THE NORTHWEST TRIBES

Tribal Leader Congress on Education

Washington State School Directors' Association

Memorandum of Agreement Between The Tribal Leader Congress on Education, Washington State School Directors Association, the State Board of Education, and the Office of the Superintendent of Public Instruction

It is the intent of the legislature to promote the full success of the centennial accord, which was signed by state and tribal government leaders in 1989. As those leaders declared in the subsequent millennial accord in 1999, this will require "educating the citizens of our state, particularly the youth who are our future leaders, about tribal history, culture, treaty rights, contemporary tribal and state government institutions and contribution of Indian nations to the state of Washington." HB 1495 Sec. 1.

The Parties are entering into this Memorandum of Agreement for the purpose of enhancing the government-to-government relationship between the participating tribes and the state agency parties on issues related to education in the areas of tribal history and culture, and to help further the legislature's stated intent in enacting HB1495.

The Tribal Leader Congress on Education, by authority vested through their respective Tribal Governments as sovereign nations, the Washington State School Directors' Association, the Washington State Board of Education and the Washington State Office of the Superintendent of Public Instruction agree in the spirit of mutual interest and good faith effort to the following duties and responsibilities.

<u>The Washington State School Directors' Association agrees to:</u>

- Submit by Dec. 1, 2008, in collaboration with the Tribal Leader Congress on Education, a biennial report which will include the progress made in the development of effective government to government relations, the narrowing of the achievement gap, and the identification and adoption of curriculum regarding Tribal history, culture and government to the education committees of the legislature.
- Provide time at regional WSSDA/tribal meetings and WSSDA's annual conference to discuss the intent and substantive provisions of HB 1495.

- Provide time at regional WSSDA/tribal meetings and WSSDA's annual conference meetings for state-tribal government-to-government training.
- Develop guidelines and resources for local school boards to assist in implementing HB 1495; such as guidelines for creating and successfully implementing government-to-government relationships, agreements promoting board liaison positions to enhance school board-Tribal relationships, and other resources aimed at fostering cooperative relationships with Tribes on education.
- Encourage school board members to meet with Tribal leaders to identify the extent and nature of the achievement gap and strategies necessary to close it.
- Increase school board's awareness and understanding of the importance of accurate high quality curricular materials about the history, culture and government of local Tribes
- Actively encourage school boards to identify and adopt curriculum that includes Tribal experiences and perspectives.

The Tribal Leader Congress on Education agrees to:

- Encourage individual TLC tribes to agree to host at least one local school board meeting yearly.
- Encourage and support Tribes in providing authentic training opportunities to local school district staff on tribal history and culture.
- Beginning in 2008, collaborate with the Washington State School Director's Association in preparing and submitting a biennial report which will include the progress made in the development of effective government to government relations, the narrowing of the achievement gap, and the identification and adoption of Tribally approved curriculum regarding Tribal history, culture and government.
- Provide information to the Office of Superintendent of Public Instruction identifying which school districts are on or near the reservations or ceded areas of each tribe.

The Washington State Board of Education agrees to: (This section will be negotiated upon completion of the reorganization of the Washington State Board of Education.)

- Initiate the process to formally consider the inclusion of Tribal history, culture and government as a graduation requirement by Dec. 1, 2006.
- On or before December 1, 2006, begin meetings and active consultation with the Tribal Leader Congress on Education and the Washington State School Directors Association on the inclusion of Tribal history, culture and government as a graduation requirement.
- Reach a decision on including Tribal history, culture and government as a graduation requirement by Dec. 1, 2007.

The Washington State Office of the Superintendent Public Instruction agrees to:

- Collaborate with school districts and Tribes on curricular areas and projects that are statewide in nature and contribute to the overall accomplishment of the intent of HB 1495.
- Help local districts identify federally recognized Indian Tribes whose reservations are in whole or in part within the boundaries of the district and/or those that are nearest to the school district.
- Report annually to the Tribes, TLC, the WSSDA, and the State Board of Education on how OSPI is assisting school districts to close the Native American student achievement gap.
- Provide accurate data on Native American student achievement and completion rate statistics to the Tribes, TLC, the WSSDA, the State Board of Education, including information on the reasons Native students are dropping out and ways to overcome barriers.
- Seek funding and other resources in participation with TLC, WSSDA, and others to develop curriculum resources and develop a Clearing House of existing authentic resources.

DEFINITIONS

Sovereign Nation – American Indian Tribes are recognized in federal law as possessing sovereignty over their members and their territory. Sovereignty means that tribes have the power to make and enforce laws, and to establish courts and other forums for resolution of disputes. The sovereignty that American Indian Tribes possess is inherent which means that it comes from within the tribe itself and existed before the establishment of the United States government. Tribal sovereignty is further defined by the unique relationship of the tribes to the United States. In addition to inherent sovereignty, tribal governments may also exercise authority delegated to them by Congress.

Collaboration – Any cooperative effort between and among governmental entities (as well as with private partners) through which partners work together to achieve common goals. Collaboration can range from very informal, ad hoc activities, to more planned organized and formalized ways of working together. Such collaboration should occur when any proposed policies, programs or actions are identified as having a direct effect on an Indian Tribe.

Government-to-Government – Federally Recognized Indian Tribes have a special *government-to- government* relationship with the U.S. government. *Government to government* is also used to describe the relationship and protocols between tribes and other governments such as states. Key Concepts:

- States/Tribes work directly with each other in a government-to-government fashion, rather than as subdivisions of other governments.

- Take appropriate steps to remove legal and procedural impediments to working directly and effectively with each other's governments and programs.
- Encourage cooperation between tribes, the state and local governments to resolve problems of mutual concern.
- Incorporate these Principles into planning and management activities, including budget, program development and implementation, legislative initiatives, and ongoing policy and regulation development processes.
- Coordinate and provide mutual assistance as the governments assume new regulatory and program management responsibilities.

Achievement Gap – The achievement gap is a race and poverty gap in education achievement.

Federally Recognized Indian Tribe – "Federally Recognized" means these tribes and groups have a special, legal relationship with the U.S. government. There are more than 550 federally recognized tribes in the United States, including 223 village groups in Alaska.

Guidelines – Documents published by various compliance agencies (tribal or non-tribal) for the purpose of clarifying provisions of a law or regulation and indicating how an agency will interpret its law or regulation.

Oral Histories – The practice or tradition of passing cultural or familial information to further generations by storytelling, word of mouth or songs. Oral histories shall be respected as Tribal intellectual and cultural property.

Tribal Intellectual and Cultural Property Rights - Cultural property includes not only land and other tangible property, but ideas, traditions, and other "intangibles". Tribes do not generally make this distinction, as all things, including knowledge, are gifts of the Creator and have real existence, power and life. Respect for tribal intellectual and cultural property rights is fundamental for the cultural survival and cultural sustainability of Tribes. Unlike individually-based intellectual property rights, cultural property belongs to the cultural group, rather than to an individual. As an individual has the right to control use or sale of his/her property, the cultural group has the right to control the use or sale of its property. Although individual tribal members may have exclusive rights to tell certain stories, sing certain songs or dance certain dances, and under customary law they may have the right to transfer these rights to others, the cultural property still remains under the customary laws of the Tribe as a collective right. This cultural property belongs to an Indian Tribe as a whole and not an individual, which has the ultimate authority to regulate conditions of access, transfer and use. Tribal intellectual and cultural property is entitled to protection in perpetuity and its protected status is not lost when it enters the public domain.

The State agency parties further agree to respect Tribal intellectual and cultural property rights and customary law in Tribally-created materials, Tribal stories and oral histories that are used in school curriculum. Access and use of Tribal intellectual and cultural property can only be made through the prior informed consent of Tribal authorities based on mutually agreeable terms.

The parties to this Memorandum of Agreement further agree to meet in good faith to resolve any issues of disagreement in implementing this Agreement and HB1495. Such dispute resolution meeting shall occur within 30 days of notice being provided requesting a dispute resolution meeting and identifying the parts of the agreement and issues that are in dispute.

This Memorandum of Agreement will become effective upon the signatures of the parties. The parties shall meet and review progress under this agreement on an annual basis. The Memorandum of Agreement may be amended by written agreement of the parties at any time. Any party may withdraw from this Memorandum of Agreement by giving the other parties 30 days written notice of its intent to withdraw.

Nothing in this agreement is intended to preclude or affect in any way the authority of individual Tribal governments, whether they are participating in the TLC or not, to work independently with State agencies and school districts on implementation of HB 1495.

IN WITNESS WHEREOF this signed Agreement becomes effective on the dates attested to below.

Signatures and Dates
State Agency Parties

Matthew Koffey — May 25, 2006

Washington State School Director's Association — Date

Jim Bergeson — 8/25/06

Washington State Office of Superintendent of Public Instruction — Date

12/13/06

Washington State Board of Education — Date

Signatures and Dates
Tribal Leader Congress on Education by participating Tribes

Tribal Chairman/Delegate	Tribe	Date
[illegible]	[illegible]	5/24/06
Marie M. Zackuse	Sulalip Tribe	5-25-06
[illegible]	Squamish Tribe	5-25-06
Candace R Kelly	Nooksack Indian Tribe	5-25-06
Anna Bluff-Pope	Kalispel Tribe	5-25-2006
Mim Cooper	Squaxin Island Tribe	5-25-2006
John Barnett	Cowlitz	6-13-06
W. Ron Allen	Jamestown S'Klallam	6-13-06
Frances G. Charles	Lower Elwha Klallam	06/13/06

Eliman M. Lee	Hoh Tribe	6.13.06
Tribal Chairman/Delegate	Tribe	Date
Evelyn Jefferson	Lummi Nation	6/13/06
Tribal Chairman/Delegate	Tribe	Date
[illegible]	MAKAH	6/13/06
Tribal Chairman/Delegate	Tribe	Date
[illegible]	Nisqually	6/13/06
Tribal Chairman/Delegate	Tribe	Date
[illegible]	Muckleshoot	6/15/06
Tribal Chairman/Delegate	Tribe	Date
[illegible]	Port Gamble S'Klallam	6-13-06
Tribal Chairman/Delegate	Tribe	Date
[illegible]	Quinault Indian Nation	6/13/06
Tribal Chairman/Delegate	Tribe	Date
Chris E. Morganroth, III	Quileute	6-13-06
Tribal Chairman/Delegate	Tribe	Date
HERMAN DILLON SR.	Puyallup	6/13/06
Tribal Chairman/Delegate	Tribe	Date
Janet Castellejo	Samish	6/13/06
Tribal Chairman/Delegate	Tribe	Date

Tribal Chairman/Delegate	Tribe	Date
Gloria Green	Sauk-Suiatl Chairwoman	6/13/06
	Snoqualmie	6/13/06
	Spokane	6/13/06
	Squaxin Island	6-13-06
	Stillaguamish	6-13-06
Maj M. Scott	Upper Skagit Indian Tribe	6-13-06
Ralph R. Sampson Jr	Yakama Nation	6-13-06
Stan Jones Sr Chairman	Tulalip tribes	6 13 06
Glen Gobin BOD	Tulalip tribes	6.13.06

Brian Cladoosby	Swinomish	June 13, 2006
Tribal Chairman/Delegate	Tribe	Date
Lawrence Willer	Stokomish	June 13, 06
Tribal Chairman/Delegate	Tribe	Date
David Burnett	CHEHALIS	Dec 13, 2006
Tribal Chairman/Delegate	Tribe	Date
Tribal Chairman/Delegate	Tribe	Date
Tribal Chairman/Delegate	Tribe	Date
Tribal Chairman/Delegate	Tribe	Date
Tribal Chairman/Delegate	Tribe	Date
Tribal Chairman/Delegate	Tribe	Date
Tribal Chairman/Delegate	Tribe	Date

WASHINGTON STATE BOARD OF EDUCATION

OLD CAPITOL BUILDING.•ROOM 253.•P.O. BOX 47206.•600 S.E. WASHINGTON.•OLYMPIA, WA 98504-7206

Date: October 31, 2006

TO: The Northwest Tribal Leader Congress on Education
Terry Bergeson, Superintendent of Public Instruction
Martharose Laffey, Washington State School Directors' Association

FROM: Mary Jean Ryan, Chair
State Board of Education

SUBJECT: Tribal Memorandum of Agreement

As you are aware, the Northwest Tribal Leader Congress on Education has asked the Washington State Board of Education (SBE) to enter into a Memorandum of Agreement (MOA) in which the State Board agrees to formally consider the inclusion of Tribal history, culture, and government as a graduation requirement.

On October 27, the State Board voted unanimously by resolution to sign the MOA.

In an effort to ensure the discussions are productive and to avoid misunderstanding, the board members felt that it was important to clarify several points and inform the other signatories in how the board plans to proceed in considering whether or not Tribal history, culture, and government should be a statewide graduation requirement.

First, by agreeing to sign the MOA, the board has made a decision to begin the process of *considering* the possibility of including Tribal history, culture and government as a graduation requirement.

Second, the State Board has been informed by the Attorney General's Office that it currently does NOT have the legal authority to require Tribal history, culture, and government be part of the Washington State history and government requirement. If the board decides, as a result of its review, to make it part of the Washington State history and government graduation requirement, it will work with the Tribal Leader Congress on Education to have the law amended.

Third, the decision on whether to make Tribal history, culture and government a graduation requirement will be part of a larger review that the State Board plans to conduct of the state's graduation requirements. The board is required to submit a report on a "meaningful diploma" to the Legislature in December 2007.

Chair- Mary Jean Ryan • Vice Chair- Warren T. Smith Sr. • Dr. Terry Bergeson, *Superintendent of Public Instruction*
Dr. Bernal Baca • Amy Bragdon • Dr. Steve Dal Porto • Steve Floyd • Dr. Sheila Fox • Phyllis Bunker Frank • Zachary Kinman
Linda W. Lamb • Eric Liu • Dr. Kristina Mayer • John C. "Jack" Schuster • Tiffany Thompson • Jeff Vincent
Edie Harding, Executive Director
(360) 725-6025 • TTY (360) 664-3631 • FAX (360) 586-2357 • Email: sbe@k12.wa.us • www:sbe.wa.gov

Fourth, provisions of SHB 1495 encourage, but do not require, that school boards incorporate curricula from the nearest federally recognized Indian tribe or tribes. Also, decisions about instructional materials are local school district decisions. Thus, the State Board of Education does NOT have the authority to require that school districts use specific instructional material, including material from local tribes. This will be a local decision.

Fifth, to ensure that discussions will be productive, it would be very helpful if the Tribal Leader Congress on Education will appoint two or three representatives who will work with two or three State Board members by December 15, 2006.

Sixth, we ask that the MOA be amended to inform readers of this clarifying letter.

We look forward to a productive discussion and a positive outcome.

If you have any questions, please contact Edie Harding, Executive Director of the State Board of Education, at 360 725-6025.

Attachment: Resolution on Signing the Memorandum of Agreement

c: Representative John McCoy
Senator Rosemary McAuliffe
Senator Dave Schmidt
Representative Dave Quall
Representative Glenn Anderson
Members, State Board of Education
Craig Bill, Governor's Office of Indian Affairs
Denny Hurtado, Office of Superintendent of Public Instruction

Washington State Board of Education
Tribal History, Culture, and Government Memorandum of Agreement
October 27, 2006

Resolution

WHEREAS, The Washington State Board of Education envisions a learner-focused state education system that is accountable for the individual growth of each student; and

WHEREAS, all high school students in Washington State need to understand the diverse, rich history of Washington State and their region; and

WHEREAS, the Governor and Tribal leaders declared in the 1999 millennial accord the importance of educating the citizens of our state, particularly the youth, about Tribal history, culture, and government; and

WHEREAS, the Tribal Leader Congress on Education of Washington will encourage and support local tribes to work with local school districts to develop Tribal culture, history, and government curriculum, and will provide authentic training opportunities to local school district staff on Tribal history, culture and government; and

WHEREAS, the State Superintendent of Public Instruction has agreed to collaborate with school districts and Tribes on curricular areas and projects; and

WHEREAS, while the State Board of Education did not participate in negotiations of the agreement because of its change in membership, but it has been asked to join the Tribal Leader Congress on Education, the Washington State School Directors' Association, and the Superintendent of Public Instruction in signing the Tribal Memorandum of Agreement and to consider making Tribal culture, history, and government a graduation requirement; and

WHEREAS, the 2006 Washington State Legislature enacted Substitute House Bill 1495, declaring that Indian students in Washington may not find the school curriculum relevant to their lives or experiences and that many students may remain uninformed about the experiences, contributions, and perspectives of their Tribal neighbors; and

WHEREAS, Substitute House Bill 1495 also declared that the lack of accurate and complete curricula may contribute to the persistent achievement gap between Native American and other students; and

WHEREAS, instructional materials for teaching Tribal culture, history, and government are not yet available; and

WHEREAS, the State Board of Education is interested in considering whether Tribal culture, history, and government should be part of the Washington State history and government graduation requirement, but it has been determined that the board does not have the legal authority to make it part of the Washington State history and graduation requirement;

NOW, THEREFORE BE IT RESOLVED that the chair of the State Board of Education sign the Tribal History, Culture, and Government Memorandum of Agreement, but that she also transmit a clarifying letter that informs the signatories that the board does not have the legal authority to make it part of the Washington State History and Government graduation requirement and that clarifies other conditions regarding the State Board of Education's involvement in the Memorandum of Agreement process; and

BE IT FURTHER RESOLVED that if the board decides, as a result of its review, to make it part of the Washington State History and Government graduation requirement, it will work with the Tribal Leader Congress on Education to have the law amended; and

BE IT FURTHER RESOLVED that since this resolution modifies the role of the State Board of Education within the Memorandum of Agreement document, the Executive Director of the State Board of Education shall transmit this resolution to all signatories of the Memorandum of Agreement.

Signed this 27th day of October, 2006.

Mary Jean Ryan, Chair
State Board of Education