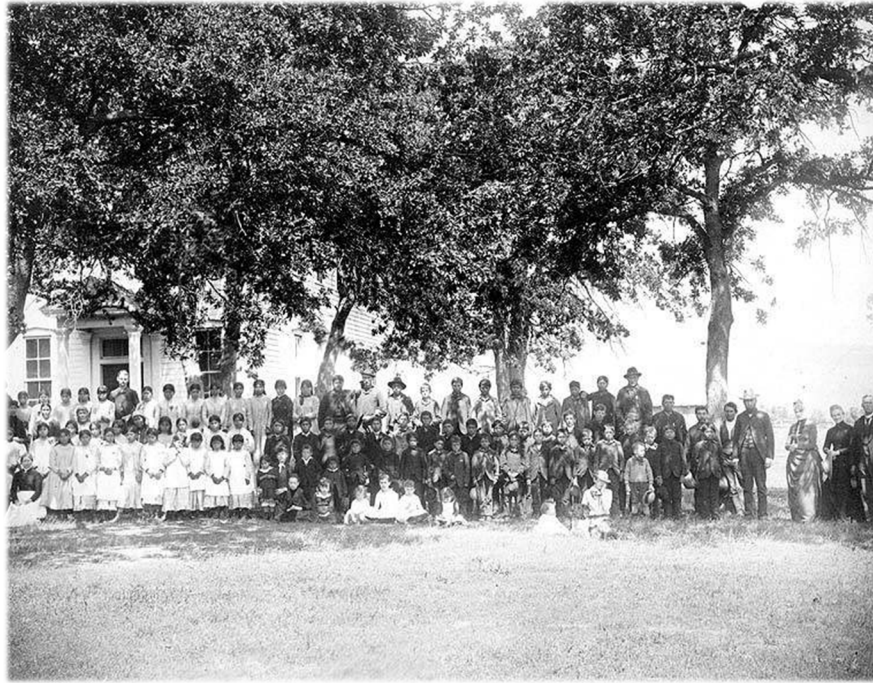




6.2 U.S. Treaty-Making Power: Indian Territorial Dispossession and Indian Assimilation



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Through treaties and other agreements, Indian Tribes ceded to the United States approximately 1 billion acres of land.⁷³ Like Great Britain and the colonial governments before it, the United States negotiated and entered into formal treaties with Indian Tribes as separate and distinct sovereigns.⁷⁴ From 1722 to 1869, the British Crown and the United States made at least 374 treaties with Indian Tribes.⁷⁵ As non-Indian settlement increased over time, the negotiation power of Indian Tribes diminished. The U.S. Congress has emphasized that “[e]ducation policy ... took place in the context of wave after wave of invasion by white settlers reinforced by military conquest. Treaties, although almost always

⁷² *Children and employees in front of the Yakima Indian Agency school, Fort Simcoe, Washington, approximately 1888* [Photograph]. (1888). University of Washington Special Collections, Washington State Localities Photographs.

⁷³ Kennedy Report, at 143.

⁷⁴ National Records and Archives Service, General Services Administration, *Ratified Indian Treaties 1722–1869*, at 1 (1973).

⁷⁵ National Records and Archives Service, General Services Administration, *Ratified Indian Treaties 1722–1869*, at 1 (1973).

signed under duress, were the window dressing whereby we expropriated the Indian's land and pushed him back across the continent.”⁷⁶

The Treaty Clause of the Constitution reads:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.⁷⁷

As a result, Indian treaties and successive statutes, including during the Federal Indian boarding school era, originate with the Constitution and involve U.S.-Indian relations;⁷⁸ U.S.-Native Hawaiian relations;⁷⁹ and political relationships unique to Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community.⁸⁰

More than 150 Indian treaties between Indian Tribes and the United States included education-related provisions, the terms of which often varied.⁸¹ For example, the 1794 Treaty with the Oneida, Tuscarora, and Stockbridge Indians provides that:

The United States will provide, during three years after the mills shall be completed, for the expense of employing one or two suitable persons to manage the mills, to keep them in repair, to instruct some young men of the

⁷⁶ Kennedy Report, at 143.

⁷⁷ U.S. Const. Art. VI., Cl. 2.

⁷⁸ *See, e.g.*, *United States v. Lara*, 541 U.S. 193, 201 (2004) (“And for much of the Nation’s history, treaties, and legislation made pursuant to those treaties, governed relations between the Federal Government and the Indian tribes.”).

⁷⁹ *See, e.g.*, *Rice v. Cayetano*, 528 U.S. 495, 501 (2000) (“the United States and European powers made constant efforts to protect their interests and to influence Hawaiian political and economic affairs in general. The first ‘articles of arrangement’ between the United States and the Kingdom of Hawaii were signed in 1826 ... and additional treaties and conventions between the two countries were signed in 1849, 1875, and 1887”).

⁸⁰ *See Yellen v. Confederated Tribes of the Chehalis Reservation*, 141 S. Ct. 2434, 2440 (2021); *United States v. Cooley*, 141 S. Ct. 1638, 1642 (2021); *McGirt v. Oklahoma*, 140 S. Ct. 2452, 2477 (2020); *Doe v. Kamehameha Schools/Bernice Pauahi Bishop Estate*, 470 F.3d 827, 847 (9th Cir. 2006) (en banc); *Worcester v. Georgia*, 31 U.S. 515, 557 (1832).

⁸¹ Cohen’s Handbook of Federal Indian Law, § 22.03 (1)(a) (Nell Jessup Newton ed., 2019).

three nations in the arts of the miller and sawyer, and to provide teams and utensils for carrying on the work of the mills.⁸²

In contrast, the 1868 Fort Laramie Treaty between the United States and Great Sioux Nation mandated that:

In order to insure the civilization of the Indians entering into this treaty, the necessity of education is admitted, especially of such of them as are or may be settled on said agricultural reservations, and they, therefore, pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school, and it is hereby made the duty of the agent for said Indians to see that this stipulation is strictly complied with.⁸³

The text of many Indian treaties evinces that Indian education was a priority in U.S.-Indian relations.

In 1871, Congress ended treaty-making with Indian Tribes, but existing treaty obligations were expressly validated and affirmed.⁸⁴ Thereafter, the Federal Government used only statutes, executive orders, and agreements to regulate Indian Affairs.⁸⁵

⁸² Treaty between the United States and the Oneida, Tuscorora [sic] and Stockbridge Indians, dwelling in the Country of the Oneidas, (Dec. 2, 1794), 7 Stat. 47.

⁸³ Treaty between the United States of American and different Tribes of Sioux Indians, art. 7 (Apr. 29, 1868), 15 Stat. 635, 637 [1868 Fort Laramie Treaty].

⁸⁴ An act of Congress of March 3, 1871 (16 Stat. 566).

⁸⁵ Cohen's Handbook of Federal Indian Law § 5.01 (2) (Nell Jessup Newton ed., 2019).



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6.3 Indian Child Removal: A Part of Historical U.S. Policy

“Many Indian families resisted the assault of the Federal Government on their lives by refusing to send their children to school.”

– Kennedy Report, U.S. Senate, 1969.⁸⁷

After 1871, Congress enacted laws to compel Indian parents to send their children to school and to authorize the Secretary of the Interior to issue regulations to “secure the enrollment and regular attendance of eligible Indian children who are wards of the Government in schools maintained for their benefit by the United States or in public schools.”⁸⁸ For example, under the Act of March 3, 1893,⁸⁹ Congress authorized the Secretary of the Interior to withhold rations, including those guaranteed by treaties, to Indian families whose children did not attend schools:

The Secretary of the Interior may in his discretion, establish such regulations as will prevent the issuing of rations or the

⁸⁶ Grabill, J.C.H., *U.S. School for Indians at Pine Ridge, S.D.* [Photograph]. (1891). Grabill Collection, Library of Congress Prints and Photographs Division, Washington, D.C.

⁸⁷ Kennedy Report, at 12.

⁸⁸ See, e.g., Act of February 14, 1920, Ch. 75, § 1, 41 Stat. 410, codified as 25 U.S.C. § 282 (2020).

⁸⁹ Act of March 3, 1893, Ch. 209, § 1, 27 Stat. 628, 635, codified as 25 U.S.C. § 283 (2020).

furnishing of subsistence either in money or in kind to the head of any Indian family for or on account of any Indian child or children between the ages of eight and twenty-one years who shall not have attended school during the preceding year in accordance with such regulations.⁹⁰

And as the Federal Government has stated, the eventual “abolition of the ration system ... which in many instances has had the effect of forcing the children into school, has been made possible through the ameliorating influence of the Government and church schools.”⁹¹

The United States has applied such Federal regulations, including removal of Indian children to off-reservation Federal Indian boarding schools without parental consent. For example, the Department has recognized the Federal effort to transport Indian children from the Navajo Nation to off-reservation Federal Indian boarding schools without parental consent as follows:

In 1919 it was discovered that only 2,089 of an estimated 9,613 Navajo children were attending school, and thus the Government initiated a crash program of Navajo education. But because of a lack of schools on the reservation, many Navajo children were transported to boarding schools throughout the West and Southwest, without their parents’ consent.⁹²

There is ample evidence in Federal records demonstrating that the United States coerced, induced, or compelled Indian children to enter the Federal Indian boarding school system.

⁹⁰ Act of March 3, 1893, Ch. 209, § 1, 27 Stat. 628, 635, codified as 25 U.S.C. § 283 (2020); *see, e.g.*, ARCIA for 1906, at 402 (“This good record has been possible thru the granting of authority by the Secretary of the Interior to withhold annuities from parents who refused to place their children in some school.”).

⁹¹ ARCIA for 1903, at 376.

⁹² Kennedy Report, at 12.



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7. Federal Indian Boarding School System Framework

“Past experience goes far to prove that it is cheaper to educate our wards than make war on them, or let them grow up in ignorance, to say nothing of the humanity of the act, or the results attained.”⁹⁴ Federal records document that the United States considered the Federal Indian boarding school system a central part of its Indian assimilation policy. The Department has described the role of Indian assimilation policy coupled with Indian land dispossession policy as follows:

The essential feature of the Government’s great educational program for the Indians is the abolition of the old tribal relations and the treatment of every Indian as an individual. The basis of this individualization is the breaking up of tribal lands into allotments to the individuals of the tribe. This step is fundamental to the present Indian policy of the Government. Until their lands are allotted, the Government is merely marking time in dealing with any groups of Indians.⁹⁵

The Department has stated it was “indispensably necessary that [the Indians] be placed in positions where they can be controlled, and finally compelled, by stern necessity, to resort

⁹³ *Male students with broom at the Fort Yuma Indian Boarding School.* [Photograph] (n.d.). Fort Yuma Quechan Indian Tribe Photo Gallery, Ft Yuma Indian School Collection.

⁹⁴ ARCIA for 1880, at 89.

⁹⁵ ARCIA for 1910, at 28.

to agricultural labor or starve,”⁹⁶ later adding that “[i]f it be admitted that education affords the true solution to the Indian problem, then it must be admitted that the boarding school is the very key to the situation.”⁹⁷ Indeed, the Department early on concluded that Indian boarding schools “go further ... towards securing [U.S.] borders from bloodshed, and keeping peace among the Indians themselves, and attaching them to us, then would the physical force of our Army, if employed exclusively towards the accomplishment of those objectives.”⁹⁸

Federal records indicate that the United States viewed official disruption to the Indian family unit as part of Federal Indian policy to assimilate Indian children. “The love of home and the warm reciprocal affection existing between parents and children are among the strongest characteristics of the Indian nature.”⁹⁹ When the Department requested the Brookings Institution¹⁰⁰ to study “the economic and social condition of American Indians,”¹⁰¹ the resulting Meriam Report found in 1928 that the main disruption to the Indian family and Tribal relations had come from the Federal Indian boarding school system:

[O]n the whole government practices may be said to have operated against the development of wholesome [Indian] family life.

Chief of these is the long continued policy of educating the [Indian] children in boarding schools far from their homes, taking them from their parents when small and keeping them away until parents and children become strangers to each other. The theory was once held that the problem of the [Indian] could be solved by educating the children, not to return to the reservation, but to be absorbed one by one into the white population. This plan involved the permanent breaking of family ties, but provided for the children a substitute for their

⁹⁶ ARCIA for 1850, at 1.

⁹⁷ ARCIA for 1886 LXI (1886).

⁹⁸ ARCIA for 1826, at 508.

⁹⁹ ARCIA for 1904, at 392.

¹⁰⁰ In 1927 the Institute for Government Research (IGR) became the Brookings Institution.

¹⁰¹ Lewis Meriam, Institute for Government Research, *The Problem of Indian Administration*, at vii (1928) [hereinafter Meriam Report].

own family life by placing them in good homes of whites for vacations and sometimes longer, the so-called “outing system.” The plan failed, partly because it was weak on the vocational side, but largely by reason of its artificiality. Nevertheless, this worst of its features still persists, and many children today have not seen their parents or brothers and sisters in years.¹⁰²

The Federal Indian Boarding School Initiative sheds a new light on how the Federal Indian boarding school system produced intergenerational trauma by disrupting family ties in Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community.



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A significant outcome of deliberate Federal disruption to the Indian family unit through removal of Indian children from their Indian Tribes and Alaska Native Villages to off-reservation Indian boarding schools, is that, depending on location, Indian children experienced the Federal Indian boarding school system alongside other Indian children from the same *and* different Indian Tribe(s) and Alaska Native Village(s).¹⁰⁴ The Federal Government accordingly devised artificial communities of Indian children throughout the Federal Indian boarding school system, resulting in the creation of other Indian families

¹⁰² Meriam Report, at 573–74.

¹⁰³ Hartog, C. (1910). Rehoboth School [Photograph]. *Indian mission sketches: Descriptions and views of Navajo life, the Rehoboth Mission School and the Stations Tohatchi and Zuni*, 22. Gallup, N.M.: The Author. Hathi Trust Digital Library.

¹⁰⁴ Kennedy Report, at 160.

and extended families depending on whether an Indian child returned to the child's own Indian Tribe or Alaska Native Village or located elsewhere after completing education in a Federal Indian boarding school.¹⁰⁵ For example, in 1886, Haskell Institute, Kansas, instituted a “a stricter form of discipline than heretofore prevailed” by establishing a “cadet battalion organization of five companies [to] br[eak] up the tribal associations. Size of cadets, and not their tribal relations, determining now place in dormitory and mess hall, also necessitates a more frequent recourse to the English language as a common medium, by bringing pupils of different tribes into closer contact.”¹⁰⁶ In that year alone, the Institute intentionally mixed Indian children from 31 different Indian Tribes to disrupt Tribal relations and discourage or prevent Indian language use across the “Apache, Arapaho, Cheyenne, Cherokee, Chippewa, Comanche, Caddo, Delaware, Iowa, Kiowa, Kickapoo, Kaw, Mojave, Muncie, Modoc, Miami, New York, Omaha, Ottawa, Osage, Pawnee, Pottawatomie, Ponca, Peoria, Quapaw, Seneca, Sac and Fox, Seminole, Shawnee, Sioux, [and] Wyandotte” children.¹⁰⁷ The Department acknowledged that “[i]nter-marriage by the young graduates of different nations would necessitate the use of the English language, which their offspring would learn as their mother tongue.”¹⁰⁸ Federal Indian law and policy accounts for Indians that are (1) from a single Indian Tribe or Alaska Native Village; (2) multi-Tribal; (3) Alaska Native Corporation shareholders; (4) reservation-based; (5) urban-based; (6) other Indian families; (7) extended families, (8) terminated; (9) descendant; and (10) otherwise statutorily determined—various political and legal classifications that result in part from the Federal Indian boarding school system.¹⁰⁹

¹⁰⁵ See, e.g., Kennedy Report, at 160 (describing that “Navajo children were sent as far away as the Chemawa Boarding School in Oregon, and in turn displaced hundreds of Indian students from the Northwest who were rerouted to boarding schools in Oklahoma” and “hundreds of Alaskan native children without schools [were sent] to the Chemawa School in Oregon and the overflow to boarding schools in Oklahoma. [In 1968], more than 400 Alaskan natives were sent to the Chilocco Boarding School in Oklahoma.”).

¹⁰⁶ ARCIA for 1886, at 6; see also Kathryn E. Fort, *American Indian Children and the Law* 8 (Carolina Academic Press, 2019) (“Even when children were completely separated from their language and culture, they were able to connect with other Native children through the use of their newly learned English language skills.”).

¹⁰⁷ ARCIA for 1885, at 5.

¹⁰⁸ ARCIA for 1886, at 61 (emphasis added).

¹⁰⁹ See, e.g., 25 U.S.C. § 1603 (13)(A)–(D) (recognizing “Indians” or “Indian” means any person who is a member of an Indian tribe and irrespective of whether an individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or is an Eskimo or Aleut or other Alaska Native, or is considered by the Secretary of the Interior to be an Indian for any purpose, or is determined to be an Indian under regulations promulgated by the Secretary); 25 U.S.C. § 1903 (5) (recognizing “Indian child’s tribe” means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts”); 25 U.S.C. § 1915 (a) (recognizing “other Indian families”) (emphasis added), (b) (recognizing “a member of the Indian child’s extended family”).



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The United States has for nearly two centuries consistently recognized that Indian boarding schools comprised a system for Indian education: “Indian schools must train the Indian youth of both sexes to take upon themselves the duties and responsibilities of citizenship. To do this requires a system of schools and an organization capable of preparing the Indian young people to earn a living either among their own people or away from the reservation homes and in competition with their white brethren. This contemplates a practical system of schools with an essentially vocational foundation.”¹¹¹

¹¹⁰ *Yakima School girls*, Fort Simcoe, Washington [Photograph]. (n.d.). American Indians of the Pacific Northwest Images Digital Collection, Estelle Reel Collection, Northwest Museum of Arts and Culture.

¹¹¹ ARCIA for 1916, at 10 (emphasis added); see also ARCIA for 1931, at 4 (noting that in Indian education “one kind of a philosophy and one kind of a system have been established a long time”); ARCIA for 1916, at 9 (noting “uniform course of study for all Indian schools marks a forward step in the educational system,” “system of education”); ARCIA for 1899, at 437 (describing “The Development of the Indian School System”); ARCIA for 1886, at LX (documenting “control [of] the Indian school system,” “supervision of the Indian school system,” “history and development of the Indian school system,” and “divisions and operation of the system”); Commissioner of Indian Affairs, Annual Report to the Secretary of War 61 (1846) (documenting the “system of education”); Commissioner of Indian Affairs, Annual Report to the Secretary of War 516 (1839) (noting “manual-labor system”); Report on Indian Affairs to the Secretary of War 61 (1828) (providing a statement showing the “number of Indian schools, where established, by whom, the number of Teachers, &c., the number of Pupils, and the amount annually allowed and paid to each by the Government,” that is, documenting a system).

The Federal Indian Boarding School Initiative investigation at this stage did not examine the Federal Indian day school system, the precursor education system to the Federal Indian boarding school system. To analyze the Federal Indian boarding school system in this report, the Department notes that in the past it has described that “day school instruction is the initial and most important element in the education of the Indian.”¹¹² “To the day school the Indian child comes fresh from the tepee and finds himself at once amid new and strange surroundings.”¹¹³ Federal Indian day schools were primarily located on Indian reservations and did not have a housing component for children directly on-site with the education institution. Indian day schools “have, in nearly every instance, preceded the boarding school” and “in many cases been established through the benevolent efforts of missionaries or the wives of Army officers stationed at military reservations in the Indian [C]ountry.”¹¹⁴ Still, the Department has underscored that only “by complete isolation of the Indian child from his savage antecedents can he be satisfactorily educated, and the extra expense attendant thereon is more than compensated by the thoroughness of the work.”¹¹⁵

To operate the Federal Indian boarding school system, the Federal Government supported schools with a housing component directly on-site with the education institution. The Federal Government applied several approaches of Indian education that differed by Federal resources provided, location type, including on and off Indian reservations, operator type, and education program type. The Department in the past has classified Indian boarding schools that included those that were:

- Located on Indian reservations and controlled by agents.
- Run independently.
 - Supported by general appropriation.
 - Supported by special appropriation.
- Contract schools
 - Supported by general appropriation.
 - Supported by special appropriation.
 - Mission schools established and chiefly supported by religious associations.¹¹⁶

¹¹² ARCIA for 1904, at 394.

¹¹³ ARCIA for 1904, at 392.

¹¹⁴ ARCIA for 1886, at LXI.

¹¹⁵ ARCIA for 1886, at LXI.

¹¹⁶ ARCIA for 1886, at LX.

The Department has documented that off-reservation Federal Indian boarding school representatives were “allowed to select children from those attending reservation schools. The effect has been, in many instances, *to demoralize the latter* by selecting the brightest and best pupils, and in some instances to take children that might have been educated at home with little expense to the Government.”¹¹⁷

Federal Indian boarding schools were funded by annual appropriations from Congress but also received resources from other sources as well. For the purposes of this report, the Department identified a number of different sources of funding for the operation of Federal Indian boarding schools:

- Appropriations made under the educational provisions of existing Indian treaties.
- Funded investments of bonds and other securities held by the United States.
- Proceeds of the sale of lands of certain Indian Tribes.
- Accumulations of money in the Treasury resulting from the sale of lands.
- Annual appropriations by U.S. Congress for Indian school purposes.¹¹⁸

Based upon these sources, it is apparent that proceeds from cessions of Indian territories to the United States through treaties—which were often signed under duress¹¹⁹—were used to fund the operation of Federal Indian boarding schools. As a result, the United States’ assimilation policy, the Federal Indian boarding school system, and the effort to acquire Indian territories are connected.

¹¹⁷ ARCIA for 1886, at LXVIII (emphasis added).

¹¹⁸ ARCIA for 1886, at LX–LXI.

¹¹⁹ Kennedy Report, at 143.



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The United States used monies resulting from Indian wealth depletion from cessions of territories, and held in Federal trust accounts for Indian Tribes, to pay for the attempted assimilation process of Indians. As Congress has found, a “large proportion of the expense for the operation of the schools came from Indian treaty funds and not Federal appropriations.”¹²¹ For example, between 1845 and 1855, while over \$2 million was spent on the Federal Indian boarding school system, Federal appropriations accounted for only 1/20th, or \$10,000 per year, of the sum, with Indian trust fund monies supplying the rest.¹²² In addition, concerning the Dawes Severalty Act of 1887 alone, which turned territories from collective Indian ownership into individual Indian land allotments, Congress determined, however intended, “the actual results of the law were a diminishing of the Indian tribal economic base from 140 million acres to [approximately] 50 million acres, and severe social disorganization of the Indian family.”¹²³ Congress further concluded that the Dawes Act’s “land policy was directly related to the Government’s Indian education policy because proceeds from the destruction of the Indian land base were used to pay the costs of taking Indian children from their homes and placing them in Federal boarding

¹²⁰ Lubken, Walter J. (n.d.). [Photograph of young male students in printing press shop at the Phoenix Indian Industrial School]. U.S. Bureau of Reclamation, Phoenix Area Office.

¹²¹ Kennedy Report, at 146.

¹²² Report of the Secretary of the Interior, Sen. Ex. Doc., No. 1, Part 1, 34th Congress, First Session, at 1, 561 (1855).

¹²³ Kennedy Report, at 12.

schools—a system designed to dissolve the Indian social structure.”¹²⁴ The total amount of Tribal or individual Indian trust fund account monies, if any, held in trust by the United States and used to directly support the Federal Indian boarding school system is currently unknown.

In 1908, the Supreme Court ruled in *Quick Bear v. Leupp* that the United States could use monies held in treaty and trust fund accounts for Indian territories ceded to the United States to fund children “induced or compelled” to attend Indian boarding schools that were operated by religious institutions or organizations.¹²⁵ While payments to religious institutions and organizations depleted funds Indian Tribes were entitled to, the Court held that the prohibition on the Federal Government to spend funds on religious schools did not apply to Indian treaty funds,¹²⁶ did not violate Indian appropriations acts,¹²⁷ and to forbid such expenditures would violate the free exercise clause of the First Amendment.¹²⁸



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¹²⁴ Kennedy Report, at 12.

¹²⁵ *Quick Bear v. Leupp*, 210 U.S. 50 (1908); see also Kennedy Report at 143 (1969) (describing that as “treaty funds became available, these too were disbursed” “among those societies and individuals—usually missionary organizations—that had been prominent in the effort to ‘civilize’ the Indians”).

¹²⁶ *Quick Bear v. Leupp*, 210 U.S. at 81.

¹²⁷ *Quick Bear v. Leupp*, 210 U.S. at 78.

¹²⁸ *Quick Bear v. Leupp*, 210 U.S. at 81.

¹²⁹ U.S. Library of Congress, Harris & Ewing Collection, Untitled (1913). [Photograph showing High Pipe; Charles Tackett; Hollow Horn Bear, Jr.; William Thunderhawk; Senator Sterling Of South Dakota; Eugene Little; Reuben

Although individual Federal Indian boarding schools varied by operation, management, and funding, together they comprised a Federally recognized system.



8. The Role of Religious Institutions and Organizations in the Federal Indian Boarding School System



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“It is quite possible for missionaries without the personal qualifications necessary for work with the Indians to maintain themselves indefinitely in isolated locations, obstacles both to the work of the church and to the efforts of the government.”

– Meriam Report, made at the request of the Secretary of the Interior, 1928.¹³¹

The Federal Government and Department also maintained relationships with religious institutions and organizations for the Federal Indian boarding school system. Indian reservations “were distributed among the major religious denominations, which, in

Quick Bear; Henry Horse Looking; and Silas Standing Elk) (showing Reuben Quick Bear, plaintiff in Quick Bear v. Leupp, second row, far right)].

¹³⁰ *Female students in front of building at the Fort Yuma Indian Boarding School.* (n.d.). Fort Yuma Quechan Indian Tribe Photo Gallery, Ft Yuma Indian School Collection.

¹³¹ Meriam Report, at 838.

an unprecedented delegation of power by the Federal Government to church bodies, were given the right to nominate new agents, and direct educational and other activities on the reservations.”¹³² Department records indicate that, in addition to the U.S. Army assigning officers to duty as superintendents of Indian affairs and Indian agents under the direction of the Indian Office, the Executive accepted official recommendations by religious institutions and organizations for presidential appointed posts in states and territories.¹³³ The Department has described the public-private relationship as follows:

[T]he [Indian] agencies were, so to speak, apportioned among the prominent denominational associations of the country, or the missionary societies representing such denominational views; ... to make nominations to the position of agent ... and in and through this extra-official relationship to assume charge of the intellectual and moral education of the Indians thus brought within the reach of their influence.¹³⁴

The U.S. Senate has confirmed, the U.S. “military was frequently called in to reinforce the missionaries’ orders.”¹³⁵

¹³² Kennedy Report, at 147.

¹³³ ARCIA for 1872, at 72.

¹³⁴ ARCIA for 1872, at 72.

¹³⁵ Kennedy Report, at 147.



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Initial examination of Federal records demonstrates that the United States received support from religious institutions and organizations for the Federal Indian boarding school system and directly provided support to religious institutions and organizations for the Federal Indian boarding school system.¹³⁷ “Since appropriations for Indian schools have been regularly made, a portion of the funds has been wisely expended in the encouragement of the benevolent work of [missionary] organizations.”¹³⁸ As the U.S. Senate has recognized, funds from the 1819 Civilization Fund “were apportioned among those societies and individuals—usually missionary organizations—that had been prominent in the effort to ‘civilize’ the Indians.”¹³⁹

The United States at times paid religious institutions and organizations on a per capita basis for Indian children to enter Federal Indian boarding schools operated by religious institutions or organizations. As part of the Federal Indian boarding school system, the Department contracted with several religious institutions and organizations including the American Missionary Association of the Congregational Church, the Board of Foreign Missions of the Presbyterian Church, the Board of Home Missions of the

¹³⁶ *Female students standing outside at the Fort Yuma Indian Boarding School.* (n.d.). Fort Yuma Quechan Indian Tribe Photo Gallery, Ft Yuma Indian School Collection.

¹³⁷ Some religious and other non-federal entities that participated in these and similar initiatives have since apologized for their roles in them, and pledged to make amends. See e.g., Elisabetta Povoledo and Ian Austen, “*I Feel Shame*”: Pope Apologizes to Indigenous People of Canada, *New York Times*, Apr. 1, 2022.

¹³⁸ ARCIA for 1886, at LXV.

¹³⁹ Kennedy Report, at 143.

Presbyterian Church, the Bureau of Catholic Indian Missions, and the Protestant Episcopal Church “to pay a certain sum for each pupil ... being supplemented by the religious organizations conducting the school.”¹⁴⁰ In 1886, Indian School Superintendent John B. Riley reported to the Secretary of the Interior on the importance of using public support for Indian children to enter Indian boarding schools operated by religious institutions or organizations:

The Government aid furnished enables them to sustain their missions, and renders it possible ... to lead these people, whose paganism has been the chief obstacle to their civilization, into the light of Christianity – a work in which the Government cannot actively engage ... They should receive the encouragement and co-operation of all Government employés [sic].¹⁴¹

The United States also set apart tracts of Indian reservation lands for the use of religious institutions and organizations carrying on educational and missionary work among the Indians.¹⁴² The Department’s initial assessment of relevant Federal records shows that the United States directly contributed financially to Indian boarding schools operated by religious institutions and organizations. “The basic approach of subsidizing various religious groups to operate schools for Indians did not come to an end until 1897.”¹⁴³

By 1928, the Department observed that the lack of central oversight over Indian boarding schools operated by religious institutions and organizations significantly impaired the Federal Indian boarding school system. “[N]o central interdenominational supervision of mission work exists, and that therefore no standards are set up as a minimum below which the work should not fall.”¹⁴⁴ As a result, “a weak denomination with low educational standards for its missionaries may maintain indefinitely a mission station

¹⁴⁰ ARCIA for 1886, at LXV.

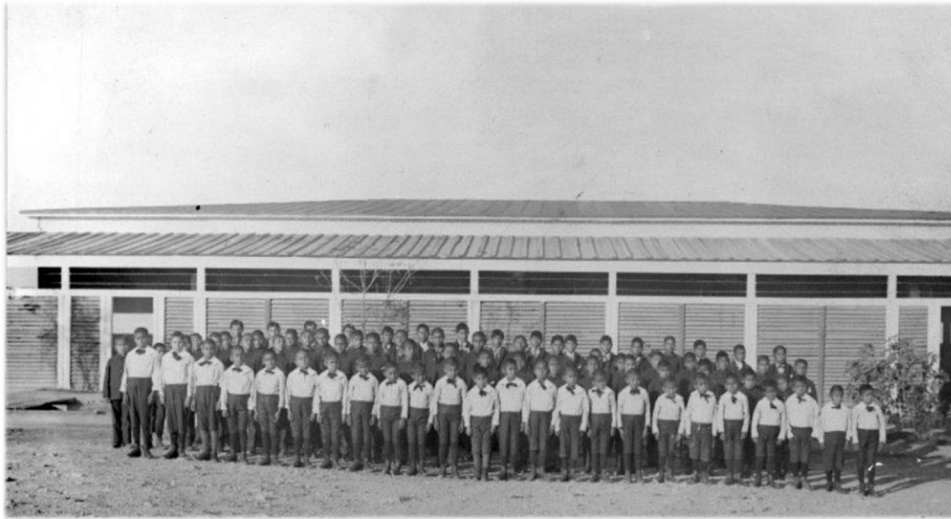
¹⁴¹ ARCIA for 1886, at LXVI.

¹⁴² Act of Sept. 21, 1922, Ch. 367, § 3, 42 Stat. 995, codified at 25 U.S.C. § 280 (2020) (authorizing and directing the Secretary of the Interior “to issue a patent to the duly authorized missionary board, or other proper authority, of any religious organization engaged in mission or school work on any Indian reservation for such lands thereon as have been heretofore set apart to and are now [Sept. 21, 1922] being actually and beneficially used and occupied by such organization solely for mission *or school* purposes, the area so patented to not exceed one hundred and sixty acres to any one organization at any station: Provided, That such patent shall provide that when no longer used for mission or school purposes said lands shall revert to the Indian owners.”) (emphasis added); ARCIA for 1902, at 51.

¹⁴³ Kennedy Report, at 147.

¹⁴⁴ Meriam Report, at 838.

manned by people with only the most elementary education and with no training whatever ...” and “a strong denomination with high standards of general education ... may lend support in isolated spots to work of a specialized nature assumed by missionaries with no technical and little real understanding of the problems involved in their secular activities.”¹⁴⁵ “The worst feature of such situations is not that the Indians of the localities are poorly served, but that the governing boards remain ignorant of the real problems of Indian missions.”¹⁴⁶



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¹⁴⁵ Meriam Report, at 838.

¹⁴⁶ Meriam Report, at 838.

¹⁴⁷ *Students in front of building at the Fort Yuma Indian Boarding School* [Photograph]. (n.d.). Fort Yuma Quechan Indian Tribe Photo Gallery, Ft Yuma Indian School Collection.



9. Federal Indian Boarding School System Conditions



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Despite differences in operation, management, and funding, the United States recognized that the Federal Indian boarding school system was central to Indian territorial dispossession and Indian assimilation. Often using active or decommissioned military sites, Federal Indian boarding schools “were designed to separate a child from his reservation and family, strip him of his tribal lore and mores, force the complete abandonment of his native language, and prepare him for never again returning to his people.”¹⁴⁹ As a result, the United States applied systematic militarized and identity-alteration methodologies¹⁵⁰ in the Federal Indian boarding school system to assimilate American Indian, Alaska Native, and Native Hawaiian children through education.

In 1902, Commissioner of Indian Affairs William A. Jones described the main goal of applying systematic militarized and identity-alteration methodologies in the Federal Indian boarding school system as follows:

The young of the wild bird, though born in captivity, naturally retains the instincts of freedom so strong in the parent and beats the bars to secure it, while after several generations of captivity the young bird will return to the cage after a brief period of freedom. So with the Indian child. The first wild redskin placed

¹⁴⁸ *Apache youth in traditional clothing* [Photograph]. Apache Incarceration. (n.d.) National Park Service; *Apache youth in military uniforms* [Photograph]. Apache Incarceration. (n.d.) National Park Service.

¹⁴⁹ Kennedy Report, at 12.

¹⁵⁰ Meriam Report, at 379, 382, 394; Maria Yellow Heart Brave Heart et al., *The American Indian Holocaust: Healing Historical Unresolved Grief*, 8 *American Indian & Alaska Native Mental Health Research* 56 (1998).

in the school chafes at the loss of freedom and longs to return to his wildwood home. His offspring retains some of the habits acquired by the parent. These habits receive fresh development in each successive generation, fixing new rules of conduct, different aspirations, and greater desires to be in touch with the dominant race.¹⁵¹

Generations of Indian children, separate and together, experienced the Federal Indian boarding school system, which Congress recognized was “run in a rigid military fashion, with heavy emphasis on rustic vocational education.”¹⁵²

“The children are improved rather in their habits than in what they learn from books.”¹⁵³ For example, to teach them “obedience and cleanliness, and give[] them a better carriage,” Department records detail examples of organizing Indian male children “into companies as soldiers, and the best material selected for sergeants and corporals.”¹⁵⁴ “They have been uniformed and drilled in many of the movements of army tactics.”¹⁵⁵ As late as 1917, the Department course of study for Indian schools included “military and gymnastic exercises” for an hour, two or three times per week in grades 4 through 6 (pre-vocational) and in grades 6 through 10 (vocational).¹⁵⁶

Children in Federal Indian boarding schools had “their twenty-four hours so systematized that there is little opportunity to exercise any power of choice.”¹⁵⁷ For example, the curriculum for first grade students across the Federal Indian boarding school system in 1917 included the following:¹⁵⁸

¹⁵¹ ARCIA for 1902, at 3.

¹⁵² Kennedy Report, at 12.

¹⁵³ Commissioner of Indian Affairs, Annual Report to the Secretary of War 128 (1846).

¹⁵⁴ ARCIA for 1880, at 180.

¹⁵⁵ ARCIA for 1880, at 180.

¹⁵⁶ ARCIA for 1915, at 16–21.

¹⁵⁷ Meriam Report, at 577.

¹⁵⁸ ARCIA for 1916, at 13.

BOARDING SCHOOLS

The time assigned to a subject indicates its relative importance

FIRST GRADE	General Exercises (25 minutes.)	Assembly, once each week.
		Music, once each week.
		Manners and right conduct, once each week.
		Current events, once each week.
	English (110 minutes.)	Conversational and other oral exercises.
		History.
		Health.
		Numbers.
		Nature Study.
		Reading and written exercises.
	Writing and Drawing (alternate). (20 minutes.)	
	Breathing Exercises. (10 minutes.)	
	Industrial Work (240 minutes.)	Small and young pupils should not be required to work full time.
	Physical Training (60 minutes.)	
	Evening hour. (60 minutes.)	Little folks, free play. Adults, miscellaneous exercises.
	Meals, free time, extra detail. (6 hours 15 minutes.)	
	Sleep. (9 hours—10 hours for little folks.)	

Systematic identity-alteration methodologies employed by Federal Indian boarding schools included renaming Indian children from Indian names to different English names;¹⁵⁹ cutting the hair of Indian children;¹⁶⁰ requiring the use of military or other standard uniforms as clothes;¹⁶¹ and discouraging or forbidding the following in order to compel them to adopt western practices and Christianity: (1) using Indian languages, (2) conducting cultural practices, and (3) exercising their religions.¹⁶² “When first brought in

¹⁵⁹ ARCIA for 1904, at 42–45.

¹⁶⁰ ARCIA for 1886, at 199; ARCIA for 1858, at 50.

¹⁶¹ ARCIA for 1886, at 199; ARCIA for 1858, at 50.

¹⁶² Kennedy Report, at 10–13; Meriam Report, at 189–195; ARCIA for 1886, at XXIII; Ursula Running Bear et al., Boarding School Attendance and Physical Health Status of Northern Plains Tribes, 13 Applied Res. Qual. Life 633 (2018).

they are a hard-looking set. Their long tangled hair is shorn close, and then they are stripped of their Indian garb thoroughly washed, and clad, in civilized clothing. The metamorphosis is wonderful, and the little savage seems quite proud of his appearance.”¹⁶³ “Teaching the young Indian child to speak English is essentially the first step in his training, and special attention has been directed to giving him a working knowledge of the language in the shortest possible time.”¹⁶⁴

“No Indian is spoken[:]”¹⁶⁵ “There is not an Indian pupil whose tuition and maintenance is paid for by the United States Government who is permitted to study any other language than our own vernacular – the language of the greatest, most powerful, and enterprising nationalities beneath the sun.”¹⁶⁶ For some Indian Tribes and Alaska Native Villages, the Federal Indian boarding school system was not the first systematic language discouragement or prevention experience. For example, the Department has recognized that for the Indian Pueblos in New Mexico, a “large number of them understand and speak the Spanish language, and only the young, now being educated in the industrial schools, understand and speak English.”¹⁶⁷

Indian boarding school rules were often enforced through punishment, including corporal punishment, such as solitary confinement,¹⁶⁸ “flogging, withholding food, ... whipping[,]”¹⁶⁹ and “slapping, or cuffing.”¹⁷⁰ At times, rule enforcement was a group experience: “for the first offense, unless a serious one, a reprimand before the school is far better than a dozen whippings, because one can teach the whole school that the offender has done something that is wrong, and they all know it and will remember it, while it is humiliating to the offender and answers better than whipping.”¹⁷¹ Federal Indian boarding schools also conducted discipline at times by making older children to punish younger children. “When offenses have been serious enough to demand corporal punishment, the

¹⁶³ ARCIA for 1886, at 199.

¹⁶⁴ ARCIA for 1904, at 391.

¹⁶⁵ ARCIA for 1886, at 134.

¹⁶⁶ ARCIA for 1886, at XXIII.

¹⁶⁷ ARCIA for 1886, at 206.

¹⁶⁸ ARCIA for 1896, at 343.

¹⁶⁹ ARCIA for 1899, at 206; Ursula Running Bear et al., *The Impact of Individual and Parental American Indian Boarding School Attendance on Chronic Physical Health of Northern Plains Tribes*, 42 *Fam. Community Health* 1 (2019).

¹⁷⁰ ARCIA for 1886, at 195; see also, ARCIA for 1896, at 107, 123 (describing punishment for failure to speak English).

¹⁷¹ ARCIA for 1886, at 195.

cases have generally been submitted to a court of the older pupils, and this has proved a most satisfactory method.”¹⁷² Describing the practice of “trying boys guilty of any serious offense by a court-martial, using the older and more intelligent as a court,” the Department has acknowledged, “the members of the court-martial are detailed from the cadet officers, care being taken to secure an impartial selection from various tribes.”¹⁷³ “Charges are preferred against the prisoner; the court examines witnesses, hears the defense, fixes the degree of guilt, and recommends a punishment.”¹⁷⁴ The Department has later observed Indian school children “live[d] under strict discipline that not only fail[ed] to accomplish its purpose of moral training but in many cases contribute[d] to an attitude of conflict with authority of any sort.”¹⁷⁵

Initial analysis demonstrates a trend of Indian children escaping and running away from Federal Indian boarding schools.¹⁷⁶ “The children who have run away from school have been promptly brought back and punished, and judicious punishment has in all instances proved very salutary.”¹⁷⁷ For example, the Department has recognized that at the Kickapoo Boarding School, Kansas, “[r]unaways, both boys and girls, were frequent during the first half of the year. Corporal punishment was resorted to,” and the “habit, being of longstanding, was not entirely overcome; but I am convinced that a prompt returning of the runaways and a whipping administered soundly and prayerfully, helps greatly toward bringing about the desired result.”¹⁷⁸

¹⁷² ARCIA for 1880, at 180.

¹⁷³ ARCIA for 1881, at 188.

¹⁷⁴ ARCIA for 1881, at 188.

¹⁷⁵ Meriam Report, at 579.

¹⁷⁶ See, e.g., ARCIA for 1892, at 657 (“[R]unning away of 7 boys whose return I failed to secure, though every effort was made to intercept them by writing and telegraphing civil officials along their line of travel, and a persistent and continued chase after them over mountains. Two of them reached the reservation in safety and reported having seen me hunting them in the mountains.”); ARCIA for 1906, at 392, 402; ARCIA for 1905, at 169, 250, 424; ARCIA for 1904, at 224 (“I found the school sadly deficient in discipline; runaways were of frequent occurrence; the boys were in the habit of barricading their doors, painting their faces, and indulging in Indian dances.”); ARCIA for 1903, at 121, 182, 194, 275, 363; ARCIA for 1902, at 172, 174, 275, 384; ARCIA for 1895, at 216; ARCIA for 1892, at 647; ARCIA for 1890, at 12; ARCIA for 1885, at 21; ARCIA for 1884, at XIX; ARCIA for 1882, at 60, 61, 164; ARCIA for 1868, at 241.

¹⁷⁷ ARCIA for 1886, at 38.

¹⁷⁸ ARCIA for 1899, at 206.

The Department has acknowledged “frankly and unequivocally that the provisions for the care of the Indian children in boarding schools are grossly inadequate.”¹⁷⁹ Rampant physical, sexual, and emotional abuse; disease; malnourishment; overcrowding; and lack of health care in Indian boarding schools are well-documented.¹⁸⁰ For example, the Department has documented the accommodations in select Federal Indian boarding schools as follows:

- White Earth Boarding School, Minnesota: “one bed to two pupils.”¹⁸¹
- Kickapoo Boarding School, Kansas: “three children to each bed.”¹⁸²
- Rainy Mountain Boarding School, Oklahoma: “single beds pushed so closely together to preclude passage between them, and each bed has two or more occupants.”¹⁸³



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¹⁷⁹ Meriam Report, at 11.

¹⁸⁰ Kennedy Report, at 10–13; Meriam Report, 189–195; Ursula Running Bear et al., Boarding School Attendance and Physical Health Status of Northern Plains Tribes, 13 *Applied Res. Qual. Life* 633 (2018).

¹⁸¹ ARCIA for 1896, at 170.

¹⁸² ARCIA for 1896, at 167.

¹⁸³ ARCIA for 1896, at 256.

¹⁸⁴ Lubken, Walter J. (n.d.). [Photograph of young female students standing next to made beds at the Phoenix Indian Industrial School]. U.S. Bureau of Reclamation, Phoenix Area Office.

The Department has recognized infrastructure deficiencies in the Federal Indian boarding school system:

The boarding schools are crowded materially beyond their capacities. A device frequently resorted to in an effort to increase dormitory capacity without great expense, is the addition of large sleeping porches. They are in themselves reasonably satisfactory, but they shut off light and air from the inside rooms, which are still filled with beds beyond their capacity. The toilet facilities have in many cases not been increased proportionately to the increase in pupils, and they are fairly frequently not properly maintained or conveniently located. The supply of soap and towels has been inadequate.¹⁸⁵

Poor diets high in starch and sugar and low in fresh fruits and vegetables were common in the Federal Indian boarding school system.¹⁸⁶ “The outstanding deficiency is in the diet furnished the Indian children, many of whom are below normal health.”¹⁸⁷ The Department has recognized the poor-quality water supply as well in Federal Indian boarding schools.¹⁸⁸ Still, in some circumstances, the Department has acknowledged that conditions in the Federal Indian boarding school system progressed. For example, in 1897 it recognized that in “the great majority of schools the individual towel, comb, hairbrush, and toothbrush have displaced the social use of these toilet articles.”¹⁸⁹ And, Federal Indian boarding schools in 1897 started to transition from coal-oil lamps to electricity for lighting.¹⁹⁰

¹⁸⁵ Meriam Report, at 12.

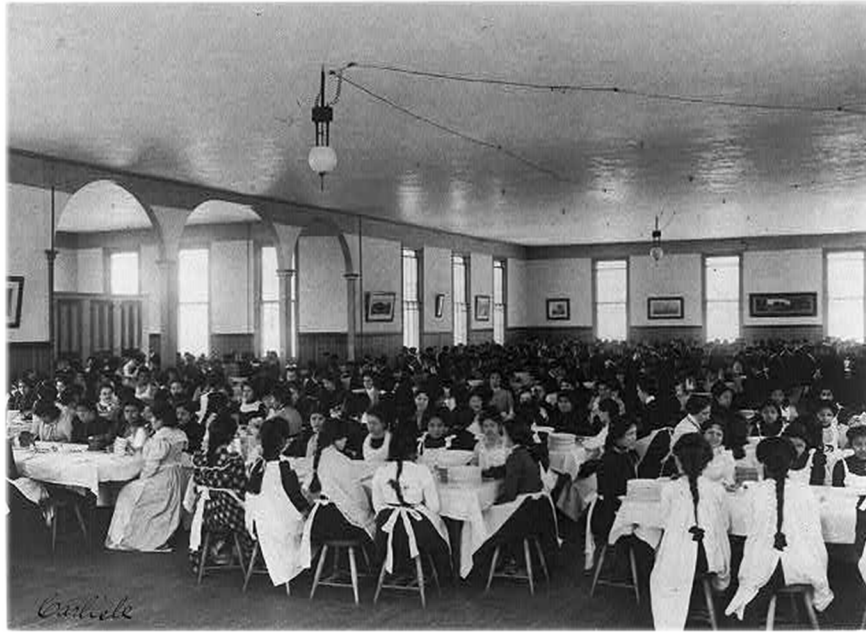
¹⁸⁶ ARCIA for 1896, at 11–12.

¹⁸⁷ Meriam Report, at 11.

¹⁸⁸ *See, e.g.*, ARCIA for 1897, at 173 (“The water supply is totally inadequate, if indeed there can be said to be any.”); ARCIA for 1896, at 171.

¹⁸⁹ ARCIA for 1887, at 330.

¹⁹⁰ ARCIA for 1887, at 17.



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The Federal Government has held that the infrastructure deficiencies of the Federal Indian boarding school system in part are characteristic of “turning over for school use abandoned forts and other government property. There is almost never any real economy in this practice.”¹⁹² “Military plants ... usually date from long before the modern period of lighting, ventilation, and conveniences, and they are often of poor construction, necessitating continued and expensive repair bills.”¹⁹³ The Department has found in turn that it “may be seriously questioned whether the Indian Service could do very much better than it does without more adequate appropriations.”¹⁹⁴ “From the point of view of education the Indian Service is almost literally a ‘starved’ service.”¹⁹⁵

¹⁹¹ Johnston, F. B., *Students in dining hall, United States Indian School, Carlisle, Pa.* [Photograph]. (1901). Johnston (Frances Benjamin) Collection, Library of Congress Prints and Photographs Division Washington, D.C..

¹⁹² Meriam Report, at 421.

¹⁹³ Meriam Report, at 421–22.

¹⁹⁴ Meriam Report, at 421–22.

¹⁹⁵ Meriam Report, at 348.



9.1 Use of Child Labor as Curricula, and in Response to Deficient Conditions

“The labor of [Indian] children as carried on in Indian boarding schools would, it is believed, constitute a violation of child labor laws in most states.”

– Meriam Report, made at the request of the Secretary of the Interior, 1928.¹⁹⁶



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The Federal Indian boarding school system focused on vocational training, involving manual labor of Indian children.¹⁹⁸ To “furnish Indian boys and girls with a type of education that would be practical and cost little the government years ago adopted for the boarding schools a half-time plan whereby pupils spend half the school day in ‘academic’ subjects and the remaining half day in work about the institution.”¹⁹⁹ Federal records

¹⁹⁶ Meriam Report, at 376.

¹⁹⁷ Lubken, Walter J. (n.d.). [Photograph of young female students seated with sewing machines in classroom at the Phoenix Indian Industrial School]. U.S. Bureau of Reclamation, Phoenix Area Office.

¹⁹⁸ ARCIA for 1852, at 4.

¹⁹⁹ Meriam Report, at 374.

indicate that as “practical education is what [the Indian] most requires” the Federal Indian boarding system limited text-book instruction.²⁰⁰ In 1902, the Commissioner of Indian Affairs described that to “educate the Indian is to prepare him for the abolishment of tribal relations, to take his land in severalty, and in the sweat of his brow and by the toil of his hands to carve out, as his white brother has done, a home for himself and family.”²⁰¹

The Federal Government embraced “the policy of giving to industrial training the foremost place in Indian education.”²⁰² In addition to well-documented livestock²⁰³ and poultry raising,²⁰⁴ dairying,²⁰⁵ and western agriculture production,²⁰⁶ including for sales outside the Federal Indian boarding school system,²⁰⁷ Indian children at Federal Indian boarding schools engaged in other manual labor practices including, but not limited to the following: lumbering,²⁰⁸ working on the railroad—including on the road and in car shops,²⁰⁹ carpentering,²¹⁰ blacksmithing,²¹¹ fertilizing,²¹² irrigation system development,²¹³ well-digging,²¹⁴ making furniture including mattresses,²¹⁵ tables,²¹⁶ and

²⁰⁰ ARCIA for 1902, at 3.

²⁰¹ ARCIA for 1902, at 3.

²⁰² ARCIA for 1904 at 16 (1902); but see ARCIA for 1905, at 12, 26 (recognizing the “Indian is a natural warrior, a natural logician, a natural artist” and that regarding “penmanship or drawing,” the “Indian child equals and excels the white child.”).

²⁰³ See, e.g., ARCIA for 1903, at 12.

²⁰⁴ See, e.g., ARCIA for 1884, at 200.

²⁰⁵ See, e.g., ARCIA for 1904, at 396.

²⁰⁶ See, e.g., ARCIA for 1904, at 397 (“The *system* of having *individual* garden plots for each pupil has been productive of excellent results, and has infused into the pupils a spirit of emulation and friendly rivalry which has led them to put forth their best efforts.”) (emphasis added).

²⁰⁷ See, e.g., ARCIA for 1906, at 422.

²⁰⁸ See, e.g., ARCIA for 1906, at 431; ARCIA for 1858, at 64 (describing that Winnebago “boys chopped and cleared the timber off some three acres of woodland”).

²⁰⁹ See, e.g., ARCIA for 1905, at 389.

²¹⁰ See, e.g., ARCIA for 1903, at 378–79.

²¹¹ See, e.g., ARCIA for 1903, at 378–79.

²¹² See, e.g., ARCIA for 1903, at 378–79.

²¹³ See, e.g., ARCIA for 1904, at 388; ARCIA for 1903, at 383.

²¹⁴ ARCIA for 1904, at 388.

²¹⁵ ARCIA for 1904, at 389.

²¹⁶ ARCIA for 1903, at 373.

chairs,²¹⁷ cooking,²¹⁸ laundry²¹⁹ and ironing²²⁰ services, and garment-making, including for themselves and other children in Federal Indian boarding schools. For example, the Department has acknowledged that in 1857 at the Winnebago Manual Labor Schools, Nebraska, the Winnebago “girls have made five hundred and fifty garments for themselves and the boys attending the school, and some seven hundred sacks for the use of the farm.”²²¹ The Department later acknowledged that in 1903 at the Mescalero Boarding School, New Mexico, the Mescalero Apache “boys sawed over 70,000 feet of lumber and 40,000 shingles and made upward of 120,000 brick.”²²²



SCHOOLBOYS BUTCHERING SHEEP.

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Manual labor provided by Indian children in the Federal Indian boarding school system included provision of education services to other Indian children. Indeed, the Department “found that three the amount of [English language] drill may be secured by

²¹⁷ ARCIA for 1903, at 373.

²¹⁸ ARCIA for 1906, at 419.

²¹⁹ ARCIA for 1906, at 419.

²²⁰ ARCIA for 1896, at 171.

²²¹ ARCIA for 1858, at 64 (1858).

²²² ARCIA for 1904, at 398.

²²³ Hartog, C. (1910). Schoolboys Butchering Sheep [Photograph]. *Indian mission sketches: Descriptions and views of Navajo life, the Rehoboth Mission School and the Stations Tohatchi and Zuni*, 23. Gallup, N.M.: The Author. Hathi Trust Digital Library..

having one or two of the more advanced pupils act as teacher ... and at the same time instruction to older pupils can be given in another part of the room.”²²⁴ Congress has also codified that the “Commissioner of Indian Affairs shall employ Indian girls as assistant matrons and Indian boys as farmers and industrial teachers in all Indian schools when it is practicable to do so.”²²⁵ The manual labor practices employed in the Federal Indian boarding school system varied at end.

At the turn of the 19th century, the Department formed a uniform curriculum for the Federal Indian boarding school system.²²⁶ “The time assigned to a subject indicates its relative importance.” The prevocational division of the system refers to Grades 1-6. The vocational division refers to additional 1-4 Grades after 6 (Grades 7-10). The curriculum included that, for the prevocational division, Indian children in Grades 1-6 were assigned 4 hours to “Industrial Work.”²²⁷ The curriculum included that, for the vocational division, Indian children in Grades 1-4 (Grades 7-10) were assigned 4 hours to “Industrial Work.”²²⁸ “The course has been planned with the vocational aim very clearly, and positively dominant, with especial emphasis on agriculture and home making.”²²⁹

Later in 1928, the Department observed that whatever “may once have been the case, Indian children are now coming into the boarding schools much too young for heavy institutional labor.”²³⁰ Concerning on-reservation Federal Indian boarding schools, the Department noted “the children are conspicuously small.”²³¹ For example, the Department documented the intersection between manual labor and younger children at the Leupp Boarding and Day School, Arizona, which primarily served children from the Navajo Nation:

²²⁴ ARCIA for 1904, at 391.

²²⁵ Act of June 7, 1897, Cch. 3, § 1, 30 Stat. 83, codified at 25 U.S.C. § 274 (2020).

²²⁶ ARCIA for 1916, at 9–12.

²²⁷ ARCIA for 1916, at 13–18.

²²⁸ ARCIA for 1916, at 18–21.

²²⁹ ARCIA for 1916, at 22.

²³⁰ Meriam Report, at 375.

²³¹ Meriam Report, at 375.

[O]ne hundred of the 191 girls are 11 years of age or under. The result is that the institutional work, instead of being done wholly by able-bodied youths of 15 to 20 nominally enrolled in the early grades, has to be done, in part at least, by very small children—children, moreover, who, according to competent medical opinion, are malnourished.²³²

The Department has explained the need for Indian child manual labor in the Federal Indian boarding school system as follows:

In our Indian schools a large amount of productive work is necessary. They could not possibly be maintained on the amounts appropriated by Congress for their support were it not for the fact that students are required to do the washing, ironing, baking, cooking, sewing; to care for the dairy, farm, garden, grounds, buildings, etc.-an amount of labor that has in the aggregate a very appreciable monetary value.²³³

At the Haskell Institute, Kansas, for instance, the children were “encouraged to enjoy the work,” “the children were carefully instructed in the cultivation of strawberries, and under proper supervision were allowed to gather the fruit and enjoy strawberry suppers.”²³⁴ “If the labor of the boarding school is to be done by the pupils, it is essential that the pupils be old enough and strong enough to do institutional work.”²³⁵ The economic contribution of Indian and Native Hawaiian children to the Federal Indian boarding school system and beyond remains unknown.

²³² Meriam Report, at 375.

²³³ Meriam Report, at 376 (1928) (citing Course of Study for United States Indian Schools 1 (1922)).

²³⁴ ARCIA for 1904, at 396.

²³⁵ Meriam Report, at 375.



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10. Federal Indian Boarding Schools and Alaska Native Villages

“If provision is made for schools [Alaska Natives] will become a valuable element in the development of a country rich in furs, fish, lumber, and minerals.”

– U.S. Department of the Interior, 1886²³⁷

The Federal Indian Boarding School Initiative investigation demonstrates that the Russian government, missionaries, and the United States established Indian boarding schools for Alaska Native children. The investigation shows that between 1819 to 1969 the United States operated or supported approximately 21 boarding schools in Alaska. Note, an individual Federal Indian boarding school may account for multiple sites.

²³⁶ Lubken, Walter J. (n.d.). [Photograph of young male students in metalworking shop at the Phoenix Indian Industrial School]. U.S. Bureau of Reclamation, Phoenix Area Office.

²³⁷ ARCIA for 1886, at LXIX.

As the Department has recognized, both the Russian-American Fur Company and the Russian government, beginning with Catharine II, Empress of Russia, established schools for Alaska Native children throughout Alaska.²³⁸ In 1793, Catharine II issued an *ukase* (edict) ordering missionaries to be sent to the North American Colony to provide education for Alaska Natives.²³⁹

As the United States later acknowledged following the acquisition of Alaska, “nearly all of them read and write ... Many of them are highly educated, even in the classics.”²⁴⁰ “The administration of the [Russian-American Fur Company] often reposed great confidence in them. One of their best physicians was an Aleutian; one of their best navigators was an Aleutian; their best traders and accountants were Aleutians.”²⁴¹

To obtain the territories that became Alaska, the United States entered into a treaty with Russia in 1867.²⁴² But the treaty did not address the land tenure of Alaska Natives, clouding title to the majority of land in Alaska deemed available.²⁴³ “The schools sustained by the Fur Company, representing the Russian Government, were disbanded.”²⁴⁴ “The schools once taught by Russian priests have one after another died.”²⁴⁵ Between 1867 and 1884, only mission schools existed in Alaska.²⁴⁶ As the Department later transmitted to Congress, the “children of those who learned to read and write in the Russian schools, deprived of schools by the neglect of the [U.S.] government, are left to grow up in ignorance.”²⁴⁷

As a result, the Department engaged and contracted with non-Federal entities to commence Indian education in Alaska.²⁴⁸ Russia transferred to the United States in 1867 “dock-yards, barracks, hospitals, ... schools,” and other buildings.²⁴⁹ This infrastructure

²³⁸ S. Ex. Doc. No. 47-30, at 2–3 (1881).

²³⁹ S. Ex. Doc. No. 47-30, at 2–3 (1881).

²⁴⁰ S. Ex. Doc. No. 47-30, at 3 (1881).

²⁴¹ Secretary of the Interior, S. Ex. Doc. No. 47-30, at 3 (1881).

²⁴² Treaty Concerning the Cession of the Russian Possessions in North America (Mar. 30, 1867), 15 Stat. 539.

²⁴³ Treaty Concerning the Cession of the Russian Possessions in North America (Mar. 30, 1867), 15 Stat. 539.

²⁴⁴ S. Ex. Doc. No. 47-30, at 3 (1881).

²⁴⁵ S. Ex. Doc. No. 47-30, at 4 (1881).

²⁴⁶ Office of the Solicitor, Department of the Interior, Federal Indian Law, at 940 (1958).

²⁴⁷ S. Ex. Doc. No. 47-30, at 4 (1881).

²⁴⁸ ARCIA for 1886, at LXIX; S. Ex. Doc. No. 47-30, at 4 (1881).

²⁴⁹ S. Ex. Doc. No. 47-30, at 13 (1881).

was predominantly used “in harmony with the government efforts at Indian education and civilization.”²⁵⁰

The Department has described the collaboration between the U.S. military and religious institutions and organizations for Indian education in Alaska. For example, at the Sitka school, including the “boarding department,” overseen by Rev. John G. Brady, Captain [H.] Glass, of the United States ship Jamestown, “from the first, with his officers, took a deep interest in the school.”²⁵¹ “In February, 1881, Captain Glass “caused the houses to be numbered, and an accurate census taken of the inmates, adults, and children.”²⁵² He then caused a tin label to be made “for each child, which was tied around the neck of the child, with his or her number, and the number of the house on it,” so that if a child was found outside of the school, the Indian policeman or teacher took the numbers on the labels and reported them.²⁵³ “The following morning the head Indian of the house to which the absentee belonged was summoned to appear and answer for the absence of the child. If the child was willfully absent, the headman was fined or imprisoned.”²⁵⁴

Early on, there was no variation in the education between Alaska Natives and non-Alaska Natives.²⁵⁵ Later, in “the act providing for a civil government in Alaska,” in 1884, Congress appropriated funds for “Indian education in Alaska.”²⁵⁶ The Nelson Act of 1905 established a dual school system in Alaska and provided in part that Alaska Native children have the right to be admitted to any Indian boarding school.²⁵⁷ The United States in turn has officially supported Alaska Native education during Alaska’s status as a U.S. territory starting in 1867 and prior to its entry into the Union.

As questions about land title to the territory emerged, the Federal officials acknowledged that “[d]ifficulties will, however, in all probability arise between the whites and our own Indians. These tribes live along the shores of the various bays, rivers, and inlets.”²⁵⁸ “To keep them in subjugation will require either the interposition of the navy,

²⁵⁰ S. Ex. Doc. No. 47-30, at 7 (1881).

²⁵¹ S. Ex. Doc. No. 47-30, at 6 (1881).

²⁵² S. Ex. Doc. No. 47-30, at 6 (1881).

²⁵³ S. Ex. Doc. No. 47-30, at 6–7 (1881).

²⁵⁴ S. Ex. Doc. No. 47-30, at 7 (1881).

²⁵⁵ Office of the Solicitor, Department of the Interior, Federal Indian Law, at 939 (1958).

²⁵⁶ ARCIA for 1886, at LXIX.

²⁵⁷ 33 Stat. L. 619, 7 codified at 48 U.S.C. § 169; see *Davis v. Sitka School Board*, 3 Alaska 481 (1908).

²⁵⁸ ARCIA for 1868, at 309.