

# Preliminary Assessment on the Treatment of Navajo and Native American Students in Schools On and Off the Navajo Nation



**NAVAJO NATION HUMAN RIGHTS COMMISSION**





## LETTER OF TRANSMITTAL

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July 8, 2022

Hon. Jonathan Nez, *President*  
Hon. Mryon Lizar, *Vice-President*  
The Navajo Nation  
Window Rock, Navajo Nation (AZ)

Hon. Seth Damon, *Speaker*  
24<sup>th</sup> Navajo Nation Council Delegates  
The Navajo Nation Council  
Window Rock, Navajo Nation (AZ)

Hon. JoAnn Jayne, *Chief Justice*  
The Navajo Nation Supreme Court  
Window Rock, Navajo Nation (AZ)

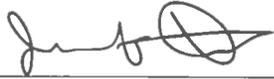
Nihi naat'áanii,

The Navajo Nation Human Rights Commission is honored to submit to the Diné bi naat'á (government) the report entitled "*Preliminary Assessment on the Treatment of Navajo and Native American Students in Schools On and Off the Navajo Nation.*"

In December of 2018 the Naabik'iyáti Committee issued Resolution NABID-87-18, directing the Navajo Nation Human Rights Commission to commence an investigation on the treatment of Navajo and Native American Students in schools on and off the Navajo Nation. This report provides a preliminary examination of issues confronting not only students, but parents and guardians. The issues this office identified are grounded in a colonial patriarchal system whose roots are systemic and therefore, challenging to address. The report offers a summary of the public hearings that were conducted and identifies specific findings and recommends ways to address the issues found in the variety of secondary educational institutions that serve our Navajo and Native American students.

The educational challenges that face our students are enormous and will require a long-term strategy plan that is carried forth for generations to come. Moreover, there is a strong need to continue the advocacy of engaging students in a “culturally and linguistically responsive education system that meets their academic, social and emotional needs.”

With respect and honor we continue to advocate for  
the protection, preservation and recognition of  
Diné human rights,



Jennifer R. Denetdale, PhD, *Chair*



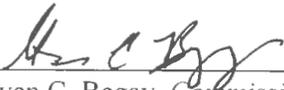
Cora Maxx-Phillips, *Commissioner*



Steven A. Darden, *Vice- Chairman*



Henrietta Sandoval-Soland, *Commissioner*



Steven C. Begay, *Commissioner*

**Resolution of the  
Navajo Nation Human Rights Commission**

**Approving the Report on the Treatment of Navajo and Other Native American Students in  
Schools on and Near the Navajo Nation**

**WHEREAS:**

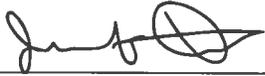
1. Pursuant to 2 N.N.C. §920 and §921, the Navajo Nation Human Rights Commission (herein referred to as "Commission") is established within the Legislative Branch as an entity of the Navajo Nation government and is organized to operate as a clearinghouse entity to administratively address discriminatory actions against citizens of the Navajo Nation, and to interface with the local, state, federal governments and with national and international human rights organizations in accordance with the Commission's Plan of Operation and applicable laws and regulations of the Navajo Nation; and
2. By Resolution NABID-87-18, the Naabik'iyat'i Committee of the Navajo Nation Council directed the Commission to assess the treatment of Navajo and other Native American students on and near the Navajo Nation. The directive issued to the Commission was triggered by an incident that took place in the Albuquerque Public School system where a Native American student's hair was cut and another Navajo student called a derogatory name by a teacher; and
3. The Commission conducted several public hearings in the border towns and on the Navajo Nation. However, the Commission had scheduled several more public meetings on the Navajo Nation when the COVID-19 pandemic precluded the Commission from conducting additional public hearings on the Navajo Nation. The Commission did schedule several virtual meetings via Zoom but there was no attendance to those meetings; and
4. The Commission finds it appropriate to issue the report on the treatment of Navajo and other Native American students in schools on and near the Navajo Nation. The report is attached hereto as Exhibit "A."

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Navajo Nation Human Rights Commission hereby approves the public hearing report on the treatment of Navajo and other Native American students in Schools on and near the Navajo Nation; the report is attached hereto as Exhibit "A."
2. The Navajo Nation Human Rights Commission further hereby authorizes the dissemination of the Exhibit "A" public hearing report to members of the Navajo Nation Council, President and Vice-President of the Navajo Nation, Office of the Chief Justice of the Navajo Nation and posting it on the Commission's Internet website.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Human Rights Commission as a duly called meeting at St. Michaels, Navajo Nation (Arizona), at which a quorum was present and was considered by a vote of 4 in favor and 0 opposed, this 3rd day of June 2022.



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Dr. Jennifer Denetdale, Ph.D, *Chairperson*  
Navajo Nation Human Rights Commission

RESOLUTION OF THE  
NAABIK'ÍYÁTI' STANDING COMMITTEE OF THE

23<sup>rd</sup> NAVAJO NATION COUNCIL -- Fourth Year, 2018

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'ÍYÁTI' COMMITTEES; REQUESTING THE NAVAJO NATION HUMAN RIGHTS COMMISSION UNDERTAKE AN INVESTIGATION OF THE OCCURRENCE OF DISCRIMINATORY BEHAVIOR INCLUDING VERBAL AND PHYSICAL ABUSE OF NAVAJO AND NATIVE AMERICAN STUDENTS BY REPRESENTATIVES OF THE SCHOOL SYSTEMS ON THE NAVAJO NATION AND THE SURROUNDING CONTIGUOUS STATES

WHEREAS:

SECTION ONE. AUTHORITY

- A. The Health, Education and Human Services Committee of the Navajo Nation Council has legislative authority and oversight over all matters related to education on the Navajo Nation and of its children. 2 N.N.C. § 401 (C)
- B. The Naabik'iyáti' Committee of the Navajo Nation Council has the legislative authority to continually monitor programs and activities of federal and state departments that serve the Navajo People. 2 N.N.C. § 701(A)(7)

SECTION TWO. FINDINGS

- A. The 20<sup>th</sup> Navajo Nation Council created the Navajo Nation Human Rights Commission (Commission) in 2006.
- B. The Commission was established to collect information regarding discriminatory acts against citizens of the Navajo Nation by individuals, businesses, organizations and foreign governments as they occur within, and outside, the Navajo Nation.
- C. The Commission is charged with protecting and promoting the human rights of the Navajo People by advocating human equality at the local, state, national and international levels based on the Diné principles of Sa'a Naaghai Bik'e Hozhoo, Hashkéejǫ́, Hózhóóǫ́ and Ké: resilient, content, disciplined and maintaining peaceful relationships with all creation.

- D. The Commission is to serve as a forum to provide all information and education, with the intention of empowering the Navajo Nation citizens on their human rights.
- E. The Commission is empowered to conduct public hearings in and near border towns to assess the state-of-affairs between Navajos and non-Navajos.
- F. Over time there have been a number of incidents involving the mistreatment of Navajo and Native American children by representatives of school systems in and around the Navajo Nation:
  - 1. August 2014 in Texas, a Navajo kindergarten student was sent home with the order to have his hair cut.
  - 2. February 2, 2016 Flagstaff - a referee barred Navajo girls basketball players from wearing hair in traditional buns.
  - 3. October 31, 2018 a New Mexico Cibola High School teacher cut off a Navajo student's braid and called another a "bloody Indian..."
- G. It is not uncommon for reported events of abuse to be only a surface view of a widespread and deep set problem.
- H. In order for the Navajo Nation Council to be best able to develop an effective legislative response and the Navajo Nation Executive Branch an effective legal and administrative response, the Navajo Nation Human Rights Commission should conduct public hearings on this matter such action being in the best interest of the Navajo People.
- I. Navajo Nation Health, Education and Human Services Committee and the Naabik'iyáti' Committee find it to be in the best interest of the Navajo People and their children for the Navajo Nation Human Rights Commission to undertake hearings for the purposes of gathering all relevant information regarding the discriminatory actions including the verbal and physical abuse of Navajo and other Native American children by representatives of the respective school systems on and around the Navajo Nation, and to report such findings in the form of a report to be given to the Navajo Nation Council as soon as possible.

**NOW, THEREFORE, BE IT RESOLVED:**

The Navajo Nation hereby directs the Navajo Nation Human Rights Commission to undertake hearings for the purposes of gathering all relevant information regarding the discriminatory actions, including the verbal and physical abuse of Navajo and other Native American children, by representatives of the respective school systems on and around the Navajo Nation, and to report such findings in the form of a report to be given to the Navajo Nation Council as soon as they are able.

**CERTIFICATION**

I, hereby, certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23<sup>rd</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 16 in Favor, and 00 Opposed, on this 27<sup>th</sup> day of December 2018.



LoRenzo C. Bates, Chairman  
Naabik'iyáti' Committee

Motioned: Honorable Nathaniel Brown  
Second : Honorable Davis Filfred

Chairman LoRenzo C. Bates not voting

**NAVAJO NATION**

RCS# 1168

12/27/2018

Naa'bik'iyati Committee

03:09:00 PM

Amd# to Amd#

**PASSED**

MOT Brown

Legislation 0390-18 Requesting

SEC Filfred

the NN Human Rights Commission

Undertake an Investgation....

**Yea : 16**

**Nay : 0**

**Excused : 0**

**Not Voting : 8**

**Yea : 16**

Begay, K

Damon

Jack

Tso

Bennett

Daniels

Kieyoomia

Tsosie

Brown

Filfred

Perry

Yazzie

Chee

Hale

Smith

Yellowhair

**Nay : 0**

**Excused : 0**

**Not Voting : 8**

Bates

BeGaye, N

Pete

Shepherd

Begay, NM

Crotty

Phelps

Slim

**Preliminary Assessment on the Treatment of Navajo and Native American  
Students in Schools On and Off the Navajo Nation**

**Submitted by the  
Office of the Navajo Nation Human Rights Commission**

**June 3, 2022**



## **STATEMENT FROM COMMISSIONER CHAIR JENNIFER R. DENETDALE, PH.D.**

Right before the COVID-19 pandemic, the Commission was addressing the Naabik'íyati' Committee's directive to our office to investigate the mistreatment of Diné and Native students in border towns and cities where Diné families live and our children attend schools. The directive came about in response to a Diné student who experienced abuse and racial discrimination at Cibola High School when a non-Indian teacher asked her if she was "a bloody Indian," and cut the hair of a Native student, both of whom were dressed in Halloween costumes. The outcry about this treatment at the hands of a high school teacher was quick and parents and community sought a response from Albuquerque Public Schools. The Commission set up public hearings to learn about the school environment for our students off the Navajo Nation as the first measure of investigation.

What we learned about what Diné parents and students experience reflect long-standing issues that are sometimes resolved at the community and parent levels and sometimes through lawsuits that the Navajo Nation is a party to. Ultimately, the issues that we heard are ones that Diné students and parents have attempted to address for many years. Some of the situations we heard about, such as transportation where students are bussed from their Navajo Nation community homes to border town public schools like Cuba, New Mexico, and the working conditions for Diné bus drivers or questions about jurisdiction with law enforcement when it comes to the need for immediate action, continue to be addressed by those whose are vested with the welfare and well-being of our students and their parents. The Commission under the direction of our Executive Director Leonard Gorman made good faith efforts to address situations that required immediate action and learned that some situations we heard about through the public hearings were ones that school districts addressed in the aftermath of our public hearings.

In our efforts to provide a Navajo Nation response to learning about our students and parents who live off the Navajo Nation, our staff networked with the Department of Diné Education (DODE) to seek redress and to raise the issues presented from the students and parents who testified about their experiences. DODE is the entity of the Navajo Nation tasked with the education of our students and so it was appropriate to seek their guidance and input during our investigation.

The investigation and public hearings about Diné education began when the pandemic hit the Navajo Nation and so the Commission and Executive Director Leonard Gorman made the decision to cancel scheduled public hearings. And then because of work space turned to virtual and the concerns of the COVID-19 virus, we were delayed in completing the report wherein we are usually timely to complete reports. Nevertheless, we are pleased to present this report and it is my hope that our Navajo Nation leaders, communities and parents find this investigative report of use, that it contains valuable information that may be used in the interest of promoting and fostering the education of our most valuable resource, our children. One point that I found interesting as we investigated this issue is that there are very few studies related to the experiences of our children who attend off Navajo Nation schools, even though it is a significant population. We do continue to aspire for education for our children that is culturally relevant and can be provided within the distances of homes on the Navajo Nation.

I thank our Executive Director Leonard Gorman and his staff for their diligence in addressing the directive from the Naabik'iyati' Committee and especially Vice Chair Steve Darden for always providing spiritual guidance for the Commission and Commissioners. Policy Analyst Lauren Bernally was absolutely instrumental in ensuring the quality of this report and did much of the research required to complete this report. Commissioners Cora Maxx-Phillips, Henrietta Sandoval-Soland, and Steven C. Begay were timely and attentive as we undertook our obligations on this issue and I thank them.

Jennifer Denetdale, Ph.D., *Chair*  
Navajo Nation Human Rights Commission, Education

## **STATEMENT FROM COMMISSIONER VICE-CHAIR STEVEN A. DARDEN**

Honorable Navajo Nation Naabik'iyáti Members/ Delegates:

Yá'át'ééh adoo ahx'ehee for the task assigned to the Navajo Nation Human Rights Commission ("NNHRC") to assess the treatment of Navajo and other Native American students in the off reservation border town schools and on Navajo reservation schools. The NNHRC honored this request, but I must assert that the on reservation assessment is the purview and responsibility of Division of Diné Education ("DODE").

In the NNHRC Plan of Operation, it clearly states that Navajo Commissions are not to duplicate the work of other Navajo Commissions. Nonetheless, we attempted to honor your request. The off reservation public hearings were accomplished. In the attached report, you will see delineated examples of public participation from Diné citizens.

We, as a Commission, held one on reservation public hearing in Tsaile, Arizona at Diné College, no Diné citizens participated in the presenting of any testimony regarding treatment of Dine' students. Then, Covid-19 hit and things came to a literal halt, but the NNHRC attempted to host virtual zoom public hearings. Again, no Diné citizens participated. We, as a Commission, did have communications with DODE and several cases were referred to them.

Dr. Jennifer Denetdale and the NNHRC Policy Analyst, Lauren Bernally, did the reviews of the taped sessions and put the attached report together. They are to be commended for the follow through and the research to accomplish this report. Dr. Denetdale and NNHRC staff did meet with various individuals who participated in the public hearings to engage them to formally file complaints with the NNHRC office, regarding mistreatment of Diné students.

You will need to contact DODE staff to inquire about the cases which NNHRC referred to them. I believe that the Diné students and their parents need education regarding their human rights. The NNHRC has discussed how this can be accomplished.

Respectfully,

Steven A. Darden, *Vice-chair*  
Navajo Nation Human Rights Commission, Business



## **STATEMENT FROM COMMISSIONER HENRIETTA S. SOLAND**

Native American children have been exposed to challenges in the education system. This problematic mistrust in the educational system has been an ongoing concern since the formation of the American Indian Boarding Schools. Our Native American children (ages 5 to 18) were removed from their families, culture, and traditional way of living to enter a facility devised to strip away the culture, language, and spiritual practices of our Native American children. According to the testimonies addressed to the Navajo Nation Human Rights Commissioners, we have learned, through the public hearings concerning the mistreatment of Diné and Native American students who are enrolled in school, that the educational systems continue to lack a respectable, compassionate system of education. The trust that our Diné and Native American families have placed in the system has been broken due to the failure of school districts and administrators to adhere to the laws protecting our students such as the right to the wearing of one's hair, *Richards v. Thurston* (protection of long hair on men) under the Fourteenth Amendment. The Diné and Native American families who courageously came forward to express their concerns about the unfair treatment in the school that their child attended clearly articulated valid points of concern, questioning the school district's lack of oversight in protecting the rights of students under the First Amendment, Fourteenth Amendment, and specific laws such as the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and Title II of the Americans with Disabilities Act (ADA). I commend the families who provided the Commission with valuable information on the mistreatment of Diné and Native American students attending school. The Navajo Nation Human Rights Commission will continue to listen, communicate, and support our Diné and Native American families as we maintain our mission: to protect and promote the human rights of Navajo Nation citizens by advocating human equality at the local, state, national and international levels based on the Diné principles of Sa'a Naaghai Bik'e Hozhoo, Hashkéejí, Hózhóójí and K'é."

Henrietta S. Soland, *Commissioner*  
Navajo Nation Human Rights Commission, Law Enforcement



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Exhibit A: Navajo Nation Human Rights Commission Public Hearings  
Preliminary Assessment

## **Introduction**

This preliminary report is prepared by the Office of the Navajo Nation Human Rights Commission (“NNHRC”) in response to the Naabik’íyáti’ Committee of the 23<sup>rd</sup> Navajo Nation Council’s resolution NABID-87-18,<sup>1</sup> which directs the NNHRC to investigate allegations of the mistreatment of Navajo and Native American students attending schools that serve Navajo and Native American student populations on and off the Navajo Nation. The resolution was a response to an incident that occurred at Cibola High School in Albuquerque, New Mexico on October 31, 2018 when two Native American students, one of whom is Diné, were assaulted by a non-Indian teacher who snipped the hair of one student and asked the other student if she was a “bloody Indian.” While the Naabik’íyáti’ Committee referenced several incidents in which Native students reported discrimination, it was the Cibola incident that triggered a request for an investigation of the treatment of Native students in secondary education institutions. After consultation with a number of organizations devoted to the welfare of Navajo students, the Commission decided upon a series of public hearings as its primary investigative tool and set up public hearings in the communities where the schools are located. Community members were invited to offer testimony based upon their experiences with schools in their communities. This report is generated from the public hearings, consultations with institutions devoted to Navajo education, and research on Navajo education.

## **The Albuquerque Incident**

On October 31, 2018, two Native students, one of whom is Diné, reported to their parents an incident that happened in the classroom with a Cibola High School teacher who touched one of the students when she cut her hair and then said to the Diné student who was wearing a Little Red Riding Hood costume if she was dressed as “bloody Indian.” The parents of the Diné student immediately contacted school officials to demand their response to the incident. When the school failed, they contacted Albuquerque Public Schools (APS) who also did not respond to the satisfaction of the parents. The incident became public when the Native community called upon APS to be accountable by indicating how they were addressing the issues. APS’s failure to

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<sup>1</sup> NABID-87-18, Resolution, “Relating to Health, Education and Human Services, Naabik’íyáti’ Committee, Requesting the Navajo Nation Human Rights Commission to undertake an investigation of the occurrence of Discriminatory Behavior including verbal and physical abuse of Navajo and Native American Students by Representatives of the school systems on the Navajo Nation and the surrounding contiguous states.”

address the incident to the satisfaction of the families involved and the larger Native community led to the APS school board addressing the incident at their December 5 2018 meeting, thirty-five days later. APS Superintendent Raquel Reedy publically addressed the incident and assured them, a community with a significant Native American population, that APS was taking action and the incident was under investigation. Reddy apologized to the student, parents, and community, but called the incident a personnel issue and therefore, “confidential”. The APS school board allowed time for community members to express their concerns for the record. Overall, the Native community expressed outrage, called the teacher racist in her actions and words, demanded that she be removed from the classroom, and asked APS to investigate the teacher’s action and APS’s climate for Native teachers, staff, students, and parents.

In its investigation of the Native community’s charges against Cibola High School, the Navajo Nation Human Rights Commission researched the history of Native and Navajo education, attended meetings where community members called for APS to be accountable to Native and Navajo parents and students, and met with entities and organizations tasked with the guardianship of Navajo children’s education. The Commission observed Navajo and Native American communities in Albuquerque express concern with the district’s silence on the situation and listened to the community who claimed that APS was not transparent with its handling of the issues. Rumors regarding the status of teacher proliferated and ultimately, the public perception was that APS protected their employee from disciplinary action, thereby preempting concern for students’ welfare. The Native community accused APS of insensitivity toward traditional cultural teachings, including how hair is regarded. For example, in Navajo culture, a person’s hair signifies one’s thoughts and is associated with power and longevity. Many Navajos still adhere to traditional practices in regards to hair. The community expressed concern and anger towards the teacher who touched the student and cut her hair without consent. In practice, many Navajos say that one must not touch or cut another person’s hair without that person’s permission. The Native community also called upon APS’s Indian Education Office to respond and offer guidance regarding the incident. According to the APS Indian Education Office, APS serves 5,650 Native American students. Their office is chronically under resourced.

After months of waiting for APS to act on behalf of their daughter who was involved in the incident, the parents retained the American Civil Liberties Union (“ACLU”) to represent

their daughter as the plaintiff in McKenzie Johnson v. The Board of Education for Albuquerque Public Schools and Mary Jane Easten. The complaint alleged that Easten created a hostile learning environment and discriminated against McKenzie Johnson when Easten called her a “bloody Indian” in front of the entire class on Halloween of 2018. The lawsuit also charged that APS failed to properly train teachers on the harms of racism and to ensure student safety.<sup>2</sup> On April 9, 2021, the District Court in the State of New Mexico granted a motion to dismiss the suit and held that APS was not liable for Mary Jane Easten’s racist conduct under the public accommodation provision of the New Mexico Human Rights Act (NMHRA). On May 7, 2022, the ACLU on behalf of McKenzie Johnson filed an appeal that is pending.<sup>3</sup>

At the same time that the Native and Navajo community demanded accountability from APS, in July 2018, Judge Sarah Singleton handed down her ruling in Martinez/Yazzie v. the State of New Mexico, in which Hispanic and Navajo plaintiffs sued the state of New Mexico Public Education Department (PED) for violating the rights of students to a sufficient public education.<sup>4</sup> The Martinez/Yazzie case named the following complaints against the state of New Mexico:

- The state failed to comply with state and federal laws regarding the education of Native American, including English as a Second Language (ESL) students.
- The state failed to provide students with the programs and services that would prepare them for college and career.
- The lack of funds is not an excuse for denying New Mexico’s students a sufficient education.
- The Public Education Department failed to meet the oversight functions to ensure that all students receive the programs and services they need.

The lawsuit indicates that the inequalities within New Mexico’s public education system are systemic and that the racism displayed at Cibola High School can be read as a reflection of the inequalities and disparities that Native students experience in the Albuquerque school system. In

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<sup>2</sup> McKenzie Johnson v. The Board of Education for Albuquerque Public Schools and Mary Jane Easten, Second Judicial District Court, Bernalillo County, D-202-CV-2020-00121, Filed 5-30-2019.

<sup>3</sup> McKenzie Johnson v. Board of Education for Albuquerque Public Schools and Mary Jane Easten, Appeal from the Second Judicial District Court, Bernalillo County, No. D-202-CV-39732, Filed 1-8-2020.

<sup>4</sup>Louise Martinez, et al., consolidated with Wilhelmina Yazzie, et al. v. The State of New Mexico, 1<sup>st</sup> Judicial Court, Santa Fe County, No. D-101-CV-2014-00793.

March 2020, the state of New Mexico filed a motion asking the court to dismiss the Martinez/Yazzie v. State of New Mexico lawsuit. First Judicial Court Judge Matthew Wilson denied the state's motion to dismiss the Martinez/Yazzie ruling, noting that the state by its own admission, has not fulfilled its constitutional duty to provide a sufficient education to all students.<sup>5</sup> The Commission examined the complaints listed in the Martinez/Yazzie litigation and compared them to the testimony that parents, students and educators provided during the public hearings in order to clarify Native people's long-standing complaints about Indian education.

Since the landmark ruling in 2018, the New Mexico legislature has allocated funding for Indian education as a measure to address Martinez/Yazzie. During the time when the New Mexico State legislature addressed the lawsuit, COVID-19 gripped the nation. Tribal nations were some of the hardest hit by the virus. National news was quick to report on the COVID-19 related illnesses and deaths on the Navajo Nation and in nearby towns and cities.<sup>6</sup> With the shut-down of institutions except those deemed necessary, and schools going virtual, Navajo children experienced disparities again. For example, because families live in remote locations where access to water, electricity, and the internet are either limited or non-existent, children had difficulty accessing education. As news source reported, COVID-19 laid bare the disparities that Native communities, including the Navajo nation, live with, and in fact, the virus exacerbated the conditions of poverty that many Navajo families experience.<sup>7</sup>

On April 21, 2021, New Mexico Governor Michelle Lujan Grisham signed into law measures that prohibit discrimination, discipline or disparate treatment of New Mexico students based on their hair style or cultural or religious headdress. Companion bills House Bill 29 and Senate Bill 80 were passed by the House and Senate and signed by Governor Grisham. This law

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<sup>5</sup> New Mexico Center on Law and Poverty, "Yazzie/Martinez Education Lawsuit Moves Forward!," <http://nmpovertylaw.org/2020/06/yazzie-martinez-education-lawsuit-moves-forward/>. Accessed January 2, 2021.

<sup>6</sup> Arlyssa Becenti, "First Diné Tests Positive for Coronavirus," *Navajo Times*, March 17, 2020, <https://navajotimes.com/reznews/first-dine-tests-positive-for-coronavirus/>; Krista Allen, "Virus Strikes at Rally: Chilchinbeto Church Gathering May Be the Source of Outbreak," *Navajo Times*, March 25, 2020, <https://navajotimes.com/coronavirus-updates/two-deaths-in-western-may-have-been-covid-virus-spread-at-church-rally/>; McPhillips, Deidre, "COVID-19's Tragic Effect on American Indians: A State-by-State Analysis, Oct. 7, 2020, *U.S. News & World Report*, <https://www.usnews.com/news/healthiest-communities/articles/2020-10-07/a-state-by-state-analysis-of-the-impact-of-covid-19-on-native-americans>.

<sup>7</sup> Jennifer Denetdale, "'Building the Perfect Human to Invade': Dikos Ntsaaígíí-19 (COVID-19) from Border Towns to the Navajo Nation," *Indian Cities: Histories of Indigenous Urbanization*, ed. Kent Blansett, Cathleen D. Cahill & Andrew Needham (Norman: University of Oklahoma Press, 2022): 290-309.

is significant for Native students who also experience discrimination, discipline or disparate treatment related to hair. In particular, the Cibola High School incident serves as an indication that Native and Navajo students also experience injustices and disparate treatment based upon their hair.<sup>8</sup>

## **The Methodology**

The Commission launched a study to investigate the “mistreatment” of Navajo and Native American students because we are the Navajo Nation entity that addresses complaints of racism and discrimination that Diné citizens experience off the Navajo Nation.<sup>9</sup> The Commission defines “mistreatment” as, “any intentional act, or threat of an act, coupled with the apparent ability to execute the act, which causes or puts another person in fear of mental anguish, humiliation, deprivation or physical contact which is or will be painful, insulting or offensive.”<sup>10</sup> “Mistreatment” is abusive behavior and can be a form of racism and discrimination when it is used as words and practice towards people of color and is embedded with the structure of a society. The NNHRC was established to address the discrimination and racism that our Navajo citizens experience. Thus, this investigation to focus on the mistreatment our students may experience in the school systems is appropriate for the Commission’s investigation.

The NNHRC strategically selected public hearing sites on the Navajo Nation and in the states that border the Navajo Nation. Two phases of hearings were established to seek public input from border town schools and in schools on the Navajo Nation. In Phase One, nine public hearings were scheduled beginning in the month of March 2019, with the first hearing scheduled on March 11, 2019 in Cuba, New Mexico, followed by a hearing in Albuquerque, New Mexico the following day, on March 12, 2019. The public hearing scheduled for Gallup, New Mexico was canceled due to weather conditions and was rescheduled for Tuesday, April 2, 2019. Public hearings continued in March at Holbrook, Flagstaff, and Page, Arizona. In the last week of March 26-28, the NNHRC scheduled public hearings in Blanding, Utah, Cortez, Colorado, and Farmington, New Mexico. The Commission scheduled seven additional hearings in Phase Two.

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<sup>8</sup> Office of the Governor, Michelle Grisham Lujan, “Gov. Luhan Grisham Signs Bill Banning Discrimination Based on Hair or Cultural Headdress,” press release, April 5, 2021. <https://www.governor.state.nm.us/2021/04/05/gov-lujan-grisham-signs-bill-banning-discrimination-based-on-hair-or-cultural-headdress/>

<sup>9</sup> 2 N.N.C § 920-924. NNHRC is established within the Legislative Branch of Navajo Nation Government.

<sup>10</sup> Brian A. Garner, Editor in Chief, *Black’s Law Dictionary* (St. Paul, MN: Thomson Reuters, 2014).

Only three hearings were completed for the second Phase Two, in Crownpoint, New Mexico, and Window Rock and Tsaile, Arizona. COVID-19 began a rapid spread on the Navajo Nation and border towns, whereupon the Navajo Nation responded with public health safety regulations that required the cancellation of the remaining scheduled hearings. On June 9, 2020, the Commission hosted a virtual hearing to solicit further testimony from the public and in order to complete the mandate to investigate the status of Navajo education. No testimonies were offered and the Commission decided to forgo any further hearings and moved to writing the report. Over seventy-five persons offered testimony in the twelve hearings. NNHRC advertised the hearings in several venues and invited Navajo and Native American students and parents to offer testimony; ninety percent of those testifying were Navajo. Commissioners Dr. Jennifer Denetdale, Steven Darden and Henrietta Sandoval-Soland presided over the hearings and were assisted by staff members of the NNHRC.

In its plans to address the state of Navajo education, the Commission sought assistance from the Department of Diné Education (“DODE”) and the Diné Bi Olta, the entities tasked with overseeing Navajo education, to assist with Phase Two of the hearings. The Commission partnered with these two institutions because they have statutory authority to address issues related to Navajo student education. They oversee the various education systems that operate on the Navajo Nation, including the Bureau of Indian Education (BIE), grant/contract schools, state public schools, and community-based schools on the Navajo Nation.<sup>11</sup> DODE also oversees Indian Education funding to schools that serve students on the Navajo Nation and in some border town schools surrounding the Navajo Nation where Navajo student enrollment is significant. State public schools provide education to Navajo students on and off the Navajo nation and serve over 1.5 million students. However, Navajo students make up only 1-3 percent of the overall state student population.<sup>12</sup> On the Navajo Nation, there are 43 public schools on the Arizona side, 26 public schools on the New Mexico side, 7 public schools on the Utah side, 31 BIE schools combined in New Mexico and Arizona, 28 tribally controlled schools or grant schools, 5 BIE-funded dorms in border towns, and 4 parochial or private schools.<sup>13</sup> Dr. Tommy Lewis, then

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<sup>11</sup> Title 10 N.N. C. §1. Compliance with requirements of Navajo Nation Law, et.al.

<sup>12</sup> Wendy Shelly Greyeyes, *A History of Navajo Education: Disentangling Our Sovereign Body* (Tucson: University of Arizona Press, 2022), 133.

<sup>13</sup> Wendy Shelly Greyeyes, *A History of Navajo Education*, 207-212.

Superintendent for Diné Education, offered his support to assist with the hearings. DODE's programming focuses largely on Navajo language instruction and Navajo language teacher certification. Dr. Lewis indicated an awareness of the many issues students face that were raised during the course of the public hearings.

The Commission also attempted to engage the Bureau of Indian Education ("BIE") administration in Window Rock, Arizona, but calls and email correspondence were not returned. The Commission's best efforts to contact BIE failed and reflect the frustration that parents raised with the Commission because BIE administrators reportedly either do not respond or in a timely manner to parent's concerns. Nevertheless, the Commission made every effort to engage with the BIE and never met with them.

Based upon the testimony provided in the First Phase, the Commission created a grid to identify and guide direction for the issues raised from all hearings. This grid is in the Appendix, Exhibit A. Based upon the content of the testimonies, five subject headings were identified from the issues presented during the hearings: 1. Imminent Physical Harm; 2. Racism; 3. Curriculum/Instruction; 4. Employment; 5. Resource Allocation. These five subject headings helped the Commission make determinations where incidents reported required an immediate follow up. In cases where the Commission saw the need for immediate action, the Executive Director and staff sought assistance from a network of appropriate agencies, including law enforcement or social services programs, to seek immediate relief for grievances. The grid also helped the Commission to assess the nature of problems and issues that were raised.

Overall, the Commission utilized public hearings, networks with entities tasked with Navajo education, and research to compile the information for this study.

### **The History of Diné Education**

Traditionally, the central Diné relationship between the mother and child shapes all relationships in matrilineal clan-based networks of extended families. These networks support and protect women and children and are the basis for teachings about K'é—the relationships determined by clans. Diné life was, and in many cases, still is, rooted in the land. Creation stories lay out the history of Diné origins, explain how the homeland was created by the Holy People after the beings who would become Diné emerged from the lower worlds. Through interactions

between the Holy People and the beings who would become Diné, the boundaries of our homeland were defined with the placing of four directional mountains that marked the boundaries, from east to west and south to north. Two mountains were placed in Dinétah-the ancient homeland. Today, our central concern is the protection of our homelands and the vitality of culture and language, even though our homeland has been diminished under American occupation and treaty agreements with the American government.

Our repertoire of creation stories, which is the foundation of Diné philosophy of life, includes narratives of the beloved Asdzáá Nadlééhe, Changing Woman, who is the First Mother of the Navajo Nation, and the birth of her twin sons, Tó Bájish Chíní (Born for Salt) and Naayéé Neezgháni (Monster Slayer). Asdzáá Nadlééhe's birth and then the birth of her own sons heralded in an era of harmony in Diné life.

Changing Woman was discovered as a newborn infant by First Man and First Woman who took her home and raised her. Her development from a child to womanhood tells us of the origins of the first Kináálda, the puberty rite, which was conducted for her when she experienced her first menses. The Holy People performed the Blessing Way for her. The birth of her twin sons are another set of stories that offer teachings about hardship, endurance and blessings. Their births were a blessing because they set the path for harmony when they undertook great hardships in order to gain the implements and prayers to restore harmony. The trials placed before them by their father were filled with danger and all along the way a number of Holy Beings, including Spider Woman and Salt Woman, offered guidance on avoiding traps intended to kill them. The Hero Twins overcame obstacles put before them with the assistance of the Holy Beings and thereafter, were acknowledged by their father who had been reluctant to acknowledge them as his sons. Upon his acceptance of his sons, he gave them gifts befitting of warriors, including the bow and arrow. The Hero Twins then set out to rid the world of monsters that plagued the land and the people. When they completed their tasks, they underwent cleansing ceremonies so that they might return to a state of Hózhó.

These stories of the Holy Beings offer teachings about how children should be treated, how they should be guided through life. The words that a mother says to her children, “shee `awéé” (my baby) and “`ayóó’ áínish’ní” (I love you) are terms of endearment that are often reserved for the love a mother expresses to her child and foundational to how Navajos organize

kin relationships. The words do not translate adequately into the English language. The mother-child relationship is central to Diné kin networks and in which one's clans, beginning with the mother's maternal clan and then the father's maternal clan, and then the grandparents' clans, are the basis for naming kinship. Traditionally, then, children are raised in an environment of love and compassion. They are regarded as contributing members of their kin networks and extended families. They are the shepherders and help with the daily chores of life, including wood hauling and cutting, planting and caring for cornfields, preparing food and order in the home, care of grandparents, elders & siblings, and participation in ceremonies. They may be selected to carry on certain skills such as weaving, pottery, or apprentice to traditional practitioners. Children's education takes place within the folds of their clans and extended family networks and its foundation is Diné philosophy of life, Sa'áh Naaghái Bik'eh Hózhó.

Diné education for children shifted dramatically with American occupation of Diné Békeyah beginning in the summer of 1863 when the American government launched an all-out war on Diné when James Carleton ordered Kit Carson into the Navajo stronghold at Tséyi' to burn and scorch the land as the means to force their surrender. As their homeland burned, Diné arrived at the American forts where they were then prepared to make the long journey to the Bosque Redondo reservation, Hwéeldi at Fort Sumner, New Mexico. The American government sanctioned Indian removals as the least costly means to subjugate and Americanize its Indigenous peoples. It is at Hwéeldi that the Diné were exposed to the civilizing process as their leaders were replaced first by American military officers and then an Indian agent who was charged with the daily caretaking of the Diné. At Hwéeldi, the People experienced all sorts of violence, including the replacement of their political, economic, social and cultural systems. They experienced all manners of depravation, which contributed directly to the deaths of over 2,000 of their people, although there is no accurate account of how many Diné died at the hands of the Americans during this period.

Conditions at Hwéeldi were so deplorable and life-threatening that little could be done beyond attending to their most basic survival needs.<sup>14</sup> The transformation of the Diné begun at Hwéeldi to inculcate Navajo children into American ways, was affirmed in the Treaty that Diné leaders signed with American negotiators William Tecumseh Sherman and Samuel Tappan on

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<sup>14</sup> Gerald Thompson, *The Army and The Navajo* (Tucson: University of Arizona Press,1976).

June 1, 1868. The Treaty allowed for the Diné to return to a portion of their homeland. Among the articles laying the terms of the federal government's relationships with the Navajo people, Article Six stipulates that Diné children were to be instructed in American values and to facilitate Diné assimilation, and the federal government would supply a schoolhouse and a teacher for every 30 Navajo children.<sup>15</sup> To date, however, the federal government has failed to provide the resources as stipulated in Article Six.

Navajo children's experiences at the school are reflective of Federal Indian policies of the late nineteenth century and into the early twentieth century in which federal officials, with the support of white reformers sought to transform Native people into model American citizens by "Killing the Indian to save the man."<sup>16</sup> Broadly, Diné children were removed from their homes and sent to far-off boarding schools to remake them in the image of the white man. Children were divested of their Native appearances and dress, made to don military-style uniforms for boys and white women's dress of the era for girls. Their hair was shorn to make it easier for the administration to manage hundreds of children. Children entered a institutionalized life that was often punitive and abusive. Survivors of these schools and their descendants continue to tell stories of their experiences under the various school sects administered by the government, by Christian religions, and schools established on Navajoland. Histories of Native children in the boarding schools has produced generations of people who carried their trauma with them. The term "historical trauma" to describe this experience was defined by Marie Yellow Horse Brave Heart. Native communities and organizations have strategized to resolve grief associated with the trauma while building healthy Native nations and communities.<sup>17</sup>

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<sup>15</sup> *Treaty Between the United States of America and the Navajo Tribe of Indians with a Record of the Discussions That Led to its Signing*, Introduction by Martin A. Link (Las Vegas, NV: K. C. Productions, 1968), 21.

<sup>16</sup> The architect of the Indian boarding school, Richard Pratt, was a military officer who applied the military institution as a model to re-educate Native children in order that the coming generations of Native people would disappear into the milieu of American life as part of its cultural and ethnic diversity. See, for example, David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928* (Lawrence: University Press of Kansas, 2020).

<sup>17</sup> Duran, E. Duran B., Brave Heart, M. Y. H, & Yellow Horse, S.D., "Healing the American Indian Soul Wound," In *International Handbook of Multigenerational Legacies of Trauma*," ed. D. Yael (1998): 341-354.

In the early twentieth century, the Meriam Report exposed the living conditions of many Native peoples in their communities on designated reservation lands.<sup>18</sup> The report included the disparities of education for Native and Navajo children. In the 1930s, U.S. Indian Commissioner John Collier enforced his mandate that Navajos reduce their livestock by fifty percent, which was brutal and violent. Livestock reduction led to an upheaval for Navajo families that today have yet to be rectified.<sup>19</sup> These upheavals included an introduction to the wage economy, which in the present is evident as Navajos must travel off the Navajo Nation in search of wage work and almost all material goods for survival. Collier established day schools and reformed federal policies to integrate Navajo culture into school curriculums. However, although official federal policy on Indian education was reversed to encourage schools to tolerate cultural diversity, the schools continued to mandate American assimilative practices, including bans on traditional language speaking and limited curriculums with Native American studies content. In the 1930s, the BIA constructed fifty new day schools that joined the complex of schools on Navajoland. In 1934, Indian education was diversified under the Johnson-O'Malley Act which enabled Indian education to contract with states and private entities.<sup>20</sup> By the 1940s, Navajo student enrollments in off-reservation boarding schools declined, so the federal government closed most of them. Further, World War II turned national attention to the international front, although Navajo students continued to attend off-reservation schools from 1946 to 1959. Many of the students were enrolled in a Special Navajo Program that was intended to train students in vocational skills.<sup>21</sup> Further, although the federal government turned Indian education over to state run schools, Christian sects, private institutions, community-based schools, and more recently, charter schools, Diné leaders and community members continue to draw attention to the 1868 Treaty Article Six to demand that the federal government live up to its responsibility to provide resources for the education of Navajo children.<sup>22</sup>

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<sup>18</sup> Lewis Meriam, Ray A. Brown, Henry Roe Cloud, et al., *The Problem of Indian Administration: Report of a Survey Made at the Request of Hubert Work, Secretary of the Interior, and Submitted to Him February 21, 1928* (Baltimore, MD: Johns Hopkins Press, 1928).

<sup>19</sup> See for example, Richard White, *The Roots of Dependency: Subsistence, Environment, and Social Change Among the Choctaws, Pawnees, and Navajos* (Lincoln: University of Nebraska Press, 1983).

<sup>20</sup> Farina King, *The Earth Memory Compass: Diné Landscapes and Education in the Twentieth Century* (Lawrence: University Press of Kansas, 2018), 79, 80.

<sup>21</sup> Farina King, *The Earth Memory Compass*, 78.

<sup>22</sup> There are questions about the on-going responsibility of the federal government for Navajo education and Navajo leaders and community people reference the 1868 Treaty article six as evidence that the federal

In the late 1960s and 1970s, communities of color stood up against the violence that they had endured under the U.S. settler nation and its legal and justice systems. They demanded justice and equality that extended to the control of their education systems because education is a key tool to maintain systems of racism and inequalities. Red Power and self-determination included the exercise of sovereignty to reclaim education. In this era, the Navajo Nation established community based schools and a tribal college as an exercise of sovereignty.

In 1975, the U.S. Commission on Civil Rights documented the conditions of Navajo education and offered recommendations to bring about equal opportunity and justice for Navajo students. The Indian Self-Determination and Educational Act of 1975 formalized Navajo self-determined education and communities established their own schools and created Diné-based curriculums and language programs prior to its birth. The 1975 Act paved the way for Native nations to take control of their children’s education.<sup>23</sup> At the heart of Navajo self-determination are the on-going efforts to realize sovereignty by returning to an education system that is founded upon the Diné philosophy of Sa’áh Naagháí Bik’eh Hózhó, a term that translates as “hózhó—ideal of Diné society and a desirable state of being and environment.”<sup>24</sup> Since the 1970s, with the establishment of the first tribal college, Navajo Community College, now Diné College and the first community-based school at Rock Point, in 1966.<sup>25</sup>

In 2005, the Navajo Nation passed the Sovereignty in Navajo Education Act, which was intended to reclaim Diné education by bringing it under the umbrella of the Navajo Nation. It restructured the former Navajo Division of Education into Department of Education, created “the superintendent of schools within the DODE, required the development of Navajo standards of education, established the Diné Bi Ołta School Board Association (DBOSBA) as the official school board association, established an educator licensing system, and granted Navajo Nation Board of Education authority to negotiate joint-power agreements with other state and federal education agencies.”<sup>26</sup> Since the Act’s passage in 2005, it has remained a challenge for DODE to meet its standards. Diné Studies scholar Wendy Greyeyes, in her history of Navajo education,

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government has a responsibility to the Navajo nation and its citizens, and second, that it has not lived up to its trust responsibility. See for example, *Wendy Shelly Greyeyes, A History of Navajo Education*, 47.

<sup>23</sup> Farina King, *The Earth Memory Compass*, 152-154.

<sup>24</sup> Farina King, *The Earth Memory Compass*, 5.

<sup>25</sup> Wendy Shelly Greyeyes, *A History of Navajo Nation Education*, 93.

<sup>26</sup> Wendy Shelly Greyeyes, *A History of Navajo Nation Education*, 117.

lists reasons for their struggles, including state disinterest and commitment to Navajo education, the need for standardized assessments, the need for a comprehensive Navajo Nation education plan, the need to centralize funding for Navajo education, the need to standardize educator's salaries and benefits. Also, the need to make uniform disciplinary actions against students, which remains under the authority of institutions providing education for Navajo students. Significantly, DODE has very little, if any, jurisdiction over the education of students who attend schools beyond the Navajo Nation's boundaries.<sup>27</sup>

Navajo education has always been of concern to Diné leaders, educators and parents, largely because federal Indian laws and policies of compulsory American-based education for Navajo children as federal officials, school administrators, parents and Navajo communities struggled to solve long-standing issues of inequalities and injustices that include substandard buildings, inadequate resources, and the abuse and mistreatment of children who were often forcibly removed from their families as mandated by an 1887 compulsory attendance law for Native children.<sup>28</sup>

Despite all its best efforts, the Navajo Nation, its communities, parents and students have continued to experience poor school systems that includes poor infrastructures, inadequate resources that includes the lack of certified Navajo teachers and Diné-based curricula and physical conditions such as long distances to and from schools for children. Navajo students' lack of access to schools on the Navajo Nation led to families moving into border towns and cities in order to provide their students with quality education while communities that lie near towns and cities along the Navajo border rely on buses to transport children to the schools. The inequalities, racism and discrimination that children endure in their struggles to attend public schools led to several lawsuits that involved Gallup-McKinley County schools in New Mexico and San Juan County schools in southern Utah.<sup>29</sup> As this report reveals, Navajo students

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<sup>27</sup> Wendy Shelly Greyeyes, *A History of Navajo Education*, 132-136.

<sup>28</sup> Lamont Lee Yazzie, "A Photographic Case Study of Navajo Children's Views of Their Education," (Ph.D. dissertation, Arizona State University, Tempe, Arizona, 2012), 21.

<sup>29</sup> Several Diné education studies review lawsuits brought against states and counties for unequal education for Navajo children. See for examples, Farina King, *The Earth Memory Compass*; Donna Deyhle, *Reflections in Place: Connected Lives of Navajo Women* (Tucson: University of Arizona Press, 2009); and Charles F. Wilkinson, *Fire on the Plateau: Conflict and Endurance in the American Southwest* (Washington, DC: Island Press, 2004). For example, the Martinez/Yazzie lawsuit against the state of New Mexico is a complaint about the disparate education that Navajo children experience on and off the Navajo nation.

experience inequalities, racism and discrimination in the school systems outside of the Navajo Nation—these injustices are not recent but are embedded within an education system not of Diné making and exacerbated by the failure of the existing school systems and the federal government to ensure quality education for Navajo children. The history of Navajo education focuses on the conglomerate of schools on the Navajo Nation and there are no sustained studies of Navajo children who attend schools in border towns and urban spaces. This is an oversight given that the boarding school era removed children from their homelands and families as a means to remove Diné from the land and to disappear them. Once children were removed to boarding schools, they often remained in towns and cities.

In 2021, under the order of Secretary of the Interior Deb Haaland, the Department of the Interior undertook an investigation, called the Federal Indian Boarding School Initiative, to determine the loss of human life and the lasting consequences of the Federal Indian Boarding School system.<sup>30</sup> The investigation included “the identification and collection of records and information related to the Department’s oversight and implementation of the Federal Indian boarding school system.” The scope included identifying marked or unmarked burials, approximating government funding expended on boarding schools, involving Indian tribes and other department bureaus and offices, and engage relevant Federal agencies. As the report concludes, the removal of Native children from their families and communities was intended to facilitate Native people’s dispossession of their lands and by assimilating them, disappearing them into the fabric of American life.<sup>31</sup> The report describes the removal of children to distant locations away from their homelands, but does not address the dispersal of Native children into border towns and urban spaces. The report also does not recommend that land be returned to Native nations, even though it admits that American education for Native children was the federal government’s solution to eliminating Native people, by dispossessing them of their land and taking their children away.<sup>32</sup>

A brief history of Navajo education is a story of a history of U.S. genocidal practices and ethnic cleansing, as defined by the United Nations, because Navajo children were systematically

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<sup>30</sup> Bryan Newland, Assistant Secretary of the Interior, Federal Indian Boarding School Initiative: Investigative Report (Washington, D.C.: U.S. Department of the Interior, 2022).

<sup>31</sup> Bryan Newland, Federal Indian Boarding School Initiative, 93.

<sup>32</sup> Bryan Newland, Federal Indian Boarding School Initiative, 20-24.

removed from their homes and taken to boarding schools where they were subjected to American assimilation practices.<sup>33</sup>

### **Summary of Public Hearings**

The Commission utilizes public hearings as an investigative tool to understand specific issues. The hearings provide Navajo citizens an opportunity to share their experiences, observations, and insights around a proposed topic. Specifically for these hearings, the audience was introduced to the Commission's mission, its work and the staff, as a strategy to introduce international human rights and connect them with Diné Fundamental Law. At each hearing, the public was informed about the complaint process and staff were available to provide information.

#### **Monday, March 11, 2019: Cuba Independent School District**

The NNHRC heard from eight participants at this hearing. Some spoke from histories of high school experiences spanning ten years and others offered more recent accounts of issues they named as discriminatory against Navajos. It was noted that in a school with a nearly eight-five percent Navajo student population, the number of faculty and administrative staff who are Native or Navajo are few and do reflect a ratio of Native students to Native faculty and administration. Two Navajo language teachers testified about their experiences teaching in the district and supported efforts to have Navajo language classes available. They noted the need for more culturally relevant lessons in the classroom. At one time, they said, the district brought Navajo grandparents into classrooms for cultural guidance and instructions to the students. One parent said that the school offered little support for Navajo-based education and that support from the Navajo Nation government was needed and stated, "they seem to have forgotten about the school district." Testimony offered also noted that Navajo student academic performance remains poor and Navajo and Native American students find it difficult to participate in extra-curricular activities, including athletics.

Several Navajo school bus drivers testified about issues that they felt needed attention. These bus drivers live on the Navajo Nation and commute daily into Cuba to transport students to and from schools. Bus drivers routinely drive anywhere from 60 to 150 miles each day on

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<sup>33</sup> For the United Nation's definitions of genocide and ethnic cleansing, go to <https://www.un.org/en/genocideprevention/genocide.shtml>

roads that are uneven in maintenance. During inclement weather, roads become muddy and the drivers must decide about traveling on certain roads, decide where to drop off students when roads seem impassible, and they are the only adult on buses on routes that sometimes take hours. Driver's conditions lead to students' consequences at the schools. For example, if a bus arrives ten to fifteen minutes late, students may not have breakfast or they will be marked as tardy or absent. Six Navajo drivers reside on the Navajo Nation and commute daily at the most four times a day. One driver described his daily schedule, which begins at 3:30 a.m. each morning and ends around 7:30 p.m. The drivers stay in Cuba and wait for the students for the return trips home. They return to Cuba after dropping off students, arriving at 7:30 p.m. because they are not allowed to take the buses to their homes. The drivers are only paid for the hours they drive the bus and their wait time is not reimbursed or salaried. They testified that their salaries had been cut and they cannot afford to go home and return, so they often sleep in the buses while they wait for the students at the end of the school day. Drivers are docked pay when they arrive late even when winter road conditions are difficult. Any stops beyond each student's drop-off place are not allowed on the two-hour bus route to or from the school. Long hours on the buses mean that the children are without adult supervision and they must hold their bladders until they are allowed off the bus. In recent years, the district cancelled vans for special needs children, leading to additional issues for bus drivers to undertake. The bus driver is the only adult on the buses during these long rides and is expected, unrealistically, to provide supervision. Parents reported that their children sometimes arrived home with soiled clothing because the bus drivers cannot stop and there are no toilets on the buses. The drivers expressed multiple times to their supervisors the adverse conditions under which they work and to date, there has been little to no acknowledgment. The Commissioners were aware that the bus drivers offered testimony with concern that they may face retaliation, intimidation, and harassment for sharing their testimony.

### **Tuesday, March 12, 2019 – Albuquerque Public School**

Eleven people testified at this hearing. Four presenters spoke directly about the Cibola High School incident while the other seven brought up issues related to curriculum, instruction and the need for culturally relevant education for students and all APS personnel. The NNHRC did not receive information on the ratio of Navajo or Native American administrators to Native student population or to other administrators or teachers employed by APS. The Indian

Education Program within APS is underfunded and understaffed. For a district as large as Albuquerque, the Indian Education Department's outreach and academic support programs are sparse or nonexistent. APS and the Indian Education program do not have Native parent liaisons or after school programs for students and do not have enough resources for students who are homeless, or who have little or no stability in the home.

One presenter, UNM Professor Glenabah Martinez, shared her knowledge of APS shortcomings and outlined two conditions that lead to APS's failure to address Indian education adequately. She introduced the concepts of micro-aggressions and macro-aggressions as forms of racism and discrimination students, parents, teachers and administrators of color face in their daily lives within the APS school system. "Micro-aggressions" refer to the multiple ways that people of color are treated through language, body language, and school policies that sustain racism and discrimination. "Macro-aggressions" refers to the structures we live in that are racially constructed. These forms of racism and discrimination are the environment that students of color live in. Dr. Martinez reported that public school curriculum center American national narratives of the discovery of new lands, thereby denying Indigenous presence. American nationalist narratives persist in curriculums and refuse to recognize indigenous peoples as sovereign societies with values and norms that are central to human rights.

### **Tuesday, March 19, 2019 – Holbrook, Arizona**

Six people testified at this hearing. Robert Carr testified that a student was being bullied by her peers. He said the Navajo parents had approached school officials on numerous occasions and received no response from school administrators.<sup>34</sup> Carr provided pictures of an attack on the student in which other students poured ink into her mouth and of another occasion where students punctured her leg with a retractable pen. The parents were not present to confirm the abuse. Carr charged the Winslow School District with the failure to respond to these incidents of bullying. The NNHRC deemed these incidents an emergency and convened a meeting with the parties that same evening.

In another incident of bullying, a chemistry teacher at Winslow High School was reported to be the perpetrator. NNHRC learned that after ten years this same teacher remains employed in

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<sup>34</sup> NNHRC took immediate action and reached out to the parents on the date of the report. Winslow law enforcement was contacted and a family meeting was set. This case remains under investigation.

the district. A Navajo parent reported about her son's experiences with the chemistry teacher who, in her opinion, intimidated and undermined the academic success of her son. This teacher destroyed the student's homework submissions, made the student leave his classroom on numerous occasions, and made false statements about the student's behavior in class. Ultimately, the teacher jeopardized the student's goal to graduate from high school. This student was in honors who took advance placement courses and did well academically. After several repeated visits to the principal and the superintendent, the parent sought out Dr. Lula Stago, a local Navajo educator, who is known in the Winslow community for her advocacy for students. Dr. Stago supported the parents as they navigated the Winslow school bureaucracy. This situation happened at least eight years ago and the teacher remains employed with Winslow School District. Dr. Stago's intervention indicates that Navajo parents may need support when they raise issues with the schools.

**Wednesday, March 20, 2019 – Flagstaff, Arizona**

The NNHRC heard from eight speakers. Three students spoke of their experience at schools in the Flagstaff School District. Commissioner Darden who presided at the hearings, spoke directly to the Native American student who sits on the student council at Flagstaff High School. Navajo language courses are offered in high school curriculums. Two students who wear their traditional clothing daily reported that their peers often made condescending and demeaning comments about their appearance, thereby indicating negative evaluations of the students' Diné values. One student reported that he is often taunted for wearing long hair and called "a girl." He found strength in his grandmother's teachings when he is called names. These students believed that Flagstaff high School Administrators and faculty are not adequately ensuring respect toward Diné and Native students who display pride in their identities. The students asked for cultural sensitivity trainings for administrators and faculty. They asked that the school district support Navajos students who value their own Diné-based teachings within the schools. A Navajo advisor to students and employed by the district urged the Commission to remain involved with their school. The advisor said that neither the Navajo Nation Department of Education or Navajo Nation leaders advocate for Diné interests at the local and state levels of education in Arizona.

**Thursday, March 21, 2019 – Page, Arizona**

Two people testified at this hearing. The NNHRC heard from a young Navajo mother who was working out of state and quit her job to return to Page because her son was being bullied by three Navajo students. Her son was suspended from middle school because he reportedly threatened his bullies with a pair of scissors. The mother attempted to address the incidents of bullying with school official and retrieved an internal school report of the incidences. The report indicated that the identified bullies were known to the school administrators and yet the school failed address the matters in any meaningful way. The bullied student was assigned an in-school counselor at the beginning of the school year and when the mother followed up with the counselor on her son’s progress, the counselor became angry and told the parent to leave. The counselor refused to share with the parent any information regarding how her son was faring in the counseling sessions. Moreover, the bullied student reported that during his time with the counselor, he played games on his phone or the computer. He did not know if the counselor ever talked with the perpetrators or their parents. At the time the mother shared her testimony, her son was still being bullied and facing expulsion from school. The parent was encouraged to file a complaint with the NNHRC and said she would consider filing a complaint.

**Tuesday, March 26, 2019 – Blanding, Utah**

Five people testified at this hearing. The first speaker advocated for swift and decisive mechanisms to remove school personnel who abuse school children. School administrators and board officials must be held accountable to ensure children are protected. This person urged for the use of public education to address issues that plague schools from serving children equally. Commissioners heard from a parent whose three young children were being bullied at the apartment complex playground where a majority of the tenants are white. The family had moved into Blanding recently. This parent was concerned about the safety of her children who attend Blanding Elementary School because the bullies also attend the same school. She witnessed her children bullied by white children who told them they would not play with them because they are “brown.” Her children are half Navajo and half white.

Another parent testified that Blanding School District’s advertisements to hire certified Navajo bilingual instructors for the schools do not indicate that a state bilingual endorsement is

required for the position. As a result, white teachers are hired for these positions and they have little, if any, cultural and personal stake in ensuring Navajo student success. Moreover, the school district makes little to no efforts to recruit Navajo teachers or for those employed, to offer development courses to them. The parent stated that there is a need for more faculty housing for schools outside of the Blanding and Monticello districts.

The fourth speaker expressed his disappointment with the low turnout for the hearing. He stated that the public had not been given enough notice. He expressed his disappointment in the sitting school board members who he alleged were ineffective. Board members' ineffectiveness is reflected in Navajo students' low academic performances in comparison to students educated in the schools on the Navajo Nation in San Juan County.

An elder Navajo resident of Blanding testified that on two separate incidents, crosses were placed on his property. These crosses were decorated with what appeared to be Native American symbols and appeared to indicate the work of white supremacists targeting him because is Native and Diné. The elder declared that he did not take the crosses as indicators that all of the residents of Blanding are racists. According to his testimony, there are good people in Blanding and there are others who perpetuate a racist ideology that divides the county. He stated, "individuals will promote their propaganda of hate through the article I of the U.S. Constitution under the free speech provision."

### **Wednesday, March 27, 2019 - Cortez, Colorado**

Thirteen people attended this hearing and two speakers offered testimony. One speaker, an elder Navajo man, said that his children attend public schools in Cortez. This speaker's principle concern was the school district's distribution of Indian Education funds between the Cortez schools and the Towaoc Ute Mountain schools, saying that there is an unequal distribution of funding between the schools. A Navajo resident of Durango, Colorado shared her experience with Delores County School District. A post-secondary educator herself, she testified that the Delores County School promoted American colonialist accounts of the nation's past and erased the presence of Indigenous peoples and their historical experiences under white settlers who came West and claimed the state of Colorado as their lands.

**Thursday, March 28, 2019 – Farmington, New Mexico**

Seven people testified at this hearing. The first speaker, who was Navajo, spoke to racial disparities in higher education institutions. This person stated that faculty and college administrators lack awareness of cultural differences of Native and Diné students and said that Native students are not vocal enough to express their concerns to the administration or faculty. Native students do not exercise their rights and remain silent. Navajo cultural teachings and values are not part of the curriculum in border town schools in this district. Navajo parents are not involved in the schools and the ratio between Navajo and Native American faculty and Navajo and Native American student population is grossly disproportionate.

A Navajo grandmother testified that a charter school has not adequately addressed her grandson's special education needs. After three years of enrollment at the same school and one large meeting with the school office, she has not seen an Individual Education Plan (IEP) for her grandson. This grandmother insisted the NNHRC pay close attention to students with special needs.

Another Navajo mother testified that she observed differences between parents of Navajo children who live on the Navajo Nation who are not encouraged to visit the schools or participate in their child's education and in the border town schools, parents are seen throughout the schools monitoring in the hallways, cafeterias, foyers and classrooms. She asked if Navajo Nation schools discouraged parent participations in the schools. This parent indicated a decline in bullying and attributed it to parent participation in schools. She encouraged the Commission to look at models of schooling outside of the Navajo Nation.

The last speaker person informed the NNHR that she is not allowed to enter her children's school campus because she questions the quality of education her children are receiving at a school. She learned of her banishment when the law firm representing the school district sent her a letter informing her she cannot step on the school grounds unless she gives advance notice to school officials. This parent reported that she visited the principal because she was concerned about her two children's educational program where one child is enrolled in the gifted program while the other child required special education instruction. She believes she has been unfairly labeled as troublesome because she asks questions about the school's services, funding and policies as they relate to her children's needs.

## **Tuesday, April 2, 2019 – Gallup, New Mexico**

Thirty-three people attended this hearing and thirteen people offered testimony. The Gallup hearing brought Navajo speakers who offered concerns about school building safety, parent athletic associations, and teachers from overseas who were recruited to teach in the school districts. Presenters spoke of incidents of teacher harassment of students, bullied students, lack of adequate resources for children with disabilities, the low numbers of Native American and Navajo teachers and administrators in the schools, the the lack of culturally appropriate material in curriculums, and the need for cultural sensitivity training for personnel within the school district. The Commission also heard from one individual who praised Gallup-McKinley County School District and advocated for non-Native teachers who according to her, paid more attention to the students and understood the Navajo student better than a Navajo teacher.

## **Thursday, October 24, 2019 - Crownpoint, New Mexico**

The recordings for Crownpoint was not transcribed, due to the shutdown of the Navajo Nation government during the Pandemic. However, the hearings were listened to and specific issues were defined and presented in Exhibit A.

## **Friday, October 25, 2019 - Window Rock, Arizona**

The recordings for Window Rock was not transcribed, due to the shutdown of the Navajo Nation government during the Pandemic. However, the hearings were listened to and specific issues were defined and presented in Exhibit A.

## **Thursday, March 5, 2020 - Tsaile, Arizona**

A public hearing was held, but no one came forth to testify.

## **Tuesday, June 9, 2020 – Virtual Public Hearing**

A virtual public hearing was held, but no one came forth to testify.

## **Summary of the Public Hearings**

The Commission heard testimony from the public that ranged in topics from school climate, the quality of education, special needs education, navigating the school bureaucracy, bullying, the lack of Native and Diné studies in curricula, unequal and disproportionate ratio of

school personnel and teachers to the numbers of Navajo and Native children who attended schools, working conditions for staff, and living conditions in border towns and cities for Navajo and Native families and their children, among other issues.

## **Findings**

1. Based upon the Treaty of 1868, Article # 6, the United States stated its responsibility to provide Navajo children with the resources to educate them into American values. In the era of self-determination, beginning in the 1960s, Navajo leaders reclaimed the rights of the Navajo people to establish their own education systems and schools with the intentions to revitalize language and traditional thoughts and practices. To date, although the Navajo Nation has established schools, including Diné College and Navajo Technical University, as an exercise of their sovereignty, Diné-center education for Navajo children is not fully realized and there remains disparities and inequalities in the school systems that serve Navajo children.
2. The maze of institutions responsible for the education of Navajo children, including state public schools, Bureau of Indian Education community schools, private schools mostly run by religious organizations, charter schools, and federally run community and boarding schools, makes it difficult to address the myriad of issues that the public raised at the public hearings. Navajo children attending schools outside of the Navajo Nation are categorized as “Native Americans,” thereby rendering them invisible and their specific needs as Diné are ignored and not addressed.
3. There are distinctions between on and off schools that serve Navajo students. Off Navajo Nation schools provide more opportunities for student activities such as sports, advanced course work, access to the humanities, arts, and sciences to develop skills, after school tutorials, and internet access. Schools that serve students who are transported from Navajo communities to the border town schools are faced with long distances, inclement weather conditions and barriers to participate in school activities. Children are away from their homes for long periods of time during the day and are inhibited from participating in home and community activities. Schools on the Navajo Nation are often under resourced; however, their proximity allow students to remain at home and within their communities.

4. Navajo students and parents expressed concern with curricula that are either sparse or non-existent in its content of Diné and Indigenous instruction material within the school systems both on and off the Navajo Nation. Curricula across the schools include very little content related to Diné and Native subjects. For example, there are very few courses in Native American history, Native government and politics, and Native languages, meaning that Native and Diné students have little access to culturally relevant Native American and Diné material or courses. This is a long-standing deficiency cited in several lawsuits that cite the lack of culturally relevant material in schools, off the Navajo Nation.
5. Because of the limited access to culturally relevant materials and courses, Native and Diné students do not see their reflections within their studies. They have limited or no access to their own histories and cultures beyond their families and communities. These conditions foment stereotypes of Native people and children and can be the basis for discriminatory and racist behavior and practices in the school environment.
6. The lack of access to culturally relevant materials and courses also affects non-Indian students, parents and school administrators and teachers who have very little background and knowledge to relate to their Native and Diné students and parents. Native students are faced constantly with discriminatory acts and practices, which can be linked to limited available culturally relevant materials and courses about Native histories and cultures.
7. The lack of culturally relevant materials and courses impacts the academic performance of Diné and Indigenous students and is demonstrated in low graduation rates, high dropout rates, and a sense of alienation and isolation in the classrooms and as part of the school community.
8. The Navajo Nation, States and the federal government have not adequately addressed the need for schools within the Navajo Nation's boundaries. As a result, students are bussed to border town schools. Bussing entails long hours of travel, missing classes during inclement weather, obstructs students' availability and participation in meetings extra-curricular activities at the schools. These issues are long-standing and cited in lawsuits addressing the quality of education for Navajo students who are bussed to schools beyond the Navajo Nation's boundaries.

9. Issues that parents and community members raised about the treatment of Diné students in border town and urban schools brought up questions about the school to prison pipeline in operation and how the criminalization of Native and Diné for what could be considered minor infractions may be exposing them to the justice system.
10. School systems across institutions do not demonstrate a ratio of Native and Diné students to Native and Diné teachers and administrators to reflect adequate representation of educators and administrators in a school. Overall, schools do not have enough Diné and Navajo educators on staff.
11. The public asked questions of how the Navajo Preference and Employment Act is followed on the Navajo Nation. In some school districts, superintendents have the authority to hire and dismiss school personnel under conditions that reflect “at-will” status.
12. The Commission examined its cases files and discerned a pattern of employment practices where licensed Navajo administrators are routinely not selected for positions in school districts. Promotions and hires are filled by non-Navajo professionals who have not lived in Navajo communities. In some of cases the Commission became aware of, school districts settled complaints before they became litigation matters.
13. Navajo community members expressed concern that teacher positions are filled with teachers who come from overseas and arrive with no knowledge of Native and Navajo students. Teach for America was the organization cited as the organization responsible for recruiting teachers from overseas.
14. The Division of Navajo Education (DODE) exercises sovereignty only within the boundaries of the Navajo Nation and can only make recommendations to state operated public schools. As a result, schools are invested in curricula that test student performance in standardized tests that do not include Native American or Diné content.
15. Diné students and parents noted that funding and adequate resources are critical issues for most schools. Students are affected by the lack of housing near schools, poorly paved roads, rural areas that lead to a sense of isolation, no or limited access to internet service, and deteriorating buildings and old equipment. These factors affect the right to equal and quality education.

16. Students with special needs are doubly impacted by the inequalities of education that Navajo students endure. They do not receive adequate support or resources so that they may thrive in the education system.
17. There are few support systems within schools for families who have children with special needs.
18. Students who are bussed into border town schools face the challenges of disconnection from the school's administration who often know very little about a child's home circumstances. School administrators fail to fully understand or appreciate Navajo student's educational, health, or economic status.
19. Navajo students make up a significant population in border town public schools and some reside in dormitories operated by the BIA. At least nine (9) residential academic programs operate in areas where the land status makes it difficult for law enforcement to respond adequately because the question of jurisdiction stymies police investigations. These situations are particularly detrimental to a child's welfare in dire situations where the child is in an abusive and violent situation.
20. The Commission's efforts to network with the Bureau of Indian Education were not conducive to responding to our oversight committee's resolution that we assess the mistreatment of Diné and Native children in the school systems in and around the Navajo Nation.
21. Parents and community members expressed concern and frustration about the need for school board members to be accountable and responsible for quality education climate in all schools that educate Navajo children. Often times, it appeared that some school boards were not dedicated to understanding school budgets and its funding sources so that resources are first expended to ensure quality student learning environment.
22. The Commission set up an agreement with the three entities charged with the well-being of Navajo school-age children to address cases discovered during the public hearings. The Commission's attempts to contact and network with the BIE resulted in delayed efforts to resolve issues that needed immediate attention. A total of six cases identified under the category of Imminent Physical Harm were referred to DODE. The status of these cases is unknown at the time this report was authored.

23. The Commission followed up with school districts to assess issues related to personnel issues. For example, the Cuba School District, the first district to be visited, revealed issues about pay disparities for bus drivers, incidents that had happened on bus routes, and the lack of Native American teachers and administrators. In another incident, the Commission met with school officials and chapter personnel in Ojo Encino, New Mexico, to hear the Cuba School District give a report on new initiatives that were intended to resolved issues raised at Cuba.
24. NNHRC staff made efforts over a period of months to address situations where children were perceived to be in danger and met the maze of jurisdictions where they had to determine which entity held the jurisdiction and authority to address the issues.
25. In some situations, when the Commission attempted to support parties who had come forward with specific issues, the parties moved away from the issues and became silent or refused to participate in reaching solutions with the support of the Commission.
26. Recent public debates and various state driven legislation about Critical Race Theory and the efforts to ban or strict its teaching in grades K through 12<sup>th</sup> grades are part of the historic efforts of white supremacists to deny, erase, and sanitize knowledge and education about the historic treatment of people of color with the U.S. Like other Indigenous nations and their communities, Diné educators, parents, and leaders continue to call for Diné-centered perspectives about Indigenous and Native histories, cultures, language and contemporary issues. These issues are often understood within the context of settler violence and its structure of racism and discrimination. Advocacy for the right to teach and inform students about this country's history and its treatment of people of color, women, and our Lesbian, Gay, Bi-Sexual, Transgender, Queer and Two-Spirit (LGBTQI2S), is crucial to democracy, equality and Indigenous liberation. The Commission recommends that any education curriculum reflects support for Critical Race Theory. The Commission continues its advocacy for Diné-centered education.

## **Recommendations**

Based upon our research, consultations with Navajo-based education institutions, and the public hearings, the NNHRC offers the following recommendations for the Navajo Nation Council and the Office of the Navajo Nation President/Vice President. The Navajo population is

relatively young and it behooves Navajo leaders to work together to find solutions and resolve identified problems and build paths that the future of the Navajo Nation by focusing on the needs of our children. Every child must be afforded a quality Diné-centered education in order to be the next generations of Diné leaders.

1. The Navajo Nation government needs to support the establishment of an independent review team to assist Navajo families with addressing academic and non-academic issues that school administrators fail to adequately address. Often times, school administrators forego adequate remedies to address a parent's concern.
2. The Navajo Nation has five distinct types of school systems operating on the Navajo Nation: public schools, Bureau of Indian Affairs schools, community grant/tribally schools, and charter/private schools. In addition, there are Bureau of Indian Education funded dorms in border towns. DODE has statutory authority to ensure academic accountability by implementing additional standards and assurances of accountabilities. DODE is encouraged to continue to work toward ensuring academic standards being met. There remains a need to adequately address the common concerns that all of these schools are tasked with by creating networks that bring solutions.
3. When a child is in a harmful situation, action to protect the child should be immediate and all responsible agencies should be able to respond immediately. Children should be protected at all costs. Education on sexual assaults and child abuse needs to be at the forefront of education for administration and parents.
4. Offering culturally relevant material for education is on-going and should be funded by the Navajo Nation.
5. The Navajo Nation and DODE needs to pay attention to Navajo students who attend schools off the Navajo Nation. As the latest census report indicates, at least half of the Navajo people live off the Navajo Nation. In particular, those schools at the Navajo Nation's boundaries have the highest number of Navajo students who attend these schools. There must continue to be efforts to ensure a quality of education for these students and the Navajo Nation must be willing to press critical concerns of parents and students in these schools.
6. There needs to be a study of the school to prison pipeline to determine if Navajo students are affected by racially based responses to infractions by students. To date, there is no

study on this well-known phenomenon that informs how students of color are treated in school systems.

7. It remains the prerogative of DODE to bring about the standards for Navajo education as defined in the 2005 Sovereignty in Navajo Education Act.

## **Conclusion**

The Commission's investigation into the current state of Diné education reveals that the impetus that brought about an investigation, a non-Indian teacher's racist actions towards Native and Diné students in a school off the Navajo Nation, illuminate that the mistreatment of Navajo children is a long-standing issue and systemic. Navajo leaders and parents have strived to provide their children with meaningful Diné-centered education as the means to restore cultural vitality and as an exercise in Navajo sovereignty and yet, in the present moment, we are faced with systemic racism within the multiple school systems off and on the Navajo Nation, which manifest as unequal access to education, disparities and on-going racism. Our Diné leaders' desire to return their people to our homeland led to their agreement to the 1868 Treaty article # 6, which stipulated that Navajo children be immersed in American education, essentially white American ethnic cleansing. The legacy of article # 6 is many and include Navajo children who have limited Navajo language proficiency and a lack of knowledge about Navajo cultural traditions. Many have not learned how to integrate Navajo thought and practices into their lives. Since the 1970s, the Navajo Nation has reasserted its sovereignty to reclaim Diné-centered education for their children and yet, there remains the need to transform education to promote Navajo sovereignty. The Commission affirms the sovereignty of the Navajo Nation and its right to reclaim Diné-centered education, both within its boundaries and in all schools where our children are educated. The search for real solutions to our children's education needs must contend with the structural racism that shapes unequal access to and disparities in education. We cannot ignore or tolerate or accept the standards of an American education that is built on the ideal of "Kill the Indian and save the man." Instead, we must hold the federal government accountable to live up to its treaty obligations to Navajo Nation and its citizens by providing all the means and resources necessary for the education of our children.

## **Epilogue**

As we complete this report, Secretary of the Interior Debra Haaland's office released its investigative report on the legacy of federal Indian boarding schools and McKenzie Johnson's attorneys filed an appeal in her lawsuit against the Albuquerque Public Schools and Mary Easten. In the course of launching this study, we heard from many parents, students, school officials and community members who expressed their frustration, and sense of disenfranchisement as they sought solutions to the issues they encountered in the web of schools that provide education to our students.

As the Commission conducted public hearings, Executive Director Leonard Gorman and his staff, intervened in situations that required immediate attention and to grievances deemed the purview of the Commission's scope as stipulated by their Oversight Committee of the Navajo Nation Council. For example, after the hearing in Cuba and meetings with involved parties, the Commission networked to address specific concerns brought to their attention during the testimony. Three years later, the Commission witnessed positive changes when a new superintendent was hired to oversee the Cuba, New Mexico School District. Bus drivers' concerns shared in the public hearing, led to positive changes. They are no longer required to drop students off on paved roads when roads are impassible. Students were provided chrome books to work from home on hazardous winter days and buses are now equipped with Wi-Fi systems so that students can receive broad band access for classroom instruction while at home. Additionally, the new superintendent hired qualified Native American professionals in the administration. It is also reported that school officials provided updated reports at local chapters that are within the district. This district appears to be have made changes to accommodate its students who travel from the Navajo Nation to the border town schools.

As we worked on this report, we learned that the New Mexico State Legislature provided funding for Native education in response to the Martinez/Yazzie lawsuit. In the recent 2022 legislative session, legislatures appropriated fifteen million dollars for the Indian Education Fund to support school districts with large Native American populations that enhances indigenous language and culture program. Moreover, specific to the Martinez/Yazzie case, \$43.1 million dollars is appropriated in FY22-23 for programs of Indigenous, multilingual, multicultural and special education; interventions for at-risk-students; educational technology and staffing; and

community based extended learning. Clearly, these funds along with other grants not mentioned here are dedicated to the systemic change that is badly needed in our public school systems in New Mexico.

Lastly, the release of the much anticipated of Secretary of the Interior Deb Haaland's Federal Indian Boarding School Investigative Report further affirms that the Indian Boarding School experience was violent and traumatic to such an extent that to the present, survivors' descendants have yet to resolve the generational trauma. The report does not include such recommendations, as the return of land, even though it acknowledges that the U.S.'s laws and policies dispossessed Native nations of their lands and that the taking of their children to place them in American education institutions fulfilled the goal of removing Native people from the land, "In engaging Indian Tribes, 'separate sovereigns pre-existing the Constitution,' and later Alaska Native Villages and the Kingdom of Hawaii, the United States pursued a twin policy: Indian territorial dispossession and Indian assimilation, including education."<sup>35</sup> Removing children from the land in order to facilitate dispossession, included removals to boarding schools. Perhaps one of the most important finding of the report is the affirmation that the "United States has unique treaty and trust responsibilities to Indian Tribes, Alaska Native Villages, Alaska Native Corporations, and the Native Hawaiian Community, including to protect Indian treaty rights and land and other assets."<sup>36</sup> Across the history of Indian education, the federal government often handed the education of Native children to various entities, including Christian sects. In the age of Native sovereignty and self-determination, tribal nations and communities reasserted their rights to educate their children to tribal nations and it remains the law of the land that the federal government in its treaties with Native leaders and as part of its laws and policies has a trust responsibility to ensure adequate and just education for all Native children.

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<sup>35</sup> Bryan, Federal Indian Boarding School Initiatives, 20.

<sup>36</sup> Bryan, Federal Indian Boarding School Initiatives, 93.



**APPENDIX**

<p><b>Public Hearing with School Districts Surrounding the Navajo Nation</b></p>
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	Location	Date	# of Participants	# of Speakers	Complaints Filed
1.	Cuba High School Cuba High School Cafeteria Cuba, New Mexico	March 11, 2019	23	8	3
2.	Albuquerque Marriott Uptown Albuquerque, New Mexico	March 12, 2019	30	10	
3.	Navajo County Public Works Chevelon Canyon Conf. Room Holbrook, Arizona	March 19, 2019	14	6	
4.	Flagstaff High School Flagstaff, Arizona	March 20, 2019	17	8	
5.	Community Town House Page, Arizona	March 21, 2019	3	2	
6.	USUE Arts and Events Center Blanding, Utah	March 26, 2019	12	5	
7.	Montezuma County Senior Services Cortez, Colorado	March 27, 2019	13	2	
8.	Farmington Civic Center Farmington, New Mexico	March 28, 2019	19	7	
9.	Gallup Community Center Gallup, New Mexico	April 2, 2019	33	13	1
10.	Navajo Technical University Crownpoint, New Mexico	October 24, 2019	19	9	
11.	DODE Conference Room Window Rock, Arizona	October 25, 2019	26	7	
12.	Diné College Tsaile, Arizona	March 5, 2020	13	0	
13.	Virtual Public Hearing St. Michaels, Arizona	June 9, 2020	10	0	
		<b>TOTALS</b>	<b>232</b>	<b>74</b>	<b>4</b>



NAVAJO NATION HUMAN RIGHTS COMMISSION  
Public Hearings

Preliminary Assessment

Role of the Commission: *Gather information and assess race relations* pertaining to the mistreatment of Navajo and other Native American students on and off the Navajo Nation - Resolution NABID-87-18.

Imminent Physical Harm	Racism	Curriculum/Instructions	Employment	Resource Allocation	Coordinate with DODE
Individuals raise concerns in the public hearings about physical and emotional abuse of Navajo and other Native American students.	Accusations of disparate treatment of Navajo and other Native American students due to the color of their skin.	Parents and students express concerns about lack of Navajo content curriculum and instructions in the classrooms.	Lack of employing Navajo personnel in administrative and faculty positions; and salary disparities.	Resources are not allocated to areas that directly impact Navajo students' success in the classrooms and extra curricular activities.	Navajo Department of Education has substantive responsibilities and authorities to address mistreatment of Navajo students in schools off and on the Navajo Nation.
<p><b>Yazzie/Martinez Case:</b> engage the NM Public Education Department/Indian Education to ensure that curriculum, employment and resources are allocated appropriately to address these issues in order to enhance optimal student performance.</p>					



Coordinate with the Navajo Department of Education		
Winslow child with blue ink in mouth.	Albuquerque students lined up based on skin tone.	Historic overview concentrates on colonization.  Disparate salaries for Navajo bus drivers.  Bus routes.

Coordinate with the Navajo Department of Education			
Cottonwood Day School	Blanding child directed not to play on playground due to skin color.	More culturally relevant course content such as Navajo language, government, social studies, etc.	Need Navajo counselors.
			Title VII tutorial funds - federal funding appropriation and expenditures.
Hunter's Point	Bloomfield prohibiting parent from being on campus.		JOM monies must be appropriately allocated during the school year.