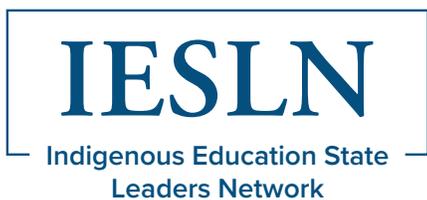


# Indigenous Students Count

A Landscape Analysis of American Indian and Alaska Native Student Data in U.S. K–12 Public Schools



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# About This Report

This report and its accompanying map are the result of years of discussions among the members of the Indigenous Education State Leaders Network (IESLN). Founded in 2016, IESLN is a community of practice for state education agency (SEA) Indigenous education staff and their contractors. More than 20 SEAs participate regularly; between them they educate more than three quarters of the Indigenous students in the United States.

IESLN’s activities initially focused on SEA supports for the Tribal Consultation requirements of the Every Student Succeeds Act but have evolved to address a wider range of federal and state policies, systems, and practices affecting Indigenous education. Since 2019, Indigenous student identification issues have been at the top of IESLN members’ list of priorities.

In 2022, IESLN and the American Institutes for Research® (AIR®) received a 4-year Educational Equity in Policy Implementation grant from the AIR Equity Initiative to study Indigenous student identification issues and respond to needs in the field. A working group of IESLN members leads the project with needs assessment and content-related guidance, and the Indigenous Student Identification (ISI) project’s Research Steering Committee provides methodological guidance and subject-matter expertise and input. Staff from AIR and subcontractor Education Northwest provide “backbone” facilitation and logistics support for the effort.

This report is the ISI Project’s initial exploration of the K–12 public school Indigenous student identification landscape across the United States.<sup>1</sup> The report and accompanying map use extant data to examine the many ways Indigenous students are counted, explain how the data are collected and used, assess the quality of Indigenous student counts in the context of the federal trust responsibility for the education of Indigenous people, and explore shifts in policy and practice that seek to improve data quality and usability.

## Exhibit 1. IESLN Working Group Members and ISI Research Steering Committee Members

IESLN Working Group Members	ISI Research Steering Committee Members
<p><b>April Campbell</b> (Confederated Tribes of the Grande Ronde Community of Oregon   Education Programs Manager   Oregon Department of Education)</p>	<p><b>Alex RedCorn</b>, EdD (Osage Nation   Assistant Professor, Educational Leadership Coordinator for Indigenous Partnerships   College of Education at Kansas State University)</p>
<p><b>Brandon Culbertson</b> (Northern Arapaho and Fort Peck Assiniboine and Sioux Tribes   Indian Education Engagement Coordinator   Oregon Department of Education)</p>	<p><b>Charleen “Daazhrai” Fisher</b>, PhD (Gwich’in   Assistant Professor, Department of Alaska Native Studies and Rural Development   University of Alaska Fairbanks)</p>
<p><b>Chuck Foster</b>, PhD (Diné   Education Specialist   Utah State Board of Education)</p>	<p><b>Daphne Littlebear</b>, MPA, Doctoral Candidate (Tamaya Pueblo, Mvskoke, Yuchi, and Shawnee   Research and Evaluation Manager   National Indian Education Association)</p>
<p><b>Clarissa Jacobs-Roraback</b> (St. Regis Mohawk Tribe   Native American Education Coordinator   New York State Education Department)</p>	<p><b>Elese Washines</b>, PhD (ABD) (Yakama Nation, Cree, and Skokomish   Program Manager   Yakama National Higher Education &amp; Adult Vocational Training Program)</p>

<sup>1</sup> This report does not address data collection or use in Bureau of Indian Education, Tribally controlled, or private K–12 schools, nor data issues in early childhood or higher education settings.

## IESLN Working Group Members

- Georgina Owen** (Indian Education Coordinator | Colorado Department of Education)
- Gloria Hale** (Diné | School Design Specialist | New Mexico Public Education Department)
- Jackie White** (Cherokee Nation | Executive Director of the Office of American Indian Education | Oklahoma State Department of Education)
- Jane Harstad**, EdD (Red Cliff Band of Lake Superior Chippewa | Director of the Office of American Indian Education | Minnesota Department of Education)
- Jennifer Huisken LaPointe** (Director, Indigenous Education Initiative | Michigan Department of Education)
- Joel Isaak** (Kenaitze | State-Tribal Education Compacting Project Coordinator | Alaska Department of Education and Early Learning)
- Johanna Jones** (Seminole Nation of Oklahoma | Indian Education Coordinator | Idaho State Department of Education)
- Judy Delgado** (Mountain Maidu enrolled with Susanville Indian Rancheria | American Indian Education Consultant | California Department of Education)
- Lynnann Yazzie** (Diné | Deputy Associate Superintendent | Arizona Department of Education)
- Mona Halcomb**, EdD (Confederated Tribes of the Umatilla Indian Reservation | Native American Student Success Program Supervisor | Washington Office of the Superintendent of Public Instruction)
- Nate Beelen** (Bruggenbouwer and Program Coordination Specialist, Michigan Indigenous Education Initiative | Michigan Department of Education)
- Sam Zimmerman** (Grand Portage Ojibwe | Indigenous Education Specialist | Minnesota Department of Education)

## ISI Research Steering Committee Members

- Judith Daxootsu Ramos**, PhD (ABD) (Tlingit | Project Coordinator, Haa Yoo X'atángi Deiyí: Our Language Pathway | University of Alaska Southeast, Juneau)
- Kouslaa Kessler-Mata**, PhD (yak tit'yu tit'yu yak tihini | Northern Chumash and Yokut | Associate Professor, Politics | University of San Francisco)
- Megan Bang**, PhD (Ojibwe | Professor of the Learning Sciences, Director of the Center for Native American and Indigenous Research | Northwestern University)
- Sam Morseau** (Pokagon Band of Potawatomi | Director of Education | Pokagon Band of Potawatomi)
- Susan Faircloth**, PhD (Coharie Tribe of North Carolina | Independent Consultant | Two Feathers Consulting, LLC.)
- Yolanda Bisbee**, EdD (Nez Perce | Chief Diversity Officer, Executive Director of Tribal Relations | University of Idaho)

## Key Terms, Acronyms, and Data Sources

The following list is a brief summary of key terms, acronyms, and data sources used and referenced in this report. Note that a full explanation of methodology—including data sources, collection, analysis, and limitations—is in Appendix A, and a glossary is in Appendix B.

### Exhibit 2. Key Terms, Acronyms, and Data Sources

American Community Survey – Education Tabulation (ACS-ED)	An annual, nationwide survey conducted by the U.S. Census Bureau and maintained by the National Center for Education Statistics that is designed to provide communities with reliable and timely demographic, social, economic, and housing data. ACS-ED data are <i>estimates</i> rather than counts.
American Indian or Alaska Native (AI/AN)	According to federal standards, an “American Indian or Alaska Native” is “a person having origins in any of the original peoples of North and South America (including Central America), and who maintains Tribal affiliation or community attachment.” This report will use “American Indian/Alaska Native” or “AI/AN” when specifically referring to school, district, state, and federal data sets that use this terminology.
Consultation/consultation	In this report, the word “consultation” appears both with both an uppercase “C” and a lowercase “c” when discussing meaningful engagement with Tribal nations and communities. This is to denote the difference between what is commonly called “big C” (formal government-to-government) and “little c” (collaboration and feedback) consultation.
Federal trust responsibility	The federal Indian trust responsibility is a legal obligation under which the United States “has charged itself with moral obligations of the highest responsibility and trust” toward Indian Tribes ( <i>Seminole Nation v. United States, 1942</i> ). This obligation is one of the most important principles in federal Indian law.
Inclusive count/estimate	<p>An “inclusive” count or estimate is reached using a method that includes <i>all</i> individuals indicating AI/AN as their race, regardless of how they identify ethnically and/or with additional races. This method includes all students who self-identify as AI/AN in any way:</p> <ul style="list-style-type: none"><li>• Hispanic/Latino + AI/AN</li><li>• Non-Hispanic/Latino<ul style="list-style-type: none"><li>– AI/AN only</li><li>– AI/AN + one or more other race</li></ul></li></ul> <p>An inclusive count or estimate may be calculated for any data set that provides the necessary racial/ethnic disaggregated information. The only data set used in this report for which an inclusive estimate may be calculated is the ACS-ED.</p>

Indigenous	Indigenous is the primary term used in this report for AI/AN communities and individuals, unless referring to a specific definition or data set that uses the “American Indian or Alaska Native” phrasing.
National Center for Education Statistics (NCES)	NCES is the primary federal entity for collecting and analyzing data related to education in the United States and other nations. This report uses NCES’s <i>EDFacts</i> data from the Common Core of Data (CCD).
Official count/estimate	<p>An “official” count or estimate is reached using a method of counting and reporting Indigenous students that includes <i>only</i> students who</p> <ul style="list-style-type: none"> <li>• do not ethnically identify as “Hispanic or Latino” and</li> <li>• do identify racially as “American Indian or Alaska Native” only (not in combination with other races).</li> </ul> <p>This method is used to count AI/AN students under federal reporting guidelines. An official count may be calculated for any data set that provides the necessary racial/ethnic disaggregated information. The data sets used in this report for which an official count can be calculated are NCES’s <i>EDFacts</i> and the ACS-ED.</p>
Title VI Indian Education Formula Grant (Title VI)	The Title VI Indian Education Formula Grant is a program administered by the Office of Indian Education that supplements school programs by addressing the unique cultural, language, and educationally related academic needs of American Indian and Alaska Native students.
Tribal nations	The term “Tribal nations” as used in this report includes American Indian/Alaska Native Tribes, nations, bands, pueblos, communities, and native villages.
Undercount	The difference between an “official count” and an “inclusive count” of AI/AN K–12 public school students, comprising those students who identify as AI/AN but are “sorted” into the Hispanic or “two or more races” racial/ethnic categories.

## Background and Context

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According to federal race/ethnicity data, Indigenous students in the United States are currently estimated to be about 1% of the total K–12 student population in public schools (as of fall 2021),<sup>2</sup> comprising 93% of all Indigenous students nationwide.<sup>3</sup> The data used to arrive at these percentages—and to make many high-stakes decisions in Indigenous education—are almost certainly inaccurate.

The analysis conducted by the Indigenous Student Identification Project indicates that the undercounting of Indigenous students may be as high as 70% nationwide.

Inaccurate Indigenous student counts in the public K–12 school system are problematic because they

- limit the ability of state education agencies (SEAs) and districts to effectively use performance and accountability data to understand where systems might be failing to serve Indigenous students or locate new opportunities, innovative programming, and supports;
- inaccurately represent the number of districts that may be required to engage in Consultation with Tribal governments and agencies as required under the Every Student Succeeds Act;
- obscure district and school eligibility for federal funds designated to serve Indigenous students and the need for American Indian Parent Advisory Committees to inform such federally funded programs;
- reduce or minimize state and district political will to support Indigenous student needs; and
- fail to provide teachers and Tribes with the information they need to appropriately support their students.

This report and its accompanying interactive map illustrate

- some of the ways in which Indigenous students are defined and counted in the public K–12 school system;
- the policy purposes for which those counts are used;
- the historical, political, and policy context of Indigenous data collection and use;
- Indigenous student data quality indicators; and
- federal and state policy and practice shifts toward improving Indigenous student data collection and reporting.

**The undercounting of Indigenous students may be as high as 70% nationwide.**

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<sup>2</sup> National Center for Education Statistics, Common Core of Data. *State Nonfiscal Survey of Public Elementary/Secondary Education, 2021–22*. [https://nces.ed.gov/programs/digest/d22/tables/dt22\\_203.70.asp](https://nces.ed.gov/programs/digest/d22/tables/dt22_203.70.asp)

<sup>3</sup> National Center for Education Statistics, Common Core of Data. *Public Elementary/Secondary School Universe Survey, 2021–22*. <https://nces.ed.gov/ccd/files.asp>

# How Are Indigenous Students Counted?

Two primary categories of data are collected and used to determine Indigenous student counts.

- Self-identified race/ethnicity information
- The unique legal/political status held by many Indigenous people in the United States due to their citizenship in or affiliation with sovereign Tribal nations

These categories are defined further in Exhibit 3.

Neither of these two primary categories is fixed.

- Self-identification of race/ethnicity may be fluid over time, especially for younger people and those who identify as multiracial or Indigenous.<sup>4</sup>
- Self-identification of Tribal affiliation may depend on data collection methods or family context.
- Tribal nations can and do amend their constitutions to change citizenship eligibility requirements.

The way federal and state governments interpret these data categories can also change over time.

This report uses definitions and data sets from 2021–22 (or 2017–2021 in the case of the ACS ED 5-year estimates) to capture a timebound snapshot of the Indigenous student identification landscape. The full explanation of the methodology, data sources, and data limitations can be found in Appendix A.

## Exhibit 3. American Indian/Alaska (AI/AN) Native Data Categories

	Definition	Data Collection	Usage Example
<b>Race/ethnicity</b>	Office of Management and Budget (OMB): “A person having origins in any of the original peoples of North and South America (including Central America), and who maintains Tribal affiliation or community attachment.”	The OMB racial categories are the minimum standards required for collecting and presenting data for all federal reporting.	AI/AN is a category used for school and district subgroup reporting and accountability under the Elementary and Secondary Education Act.
<b>Legal/political status</b>	Tribal nations determine their own enrollment requirements and procedures for Tribal citizenship. Enrolled individuals are not only citizens of their individual sovereign Tribal nation, which is a legal/political status, but also U.S. citizens and citizens of their respective states.	Enrollment data are defined, collected, and owned only by the Tribal nations. Self-identified Tribal affiliation data are sometimes used as a proxy for enrollment by non-Tribal entities.	Students must prove Tribal enrollment (or direct descent within two generations from an enrolled member) in order to be counted for federal funding under the Title VI Indian Education Formula Grant.

Adapted from Evans-Lomayeva, G., Lee, J. J., & Brumfield, C. (2022). *Advancing American Indian & Alaska Native data equity: Representation in federal data collections*. Center on Poverty and Inequality, Georgetown Law, Economic Security & Opportunity Initiative. <https://www.georgetownpoverty.org/wp-content/uploads/2022/11/AdvancingAIANDataEquity-Nov2022.pdf>

<sup>4</sup> Liebler, C. A., Porter, S. R., Fernandez, L. E., Noon, J. M., Ennis, S. R. (2017). America’s churning races: Race and ethnicity response changes between Census 2000 and the 2010 Census. *Demography*, 54(1), 259–284. <https://doi.org/10.1007/s13524-016-0544-0>; Doyle, J. M., & Kao, G. (2007). Are racial identities of multiracials stable? Changing self-identification among single and multiple race individuals. *Social Psychology Quarterly*, 70(4), 405–423. <https://doi.org/10.1177/019027250707000409>

This report will look at the ways in which data in these categories are collected, held, and reported; the historical and political implications of the way the data are used; and how all these things work with or against one another to impact Indigenous students in K–12 public education systems. We’ll follow five Indigenous students through the data collection process as part of this report to show how these definitions and policies affect their inclusion in reporting and access to opportunities.<sup>5</sup>

JUAN	KIVA	SARAH	PAUL	KALEI
				
Guatemalan and Tohono O’odham	Muscogee Creek, Cherokee, and White	Yupik and White	Sac and Fox, Osage, and Kickapoo	Native Hawaiian and Taino

## Collecting Race/Ethnicity Data in the K–12 Public Education System

In the K–12 public education system, race/ethnicity data are collected and reported using guidelines adopted by the U.S. Department of Education in 2007<sup>6</sup> and aligned with the Office of Management and Budget’s (OMB’s) 1997 Standards for Maintaining, Collecting and Presenting Federal Data on Race and Ethnicity.<sup>7</sup>

The question used in most forms to collect racial/ethnic data is known as the “two-part question” because it asks respondents to identify first their ethnicity (“Are you Hispanic or Latino?”) and then their race. Race and ethnicity are cultural constructs, not biological realities, so race/ethnicity data are based on *self-identification* by students or families on school or district registration forms.

A family or individual’s racial/ethnic self-identification (or nonidentification) may be influenced by multiple aspects of identity (e.g., pride, family heritage, sense of belonging, culture, community) as well as by geography, history, and cultural biases. If students and families do not indicate a race/ethnicity, school personnel must guess based on appearance, last names, neighborhood, and other incidental factors.

<sup>5</sup> These student stories are illustrative examples and neither the stories nor images depict actual students. The images were generated by an AI software program using text-based prompts.

<sup>6</sup> U.S. Department of Education. (2007). *Final guidance on maintaining, collecting, and reporting racial and ethnic data to the U.S. Department of Education* (72 FR 59266). <https://www.gpo.gov/fdsys/pkg/FR-2007-10-19/pdf/E7-20613.pdf>

<sup>7</sup> The Office of Management and Budget oversees the performance of federal agencies. In 1997, it updated Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity to create current federal categories for racial/ethnic data collection and reporting [*Federal Register*, 62(210), 58785, <https://www.govinfo.gov/content/pkg/FR-1997-10-30/pdf/97-28653.pdf>].

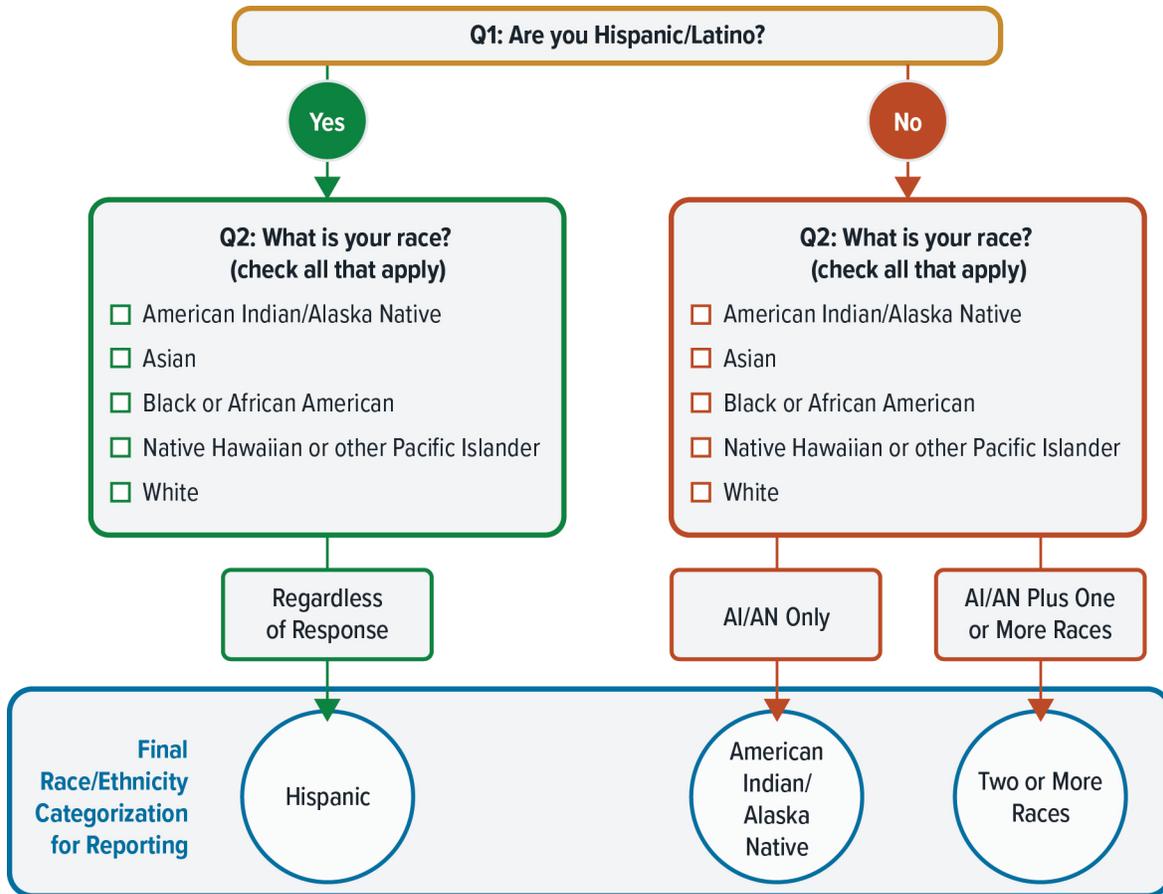
# Reporting Race/Ethnicity Data in the K–12 Public Education System

Student data are collected by districts and reported by state education agencies (SEAs) to the U.S. Department of Education in the aggregate, using the following method of tabulating students who identify as AI/AN (Exhibit 4).

- All students indicating that they are Hispanic or Latino, regardless of race, are counted and reported as Hispanic.
- Non-Hispanic students who select AI/AN as their only race are counted and reported as AI/AN.
- Non-Hispanic students who select AI/AN and another race are counted and reported as “two or more races.”

This method of tabulating AI/AN student race/ethnicity yields what is known as an “official count” of AI/AN students—that is, those students who self-reported that they are not Hispanic or Latino and selected AI/AN as their only race.

**Exhibit 4. How AI/AN Race/Ethnicity Data Are Tabulated by the U.S. Department of Education**



This “official count” method can result in reported numbers that significantly misrepresent the number of students identifying as AI/AN because of how their Hispanic/Latino or multiracial identity “masks” their AI/AN identity, as shown in Juan and Kiva’s stories below.

### Indigenous Student Stories: Juan and Kiva



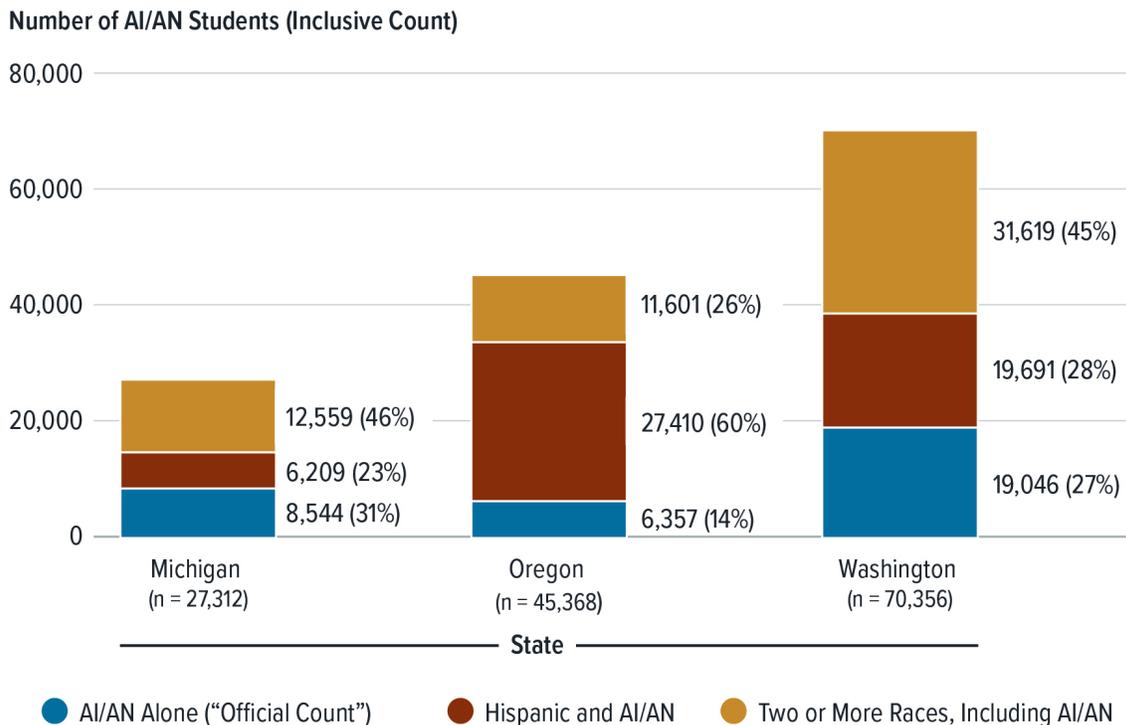
**Juan’s** mother is Guatemalan and his father is an enrolled member of the Tohono O’odham Nation. Juan’s family identifies his ethnicity as “Hispanic or Latino” and his race as “American Indian or Alaska Native” on forms. When his school reports student outcome data, Juan is included with the Hispanic students.



**Kiva** and her mother are enrolled members of the Eastern Cherokee Tribe of Georgia, and her father was raised with a cultural and community affiliation with the Muscogee Nation, though he is not enrolled. Kiva identifies her ethnicity as “Not Hispanic or Latino” and her race as “American Indian or Alaska Native” and “White” on forms. When Kiva’s school reports student outcome data, Kiva is included with the “two or more races” students.

An “inclusive count” is the total number of all students identifying as AI/AN, including students who also identify as Hispanic or Latino or other races. Several IESLN states with data collection processes that allow for this level of disaggregation provided the ISI project with state data for 2021–22 to show how their students who identified as AI/AN were counted (Exhibit 5). To see all states listed by percentage of student undercount, see Exhibit 8 on page 21 of this report.

**Exhibit 5. Examples of States’ Inclusive AI/AN Counts Using Federal Reporting Categories**



Source: Michigan Department of Education, Oregon Department of Education, and Washington Office of the Superintendent for Public Instruction.

AI/AN is already the second-smallest racial category for which federal data are collected, and those who identify as AI/AN are more likely than those in any other racial group to be made invisible by being placed in the Hispanic or “two or more races” reporting categories.<sup>8</sup>

From exclusion in early Census enumeration to the Virginia Racial Integrity Act to Indigenous child removal to the dubious practices of the Dawes Commission, there is a long legacy of American “paper genocide” of Indigenous people (i.e., erasing their official existence in legal documents<sup>9</sup>). Data reporting practices such as federal official counting methods both perpetuate and compound this history of forced erasure.

## Indigenous Identity: Understanding the Unique Political/Legal Status

Race/ethnicity is *not* interchangeable with political/legal status, though federal Indian policy has historically conflated the two concepts.

The U.S. government invented the concept of “blood quantum” as a measure of Indigenous identity in the late 1800s, when the Bureau of Indian Affairs used Census rolls to assign quantities of “Indian blood” to Indigenous people as a way of eliminating or limiting their rights or access to benefits. This conflation of race with blood quantum and blood quantum with citizenship has since been perpetuated by both the United States and Tribal nations, but the two types of data have very different political and educational implications. No other race or nationality is required to “prove” its heritage through blood quantum for any purpose.

“ [The invisibility of Indigenous students] is perpetuated by federal and state agencies and policies that leave American Indians and Alaska Natives out of data collection efforts, data reporting and analysis, and/or public media campaigns. American Indians and Alaska Natives may be described as the ‘Asterisk Nation’ because an asterisk, instead of data point, is often used in data displays when reporting racial and ethnic data due to various data collection and reporting issues, such as small sample size, large margins of error, or other issues related to the validity and statistical significance of data on American Indians and Alaska Natives.”

—National Congress of American Indians (NCAI) Policy Research Center, *The Asterisk Nation*, 2022.

### BLOOD QUANTUM AND THE RACIALIZATION OF INDIGENEITY

Blood quantum is a concept developed and promoted by the U.S. government as part of its strategy to de-Tribalize and assimilate Indigenous people and land. It is used by the U.S. government and Tribes to authenticate the amount of “Indian blood” a person has by tracing individual and group ancestry. An individual’s blood quantum is measured in fractions, such as ¼ or ½. This measurement can affect a person’s ability to become a Tribal citizen or participate in federal programs intended for those who identify as AI/AN only.

<sup>8</sup> Maxim, R., Sanchez, G. R., & Huyser, K. (2023). *Why the federal government needs to change how it collects data on Native Americans*. The Brookings Institution. <https://www.brookings.edu/articles/why-the-federal-government-needs-to-change-how-it-collects-data-on-native-americans/>

<sup>9</sup> Dumpson, T. A. (2021). A 385-year experiment to erase a people: Intergenerational acts of genocide against the Narragansett Indian Tribe by the United States of America and the State of Rhode Island. *Tribal Law Journal*, 21(1), 89–124. <https://digitalrepository.unm.edu/tlj/vol21/iss1/4>

Blood quantum was originally used to identify which “Indians” were eligible for land allotments under the Dawes Severalty Act of 1887 (The Allotment Act), resulting in significant omissions, inaccuracies, and forced or coerced registrations.<sup>10</sup> These policies were intentionally designed to reduce (and eventually eliminate) the numbers of Indigenous peoples through assimilation, land dispossession, and other tools of literal as well as paper genocide. President Roosevelt called the Dawes Act “a mighty, pulverizing engine to break up the Tribal mass.”<sup>11</sup>

Tribes create their own enrollment qualifications under the Indian Reorganization Act of 1934, and the federal government does not force Tribes to implement blood quantum. At the same time, the Bureau of Indian Affairs maintains the U.S. government’s historical enrollment rolls and Tribal censuses on which blood quantum is based; provides step-by-step process guidance on Tribal enrollment (including blood quantum charts); and certifies the enrollment ordinances Tribal governments have established. Many Tribes still rely on blood quantum and/or proven descent from specific enrollment rolls or Tribal censuses, a perpetuation of colonial constructs that Indigenous scholar Dr. Kimberly TallBear calls “tragically strategic.”<sup>12</sup>

For compelling personal stories of the implications of blood quantum, see *Reservation Mathematics: Navigating Love in Native America*, part of the Smithsonian National Museum of the American Indian’s Developing Stories: Native Photographers in the Field series.<sup>13</sup>

## ***Political/Legal Status May Affect Student Eligibility for Federal Programs***

Some programs that serve AI/AN students across federal agencies and offices use different definitions of Indigenous students than the definition used by the Census Bureau or the Department of Education. Definitions that rely on the legal/political status of AI/AN students require separate counts from the standard two-part race/ethnicity question. Tribal enrollment, descent, or affiliation are separate questions.

For example, in Exhibit 6, three common K–12 funding sources that affect Indigenous students are shown to have very different definitions for eligibility.

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<sup>10</sup> To hear an account of the history of blood quantum in the Citizen Potawatomi Nation, listen to Chairman John “Rocky” Barrett’s overview for the Native Nations Institute at Arizona State University.

<sup>11</sup> Roosevelt, T. (1901). *First annual message* [Transcript]. <https://www.presidency.ucsb.edu/documents/first-annual-message-16>.

<sup>12</sup> TallBear, K. (2003). DNA, blood, and racializing the Tribe. *Wicazo Sa Review*, 18(1), 81–107. <http://www.jstor.org/stable/1409433>

<sup>13</sup> Irvine, T. (n.d.). *Reservation mathematics: Navigating love in Native America*. Developing Stories: Native Photographers in the Field. Smithsonian Institution. <https://americanindian.si.edu/developingstories/irvine.html>

**Exhibit 6. Student Eligibility Criteria for Common Indigenous Education Funding Streams in Public K–12 Schools**

Program	Johnson O’Malley (JOM) <sup>a</sup>	Title VI Indian Education Formula Grant <sup>b</sup>	Impact Aid Formula Grant <sup>c</sup>
<b>Eligibility criteria</b>	<p><b>Blood Quantum:</b> Student must be enrolled in a federally recognized Tribe or have at least ¼ degree Indian blood (can be from multiple Tribes to meet threshold).</p>	<p><b>Descendancy:</b> Requires proof of student, parent, or grandparent Tribal membership in</p> <ul style="list-style-type: none"> <li>• a federally or state-recognized Tribal nation;</li> <li>• a state-recognized Tribal nation;</li> <li>• a terminated Tribe; or</li> <li>• an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect October 19, 1994.</li> </ul>	<p><b>Residence:</b></p> <ul style="list-style-type: none"> <li>• on Eligible Trust or Restricted Indian Lands;</li> <li>• on federal property;</li> <li>• in federal low-income housing; or</li> <li>• with a parent/guardian who is               <ul style="list-style-type: none"> <li>— employed on federal property; or</li> <li>— active-duty military or a foreign government official.</li> </ul> </li> </ul>
<b>Eligibility verification</b>	<p><b>JOM Student Certification Form:</b> This form must be completed for each student included in the JOM contractor’s student count and must be signed by a parent/guardian and a Tribal official to be valid.</p> <p>Includes only federally recognized Tribes.</p> <p>Contractors collect a form once for each child; counts are submitted annually to the Bureau of Indian Education.</p>	<p><b>ED 506 Form:</b> This form serves as the official record of the eligibility determination for each student included in the student count for the Title VI Indian Education Formula Grant Program.</p> <p>Acceptable proof is a membership or enrollment number for the child or relative or other concrete evidence establishing membership in a federal, state, or terminated Tribal Nation.</p> <p>Grantees collect a form once for each child; counts are submitted annually to the Office of Indian Education.</p>	<p><b>Impact Aid Source Check Form:</b> A list of eligible students that must be certified by, at minimum,</p> <ul style="list-style-type: none"> <li>• a Tribal official; and</li> <li>• a district official.</li> </ul> <p>OR</p> <p><b>Parent Pupil Survey Forms:</b> Forms signed by students’ parent/guardian.</p> <p>Includes all children living on Indian lands, regardless of race/ethnicity or Tribal affiliation.</p> <p>Source checks verified by Tribal officials or parent pupil survey forms are completed annually and submitted to the Office of Elementary and Secondary Education.</p>

<sup>a</sup> The JOM program was established through the Johnson O’Malley Act (JOM) of 1934 (25 U.S.C. 5342 et seq.), which authorizes the Bureau of Indian Education to enter into contracts with Tribes, Tribal organizations, states, schools, and private nonsectarian organizations to address the education needs of Indian students.

<sup>b</sup> Established under the Elementary and Secondary Education Act of 1965 (Public Law 89-10, S.2938, 89th Congress) Title VI grants are designed to address the unique cultural-, language-, and educational-related academic needs of AI/AN students, including preschool children.

<sup>c</sup> The Impact Aid Formula Grant Program is designed to assist U.S. school districts that have lost property tax revenue due to the presence of tax-exempt federal property or that have experienced increased expenditures due to the enrollment of federally connected children, including children living on Indian lands. Funds from this program can be used for general expenses and are not required to be directed toward Indigenous education. The Impact Aid program has not been fully funded since 1969 and is not forward funded.

Johnson O'Malley (JOM) and Title VI funding both rely on Tribes' political/legal records to verify blood quantum or descendency for eligibility. In the case of Impact Aid, both geographic definitions (place of residence) and political/legal considerations (active duty military or foreign government official status) determine eligibility for program funding.

When it comes to student identification, this means that the student counts for each of these common federal programs are different from one another and from the NCES official count and the ACS-ED inclusive estimate. (To learn more about these counts, see the *Data Sources* section in Appendix A of this report.) Some students and their families may have to complete three additional affidavits to be counted for all available funding, creating a bureaucratic burden for schools, Tribes, and families that affects count accuracy.

Sarah and Paul's stories show how these different eligibility requirements may affect individual Indigenous student's access to programs.

### Indigenous Student Stories: Sarah and Paul



**Sarah's** mother and father identify as Yupik and White; their parents were not enrolled members of their villages, but five of their grandparents (Sarah's great-grandparents) were. They live in Anchorage, and because Sarah's parents indicate AI/AN and White on her enrollment forms, the district reports her outcomes in the "two or more races" category. Sarah is not eligible for either Title VI or JOM program funding, as she cannot verify  $\frac{1}{4}$  blood quantum and does not have a parent or grandparent who was an enrolled Tribal member.



**Paul's** grandmother is an enrolled member of the Sac and Fox Tribes of Oklahoma, but his father does not have sufficient blood quantum to meet the Tribes'  $\frac{1}{4}$  citizenship requirements. His mother is Osage and Kickapoo and is an enrolled member of the Kickapoo Tribe of Oklahoma. When Paul's family enrolled him in Topeka Public Schools, they indicated only AI/AN on enrollment forms, so the district reports his data in the AI/AN category. Paul is eligible to be counted for Title VI program funding because he is within two generations of descent from an enrolled Tribal member, and he has the required blood quantum to qualify for inclusion in JOM program counts.

## Student Eligibility for a Federal Program Does Not Guarantee Access

Many students who meet eligibility requirements are unable to access programs at all. Paul, above, attends a district that offers a Title VI program, but because the district does not receive JOM funds, Paul will not be able to access those supports even though he is eligible.

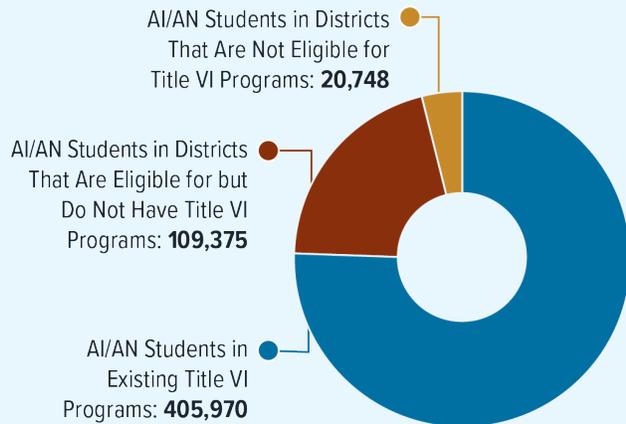
- Students in districts that do not meet minimum population requirements to apply for Title VI funding (i.e., those with  $< 10$  eligible students) do not have access to Title VI supports.
- Students in districts that are eligible for Title VI funding but choose not to apply do not have access to Title VI supports.
- Students in districts that are outside of JOM contractor service areas or that are not themselves JOM contractors or subcontractors do not have access to JOM supports.

## TITLE VI ACCESS FACTS

Title VI is the U.S. Department of Education’s primary funding mechanism for providing support to Indigenous students in public schools.

### In 2021–22,

- Fewer than 30% of eligible districts (i.e., those with > 10 AI/AN students) applied for and received Title VI grants.<sup>14</sup>
- One in four AI/AN students were enrolled in districts that did not have Title VI programs.



Source: NCES ED*Facts* 2021–22 data file and Office of Indian Education 2021–22 data file.

To fully understand Indigenous student identification, it is essential to also understand concepts such as Tribal sovereignty, the U.S. federal trust responsibility, and Indigenous data sovereignty.

## Tribal Sovereignty

Tribal nations were sovereign (i.e., self-governing) long before colonial powers arrived in the Americas—since time immemorial. During treaty negotiations with the United States, Tribal leaders confirmed their sovereign status and reserved certain rights while ceding lands. The sovereign status of Native nations in the United States is also affirmed by United States Supreme Court decisions, presidential orders, and laws and policies enacted by Congress.<sup>15</sup>

Tribal nations exercise sovereignty within the geographic borders of the United States in many ways, including establishing their own governmental systems, creating their own laws, and setting citizenship criteria. Many Tribal nations offer education services; Tribal education departments (TEDs) often administer federal and state education grants, oversee partnerships with public K–12 schools, and offer cultural and other programming to their communities. Some Tribes operate their own preschools, K–12 schools, or colleges.

There are more than twice as many federally recognized Tribal nations in the United States as there are sovereign nations in the rest of the world. Tribal citizenship is a political/legal status—not a racial/ethnic one—and it is directly tied to the U.S. federal trust responsibility to Tribal nations.

<sup>14</sup> This figure was calculated by dividing the total number of districts with OIE Title VI students counts by the total number of districts whose NCES official count was greater than or equal to 10.

<sup>15</sup> Smithsonian National Museum of the American Indian. (2023). Teaching and learning about Native Americans. *Native Knowledge* 360. <https://americanindian.si.edu/nk360/faq/did-you-know>

## TRIBAL SOVEREIGNTY AND CONSULTATION

Tribal consultation is an important way that tribal governments assert their sovereignty. Through government-to-government consultation, Tribes have a meaningful voice in policies and programs that affect Indigenous students. With the passage of the Every Student Succeeds Act (ESSA) in 2015 (Pub. L. No. 114-95), Consultation became a core mechanism for Indigenous voice in education. State agencies and affected local districts are required by law to Consult with Tribes on a number of key Title programs.

The U.S. Department of Education’s Dear Colleague Letter from September 26, 2016, reads, in part, as follows:

Under section 8538, an affected Local Education Agency (LEA) is one that either: 1) has 50 percent or more of its student enrollment made up of AI/AN students; or 2) received an Indian education formula grant under Title VI of the ESEA, as amended by the ESSA in the previous fiscal year that exceeds \$40,000. . . . Beginning with FY 2017, affected LEAs must consult with Indian tribes before submitting plans or applications for the following programs under ESEA:

- Title I, Part A (Improving Basic Programs Operated by State and Local Educational Agencies)
- Title I, Part C (Education of Migratory Children)
- Title I, Part D (Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk)
- Title II, Part A (Supporting Effective Instruction)
- Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement Act)
- Title IV, Part A (Student Support and Academic Enrichment Grants)
- Title IV, Part B (21st Century Community Learning Centers)
- Title V, Part B, subpart 2 (Rural and Low-Income School Program)
- Title VI, Part A, subpart 1 (Indian Education Formula Grants to Local Educational Agencies)

LEAs should conduct their consultation in advance of making significant decisions regarding plans or applications for covered programs, to ensure an “opportunity for . . . appropriate officials from Indian Tribes or Tribal organizations to meaningfully and substantively contribute” to an LEA’s plan (section 8538(a)).

Many districts and Tribes think only in terms of Title VI Indian Education Formula Grants when they think of Tribal Consultation, but the requirements are much broader and include programs that are likely to serve significant numbers of Indigenous students. The Oregon Department of Education’s *Tribal Consultation Toolkit* provides eligibility criteria, allowable expenditures, examples, and best practices for each Title program to support Tribes and districts as they engage in Consultation.<sup>16</sup> Section 8538 is also not the only section of ESSA to mandate Tribal Consultation. Sections 1111(a), 1114(b)(2), and 6114(b-c) also require Tribal Consultation.

Note: In this report, the word “consultation” appears with both a capital “C” and a lowercase “c” when discussing meaningful engagement with Tribal nations and communities. This is to denote the difference between what is commonly called “big C” and “little c” consultation.

- Tribal Consultation (big “C”) is a formal, two-way, government-to-government dialogue between official representatives of Tribes and state education agencies (SEAs), local education agencies (LEAs), and/or federal agencies and is often required by legislation or executive order.

<sup>16</sup> Oregon Department of Education. (2020). *Tribal Consultation Toolkit Guide 1.0*. [https://www.oregon.gov/ode/students-and-family/equity/NativeAmericanEducation/Documents/20.10.13\\_%20Web%20Accessible%20Tribal%20Consultation%20Toolkit.pdf](https://www.oregon.gov/ode/students-and-family/equity/NativeAmericanEducation/Documents/20.10.13_%20Web%20Accessible%20Tribal%20Consultation%20Toolkit.pdf)

- consultation (little “c”) is an ongoing process of collaboration and feedback between Tribal community members and educational institutions and organizations. This may be a program requirement (as with Title VI or Johnson O’Malley parent committees) or a voluntary best practice.

## The Federal Trust Responsibility

The federal trust responsibility is a legal and fiduciary responsibility grounded in treaty provisions and the U.S. Constitution and has been affirmed in various court decisions and legislative acts over the past several centuries. It acknowledges the duty of the federal government to support Tribal self-governance. Its intent is to

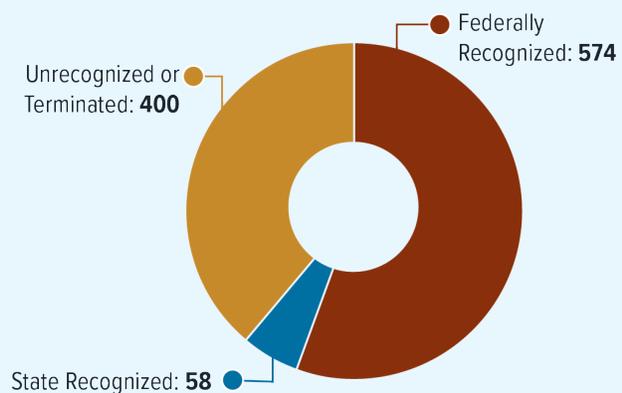
ensure the survival and welfare of Indian Tribes and people. This includes an obligation to provide those services required to protect and enhance Tribal lands, resources, and self-government, and also includes those economic and social programs which are necessary to raise the standard of living and social well-being of the Indian people to a level comparable to the non-Indian society.<sup>17</sup>

In 1975, a unanimous federal court decision held that by enacting the Nonintercourse Act in 1790, Congress had generally recognized and assumed a trust responsibility to “any Tribe of Indians,” regardless of whether that Tribe has a specific treaty with the United States.<sup>18</sup> This formal legal/political relationship between Tribal nations and the United States must be constantly defended, uplifted, and exercised to ensure that it remains strong.

The federal government currently construes its trust responsibility as applying to only the 574 Tribal nations it formally recognizes. Recognition is an *administrative acknowledgement* that distinguishes the Tribes to whom the U.S. government will uphold that responsibility from those to whom it will not.

### UNDERSTANDING FEDERAL RECOGNITION

- The federal government currently recognizes 574 Tribal nations.
- 58 Tribes are recognized by state governments but not by the federal government.<sup>19</sup>
- As of 2012, there were more than 400 Tribes in the United States that did not have federal recognition status.<sup>20</sup>
- Between 1953 and 1964, the United States government enacted federal policy to terminate recognition of more than 100 Tribes and bands as sovereign dependent nations.



<sup>17</sup> American Indian Policy Review Commission. (1977). *American Indian Policy Review Commission Final Report*. <https://files.eric.ed.gov/fulltext/ED164229.pdf>

<sup>18</sup> Roessel, F. (1989). Federal recognition: A historical twist of fate. *NARF Legal Review*, 14(3), 1–16. <https://narf.org/nill/documents/nlr/nlr14-3.pdf>

<sup>19</sup> This number was determined by reviewing extant conflicting "comprehensive" lists of state-recognized tribes and independently verifying information through state and Tribal websites. See Appendix C for full citations.

<sup>20</sup> U.S. Government Accountability Office. (2012). *Indian issues: Federal funding for non-federally recognized tribes*. <https://www.gao.gov/products/gao-12-348>

Many were able to fight termination—and dozens more were reinstated—but others still remain unrecognized by the federal government.

- The federal government does not recognize Tribes whose ancestral homelands are considered to lie outside current U.S. territories.

Federal recognition is not what makes a Tribe. Indigenous people and communities have been on this continent since long before the U.S. government existed. It does, however, qualify recognized Tribes and Tribal citizens for a wide range of federal funding and services.

For Tribes without federal recognition, application requirements are often a “catch-22,” as the censuses, genealogical records, and other documentation required for Tribes to achieve federal recognition are themselves artifacts of 200 years of paper genocide.

Of the more than 400 Tribes in the United States that are not federally recognized, 13 have petitions in process for recognition with the Bureau of Indian Affairs. Eighteen petitions have been granted and 34 denied<sup>21</sup> since 1980, while more than 100 others have not yet met the stringent and expensive documentation requirements for submittal.<sup>22</sup>

Native Hawaiians—as well as the Taino people of Puerto Rico and the Virgin Islands—have no federal pathway to recognition available. While Native Hawaiians do have a unique status, federal recognition of their sovereignty is implicit rather than formally recognized by law.

## Indigenous Data Sovereignty

Indigenous data sovereignty is the right of a nation to govern the collection, ownership, and application of its own data.<sup>23</sup> It derives from Tribes’ inherent right to govern their peoples, lands, and resources. Citizenship requirements vary widely by Tribe,<sup>24</sup> and enrollment (citizenship) data are collected by and property of the individual Tribal nation, which may choose to share those data—or not—with government agencies and researchers. With 574 federally recognized sovereign Tribal nations, there are a lot of jurisdictional issues around data in addition to matters of identity and Tribal citizenship. As with identity, jurisdictional issues related to Tribal nations each have their own history, weight, and implications.

Because tribal enrollment data are collected and owned by Tribes, the U.S. government cannot access or verify them “in house.” Respect for Tribal data sovereignty means that information about students’ political/legal status or descendance must be verified by the Tribes.

## Tribal Affiliation Versus Tribal Enrollment Status

<sup>21</sup> U.S. Department of the Interior, Indian Affairs. (n.d.). *Petitions resolved*. <https://www.bia.gov/as-ia/ofa/petitions-resolved>

<sup>22</sup> U.S. Department of the Interior, Indian Affairs. (n.d.). Office of Federal Acknowledgment. <https://www.bia.gov/as-ia/ofa>

<sup>23</sup> The Collaboratory for Indigenous Data Governance defines Indigenous data sovereignty as “the right of a nation to govern the collection, ownership, and application of its own data. It derives from Tribes’ inherent right to govern their peoples, lands, and resources” [University of Arizona Native Nations Institute. (2023). *Indigenous data sovereignty and governance*. <https://nni.arizona.edu/our-work/research-policy-analysis/indigenous-data-sovereignty-governance>].

<sup>24</sup> Thornton, R. (1996). Tribal membership requirements and the demography of “old” and “new” Native Americans. In G. D. Sandefur, R. R. Rindfuss, & B. Cohen (Eds.), *Changing numbers, changing needs: American Indian demography and public health* (pp. 103–112). National Academies Press. <https://www.ncbi.nlm.nih.gov/books/NBK233104/>

While some federal, state, and district data collections do allow respondents to enter their “Tribal affiliation,” these responses are *self-identified* data and are different from formal enrollment or descendency records. It’s analogous to the difference between someone identifying as “American” because they grew up in the United States and having a Social Security number. Tribal affiliation data are not currently used to determine eligibility for any federal programs intended to fulfil the trust responsibility.

## Barriers to Education Data Sharing

The U.S. government’s trust responsibility to Tribal nations includes providing education services and supports to Indigenous students. More than 150 treaties between Indian Tribes and the United States specifically include education-related provisions. Several federal Indigenous education programs rely on political and legal data to determine eligibility.

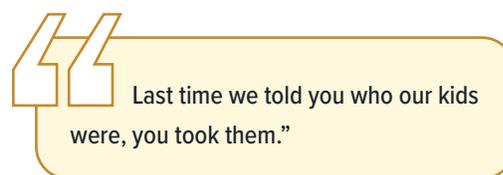
Verifying this data can be a burdensome process because there are significant legal and cultural barriers to free and transparent data exchange between K–12 public schools and Tribal governments.

### *Barriers to Tribal Access to Public School Data*

Tribal access to public school data is limited by the student privacy provisions of the Family Education Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), which prevents the disclosure of identifiable student data without parental permission to entities without “legitimate educational interest.” As of 2023, the Student Privacy Policy Office (SPPO) of the U.S. Department of Education continues to assert that Tribal Education Departments do not meet the legitimate educational interest standard. The SPPO has also said that nothing in existing law “confers upon [T]ribal educational authorities’ full rights, privileges and obligations as ‘local educational agencies’” and that Tribal education departments, “fail to meet the definition of an ‘educational agency or institution’ and, therefore, cannot be the recipient of education records.”<sup>25</sup>

### *Barriers to Public School Access to Tribal Data*

Public school system access to Tribally owned data is limited by a long history of misrepresentations and bad faith on the part of the federal government, from treaties to abuses of Indigenous data in research. Indigenous nations and institutions are cautious about sharing their data without full transparency and accountability as to how and by whom it will be used, especially when it comes to children. One example of this came up during 2012 Tribal data sharing negotiations with the Oregon Department of Education. An elder who was participating in the discussions said, “Last time we told you who our kids were, you took them,”<sup>26</sup> referring to the practice of removing Indigenous students from their families and placing them in boarding schools (among other practices) outside Tribal communities. This history can be one factor in reluctance of families or caregivers to identify their students as American Indian or Alaska Native.



“Last time we told you who our kids were, you took them.”

<sup>25</sup> Rooker, LeRoy S. (April 11, 2005). [Response to the Native American Rights Foundation’s June 9, 2003, letter to the Office of Indian Education regarding the release of public school records to Tribal governments under the Family Educational Rights and Privacy Act]. [https://studentprivacy.ed.gov/sites/default/files/resource\\_document/file/LettertoNativeAmericanRightsFundRegardingFERPAApril2005.pdf](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/LettertoNativeAmericanRightsFundRegardingFERPAApril2005.pdf)

<sup>26</sup> Halcomb, R., personal communication, June 14, 2023.

## THE FEDERAL INDIAN BOARDING SCHOOL ERA

From the early 1800s to the late 1900s, the United States removed thousands of Indigenous children—some as young as 3 years old—from their families by force and coercion and sent them to federal Indian boarding schools. There they were stripped of their languages and cultures, using what the Bureau of Indian Affairs' Boarding Schools Initiative called “systematic militarized and identity-alteration methodologies to attempt to assimilate American Indian, Alaska Native, and Native Hawaiian children through education.”<sup>27</sup> Cultural assimilation through education was one of the United States' primary policy strategies for disrupting Tribal nations,<sup>28</sup> and it had a devastating impact. Unknown numbers of students died in the schools; many others returned home unable to speak their native languages or participate in their communities' religious and cultural customs.

The Meriam Report, published in 1928, found the boarding school system to be “grossly inadequate,” citing overcrowding; forced child labor; inadequate food and medical attention; and poor staffing, curriculum, and discipline. Its primary education recommendation was to “accelerate [the movement away from the boarding school] in every way practicable.”<sup>29</sup> Despite these findings, in 1944 a House Select Committee on Indian Affairs advocated for the continuation of the system, calling it, in a chilling echo of the rhetoric of the German Reich, “the final solution of the Indian problem.”<sup>30</sup>

The boarding schools are only the best-known manifestation of Indigenous child removal; the practice was endemic for more than a century across both government and private programs. In 1978, Congress passed the Indian Child Welfare Act in response to predatory child welfare and adoption agencies that were removing more than a quarter of all Indigenous children from their families and placing them outside of their communities.<sup>31</sup>

## What Can Current Indigenous Student Counts Tell Us?

After extensive examination of all extant data sets, scholar Jeffrey Burnette concluded, “The total number of AI/AN precollegiate students enrolled in school should be relatively easy to find, but it is not.”<sup>32</sup> What is available is a universe of Census-based estimates, district- and state-level reports, and program-specific reporting numbers that illuminate the flaws of current counting methodologies and raise additional questions.

It is clear is that there is a significant undercounting of students who identify as American Indian or Alaska Native nationwide and as well as that the magnitude of the problem varies by geography. The map in Exhibit 7 shows the estimated percentage of AI/AN students undercounted by the “official count”.

<sup>27</sup> Newland, B. (2022). *Federal Indian Boarding School Initiative investigative report*. U.S. Department of the Interior, Bureau of Indian Affairs. [https://www.bia.gov/sites/default/files/dup/inline-files/bsi\\_investigative\\_report\\_may\\_2022\\_508.pdf](https://www.bia.gov/sites/default/files/dup/inline-files/bsi_investigative_report_may_2022_508.pdf)

<sup>28</sup> National Archives. (2022). *President Andrew Jackson's message to Congress 'on Indian removal' (1830)*. <https://www.archives.gov/milestone-documents/jacksons-message-to-congress-on-indian-removal>

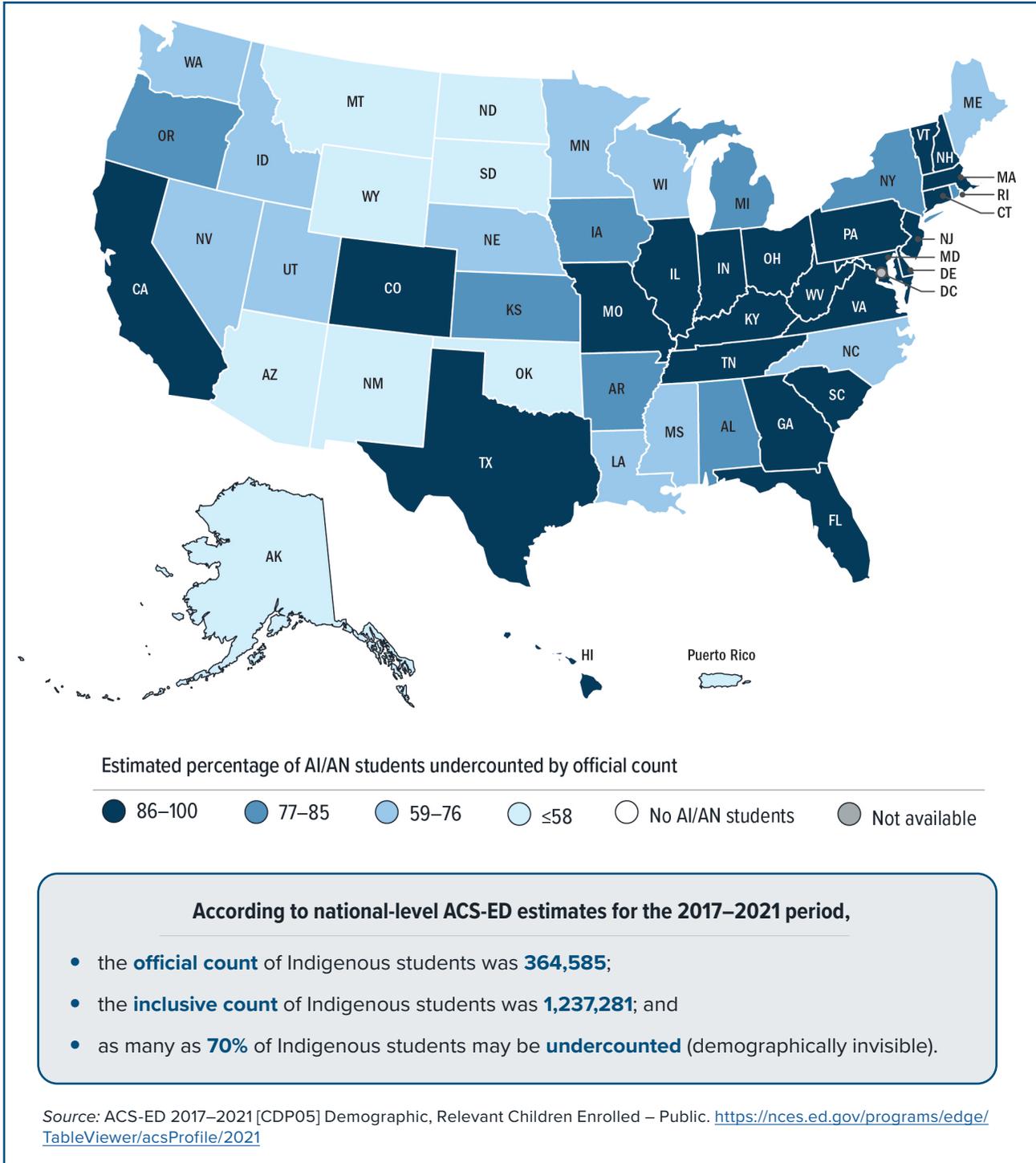
<sup>29</sup> Meriam, L. (1928). *The problem of Indian administration: General summary of findings and recommendations*. [https://narf.org/nill/documents/meriam/d\\_meriam\\_chapter1\\_summary\\_of\\_findings.pdf](https://narf.org/nill/documents/meriam/d_meriam_chapter1_summary_of_findings.pdf)

<sup>30</sup> Senate Committee on Labor and Public Welfare. (1969). *Indian Education: A national tragedy—A national challenge*. <https://narf.org/nill/resources/education/reports/kennedy/toc.html>

<sup>31</sup> National Indian Child Welfare Association. (n.d.). About ICWA. <https://www.nicwa.org/about-icwa/>

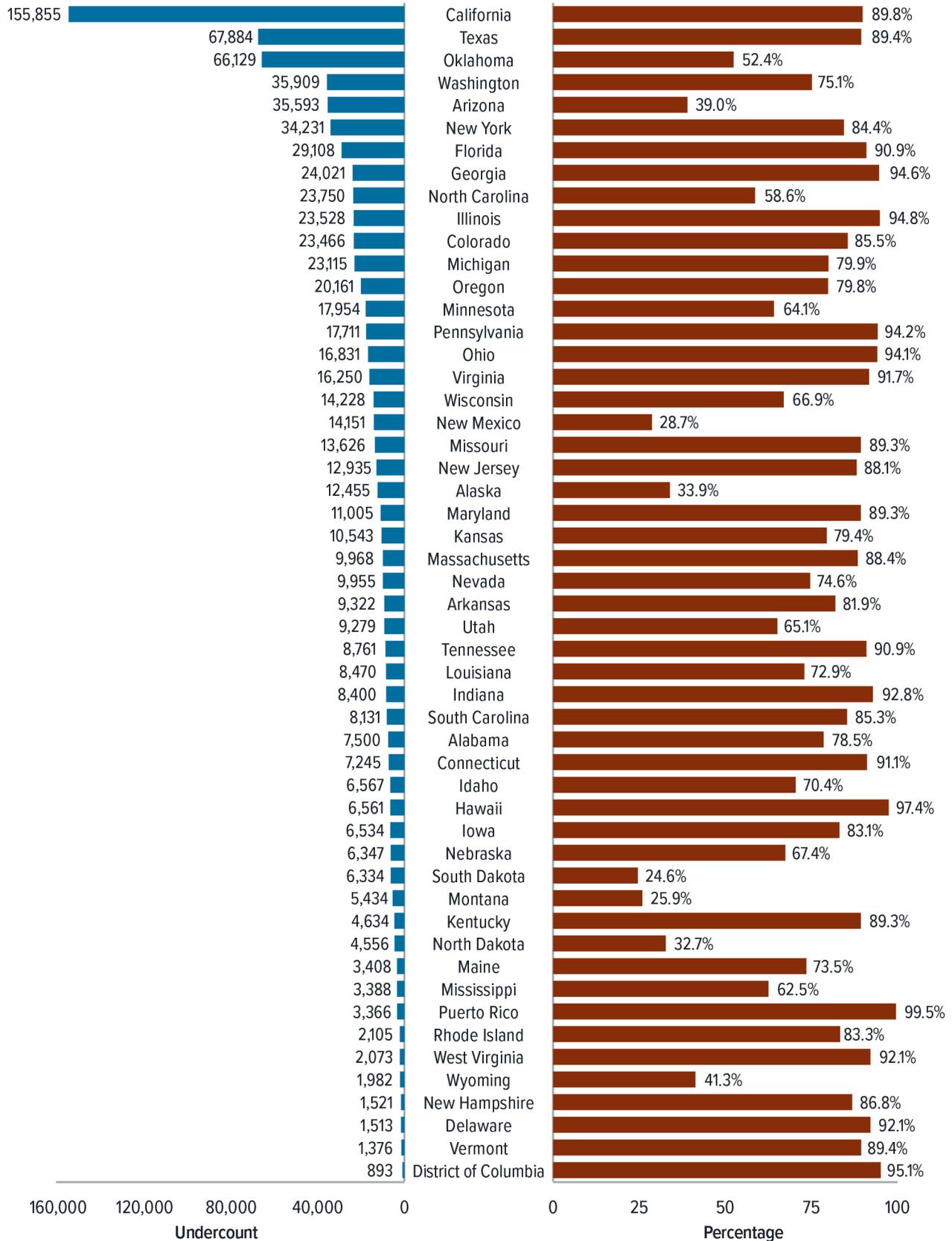
<sup>32</sup> Burnette, J. D. (2021). Why is the total enrollment of American Indian and Alaska Native precollegiates such a difficult number to find? *Journal of American Indian Education*, 60(1), 162–186. <https://muse.jhu.edu/article/840607>

**Exhibit 7. Mapping Indigenous Student Counts in Public K–12 Education**



According to the ACS-ED, more than 85% of Indigenous students are undercounted in 23 states and territories—almost half the country. One of these states is California, which has one of the five largest Indigenous student populations in the nation, according to NCES data. Exhibit 8 shows the 50 states, Washington D.C., and Puerto Rico by number and percentage of students undercounted.

**Exhibit 8. ACS-ED Undercount Estimates by State: 2017–2021**



Source: ACS-ED 2017–2021 [CDP05] Demographic, Relevant Children Enrolled – Public. <https://nces.ed.gov/programs/edge/TableViewer/acsProfile/2021>

Note that Puerto Rico and Hawaii stand out as having high percentages of undercounts. Puerto Rico and Hawaii have their own Indigenous populations. Federal data on Native Hawaiian and Pacific Islander students are collected in their own category per OMB standards, whereas data on Indigenous Puerto Rican and other Caribbean Indigenous (e.g., Taino) students are not. On the 2020 Census, more than 119,000 respondents listed their Tribal affiliation as either Taino or Puerto Rican Indigenous, but their data are likely to show up as “Hispanic” in federal reporting (see Kalei’s story).<sup>33</sup>

### Indigenous Student Stories: Kalei



**Kalei’s** mother is Native Hawaiian and their father is Taino and White. Kalei speaks Spanish, Hawaiian, and English. They identify as “Hispanic or Latino” and “Native Hawaiian or Other Pacific Islander” on forms, so the district reports their outcomes in the “Hispanic” category. Kalei is not eligible to be counted toward either Title VI or Johnson O’Malley funding, as neither Native Hawaiian nor Indigenous Puerto Rican people are recognized as sovereign by the federal government.

For more information on the data sets used in the map and the analysis process, see Appendix A.

An interactive version of this map is available at <https://www.air.org/indigenous-student-counts>. In the interactive version of the map, users can

- view ACS-ED official and inclusive estimates of AI/AN students and the difference between these two counts—that is, the undercounts—for states and districts;
- view official counts of AI/AN students (as reported by districts to NCES) as well as counts of students eligible for Title VI Indian Education Formula Grants (as reported by grantee districts to the Office of Indian Education) for states and districts; and
- use map layers and filters to see
  - districts receiving Title VI Indian Education Formula Grants;
  - Tribal boundaries; and
  - districts with specific sizes or percentages of AI/AN populations.

<sup>33</sup> U.S. Census Bureau. (n.d.). *2020 Census detailed demographics and housing characteristics File A (Detailed DHC-A)*. <https://www.census.gov/data/tables/2023/dec/2020-census-detailed-dhc-a.html>

## Indigenous Student Stories: Different Data Sources Define Indigeneity in Different Ways

JUAN	KIVA	SARAH	PAUL	KALEI
				
Guatemalan and Tohono O’odham (25%)	Muscogee Creek of Georgia (state recognized), Georgia Tribe of Eastern Cherokee (state-recognized), and White	Yupik (9%) and White	Sac and Fox (11%), Osage (5%), and Kickapoo (13%)	Native Hawaiian and Taino
Data reported as Hispanic.	Data reported as two or more races.	Data reported as two or more races.	Data reported as AI/AN.	Data reported as Hispanic.
<input checked="" type="checkbox"/> Eligible for Title VI? <input checked="" type="checkbox"/> Eligible for JOM?	<input checked="" type="checkbox"/> Eligible for Title VI? <input checked="" type="checkbox"/> Eligible for JOM?	<input checked="" type="checkbox"/> Eligible for Title VI? <input checked="" type="checkbox"/> Eligible for JOM?	<input checked="" type="checkbox"/> Eligible for Title VI? <input checked="" type="checkbox"/> Eligible for JOM?	<input checked="" type="checkbox"/> Eligible for Title VI? <input checked="" type="checkbox"/> Eligible for JOM?

## What Are the Implications of Data Quality for Indigenous Student Supports?

Data quality makes a difference. For example, information from the American Community Survey (ACS) generates data that help determine how more than \$675 billion in federal and state funds are distributed each year. NCES data are used for high-profile research and accountability as well as decisions that impact distribution of more than \$50 billion in education funding.

It’s hard to make good, equitable decisions using bad data. Without high-quality Indigenous student data, states, Tribes, districts, and schools may not have the information they need to make policy, program, and funding decisions that support Indigenous student success and may not be able to report student data in ways that communities find helpful.

**It’s hard to make good, equitable decisions using bad data.**

Data quality has implications for Tribal Consultation and government-to-government relationships; district access to federal funding streams; educational research and reporting; policy priorities and resource allocation; and the instructional environment of schools and classrooms.

- Consultation.** The percentage of American Indian/Alaska Native (AI/AN) students in a district is one of the factors used to determine whether the district needs to Consult with Tribal governments on educational decisions that impact their citizenry under section 8538 of the Every Student Succeeds Act.

- **Tribal Relations.** The data available at state and district levels does not, in the majority of states, allow Tribal nations to disaggregate information specific to their own Tribal members and descendants. This inhibits Tribes’ ability to provide informed supplemental services to their youth. One IESLN member likened this to asking the school for his daughters’ report cards and instead getting aggregate data for the performance of all female students.
- **Program Eligibility.** While Title VI Indian Education Formula Grant and Johnson O’Malley program eligibility are based on separate data collections that take political/legal status and descendency into account, official counts of AI/AN students may mislead some districts that could be eligible for this funding. Two thirds of Title VI districts use the NCES official count to identify potentially eligible students.<sup>34</sup>
- **Research Evidence.** Undercounting AI/AN students has led to statistical underpowering of analyses; this often excludes Indigenous students from research studies and other key reports and information used to make and implement policy at the district, state, and federal levels.
- **Resource Allocation.** Understanding of Indigenous student numbers affects resource allocation in multiple ways. Impacts include staffing at state, district, and school levels; Tribal education programs and supports; and funding at all levels. Using inaccurate numbers like official counts can result in deprioritization or significant underfunding for programs intended to support Indigenous students and communities.
- **Accountability.** Data analyses used for reporting and accountability at the school and district levels often leave out AI/AN students because the population is too small to report under federal privacy laws. This means that these schools and districts cannot be held accountable for subgroup disparities in programs and/or student achievement and outcomes between AI/AN and other students.
- **Instruction.** Poor data may affect instructional effectiveness in classrooms, school climate, and a host of other academic, disciplinary, and social-emotional outcomes for students. According to the *National Indian Education Study*—the nation’s largest study of Indigenous student outcomes—in 2019, students in low-density public schools (i.e., those where less than 25% of students are AI/AN) were 20% to 30% less likely than those in high-density schools (i.e., those where 25% or more of all students are AI/AN) to receive instruction about Indigenous history, culture, or Tribal sovereignty.<sup>35</sup>

“It is important to recognize both the collective Tribal and individual obligation for Indian education to . . . the individual AIAN student who is dependent upon the fulfillment of the treaty and trust obligation for education. Failure to adequately include and properly operationalize AIAN students in the collection, analysis, and dissemination of national-level educational data represents a failure of the Federal Government to observe and reflexively evaluate its treaty and trust obligation for Indian education.”

—National Advisory Council on Indian Education, Annual Report to Congress: 2022–2023

<sup>34</sup> Policy and Program Studies Service. (2019). *Implementation of the Title VI Indian Education Formula Grants Program, Volume I: Final report*. U.S. Department of Education, Office of Planning, Evaluation and Policy Development. <https://www2.ed.gov/rschstat/eval/title-vi/title-vi-report.pdf>

<sup>35</sup> Rampey, B. D., Faircloth, S. C., Whorton, R. P., & Deaton, J. (2021). *National Indian Education Study 2019: American Indian and Alaska Native students at grades 4 and 8* (NCES 2021-018). U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics. <https://nces.ed.gov/nationsreportcard/subject/publications/studies/pdf/2021018.pdf>

This discrepancy is concerning because inclusive education practices that affirm Indigenous cultural identity have been associated with a host of improved student outcomes, including higher academic achievement, more positive classroom behavior and engagement, and improved attendance.<sup>36</sup> Benefits are not confined to the classroom, either. Youth receiving culturally responsive schooling show enhanced self-esteem, healthy identity formation, and more self-directed and politically active behavior. In Tribal communities, Indigenous youth receiving culturally responsive instruction express more respect to their Tribal elders and are more motivated to have a positive influence in their Tribal communities.<sup>37</sup>

When teachers and schools are aware of all their Indigenous students, they may be more likely to teach culturally responsive, place-based, and relevant content; differentiate between student cultural needs within programs; and/or employ instructional strategies that have been shown to be effective with Indigenous students.

A more accurate count of Indigenous students would require accompanying increases in program budgets, administrative capacity, and other resources. Systems cannot rise to equity challenges without supports; improvements in data quality must also be met by increases in resource allocation to create positive outcomes. Increasing student access while maintaining current funding levels would only create ever-smaller slices of an already insufficient pie, leading to negative outcomes (e.g., reduced per pupil funding, overextended technical assistance) rather than greater equity.

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<sup>36</sup> Dee, T., & Penner, E. (2016). *The causal effects of cultural relevance: Evidence from an ethnic studies curriculum* (CEPA Working Paper No. 16-01). Stanford Center for Education Policy Analysis. <http://cepa.stanford.edu/wp16-01>; Davidson, S., Broaddus, M. S., Velie, Z., & Harry, K. (2022). *Indigenous school improvement: Research findings*. Region 16 Comprehensive Center. [http://www.r16cc.org/wp-content/uploads/2022/11/Indigenous-School-Improvement-Report-Research-Findings\\_508c.pdf](http://www.r16cc.org/wp-content/uploads/2022/11/Indigenous-School-Improvement-Report-Research-Findings_508c.pdf)

<sup>37</sup> Davidson, S., Broaddus, M. S., Velie, Z., & Harry, K. (2022). *Indigenous school improvement: Research findings*. Region 16 Comprehensive Center. [http://www.r16cc.org/wp-content/uploads/2022/11/Indigenous-School-Improvement-Report-Research-Findings\\_508c.pdf](http://www.r16cc.org/wp-content/uploads/2022/11/Indigenous-School-Improvement-Report-Research-Findings_508c.pdf)

## Potential Impacts of Using an Inclusive Count

What are some potential program and policy impacts of using more inclusive counts rather than existing official counts?\*

An additional **1,806 districts** might be eligible for Title VI Indian Education Formula Grant funding.<sup>38</sup>

An additional **78 districts** might qualify as “affected districts” based on the 50% threshold under the Tribal Consultation clauses of the Every Student Succeeds Act.<sup>39</sup>

An additional **1,029 districts** might be able to disaggregate AI/AN data for reporting.<sup>40</sup>

An additional **11 states** might meet the 1% threshold required for participation in the National Indian Education Study.<sup>41</sup>

It is important to note, given the limitations of the extant data, that these are *broad hypothetical scenarios* that attempt to illustrate the types of change—in access to funding and in accountability for Indigenous student outcomes—a more accurate count might enable.

States with data that allow them to calculate an inclusive count may be able to run similar queries using district-reported data to arrive at more accurate predictions.

*\*These numbers were calculated using the ACS-ED estimated undercount percentages and the NCES official counts.*

<sup>38</sup> To be eligible to apply for Title VI Indian Education Formula Grant funding, a district must have a minimum of 10 AI/AN students. This number was reached by subtracting the current number of eligible districts (as determined by the NCES official count) from the total number of districts where  $(\text{NCES AI/AN official count} * (1 + \text{undercount percentage estimate})) = \text{a count estimate of 10 or more AI/AN students}$ .

<sup>39</sup> “Affected districts,” as defined by Section 8538 of the Every Student Succeeds Act, are those which have 50% or more AI/AN students or those receiving more than \$40,000 in Title VI Indian Education Formula Grant funding. This number was reached by subtracting the current number of affected districts (as determined by the NCES official count) from the total number of districts where  $(\text{NCES official AI/AN count} * (1 + \text{undercount percentage estimate}) / \text{NCES total district student population}) = \text{a percentage estimate of 50\% or more AI/AN students}$ .

<sup>40</sup> This was calculated by subtracting the number of districts whose NCES official counts reached the threshold for N-size for reporting in the state’s ESSA state plan from those in which  $(\text{NCES official AI/AN count} * (1 + \text{undercount percentage estimate}))$  reached the threshold. N sizes used are from Alliance for Excellent Education [Alliance for Excellent Education. (2018). *N-size in ESSA state plans*. <https://all4ed.org/publication/n-size-in-essa-state-plans/>].

<sup>41</sup> This was calculated by subtracting current NIES states from the total of states where  $(\text{NCES official AI/AN count} * (1 + \text{undercount percentage estimate}) / \text{NCES total state student population}) = 1\%$  or more of their NCES-reported total student population, the standard eligibility criterion for state participation.

# How Can the Quality of Indigenous Student Counts Be Improved?

The ISI project identified three key indicators of high-quality Indigenous student counts: accuracy, appropriateness, and accountability to Tribal communities. Exhibit 9 provides a quick overview of these indicators.

## The Triple-A (AAA) Standard: Accuracy, Appropriateness, and Accountability

Exhibit 9. The AAA Standard

A count that is . . .	Is . . .	Is not . . .
<b>Accurate</b>	correct based on the definition applied	significantly greater or lesser than the number of students meeting the definition applied
<b>Appropriate</b>	based on a suitable definition of identity for the policy use to which it is put	incongruous for the purpose to which it is put (e.g., conflating legal/political affiliation with ethnic/racial identity for programs intended to fulfil the federal trust responsibility)
<b>Accountable</b>	collected and reported transparently <i>and</i> respectful of data sovereignty and student privacy	collected in absence of Tribal consultation or certification or indifferent to Indigenous students’ unique linguistic and cultural educational rights and needs

More detailed definitions and examples follow for each indicator of student count quality.

- **Accuracy.** An accurate count is one in which states, districts, and Tribes help ensure that the count of students closely matches the number of students *for a given definition*.

*Example:* If an NCES inclusive count were possible, it would be an *accurate* picture of the number of students who self-identify as meeting the definition “A person having origins in any of the original peoples of North and South America (including Central America), and who maintains cultural identification through Tribal affiliation or community attachment.”

- **Appropriateness.** An appropriate count is one in which the federal government, states, districts, and Tribes help ensure that the definitions and collection used are the right fit for the intended policy purpose.

*Example:* The Title VI and Johnson O’Malley counts are *appropriate* for their purposes. These programs are (1) part of the federal government’s treaty obligations and, as such, are specifically directed toward members and close descendants of federally recognized Tribes and (2) based on proof of eligibility that is verifiable by Tribes.

- **Accountability.** An accountable counting process is one in which districts and states consult and collaborate with Tribes to support data transparency and respect Tribal data sovereignty. Accountable counting processes are characterized by meaningful consultation practices and active community engagement.

*Example:* Oklahoma maintains a Memorandum of Understanding (MOU) with the Muskogee Creek Nation that includes data-sharing provisions. On request, Muskogee Creek education officials can access aggregate educational outcome information on students who identify as affiliated with their Tribe. The legislation mandating state-level Tribal affiliation data collection in Oklahoma was developed through an *accountable* collaborative effort between Tribes and the Oklahoma Department of Education.

*Example:* Districts receiving Title VI or Johnson O’Malley funds are required to have parent committees comprising Indigenous parents and community members that are informed and consulted regarding those programs. These committees hold districts *accountable* to Tribal communities for the identification of students and the use of those funds.

Quality student counts will meet all three indicators to a reasonable standard. No current national data set meets more than one or two of these indicators. These examples show efforts to address data quality at the program, district, and state levels using known best practices.

## Best Practices in Indigenous Data Collection

In 2020, the Urban Indian Health Institute (UIHI) identified best practices for collecting, analyzing, and presenting data on AI/AN populations to address “incomplete, inaccurate, and unreliable standard data collection and analysis practices.” Among their recommendations are several that are relevant to current state and local shifts in Indigenous student data collection, summarized here.<sup>42</sup>

- **Use inclusive counts wherever possible.**
- **Ensure that data collection tools allow for later disaggregation of race/ethnicity data.** “Data collection tools that do not allow for disaggregation are not recommended as they will effectively eliminate AI/AN in the data,” the authors note.
- **Collect Tribal affiliation data.** The collection of Tribal affiliation data is a growing trend across many health and human service fields. The UIHI noted that before collecting or reporting Tribal affiliation data, meaningful Tribal consultation must be conducted [to allow Tribes to] determine if Tribal affiliation should be collected and how that data should be reported back to them. Resulting Memoranda of Understanding and/or Data Use Agreements should specify data collection practices, analysis and dissemination policies and procedures.

These recommendations address many of the concerns about accuracy, appropriateness, and accountability described in this report. Some states have already implemented one or more of these practices and more are in the process of doing so. The federal government has also indicated an openness to collecting improved race/ethnicity and other Indigenous student data. These policy and practice shifts provide hope for the implementation of higher-quality data collection practices nationwide in the future.

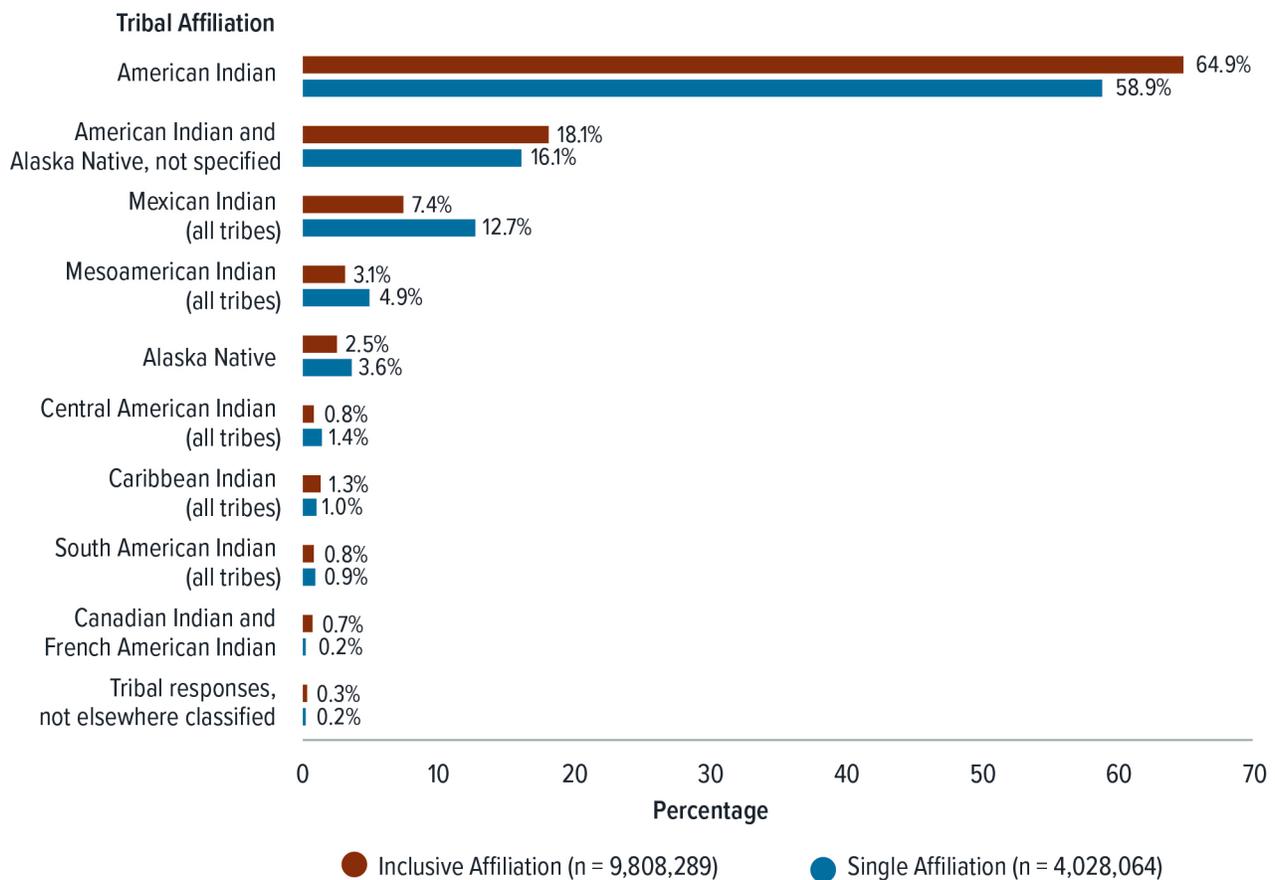
<sup>42</sup> Urban Indian Health Institute. (2020). *Best practices for American Indian and Alaska Native data collection*. <https://www.uihi.org/download/best-practices-for-american-indian-and-alaska-native-data-collection/>

## Tribal Affiliation Data Collection

Collecting Tribal affiliation data makes it possible to distinguish between students affiliated with those Tribes to which the federal government recognizes its treaty responsibility and the wide range of other Indigenous peoples included in the federal AI/AN definition. It also enables Tribes to receive disaggregated data on their students; districts to know which Tribes should be engaged in Consultation and understand their students' cultural backgrounds; and program administrators to streamline paperwork and planning.

Exhibit 10 shows a high-level breakdown of Tribal affiliation data from the 2020 U.S. Census. While response breakdowns varied somewhat between the single and multiple affiliation files, the trends were fairly consistent. Roughly two thirds of respondents in either data set indicated affiliation with a U.S. Tribal nation. The next largest category in both data sets was those who did not provide any affiliation (16%–18%). The remainder were affiliated with Mexican, Central American, South American, or Mesoamerican Indigenous groups; Canadian Indian and French American Indian affiliations; and Caribbean Indian peoples (86% of that number identified as Taino specifically). This type of rich data provides a level of nuance that could be very programmatically useful for Tribes, states, districts, and program managers seeking to improve the accuracy, appropriateness, and accountability of their Indigenous student data and services.

**Exhibit 10. Tribal Affiliation by Percentage of Total Responses in the 2020 Census**



Source: 2020 Census Detailed Demographic and Housing Characteristics File A (Detailed DHC-A), prepared by the U.S. Census Bureau, 2023.

## Moving Toward Better Practices

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In 2000, the Native American Rights Fund, an Indigenous legal advocacy organization, wrote that

Indian Tribes are sovereign governments just as their state and federal counterparts. . . . But instead of requiring active Tribal government involvement, most federal and state education programs and processes circumvent Tribal governments and maintain non-Indian federal and state government control over the intent, goals, approaches, funding, staffing, and curriculum for Indian education.<sup>43</sup>

In the decades since, federal Indigenous education policy has moved, albeit slowly, to improve its practice. The passage of the Every Student Succeeds Act in 2015, with its district- and state-level Consultation requirements, has done much to spark an emergent engagement of K–12 public education with Tribes and a greater understanding of Tribal sovereignty. Improving Indigenous student identification is the next step in advancing toward greater equity for the nation’s Indigenous students.

### Federal Policy Shifts

The federal government has taken some important steps over the last few years to move toward more consistent and programmatically useful data collection and reporting for Indigenous students. Some of these changes will likely enable more accurate and appropriate Indigenous student counts in the future.

### *Revisions to Federal Race and Ethnicity Standards*

Since 2007, the U.S. Department of Education has required states to collect and report race/ethnicity data using only the minimum categories set forth in the 1997 Office of Management and Budget Standards for the Classification of Federal Data on Race and Ethnicity (Statistical Policy Directive No. 15, or SPD 15), despite OMB’s encouragement to “provide detailed distributions, including all possible combinations, of multiple responses to the race question.”<sup>44</sup> This guidance (summarized at the beginning of this report) provides a minimum standard to which all states must adhere but perpetuates Indigenous student invisibility and prevents NCES data users from being able to calculate inclusive counts from reported data.

As of 2022, the OMB has convened an Interagency Technical Working Group on Race and Ethnicity Standards that is considering changes to the SPD 15 standard. In 2023, IESLN and other Indigenous education organizations provided input to the Working Group on the topics outlined in this report that echoed the key best practice recommendations of the UIHI. The OMB’s goal is to complete any revisions to the standard by summer of 2024.

The U.S. Department of Education needs to revisit its reporting rules as well. In 2007, the Department said that it “plans to monitor the data trends reported [and] if necessary . . . request access to the specific racial and ethnic data provided in response to the two-part question by individual respondents.” There is no evidence that

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<sup>43</sup> McCoy, M. L. (2000). *Federal Indian law and policy affecting American Indian and Alaska Native education: Tribalizing Indian education*. Native American Rights Fund. <https://www.narf.org/wordpress/wp-content/uploads/2015/01/purple.pdf>

<sup>44</sup> Office of Management and Budget. (1997). Statistical Policy Directive No. 15: Standards for maintaining, collecting, and presenting federal data on race and ethnicity. *Federal Register*, 62(210), 58785. <https://www.govinfo.gov/content/pkg/FR-1997-10-30/pdf/97-28653.pdf>

the Department has done so, and as this report has made clear, it is indeed necessary. Indigenous education organizations, experts, and practitioners—and the communities they serve—stand ready to work closely with the Department to support improved Indigenous student identification practice at the federal level.

## ***Tribal Affiliation Data Standards***

The Common Education Data Standards (CEDs) project is a national collaborative effort to develop voluntary, common data standards for a key set of education data elements to streamline the exchange, comparison, and understanding of data within and across educational institutions and sectors—from preschool to the workforce.

In July 2016, CEDs version release 6 introduced a new “Tribal Affiliation” element to the common demographic category for all student and staff entities. This means that state data systems that are aligned to the CEDs can now collect and report data in a way that is consistent across states.

CEDs is open source—that is, data users can submit use cases and suggestions to the community for collaborative review. As part of its 3-year research agenda, the Indigenous Student Identification project will coordinate a working group to review and revise the Tribal Affiliation element on an annual basis to ensure that it is maximally useful to education systems working with Indigenous students and communities.

## **State Policy Approaches**

Some state education agencies are already changing the ways they collect or disaggregate data on Indigenous students to increase the accuracy or appropriateness of their student counts. The Indigenous Student Identification project conducted interviews with staff at SEAs that responded to the initial survey on state programs, policies, and practices to learn more about their policies for Indigenous student identification specifically.

In those interviews, the project found that six states currently collect or use additional data to better identify Indigenous students. Others are in the process of actively considering similar policies. The states profiled below are all implementing policies that will help them collect more accurate or appropriate Indigenous student data. As part of developing these policies, they have all worked with Tribal nations to understand what data are needed and how they should be collected and reported.



### **Arizona**

As of 2023–24, Arizona will collect Tribal affiliation data as well as racial/ethnic data for its Indigenous students as part of its state longitudinal data system (SLDS). It will become the first state to allow Indigenous students to indicate affiliation with multiple Tribal nations in addition to selecting a primary affiliation. Integrating this additional data collection capacity into the SLDS and district student information systems will allow the Arizona Department of Education to share Tribally disaggregated student outcome data with Tribal nations with whom it has data sharing agreements, such as the Gila River Indian Community.



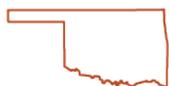
### Michigan

In July of 2023, the Michigan legislature passed a bill (SB 173) requiring the collection of Tribal affiliation data for students and staff beginning in 2024–25: “A district . . . shall collect and submit to the [Center for Educational Performance and Information] Tribal affiliation data for all students and staff and the identification of student participation in federal programs [relevant to Indigenous education].” The Michigan Department of Education is in the process of working with Michigan Tribal leaders, Tribal education departments, and local districts to understand how to optimize the process.



### Minnesota

Minnesota has been collecting additional data on their Indigenous students since 2018 using a state definition that identifies AI/AN students as specifically affiliated with North American Tribes (as opposed to South or Central American Tribes) and uses an inclusive counting method to create a “state count” of AI/AN students for state reporting and policy implementation.<sup>45</sup> This count drives the state’s American Indian Parent Advisory Committee requirement for districts, charter schools, and tribal schools as well as eligibility for the state’s American Indian Education Aid program. Minnesota’s state data system also has the capacity to collect more detailed ancestral/ethnicity information, including Tribal affiliation for common Tribal groupings in the state.



### Oklahoma

In 2021, House Bill 1104 amended Oklahoma’s Student Data Accessibility, Transparency and Accountability Act to include Tribal affiliation data collection for students identified as having American Indian heritage. The Oklahoma Department of Education has been requiring districts to report this data since 2022–23 and has a standing MOU with the Muskogee Creek Nation to share Tribally specific aggregate data. Another MOU, with the Cherokee Nation, has lapsed and is in need of renewal.



### Utah

The Utah State Board of Education (USBE) has been collecting Tribal affiliation data for its students since the early 2000s. The collection, which is required if the student indicates AI/AN as their race and optional otherwise, includes the state’s five Tribal groupings as well as the opportunity to indicate “other” Tribal affiliation. While the USBE shares aggregate data with all the states’ Tribes, it has had a more extensive data-sharing agreement with the Navajo Nation for the last decade. This agreement ensures that the Navajo Nation has access to the data it needs to evaluate its federally funded education programs.

<sup>45</sup> Minnesota Department of Education. (2023). *Counting all students*. <https://education.mn.gov/MDE/dse/count/>



## Wisconsin

The Wisconsin Department of Public Instruction (DPI) has incorporated a Tribal affiliation data element into their statewide longitudinal data system. Voluntary district reporting of Tribal affiliation has been encouraged (and gradually increasing) for several years and was implemented statewide in 2021–22. DPI maintains MOUs with six of the state’s 11 federally recognized Tribal nations, most of which include data-sharing provisions.

These states have all worked with the Tribal nations within their borders to identify Indigenous student identification needs and move toward improving their state systems to collect more accurate, appropriate, and accountable data. But *all* states need to be aware of this issue and take steps to address it. A national conversation is needed to achieve equitable implementation of quality Indigenous student identification practices and policies.

## Conclusion

**It’s complicated.** Indigenous student data collection is complicated and messy and suffers from both legacy and contemporary data issues that perpetuate the invisibility of Indigenous students.

**Educators, Tribes, and policymakers need good data to make good decisions.** Indigenous students are in every state and in three quarters of all districts; these issues must be understood and addressed at all levels to achieve equity of opportunity. Educators, Tribes, and policymakers need to be able to see their Indigenous students to assess their needs and understand their strengths, to adequately fund and staff programs, and to effectively work with Tribal nations to braid supports and provide culturally appropriate services.

**Undercounting of Indigenous students is endemic.** Existing data sets are deeply flawed on one or more key indicators of quality even before consideration of the problematic histories and assumptions on which the data are founded. This creates barriers to access, hampers political will, undermines accountability in reporting, and keeps Indigenous students from receiving the culturally responsive instruction and services that have been shown to support their academic and social-emotional outcomes.

**It is time to be proactive and find solutions.** Individual districts and states are working with Tribal nations to implement emerging and known best practices in data collection, including the use of inclusive counting methods and collection of Tribal affiliation data. This trend is gaining momentum, but it must spread beyond those states that already make substantial efforts to serve Indigenous students. There is not, nor should there be, one definitive count of Indigenous students. Different data categories, definitions, and policy uses defy any effort to reach a single perfect number. What is needed is *better* data collection, analysis, and reporting. Achieving that goal is absolutely within the near-term reach of current systems.

**What is needed is *better* data collection, analysis, and reporting. Achieving that goal is absolutely within the near-term reach of current systems.**

# Appendix A. Methodology

The purpose of this report and the accompanying map is to illuminate

- some of the ways in which Indigenous students are defined and counted in the public K–12 school system;
- the policy and programmatic purposes for which those counts are used;
- the historical, political, and policy context of Indigenous data collection and use;
- Indigenous student data quality indicators; and
- federal and state policy and practice shifts toward improving Indigenous student data collection and reporting.

Throughout the development of this report, the Indigenous Student Identification (ISI) project team consulted regularly with both the IESLN Working Group and the ISI Research Steering Committee to ensure that the work was conducted with full transparency and informed by the knowledge and experience of Indigenous education experts.

## Data Sources

Extant data from multiple sources was used to represent the Indigenous student identification landscape in the interactive map and to generate the information used in this report (Exhibit A1). The ISI project also administered a survey to state education agencies (SEAs) with known Indigenous education contacts and conducted follow-up interviews with respondents to gather information on their individual state contexts and practices.

### Exhibit A1. Data Sources

Source	Collector	Description
<b>American Community Survey – Education Tabulation (ACS-ED) 2017–2021 5-year estimates</b>	U.S. Census Bureau	<p>The 5-year estimates used in this report and map include <i>only</i> students enrolled in K–12 public schools. The 5-year estimates from the ACS are “period” estimates that represent the average value of data collected over a period of time. The ACS sample is selected from all counties and county-equivalents in the United States. The primary advantage of using multiyear estimates is the increased statistical reliability of the data for less populated areas and small population subgroups.<sup>a</sup></p> <p>The ACS-ED data set is ACS data that is held by NCES and mapped to districts based on the work of the Education Demographic and Geographic Estimates (EDGE) program.</p>
<b>National Center for Education Statistics (NCES) ED<i>Facts</i> (2021–22)</b>	School districts	<p>These data include student counts reported by K–12 public school districts to the state and are available through the Elementary/Secondary Information System (EISi) table generator.</p> <p>The NCES count is an official count tabulated using federal reporting categories and guidelines.</p>

Source	Collector	Description
<b>Office of Indian Education (OIE) Title VI Indian Education Formula Grant data (2021–22)</b>	Grantee districts	This count is available only for those districts who received a Title VI Indian Education Formula Grant from OIE in 2021–22 and includes eligible students who are affiliated with a federally recognized Tribe/corporation as determined by completion of the ED 506 Indian Education Formula Grant eligibility form. This information is available through the OIE Title VI grant awards page.
<b>Surveys and interviews with SEA staff</b>	ISI project staff	These surveys and interviews provide information on state Indigenous student identification policies and practices; information was collected from 21 states via surveys and from 19 states via follow-up interviews.
<b>2020 Census Detailed Demographic and Housing Characteristics File A (Detailed DHC-A)</b>	U.S. Census Bureau	This file provides detailed summaries of national origin responses to the 2020 Census, which include Tribal affiliation information.

<sup>a</sup> U.S. Census Bureau. (2023). *American Community Survey 5-year data (2009–2021)*. <https://www.census.gov/data/developers/data-sets/acs-5year.html>

## Data Collection

The context and history for this report was garnered through an extensive review of key academic publications, policy documents, historical documents, and government reports. All citations can be found in the report’s footnotes.

### Map Data

The estimated percentage of American Indian/Alaska Native (AI/AN) students undercounted by official counts was calculated using 2017–2021 demographic data provided by the American Community Survey – Education Tabulation (ACS-ED). This data set provided estimated counts of students enrolled in public schools by district and by state. To estimate this inclusive count, the variable *American Indian and Alaska Native – Race alone or in combination with one or more other races (CDP05\_47est)* was used. To arrive at this official estimate, the variable *American Indian and Alaska Native Alone – Not Hispanic or Latino (CDP05\_60est)* was used. The estimated percentage undercount was calculated using the following formula:

$$\frac{\text{Inclusive Count} - \text{Official Count}}{\text{Inclusive Count}} * 100$$

Additional district-level data displayed in map pop-outs and used to filter the map were provided by NCES and downloaded through the EISi table generator for 2021–22. This included the total AI/AN students and the AI/AN percentage of total students. The percentage of total students was calculated using the following formula:

$$\frac{\text{American Indian/Alaska Native Students}}{\text{Total Students}} * 100$$

A third count of AI/AN students displayed in map pop-outs was provided by the Office of Indian Education (Title VI Formula Grant data).

The areas indicated as Tribal boundaries on the map are AI/AN statistical areas as delineated by the U.S. Census Bureau, which provides the shapefiles on its web site.

## *Policy and State Context Data*

The IESLN maintains a regularly updated list of Indigenous education staff in state education agencies across the United States. In June of 2023, the ISI project sent a survey out to all 32 SEAs with any known Indigenous education contact information asking about their programs and policies, including those involving Indigenous student data collection. Twenty-one of those states (65%) returned the surveys. Between June and August of 2023, ISI team members conducted 19 interviews with survey respondents to better understand the breadth and depth of their practices.

Three SEAs provided 2021–22 student counts disaggregated by federal racial tabulation directly to the ISI project. Not all states collect data at a level of granularity that allows them to do this.

## **Data Analysis**

Analysis of collected data took place on a rolling basis as data became available from each of the above sources. Additional data requests (for student counts for the Johnson O’Malley program and the Impact Aid program) are still pending.

## *Analysis of Map Data*

To examine the extent and geographic distribution of student counts, project staff used extant data from NCES’s EDGE program to develop a map of Indigenous student counts. The EDGE program designs and develops information resources to help understand the social and spatial context of education in the United States. It uses data from the U.S. Census Bureau’s American Community Survey (ACS) to create custom indicators of social, economic, and housing conditions for school-age children and their parents. It also uses spatial data collected by NCES and the Census Bureau to create geographic locale indicators, school point locations, school district boundaries, and other types of data to support spatial analysis. This allowed the data team to create state and district estimates of AI/AN students based on the ACS 5-year estimates from 2017 to 2021. These data were disaggregated to show both official counts and inclusive estimates; actual reported numbers from NCES and the OIE are also provided for comparison.

## *Coding for Interviews*

Of the 21 states that responded to the survey on state programs, policies, and practices, 19 also participated in follow-up interviews. A codebook aligned to the interview protocol was developed and coders engaged in initial training and interrater calibration activities using early interviews as collective practice. All interviews were transcribed and coded according to the codebook and reports generated on aspects of each state’s policies, practices, and unique context. Where state policies or practices regarding Indigenous student

identification exceeded federal requirements for the collection and reporting of race and ethnicity data, that information was noted and is summarized in *State Policy Approaches* on page 31.

## Analysis of Tribal Affiliation Data

Tribal affiliation data from the 2020 Census is reported out by Tribal geography (e.g., Alaska Native, American Indian, Canadian Indian, Mexican Indian) and by Tribe or Tribal grouping (e.g., Village of Wainwright, Cedarville Rancheria, Nahuatl, Taino).<sup>46</sup> The project used Table T01001 *Total Population* and looked at counts of Tribal affiliation at the Tribal geography level for “all available detailed American Indian and Alaska Native Tribes” and “American Indian and Alaska Native, not specified”

- “alone”; that is, for responses that listed only a single Tribal affiliation (around 4 million responses); and
- “alone or in any combination,” which includes multiple response data from individuals with more than one Tribal affiliation (around 10 million responses).

The “alone or in any combination” affiliation responses include duplicate counts (e.g., an individual selecting both Zapotec and Lumbee Nation affiliation would be tabulated in both the “American Indian” and the “Mexican Indian” categories. Exhibit 10 on page 29 provides a chart disaggregating percentages of Tribal affiliations within each data file.

## Data Limitations

Extant data on Indigenous students is convoluted. There is no national public data set that can provide accurate and appropriate information on the numbers of Indigenous students in public schools, and all existing data sets vary from one another in significant ways.

The choice therefore is between using low-quality data on the one hand and perpetuating and compounding the statistical invisibility of Indigenous students on the other. This project has chosen to use the available data and focus carefully on its limitations.

The ACS-ED estimates, despite their variable quality for the AI/AN district sample size, are the only publicly available data set that can be disaggregated by both public K–12 enrollment and official and inclusive counts at that level and thus have been used as the source for calculating undercounts. The data quality rating, as well as the NCES and Title VI counts (which are actual reported numbers, not estimates) are provided for context.

**The choice . . . is between using low-quality data on the one hand and perpetuating and compounding the statistical invisibility of Indigenous students on the other.**

<sup>46</sup> U.S. Census Bureau. (n.d.). 2020 Census detailed demographics and housing characteristics File A (Detailed DHC-A). <https://www.census.gov/data/tables/2023/dec/2020-census-detailed-dhc-a.html>

Additional data limitations include the following:

- **The report looks only at K–12 public school students.** This report focuses exclusively on Indigenous student identification in the U.S. public school system for students in grades K–12. These types of data issues are not exclusive to public K–12 education, but this report does not address data collection or use in Bureau of Indian Education, Tribally controlled, or private K–12 schools nor data issues in early childhood or higher education settings.
- **Title VI data are not available for many districts.** Title VI counts are only available for those districts that apply for and receive Indian Education Formula Grants under Title VI of the Elementary and Secondary Education Act. In 2021–22, only 30% of eligible districts had applied for and received Title VI funding, though these data reflect only lead districts for those that applied as part of consortia.
- **The AI/AN Census estimates are already an undercount.** The ACS is part of the U.S. Census, which itself undercounted AI/AN populations by a wider margin than any other race in both 2010 and 2020 and undercounted children 0–17 years old, who are disproportionately represented in AI/AN demographics.<sup>47</sup>
- **Self-identification can change over time.** ACS race/ethnicity data are based on self-identification, which can fluctuate for individuals over time and has historical, social, and personal implications that complicate data collection.<sup>48</sup>
- **The ACS-ED data set has sample size limitations.** The ACS is a survey conducted annually with a representative sample of the national population. Approximately 14% of school districts (1,897 of 13,280 districts) did not have ACS-ED data for AI/AN students available due to insufficient sample size.
- **The ACS-ED and NCES AI/AN definition includes Central and South American Indigenous people.** The U.S. Census and the Department of Education definitions conflate U.S.-based AI/AN communities/nations with Canadian and Central and South American Indigenous peoples/nations: all are categorized as one race despite having different political/legal statuses.
- **The ACS-ED data do not allow users to replicate federal race/ethnicity tabulations.** No publicly available national data sets (including ACS-ED and NCES) provide the necessary information to disaggregate an inclusive count of AI/AN students into the federal Hispanic/AI/AN/two or more races reporting categories. States are required to collect data that allow them to do this analysis (see Exhibit C1, p. C1) by the U.S. Department of Education’s 2007 reporting guidance.<sup>49</sup>
- **Estimate quality is variable for ACS-ED district-level data.** ACS-ED estimates for AI/AN student populations at the district level are often inaccurate due to the combination of multiyear estimates, geospatial remapping, and small sample sizes for the AI/AN student subpopulation.<sup>50</sup> Estimate quality for

<sup>47</sup> U.S. Census Bureau. (2022). *Census Bureau releases estimates of undercount and overcount in the 2020 Census*. <https://www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html>

<sup>48</sup> Lieber, C., Bhaskar, R., and Rastogi, S. (2014). Dynamics of race: Joining, leaving, and staying in the American Indian/Alaska Native race category Between 2000 and 2010 *Demography*, 53(2), 507–540. <https://doi.org/10.1007/s13524-016-0461-2>

<sup>49</sup> “The [U.S. Department of Education’s] final guidance, which is consistent with OMB guidance is designed to ensure that [the Office of Civil Rights] and other offices in the Department have access to all necessary racial and ethnic information about all individuals participating in federally funded programs for monitoring, enforcement, and research purposes. If any Department office needs additional racial and ethnic information about individuals, the final guidance requires educational institutions and other recipients to maintain the original responses from staff and students for a specific length of time announced at the time of the data collection.” (U.S. Department of Education. [2007]. *Final guidance on maintaining, collecting, and reporting racial and ethnic data to the U.S. Department of Education* [72 FR 59266]. <https://www.gpo.gov/fdsys/pkg/FR-2007-10-19/pdf/E7-20613.pdf>

<sup>50</sup> Berry, L., & Lavery, D. (2021). The importance of margins of error and mapping. *ArcUser* (Summer). <https://www.esri.com/about/newsroom/arcuser/the-importance-of-margins-of-error-and-mapping/>

the map was determined by the CV (coefficient of variation) for the *American Indian and Alaska Native – Race alone or in combination with one or more other races* variable using margin of error (MOE) data provided by the ACS-ED data set. The CV was calculated using the following formula:

$$CV=(MOE/1.645)/Estimate$$

The resulting CVs were categorized according to four ranges<sup>51</sup> to denote expected estimate quality:

- < 12%: high quality
- 12%–40%: medium quality
- 40%–100%: low quality
- > 100%: poor quality

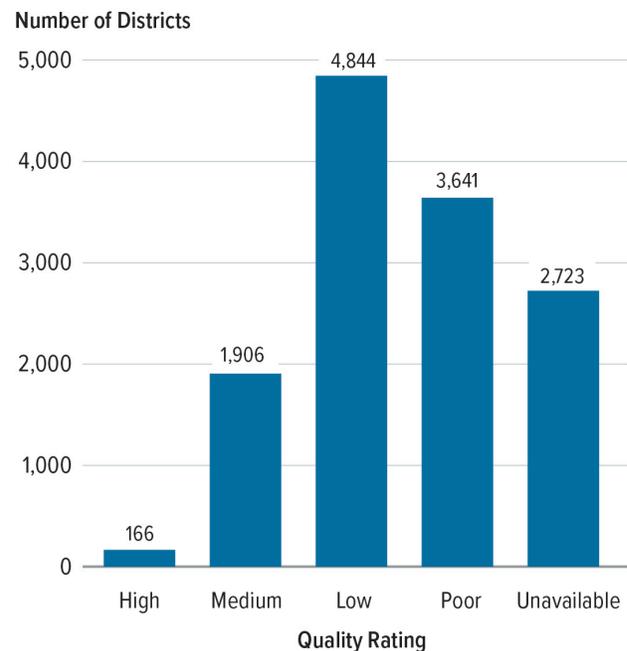
Geographies with missing estimates or 0 as the estimate were classified as Unavailable. Exhibit A2 shows the distribution of quality ratings for these estimates at the district level.

Each district’s estimate quality rating has been included with its ACS-ED estimates in the map pop-outs, as has the district-reported NCES count for 2021–22 for comparison purposes.

Given the lack of accurate data, the Indigenous Student Identification project has opted for full transparency regarding the flaws of the existing data rather than choosing to perpetuate AI/AN student invisibility.

While individual data sources are all flawed in specific ways, the aggregate results clearly indicate that Indigenous student undercounting is an endemic issue.<sup>52</sup>

**Exhibit A2.**  
**Distribution of ACS-ED Estimate Quality Ratings**



<sup>51</sup> These are the ranges used by Rochester Institute of Technology Professor Dr. Jeffrey Burnette in his unpublished work on the accuracy of ACS-ED Indigenous student estimates. The ISI project is grateful to Dr. Burnette for sharing early drafts of his thinking.

<sup>52</sup> Other estimates have come up with different percentages depending on data source and methodology used. The U.S. Commission on Civil Rights (USCCR) estimated the undercounting of Indigenous students as being up to 30% in some states [U.S. Commission on Civil Rights. (2018). *Broken promises: Continuing federal funding shortfall for Native Americans*. <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>], whereas other more recent investigations have estimated undercounts at 40% [Burnette, J. D. (2021). Why is the total enrollment of American Indian and Alaska Native precollegiates such a difficult number to find? *Journal of American Indian Education*, 60(1–2), 162–186] or 60% [Red Corn, A., Yellow Robe, C., Andrews, V., & Liang, J. (2022). *Kansas-Nebraska Indian education study and community building project* [Draft brief for Kansas State Board of Education meeting]. Kansas Health Foundation.].

## Appendix B. Glossary

**1997 Office of Management and Budget (OMB) Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity.** In 1997, the OMB accepted the recommendations of the Interagency Committee for the Review of the Racial and Ethnic Standards, establishing minimum standards for the collection and reporting of racial/ethnic data.

Federal data <i>collection</i> minimum categories	Federal data <i>reporting</i> minimum categories
1. Hispanic/Latino	1. Hispanic/Latino
2. American Indian/Alaska Native	2. American Indian/Alaska Native
3. Asian	3. Asian
4. Black or African American	4. Black or African American
5. Native Hawaiian or Other Pacific Islander	5. Native Hawaiian or Other Pacific Islander
6. White	6. White
	7. Two or more races

All federal agencies—including the U.S. Census Bureau and Department of Education—must collect race and ethnicity data in accordance with this revision. See also *Ethnicity; Race*.

**AAA Standard.** In this report, the AAA or “Triple-A” Standard refers to a data quality standard in which Indigenous student counts are accurate, appropriate, and accountable to Tribal nations and communities. See also *Accountability; Accuracy; Appropriateness; Data Quality*

**Accountability.** Accountability, in this report, is a key indicator of the quality of an Indigenous student count. An accountable Indigenous student counting process is one in which districts and states consult and collaborate with Tribes to support data transparency and respect Tribal data sovereignty. An accountable counting process is characterized by meaningful consultation practices and active community engagement.

**Accuracy.** Accuracy, in this report, is a key indicator of the quality of an Indigenous student count. An accurate count is one in which states, districts, and Tribes help ensure that the count of students closely matches the number of students *for a given definition*.

**American Community Survey (ACS).** The ACS is a supplemental survey of the U.S. Census Bureau that is conducted monthly from a sample of addresses (about 3.5 million) in the 50 states, the District of Columbia, and Puerto Rico. The survey provides current information to communities every year and provides local and national leaders with the information they need for programs, economic development, emergency management, and understanding local issues and conditions. The Census Bureau has designated American Indian/Alaska Native (AI/AN) as a “hard to count” population,<sup>53</sup> and the 2020 Census showed a 5.64% undercount of AI/AN populations on reservation land.<sup>54</sup>

<sup>53</sup> U.S. Census Bureau. (2019). *Counting the hard to count in a census*. <https://www.census.gov/content/dam/Census/library/working-papers/2019/demo/Hard-to-Count-Populations-Brief.pdf>

<sup>54</sup> U.S. Census Bureau. (2022). *Census Bureau releases estimates of undercount and overcount in the 2020 Census*. <https://www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html>

**American Community Survey (ACS) 5-Year Estimates.** The 5-year estimates from the ACS are “period” estimates that represent data collected over a period of time (this report uses ACS estimates from 2017, 2018, 2019, 2020, and 2021). The primary advantage of using multiyear estimates is the increased statistical reliability of the data for less-populated areas and small population subgroups.<sup>55</sup>

**American Community Survey – Education Tabulation (ACS-ED).** The ACS-ED is an annual nationwide survey designed to provide communities with reliable and timely demographic, social, economic, and housing data. The U.S. Census Bureau implemented the ACS in 2005 as a replacement for the decennial census long form, and the National Center for Education Statistics (NCES) collaborates with the U.S. Census Bureau to create a variety of custom ACS data files that describe the condition of school-age children in the United States overall, in states, and in school districts. The custom NCES files are updated annually and based on ACS 5-year period estimates.

To access the same ACS 5-year estimates from 2017 to 2021, follow these steps:

1. Go to <https://nces.ed.gov/programs/edge/demographic/acs>.
2. Under “Total Population,” select the “2017–21” table icon (this will take you to a new webpage).
3. Under “Select Geography,” select a geography type from the drop-down menu.
4. Under “Population Group,” select “Relevant Children-Enrolled Public” (which refers to children that a school district is responsible for) from the drop-down menu.
5. Under “Find Table,” select “[CDP05] Demographic” under the “Child Population” section.
6. Select “[CDP05] DEMOGRAPHIC” from the list of tables that appear. If you have selected a single geography (e.g., United States), a table will be populated that provides the ACS-5-year estimates of students by race/ethnicity. If you have selected multiple geographies (e.g., All districts), you will only be given the option to download the data.

**American Indian or Alaska Native (AI/AN).** According to the 2020 U.S. Census, which adheres to the Office of Management and Budget (OMB) 1997 Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity, an “American Indian or Alaska Native” is “a person having origins in any of the original peoples of North and South America (including Central America), and who maintains Tribal affiliation or community attachment.”<sup>56</sup> It is one of five *racial* categories listed on the 2020 U.S. Census. This report will use “American Indian/Alaska Native” (or “AI/AN”) when specifically referring to school, district, state, and federal data sets that use this terminology.

**Appropriateness.** Appropriateness, in this report, is a key indicator of the quality of an Indigenous student count. An appropriate count is one in which the federal government, states, districts, and Tribes engage in meaningful consultation to ensure that the definitions and collection used are the right fit for the intended policy purpose.

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<sup>55</sup> U.S. Census Bureau. (2023). *American Community Survey 5-year data (2009–2021)*. <https://www.census.gov/data/developers/data-sets/acs-5year.html>

<sup>56</sup> U.S. Census Bureau. (2021). *2020 Census frequently asked questions about race and ethnicity*. <https://www.census.gov/programs-surveys/decennial-census/decade/2020/planning-management/release/faqs-race-ethnicity.html>

**Blood Quantum.** Blood quantum is a concept developed and promulgated by the U.S. government as part of its strategy to detribalize and assimilate Indigenous people and land. It is used by the U.S. government and Tribes to authenticate the amount of “Indian blood” a person has by tracing individual and group ancestry. The amount a person has is measured in fractions, such as ¼ or ½. This measurement can affect a person’s ability to become a Tribal citizen or participate in federal programs intended for AI/AN persons only.

**Consultation (and consultation).** In this report, the word “consultation” appears both with both a capital “C” and a lowercase “c” when discussing engagement with Tribal nations and communities. This is to denote the difference between what is commonly called “big C” and “little c” consultation.

- Tribal Consultation (big “C”) is a formal, two-way, government-to-government dialogue between official representatives of Tribes and state education agencies (SEAs), local education agencies (LEAs), and/or federal agencies on plans and policies before the agency makes decisions on those proposals. The Every Student Succeeds Act (ESSA) of 2015 mandates Tribal Consultation with both SEAs and LEAs in several provisions, including 1111(a), 1114(b)(2), 6114(b-c), and 8538.
- Tribal consultation (little “c”) is an ongoing process of collaboration and feedback between Tribal community members and educational institutions and organizations. This may be a program requirement (as with Title VI or Johnson O’Malley parent committees) or a voluntary best practice consisting of individual workshops and presentations, emails, and phone calls. Its ultimate purpose is to enable and maintain a more open, proactive channel of communication between Indigenous communities and those outside Indigenous communities who educate Indigenous students.

**Data Quality.** The term “data quality” as used in this report refers to the accuracy, appropriateness, and accountability of any given count of Indigenous students.

**Descendancy.** Some Tribes include lineal descent—that is, proof that an individual descends from a recognized Tribal member—as a qualification for membership, whereas others have a blood quantum requirement. When establishing descent from a Tribal nation for membership and enrollment purposes, the individual must provide genealogical documentation. The documentation must prove that the individual lineally descends from an ancestor who was a member of the Tribe from which the individual claims descent.

**Education Demographic and Geographic Estimates (EDGE) Program.** The National Center for Education Statistics (NCES) EDGE program designs and develops information resources to help understand the social and spatial context of education in the United States. It uses data from the American Community Survey (ACS) to create custom indicators of social, economic, and housing conditions for school-age children and their parents. It also uses spatial data collected by NCES and the Census Bureau to create geographic locale indicators, school point locations, school district boundaries, and other types of data to support spatial analysis. See also *American Community Survey – Education Tabulation (ACS-ED)*; *National Center for Education Statistics (NCES)*.

**Estimate Quality.** Estimate quality as used in this report and the accompanying map refers specifically to the accuracy of the American Community Survey – Education Tabulation (ACS-ED) inclusive count estimates for given states and districts on the map. Estimate quality for the map was determined by the CV (coefficient of variation) for the *American Indian and Alaska Native – Race alone or in combination with one or more other races variable*. The CV was calculated using this formula:

$$CV=(Margin\ of\ Error\ (MOE)/1.645)/Estimate$$

The resulting CVs were categorized according to four ranges<sup>57</sup> to denote expected estimate quality:

- < 12%: high quality
- 12%–40%: medium quality
- 40%–100%: low quality
- > 100%: poor quality

Geographies with missing estimates or 0 as the estimate were classified as Unavailable.

**Ethnicity.** The Office of Management and Budget (OMB) defines and limits ethnicity to two categories: “Hispanic or Latino” and “Not Hispanic or Latino.” See also *Hispanic or Latino*.

**Federal Trust Responsibility.** The federal trust responsibility is a legal obligation under which the United States “has charged itself with moral obligations of the highest responsibility and trust” toward Tribal Nations (*Seminole Nation v. United States, 1942*). This obligation is one of the most important principles in federal Indian law. The federal trust responsibility is a legally enforceable fiduciary obligation on the part of the United States to protect Tribal treaty rights, lands, assets, and resources—as well as a moral obligation. It includes the fulfillment of understandings and expectations that have arisen over the entire course of the relationship between the United States and the federally recognized Tribes, including those related to the education of Indigenous students.<sup>58</sup>

**Hispanic or Latino.** Hispanic or Latino is defined as one ethnicity and is a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The Office of Management and Budget (OMB) limits ethnicity to two categories: “Hispanic or Latino” and “Not Hispanic or Latino.”

**Impact Aid.** The Impact Aid law—now Title VII of the Elementary and Secondary Education Act of 1965—provides assistance to local school districts with concentrations of children residing on federal properties, including Indian lands. This funding is intended to offset the loss of revenue from property taxes on those lands and its use is unrestricted.

**Inclusive Count/Estimate.** An “inclusive” count or estimate is reached using a method that includes all individuals indicating AI/AN as their race, regardless of how they identify ethnically and/or with additional races. This method includes all students who self-identify as AI/AN in any way:

- Hispanic/Latino + AI/AN
- Non-Hispanic/Latino
- AI/AN only
- AI/AN + one or more other race

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<sup>57</sup> These are the ranges used by Rochester Institute of Technology Professor Dr. Jeffrey Burnette in his unpublished work on the accuracy of ACS-ED Indigenous student estimates. The ISI project is grateful to Dr. Burnette for sharing early drafts of his thinking.

<sup>58</sup> Bureau of Indian Affairs. (2017). *What Is the federal Indian trust responsibility?* U.S. Department of the Interior. <https://www.bia.gov/faqs/what-federal-indian-trust-responsibility>

An inclusive count or estimate may be calculated for any data set that provides the necessary racial/ethnic disaggregated information. The only data set used in this report for which an inclusive count estimate may be calculated is the ACS-ED.

**Indian.** “Indian” is used as part of existing names (e.g., National Indian Education Association, Office of Indian Education) or in established terminology (e.g., Indian blood, Indian lands).

**Indigenous.** “Indigenous” is the primary term used in this report for students who identify as American Indian or Alaska Native (AI/AN). The term technically refers to the broad category of American Indian, First Nations, Alaska Native, Native Hawaiian, Puerto Rican, Central/South American, or other Indigenous students, communities, governments, etc., and is the preferred cross-cultural term for AI/AN groups and individuals.

**Indigenous Data Sovereignty.** Indigenous data sovereignty is the right of a nation to govern the collection, ownership, and application of its own data. It derives from tribes’ inherent right to govern their peoples, lands, and resources.<sup>59</sup>

**Johnson O’ Malley (JOM) Program.** The JOM program, which is authorized by the JOM Act of 1934, authorizes the Secretary of the Interior, through the Bureau of Indian Education (BIE), to enter into contracts with Tribes, Tribal organizations, states, schools, and private nonsectarian organizations to meet the “specialized and unique educational needs of eligible Indian students.”<sup>60</sup>

**National Center for Education Statistics (NCES).** The NCES is the primary federal entity for collecting and analyzing data related to education in the United States. NCES is located within the U.S. Department of Education’s Institute of Education Sciences and fulfills a congressional mandate to collect, collate, analyze, and report complete statistics on the condition of American education; conduct and publish reports; and review and report on education activities internationally.

**NCES Count.** The NCES count refers to the enrollment count of American Indian/Alaska Native (AI/AN) students as reported by school districts to state education agencies, which then report to NCES using the reporting parameters set forth in the U.S. Census and the American Community Survey (ACS). For the purposes of this report, this count was pulled from NCES’s Elementary/Secondary Information System (EISi) table generator for 2021–22. Although school-level data collection includes data on specific racial identities, when reported, individual student data are often “rolled up” into the overall “Hispanic,” “American Indian or Alaska Native,” and “Two or more races” categories, making distinctions invisible at the district, state, and federal levels. See also *Official Count/Estimate*.

**Office of Indian Education (OIE).** The OIE is housed in the Office of Elementary and Secondary Education within the U.S. Department of Education. OIE administers the Indian Education Program, which “establishes policies and provides financial and technical assistance for supporting local education agencies, Indian Tribes and organizations, postsecondary institutions, and other entities in meeting the special educational and cultural related academic needs of American Indians and Alaska Natives.”<sup>61</sup>

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<sup>59</sup> The University of Arizona Native Nations Institute. (n.d.). *Indigenous data sovereignty and governance*. <https://nni.arizona.edu/our-work/research-policy-analysis/indigenous-data-sovereignty-governance>

<sup>60</sup> Federal Register. (2020). *Education contracts Under Johnson-O’Malley Act*. <https://www.federalregister.gov/documents/2020/02/25/2020-02883/education-contracts-under-johnson-omalley-act>

<sup>61</sup> Office of Elementary and Secondary Education. (n.d.). Office of Indian Education. <https://oese.ed.gov/offices/office-of-indian-education/>

**Official Count/Estimate.** An “official” count or estimate is reached using a method of counting and reporting Indigenous students that includes only students who

- do not ethnically identify as “Hispanic or Latino”; and
- do identify racially as “American Indian or Alaska Native” only (not in combination with other races).

This method is used to count AI/AN students under federal reporting guidelines. An official count may be calculated for any data set that provides the necessary racial/ethnic disaggregated information. See also *1997 Office of Management and Budget (OMB) Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity*.

**Paper Genocide.** A term that describes the erasure of a people’s official existence in legal documents. This can be through accidental or deliberate misclassification, omission, alteration, loss, or destruction of records; poor data collection or retention; subsuming data into a different or broader category; or other administrative methods.

**Race.** The racial categories included in federal data collections generally reflect a social definition of race recognized in the United States and not an attempt to define race biologically, anthropologically, or genetically. The U.S. Census Bureau recognizes that the categories of the race item include racial and national origin or sociocultural groups. An individual’s response to the race question is based on self-identification, and an individual can identify with more than one race.

**Racialization.** Racialization is “the extension of racial meaning to a previously racially unclassified relationship, social practice, or group.” By ascribing fixed racial characteristics to members of a place, culture, or nation, racialization serves to maintain settler-colonial power and authority. The persistence of Indigenous identity as blood quantum or descendance from racialized census counts or rolls is a consequence of this process.<sup>62</sup>

**Sovereignty.** Sovereignty is a legal word for an ordinary concept—the authority to self-govern. Hundreds of treaties, along with the Supreme Court, the President, and Congress, have repeatedly affirmed that Tribal nations retain their inherent powers of self-government.<sup>63</sup> Tribal sovereignty ensures that any decisions about the Tribes with regard to their property and citizens are made with their participation and consent.<sup>64</sup>

**Title VI Formula Grant.** The Title VI Indian Education Formula Grant is a program administered by the Office of Indian Education. It supplements the regular school program by addressing the unique cultural, language, and education-related academic needs of American Indian/Alaska Native (AI/AN) students, including preschool children. The program is the Department’s principal vehicle for addressing the particular needs of AI/AN children. The Indian Education Formula Grant program was originally approved in 1972 as the Indian Education Act Title IV (Public Law 92-318) and has been included under Titles IX (1994), VII (2001), and VI (2016) in various reauthorizations of the Elementary and Secondary Education Act of 1965 (79 stat. 27).

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<sup>62</sup> Omi, M., & Winant, H. (1986). *Racial formation in the United States: From the 1960s to the 1980s*. Routledge & Kegan Paul; Gonzales, A., Kertész, J., & Tayac, G. (2007). Eugenics as Indian removal: Sociohistorical processes and the de(con)struction of American Indians in the Southeast. *The Public Historian*, 29(3), pp. 53–67. <https://pubmed.ncbi.nlm.nih.gov/18175451/>

<sup>63</sup> National Congress of American Indians. (n.d.). *Tribal governance*. <https://www.ncai.org/policy-issues/tribal-governance>

<sup>64</sup> Bureau of Indian Affairs. (n.d.). *Why tribes exist today in the United States*. U.S. Department of the Interior. <https://www.bia.gov/frequently-asked-questions>

**Title VI Count.** Student counts for the Title VI program are based on completion and verification of the ED-506 Indian Student Eligibility Certification Form, which requires proof of enrollment or descendency. The count used in this map and report was reported to the Office of Indian Education by 2021–22 recipients of Title VI Indian Education Formula Grants.

**Tribal Affiliation.** Tribal affiliation is an individual’s *self-identification* of belonging (e.g., politically, culturally, historically, through descendency) to one or more specific Indigenous communities. It is distinct from Tribal enrollment or citizenship, which is determined by sovereign Tribal governments. Tribal affiliation information provided in this report is from the 2020 Census Table T01001 *Total Population of 2020 Census Detailed Demographic and Housing Characteristics File A* (Detailed DHC-A).

**Tribal Boundaries.** The areas indicated as Tribal boundaries on the map are American Indian/Alaska Native (AI/AN) statistical areas as delineated by the U.S. Census Bureau. This map includes the following statistical areas: Federal American Indian Reservations (AIR) and off-reservation trust land; Hawaiian homeland; Oklahoma Tribal Statistical Areas (OTSA); OTSA joint-use areas; Alaska Native Village Statistical Areas; Tribal Designated Statistical Areas; State AIRs; and State Designated Tribal Statistical Areas.

**Tribal Enrollment.** Tribal enrollment (also called membership or citizenship) is a legal status determined by sovereign Tribal governments as part of their inherent rights to self-governance. Tribal nations define requirements for citizenship in their Tribe and maintain authoritative records of their citizens. Tribal members are citizens of three sovereigns: their Tribe, the United States, and the state in which they reside.<sup>65</sup>

**Tribal Nations.** The term “Tribal nations” as used in this map and report includes American Indian and Alaska Native Tribes, nations, bands, pueblos, communities, and native villages.

**Undercount.** Undercount as used in this map and report refers to the difference between an “official count” and an “inclusive count” of AI/AN K–12 public school students and is comprised of those students who identify as American Indian/Alaska Native (AI/AN) but are “sorted” into the Hispanic or “two or more races” racial/ethnic reporting categories.

**U.S. Census.** The U.S. Census is a decennial survey that counts every person living in the 50 states, the District of Columbia, and the five U.S. territories. These data are required for federal, state, and tribal programs and are critical factors in the basic research behind numerous policies, particularly for civil rights. Race data are used in planning and funding government programs that provide funds or services for specific groups. These data are also used to evaluate government programs and policies to ensure they fairly and equitably serve the needs of all racial groups and to monitor compliance with antidiscrimination laws, regulations, and policies. States also use these data to meet legislative redistricting requirements.<sup>66</sup>

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<sup>65</sup> National Congress of American Indians. (n.d.). *Tribal nations & the United States: An introduction*. <https://www.ncai.org/about-tribes>

<sup>66</sup> U.S. Census Bureau. (2021). *2020 Census frequently asked questions about race and ethnicity*. <https://www.census.gov/programs-surveys/decennial-census/decade/2020/planning-management/release/faqs-race-ethnicity.html>

## Appendix C. State-Level Official and Inclusive Counts

Table C1. Official and Inclusive Counts and Estimates for All States, the District of Columbia, and Puerto Rico

State	Federally recognized Tribes	State recognized Tribes	NCES total K–12 public enrollment	NCES AI/AN official count	Percentage of total enrollment	ACS-ED AI/AN official estimate	Percentage of total NCES enrollment	ACS-ED AI/AN inclusive estimate	Percentage of total NCES enrollment	Part of National Indian Education Study? <sup>67</sup>	Collect Tribal affiliation information?	Additional information
Alabama	1	8 <sup>68</sup>	747,543	6,568	0.9%	2,056	0.3%	9,556	1.3%	No	No	
Alaska	229	-	129,944	28,155	21.7%	24,339	18.7%	36,794	28.3%	Since 2005	No	
Arizona	20	-	1,133,284	47,710	4.2%	55,597	4.9%	91,190	8%	Since 2005	Yes	
Arkansas	-	-	489,565	2,876	0.6%	2,058	0.4%	11,380	2.3%	No	No	
California	109	-	5,888,893	26,971	0.5%	17,700	0.3%	173,555	2.9%	No	No	
Colorado	2	-	880,597	5,720	0.6%	3,985	0.5%	27,451	3.1%	No	No	
Connecticut	2	3 <sup>69</sup>	509,748	1,284	0.3%	709	0.1%	7,954	1.6%	No	No	
Delaware	-	2 <sup>70</sup>	139,935	584	0.4%	130	0.1%	1,643	1.2%	No	No	
District of Columbia	-	-	88,880	128	0.1%	46	0.1%	939	1.1%	No	No	
Florida	2	-	2,833,186	7,017	0.2%	2,905	0.1%	32,013	1.1%	No	No	
Georgia	-	3 <sup>71</sup>	1,740,875	3,513	0.2%	1,380	0.1%	25,401	1.5%	No	No	
Hawaii	-	-	173,178	272	0.2%	176	0.1%	6,737	3.9%	No	No	
Idaho	4	-	314,258	3,181	1.0%	2,758	0.9%	9,325	3.0%	No	No	

<sup>67</sup> U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP). (2020). *2019 National Indian Education Study*. <https://nces.ed.gov/nationsreportcard/subject/publications/studies/pdf/2021018.pdf>

<sup>68</sup> Alabama American Indian Affairs Commission. (2019). *State-recognized tribes*. <https://aiac.alabama.gov/pdf/2019/StateRecognizedTribes.pdf>

<sup>69</sup> Reinhart, C. (Jan. 23, 2002). *Questions about state recognition of Indian Tribes*. Office of Legislative Research Report 2002-R-0072. <https://www.cga.ct.gov/2002/rpt/2002-R-0072.htm>

<sup>70</sup> Delaware Historical and Cultural Affairs. (2022). *Honoring Delaware's Native American heritage*. <https://history.delaware.gov/2022/10/20/native-american-heritage-month/>

<sup>71</sup> Georgia Council on American Indian Concerns. (2021). *Georgia Tribes*. [https://georgiaindiancouncil.com/georgia\\_tribes](https://georgiaindiancouncil.com/georgia_tribes)

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Illinois	-	-	1,868,408	4,751	0.3%	1,282	0.1%	24,810	1.3%	No	No	The federally recognized Prairie Band Potawatomi Nation has an unresolved claim to land in the state. <sup>72</sup>
Indiana	-	-	1,036,625	1,740	0.2%	650	0.1%	9,050	0.9%	No	No	
Iowa	1	-	510,602	1,702	0.3%	1,327	0.3%	7,861	1.5%	No	No	
Kansas	4	-	485,424	3,532	0.7%	2,735	0.6%	13,278	2.7%	No	No	
Kentucky	-	-	654,239	853	0.1%	558	0.1%	5,192	0.8%	No	No	
Louisiana	4	11 <sup>73</sup>	683,216	3,983	0.6%	3,156	0.5%	11,626	1.7%	No	No	
Maine	5	-	173,215	1,405	0.8%	1,229	0.7%	4,637	2.7%	No	No	
Maryland	-	3 <sup>74</sup>	881,164	2,359	0.3%	1,323	0.2%	12,328	1.4%	No	No	
Massachusetts	2	1 <sup>75</sup>	920,162	2,074	0.2%	1,309	0.1%	11,277	1.2%	No	No	The Hassanamisco Nipmuc Band was recognized by an Executive Order in 1976. <sup>76</sup>
Michigan	12	-	1,440,090	8,533	0.6%	5,814	0.4%	28,929	2%	No	Yes	State Inclusive Count (2021–22): 27,312 (1.9%)
Minnesota	11	-	870,506	14,901	1.7%	10,054	1.2%	28,008	3.2%	Since 2007	Yes	State Count (2023): 28,000 (3.2%)
Mississippi	1	-	442,000	988	0.2%	2,033	0.5%	5,421	1.2%	No	No	

<sup>72</sup> García, J.G. (May 9, 2023). *Reps. García, Underwood, Davids, LaTurner, Mann and Sens. Moran, Marshall introduce bipartisan, bicameral Prairie Band Potawatomi Nation Shab-eh-nay Band Reservation Settlement Act.* <https://chuygarcia.house.gov/media/press-releases/rep-garcia-underwood-davids-laturner-mann-and-sens-moran-marshall-introduce-bipartisan-bicameral-prairie-band-potawatomi-nation-shab-eh-nay-band-reservation-settlement-act>

<sup>73</sup> Louisiana Governor's Office of Indian Affairs. (2023). *Federal and state-Tribal contact information.* <https://gov.louisiana.gov/assets/Programs/IndianAffairs/LouisianaUpdatedTribalListJAN302023.pdf>

<sup>74</sup> Maryland Historical Trust. (n.d.) *Tribal Consultation.* [https://mht.maryland.gov/projectreview\\_tribalconsult.shtml](https://mht.maryland.gov/projectreview_tribalconsult.shtml)

<sup>75</sup> Department of the Interior National Park Service Notice, 86 Fed. Reg. 213 (November 8, 2021) <https://www.govinfo.gov/content/pkg/FR-2021-11-08/pdf/2021-24313.pdf>

<sup>76</sup> Massachusetts Executive Order 126. (July 8, 1976). *Massachusetts Native Americans.* <https://www.mass.gov/executive-orders/no-126-massachusetts-native-americans>

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Missouri	1	-	888,823	3,349	0.4%	1,627	0.2%	15,253	1.7%	No	No	
Montana	8	-	150,191	15,956	10.6%	15,583	10.4%	21,017	14.0%	Since 2005	No	
Nebraska	4	-	327,564	4,310	1.3%	3,069	0.9%	9,416	2.9%	Since 2019	No	
Nevada	17	-	486,545	3,878	0.8%	3,385	0.7%	13,340	2.7%	No	No	
New Hampshire	-	-	170,005	360	0.2%	231	0.1%	1,752	1.0%	No	No	
New Jersey	-	3 <sup>77</sup>	1,372,002	2,496	0.2%	1,742	0.1%	14,677	1.1%	No	No	
New Mexico	23	-	316,785	32,362	10.2%	35,127	11.1%	49,278	15.6%	Since 2005	No	
New York	8	1 <sup>78</sup>	2,548,285	18,765	0.7%	6,337	0.2%	40,568	1.6%	No	No	
North Carolina	1	7 <sup>79</sup>	1,525,223	16,282	1.1%	16,759	1.1%	40,509	2.7%	Since 2007	No	
North Dakota	4	-	116,864	9,650	8.3%	9,382	8.0%	13,938	11.9%	Since 2005	No	
Ohio	-	-	1,683,612	2,135	0.1%	1,049	0.1%	17,880	1.1%	No	No	
Oklahoma	39	-	698,654	80,910	11.6%	60,057	8.6%	126,186	18.1%	Since 2005	Yes	
Oregon	10	-	551,240	6,342	1.2%	5,107	0.9%	25,268	4.6%	Since 2007	No	State Inclusive Count (2021–22): 45,368 (8.2%)
Pennsylvania	-	-	1,695,092	2,871	0.2%	1,088	0.1%	18,799	1.1%	No	No	
Puerto Rico	-	-	259,535	117	0.0%	16	0.0%	3,382	1.3%	No	No	
Rhode Island	1	-	138,267	1,133	0.8%	421	0.3%	2,526	1.8%	No	No	

<sup>77</sup> New Jersey Commission on American Indian Affairs. (2023). *New Jersey Commission on American Indian Affairs*. <https://www.nj.gov/state/njcaia.shtml>

<sup>78</sup> New York State Department of Environmental Conservation. (n.d.). *Indian nation Consultation*. <https://www.dec.ny.gov/public/974.html>

<sup>79</sup> North Carolina Department of Administration. (n.d.) *NC Tribal communities*. <https://www.doa.nc.gov/divisions/american-indian-affairs/nc-tribes>

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South Carolina	1	9 <sup>80</sup>	780,705	2,280	0.3%	1,405	0.2%	9,536	1.2%	No	No	4 state-recognized Native American “groups” 1 state-recognized Native American “special interest organization”
South Dakota	8	-	141,307	14,809	10.5%	19,420	13.7%	25,754	18.2%	Since 2005	No	
Tennessee	-	-	996,709	1,541	0.2%	879	0.1%	9,640	1.0%	No	No	
Texas	3	-	5,428,613	18,031	0.3%	8,050	0.1%	75,934	1.4%	No	No	
Utah	8	-	690,884	6,680	1.0%	4,970	0.7%	14,249	2.1%	Since 2009	Yes	
Vermont	-	4 <sup>81</sup>	83,975	246	0.3%	163	0.2%	1,539	1.8%	No	No	
Virginia	7	4 <sup>82</sup>	1,249,815	3,214	0.3%	1,473	0.1%	17,723	1.4%	No	No	
Washington	20	-	1,078,767	11,940	1.1%	11,916	1.1%	47,825	4.4%	Since 2007	No	State Inclusive Count (2020–21): 70,284 (6.5%)
West Virginia	-	-	252,720	197	0.1%	177	0.1%	2,250	0.9%	No	No	
Wisconsin	11	-	829,359	8,669	1%	7,045	0.8%	21,273	2.5%	Since 2015	Yes	The Brothertown Indian Nation, an unrecognized Tribe, is included in WI DPI Tribal affiliation data collections.
Wyoming	2	-	93,093	3,240	3.5%	2,814	3.0%	4,796	5.2%	Since 2015	No	

<sup>80</sup> South Carolina Commission for Minority Affairs. (2023). *South Carolina’s recognized Native American entities*. <https://cma.sc.gov/minority-population-initiatives/native-american-affairs/south-carolinas-recognized-native-american-indian-entities>

<sup>81</sup> Vermont Commission on Native American Affairs. (2023). *State recognized Tribes*. <https://vcnaa.vermont.gov/recognition/recognized-tribes>

<sup>82</sup> Secretary of the Commonwealth of Virginia. (n.d.) *State recognized Tribes*. <https://www.commonwealth.virginia.gov/virginia-indians/state-recognized-tribes/>



## About AIR

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## About IESLN

The Indigenous Education State Leaders Network (IESLN) is a community of practice for state education agency staff and contractors working to support Indigenous students in their respective states. IESLN member states have met regularly since 2016 and collectively educate three fourths of all Indigenous students in the United States. IESLN's mission is to build the capacity of state education agencies to leverage systems to support Indigenous learners and support the implementation and coordination of educational systems that serve Indigenous students through meaningful and timely consultation with Indigenous Sovereign Nations and organizations.