



Developing Agreements between Local Education
Agencies and American Indian Nations and Tribal
Communities:
A WISCONSIN PERSPECTIVE

Wisconsin Department of Public Instruction
Tony Evers, PhD, State Superintendent

Developing Agreements between Local Education Agencies and American Indian Nations and Tribal Communities: A Wisconsin Perspective

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Foreword

The vision of the Wisconsin Department of Public Instruction (DPI) is to advance education in a way that ensures every child graduates ready for college and career. Wisconsin educators, tribal nations, and communities have a long history of working to improve outcomes for American Indian students, yet there is great potential for increased and more focused collaboration.

We recognize how important it is for schools, educators, and the DPI to work together with Wisconsin's American Indian nations and communities. We expect to close achievement and graduation gaps between American Indian students and their counterparts. This guide is one example of many resources available to local education agencies (LEAs) interested in developing strong relationships with their neighboring American Indian nations and tribal communities.

Our schools must continue to focus on closing the gaps that persist in areas such as academic achievement, behavioral and disciplinary issues, and graduation rates between American Indian students and their peers. A high-quality education should be available to all Wisconsin students. *Developing Agreements between Local Education Agencies and American Indian Nations and Tribal Communities: A Wisconsin Perspective* is a resource educators can use to understand effective collaborative processes to help develop relationships with the American Indian nations and tribal communities.

Together, we share a responsibility to ensure our educators have the resources, tools, and understanding required to help all of our students become college and career ready. I hope you will find this guide helpful.

Tony Evers
State Superintendent



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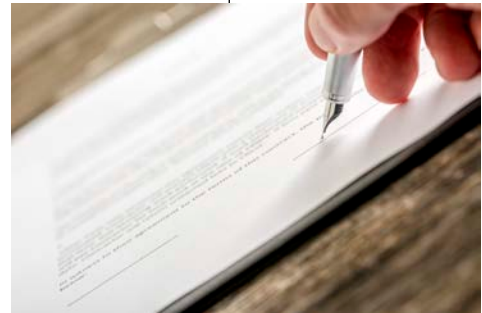


Introduction

There are tremendous potential benefits to be gained from mutually supportive partnerships between American Indian nations, tribal communities, and local education agencies (LEAs). American Indian nations and tribal communities have resources, specialized knowledge, and greater access to parents/guardians, families and communities; similarly, schools have resources, programs, and access to students. Many such partnerships already exist, both in Wisconsin and across the United States, and can serve as examples of productive ways to support and nurture these important relationships.

Whether a school district has such a partnership with a local American Indian nation or tribal community or is considering developing one, written agreements can help promote clarity, accountability, and mutual understanding for all parties involved in an agreement.

This document was developed by the Midwest Comprehensive Center (MWCC) in conjunction with the Wisconsin Department of Public Instruction (DPI). It is designed to provide a brief “quick-start” guide that is accessible to all LEA staff involved in meetings or partnerships with representatives of American Indian nations and tribal communities. We recommend that those charged with developing written agreements study this topic in greater depth. However, this document is a resource for all those involved in partnership activities with American Indian nations and tribal communities, who are encouraged to familiarize themselves with the process.



The federal *Every Student Succeeds Act of 2016 (ESSA)* was signed into law on December 10, 2015. The U.S. Department of Education will be responsible for issuing regulations to guide state and district implementation of the Act.

ESSA language regarding the relationship between tribal nations and districts includes:

“SEC. 8538. CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS.”

“(a) IN GENERAL.—To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, an affected local educational agency shall consult with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area served by the local educational agency prior to the affected local educational agency’s submission of a required plan or application for a covered program under this Act or for a program under title VI of this Act. Such consultation shall be done in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or tribal organizations to meaningfully and substantively contribute to such plan.”

“(b) DOCUMENTATION—Each affected local educational agency shall maintain in the agency’s records and provide to the State educational agency a written affirmation signed by the appropriate officials of the participating tribes or tribal organizations approved by the tribes that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the affected local educational agency shall forward documentation that such consultation has taken place to the State educational agency.”

The first part of this document provides basic background on developing partnerships with American Indian nations and tribal communities and some tips for engaging in culturally competent collaboration. It also contains a list of more in-depth resources for further exploration.

The second part of the document looks at written agreements and outlines best practices for creating effective Memoranda of Understandings (MOUs).

The third and final part of the document is a more in-depth look at two MOUs developed between two LEAs and three American Indian nations in Wisconsin.

Essential Understandings

There are three points that everyone working with American Indian nations and tribal communities, students, parents/guardians, families, or communities should understand in order to promote mutual agreement and understanding.

1. **American Indian nations have treaties, tribal sovereignty, and self-determination rights. As a result, they are recognized by the U.S. government as sovereign nations.** When you develop an agreement with an American Indian nation or tribal community, you are negotiating with representatives of the government of a sovereign nation, with its own constitution, laws, courts, and jurisdiction rights.
2. **Each American Indian nation and tribal community is distinctive.** American Indians from different nations and communities may have different languages or variations on a regional language and different tribal systems, beliefs, customs, traditions, culture, and histories. It is important to understand and respect the history, culture, and tribal sovereignty of each of these nations and communities with which you are working. As a result, you should be careful not to rely on broad generalizations about American Indian people and communities.
3. **The history of American Indian education is complex.** Within living memory, American education policies have been used as a means to separate and permanently remove American Indian children from families and tribal communities and to do away with their culture, traditions, and native languages. This history impacts the present in very real ways.

It is important to understand and respect the history, culture, and tribal sovereignty of each of these nations and communities with which you are working.

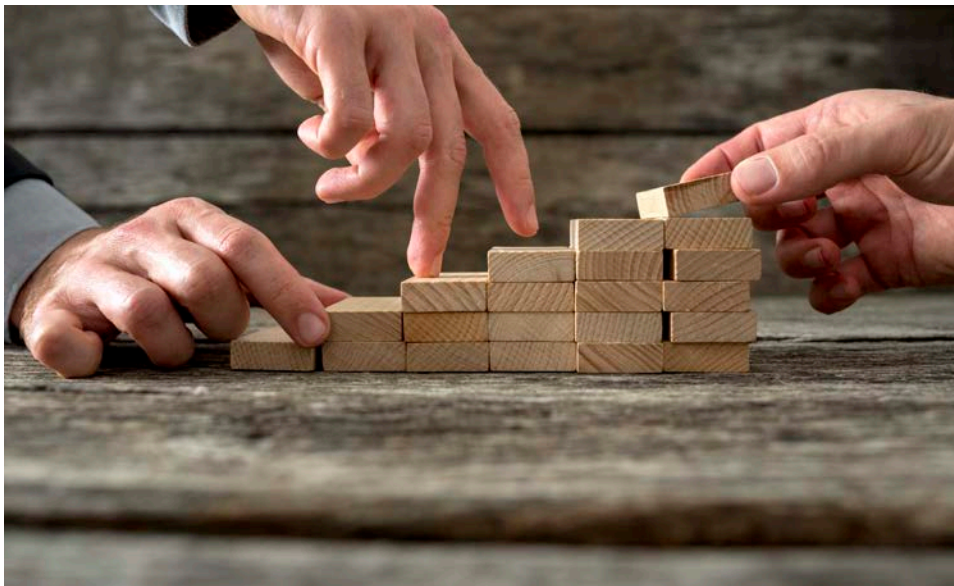
Working Together

Written agreements are often pursued as a way to resolve differences and reach consensus. This process requires negotiation, collaboration, and compromise. Developing successful written agreements requires all parties to acknowledge the historical issues and seek to find a new, positive way to move forward together.

Jeffrey Vail, the Director of Lands, Minerals, & Uses for the U.S. Forest Service's Southern region, has excellent advice on working with representatives of tribal nations (Vail, 2005, para. 1-2).

The adage 'seek first to understand, then to be understood' is always wise counsel. When interacting with [American] Indian tribes, it is imperative.

There are over 550 federally recognized tribes in the United States, each one a sovereign nation with a unique history and culture.... Tribes bring their history and culture into negotiations, and it is critical for all parties to the negotiation to listen, learn, and try to understand.... In order for Indian people to begin to trust other parties in a negotiation, they need an indication that the other parties respect them, their history, and their culture.



Kenith Bergeron, who acted as mediator for the Wisconsin MOU processes profiled in the "Case Studies" section of this document (pp. 15-18), says, "What helped me was taking time to learn about each tribal nation and their culture before entry. You have to do your homework. Trust is earned from cultural awareness, respect for elders and tribal hierarchy and active listening" (personal communication, July 15, 2015).

The adage 'seek first to understand, then to be understood' is always wise counsel. When interacting with [American] Indian tribes, it is imperative.

Essential Practices for Working Together



- **Assume goodwill.** All parties involved are working for the good of students and families. While definitions and approaches may vary, recognizing and even celebrating this goodwill as a shared goal is key.
- **Listen with an open mind.** Working with American Indian nations and tribal communities may require LEAs to engage in a problem solving process that defines problems and arrives at solutions in a way that is rooted in the values, culture, and perspective of the tribal nation and community. Due to the history of government interactions with American Indian nations, when programs are seen as imposed from outside the tribal community, distrust can create a significant barrier to successful partnership (Grant & Brown, 2003; Weaver, 1999).
- **Communicate.** Points of contacts in all parties should check in with each other frequently. Inquire as to what form of communication works best for your contact. Provide materials and meeting notices ahead of time. Be conscious of the acronyms, terminology, and concepts you are using to ensure that all parties can understand (Centers for Medicare & Medicaid Services, 2013; Louis Berger Group, Inc., 2013; U.S. Department of Energy, 2000).

Culturally Competent Collaboration Tips

A summary of key practices for working with representatives of American Indian nations and tribal communities in a culturally competent way is provided below.

Know who you are working with. Make an effort to learn about the specific American Indian nation(s) and tribal communities with which you are partnering. Visit resources such as their nation's website to learn more about their government, culture, and history and to help you identify your initial point or points of contact within the tribal nation or tribal education department (Centers for Medicare & Medicaid Services, 2013; Native American Rights Fund, 2006).

More information on each of the American Indian nations and tribal communities in Wisconsin and links to their websites can be found through the Great Lakes Inter-Tribal Council (<http://www.glitc.org/tribes/>). Patty Loew's *Indian Nations of Wisconsin: Histories of Endurance and Renewal* is an excellent resource for historical context for each nation and tribal communities, as is the Wisconsin State Tribal Relations Initiative's *Tribes of Wisconsin* (<http://witribes.wi.gov/section.asp?linkid=284&locid=57>).

Help your partners know your district. The structure of your district, the region you serve, your staff and their roles, and the number and demographics of students you serve may not be clear to everyone at the table. Make understanding easier for your partners by being as transparent as possible; provide information up front and don't assume your partners know federal, state, or local programs or their acronyms. Maps of your district's area, information on existing programs, and organizational charts may all be helpful.

Respect is an essential foundation for working successfully with American Indian nations and tribal communities. There are several ways to help communicate respect to your tribal partners.

- Know the titles or positions of those you are working with and acknowledge them.
- Ensure that the school district administrators and other leadership attend key events in the community and acknowledge the value of the work being done (U.S. Department of Energy, 2000).
- Issue personal or written invitations to meetings and events.

Personal conduct is of great importance. American Indian nations and tribal communities place great emphasis on judging character by one's action, conduct, and response. Conduct is particularly subject to cross-cultural misunderstandings; appropriate conduct for partners from tribal nations may require certain adjustments on behalf of school district personnel who are less familiar with tribal culture, as well as a public statement of good intent to cover potential missteps.

- **Keep your voice to a moderate level.** Speaking loudly may be taken by community members, elders, leaders, and others as arrogance or condescension.
- **Wait before speaking.** It is common to allow a greater wait time between speakers in many communities; a pause indicates the other person is considering what you said. A hurried follow-up question may disrupt their response to your first question. Therefore, if you are in a hurry, you may get no answer at all and may be perceived as disrespectful.
- **Do not interrupt.** In general, patience, the ability to tolerate silence, and listening are all crucial skills. If you are inclined to be more verbally active, you may need to consciously work to cultivate patience and to listen rather than "jumping in" to speak.

Ensure that the school district administrators and other leadership attend key events in the community and acknowledge the value of the work being done (U.S. Department of Energy, 2000).

Invite tribal members, leaders, and elders to educate you about specific cultural protocols relevant to the partnership.

- **Give your undivided attention to the person who is speaking.** Showing impatience about time can be considered culturally inappropriate behavior—if something is important enough to talk about, it is important enough to give whatever time is necessary to discuss and ultimately resolve the issues.
- **Prolonged eye contact may be inappropriate.** Different American Indian nations and tribal communities have different cultural norms around eye contact; if tribal members or representatives do not appear to be making eye contact, it may not be any indication of whether or not they are listening. This cultural norm varies greatly from tribe to tribe; ask if you are not sure and wish to be courteous.
- **Let your partners be your guide as to the use of humor.** When beginning an important discussion or when responding to questions by tribal elders and officials, laughter may be taken as a lack of seriousness or as belittling the subject or the questioner. On the other hand, when working with individuals, a sense of humor – and a willingness to laugh at oneself – are often assets. Follow the lead of your American Indian partners to help clarify when humor may be appropriate.
- **Be open about what you don't know.** Invite tribal members, leaders, and elders to educate you about specific cultural protocols relevant to the partnership. *When in doubt, don't assume; ask respectfully* (U.S. Department of Energy, 2000; Weaver, 1999).

Formal and informal communication are both important. Formal communication such as events, reports, meetings, and minutes is an essential part of building trust, partnerships, and agreements. But informal communication such as phone calls, emails, unscheduled discussions, and sharing publications of interest is also important to maintain and strengthen a good working relationship (Centers for Medicare & Medicaid Services, 2013).

Be flexible about adherence to timelines. American Indian nations and tribal communities often place greater emphasis upon achieving consensus and harmony than on keeping to schedules. A meeting might go on longer than expected until a consensus is reached and issues resolved. Decision-making likewise works toward consensus rather than deadlines (U.S. Department of Energy, 2000).

Events or meetings led or co-led by American Indian nations and tribal communities may look very different. Tribal sovereignty includes American Indian nations' rights to reach decisions and conduct meetings according to their own constitutions and/or policies. For example, many American Indian nations and tribal communities open and close events and meetings with either a moment of silence and/or prayer, often in the American Indian language.

Elders are highly respected in American Indian nations and tribal communities, whether or not they hold any official position.

- When speaking with a tribal elder, allow more time for a response than you normally would allow.
- Tribal elders may use stories or analogies to demonstrate a point.
- If food is being served at a meeting, serve tribal elders (or invite them to serve themselves) first (U.S. Department of Energy, 2000).

With a foundation of respect and clear communication, many issues can be advanced and solutions discovered.

Resources

There are several resources available online that may be helpful to agencies or LEAs wishing to form partnerships with their local American Indian nations and tribal communities. The more understanding educators have of the history and impact of American education laws and policies on Native people, the more successful they may be in collaborating with American Indian nations and tribal communities.



Much of the guidance currently available is written for governmental employees who are legislatively required to consult with American Indian nations or tribal communities, and is focused on relationships required at the federal or state level. Often, it is written for fields other than education—public health, transportation, agriculture, energy, or tourism. The following resources are available for free online and are directly relevant to LEAs. Further resources are cited throughout and may be found in the references section at the end of this document.

Training: Working Effectively with Tribal Governments (2013)

<http://tribal.golearnportal.org/> or as a written guidance document:
https://www.michigan.gov/documents/mdch/Working-Effectively-with-Tribal-Governments_384010_7.pdf

This training outlines the unique status of Indian tribes and their historical relationship with the federal government, and gives an overview of how that status and relationship affect government programs, responsibilities, and initiatives. Not education-specific.

With a foundation of respect and clear communication, many issues can be advanced and solutions discovered.

Profiles of Partnerships Between Tribal Education Departments and Local Education Agencies (2012):

<http://www.ed.gov/edblogs/whiaiane/files/2012/04/Profiles-of-Partnerships-Between-Tribal-Education-Departments-and-Local-Education-Agencies.pdf>

A set of nine case studies of LEA-tribal partnerships in the north central U.S. region, conducted by the Regional Educational Laboratory (REL) Central in 2012. Includes information on challenges, strengths, funding, process, and written agreements.

A Manual for Chief State School Officers and State Education Agencies on American Indian and Alaska Native Tribal Sovereignty, Federal Education Programs for Tribal Students, and Tribal Education Departments (2006):

http://www.narf.org/nill/documents/manual_state_school.pdf

An education-focused look at Native American tribal sovereignty, history, and tribal education departments. Contains a valuable appendix that includes “A Model Protocol for State Education Agencies to Address Education Issues on a Government-to-Government Basis with Tribal Governments/Tribal Education Departments.”

American Indian Education in Wisconsin (2015):

<http://dpi.wi.gov/sites/default/files/imce/amind/pdf/american-indian-education-in-wi.pdf>

A Wisconsin-focused look at how education policy and practice impact tribes in Wisconsin, developed by the Department of Public Instruction in 2015. Includes analysis of 2014 outcomes for American Indian students as compared to the general student population and a list of relevant programs and resources in Wisconsin.

Fostering School, Family, and Community Involvement (2007):

<http://smhp.psych.ucla.edu/publications/44%20guide%207%20fostering%20school%20family%20and%20community%20involvement.pdf>

A foundational guide to creating and sustaining collaborative relationships with families and communities. Focuses on the creation of safe schools but contains multiple tools and resources for building collaboratives for any purpose.

The following section discusses formalized agreements between LEAs and American Indian nations and tribal communities, and focuses on MOUs as one possible way to formalize goals, roles, and responsibilities in this kind of collaborative partnerships.

Memoranda of Understanding or Agreement

2

Memoranda of Understanding (MOUs), or Memoranda of Agreement (MOAs) are often developed between local governments, school districts, and American Indian nations and tribal communities to align services, improve communication and understanding, and develop ways to better serve students, parents/guardians, families, communities, and nations. The structure of MOAs and MOUs is similar, and the term MOU will be used throughout this document to denote this type of agreement.

The purpose of a MOU is to identify the parties and context, and to outline the understandings and agreements. The MOU typically includes a process for amending and renewing the agreement.

The purpose of a MOU is to identify the parties and context, and to outline the understandings and agreements.



Why Use MOUs?

An MOU can constitute a legally enforceable contract, if that is the intent of the parties, or can be non-binding. The Wisconsin MOUs profiled here are all voluntary and non-binding.

An MOU may be used to define the expectations, roles, and responsibilities of each of the parties. Common provisions may include:

- Meetings and Representation
- Data Sharing Agreements
- Expected Communications

- Staff Roles and Responsibilities
- Dispute Resolution

Even if an MOU is non-binding, it helps clarify the roles and responsibilities of each party in a cooperative effort. If it contains standard contract terms and provisions, it will provide both parties with legal assurances and protections.

NOTE: This document is not intended to be legal advice. If you intend for your agreement to be legally binding, you should consult with your attorney; the information in this guide is not intended to replace legal guidance. If you intend to enter into an informal and non-binding agreement, you may indicate this intention clearly in the document itself. The Wisconsin MOUs profiled in this document all contain similar sections titled “Voluntary Agreement and Ethics Disclaimer” that specifically identify them as non-binding agreements.

More than Just a Document

The MOU is the product of something that in most cases is far more important: the conversations, the sharing of ideas, and the development of common intent between the parties involved. A documented agreement, legally binding or not, cannot of itself build trust, understanding, and common purpose. The negotiations and conversations leading to that agreement are often more important than the agreement itself.

The MOU is the product of something that in most cases is far more important: the conversations, the sharing of ideas, and the development of common intent between the parties involved.

In the nine partnerships profiled by REL Central in 2012, four specifically addressed having to move past and overcome historical issues and concerns, discrimination, mistrust, or rivalry in order to set and work on mutual goals for American Indian students’ college, career, and community readiness. Eight of the partnerships mentioned the importance of meeting face-to-face to build and sustain their relationship. Each



of the Wisconsin case studies included in this document grew out of mutual concerns between the LEAs and American Indian nations or communities involved. Through the process of developing and implementing the MOUs, the LEAs and American Indian nations now have been able to develop much more open and productive working relationships. In each of these cases, the process of developing an MOU was as important as the product.

What a Good MOU Looks Like

Kenith Bergeron, Senior Conciliation Specialist with the United States Department of Justice Community Relations Service, facilitated all four of the Wisconsin MOU processes identified in this document. MWCC reached out to him to try to better understand best practices for these types of negotiations, and he identified some key areas for successful agreements.

Purpose

The purpose of both the MOU and the activities it identifies should be written into the document. Many MOUs begin with clarifications of assumptions, values, and intended outcomes. Several parties interviewed for the case studies in this document stressed that arriving at a shared understanding of purpose was key to the success of their partnerships. Including the intended outcomes of particular meetings or other activities outlined in the MOU can also help focus implementation and guard against turnover-based confusions.

Benchmarks and Timelines

Everyone involved in partnerships has their own work and responsibilities, which needs to be considered as the collaboration goes forward. “If I had to go back and do this again,” Mr. Bergeron said, “I would create a timeline for the deliverables that parties agreed on during the negotiations to create accountability” (personal communication, July 15, 2015).

A little clarity can go a long way in ensuring that both parties adhere to the timelines and activities in the agreement. For example:

- Identifying key dates (start of the fiscal year, budget finalization dates, board and tribal council meetings, etc.) helps all parties understand what the framework for the activities will be.
- Adding concrete timestamps to each of the activities in the agreement can encourage accountability on all sides. Helpful timestamps may include start and end dates, quarterly meeting dates, benchmark dates, and review periods.

The United States Department of Justice Community Relations Service (CRS) is the Department's "peacemaker" for community conflicts and tensions arising from differences of race, color, national origin, gender, gender identity, sexual orientation, religion, and disability. CRS is not an investigatory or prosecutorial agency, and it does not have any law enforcement authority. CRS provides a wide range of race relations services, such as mediation, conciliation, and technical assistance to local communities.

CRS deploys highly skilled professional mediators with experience and cultural awareness to enable affected parties to develop and implement their own solutions. Its services are confidential, non-partisan, and free of charge, and are designed to serve as a catalyst for peaceful resolution (CRS, 2004).

Everyone involved in partnerships has their own work and responsibilities, which needs to be considered as the collaboration goes forward.

Roles and Responsibilities

Mr. Bergeron emphasized that, “you have to structure an agreement so that it is sustainable beyond the signatories” (personal communication, July 15, 2015). Any organization can have high turnover, and written agreements can help sustain efforts through administrative and leadership change. The agreement can also communicate decisions, values, and roles to people who are new to positions within the tribal nation or school district.

He also noted that it helps to identify who is responsible for carrying out the activities within the tribal nation and in the school district, beyond saying that “the school district” or “the tribal nation” will do something. The agreement can identify the positions or groups that will take primary responsibility for each activity within the activity description. This specificity will help the agreement weather turnover and improve partnership accountability.

Sustainability

Part of the written agreement is often a commitment to continue the process of collaboration, partnership, and direct communication through regular meetings. Most agreements include stock language about “dispute resolution,” “term of agreement and renewal,” and “amendment of agreement.” Knowing when and how the agreement will be revisited will help sustain both the agreement and the working relationship between the two parties.

The agreement can identify the positions or groups that will take primary responsibility for each activity within the activity description.



Other Ways of Formalizing Agreements

If you wish to formalize roles and responsibilities in your partnership, an MOU is only one of several ways of doing so. Letters of support or commitment are letters from one party to another outlining their support or commitments for a given project or data sharing endeavor. The establishment of cooperative agreements may also be used when there are significant grant funds involved such as federal State-Tribal Education Partnership (STEP) Grant program funds.

Examples of MOUs between LEAs and Tribal Nations

Appendix A provides links to the four Memoranda of Understanding/Agreement between Wisconsin LEAs and American Indian nations and tribal communities. Wisconsin Department of Public Instruction and MWCC reviewed these four as well as five MOUs from other states and REL Central's profiles of partnerships (Beesley et al., 2012) to identify common elements of agreements between LEAs and American Indian nations and tribal communities:

1. **Meetings.** Meeting timing, frequency, and attendance were often specified. Some MOUs or MOAs also included provisions for participation on specific boards or committees. Others specified that reports or materials would be developed by one partner and provided prior to the meeting.
2. **Curriculum.** American Indian nation and tribal communities often partner with school districts to approve, create, or supplement curriculum for teaching and learning about Native peoples and local communities, such as that required under Wisconsin Act 31.
3. **Training.** American Indian nations and tribal communities often partner with school districts to create or deliver professional development for teachers and staff on American Indian history, culture, tribal sovereignty, and/or best practices in working with American Indian students, families, communities, and nations. Conversely, school districts may provide training or professional development on data use, current educational issues and hot topics, and important initiatives.
4. **Data sharing.** How data will be collected, what data will be shared, how student confidentiality will be preserved, and what will be done with shared data are common provisions of written agreements.
5. **Programs.** LEAs and American Indian nations and tribal communities create a wide variety of joint programs, from native language courses to dual enrollment options at local tribal colleges. Alternative schooling options, tutoring or credit recovery, and after-school programs for American Indian students are other examples.
6. **Communication.** From family information nights to fiscal and data transparency, communication is the backbone of many agreements. Meetings and data sharing agreements often have major communication implications, as do attempts to provide equal opportunity and access.
7. **Special education.** Agreements often touched on aspects of special education, from disparities in identification to family communication to who will be involved in student Individualized Education Program (IEP) meetings.

Meetings and data sharing agreements often have major communication implications, as do attempts to provide equal opportunity and access.

Tribal consultation on key hires; dedicated staff to work with American Indian students, families, communities, and nations; or outreach to increase teacher and staff diversity were common provisions of multiple MOUs.

8. **Discipline.** Where discipline disparities were of particular concern, alternative discipline programs and tribal council involvement were among solutions agreed upon by LEAs and American Indian nations and tribal communities.
9. **Logistics.** Transportation to and from educational programs, sharing agreements for computer hardware and software, funding, adjusting school calendars to account for culturally relevant functions, and other logistics were part of most agreements.
10. **Staffing.** Tribal consultation on key hires; dedicated staff to work with American Indian students, families, communities, and nations; or outreach to increase teacher and staff diversity were common provisions of multiple MOUs.

Case Studies From Wisconsin

3

In May and June of 2015, the Wisconsin Department of Public Instruction conducted informal interviews with district and tribal nation representatives and worked with MWCC to develop case studies of two of the four Wisconsin-based MOU processes.

The Ho-Chunk Nation and the Black River Falls School District

Information in the Ho-Chunk Nation and Black River Falls School District case study was taken from the MOU itself and from Anderson (2015).

The Ho-Chunk Nation has an MOU with the Black River Falls School District. The agreement with Black River Falls was signed in 2010, two years (and seven meetings) after a group of Ho-Chunk leaders and tribal members brought a complaint against the school district. The concerns centered on disparate treatment of American Indian students in school curriculum, programs, and services (CRS, 2010).

- The stated intent of the MOU was to “provide a framework for respectful and cooperative communication that uses consensus building,” to “improve the planning and coordination between the Black River Falls School District and the Ho-Chunk Nation,” and to “establish a common understanding regarding [the parties’] roles, responsibilities, and procedures that will facilitate best practices” (Ho-Chunk Nation & School District of Black River Falls, 2010). Topics covered by the MOU included:
- Regular meetings between various representatives of the nation and the school district.
- Tribal designation of committee members for Johnson O’Malley (JOM), Title VII, and Impact Aid committees in the school district.
- Consultation and transparency around Impact Aid-funded programs and activities.
- Social services intervention and teacher training on key topics.
- Academic supports, including tutoring.
- Efforts to improve attendance and reduce truancy.
- Cultural awareness training, including alternative culturally responsive discipline measures.
- Efforts to employ alternative education students and provide remediation.

The stated intent of the MOU was to “provide a framework for respectful and cooperative communication that uses consensus building...”

The Ho-Chunk nation and the school district share a focus on student success that has allowed them to work together effectively.

- Disproportionality in special education identification.
- Transportation.
- Data sharing.

This MOU is unique in that the school district works closely with both the Ho-Chunk Education Department and the Ho-Chunk Child and Family Services Department to serve students. The tribal nation and the school district have since added a separate MOU, with Jackson County, that creates a “coordinated services team” to help students struggling with law enforcement and/or addiction issues through coordinated student and family supports.

The relationship between the tribal nation and the school district is “much more positive than it was before,” according to a district administrator. New teachers in the district are now taken on a tour of the Ho-Chunk Nation’s buildings and have a meal with tribal elders as part of their orientation to the school district. Additionally, the school district created a Committee for Culturally Responsive Teaching that has worked to integrate American Indian culture and history throughout the curriculum and trained Ho-Chunk student advocates for each grade level.

The Black River Falls School District offers specific classes in Ho-Chunk history, culture, and language. All of the district’s 5th grade classes tour the Ho-Chunk Nation’s executive offices and tribal courts and discuss tribal sovereignty and the governments of the U.S. and Ho-Chunk nations as part of their U.S. History curriculum. The district also offers a course in the Ho-Chunk language and an ethnic studies class in partnership with the University of Wisconsin - Green Bay. Black River Falls School District has hosted numerous events such as powwows at district schools. And the school district flies the Ho-Chunk flag next to the Wisconsin and United States flags at each school as a visible symbol of a strong partnership.

“I feel like our community really understands that we can accomplish more together than we can individually.”

Shelly Severson, District Administrator
Black River Falls School District

The Ho-Chunk nation and the school district share a focus on student success that has allowed them to work together effectively. Ho-Chunk students and families are more engaged with the schools, and Ho-Chunk student academic achievement has risen. “We don’t want to get too comfortable. It’s a continuing process,” a Ho-Chunk representative said, but it does look like the process will continue. The MOU is up for renewal this year, and both sides are planning to sign on to a new agreement and continue with their collaborative work and partnership.

The Forest County Potawatomi, Sokaogon Chippewa Community, and the School District of Crandon

Prior to 2010, tensions were rising in Crandon, Wisconsin between the Forest County Potawatomi, Sokaogon Chippewa, and the School District of Crandon. Several American Indian students had reportedly been expelled for fighting, and the district had been identified by the state of Wisconsin as having disproportionate identification of American Indian students for special education services. A Community Relations Service mediator contacted the two American Indian nations and the school district and brought everyone together (CRS, 2010).

The relationship between the School District of Crandon and the two tribal nations at that point was not very collaborative. There was an atmosphere of distrust, the problem with disproportionality in special education, a feeling that American Indian children were being discriminated against in the schools, and a perceived lack of clear communication between the district and the tribal nations regarding how Title VII and Impact Aid funds were being spent. The three parties entered into the agreement together because each of the American Indian nations shared similar concerns and the school district was interested in working with both American Indian nations in much the same way.

Starting in 2006, the school district examined its special education data and moved from using a “discrepancy model” to identify students with specific learning disabilities to a “response to intervention” tiered model with clearer criteria for identification and intervention. During this shift the two American Indian nations were invited to school district discussions, and parent meetings were held to inform all families and community members about their rights regarding special education and to specifically provide a forum for American Indian families to learn more about their children’s schools.

The MOU itself was signed in 2010, but by that time, the school district had already been working with the two American Indian nations for four years, and had thoroughly reviewed the data on students from each of the American Indian nations. The MOU formally recognized the discrepancies in special education identification and other achievement gap issues within the school district, and stated that the school district and the American Indian nations shared a common goal: maximizing the achievement of Sokaogon Chippewa Community and Forest County Potawatomi students. The MOU addressed many of the helpful practices that had developed over the preceding years, such as the special education and American Indian family forums, and identified others, including:

- Regular meetings between various representatives of each of the American Indian nations and the school district.
- Sharing of student data, particularly around attendance and truancy.
- Efforts to reduce disproportionality in the number of students receiving special education services, including a new special education plan and

The MOU addressed many of the helpful practices that had developed over the preceding years, such as the special education and American Indian family forums, and identified others...

The data review had given all parties a fuller picture of the issues and allowed them to come up with concrete prescriptions for change.

increased involvement of tribal Home-School Coordinators in special education evaluation, placement, and other meetings.

- Increased transparency around budget issues.
- Co-creation of locally-focused American Indian culture and spirituality professional development trainings for teachers.
- K-12 curriculum materials and resources development.
- Reporting of incidents of discrimination.
- American Indian teacher recruitment and outreach efforts.
- The formation of a “Gang Task Force.”

With the creation of the MOU, a representative from one of the American Indian nations shared, “the communication between the tribes and the school became so much better. The MOU required the school board and the tribal executives to meet quarterly... and the council started to feel less anxiety about what was happening.” The data review had given all parties a fuller picture of the issues and allowed them to come up with concrete prescriptions for change.

Since then a great many changes have taken place. The school district now provides the tribal nations with elementary, middle, and high school data on attendance, academic performance, failure rate, and the referral data for special education. In addition, both American Indian nations have tutors in the school that can help students with coursework, and the Forest County Potawatomi have hired school counselors, mentors, and a behavioral specialist who visit the schools regularly to work with students.

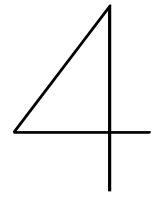
In the spring of 2015, when the district needed to hire a new superintendent, they made a deliberate effort to look for candidates who were actively interested in working with local American Indian nations. Once the pool of candidates was determined, both American Indian nations were invited to be part of the interview process. The tribal nations were able to see that the school district was serious about the partnership.

Conclusion

Proactive partnerships between LEAs and American Indian nations can provide a wealth of opportunities and supports. Administrators and teachers can work with American Indian communities to develop more accurate and in-depth curriculum integrating American Indian history, culture, and tribal sovereignty. American Indian experts from local nations can provide district staff with professional development assistance in working with American Indian curricular topics or American Indian students. Data shared between districts and nations can be used to improve and target supports from all parties.

Developing written agreements such as MOUs may help to establish, grow, and sustain such partnerships. The discussions that lead to the eventual written agreements can build relationships, strengthen mutual understanding, and clarify joint goals. The documents themselves can help all parties understand their roles, maintain their commitments, and sustain activities over time and through turnover. Wisconsin school districts and American Indian nations that have developed such agreements see both the process and the outcomes as net positives.

The Wisconsin Department of Public Instruction encourages districts interested in developing collaborative partnerships with American Indian nations to read this guide closely and pursue additional information about the specific American Indian nation(s) with whom they wish to work. Additional references provided on pages 25–26 of this guide may offer more in-depth guidance on developing effective partnerships with American Indian nations and communities.



Developing written agreements such as MOUs may help to establish, grow, and sustain such partnerships.

Appendices

5

Appendix A: Documents Consulted During Creation

Appendix B: References

Appendix C: Glossary

Appendix D: Sample Memoranda of Understanding

Appendix A

Documents Consulted During Creation

The MOU documents consulted during the creation of this guide are provided here. Table A1 shows a summary of common topics across MOUs.

Table A1. Common Provisions of Selected Memoranda of Understanding between LEAs and Tribal Nations

State	Tribal Party/ies	Other Party/ies	Meetings	Act 31/Curriculum	Dispute Resolution	PD & Training	Special Education	Equity of Access/Opportunity	District/Tribe Communication	Personnel Issues	Title VII	Transportation	Data Sharing	Dedicated Staff	Tutoring	Language	Reports	Other	Family Communications	Discipline	Fees	Funding	Compliance	Program Evaluation Cooperation	Johnson O'Malley	Shared Confidentiality Guidelines	Use of District Space	Impact Aid	Parent Engagement
WI	Red Cliff Band of Lake Superior Chippewa ^a	Bayfield School District	X	X	X	X	X	X	X	X	X		X	X	X	X	X					X							
WI	Ho-Chunk Nation ^b	Tomah Area School District	X		X																								X
WI	Ho-Chunk Nation ^c	School District of Black River Falls	X	X	X	X	X	X	X		X	X	X					X	X	X	X				X	X		X	
WI	Forest County Potawatomi & Sokaogon Chippewa ^d	School District of Crandon	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X								X	X
CA	Yurok Tribe ^e	Del Norte USD & Del Norte COE	X			X				X		X	X	X	X			X	X					X	X	X			

State	Tribal Party/ies	Other Party/ies	Meetings	Act 31/Curriculum	Dispute Resolution	PD & Training	Special Education	Equity of Access/Opportunity	District/Tribe Communication	Personnel Issues	Title VII	Transportation	Data Sharing	Dedicated Staff	Tutoring	Language	Reports	Other	Family Communications	Discipline	Fees	Funding	Compliance	Program Evaluation Cooperation	Johnson O'Malley	Shared Confidentiality Guidelines	Use of District Space	Impact Aid	Parent Engagement
OK	Cheyenne and Arapaho Department of Education ^f	Canton Public Schools 06-1105		X		X			X				X	X	X				X								X		X
OK	Chickasaw Nation Education Division ^g	Ada City Schools	X			X							X	X													X		
WA	Lower Elwha Klallam ^h	Port Angeles School District #121	X	X					X		X			X		X		X				X	X	X	X		X		
WA	Suquamish ⁱ	North Kitsap School District		X	X		X	X		X	X						X	X		X	X		X						
TOTAL			7	6	5	6	4	4	5	4	4	4	6	5	4	3	3	3	4	2	2	2	2	2	2	2	4	2	3

^a Red Cliff Band of Lake Superior Chippewa & Bayfield School District (2012).

^b Ho-Chunk Nation & Tomah Area School District (2007).

^c Ho-Chunk Nation & School District of Black River Falls (2010).

^d Forest County Potawatomi Community, Sokaogon Chippewa Community, & School District of Crandon, Wisconsin (2010).

^e Yurok Tribe, Del Norte County Unified School District, & Del Norte County Office of Education (2008).

^f Cheyenne and Arapaho Department of Education State Tribal Education Partnership (STEP) Grant Program & Canton Public Schools 06-115 (2014).

^g Chickasaw Nation Education Division's STEP Grant Program & Ada City Schools (2014).

^h Lower Elwha Klallam Tribe and Port Angeles School District #121 (2012).

ⁱ Suquamish Tribe & North Kitsap School District (2012).

Two of the Wisconsin-based MOUs profiled in the case studies are available online at:

- Forest County Potawatomi, Sokaogon Chippewa Community, and the School District of Crandon
- Ho-Chunk Nation and Black River Falls School District

Appendix B

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Appendix C

Glossary

Wisconsin Act 31 (1989/1991). This is a state law that requires the instruction and study of Wisconsin American Indian history, culture, and tribal sovereignty in public school districts and teacher education programs. Please see Appendix A for the full text of the Act.

Disproportionality. Disproportionality or disproportionate representation refers to the over- or under-representation of groups of students in particular categories or systems. In Wisconsin, LEAs are determined to meet the state definition of “significant disproportionality” if they have a risk ratio that falls above the limit for risk ratios (≥ 4.0) for three consecutive years.

Federal recognition. A federally recognized tribe is an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation. Federally recognized tribes are recognized as possessing certain inherent rights of self-government (i.e., tribal sovereignty) and are entitled to receive certain federal benefits, services, and protections because of their special relationship with the United States.

Local education agency (LEA). A term primarily used to describe school districts but which can cover other public institutions or agencies that have administrative control of public schools or vocational education programs.

Memorandum of understanding (MOU). A document that describes the general terms and principles of an agreement between parties. Memorandum of Agreement (MOA) and MOU are both terms that can refer to umbrella agreements between two or more parties; there is no commonly accepted legal difference between the two, but they are not always used interchangeably.

Reservations or tribal communities. Not all federally recognized Wisconsin tribes or bands have reservation lands, but all have some sort of tribal community. This is also true of other tribes or bands whose tribal lands or reservations lie elsewhere and who may be part of smaller or pan-tribal American Indian communities, particularly in urban areas.

Tribal Education Departments (TEDs). Organizations charged by their associated tribal governments with implementing tribal education goals and priorities. In most tribes, TEDs are part of the executive branch of the tribal government. They may have other names, such as [Tribal] Education Division or Agency.

Appendix D

Sample Memoranda of Understanding



The Ho-Chunk Nation
And
The School District of Black River Falls
January 14, 2010
Black River Falls, Wisconsin



MEMORANDUM OF UNDERSTANDING AND MUTUAL SUPPORT

This Memorandum of Understanding and Mutual Support [hereinafter referred to as the MOU] addresses issues of mutual interest to the Ho-Chunk Nation and the School District of Black River Falls [also known as "the Parties"] in Black River Falls, Wisconsin-the education of school-age members of the Ho-Chunk Nation ; and,

Whereas, the issues of mutual interest to the parties include promoting positive perceptions and improving the nature and scope of interactions between Ho-Chunk Nation tribal members and employees of the Black River Falls School District; and,

Whereas, the intention of this MOU is to provide a framework for respectful and cooperative communication that utilizes consensus building for improving programs that affect Ho-Chunk Nation tribal members; and,

Whereas, the primary outcome intended by this MOU is to improve the planning and coordination between the Black River Falls School District and the Ho-Chunk Nation of programs affecting the education of Ho-Chunk Nation tribal members; and,

Whereas, the parties intend to clarify their relationship in order to establish a common understanding regarding their roles, responsibilities, and procedures that will facilitate best practices between our agencies; and,

Whereas, the Black River Falls School District is a body politic, duly incorporated, organized and operated pursuant to Wisconsin Statutes, responsible for possession, care, control and management of the property and affairs of the school district, with the statutory authority to do all things reasonable within the comprehensive meaning of the terms of its duties and powers; and,

Whereas, the Ho-Chunk Nation's mission is to heal families in a way that is characteristic of the Ho-Chunk Nation's inherent cultural traditions, customs and values, and that addresses the well-being and protection of Ho-Chunk children, families, communities, and the Nation, with the goal of creating and implementing innovative programming that is proactive in nature and driven by the Ho-Chunk Nation's assertion of sovereignty; and,

Whereas, both the Black River Falls School District and the Ho-Chunk Nation have a responsibility for the provision of education to school-age tribal members, it is critical to the quality of services that staff and representatives from each party understand and consult with one another to ensure that needed services are provided in a manner that is efficient, timely, culturally appropriate and effective; and,

Whereas representatives of the Ho-Chunk Nation and the School District of Black River Falls have met on seven occasions, October 25, 2007, November 1, 2007, November 29, 2007, January 29, 2008, February 19, 2008, March 13, 2008 and April 3, 2008 to discuss matters affecting quality education and issues of mutual concern to the parties; and,

Therefore, the Parties hereby resolve and agree that, in going forward; they will mutually support and adhere to the following principles, and exert their best efforts in doing so:

I. Parties

Black River Falls School District

301 North 3rd St.

Black River Falls, WI 54615 Phone No.: 715.284.4357

Fax: 715.284.7064

-----And-----

Ho-Chunk Nation Department of
Education W9814 Airport Rd.
Black River Falls, WI 54615 Toll Free:
800.294.9805
Fax: 715.284.9805

Ho-Chunk Nation
Department of Social Services
P.O. Box 40 720 Red Iron Road Black River
Falls, WI 54615 Phone No.: 715.284.2622
Fax: 715.284-9486

II. Meetings and Consultation

- A. **Participation and Use.** Both Parties agree to participate at regular meetings related to issues of mutual concern. A minimum of four meetings or a meeting every other month in each annual school year will constitute the term of regular meetings between the parties as mutually scheduled.
- B. **Annual Designation of Committee Members.** The Ho-Chunk Nation agrees to provide to the Black River Falls School District the names of principal members for the following committees-1. Johnson-O'Malley Black River Falls/Neillsville LIEC, 2. Title VII Parent Advisory Committee (PAC), and 3. Impact Aid-no later than the first Monday of October of each school year beginning with the 2009-2010 school year.

III. Impact Aid

- A. **Policies and Procedures Relating to Children Residing on Indian Lands.** The Black River Falls School District claims children residing on Indian lands for the purpose of receiving Impact Aid funds. The Black River Falls School District agrees to initiate quarterly meetings to consult with the Ho-Chunk Nation Department of Education to discuss the establishment of a joint protocol for ensuring that the Black River Falls School District meets the following requirements:
 - 1. Native American children are participating in programs and activities supported by such funds on an equal basis with all other children;

2. Parents of Native American children and the Ho-Chunk Nation are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the Black River Falls School District may help such children realize the benefits of such programs and activities;
 3. Parents of Native American children and the Ho-Chunk Nation are consulted and involved in planning and developing such programs and activities;
 4. Relevant applications, evaluations, and program plans are disseminated to the parents and the Ho-Chunk Nation;
 5. Parents and the Ho-Chunk Nation are afforded an opportunity to present their views to the Black River Falls School District regarding the general educational program. The Black River Falls School District will provide an overview of the School District resources available to support student education. The Ho-Chunk Nation representatives and parents will provide input and feedback about the School District's educational programs based on the Indian Policies and Procedures OPP, attached heretofore as Exhibit A. The Parties understand that the Board of Education of the School District of Black River Falls has the authority to decide how Impact Aid funds are to be used.
- B. **Annual Survey.** The annual amount of Impact Aid that the Black River Falls School District is eligible to receive is based, in part, on the number of students residing on Indian lands within the School District boundaries and the number of parents with students enrolled in the School District employed on Indian/Federal Lands. The annual survey of such students will hereinafter be done through the assistance of the Ho-Chunk Nation Register of Deeds Office. The Black River Falls School District agrees to generate a list of the addresses of enrolled students believed to represent students residing on Indian lands and send it to the Ho-Chunk Nation Register of Deeds for verification. The list will be generated from the third Friday in September student count of each school year starting with the 2008-2009 school year. The Ho-Chunk Nation will produce and return a completed verification report not later than December 15 of each school year beginning with the 2009-2010 school year.

IV. Ho-Chunk Child and Family Services Department (Social Services)

- A. **Social Services Intervention.** The Black River Falls School District recognizes the authority of the Ho-Chunk Nation Child and Family Services Department under the federal Indian Child Welfare Act and the Hocak Children and Family Act, when construed consistently with federal and state law, to investigate allegations of child abuse and neglect of Ho-Chunk children when jurisdiction is retained by the Ho-Chunk Nation. The Black River Falls School District agrees to cooperate with the Ho-Chunk Social Services agents investigating allegations of child abuse and neglect under their jurisdiction by using procedures during the school day consistent with those used when cooperating with Jackson County authorities who also investigate alleged child abuse and neglect.

B. **Training.** To improve awareness and understanding of tribal protocol on the issue of the investigation of child abuse and neglect, the Black River Falls School District also agrees to offer its staff and teachers training on topics related to Native American children, including, but not limited to:

- Cultural Sensitivity & Tribal Sovereignty
- Confidentiality Requirements
- Indian Child Welfare Act and Placement Preferences
- Ho-Chunk Nation Children and Families Act
- Training About this MOU
- Communication and Notification
- Enrollment Rights of Ho-Chunk Children and Parents

C. **Confidentiality.** The Parties also agree that the confidentiality and privacy of the student and their families shall be protected at all times during investigations of child abuse or neglect consistent with Wisconsin, federal, and Ho-Chunk Nation laws. A written protocol from the Black River Falls School District for conducting investigations, which will include Ho-Chunk Nation Social Services investigators, during the school day at the Black River Falls School District, will be jointly developed by the Parties and their attorneys. This protocol will be completed by the beginning of the 2009-2010 school year.

V. Ho-Chunk Nation Department of Education and Youth Services Division Intervention

The Black River Falls School District agrees to work with the Departments and Divisions of the Ho-Chunk Nation (such as Education, Youth Services, and Heritage Preservation) to provide academic, cultural or other deemed support to increase student success at ALL schools within the School District. The Parties agree to meet to jointly develop a written protocol for allowing Ho-Chunk Nation tutors to teach and assist Native American children in the School District classrooms. This protocol will be completed during the 2009-2010 school year.

VI. Improving Attendance and Reducing Tardiness

Recommendations for Native American Truancy and Absence Task Force:

The Ho-Chunk Nation, through the Director of Social Services, agrees to form a joint task force with the Black River Falls School District to study and propose subsequent recommendations to the Black River Falls School District and Ho-Chunk Nation on ways to minimize, if not eliminate, truancy and absenteeism for Native American students within district schools. The Parties agree to recognize the recommendations of the Task Force and work toward genuine positive change in order to overcome the negative impact of truancy and absenteeism. A joint task force will be formed before the beginning of the 2009-2010 school year.

VII. Native American Cultural Awareness Training

- A. **Other In-service Training:** The Black River Falls School District agrees to meet with the Ho-Chunk Nation Departments, divisions, and tribal elders to discuss additional training opportunities on presenting Native American Cultural Awareness training to all Black River Falls School District personnel.
- B. **ACT 31 Training:** The Black River Falls School District also agrees to continue to enhance and train teachers on the State of Wisconsin mandated ACT 31 provisions. The Ho-Chunk Education Department agrees to supplement this point of agreement with historical teaching materials and resources when and where necessary. Additionally, Black River Falls School District agrees to continue to attend the annual Wisconsin Department of Public Instruction ACT 31 conference in Green Bay, Wisconsin, or wherever it might be held.
- C. **Disciplinary Alternatives:** The Ho-Chunk Nation agrees to jointly explore with the Black River Falls School District alternative cultural discipline measures that might include but not be limited to Restorative Justice, Peer Mediation, and Native American Cultural Awareness training for all students within the District.

VIII. Alternative Education

- A. **Employment Opportunities:** The Ho-Chunk Nation agrees to work with the Black River Falls School District to explore and identify employment opportunities within the Ho-Chunk Nation for Alternative Education Program students as part of their half-day instruction and half-day work requirement. The Black River Falls School District agrees to continue to explore ways to improve ALL Alternative Education Programs.
- B. The Ho-Chunk Nation agrees to work with the Black River Falls School District to explore and identify educational opportunities that provide remediation to regular education programming. The Ho-Chunk Nation believes a regular school program (currently at 28 credits for graduation) will prepare Native American students to strive toward excellence, create options for higher education or employment and build self-respect.

IX. Disproportionality and Special Education

The Black River Falls School District and the Ho-Chunk Education Department agree to work collaboratively to reduce the number of Native American students in special education. This includes Black River Falls School District training to the Ho-Chunk Nation's Departments of Education and Social Services on the process of referral for special education assessments. This includes early achievement and intervention training for grades three through six by the Ho-Chunk Education Department and Social Services Department, Divisions of Child and Family Services and Youth Services, that involve tutoring in reading and math, homework assistance and parent support.

X. School Bus Transportation

- A. **Training:** The Black River Falls School District agrees to include bus drivers in the cultural sensitivity training.
- B. **Vacancies:** The Black River Falls School District agrees to notify the Ho-Chunk Nation of vacancies for school bus driver positions as they become available; the selection of which will be without regard to race, color or national origin.

- C. **Youth-Family Night:** The Black River Falls School District agrees to have the School Bus Coordinator meet with Ho-Chunk parents on Youth-Family Night meetings to make an annual presentation on School Bus Safety.
- D. **Youth Services Workers:** The Black River Falls School District agrees to allow the Youth Services Workers to take scheduled rides on the Mission District and Sand Pillow School Bus Routes to observe Ho-Chunk students and Black River Falls School District drivers, pending a review of the School District's liability insurance coverage.

XI. Sharing of Student Information

- A. **Student Attendance:** Black River Falls School District agrees to provide the Youth Services Workers appropriate information necessary to track Native student attendance, reduce tardiness, and enhance homework completion, test scores and grades when written parental consent is provided to the School District by the parent authorizing the disclosure of such information consistent with the federal Family Educational Rights and Privacy Act (FERPA) and state Pupil Records Law. The Black River Falls School District and the Ho-Chunk Nation, through their attorneys, will investigate and identify a mechanism to establish a relationship between the parties for the Ho-Chunk Nation personnel to perform professional services for the Black River Falls School District recognized as an official function of government.
- B. **Native American Student Support Services:** The Native American Student Support Services will develop communication measures in collaboration with the Youth Services Workers to notify parents of poor student attendance and tardiness and to encourage parent attendance at meetings and school events. This might include, but not be limited to, Black River Falls School District creating and offering parents the opportunity to release information to the Ho-Chunk Nation, consistent with the federal Family Educational Rights and Privacy Act (FERPA) and state Pupil Records Law.

XII. Board Elections

To ensure that there is the opportunity for representation from the Native American community and its students, the Black River Falls School District agrees to notify the Ho-Chunk Nation Tribal Council or its Education Department when a vacancy on the Black River Falls School Board occurs or is about to occur and within 30 days of the scheduled election to replace such vacancies. The Black River Falls School Board and District and the Ho-Chunk Nation will agree to conduct fair elections.

XIII. Dispute Resolution

The parties agree to utilize every means necessary to resolve disputes through mutually respectful dialogue to avoid polarization, resentment, and tension. The parties may seek assistance from the U.S. Department of Justice Community Relations Service, Wisconsin Department of Public Instruction, or any recognized formal dispute resolution service in Wisconsin. Each party reserves its right to pursue any and all remedies available under the law in the event the other party fails to comply with any legal obligation.

XIV. Voluntary Agreement and Ethics Disclaimer

This MOU is the result of voluntary mediation between the parties and is not a result of duress, coercion, or undue influence. Nothing in this MOU should be taken as an admission of wrongdoing by either party and the terms and conditions contained herein are non-contractual and create no independent contractual obligation and/or duties upon any of the parties hereto. It being distinctly understood and agreed that no party to this MOU shall institute or prosecute any judicial or administrative proceedings of any kind or nature to enforce any of the terms and conditions.

XV. Terms of Agreement

All of the aforementioned tenets of this agreement shall be reviewed after five years from the date of signing. Signatory parties of this MOU at that time may choose to amend, extend or dissolve the agreement based on evidence of good faith, mutual compliance and benefits to the Ho-Chunk Nation and Black River Falls School District resulting from this relationship.

It is also understood that the parties of this MOU agree to work in earnest and convene themselves regularly during the annual terms specified to uphold the tenants of the MOU as described herein.

XVI. Party and Third Party Rights

Nothing in this MOU is intended to create, nor shall anything in it be construed as creating, any rights in any third party entity or person that would not exist independently of this MOU.

XVII. Consummation and Ratification

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of this 14th day of January, 2010, and the signatories hereto personally represent that this agreement is executed pursuant to legal authorization by the organizations on behalf of which they are signing:

School District of Black River Falls:

The Ho-Chunk Nation

By:

Witnessed By:

U.S. Department of Justice



**THE FOREST COUNTY
POTAWATOMI COMMUNITY
AND
SOKAOGON CHIPPEWA
COMMUNITY
AND
SCHOOL DISTRICT OF
CRANDON, WISCONSIN**

**MEMORANDUM OF UNDERSTANDING AND
MUTUAL SUPPORT**

Recitals

- A. **Whereas**, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq., prohibits discrimination at any educational institution that receives federal funds; and
- B. **Whereas**, the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400, et seq., (1) provides federal funds to states and local educational agencies ("LEAs") to assure that all children with disabilities have a free appropriate public education, (2) provide for an individualized education program for each child, and (3) requires that LEAs provide a forum for parents to enable parents to participate in decisions made regarding their children; and
- C. **Whereas**, Title VII of the Elementary and Secondary Education Act, as amended by Title VII, Part A ("Indian Education") of the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7401-7492, (1) provides funding to support the efforts of LEAs and tribes to meet the unique educational and culturally related academic needs of American Indians, (2) requires LEAs to provide the Department of Education with a comprehensive program for meeting the needs of Indian children served by the LEA, including their cultural and language needs, and (3) requires that the program be developed with the participation and approval of a committee composed of a majority of members who are parents of Indian children, and local educational agency, including the language and cultural needs of the children ("Title VII Parent Advisory Committee"); and
- D. **Whereas**, Subchapter VIII of the Elementary and Secondary Education Act, as amended by Title VIII of the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7701, et seq., ("Impact Aid" law), (1) provides federal funding to LEAs for the education of children residing on Indian lands, (2) requires that LEAs establish policies to ensure that Indian children participate in programs on an equal basis with other children, (3) requires that parents of such children and Indian tribes be consulted in the planning of such programs, and (4) requires that relevant applications, evaluations and program plans be disseminated to parents and Indian tribes: and

- E. **Whereas**, representatives of the Forest County Potawatomi Community ("FCPC"), the Sokaogon Chippewa Community ("SCC"), as well as the School District of Crandon ("SOC") (hereinafter known as the "Parties"), have met on four occasions, June 20, 2007, August 13, 2007, September 27, 2007, and October 16, 2008, to discuss matters of fairness in education and issues of mutual concern to the Parties; and,
- F. **Whereas**, the SDC is privileged to provide quality education and learning assistance to two sovereign Native American nations. It understands that each nation has separate and unique concerns and capabilities in addition to their tribal partnership. This agreement honors their sovereign status by acknowledging the individual responsibilities of the SDC to the FCPC and the SCC; and,
- G. **Whereas**, the SDC acknowledges that a disproportionate number of FCPC and SCC students, compared with non-Indian students, have been placed in special education programs; and
- H. **Whereas**, the Parties acknowledge other disparities between FCPC and SCC students and other students with respect to academic achievement, participation in extra-curricular activities, and the nature and scope of interactions and perceptions between non-tribal members and other residents of the SDC; and
- I. **Whereas**, the FCPC and the SCC have appointed Education Directors to coordinate FCPC's and SCC's education policies respectively; and
- J. **Whereas**, the FCPC and the SCC have appointed a Home School Coordinator ("HSC") to be present at Crandon High School to assure effective and continuous communication between the SDC and the FCPC and SCC community and to assist member students and parents in their interactions with the SDC; and
- K. **Whereas**, the Parties share a common goal of maximizing the academic achievements of FCPC and SCC students and wish to support each other's efforts to achieve that goal:

Therefore, the Parties hereby resolve and agree as follows:

UNDERSTANDINGS AND AGREEMENTS

1. Meetings and Other Regular Channels of Communication.

- a. **Quarterly IDEA Parent Forum.** The SDC will hold a quarterly forum to describe its efforts to reduce the disproportionality of FCPC and SCC students in special education programming and to inform FCPC and SCC parents of their rights and responsibilities regarding their child's education. At each forum, the SDC will inform parents of their right to participate in the decision to place their children in special education, their right to appeal from decisions with which they disagree and the availability of the tribes' HSC to assist them in their interactions with the SDC.
- b. **Quarterly District - Tribal Leadership Meeting.** To achieve school board to tribal government cooperation, the SDC School Board will meet four times a year with the FCPC Executive Council and SCC Tribal Council at alternating sites within the FCPC reservation, SCC reservation and District to discuss educational concerns of Native American students within district schools and /or school-related issues within the tribal community starting on the second Wednesday in September; second Wednesday in November; second Wednesday in February and second Wednesday in April. Other meetings as needed may be called. Specific dates will be set at the first meeting of each academic year.

- c. **Tribal Education Meeting.** The SOC, in cooperation with the FCPC and SCC Education Directors will convene an "Indian Education" meeting after each District - Tribal Leadership Meeting at FCPC and SCC locations to improve parent participation and quality of education issues. These meetings will take place during the school year or as agreed by the Parties. Specific dates will be set at the first meeting of each academic year.
- d. **Title VII Parent Advisory Committee.** In addition to the meetings described above, the Parties will conduct such meetings as may be required pursuant to Title VII of the Elementary and Secondary Education Act (a.k.a. "No Child Left Behind"), 20 U.S.C. §§ 7101–7119, or by the Committee's by-laws.
- e. **Impact Aid Meetings.** In addition to the meetings described above, the Parties will conduct such meetings as may be required pursuant to the Impact Aid Law. An Impact Aid Allocation and Budget Summary Sheet for the current and or previous school year will be prepared by the Crandon School District to guide discussion about expenditures and recommendations for spending for Native Students during meetings in accordance to Impact Aid Law. This form is attached herewith as Attachment - A.
- g. **Sharing of Student Information.**
 - (i.) The SOC will provide to the HSC, on a daily basis, appropriate information necessary to track Native student attendance, reduce tardiness, and enhance homework completion, test scores and grades.
 - (ii.) The FCPC and SCC Education Directors will develop communication measures in conjunction with the SOCK to notify parents of poor student attendance and tardiness and to encourage parent attendance at meetings and school events.

2. Addressing Disparities in Special Education Placement.

- a. **Special Education Plan.** The SOC, in consultation with the FCPC and SCC Education Directors will adopt a new Special Education Plan establishing improvement goals, programs and objectives to reduce the disproportionality of Native students in special education. SCD Special Education and FCPC and SCC Education Directors shall meet to begin work on the initial Special Education Plan within 30 days after signing this agreement. The Special Education Plan shall be completed within 60 days of the beginning of the 2010-2011 school year and shall be reviewed by the SOC Special Education and FCPC and SCC Education Directors for sufficiency each year thereafter.
- b. **Parent Notification.** All FCPC and SCC parents of special education and Response to Intervention ("RTI") students will be notified of their option to have a HSC be present at the initial teacher-parent meeting by the SOC and every meeting thereafter.
- c. **HSC Notification.** In the event the SDC contemplates evaluating any FCPC and SCC student for special education services, the SDC will consult with the HSC. Unless an FCPC or SCC parent does not consent, the HSC will participate in all meetings relating to placement of an FCPC or SCC student in special education and the preparation of an Individualized Education Program for such student.

- d. **HSC Participation.** The SDC may permit parents of FCPC and SCC students to have the HSC present at the SOC Special Education family meetings. FCPC and SCC parents may also agree to provide access to computerized academic records to the HSC to assist in working with that parent and their student for the purpose of improving academic performance. A waiver provided by the parent or legal guardian for the HSC as written consent shall be required by the SDC to allow this assistance to occur. Any and all information about the student and their parent shall remain confidential as stated in the waiver.
 - e. **Disclosure of Policies.** The SOC will make available all information regarding the level of achievement and assessment for all students including those with disabilities of the SOC to the FCPC, SCC, parents and the HSCs. The FCPC and SCC shall have the right to take part in discussions, applications and review of procedures and policies. All information pursuant to this paragraph will be disclosed in accordance with IDEA, FERPA, HIPAA, Wisconsin Pupil Records Law and other applicable federal, state or local law. The SOC will develop a plan to address deficiencies on a school district-wide basis as demonstrated by the DPI-mandated assessments in addition to the regular review of Individual Education Programs ("IEPs") as governed by Special Education requirements in DPI Wisconsin Chapter 115.78(2) (b).
 - f. **Sharing of Information with the HSC.** The SDC will provide information to the HSC on the individual academic performance of all FCPC and SCC students as requested as of the date of this agreement. All information pursuant to this Paragraph will be disclosed in accordance with IDEA, FERPA, HIPAA, Wisconsin Pupil Records Law and other applicable federal, state or local law.
 - g. **School Counselor Meetings.** School counselors will meet with each FCPC and SCC student at a minimum once per year and more frequently upon recommendation or request of parents, teachers, home-school coordinators, administrators or students.
 - h. **Early Intervention.** REACH team notifications will be made to FCPC and SCC parents by the SOC. The HSC will be notified of poor student performance every day that school is in session through Family Access or as requested.
 - i. **Tutoring.** The FCPC and SCC will provide daily tutoring and HSC support and will document student attendance for students attending after school tutoring programs and will make attendance records available to the SDC.
- 3. Native American Curriculum and Staff Training.**
- a. The SOC agrees to continue to enhance the current Native American History curriculum at all grade levels to strengthen compliance with the 1989 Wisconsin Act 31 ("Act 31 "). The SOC agrees to attend Wisconsin Department of Public Instruction Annual Act 31 meetings at its own expense.
 - b. The FCPC and SCC Education Directors will provide the SOC assistance in the development and enhancement of the Act 31 curriculum and provide the list of materials and personnel as teaching resources annually, prior to the school year for all the SOC students. It is understood that the SOC might use Title VII funding resources to accomplish these goals with consultation of the Title VII Committee.

- c. The SOC, FCPC and SCC shall jointly develop an in-service training program at the Indian Education meetings after each District-Tribal Leadership meeting as called for in Paragraph I (c) for the SOC teachers on Native American Culture and Spirituality starting with the 2009-2010 school year. The training will be presented by the FCPC and SCC tribal elders or culture instructors and any other resources as desired by the Parties.
- d. The SOC agrees to develop jointly with the FCPC and SCC Native American language programs as a foreign language education elective to implement into the SOC curriculum.
- e. The Parties will use the venue of the Indian Education meetings after each District-Tribal Leadership meeting as called for in Paragraph I (c) to discuss and explore Native American learning styles, seek available training resources, and make those resources available for teacher in-service day training. Changes in the SOC curriculum and materials will be adjusted over time to reflect inclusion of Native American Learning Styles that might enhance teaching objectives and learning goals by grade level for all Native American and non-Native students.
- f. The SOC agrees to offer students services through Nicolet Distance Education Network ("NDEN") programs.
- g. Appropriate cultural input and review of the Act 31 curriculum and materials by the FCPC and SCC Education Directors are necessary before implementation. A review of the curriculum will coincide with the renewable terms of this agreement.

4. Cooperation Relating to Funding.

- a. The SOC agrees to share information on Title VII grants with FCPC's and SCC's Education Directors. The by-laws of the "Title VII Parent Committee" will be changed to reflect this and all new by-laws will include a minimum of three members from the FCPC community and a minimum of three members from the SCC community approved by the FCPC Executive Council and SCC Tribal Council, as originally intended.
- b. In accordance to Impact Aid Law, the parties also agree to hold mutually beneficial discussions as part of the District-Tribal Leadership Meetings referenced in Paragraph 1 (b & f) to receive input from the FCPC and SCC on how U.S. Department of Education Impact Aid funding will be used annually in the School District of Crandon. SOC agrees to provide, at the first District-Tribal Leadership Meeting of every calendar year, its budget and an audit report identifying where Impact Aid Funds were spent in the previous fiscal year. SDC shall have the final determination on the use of Impact Aid Funds after mutual and reasonable dialogue between all parties has occurred.
- c. SDC, in addition to conducting its annual Impact Aid Survey, shall request tribal enrollment data from FCPC and SCC to accurately account for total Native American student enrollment. FCPC and SCC shall forward the information as requested by November 1st of each academic year.
- d. The SOC will seek funding for school counselors or any services/ programs not currently offered to benefit FCPC and SCC students. SDC will communicate these funding and service needs to FCPC and SCC Education Directors as they occur. The FCPC and SCC Education Directors might also seek funding from sources available to the tribes to assist in this effort.

5. Reporting of Incidents of Discrimination.

The FCPC's and SCC's Education Directors and HSC shall report, and shall encourage FCPC and SCC parents to report, incidents of perceived discrimination in academic placement, classroom treatment and/or participation in sports and other extracurricular activities to their respective school principals. These reports must be made within 3-5 days of the incident. The SOC shall investigate all incident reports and prepare written findings which shall be reported at quarterly school board to tribal government District-Tribal Leadership Meetings, subject to legal confidentiality requirements. This paragraph shall not in any way limit or diminish any right of any FCPC or SCC parent or student to pursue legal remedies in any other appropriate venue, including state or federal agencies or courts.

6. Recruitment of Native Teachers.

- a. The SOC agrees to actively recruit and seek qualified Native American applicants and to make all employment vacancies, including teaching internship opportunities, available utilizing the Wisconsin Indian Education Association and other state and local recruitment sources.
- b. The FCPC and SCC Education Directors will assist in identifying potential Native American teachers and other staff members for the SOC as vacancies occur. The SOC will make vacancy reports available to the FCPC and SCC Education Directors and at all quarterly school board to tribal government "District-Tribal Leadership Meetings."
- c. The Parties agree to continue to improve communication between them in order to provide school information, meeting information and diverse employment opportunities for teaching and other vacancies that might become available in the SOC schools.

Communication resources accessed might include FCPC, SCC and the SOC websites, FCPC and SCC tribal, Crandon School newspapers and any other available effective resources to assist in the objectives of this measure.

7. Gang Task Force.

- a. The Parties shall form a "Gang Task Force" or equivalent initiatives that provide an anti-gang or gang abatement objective affecting Native and non-Native students in the SDC. This effort may include, but is not limited to, inter-cultural leadership training, GREAT programs, mentorship, and youth outreach. The SOC, FCPC and SCC Education Directors and appropriate law enforcement personnel will be the principals in initiating this program.
- b. The SOC, SCC and FCPC will share information to reduce community-wide youth gangs, drugs and violence and may utilize local and/or state law enforcement and other youth development resources to aid in this endeavor.

8. Crandon Alternative Resource School

The Crandon Alternative Resource School ("CARS") shall be offered to FCPC and SCC students at the school and transportation to be provided one way by the school. The SOC will meet with FCPC's and SCC's Education Directors to discuss the scope and purpose of the CARS program and to discuss suggestions from FCPC and SCC for improving CARS instruction. Positive outcomes from these meetings might be incorporated into new CARS instruction protocols.

9. Dispute Resolution.

The Parties agree to utilize every means necessary to resolve disputes through mutually respectful dialogue to avoid polarization, resentment and tension. The Parties may seek assistance from the U.S. Department of Justice Community Relations Service, Wisconsin Department of Public Instruction, or any recognized formal dispute resolution service in Wisconsin. Each Party reserves its right to pursue any and all remedies available under the law in the event the other Party fails to comply with any legal obligation.

10. Voluntary Agreement and Ethics Disclaimer.

This agreement is the result of voluntary mediation between the Parties and is not a result of duress, coercion or undue influence. This mediation was requested by the School District of Crandon. Nothing in this agreement should be taken as an admission of wrongdoing by either Party. The terms and conditions contained herein are non-contractual and create no independent contractual obligation and/or duties upon any of the Parties hereto.

11. Term of Agreement and Renewal.

This agreement shall remain in effect for five years unless terminated or amended earlier by mutual consent of the Parties. Not later than 60 days before the expiration of the agreement, the Parties shall meet in good faith to discuss the benefits of the agreement and whether to renew the agreement in its current form or in an amended form. Neither Party is obligated to continue the agreement after the expiration of the five year term.

12. Amendment of Agreement.

Amendments or modifications to this agreement may be made by written mutual agreement between the Parties.

13. Third-Party Rights.

Nothing in this Memorandum of Understanding is intended to create or diminish, nor shall anything in it be construed as creating or diminishing, any rights in any third-party entity or person that would not exist independently of this agreement.

IN WITNESS WHEREOF, the Parties have executed and delivered this agreement as of this 29th day of April, 2010, and the signatories hereto personally represent that this agreement is executed pursuant to legal authorization by the organizations on behalf of which they are signing:

School District of Crandon

The Forest County Potawatomi Community

Sokagoan Chippewa Community

Witnessed by: