduced-price meals. Many districts receive JOM payments for lunches for Indian children but in some cases the children go hungry. Johnson-O'Malley makes lunches available to those Indian children whose parents cannot pay for lunch. The determination of need is left to local authorities, and very often the means for determining eligibility is handled in ways which are humiliating to Indian children. Families must publicly admit their poverty to qualify for such assistance.

In GALLUP-MCKINLEY COUNTY SCHOOL DISTRICT in N.M., Indian children are given a monthly lunch ticket if their parents fill out a form which demands such

information as – how much money does your family earn? If a child loses his ticket, he gets no lunch for the remainder of the month.

In TULAROSA, N.M., our interviewer was told that some Indian children had to work for their lunch. Johnson-O'Malley has no regulations for administering school lunches, but in any case the criteria governing the provision of lunches under JOM should not be less than the criteria established under the National School Lunch Program administered by the Department of Agriculture. NSLP regulations forbid the practice of making children work for their lunch.

In SNOWFLAKE, ARIZ., Indian students attend public schools but live in a BIA dormitory. The school district received JOM payments of thirty cents a lunch for 128 Indian students for 180 school days a year, a total of \$6,192 in the 1969-70 school year.⁴² Yet, each student's family is required to fill out a page-long questionnaire and mail it to school authorities before lunch is provided.

In TUBA CITY, ARIZ., needy Indian children must declare their poverty daily although the district is reimbursed for all their lunches. The procedure for obtaining a lunch is that each morning students are asked if they will be eating lunch and if they brought their own money. Students who wish to eat but who have no money then receive different colored lunch tickets. In previous years, all students were charged 25¢ for lunch, and if parents were unable to pay, they had to "come to school to explain their situation," according to the principal. In some instances, bills were sent home and parents were forced to sell sheep or pawn jewelry to pay for lunches. A trader in GAP, ARIZ. was reportedly taking money out of welfare checks at the request of school officials to pay for school lunches.

In PAGE, ARIZ., Indian parents have to sign a statement each month indicating that they do not have money for their children's lunch bill. JOM lunch tickets are collected at lunch each day and redistributed the next day. JOM students are singled out in the cafeteria.

Our interviewers reported that many Navajo students felt the stigma of poverty very deeply. They would rather give up a free meal than submit themselves and their families to the public humiliation of admitting their poverty.

Indian children in MADRAS, ORE., are charged for their lunches, and they must pay in advance. As a result some children stay home a week at a time, or go hungry at school. Indians in Oregon receive no assistance under the Johnson-O'Malley Act since Oregon was dropped from the JOM program.

In PARSHALL, N.D., JOM students are separated in the lunch line, not all poor Indian students get a free lunch, and students have to pay for seconds.

Indian parents in MCLAUGHLIN, S.D., reported that their children are pushed aside in the lunch line because they eat free.

In MARLAND, OKLA., Indian parents who are unemployed and on welfare must find some way to pay for the children's school lunches.

In view of the widespread malnutrition among Indians, we were not surprised to discover that Indian parents are greatly concerned about getting an adequate diet for their children. Although our interviewers were not monitoring the National School Lunch Program, they were overwhelmed with evidence of noncompliance with regulations governing that program, of discrimination against Indians, and of ignorance about eligibility for free lunches. Inasmuch as BIA has signed an agreement with the Department of Agriculture under which school lunches for Indian children will no longer be paid by JOM, misunderstandings could increase.

A school lunch reform act which was passed by Congress in May 1970, should eliminate this confusion and guarantee meals for needy school children – Indian and non-Indian alike.⁴³ Effective January 1, 1971, all school districts which participate in the

lunch program must provide free or reduced-price meals to every child under uniform national eligibility standards set by the Secretary of Agriculture (see Appendix D). Since every child from a family of four with an income of \$3720 will qualify for free or reduced price meals, public school districts will be obligated to feed virtually all of the Indian pupils.

Special Projects

One of the greatest needs in public school districts enrolling Indian children is special educational projects and services designed to benefit Indian children. In recent years, more JOM money has become available for these projects. \$2.3 million of the Johnson-O'Malley budget now pays for kindergarten programs for Indian children. In 1970, an estimated 3,713 children are enrolled in kindergarten.

Local districts are funded for a variety of projects ranging from the purchase of mobile units, equipment, and supplies, to the hiring of home-school coordinators, guidance counselors and other special personnel. Priorities vary from state to state. In Oklahoma, for example, cosmetology courses for Indian students are paid for by JOM. In Wyoming, JOM priorities for special projects established in the State Plan include improving school-community relations, leadership workshops for prospective Indian school board members, projects that promote understanding of Indian values, and parent involvement in school affairs.

Our survey found that although special projects were supposed to meet the special needs of Indian children, JOM funded projects were benefiting all children — non-Indian and Indian alike. Much of the money in this category is used as general aid to support programs for Indians which local revenue supports for non-Indians.

The DUPREE INDEPENDENT SCHOOL DISTRICT in S. D. received \$11,125 under a special projects budget for the purchase of mobiles because the district "would not be able to handle its present enrollment" of 257 children. The district had only 89 Indian children enrolled.⁴⁴ Our interviewer found that the mobile unit was a quonset building sitting on a concrete foundation, a permanent addition to the facilities of the district.

In SHANNON COUNTY INDEPENDENT SCHOOL DISTRICT, in S. D., the Johnson O'Malley kindergarten at two schools where there is a substantial minority of non-Indians was open to all five-year-olds, not just Indians.⁴⁵

In LOS LUNAS SCHOOL DISTRICT IN N.M. a kindergarten was financed primarily out of Johnson O'Malley funds in the 1969-70 school year.⁴⁶ It had only a handful of Indian children.

The Johnson-O'Malley remedial reading program in operation at the Laguna-Acoma school in the GRANTS SCHOOL DISTRICT in N.M. was not in fact a remedial reading program, although this was one of the most critical needs of the students in the school. Instead, the course was open to any student in grades 7-12 who needed extra credit. The class was over-crowded and lacked sufficient materials for remedial reading.

Johnson-O'Malley money for special projects in some instances may duplicate the same program listed in the Title I application. For example, the DUPREE INDEPENDENT SCHOOL DISTRICT in S.D. received \$2,800 from Title I and \$7,000 from JOM for a 1970 summer program for one month for 100 Indian children.⁴⁷ Yet, only 50 children actually participated.

In the same year, the JOM budget for the GRANTS SCHOOL DISTRICT provides for five teachers to be assigned to schools with large Indian enrollments. Our interviewer could locate only two JOM teachers in the school last year. Furthermore, the JOM budget allocated \$8,100 for general instructional supplies, yet the JOM art teacher at the Laguna-Acoma school indicated that his class was severely handicapped by lack of

supplies and material until after December when less than three-fourths of what he had ordered arrived.

The GRANTS SCHOOL DISTRICT also received \$4,950 for "support, supplies and services" in the 1969-70 budget. The State Indian Education director told the Grants business manager that this money could be used to buy textbooks for Indian children, although he indicated to our interviewer he had cut textbooks from the JOM budget at the state level two years previously since he felt it was a duplication of state aid.⁴⁸ In fact, the State of New Mexico Textbook Fund provided \$41,593 to the district in that same year. Indian children in the district were using torn and tattered books, and teachers commented that the books were out of date.

Program descriptions or justifications are rarely required. Most budgets for special projects are a simple statement of expenditures and receipts, such as the JOM general fund budget for SISSETON, S.D. for 1968-69⁴⁹ which reads:

Expenditures

Speech therapy	\$2,034.43
Swimming as a motor skill development	1,800.00
Developmental reading program	2,000.00
TOTAL	\$5,834.43

Receipts

Johnson-O'Malley	\$4,100.00
Title I	1,734.43
TOTAL	\$5,834.43

IS JOHNSON-O'MALLEY MEETING THE NEEDS OF INDIAN STUDENTS?

The answer to the question of whether JOM is meeting the needs of Indian students is a mixed one. Undoubtedly, it is meeting those needs in some places. However, although the program is supposed to meet Indian needs, it is not typically administered with those special needs in mind.

In large measure, the answer to the question depends upon whether one is a BIA official or an Indian parent. BIA officials in charge of the program contend that JOM is meeting the needs of Indians. Meeting the general financial need of a school district which enrolls Indian children is, they argue, meeting Indian needs. Indian needs may range from a desk or a chair in one district to lunch or special programs in another. Every determination, including that of need, is made locally.

Because of pressure on the Bureau of Indian Affairs, increasingly more money is going toward special programs which come closer than general support to meeting the special needs of Indian children. In fiscal year 1968, only \$1 million out of a total budget of \$9.8 million supported these programs. But in fiscal year 1970, \$4.2 million out of a total budget of \$16.4 million now goes toward special programs.⁵⁰

Despite these special programs, Johnson-O'Malley is regarded by local school officials as money to support the general school program. As the superintendent in RELIANCE, S.D. said when asked if JOM was meeting the special needs of Indian children: "Getting them here and feeding them is all it does." Most superintendents told our interviewers that JOM supported the basic program, that money for special programs went into the general fund, and that they "couldn't figure out" how the money was spent.

Indian parents and Indian community leaders frequently say that the public schools are not meeting their needs at all. In particular, they identify special needs as teaching tribal history, language and culture. Virtually every place we interviewed, Johnson-O'Malley was not supporting programs which Indians thought were most important to their children.

Perhaps the reason that JOM does not support such programs is because parents are unaware of the possibilities for starting classes in tribal history and language and because school officials do not recognize this as a need. Most school officials view education for Indians as an opportunity to draw them away from their tribal heritage and from the reservation and toward white culture and the American mainstream.

Our interviewers found some places where the importance of Indian culture was recognized. These were sporadic efforts, often undertaken by an interested teacher or principal. In many cases these programs are concentrated on the kindergarten or pre-first grade level. Wherever they do exist, programs of this nature have elicited great enthusiasm from the parents. Some of these parents indicated to our interviewers only the vaguest notion of what was going on generally in the schools, yet they were eloquent about the details of the Indian culture classes.

The fact that JOM money in many districts is spent on the most basic educational programs and services is simply a reflection of the regulations and policies governing JOM expenditures. The basic concept of JOM as interpreted by BIA is one of providing assistance on a supplemental need basis, with the objective of reducing or eliminating JOM assistance altogether if state or local resources can assume complete financial responsibility.

A good example is the pre-first grade classes which had been established in several New Mexico school districts. These classes enrolled first-grade Indian children who, because of lack of facility in English, were not ready for regular first-grade instruction. Here was an attempt to meet the special needs of Indian children. However, when the General Accounting Office conducted an audit of these programs, it concluded:

"...the district had received Public Law 874 payments and State and county aid for the pre-first grade students and that the revenue from these sources, exclusive of JOM aid, had exceeded the school district's operating cost on a per capita basis."⁵¹

The GAO audit found that the district in question was receiving the full costs per child for these classes. GAO's concern was that while the district was also receiving state aid and Impact Aid payments, JOM funds were paying the full costs of the pre-first program. Thus, the school district was, in effect, earning extra money from these pre-first classes. The General Accounting Office did concede that JOM could pay part of the costs of the pre-first classes.

New Mexico's response to this audit was to cut out almost all pre-first grade classes. The director of the Division of Indian Education in the State Department of Education, Willard Scott, wrote to the General Accounting Office:

"This division no longer supports the pre-first program except where there is proven need and all school districts have been notified that they will begin a phasing out of all pre-first grade classes as such."⁵²

GAO was simply pointing out that JOM money was not being spent according to the deficit need theory established by the JOM regulations; it did not inquire whether JOM assistance was, in fact, reaching Indian children. As this example demonstrates, as long as JOM is operated on a deficit need basis, the special educational needs of Indian children will not be fully met.

ADMINISTRATION OF JOHNSON-O'MALLEY

In conducting this study we found it very difficult and sometimes impossible to obtain accurate and complete information about Johnson-O'Malley. More than once, our interviewers encountered the typical "run around" from officials.

School superintendents have almost no understanding of what Johnson-O'Malley is meant to do. Most whom we interviewed knew it was for Indians, but their knowledge stopped there. Few had any notion of state policy, of how the funds a local district received were determined, or for what Johnson-O'Malley could be used. As one superintendent told our interviewer who asked what the state's policy on JOM was: "Don't ask me, ask the State office." This Federal program — in existence for 36 years — remains largely unknown.

Not surprisingly, there is a lack of information about JOM at the local level. We were unable, in many instances, to obtain JOM contracts and budgets from local superintendents either because they were denied to us or because such documents did not exist. There is no standardized application form. Expenditures are put in different categories in different districts. Rarely is all the information in one place. In New Mexico, for example, the JOM budget for a local district does not reflect total expenditures. Furthermore, we found that budget requests, changes, or reimbursements are frequently handled over the telephone. In a few instances we found confirmation of these requests. It is very difficult to understand how program costs are arrived at since the budgets are brief and lack program descriptions. School superintendents sometimes gave us incorrect figures for JOM expenditures. Even government auditors from the General Accounting Office found it impossible to determine how money had been spent.⁵³

The most serious problem is the total lack of accountability, at any level, in the Johnson-O'Malley program. Local recipients of JOM funds have to account to no one for the expenditure of money. Most superintendents admitted to us that they could not say how the money was spent. The district is not even held accountable for spending the money as the approved budget provides. In GALLUP-MCKINLEY COUNTY SCHOOL DISTRICT our interviewers obtained one copy of the 1969-70 JOM budget from local school officials and another copy of the budget for the same year which state officials said was the approved budget. Neither budget reflected the total amount of funds received since they did not include money for lunches, transportation, or parental costs. Both budgets had the same total of \$266,000 and most items in both documents were the same. But there were significant differences. In the JOM budget obtained from the state, we found an appropriation of \$30,000 for four teachers to meet the special needs of Indian children. In the budget obtained from local officials, no teachers were mentioned. However, new items not found in the state approved budget included maintenance, utilities and four vehicles for staff use. The Johnson-O'Malley teachers were never hired, and the local district apparently spent the money on the general needs of the school district. When questioned about these discrepancies, a state official simply replied that sometimes budgets are changed after they are approved. The reason no one knows is that local officials are not accountable for how the money is spent.

Local administration of JOM funds is also marked by a lack of Indian involvement. There is no mandatory Johnson-O'Malley requirement for parent or community

involvement. The BIA manual does provide that:

Eligible school districts shall, through local Indian representation, provide opportunity for Indian people to be consulted on matters pertaining to school curriculum, special programs, and other matters related to the education of their children.⁵⁴

As far as we could determine this provision has never been enforced, although BIA officials claim to have made efforts to encourage Indian involvement. In no district where we interviewed did we find any procedure for consulting Indian parents. Claims of Indian involvement consisted of liaisons with the education committee of the Tribal Council, the attendance of school personnel at Indian-called meetings, or reference to Indian school board members.

The Bureau of Indian Affairs has recently signed JOM contracts with state-wide tribal organizations in Nebraska and North Dakota. However, under these contracts there has been no real change in the use of funds in local school districts. This is Indian control in form but not fact. The policies under which the JOM contracts are negotiated and the fact that public school officials decide how to spend the money do not permit Indians to have any significant influence on the program.

ACCESS TO PUBLIC INFORMATION

Access to information about Federal programs is absolutely crucial if Indian parents are to know how money is being spent and to become involved in decisions concerning expenditures of Federal dollars. Yet, time and time again Indian parents, and some of our interviewers, have been denied information about Title I and JOM by state and local officials.

The availability of program information about JOM is nowhere mentioned in the Regulations, in the BIA Manual for public school contracts, in the State Plans, or in any local district contract which we saw. In response to our request, the Commissioner of Indian Affairs, Louis Bruce, issued a memorandum to state JOM education officials urging them to cooperate with us.⁵⁵

Apparently because the issue had never been raised before in the 36 year history of Johnson-O'Malley, the Commissioner requested a legal opinion of the Department's Solicitor's office. This opinion states that all JOM information — including all contracts and budgets both proposed and approved — should be made available upon request.⁵⁶ This legal requirement has never been communicated to Federal, state and local officials; our interviewers encountered constant problems in obtaining program documents and budgets. In some cases, we suspect that such documents simply do not exist.

STATE ADMINISTRATION

In each state which has a Johnson-O'Malley contract, there is an Indian Education Office in the State Department of Education. This office is supposed to implement the State Plan — the basic contract between the state and Federal government. State Plans simply outline the contractual agreements and state policy regarding JOM expenditures.

The management of the Johnson-O'Malley program in Arizona, New Mexico, and South Dakota has been reviewed by the General Accounting Office, and the inadequacies which they uncovered were similar to those which we uncovered. In general, State agencies fail:

1. to require local districts to submit detailed, itemized budgets or final reports of disbursements;

2. to provide adequate assurance that funds were spent for their intended purpose;
3. to provide information on whether JOM funds were used to meet the needs of Indian students.⁵⁷

In no state where we interviewed did the state Johnson-O'Malley office regularly monitor a local school district to determine whether JOM funds were used for the purpose for which they were intended. Nor do the states require local officials to submit accounts of how they used the money.

In many states, the exclusive function of the State Indian Education office is to negotiate the State Plan, and to collect statistics concerning Indian enrollment and local tax rates on which the next State Plan budget will be based.

There is no information program that really conveys important and significant information about Johnson O'Malley to Indian communities. States are required to submit annual reports, but these are not very informative. In two instances — Washington and New Mexico — the annual reports consisted almost entirely of pictures.

COORDINATION WITH OTHER FEDERAL PROGRAMS

Johnson-O'Malley assistance must be coordinated with other Federal programs such as Federal funds for school lunch and breakfast programs, funds from the Office of Economic Opportunity and funds under other Federal education programs administered by the Office of Education. The BIA manual governing public school contracts mentions only Title I of the Elementary and Secondary Education Act, discussed in Chapter Three. The manual provides that districts receiving Title I funds "should be encouraged to make full use of this resource *before* requesting assistance from Johnson-O'Malley."⁵⁸ (emphasis added).

Although BIA officials say this requirement is designed to avoid duplication and encourage the coordination of other funds, the language clearly suggests that Title I should be used to meet financial or program needs and that JOM should be used only after Title I money has been exhausted. Many school districts in fact do this, and some state plans instruct them to do so.⁵⁹ Such a policy encourages, if not directs, districts to use Title I dollars to provide services to Indian children which it already provides to non-Indian children with local funds. This is clearly illegal. Title I is a compensatory program of supplemental assistance which is to be used as something extra — an add-on to the regular school program. Title I funds should be used to supplement JOM assistance to which Indian children are entitled, not the reverse.

In our study we found only rarely that JOM was coordinated with other Federal programs. In many cases we found duplication. In GALLUP-MCKINLEY COUNTY, N.M., for example, the JOM budget for 1969-70 provided for four school nurses and the Title I application provided for seven. Instead of 11 school nurses, our interviewers found only seven listed in the school directory, four paid by JOM and two paid by Title I.⁶⁰ A head nurse was assigned to the Central Office. The fact that these nurses served all children in the schools, not just Indians and not just poor children, was also a violation of Title I and Johnson O'Malley.

FEDERAL ADMINISTRATION

The administration of Johnson-O'Malley by the BIA has been so decentralized in the bureaucracy that no one really is responsible for the conduct of the program. There are no uniform application forms, no adequate reporting requirements, and no monitoring of state and local administration. The Assistant Area Directors of Education have the entire responsibility for negotiating JOM contracts but they devote most of their time to running the Federal schools, and consequently the operation of JOM is left entirely to the states.⁶¹ The Assistant Area Director for Education in the Phoenix Area Office told our

interviewer that evaluations of JOM programs were made by local school districts, which had total responsibility for their operation. "No check is made," he said, "as we have good administrators in the field." No level of government is accountable for how the money is spent. The BIA says the states are responsible; the states say local administrators are responsible. Local officials say they cannot account for how the money is spent.

The audit of the General Accounting Office made three recommendations to the Department of Interior which were necessary to improve the operation of the program:

1. BIA should strengthen its control over state agencies responsible for distributing JOM funds;
2. BIA should provide State Agencies with meaningful guidelines for determining need;
3. BIA should institute a monitoring system to insure that JOM funds are spent in accordance with the contracts and budgets.⁶²

These recommendations, important as they are, do not go far enough. BIA has simply turned over the entire program to state offices, consistent with the philosophy of the Johnson-O'Malley program. But the Bureau of Indian Affairs has completely neglected its responsibility to insure that the provisions of the State Plans are enforced or to insure that Indian students are actually receiving assistance. BIA has abandoned Indian children to the states.

BIA staff may work with local school officials in developing programs, but in no sense do they try to determine if schools attended by Indian children are equal to schools attended by non-Indians. There is no staff to implement the equal education provisions, and undoubtedly BIA has never sought such staff for fear of increasing the costs of the programs. Critical provisions of Federal Regulations such as the equal educational opportunities provisions, which could have an impact on upgrading school facilities attended by Indian children, are totally ignored.

There is no accountability for Johnson-O'Malley funds by state or local school districts, nor is there accountability by the Federal government. Neither BIA or the Department of Interior has ever conducted audits of Johnson-O'Malley expenditures at the state or local level.⁶³

The General Accounting Office recommended that the Department of Interior audit the State Administration of JOM periodically. The Acting Director of Survey and Review wrote to GAO in January, 1970 concerning GAO's recommendation and reported that Interior would audit JOM "within staff capability."⁶⁴ Yet in September of last year, the Director of Audit Operations in the Division of Survey and Review told our interviewer that his office had no plans to audit JOM. He did not think audits of JOM were necessary because appropriations were based on negotiated contracts. He felt that the Department of Interior had other more important priorities on its audit schedule, such as wild life sanctuaries and water quality control programs.⁶⁵

CONCLUSION

When Congress passed the Johnson-O'Malley Act in 1934, it intended to provide educational assistance specifically to Indian children. This intention has been frustrated by the BIA's interpretation of the law, by Congress's desire to save money by cutting off assistance to non-Federal Indians, by lack of enforcement of the regulations, and by the flagrant misuse of funds by local officials which has been sanctioned by the states. Indian parents are largely unaware of the possibilities for using JOM to meet the special needs of their children. School officials confuse Johnson-O'Malley money with other Federal funds — especially Impact Aid. Finally, there are many possibilities for the creative and meaningful use of these Federal dollars, but no one seems able to spend the money in ways which truly help Indian students.



CHAPTER III

TITLE I FOR INDIAN CHILDREN

Apart from the Johnson-O'Malley Act designed specifically to benefit Indian children, poor and educationally deprived native American children are also entitled to aid from Title I of the Elementary and Secondary Education Act.¹

Title I is the first and most significant Federal aid program recognizing that economically and educationally deprived school children may need compensatory educational services in order to perform well in school.² Title I provides financial assistance to local school districts for supplemental educational services to economically and educationally deprived students. More than two-thirds of all public school districts participate in the Title I programs; nine million students in both public and private schools are receiving \$1.5 billion in Title I services in the 1970-71 school year.³

Title I is a discriminatory Act. It provides benefits to one category of children and denies benefits to all others. Such discrimination in the allocation of educational resources has been a common occurrence in the history of American education.⁴ What makes Title I significant is that for the first time the discrimination favors the poor and the culturally deprived. Title I recognizes that these children may need more services and more dollars to reach the same levels of educational attainment as their middle-class peers. Applied to Indian children, this means that Title I funds should be spent on supplemental programs designed to meet their special and different needs.

Virtually all Indian children qualify for Title I assistance. The Title I allocation to each district is based on the number of children residing in the district who are from the families receiving Aid for Families with Dependent Children payments or those having an income of less than \$2000 per year.⁵ Furthermore, all students who attend schools with high concentrations of low-income students, and who are educationally deprived — that is, below grade level in achievement — are eligible to receive Title I services.⁶ National

statistics indicate that Indian children often fall well below these minimum definitions of economic and educational deprivation:⁷

1. The average income of an Indian family is \$1500, 75% below the national average.
2. The unemployment rate among Indians is nearly 40%, nearly seven times the national average.
3. The average achievement levels of Indian children are two to three years below those of white children.
4. School drop-out rates of Indian students are twice the national average.
5. Indian children, more than any other group, believe themselves to be below average in intelligence.

It is clear that Indian children attending public schools are entitled to receive supplemental educational services under Title I. Indeed, because of their poverty and educational status, their needs should be given the highest priority.

HOW TITLE I WORKS

Under Title I, the United States Commissioner of Education makes lump sum payments to state departments of education, which, in turn, approve and fund projects for educationally disadvantaged children proposed by local school districts.⁸ The Federal government does not require particular projects or administer any projects; rather, local school administrators have broad discretion to select and implement those programs which, in their view, will achieve the purposes of the Act.⁹

Title I is not supposed to be used for general aid.¹⁰ Approved projects must conform to regulations and program guides promulgated by the U.S. Office of Education.¹¹ The local school district's project application must include the following items:¹²

1. A description of the program or programs to be supported.
2. A budget, including the salaries and categories of personnel hired to implement the program.
3. Data giving the number of children eligible for Title I services, and the number actually participating in Title I programs in each school and in each grade level.
4. The identification of the needs of eligible children.
5. The provisions which have been made to evaluate the effectiveness of the programs.

The state educational agencies must give assurances to the Federal government that Title I funds are being spent in conformity with the law.¹³ The state is responsible for paying funds, approving project applications, monitoring, auditing, and evaluating the effectiveness of the projects.¹⁴ Similarly, the U.S. Office of Education must insure that Congressional and Federal administrative policies are being carried out by state and local education officials.¹⁵ The Commissioner of Education may suspend payments to any state which fails to meet its statutory and administrative obligations.¹⁶

OVERVIEW OF FINDINGS

Our study of school districts in eight states which enroll Indian students reveals that there are widespread violations of the law.¹⁷ Indian students in these districts are not receiving the special assistance Congress meant to provide. Violations of Title I are so universal that it is impossible to list all of them. Where Indian children attend school, Title I is spent on the wrong children, in the wrong schools, on programs which are not supplemental and which do not meet the special needs of Indian children.

The Federal, state, and local education agencies simply have not learned the lesson

that Title I services are for the poor and the educationally deprived. Title I monies in public schools enrolling Indian students are used as general aid in order to meet the priority needs of the school district.

If Indian children are fortunate, they share the Title I and locally funded education programs on an equitable basis. That is, they receive no more or less than any other child in the system. If Indian children attend schools in a district controlled by racially biased administrators and teachers, they may receive a good deal less than an equal share. In almost no public school district surveyed did Indian children receive anything extra, anything supplementary to the regular school program. The Congressional policy espoused in Title I of "giving a break" to economically and educationally deprived Indian children has been frustrated.

GENERAL AID

Title I projects, under Federal guidelines, are supposed to be "designed to meet the special educational needs of educationally deprived children"¹⁸ and they must be "of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs. . . ."¹⁹ Title I was not intended to benefit entire school populations; rather, it was meant to provide supplemental services to the poor and the educationally deprived. Our study indicates that, in sharp contrast to the legislative design, Title I funds are being spent as an integral and undifferentiated part of school budgets, and that poor Indian children are not receiving any special benefits.

Many school superintendents make no effort to conceal the fact that they consider Title I monies general aid which they may spend in any way they wish. In RELIANCE, S.D., the local school superintendent admitted that the Title I programs in his district served the entire school population²⁰ — even though the project application listed only 41 Title I participants in a student body of 121 children.²¹

In the BENNETT COUNTY HIGH SCHOOL DISTRICT in MARTIN, S.D., the superintendent told interviewers that "all [students] get a part of the Title I funds but a majority goes to small groups."²²

In PARSHALL, N.D., the local educational agency blatantly stated in its project application to the state that "there is no selection as such for the [Title I] music program as all students will take part"; and "there is no selection as such for the [Title I] physical education programs as all students will take part in grades 1-6, girls only in grades 7-8."²³

Similar admissions were made by school officials in TONKAWA²⁴ and PAWNE, OKLA.;²⁵ TULAROSA MUNICIPAL SCHOOL DISTRICT #4, N.M.,²⁶ and TUBA CITY PUBLIC SCHOOLS, ARIZ.²⁷

As indicated previously, local school officials are incapable of discriminating *in favor* of poor Indian children. Indeed, many officials urge that the very notion of giving supplemental benefits to disadvantaged children or Indian children, in particular, is wrong or immoral. They thus ignore the legislative purpose of Title I. Having no ability to devise programs which aid Indian children without totally isolating them, they inescapably reach the conclusion that they are free to ignore the dictates of the law.

The TUCSON ELEMENTARY SCHOOL DISTRICT in ARIZ. spent \$1.3 million (or 53%) of its Title I funds over a four-year period as general aid in the belief that "to identify and establish special educational assistance for the most educationally deprived children would result in discrimination."²⁸

A statement contained in the project application of the DULCE PUBLIC SCHOOLS, in DULCE, N.M., exemplifies this attitude:

"All students enrolled will benefit and participate but at all times the program's

emphasis will be directed towards the disadvantaged. *We feel that segregation of the children would be harmful.*"²⁹ (Emphasis added.)

There are many ways in which Title I is spent as general aid, but the following represents the more common violations found in school districts serving Indian children.

Teacher Aides. Nearly all the school districts surveyed hired teacher aides from Title I funds, and in nearly every district they performed noninstructional tasks which benefited the entire school population. The rationale for this form of general aid is that teacher aides free teachers to perform instructional activities, some of which may benefit low-income Indian children. Usually, there is no indication that the aides are assigned to special classes for Title I eligible children, nor is there any specific school rule or policy requiring the freed teachers to spend their time with poor children rather than in the faculty lounge.

In FORT APACHE, ARIZ., teacher aides were assigned such duties as keeping attendance records, duplicating materials and records, distributing supplies, operating machines and equipment, and assisting counselors and nurses. Nowhere were aides given any responsibility to provide direct instruction services to low-income children.³⁰

In the HOT SPRING SCHOOL DISTRICT, in S.D., teacher aides were assigned to all grades with no attempt to focus on the disadvantaged.³¹

In the ST. JOHN PUBLIC SCHOOL DISTRICT #3 in N.D., teacher aides were employed solely to lighten the noninstructional duties of teachers.³² Thirty-three teacher aides and 24 library aides were hired with Title I funds in the TUCSON ELEMENTARY SCHOOL DISTRICT to provide services for all children in the schools. Students who were most educationally deprived were not identified, and consequently the teacher aides could not provide concentrated instruction to those most in need of it and to those legally eligible to receive it.³³

Other districts which employed teacher aides for all children include the INDEPENDENT SCHOOL DISTRICT #22, N.M.; the McINTOSH INDEPENDENT SCHOOL DISTRICT #1, S.D.;³⁵ the SCHOOL DISTRICT 16R, PENDELTON, OREG.;³⁶ the PIERRE, INDEPENDENT SCHOOL DISTRICT #1, S.D.;³⁷ the RAPID CITY INDEPENDENT SCHOOL DISTRICT #1, S.D.;³⁸ and the DUPREE INDEPENDENT SCHOOL DISTRICT #12, S.D.³⁹

Equipment. Equipment purchases are discouraged by Title I regulations because they too often are used to benefit all children. When equipment is purchased with Title I dollars, it should, of course, primarily benefit Title I target children. Our study has revealed that many districts have brought equipment from Title I funds in such huge quantities that it is inconceivable that educationally deprived children are the primary beneficiaries. In fact, Title I equipment is being used for general school purposes.

The SALMON RIVER CENTRAL SCHOOL DISTRICT #1 in FORT COVINGTON, N.Y., claims that 90 participating Title I students require two television sets, eight record players, three tape recorders, and 13 projectors. With the addition of other purchases, this district has purchased one expensive piece of equipment for every three children in the Title I program.⁴⁰

In TONKAWA, OKLAHOMA, Title I has provided tape recorders, record players, overhead projectors, and language masters, and yet the superintendent admitted in an interview that every school in the district had precisely the same equipment.⁴¹

School authorities in TUBA CITY, ARIZ., have spent over \$100,000 on equipment for only 1,150 Title I participants. The equipment runs the gamut from

metronomes and tape recorders to slide projectors and saxophones; the district has used Title I money to buy every band instrument *but* tubas, and makes them available to all students.⁴²

The EDGAR PUBLIC SCHOOL DISTRICT in EDGAR, MONT., purchased a tape recorder, two Thermofax machines, room dividers, a reading laboratory, a pilot library, three controlled readers, and a projector and screen, all intended for use by 21 participating children.⁴³

The BENNETT COUNTY HIGH SCHOOL DISTRICT in MARTIN, S.D., purchased golf sets, tennis racquets and balls, and archery bows.⁴⁴

Physical Education Programs. Many districts use Title I funds to provide physical education and hygiene programs for all students regardless of their eligibility for Title I services. In Oklahoma, the State Department of Education boldly announced in its official Title I publication that it found nothing objectionable in such practices:

"Title I programs are designed for the disadvantaged pupils in our schools. However in the area of Physical Education and Health, the poor, the minority groups and the handicapped have no monopoly on the need for this service. The affluent have almost as great a need for this service as the poor and disadvantaged. It is this fact which has caused us to feel we were justified in establishing Title I Physical Education programs in some rather high evaluation school districts in the rural areas."⁴⁵

The Oklahoma State Department of Education has ignored Congress' intention to meet only the needs of poor and educationally deprived children. This Oklahoma policy represents one more instance where the personal predilections and policies of state officials have taken precedence over Federal legislative priorities.

There are a great many districts which we surveyed which are spending Title I funds on health and physical education programs which benefit the entire student body.

Similarly, the project application for the ESPANOLA MUNICIPAL SCHOOLS, N.M., candidly asserts that the Title I physical education program is designed "to increase the classes and serve more students."⁴⁶

In GRANTS, N.M., the school district stated in its project application that it was expending Title I funds on health and physical education "because of the limited funds in the general program."⁴⁷

School officials in PAWNEE, OKLA., admitted in an interview that the Title I physical education program was open to all students and designed to reduce class size.⁴⁸ Other examples of such physical education programs were found in DISTRICT #9, BROWNING, MONT.,⁴⁹ NEW TOWN SCHOOL DISTRICT #1, N.D.,⁵⁰ PARSHALL PUBLIC SCHOOL DISTRICT, N.D.,⁵¹ INDEPENDENT SCHOOL DISTRICT #22, KIRTLAND, N.M.⁵²

Libraries as General Aid. Often school districts expend Title I funds for library facilities, bookmobiles, books, librarians, and library aides. In nearly every instance, these services and facilities benefit the entire school population, for the Federal monies are treated as an integral part of the library fund, and no supplemental assistance is given to the educationally deprived.

In SHANNON COUNTY, S.D., Title I pays for two librarians and three library aides who provide services to the entire student population.⁵³

In the ESPANOLA MUNICIPAL SCHOOLS, N.M., three Title I librarians and nine Title I library aides provide such general assistance. \$4,600 in library books and library shelving were also purchased from Title I.⁵⁴

In the TODD COUNTY INDEPENDENT DISTRICT #1, in MISSION, S.D., the school district purchased a bookmobile from Title I and admitted that it would serve "outlying schools," and that there would be no selection process so that Title I eligible children would receive supplemental assistance.⁵⁵ We found similar examples in ST. JOHN PUBLIC SCHOOL DISTRICT #3, N.D.,⁵⁶ TUBA CITY PUBLIC SCHOOLS, ARIZ.,⁵⁷ MESA ELEMENTARY SCHOOL DISTRICT #4, ARIZ.⁵⁸

Kindergartens. Many districts spend Title I monies on kindergarten services. However, there is rarely a selection process to assure that poor and educationally deprived children are the primary beneficiaries of the service. Until recently, the Oklahoma State Department of Education permitted school districts to operate kindergarten programs which included ineligible children. The state now instructs districts to include only Title I eligible children in kindergartens funded with Title I money.⁵⁹

In KIRTLAND, N.M., the school district hired eight kindergarten teachers and made no effort to limit their services to Title I eligible children.⁶⁰ In the MT. PLEASANT SCHOOL DISTRICT # 4 in ROLLA, N.D., the Title I kindergarten program is open to all students.⁶¹

In WAKPALA, S.D., Title I paid a portion of the kindergarten teacher's salary. There was no evidence that this teacher limited her activities to Title I eligible children. Further, our interviewers reported that:

"The kindergarten teacher is just a Sophomore in college with no training whatsoever. Her salary is \$8,773.25, \$3,678.25 of which comes from Title I. Incidentally, she is the Superintendent's wife."⁶²

We also found kindergarten classes for all children in ESPANOLA, N.M.⁶³
Reduction of Class Size. As a part of the pervasive practice of using Title I funds as general aid, some districts spend Title I funds on additional teachers to reduce class size. Poor and educationally deprived children do not uniquely or even primarily benefit from such reduction. They benefit only incidentally.

In the SISSETON INDEPENDENT SCHOOL DISTRICT #1, in SISSETON, S.D., school officials admitted that "we hope to reduce class size by acquiring additional teachers so that the teacher *may* spend more time with the educationally deprived student."⁶⁴

In the SALMON RIVER CENTRAL SCHOOL DISTRICT #1 in FORT COVINGTON, N.Y., two secondary teachers were hired from Title I funds to teach social studies and English in order to reduce class size.⁶⁵

Additional teachers were hired in the DUNSEITH, N.D. SCHOOL DISTRICT for a similar purpose.⁶⁶ This is also true in MADDOCK PUBLIC SCHOOL DISTRICT #9, N.D.⁶⁷

In addition to these general aid violations, our interviewers uncovered numerous others.

In the TODD COUNTY INDEPENDENT DISTRICT #1, in MISSION, S.D., two Title I nurses were employed to serve the entire school population.⁶⁸ Similar facts were uncovered in SHANNON COUNTY, S.D.,⁶⁹ ST. JOHN PUBLIC SCHOOL DISTRICT #3, N.D.,⁷⁰ DISTRICT #9, BROWNING PUBLIC SCHOOLS, MONT.,⁷¹ LOS LUNAS CONSOLIDATED SCHOOLS, N.M.,⁷² SALMON RIVER CENTRAL SCHOOL DISTRICT #1, FORT COVINGTON, N.Y.⁷³

In DUNSEITH, N.D. a music teacher was hired to assist the entire school

population.⁷⁴ In the FORT YATES PUBLIC SCHOOL DISTRICT #4, N.D. Title I music and art instruction was made available to ineligible children.⁷⁵ The same pattern existed in HOT SPRINGS, S.D.;⁷⁶ MT. PLEASANT SCHOOL DISTRICT #4, ROLLA, N.D.;⁷⁷ NEW TOWN SCHOOL DISTRICT #1, N.D.⁷⁸

In the LOS LUNAS CONSOLIDATED SCHOOLS, N.M., Title I pays for a high school counselor who provides services to the entire student body.⁷⁹ This is true also in PIERRE INDEPENDENT SCHOOL DISTRICT #1, S.D.;⁸⁰ RAPID CITY INDEPENDENT SCHOOL DISTRICT #1, S.D.;⁸¹ TULAROSA MUNICIPAL SCHOOL DISTRICT #4, N.M.⁸²

In the NEW TOWN SCHOOL DISTRICT #1 in N.D., the cultural enrichment and recreation programs are open to all students, according to the Title I project application. Cultural enrichment seems to mean band instruments — ranging from clarinets to saxophones and trumpets — and recreation seems to mean the purchase of a trampoline, slides, a shuffleboard set, and golf sets.⁸³

In the INDEPENDENT SCHOOL DISTRICT #22, in KIRTLAND, N.M., Title I pays the salary of the attendance officer who serves the entire district. In addition, a portion of a principal's salary is paid from Title I funds.⁸⁴

In DULCE, N.M., Title I funds have been spent on a television hookup for both closed circuit television and educational programs aired by local stations. Title I paid for a receiver in every classroom so that the entire school body could benefit from the program.⁸⁵

In the GALLUP-MC KINLEY PUBLIC SCHOOL DISTRICT, in GALLUP, N.M., an entire audiovisual media center is equipped and operated with Title I funds. The interviewer reported that materials from this center are made available to all schools in the district on a free-loan basis.⁸⁶

CONCENTRATION

Title I regulations and guidelines provide that Title I programs must be concentrated "on those children who are in the most need of special assistance,"⁸⁷ and that "decisions should be made in terms of the effectiveness of providing comprehensive services to a limited number of children in a few groups as opposed to the ineffectiveness of spreading diluted services over all eligible children in all groups."⁸⁸ In order to accomplish this end, the Office of Education recommends that the Title I supplement for each participating child should equal about one-half the amount that is spent on the child from local and state monies.⁸⁹ Thus, if a school district normally spends \$600 per child, \$300 in Title I services should be made available to that child. These regulations contemplate that ineligible children will not receive the benefits of Title I, and that only limited numbers of eligible children will receive Title I benefits, so that the Title I money can have some educational effect.⁹⁰

In nearly every district surveyed, Title I funds were being spread so thinly over so many children that the concentration per child was miniscule. In EAGLE BUTTE, S.D., the school district spent only \$62 for each participating Title I child even though its per-pupil expenditures were well over \$300.⁹¹ In the RELIANCE INDEPENDENT DISTRICT #9, in S.D.⁹² and in the TUBA CITY PUBLIC SCHOOLS, ARIZ.,⁹³ the school district spent only \$107 per participating pupil. In the NEW TOWN SCHOOL DISTRICT #1 in N.D., the school district received nearly \$304,000 in Title I and spread that allocation over some 460 students for an average concentration of only \$70 per child, a one-seventh rather than the required one-half supplement above the average per-pupil expenditure.⁹⁴ Similarly, in PAWNEE, OKLA., \$39,000 was spent on services for 425 children (\$92 per child.)⁹⁵ In the TODD COUNTY INDEPENDENT

SCHOOL DISTRICT #1 in MISSION, S.D., \$108,000 was expended on 216 participants (\$88 per child),⁹⁶ and in WAKPALA, S.D., the superintendent told our interviewers that he concentrated only \$66 on each Title I child.⁹⁷ In RED ROCK, OKLA, where "share and share alike" seems the order of the day, each Title I participant received only \$46.30 in Title I services.⁹⁸

HEW auditors found that the TUCSON ELEMENTARY SCHOOL DISTRICT in ARIZ., spent \$581,721 on 12,581 children which represented the entire enrollment in the target schools. The resulting per-pupil expenditure was \$46.⁹⁹

TARGETING

The guidelines provide that local school officials must select target schools for Title I services. Those schools must have concentrations of children from low-income families which are as high or higher than the percentage of such children in the district as a whole.¹⁰⁰ The purpose of this provision is to insure that most of the children who receive the benefits of Title I funds will in fact be poor. Since Title I may serve all the educationally deprived children in a target school, and, it is only by selecting those schools with a high concentration of poverty that poor and educationally deprived students will be the primary beneficiaries of the Act.¹⁰¹ This is an ideal way for limiting the number of target children in order to concentrate services. It also allows school districts to benefit children who are culturally and racially isolated, those who probably have the greatest need for compensatory educational services.¹⁰²

While, in many instances, Indian children attend school in districts where there is only a single elementary and secondary school, we have found that where Indian children attend school in more populous districts, Title I funds have not been targeted to the poorest schools. This is one more way in which local public school authorities have manipulated Title I so as to cheat poor Indian students of their statutory entitlement.

In the SHANNON COUNTY INDEPENDENT SCHOOL DISTRICT #1 in BATESLAND, S.D., all five schools in the district receive Title I assistance even though only two have more than the district-wide percentage of low-income children.¹⁰³

The project application for the EDGAR PUBLIC SCHOOL DISTRICT in EDGAR, MONT., listed every school in the district as a Title I school, but failed to provide any statistics on the district-wide percentage of low-income children.¹⁰⁴

In the ESPANOLA MUNICIPAL SCHOOLS, N.M., the district targeted its Title I funds to all 15 of its public schools in the school district.¹⁰⁵

In HOT SPRINGS, S.D., the Title I application claims that every school in the district has precisely the same proportion of low-income children, thus making all eligible for targeting.¹⁰⁶

In MADRAS, OREG., all six public schools receive Title I services including the MADRAS HIGH SCHOOL which had only two-thirds of the district-wide average of poor children.¹⁰⁷

In the INDEPENDENT SCHOOL DISTRICT #22 in KIRTLAND, N.M., all 10 schools in the district were targeted for Title I services. Three schools, by their own admission, were below the district-wide average.¹⁰⁸

In the LOS LUNAS CONSOLIDATED SCHOOL DISTRICT in N.M., five of the seven schools in the district received Title I services, although two of these were below the district-wide average.¹⁰⁹

In the MESA HIGH SCHOOL DISTRICT in ARIZ., every school in the district was targeted for Title I funds.¹¹⁰

The Superintendent of the PIERRE INDEPENDENT SCHOOL DISTRICT in S.D., indicated to interviewers that he felt that all Federal funds should go to all students.¹¹¹

Seven of the nine schools in the district were Title I target schools. Five of the seven target schools had less than the district-wide average of low-income students and one school listed on the project application contained, by the district's own count, not a single poor child.¹¹²

SUPLANTING

Federal law requires that local school districts may not substitute Federal funds for local funds in providing educational services.¹¹³ This practice is called supplanting. In other words, Title I funds must be used in addition to the regular school program. The prohibition against supplanting local funds has been interpreted to prevent school districts from switching locally-funded programs to the Title I program, from reducing the district's overall effort in terms of per-pupil expenditures, and from using Title I funds for services to target children which are being provided to ineligible children from local funds.¹¹⁴ These requirements mean that local school officials may not reduce their overall efforts to assist poor and educationally deprived children, and then use Title I funds to make up the disparities resulting from their discrimination.¹¹⁵

Maintenance of effort. Our study has revealed a number of instances in which school districts serving Indian children have reduced their per-pupil expenditures from the levels of earlier years. In the EAGLE BUTTE SCHOOL DISTRICT in S.D., the school district reduced its per-pupil expenditures by nearly 25% from school year 1968 to school year 1969 (from \$428.63 to \$329.33).¹¹⁶ It is not surprising that this district feels compelled to distribute its Title I funds over almost the entire student population — resulting in an average per-pupil Title I expenditure of \$62.33.¹¹⁷

In WAKPALA, S.D., the average per-pupil expenditure dropped nearly \$30 in school year 1969 from the previous year (\$555.74 to \$528.71).¹¹⁸ The superintendent of the school district candidly admitted that "this past year, the school taxes were lowered."¹¹⁹ To counteract this drop in the tax rate, the district allowed nearly every child in the system to participate in the Title I program. The result was that \$66 in Title I funds was expended on each participating child.¹²⁰

In the FORT YATES PUBLIC SCHOOL DISTRICT #4 in N.D.,¹²¹ and in the WHITERIVER SCHOOL DISTRICT in ARIZ.¹²² there was a decline in local effort from fiscal year 1969. If the effect of inflation on school costs is considered, some districts have increased their per-pupil expenditure so little that they cannot be providing the same level of services from local funds as in previous years. For example, in the MT. PLEASANT SCHOOL DISTRICT #4 in ROLLA, N.D., the per-pupil expenditure increased from \$471.96 to only \$494.96.¹²³ In SCHOOL DISTRICT #16-R in PENDLETON, OREG., it increased \$3.¹²⁴

Providing services to target children from Title I funds which are already being provided to ineligible children from local funds: In TONKAWA, OKLA., Title I funds have been used to purchase equipment for Title I children that is made available to other children from local and state sources.¹²⁵

In DISTRICT #9, BROWNING PUBLIC SCHOOLS, MONT., Title I funds are used to pay a portion of the principal's salary. Thus, Title I funds pay for this administrative service for poor and educationally deprived youngsters, while local funds pay for this service for the other children.¹²⁶

In MISSION, S.D., Title I pays for counseling for target children and local funds pay for counseling for ineligible children.¹²⁷

We found this same situation in PIERRE INDEPENDENT SCHOOL DISTRICT #1, S.D.,¹²⁸ and in the GRANTS MUNICIPAL SCHOOLS, N.M.¹²⁹

In the MADDOCK PUBLIC SCHOOL DISTRICT #9, in N.D., Title I pays 37-1/2% of a librarian's salary and 22% of a kindergarten teacher's salary.¹³⁰ Presumably, the district feels that it has no underlying obligation to provide such services to poor children without the Federal dollars.

The PARSHALL PUBLIC SCHOOL DISTRICT, N.D., used Title I funds to pay 60% of a physical education teacher's salary and 40% of a music teacher's salary.¹³¹

In RAPID CITY INDEPENDENT SCHOOL DISTRICT #1, S.D., 10 of the 27 teacher aides employed by the school system are paid for from Title I funds.¹³² At best, those 10 would appear to provide the same services to Title I children that the remainder of the aides provide to ineligible students.

In KIRTLAND, N.M., Title I provides physical education instruction in six target schools and the local school district provides this service in the remaining schools. In addition, Title I pays for one nurse and the district provides for the remainder of the nurses in the district.¹³³

A statement by the superintendent of the SALMON RIVER SCHOOL DISTRICT to the New York State Department of Education accurately summarizes both his attitude and the attitude that generally prevails in the administration of Title I:

"In the event that sufficient funds under Title I are not allocated to this district to conduct the program as proposed, we will then make necessary changes either through budget amendment or through contribution of local funds."¹³⁴

CONSTRUCTION AND EQUIPMENT

The Commissioner of Education has determined that Title I programs should be conducted in existing facilities wherever possible, since the construction of new school facilities is considered the responsibility of the local school district. Only in instances of extreme need may Title I funds "be used for construction . . . (in order to) meet the highest priority needs of educationally deprived children."¹³⁵ Furthermore, equipment purchases are limited to the minimum required to implement approved Title I activities or services.¹³⁶ These requirements are designed to prevent local school districts from making equipment and construction purchases which are likely to benefit the whole school population, rather than only the educationally deprived.¹³⁷ It is not intended that local officials should employ Title I to restock their inventories and to make up for shortages in their construction funds.

The state educational agency has an obligation to review existing Title I inventories in order to ensure that Title I equipment is, in fact, being effectively used for Title I purposes. If the equipment is no longer appropriate for the Title I projects, the equipment must be sold or transferred to the district's regular inventory and appropriate amounts refunded to the Federal government.¹³⁸ Our study has revealed that school districts serving Indian children have made huge equipment and construction expenditures — far beyond those required to administer the program.

The TUBA CITY PUBLIC SCHOOLS, ARIZ., true to its name, purchased the following band equipment: three snare drums, two timpani, two horns, six French horns, two saxophones, nine trombones, one sousaphone, two metronomes, and one "conductor's throne." In its 1969-70 project application, roughly 15% of the total allocation of \$82,000 was spent on equipment. In previous years, the figure had reached nearly 50% of the total allocation.¹³⁹

In the TODD COUNTY INDEPENDENT SCHOOL DISTRICT #1 in MISSION, S.D., two classroom units were purchased from Title I funds, and there was no indication that

they were essential for the Title I program or that they would be limited to target students.¹⁴⁰

In the BENNETT COUNTY HIGH SCHOOL DISTRICT in MARTIN, S.D., administrators did not officially fund a physical education program from Title I. Nonetheless, the district purchased golf sets and bags, tennis rackets and balls, and archery bows and arrows. Further, the district bought two duplicating machines, two tape recorders, three projectors, and 20 student desks in order to serve an educationally deprived target group of only 40 children.¹⁴¹

In ESPANOLA, N.M., local school authorities went so far as to purchase a portable cafeteria for \$24,600.¹⁴²

In the NEW TOWN SCHOOL DISTRICT #1 in NEW TOWN, N.D., the district has purchased, since 1965, the following equipment: 42 projectors, five art tables, seven classroom record players, three saxophones, six clarinets, six trumpets, one snare drum, a strobotuner, two book trucks, five controlled readers, a trampoline, an obstacle course, four tennis tables, a set of swings, and a muscle bar. There are only 250 low-income students in the entire school system.¹⁴³

The EDGAR PUBLIC SCHOOL DISTRICT, EDGAR, MONT., purchased two Thermofax machines, three controlled readers, a reading lab and a pilot library — all for 21 target children.¹⁴⁴

School officials in PENDLETON, ORE., used Title I money to purchase eight wood-working benches, a sewing machine, a stereo, a secretarial bench, a duplicator, and a copying machine.¹⁴⁵

The POPLAR SCHOOL DISTRICTS #9 and #9-B in POPLAR, MONT., spent Title I funds on 30 band instruments, two dry-copy machines, 12 overhead projectors, six record players, all for 67 participating children.¹⁴⁶

The RAPID CITY INDEPENDENT SCHOOL DISTRICT #1 in S.D. built a four-room school annex with Title I funds.¹⁴⁷

RELiance INDEPENDENT DISTRICT #9, S.D., built an industrial arts building.¹⁴⁸ School officials in WYOLA, MONT. purchased five tape recorders, three slide projectors, one milk cooler, and one language lab for 60 target children.¹⁴⁹

NEEDS

The reader must be wondering by now what happened to the original goals of the Title I law as they were described in the beginning of this chapter. The policy statement which precedes the substantive provisions of Title I speaks of "meeting the special educational needs of educationally deprived children."¹⁵⁰ The projects should be compensatory, they should provide something extra and different for poor and educationally deprived children who have not responded to the regular school program. Instead, target children — in this case, Indian children — have, at best, received more of the same, old bankrupt services. "More" has been interpreted to mean "better." In discussing Title I violations, our attention is focused on physical education, health, arts and crafts, English as a second language, teacher aides, art, guidance counseling and other services which were available well before Title I was created. While many of these services may be an essential part of a school program, they do not represent the creative and imaginative programs which were to raise substantially the achievement of the educationally disadvantaged to that of their middle-class peers.

In DISTRICT #9 in BROWNING PUBLIC SCHOOLS, MONT., substantial portions of the Title I allocation are spent on physical education, industrial arts, and recreation.¹⁵¹ In the St. JOHN PUBLIC SCHOOL DISTRICT #3, N.D., the Title I program includes not only reading, but also art, music, physical education, guidance, health, and library facili-

ties.¹⁵² All these services may be important, but in what sense are they compensatory? The name given the Title I project in the PARSHALL PUBLIC SCHOOL DISTRICT in PARSHALL, N.D., is instructive in this regard:

“A program in the basic skills, music, physical education and health hygiene, summer make-up, enrichment and music with emphasis on cultural enrichment, English-reading, English-other language arts, mathematics, science, social science and special activities for the handicapped with transportation in the summer.”¹⁵³

There is a great deal here — it is difficult to determine what regular school programs, if any, have been omitted — but where are the programs designed to meet the *special* needs of target children? There is a plethora of other examples: MT. PLEASANT SCHOOL DISTRICT #4, ROLLA, N.D., where Title I paid for art, English, music, classes for the handicapped, and kindergartens;¹⁵⁴ SCHOOL DISTRICT #16-R, PENDLETON, ORE., where reading, physical education, kindergarten, and transportation were provided with Title I funds;¹⁵⁵ SHANNON COUNTY, S.D., which used its Title I money to buy arts and crafts programs, social work, health services, library services, and remedial reading;¹⁵⁶ and INDEPENDENT SCHOOL DISTRICT #22, KIRTLAND, N.M., which provided arts and crafts, reading, physical education, kindergarten, and an attendance officer,¹⁵⁷ and ESPANOLA MUNICIPAL SCHOOLS, N.M., where art, cultural enrichment, reading, speech, English as a second language, music, physical education, library, medical and dental services, counseling, and food were all Title I services.¹⁵⁸

If the willingness of school districts to create special programs under Title I for the poor has been minimal, their willingness to meet the special needs of Indian children has been almost nonexistent. Less than 5% of the districts surveyed had special courses in Indian culture, language, or history.¹⁵⁹ Many districts attempted to assist Indian students by implementing English as a second language program which denigrated Indian languages, and which failed in their purpose of teaching English. As one Navajo public school teacher noted:

“They ought to throw out ESL. They have been using ESL since the 1930’s and it never has worked. It will never work, either the logical thing to do for the Navajo child is to start teaching him to read and write in his own language. He can learn the concepts of reading and writing through the knowledge of his own language.”¹⁶⁰

None of the public school systems surveyed indicated that they were trying this new approach.

The Superintendent of the WHITE SHIELD PUBLIC SCHOOL DISTRICT #95, N.D., summarized the local administrator’s point of view when he said special programs for Indian children “would tend to separate the children by ethnic groups.”¹⁶¹ The assumption is that any effort to meet the differential needs of Indian children is discriminatory and invidious. The assumption is that white children have nothing to learn from Indian culture and history. The assumption is further than Indian children must study white culture and history, and that they must learn to think and act as white men.¹⁶² These assumptions are all wrong. They are wrong because the “melting pot” concept of public schools does not mean that cultural identity must be completely sacrificed. Such schools breed conformity, but also alienation. In the words of an Indian woman who conducted field interviews for this study:

“The Indian always has to conform to something alien to himself, but nobody ever says that learning institutions have to take a look and try to understand minority groups. Maybe we’re getting around to that.”¹⁶³

DISCRIMINATION

The administration of Title I funds for Indian students demonstrates an appalling disregard by local and state officials for the compensatory purposes of the Act. Indian children have not received supplementary services, services which non-Indians are not receiving. In a few districts, even more detrimental policies have been adopted which, in effect, favor white children over Indian children in the distribution of Title I funds. For example, in MADDOCK, N.D., the school listed only two Indians as attending public school, and claimed that both received Title I services.¹⁶⁴ There are, in fact, 38 Indian children in the district.¹⁶⁵ 128 white students, — over one quarter of the whites in the school system — participated in the Title I program.¹⁶⁶ Given the almost universal poverty and educational deprivation of Indian children, it is scandalous that a white child in Maddock is six times more likely than an Indian child to receive Title I benefits. Similarly, in RELIANCE, S.D., only two of the 15 Indian students received Title I services, whereas 39 of the 108 white students received such services.¹⁶⁷ In ESPANOLA, N.M. 14% of all white children, 20% of all black children, 36% of all Spanish children, but only 4% of the Indian children participated in Title I programs.¹⁶⁸ In these districts, the conclusion is inescapable — there is a conscious and deliberate policy of discrimination against Indian children in the use of Title I funds.

CONCLUSION

We are not alone in our conclusion that Title I assistance to educationally deprived children has been and continues to be a national scandal.¹⁶⁹ In a recent review of Title I in the state of Arizona, HEW auditors concluded that Local Educational Agencies “were expending a substantial amount of Title I funds in areas that did not benefit the most educationally deprived children . . .”¹⁷⁰ Title I projects were not reviewed, discrepancies in LEA’s Title I projects were not corrected, Title I staff members were not effectively used, responsibilities were not assigned, authorities were not defined, and “submission of annual expenditure reports was not timely.”¹⁷¹ The audit further found that projects were not related to the specific characteristics of educationally deprived children, that a good deal of money was spent as general aid, that funds were not being concentrated, that nearly all the LEA’s in Arizona failed to submit inventory lists, that 16 of the 75 districts under review were guilty of supplanting and that the State Department of Education had taken no corrective action. The HEW audit of Arizona noted that project applications from local districts were approved by the state in the same form in which they were submitted.¹⁷²

Responsibility for the failure of Title I in districts serving Indian children must be placed on all the governmental agencies charged with administering and implementing the law. The United States Office of Education, the State Department of Education, and the Local Educational Agencies all must share the blame.¹⁷² Nonetheless, we feel that the State Departments of Education have been most derelict in carrying out their statutory obligations. Our study revealed that many districts had never been visited by state officials in order to review local programs. This was true, for example, in BENNETT HIGH SCHOOL DISTRICT, MARTIN, S.D.,¹⁷⁴ MADDOCK PUBLIC SCHOOL DISTRICT #9, N.D.,¹⁷⁵ RED ROCK, OKLA.,¹⁷⁶ WHITE SHIELD PUBLIC SCHOOL DISTRICT #85, N.D.¹⁷⁷ This is in direct contradiction to Program Guide #45A which states:

“Each SEA should adopt a plan and schedule visits for monitoring local Title I programs. On checking on local program operations, the SEA should take appropriate action if there is any evidence indicating violations.”¹⁷⁸

Indeed, the HEW audit of Arizona revealed that such activities were not even included in the job description of the state Title I director.¹⁷⁹

* * *

In theory, Title I is supposed to help poor children. In fact, it doesn't. While school systems benefit enormously from this \$1.5 billion dollar program — they can raise teachers' salaries, buy fancy equipment, carpet school administrators' offices — the educationally deprived school children whom the Act had in mind go largely forgotten. This is generally true in all school districts;¹⁸⁰ it is particularly the case in districts with large numbers of Indian children. This Chapter has exhaustively documented the misuses of Title I funds in districts where Indians should, by right, be served by Title I. Three quarters of the Title I applications — documents prepared by the local school officials — that we reviewed state that Title I is being used as general aid.¹⁸¹ In the best of these districts, Indians receive no more and no less than other school districts. In the worst of these districts — and, sadly, the worst is too often the norm — Indians do not benefit at all from Title I. Both practices violate the law. Both demand change, so that Indian children are assured of their Title I entitlement.

That change may come through litigation challenging statutory abuses.¹⁸² It may also come through Indian parent involvement in Title I. Parents should monitor and evaluate Title I programs, and should suggest ways of reshaping those programs so that they benefit poor children. Title I regulations now require the creation of a parent advisory council to carry out this task.¹⁸³ Parent participation in Title I — which carries with it the ability to determine what this money is spent for, and to pressure for changes in local programs — is one way that Indian parents can intervene to make education work for them, and not for the white school bureaucracy.



CHAPTER IV

INDIAN PARTICIPATION IN PUBLIC SCHOOLS

Indians increasingly are concerned about how they can make public schools meet the needs of their children. Themselves the products of BIA or mission boarding schools, Indian parents have sent their children to schools far from home which afforded no possibility for parent involvement in running schools or making educational decisions.

All this has changed. More and more Indian children are going to public schools. The Indian community, tribal councils, and Indian organizations have grown increasingly unhappy with these schools. The public schools' continuing failure to educate Indian children has led to demands for a greater voice in school affairs. All the Indian parents we talked with told us that they wanted to be involved in the public schools. Their views were best expressed by a Laguna woman in New Mexico:

"The schools were bad in my day, and that was the way we thought they were supposed to be for Indians. But I want something better for my children. I want to participate in bringing this about."

Indian involvement in and control over their children's education has been recommended for forty years by everyone who ever examined Indian schools. The Meriam Report in 1928 strongly urged the involvement of the Indian community. The 1969 Kennedy Sub-committee Report on Indian Education commented:

"One theme running through all our recommendations is increased Indian participation and control of their own education programs. For too long, the nation has paid only token heed to the notion that Indians should have a strong voice in their own destiny."¹

Most recently an Office of Education — financed study of Indian education conducted by Dr. Robert Havighurst gave great weight in its recommendations to Indian control over all phases of their education.

President Nixon's 1970 "Statement on American Indians" also endorsed Indian control over decision-making:

"Every Indian community wishing to do so should be able to control its own Indian schools."²

Despite official endorsements of Indian control over Indian education, that control still does not exist. The way public schools operate largely explains why Indian parents do not participate in educational decisions. Peterson Zah, Deputy Director of Dinebeiiina Nahiilna Be Agaditahe, Inc. explains:

"The present public school system does not provide for the involvement of and direction by Indian parents to the extent that it does for non-Indians . . . Indian parents . . . have neither the knowledge nor the experience in the democratic processes which most Anglos have; and therefore cannot effectively compete for attention with other interest groups in the local school districts."³

Major Findings

These major findings emerge from interviews with 445 Indian parents in eight states, as well as the observations of our interviewers.

1. Indian parents are keenly interested in education, but they are alienated from the public schools.

2. Indians are systematically excluded from decision-making concerning education.

3. Most Indian parents think their children are not learning. However, for a minority of parents, attendance at public schools is such a great improvement over the distant boarding school or no school at all, that they tend to accept conditions as they are.

4. Many parents were afraid to talk frankly with our interviewers. They feared exposure, harassment of their children, and possible loss of their jobs.

5. In virtually every school system, Indian parents knew nothing about Title I or Johnson-O'Malley — Federal programs which could be used to meet their children's educational needs. They were not involved in these programs, despite Federal regulations calling for their participation.

6. Indian parents know what is wrong in the schools and have valuable suggestions for improvement.

INDIANS DO NOT PARTICIPATE IN SCHOOL AFFAIRS

Even where they form a majority of the school enrollment, Indians are almost totally absent from the life of the school. They view the school as a white man's institution bent on taking away their Indianness and making them into white America's image of itself. Our parent interviews uncovered many reasons for the exclusion of Indians from involvement in the public schools.

Geography

A simple reason for the almost total absence of Indian parents from the educational process is the vast distances on Indian reservations. Lack of transportation is a difficult problem in almost every school district. One extreme example is CHINLE, ARIZ., the largest school district on the Navajo reservation, where Navajo parents must make a round trip of between 60 and 100 miles to the nearest school. Parents in New Mexico, North Dakota and South Dakota told us they were unable to attend school meetings because they had no way to get there. Isleta parents in LOS LUNAS, N. M. suggested that a school bus be made available for this purpose.

School officials who complained about the sparse turnout of Indians at school functions seemed to be unaware of the transportation problem. Yet these same officials usually make no effort to visit reservations, Indian homes, tribal meetings or chapter

meetings. Some superintendents never go to the schools which Indians attend.

Anti-Indian Attitudes

Much of the Indian parents' lack of involvement is caused by negative attitudes of the white community. For example, in McLAUGHLIN and DUPREE, S. D., Sioux parents reported that non-Indians make fun of them. In PIERRE, S.D. an Indian woman reported: "A lot of people call me squaw, but it doesn't bother me." And in ESPANOLA, N. M., a San Juan Pueblo parent said: "If it rains, we are asked if we just got through rain-dancing." Indian parents told us of other examples:

RAPID CITY, S.D. Indians are called: "Dirty, lousy Indians." "Dumb Indians." "Welfare cases." Non-Indians have reportedly said to Indians: "Why don't you go back where you came from?"

-The principal was said to have told Indian students, "Just because you get free lunches doesn't mean you have to eat like pigs."

PENDLETON, ORE. "We are welcome only at rodeo time. They ask us to come and sing and drum."

Much of the antagonism of whites toward Indians arises from the Federal funds that Indians are thought to be getting. Whites resent what they consider Federal subsidies for Indians. Indian parents in RED ROCK, OKLA. reported that whites complained that Indian children received free lunches under the Johnson-O'Malley Act. The fact that Indians live on non-taxable reservation land leads many people to think that Indians do not contribute to the economy, even though Indians pay sales taxes. Parents in several communities reported that, in the words of a Crow parent from WYOLA, MONT.:

"They feel we are not entitled to their taxes used in the schools, and we have no right to say how school money should be spent because we do not pay taxes."

These encounters have persuaded many Indian parents of their own shortcomings. As one parent in WYOLA, MONT. said: "We are afraid to express ourselves before the white educators."

The School's Rejection of Indians

A large majority of the Indian parents whom we interviewed report that they do not participate in school affairs because they do not feel welcome.

MARLAND and TONKAWA, OKLA. "We have never been invited to join school activities."

McLAUGHLIN, S. D. "They want us to participate only enough to keep our mouths shut."

GALLUP-McKINLEY COUNTY SCHOOL DISTRICT, N. M. "The school officials do not want to listen to the grassroots. They think we don't know anything."

GRANTS, N. M. Laguna and Acoma parents described how school officials eye them suspiciously when they appear at school.

SELLS, ARIZ. A parent explained that Indians are welcomed "Only if our decisions coincide with theirs."

ESPANOLA, N. M. Santa Clara Pueblo parents felt that some school authorities "keep us

away from school affairs as much as they can.”

FRAZER, MONT. “The further we stay away, the better.”

CANNON BALL, N. D. The white community rebelled against an Indian principal. There was such hostility against Indians that parents reported that white teachers were threatening to carry guns to school. An Indian leader expressed frustration about not being able to change things.

WYOLA, MONT. Parents felt that the Indian and white communities could not communicate and work together.

WARM SPRINGS AND MADRAS, ORE. Indian parents told our interviewer: “We have to keep our place, whatever that is.”

RAPID CITY, S. D. A Sioux father explained why he felt that Indians were not involved in education affairs. “School officials do not encourage us to participate because the involvement of Indians in school will bring about some drastic changes, and these changes are going to cause the administration and educators to re-evaluate their own system.”

Indian parents have little contact with the schools, but when they do have contact, they and their children are frequently rejected. Their problems and complaints are ignored; Indian children are humiliated; teachers are hostile. There is little communication between the school system and the Indian community. Frequently, the only link is the truant officer. Indian parents believe, not without reason, that the only reason school authorities want their children to attend classes is to qualify the district for Federal funds.

Parents indicated that they would welcome more contact with school officials if that contact were accompanied by a recognition of the problems that Indian children face when they enter public schools. While some school districts do have home-school coordinators who attempt to provide communication, and in KAYENTA, ARIZ., some teachers are released early on Friday afternoon to visit their students' homes, Indian parents resent home visits if they feel they are being spied upon. For example, a dropout prevention project funded with Federal funds in SHANNON COUNTY SCHOOL DISTRICT in S.D. included in its proposal a description of a home visitation program:

“The major thrust . . . is to get the aides into the homes to change parental attitudes . . . The aide must truly be a faithful observer, listener, and reporter of home and neighborhood conditions . . . ”⁴

Indian parents told us that when they did take their complaints to school they were ignored. Examples from our parent interviews were numerous:

RAPID CITY, S.D.: “It is useless to file a complaint.”

MISSION, S.D.: “Our complaints are ignored. There is never any follow-through.”

POPLAR, MONT.: “We are not called when there is trouble.”

LITTLE EAGLE, S.D.: “Nothing comes of complaints.”

BULLHEAD, S.D.: “We are not told what is done about our complaints.”

McLAUGHLIN, S.D.: “No one listens to us.”

PONCA CITY, OKLA.: “Some of the school officials over there have defective hearing.”

PENDELTON, ORE.: “Everybody's always in a hurry. They'll answer your question with a question.”

CROWNPOINT, N.M.: “There was no place to take complaints until the people got together.”

A majority of parents reported that Indian children are neglected on the assumption that Indians cannot learn.

DUNSEITH, N.D.: A parent told our interviewers that her girl was kept in the office every day because her teacher said she was incapable of learning.

RAPID CITY, S.D.: Parents reported that "children from more affluent families receive more attention because they are considered smarter. The minority is taught as a minority."

GRANTS, N.M.: "The teachers ignore slow learners. The children fall further and further behind and yet they are promoted."

Indian parents complain that most often their children are not picked for special activities. A parent in RAPID CITY, S.D. reported that "you have to be very exceptional to be allowed to participate."

Indian parents want qualified teachers who understand and appreciate Indian children. They are very aware of the cultural bias of many teachers which is most often reflected when the teachers favor white students over Indian students by giving them more attention, help, and encouragement.

Punishment, Reprisals, and Ridicule

Bias is also manifested through corporal punishment, ridicule, and reprisals against Indian children. Although the majority of Indian parents spoke of beatings as a thing of the past, there still exist schools where corporal punishment is used. In every case, there is a wide disparity between the severity and frequency of the punishment inflicted on Indian children and that administered to white children.

Parents strongly deplored the following instances:

BROCKTON, MONT.: Indian parents complained that the superintendent had the children kneel on iron bars for thirty minutes at a time.

GALLUP-McKINLEY COUNTY, N.M.: In schools near the reservation almost every teacher had a thick board with which students were disciplined. A kindergarten teacher in Crownpoint Elementary school warned her students not to tell their parents when they were beaten. At Thoreau Elementary School one teacher had the word "Flame" etched on his club.

MISSION, S. D.: One Sioux parent said that "Indian children get more physical punishment than academic instruction."

BULLHEAD, S. D.: Parents told our interviewers that Indian children are hit with a board, "anytime, for anything."

RAPID CITY, S. D.: One Indian boy was shaken roughly for talking. The teacher boasted about "subduing" him. An Indian girl, described by her parents as shy, was shaken so hard by a teacher for not answering in class that bruises were left on both arms.

RED ROCK, OKLA.: Parents complained that Indian students, even girls, are whipped harder than whites.

Parents from North Dakota had the most complaints about corporal punishment and public humiliation.

DUNSEITH, N. D.: A teacher struck an Indian child across the arm, raising a large welt. The child's parents said that the principal told them, "The teacher would have to break the child's arm before any action could be taken."

MADDOCK, N. D.: A teacher slapped an Indian boy, giving him a nose bleed. The boy was locked in a closet while the teacher washed his shirt.

— Another teacher reportedly knocked an Indian student against a locker and tore off his shirt. Parents said that no disciplinary action had been taken against the teacher.

Public ridicule was particularly condemned by Indian parents. Umatilla parents in PENDLETON, ORE. thought that, "children should be punished, but not harshly. They should be scolded, but not in front of the class."

Parents from TONKAWA, OKLA., complained of teachers who made Indian students "look bad by encouraging others to taunt them."

A Sioux parent from RAPID CITY, S. D. gave this account:

"One day my son's teacher accused him of cheating. She stood him before the class and told the other students to call him a cheater. She then ordered him to go home and not come back until she gave her permission. I accuse her of discrimination as my son was the only Indian in the class."

A high school teacher in GALLUP-McKINLEY COUNTY, N. M. was overheard telling her students: "One word of Navajo in my class is equivalent to cussing."

Sometimes, Indian children are humiliated by well-meaning efforts on the part of teachers. In the GALLUP-McKINLEY COUNTY SCHOOLS, N. M., for example, parents complained that teachers sometimes publicly cut the hair of Indian children, washed out their underwear, and shortened girls' dresses without the parents' permission.

Our interviewers in PAGE, ARIZ. reported that a white teacher referred to a middle-aged teacher-aide as her "Navajo girl."

Another method of punishment frequently questioned by parents is suspension or expulsion. An instructor in TUBA CITY, ARIZ. felt that the schools were "taking the easy way out and avoiding the real problems" by expelling students for smoking, taking drugs, or drinking. Parents suggest more effective counseling for students instead of suspension and expulsion.

In MARTIN, S. D. a Sioux mother said that her boy was told to be on time for school or "get out." He left.

The ultimate kind of expulsion occurs when principals report Indian high school students to their draft board as a punishment for various infractions of school rules. Navajo parents reported that this happened in the Thoreau High School in the GALLUP-McKINLEY COUNTY SCHOOL DISTRICT, N. M.

Parents knew the names of teachers and administrators who mistreated and abused their children. They also knew the fair and dedicated teachers. In some cases, parents cited reprisals suffered by teachers because of their concern for Indian children. In GALLUP and GRANTS, N. M. parents lamented the fact that the best teachers always leave. "Some are fired, others are threatened, other are discouraged from staying because of the lack of cooperation from the administration."

Many parents asked our interviewers not to use their names because they feared reprisals. In most Indian communities, economic life is controlled by a power structure which extends to the public school. "People talk about school problems," said a Navajo mother in CHINLE, ARIZ., "but they don't want to get involved because of what it might do to their jobs."

"Every time I make a complaint of some kind," said an Acoma grandparent in GRANTS, N. M., "my grandchildren are made to suffer in school."

"If we speak up, we are called militant Indians," said a parent in RAPID CITY, S. D.

Absence of Indian History and Culture

"We don't have any Indian culture programs. I don't think the government wants to pay for anything like that." (Umatilla parent, PENDLETON, ORE.)

Federal funds are used in the public schools to pay for swimming pools, baseball bats, heating, maintenance, electricity, panelling for the superintendent's office, carpets, television sets, air conditioners, film projectors, tape recorders, and administrative salaries, but funds are rarely used for Indian studies.

Curricula and materials used in the public schools do not include Indian culture studies. Neither are they provided as a general policy by special Federal programs for Indian children in the public schools. Yet, ethnic studies were given a high priority by all the parents we interviewed.

An Indian couple in WHITE SHIELD, N. D. said:

"Indians have a culture all their own and have a right to learn it. White man's ways are put on the Indian children in the school."

Local school officials often raise obstacles to including information about Indian history and culture, or to teaching Indian languages. They feel that the school curriculum should not perpetuate "one faction." They consider the influence of any other culture on the curriculum "un-American." White school officials usually do not know Indian culture and history and do not understand its importance to the Indian community.

"We treat everyone the same," is a standard response given by administrators whenever they are asked how education programs for Indian children differ from those for white children.

Parents question whether Indian children are treated the same as white children, when the Indian culture is constantly being downgraded in the schools. A principal in PAGE, ARIZ. stated that it is his policy to "let the children choose which culture they prefer." Yet the Page Elementary School library contained very few books about Indians.

When there are books about Indians, they reflect the white society's values about assimilation, not Indians' perspective, as this quote from a book in the Page Elementary School library shows:

"The Navajos are the largest tribe of Indians left . . . The government is trying to help the Navajo people live and work outside the reservation. But it is hard for people to change their ways of life. The old ways seem right to the older Navajos. They have been living in hogans for many years. They have been following their sheep and believing in spirit gods. They do not want to live outside the reservation."⁵

A high school instructor in TUBA CITY, ARIZ. stated that the high school program is "designed to prepare students to live off the reservation." Our interviewers reported that in this school district with a predominantly Navajo enrollment "the curriculum is geared toward white middle-class standards and values."

The Laguna-Acoma High School in GRANTS MUNICIPAL SCHOOL DISTRICT, N. M. still uses an 11th grade literature textbook, copyrighted in 1956, which includes stories describing Indians as "savages who beat out the brains of white babies," and who are all exterminated by the white hero.

"The extermination of Indians begins on the first day of school," said a former teacher in GALLUP, N. M. "This, of course, is consistent with the public school's philosophy to improve the self-image of the Indian child by eradicating, or at least ignoring, his Indianness."

A Sioux father in RAPID CITY, S. D. told our interviewer:

"As of right now, this educational system teaches white culture only. I think all

Indians are mistreated mentally because we're forced to study the white culture. In a very subtle way, this is discrimination."

There are exceptions to this rule of cultural eradication. Federal funds are used for a bilingual, pre-school classes for Indians in GRANTS, N. M. However, the Acoma language is being taught by a non-native speaker in a school where much of the surrounding population speaks Acoma as a native language.

In CHINLE, ARIZ. the Navajo superintendent said that all Title I programs are directed specifically at Indian students. Aides write up legends and traditions and teach them in class. In addition, an Indian library has been started.

As a rule, where there are attempts to foster Indian culture, they are being done by whites, who have little knowledge of the subject.

At FORT YATES, N. D. a white teacher is teaching Indian culture. An Indian Club is presided over by a white staff member.

At MARTIN, S. D. a white principal is studying Sioux and promises to introduce language and history classes this year.

At LOS LUNAS, N. M. the high school's Indian Club is presided over by a Spanish moderator.

Parents from the Warm Springs Reservation in PENDLETON, ORE. suggested that white children learn about the Indian traditions. "How else will they get to know us? We have to learn about them, but they don't have to learn about us."

Exclusion From Decision-Making

Although Indians often comprise a substantial part of the school enrollment, they are typically unrepresented on school governing boards, and excluded from administrative and teaching positions and the PTA. Nor do they vote in elections of importance to school operations. They are not represented on Johnson-O'Malley or Title I advisory committees. Indian education is not controlled by Indians, but by whites or by Spanish Americans.

Local school boards in districts with heavy concentrations of Indian people usually have little or no Indian representation on the school board. In WAKPALA, S. D. with a school enrollment that is 95% Sioux, there are 6 white farmers on the school board. There is one Indian on the five-man school board in GALLUP-McKINLEY COUNTY, a 58% Indian school district. Interviews reveal endless other examples.

Many factors explain why Indians are not represented on school boards. The most universal reason is that Indians have been led to believe that they are not eligible to vote or run for office because Indian-owned property is exempt from local property tax. A second factor is that some Indians believe that if they vote or run for office, the Federal government will terminate them.

Sioux parents in McLAUGHLIN, S. D. did not know that Indians could run for the school board.

In other places Indians are excluded by law from voting in bond elections. The outcome of these elections are usually critical for the operations of a school system. A New Mexico law⁶ which requires voters in a school bond election to be "owners of real estate" deprives Indians living on non-taxable reservations of the right to vote. For example, on May 28, 1968, the GALLUP-McKINLEY COUNTY SCHOOL BOARD in N. M. conducted a referendum on the issuance of \$1,832,500 in bonds to finance new construction, remodeling and the purchasing of equipment. The brochure on the election distributed in the community lists as voting qualifications that voters must own real estate property within the school district. Such laws have been declared unconstitutional by the Supreme Court,⁷ but they continued to be used to deprive Indians of their rights

under the Constitution as well as to deny them a voice in local educational decisions.

Jicarilla Apache parents from DULCE, N. M. noted that no bond issue had ever been passed in that predominantly Indian district because "not enough Indians are private land owners."

Literacy tests and the location of polls are another factor. In Arizona most Navajo and Hopi residents are disqualified from voting in school board elections because they are required to be registered voters as well as to be able to read and write English. Moreover, the polling stations are most often in the public schools, which are located great distances from Indian homes.

In 1969, the New Mexico legislature passed a bill which would permit school boards to appoint Indian representatives.⁸ While Indians hoped that this would be a major breakthrough, it soon became apparent that the bill was unenforceable. The appointment of Indians to the school board was not mandatory, and many school boards simply ignored the law, or appointed persons who were not chosen by Tribal Councils. For example, the Tribal Councils of the Laguna and Acoma Pueblos passed a resolution requesting two seats on the school board of GRANTS MUNICIPAL SCHOOL DISTRICT. The request was denied by the school board, composed of five Spanish-American businessmen, who said that if two members were added they could only be in an "advisory," non-voting capacity.

In the BERNALILLO MUNICIPAL SCHOOL DISTRICT in N. M. five Pueblo tribes sought to place two Indian representatives on the school board. The school board refused at first, and then appointed two members of their own choosing — an Indian and a white man. Ultimately, the Pueblos filed a lawsuit to redress this and other discriminatory practices.⁹

In a few districts such as JEMEZ, N. M., Indians are represented on the school board and exercise influence over school affairs. But these instances are rare. Even when Indians are included on the school board, they are a small and ineffectual minority, a "token Indian" or two, unrepresentative of either the number, or the wishes of the Indian people.

In several Arizona school districts in the Navajo Nation, Navajos do not form a majority of the school board. In school board elections held in October, 1970, only two Navajos were elected to fill nine seats. In WINDOW ROCK and CHINLE, ARIZ., where the school population is 90% Navajo, Navajo candidates were defeated.

Navajo parents wondered why polling stations had not been placed in community chapter houses. "Is this democracy? Is this trying to involve Navajos in controlling our own affairs?"

In these areas the typical school board serves as a rubber stamp for the school superintendent. All too often, it represents non-Indian interests in the community — banking, industry, trading-posts, property, law-enforcement — which seek to keep local tax rates as low as possible.

School board members find it very difficult to understand their Indian constituents. Acoma Pueblo parents in GRANTS, N. M. reported that one school board member, completely insensitive to the fact that he was addressing Pueblos, not Navajos, told the parents:

"Forget about being Indian, forget your language and out-dated customs. You can't order a washing machine in Navajo. You can't earn a living making sand paintings."

These boards have proved to be singularly unresponsive, even antagonistic, to Indian people. When people begin to ask questions, a typical administration response is to inundate them with detail — long, complicated, unexplained budgets — which parents cannot understand. School boards intimidate Indian parents by transacting business in

language that parents do not understand. No effort is made to give parents a voice in what is going on.

Navajo parents from CROWNPOINT, N. M. decided to take their grievances to the Gallup School Board meeting. Their experience is best illustrated by a cartoon in the April 1970 edition of *Dine Baa-Hani* in which the school administrators are seen as a barrier between Indian parents and the school board sitting on a raised platform.



Dine Baa-Hani, April, 1970.

In most school districts which enroll Indian children, Indians are not represented in administrative and teaching positions, nor are they hired for Federal programs which are supposed to meet the needs of Indian children. If a Parent-Teachers Association (PTA) does exist, it is composed mostly of white parents, as at the Crownpoint High School in GALLUP-McKINLEY SCHOOL DISTRICT in N. M. which has 98% Navajo enrollment and an all-white PTA executive board. Similarly, in WAKPALA, S. D. where 95% of the students are Sioux, the superintendent and teachers answer only white parents' questions at PTA meetings. Indian parents told us that as a result they stopped attending meetings.

Indian people are also conspicuously absent from school jobs. Even in districts with a heavy enrollment of Indian children, there are few Indians employed, and these few usually have menial positions such as cooks, janitors and bus drivers.

"Show me a qualified Indian," said the superintendent of the POPLAR SCHOOL DISTRICT in MONT. Yet, in several districts, Indian parents reported that qualified Indians applying for jobs were turned away in favor of whites.

A parent in RAPID CITY, S. D. thought it unusual that so few Indians are hired by the district, "since we're in the middle of Indian Country."

In LAME DEER, MONT., where 325 out of 350 pupils are Indian, there has never been a concerted effort to employ Indians. The parents reported that teacher-aide positions, filled by the wives of white BIA employees, were never publicly advertised.

In WYOLA, MONT., where there were no Indians employed at the time of the

interview, parents said that it was especially difficult for full-blooded Indians to find jobs in the schools.

In McLAUGHLIN, S. D. parents said they knew of no Indians employed in the school system, and had never heard of any efforts to recruit Indians. This led them to believe that it was a policy of the school district not to hire Indians.

In FORT YATES, N. D. all the school cooks are Indians; the head cook is white.

In GRANTS, N. M. only one out of 30 Title I teacher-aides was an Indian although 60% of the Title I participants were Indian children. After interviews were conducted in GRANTS, parents reported that for the first time school jobs were advertised in the Laguna and Acoma tribal employment offices.

Interviewers reported this conversation with a school principal in GRANTS:

Interviewers: "How many Indian employees are there in this school?"

Principal: "What do you mean?"

Interviewers: "You know – principal, teachers, counsellors, cooks, janitors . . ."

Principal: "Oh. Well, we never think of people according to ethnic origin. They're all the same to us."

Interviewers: "Very good. Now, how many of your employees are Indian?"

Principal: "None . . . Wait a minute! We have one! Our first grade teacher is one-fourth Cherokee from Oklahoma!"

In one school district, however, interviewers found a definite policy to involve Indian people by recruiting them for school positions. This was in CHINLE, ARIZ. where the superintendent is Navajo.

Advisory Councils

Of 35 superintendents interviewed, who answered the question, 25 said there was no Indian parent advisory council in their district. Most said the school board filled this need. They pointed out, nevertheless, that they had some contact with Indian parents:

COLESTRIP, MONT.: "We consulted with a couple of Indians."

PAWNEE, OKLA.: "We have one Indian as a liaison man with the board of education. He has no authority."

PAGE, ARIZ.: "A bus driver comes in from time to time with the people's problems and complaints."

Of those who said they had an advisory council, most said it was selected by the superintendent, principal, school board or, in one case, the Tribal Chairman.

The superintendent of DUPREE, S. D. said, "We don't have an advisory board. In EAGLE BUTTE they have one. Our school board members attend their meetings." Yet, the superintendent in EAGLE BUTTE told us there was no Indian Advisory Board in his district.

FEDERAL PROGRAMS

The exclusion of Indians from the public schools and educational decision-making is so complete that one would not expect – nor does one find – parent participation in Federal programs under the Johnson-O'Malley Act and Title I of ESEA.

Both the JOM and Title I regulations recommend Indian participation. The Bureau of Indian Affairs requires districts which receive JOM funds to provide an opportunity for Indian people to be consulted on all "matters related to the education of their children."¹⁰ At the time of our interviews Federal regulations required that there be some form of parent involvement in districts receiving Title I money, and recommended a Title I Advisory Committee to involve parents. Title I regulations now require parent councils in each district receiving Title I funds.¹¹

It is easy for school authorities to disregard and disobey these Federal requirements. We found one Title I Advisory Committee in all the districts where we interviewed and that one had no Indians on it. In most school districts serving Indian children, administrators feel no responsibility or legal obligation to inform Indian parents of Federal programs, much less to include them in the planning, operation, and appraisal of these programs. Most superintendents whom we interviewed frankly admitted that they had not provided parents with any information about JOM or Title I.

In many cases, school officials are openly hostile to the notion of parent participation. As the Elementary Supervisor and Title I coordinator in the GALLUP-McKINLEY COUNTY SCHOOL DISTRICT told our interviewers: "Parent participation is a bunch of baloney."

Or, as the superintendent of an Arizona school district replied when asked how he informed parents of Title I eligible children of their rights under the law, replied: "They don't have any rights as such."

These examples emerge from our interviews:

- BULLHEAD, S. D.: "The school authorities have never had a meeting with us."
- POPLAR, MONT.: "We didn't know about the Federal programs, and no one ever mentioned them."
- EAGLE BUTTE, S. D.: "This is the first I've heard of Title I and Federal programs. We've never received a notice to attend meetings. The Tribal Council knows nothing of Federal programs."
- RAPID CITY, S. D.: "As far as I know, the Indian people have not been contacted in the planning of any of these programs."
- LAME DEER, MONT.: "How have we been informed about Federal programs? In no manner, no shape or form!"
- McLAUGHLIN, S. D.: "I don't know who to see or how to find out about Federal programs."
- PONCA CITY, OKLA.: "First time we have heard of it. The school never tells us anything."
- SNOWFLAKE, ARIZ.: "They never tell us anything."
- GALLUP, N. M.: "There might be money for Indian children. I never knew."
- PENDLETON, ORE.: "No, we have no communication. What is Title I? Who gets it? We don't know what JOM is."
- GRANTS, N. M.: "No Indian parents were aware of any benefits derived from Federal funds, other than the free lunches and supplies received by some Indian children. They did not know they could receive special help with fees, transportation and other parental costs. Many did not understand the requirements for eligibility."
- MADDOCK, N. D.: "The school authorities have no communication with parents whatsoever."

In some districts, superintendents mentioned limited efforts to inform parents. Most superintendents said they used the news media or sent "slips of paper" home with students. The superintendent in WHITE SHEILD, N. D. told our interviewer that he announced information about Federal programs over the inter-com at school.

In some instances, parents reported that this information had been recently provided.

- SOLEN, N. D.: "This information was given within the last two weeks."
- WAKPALA, S. D.: "This year, for the first time, the Federal programs were explained at a local council meeting."
- RAPID CITY, S. D.: "On May 19, 1970, the children brought home a newsletter explaining Federal funds. This is the first time this has happened since my children have been going to school in this district. (Six years)"

Parents have tried to find out how much Federal money is received by the district, and how it is being used. In LOS LUNAS, N. M. Isleta parents said that the issue of Federal funds was evaded when it was brought up at a meeting with local school officials.

At MARLAND, OKLA. a Cherokee couple asked the school administrator if MARLAND received any Federal money, and he answered, "Not much."

A group of concerned parents at Laguna-Acoma High School in GRANTS, N. M. said that they had presented school officials with their questions about Federal money and a list of their needs every year for the last six years, and had received neither an answer or action of any kind.

Most parents, however, have not asked too many questions; they have been deterred from asking for information.

In WAKPALA, S. D. the superintendent has repeatedly told the people not to make any trouble, or their school will be closed and their children transferred to boarding schools.

The former Federal Projects Director in GRANTS, N. M. told inquiring parents: "The best way to lose Federal projects is to have this kind of dissension, trouble, and turmoil."

In 1969, at CROWNPOINT, N. M. in the GALLUP-McKINLEY DISTRICT, school officials attended a chapter meeting because they learned that Navajo parents were planning to take up the subject of school inequities. School officials and board members dominated the meeting. They told the silenced parents: "You should be grateful for what we have given you." A school board member threatened the Indian parents: "If you continue to be disrespectful to our educators in this way, we will take the Federal money from you. Leave education to the educators." The official minutes recorded that no one had any complaints and this was later used as proof that Indian parents were satisfied.

The Governor of the Acoma Pueblo in New Mexico told our interviewer that the superintendent of the GRANTS SCHOOL DISTRICT swore at him and told him to leave his office when the Governor tried to get information about Federal programs.

Our interviewers reported that their visits to Indian communities alerted parents for the first time that they had a right to obtain information about Title I and Johnson-O'Malley. Indian parents accompanied our interviewers on visits to school officials; often this was the first time that any Indian parent had sought information about Federal funds.

Some school officials provided information and were courteous to our interviewers. However, in other cases, school authorities at the local and state level were hostile to Indians, refused public information or made it difficult to obtain. The superintendent in GRANTS, N. M. refused to be interviewed on the grounds that he could not defend himself in court. He referred all questions about Federal programs to an attorney 89 miles away who, in turn, told the parents that "no explanation was due" them. He refused to make xerox copies available on the pretext that the xerox machine wouldn't work. Having failed to obtain Title I and Johnson-O'Malley information from local authorities, our interviewers tried to get it from the State. An official in the Title I office in New Mexico told the interviewers that he would charge them 25 cents a page in order to discourage any such request.

In PAGE, ARIZ. the superintendent told our interviewers that they could read Title I materials in his office, but under "no circumstances were copies available for the public." When the interviewers reminded the superintendent of the Federal policy on making copies available upon request, the superintendent said that he could not comply because the documents would "melt on the thermofax machine." Denied copies of public documents, the interviewer wrote to the Arizona State Title I Director for a copy of the district's project application. He received back a blank application form.

When our interviewer went with Navajo parents to see the superintendent in TUBA CITY, ARIZ. and asked questions about Federal programs, the superintendent told them that he did not think they could understand Federal programs without knowing state education law. He declared that "only legal experts could do a study of Federal programs."

The OKLAHOMA Title I office refused to make copies of project applications available to our interviewers, even when they offered to pay for the copies. We were unable to get copies of Title I documents in some Oklahoma local school systems where we interviewed.

INDIAN CONTROL OF EDUCATION

In a very few Indian communities, intolerable circumstances have led Indians to take control of their children's education. Indians are experimenting with forms of schooling that best meet their children's needs. Two recent and little-known examples come from the ROCKY BOY RESERVATION in MONTANA and the NAVAJO NATION in NEW MEXICO.

ROCKY BOY

Rocky Boy, a small, 1,000-member reservation of Chippewa and Cree Indians in Montana, bears the distinction of having one of the first Indian-run public school districts in the country.

When the BIA school on the Rocky Boy reservation was taken over by the public schools 12 years ago, it was attached to the HAVRE SCHOOL DISTRICT 30 miles away. The school administration and school board were located in Havre a predominantly white community of 15,000. Indian parents had no way of participating in making policy for their school.

In the past ten years there was increasing dissatisfaction with the quality of education for Indian children. In 1967, the Indian community tried to establish a separate school district and failed. In 1969, Indians decided to make a renewed attempt to establish control over the Rocky Boy School, and in July 1970, they mustered sufficient political pressure to win approval of their plan. School district lines were redrawn, and the ROCKY BOY SCHOOL DISTRICT became an independent district, with separate funding, controlled by a five-member, all-Indian Board of Education. An Indian who is from the Rocky Boy Reservation was hired as superintendent.

While there was no overt opposition to the new district, some school officials in Havre looked upon this experiment as an "Indian uprising." They felt that Indian education would be set back and that all good programs would be discontinued. Actually, public school education for Rocky Boy children had been consistently substandard. The Indian dropout rate at Havre High School was almost 100%. Five Indians have graduated from that high school in the last ten years. The Rocky Boy School was badly in need of repair; wood was rotting for lack of paint.

The chief problem the Indians encountered was finding enough money with which to operate the new district. The State Department of Education argued that the new district did not have enough money to begin school. The Indians went outside traditional resources, and secured some funds from private sources and from Federal funds awarded to them by the Department of Health, Education and Welfare and from the Bureau of Indian Affairs. However, the ROCKY BOY SCHOOL DISTRICT is supported primarily with Impact Aid funds; without these funds Indians would have been unable to find sufficient money to set up a separate district.

Indian control has made a substantial difference in the philosophy and direction of the new school district. The biggest problem the school board faced was maintenance. Since school opened in September 1970, the school board has blacktopped the playground and carpeted the classrooms which, according to the superintendent, Bert Corcoran, "improved the environment 100%." The school board has tried to get Indian parents to become involved in school affairs. In the evenings, parents and children learn Cree language together. The school has begun a bilingual program for five-year-olds. The school board is running training sessions in school law and school finances for members of the community to prepare them for school board elections in the spring of 1971.

The school board does not feel that the new district received its rightful share of Title I and Johnson-O'Malley funds when it split away from the HAVRE DISTRICT. The county superintendent of schools split the entire Havre school budget, including \$18,000 in Johnson-O'Malley funds, between the two districts — 90% going to Havre and 10% going to the ROCKY BOY DISTRICT. Despite the fact that Johnson-O'Malley funds are designed to help Indians — virtually all of whom go to the ROCKY BOY DISTRICT — most of the Johnson-O'Malley funds from the 1969 school year were given to the HAVRE DISTRICT.

Finally, the Havre superintendent offered some advice to the new Rocky Boy superintendent: "One thing you have to worry about is keeping the buildings in shape. Hire a good janitor. And if you can get away with it, I would recommend that you hire a white man."

RAMAH NAVAJO

Ramah Navajos have recently been successful in establishing control over a high school located in their community, a move stemming directly from their concern for their children's educational opportunities.

When the GALLUP-McKINLEY COUNTY school board closed the public high school at RAMAH, N.M. in 1968, Ramah Navajos were left with no high school for their children. The school board had agreed to bus students 23 miles to the nearest high school, but had failed to provide adequate bus facilities for the remotely situated families.

After the school was closed, Ramah students were forced to attend boarding schools as far away as Utah and Oklahoma. The Ramah Navajos brought suit in August 1968 to reopen Ramah High School. The suit was unsuccessful.¹² The Gallup School Board was ordered to improve bus transportation for Ramah students. It was unable to comply with the order.

The Ramah Navajo community determined to reopen the high school itself. A privately incorporated school board was elected by the community in February 1970, the first Indian community to create its own school board and assume full responsibility for control of a school. This action filled the Ramah Navajos with a sense of pride.

The idea of a Navajo-oriented school is of central importance. One of the new board members, a man who never had a formal education but could speak four languages, said: "We want to teach kids ourselves — English, and how to learn, and how to put a saddle on a horse." This same man is now teaching local history, culture and language at Ramah High School.

The Ramah Navajo school board secured a commitment from the U.S. Commissioner of Indian Affairs to provide financial support to enable the new school to start in September 1970. The \$368,068 which the BIA provided is the equivalent of what it would have cost the BIA for those students in a Federal boarding school.

A BIA official called the project "a significant breakthrough — the Ramah Navajos started from scratch and moved toward a goal in their own manner. This is going to snowball" Commissioner of Indian Affairs Louis R. Bruce pledged BIA's commitment to other tribes which want to take over control of their schools:

"It is further understood that the concept proposed by you underlying the BIA's commitment is the right of a local Indian community to negotiate in good faith for the use of the funds in local schools controlled by the community which the BIA . . . would expend to educate the children of the community in the Bureau's boarding schools."¹³

For the time being, Ramah High School will use the old building closed two years ago. The community has been involved in renovating the building, high school students being among the most active workers. In two years the school board hopes to erect a new building designed to meet their notion of what a school should be.

A four-member team spends time talking with the families of students in order to find out what the parents think about school matters. Parents are encouraged to visit the school at all times and to attend school board meetings held twice a week.

Most of the white residents of Ramah have enrolled their children in the school. One of the board members stated, "These Anglos want to send their children to our school. That's all right. We feel like one family."

When the high school opened in September 1970, President Nixon sent a telegram to the Ramah community affirming that the establishment of the Ramah school "represents an important new direction in Indian education . . . which my administration will actively encourage."

The New Mexico State Department of Education has challenged the operation of the new school. The State Superintendent of Schools threatened to take legal action against the Ramah parents for violations of the compulsory school attendance law because their children did not attend an accredited school. Among the requirements for accreditation set by New Mexico were that all teacher aides have a high school diploma. Teacher aides hired by the Ramah school board are all Navajos who teach Navajo language, history and arts and crafts, but it is difficult to find local residents who finished high school.

State Superintendent DeLayo commented after the new Navajo-run school opened: "Until the school is approved by the State Board of Education, it cannot participate in the school lunch program, transportation funds, or participate in inter-scholastic athletic programs with approved schools in the state."¹⁴

The director of the school's community relations division said: "State Department administrators should be glad that the Ramah Navajo people have created a school at no cost to the state. I'm confused why they're so touchy about our program here. They didn't do anything to improve it. Now that we have our own program (without their help) they feel neglected."¹⁵ However, when Ramah school officials asked that the State Department send someone to advise the Ramah school board in their planning, the request was refused.

CONCLUSION

The mistreatment of Indian parents — the harassment by local school officials, the refusal of white communities to permit Indian participation in school affairs, the unwillingness of local school districts to involve Indian parents in the governance of schools, the underlying distrust of Indian competency — is a familiar story to Indians.

The possibility that something can be done to alter this prevailing powerlessness is far less familiar. The two instances of Indian-controlled school districts described in this chapter — ROCKY BOY and RAMAH — are both new, and both struggling. Yet, they suggest that it is possible for Indians to free themselves from non-Indian domination of their schools, that — by uniting as a community to exert political pressure and to insist on their legal entitlement — they can create their own school system. Rocky Boy and Ramah may well mark a direction that many other Indian communities — increasingly concerned about the quality of education that their children receive, aware of disparities between education offered Indians and non-Indians, unable to affect the existing non-Indian-controlled system — will choose to take.

CHAPTER V

CONCLUSIONS

These pages show the inadequacy of American education for Indian children. They also look beyond it, toward the possibility of an Indian-controlled system. The two districts described here are both new, and both struggling. Yet, they suggest that it is possible for Indians to free themselves from non-Indian domination of their schools, that — by uniting as a community to exert political pressure and to insist on their legal entitlement — they can create their own school system. Rocky Boy and Ramah may well mark a direction that many other Indian communities — increasingly concerned about the quality of education that their children receive, aware of disparities between education offered Indians and non-Indians, unable to affect the existing non-Indian-controlled system — will choose to take.

The first step is to take control of the schools. This is the first step in the process of creating an Indian-controlled system. The two districts described here are both new, and both struggling. Yet, they suggest that it is possible for Indians to free themselves from non-Indian domination of their schools, that — by uniting as a community to exert political pressure and to insist on their legal entitlement — they can create their own school system. Rocky Boy and Ramah may well mark a direction that many other Indian communities — increasingly concerned about the quality of education that their children receive, aware of disparities between education offered Indians and non-Indians, unable to affect the existing non-Indian-controlled system — will choose to take.

In *Broken Circle of Learning*, the Bureau of Indian Affairs stated that "in those cases of a doubtful that any child may reasonably be expected to succeed in life, it is denied the opportunity of an education. Now, an opportunity which the state has undertaken to provide when a child which state it needs and which all organized forms of society have when it is denied the Indian children are being denied education. Many school systems assume that because Indians are being denied education, they should not be educated. This assumption is a violation of the Constitution, and of the law of the land."



CHAPTER V

CONCLUSIONS

Revelations about the inadequacies of American education have become commonplace. Those who look beyond the jargon, the promises, and the bureaucratic structures quickly perceive the bankruptcy of our present system. Our schools do not meet the needs of our children, they breed conformity, they punish those who wish to be themselves.¹ Yet, as we review the evidence of this report, we sense a more overwhelming gloom and tragedy surrounding the education of Indian children. Somehow they are faring worse, somehow their alienation is more profound.² Education for most children crushes their individuality and spontaneity. Education for Indian children alienates them from themselves and from their culture.

The facts exposed in this report have an historic reality to Indian people. The physical and psychological mistreatment of Indian children, the suppression of Indian history, culture and language, the unfulfilled promises of Federal legislation, and the discrimination in the allocation of resources — all these are a familiar and routine part of the lives of Indian parents and students. There is a general failure to recognize that Indians are American citizens who — like any other citizens — are entitled to their constitutional rights.

In *Brown v. Board of Education*, the Supreme Court stated that “in these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. *Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.*”³ Sixteen years later, it is clear that Indian children are being denied equality. Many school systems assume that because Indians pay no property taxes, the district has no obligation to provide them with an education. This assumption is as ridiculous, and as unconstitutional,

as would be a declaration by a large urban school district that it has no responsibility to educate welfare children because their parents pay little or no property taxes. Yet Indian children are denied an equal educational opportunity every day precisely on the same basis and no voices are raised. Indeed, our national government supports and maintains this invidious denial of fundamental constitutional rights.

Local and state educational agencies feel that they have no constitutional or moral obligation to provide educational services to Indian children on the same basis as to white children. They argue, in effect that local districts raise property taxes for their non-Indian children. State assistance, although collected and distributed on the basis of all the children in the district, is for non-Indian children. Since most Indians live on non-taxable land, they are entitled to nothing – or so the thinking goes. Yet Indians pay sales taxes and other levies, apart from property taxes, which contribute to state education revenue. Were it not for the Federal largesse in providing funds under the Impacted Areas Act, presumably no Indian children would be permitted to attend public schools, if these agencies had their way.

This prevailing philosophy in Indian education is morally wrong and constitutionally invalid. A local school district has a constitutional obligation to distribute its non-categorical local, state and Federal funds in a non-discriminatory fashion.⁴ A district may not spend twice as much money on one child as on another, or provide some with better teachers or books or facilities.⁵ The constitution requires “that for their objectively measurable aspects . . . schools [must] be run on the basis of real equality . . .”⁶ The state may not arbitrarily discriminate between children on the basis of the wealth of their parents, their race, or the tax status of the land they live on.⁷ A recent court decision clearly stated this point:

“The courts . . . have jealously guarded the rights of disadvantaged groups such as the poor or minorities, and have held that where state action . . . results in the unequal treatment of the poor or a minority group as a class, the action is unconstitutional unless the state provides a substantial justification in terms of legitimate state interest.”⁸

There is no legitimate state interest in discriminating against Indian children in the provision of educational resources. When Indian youngsters enter the public school, they have a constitutional right to their fair share of the total educational pie – to an equal proportion of the district’s general education budget. Impacted Areas funds are merely one element of the district’s total funding. Congress implicitly recognized in that Act that according equal treatment to Indian students would be burdensome because of the tax-free status of Indian land, and therefore it provided additional funds for districts serving such children.⁹ This legislation did not relieve local educational agencies of their constitutional obligation to treat Indian children fairly; it merely made that task easier.

In its administration of the Johnson-O’Malley program, the Bureau of Indian Affairs encourages local officials to believe that they can spend less money on Indian students. This occurs because Johnson-O’Malley funds will make up for what they fail to spend.

The BIA provides funds for general fund support when a district justifies an “extraordinary need”. This need arises from the districts’ unwillingness to allocate local and state revenue equally to all children. Since JOM funds are allocated only because of the presence of Indian students in the district, the implicit assumption is that the Indian children create the extraordinary need, i.e. that the district has no obligation to use its own funds to provide Indian students with the same basic services as non-Indian students.¹⁰ BIA rewards districts for their discrimination by making Federal funds available in a manner which violates the equal protection clause.

If local school districts were in compliance with constitutional dictates, all local and state funds – including Impacted Area monies – would be divided equally between

Indian and non-Indian children. JOM enacted to benefit Indians uniquely, and Title I, enacted to benefit poor and educationally deprived students, would provide supplemental services – something extra – to poor Indian children. As Judge Wright noted in the *Hobson v. Hansen* opinion:

“[The] large doses of federal financial assistance [which] are infused . . . under the Economic Opportunity Act, [and] the Elementary and Secondary Education Act . . . are manifestly intended to provide extraordinary services . . . , not merely to compensate for inequalities produced by local school boards in favor of their middle-income schools.”¹¹

ALTERNATIVE COURSES OF ACTION

Indian communities in many areas of the country are actively seeking changes in the educational structure. Our task then is only to outline a number of alternative courses of action which they may wish to adopt in their pursuit of reform. Most of the strategies discussed are already being implemented by numbers of Indian communities.

INDIAN CONTROL

The history of public education of Indian children is so replete with failure that large segments of the Indian community have begun to challenge the assumption that white dominated and controlled public schools can respond to the needs of the Indian young. If the white majority continues to destroy Indian culture, the only recourse is for Indian people to assume entire responsibility for the education of their children. There are a few hopeful experiments – the Navajo School in Rough Rock, Arizona, the Ramah Navajo School, and the Rocky Boy School – where Indian control of the schooling process has had an immediate and favorable impact on educational philosophy and practice.

If Indian parents are to be able to choose to send their children to community schools, sufficient resources must be made available to make that choice a reality. In Ramah, the Bureau of Indian Affairs initially supplied the dollars for the new school. In Rocky Boy, Impact Aid funds were combined with other Federal and private monies. Unfortunately, however, the Federal government does not have a systematic plan for funding Indian community schools. There are a variety of ways in which Federal monies could be made available for this purpose:

1. A voucher could be provided for each Indian child. This voucher would have a cash value and would be used by Indian parents to send their children to the school of their choice. Indian parents could pool their vouchers and set up their own community school.
2. The Bureau of Indian Affairs has the power to allocate Johnson-O'Malley Act funds to any incorporated body or private non-profit group which operates a school for Indian children.
3. Where the Indian community has formed its own school district, it should be eligible for all forms of Federal assistance – Title I, Impact Aid, and JOM funds. The allocations under these laws would be a function of the number of eligible children.

ACCOUNTABILITY AND CONTROL OF PUBLIC SCHOOL DISTRICTS

In many school districts, Indian children are a majority of the school enrollment, but their parents have no power to influence educational decisions. Indian parents may wish to take control of these existing structures by running candidates for school boards, moving polling places into Indian communities, registering voters, and demanding their constitutional right to vote in all elections. Obviously, there are many difficult obstacles to overcome in assuming control of public school districts, not the least of which is the

desire of those now in power to remain in control. But as the Cree and Chippewa tribes on the Rocky Boy Reservation have demonstrated, it is possible for Indians to pull together and exercise their political power to achieve that aim.

Short of achieving total control of the public schools, Indians can and have demanded of school officials an accounting of Federal funds, insisted on becoming involved in deciding how funds should be spent, and through various means, compelled school officials to spend money on the needs of Indian children. In many instances, our interviewers were the first Indians to ask public officials to account for how they were spending Johnson-O'Malley Act and Title I funds. This came as a great shock to some superintendents and school boards, and in a few communities, the process of conducting interviews and publicizing previously unknown facts produced some changes.

LITIGATION

Indian parents may find that the only way to secure the rights of their children is to file law suits against local school boards, against state departments of education, and against Federal agencies. Such law suits would seek to secure the rights of Indian children both under the constitutional guarantee of equal protection of the laws and under the provisions of the laws of Congress discussed in this report. Litigation could become a powerful tool for the Indian community in correcting the illegal use of Federal and state funds and in securing Indian involvement in decisions affecting the operations of public schools.

ACCOUNTABILITY OF FEDERAL AND STATE AGENCIES

Responsible Federal and State Officials have been derelict in administering the laws intended to benefit Indian children. They have failed to:

1. Administer available resources in the interests of Indian children;
2. require that supplementary funds such as Johnson-O'Malley and Title I money be truly compensatory;
3. require that local administrators discriminate *in favor of* Indians;
4. support innovative programs to raise educational achievement without demeaning Indian children;
5. recognize the unique needs of Indians which are different from other poor and educationally disadvantaged children;
6. Involve Indian communities in real decision-making.

* * *

In order to correct the failures of governmental agencies we make the following recommendations. STATE DEPARTMENTS OF EDUCATION should:

1. as a matter of constitutional requirement, insist that all state and local education money be spent equitably so that Indian students get their fair share;
2. contract Johnson-O'Malley and other funds to eligible Indian groups to conduct courses in Indian culture, history, and language;
3. monitor and audit local school systems to insure that funds designed for Indians actually reach them;
4. establish an all-Indian task force of members elected by each tribe to advise on state policy toward Indian education.

The U.S. OFFICE OF EDUCATION should:

1. generally enforce Title I regulations so that Indians receive "something extra" beyond the regular school program;
2. establish a special panel composed of personnel from the Division of Compen-

satory Education and the American Indian Education Unit to draw up special Title I policies and recommendations for the use of Title I funds to benefit the special needs of Indians;

3. establish procedures which would enable the Division of School Assistance to Federally Affected Areas (which administers Impact Aid) to determine whether Indian children share equally in the allocation of Impact Aid funds and to require local officials to distribute these funds equally;
4. review all OE grant programs to determine what further Federal resources could be made available to improve public education for Indian children.

The BUREAU OF INDIAN AFFAIRS should:

1. revise the Johnson-O'Malley regulations so that (a) funds are spent only on supplementary programs especially for Indians and not as general support; and (b) funds may be contracted directly to Indians for the operation of special programs or toward the operation of privately incorporated, Indian controlled schools;
2. provide competent administration and management, including standardized application forms, improved reporting requirements, and a regular system of monitoring and auditing;
3. centralize authority for Johnson-O'Malley in the Education Division of BIA not in the Area Offices;
4. require real Indian involvement, including parents and students, not just the signatures of Tribal Officials;
5. undertake an immediate program of information to Indian communities to advise Indians of their rights under all Federal education programs, of the possible sources of funding for various programs designed to meet the needs of their children. An all-Indian Task Force composed of non-BIA employees should be hired for that purpose.

The DEPARTMENT OF AGRICULTURE

Since the Department of Agriculture is assuming responsibility for food service programs for Indian children, the Secretary of Agriculture should establish a special all-Indian Task Force to assess the nutritional status of Indian children and to insure their full participation in school breakfast and lunch programs as well as in the special programs for non-school age children. In addition, in those states where there is a significant Indian public school enrollment, the Secretary should require the state, in its Plan for Child Nutrition Operations, to make special plans for dealing with the very serious nutrition problems of Indian youth.

Recommendations for CONGRESS

This report did not examine any legislative alternatives to the Impact Aid and Johnson-O'Malley Acts. Whether Impact Aid to public school systems with concentrations of Federal employees should continue is not under review here. However, as long as Indians are included in the Impact Aid legislation, and as long as Johnson-O'Malley exists in its present form, it is imperative that Congress:

1. fully fund those Impact Aid districts where Indian children are enrolled;
2. provide sufficient funds through Section 14 of P.L. 815 to construct decent and adequate schools for Indian children; provide funds for Indian schools retroactively to compensate for the denial of funds in the past three years;
3. require the Office of Education to determine that Impact Aid, local and state revenue, have been spent equitably in districts where Indian children attend as a condition for awarding Impact Aid funds;

4. through an appropriate committee, conduct oversight hearings to determine whether the Bureau of Indian Affairs and the Office of Education are administering Title I, Impact Aid, and the Johnson-O'Malley Act in a manner which best meets the diverse needs of both reservation and urban Indians in public schools;
5. provide additional funds for the Johnson-O'Malley program as long as Congress is satisfied that the Bureau of Indian Affairs has taken measures to improve its implementation.

Appendix A

PROJECT STAFF AND INTERVIEWERS

Project Director – Phyllis McClure
Field Director – Leonard Bear King
Research Assistant – Rose Marie Crowe

Henry Allen	Ponca City, Oklahoma
Phyllis Armijo	San Fidel, New Mexico
Francis Attson	Chinle, Arizona
Regina Biabeddy	Phoenix, Arizona
Ernest Bighorn, Jr.	Poplar, Montana
Gloria White Bull	Bullhead, South Dakota
Robert Burnette	Mission, South Dakota
Rose Marie Crowe	Cubero, New Mexico
Agnes Dill	Isleta, New Mexico
Carl Ducheneaux	Wakpala, South Dakota
Ronnie English	Albuquerque, New Mexico
Sam English	Albuquerque, New Mexico
Emma Farrow	Pendleton, Oregon
Philomene and Fred One Feather	McLaughlin, South Dakota
Carrie Fisherman	Dupree, South Dakota
Sherald Hanks	Albuquerque, New Mexico
Clement Howard	Rapid City, South Dakota
Carrie Jackson	Wyola, Montana
Ted Lewis	Phoenix, Arizona
Estelle Lonehill	Rapid City, South Dakota
David Lundberg	Chinle, Arizona
Francis Norman	Ponca City, Oklahoma
Helen Overland	Ponca City, Oklahoma
Shirley Provost	Spearfish, South Dakota
Carol Rodgers	Rapid City, South Dakota
Mr. and Mrs. Clarence Sun	Parshall, North Dakota
Teddy Rising Sun	Busby, Montana
Della Warrior	Tonkawa, Oklahoma
Virgama Wyles	Wyola, Montana

Appendix B

School Systems Included In This Study

ARIZONA

Alchesay High School #30	Mesa Public Schools
Chandler High School District	Page School District #8
Chinle Elementary School District #24	Snowflake Union High School District #60
Ganado School District	Tuba City Elementary District #15
Indian Oasis School District #40	Whiteriver Elementary District #20

MONTANA

Browning Public Schools
Colestrip Public Schools
Edgar Public Schools
Hardin Public Schools

Lame Deer Public Schools
Lodge Gross Public Schools
Poplar Schools District #9 and #9B
Wyola Public Schools

NORTH DAKOTA

Dunseith Public School District #1
Fort Totten School District #30
Fort Yates Public School District #4
Ingebretson School District #28
Maddock Public School District #9
Mt. Pleasant School District #4

New Town Public School District #1
Parshall Public School District #3
Solen Public School District #3
St. John School District #3
White Shield Public School District #85

NEW MEXICO

Cuba Independent Schools
Dulce Public Schools
Española Municipal Schools
Gallup-McKinley County School District

Grants Municipal Schools
Independent School District #22 (Kirtland)
Los Lunas Consolidated Schools
Tularosa Municipal School District #4

NEW YORK

Salmon River Central School District

OKLAHOMA

Anadarko Public Schools
Clinton High School District
Pawnee School District #1

Ponca City School District #71
Red Rock Public Schools
Tonkawa Public Schools

OREGON

Jefferson County School District 509-J
School District 16-R

SOUTH DAKOTA

Bennett County High School District #1
Dupree Independent School District #12
Eagle Butte Independent School District #3
Highmore Independent School District #1
Hot Springs Independent School District #10
Kennebec Independent School District

McIntosh Independent School District #1
McLaughlin Independent School District #21
Pierre Independent School District #1
Rapid City Independent School District #1
Reliance Independent School District #9
Shannon County Independent District #1
Sisseton Independent School District
Smee Independent School District #4 (Wakpala)
Todd County Independent School District
White River School District #29

Appendix C

The Johnson-O'Malley Act (1934)

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized, in his discretion, to enter into a contract or contracts with any State or Territory having legal authority so to do, for the education, medical attention agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the qualified agencies of such State or Territory, and to expend under such contract or contracts moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State.

SEC. 2. That the Secretary of the Interior, in making any contract herein authorized with any State or Territory, may permit existing school buildings, hospitals, and other facilities, and — all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance.

SEC. 3. That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose of carrying the provisions of this Act into effect: Provided, That such minimum standards of service are not less than the highest maintained by the States or Territories with which said contract or contracts, as herein provided, are executed."

P.L. 74-638 Act of June 4, 1936

Amendment to the Johnson-O'Malley Act

"That the Secretary of the Interior be, and hereby is, authorized, in his discretion to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory."

CODE OF FEDERAL REGULATIONS — Title 25 — Indians

PART 33 — Enrollment in Public Schools, Dec. 24, 1957, Revised, September 8, 1958.

§33.2 *Public School enrollment.* Enrollment of Indian children in public schools shall be encouraged where such schools are adequate and accessible.

§33.3 *State school laws.* All Indians as citizens of the State wherein they reside shall be amenable to the school laws of such State. Employees of any State may be permitted to enter upon Indian tribal lands, reservations, or allotments therein (a) to inspect

educational conditions or (b) to enforce the penalties of state compulsory school attendance laws against Indian children, and parents, or other persons in loco parentis, except that the provisions of this section shall not apply to Indians of any tribe in which a duly constituted governing body exists until such body has adopted a resolution consenting to such application. (60 Stat. 962, 25 U.S.C. 231)

§33.4 *Contracts with public schools.* (a) Contracts may be entered into under the provisions of the act of April 16, 1934 (48 Stat. 596), as amended by the act of June 4, 1936 (49 Stat. 1458, 25 U.S.C. 452-256), with the authorities of any State for the education of Indian children of one-fourth or more degree Indian blood, unless excepted by law, and to expend under such contracts moneys appropriated by Congress for such purposes, and to permit the use of existing Federal Indian school facilities and equipment by the local school authorities under such terms as may be agreed upon.

(b) The program will be administered to accommodate unmet financial needs of school districts related to the presence of large blocks of nontaxable Indian-owned property in the district and relatively large numbers of Indian children which create situations which local funds are inadequate to meet. This Federal assistance program shall be based on the need of the district for supplemental funds to maintain an adequate school after evidence of reasonable tax effort and receipt of all other aids to the district without reflection on the status of Indian children.

(c) When school districts educating Indian children are eligible for Federal aid under Public Law 874, 81st Congress (64 Stat. 1100), as amended, supplemental aid under the act of April 16, 1935, supra, will be limited to meeting educational problems under extraordinary or exceptional circumstances.

§33.5 *General requirements for contracts*—(a) *State Plan.* To become eligible to participate in contract funds, a State shall formulate a plan for the distribution of contract funds to local school units which shall be acceptable to the Commissioner of Indian Affairs or his authorized representative.

(b) *Budget estimates and reports.* Each State having a contract covering education in accordance with this part shall submit such budgets, estimates, and reports as may be required by the Commissioner of Indian Affairs or his authorized representative.

(c) *Equal educational opportunities.* Contracts shall specify that education for Indian children in public schools within the State shall be provided upon the same terms and under the same conditions that apply to all other citizens of the State.

(d) *Uniform application of State law.* States entering into a contract under the provisions of this part shall agree that schools receiving Indian children, including those coming from Indian reservations, shall receive all aid from the State, and other proper sources other than this contract which other similar schools of the State are entitled to receive. In no instance shall there be discrimination by the State or subdivision thereof against Indians or in the support of schools receiving such Indians, and such schools shall receive State and other non-Indian Bureau funds or aid to which schools are entitled.

(e) *Educational standards.* The State shall provide in all schools that have Indian pupils adequate standards of educational service, such standards to be equal to those required by the State in respect of professional preparation of teachers, school equipment and supplies, text and library books, and construction and sanitation of buildings.

(f) *Federal cooperation and inspection.* Schools in which Indian children are enrolled shall be open to visits of observation and consultation by duly accredited representatives of the Federal Government.

(g) *Inspection of programs.* Each State having a contract covering education in accordance with this part shall make available to duly accredited employees of the Bureau of Indian Affairs such records and reports as may be necessary to enable them to conduct inspections of the school program related to the contract.

Appendix D

Eligibility for Free and Reduced Price Lunches Under the National School Lunch Program (effective January 1, 1971)

Following are the Income Poverty Guidelines which local school officials must use in determining which children must receive a free or a reduced price lunch. Congress intended that "free lunches be provided for the poorest of the poor and under no circumstances shall those unable to pay be charged for their lunches." School officials are required to implement this policy no matter what past practice has been, and in any case if a child is eligible for a reduced price lunch, he cannot be charged *more than 20 cents*.

Family Size (by number of children)	Annual Income	Annual Income (Alaska)
one	\$1,920	\$2,400
two	2,500	3,150
three	3,120	3,900
four	3,720	4,650
five	4,270	5,340
six	4,820	6,025
seven	5,320	6,650
eight	5,820	7,275
*		

* for each additional child, add \$450 (in Alaska \$560) to the annual family income.

Appendix E

Indian Enrollment in Public Schools (1968-69) By Selected States

Alaska 6,808	New Mexico 19,742
Arizona 14,431	New York 5,710
California 13,986	North Carolina 14,021
Colorado 1,366	North Dakota 1,523
Florida 1,455	Ohio 736
Idaho 1,699	Oklahoma 24,003
Illinois 1,804	Oregon 3,601
Indiana 544	South Dakota 16,533
Kansas 1,392	Texas 3,813
Maine 1,132	Utah 3,848
Michigan 4,404	Virginia 755
Minnesota 5,748	Washington 8,735
Montana 5,015	Wisconsin 4,977
Nebraska 824	Wyoming 2,073
Nevada 2,454	

Source: HEW, *Directory of Public Elementary and Secondary Schools in Selected Districts* Fall, 1968

Appendix F – TITLE I REGULATIONS

Appendix F contains excerpts from the law, the Federal Regulations and the Criteria governing Title I of the Elementary and Secondary Education Act of 1965 (P.L. 89-10). The excerpts are organized by topic. Copies of the Regulations and Program Guides may be obtained by writing to the Division of Compensatory Education, Bureau of Elementary and Secondary Education, U. S. Office of Education, 400 Maryland Avenue, S.W., Washington, D. C. 20202, or to your State Department of Education.

NATIONAL POLICY

“In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies serving areas with concentrations of children from low-income families to expend and improve their educational programs by various means (including pre-school programs) which contribute particularly to meeting special educational needs of educationally deprived children.”

(The Elementary and Secondary Education Act of 1965 P.L. 89-10)

DEFINITION OF THE TERM “EDUCATIONALLY DEPRIVED CHILDREN”

“‘Educationally deprived children’ means those children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. The term includes children who are handicapped or whose needs for such special educational assistance result from poverty, neglect, delinquency or cultural or linguistic isolation from the community at large.”

(45 C.F.R. 116.17(g))

“Title I resources should be concentrated on those children who are most in need of special assistance. Normally this process will involve determinations of both the needs of individual groups of children and of the possibilities for success in working with those groups. Decisions should be made in terms of the effectiveness of providing comprehensive services to a limited number of children in a few groups as opposed to the ineffectiveness of spreading diluted services over all eligible children in all groups. Consideration must also be given to the availability of assistance from other agencies and programs for specific groups of children.”

(Program Guide #44, Sec. 4.2)

SUPPLANTING STATE AND LOCAL FUNDS

“Each application . . . shall contain an assurance that the use of the grant funds will not result in a decrease in the use for educationally deprived children residing in that project area of State or local funds which in the absence of funds under Title I of the Act, would be made available for that project area and that neither the project area nor the educationally deprived children residing therein will otherwise be penalized in the application of State and local funds because of such a use of funds under Title I No project under Title I of the Act will be deemed to have been designed to meet the special educational needs of educationally deprived children unless the funds made available for that project are to be used to supplement, and not supplant, State or local funds.” (45 C.F.R. 116.17(h))

“. . . It is expected that services provided within the district with State and local funds

will be made available to all attendance areas to all children without discrimination This means that services that are already available or will be made available for children in the non-project areas should be provided on an equal basis in the project areas with State and local funds rather than with Title I funds . . . [A]s services initiated in the project areas under Title I are extended to children residing in non-project areas, the applicant will assume full support of those services under its regular school budget. This will release Title I funds to provide new activities for eligible children.” (Program Guide #44, Sec. 7.1).

“Section 109 of P.L. 91-230 requires a report on comparability on or before July 1, 1971. . . . Local educational agencies [should] submit their report to their State educational agency by May 1, 1971, in order that such data may be considered in reviewing project applications. Starting with applications for programs to be carried out during the 1971-72 school year, local educational agencies whose reports indicate a lack of comparability shall project staff assignments and budgets as they relate to the comparability criteria. . . . Section 109 of P.L. 91-230 provides that funds may not be withheld from a local educational agency for non-compliance with the comparability clause until after July 1, 1972.¹¹” (Memorandum to Chief State School Officers, Advisory Statement of Development of Policy on Comparability, September 18, 1970.)

CONSTRUCTION AND EQUIPMENT

“No application for a project grant under Title I . . . may cover the construction of school facilities unless such construction is demonstrated as being essential in order to assure the success of a program or project under Title I . . . If the construction of school facilities is so demonstrated as being essential for a program or project, the application must nevertheless comply with other requirements of Title I . . .” (45 C.F.R. § 116.17 (i))

“. . . Rental or construction of school facilities [including portable units] not specifically related to a Title I project activity should not be allowed except in unusual situations where (a) such construction is necessary in order to bring children together at locations where they can be served effectively under Title I and (b) the local educational agency is unable to provide such facilities with its own funds. The construction of permanent new facilities should be regarded as a local responsibility except in extreme cases of financial need.” (Program Guide #44, Sec. 5.7)

“The State educational agency shall not approve a project involving the construction of school facilities unless it determines that the construction is consistent with overall State plans for construction. It shall not approve such a project involving construction, other than minor remodeling, altering or improving of school facilities, unless the approval is conditioned upon approval of the construction plans and specifications by State educational agency, and further conditioned upon the award to a construction contract on or before a date specified in the project application.” (45 C.F.R. § 116.21(c))

“The State educational agency shall not approve a project involving construction of school facilities if it finds that such construction would lead to, or would tend to maintain, the cultural or linguistic isolation of children . . .” (45 C.F.R. § 116.21(f))

“Title I funds will be used for construction only when necessary to implement projects designed to meet the highest priority needs of educationally deprived children in the applicant’s district . . .” (Program Guide #44, Sec. 5.7)

“. . . All requests for the approval of funds for the purchase of . . . equipment must be fully justified. This means that the application must show that (a) equipment has been selected and designated for specific purposes in connection with proposed project activities, (b) the proposed equipment is essential to the effective implementation of the

project, (c) such equipment is not available in the applicant's regular or Title I inventories for use in the project, and (d) the applicant has the trained staff to utilize the proposed new equipment effectively or that arrangements will be made to prepare staff for such use. The State educational agency will review existing Title I inventories and insure that equipment already purchased with Title I funds is being effectively used for Title I purposes. Equipment that is no longer appropriate for use in Title I projects should be sold or transferred to the applicant's regular inventory and the appropriate amounts refunded to the Federal Government." (Program Guide #44, Sec. 516)

"...The budget for a project shall avoid imprudent, extravagant or wasteful expenditures which would tend to defeat the intent of the Act to meet the special educational needs of educationally deprived children..." (45 C.F.R. § 116.18(a))

CONCENTRATION OF SERVICES

"... Title I resources should be concentrated on those children who are most in need of special assistance..." (Program Guide #44, Sec. 4.2) "Application for grants... are to be concentrated on a limited number of educationally deprived children so as to give reasonable promise of promoting to a marked degree improvement in the educational attainment, motivation, behavior or attitudes of children." (45 C.F.R. § 116.18 (e))

"The applicant should make sure that the needs of children in eligible areas with the highest incidence of poverty have been met before considering the needs of children in eligible areas in which the incidence is much lower. The program in the areas with the highest incidence should be designed to serve a large proportion of children and to provide them with a greater variety of services than programs in areas with lesser incidences of poverty." (Program Guide #44, Sec. 4.6) "... The proposed Title I expenditure per child is an indication of the concentration of effort, as indicated by investment per child, the greater likelihood that the program will have a significant impact on the children in the program. The investment per child on an annual basis for a program of compensatory educational services which supplement the child's regular school activities should be expected to equal about one-half the expenditure per child from State and local funds for the applicant's regular school program. The investment per child per year for a program such as a pre-school program which provides all of the services for the child involved should be expected to equal the applicant's full expenditure per pupil from State and local funds." (Program Guide #44, Sec. 4.7)

MANDATORY PARENT COUNCILS

"In the case of any applicable program in which the Commissioner determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, he shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination provides for payments to local educational agencies, application for such payments shall -

'(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

'(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

'(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.' (P.L. 91-230, Sec. 415.)

"I have, in accordance with the statute, determined that parental involvement at the local level is important in increasing the effectiveness of programs under Title I of the Elementary and Secondary Education Act. Accordingly, regulations which are being developed currently will require that each Title I application of a local educational agency . . . shall include:

A. An assurance that the local educational agency has established a system-wide council composed of parents of children to be served in public and non-public schools participating in Title I activities. . . . Members of such a council must be chosen in such a manner as to ensure that they are broadly representative of the group to be served. In addition, each local educational agency is encouraged to form similar councils at each school participating in Title I activities."(Memorandum to Chief State School Officers from T. H. Bell, Acting U.S. Commissioner of Education "Advisory Statement on Development of Policy of Parental Involvement in Title I, ESEA Projects", October 30,1970.)

PUBLIC INFORMATION

"Public Law 91-230 specifically designates Title I applications and other 'pertinent documents' as public information. Regulations which are currently being developed will define the term "pertinent documents" and will indicate how such documents are to be made available. The proposed regulations currently under review provide that State educational agencies and, in turn, their local educational agencies will be required to make the following documents available for inspection or, upon request and at a reasonable charge, provide an interested party with a copy of the document. (Memorandum to Chief State School Officers from T. H. Bell, Acting U.S. Commissioner of Education "Advisory Statement of Development of Policy of Public Information" October 16, 1970.)

CHAPTER I IMPACT AID & INDIAN CHILDREN

1. P.L. 81-874, 20 U.S.C. 236-241, 242-254; P.L. 81-815, 20 U.S.C. 631-647.
2. P.L. 85-260; S. Rep. No. 1929 in 1958 U.S. Code Cong. & Ad. News at 3414-15, 3433.
3. Although Congress authorized funding under sections 3a and 3b at \$27.9 million, Congress appropriated only 77% of that amount or \$21.5 million. Interview with Office of Education Officials.
4. U.S. Office of Education, *Administration of Public Laws 81-874 & 81-815*, 196 (Table 15) (1969).
5. S. Rep. No. 91-874, 91st Cong., 2nd Sess. 2 (1970).
6. Interview with OE Officials.
7. P.L. 91-230, Sec. 206 (April, 1970).
8. Interview with OE Officials.
9. Report of interviewers.
10. *Ibid.*
11. Gallup *Independent*, October 14, 1970.
12. There may be a small number of Indian children who do not qualify under Sec. 3a in Gallup McKinley County, however most 3a students in that school system are Indians.
13. Interview with OE Officials. New Mexico districts are reimbursed at the rate of one-half the national average per pupil cost (1970) which is \$613.40, for 3a pupils (\$306.70) and one-half of the 3a rate for 3b pupils (\$153.35). The figure of \$127. per child was calculated by subtracting the total number of impact aid students from the total enrollment and dividing that number into the amount of local revenue.
14. Interview with former Superintendent, Gallup-McKinley County Schools.
15. Interview with OE officials

CHAPTER II THE JOHNSON-O'MALLEY ACT

1. *Annual Report of the Secretary of Interior (1925)*. 21. See also: *Senate Report 511*, 73rd Cong., 2nd Sess. 2 (1934); *Annual Report of Secretary of Interior (1925)*, 20; *Annual Report of the Secretary of Interior (1924)*, 3.
2. See Appendix C for the full text of the law.
3. The Department of Interior has interpreted this amendment to mean that Indian tribes, Indian school boards, and Indian organizations may qualify under the Johnson-O'Malley Act if they are private corporations established under the laws of the state. Memorandum to Commissioner of Indian Affairs from Associate Solicitor for Indian Affairs, March 14, 1969.
4. 25 C.F.R. 833.4(b). See Appendix C for Johnson-O'Malley Regulations.
5. Letter to Senator Lee Metcalf from Commissioner Louis R. Bruce, August 13, 1970. See also: Department of Interior, *Criteria Used in Allocation of Johnson-O'Malley Funds for Public School Education of Indians - Report and Recommendations*, 6, 7 (1955).
6. Letter to Senator Lee Metcalf from Mrs. Mary Condon Gereau, former Montana State Superintendent, June 22, 1970. "While I was State Superintendent, from 1949 through 1956 we received and disbursed money for Indian children. Apparently since that time the BIA has stopped funding except for reservation Indians. . . ."
7. *Subcommittee Report*, 13-14.
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10. Letter to Honorable Max Rafferty, California Superintendent of Public Instruction from William Finale, Area Director, Sacramento Area Office, Bureau of Indian Affairs, April 13, 1970.
11. Senate Appropriations Committee Report, 1941, 81st Cong., 1st Sess. (1951).
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14. North Dakota Department of Public Instruction, *Report on Indian Education, 1968-69 School Year*, 2, 4-5.
15. *Ibid.*

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17. *Johnson-O'Malley Preliminary State Statistical Report, New Mexico - 1968-1969*.
18. National Education Association, *Estimates of School Statistics, 1969-1970*, 35.
19. 62 Indian Affairs Manual 3.2.8.
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21. Figures supplied by Division of Public School Relations, Bureau of Indian Affairs.
22. *South Dakota State Plan for Assistance to the Public School Through the Johnson-O'Malley Program*, Revised July 1, 1968.
23. State Department of Education, *Twenty-Second Annual Report of Indian Education in Oklahoma*, 5 (1969).
24. Report of the Director (New Mexico), October 7, 1969.
25. *Arizona Johnson-O'Malley Plan*, (1969). "A Major Impact District is one located on or principally on an Indian Reservation and/or has 60% or more of its enrollment composed of Reservation Indian children. . . . All other eligible districts are Minor Impact Districts and have local resident real property taxpayer control."
26. 25 C.F.R. 33.5(c), (d), (e).
27. 25 C.F.R.33.5 (g).
28. The Division of Indian Education of the Arizona State Department of Public Instruction, *Annual Report*, 6 (1968-1969).
29. State Department of Education, *Twenty-Third Annual Report of Indian Education in Oklahoma*, 18 (1970).
30. *Twenty-First Annual Report on Indian Education, State of South Dakota, Fiscal 1970*, 4.
31. State Superintendent of Public Instruction, Helena, Montana, *Indian Education Annual Report 1968-1969*, 3-4 (1970).
32. Comptroller General of the U.S., General Accounting Office, *Administration of Program for Aid to Public School Education of Indian Children Being Improved*, 18 (May, 1970). [Hereinafter referred to as *GAO Audit*.]
33. Letter from W. P. Shofstall, Arizona State Superintendent of Public Instruction to the General Accounting Office, Dec. 2, 1969. Under the revised State Plan, seven percent of all JOM funds would be paid to minor impact districts under the per-pupil formula previously used.
34. *GAO Audit*, 19-20, 34-34.
35. *GAO Audit*, 26-29.
36. *Annual Report: Division of Indian Education, Arizona State Department of Public Instruction to the Bureau of Indian Affairs 1968-69*, 7. Memoranda to Steve L. Clayton, Superintendent, Snowflake Union High School District #60 from Division of Indian Education, October 22, 1969.
37. *GAO Audit*, 28-29.
38. Budget figures provided by the Division of Public School Relations, Bureau of Indian Affairs.
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40. Letter to Mr. Warren Mathers, Business Manager, Grants Municipal Schools from Willard Scott, New Mexico Director of Indian Education, April 8, 1970.
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42. Arizona State Department of Public Instruction, *Public School Voucher for Services for Indian Pupils, Academic Year 1969-70*.
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48. Interviews with Grants Municipal Schools Business Manager and State Indian Education Director.
49. General Fund Budget, Johnson-O'Malley, 1968-68, Sisseton, S. D.
50. Figures supplied by the Division of Public School Relations, Bureau of Indian Affairs.
51. *GAO Audit*, 38.
52. Letter to Allen R. Voss, General Accounting Office from Willard Scott, Director, Division of Indian Education, November 3, 1969.
53. *GAO Audit*, 37-38.
54. 62 Indian Affairs Manual 3.2.11.
55. Memorandum to Area Directors from Commissioner Louis R. Bruce, May 5, 1970.

56. Memorandum to Commissioner of Indian Affairs from the Acting Associate Solicitor, Indian Affairs, Department of the Interior, June 18, 1970.
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60. Gallup-McKinley County, Title I Project Application, 1969-70; Johnson-O'Malley Budget, 1969-70; *Personnel Directory*, 1969-70.
61. *GAO Audit*, 31-36.
62. *GAO Audit*, 42.
63. *GAO Audit*, 30-31.
64. Letter to Allen Voss, General Accounting Office from Acting Director of Survey and Review, Department of Interior, January 23, 1970.
65. Interview with James Pierce, Director, Office of Audit Operations, Department of Interior.

Chapter III: Title I for Indian Children

1. 20 U.S.C. 241 (1965).
2. See, e.g., Meranto, *The Politics of Federal Aid to Education in 1965: A Study in Political Innovation* (1967); Tiedt, *The Role of the Federal Government in Education* (1966).
3. The National Advisory Council on the Education of Disadvantaged Children, Fourth Annual Report: *Title I - ESEA: A Review and A Forward Look* (1967) [Hereinafter "Fourth Annual Report"]; Yudof, "The New Deluder Act: A Title I Primer," *2 Inequality in Education I* (1969); Report by Washington Research Project of the Southern Center for Studies in Public Policy and the NAACP Legal Defense and Education Fund, Inc., *Title I of ESEA: Is It Helping Poor Children?* (1969) [Hereinafter cited as *Title I Study*].
4. See Coons, Clune, and Sugarman, *Private Wealth and Public Education* (1970).
5. 20 U.S.C. §241d. See *Title I Study*; Yudof, *supra*.
6. 20 U.S.C. §241(a). See also 45 C.F.R. §§ 116.1(i), 116.17(g).
7. *Senate Subcommittee Report*
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9. *Title I Study*, p. 1.
10. 45 C.F.R. §116.17(g); ESEA Program Guide #44, § 4.2.
11. 20 U.S.C. §241e.
12. *Title I Study*, p. 1; Yudof, *supra*. See generally 45 C.F.R. 116.16 et seq.
13. 45 C.F.R. §116.31(c).
14. 45 C.F.R. §116.48.
15. 20 U.S.C. §24j
16. 45 C.F.R. §116.52
17. Compare *Title I Study*.
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19. *Ibid*.
20. Interviews in Reliance Independent School District #9, South Dakota.
21. Reliance Independent School District #9, *Application for Federal Assistance* (1969-70).
22. Interviews in Bennett County High School District #1, South Dakota.
23. Parshall Public School District #3, *Application for Federal Assistance* (1969-1970).
24. Interviews in Tonkawa Public Schools, Tonkawa, Oklahoma.
25. Interviews in Pawnee School District #1, Pawnee, Oklahoma.
26. Interviews in Tularosa Municipal School District #4, New Mexico.
27. Interviews in Tuba City Elementary District #15, Arizona.
28. HEW Audit Agency, *Report on Review of Title I of the Elementary and Secondary Education Act of 1965 Administered by State of Arizona Department of Public Instruction for the Period Sept. 10, 1965 to August 31, 1969.*, 45 (August, 1970) [Hereinafter cited as *Arizona Audit*.]
29. Dulce Public Schools, *Application for Federal Assistance* (1969-70).
30. Interviews in Fort Apache, Arizona.
31. Hot Springs Independent School District #10, *Application for Federal Assistance* (1969-70).
32. St. John School District #3, *Application for Federal Assistance* (1969-70).
33. *Arizona Audit*, 49-50.
34. Independent School District #22 (Kirtland), *Application for Federal Assistance* (1969-70).
35. McIntosh Independent School District #1, *Application for Federal Assistance* (1969-1970).
36. School District 16-R, *Application for Federal Assistance* (1969-1970).

37. Pierre Independent School District #1, *Application for Federal Assistance* (1969-1970).
38. Rapid City Independent School District #1, *Application for Federal Assistance* (1969-1970).
39. Dupree Independent School District #12, *Application for Federal Assistance* (1969-1970).
40. Salmon River Center School District, *Application for Federal Assistance* (1969-1970).
41. Interviews in Tonkawa Public Schools, Oklahoma.
42. Tuba City Elementary District #15, *Application for Federal Assistance* (1969-1970).
43. Edgar Public Schools, *Application for Federal Assistance* (1969-70).
44. Bennett County High School District #1, *Application for Federal Assistance* (1969-1970).
45. Oklahoma State Department of Education, *Title I in Oklahoma for Educationally Deprived Children* p. 100.
46. Espanola Municipal Schools, *Application for Federal Assistance* (1969-1970).
47. Grants Municipal Schools, *Application for Federal Assistance* (1969-1970).
48. Interviews in Pawnee School District #1, Oklahoma.
49. Browning Public School District #9, *Application for Federal Assistance* (1969-1970).
50. New Town School District #1, *Application for Federal Assistance* (1969-1970).
51. Parshall Public School District #3, *Application for Federal Assistance* (1969-1970).
52. Independent School District #22 (Kirtland), *Application for Federal Assistance* (1969-1970).
53. Shannon County Independent District #1, *Application for Federal Assistance* (1969-1970).
54. Espanola Municipal Schools, *Application for Federal Assistance* (1969-1970).
55. Todd County Independent District #1, *Application for Federal Assistance* (1969-1970).
56. St. John Public School District #3, *Application for Federal Assistance* (1969-1970).
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59. Oklahoma State Board of Education, Guidelines and Regulations 1968-1969, Title I ESEA (Oklahoma State Department of Education) (Amended 1970).
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63. Espanola Municipal Schools, *Application for Federal Assistance* (1969-1970).
64. Sisseton Independent School District, *Application for Federal Assistance* (1969-1970).
65. Salmon River Central School District, *Application for Federal Assistance* (1969-1970).
66. Dunseith Public School District #1, *Application for Federal Assistance* (1969-1970).
67. Maddock Public School District #9, *Application for Federal Assistance* (1969-1970).
68. Interviews in Todd County Independent School District, Mission, South Dakota.
69. Interviews in Shannon County Independent District #1, Shannon County, South Dakota.
70. Interviews in St. John School District, #3, St. John, North Dakota.
71. Interviews in Browning Public Schools, Browning, Montana.
72. Interviews in Los Lunas Consolidated Schools, Los Lunas, New Mexico.
73. Interviews in Salmon River Central School District, Fort Covington, New York.
74. Dunseith Public School District #1, *Application for Federal Assistance* (1969-1970).
75. Fort Yates Public School District #4, *Application for Federal Assistance* (1969-1970).
76. Hot Springs Independent School District #10, *Application for Federal Assistance* (1969-1970).
77. Mt. Pleasant School District #4, *Application for Federal Assistance* (1969-1970).
78. New Town Public School District #1, *Application for Federal Assistance* (1969-1970).
79. Los Lunas Consolidated Schools, *Application for Federal Assistance* (1969-1970).
80. Pierre Independent School District #1, *Application for Federal Assistance* (1969-1970).
81. Rapid City Independent School District #1, *Application for Federal Assistance* (1969-1970).
82. Tularosa Municipal School District #4, *Application for Federal Assistance* (1969-1970).
83. New Town Public School District #1, *Application for Federal Assistance* (1969-1970).
84. Independent School District #22, *Application for Federal Assistance* (1969-1970).
85. Dulce Public Schools, *Application for Federal Assistance* (1969-1970).
86. Interviews in Gallup-McKinley County School District, Gallup, New Mexico.
87. ESEA Program Guide #44, Guideline 4.2.
88. *Ibid.* See generally *Title I Report*.
89. ESEA Program Guide No. 44, Guideline 4.7. See also Yudof; *supra*; Fourth Annual Report.
90. See Bureau of Compensatory Education Program Evaluation, California State Department of Education, "Evaluation of ESEA Title I projects of California schools - Annual Report 1967-68"; Cohen, "The Price of Community Control," *Commentary*, July, 1969.
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92. Reliance Independent School District #9, *Application for Federal Assistance* (1969-1970).
93. Tuba City Elementary District #15, *Application for Federal Assistance* (1969-1970).
94. New Town Public School District #1, *Application for Federal Assistance* (1969-1970).
95. Interviews in Pawnee School District #1, Pawnee, Oklahoma.

96. Todd County Independent School District, *Application for Federal Assistance* (1969-1970).
97. Interviews in Smee Independent School District #4, Wakpala, South Dakota.
98. Interviews in Red Rock Public Schools, Red Rock, Oklahoma.
99. *Arizona Audit*, 15-16.
100. ESEA Title I Program Guide No. 44, Guideline 1.1 See Yudof, *supra*.
101. In fact, only 70% of the participants in Title I programs are economically disadvantaged. Memorandum from Bureau of the Budget on Evaluation of Education Programs, October 9, 1969.
102. Coleman et al., *Equality of Educational Opportunity*, 1966, p. 22. See Yudof, *supra*.
103. Shannon County Independent District #1, *Application for Federal Assistance* (1969-1970).
104. Edgar Public Schools, *Application for Federal Assistance* (1969-1970).
105. Espanola Municipal Schools, *Application for Federal Assistance* (1969-1970).
106. Hot Springs Independent School District #10, *Application for Federal Assistance* (1969-1970).
107. Jefferson County School District 509-J, *Application for Federal Assistance* (1969-1970).
108. Independent School District #22, *Application for Federal Assistance* (1969-1970).
109. Los Lunas Consolidated Schools, *Application for Federal Assistance* (1969-1970).
110. Mesa Public Schools, *Application for Federal Assistance* (1969-1970).
111. Interviews in Pierre Independent School District #1, Pierre, South Dakota.
112. Pierre Independent School District #1, *Application for Federal Assistance* (1969-1970).
113. § 109(a)(3), 109(b) of § 105(a) of Title I of the Elementary and Secondary Education Act, 20 U.S.C. § 241; ESEA Advisory Statement on Development of Policy on Comparability, September 18, 1970; ESEA Title I Program Guide No. 44, Guideline 7.1. See generally Yudof, "What Happened to Comparability?" 5 *Inequality in Education* 22 (June 30, 1970).
114. See Yudof, "The New Deluder Act: A Title I Primer", 2 *Inequality in Education* 1 (December 5, 1969).
115. See *Hobson v. Hanson*, 269 F. Supp. 401 (D.D.C. 1967).
116. Eagle Butte Independent School District #3, *Application for Federal Assistance* (1969-1970).
117. *Ibid.* 118.
118. Smee Independent School District #4, *Application for Federal Assistance* (1969-1970).
119. Interviews in Smee Independent School District #4, Wakpala, South Dakota.
120. Smee Independent School District #4, *Application for Federal Assistance* (1969-1970).
121. Fort Yates Public School District #4, *Application for Federal Assistance* (1969-1970).
122. Whiteriver Elementary District #20, *Application for Federal Assistance* (1969-1970).
123. Mt. Pleasant School District #4, *Application for Federal Assistance* (1969-1970).
124. School District 16-R, *Application for Federal Assistance* (1969-1970).
125. Interviews in Tonkawa Public Schools, Tonkawa, Oklahoma.
126. Browning Public Schools, *Application for Federal Assistance* (1969-1970).
127. Todd County Independent School District, *Application for Federal Assistance* (1969-1970).
128. Pierre Independent School District #1, *Application for Federal Assistance* (1969-1970).
129. Grants Municipal Schools, *Application for Federal Assistance* (1969-1970).
130. Maddock Public School District #9, *Application for Federal Assistance* (1969-1970).
131. Parshall Public School District #3, *Application for Federal Assistance* (1969-1970).
132. Rapid City Independent School District #1, *Application for Federal Assistance* (1969-1970).
133. Independent School District #22, *Application for Federal Assistance* (1969-1970).
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136. ESEA Title I Program Guide No. 44, Guideline 5.6 See generally *Title I Report*.
137. See Yudof, *supra*.
138. ESEA Title I Program Guide No. 44, Guideline 5.6.
139. Tuba City Elementary District #15, *Application for Federal Assistance* (1969-1970).
140. Todd County Independent School District, *Application for Federal Assistance* (1969-1970).
141. Bennett County High School District #1, *Application for Federal Assistance* (1969-1970).
142. Espanola Municipal Schools, *Application for Federal Assistance* (1969-1970).
143. New Town Public School District #1, *Application for Federal Assistance* (1969-1970).
144. Edgar Public Schools, *Application for Federal Assistance* (1969-1970).
145. Interviews in School District 16R, Pendleton, Oregon.
146. Poplar School Districts #9 and #9B, *Application for Federal Assistance* (1969-1970).
147. Interviews in Rapid City Independent School District #1, Rapid City, South Dakota.
148. Reliance Independent School District #9, *Application for Federal Assistance* (1969-1970).
149. Wyola Public Schools, *Application for Federal Assistance* (1969-1970).
150. 20 U.S.C. § 241a.
151. Browning Public Schools, *Application for Federal Assistance* (1969-1970).

152. St. John School District #3, *Application for Federal Assistance* (1969-1970).
153. Parshall Public School District #3, *Application for Federal Assistance* (1969-1970).
154. Mt. Pleasant School District #4, *Application for Federal Assistance* (1969-1970).
155. School District 16-R, *Application for Federal Assistance* (1969-1970).
156. Shannon County Independent School District #1, *Application for Federal Assistance* (1969-1970).
157. Independent School District #22, *Application for Federal Assistance* (1969-1970).
158. Espanola Municipal Schools, *Application for Federal Assistance* (1969-1970).
159. See Appendix B.
160. Interviews in Gallup-McKinley County School District, Gallup, New Mexico.
161. White Shield Public School District #85, North Dakota.
162. Compare Hamilton, "Race and Education: A Search for Legitimacy," Harv. Ed. Rev., Fall 1968.
163. Interviewer in School District 16R, Pendleton, Oregon.
164. Maddock Public School District #9, *Application for Federal Assistance* (1969-1970).
165. Dept. of HEW, *Directory of Public Elementary and Secondary Schools in Selected Districts*, Fall 1968.
166. Maddock Public School District #9, *Application for Federal Assistance* (1969-1970).
167. Reliance Independent School District #9, *Application for Federal Assistance* (1969-1970).
168. Espanola Municipal Schools, *Application for Federal Assistance* (1969-1970).
169. See *Title I Report*
170. *Arizona Audit* 4.
171. *Arizona Audit* 3-8; 15, 17, 26-33.
172. *Arizona Audit* 10-12.
173. See *Title I Report*; Yudof, *supra*; Murphy, "Federal Education Reform for the Poor: Whose Priorities Are Being Met?" (unpublished manuscript)
174. Interviews in Bennett County High School District #1, Martin, South Dakota.
175. Interviews in Maddock Public School District #9, Maddock, South Dakota.
176. Interviews in Red Rock Public Schools, Red Rock, Oklahoma.
177. Interviews in White Shield Public School District #85, North Dakota.
178. ESEA Title I Program Guide #45A.
179. *Arizona Audit*, 33.
180. See *Title I Report*.
181. See *Applications for Federal Assistance* of school districts listed in Appendix B.
182. See, e.g., *Babbidge v. Richardson* (D. Rhode Island 1970) (Case pending); *Colpitts v. Richardson* (D. Maine 1970) (Case pending). See generally Yudof, "Title I and Empowerment: A Litigation Strategy," *5 Inequality in Education* 11 (June 30, 1970).
183. ESEA Advisory Statement on Development of Policy on Parental Involvement in Title I, ESEA Projects, October 26, 1970; ESEA Title I Program Guides #46 and #46-A. See generally Yudof, "Community Participation in the Title I Decision-making Process," *4 Inequality in Education* 35 (March 16, 1970).

CHAPTER IV INDIAN PARTICIPATION IN PUBLIC SCHOOLS

1. *Senate Subcommittee Report*, xiii.
2. Statement to Congress on American Indians by President Richard Nixon, July 8, 1970.
3. Prepared Statement of Peterson Zah, Deputy Director, Dinebeina Nahiilna Be Agaditahe, Inc., in Hearings before the Select Committee on Equal Educational Opportunity of the U. S. Senate, Part 2, 893 (June 8, 1970).
4. Outline of Shannon County's Title VIII (ESEA) Dropout Prevention Project in *Indian Education Annual Report, State of South Dakota, Fiscal 1968*, 35.
5. Solveig P. Russell, *Navajo Land: Yesterday and Today*, 4 31 (1961).
6. New Mexico Constitution, Art. IX, § 11.
7. Three recent Supreme Court decision, dealing with similar voting qualifications, provide a basis for successfully arguing that such qualifications are inconsistent with the equal protection clause of the Fourteenth Amendment. The cases are *Kramer v. Union Free School District*, 395 U.S. 621 (1969) (own or lease taxable real property to vote for school officers); *Cipriano v. City of Houma* 395 U.S. 701 (1969) (be a property taxpayer to vote on issuance of revenue bonds by municipal utility); and *City of Phoenix v. Kolodziejcki* 90 S. Ct. 1990 (1970) (be a real property taxpayer to vote on issuance of general obligation bonds by city).
8. New Mexico Laws of 1969, Chap. 103, Approved March 27, 1969.

9. *Sandia Pueblo et. al. v. Bernalillo Municipal Schools* No. 8313 – Civil, on appeal to the 10th Circuit.
10. See Chapter 2 p. 24.
11. Memorandum to Chief State School Officers from T. H. Bell, Acting U.S. Commissioner of Education, October 30, 1970. See Appendix F. p.
12. *Ben Jose et al. v. Gallup-McKinley County School Board*, 12913 – Civil (N. M. 11th Judicial District).
13. Letter to Juan Martine, President, The Ramah Navajo School Board, Inc., from Commissioner of Indian Affairs Louis Bruce, March 27, 1970.
14. "Legal Action is Threatened," *Gallup Independent*, September 30, 1970.
15. "'Accredited' by Navajos," *Gallup Independent*, October 1, 1970.

Chapter V Conclusion

1. See, e.g., Hentoff, *Our Children Are Dying* (1966); Friedenberg, *Coming of Age in America* (1963); Goodman, *Growing Up Absurd* (1956); Silberman, *Crisis in the Classroom: The Remaking of American Education* (1970).
2. See generally *Senate Subcommittee Report*.
3. 347 U.S. 483, 74 Sup. Ct. 686 (1954). See also *United States v. Jefferson County Board of Education*, 372 F. 2d 836 (5 Cir. 1966); *Davis v. School District of the City of Pontiac*, 309 F. Supp. 734 (E.D. Mich. 19); *Keyes v. School District No. 1 of Denver*, F. Supp. (D. Col. 1970) (Civil Action No. C-1499); *Jackson v. Pasadena City School District*, 59 Cal. 2d 876 (1963).
4. See, e.g., *Hobson v. Hansen*, 269 F. Supp. 401 (D.D.C. 1967); Coons, Clune & Sugarman, *Educational Opportunity: A Workable Constitutional Test for State Financial Structures*, 57 Calif. L. Rev. 305 (1969); Cohen, *The Economics of Inequality*, Saturday Review, April 19, 1969. Yudof, "Whatever Happened to Comparability," 5 *Inequality in Education* 22 (June 30, 1970). Compare *Hargrave v. Kirk*, F. Supp. (M.D. Fla. 1970) (3 judge court).
5. See footnote 4 *supra*. See also "Separate-But-Equal: A Study of the Career of a Constitutional Concept," 1 *Race Relations Reporter* 1 (19).
6. *Hobson v. Hansen*, 269 F. Supp. 401 (D.D.C. 1967).
7. Coons, Clune, and Sugarman, *Private Wealth and Public Education* (1970).
8. *Keyes v. School District No. 1 of Denver*, F. Supp. (D. Col. 1970) (Civil Action No. C-1499)
9. Senate Subcommittee Report at 33.
10. *Hobson v. Hansen*, 269 F. Supp. 401 (D.D.C. 1967). See also 105(a) of Title I of the Elementary and Secondary Education Act of 1965, 20 USC 241.
11. *Hobson v. Hansen supra*.