

RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION

- WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS, the Constitution and Bylaws of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities for the welfare and benefit of the tribes and tribal members; and
- WHEREAS, the Three Affiliated Tribes feel the federally recognized tribes are powerless before a small influential group of federal, state education officials, and non-federally recognized persons claiming Indian who control the Definition of Indian Study and its outcomes; and
- WHEREAS, the Three Affiliated Tribes agree with the majority of federally recognized tribes that there has been insufficient consultation with the federally recognized tribes by the staff of the Indian Definition Study, Office of the Assistant Secretary, DHEW, on the Congressionally mandated (Sec. 1147 - Title XI) Definition of Indian Study for the purposes of eligibility for the Indian Education Act of 1972; and
- WHEREAS, tribally authorized representatives at the April 25, 1980 meeting called by the National Tribal Chairmen's Association were shocked and dismayed to learn that the Definition of Indian Study project from the Office of Policy Development, Office of the Assistant Secretary-DHEW would present in their final report to Education Secretary Hufstedler options for Definition of Indian that are heavily weighted against the best interests of the federally recognized tribes, and seriously endanger the status of federally recognized tribes; and
- WHEREAS, the Tribal Business Council has reviewed the options mailed by Abdul Kahn, Director of the Definition of Indian Study Project and submits the following comments:

Definition Option A: Blood Quantum is rejected because it does not take into account that the Three Affiliated Tribes (and other federally recognized tribes) determines its own membership

Definition Option B: Descendancy and Reservation Residency is rejected because descendents of tribal members are not members unless the tribe determines they are members and meet the criteria of tribal enrollment and only tribal government determines residency requirements.

Definition Option D: State Recognized, Terminated, First or Second Degree Descendants of State, and Federally Recognized Members, Federally Recognized, or Persons who are Determined to be Indian by the Education Commissioner after Consultation with NACIE is rejected. This current Title IV Education Department definition of Indian for eligibility and must be amended it has caused serious abuses. States may not determine federal recognition. Descendants in the first or second degree of state recognized groups and first and second degree descendants of federally recognized members are not tribal members unless the tribe has determined that they are its members and meet the criteria of tribal enrollment. Terminated Tribes can and are being helped by several public and private organizations to be restored to federal recognition when they will be eligible for services as federally recognized tribes. NACIE, as a quasi-governmental entity, has not been authorized by tribes to tell the Education Commissioner or the Education Secretary what the Definition of Indian should be.

Definition Option E: Origins in Any of the Original Peoples of North America, Cultural Identification through Tribal Affiliation or Community Recognition is rejected. This is the current Office of Civil Rights Definition. This OCR definition further states: "A pupil may be included in the group as which he or she appears to belong, identifies with, or is regarded in the community as belonging to." This definition violates the political status of the federally recognized tribes and the tribal government's inherent authority to determine its own tribal citizenship/membership. "Community" is a minority term. Community recognition is vague and not pertinent. Racial/ethnic categories are pertinent only to minorities. tribes are not minorities, but are political entities.

Definition Option F: Self-Identification is rejected. Tribal members are defined only by the Three Affiliated Tribes. The individuals may not assume tribal membership or self identify as tribal members. This current Bureau of the Census definition, by its procedures, is undermining our right to self-determination; and

WHEREAS, the Three Affiliated Tribes affirm that it is our sole responsibility and right to make determinations regarding citizenship/membership criteria for our nations, including all aspects of citizenship requirements such as blood quantum, combined blood quantum, reservation residency, lineage requirements, naturalization, etc., and we affirm that these inviolate rights that have been upheld by the Supreme Court must not be violated nor interfered with by any external individuals, groups, states, or agencies, be they public or private; and

WHEREAS, while it may not have been the original intent of the Definition Study to infringe on tribal sovereignty, the Study has, by its methods and outcomes favoring a few but influential non-federally recognized groups, threatened to cause jeopardy to the status of the federally recognized tribes, and has pinpointed that there is no real difference between eligibility for Indian services from the federal government and eligibility because the federal government recognizes a tribe to be eligible for services and benefits because of their status as a tribe, and finally, certain of the Study outcomes would, if accepted by the Congress, have a negative impact on all other federal agencies who, because of their trust responsibility provide services and benefits to the federally recognized tribes; and

WHEREAS, the federal government has provided a procedure and policy for establishing that a non-federally recognized group exists as a federally recognized tribe (Title 25, Code of Federal Regulations, Part 54, Final Rules, September 5, 1978) "and such procedure and final acknowledgement of federal recognition is a prerequisite for eligibility to the protection, services, and benefits from the federal government available to Indian tribes. Such acknowledgement shall also mean that the tribe is entitled to the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes, as well as the responsibilities and obligations of such tribe"; and

WHEREAS, the federally recognized tribes have confidence that the Secretary of Education will support the 1978 public policy statement made by President Carter: "I consider it my solemn duty and obligation as President to see that we fulfill our trusteeship responsibilities within the framework of self-determination for American Indians. In particular, I would like to reaffirm my resolve to honor this country's legal and moral responsibilities to American Indians.."; and

THEREFORE BE IT RESOLVED, that in the interests of a coherent federal policy for Indian tribes that is consistent with the Indian Self-Determination and Education Assistance Act of 1975, as well as the United States' unique political and trust relationship with federally recognized tribes, the Three Affiliated Tribes insist that the Secretary of the Education Department reaffirm and not jeopardize the legal right of the federally tribes to determine our own membership by recommending to the Congress that the Indian Education Act of 1972, P.L. 92-318 be amended to be consistent with the Definition of Indian which has been adopted by the Congress in the Indian Self-Determination and Education Assistance Act of 1975, 25 USC §450-450(n); and

BE IT FURTHER RESOLVED, that until such time that non-federally recognized groups have successfully completed the 25 CFR 54 procedure that the federal government has provided for establishing federal recognition that a group has attained the status of a federally recognized tribe and is eligible for the protection, services, and benefits available from the federal government to Indian tribes, that the Secretary for Education continue to make available to these groups all such education programs that are designed to meet the needs of minority and educationally disadvantaged persons; and

BE IT FURTHER RESOLVED, the Three Affiliated Tribes recommends that the Secretary of the Education Department support the aforementioned amendment to P.L. 92-318 now and repudiate all other options for Indian definition devised by the Definition of Indian Study Project, including the present Title IV definition of Indian because the consequences of continuing to use the current P.L. 92-318 definition or to recommend usage of other options for definition of Indian will only cause further abuses of P.L. 92-318 as highlighted by the General Accounting Office in its March 1977 report and may open the program to charges that it is illegal to serve groups who aspire to be federally recognized tribes, but who have not yet attained the status of federal recognition, and who would be by attainment of this status, eligible for the federal government's special protection, benefits, and services.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 11 members of whom 7 constitutes a quorum, were present at a Regular Meeting, thereof duly called, noticed, convened and held on the 8 day of May, 1980; that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 8 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said resolution has not been rescinded or amended in any way. Chairman (voting) (~~not voting~~).

Dated this 8 day of May, 1980.

SECRETARY, *Zilli Haller*
Tribal Business Council

ATTEST:

CHAIRMAN, *Austin H. Dickett*
Tribal Business Council

THREE AFFILIATED TRIBES • FORT BERTHOLD RESERVATION

Mandan, Hidatsa and Arikara Tribes

TRIBAL BUSINESS COUNCIL

P. O. Box 220 • New Town, North Dakota 58763 • (701)627-4781

May 8, 1980

Secretary Shirley Hufstedler
Education Department
400 Maryland Avenue
Washington, D.C. 20202

Dear Secretary Hufstedler:

Enclosed is Resolution #80-80 passed by the Tribal Business Council of the Three Affiliated Tribes endorsing the definition of Indian in the Indian Self-Determination Act of 1965 for amending the Indian Education Act of 1972, P.L. 92-318. We reject all other definitions suggested by the Indian Definition Study.

We are deeply concerned that the options as presented by the Indian Definition Study will seriously endanger our status as self-governments. We hope that you will carefully consider our resolution as you make your decision on the definition issue.

Sincerely,

Austin H. Gillette

AUSTIN H. GILLETTE,
Tribal Chairman

AHG/rhw

Enclosure

xc : Senator Milton Young
Senator Quentin Burdick
Congressman Mark Andrews
Carl Perkins, Chairman, House Education & Labor Committee
Senator Melcher, Chairman, Senate Select Committee on
Indian Affairs
Earl Barlow, Director of Indian Education Programs
National Tribal Chairmen's Association
Tribal Business Council

Austin H. Gillette
Chairman

August Little Soldier
Vice-Chairman
South Segment

Tillie Walker
Secretary
West Segment

Thomas Eagle
Treasurer
East Segment

Eva Y. Beaks
North Segment

Roy Bird Bear
West Segment

Theodore Bird Bear
West Segment

Louis Felix
East Segment

Ronald Little Owl
South Segment

Marie D. Wells
Northeast Segment

Willard Yellow Bird, Sr.
East Segment