



Essential Understandings of Native Americans in Oregon



Photo courtesy of The Burns Paiute Tribe

Table of Contents

Foreword.....	2
Introduction.....	3
Essential Understanding 1: Since Time Immemorial.....	4
Essential Understanding 2: Sovereignty.....	7
Essential Understanding 3: History.....	9
Essential Understanding 4: Tribal Government.....	10
Essential Understanding 5: Identity.....	11
Essential Understanding 6: Lifeways.....	13
Essential Understanding 7: Language.....	14
Essential Understanding 8: Treaties with the United States.....	16
Essential Understanding 9: Genocide, Federal Policy and Laws.....	17
Appendix A: Additional Resources for Essential Understandings of Native Americans in Oregon.....	19
Endnotes.....	25
Thank you to the nine federally recognized tribes of Oregon.....	28



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Foreword

The purpose of this document is to create the foundation necessary for the creation of the statewide Tribal History/Shared History curriculum for all schools across Oregon. It provides information to educators and students on the tribes in Oregon including their past and current presence, sovereignty, history, tribal governance, identity, lifeways, language, treaties with the United States, and genocide, federal policy and laws. Native Americans have lived in Oregon since time immemorial. It is impossible to understand Oregon or U.S. history, geography or government without having essential understandings of the rich culture and contributions of Native people in this state and nation. For decades, however, the state's public-school curriculum has minimized, mischaracterized, or completely left out these vital contributions.

In an effort to provide an inclusive perspective, and as a result of the passing of Senate Bill 13 (2017), the Oregon Department of Education partnered with the nine federally recognized tribes in Oregon to develop the Essential Understandings of Native Americans in Oregon.



Photo courtesy of The Burns Paiute Tribe

Each of the tribes appointed representatives to share their heart, expertise and knowledge in order to create concepts which will support educators as they teach information the tribes wanted all students to learn and understand as they engage with new teaching resources. The initial process began in early May 2018 and on June 14, 2019 the Tribal representatives agreed to move the document forward for final approval to their Tribal leadership.

This document is an historic investment in Oregon's education system and the result of the holistic, collaborative effort of many in our state who know the value and importance of our students learning about tribes in Oregon and the history of this state. By teaching this curriculum and implementing these essential understandings, educators will be educating students on the accurate and authentic experiences of tribal peoples in Oregon. They will also be influencing tomorrow's leaders and shaping a new future for Oregon and its relationship with our tribes.

Introduction

Learning about tribal nations in Oregon is important for all students. Tribal nations lived and continue to live on the land that is currently known as the United States (U.S.); each nation has a distinct origin story, worldview, and timeline of their history and contemporary context. However, much of that information has been presented to the general American public from a non-Native American perspective, filled with clichés, misconceptions and falsehoods.

Simply stated, history has sought to subvert and suppress events and truths in this country surrounding tribal peoples - from genocidal practices such as the spread of disease and forced removal of children, to federal policies aimed at the destruction of lifeways, including termination of tribal nationhood and sovereignty. These nine essential understandings have been created to serve as an introduction into the vast diversity of the Oregon Native American experience.

Education has been no exception and has in fact played an essential role in perpetuating this destructive and dehumanizing process. The truth is though that Native American existences and experiences in this country, while painful and appalling, are also filled with beauty, resiliency, determination and strength. These Essential Understandings seek to demonstrate this and to validate the inherent power and sovereignty of Indigenous nations. Through the thoughtful selection of shared areas of concern, effort, belief and existence, educators will have a foundation from which to teach with honesty and integrity, the truth of tribal peoples. In doing so, the correct narrative will move forward for future generations.



Photo courtesy of Timothy Gonzalez, The Confederated Tribes of Grand Ronde



Photo courtesy of The Burns Paiute Tribe

As educators engage with this material there are a few important considerations to keep in mind. First, although this resource provides a general state-wide, and at times a national, view of the topics, it is important to be tribally specific whenever possible (for more information see Appendix A). Also, keep in mind that the terms American Indian, Native American, Tribal, First Nations, Native, Indigenous, and Indian are all acceptable in varied settings and can invite important discussion.

Essential Understanding 1: Since Time Immemorial

Since Time Immemorial refers to a very long time - indefinite in the record of history (long predating European contact). Oral traditions of tribes maintain teachings that Indigenous people were created here and have existed here since time immemorial. From the coast to the interior valleys to the plateau and to the great basin, tribal peoples maintain continuous and balanced relationships including land and water. The Western Hemisphere is Native American Country; therefore, the Pacific Northwest is Native American Country.



“Toots” Augusta (Smith) Simmons 1900-1976 and Esther Jackson b.1903
Siletz Indians

Photo courtesy of The Confederated Tribes of Siletz Indians

Background

Although it is prevalent in school curricula, many tribal peoples in Oregon have histories that begin in the Western hemisphere, or since time immemorial. Indigenous relationships and understandings of kinship predate European contact and vary across each nation. Much of the curricula in schools teach land *ownership* and the Doctrine of Discovery in ways that reinforce worldviews incongruent across Native American communities. Indigenous peoples significantly shaped (and continue to shape) this area of the United States and their role in the history of the Americas.



Photo courtesy of The Burns Paiute Tribe

The U.S. government recognizes nine Native American Nations in Oregon today. And some tribes recognize specific Tribes and or Bands within their tribal government. And, although in treaties and other official documents, tribes have an official name recognized by the federal government, many nations are known by name(s) in their traditional languages (for more information see Appendix A).

Different Native American tribes are often located together, some by choice or by forced arrangement by the federal government. These groupings of tribes are called a Confederation of Tribes. The table below shows each of the nations and the tribe(s) and band(s) within them.



Photo courtesy of The Burns Paiute Tribe

Table 1.

Federal Name	Tribe(s)/Band(s)
Burns Paiute Tribe	Pending
Confederated Tribes of Coos, Lower Umpqua, and Siuslaw	The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians has 3 tribes (4 Bands): 2 bands of Coos Tribes: Hanis Coos, Miluk Coos; the Quuiich (Lower Umpqua Tribe); and the Shayuushtla (Siuslaw Tribe).
The Confederated Tribes of the Grand Ronde Community of Oregon	Kalapuya (including the Tualatin, Yamhill, Luckiamute, Mary's River, Muddy River, Long Tom, Calapooia, Winnefelly, Mohawk, Tekopa, Chafan, Santiam, Pudding River and Yoncalla bands) Molalla (including the Northern, Southern and Santiam bands) Chinook (including the Clackamas, Cascades, Clowwewalla, Multnomah, Cathlamet, and Skilloot) Umpqua (including the Upper, Cow Creek and Grave Creek bands) Rogue River (including the Takelma, Upper Takelma, Latgawa, Shasta, Applegate and Galice) Quilsieton Band of the Chasta and Nahelta Band of the Chasta. Cownantico Band of the Scotons, Sacheriton Band of the Scotons and Naalye Band of the Scotons. Tillamook (including the Salmon River, Nestucca, Tillamook and Nahalem bands)
Confederated Tribes of the Umatilla Indian Reservation	Umatilla, Walla Walla and Cayuse Tribes
Confederated Tribes of Warm Springs Indian Reservation	Tygh, Tenino, Wyam, John Day (known as Warm Springs Band), Wasco, and Paiute Tribes
Confederated Tribes of Siletz Indians	Clatsop, Chinook, Klickitat, Molala, Kalapuya, Tillamook, Alsea, Siuslaw/Lower Umpqua, Coos, Coquille, Upper Umpqua, Tututni (including all of the lower Rogue River Bands and those extending up the coast to Floras Creek and down to Whales Head), Chetco (including all of the villages from Whales Head to the Winchuck River), Tolowa, Takelma (including the Illinois Valley/mid-Rogue River and Cow Creek peoples), Galice/Applegate, and Shasta
Coquille Indian Tribe	The Coquille Indian Tribe is comprised of bands that historically spoke Athabaskan and Miluk, and include, but are not limited to, the Nasomah and K'amac'dun (Lower Coquille) who lived along the Coquille River estuary, the Qua-to-mah whose communities were located on the coast around Floras lake, and the Laenxasdun, Xwec'dun, Choceraladun, and

	<p>Natjidun bands of the Mishikwutmedunne ("People who lived on the Eel River") who lived on the upper Coquille River.</p>
<p>Cow Creek Band of Umpqua Tribe of Indians</p>	<p>Nahank^huotana (Miwaleta, Quintiousa, Wartahoo, Targunsan and Myrtle Creek bands)</p>
<p>Klamath Tribes</p>	<p>Today it is common to say that the Klamath Tribes include the Klamath and Modoc Tribes and the Yahooskin Band of Paiute Indians. But this is a colonial simplification.</p> <p>Today’s “Klamaths” were once many villages of maqlaqs (people) scattered across Upper Klamath Lake (ews), Klamath Marsh (ewkshi), the Williamson River (ya?aga), the Sprague River (plaikni goge), and others on the Wood River (eukalksini goge) including: e’okak, e’ukwa’lksi, and kowac’di. The villages were distinct entities, had headmen, and were often matrilocal (husbands moving to wives’ villages). Modern Klamaths refer to themselves collectively as: ewksiknii or people of the waters. Traditional foods include: lilhanks (deer), c’wam, koptu, and as many as ten other distinct varieties (of suckers), kash (ipos), meYas (trout), c’iyaals (salmon), wocas (lilly pod seeds), and iwam (huckleberries).</p> <p>Today’s “Modocs” (moowatdal’knii) or people of the south were several bands before contact with European Americans, including: Hat Creek, Hot Creek, Cumbutwas, and Lost River. Their villages could be found around Tule Lake and massive Lower Klamath Lake. The former was greatly reduced in size by encroaching Americans, who also drained the latter completely in the early 20th century for agriculture. The result is the continuing destruction of many of the Modoc bands’ traditional food sources, which include: wocas (lily pod seeds), tmo (grouse), kay (rabbit), and cew (antelope). At one time, long before the coming of the whites, the Modoc and Klamath were closely related, if not one people. As such they spoke different dialects of the same language—which is wholly different from the languages of all neighboring peoples.</p> <p>Today’s Yahooskin Paiutes are the Numu (people) whose traditional lands are to the east of the Klamaths and northeast of the Modocs. Their name (Yuhu) comes from the Paiute word for grease, which was used by their ancestors to repel insects. Some modern Numu reject the name Yahooskin, insisting that it was placed on them by whites and non-Numu. Their hunting and gathering range was immense. Traditional foods include: tihikya (deer), kammi (jackrabbits), pihl (ducks), nageta (geese), toisabui (chokecherries), and tuyu (wild plums). As traditional enemies of the Klamaths, the early years on the reservation were difficult. Yainax Agency on the eastern side was established in 1870 to minimize conflicts</p>

	<p>with the Klamath. The Paiute language is wholly different from both Klamath and Modoc.</p> <p>Reducing this complexity to “tribes” was a political act of the United States to facilitate treaty making. It was also a function of 19th century anthropologists’ prejudices. After 140 years of living together on the same reservation, many of today’s members trace their lineage to more than one of the three “tribes.”</p>
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Essential Understanding 2: Sovereignty

Sovereignty describes the inherent right of Native American Nations to exercise self-governance. This tribal sovereignty predates the existence of the U.S. government and the state of Oregon. Tribal governments are separate and unique sovereign nations with powers to protect the health, safety, and welfare of their citizens and to govern their lands, air and waters.

Background

Tribes interact independently in government to government relationships with other tribes, the federal government, states, and counties. Tribes also interact with school districts, cities, municipalities, businesses, non-profits, higher education institutions, and other non-governmental organizations. It is important to note, however, that not all tribes choose to exercise all powers as a sovereign government. For example, a tribe might choose to not operate its own judicial system/court system



Photo courtesy of The Burns Paiute Tribe

Note on types of sovereign governments

There are three types of sovereign governments in the United States: Federal government, state governments, and tribal governments.

- *Federal government derives its power from the People - its voting citizens*
- *State governments derive their sovereign power from the U.S. Federal government.*
- *Tribal nations derive sovereignty from the people, the land, and their relationships; tribal sovereignty was not a gift from any external government and though it is not defined by the constitution, it is recognized by the constitution.*

due to capacity or financial restraints, and would instead choose to work with the county or state to provide those services in their area. It is also important to note that the federal government still retains the ultimate authority or ‘trustee’ over all federally recognized tribes and, more importantly, oversees and directs the necessary funding for key areas for tribes.

Sovereignty is the internationally recognized power of a nation to govern itself and Native American tribes existed as sovereign governments long before Europeans settled here. Native American tribes embodied sovereignty by addressing conflicts through treaties and other agreements/negotiations with each other to ensure healthy living conditions and adequate

resource management, for example. After European contact, Article 1, Section 8 of the Constitution states that

Photo courtesy of Coquille Indian Tribe

Congress shall “regulate commerce with foreign nations, and among the several states, and with Indian tribes”.¹ It was later through judicial court cases that established a pattern of recognition of tribal sovereignty in terms of government to government relationships. Regardless of federal policy, sovereignty is inherent to tribes. The act of being a sovereign is the right to live a life according to traditions and it can be impacted by federal recognition but is not defined by it.

However, it is still important to recognize that not all people who identify as Native American are from nations that are federally recognized. Termination, colonization, and a failure of the U.S. government to uphold treaty agreements result in some nations not receiving federal recognition, and some folks not knowing their own tribal nations, and more. Upholding treaties is a federal obligation.

Trust Doctrine - The “trust doctrine” and “trust relationship” is established through treaty and inconsistently upheld by the federal government. The federal government owes obligations to tribes and has a responsibility to fulfill its commitments established through treaties and provisions of the U.S. Constitution. In 1977, the American Indian Policy Review Commission declared, “The purpose of the trust doctrine is and always has been to ensure the survival and welfare of Indian tribes and people. This includes an obligation to...self-government...”²



Photo courtesy of The Burns Paiute Tribe

Essential Understanding 3: History

The history of Native Americans is multifaceted, complex, and timeless. Native Americans and their lifeways have always adapted and changed in response to environmental, social, and other factors. Mainstream curricula in schools has not always reflected the unique and important truths of Oregon's tribal nations.



Photo courtesy of The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians

Background

Tribal History/Shared History created the conditions necessary for the nine federally recognized nations in Oregon to write curriculum specific to their nations because histories vary from tribe to tribe and require specific attention and consideration. Educators should access the curricular units created by the nine federally recognized nations in Oregon to learn more about these unique and compelling stories.

As stated throughout these Essential Understandings, histories for Oregon tribes did not begin with the Westward Expansions/Eastern Invasion. There were and continue to be lasting impacts of colonization. Over time, impacts were significant as the federal government through congressional acts and more, encouraged the migration of non-Native Americans across the country, many landing in Oregon. This included an invitation to various Christian religious denominations to establish churches and schools so that Euro-

American ideals could be forcibly fostered. These new populations, coming from a variety of countries, backgrounds and ethnicities, held unique ideas about their role on the new landscape. As these new immigrants settled, they carried distinct cultural ideas and practices, including ways to farm, hunt, and organize their lives. More often than not they saw the Indigenous nations they met as not just different but inferior. Between the illnesses they carried and a distinct use of violence for power and control, these newcomers fundamentally altered the lifeways of hundreds of nations that were previously culturally intact.

In Oregon, these acts of colonialism differ from other forms used elsewhere in the world. Instead of a temporary exploitation of a location and a return to their original homeland, these settlers had no intention of ever leaving and sought to eliminate tribal populations and keep their land. (An emerging term for this type of exploitation is called 'settler colonialism' and is not an event but rather *a structure* that exists as long as the settlers are living on land taken from Indigenous communities.)



Photo courtesy of Timothy Gonzalez, The Confederated Tribes of Grand Ronde

Essential Understanding 4: Tribal Government

Tribal Government refers to a formal nation-to-nation relationship with the U.S. government. Tribal governments are legally defined as “federally recognized tribes.”³ As sovereign nations, tribal governments maintain the power to determine their own governance structures including the authority



Photo courtesy of The Burns Paiute Tribe

to interpret, pass, and enforce laws and policies. The responsibility of Tribal Government is to strengthen and protect tribal sovereignty and the well-being of its people.

Background

Tribal governments today have been formed and have operated under several different premises; however, many are patterned after aspects of the United States governance structure which includes elements from the Iroquois Confederacy. Democracy was not new to Native American communities.

The Wheeler-Howard Act (Indian Reorganization Act) happened in 1934, some tribes chose to participate, some did not. However, it does have impacts across all of Oregon. It should not be overlooked that the complex systems of self-governance that tribes had developed over millennia had proven extremely effective at maintaining their health and well-being. Much of this was based in Indigenous oral histories and other traditional knowledge. This effective management of ecosystems and landscapes by tribes would eventually lead to the exploitation of their resources (i.e. timber, water, lands used for hunting, fishing, gathering, livestock grazing and agriculture) for the United States to gain power, wealth and stature as a nation.

With the eventual adoption of new government structures, many traditional aspects are discounted and ignored by the federal government. This included the role of women, families or clans, and other social and political elements that often avoided hierarchical principles but instead embodied varying consensus and community building practices.

Today, tribal governments provide essential programs and services, including, but not limited to: social programs, education, economic development, and land management.

Determining tribal membership is an act of sovereignty. Each tribal nation determines their criteria for membership or enrollment. They also build and maintain a variety of infrastructure, including roads, bridges, and public buildings. All tribal nations operate differently. Tribal government offices can be a useful place for educators to learn more about the nine nations (for more information see Appendix A).

In Oregon, it is noteworthy that the state firmly recognizes tribal sovereignty and government to government relationships. In 1975, the State of Oregon recognized the need to have a permanent point of contact and on-going forum for consideration of tribal-state issues and created the Legislative Commission on Indian Services (LCIS), an advisory body of 13 Tribal leaders and legislators.

Oregon was the first state in the nation to pass a tribal-state government-to-government relations law which emphasizes the critical importance of establishing and maintaining a variety of ways to learn enough about each other's structures, policies, programs, initiatives, traditions and history to inform decision-makers in both state and tribal government as well as to provide opportunities for their respective programs, departments and staff to exchange relevant information and work together on shared interests (for more information, visit Oregon State Legislature website, Commission on Indian Services, and Appendix A).

Essential Understanding 5: Identity

Identity defines one's understanding of who he or she is. Native American identities are alive, vibrant, and diverse. There is no singular Native American identity.

Background

It is important that all humans be allowed feelings of integrity and pride. By doing so it connects who they are and whom they identify in order to help develop self-esteem and self-confidence that will enhance their development. It is important to foster identity and pride. Native American identity is complex and woven with resilience. Tribal people continue to be impacted by historical trauma including the near successful theft of land, languages, cultural traditions and ways of life. Within the United States' borders, there are no other racial or ethnic groups who have affiliations with sovereign governments, giving their identities a political status.



Photo courtesy of The Cow Creek Band of Umpqua Tribe of Indians



Photo courtesy of Timothy Gonzalez, The Confederated Tribes of Grand Ronde

Blood quantum is used by some tribes to determine membership. This method was initially forced upon tribes by the U.S. government. Blood quantum is a term used to quantify the degree of Native American blood and define bloodlines relating to ancestry.

There are many reasons a person may not be an enrolled member including but not limited to: do not meet the enrollment criteria, termination, blood quantum politics, family decision, and not aligning with a governance structure created by a non-Native American entity (U.S. Bureau of Acknowledgement that requires proof of Indianness).



In the United States Native Americans are members or descendants of over 573 tribal communities. The important thing to understand is that Native American youth are not one thing. They are like all youth - complex and whole individuals; there is not one universalizing experience of Native American youth. However, there have been inconsistent and pervasive myths and stereotypes that saturate K12 education systems, media, social networks and more that lead one to believe these one-dimensional ideas about Native American youth.

Photo courtesy of Coquille Indian Tribe

A common stereotype is that all Native Americans are alcoholics; other examples include that they:

- are subjected to abject poverty in some locations;
- withstand zero economic opportunity;
- live in food desert areas (i.e. areas in which it is difficult to buy affordable or good-quality fresh food);
- lack education.

While there is truth that Native Americans are disproportionately impacted by alcoholism (and other stereotypes above), what is missing from the context is the systemic racism and continuing colonization that create these unhealthy circumstances.

Further, policies like relocation and termination perpetuate and continue to threaten the cultural health of Native American communities. Yet in the face of these conditions, nations have been embodying their own sovereignty and cultural strengths to find ways to counter the harmful impacts of these policies.



Photo courtesy of Timothy Gonzalez, The Confederated Tribes of Grand Ronde

Note on Native American Identities

While it is never appropriate to say that any cultural or ethnic group should be clumped together, the list below can provide some socio-cultural-and-political context of Native American communities across the nation:

- *Not all people who identify as Native American live on or near a reservation.*
- *Not all people who identify as Native American are enrolled in a tribe or nation.*
- *It is not uncommon for Native American young men and men to wear long hair.*
- *Some people who identify as Native American are multiracial.*
- *Not all people who identify as Native American can be recognized by their physical appearance (nor should anyone).*
- *Native American identities are shaped by many complex social, political, historical, linguistic and cultural factors.*
- *Native American tribes maintain a unique status as sovereign nations within a nation.*
- *Some people who identify as Native American will have limited or no contact with their Native American heritage and traditions.*



Photo courtesy of The Confederated Tribes of the Umatilla Indian Reservation

Essential Understanding 6: Lifeways

Lifeways refer to the way in which people live. The lifeways of native peoples' beliefs and spiritualities continue today. Tribes continue to practice their unique cultures, traditions, and languages. Cultural values are inherent within the tribes and guide Indigenous ways of life.

Background

Educators do not need to know the nuances and complexities of Indigenous lifeways but they need to be aware that indigenous, languages, cultures, and traditions are alive and practiced across Oregon, despite numerous attempts at their destruction. Each nation has its own oral histories which are just as valid as written histories. Oregon nations work hard to protect their lifeways and celebrate their ways

of being and knowing. This cultural context of students is personal and private and educators should be aware of this issue when asking students about their histories, ceremonies, and stories. School systems should also be consistent with policies surrounding “religious/spiritual activities” and ensure that native traditions, belief systems and spirituality are treated with the same respect as other religious traditions and spirituality. Each tribe has a history as valid as any other belief that can be traced to the beginning of time. Educators should respect these beliefs when teaching about “the history of mankind,” particularly regarding the Bering Strait Theory.



Photo courtesy of The Cow Creek Band of Umpqua Tribe of Indians

Many tribal histories will be told only orally as they have been told and passed down through generations. Some tribes may only tell certain stories during certain times of the year, and this knowledge should be respected in classrooms.

Essential Understanding 7: Language



Photo courtesy of The Confederated Tribes of the Umatilla Indian Reservation

Language is defined by the method in which people communicate. Tribal languages have endured direct attack and although some were not able to survive, many have endured. Languages connect tribal people to place and maintain connections to ancestors. Language remains a direct conduit to important aspects of traditional tribal life. Language carries more than words; it carries worldviews and ways of being. Each tribe has their own distinct language(s), which includes varied dialects.

Background

Tribal languages have been and continue to be attacked through direct governmental policies and strategies, including tactics of assimilation, boarding schools, forced religions, and settler colonialism. While some languages are sleeping, many languages are thriving, and more continue to be revitalized in the hands of tribal members who work diligently to retain one of our most important cultural connections. Because of disease, boarding schools, forced assimilation and other destructive efforts, Oregon Indigenous languages are in various states of revitalization.

Tribes in Oregon have great linguistic diversity among them. In this diverse landscape of ocean shores, valleys, rivers, high-deserts, plateaus and mountains, distinct

linguistic families existed, which encompassed many separate languages and dialects. In addition, it was common for members of tribes to be multilingual, as communication among groups was essential for trade, political and other reasons (for more information see Appendix A).

The Native American Languages Act of 1990 was enacted by Congress to declare that the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages. It also accorded a special status to Native Americans, a status that recognizes distinct cultural and political rights, including the right to continue separate identities.

The act states, “It is the policy of the United States to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages.”⁴

Senate Bill 690 (2001) directed the Teacher Standards and Practices Commission (TSPC) to establish an American Indian Languages teaching license. Each American Indian tribe may develop a written and oral test that applicants must successfully complete in order to determine their qualifications to teach the tribe’s native language. This allows a holder of such a license to teach in a school district, public charter school, education service district, community college, or state university. SB 690 prohibits the TSPC from requiring an applicant to hold a specific academic degree, complete a specific amount of education, or complete a teacher education program to receive an American Indian Languages teaching license. However, the measure requires that a holder of the new license employed by a school district, public charter school, or education service district, participate in a technical assistance program with an experienced teacher. An estimated 25-35 native languages have been spoken in Oregon, though only nine are spoken fluently today. Native Americans consider the loss of languages to be an urgent problem and have taken steps to record, catalog, and develop teaching curricula and training for native languages. Tribal elders and other native language speakers have been previously unable to teach because they lacked both the certification and the formal requirements for achieving such certification.⁵



Photo courtesy of The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians

Essential Understanding 8: Treaties with the United States

Treaties refer to legal documents, designated in the United States Constitution as the “supreme law of the land.”⁶ Through treaties, the federal government used deception and coercion to dispossess tribal people, land, wealth, economies and resources. Tribes signed these legal documents under duress. The United States fails in its responsibilities to honor and uphold treaty obligations.



Photo courtesy of The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians

Background

United States Constitution authorizes Presidents to enter treaties on behalf of the U.S. subject to Senate confirmation of the treaty. Between 1800 and 1865, many Indigenous tribes in Oregon entered into treaties with the U.S. In fact, the treaty of 1855 with the Umatilla, Walla Walla, Cayuse Treaty confirmed by the Senate in 1859 occurred a few months before Oregon was admitted as a State into the Union.

There are several key points for educators to understand:

- The U.S. government initiated treaties to gain title to Oregon tribal lands and resources.
- Some Oregon Tribes were forced to relinquish their lands and enter a trust relationship with the U.S. government.
- A trust doctrine is federal responsibility to tribes that require the federal government to support self-government, economic prosperity, and sovereignty.
- These inherent rights were not “given” to the tribes; they were reserved so nations could fish, hunt, gather medicines and food, pasture livestock; in other words, thrive as distinct communities.
- Some tribes hold customary and ceded boundary rights to lands. This continues their inherent right to fish, hunt and gather traditional foods and medicines in usual and accustomed sites, on lands outside of the reservation within the ceded areas.
- Some tribes continue traditional practices without a treaty.

- Many of these treaties were signed under coercive conditions.
- Many of the treaties were never ratified (the land was taken, but the rights were never upheld).
- None of the treaties were fully honored by the U.S.

Essential Understanding 9: Genocide, Federal Policy and Laws

Genocide is defined as the massacre of a large group of people of a specific ethnic group. Genocide of Native Americans is an untold reality. United States laws and policies institutionalized existing genocidal practices. The purpose of these policies and laws were to exterminate and/or assimilate Native American people. The on-going devastating effects on the health and well-being of tribal people is intergenerational, widespread, and universal.

Background

The United Nations defines genocide in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; [and] forcibly transferring children of the group to another group."⁷ All of these occurred to Native Americans.



Photo courtesy of the Cow Creek Band of Umpqua Tribe of Indians

What follows is a list of terminology and policies necessary to understand this impact.

Treaties - treaties are not a granting of rights or property to tribes, rather, they are a granting of rights or property from tribes to the federal government and U.S. citizens. Treaty rights were reserved not granted (see Treaties with the United States essential understanding).

Discovery Doctrine - entered into American jurisprudence in 1823 when the Supreme Court ruled on Johnson and Graham's Lessee versus McIntosh. The Court found that the Doctrine of Discovery gave sovereignty of Native American lands to England and then to the United States. Native American nations, under this Doctrine, have a right of occupancy to the land. Christian nations, such as England and the United States, have superior rights over the inferior culture and inferior religion of the Native

Americans. According to the Court, Native Americans have been compensated for their lands by having the gift of Christianity bestowed upon them.^{8 and 9}

Manifest Destiny - Manifest Destiny, a phrase coined in 1845, expressed the philosophy that drove 19th-century U.S. territorial expansion. Manifest Destiny held that the United States was destined—by God, its advocates believed—to expand its dominion and spread democracy and capitalism across the entire North American continent. In simple terms, Manifest Destiny was the idea that Americans were destined, by God, to govern the North American continent. The people of the United States felt it was their mission to extend the "boundaries of freedom" to others by imparting their idealism and belief in democratic institutions to those who were capable of self-government. It excluded those people who were perceived as being incapable of self-government, such as Native American people and those of non-European origin.^{10, 11, 12, and 13}

Colonization Period, since 1492 - Native American nations initially possessed and were in full control of their territories and resources, maintaining their right to use and occupy their lands. During this period, non-Native Americans developed the ideas which would later “justify” the taking of Native American lands. From Columbus’ first expedition to the first colony at Jamestown, the Doctrine of Discovery proclaimed that non-Christian peoples have no legal right to their land and territories, affirming the right of European nations to acquire legal title to those lands. The concept of Manifest Destiny extended the idea that the United States government had the sole right to buy lands from Native American tribal governments.

Treaty Period, 1789–1871 - The French, English, Spanish and Dutch entered into treaties of commerce and military alliances with Native American nations as independent sovereign nations. During the American Revolution, the colonies and Great Britain entered into various military alliances with Native American nations. Native American nations fought on both sides of the conflict. The 1830 Indian Removal Act exiled Eastern tribes to the west side of the Mississippi River. The 1862 Homestead Act and the Pacific Railroad Act were two pieces of legislation influential in threatening treaty obligations and opening western Native American lands to non-Native American settlement. In 1871, the federal government ended the practice of making treaties with Native American nations, although it still engaged in negotiations with Native American governments regarding land cessions.

Removal Period, 1834–1871 - Signed into law in 1830 by President Andrew Jackson, the Indian Removal Act provided for the general resettlement of Native Americans from east of the Mississippi River to lands west (Indian Territory). Although the removal was supposed to be voluntary, removal became mandatory whenever the government thought necessary. Thousands of Native American people, including nearly the entire Native American population that had existed in the southeastern United States were moved west. The first removal treaty to follow the passage of the Indian Removal Act was with the Choctaw Nation (1830). In 1838 the Cherokee Nation was removed to reservations in what has been called “The Trail of Tears.” It is estimated that almost 8,000 Cherokee people died on the forced march or shortly thereafter.¹⁴

Allotment/Assimilation Period, 1887–1934 - During this era, the first wave of non-Native American settlers moved across the West. The federal government, desiring to free up treaty-protected Native American lands for successive waves of settlers, pursued a policy of dispossession and assimilation. The massive loss of Native American lands and resources impoverished tribes and impeded the development of reservation economies. The General Allotment or Dawes Severalty Act passed in 1887. Parcels of land

were allotted to individual Native American families, encouraging agriculture and breaking up communal tribal lands. Land that was not allotted was considered surplus and then authorized for sale to non-Native American buyers, resulting in a “checkerboard” pattern of Native and non-Native land ownership on reservations. The U.S. policy during this period was to relocate Native American children to government-run or religious boarding schools, where they were forbidden to speak their language or practice their religions or cultures so that they could be assimilated to the dominant culture. In 1924 Native Americans became U.S. citizens by approval of the Native American Citizenship (Snyder) Act. This act of Congress granted citizenship to any Native Americans born within the United States.¹⁵

Termination & Relocation, 1953–1988 -

During this period, Congress passed dozens of acts terminating the existence of specific tribal governments and reservations. In total, 109 Native American governments were terminated, affecting 1,362,155 acres of land and 11,466 Native American people. Under these acts, Native American lands were sold, state legislative and taxation authority imposed, federal programs discontinued and tribes’ sovereign authority ended. The federal government pursued a policy of relocating Native Americans to urban areas under the assumption that training and employment opportunities there would improve their economic situation. Most people participating returned home in the 60s and 70s.



Photo courtesy of The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians

Appendix A: Additional Resources for Essential Understandings of Native Americans in Oregon

Other Acts and Laws

Many other historical policies impacted and continue to impact Native American identity, some of which include but are not limited to the following:

American Indian Religious Freedom Act - “Henceforth it shall be the policy of the United States to protect and preserve for Native Americans their inherent right of freedom to believe, express and exercise the traditional religions of the American Indians, Eskimo, Aleut and Native Hawaiians, including but not limited to access to site, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites”¹⁶

The American Indian Religious Freedom Act (AIRFA) is a U.S. federal law and a joint resolution of Congress that was passed in 1978. It was created to protect and preserve the traditional religious rights

and cultural practices of American Indians, Eskimos, Aleuts and Native Hawaiians. This Act was necessary because of a long history in the U.S. that directed policies and practices that either banned or severely limited the ability of Native Americans to maintain their spiritual, cultural and other lifeway practices, including ceremonies, rites and other practices of importance. In some cases, punishment directed at Native Americans was severe when attempts were made to continue these sacred lifeways. An important aspect of these deliberate efforts revolved around the ongoing desire to convert Native American tribes to Christianity, learn English and adopt a Western set of values and way of life.¹⁷

House Concurrent Resolution 331 - passed by Congress in 1988 recognized the influence of the Iroquois Confederacy and other Indian Nations on the formation and development of the United States. "Whereas the original framers of the Constitution, including, most notably, George Washington and Benjamin Franklin, are known to have greatly admired the concepts of the Six Nations of the Iroquois Confederacy; Whereas the confederation of the original thirteen Colonies into one republic was influenced by the political system developed by the Iroquois Confederacy as were many of the democratic principles which were incorporated into the Constitution itself."¹⁸

Indian Child Welfare Act (ICWA) - passed in 1978 to protect the best interests of Native American children and promote the stability of Native American tribes and families. ICWA provides minimum Federal standards for the removal of Native American children from their families and placement of these children in foster care or in adoptive homes that reflect Native American culture. ICWA applies in all child custody proceedings involving foster care placements, termination of parental rights, and pre-adoptive and adoptive placements. The purpose of the ICWA is "...to protect the best interest of Indian Children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children and placement of such children in homes which will reflect the unique values of Indian culture..." (25 U.S. C. 1902). In October 2018, plaintiffs from three states, in *Brakeen v Zinke*, argued that the ICWA is unconstitutional, among other things. The judge struck down almost all of ICWA and its new 2016 regulations on multiple grounds, including under the equal protection clause (on the basis that the placement preferences and certain other provisions in ICWA are unconstitutionally race-based in nature).^{19 and 20}

Indian Gaming Regulatory Act (IGRA) - Enacted in 1988, this act established the jurisdictional framework that governs Indian gaming. It promotes tribal self-sufficiency, ensures primary beneficiaries, establishes fair gaming practices, creates regulations to prevent crime and other abuses. It also establishes standards for a National Indian Gaming Commission.

Johnson-O'Malley Act and Title VI - The United States has trust agreements to educate Native American youth. Examples include schools that have programs in place from the Johnson-O'Malley Act or Title VI of the Every Student Succeeds Act. However, not all districts provide such services. They are dependent on both the will of the district and on the definition of who qualifies as an eligible Native American.

Johnson vs M'Intosh - in 1823 the Supreme Court ruled that American Indians do not own land. The first of three court cases (the "Marshall Trilogy") that became the foundation of how American Indian law is decided. The case involves a series of land transfers. In the 1770s, Illinois and Piankeshaw Indians, in what is now Illinois State, sold some land to Thomas Johnson. After American independence, the Indians sold the same land to the U.S. government, which then sold it to William McIntosh. In *Johnson v. McIntosh*, the Supreme Court under Chief Justice John Marshall upholds the McIntosh family's

ownership of land purchased from the federal government. It reasons that since the federal government now controls the land, the Indians have only a “right of occupancy” and hold no title to the land.

Marshall based the decision on the “Discovery Doctrine,” referring to the way colonial powers laid claim to newly discovered land: in other words, title to the land lay with its discoverer. In *Johnson v. McIntosh* and other cases, the doctrine had the effect of ignoring aboriginal land possession. Other cases in the “Marshall Trilogy” are *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832).^{21 and 22}

Native American Graves Protection and Repatriation Act (NAGPRA) - was enacted on November 16, 1990, to address the rights of lineal descendants, Native American tribes, and Native Hawaiian organizations to Native American cultural items, including human remains, funerary objects, sacred objects, and objects of cultural patrimony. The Act assigned implementation responsibilities to the Secretary of the Interior.

Several state statutes protect Native American artifacts, remains and cultural sites: ORS 97.740, Indian Graves and Protected Objects: Harming, disturbing or possessing remains or sacred objects is prohibited. Public displays and sales of these items also are prohibited. Discovered remains must be reported to the Oregon State Police, the State Historic Preservation Office and the State Commission on Indian Services.

ORS 358.905, Archaeological Objects and Sites: Archaeological sites are declared irreplaceable parts of Oregon's cultural heritage. Any sites on public land must be protected as a public trust. No one may remove items without a permit from the State Parks and Recreation Department, and no items may be offered for sale, trade, barter or exchange.

ORS 390.235, State Parks and Recreation Department: A permit, reviewed by the state Historic Preservation Office, is required to excavate archaeological or historical sites. Items legally excavated cannot be exhibited without consulting the state Historic Preservation Office, the Oregon State Museum of Anthropology and the appropriate tribes. The state of Oregon not only protects Native American artifacts on public land but on private land as well.^{23 and 24}

Oregon Legislative Commission on Indian Services (Government to Government or G2G) The State of Oregon has long recognized and emphasized the importance of continued communication and partnership with the nine federally recognized sovereign tribes in Oregon. This partnership has been solidified by a number of state legislative and executive actions beginning with SB 386 (1975), now ORS 172.100-.140, established the Commission on Indian Services “for the purpose of improving services with American Indians in the State of Oregon” and comprised of representatives of the nine tribes and members of the Legislative branch, making Oregon the first state in the nation to lead the way in this important work. Prior to its establishment, there was no suitable mechanism in state government to consider Native American concerns directly. In 1996, Governor Kitzhaber issued Executive Order (EO) No. 96-30, which formalized a government-to-government relationship between the State of Oregon and the nine tribes and establishing a framework for government-to-government communication and consultation on issues of mutual concern. The EO emphasized the importance of recognizing the tribes as sovereign nations and established a process which “can assist in resolving potential conflicts, maximize key inter-governmental relations and enhance an exchange of ideas and resources for the

greater good of all of Oregon’s citizens, whether tribal members or not.” EO 96-30 was codified into law by the Legislature in SB 770 (2001), now ORS 182.162 to 182.168.²⁵

Public Law 280 - is a transfer of legal authority (jurisdiction) from the federal government to state governments which significantly changed the division of legal authority among tribal, federal and state governments. Congress gave six states (California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska) extensive criminal and civil jurisdiction over tribal lands within the affected states (with the exception of the Confederated Tribes of Warm Springs). This law also permitted the other states to acquire jurisdiction at their option. It has generally brought about an increased role for state criminal justice systems among tribes, a virtual elimination of the special federal criminal justice role (and a consequent diminishment of the special relationship between Native American Nations and the federal government), numerous obstacles to individual Nations in their development of tribal criminal justice systems, and an increased and confusing state role in civil related matters. Since the passage of this law, some tribes have negotiated with the states to gain back jurisdiction.^{26 and 27}

Restoration - All terminated tribes and tribal confederations in Oregon were reinstated as follows:

- 1977 Confederated Tribes of Siletz Indians
- 1982 Cow Creek Band of Umpqua Indians
- 1983 Confederated Tribes of the Grand Ronde Community of Oregon
- 1984 Confederated tribes of Coos Lower Umpqua and Siuslaw Indians
- 1986 Klamath Tribes
- 1989 The Coquille Tribe

Self-Determination, 1975–present - Congress embarked on a policy of encouraging tribal self-government, shifting the management of federal programs from the Bureau of Indian Affairs (BIA) to tribal governments. In 1972 the Indian Self-determination Act affirmed tribal sovereignty. In 1994 the Tribal Self-Governance Act established permanent tribal self-governance while maintaining the trust responsibility of the federal government. Successive presidential administrations have affirmed a policy of protecting the integrity of tribal governments through the maintenance of federal-tribal government-to-government relationships. President Johnson first proposed self-determination as a goal in 1968. The latest Presidential Executive Order of December 2, 2011 reaffirms tribal integrity.

Tribal Reorganization, 1934–1958 - Congress passed the Indian Reorganization Act (Wheeler-Howard Act) in response to the failure of assimilationist policies. Under the Act, allotment of Native American reservations ended; Native American allotments were put into permanent trust status - not alienable or taxable; Native American nations were allowed to establish governments or business committees, with constitutions, charters and by-laws, and to take over reservation governance, subject to the ultimate authority of the federal government. Under the IRA, 161 constitutions and 131 charters were adopted by Native American nations.

Trust Doctrine - The “trust doctrine” and “trust relationship” is established through treaty and inconsistently upheld by the federal government. The federal government owes obligations to tribes and has a responsibility to fulfill its commitments established through treaties and provisions of the U.S. Constitution. In 1977, the American Indian Policy Review Commission declared, “The purpose of the trust doctrine is and always has been to ensure the survival and welfare of Indian tribes and people. This includes an obligation to...self-government...”²

Violence Against Women’s Act - The Violence Against Women Act of 1994 (VAWA) became law after four years of exhaustive investigation focused on the extent and severity of domestic violence, sexual assault, and stalking committed against women. In a series of committee hearings conducted between 1990 and 1994, Congress heard testimony from a variety of experts, including state attorneys general; federal and state law enforcement officials; prosecutors; business and labor representatives; physicians; legal scholars; and victims of domestic violence, sexual assault, and stalking. Congress’ extensive fact-finding revealed that violence against women was a pervasive problem of national scope. Among its provisions, Title IX of VAWA of 2013 authorized “special domestic violence criminal jurisdiction.” This jurisdiction authorizes tribes to criminally prosecute non-Native Americans for the crimes of domestic violence, dating violence, and the violation of protection orders. However, in order for tribes to utilize this criminal jurisdiction, tribes must provide certain enumerated due process protections, including most of the protections required in the Tribal Law and Order Act. The bill was reauthorized in 2013.^{28, 29, 30, and 31}



Photo courtesy of Coquille Indian Tribe

Wheeler Howard Act (Indian Reorganization Act) - In 1934, the Indian Reorganization Act (IRA) was passed by the U.S. Congress. This Act set up a policy favoring self-government and self-determination. It meant Native American people could begin taking care of their own affairs again. Social (health and welfare) and educational services were also offered. Native American tribes were encouraged to reorganize their governments. By doing so they would receive formal recognition from the federal government. Tribes could form corporations or businesses for their own economic development.³²

Tribal Websites

Burns Paiute Tribe

<https://www.burnspaiute-nsn.gov/>

Confederated Tribes of Coos, Lower Umpqua and Siuslaw

<https://ctclusi.org/>

The Confederated Tribes of the Grand Ronde Community of Oregon

<https://www.grandronde.org/>

Confederated Tribes of Siletz Indians

<http://ctsi.nsn.us/>

Confederated Tribes of the Umatilla Indian Reservation

<https://ctuir.org/>

Confederated Tribes of Warm Springs

<https://warmsprings-nsn.gov/>

Coquille Indian Tribe

<https://www.coquilletribe.org/>

Cow Creek Band of Umpqua Tribe of Indians

<https://www.cowcreek.com/>

Klamath Tribes

<http://klamathtribes.org/>



Photo courtesy of Coquille Indian Tribe

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