

The Treaty Basis of Michigan Indian Education

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A socio-historical content analysis of 16 treaties and 3 contemporary American Indian education laws at the federal level revealed that a certain amount of the treaty obligation may yet be unfulfilled regarding tribes currently located within the State of Michigan. Both monetary and non-monetary provisions were analyzed using the United States Supreme Court's Canons of Treaty Construction. The treaty provisions were further categorized according to certain criteria based on the trust doctrine. The outcomes of the treaty analysis were then compared to the provisions of the Indian Education Act, the Indian Self-Determination & Education Assistance Act, and the Individuals with Disabilities Education Act. Responsibilities of each level of government, implications for school policy and procedures, and recommendations for further study are included.

There is a general assumption that the federal government is obligated to provide for the educational interests of American Indian tribal citizens based on the educational provisions contained within treaties entered into between the United States (US) government and American Indian tribal nations. The problem with such an assumption is that it does not take into account that the US did not enter into any comprehensive treaty with all of the American Indian tribes as a single unit. While it is true that there are many educational provisions contained within treaties that have similar language, the fact remains that the treaties were made with different American Indian tribal nations.

This study focused on educational provisions contained within treaties made between the US and the Anishinaabe Three Fires Confederacy-an American Indian tribal government that was still intact when the US began infiltrating the Great Lakes Region in the late 1700s, and the cultural predecessor of the federally recognized tribes that remain in Michigan today. While this study focused on Michigan, it should prove to be a model that can be used to examine the same relationships in other states as well.

In Wisconsin and Minnesota, for instance, the Anishinaabe tribes share a similar relationship with the US that Michigan tribes do. In fact, some of the treaty educational provisions that apply to Michigan tribes are the same ones that apply to other Anishinaabe tribes in those states.

While not all tribes have specific treaty based educational provisions, all tribes do have inherent rights to self-education. This sovereign right to govern over the education of their citizens extends from their pre-US nationhood status, and unless clearly defined in federal US law, these rights remain intact (Canby, 2004). Aboriginal rights are not afforded the same protections as treaty rights, however, and may thus be impacted by federal US law without consideration of just compensation (Canby, 2004). While this study did not deal with the universe of tribal aboriginal rights to self-education, it is recognized that the sovereign ability of tribes to enter into treaties with the federal US government was, in and of itself, an inherent power or aboriginal right.

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The evolution of K-12 American Indian education legislation in Michigan is a story that has never been told in any comprehensive manner. Although state/tribal relations are similar in many states, it is important to focus on considerations that are tied to the law and politics of a particular state so that any peculiarities can be analyzed along side the specific legal and political relationship between the tribes in that state and the federal government. This study is an attempt to offer some clarity regarding the corpus of the educational trust relationship between the United States and the Anishinaabek—Chippewa, Ottawa, and Potawatomi—as it applies to such tribes currently located within the State of Michigan.

Purpose of the Study

The legal and political roots of education within the United States impacts the entire educational system. Although the US Constitution is devoid of any mention of education as a right, it is clear that treaties entered into by the US are to be considered the “supreme law of the land”. While the State of Michigan is thus left to govern over the education of its citizens in accordance with the Michigan Constitution, the federal government is responsible for making sure that the tribes located within the State of Michigan are able to exercise their own sovereignty over the education of their citizens at the same time. This tri-lateral relationship between the Tribes, the State, and the Federal Government is extremely complex and often confounds the casual onlooker as they try to understand the status of Michigan Indian education today.

To add to the complexity, the history of Indian education in Michigan is unique, as compared to other states, because it is the only instance where the federal government has entered into an agreement whereby the state has accepted full responsibility for providing for Indian education without further cost to the federal government (Comstock, 1934). Like tribes in other states, however, Michigan tribes retain those aspects of sovereignty, including the education of tribal citizens, that have not been abrogated by treaty or an act of Congress. Although the State of Michigan is legally obligated to provide for Indian education within the state, it has never provided any education services specific to the obligations set forth by treaty other than the Michigan Indian Tuition Waiver (Reinhardt, 1998). Since 1972, the Federal government has reintroduced federal Indian education programs within the State of Michigan. Given this complex relationship between the Tribal, State, and Federal systems in Michigan it remains in question exactly what the federal Indian education obligation was in 1934, and what it is currently as compared to that of the State and Michigan tribes.

From a policy perspective, therefore, it is important to begin a clarification process so that we can have a better understanding of how American Indian education law is included within this tri-lateral legal and political system. Upon clarification of the treaty basis, it is at least a bit easier to see how actual practice has failed to align with the underlying policy.

With the above points in mind, this study was designed to investigate the relationships between current federal K-12 American Indian education laws and treaties signed between the U.S. government and American Indian tribes located within the State of Michigan. The study was intended to produce data that would answer the following research questions:

1. What is the extent of educational obligations set forth by treaty for American Indian tribes located within Michigan?

2. Are current federal K-12 American Indian education laws intended to satisfy any portion of these treaty obligations?
3. If so, how do they satisfy these obligations?
4. Are there any portions of treaty educational obligations that have not been met, or are not addressed by current federal K-12 American Indian education legislation?
5. What is the responsibility of federal, state, and tribal governments in providing for the K-12 educational interests of American Indian tribal citizens within the State of Michigan?

Treaties Included

Multiple studies have suggested that over 116 of 371 American Indian treaties entered into by the U.S. contained educational provisions (Kappler, 1972; Oshie-Dorr, 1997; United States, American Indian Policy Review Commission, 1976). In an initial review of treaties signed between the Anishinaabe Three Fires Confederacy which includes the Chippewa, Ottawa, and Potawatomi, the researcher found that the Treaty with the Potawatomi, 1832, did not contain any educational provisions as had been proposed in an earlier study by the American Indian Policy Review Commission (1976), and that five treaties had been left out of the earlier study including: the Treaty with the Wyandot, Etc., 1817; Treaty with the Chippewa, Etc., 1833; Treaty with the Chippewa (Detroit), 1837; Treaty with the Chippewa (St. Peters), 1837; and the Treaty with the Potawatomi, 1867.

There were a total of 42 treaties signed between the US and the Anishinaabe Three Fires Confederacy. It was determined that 26 of these treaties contain educational provisions, and that 16 of these were relevant to tribes located within the State of Michigan today. These 16 treaties (also included under Appendix A to this article), numbered as they were in the study, are as follows:

1. Treaty with the Wyandot, Etc., 1817.
2. Treaty with the Ottawa, Etc., 1821.
3. Treaty with the Chippewa, 1826.
4. Treaty with the Potawatomi, 1826.
5. Treaty with the Chippewa, Etc., 1827.
6. Treaty with the Potawatomi, 1828.
7. Treaty with the Chippewa, Etc., 1833.
8. Treaty with the Ottawa, Etc., 1836.
9. Treaty with the Chippewa (Detroit), 1837.
10. Treaty with the Chippewa (St. Peters), 1837.
11. Treaty with the Chippewa, 1842.
12. Treaty with the Potawatomi Nation, 1846.
14. Treaty with the Chippewa, 1854.
16. Treaty with the Ottawa and Chippewa, 1855.
17. Treaty with the Chippewa of Saginaw, Etc., 1855.
23. Treaty with the Chippewa of Saginaw, Swan Creek, and Black River, 1864.

25. Treaty with the Potawatomi, 1867.

Laws Included

The three pieces of federal legislation included in this study were: the Indian Education Act of 1972 (as amended), the Indian Self-Determination & Education Assistance Act of 1975 (as amended), and the Individuals with Disabilities Education Act of 1997 (as amended). These acts were selected based on their inclusion in other major Indian education policy research efforts, like the Native American Rights Fund project (McCoy, 1997), and the scope of the laws in addressing the needs of American Indian students. While the IDEA may not be specific to Indian education in sum, it does include an Indian specific section that to the surprise of many does not include the terms free nor public as other sections of the law that refer to Free and Appropriate Public Education or FAPE.

A Tribal Legal and Political Standpoint

The theoretical underpinnings for this study are most closely associated with standpoint theory (Smith, 1987; Wallace and Wolf, 1995). In 1987, Dorothy Smith proposed that, as a society, we have come to accept a “one-sided standpoint” (p. 20) as natural. She was referring to the dominant place of males in our society, and the effect that has had on our conceptions of our social reality—especially as it impacts female self-concept and social interaction. Wallace and Wolf (1995) point out, however, that “a standpoint theory could take the perspectives of other subordinated individuals [as well]” (p. 270). In this study, it is proposed that standpoint theory can also be used to represent not only the perspective of subordinated individuals, but also subordinated governments like those of American Indian tribes.

As a society, our conceptualization of the history and current condition of American Indian education has been influenced largely by non-American Indian governmental perspectives on history and interpretations of aboriginal and treaty rights regarding education. Although the study has not been sanctioned by the entire American Indian population in general, or the Anishinaabe tribes of Michigan in specific, it does represent a voice that has not often been included in the debate surrounding the place of treaty educational provisions in contemporary Indian education law. This study will add to the growing body of American Indian authored literature surrounding the historical treatment of American Indian aboriginal and treaty rights to education.

Individual accounts of Indian education history have impacted Indian education policy, and Indian education policy has in turn impacted subsequent views on history and the future of Indian education (Reinhardt, 1998). One of the primary reasons aboriginal rights to self-education have not been documented, to any great extent, is that American Indian people have been shut-out of the literature surrounding their own history (Fixico, 1998). This is very obvious when reviewing the body of literature surrounding American Indian aboriginal and treaty rights to self-education in the United States—it is practically non-existent. An American Indian standpoint approach to studying the history of American Indian education law, therefore, may produce data that has not yet been considered to any great extent in the literature.

American Indian tribes in Michigan, and other states, have been shut-out of the educational policy writing process for a number of years. Only recently have tribes come to experience any sort of political power, and thus the ability to influence decision making about the future of their citizens'

education. While this assertion of tribal authority over tribal education is most apparent in the tribally controlled schools movement, given the opportunity it may also manifest itself within the greater statewide public education system. For example, see Alaska Standards for Culturally Responsive Schools (Alaska Native Knowledge Network, 1998) and the Rosebud Sioux Tribal Education Codes (Rosebud Sioux Tribe, 1991). The Alaska Standards were developed by the Alaska Native Knowledge Network, and cover students, educators, curriculum, schools, communities and libraries Alaska wide. The Rosebud Sioux Tribal Education Codes were developed in cooperation with the Native American Rights Fund, and represent a good example of tribal policy development in regard to education for educational programs within tribal jurisdiction whether tribal, state, or federal.

One could safely assert that there are at least 605 governmental entities (554 tribes, 50 states, and one federal) within the United States that are responsible for educating American Indian tribal citizens. With the ongoing federal recognition process of American Indian tribes the number of systems will increase. There are currently 12 federally recognized tribes within the State of Michigan. There are also three state historical tribes and urban Indian communities within the state. Although the reservation areas for each federally recognized tribe are acknowledged to be under tribal jurisdiction, the majority of tribal students attend schools off the reservations.

Tippeconnic and Swisher (1992) propose that “treaties and subsequent executive orders, congressional acts, and court decisions formed the legal basis for federal recognition and responsibility for Indian education” (p. 75). While the federal responsibility has continued to evolve, it has been delegated down to the states in many respects. It is important to spell out how aboriginal rights to self-education and treaty educational provisions have, or have not, been addressed by the current status of the federal responsibility.

According to Deloria (1974), American Indian people must question the condition of tribal communities against a backdrop of legal doctrines, cultural attitudes, and historical accounts in order to gain any type of clarity on the complex set of issues that they face. Deloria (1974) also points out that although the relationship between American Indian tribes and the United States is rooted in federal/tribal interactions, it is the relationships between tribes and states that are of the most immediate importance to American Indian people. He suggests that there must be a clarification of tribal citizens “rights with respect to state governments” (Deloria, 1974, p. 254).

With respect to Michigan Indian education, it is the State of Michigan that provides the greatest amount of educational services to the greatest percentage of American Indian students in the state. It is important to note, however, that the State provides this educational service because the students are considered citizens of the State and not because they are entitled to such service due to treaty obligations.

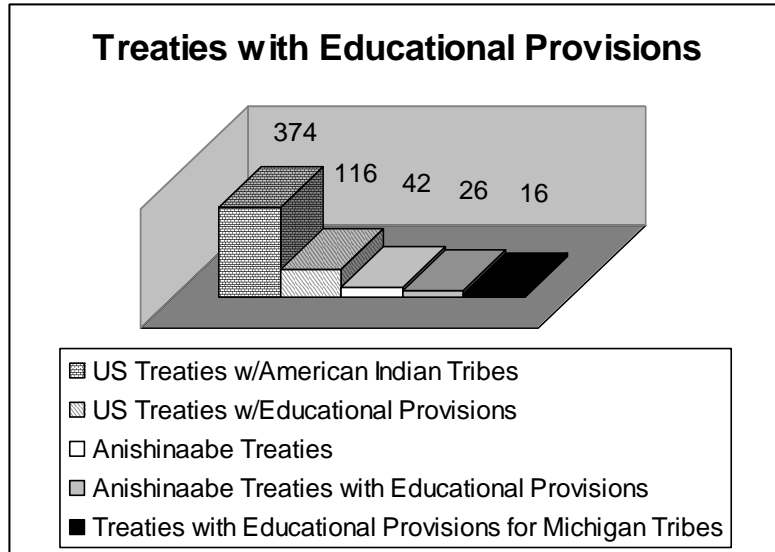
Summary of Methodology and Research Findings

Due to the qualitative nature of this study, and the potential for bias to enter into the findings, the processes and procedures that were adhered to during the course of the study are explained in detail. Beginning with an identification of the treaty corpus, and ending with an application of trust criteria (Appendix B) to each educational provision/law comparison.

In order to answer the first four research questions, the following procedures were utilized:

1. Determined the education specific content of each of twenty-six treaties signed between the Anishinaabe Three Fires Confederacy—Chippewa, Ottawa, and Potawatomi--and the United States of America.
2. Determined which of the twenty-six treaties were relevant to tribes currently located within the State of Michigan, and which treaties actually included an educational benefit for those tribes.
3. Conducted a socio-historical content analysis of each of the education provisions of the sixteen remaining treaties utilizing the U.S. Supreme Court's Canons of Treaty Construction which are:
 - a. Ambiguities in treaties must be resolved in favor of the Indians.
 - b. Indian treaties must be interpreted as the Indians would have understood them.
 - c. Indian treaties must be construed liberally in favor of the Indians. (Pevar, 1992).
4. Applied the trust criteria to each provision individually.
5. Compared the findings for each education provision analysis with the content of each of the three pieces of federal Indian education legislation utilizing specific terms, similar terms, and conceptual cluster searches.
6. Applied the trust criteria to each piece of current legislation individually.
7. Determined how the current Indian education legislation addresses the federal relationship with American Indian tribes, and how they address the relationship with treaties.
8. Applied the trust criteria to the collective body of treaty educational provisions and three pieces of current legislation.

The first research question was: *What is the extent of educational obligations set forth by treaty for American Indian tribes located within Michigan?* All of the 42 treaties signed between the Anishinaabek and the United States were analyzed to determine if they contained educational provisions. Of the 42 it was determined that 26 contain educational provisions. The 26 were then further analyzed to determine if they included monetary and non-monetary provisions, and their relevance to Michigan tribes.



Only 20 of the 26 treaties contain monetary provisions. Of the 20, only 13 are relevant to tribes located in Michigan. Under monetary provisions, it was found that there were ambiguous amounts, specific amounts, and one-time cash payments. For example, if the annuity terms stated "...for the purposes of education, the annual sum of two thousand dollars" as it does in Treaty 3, the Treaty with the Chippewa, 1826, there is no time limitation included

other than the reference to the annual basis, thus the terms are ambiguous. This ambiguous type of annuity is in contrast with specific annuities and one-time cash payments. Specific annuities are like the one included in Treaty 2, the Treaty with the Ottawa, Etc., 1821, which states "...to appropriate annually, for a term of ten years, the sum of fifteen hundred dollars" (Kappler, 1972, p. 200). In the ambiguous case, it cannot be ascertained how long the annuity was to last. In the specific case, it is clear that it was to last 10 years. One time cash payments are simply monetary provisions that did not mention any type of annuity. An example of a one time cash-payment is like that which is included in Treaty 7, the Treaty with the Chippewa, Etc., 1833, where it stipulates "seventy thousand dollars for purposes of education and the encouragement of the domestic arts, to be applied in such a manner, as the President of the United States may direct" (Kappler, 1972, pp. 402-403). For a breakdown of actual amounts and types by treaty see Appendix A, Monetary Provisions table.

Non-monetary provisions were found in all 26 treaties. Thus, all 16 treaties that apply to tribes within the State of Michigan contain such provisions. All of the non-monetary educational provisions included in these treaties could be categorized into one of the following areas as it pertains to tribes located within the State of Michigan: education, schools, teachers, blacksmiths, land, training in agriculture, training in domestic arts, books in their own language, and tribal control (see Appendix A, Non-Monetary Provisions table for a breakdown of type by treaty).

Relevance to Michigan tribes was determined by application of the Canons of Treaty Construction to the wording of the relevant treaties in regard to whom the United States was making the treaties with. Certain of the treaties were found to be specific to tribes now located within Michigan. Some treaties were obviously signed with representatives of Michigan tribes, but they were worded as such that they could be interpreted to be inclusive of other Anishinaabe tribal groups outside of Michigan. On the flip side of that were treaties that were obviously signed with representatives of non-Michigan tribes but that were worded in a way that could be interpreted as being inclusive of Michigan Anishinaabe tribes. Finally, the treaties that were specific to non-Michigan tribes only were

not included in the comparative content analysis portion of the study. See Appendix A, Relevance to Michigan Tribes table for a breakdown of treaty by relevance.

The relevance to Michigan tribes was also explained more fully by considering historical references to the relationship between the Anishinaabe Three Fires Confederacy of Chippewa, Ottawa, and Potawatomy, and how each group was included in the corpus of the treaties. According to oral history, sometime prior to European settlement of North America, the Anishinaabe Ojibway migrated from the east coast of the US and Canada to the Great Lakes Region. It was during this time that the Ottawa and Potawatomy split off from the main group to form their own communities. While it is not uncommon for younger citizens of contemporary Anishinaabe tribes to identify as only Chippewa, Ottawa, or Potawatomy, it is also not uncommon for tribal Elders and traditionalists to identify as Anishinaabe first and as Chippewa, Ottawa, and Potawatomy second.

It was found that certain treaties included all 3 groups as separate entities or as one nation, whereas others included only 1 or 2 of the groups. The Anishinaabe understanding at the time the treaties were written would likely have been in contrast to the idea of the 3 groups existing only as independent groups. In the Anishinaabe cultural reality at that time, they were more likely to have understood the relationship between the 3 groups to be similar to the relationship between the states and the federal US government today, except that decision making traditionally occurred within a governance system of seven primary *dodems*. Thus, anyone representing the Anishinaabe in a treaty making capacity may have been under the impression that they were speaking on behalf of the 3 groups, whereas the US may or may not have realized what level of government was actually being represented. Conspiracy theorists would argue, however, that the US fully realized what was happening and later took advantage of the ambiguity in the interaction to decrease the amount of obligation. Nonetheless, for the purposes of this study, only those treaties that specifically mentioned all three were categorized as such. For a breakdown of which Anishinaabe tribes were included by treaty see Appendix A, Anishinaabe Tribes Included table.

In regard to Anishinaabe tribes currently located within the State of Michigan, the type of Anishinaabe tribe, Chippewa, Ottawa, or Potawatomy, was matched up with the treaties relevant to each group. For a breakdown of Michigan tribes by treaty see Appendix A, Michigan Federally Recognized and State Recognized Tribes Included in Treaties tables.

In an effort to discern the meaning of treaty education provisions from a legal and political perspective, the researcher utilized the U.S. Supreme Court's Canons of Treaty Construction as a guide. The Canons invoked by the Court when hearing a case concerning American Indian treaty rights are: Treaties are to be construed as they were understood by the tribal representatives who participated in their negotiation.

They are to be liberally interpreted to accomplish their protective purposes, with ambiguities to be resolved in favor of the Indians. (Canby, 2004, p.109)

In keeping in line with the Canons, the researcher first determined if any ambiguity existed within the terms of the treaty educational provisions. The researcher then considered what Anishinaabe understanding of the ambiguous terms might have been at the time the treaties were written by looking at other research that has been accomplished on the topic of American Indian education from that time

period, and by comparing Native language with English terms. Lastly, the researcher discerned if any terms could be construed liberally or conservatively, and put forth the liberal interpretation for later comparison with contemporary Indian education laws. An example of such an analysis is included in the following example.

Treaty 1, Treaty with the Wyandot, Etc., 1817

In Article 16 of this treaty the researcher identified the key terms: “Some of the Ottawa, Chippewa, and Potawatomy tribes...some of their children hereafter educated.” In this provision, the meaning of the terms *their children* is somewhat ambiguous. It may mean children in the sense of youth, although, it is proposed here that the more likely meaning of the terms may be closer to the idea of wards, or citizens, of the collectivity, Ottawa, Chippewa, and Potawatomi. If the later were the case, age would not be considered the primary factor, rather it would be a matter of legal and political identification. It is also helpful to consider the fact that references to the *Great White Father in Washington* were also terms commonly used in treaty negotiations, and certainly did not pertain to family relations, but rather a political relationship between the United States government and American Indian tribes.

It is also unclear what is implied by the term *some* in this treaty educational provision. In keeping with the likely definition of terms *their children*, and applying the most liberal definition for this term, it could be argued that some, as it applies to the tribal groups, may include only those tribal groups that wished their citizens to be educated with the support of the relationships forged, and resources made available, via this treaty. Thus potentially, some could mean all, if all wished for such educational support under this agreement. It is also important to note that the term *hereafter* is not an ambiguous term, but is very precise. There should be no doubt that hereafter means hereafter.

While the above analysis has shed some light on *who* the beneficiaries of the provisions are likely to be and how long the provision was to be in effect, it is the general term *educated* that provides the answer to what the benefit actually is. In trying to determine meaning for such an ambiguous term,

it is important to look to historical references and other sources of information that provide insight into the Indian (Anishinaabe in particular) meaning of educated at that time.

Oral historical accounts of Anishinaabe practices were the most common sources of information regarding traditional Indigenous education systems until the 1930s when anthropologists began documenting the lifeways of certain Anishinaabe communities throughout the United States and Canada (Hallowell 1992; Hilger 1992; Miller 1996). Contemporary Anishinaabe authors like Benton-Banai (1988), Broker (1983), Johnston (1976) and Wub-e-ke-niew (1995) and living traditional culture projects like Waswagoning (2001) provide us with a contemporary glimpse/interpretation of Anishinaabe oral traditional knowledge, and can be drawn on to inform a tribal standpoint on what type of educational system was in place during pre-colonial times according to oral tradition. Such references, when used in conjunction with live interviews, may provide good cross checks of data relative to a comparison of Native and non-Native views on what was considered good education from then and now.

Drawing from an Anishinaabemowin (Native language) perspective, an interpretation of the English term "educated" can be found in Nichols and Nyholm (1995) where it includes the animate intransitive verb: "be educated *gikendaaso*" (p. 173). Another interpretation comes from Eklund (1991), where it includes a third person neuter verb form: "*kikino.ama.goosi*" (p. 170) meaning he/she is educated. Lastly, from Rhodes (1993) is a similar term for educated. Under the translation for "be learned," is the animate intransitive verb: "*nbwaakaad*" (Rhodes, 1993, p. 509). According to Rhodes (1993) this use of the term comes from an Ottawa dialect found on Manitoulin and Walpole Islands.

According to Anishinaabemowin teacher, Helen Roy, the Anishinaabe term "*kinomaage*" is generally used to mean "teach or educate," but it is more appropriately interpreted as "the Earth it shows." The root word "*aki-*" is a reference to the Earth. This makes a lot of sense given oral

traditional teachings about Mother Earth being our greatest teacher. She explains that the “-nomaage” component of the above term is best interpreted to mean “it shows or provides the example” (personal communication, February, 2003).

More examples can be found by studying how Anishinaabe leadership was approaching the idea of education at or near the time that this treaty was written. One of the most common references to Anishinaabe leadership perspectives on education from that era comes from Shingwauk⁴, or the Pine, an Ojibway Chief from Kitigaanziibing (Garden River First Nation of Ojibway). According to Chute (1998), Shingwauk was party to several treaty negotiations between the Anishinaabek and both the United States and the British, and his signature can be found within treaties on both sides of the border between the United States and Canada.

According to the Shingwauk Project (2002), Shingwauk "envisaged schools as part of a self-determination strategy for the Anishnabek People" (§ 5). His commitment to "cultural synthesis and modern community development" (§ 5) through education is evidenced by his lead role in an 1832 delegation from Bawating (Sault Ste. Marie) to York (Toronto), where he and others petitioned Governor Colbourne for teachers. Shingwauk's vision for education called for some type of blending of educational systems to meet the educational needs of Anishinaabe communities at that time. It did not subordinate one system to the other, nor did it imply that the Anishinaabek were somehow turning over control of the education of Anishinaabe people to colonial governments. In fact, it could be seen as an early tribally controlled school movement for the Anishinaabek. It also speaks to the fact that although the idea of a school was something new to the Anishinaabek at that time, it was being conceptualized by Anishinaabe leadership as something that could be inclusive of both Anishinaabe and colonial knowledge and ways of teaching and learning.

When considering what *educated* meant to the Anishinaabek at the time this treaty was written, it is important to draw on a number of sources including those referenced above. What is clear is that the Anishinaabe understanding of such a term was most likely derived from a blend of traditional educational practices and new cross-cultural ideas about language, leadership, schools, technologies, spirituality, and other considerations.

In addressing the first research question, the researcher also determined the level of trust established by each the educational provisions. The above example would fall into a general trust category as it did not include any specific mention of government agency responsibilities and/or fiduciary responsibility, nor has it been cited in any subsequent Indian education law. It remains to be seen if in the future this provision will move from a general trust to an implied fiduciary trust given the current debate over the federal trust obligation for Indian education in general. See Appendix B for a definition of the levels of trust.

The second research question was: *Are current federal K-12 American Indian education laws intended to satisfy any portion of these treaty obligations?* After a careful review of the legislative history of the three acts included in this study, it was determined that the Indian Self-Determination and Education Assistance Act was the only act included in this study that could actually be traced back to treaty educational obligations. Under the scoring criteria for *relationship with treaties*, the ISDEA received a score of one (on a scale from 0-4), because the legislative history of the law is clearly linked to treaty obligations. The Indian Education Act and Individuals with Disabilities Education Act received a score of zero, because their legislative history does not include specific links to treaty obligations. After reading through each act to determine the level of interaction with tribes required, it was found that only the ISDEA requires specific interaction with tribes in general, whereas the IEA and IDEA require specific interaction with American Indian tribal citizens in general, but do not require specific interaction with tribes. Thus, under the scoring criteria for *relationship with tribes*, the ISDEA received a score of two (also on a scale from 0-4), whereas the other acts received a score of one. See Appendix C to review the scoring criteria for relationships with treaties and tribes.

The third research question was related to the second. It was: *If so, how do they satisfy these obligations?* While it was determined that only the ISDEA was actually intended to satisfy treaty obligations in some sense, it could be argued that all three of the acts included in this study satisfy some of the obligations even if not necessarily intended to. In order to determine the alignment of provisions within the acts to provisions within the treaties, the researcher conducted a comparative socio-historical content analysis. Three different types of searches, and a comparison of the contemporary equivalent of monetary provisions with current funding under each act were conducted as part of the analysis.

The three types of searches included: a specific terms search, a similar terms search, and a conceptual clusters search. Specific terms searches included terms taken directly from the treaty provisions themselves. Similar terms searches included terms that were synonymous or related to the specific terms according to a thesaurus or as identified by the researcher. The researcher read through Rheinhardt&Tippeconnic: The Treaty Basis of Michigan Education

each act, several times, to determine if there were conceptual clusters or ideas that may constitute equivalents of the ideas contained within the treaty provisions. The number of hits were recorded for each type of search, and the conceptual clusters were copied and pasted into the search hit tables. Ultimately, it was found that the three acts do meet many of the educational provisions set forth by treaty for tribes within the State of Michigan. For a breakdown of number of hits by law and treaty, see Appendix D. An example of a hit table showing the provision and conceptual clusters is included as Appendix E.

The funding under each act for tribal schools, tribal education programs, or other educational concerns that could be argued in some way to represent the contemporary version of intended beneficiary of the treaty educational provisions was also considered in the analysis. It was found that all three of the acts could be argued to provide, at least in part, a level of funding for Indian education in the State of Michigan that meets or exceeds the modern day equivalent of many of the monetary provisions included in the body of treaties relevant to tribes located within the State of Michigan. There are instances, however, where the level of funding falls short, or where the provision is so ambiguous that it was impossible to draw any conclusions. For a breakdown of funding under each act for schools serving the educational needs of Anishinaabe students see Appendix F.

The fourth research question was: *Are there any portions of treaty educational obligations that have not been met, or are not addressed by current federal K-12 American Indian education legislation?* Because this study is limited to three pieces of current Indian education legislation selected, the findings in this respect are inconclusive in a general sense. The comparison of the three laws with treaty educational provisions, however, filtered out some important parts of treaty provisions that are not met by the components of the three laws.

When the provisions of the three acts included in this study were compared with the provisions of the treaties, it was found that they failed to provide a maximum level of fulfillment for the following provisions or components of provisions:

1. None of the acts provide a comprehensive program of *education* for all Anishinaabe students as indicated in Treaty 1.
2. IEA and ISDEA do not provide direct funding for *teachers* as stipulated in Treaties 2 and 8. IDEA provides direct funding for teachers, but only for special education purposes.
3. None of the acts provide for the provision of a *blacksmith*, as called for in Treaty 2, although both ISDEA and IDEA have the potential to provide for a *maintenance person*.
4. Neither IEA nor IDEA provide for *land* provisions, as included under Treaties 2, 3, 16, 17, and 23.
5. *A person to instruct the Ottawas in agriculture* is similar to *teacher*. IEA and ISDEA do not provide direct funding for a person to instruct the Ottawa in agriculture as stipulated in Treaty 2. IDEA provides direct funding for instruction, but only for special education purposes.
6. It was determined that the IEA and ISDEA provided no level of fulfillment for the *encouragement of the domestic arts* as called for in Treaty 7. IDEA could provide partial fulfillment for this provision under transition services, but again, it would be only for special education purposes.
7. The IEA and IDEA provide only partial fulfillment for the *tribal control* provisions included under Treaties 12, 16, 19, and 23. The IEA allows for tribes to apply for funding if the LEA chooses not to

apply if it can be shown that over fifty percent of the eligible students are tribal citizens. IDEA funding can be applied to tribally controlled schools through the BIA, but it is not applied to tribes directly. Thus, of the 16 treaties included in the comparative legislative analysis, 10 of them were found to have non-monetary provisions, or components of non-monetary provisions, that are not addressed by the three acts included in this study.

In regard to the monetary provisions, this study did not provide conclusive evidence of what ambiguous annuities, specific annuities, or one-time cash payments are still obligated to Michigan tribes. This study did, however, provide a sense of the value of treaty monetary provisions by today's standards, and how current funding levels of each act might stack up against these modern day equivalents, by comparing the amounts of funding under each act allocated to tribally controlled schools (or Michigan tribes that receive funding under these acts) that fall within the purview of each treaty with each of the modern day equivalents of the treaty monetary provisions.

What can be concluded from the findings of this study is that certain of the treaty non-monetary provisions if fulfilled would have costs related to them even if not specifically linked to a monetary provision. Unlike unfunded mandates, under the U.S. Constitution, treaties are to be considered the *supreme law of the land*, and would, therefore, not be subject to subsequent unfunded mandate legislation. The potential problem arises when a contemporary interpretation of trust responsibility is applied to the treaty provisions and it is not clear about an exact amount of money, how the money or resources were to be handled, and who was to administer the provision. It was also pointed out in this study that the change in value of certain educational provisions over time, location, and cultural orientation should be considered in any subsequent court case or legislative remedy that may arise based on the fulfillment of these treaty provisions.

The fifth research question brings the study into focus on the meaning of the findings for the current status of, and ultimately, the future of Michigan Indian education as a trust responsibility. The fifth research question was: *What is the responsibility of the federal, state, and tribal governments in providing for the K-12 educational interests of American Indian tribal citizens within the State of Michigan?* Based on the data generated in this study, several key points were made regarding each level of government. For a conceptual model of the areas of responsibility see Appendix E.

Michigan Indian Education as a Tribal Responsibility

It is asserted here that the tribes in Michigan have a responsibility to work to resolve their legal/political identity as part of the Anishinaabe Three Fires Confederacy in cooperation with other Anishinaabe tribes in the United States and First Nations in Canada. This would help to clarify the overall treaty basis of Anishinaabe education in Michigan. This may also help the tribes as they begin to develop tribal standards or codes for the education of Anishinaabek citizens. An understanding of the legal and political basis of American Indian education in general or tribal education in specific can and should inform and be informed by the educational practices of the tribes. Outstanding educational treaty obligations should be referenced in policy making, grant writing, government-to-government relations, and tribal curriculum development initiatives.

Michigan Indian Education as a Federal Responsibility

The federal U.S. government has a trust responsibility to assist and protect the Anishinaabe tribes' interest in the education of Anishinaabe citizens, and a responsibility to uphold its end of treaties that were made in good faith between sovereign governments. The federal government also has a responsibility to enforce the terms of the Comstock Agreement. It should remind the State of Michigan that any federal spending on Indian education in this state is a bonus, not as a replacement for what the State is obligated to. The United States also has a responsibility to ensure that the State of Michigan includes the tribes in governance decisions that impact the education of Anishinaabe citizens and ultimately Anishinaabe tribes. The federal government should oversee a clarification process to determine the legal and political basis of American Indian education within the State of Michigan.

Michigan Indian Education as a State Responsibility

The State of Michigan, in this instance, should be seen as an agent of the Federal Government, and as such it has a responsibility to uphold its end of the Comstock Agreement. The State should work cooperatively with the tribes and federal government to clarify the legal and political basis of American Indian education in the State of Michigan. As tribes move forward in development of their own standards for education of Anishinaabe tribal citizens in the State of Michigan, the State should, at the very least, seek to fulfill the obligations it accepted as part of the Comstock Agreement of 1934. The State also has responsibility to redress the negligence of the State since 1934 by providing compensatory educational programs based on the body of obligations set forth by treaty. The compensatory programs should be developed in conjunction with tribes through their tribal departments of education.

The responsibilities of the tribes, federal, and state governments for the education of Anishinaabe citizens is also impacted by the constitutions of each form of government, as Anishinaabe citizens are also considered U.S. citizens and subsequently citizens of the states in which they live. As such, what is afforded to all citizens of the U.S. and citizens of the State of Michigan should be afforded to Anishinaabe citizens living within the State as well. Put differently, the general provision of education by federal and state governments should be seen as a bare minimum of education for all citizens of the state, but should not preclude the federal and state governments from upholding added responsibilities for the education of Anishinaabe citizens based on aboriginal and treaty rights and subsequent federal and state Indian education legislation.

Implications for School Policy

The following are implications for school policy, and have been generalized to all schools regardless of tribe or state location. They are based on the outcomes of this study.

1. Indian education, whether implemented in a tribal school, public, or private school, when rooted in treaty rights, must be protected under the trust responsibilities of the United States.
2. Where general school policy is contrary to the treaty rights of American Indian tribes and individuals, the policy must be modified to allow for an exception to be in compliance with the Constitutional protections set forth under the Supremacy Clause.

3. To avoid conflicts with treaty rights to tribal control, school boards should develop proactive policies regarding the inclusion of American Indian tribes, tribal citizens, content, methods, and philosophies in their schools.

4. School leadership should communicate with other school leadership, tribal, state, and federal lawmakers, administrators, the judiciary, Indian education organizations, and higher education entities about policy issues they face in their schools due to cross-cultural legal and political misunderstandings based on treaty rights. School leadership should also share information about policy initiatives that have improved cross-cultural legal and political relations with the entities previously mentioned.

Implications for School Practice

The following are implications for school practice. Similar to the implications for school policy, they are applicable to a generalized audience regardless of tribe and state location. They are also based on the outcomes of this study.

1. American Indian tribal rights, including both aboriginal and treaty rights, to govern over the education of their citizens should be acknowledged by federal and state entities and school leadership.
2. Regardless of the prevailing politics, school leadership should uphold the principles of law, including treaty educational provisions.
3. While it may be easier to integrate tribal educational interests in tribal schools, all schools should be aware of how they are including, or excluding, content regarding the place of American Indian treaties in our society.
4. The fulfillment of treaty educational obligations as a trust responsibility should necessitate the training of teachers and administrators to address the unique culturally related educational needs of American Indian students.

Recommendations and Conclusion

Finally, based on the historical interactions between the Anishinaabe Three Fires Confederacy, the United States, and the State of Michigan, and the findings of this study, the researcher makes the following recommendations for further study:

1. Each treaty provision included in this study should be further researched to determine if it has been fulfilled through appropriations under laws other than those included in this study. The same model should be applied to each mechanism to provide greater reliability.
2. The outcomes of this study should be compared with other like studies in the future to determine the validity of the findings.
3. The change in value of educational provisions from the time the treaties included in this study were written should be further researched to determine a more precise level of educational obligation.
4. Historical Anishinaabe perspectives on education, teachers, and other ambiguous terms from the time the treaties were written should be further researched and compared to current Anishinaabe perspectives on the same.

The outcomes of this study provide evidence that the US remains obligated to providing for the educational interests of tribes like the Anishinaabek based on treaty educational obligations, subsequent federal legislation, and the tribal trust relationships established throughout the history of the United

States. It also provides a model for subsequent studies for other tribes in different states with their own treaty base and unique tribal/federal/state relations.

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Appendix A

Treaty Provisions Tables

Treaty #	Treaty
Treaty 1	Treaty with the Wyandot, Etc. 1817
Treaty 2	Treaty with the Ottawa, Etc. 1821
Treaty 3	Treaty with the Chippewa, 1826
Treaty 4	Treaty with the Potawatomi, 1826
Treaty 5	Treaty with the Chippewa, Etc. 1827
Treaty 6	Treaty with the Potawatomi, 1828
Treaty 7	Treaty with the Chippewa, Etc. 1833
Treaty 8	Treaty with the Ottawa, Etc. 1836
Treaty 9	Treaty with the Chippewa (Detroit), 1837
Treaty 10	Treaty with the Chippewa (St. Peters), 1837
Treaty 11	Treaty with the Chippewa, 1842
Treaty 12	Treaty with the Potawatomi Nation, 1846
Treaty 13	Treaty with the Chippewa of the Mississippi and Lake Superior, 1847
Treaty 14	Treaty with the Chippewa, 1854
Treaty 15	Treaty with the Chippewa, 1855
Treaty 16	Treaty with the Ottawa and Chippewa, 1855
Treaty 17	Treaty with the Chippewa of Saginaw, Etc. 1855
Treaty 18	Treaty with the Chippewa, Etc. 1859
Treaty 19	Treaty with the Ottawa of Blanchard's Fork and Roche de Boeuf, 1862
Treaty 20	Treaty with the Chippewa of the Mississippi and the Pillager and Lake Winnibigoshish Bands, 1863
Treaty 21	Treaty with the Chippewa-Red Lake and Pembina Bands, 1863
Treaty 22	Treaty with the Chippewa, Mississippi, and Pillager and Lake Winnibigoshish Bands, 1864
Treaty 23	Treaty with the Chippewa of Saginaw, Swan Creek, and Black River, 1864
Treaty 24	Treaty with the Chippewa-Bois Fort Band, 1866
Treaty 25	Treaty with the Potawatomi, 1867
Treaty 26	Treaty with the Chippewa of the Mississippi, 1867

Treaty #	Monetary Provisions					
	Ambiguous Annuity	Modern Day Equivalent	Specific Annuity Total	Modern Day Equivalent	One-Time Cash Payment	Modern Day Equivalent
Treaty 1						
Treaty 2			\$30,000	\$364,864		
Treaty 3	\$1,000	\$17,857				
Treaty 4	\$2,000	\$35,714				
Treaty 5	\$1,500	\$22,543	\$3,000	\$45,086		
Treaty 6	\$1,000	\$18,519				
Treaty 7					\$70,000	\$1,458,333
Treaty 8	\$100,000	\$1,648,717				
Treaty 9						
Treaty 10			\$190,000	\$3,454,545		
Treaty 11			\$50,000	\$1,086,957		
Treaty 12						
Treaty 13						
Treaty 14			\$60,000	\$1,250,000		
Treaty 15			\$60,000	\$1,224,490		
Treaty 16			\$80,000	\$1,632,653		
Treaty 17			\$30,000	\$612,245		
Treaty 18					\$2,000	\$42,553
Treaty 19						
Treaty 20	\$1,000	\$17,049				
Treaty 21			\$100,000	\$1,388,889		
Treaty 22	\$1,000	\$13,828				
Treaty 23			\$20,000	\$222,222		
Treaty 24			\$16,000	\$175,820	\$1,300	\$14,286
Treaty 25						
Treaty 26			\$40,000	\$476,190	\$5,000	\$59,524
Totals	\$107,500	\$1,774,227	\$679,000	\$11,933,961	\$78,300	\$1,574,696
Modern Day Equivalents Total: \$15,282,884						

Treaty #	Primary Non-Monetary Provisions						
	Education / Training	Schools	Teachers	Blacksmith / Laborer	Land	Books / Native Language	Tribal Control/Indian Preference
Treaty 1	X						
Treaty 2	X		X	X	X		
Treaty 3		X			X		
Treaty 4	X						
Treaty 5	X						
Treaty 6	X						
Treaty 7	X						
Treaty 8	X	X	X			X	
Treaty 9	X						
Treaty 10		X					
Treaty 11		X					
Treaty 12							X
Treaty 13		X	X	X			X
Treaty 14	X	X					
Treaty 15	X		X	X			X
Treaty 16	X				X		X
Treaty 17	X				X		
Treaty 18	X	X			X		
Treaty 19	X	X			X		X
Treaty 20	X						
Treaty 21	X						
Treaty 22	X						
Treaty 23	X	X			X		X
Treaty 24	X	X	X			X	X
Treaty 25					X		
Treaty 26		X					

Treaty #	Relevance to Michigan Tribes			
	Michigan Specific	Michigan Non-Specific	Non-Michigan Non-Specific	Non-Michigan Specific
Treaty 1		X		
Treaty 2		X		
Treaty 3		X		
Treaty 4			X	
Treaty 5		X		
Treaty 6		X		
Treaty 7			X	
Treaty 8		X		
Treaty 9	X			
Treaty 10			X	
Treaty 11	X			X
Treaty 12			X	
Treaty 13				X
Treaty 14				X
Treaty 15				X
Treaty 16		X		
Treaty 17	X			
Treaty 18				X
Treaty 19				X
Treaty 20				X
Treaty 21				X
Treaty 22				X
Treaty 23	X			
Treaty 24				X
Treaty 25			X	
Treaty 26				X

Treaty #	Anishinaabe Tribes Included		
	Chippewa	Ottawa	Potawatomi
Treaty 1	X	X	X
Treaty 2		X	X
Treaty 3	X		
Treaty 4			X
Treaty 5	X		
Treaty 6			X
Treaty 7	X	X	X
Treaty 8	X	X	
Treaty 9	X		
Treaty 10	X		
Treaty 11	X		
Treaty 12	X	X	X
Treaty 13	X		
Treaty 14	X		
Treaty 15	X		
Treaty 16	X	X	
Treaty 17	X		
Treaty 18	X		
Treaty 19		X	
Treaty 20	X		
Treaty 21	X		
Treaty 22	X		
Treaty 23	X		
Treaty 24	X		
Treaty 25			X
Treaty 26	X		

Treaty #	Michigan Federally Recognized Tribes Included in Treaties											State Recognized		
	BM	GL	GT	HI	HP	KB	LR	LT	PB	SC	SS	BL	GR	SB
Treaty 1	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Treaty 2		X	X	X	X		X	X	X			X	X	
Treaty 3	X		X			X				X	X	X		X
Treaty 4		X		X	X				X					
Treaty 5	X		X			X				X	X	X		X
Treaty 6		X		X	X				X					
Treaty 7	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Treaty 8	X		X			X	X	X		X	X	X	X	X
Treaty 9										X				X
Treaty 10	X		X			X				X	X	X		X
Treaty 11						X								
Treaty 12	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Treaty 13														
Treaty 14						X								
Treaty 15														
Treaty 16	X		X		X	X	X	X		X	X	X	X	X
Treaty 17										X				X
Treaty 18														X
Treaty 19														
Treaty 20														
Treaty 21														
Treaty 22														
Treaty 23										X				X
Treaty 24														
Treaty 25		X		X	X				X					
Treaty 26														

Appendix B

Trust Criteria

The following trust criteria originate from the American Indian trust doctrine, and are in line with current discussions of the status of American Indian trust relationships with the United States. Special thanks to Judge William Canby of the 9th U.S. Circuit Court of Appeals, and Staff Attorney Melody McCoy of Native American Rights Fund for acting as a review committee regarding trust criteria.

general trust –obligates the Federal Government to act in the best interest of American Indian tribes for some purpose in a vague and ambiguous sense. Does not indicate a fiduciary duty, as in the case of Executive Order 13175 signed by President Clinton in the year 2000.

limited trust –obligates the Federal Government to act in the best interest of American Indian tribes in a specific sense short of fiduciary responsibilities, as in the case of the General Allotment Act, 25 U.S.C. § 348.

express fiduciary trust –obligates the Federal Government to act in the best interest of American Indian tribes with specific responsibilities including fiduciary duties, as in the case of the Indian Long-Term Leasing Act, 25 U.S.C. § 396.

implicit fiduciary trust –obligates the Federal Government to act in the best interest of American Indian tribes based on the fact that the Federal Government clearly maintains, or has maintained, control or supervision over American Indian tribal resources. In such an instance, the level of control should exceed the level considered limited as in the first Mitchell case. An example of an implicit trust situation is found in the recent case *Cobell v. Norton* (No. 96-1285), where the Department of Interior has argued that common law fiduciary duties do not apply to the Indian trust fund. US District Judge Lamberth suggests otherwise in stating that the range of duties for the Department and the nature of such duties “are coextensive with the duties imposed upon trustees at common law.”

Appendix C

Scoring Criteria for Relationships with Treaties and Tribes

The criteria utilized in determining the relationship with tribes score are as follows:

0= Law does not require specific interaction with American Indian tribes or tribal citizens

1= Law requires specific interaction with American Indian tribal citizens in general, but does not require specific interaction with American Indian tribes

2= Law requires specific interaction with an American Indian tribe or tribes in general

3= Law requires tribal consultation prior to implementation

4= Law empowers tribes with decision making authority and resources necessary to implement the act

The criteria utilized in determining the relationship with treaties score are as follows:

0= Legislative history of law is not clearly linked to treaty obligations

1= Legislative history of law is clearly linked to treaty obligations

2= Law includes wording about its treaty basis

3= Law includes wording about its intent to satisfy treaty obligations in general

4= Law includes wording about its intent to satisfy specific treaty obligations

Appendix D

Treaty/Trust/Search Hits Table

Treaty	Type of Trust Established				Search Hits								
					Specific Terms			Similar Terms			Conceptual Clusters		
	General	Limited	Express	Implicit	IEA	ISDEA	IDEA	IEA	ISDEA	IDEA	IEA	ISDEA	IDEA
1	x				0	0	3	103	50	839	4	11	48
2		x	x*		4	0	44	0	11	6	8	14	26
3		x	x*	x	29	51	70	0	40	22	3	8	21
4			x*	x	33	38	365	71	12	516	4	11	48
5			x*	x	33	38	365	71	12	516	4	11	48
6			x*	x	33	38	365	71	12	516	4	11	48
7			x		33	38	365	71	12	516	4	11	51
8			x*	x	66	78	479	71	16	542	13	17	86
9			x		33	38	365	71	12	516	4	11	48
10			x*		29	40	70	0	4	20	3	4	21
11			x*		29	40	70	0	4	20	3	4	21
12			x		0	0	0	1	1	0	5	5	9
14			x*		62	78	435	71	16	536	7	15	69
16		x	x*		62	78	435	72	17	536	12	20	78
17		x	x*		33	49	365	71	48	518	4	15	48
23		x	x		29	40	70	1	5	20	8	9	30

Appendix E

Treaty 2

Terms for Treaty with the Ottawa, Etc., 1821, Article 4: annually, for a term of ten years, the sum of fifteen hundred dollars...in the support of a Blacksmith, of a Teacher, and of a person to instruct the Ottawas in agriculture...also... to pay to the Potawatamie nation... annually, for the term of fifteen years, the sum of one thousand dollars... in the support of a Blacksmith and a Teacher. And one mile square shall be selected...on the north side of the Grand River, and one mile square on the south side of the St. Joseph, and within the Indian lands...upon which the...teachers employed for the said tribes, respectively, shall reside.	Hits		
	IEA	ISDEA	IDEA
Specific Term(s):	4	0	44
<i>A. Teacher</i>	4	0	44
<i>B. a person to instruct the Ottawas in agriculture</i>	0	0	0
<i>C. Blacksmith</i>	0	0	0
<i>D. one mile square shall be selected...on the north side of the Grand River, and one mile square on the south side of the St. Joseph, and within the Indian lands...upon which the...teachers employed for the said tribes, respectively, shall reside.</i>	0	0	0
Similar Term(s):	0	11	6
<i>A. Educator (S)</i>	0	0	3
<i>A. Tutor (S)</i>	0	0	0
<i>A. Instructor (S)</i>	0	0	0
<i>A. Coach (S)</i>	0	0	0
<i>A. Trainer (S)</i>	0	0	0
<i>A. Lecturer (S)</i>	0	0	0
<i>A. Professor (S)</i>	0	0	1
<i>A. Governess (S)</i>	0	0	0
<i>A. Educationalist (S)</i>	0	0	0
<i>A. Schoolteacher (S)</i>	0	0	0
<i>A. Teacher Training (*)</i>	0	0	2
<i>B. Agricultural Instruction (*)</i>	0	0	0

<i>C. General Maintenance Personnel (*)</i>	0	0	0
<i>D. Land (*)</i>	0	11	0
<i>D. Residential location for Teachers(*)</i>	0	0	0
Conceptual Cluster(s):	8	14	26
A.	4	1	12
B.	4	1	12
C.	0	6	1
D.	0	6	1
A. & B. the training of Indian persons as educators and counselors, and in other professions serving Indian people (IEA)			
A. & B. professional development opportunities that will be provided, as needed, to ensure that — (A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and (B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs (IEA)			
A. & B. activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency (IEA)			
A. & B. activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors. (IEA)			
C. The Secretary of the Interior is authorized, upon the request of any Indian tribe (from funds appropriated for the benefit of Indians pursuant to section 13 of this title, and any Act subsequent thereto) to contract with or make a grant or grants to any tribal organization for - (1) the strengthening or improvement of tribal government (including, but not limited to, the development, improvement, and administration of planning, financial management, or merit personnel systems; the improvement of tribally funded programs or activities; or the development, construction, improvement, maintenance, preservation, or operation of tribal facilities or resources); (ISDEA)			
C. The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in such paragraph. Such compensation may include rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other reasonable expenses that the Secretary determines, by regulation, to be allowable. (ISDEA)			
D. the acquisition of land in connection with items (1) and (2) above: Provided, That in the case of land within Indian country (as defined in chapter 53 of title 18) or which adjoins on at least two sides lands held in trust by the United States or the tribe or for individual Indians, the			

Secretary of ^[1] Interior may (upon request of the tribe) acquire such land in trust for the tribe. (ISDEA)
C. & D. the appropriate Secretary may - (1) permit an Indian tribe or tribal organization in carrying out such contract or grant, to utilize existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance; (ISDEA)
D. donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration (ISDEA)
D. The Secretary of the Interior may accept donations of funds or other property for the advancement of the Indian race, and he may use the donated property in accordance with the terms of the donation in furtherance of any program authorized by other provision of law for the benefit of Indians. (ISDEA)
A., B. & C. The Secretary of the Interior is authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory. (ISDEA)
C. & D. The Secretary of the Interior, in making any contract authorized by sections 452 to 457 of this title, may permit such contracting party to utilize, for the purposes of said sections, existing school buildings, hospitals, and other facilities, and all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance. (ISDEA)
C. & D. The Secretary is authorized to enter into a contract or contracts with any State education agency or school district for the purpose of assisting such agency or district in the acquisition of sites for, or the construction, acquisition, or renovation of facilities (including all necessary equipment) in school districts on or adjacent to or in close proximity to any Indian reservation or other lands held in trust by the United States for Indians, if such facilities are necessary for the education of Indians residing on any such reservation or lands. (ISDEA)
A. & B. to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services (IDEA)
C. & D. If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities

<p>or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes. (IDEA)</p>
<p>A. & B. The purpose of this subpart is to assist State educational agencies, and their partners referred to in section 652(b), in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. (IDEA)</p>
<p>A. & B. Notwithstanding any other provision of law, and in addition to any authority granted the Secretary under chapter 1 or chapter 2, the Secretary may use up to 20 percent of the funds available under either chapter 1 or chapter 2 for any fiscal year to carry out any activity, or combination of activities, subject to such conditions as the Secretary determines are appropriate effectively to carry out the purposes of such chapters, that -- (1) is consistent with the purposes of chapter 1, chapter 2, or both; and (2) involves -- (A) research; (B) personnel preparation; (C) parent training and information; (D) technical assistance and dissemination; (E) technology development, demonstration, and utilization; or (F) media services. (IDEA)</p>
<p>A. & B. The purpose of this chapter is to provide Federal funding for coordinated research, demonstration projects, outreach, and personnel-preparation activities that -- (1) are described in sections 672 through 674; (2) are linked with, and promote, systemic change; and (3) improve early intervention, educational, and transitional results for children with disabilities. (IDEA)</p>
<p>A. & B. Demonstrating and applying research-based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel. (IDEA)</p>
<p>A. & B. The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, eligible entities --(1) to help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and (2) to ensure that those personnel have the skills and knowledge, derived from practices that have been determined, through research and experience, to be successful, that are needed to serve those children. (IDEA)</p>
<p>A. & B. Activities that may be carried out under this subsection include activities such as the following: (A) Preparing persons who -- (i) have prior training in educational and other related service fields; and (ii) are studying to obtain degrees, certificates, or licensure that will enable them to assist children with disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with disabilities to achieve the outcomes described in their individualized family service plans described in section 636. (B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with disabilities. (C) Preparing personnel in the innovative uses and application of technology to enhance learning by children with disabilities through early intervention, educational, and transitional services. (D)</p>

<p>Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children. (E) Preparing personnel to be qualified educational interpreters, to assist children with disabilities, particularly deaf and hard-of-hearing children in school and school-related activities and deaf and hard-of-hearing infants and toddlers and preschool children in early intervention and preschool programs. (F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities. (IDEA)</p>
<p>A. & B. Activities that may be carried out under this subsection include activities such as the following: (A) Preparing personnel at the advanced graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services for children with disabilities. (B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities. (IDEA)</p>
<p>A. & B. The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e). (IDEA)</p>
<p>A. & B. The purposes of this chapter are to ensure that -- parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such persons, through systemic-change activities and other efforts, to improve early intervention, educational, and transitional services and results for children with disabilities and their families; (IDEA)</p>
<p>A. & B. The Secretary may make grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities (IDEA)</p>
<p>A. & B. The Secretary may, directly or through awards to eligible entities, provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 682 and 683. (IDEA)</p>

Key:

(S)= Microsoft Word Synonym

(R)= Microsoft Word Related Term

(*)= Researcher Identified Similar Term

(IEA)= Indian Education Act

(ISDEA)= Indian Self Determination & Education Assistance Act

(IDEA)= Individuals with Disabilities Education Act

Appendix G

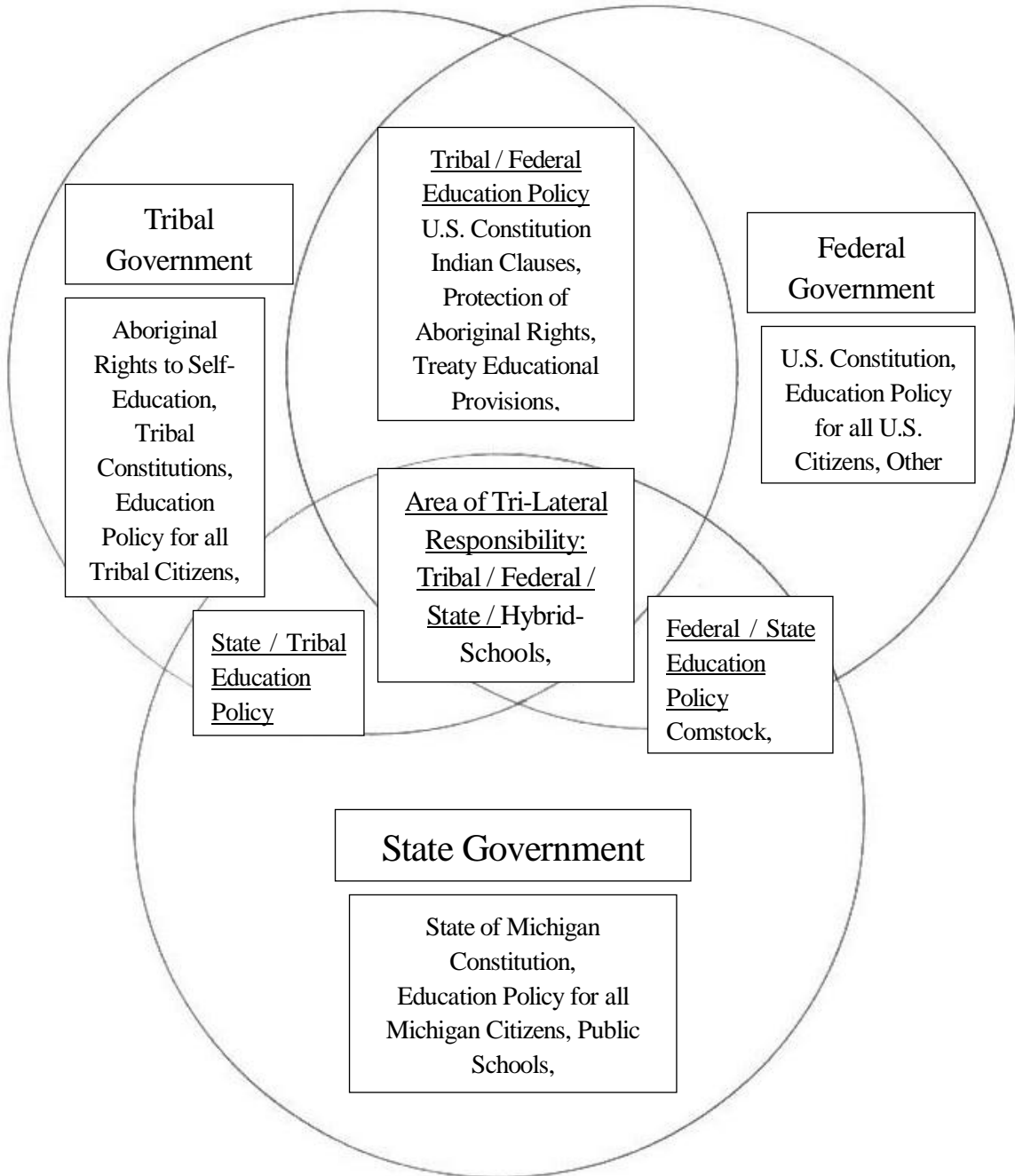
Conceptual Model

Drawing on Deloria's (1974) suggestion that there must be clarification of the rights of tribal citizens in their relations with state governments, and Petoskey's (2000) conceptual model used to show the relationship between tribal, federal, and state governments, the legal educational responsibilities of each government for American Indian tribes and people are placed in the appropriate areas of the figure shown on the following page.

Included in the figure are three concentric circles representing the three members of our national family of governments (tribal, federal and state), and seven blocks representing the different areas of governmental responsibility for Michigan Indian education (tribal/federal, federal/state, state/tribal, and the area of tri-lateral responsibility or tribal/federal/state). This model could also be used to show the agencies that are responsible for Michigan Indian education under each government. For instance, tribal departments of education or whatever agency represents education for the tribes and the Bureau of Indian Affairs (BIA) could be included in the tribal/federal area, or the U.S. Department of Education (DOE) and the State Education Agency (SEA) in the federal/state area. The area of *tri-lateral responsibility*, is arguably the most important area as far as its implications for the future of American Indian education in Michigan, since most tribal citizens are educated in public schools operated by the state, and the federal government continues to encourage tribal/state agreements. This area also represents the area of primary growth during the current era.

Due to the nature of this area, it is perhaps also the grayest area of responsibility for American Indian education in Michigan, as it has yet to be debated--who has jurisdiction over what--in this mix.

While it isn't as easy to provide clear examples of agencies or policies that fall into the area of tri-lateral responsibility as it is in the other areas, there are a few examples that should be considered. One example is the combined tribal/federal/state schools that have appeared on the scene recently, like the Bahweting Anishinabe Public School Academy (PSA) in Sault Ste. Marie, Michigan. This school is owned by the Sault Ste. Marie Tribe of Chippewa Indians, governed by tribal citizens, received a charter and receives funding from the Bureau of Indian Affairs, and received a charter and funding from the State of Michigan. According to both school administrators and BIA representatives, the lines of jurisdiction are unclear, overlapping, and the focus of ongoing investigations (Oshelski, personal communication, 1999; Van Alstine, personal communication, 1999; Whitehorn, personal communication, 1999). Another example is the Indian Education Act, which provides funding for American Indian student educational programming at tribal, federal, and state operated institutions.



Appendix H

Anishinaabe Tribal Schools U.S.A.

Tribally Operated School	Prelim student Count Sep. 2002	Governing Tribe	IEA Funding	ISDEA Funding	IDEA Funding
Bahweting	(Glen Allison, 2002) BIA 152	Sault Ste. Marie Tribe of Chippewa Indians	DOE, 2001 \$39,680.00	(Joe Herrin, 2003, 2002) BIA \$210,300.00	\$198,665.00
Bug-o-nay-ge-shig	264	Leech Lake Band of Ojibwe	\$59,987.00	\$161,700.00	\$376,869.00
Circle of Life	135	White Earth Band of Chippewa	\$34,816.00	\$100,570.00	\$202,480.00
Fond Du Lac Ojibwe School	192	Fond Du Lac Band of Chippewa	\$35,757.00	\$98,900.00	\$480,002.00
Hannahville (Nah Tah Wahsh)	141	Hannahville Indian Community	\$38,340.00	\$16,266.00	\$558,257.00
Lac Courte Oreilles	244	Lac Courte Oreilles Band of Lake Superior Chippewa	\$74,891.00	\$83,144.00	\$447,914.00
Nay-ah-shing	246	Mille Lacs Band of Ojibwe	\$54,106.00	\$48,900.00	\$411,392.00
Ojibwa Indian School	331	Turtle Mountain Band of Chippewa Indians	\$64,280.00	\$39,345.00	\$163,000.00
Dunseith	144	Turtle Mountain Band of Chippewa Indians	\$101,455.00		\$279,008.00
Turtle Mountain Schools:		Turtle Mountain Band of Chippewa Indians	\$322,130.00		
Elementary	604				\$439,310.00
Middle	334				\$279,500.00
High School	578				\$492,400.00
Trenton	63	Turtle Mountain Band of Chippewa Indians	\$0.00	\$14,936.00	\$63,600.00
Totals	3428		\$825,442.00	\$774,061.00	\$4,392,397.00
		Total Combined Funding \$7,591,403			
Michigan Tribal Schools Total			\$78,020.00	\$226,566.00	\$756,922.00
Michigan total			\$3,582,235.00	\$269,466.00	\$756,922.00
		Three Acts Funding Per Capita Per Student \$2214.53			