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HOLDING SOVEREIGNTY ACCOUNTABLE:
THE CONSTRAINTS OF TRIBAL EDUCATION ORGANIZATIONAL DESIGN

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Abstract

The purpose of this study is to answer the question: how have tribes enacted their own sovereignty through new organizational designs without reproducing the authority of the federal government? The study examines how an institutional logic, tribal sovereignty, becomes anchored into an organizational design and how that design has constrained the goals of tribal sovereignty. The call for tribal sovereignty by tribal leaders at the federal and state levels has forced tribes to reexamine their existing organizations and the goals of those structures that encompass the models of authority and practice that are typically the jurisdictions of local school boards. Local school boards have deep roots in building up systems of control over local tribal education that have taken the responsibility of interpreting federal laws, policies, and resources towards educational priorities, which occasionally includes the recovery of tribal assets such as language revitalization, cultural integration into math and science standards, and a revision to tribal character values to build the nation up. Tribes have experienced the high cost of educational investments with very minimal returns from the local school educational experiments. Therefore, many tribal leaders have established tribal organizations that reflect a form of tribal sovereignty that embodies their vision of an autonomous and successful tribal nation.

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Chapter 1: Introduction

The purpose of this study is to examine how an institutional logic, tribal sovereignty, becomes anchored into an organizational design and how that design has constrained the goals of tribal sovereignty. Many tribal leaders have pushed for the creation and establishment of tribal organizations that reflect a form of tribal sovereignty that embodies their vision of an autonomous and successful tribal nation. The call for tribal sovereignty by tribal leaders at the federal and state levels has forced tribes to reexamine their existing organizations and the goals of those structures that encompass the models of authority and practice that are typically the jurisdictions of local school boards. Local school boards have deep roots in building up systems of control over local tribal education that have taken the responsibility of interpreting federal laws, policies, and resources towards educational priorities, which occasionally includes the recovery of tribal assets such as language revitalization, cultural integration into math and science standards, and a revision to tribal character values to build the nation up. Tribes, have experienced the high cost of educational investments with very minimal returns from the local school educational experiments. Therefore, the purpose of this study is to answer the question: how have tribes enacted their own sovereignty through new organizational designs without reproducing the authority of the federal government which established the concept of tribal sovereignty through judicial decisions and policies?

As most tribes work to defend their tribal sovereignty priorities, they have experienced the backlash of inadequate education of their young tribal members that has led many young people towards incarceration, alcoholism, and welfare dependency. The tribal government has also invested in tribal scholarships with the expectations that the most highly motivated tribal students will return to help build up their nation (2012 Diné College Education Remedial

Report). Instead, recent reports show that millions of dollars have been funneled to remedial course work at expensive local colleges and universities (2011 to 2014 ONNSFA Annual Reports). The minimal returns of local schools and large federal policies have placed the tribe in a place to renegotiate their organizational tools. Although the call for local community control in the 1960s generated a strengthening of the local community voice, the experiment has left the tribal nation with the continued burden to build a new recovery initiative built on a new reformulation of local community projects focused on increased accountability and compliance. This new effort has forced the tribe to constrain the meaning and significance of tribal sovereignty into a new organizational form that gives new meaning to tribal sovereignty and local community control.

The tribe's position, as the tribal sovereign recognized by the federal, state, and local communities, is to consider the welfare of the people and to protect the best interests of the values of the people. Tribal people have voiced the need for better opportunities for their children. The demand by the people has prompted the tribe to reevaluate their existing organizations to reconstitute an educational system that ensures the success of its young tribal members with the full intent of recovering their most prized but diminishing tribal assets, their tribal culture and language.

In light of this, tribes have refocused their energy on the local school systems. Tribal leadership recognizes the fragmented local school structures that are varied in their educational work. They reflect silos of separate institutional goals, organizational structures, funding distributions, and academic expectations. Tribes are in the pursuit of re-conceptualizing their central structure to synthesize these local school experiments and ensure that their goals are being met as tribal language and cultural assets are rapidly depleting. As tribes also struggle with

efforts to create tribal institutions of power and autonomy, they have tried to also become organizations to hold local schools accountable to these tribal recovery projects, using federal and tribal education laws as leverage to hold local school control accountable without negotiating away their tribal sovereignty.

Tribal sovereignty is a legal right that allows tribes the right to make decisions to guide education in the direction of their choice (Wilkins and Lomawaima 2001). Tribes have activated the language of the law to push their tribal prerogatives to hold local schools accountable, but also to revise their central organization to fit the role of the central authority. Most tribes also have identified the federal laws and policies that prioritize the revitalization of American Indian language and culture. This has left tribes demanding more from local community schools, although in the past, the tribe has done very little to support local community schools' efforts to interpret the significance of laws towards the recovery of tribal assets.

Tribal sovereignty has been a tool used by the tribes to challenge the federal government to be held accountable towards its federal trust relationship. But as tribes use the language of tribal sovereignty and redirect it towards local schools, the result has been contention among the central and local bodies. At the same time tribes are activating the legal language, they have also activated the support of the federal government. This has created unintended consequences that have placed tribal organizations on a trajectory of increased accountability to the federal agencies. With the voice of the federal agencies, the central tribal organizational representatives must maintain a high level of capacity and political will to fulfill their vision of tribal sovereignty as a call for the recovery of tribal assets. This movement by the tribes to retain their organizational legitimacy and authority, and on the other hand, to hold local schools accountable has resulted in the local communities pushing back to protect their authority and control. But as

tribes pool their limited resources, local control is under the scrutiny of tribal leadership. Tribes recognize the identity and future of their nation rests in the how they build their accountability system to simply not punish local schools, but to seek pathways to support them.

Studying Organizational Structures

This paper examines the type of organizational form built upon the logic of sovereignty to promote change and transitions in local structures. But it also examines how the tribe has approached their partnership with the federal government and the interpretation of a federal agenda that supports tribal self-determination and the recovery of native language and culture. Together, the federal and tribal governments' efforts to transform American Indian communities appear to be a step towards a mutual and equal relationship. But the tribe recognizes that this partnership is not enough to recover its tribal assets and therefore, tribes are reconfiguring internal organizational structures both locally and centrally. Local organizations are fashioned by the local communities to meet their own needs which don't necessarily match the tribe's own vision. Therefore, the tribe has created an organizational design, which they believe will help the tribe fulfill its tribal sovereignty goals.

At the center of this study is an analysis of the tools made available to the tribal government. These tools are the tribally designed organizations. In this study, the central analysis will focus on the manifestations of what Benedict Anderson (2006) labels, the imagined community. In this case, the nation imagines itself to be the vehicle of change, the sovereign that is responsible for the well-being of its people. The imagined community, the tribal nation, is busy with reinventing itself through its organizations. Therefore, the organization becomes the symbolic form with its vision and goals built into its hierarchies and programs.

The organization's mission and vision statements, budgets, and the number of qualified and effective staffing symbolize the tribe's efforts to embody their right under the law to demonstrate its tribal sovereignty. These organizations are only as strong as its governing leadership that can tackle and build up stable budgets, competent and skilled staffing, and a mission that matches the demand in the field. The organizational leadership must unify these multiple elements and understand the terrain in which they operate to create relevance, importance, authority, and value to its community.

These tribal organizational designs are fragile embodiments of tribal sovereignty. The work of organizing educational governance forces leaders to rethink how to utilize their limited nation building resources as tribes engage themselves deeper into the discourse of tribal sovereignty. As resources are funneled to the tribal organization, the opportunity to turn back and change becomes increasingly slim as the survival of the tribe's legitimacy becomes folded into the fabric of these tribal creations.

Overall, the interactions between tribal organizations and other organizational bodies transforms the original intent of tribal sovereignty into organizational structures that are increasingly dependent on the federal and state programs. Those interactions restructure the meaning and significance of tribal sovereignty, especially when the organizational design succumbs to pressures to be legitimate and accountable both internally and externally. The organizational designs inspired by tribal sovereignty have only increased the dependency of tribes upon federal agency. This *tribal* dependency is not a reflection of the post-colonial concepts of dependency, but a dependency based on holding these tribal sovereignty projects accountable.

Domestic Dependent Nations

Early concepts of tribal dependency were derived from three separate Supreme Court decisions that struggled with understanding what a tribe was within the sovereign nation of the United States (Deloria 1984:16). These Supreme Court decisions perceived tribes as being independent of foreign nations and separate from states, but dependent on the federal government. Based on the uniqueness of tribes, Chief Justice Marshall labeled tribes as *domestic dependent nations.* The Marshall trilogies defined and established the federal government's relationship to American Indians in the following cases that first established the principle upon which the U.S. claimed occupation through the doctrine of discovery. Chief Marshall writes, "They were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion; but their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principal, that discovery gave exclusive title to those who made it" (Johnson v. M'Intosh, 21 U.S. 543 (1823)). This decision embraced the idea of the doctrine of discovery as the fundamental principle.

By his decision, Chief Marshall denied tribal chiefs the authority to transfer their lands, occupied by their members, to private individuals. This was the first case to re-interpret the significance of America's contact with American Indians and embed it into the new National American government system. His interpretation created a place for tribes that distinguished the unique status of tribes as existing between a state and a foreign nation. This legitimized the treaties tribes had in place with the federal government but it also held the federal government to operate as the sovereign that authorized the tribes to exist. This in-between place holder as

domestic dependent nations served to describe the tribes' distinctiveness and therefore earned a unique label to establish the status of American Indians in relationship to states and foreign nations. After these definitions were established, tribes have struggled to interpret and mold its meaning into every day action and to reclaim their tribal sovereignty projects (Barker 2005:16).

The origin of domestic dependency began with uncertainty. It was a question of how to define tribal authority in the establishment of a new republic. The definition of tribes entrenched a long and complicated relationship between the federal government and American Indians tribes. To organize this section, the conceptualization of path dependent theory helps to understand how a coercive and paternalistic institutional entrenchment originated in the U.S. during the early 19th century. It also explains how it spurred into self-reinforcing sequences that established the boundaries and parameters of U.S. domination (Mahoney 2000; Pierson 2000). These sequences are what shaped the federal government as the role of colonizer, discoverer and guardian of American Indians and their lands. The origin of these relationships helped to define the boundaries and parameters of the legal and social space between the federal and American Indian relationship.

The consequences of Supreme Court Justice John Marshall's interpretation of dependency created a space of uncertainty, a space of restriction, and a space of limited action for tribes. For the federal government, the dependency of tribes has prompted them to develop the foundations of the federal trust relationship which includes federal transfers to address tribal needs from education, health, economic development, social services, and more. It has also forced the federal government to rethink its policy, shifting from a more paternalistic stance in the early 20th century towards support for self-determination in the late 20th century. It has put pressure upon the federal government to revamp its own organizations to resolve their unique

relationships to tribes. Together, both tribes and early Commissioners of Indian Affairs were placed into a position to define the meaning of the ambiguous space of domestic dependent nations. Although both have struggled to craft this relationship, the result has been an unequal federal-tribal relationship from which tribes have struggled to escape or at least to understand (Deloria and Lytle 1984:15-17). Tribes have wrestled with this imagined state of being which has become integrated into the goals and logic of tribes and driven tribes to locate their discourse of power. The language of sovereignty has become the rhetoric of power for tribes.

As tribes have developed their nations, they have come to recognize that tribal sovereignty grants them access and the right to demand from the federal government equal or greater footing with the states (Deloria and Lytle 1984:3; Wilkins and Lomawaima 2001:176-215). Tribes are the *first peoples,* the natives of the United States of America. This standing provides the leverage for leaders to demand a more substantial understanding of their tribal sovereignty from Congress. It also has opened the door for tribes to contemplate a complete rejection of dependency on the federal government although without removing the federal government's trust responsibility. This desire by tribes to escape and, at the same time, to retain the bonds of the trustee relationship creates a complicated engagement with the federal government. This has forced the federal government to walk a fine balance of trust responsibility as tribes both reject and insist on the federal trust responsibility. On one hand, tribes demand the federal government uphold its "inherent federal trust relationship," which generally translates to "give us more money" and get out of the way (Pommersheim 1995:29). On the other hand, there is much resistance to the federal government in making localized decisions that impact tribes. Tribes reject input from the federal government.

Frank Pommersheim discusses the tribes' need to reinvent this relationship. He states, "The object…should not be to end this important relationship but rather to redefine its contours in such a way as to make the relationship less asymmetrical and more mutual" (1995:29). The reinvention of this relationship represents the next stage in which tribes are negotiating the meaning of self-determination and tribal sovereignty. These negotiations and organizational experiments require a careful balance of maintaining accountability to sovereignty projects without negotiating away their own sense of identity and culture to balance the federal trust relationship. For tribal leadership, creating a true state of sovereignty is a very costly exercise that can come at the expense of the tribe's identity and the further diminishment of their tribal sovereignty, meaning that tribes understand that the acceptance of another federal or state transfer, no matter how small, further erodes their sovereignty. The precious organizational designs are therefore of more value and importance as tribes struggle to keep their sovereignty intact.

The Federal Role

As tribes struggle with the meanings of tribal sovereignty, the federal government encounters its own struggle in retaining their nation-state sovereignty amongst other nations. In the literature on world systems theory, the United States is described as a core element in the system in which state boundaries are no longer recognized, but exist as flows of goods, people and investments move fluidly without these restrictions (Agnew 2002:118). As a part of maintaining its status as a global superpower, the United States has repeatedly turned to revamping educational systems so that they will remain internationally competitive. At the same time that tribal governments have focused on educational policy as an enactment of their own sovereignty, the federal government has made efforts to improve educational outcomes for all

students, including those within tribal jurisdictions. The intersection of tribal and federal agendas for education frames the opportunities to enact tribal sovereignty in this policy domain.

The challenges to maintaining the position of the United States were vividly documented by a 2012 report. A tri-annual world educational metric called the Programme for International Student Assessment (PISA) ranked the United States as "below average in mathematics in 2012 and ranked 27th …, 17 in reading, and 20 in science" among the Organization for Economic Cooperation and Development (OECD) countries (Country Note: U.S., PISA 2012) This is the fifth world assessment conducted by the PISA that measures student performance in sixty-five countries, with the last reported assessment being conducted in 2012. This effect upon the United States leadership generated discussions on how to resolve this perceived problem.

The pressure for the United States to maintain their competitive edge over other countries came with the development of the Common Core State Standards as part of President Obama's efforts to bridge the ending of the No Child Left Behind (NCLB) which was set to expire by 2014. Obama's Blueprint pushed for a revision to the Elementary and Secondary Education Act (ESEA) through the implementation of the Common Core State Standards (CCSS) which would address the mishaps of the NCLB law. President Obama labeled NCLB as, "A Race to the Bottom" signifying that states were developing statewide assessments that made tests easier in order increase the state's performance on their Annual Measurable Objective. No Child Left behind required all states to have 100% of all students reading and doing mathematics at grade level by 2014. For tribes, the results of the NCLB have created unrealistic and unfair expectations. McCarty summarizes the research concerns by tribal researchers as, "[N]egative impacts on culturally based instruction, hyper-attention to standardized tests, inadequate funding, and threats to tribal sovereignty and educational choice" (2008:3). The PISA report stated that

"U.S. students have particular problems with mathematical literacy tasks where the students have to use the mathematics they have…much more focus is needed on higher-order activities, such as those involving mathematical modeling (understanding real world situations, translating them into a mathematical models, and interpreting mathematical results), without neglecting the basic skills needed for these activities" (Country Note: U.S., PISA 2012:3). In response to such findings, the key feature of the Common Core policy centered on the development of the higher order skills needed to increase the performance of students.

World rankings are an examples of the constraints upon federal leadership to retain its imagined self as a super world power. In a study on world rankings of law schools, Wendy Espeland and Michael Sauder (2009) describe the effect of these types of metrics. "Rankings express the status of each school as a specific number on a shared metric…Each school now bears a specific and highly public relationship to every other law school, bound to each other in an explicit status system, with the ascent of one requiring the descent of others" (Espeland et.al 2009:3). In the case of the United States, the impact hurt the nation's imagined status as a superpower. The consequence was the rollout of the CCSS which at first met with acceptance from states, especially since states did not know when Congress would reauthorize the Elementary and Secondary Education Act (ESEA). But eventually states began to pull out of the CCSS and chose to develop state assessments to replace the NCLB. With the falling popularity of the CCSS, Congress was forced to push the ESEA reauthorization which was finally signed into law in December 2015.

The United States, although it is at the core of world systems, depends upon other core and peripheral nation states for its own survival. The experience of the decline of states' participation in the CCSS demonstrates that states are able to impose their demands on the

federal government to allow states to continue to control educational design and priorities even when this undermines federal efforts. This is further evidenced in the passage of the ESEA, now known as the Every Student Succeeds Act (ESSA), which permits states to design their own state plans. The federal law imposes a strong stakeholder engagement requiring the states improve the involvement with stakeholders in formulating state based metrics. This provision includes an increased involvement from tribal governments (S. 1117, 2015).

Within the United States, the federal government must uphold its federal trust responsibility to the 333 federally-recognized tribes scattered across the 33 states as well as to the 229 tribes situated in the state of Alaska. These external and internal constraints also formulate the meaning of the federal trust relationship to tribes. Recognizing the limits of the federal government, tribes are aware that they are competing for a limited amount of resources from the federal government. So, one tribe's gain comes at the expense of another tribal nation's loss.

Tribal sovereignty is a catchall phrase that puts tribal leaders at the table with the federal government (Obama's annual tribal leaders meeting), state governments (annual state tribal legislative day for Arizona, New Mexico, South Dakota, Montana, and Utah), and local governments such as counties, local school districts, and border town hall meetings. During a recent discussion with Congress, tribal leaders voiced their view of the federal government's obligation to tribes. Former Oglala Lakota President, Bryan Brewer, articulates the meaning of this relationship as:

> Education is both a trust and treaty right, and must be upheld by both the Government and Indian people. Self-determination and sovereignty are equally important values to uphold. Accordingly, Congress enacted both the Indian Self-Determination and Education Assistance Act in 1975 (P.L. 93-638) and the Tribally Controlled School Act

> in 1988 (P.L. 100-297), recognizing in the latter that true self-determination in any society of people is dependent upon an educational process that will ensure the development of qualified people to fulfill meaningful leadership roles and that 'to achieve a measure of self-determination is essential to a tribe's social and economic well-being.' (The Honorable Bryan Brewer, *Indian Education Series, 2014*)

Brewer describes how both self-determination and sovereignty are values to be upheld by the federal government. Brewer's statement reflects how his tribe operates to create and change policies, projects, or to enact legislative change at the federal, state and tribal levels. When tribal leaders are asked what tribal sovereignty means, it's described as the authority by which a tribe makes its own decision about their own destiny. Once tribes establish tribal sovereignty as the premise on which they operate, how it plays out in policy, the project, or legislation begins to establish a formulation of a goal. This is when sovereignty is redefined through varied tribal interpretations of survival, recovery, revitalization, and healing.

The federal government's resource constraints define the competitive terrain for tribes and therefore change the meaning of the dependency of domestic nations. The tribes with greater capacity and political will are more likely to receive greater federal resources which, in turn, increases the federal government's control. In their quest to be autonomous nations while demanding that the federal government uphold its federal trust responsibility, tribes may actually increase their reliance on federal resources to build their nations. In exchange for money comes increased monitoring and compliance of those funds as defined by the federal Office of Management and Budget's circulars for cost-principles for American Indian governments (2 CFR Chapter 1, Chapter II, Part 200). These increased accountability measures transform tribal articulations of sovereignty. In particular, when the federal government passed the Indian Self-Determination Act in 1975 which allowed tribes to contract all federal functions and programs, the federal government did not relinquish its inherent federal functions which include

responsibilities for compliance and monitoring under P.L. 107-110 Section 1141(12). This is a critical function of authority and decision making that the federal government retains in exchange for the allocation of limited resources.

The Local Community Role

From the federal perspective, tribes are viewed as domestic dependent nations that are sometimes located in tracts of territory called Indian reservations, and in other cases, organized as corporations or Indian communities. For some tribes, these local communities are divisions, districts, villages, or chapters. Although many tribes were removed from their lands and forced to establish themselves in new territories, in others the local community's identity may be more entrenched than any overarching tribal identity, particularly where local communities existed before the creation of tribal governments through the Indian Reorganization Act with its relatively new construct of the tribe. But for many tribes, there were two sorts of nation building identities being built: the tribal-state-centric and the local-community-centric identities. As the local identity became further embedded when schools, clinics, jails, post offices, and stores are established, they remove the sense of remoteness and isolation typical of many Indian communities. These centers of activities (shopping, healing, punishing, educating, living) within communities heighten the meaning of place. These centers begin the development and meanings of personhood and nationhood. McCarty captures one community's journey to make a school 'a place to be Navajo' (2002: xvi). In addition, local community members weigh in politically on who becomes the voice of the local. Although the local elected members shape the decisions of the tribal council, most are committed to bringing more resources from the tribal level to their local community.

But while seeking tribal resources, local communities also struggle to hold onto their local autonomy and responsibilities (Yurth, *Navajo Times* November 19, 2015). The demands and resistance from the local community add an additional layer to the effort of tribal governments to realize their vision of themselves as domestic dependent nations in which a tribal nation is held accountable to the local community members and their needs. So in the articulations of tribal sovereignty, the local transforms the meaning of tribal sovereignty as the local calls for the tribe to be accountable, and consequently, the tribe (the center) is held accountable by the federal for the many local communities, which is at the center of this dissertation. These local and federal demands on tribal leadership transform the dynamics of the domestic dependent nation.

The Tribal Recovery Project

One of the main agendas for tribes is the recovery of tribal assets, specifically language and cultural revitalization. The research surrounding language revitalization has covered a multitude of dimensions in which tribes have created strategies to address the revolving door of the many programs and local initiatives (Meeks 2012; Field 2001; Richland 2012; House 2005). This was made especially evident during a federally organized Native American Language Summit held in Washington, DC on June 20, 2014.

The Native American Languages Act, 25 U.S.C. Section 2901-2906, declares that, "It is the policy of the United States government to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages" (Native Languages Act MOA). In addition, the Memorandum of Agreement (MOA) cites Executive Order No. 13592 (2011) establishing the White House Initiative on American Indian and Alaska

Native Education which is charged with the responsibility to help expand educational opportunity…including opportunities to learn their [American Indians'] Native languages, cultures, and histories, and receive a high-quality education that prepares them for college, careers, and productive and satisfying lives" (Native Languages Act MOA, December 2012). A participant's field notes highlighted the engagements of top federal agencies that are busy with the revitalization of American Indian language unified to discuss the efforts of addressing Native American language (Morris *2015).* The event unified the Department of Education, the Department of the Interior, the White House Initiative on American Indian and Alaska Native Education, the Administration for Native Americans (ANA), Smithsonian Center for Folklife and Cultural Heritage through a memorandum of agreement between these agencies signed on November 30, 2012.

During the course of the updates from the agencies, discussions were focused on the importance of native revitalization. Federal agencies discussed the impacts each had in terms of their grant programs and outreach. Dr. Roessel, the former director of the Bureau of Indian Education (U.S. Department of the Interior, 2013), explained the continued failure of federal agencies. He stated, "We are not going to get fluency with a grant, …, fluency has to be something the tribe says, *'I want this, I will make … a place for this and do whatever it takes.'* A grant can get us started but it will not get us to the finish line." (NALS, 2014, p. 42). Dr. Roessel's background as both a local community school superintendent then a federal agency head, demonstrates the complexity of the local school challenges. Roessel remarked on his understanding of the local attitude towards building a language program. He states, "All these years of self-determination, sovereignty, and programs, [Rough Rock] did not have a language program. So, I implemented an immersion program, thinking, I can do this. I'm in charge and I

thought … they would … lay a path of beautiful Navajo rugs before me, instead, I had to beg and plead to get just a few parents to say yes, I want my child to be in there … so, when we talk about our language programs we need to focus on the relevance" (NALS, 2014: 44). In the discussion of the continued federal work, he proposed several solutions, including sustainability, fluency, relevancy, and support. These programs have a short time span within the life of a grant and in the federal view, a grant cannot carry a native language student to fluency. The goals for sovereignty are also echoed in articles that emphasize the new meaning of Indian education especially after the impact of recent federal education policy. In a series of articles published by the *Journal of American Indian Education*, the impacts of No Child Left Behind was discussed. McCarty writes, "Tribal sovereignty must be at the core of any education policy for Native Americans, and with tribal sovereignty comes the right of choice – not choice in the narrow sense of "school choice," a policy that masks operations of race, social class, language, and power – but rather choice rooted in the linked domains of individuals and communal self-determination (McCarty 2008:6). The goal of sovereign choices through communal self-determination is a noble effort. The effort to create meaning out of choice becomes constrained as constraints from resources, staffing, curriculum, teachers' knowledge, and students' backgrounds begin to confine the significance and expansiveness of sovereign choice.

The constraints of sovereign choice are also limiting as you consider the challenges of shaping a tribally driven sovereign model. These challenges are the dilemmas of communities that value the authenticity of language but do not use the language (House 2005), the legitimizing of native language over legal language (Richland 2012), and the linkages of the social, political, and ideological conditions that add to language loss (Meeks 2012). These dilemmas constrain sovereign choices in a post-No Child Left Behind climate. Most importantly,

the bureaucratic support is critical to ensuring resources are funneled which is articulated by federal agents – but what that means and how it plays out in the tribal systems is a continuation of tribes still defining what sovereignty is within their government walls.

A sense of the political stakes represented by education policy is evident in debates over whether the loss of language diminishes American Indian students' tribal identity. Dr. Roessel's argument that language and identity are closely linked contrasts with the analysis by Deborah House (2002) who demonstrates that a Navajo can still embody Navajo without speaking their language. Her research shows that students can embody the Navajo philosophy of *Sa'ąh Naagháí Bik'e Hózhóón* that emphasizes balance and harmony, and still operate as a non-speaker of Navajo. Her argument and research arose before the recently contested Navajo Nation presidential candidacy. In this case, the fluency of the candidate was challenged by other candidates. The issue went to a vote as a referendum in which the requirement for Navajo leadership to be fluent was amended in a July 21, 2015 (Landry, *Indian Country Today* August 7, 2015). The results from the Navajo election with fifty-two percent of the voters support the amending of the code reflects a change in attitude towards non-Navajo speakers. This did not stop the political discussion and the demands that the Navajo Nation improve its language revitalization program (Meeks 2012).

Such a politics around the link between language and tribal identity is not unique to the Navajo. Justin Richland (2009) considers the use of American Indian language in the tribal courts, specifically the Hopi Courts. His study shows how the Hopi tribe works to exert their sovereignty through the language of the law as it works through the contours of Hopi concepts of tradition and American law. Richland analyzes the use of the language, cultures and customs being activated in the language in Hopi courts. He shows how the use of Hopi language becomes

the object of the exchange between the actors in the court. Richland cites the work of metapragmatics (Silverstein1993) to show that Hopi language being activated in the court becomes the object of the exchange. In the Hopi court, the indexical space of law talk becomes the battle ground in which the exchange of Hopi language (tradition) and legal language (modern) demonstrate "[H]ow tradition is invoked and made meaningful for the social actors employing them in the betwixt-and-between contexts of tribal law and sovereignty today" (2009: 85). The Hopi Tribal Court as a space of tribal sovereignty design that ensures the legitimacy of the Hopi language is central to the legal system.

Barbara Meek (2010) points out that there are two types of political discourses around language endangerment: the community external advocacy and the community internal discourse. The community external advocacy utilizes enumeration, universal ownership, and hyperbolic valorization – which describes how a state would structure the basis to 'rescue' native language (Meek 2010:139). Then on the other hand, the local activates the language as socializing practice and language as history (Meek 2010:145). Both of these types describe the distinctiveness of the local using language to pass knowledge and to teach about the culture to the student. For the local level, this is how knowledge transfers through the medium of native language. For the bureaucrat, it reflects a type of discourse that tries to appeal to their constituents' imagination of a state's selfhood.

The New Meanings of Tribal Sovereignty

As tribal governments articulate a version of sovereignty that represents autonomous power and control, their organizational structures are put to the test. Tribes are working to retool policies and procedures, to ensure their systems uphold accountability, compliance,

effectiveness, and efficiency. The development of such organizational structures may come to overshadow the original intent of the tribe's sovereignty, producing a more complex version of that original goal of tribal self-determination. Through the lens of a tribe's historical transformation of organizational design, we understand how power can still be retained from a position of powerlessness. These structures are the instruments that reflect the tribe's efforts to survive, recover and perpetuate their agenda as they exist in a state of dependency to a state of autonomy, or somewhere in-between.

This final section of this chapter sketches a brief history of the roots and meaning of sovereignty and the debates around tribal sovereignty. The second chapter provides an overview of federal policy toward American Indians and Indian education. Indian education has a deep significance for the federal, tribe, and local communities because this is an arena in which the vision and goals of nationhood are integrated into these schools. The vision of tribal citizen, local community member, and American become engrained into the minds and actions of their students. The schools become a symbol of what all these groups envision for their future. Indian education is also a site that involves parents, grandparents, and local members. Although these features of sovereignty projects in education are confronted by many tribes, the Navajo Nation is a particularly important case. As one of the largest tribes – in terms of both population and geography – that faces a highly complex jurisdictional environment spanning multiple states, the Navajo Nation exemplifies how the tensions between centralized and local governance act to transform the logic of tribal sovereignty.

The third chapter explores the early roots of Navajo community control. This section describes the creation of local community schools in the late 1960s which generated new movements toward tribal self-determination in Indian education. This section also describes the

early creation of the tribal education departments and their role in organizing the local community schools under the influence of federal policy. The site of the tribal education department becomes the intermediary and is defined as a collaborative institution that moves more towards a complex reality.

The fourth chapter surveys the current landscape of Navajo education. The Navajo Nation's institutional structure has come under attack by local community school board members as the tribe struggles to defend their legal role to hold schools accountable. This section also describes the complex inner workings of the Navajo Nation tribal government and its redefined relationship to the tribal education departments. This section clarifies how the tribe itself is struggling to garner more authority through the language of tribal sovereignty but this is constrained by both local and federal forces. This is especially evident in the differences in financial and staffing resources, missions of the tribe and the federal government, and how the federal government places tribal education departments in the organizational field of education which is captured by the Navajo Nation being bordered by three state education agencies.

The fifth chapter revisits the current educational landscape through the interviews of leaders from each of those systems, the federal, tribal, and local representatives as they discuss the new meanings of tribal sovereignty and how each acts and participates in the perpetuation of tribal sovereignty. These groups together still see that tribal sovereignty is not fully exerted and clarify what they envision for the future and the urgency of these next steps. The fifth chapter will close with a conclusion on the formation of these organizational designs that have redefined tribal sovereignty.

Origins of an Absolute Vision of Sovereignty

The earliest discussions of sovereignty can be traced to the authority and power of the church, in which the Christian god was described as the absolute sovereign, the creator of all things. Understood as a *non-earthly being*, the Christian god dictated and determined the fate of humanity, including those not yet discovered or converted by the Church. An absolute sovereignty is perceived as the ultimate power and authority of all things earthly. In many texts, according to Robert Williams (1992), god is depicted as the all-knowing, being everywhere but nowhere all at once. He has the knowledge of all of the past and the future – escaping the limits of man's finite consciousness. This position of establishing god as an omniscient being served as the basis for defining the early concepts of sovereignty in which the sovereign acts for the good of the people.

The history of sovereignty has deep roots in the doctrines of medieval Christianity and these historical beliefs can be traced to early papal proclamations that clarified the control and domination of the church over the king. As Williams concludes, "In the Gregorian discourse, the assertion of such oppositional claims by a secular or priestly rival ruler indicated an unnatural, intolerable, and ultimately evil divergence from the papally pronounced norms of the universal Christian commonwealth. The delegitimating economy of Gregorian papal hierocratic discourse debased any opposing discourses simply by denaturalizing them" (Williams 1992:25). Pope Gregory VII (1073-1085) generated the discourse that justified the excommunication of a German monarch, Henry IV. The contention between the two was due to King Henry's selection of the bishopric of Milan. Pope Gregory excommunicated the king by justifying that any

opposition to the papal was a result of demonic inspiration (Williams 1990:22-25). The Gregorian discourses informed and guided western legal and political thinking throughout the Middle Ages. In this period, the strength and influence of the church over the entire political structure relied heavily upon a commitment from Christians. Although the church argued and defended the sovereignty and power of god, there was still the dilemma of validating the actors that were extensions of the absolute power.

The meaning and significance of sovereignty were constantly called into question. The continued disputes between the pope and king called for clarifications of the power of the pope and the prince. Commentary written by Rufinus of Bologna in 1157 borrowed two concepts from Roman jurisprudence: "Authority, Rufinus wrote, was the inherent right to direct the exercise of power. Administration was similar to the right 'of a steward, for he has the right to administer but he lacks the authority to rule'. The pope 'holds rights over the earthly kingdom as regards authority. The emperor, who has the duty of administering secular things, in confirmed by the authority of the pope through the consecration ceremony." (Williams 1990:28). This distinction helped to clarify the roles and responsibilities of two competing sources/centers/loci of power: the monarch and the church.

Within the Christian church, the pope served as representative of god. One consequence of the sovereignty of god over all the earth was the justification of conquest of and over non-Christian peoples. Robert writes, "The universal right asserted by popes and Christian princes to enforce Christianity's vision of 'civilization' and natural law legitimated and dignified the conquest, dispossession and enslavement of non-Christian peoples throughout the non-European world" (Williams 1990:15). Sovereignty established and legitimized the actions against indigenous peoples through the creation and of a doctrine of conquest. Through these early

articulations, sovereignty was more about a belief in the power and authority of god and the church became a proponent of these actions.

The purpose of understanding the deep roots of sovereignty in the medieval Christian discourse is to highlight the long history of the battle to retain sovereignty. Efforts to clarify the roles and responsibilities of pope and monarch were also struggles over how sovereignty was to be distributed so that others could recognize and respond to it.

But questions about sovereignty do not end with the issue of who is in control or how control is divided. It is also important to understand how sovereignty is enacted through the organization of governance. This puzzle is central to the work of Michel Foucault who unpacks how sovereignty works and clarifies how it gets embedded into an organization and controls where politics occur. These processes, which he labels governmentality, are a powerful mechanism to control people's perception of the arenas in which they can push back against the state.

Features of Sovereignty

Foucault (1978, 1991) also addresses why sovereignty is critical to the authority of a ruler within a bounded territory. He argues that there are specific features of sovereignty that are essential for the establishment and governing of a state, beginning with its tight linkage to territory. In reference to Machiavelli's *The Prince*, Foucault points out that sovereignty provides the oversight of *things.* This reference implies the material need as the first condition to practice sovereignty requires this ambiguous reference as a "thing". He clarifies that sovereignty can only act within a territory and consequently on the subjects that inhabit the territory (Foucault 1978:93). For Foucault, sovereignty requires a unit that contains the subjects of the state's

sovereignty within a bounded arena. Within that arena, neither the type of land nor type of inhabitant matters, but they all fall under as the subjects of the bounded space.

Foucault also points out that the purpose and intent of sovereignty is to promote the common welfare and salvation of all. He argues the common good should be the obedience to the law, which is the end result of sovereignty. This circular depiction of sovereignty imagines that those who are subject to the rule of sovereignty will ultimately be obedient to the sovereign laws. This cycle of the sovereign imagines that there is nothing greater than the law and adherence to the law, under the sovereign, represents the obedience of the people (Foucault 1978:95). People who are obedient to the sovereign's law are assumed to accept the goodness of the mission and aim of sovereignty, that the law of sovereignty is for common welfare and salvation of all.

Foucault also described the rise of those who become the good rulers of the sovereign. Foucault describes the ruler as a person with patience, wisdom and diligence (1978:96). Foucault depicts the meaning of patience of a good ruler as "[D]oes not have to have a sting – that is to say, a weapon of killing, a sword – in order to exercise his power …it is not the right to kill, to employ force, that forms the essence of the figure of the governor" (1978:96). The portrayal of "Wisdom, understood no longer in the traditional sense as knowledge of the divine and human laws, of justice and equality, but rather as the knowledge of things, of the objectives that can and should be attained, and the disposition of things required to reach them" (1978:96). And finally, the meaning of diligence means "[A] governor should only govern in a way that he thinks and acts as though he were in the service of those who are governed" (1978:96). His overview of the art of governance defines some features of a governing system.

Finally, Foucault describes that subjects must recognize the sovereignty of the ruler. In order for the people to adhere to sovereignty, there is a host of factors that require the buy in from the subjects of sovereignty. The state must continuously keep as its final goal the betterment of the people and that the state pursues the ends to promote the well-being and livelihood of those it impacts (Foucault 1978:103). This last element describes the core of sovereignty that the subjects legitimize the sovereignty if they believe it protects them and improves their lives.

The impact of these features of sovereignty helps to formulate a discussion of/about how sovereignty works. Sovereignty according to Foucault is bounded and acts within a territory, it has a specific goal and mission, it also has a defined leader, and the subjects must recognize and legitimize the sovereignty of a leader before they are obedient. In the case of this study, these features are critical to clarify in order to consider the process of tribal sovereignty as it unfolds in a polity where sovereignty is not monarchical but democratic or popular. The tensions between the concept of tribes as domestic dependent nations and of popular sovereignty are captured in the work of Alexis de Tocqueville (2004) who in 1834-40 understood American democracy as rooted in popular sovereignty. This concept shifts attention from the relationship between god and the monarch toward an understanding of sovereignty as derived from the people. The people's will gives rise to the American government. The American system of democracy went further than the separation of church and state and instead built a unifying structure for all states. This version of sovereignty embraces a democratic reformulation of the people's will guiding the sovereign will of the government.

Tribal Sovereignty Debates

The views of Tocqueville and Foucault reflect two understandings of sovereignty, neither of which makes full sense of the situation confronted by tribes struggling to define their sovereignty in the space of domestic dependent nations. Although tribes exist in this status, no tribal government is asking for true independence. No tribal government is stating that they should pull away from America. Instead, tribes go to Congress, the federal government, and to the president to ask for the upholding of the federal trust responsibilities and the resources they require. The response by the federal government, specifically the Department of the Interior, has been the establishment of regional representatives to collaborate through the Tribal Interior Business Council (TIBC). As one long time non-American Indian DOI employee stated, "I went to TIBC eight years ago and [at yesterday's meeting] I felt like we were still having the same meeting" (Field Notes, March 2016). These meetings unify the voices of tribes and although the work is slow and tedious, it has created a space for tribes to develop their priorities as sovereign nations. Tribes continue to engage, worried that their absenteeism will result in their loss of funding to support their tribal government's survival. Developing a separatist agenda for tribes is a complex road mixed with political aspirations and the reality of continuous funding to support tribal projects.

The awareness of the current state of American Indians is discussed by political writers Vine Deloria Jr. and David Wilkins. They have argued for the importance of a political agenda for a separatist nation that is based on concepts of American Indian sovereignty. But the goal for a separate nation, to operate as a nation making independent decisions, is not the reality in which tribes operate. According to Deloria, American Indians never adopted a democratic ideal because the foundation of democracy is based on individual rights and equality (Deloria 1984).

Instead, the view is that tribes are collectives and they are individual American Indians. This is a difficult category for any American Indian to uphold because operating as a collective vs. an individual creates multiple scripts for self-identity. On the other hand, political scientist David E. Wilkins highlights the aim of American Indian efforts to maintain a collective ideology and how this ideology hinders American Indians outside of the research related to democratic conversations. He writes that part of the reason for the reluctance or refusal of political scientists to examine indigenous political participation rests on the fact that tribal nations generally do not consider themselves to be part of the pluralistic mosaic that is predominant in political science literature (Wilkins 2006). Both views of tribal engagement with the democratic process undercut the current reality of American Indian political participation in which American Indians are participants in their own version of democratic government.

American Indians are mimicking state systems to justify their status as equal bodies to state power. In a chapter titled *A Status Higher than States* (1984), Deloria argues that what has been given to tribes is a version of self-government which is, "[A] limited measure of local control and responsibility." "Self-government," he states simply, "is not an Indian idea" (Deloria 1984:15). Deloria writes about an ambitious goal that extends beyond self-government, although he recognizes that, "The postwar generation of Indians had been enthusiastic about self-government because it has represented as a step forward from the absolute prostration the tribes suffered when the federal bureaucracy preempted all social and political functions on the reservations after the General Allotment act" (1984: 14). The early works of tribal sovereignty theorists (Deloria 1984) did not capture the organizational dilemma confronting tribes as they addressed the realism of every day political action occurring among tribal members. Tribes are actively integrating democratic tools into their tribal sovereignty projects. These projects have

played a considerable role in changing and impacting policy of American Indians. But what is evident here, as much as American Indians existed in the margins of American democracy, they still embodied the mechanisms that drove the evolution of American democracy through the language of tribal sovereignty.

David Wilkins and K. Tsianina Lomawaima (2001) analyze legal tools available to tribes to protect their tribal sovereignty from the encroachment of the federal government and states. The doctrines of conquest, trust, plenary power, reserved rights, implied repeals, and sovereign immunity have shaped the complex terrain of the legal system. Specifically, in their analysis of the disclaimers in tribal-state relations mean that states are "precluded from extending authority inside Indian country," in this case, into American Indian jurisdiction (Wilkins 2001:180). Historically, when states entered into the union, the states were required in their organic acts and constitutions to disclaim jurisdiction over Indian property and persons former (Wilkins 2001:177). There have been exceptions when states can exert their authority only with federal consent. Wilkins and Lomawaima point out, "[S]tate efforts to interfere with the internal affairs of tribal nations violate the disclaimer clauses that the federal government required most western states…to include in their territorial acts, enabling acts, and constitutions" (2001:179). This work clarifies the specific boundaries in which tribes operate and documents how some tribes have built up their institutions with the support of legal teams and lobbying firms. But the work of sovereignty continues as tribes must still operate in these arenas, into spaces Kevin Bruyneel (2007) describes as the "third space of sovereignty".

Bruyneel describes this third space as "not residing inside nor outside the American political system but rather exists on these very boundaries, exposing both the practices and the contingencies of American colonial rule" (2007: xvii). The concept of the third space is

borrowed from Homi Bhabha, who defined a third space of enunciation to capture "meaning and reference an ambivalent process" (2007: xviii). In essence, this transfer to tribal sovereignty avoids "homogenizing or unifying representations of identity" (2007: xix). This move to understand the space of ambivalence redirects the discussions toward the earlier concepts of the doctrine that dictate the tribal-state (non) relationship.

Another formulation of the tribal sovereignty relationship provided by Jessica Cattelino (2008) conceptualizes an inter-dependency of sovereignty, or a relational autonomy. Cattelino organizes this framing of sovereignty into spaces of inter-tribal, local-external (the state, counties, border towns), the federal-Indian relationship, and the international. Sovereign interdependency is how tribal communities express their agenda and action in interaction with others. This is a break from concepts of sovereignty that develop the third-space of sovereignty, pure-autonomy, dependency, and doctrines. In this case, interdependency is defined as relational autonomy, in which tribal nations enact their efforts in relationship to other tribal nations, to local non-Indian communities, to the states, and to the federal government. In some contexts, tribes may also activate their partnerships with international communities to promote their agenda. This is not always the case in terms of tribes vying for similar resources. Many times the competition to garner resources from the federal government is undermined by tribes, or in the case of the tribe's larger agenda, the local community. The work of David Kamper (2010) also shows that the work of sovereignty is underway as tribes cope with the labor force working within their tribal governments and institutions. This view of sovereignty builds out the concepts of Cattelino's articulation of an interdependent sovereignty, which requires tribes to "engage unions in negotiation, and respect certain fundamental collective rights of tribal employees (whether or not they are tribal citizens)" (Kamper 2010:13). In addition, he points out that

developing labor laws would contribute to tribal development projects, operating under tribal sovereignty through works articulated by the Harvard Project of American Indian Economic Development in establishing effective governments (2010:73).

Finally, the research of Stephen Cornell, Joseph Kalt, Miriam Jorgenson, and Manley Begay, Jr. of the Harvard Project on American Indian Economic Development has produced a significant body of literature supporting tribes in their efforts to create sustainable and prosperous nations (Jorgensen 2007). Native nation building concepts are built around federal law, legislation, and policies. These large processes shape the terrain in which tribes operate according the Harvard project. They identify how sovereignty is discussed as a transformative concept playing into four stages: original, legal, policy, and practical. Original describes pre-colonial contact in which authority of control and decision-making define the idea of inherent sovereignty. The legal stage describes the period of modification of sovereignty through the U.S. Supreme Court decisions in the 1830s. Policy comes with the passage by the U.S. Congress in 1975 titled the Indian Self-Determination Act that shaped the establishment of policy towards tribes. Then practical is the stage in which tribes embed sovereignty into their governing practices and construct programs to fit their sovereign visions and goals.

In their concepts of "good governance", the Harvard Project defines five areas as critical to confront the tribal challenges to establish legitimate, effective, and sustainable programs. They highlight the tools of "good governance" as the following:

1. Providing a constitutional foundation for Self-Rule
2. Making laws
3. Making Day to Day Decisions
4. Implementing Decisions
5. Providing for Fair and Nonpolitical Resolution of Disputes (Jorgensen 2007:67-70).

These areas provide a different texture to the debates and unpacking of sovereignty. Sovereignty of tribes is not just rhetoric but a step towards developing the tools to govern well. Good governance also relies on the foundation of a durable organizational framework that legitimizes and validates tribal actions and decision-making. An organizational framework represents the way a tribe copes with the complex terrain such as education. The organization brings together the "right" people to enact the goals and mission of the tribal agenda. It's the entity that is held accountable when educational goals aren't being met.

In summary, these diverse interpretations of sovereignty provide tribal nations and their members with tools to reassert tribal rights. Tribal sovereignty has impacted how the federal government and states do business with tribal nations. Tribes are left to shape and recontextualize the meaning of tribal sovereignty, and they fall back on their one resource – the claim to sovereignty -- even though it has generated only limited returns. But with a developing nation or a self-governing tribe, those limited returns impacts are greater than nothing. But to be a good governing institution means there is careful planning, strategizing, refining, and practicing that must occur within tribal governments to improve their democratic institutions both locally and tribally. The practice of localism and heightening local knowledge systems reflects what Bob Roessel referred to as the practice of democratic ideals. Americans, native or not, have been afforded the opportunity, freedom, and privilege to practice democracy. As Bob Roessel stated, "The right to be wrong, the right to be right" was the exercise American Indians needed to be afforded. His observation captures how many tribes are moving incrementally towards a more complex, democratic practice. In particular, the action of the local Navajo community members runs counter to the arguments from some American Indian scholars who

contend that American Indians never practiced democracy or were participants (Deloria 1984; Wilkins 2002).

Roessel's contention is that democracy is practiced under a different heading than that of tribal sovereignty. The articulation of the right to organize, the right to test new ideas, the right to engage all members, and the right to privilege the local knowledge system as equal to centralized perceptions motivated the development of the local school board. In many local communities, the rise of local school boards which were made up of educated and uneducated members permitted the inclusion of Navajo men and women's perceptions of the world and what they saw best for the development of their children. Locality and place defined the unit of representation for all schools. Localness drove the sovereignty project for these educational institutions. Local people contributed to the election and selection of Navajo people and incorporated them into the fabric of the education of their students, which at this time was unheard of. Democracy was practiced in the most rural spots of the Navajo Nation and in Roessel's (1967, 1968) depictions of these experiences; the excitement of the people could never be adequately captured in print.

Most discussions of tribal sovereignty have not addressed these internal tribal battles. Much of the literature focuses on tribes fighting legally and politically against federal and state agencies for recognition of tribal authority. Within tribal communities, heated debates occur on tribal council floors, chapter houses, and school board meeting rooms. All the voices use the concepts of tribal sovereignty from "out there" that is drawn into the "right here". The language of tribal sovereignty has opened the door for federal response and tribes use it in their internal encounters. The ideas of tribal sovereignty give shape and construct a new reality for Indian education. The outcomes of internal tribal sovereignty debates have not been well defined or understood.

Because the concept of sovereignty is fragmented, it is unequally understood and interpreted by the diverse American Indian tribes throughout the United States. How it is interpreted shapes the different reactions to federal policies coming down the pipeline. It also shapes for some tribal communities, how their local communities respond to the central tribe's version of tribal sovereignty. The local knowledge systems are shaped by community pressures to maintain a local identity of nation-hood defined by their versions of tribal integrity, tribal culture, and tribal identity, as well as by the level of education of actors, tribal population size, the types of receiving educational institutions (public school, tribally controlled school, Bureau of Indian Education school, private school), geographical proximity to an urban environment, the attitudes towards the dependency upon the federal government for resources, and the popularity of the federal government. Each of these factors reconstitutes the concept of federal Indian sovereignty as it filters down to the local level. Tribes are left to search for alternatives beyond a complete rejection of federal intervention or acceptance of total dependency, to explore new understandings and new forms of organizations. By following the effort of one tribe in its efforts to construct sovereignty in a single policy domain – the Navajo and education policy – this study explores the challenges in articulating and enacting a new model of tribal self-determination.

Chapter 2: The Sovereignty of Indian Education

American Indian education is an important site for exploring the tensions among federal authority, tribal sovereignty, and the claims to self-determination by local communities. Indian education for tribes is a historically turbulent space of inconsistency, instability, and great confusion. For American Indians, this is a sensitive space in which the colonization project has been forced upon American Indian children. Indian Education is a space with a multitude of political players. They are representatives from federal agencies, American Indian tribes, local school boards, and community members, all articulating a version of tribal sovereignty. These political arguments and institutional logics have replaced earlier debates of termination, assimilation, and acculturation. But as the story of a powerless organization working under the underbelly of the powerful nation—we see how tribal organizations retain, acquire, recover, and sustain power.

Many tribes recognize their continued need and desire to maintain their relationship with the federal government through the domestic dependent nation status. This sentiment was clearly stated in the Kennedy Report (1968) which summarized a meeting with eighteen tribal chairmen and members of tribal education committees on November 9, 1966. The Indian representatives expressed concern about the transfer of education from the Bureau of Indian Affairs (BIA) to the Office of Education. They were fearful of 'termination' of federal activities in their behalf, and were generally opposed to the disruption of the long-standing relationships which existed with the government. They indicated distrust of the fragmentation of Indian services within the federal establishment. They felt their welfare would suffer if these functions were further divided between agencies rather than remaining concentrated in the Bureau of Indian Affairs. (Kennedy

Report 1968; 195). This sentiment persists and is evident in the language of the "federal inherent function" which defines the obligation of the federal government to provide continued services to tribes.

> The term 'inherently Federal functions' means functions and responsibilities which are noncontractable, including the allocation and obligation of Federal funds and determination as the amounts of expenditures; the administration of Federal personnel laws for Federal employees; the administration of Federal contracting and grant laws, including the monitoring and auditing of contracts and grants in order to maintain the continuing trust (P.L. 107-110 Section 1141(12)).

The inherently noncontractable character of these relationships demonstrates the federal government's commitment to tribes. If tribes decide to take over any federal functions, the federal inherent functions will still be retained. This spells out the significance of the domestic dependent nation status.

Through education, tribes resist federal education policy and demand self-determination as a driver of federal Indian education policy. Tribes have also resisted state education agency policy. This creates a response from the federal and state agencies to ask tribes for their policies of reform on improving educational opportunities. This has placed tribal leaders at the table to design policy that is meaningful to their communities. But it also creates a tremendous amount of tribal reflection on the types of educational recovery projects needed. Tribal leaders generally turn to administrators operating tribal education departments (TEDs) to create goals, missions, policies, and agendas to send to the state capitol or to Washington, D.C.

Tribal Education Departments (TEDs) are identified by tribal leaders and tribal councils to manage the everyday educational needs for the entirety of an American Indian reservation. TEDs have been at a disadvantage because they are also held accountable for outcomes outside of their authority, or have been misinformed that they have the authority. This situation

encompasses explanations and policies to address poor academic performance of public, federal, and parochial schools. TEDs typically do not have governing authority, or are unaware they have the governing authority to address such issues.

According to federal definitions, the definition of a tribal education agency is:

> The term 'tribal educational agency' means the agency, department, or instrumentality of an Indian tribe that is primarily responsible for supporting tribal students' elementary and secondary education (S.1777, Sec. 1632, Grants to Tribes).

TEDs are sites that serve as resources to BIE-funded schools, public schools, tribal colleges, non-tribal colleges, parochial schools, and off-reservation border-town schools. TEDs are called upon to advocate on issues regarding native language instruction, drop-out and graduation rates, and parent involvement. TEDs are also clearing-houses for a multiplicity of programs such as adult vocational programs, early childhood education programs, Johnson O'Malley programs, after school youth programs, and scholarship programs. Therefore, TEDs exist as tribal-global-sites to address educational needs at all levels—from birth to graduate careers. TEDs are expected to provide comprehensive educational initiatives to address their tribal needs—and therefore, TEDs become constrained by competing agendas from tribal leaders and the varied school systems operating in their tribal communities. But to appreciate the distinctive role of TEDs in contemporary debates over tribal education policy, this organizational form must be set against the background of centuries of federal policy towards Native Americans with respect to sovereignty and governance, specifically as these influence education.

Sovereignty and Education

The story of tribal educational sovereignty begins with the educational experiences of American Indian students being forced into the federal schools to adopt the western concepts of education. At this early period of Indian education, tribes did not have a voice in the type of educational program being established and the tribe's role as domestic dependent nation took shape through the early set up of Indian education. In *Education for Extinction,* David Adams states that education for American Indian students was viewed in terms of the need to civilize Native Americans and many educational schools were structured to teach English as a primary lever for pushing the civilization doctrine. Tribes were consulted occasionally and most tribes did not grasp the significance of these schools that were expanding into tribal communities. Most teachers were brought to tribal communities and were non-American Indian and so students began to adopt more than the English language in these schools (Adams 1995).

Given this history of education-as-assimilation, as American Indians have developed their own governments, education has been a major priority. American Indians' recent strides to take control of their own educational destiny have come through the establishment of schools on Indian reservations and the development of tribal educational codes that articulate the tribe's concept of Indian education. Tribes' efforts to take control of education also create an expectation that the federal government will uphold its trust responsibilities. The responsible federal agencies that engage daily with tribal governments on Indian education are the Department of the Interior (DOI), which housed the Bureau of Indian Affairs (BIA) since the 1890s and the Department of Education (ED), which houses the Indian Education program, since the 1970s. These two agencies work directly with both bureau-funded and public schools. In the

review of the early literature, these central federal agencies are at the center of administering Indian education programs.

The Early Off Reservation Boarding School

American Indian education policy began, in the early 1800s, with the goal of "civilizing" American Indians. These "civilizing" efforts were generally targeted at American Indian children and were combined with other federal Indian policies such as the allotment of lands and resources, or reorganization of tribal governments, and relocation movements (Reyhner 2004). The tides of federal policies have been categorized into the eras of termination, removal, assimilation, and self-determination. These periods each carried an intention to supposedly improve the lives of American Indians but it also increased the distrust and cautiousness by American Indian tribes.

In 1879, the federal government established the first Indian school called the Carlisle Indian Industrial School. Richard Henry Pratt conceptualized the design of this school with the goal of assimilating students into the wider culture. American Indian students were introduced to the English language and were prohibited from speaking their own language. They were expected to learn a trade and participate in American society. Pratt had high expectations for the success of his program, and he photographed students to demonstrate the physical transformation and the impact of his schools. However, Pratt's impact may be judged by the fact that the school began with 136 students, but only 158 graduated during his twenty-four years of oversight (Eastman 1935, Reyhner 2004:139). At the end of this period, referred to as the boarding school era, one of the most powerful transformations for American Indian students and tribal communities began throughout the United States. For policy makers at this time, the concept of

asking tribes to actively participate in shaping the educational curriculum at these schools was not considered. Students were taken from their communities and homes. Education, by early American Indian reformers, was viewed as the vehicle to reform and tribal input was minimalized. Indian education during this period was out of the hands of tribal leaders and these educational programs increased throughout the country. By June 30, 1905, there were twenty-four additional Indian schools established. In these arrangements, tribes were effectively deprived of all sovereignty with respect to education. To some extent, tribal chiefs gave up their sons or daughters as a token of peace with the federal government. This first experiment to assimilate American Indians began with American Indian children.

Unifying Funding of the Federal Indian Trust Relationship

In 1921, the Snyder Act (P.L. 67-85) was passed which placed all funding for Indian affairs under the Bureau of Indian Affairs (BIA) which previously was scattered throughout multiple agencies.

> The Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the following purposes: General support and civilization, including education (25 U.S.C. 13; P.L. 67-85).

The Snyder Act kept the responsibility of funding Indian programs in the hands of the federal government, especially education. Sharon O'Brien (1989:273) explains the significance of the act, which laid out the duties of the Bureau of Indian Affairs that were previously unclear, confusing, and contradictory because of the various treaties and acts of Congress. Also, Indian programs were further complicated because each reservation agency received its own appropriation from the federal government. This act placed all federal Indian services and

funding under one agency. During this time, Francis Prucha describes the Indian Affair's agency as "a honeycomb of offices and programs" and that "it was a bureaucracy of great size and complexity … and yet the maintenance and operation of the structure was always hindered by the lack of sufficient money to turn the organization into a first-class enterprise" (1986:273). The lack of resources appropriated to the Indian Affairs administration contributed to the federal government's efforts to consolidate all the programs into one structure that treated tribes as wards of the government. It left tribes' decision making authority outside of the affairs of the Indian Office. The impact of this policy centralized oversight into one federal agency which limited the possibilities for developing meaningful practices of sovereignty at the tribal level. The centralization of the Indian Affair's structure also resulted in broad policies that had to impact all American Indian tribes. This clumping of services to maximize the results of policy-making from afar further undermined tribal sovereignty.

The consequences of the Snyder Act continue to influence how the Bureau of Indian Affairs conducts business with tribal governments. It set the stage for the future of tribes to think of creative strategies to push their agendas alongside five hundred and sixty-three other tribes asking for funding from the same pot.

Reforming the Federal Indian Organization

In 1928, the Secretary of the Interior requested an investigation into the Indian Office. The investigation generated a study titled, "The Problem of Indian Administration," also known as the Merriam Report. This report criticized the services being provided by the Department of Interior's Indian Office. The report showed that the school systems were unsuccessful in teaching students the skills necessary to survive on Indian reservations. The report also found

that students were not given the food necessary to meet an adequate diet. The dysfunctional elements of the educational environment were well documented, but that was only a portion of the criticism contained in the Merriam Report. The report highlighted the dysfunction of the Indian allotment program, which was an effort to push American Indian families into accepting the re-allotment of tribal land holdings as individual land holdings. The pressure put on American Indian families to take on property ownership was believed to help assimilate them. This was a result of the Dawes Act of 1887, which contradicted former polices that were embedded in guardianship. Instead the Dawes act promoted individualism and progress, but in the Merriam Report, it was found the policy did not help families become integrated into the system. Instead, families had lost land and tribes had lost large tracts of lands that were sold off as surplus to non-Indians. The report identified recommendations to begin resolving these issues which targeted a revamping of the Indian Affairs office" (Reyhner 2004:210).

The Reorganizing of Tribal Governments

In 1934, the Wheeler-Howard Act (Indian Reorganization Act), under which many tribes are still organized, was the outcome of the work and reform led by John Collier in the 1920s (Thornton 1998:27). John Collier was selected Indian Commissioner as part of the New Deal. The Indian Commissioner's main responsibility as overseer of the Bureau of Indian Affairs was to implement a new policy that reflected the shift in attitude towards the government after the Great Depression. "The Great Depression made people question the predominant values of eighteenth and nineteenth century America: individualism, expansionism, resource exploitation, and unlimited growth" (O' Brien 1989:81). Collier understood early the immense problems with the allotment program especially after the Merriam Report of 1928. The Institute for Government Research, now known as the Brookings Institution, reported on Indian economic and social

conditions. The report showed that Indians suffered from disease and malnutrition, had a life expectancy of only forty-four years, and an average annual per capita income of only one hundred dollars (O'Brien 1989:80-1). Collier's work helped to end allotment and gave tribes the opportunity to establish new governments, receive a charter and form a business corporation, and borrow money to establish their business opportunities (Parman 1994:93-100, Olson et al. 1986:107-128). The result gave tribes an opportunity to begin accessing resources to create opportunities to exercise their tribal sovereignty.

The reorganization of tribal governments included a significant push for tribal self-governance that placed tribes under the full authority of the Department of the Interior Secretary. The 1934 Act clarified the powers and authority of tribes under the constitutions and bylaws that required approval by the tribal government (Deloria and Lytle 1984). O'Brien points out that ten years after its passage, tribal governments took new steps toward self-management of property and resources. They established tribal business cooperatives, passed law and order codes, began public works programs in health, education, and welfare, and raised funds for land, equipment, and livestock's (O'Brien 1989: 82). In this period, Collier developed a model tribal constitution voted on by all the tribes. This move transformed the face of Indian country and pushed tribes towards a structure that was familiar to the U.S. government. These structures created a body of elected representatives. O'Brien notes that today half of all tribes have Indian Reorganization Act (IRA) constitutions that set up a governing board with no separation of powers from the tribal councils managing both the executive and legislative functions, and in some instances the judicial as well. (O'Brien 1989:83). Under many of the IRA constitutions, tribes added language that enhanced the goals of education. Cohen highlights the public welfare language in these Bylaws which gave the council, in this case, the Quechan (Fort Yuma) council, the authority to

clarify the council's authority to enact action on education for its members. It states, "The Council shall pass the necessary rules and regulations and shall take such action as will seek to promote and increase learning and education amongst the members of the tribe" (2006:169). In addition, the Quechan also added language to make education compulsory for minors and to employ a truant officer to enforce the bylaw.

The impact of this reorganization act provided many tribes with their first opportunity to consider the range of possibilities in developing authority over the welfare of its members including education. Nevertheless, some tribes did reject the Indian Reorganization Act and created separate tribal codes and constitutions. For example, the Navajo Nation had rejected the Indian Reorganization Act and instead pushed the Department of Interior to accept their business council after the referendum was put to a vote.

Public School Expansion for American Indians

The passage of the Johnson-O'Malley Act of 1934 (P.L. 167) streamlined congressional appropriations to be funneled to state public schools that provided services to American Indian students. Since 1891, the Secretary of Interior had negotiated separate contracts with each school district. The change in the law allowed the Secretary of Interior to pay states directly for educating American Indian students (Reyhner 2004:224). The passage of this Act recognized the increasing number of American Indian students' attending public schools. But by directing federal resources for Indian education through contracts with state governments, New Deal policies further diminished tribal involvement with their students. These new policies placed state governments between the federal agencies and individual Native American students, thereby eroding tribal sovereignty.

Pushing American Indians into Urban Centers

By the 1950s, federal policy returned to earlier assimilation efforts to move American Indians into American society. The federal government passed the Indian relocation program in the 1950s to move American Indians from Indian reservations into urban centers. Many of the American Indians who relocated were given funding to lease a place as well as job training. American Indians were assigned to staff American Indian urban centers. It was at these sites that a new wave of pan-Indianism became further entrenched. Rather than encountering other American Indians at a boarding school (Cornell 1990), Native Americans now experienced pan-Indianism in cultural centers against the backdrop of large cities and enduring the challenges of becoming workers (Lobo 2001) and an awareness of the current lack of knowledge as well as the skills needed to succeed in an urban job market (Straus 1998).

Many American Indians returned to their homes with a heightened awareness of their shared experiences with other tribes, also defined by pan-Indianism. Their time in cities also clarified the need for improved education on the reservation. During this period, national American Indian organizations were developed as tribal members encountered each other. These organizations recognized that their status in the city was smaller and they became aware of their status as a minority group. As Terry Straus has pointed out (1998), families that moved to Chicago became keenly aware that an ethnic identity arose as tribal members encountered other ethnic minorities. For Navajo Nation, the relocation movement was eye-opening for individual Navajos who left the reservation.

When tribal members returned home to their Indian reservations, their stories contrasted city life to the reservation life. The vastness of cities like Chicago, Denver, Oakland, Phoenix, and Albuquerque transformed American Indians' awareness of the gaps in their skills and

knowledge. It also heightened the sense of class, racial, and ethnic differences on the part of tribal members. These encounters developed through discussions of pan-Indian consciousness with organizations like the Red Power movement that sparked the Occupation at Alcatraz in San Francisco as well as the occupation of the Department of Interior in Washington, DC. These movements unified tribal members under a new definition of American Indian that extended the boundaries of reservation life. In the case of the relocation period, many American Indians settled into the cities to forge a new awareness and consciousness of what it meant to be Indian in the city. Many of these American Indians did not return to the reservation. For the Navajos, this is evidenced in the establishment of tribal voting booths in Phoenix, Arizona.

This experience of relocation and return to the reservations transformed the perceptions of education and introduced a differing consciousness of an American Indian identity on Indian reservations. Many tribal members saw talented and skilled young people leave the Indian reservations. At times, these young members returned after experiencing city life and were selected as leaders within the tribal community. Their new conceptions of the future of Indian country helped to rethink the strategy forward to resolve the dismal challenges of Indian education.

Local Indian Community Action Begins

The consequences of this rethinking were accelerated by a change in the federal landscape to include communities in policy decisions. This emphasis on participation in policy design was not specific to education, but targeted other social ills impacting poor communities throughout the country, including tribal communities. The Economic Opportunity Act of 1964 (P.L. 88-452) through the Office of Economic Opportunity (OEO) offered funding to

communities to develop programs and projects to empower local communities to address concerns related to poverty (Roessel 1968). The Navajo Tribe received $214,300 from OEO for the first year and this act was pivotal in establishing the first Navajo-only board which would operate the local community school at Lukachukai, Arizona (McCarty 2002:76). Roessel (1968) describes the failure, as a "two headed horse". He writes, "A factor which plagued the first year operation was that the Lukachukai BIA school had its own staff and administrative organization, while superimposed on this was the new OEO staff with its administration" (Roessel 1968). The two heads of oversight were unable to come to a consensus, therefore it undermined the first efforts to establish local control of a federally funded school. Although the project failed, it began planting the seeds for the tribe to consider sovereignty projects at the local level. The concept of a community driven project created a lot of excitement for the Navajo tribe as the meaning of local began to embody new possibilities for the future.

The federal government funded community action initiatives throughout the country to tackle the war on poverty. The act established significant programs such as the Head Start program, Job Corps, Work-Study program for university students, VISTA (Volunteers in Service to America)—a domestic version of the Peace Corps—Neighborhood Youth Corps, basic education and adult job training programs, and finally CAPS (Community Action Programs) (Reyhner 2004:263). This period transformed the face of education and the role communities played in engaging with service that was localized and its impact was felt in helping to build out Navajo involvement with these projects. McCarty reported that in the first year the school had 91 employees, including 45 Navajos of whom 38 were local, plus 15 VISTA volunteers and 8 dorm parents (Reyhner 2004:263).

As tribal communities began to take the early steps to establish localized sovereignty projects, the federal government continued to engage in improving opportunities for American Indians. These localized projects inspired tribes to consider that their own communities could transform the long history of operating as a ward of the federal government but that they could transform their fates within the boundaries of their local communities. Change could happen around the corner. This momentum was furthered by the Kennedy Report, *Indian Education: A National Tragedy, A National Challenge,* released in 1968. This report was based on two years of interviews and discussions with American Indian students, families, government officials, and community members. In its conclusion, the report made sixty recommendations with respect to the legislative, administrative, and programmatic policies to improve American Indian education. The report stated:

> One theme running through all our recommendations is increased Indian participation and control of their own education programs. For far too long the Nation has [paid] only token heed to the notion that Indians should have a strong voice in their own destiny" (Kennedy Report 1968; XIV).

The federal government was changing its view of the ability of tribes to take action. The report articulated this new perspective on the need of tribes to participate in the decision making for their communities. This early recognition of the lack of Indian participation is significant because it helped to formulate the thinking and logic behind the next legislative moves made at the federal level. The report is still heavily referenced as to verify if the recommendations were fully met. The report empowered tribes to reconsider what the next steps should be on the road to tribal sovereignty.

Self Determination of American Indians

In 1972, the Indian Education Act (IEA) (P.L. 92-318) expanded educational opportunities for American Indian students who were unserved by the Bureau of Indian Affairs (BIA). This legislation was in response to the findings in the Kennedy Report that identified the number of BIA schools as 77 boarding schools serving 35,309 students and 147 day schools servicing 16,139 students (Kennedy 1968: XII). The statistics showed that in 1968, there were 152,088 American Indian children between the ages 6- to 18-years-old; of these, sixty-one percent attended public schools with non-Indian children, 32.7 percent were enrolled in federal schools, and 5 percent attended mission or other schools. There were approximately 6,616 school-age American Indian children not in school, and the educational status of the remaining 2,842 students was not clear. The act increased funding to public schools serving ten or more Indian students. A National Advisory Council on Indian Education was established by the president to advise on the state of Indian education.

These changes were in direct response to the Kennedy report, which went even further and created a law to give more control over Indian education to tribes. Since the passage of this act, modifications to the law have been made by the Department of Education's (ED) Office of Indian Education (OIE). In 1974, Public Law 93–380 added a fellowship and teacher training program, and in 1988 Public Law 100–297 made Bureau of Indian Affairs' schools eligible for formula grants and created the Gifted and Talented education program. In 1994, Public Law 103–382 reauthorized Indian education as Title IX Part A of the Elementary and Secondary Education Act, which amended the formula grants to require a comprehensive plan to meet the academic and cultural needs of American Indian and Alaska Native students. Finally, in 2001 Public Law 107–110 on Indian education was reauthorized as Title VII Part A of the No Child

Left Behind (NCLB) Act. The Office of Indian Education describes the policy change as follows: “The formula grants are to be based on challenging state academic content and student academic achievement standards that are used for all students and designed to assist Indian students in meeting those standards” (P.L. 107-110 Title VII Part A). These funds to tribes also placed additional burdens to spend funding according to the grant goals. More funding also meant increased oversight of tribal decision making.

In 1975, Congress passed the Indian Self-Determination and Education Assistance Act (P.L. 93-638) establishing the opportunity for American Indian tribes to contract educational services. This pushed the BIA’s role from directly operating schools to serving to provide technical assistance. This process transferred the role and responsibilities of Indian education from the BIA to tribes, if the tribe elected to do so. The Indian Education Amendments of 1978 (P.L. 95-561) clarified the Bureau of Indian Education’s programs on details such as formula funding, school boards, and standards for learning. Then in 1988, Congress continued to support the efforts of self-determination through additional amendments to the self-determination act through the passage of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100-297) which clarified tribal control of schools. The law states:

> The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs (25 U.S.C. 2501; P.L. 100-297, Section 5201).

The amendments to the Indian Self Determination Act strengthened language for tribes to operate Bureau of Indian Affairs’ schools with an education-specific administrative funding

structure. This was an effort to increase the development of their school systems and to equalize the funding to support educational efforts.

These two laws were pivotal in shaping the new meaning of tribal control of Indian education. These laws generated the terrain on which tribes began adapting the new meaning of educational control. It also allowed local communities to activate this law to convert existing bureau operated schools in their communities to tribally controlled schools. Currently, the Bureau of Indian Education has identified two-third of its bureau-funded schools to be tribally controlled, or also known as grant schools. Grant schools total one-hundred-thirty being operated by fifty-nine tribes or their local school board. The Bureau of Indian Education currently operates only fifty-three remaining schools, less than one-third of the schools, on fourteen Indian reservations and communities. Only five tribes have both types of bureau-funded schools, both grant schools and bureau operated schools, on their reservation, which are: Turtle Mountain, Navajo, Oglala, Cheyenne River, and White Mountain Apache. It's evident that tribes and local communities have activated this initiative to create and establish the operation of their schools at a local level. But ultimately, the data reflects that over ninety percent of American Indian students attend public schools both on and off the reservation, and approximately eight percent attend bureau operated schools. So the path towards a pure goal of sovereignty, ideally embracing all American Indian students, is a long road for tribes.

State Indian Education Acts

The federal government was not the only external force shaping tribal education policy; because reservations were located within states, tribal governments also had to deal with state governments. Due to its size – extending into Arizona, New Mexico and Utah – this was a particular challenge for the Navajo Nation. State involvement in Indian education began during

the New Deal, but the participation in Indian education has been viewed to be on the margins of the federal trust relationship to American Indians. But since states have been empowered to take responsibility for American Indian students attending their public schools, individual states have incrementally established Indian education acts that clarify the relationship of tribes to the states.

The stakes in this relationship have increased as the federal government has imposed more rigorous demands on states for accountability in educational outcomes, a policy movement that intensified in the 1990s and early 2000s. Since states are responsible for implementing the laws under the federal government, they must develop plans to work directly with the unique status of American Indian students as defined in No Child Left Behind of 2001. Some tribal leaders are currently working through the post-NCLB period and states are increasingly being asked to develop tribal consultation policies to increase the participation of American Indian perspectives in the design and layout of their new evidence based state plans that will replace the accountability workbooks required under NCLB. These state plans must address how the state will give all students access to high quality equitable education. The hope is that these changes will satisfy the demand from tribes that have voiced their concerns over state education agencies not meeting the specific needs of American Indian students. Precisely because "recovery projects" – of tribal culture, language and practice – have been central to understandings of tribal sovereignty, state government efforts to focus exclusively on proficiency in English language and mathematics create new lines of conflict.

These concerns have also generated new organizational models to advance sovereignty projects within tribal education. Tribes have actively demanded that Congress give tribes the right to become State Education Agencies (SEAs). In recent years, they have been brought up during hearings to discuss Indian education. Specifically, the Navajo Nation's Department of

Diné Education (DODE) is in the process of building their tribal educational capacity to take full control of all their school systems on their nation which is stated largely at the federal level. Internally, the tribe still has confronted the resistance from local school boards operating federal bureau funded schools. The ultimate goal for the Navajo Nation is to obtain State Education Agency (SEA) status which requires the buildup of the educational infrastructure that will unify many complex federal and state educational systems. Administrators, charged to implement the Navajo Nation's tribal codes, have testified to the Senate Committee on Indian Affairs (SCIA) on May 13, 2015 and May 21, 2014 to request these changes (Benally, *Indian Education Series,* SCIA (2014); Lewis, *Bureau of Indian Education*, SCIA (2015)). The tribal administrators, representing the Navajo Nation, have voiced their intention to become a State Education Agency (SEA) and the Bureau of Indian Education has committed themselves to support the Navajo Nation in supporting the tribe in developing their organizational capacity to move towards those pivotal steps (Roessel, *Indian Education Series,* SCIA (2014); Roessel, *Bureau of Indian Education*, SCIA (2015). The desire to have access to State Education Agency models demonstrates the continued increase of existing organizational structures and best models that fit the tribe's efforts to exert their sovereignty.

Indian Education Acts designed by state legislatures have changed the relationship between the federal government and tribes. States have provided services to American Indian students through their public school programs as early as 1934. The states' involvement with American Indian education began with the passage of the Johnson O'Malley act that provided funds directly to public schools. Public schools that are located on Indian reservations are not under the jurisdiction of tribal governments or local tribal school boards. Instead, they must adhere to state accountability requirements. Currently, the National Center for Education

Statistics (NCES) reports that there are 741 public schools in American Indian and Alaska Native (AIAN) areas with 82,406 enrolled students compared to a total of 183 BIE schools with approximately 48,000 enrolled American Indian students. These numbers do not account for American Indian students attending schools in off-reservation public schools but show that public school growth on Indian reservations has outpaced the growth of bureau funded schools. States have also encountered immense pressure to recognize the role of tribes in the development of state legislative acts to support their endeavors. As of 2016, the Native American Rights Fund reported that thirty-eight states passed some form of Indian Education Act. Each state has focused on areas of native language, teacher certification, cooperative agreements, curriculum development. Some of the more complex Indian Education Acts recognize that some tribes have cross relationships to other states and federal relationship and is recognized under the New Mexico Indian Education Act that states:

> Encourage cooperation among the educational leadership of Arizona, Utah, New Mexico and the Navajo Nation to address the unique issues of educating students in Navajo communities that arise due to the location of the Navajo Nation in those states; provide the means for a formal government-to-government relationship between the state and New Mexico tribes and the development of relationships with the education division of the bureau of Indian affairs and other entities that serve American Indian students. Encourage an agreement regarding the alignment of the bureau of Indian affairs and state assessment programs so that comparable information is provided to parents and tribes (New Mexico Indian Education Act, Section 22-23A-1 to 22-23A-8 NMSA 1978).

Although tribes have articulated a desire to build themselves up to be equal to a State Education Agency, state legislative bodies have recognized the importance of their relationship to tribes. They have also recognized that tribes demand an accounting of federal funding that is funneled through state governments to schools that rely upon a head count of American Indians, and generally they must verify the student's enrollment with the tribe. For schools on American Indian reservations, public schools must renew their lease with the tribe to continue the

operations. And finally, the federal government has supplemented education for American Indian students in public schools through Impact Aid since American Indians do not pay taxes and public schools lose out on this additional source of revenue that benefit schools in urban school districts.

The Reorganization of BIE and Tribal Education Departments

In 2007, the Bureau of Indian Affairs went through a reorganization and changed its name to the Bureau of Indian Education. Then in 2013, Secretary of Interior Sally Jewell and Secretary of Education Arne Duncan convened the American Indian Education Study Group to address the continued chronic failure of the education system in meeting the needs of American Indian students. The Blueprint for Reform was developed with recommendations for five areas of reform. These efforts are currently in place to strengthen and promote the self-determination of American Indians (Secretarial Order No. 3111, July 12, 2013) and continue to restructure the entire BIE to support the self-determination efforts of American Indians.

In addition to the BIE, several federal agencies have been active partners in transforming and shaping the field upon which tribes are trying to build their nations and to resolve urgent issues. Although many tribes have voiced their frustration with the ways in which federal agencies have contributed to the destruction of tribal languages and communities, these same agencies are now their greatest allies in the efforts by many tribes to rescue their communities. For example, in an effort to reverse the colonial effects of language loss, federal agencies, the Department of Education, the Department of the Interior, the Administration for Native Americans (ANA), have enacted grants and programs to maintain and revitalize native language programs and educational programs, as well as create expanded opportunities for American Indian students. Unfortunately, despite the millions of dollars funneled to these tribal

communities, these programs will not succeed in reversing native language loss. None of these combined agency efforts can proclaim they have generated one fluent native language speaker.

With this recognition, the effort to reverse the colonial effects by the original perpetrator is no longer a feasible path. A partial explanation as to why the federal government has failed is due to the vastness of tribal demands with multiple competing agendas, some agendas are undermined and other takes precedence. Although tribes have voiced a need to improve education for American Indian students, this call also is entwined with demands related to land claims, federal recognition, energy development, justice programs, health services, public safety initiatives, and many others that define the basis for tribal recovery efforts.

In addition to the multiple agendas, the federal government must work with over 562 federally recognized tribes. So to adequately prioritize tribal language to create a program to recover all tribal languages has been nearly impossible. Channeling funds is not enough to support the process it would take to create immersion programs. These tribal communities have had to become experts overnight in order to institute curriculum, standards, resources, and a teaching force to reteach native language and encourage community and parental reinforcement of the language. These undertakings will take more than a grant program. Many tribes see that native language loss as imminent. It has created pressure on tribal organizations to reexamine their existing resources.

Tribes have realized that having a seat at the federal table allows their voices to be heard, but true change has to come at the tribal and local levels. The only actors that can take the initiative with these projects to push their tribal sovereignty initiatives have to come from the tribe themselves. This pressure upon tribes has come from the tribal members themselves. The

members have demanded more accountability for the successful education of their students and the demand for language revitalization. Tribes have looked back at their own organizational structures, specifically their tribal education departments and tribal educational codes. Tribal educational codes reform came through the work of the Native American Rights Fund (NARF) that responded to tribal efforts to develop and formulate educational codes that matched the vision for tribal educational initiatives. At this time, tribes that did not have tribal education departments revised their codes to include their goals. Out of the 562 federally recognized tribes, there are approximately six Tribal Education Departments according to one website (TEDNA webpage, 2013) that are paying members to their organization. But based on initiatives funded by the federal government, that number is potentially as high as thirty-two TEDs.

The efforts by tribes to clarify their codes and organizations are intended to revamp their authority, articulate their goals, and to reassess the designs of educational authorities such as local school boards. Many tribes have included a position on the local school boards to include a tribal council delegate. Tribes have realized the importance of having a seat at their own table, specifically the local community school boards.

The history of local communities is an important part of tribal sovereignty. Tribal sovereignty is a story that began with no sense of self identity and no sense of possibilities, but soon evolved to become one of rediscovery as the community began to see itself as the center of the universe. The Navajo Nation discovered that as human beings existing in a country that expounded a belief in democracy, their own power came from the heart of its own people. The local knowledge system in that locality—even after a century of rampant colonial destruction—still persisted. It is still a source of authority, legitimacy, and a powerful foundation to build upon. The knowledge of the people had not been crushed by the ideological pressures

manufactured by bureau workers from the 1930s to the 1960s who campaigned for a Navajo education that created workers in a post-industrialized American society. The bureau workers used their educational institutions as a pipeline to deliver industry, vocation, and skill as a requirement for entrance into modernity.

The Navajo people's introduction to education is a critical foundation for the power and significance of the local. The local is a path way to civilization that the nation-state had crushed to promote uniformity, standardization, and centrality because of their responsibility to state craft. It is against this backdrop that Navajos began articulating a revised self-awareness that discovered the power within their tribe and local communities. The local is an important part of the development of the tribal education department for the Navajo Nation.

There are many institutions and people that touch the lives of American Indian students and it's unclear to many tribes which entity has had the greatest influence and impact upon the success of students. As tribes re-assess their economic environments, they also are reminded that their greatest resources are depleting. Tribal values, languages, and cultural aspirations are diminishing at a high rate and the continued effort to blame the federal government has not met with any success. The federal government and the tribes have run out of excuses and blaming the federal government has met with no real return. This period of self-determination for American Indian communities has been met with the reality that the true practice of sovereignty must begin and the question that confronts all tribal leaders, are they ready to begin establishing sovereignty even at the expense of undermining local tribal authority?

Organizing Education: The Navajo Nation

The creation of new organizational forms under the pressures and consequences of tribal sovereignty captures how tribes are responding to the perpetual sense of loss. Tribes are not

powerless entities, but they continue to create tools and strategies with their existing resources. These tribal organizations continue to persist. But what occurs when the organizations thread sovereignty into the tribe's organization design that tackles everyday educational practices? How do tribes develop their strategies to invest in rule-making with hopes that it will resolve their larger goals? What encounters do these tribes face when they have to make meaning from the local community resistance to tribal sovereignty? Does embedding such a logic fail because of the same barriers that every organizational form encounters? Does it have to relinquish its revolutionary symbolism and become standardized, measured, objectified, and codified to be accepted and legitimized?

The Tribal Education Department (TED) is under the tribe's full authority with the freedom to design and set the agenda for goals and outcomes. Since its establishment, the TED has evolved through tribal codes as a division of education. It is an organization that has conformed to the tribal debates occurring externally and internally within the tribal community. The TED has endured internal and external challenges in claiming their legitimacy and their role as proponents of tribal educational sovereignty.

The goal of this study is to analyze one case to capture the depth and complexity of how the federal roll-out of the many acts and policies has been grounded into a tribal community. The case must have a long history of work with the complex layers of the federal, tribal, and local to detect how these add constraints to the development of the tribe's organizational structure. It also should have a wide enough base to capture how the local schools have received the tribe's own efforts to push its authority into the communities.

The case study will focus on the Navajo Nation with the central analysis centering upon the Department of Diné Education (DODE). The study will examine DODE's early establishment and pivotal points of change to become a tribal education department that pushes an agenda of tribal sovereignty, a logic voiced at the federal level. It is also a site that encounters pressure to reform from local community schools. The Navajo Nation offers the best opportunity to analyze tribal sovereignty since they are in the midst of critical decision making that could push their tribal sovereignty towards a State Education Agency status.

The Navajo Nation has many boundaries defined by educational jurisdictions established by federal and state districts (Figure 1).

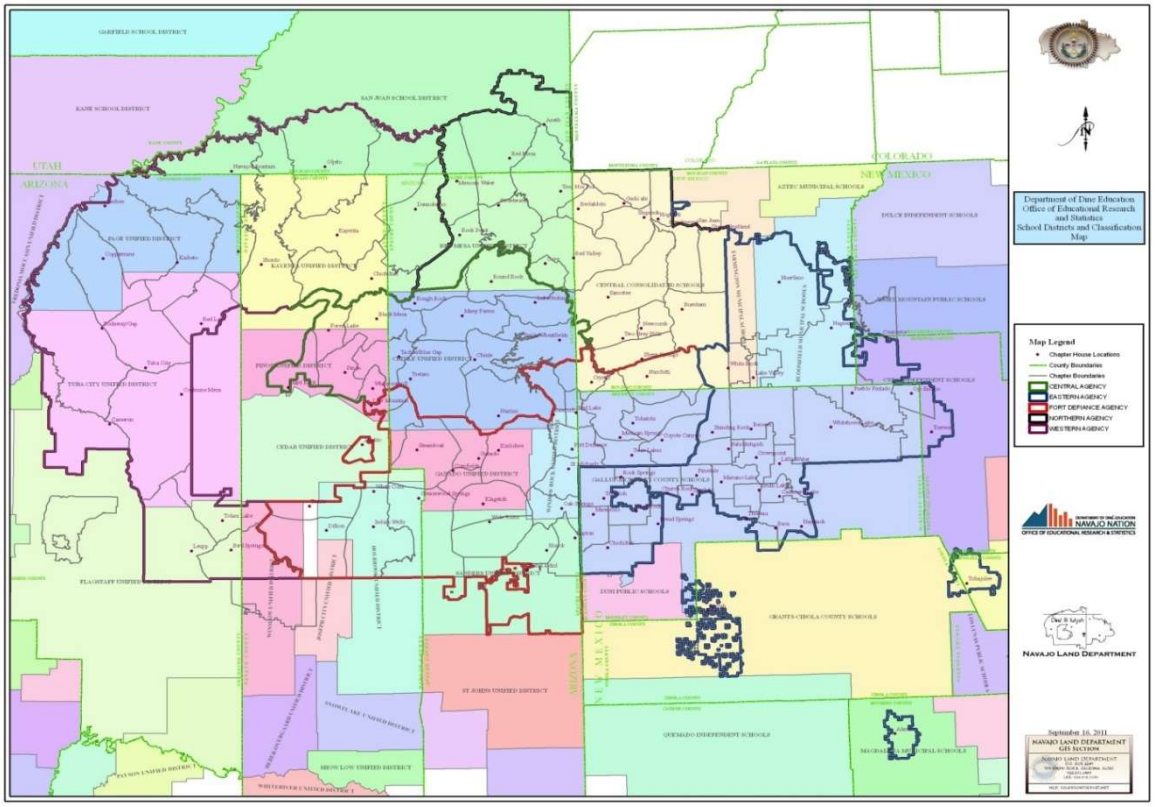

Figure 1: Map of Four States that surround the Navajo Nation. [Map developed by the Navajo Nation Land Department, May 2013]

The Navajo Nation is one of the largest land bases of all American Indian reservations and tribal communities. It has many educational systems that is a confusing layer of the federal, state, and local boundaries depicted visually in Figure 1 which shows all four states surrounding the Navajo Nation. The shaded, colored areas are school districts for all three states (Arizona, New Mexico, and Utah). The bold lines show where the Navajo Nation agencies are: Western Agency, Central Agency, Shiprock Agency, Fort Defiance Agency, and Eastern Agency. This is used by the Bureau of Indian Education to designate school districts for both BIE schools and grant schools. Finally, the lighter lines are boundaries for the 110 chapters assigned to twenty-four council delegates.

In terms of population, the growth of Navajos has been quite substantial, as demonstrated in Figure 2. The population shows the number of residents living on the Navajo Nation reservation, but it reflects the demands upon the tribal government to meet the needs of a fast-growing Indian community, although in 2010, there is a decline in the total number of residents. But the population increases coupled with the layers of jurisdictional issues make it quite evident that the Navajo Nation's tribal education program confronted a host of demands to address the increased need in education from early childhood to higher education.

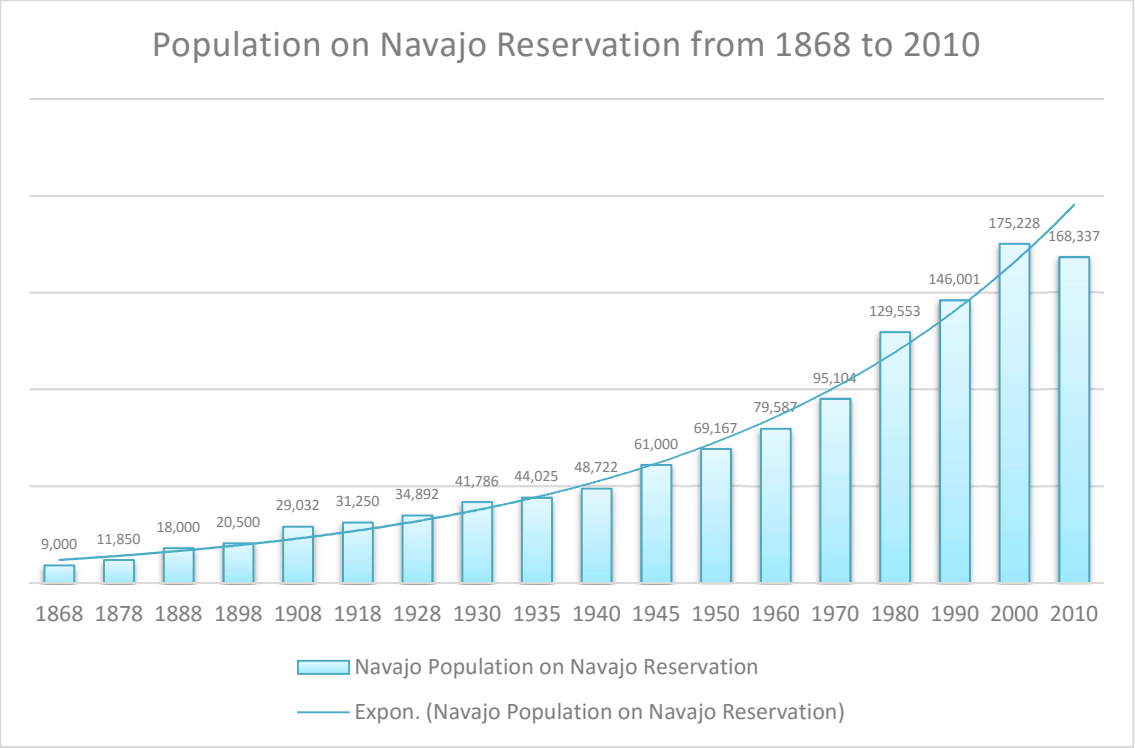

Figure 2: Population on Navajo Reservation (Data compiled from Indian agents reports between 1868 to 1970, U.S. Census data from 1980 to 2010)

Both figures provide the basis on which the DODE must build its own organizational capacity in a very nested environment of other organizational forms and structures ranging from the federal, state, religious, and local governing institutions. The Navajo Nation, as a tribal government, is moving from a position of coordinating with all educational entities to become the monitor of these entities. Eventually, the Navajo Nation DODE envisions that it will take control of all their educational entities that have been laid bare by the federal government's efforts to respond to the high demand of educating Navajo children.

Figure 3 provides an overview of the federal recognition of the educational authorities operating on the Navajo Nation.

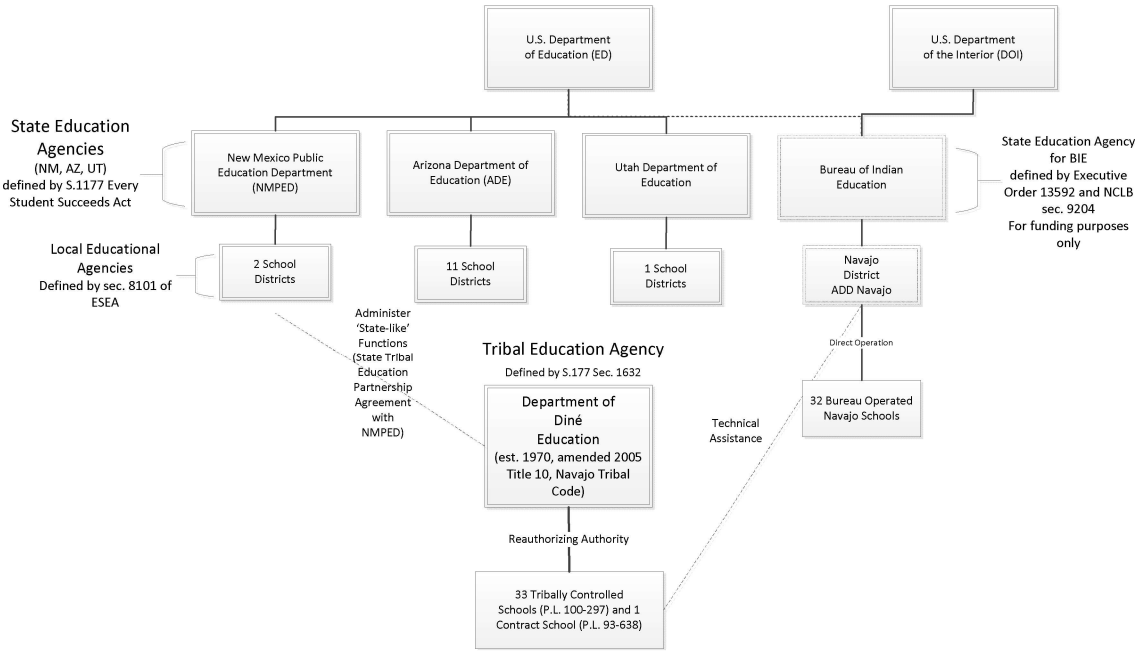

Figure 3: Overview of the State Educational Agencies on the Navajo Nation and the authorities that define their status as education agencies.

State Educational Agencies are defined under section 8101 under the Elementary and Secondary Education Act of 1965. The second type includes the local Educational Agencies which is also defined under section 8101 of the Elementary and Secondary Education Act of 1965. Then finally, the figure shows the location of DODE's status as a tribal education agency which is recognized through No Child Left Behind and revised through section 1632 of the Every Student Succeeds Act of 2016. The Navajo Nation as part of my analysis because of its geographical size in which the central versus local act to transform the logic of tribal sovereignty and drives it to a new version of tribal sovereignty.

In the next chapter, I expand my analysis to understand the early roots of Navajo community control. This section describes the creation of local community schools in the late

1960s which reflected the new movements toward tribal self-determination in Indian education. This section also describes the early creation of the tribal education departments and their role in organizing the local community schools and the federal influences. The site of the tribal education department becomes the intermediary and is defined as a collaborative institution that moves more towards a complex reality.

Chapter 3: Navajo Local Community Participation

This chapter describes the rise of early organizational structures both from the local and the centralized tribal side that set up the relationships to the many local community schools. The articulations of sovereignty were not commonly discussed at this early point in time; rather the articulations of local community were more prominent and the tribal government established itself to match the expanding body of local representatives being established throughout the Navajo Indian reservation.

The early tribal organizational forms centered around the local communities. In the 1920s and 30s, the early development of the Navajo tribal government was in response to the economic needs of the community. In the 1940s, many Navajos participated in World War II which heightened the tribal awareness of the vastness of the world and the role the United States played in becoming a major super power. This level of exposure changed the perception of education for Navajo students. The Navajo tribal council began to demand education for Navajo students, one that was equal to the non-Natives they encountered in their travels: "Navajo servicemen and former war workers alike returned to the reservation with a new understanding of the role of education in life training of their children" (Young 1961:13). In 1946, the Navajo tribal council voiced their concerns to the Department of the Interior Secretary and to a congressional delegation. It was during this period that a study was conducted, and the findings showed that 66 percent of the Navajo population had no schooling (Young 1961:14). This information ignited the push by the tribal council to increase educational opportunities for their students.

On the federal level in the 1950s, the Department of Interior was also in a state of transformation from a centralized structure to a decentralized oversight body. The Department of

Interior decentralized in 1952 when the educational system was removed from the remit of the Bureau of Indian Affairs director and given to the superintendents of the eleven Bureau of Indian Affairs area offices: Juneau, Alaska; Phoenix, Arizona; Window Rock, Arizona; Sacramento, California; Minneapolis, Minnesota; Billings, Montana; Albuquerque, New Mexico; Anadarko, Oklahoma; Muscogee, Oklahoma; Portland, Oregon; and Aberdeen, South Dakota (Reyhner 2004:242). This transfer of duties to a new Bureau of Indian Affairs director Hildegard Thompson, formerly the director of Navajo Education under the Bureau of Indian Affairs, is described as the period when BIA transitioned out of educational programs and was given to the regional offices.

At this time, the relationship between the Bureau of Indian Affairs, the Navajo Nation, and local communities was changing. The Navajo regional BIA office was clarifying its relationship to the Navajo Nation, and the Navajo tribe was developing its own identity as a tribal government through the establishment of its administrative functions and building a consciousness of the local community.

Establishment of Local Governments

According to the booklet developed by the Navajo Nation's Office of Navajo Government Development (1998), the earliest modern Navajo tribal council was established was a business council, which states, "On September 23, 1922, Midwest Oil Refining Company struck oil in Shiprock, New Mexico area. As a result, under the direction of the Secretary of Interior, a "Business Council" was formed to approve the oil leases on behalf of the Navajo tribe" (1998:12). At this time, there were six agencies that were arrangements of regions of Navajo land. These were based on the clusters of boarding schools developed by the Department

of the Interior which were: Western Navajo in Tuba City, Arizona; Southern Navajo Agency in Fort Defiance, Arizona; Pueblo Bonito in Crownpoint, New Mexico; San Juan Agency in Shiprock, New Mexico; Navajo Extension in Leupp, Arizona; and Moqui Agency in Keams Canyon, Arizona, which later became Hopi Agency. Each agency voted for their council delegates and an alternative delegate. This eventually changed to twelve delegates in total after a revision in the regulations. The first council meeting was held on July 7, 1923 and Chee Dodge was elected Chairman (Office of Navajo Government Development 1998:12). The council's first business was to sign the oil and gas leases on the Navajo Nation. Eventually, the tribal council membership size increased to keep pace with the changing structure of the Navajo Nation.

The Navajo Tribal Council increased again to seventy-four members. The increase was due to the establishment of additional chapter governments through the support of a federal superintendent. In June 1927, John Hunt, a superintendent of the Leupp Agency began devising the development of local community organizations, which came to be known as chapters (Navajo Election Report 2015; Office of Navajo Government Development 1998:33). There was not a formalized system to build up the chapter systems and therefore, local communities were left to their own to address local matters (Office of Navajo Government Development 1998:33). During the New Deal period, under John Collier's efforts to institute the Indian Reorganization Act (IRA), the Navajo Nation rejected the New Deal in 1934. It wasn't until 1938 that the Secretary of Interior recognized the Navajo tribal council, and the council membership was enlarged to over seventy members in 1978. This was in part to the increase in chapters in the mid-1950s (figure 4). Even though the business council had been recognized as the equivalent of a tribal government, the multiplication of local governing units was outpacing developments at the tribal level.

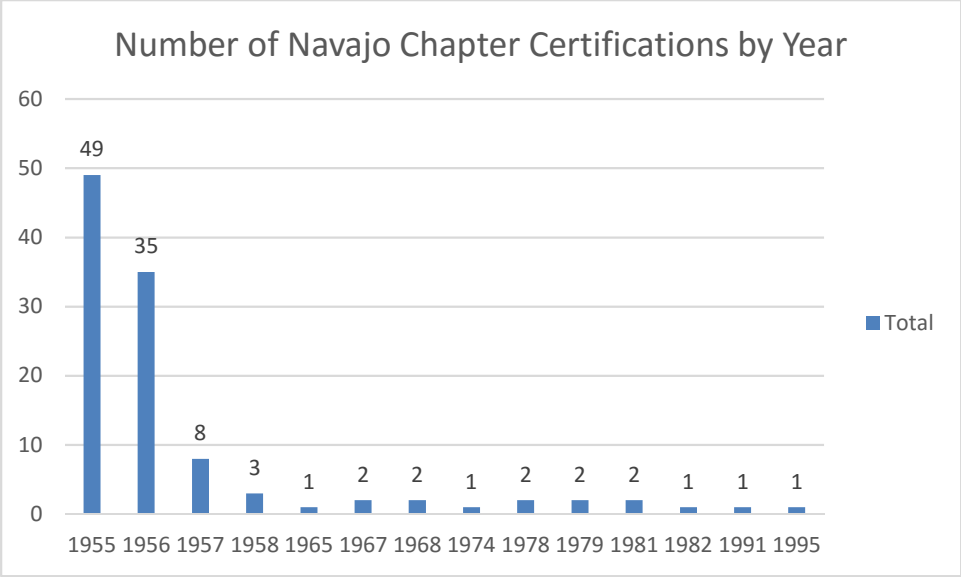

Figure 4: Number of Chapters certified on Navajo Reservation to create the 110 Navajo chapter system (Office of Navajo Government Development Report 1998)

The next big change occurred on June 5, 1978, based on a reapportionment plan, the number of council delegates representing chapters increased to its largest body of eighty-eight members representing 110 chapters (Office of Navajo Government Development 1998:17). The highest number of certifications of these chapters occurred in 1955 as noted in Figure 4.

The concept of local governance wasn't formalized within the structure of tribal government until September 11, 1980, when the Navajo Tribal Council adopted a plan of operation for Chapters. This gave authority to chapters and started the first steps towards decentralizing the Navajo central government. It wasn't until April 27, 1998, when Navajo Nation President Thomas Atcitty signed the Local Governance Act into tribal law which, "[T]his Act provides major improvements to Chapter government by recognizing local governmental authority over local matters and requiring local officials and administrators to govern with responsibility and accountability" (Office of Navajo Government Development 1998:33). It further allows, "Chapters can authorize by resolution, the issuance of home, business, and other site leases, subject to local rules and regulations; acquire, sell, or lease personal property of the

Chapter; enter into agreements with other chapters. Chapters can also enter into intergovernmental agreements with state, federal, county, Navajo Nation and other governmental entities for the administration of service delivery functions, subject to approval by the Intergovernmental Relations Committee of the Navajo Nation council" (11 N.N.C. Part 1 Section 10, 1998).

In December 15, 2009, the Navajo Nation voted to reduce the council from 88 to 24 tribal delegates, which passed by a special election. The motivation for the reduction was to increase accountability of the Navajo government by equalizing power among the legislative and executive branch. A report showed a comparison to the New Mexico State Legislature which stated, "A council delegate represents an average of 2,000 constituents…within the State of New Mexico there are 70 elected members to the House of Representatives…[they] represents an average 28,000 constituents…There are 42 members of the Senate…A state senator represents an average of 45,000 constituents" (Shirley, Joe; 2009:8). This comparison between the state and Navajo Nation tribal council focused on using numbers to scale down the vastness of the representative over their domain of constituents. The reduction was intended to increase efficiency and bring fiduciary responsibility and through reduction of tribal council delegates would equal a reduction in salaries and stipends.

Arguing that district organization was imperative for large Indian reservation, Felix Cohen's reflection and impact analysis of the Indian Reorganization Act pointed out that one feature of districting as a tool to encompass views of the local communities. Although Cohen was not the author of the Navajo tribal constitution, his analysis clarified the views that drove early tribal government design. He asserted that "where the reservation is large, it is hardly fair to have people vote upon candidates who are not known to them and who live so far away that

the representative is likely to think first of the interests of his constituency" (Cohen 2006:23). The local communities sought to establish their identity and control over their schools. The Navajo people's experiences were changing as was the identity of the tribal council as they began pushing for more schools to be built within their communities.

The Chapter representatives requested the construction of schools in their communities, particularly within the vicinity of their chapters. Many of these have closed down, but shown in Table 1 there were one-hundred-two schools at one point and in 2016, there are sixty-six schools.

Period	Federal Schools Established
1890-1899	1
1900-1909	4
1910-1919	2
1920-1929	1
1930-1939	32
1940-1949	1
1950-1959	40
1960-1969	11
1970-1979	7
1980-1989	0
1990-1999	1
2000-2009	0
2010-2016	0

Table 1: Number of schools established. Compiled data from the Navajo Yearbook (Report No. viii); tribally controlled schools' webpages; and AdvancED executive summaries.

The tribal council demanded that more Navajo students be educated, but the sentiment from many families was that they didn't want to have their children leave their homes. In earlier policy efforts, students had few schools to attend, and many schools were established off the reservation. There were not enough schools for the number of school-aged children, so the federal government passed the Long Range Act in the 1950s to support the expansion and building of schools. Where schools were not built, trailers were brought into the remote areas to help support the increase in student enrollment.

Robert Young describes the establishment of trailers being placed in many communities alongside construction projects. Young pointed out the number of trailers that were moved because of the lack of water and electricity for the trailers (Young 1961). John Reyhner summarized the significance of these trailers as, "These 'trailer schools were to supplement the central boarding schools, community boarding schools, and regular day schools. The idea was that in areas where trailer schools were successful, permanent school[s] would be built." (Reyhner 240). This description by Reyhner showed a cautiousness of building in remote areas because of the fear of low enrollment and lack of infrastructure that would hamper the success of schools in some of these very rural areas.

The federal government spent nearly $25 million dollars on the construction of these schools. As noted in the list above, the sites were close to chapters and contributed to the new political identity of the Navajo tribal council. In Hildegaard Thompson's reflection of this period, she talked about a conversation with a council delegate from Ganado. The delegate felt his demands were not begin met by the federal government. In her role as the Director for Navajo Education under the Bureau of Indian Affairs, she promised a school. She found a room and found a local teacher to teach students in the Ganado community. This engagement with a tribal council delegate reflects the desire by tribes to have these schools built (Thompson 1975). The local chapter representatives agreed to push these projects forward with what was labeled as "crash construction".

This period of the continued growth of local schools had to cope with the issues of the deterioration of these schools. Robert Roessel Jr. (1979) described future efforts to improve these facilities in forty-recommendations aimed at school construction improvement. He envisioned the role of the tribal government was to they needed to assert "Greater Initiative" (Roessel 307),

which was an opportunity to create alliances between the public schools and Bureau of Indian Affairs (BIA).

The Impact of New Schools on the Local Community

The exchange between the federal government and the Navajo community members revealed a complex relationship based on distrust and mis-understandings of the capabilities of the local community. In Robert Roessel Jr.'s story of *Tragedy at Low Mountain* (1967:60), letters between the school and the federal government in 1956 to 1958 reflect an early instance in which a Navajo community create a community school despite its lack of significant resources. The federal government labeled the community as hostile to the establishment of a school. But instead, members of the community volunteered their time and energy to support the integration of a school into their community. The exchange of letters reflects the request of the federal government to permit local community volunteers who built and maintained the roads for buses, constructed many buildings to bring water to the government school, a warehouse, a root cellar, a school and community shop, a sewing room, a grease rack and a large community building. Roessel (1967) reflects at the summary of the chapter the significance of the energy and devotion of the community members. He states:

> The significance of this story…an attempt to demonstrate once and for all that an Indian community can and will accept responsibility – that an Indian community can and will use all of its resources for its growth and development – that an Indian community can and will become responsible for the school and for the community. Low Mountain must not be forgotten. Those people who did so much with so little lit a lamp in the darkness which burned brightly, if only for a few years. Today, when people are critical of the Indian population and its hesitancy in accepting responsibility and its lethargy in determining its own future, we need to remember what these uneducated Indians did at Low Mountain. It can happen in other communities; it must happen in other communities (Roessel 1967: 111).

The letters represented the will and ability of community members to create a place for their children to learn and grow. The continued dismissal of the federal government's recognition of these community members' efforts increased their efforts to transform their community to be a place to learn. This story of will and effort sets up the eventual establishment of the first community controlled school.

This early episode of Low Mountain was just an example of the experiences of all these small communities were integrating the school into their identity as a community. The education of students was a significant move for families as they learned more about the need for educated leaders to help formulate the pathway for student's success in the world. It was until nearly a decade later that the idea of a local community could participate in the everyday decision making of its schools and be recognized by the federal government as legitimate.

In the early writings of Robert A. Roessel, Jr., the director of the first tribally controlled school on the Navajo Nation, wrote, "The right to be wrong and the right to be right – are essential American prerogatives – privileges of democracy. This freedom that comes with the right to be wrong or right gives our country [U.S.] its eminence" (1968). This statement captured the essence of giving these local communities a chance to create a school that fit the desires and goals of the local community. A school system that is effective needs an opportunity to *be wrong.* This statement gives the local community a chance to create a school system that works.

As he described fervently in many of his writings, the effort of local community engagement was also an exercise of democracy not previously afforded to Navajos. The period from the 1960s to the passage of the Indian Self Determination Act of 1975 reflects the experimentation of a tribally generated organizational design. This design led the way for other

educational organization designs, funded by the federal government and tribal governments, which were under watchful eyes as they expressed emerging understandings of tribal sovereignty. According to Roessel, tribally-controlled meant community-controlled. Locality was the driver of the political identity of Navajos in the early 1960s. The careful crafting of organizational design helped to initiate a movement throughout Navajo Nation, and Indian country. In the reorganization of the Rough Rock Community school, he included the role of the Rough Rock School Board to have a strong level of engagement in the administration of the everyday school needs.

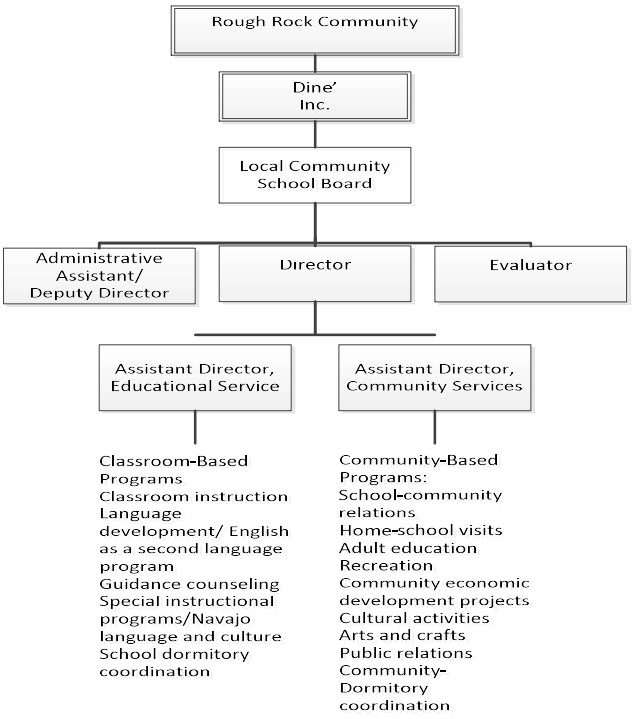

Figure 5: Rough Rock Demonstration School's Early School Organization (cited in McCarty 2002:85).

This early organizational design of the local included a board that was made up of community members. The Rough Rock community, located in northern Arizona, in 1966 was very poor and was highly uneducated. But the importance of community involvement transformed the make-up of board membership. School boards established the goals and mission

for the school administrators and teachers. The members were not selected through the federally accepted practice of hiring based on civil service rules, which required board members to have a college education. Instead, the Rough Rock Demonstration School permitted the election of local community members as board members disregarding the civil service selection. This was a major surprise for many Rough Rock community members since they never taken an active role in the education of their children. Local community members included parents and community leaders which integrated the importance of Navajo language and culture as a complement to the curriculum taught in the schools. The experience was significant for Navajos because it ignited a unique and new form of political participation. It helped to heighten a consciousness of the identity of Rough Rock as a place that the voice of the local community mattered. In addition, parents were also hired to work in the dorms in order to raise awareness of the importance of an education and school.

As awareness of the powers of the local community to make change grew, the Rough Rock Demonstration School also constructed the first early design of a local school board authority and power over the shape of the organizational goals and programs integrated into the schools. The early design placed a big emphasis on both educational services and community services. These two areas received equivalent roles in the educational experience of students.

The significance of community services shows an awareness of the local community's own needs. The school and community relationship as a programmatic aspect of the school demonstrated that the Rough Rock community played a pivotal part in the educational experience of the students. Education was not only about learning to read, speak, and write English, but it also involved understanding how the identity of the students was bounded in the community realities. Another added aspect of the school's program goals was a focus on the

Adult Education program. This added program was a recognition by the school board that educating students in the community required a match in the local community.

These early forms of local community knowledge as equal to educational opportunity introduced the earliest local community engagement as the decision making authority over its own students' educational goals. As noted in the organization chart, community-based programs included the hiring of parents to work in the dorms. Parents were able to participate in the education of their children. They also had parents come to assist in arts and crafts activities and cultural events. Never had the lines of community local involvement been so apparent in the history of Indian education.

This model of community participation engaged the top ranking leaders working for the Navajo tribal council's education committee. The idea of local involvement in the education of children in the 1960's was a new undertaking that had the full support of the federal government through funding that had come through the War on Poverty funds under Lyndon B. Johnson's administration. At this time, the war on poverty concept was centered upon community action as a model of addressing social concerns. Undergirding the application for funds for the school, education was viewed as a tool to address the social and economic disparities in the Rough Rock community. This was the first in Indian education history that local tribal community members became actively involved in the make-up of the board which led to programs that had a strong inclusion of parents into the school employment system, and the design of curriculum (Roessel 1967).

The message of local tribal engagement was felt and in a policy statement released by the Bureau of Indian Affairs read by Dillon Platero in 1970:

> Indian people will be encouraged to transfer from Federal schools to existing Public school districts or to form new public school districts. Full participation of Indian parents and community leaders in public school operation will be encouraged. In order to assure that public school are fully responsive to Indian needs, the Bureau supports reprogramming portions of its education operating base so that it may be added to the Johnson O'Malley, as significant transfers to public schools take place. In the event that the public school route is not feasible or not acceptable to Indian communities, the Bureau encourages Indian Tribes, individual communities, or school boards to contract and operate existing BIA schools (Platero Papers 1970:26).

Platero summarized this as getting Indian affairs into the hands of Indian people where they belong. This period loosened its continued oversight of tribes.

Community by community, local schools began to mimic the efforts that occurred at Low Mountain and Rough Rock. Federally managed schools were given to local community school boards throughout the Navajo Nation. The local communities began to transform into collective actors conscientiously participating in the school to show that community owned the school. The awakening that predated the demand for education for Navajo students in the late 1940s and 1950s now shifted to a demand by Navajo communities for control of the schools educating their Navajo students (Thompson 1975). Creativity evolved from this community that defied preconceptions that American Indians were unable and incapable of fulfilling the spirit of creationism.

This period was described by Dillon Platero in, "Indian Education – What Lies Ahead" a speech delivered to American Indian students attending Navajo Community College on May 18, 1970. He states:

> If your thoughts are like mine, and I rather imagine they are, you see the potential for achievement so clearly that it is enough to make one ache. But random striking out at a system is nowhere nearly enough. What we need is a sense of unity, a sense of purpose, and a sense of reality. Things are being accomplished by Indian people right now. New ventures are beginning almost daily in which Indians are the instigators, the controllers, the operators, and the recipients of the benefits. It cannot be too strongly emphasized that

> when we speak of things being done, being actually accomplished (as opposed to fuzzy minded eternal planning), we are talking about Indian people, about Navajo people, causing these things to happen. This, to my way of thinking, is the only way we will make significant and enduring progress on our reservation (1970:7).

Platero's description captured how each generation that entered the space of Navajo education, had a different conception of how to act upon education. For too long, the government managed the affairs of Indian education. The advent of policies such as the Indian Self-Determination Act of 1975 which gave more authority to tribes which also legalized concepts of funding, hiring, firing, transportation, construction of school sites, staffing, certification of teachers—that it became evident the early structures were not self-sustaining and therefore additional modifications occurred such as the Public Law 297—the tribally controlled schools act of 1988. The tribally controlled schools act began the first steps towards embedding the law into existing organizations, which came as the national and tribal laws were incorporated into framework of the tribally controlled schools.

In Joanne Nagel's work on tribal ethnic revitalization, she observes that ethnicity is revitalized and constantly renewed through cultural productions and reproductions. These ethnic construction processes occur in a larger social context where ethnogenesis is influenced by political polices that designate, legitimate, and reward particular ethnic boundaries (1996:10). In the case of the Navajo Nation's Indian education experimentation, ethnogenesis began for the Navajo Nation with the established Rough Rock Demonstration School in 1966. The mechanism of *navajo*genesis came as the theorizing and importance of the role of locality.

Navajo Division of Education (Est. 1970)

In the era of the self-determination of organizational local community designs, the Navajo Division of Education (NDOE) was established. In 1970, Navajo Nation established one

of the earliest forms of a tribal education department (TED) in order to create a collective organization to manage the affairs of Navajo education. The establishment of the NDOE in 1970 was a unique tribal government act. Prior to the established TED, the responsibilities of the educational initiatives were the responsibilities of the Navajo Nation Tribal Council's Education Committee. The Navajo Nation tribal council at that time consisted of 11 committees and a body of 110 members. In the 1962 Tribal Code on Navajo Education, the council passed the Navajo Education Policy Statement which was a joint agreement between the Bureau of Indian Affairs and the Navajo Nation Tribal Council's education committee. The document is a unique artifact that reflects the role the education committee played in dictating the terms of the agreement. The agreement defined the parameters of the relationship between the two entities impacting the education of the students.

The Navajo Division of Education (NDOE) became a site to coordinate all activities for all Navajo Education. Riding the waves of Navajo education experimentation, the division came in after the establishment of the 1966 Rough Rock Demonstration School and the 1968 Navajo Community College. It was obvious that the Rough Rock demonstration project sparked local community involvement in the political participation of school boards. The established TED, both structurally and functionally, was built on pre-existing organizational movements and reformulations of what an actual educational entity would look like. It's important to draw out the historical designs of educational experimentation that evolved from this time period to finally come to what is currently known as the Navajo Nation Department of Diné Education (DODE) of 2014. The design of this institution reflects how sovereignty plays out in a design formulated by a tribal nation.

The early design of Navajo Nation's Division of Education arose in a flurry of other institutional creations with influences from the Bureau of Indian Affairs that was originally structured into four programs, Elementary Education, Secondary Education, Vocational and Adult Education, and lastly, Higher Education (Navajo Nation Tribal Code 1969). There existed early contention between the local communities and the Navajo Division of Education.

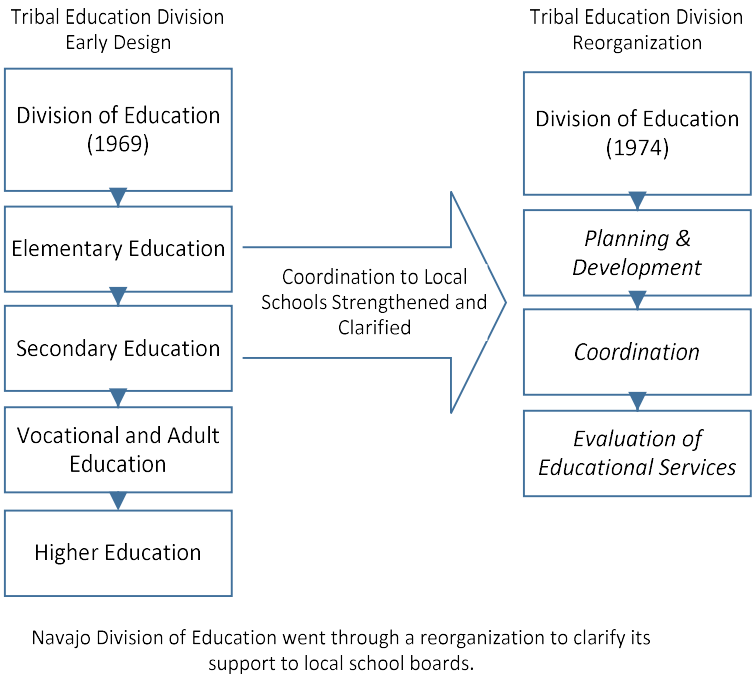

Figure 6: Comparison of Tribal Education Departments Early Modification to match relationship to Local School Support (1969 to 1974).

In Figure 6, the early established structure accepted the pre-existing model of U.S. educational flow of student growth and development. The formation of the structure accepted the American assumptions about the process through which a child moves from one grade level to the next (Spring 2008). There is a pattern in which a child's progress relies on the level of learning and intellectual progression. The DODE's early organizational form integrated a basic

format, even under the guise of Navajo control, embodying segments of the current educational American framework. This design tested the waters of establishing its legitimacy as an institution that would become the central coordinating site for all Indian education. In this formation, its development relied on establishing a framework to create a sense of legitimacy by imitating the current educational framework in play for all American education. The organizational frame embodied the practice of imitation and mimicking the American educational system in order to establish a strong sense of legitimacy when the world of education was watching.

In addition, the early model included Adult Education as a separate category to ensure that adults who missed the opportunity to attend school were able to play catch up. This decision to be inclusive of school board members without a college degree inspired the need to engage older adults to learn a trade. This missed opportunity was a sentiment that was especially stressed by Sam Ahkeah, tribal council delegate, in the 1950s and into the 1960s who told a story of missing out on educational opportunities. His parents had prevented him from attending school in order to take care of the livestock, his family's primary economic base (Iverson 2015). This concern was similar to others who expressed their own remorse over the loss of their experience with education and it was a sentiment that echoed into the Navajo tribal chambers with resolutions and minutes that reflect the effort for adult education.

The practice of creating a new structure to address the complexity of Indian education on the Navajo Nation with limited resources was very evident. The early design took on the full gamut of the entire educational experience of all Navajos at all levels. To create a new order to restructure old issues required continuous reordering and tweaking in the early designs. In 1973, Mr. Dillon Platero was identified by the Education Committee to lead the new organization, the Navajo Division of Education. Mr. Platero, a former Education Committee member and second

director for the Rough Rock Demonstration School, was viewed as a pioneer in Navajo education (Roessel 1979).

In the document, *Strengthening Navajo Education*, produced on June 17, 1971 described the early Navajo Division of Education (NDOE), renamed DODE in 2005, as the "primary vehicle for assuring the preservation of the Navajo cultural heritage." From the beginning, Navajos headed most of the departments within the division. These efforts at organizing had to contend with the layers of jurisdictions from the federal to the state. But there also existed tension among the local and tribal agency.

Roessel pointed out that at times, the chapter did not prioritize education. He writes, "As for the Navajos themselves, chapters are accused of not considering educational issues sufficiently and they are said to leave these issues last on the agenda after most people have gone home. Tribal agencies such as Navajo Area School Board Association and Navajo Division of Education are urged to stop squabbling and unify to solve educational problems" (1979:307). Roessel's reflection on the chapter level dynamics show the added challenges confronting local communities and tribal education agencies as they try to resolve their differences.

The early tribal code placed the Navajo Division into a partnership with other educational entities that operated on the Navajo Nation. The NDOE was established but much of its direction and guidance relied on the "coordination" with local school boards. There were a variety of school types including the public schools, federal day schools, boarding schools, mission schools, and finally, the tribally controlled schools. The tribal code, which is devised through tribal council meetings, reflected the sentiment of the times. It described local community school boards as the source of decision making for all of Navajo Nation. The reliance upon the local

school board as reflecting the interests of the Navajo people was still a new concept at this time and as Navajo Nation with a large political body of tribal council, these represented the first pockets of local control in a very centralized tribal government structure. The tribal code language centralizes the local school board as the operating entity promoting educational reform. Reform that privileged the local community, which is an important feature that carries into the current design of the Navajo Education Tribal code of 2005—but as I will later discuss, has set up the foundation for contentious politics in efforts to push the agenda of a more unified and centralized tribal education agency pushing to become integrated into state like functions.

In 1974, NDOE was again reorganized. This time it was "reorganized into three components: planning and development, coordination, and evaluation of educational services". The shift from a four program entity into three reflects how the earlier model did not meet the needs of NDOE, which put forward organizational demands of coordination, research, and information gathering as defined by the tribal code. It was during this time that NDOE had to confront the reality that they had "no real control over the schools, their board, the hiring of staffing, the curriculum, the assessments, or even enrollment of students" (Interview D. Platero 1978 via UNM Records). The reorganization under Mr. Platero indicated that covering the wide spectrum of the education arena would pose many challenges as the NDOE did not have complete control or oversight of mission, BIE, or public schools. Therefore, the shift into planning and development, coordination, and evaluation of educational services—as indicated in the titles—took a more state-centric view of the educational needs of Navajo students. This organizational reformulation transferred these changes into a form that would provide the tribal leaders the tools to make decisions of the current education programs in place. In other words, it became an organization to instruct, educate, compile, in order to better advocate for the needs of

Navajo students rooting themselves in the multitude of school types that fell within state and federal jurisdictions. The underlying unifier was that the recipients of the institutions were the Navajo students. The structure did not change much into the 1990s, the title 10 Education tribal code, articulated the roles of the NDOE to be coordination with local school boards.

The next policy shift was one of accountability and standardization through No Child Left Behind (NCLB). NCLB has forced the hand of many schools operating on tribal communities to commit themselves to state plans of accountability. Under such state plans, output is incremental and the goal of 2014 for all schools meeting 100% Adequate Yearly Progress (AYP) meant that accountability was visible and measurable and comparable. They must build plans and strategies that must work to address the demands of school improvement.

Chapter 4: Transitions to a Sovereign Vision of Diné Education

In this chapter, this section will set up the analyses of my study into three areas: the first is the meaning of tribal sovereignty defined by the interviews I conducted with each of the leaders in each of the organizational domains. This will help me to set up the analysis of the remaining areas. The second analysis is of the political field of protest and concerns by all entities. The third analysis explores the source of organizational responses and mismatches to the political concerns. The contentious relationship between the tribal education department and the local schools, both operating under the perception that they are enacting tribal educational sovereignty in some form, reflects the limits and ambiguity of their authorities. On one hand, the tribe's development and early establishment of local governance creates the organizational field, represented by the Department of Diné Education (DODE), within which the tribal government struggles to exert its authority over local schools. On the other hand, the local school boards also struggle to uphold their authority and control over local education as they have come out of the realities of a challenging policy terrain of heightened standardization and accountability. Together, both the tribal and local bodies use their common link, the tribal council, to voice their concerns in order to attempt to resolve the organizational differences.

To capture the complexity of the contention, the first section will describe the common definition of tribal sovereignty by the organizational leaders in this study. The second analysis will show the current challenges articulated by the two entities through field notes, newspapers, interviews, and tribal resolutions. The themes of protest illustrate the main contention between the entities; first, the local school boards against the DODE, second, DODE's concerns towards local school boards, and third, the responses by the tribal council. The third section will be a

comparative analysis of organizational designs of both DODE and local school boards as represented by both federal and tribal laws, organizational charts, operating functions, missions and vision, operating budgets and staffing. These items will serve as my evidence to support the lack of alignment and cohesion among the organizational bodies. In each of these comparative contrasts, I address how each is enacting sovereignty. And finally, the fourth section will highlight some organizational responses that have led to the heightening of accountability.

"The People Have the Power"

In a series of interviews, educational leaders on the Navajo Nation each defined the meaning of sovereignty from their own position of authority and power. From the view of the Department of Diné Education (DODE), sovereignty is defined as the following:

Department of Diné Education leaders:

> Sovereignty is being able to institute your own vision, mission within our nation and within our community (DODE Superintendent Interview, September 13, 2013).
>
> Sovereignty is philosophical. It's inherent sovereignty in education and it's about how to operationalize that is the harder to understand. We are a nation with tremendous power and we are dependent on the federal government. We have to exercise our inherent sovereignty (DODE Program Manager, September 11, 2013).
>
> Self-determination is the operation of our own schools (Navajo Nation Board of Education President Interview, September 18, 2013).

Tribally Controlled Schools (Local Schools) Leader:

> Sovereignty is the ability to talk for yourself and make your own decisions. To have our own plan in place and the knowledge in place with being in control. From beginning of time, it should be premised on our way of life because of our inherent sovereign rights which has its good side and bad side (Tribally Controlled School Superintendent Interview September 8, 2013).

Tribal Council Leader:

> There are levels of sovereignty, in the classroom, its teaching what they like and what they know. In the tribe, it's setting programs and standards to meet what we want for our

> students. Sovereignty is about our tribal self-determination to decide what our kids should know. Education is an opportunity to train the mind and to create opportunities. The people should have that power (Navajo Nation Tribal Health, Education and Human Services Council Delegate, September 4, 2013).

A common theme among all five of the interviews is a reliance on the word "our" which show that tribal sovereignty allows an ownership by the nation, tribe in order to act on "our" schools. The language of possession by a nation creates a sense of belonging. It does not hinge on one individual but the "our" recognizes there are *others* involved with the effort to do the work of sovereignty.

The purpose of highlighting the responses from the tribal side is to show how each defines the meaning of sovereignty and how their positions of power inform their perception of what sovereignty is. This maybe the beginning of the contention for each leader. For the DODE leader and the tribally controlled school leader articulate a very similar vision of sovereignty under the auspices of *nation.* The tribally controlled school leader articulates a vision of sovereignty that uses some of the same language of decision making and inherent rights. Then the tribal delegate provides a more encompassing view of both the DODE and tribally controlled leader. The unique perspective comes from the tribal council leader who clarifies there are two spaces in which sovereignty can act, the classroom and the other, the tribe. The tribal council leader articulates this vision from a position of power and authority that manages the two organizing bodies of sovereignty, the tribe and the school leaders. Both entities all have the same charge of enacting sovereignty through the means of self-determination policies.

Finally, the leaders clarified their interpretation of sovereignty as having the ability to make one's own decisions. Although the tribe as a whole has layers of differing educational organizations with differing missions and functions, they view the tribal nation as having the inherent right to make decisions that impact the direction of the educational needs of the tribe.

Although one thing is clear, that through the interviews there are a lot of voices and whose decisions matter most will be the point of this section.

"Local control will be gone"

On August 21, 2013, nineteen local tribally controlled school board members took their concerns to the Navajo Nation's tribal council's Health, Education, and Human Services Committee (HEHSC). In the background, murals on the tribal council chamber clay walls reflected a sense of Navajo endurance and survival. Images on the walls depicted the 1879 treaty signing between the Navajo Nation and the federal government. Images of Navajo code talkers and the discovery of oil on the reservation. The walls showed the complex history and rise of the Navajo Nation and it was in this meeting that the nineteen school boards stood strongly in protest to the Bureau of Indian Education (BIE) and the Department of Diné Education (DODE).

HEHSC, the education subcommittee of the tribe was there to mediate and respond to their demands. They invited the local school board leadership to voice their concerns towards the staff at both the BIE Navajo District and the DODE. The local school board members demanded a resolution to the issue of programs being instituted by the DODE without their knowledge or input.

The local school board members accused the BIE and DODE of excluding them in the development of an overall Navajo Nation school improvement plan. They blamed the two for purposely miscommunicating to them (Field Notes August 21, 2013). The complaint snowballed into more issues, a stolen bag, staff "illegally" meeting to sign documents on an interstate roadside, DODE staff without educator backgrounds, and the blatant "mistreatment" towards local communities. The HEHSC, DODE, and BIE staff sat silently watching as the local school board members listed their criticisms.

The BIE Associate Deputy Director (ADD) was given the floor to speak after two hours of political chastising from local school board members. He stated, “Blame me. Now that you have someone to blame, let’s talk about the solution.” These words were boldly spoken but were intended to shift the discourse away from an interrogation of BIE and DODE and towards the purpose of the realigned effort by BIE and DODE to resolve the continuous poor performance of schools.

The program being discussed was developed by DODE and BIE to address the persistent poor performance of schools within the Navajo Nation. To DODE and BIE, it was clear that local schools were not holding teachers and schools accountable. Each year, school boards submitted reauthorization packets to the DODE which discussed their school improvement plans but according to the DODE, they never fulfilled the goals described in the plans. Local school boards fought against DODE when control of their funding was threatened. The local school boards spent a significant amount of time undercutting the DODE and BIE’s legitimacy by voicing their lack of jurisdiction over the local community schools. The Navajo Nation-wide school improvement plan, titled the Navajo Turnaround Plan, was determined to take on a decade of consistently poor performance of local community schools. The plan was distributed to schools and met with resistance from local school boards.

That same year, the tribe requested funding from the Bureau of Indian Education to study the possible implications of the full transfer of thirty-two tribally controlled schools’ funding to the Navajo Nation to give the tribe a chance to build up its capacity. The argument for this transfer was to address the following, “[T]he implementation of the ‘One Grant Concept’ regarding the direct authority of the Navajo Nation to have a much greater and substantial role in the education provided by schools presently operated and/or funded by the BIE” (Navajo Nation

Board of Education Resolution, December 7, 2012). The first preliminary report was drafted and presented on September 12, 2014. Afterward, the report was released to the public and the press printed the first article which stated, "Feasibility study recommends Navajo Nation take control of Bureau of Indian Education schools" (*Daily Times*, December 8, 2014). The article quoted a tribal council delegate as saying, "The Navajo Nation [DODE] does not have the capacity to take 66 more [federally funded] schools". The response by the tribal delegate revealed a popular view that the tribe could not manage the responsibility of taking over schools at all. His quote reflects one sentiment of how tribal council delegates themselves, as actors of tribal sovereignty, questioned their own tribe's ability to manage the control of these schools.

The article also quoted a tribally controlled school official stated, "I am a little bit discouraged by the presentation today because I think that we are putting the cart before the horse." The official recommended that, "[T]he education department need to think about who the 'ideal education Navajo person' is and then work from there" (*Daily Times*, December 8, 2014). The school official's quote represented the confusion of the goal for the taking over all 66 schools. What followed were a series of public hearings to discuss the feasibility plan. The local school board took the initiative to make their interpretation of the plan known by posting an ad in the *Navajo Times* (2014). The advertisement in the local tribal paper reflects the perception of the local school board that challenges these efforts undertaken by the NNBOE and DODE. The advertisement in the *Navajo Times* was in direct response to the feasibility plan, which stated:

Figure 7: Advertisement sponsored by the Diné Bi Olta School Board Association (The Navajo Times, November 2014).

> Your Navajo community school is being taken over by the Navajo Nation Department of Diné Education (DODE)-like Head Start
>
> All your Navajo school funds will be taken to the Navajo Nation
>
> The Navajo Nation will control all the Navajo schools
>
> All hiring and school finance will be done in Window Rock
>
> Local control and elected school boards will be gone
>
> This is a serious violation of the Navajo Nation Code Title 10 (*Navajo Times*, November 2014).

The statements target the primary concerns voiced by the respondents which targets funding and control over their school systems and doesn't focus on schools or academic performance of students. The language frames DODE as disempowering the local system by centralizing all funding. It also used the Navajo Nation tribal code to accuse the DODE of violating the tribal law and not acting in the best interests of the local community. Following this advertisement, a series of articles were generated by the *Navajo Times* that captured the continued perception of

DODE's proposal, which was then going through public hearings. These hearings generated a lot of backlash by local school boards that were articulated by the local tribal newspaper as:

> Public still nervous about tribal takeover of BIE Schools (November 19, 2014)
>
> Educators say no to BIE schools' proposal (December 11, 2014)
>
> Public Softening on BIE Restructuring (March 19, 2015)

The DODE attempted to mitigate the confusion by posting an advertisement in the *Navajo Times* on October 30, 2015 which declared at the heading, "Building a Foundation for a Stronger Diné Nation". The advertisement was a full page spread that provided a timeline, the results of the feasibility study to clarify when the DODE would over both tribally controlled schools and bureau operated schools. The start date for the control of these schools was expected to begin July 1, 2016 according to the advertisement. Unfortunately, the political contention from the school board was strong enough to undermine and delay these efforts.

The significance of the protest by the local school boards and their concerns center around issues of local control of the schools. The media also supported the frame of "tribal takeover of BIE schools", which if read literally might seem to support tribal sovereignty given the BIE schools are considered federal schools. The confusion of "tribally controlled schools" versus "Bureau Operated schools" was not clarified in the article which added to the confusion of the school systems operating on the Navajo Nation. On one hand, there are thirty-four schools that have activated the P.L. 100-297 (Tribally Controlled Schools Act of 1988) or the P.L. 93-638 (Indian Self Determination Act of 1978). These thirty-four schools are distinctive because they are operated by independent locally controlled school boards. The remaining thirty-two schools are Bureau operated schools, which are still under the control of the Bureau of Indian Education. One major difference between tribally controlled and Bureau operated school boards,

is that tribally controlled school boards have the decision-making authority for the operation of their schools, while Bureau-operated school boards can only advise the BIE. So tribally controlled school board members have garnered much more local political power.

The article by the Navajo Times added to the confusion in its reference to its categorization of "BIE schools" in the newspaper by-line "Tribal Takeover of BIE Schools". This labeling of "BIE schools" does not capture the greatest resistance and criticisms were coming from tribally controlled school board members. But the quotes in the newspapers demonstrated that it was pitting Navajo people, local community school board members, against the tribe, also made up of Navajo people. These conversations were to help tribes through the expansion of tribal sovereignty. The federal government's efforts to support tribes in developing and building up their tribal nations were being worked out in the public hearings, newspapers, letters to DODE, and during one of the important intersections of these engagements between the local school boards and the DODE's "reauthorization of schools". This next section explores how DODE's many functions as compliance and monitoring of the reauthorization of schools enacts the policies defined under the self-determination period for tribes.

"It was spend, spend, spend"

On August 12, 2008, the DODE's Office of Monitoring, Evaluation, and Technical Assistance met with a local community school to address concerns over a financial situation. The situation described by the *Navajo Times* stated, "[A] principal spent hundreds of thousands of dollars on curriculum and stipends for his favorite employees while neglecting the school's most basic expenses. And a board that let him get away with it…It was spend, spend, spend, without even looking at your policies" chided the program manager. The program manager is quoted in the *Navajo Times*, "The school has been classified as 'at risk' by the U.S. Bureau of Indian

Education, which means it is only allowed to draw its $2.2 million in federal funding for operations in monthly installments of $184,000" (*Navajo Times*, August 14, 2008). The recommendations at this time would go to the Navajo Nation Tribal Council's Education Committee (which is now called the Health, Education and Human Services Committee) to confirm recommendations.

The DODE's role was clearly limited to providing recommendations to the Education Committee and not making final decisions on the schools. Although DODE did the work to monitor the progress of its tribally controlled schools, its authority was articulated as a mother would scold ("chiding") or lecture a child ("it was spend, spend, spend"). These limits to oversight and decision by the Navajo Board of Education and the Program Manager were later tested. After this episode of the local tribally controlled schools, the board members would advocate their cause to the tribal council members to remove the hard sting of the recommendations. This was the local school's effort to play DODE's recommendation against the tribal council's final decision, which is strategy that has generated positive results for the local school boards and continues to exist as a main tool for challenging the DODE.

The Navajo Nation Board of Education (NNBOE) President described in the past the dynamics of how local school boards proceeded with their grant school reauthorization. The NNBOE president described, "[T]here was so much politicking by schools. If schools were not recommended for three years of reauthorization, the schools would lobby their tribal council delegate to remove any conditions and to continue reauthorizing for three years" (NNDOE President, Interview, September 18, 2013). DODE and HEHSC recognized these circumstances in which the local school boards were "politicking" and tried to resolve these issues through future revisions to the tribal code.

No More Politicking

The superintendent described the incremental changes occurring throughout the Nation. As the pieces slowly fall into place, he reflects "[In the past] the Nation wasn't prepared to deal with the 638 (self-determination act) in 1985 and 297 (tribally controlled school act) in 1988…the nation let local school boards oversee the education of schools without stronger control. They [the nation] just authorized the local school boards that they were overseeing and allowed that autonomy to really set in. Of course as change set in, and the nation starts to discuss the opportunity to regionalize the schools, they [local schools] politick and they [nation] keep it [the status quo] the same for the last 40 years" (DODE Superintendent, Interview, September 13, 2013). This view of the entrenched local school board model is at the center of contestation. The remarks made the Superintendent show efforts to rethink how to resolve the challenges of the school board that create challenges to tribal sovereignty.

Since the passage of the Tribally Controlled Schools Act in 1988, the Navajo Nation has struggled to enact policy to monitor the performance of these tribally controlled schools. The Department of Diné Education is charged with administering this oversight of schools and making recommendations to the tribal council with respect to the status of any reauthorization. These recommendations would be reported out to the Navajo tribal council for their approval. Reauthorization allowed the schools to obtain a tribal resolution verifying the local school could continue to operate. This resolution would ensure the receipt of funding from the federal government. After the passage of the Tribally Controlled Schools Act, the Navajo Education Committee passed a resolution in August 1, 1988, that defined the policies and procedures of the reauthorization process for the P.L. 100-297 Grant Authorization. On February 13, 2001, after twelve years of following this procedure the Navajo tribe updated its procedures and practices in

approving these grant and contract schools. In the language of the resolution of the Navajo Nation Council's Education Committee, they approved the "Grant/Contract Conversion/Maintenance Handbook" which supersedes Education Committee Resolution ECA-064-88, entitled "Procedures for Public Law 100-297 Grant Authorization," and Advisory Committee Resolution ACS-188-88, for use by School Boards wishing to Convert from B.I.A. Operated to Grant/Contract School Status (ECF-12-01, February 13, 2001). The significance of this resolution was that the Education Committee recognized the authority of the Division of Diné Education to implement and manage the results of the conversion handbook. This move strengthened the DODE's role in providing the assistance and oversight to ensure the existing tribally controlled schools submitted the information in this document.

Annually, the DODE enact their authority to review local schools through the reauthorization process. A checklist, titled the "Pathway to Reauthorization" is shared with local tribally controlled schools. The checklist provides a listing of documents that are required for submission to the DODE. They are financial reports, school improvement plans, financial policies and procedures, resolutions from local chapters, accreditation from North Central Association, and a narrative on the school and school board members. The checklist includes a timeline of when DODE will make school site visits and deadlines for documents.

The role of the NNBOE is to conduct their review and make final recommendations to the Health Education Human Services (HEHSC) Committee. The final decision on the approval of reauthorization's determination would be made by HEHSC to finalize the recommendations. Although on May 16, 2012, this authority was eventually delegated to the Navajo Nation Board of Education (HEHSCMY-012-12). The resolution states, "An action relating to Health,

Education and Human Services; Delegating Health Education and Human Services Committee power set forth at 2 N.N.C. 401 (B)(4)(b) to the Navajo Board of Education to increase efficiency and streamlining of government processes in this matter pursuant to the committee-approved administrative rules and regulations governing this delegation and the rescission of such delegation". The goal of this delegation was to increase efficiency and streamlining of government processes.

The NNBOE's new authority relies on two major requirements for reauthorizations:

1. One or less year(s) reauthorization shall be granted where schools and/or residential programs have material weaknesses in their current financial audit reports, which includes, but is not limited to serious audit findings, failure to submit audits, etc.
2. Two-year reauthorization shall be granted to schools and/or residential programs that do not have material weaknesses in their current financial audit reports but have not met academic proficiency based on the current existing academic assessment systems in place.
3. Four-year reauthorization shall be granted to schools and/or residential programs that do not have material weaknesses in their current financial audit reports and met academic proficiency based on the current existing academic assessment systems in place.
4. Any recommendation to retrocede an educational program to the Bureau of Indian Education (BIE) or if a BIE school converts to a Public Law 93-638 contract or Public Law 100-297 grant school shall be subject to final approval by the Health Education and Human Services Committee.
5. A challenge to the number of years or reauthorization as approved by the Navajo Nation Board of Education may be finally reviewed by the Health, Education and Human Services Committee (Exhibit A Administrative Rules and Regulations for the Delegation of Authority to the Navajo Nation Board of Education Regarding P.L. 93-638 and P.L. 100-297 Contract Reauthorization Application and Approval).

The NNBOE enacted its authority that month. The following year, in June 2013, the NNBOE conducted twenty-four reauthorization reviews. That year, the NNBOE reauthorized twelve schools for 1 year, nine schools 2 years, and 3 schools for 4 years. The schools that received four years did not have an academic program but were residential halls.

The significance of this relationship between the Navajo Nation DODE and the local tribally controlled schools has been an increasingly tense effort to uphold and exercise tribal sovereignty. Every few years, the DODE must return to the HEHSC to resolve many of the problems voiced by the local school boards. To understand the relationship between the Navajo Nation Tribal Council, Health Education Human Services, Department of Diné Education, and the Locally Controlled Schools, figure 8 shows the hierarchical linkages based on the changes in authority.

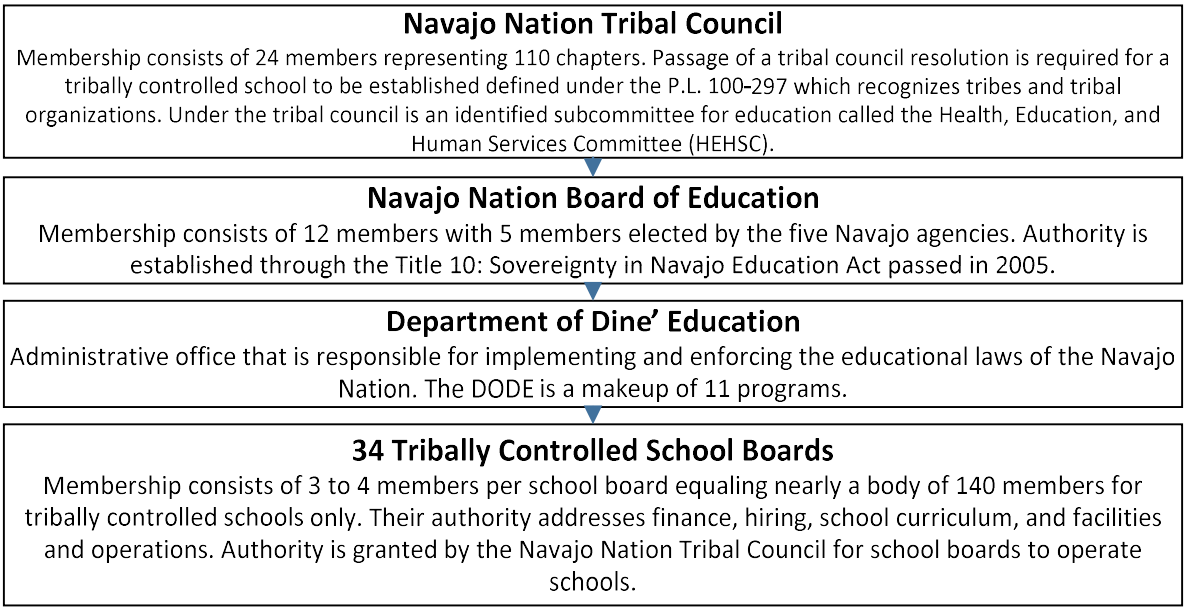

Figure 8: Navajo Nation Authority over Tribally Controlled Schools discussed in the earlier sections.

The hierarchy reflects structures of tribal sovereignty that create tension among the entities. Each organization reflects a part of a mosaic of tribal sovereignty that shapes the education of the next generation of Navajo students. Specifically, DODE's must administer the

Title 10 law which also gives them the authority to reauthorize schools. The ritual of reauthorization of tribally controlled schools added to DODE's state-centric view of the local. They were able to detect the problems at the local school levels across many local domains. In the feasibility study, the goal of the study was to understand the challenges of local schools collectively. The hope was that the results would help to provide policy and reorganizational suggestions to resolve the continuous problems surfacing among the schools as the DODE was able to view from a 'state centric' perspective the commonalities of problems occurring across the tribally controlled schools. These cases are well documented with issues in creating some level of uniformity across school systems, such as the passage of a uniform stipend policy for school boards. The tribal resolution was passed to address the high payments of school boards payments on December 21, 2010 (ECD-35-10). The DODE has to contend ensuring school board members that forfeited their seat on a school board due to absenteeism cannot run for office for at least eight years (SC-CV-64-12 Supreme Court of the Navajo Nation, January 4, 2013). The challenges of the school board of locally controlled schools is also voiced by the Superintendent: "With the new ESEA, and with the new tribal election, our title 11 will have to be changed, to make any type of change for the 66 school boards with individual schools. The system needs to change because now, there is a [school] board for a school with less than 50 students. The challenges confronting the local schools is the school board's intrusion into the everyday teaching programs. They generally remove new teachers and it makes it so difficult to keep education consistent" (DODE Superintendent, Interview, September 13, 2013).

There are many systematic weaknesses and these have also gone up to the federal level with recent questions about the financial integrity of BIE schools and tribally controlled schools. Released on November 2014, the report was titled, "Bureau of Indian Education Needs to

Improve Oversight of Spending". In the report, the analysis of the BIE schools (including tribally controlled schools) revealed that school spending for BIE was higher than public schools. The BIE schools spent $15,391 per pupil while public schools spent $9,896 per pupil (GAO-15-121 2014:13). The GAO reported, "As of July 2014, single audits of tribally-operated schools identified $13.8 million in costs that were not allowable at 24 schools, but we found minimal follow-up by BIE" (2014:30). The report also pointed out that, "A March 2014 single audit found that a tribally-operated school lost $1.7 million in federal funds that were illegally transferred to an off-shore bank account…a school administrator reported that the school held at least another $6 million in federal funds in a U.S. bank account" (2014:32). These reports targeting tribally controlled school create an air of skepticism with respect to tribal sovereignty projects. The local school boards are responsible for the expenditure of these funds and the DODE has used these arguments to motivate their efforts to build out their capacity to takeover schools.

The effort for tribes to build their integrity also rests in the action of the local communities. One solution is DODE can also make the decision to give tribal sovereignty back to the Bureau of Indian Education.

Giving Sovereignty Back

The DODE has made strides to find ways to resolve these challenges. To diagnose the systemic issues, DODE made efforts to support the Navajo Turnaround Project, to implement a Feasibility Study, and to revise codes to address the local school boards to work DODE against the members of the tribal council body. But there have been moments in time in when DODE has stopped doing sovereignty and given a school back to the federal government.

A *Navajo Times* article, "Jeeh Deez'a school to be remanded to BIE" (Jeeh Deez'a means Low Mountain), described how the Navajo Nation Board of Education met on June 21, 2011 to inform the school board members they were returning the school to BIE control. The concerns were based on the boards' resistance to meeting with the Department of Diné Education (DODE) to discuss the school's academic performance and finances. The article stated, "The school was at least a million dollars in the red, about a third of its $3 million annual grant" (Navajo Times June 23, 2011). The article went on to describe the emotional response by the DODE Program Manager. It quotes her as saying, "This is my school, we built this school. Look at how it is. Even though I'm from here, I have to support the (Navajo Nation Board of Education's) board's decision. We failed. You as parents failed. You failed to ask for the budget. You failed to insist on a quorum here. You just listened to jiní (gossip). I think everybody's at fault. All our leaders, even me" (*Navajo Times* June 23, 2011). That year, the tribe did finalize the steps to retrocede the school which is clearly outlined in the P.L. 100-297 Tribally Controlled Schools Act. Currently, the school continues to be operated by the Bureau of Indian Education. This case was a rare one and there hasn't been another effort to retrocede a school since that time. But as the tribe works through its efforts to work out its sovereignty project, there always exists that exit strategy for the Navajo Nation.

This experience highlights another limit to tribal sovereignty that transforms the organizational tools available to the DODE. In many cases, the point of returning the school by the tribe was to take a no tolerance attitude to the bad behavior occurring at the school. The message was felt by both the local school board members and the DODE staff in the room. On the other hand, as the tribe articulates a vision to take over all 66 schools, these instances of

returning to federal government, diminish the DODE's legitimacy as being capable of managing these schools.

Making Sovereignty Work: The Organization of DODE

The tribal council delegate reflected on the multiple responsibilities of the NNBOE. He points out that the most contentious role is the reauthorization process that involves the monitoring and evaluation of the grant schools. Grant schools are tribally controlled schools authorized under P.L. 100-297. This policy gives tribes the authority to create local school board systems which will manage schools. The application to become a grant school must receive tribal approval by the Health Education and Human Services (HEHSC), formerly the Education committee. The reauthorization is the most contentious among all the other responsibilities of the NNBOE. The 29 grant schools and 7 residential halls that house nearly 8,000 students have a local school board made up of members who have to come before the Navajo Nation Board of Education (NNBOE) to receive approval for their resolution for grant approval.

The most recent and major revision in the organization of the division came in 2005. The Navajo Division of Education (NDOE) became the Department of Diné Education (DODE). The creation of a revised DODE shows the movement towards a more complex structure to address the added responsibilities being demanded by tribal leadership, including the push to hold schools accountable. This became increased as the tribal government began to identify that a significant amount of higher education funding was spent on remedial education of its students. Navajo Nation's most motivated and successful students were entering college and yet were required to take remedial coursework in math and English. These types of outcomes show that

the Navajo needed to increase its accountability of its students and the supports provided to students.

The significance of this change was the restructuring of authority that moved the oversight of education from the education committee to a newly established Navajo Nation Board of Education (NNBOE). The revised tribal code defines this transition through the *Navajo Sovereignty in Education Act of 2005* which established the DODE as "the administrative agency within the Navajo Nation with responsibility and authority for implementing and enforcing the educational laws of the Navajo Nation." 10 N.N.C. §107(A). In addition, DODE adheres to the following laws: PL 93-638: Indian Self Determination Act and PL 100-297: Tribally Controlled School Act.

Under the Title 10: Navajo Sovereignty in Education Act, the Navajo Nation tribe is responsible for reauthorizing contract and grant schools every three years. DODE is the main entity given the authority to enact and enforce elements of tribally controlled school accountability. Although some school boards would argue the tribe has no authority to intervene into the everyday school operations, the DODE points out that public law 100-297 defines the tribe as having the authority to convert BIE operated schools to Tribally Controlled Schools. The delegation to schools is given by the tribal council and so the DODE and school board members spend a significant amount of time clarifying their interpretation of the law.

In Figure 9, the shift from a cooperative organization to a more compliance driven system is reflected in the expansion of offices and functions that reflect this modification in the 2013 DODE organizational chart.

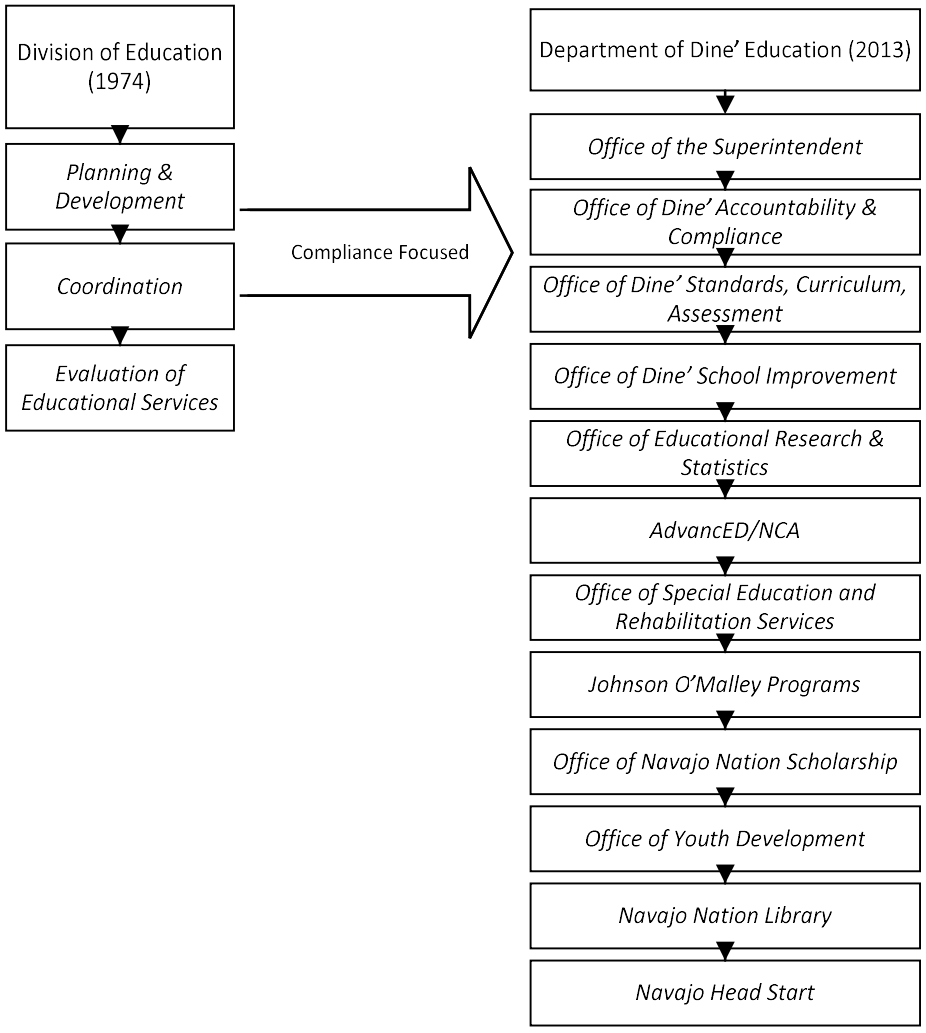

Figure 9: Tribal Education Change to Increase regulation of schools (based on 2013 DODE Organizational Chart and 1974 Navajo Division of Education Organizational Chart)

The organizational chart shows the establishment of the Office of Accountability and Compliance, which earlier was the Office of Monitoring, Evaluation, and Technical Assistance. The other functions of the department supplement the compliance aspect with the school improvement and standards and assessment offices. The expansion of these functions embraced the technical assistance component.

Although the DODE has increased the range of its abilities to manage tribally controlled schools, the superintendent explained that the Department of Diné Education is operating an organization that invests its programs with large agendas but with very little influence, minimal staffing, and limited authority. It has left the Department of Diné Education scrambling to give legitimacy to their tribal code, titled "Sovereignty in Navajo Education". The Superintendent reflected on this fight for its legitimacy: "Navajo Nation is the largest tribe and have a national impact, but not inside the Navajo Nation" (DODE Superintendent, Interview, September 2013). The Superintendent described the challenges of working within the current climate on the Navajo Nation. He described the Navajo Nation as a national leader. "The footprint is like bigfoot. We lead nationally and that is a plus and minus. At the national level, we have one vote on any major legislation on programs. In our tribe, there are many other agencies, and education is one of them and we are the lowest priority." He also described how the tribe's sovereignty only operates "[W]ithin the walls of DODE" which begs the question who is the voice of tribal sovereignty. The superintendent described the many layers of challenges they encounter in establishing themselves as a legitimate department in the field of many other competing departments that struggle for their own funding and pushing the schools to comply with their monitoring and compliance policies formulated by the Navajo Nation Board of Education. The limits to sovereignty according to the superintendent is based on the lack of qualified staffing to show others that they have the certification and credentialing to make decisions on academic needs of schools. Although the Superintendent has discussed the efforts to establish the legitimacy to give fuel to the organizational redesign and the tribal education code that gives the authority, there are other areas in which the DODE misses in securing its authority over its own efforts to exert sovereignty internally and externally.

Overall, the reflections voiced by the Superintendent on the structure define a strong national recognition of the tribe's authority but internally, the tribe is struggling to hold its schools accountable. The organizational design intended to support tribal sovereignty succumbs to the long history of local school boards. Presently, the local school boards are the gate keepers for the full expansion of DODE's efforts to deploy their vision of tribal sovereignty. The passage of the Navajo Nation's Sovereignty Act of 2005, the goals and expectations of the DODE, HEHSC, and the Navajo Nation Board of Education were transformed. The Sovereignty Act did not revise the goals and structure of local school boards for BIE or for public schools operating on the Navajo Nation. The sovereignty act helped to strengthen the authority and charge of DODE to push ahead on sovereignty, but without specific actions and embedded policies and procedures. Local school board authority is retained under the 2005 tribal code revisions, but DODE authority is ambiguous with a stronger oversight by the redesign of Navajo Nation Board of Education (NNBOE) which includes a different board membership. Although, the superintendent voiced concerns over the existing staffing, the makeup of the board reflects the strong and positive credentialing of the Navajo Nation Board of Education which has a board membership of 6 elected officials and the remaining 6 are two parent representatives, a cultural advisor, a school administrator, a teacher, and a Navajo language teacher. The makeup of the board does represent important players critical for the Navajo Nation's implementation of sovereignty.

The nation's intent to design an educational system with sovereign decision making authority to implement their mission is severely hampered by the internal reshuffling of tribal government (e.g. NNBOE and HEHSC) and its relationship to the local community (tribally controlled school boards). During this period, the DODE had been recognized as sovereign in

education policy by federal law but had no capacity to enact that sovereignty beyond its own office walls. Its clear that the local school boards challenge this voice of authority as they see themselves reflecting the early engrained concepts of 1966 perspectives of local control.

In summary, this section provides a description of the organizational capacity building activities that occurred to resolve the politicking and contention being raised by the local school board membership. In the next section, I provide the final analysis to link a comparative organizational analysis of the local controlled schools to DODE in terms of organizational structures comparison, mission statements comparison, resource and staffing comparison.

Relationship to Locally Controlled Schools

Within the field of educational organization, different models of sovereign authority influence the ability of actors to garner the resources and strategies to address the external pressures of national educational agendas. In Figure 10, the comparison shows how both the DODE and tribally controlled school organizational structures work together to show the differences in functions and relationships to each other.

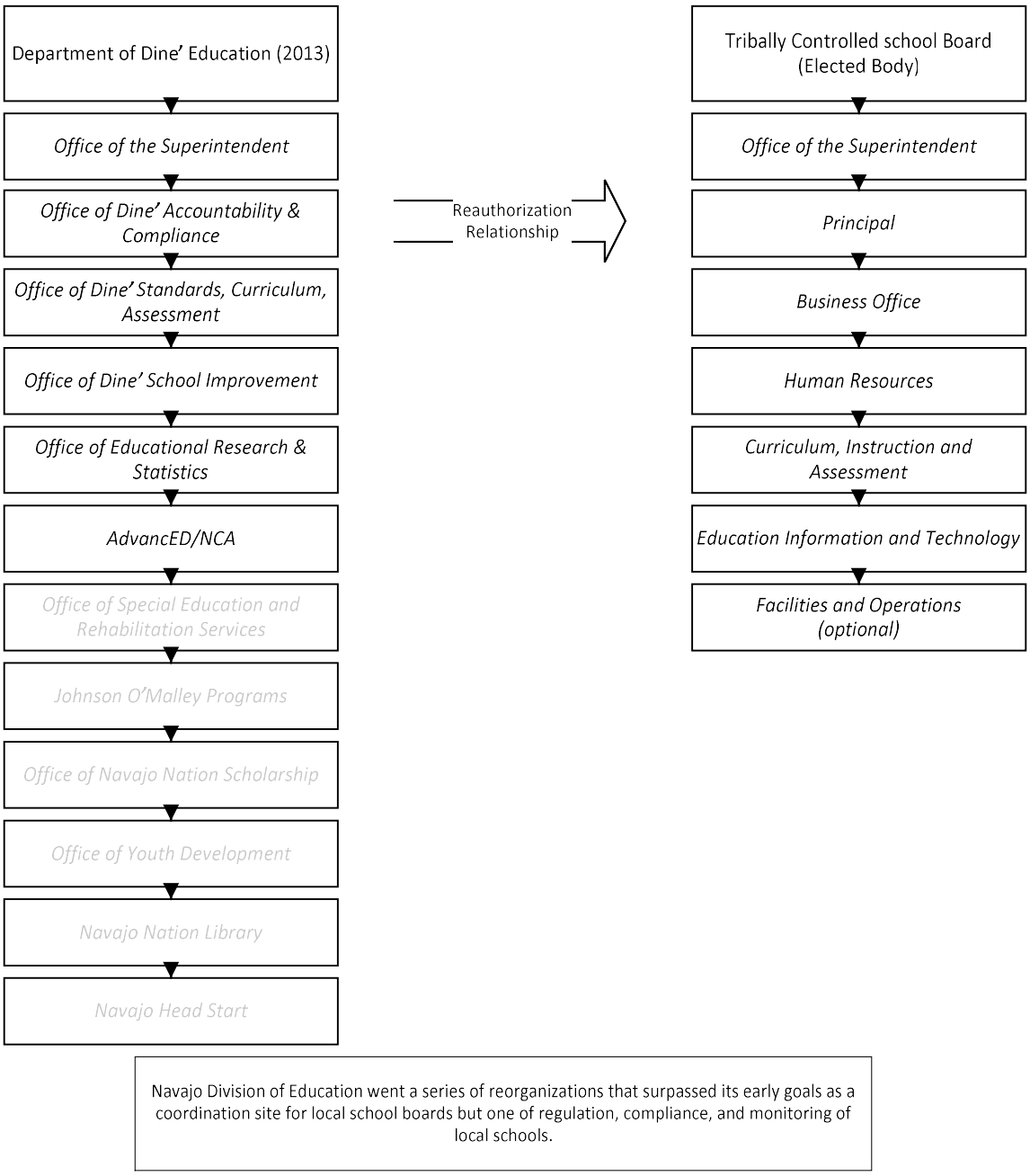

Figure 10: DODE relationship to tribally controlled schools (based on three organizational charts of tribally controlled schools).

On the left column, the DODE represents their eleven offices but only six offices work directly with tribally controlled schools or operate with the monitoring and compliance of local schools. The left column also has entities that work to review and assess the end products of schools' operations (audits, academic reports). Although, DODE does offer technical assistance to address the needs of schools that have imposed conditions, the programs are specifically targeted to school improvement. The tribe retains its right to reauthorize the tribally controlled schools to operate. By the tribe retaining this authority, it has put demands on DODE to become an organization that is about accountability and compliance.

On the right column, the layout of the tribally controlled schools shows the operation of school's functions around academics, governance, finance, human resources, and sometimes, facilities and operations of buildings. Leading the overall school's direction, school boards are identified as tribal organizations, and are required to establish themselves as non-profit organizations. They become the entity to manage and administer the school's academic, financial, governance, facilities, and human resources needs. With 34 tribally controlled schools operating on the Navajo Nation, all operate autonomously and independent from the nation. This has created many variations of plans towards educational success. The resulting inconsistencies have reinforced the view of these local schools as fragmented. The early reports of the feasibility study summarize specific goals as:

> An improved graduation rate and increased attendance rate across Navajo Nation's highly mobile Navajo student population through the unification of curriculum to avoid uninterrupted student learning and a student tracking system to gauge, detect, and resolve causes of student dropout.
>
> An improved system of tracking highly effective teachers and principals to assist in improving student performance.

A Navajo Nation approved and culturally responsive curriculum to increase student's fluency and awareness of Navajo language, culture, government, history, and character in all core-subject areas.

A cost savings based on a unified staffing, policies and procedures for Human Resources, Finance, and School Governance aligned to the tribe's educational code titled *Navajo Sovereignty in Education Act of 2005 (Title 2, 10, 11).*

The role of the Tribe's Department of Dine' Education has become embedded in the concept of tribal centralization. Through this experience, a tribal-nation-centric perspective has developed and reconstituted the current governing structure to fit this demand. This change prompted the DODE to consider taking control of all its school systems, including public schools operated by the states, and federally operated schools. Comparatively, these structures show the transformation of DODE's functions for monitoring and compliance. These changes over time demonstrate the incremental change made through experience and knowledge gained by the DODE staff. But as DODE has recognized, there are still limits to its authority in ensuring the schools are held accountable.

In this next section, I examine the similarities and differences between the DODE and locally controlled school's mission and vision statements match-up.

Local Community School and DODE Mission Comparison

To clarify the differences between the tribe and local schools' current organizational goals, it was important to also combine an analysis of the mission and vision statements of both groups. To capture the complexity of this relationship of the local community schools to the efforts by the tribal government's Department of Diné Education, I have analyzed 60 of the 66 tribally controlled schools and their mission and vision statements defined by their local

governing school board. The goal of this analysis is to detect how close of a match between the local schools' mission statements and DODE's, which states:

> It is the educational mission of the Navajo Nation to promote and foster lifelong learning for the Navajo People, and to protect the cultural Integrity and Sovereignty of the Navajo Nation.

The importance of such a high match between DODE and local schools would reflect a commitment to the same educational goals needed for the tribal nation. In DODE's mission, there is strong language focused on an imagined Navajo people that is concerned for its cultural integrity (which is described as language, culture, history, government, and character). It also embodies a sense of a collective nationhood centered about the concept of sovereignty as its driving force. The coding scheme developed from above focused on the following:

a) high level of sovereignty,
b) high level of lifelong learning,
c) high level of Navajo identity,
d) low level of local community, and
e) low level of accountability metrics.

By coding sixty locally controlled schools' missions and vision statements, I have organized the information to help detect the match to the DODE's mission.

In the work of tribal nation building, the goal is to develop institutions that are a cultural match and to demonstrate the differing missions and visions that do not align to the mission of the local school boards. I have organized the following area by those that reflect a high articulation to the lowest, beginning with the strongest represented by school boards.

Match to DODE Mission

DODE's mission encompasses the broad scope of their impact upon Navajo People and declares itself to protect the cultural integrity and sovereignty of the Navajo Nation. The Navajo Nation's experiences with federal and state encroachment into their educational spaces places DODE at a very defensive stance in the purpose of the DODE. In this view, DODE has become a symbol of the vision for Navajo education. DODE are the experts of their tribal communities' complex educational terrain. Their role as an advocate and protector has injected them into the federal and the local spaces. They report back to the federal agents. They shape and define the meaning of Navajo education. They become the grant writers and policy makers. They are sought out for information about the role of Native language fluency or Native language programming. Their role is multiple in which they encumber federal and state dollars focused on programs and projects to impact the entirety of the tribal reservation. The DODE mission is at the tribal and federal level and they soon become the additional arm to the legislative and executive body to bring meaning and clarity to the complex educational terrain. DODE leaders may voice a sovereignty that articulates its vision for "Navajo People" but they are marginalized in decisions impacting the home, community/local, and tribal levels. Therefore, DODE enters into very contentious situations that contradict their goals for tribal sovereignty.

In Figure 11, the strongest match between the DODE's mission and the 60 schools was for the Navajo Identity. Navajo identity matches for the schools was inclusive of statements like *incorporating Diné language and culture* or *focus on the Diné Fundamental beliefs of Knowledge, Planning, Harmony, and Hope.* Navajo identity was very important for close to half of the local community school boards' missions with forty-three percent (43%) of 60 schools.

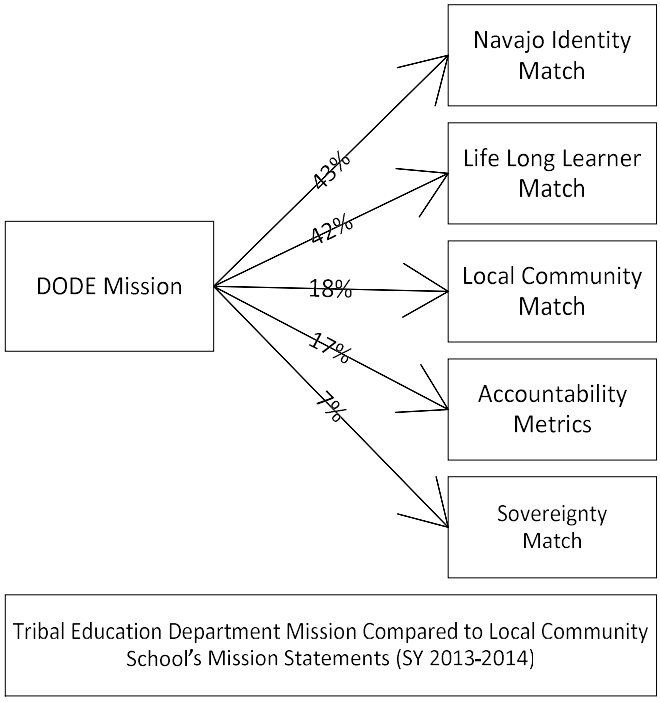

Figure 11: DODE mission compared to tribally controlled schools by values (based on 60 mission and vision statements established by tribally controlled schools).

The second strongest match was for Lifelong Learner for the sixty schools. Lifelong learner is defined as building a student's curiosity and interest that extends far and beyond the classroom but into their future and into civic engagement. This was inclusive of statements like *To develop inquisitive, compassionate life-long learners and leaders through a challenging curriculum of international education and assessment* or *promotes a culture of lifelong learning in a safe nurturing environment.* Lifelong Learner was very important for close to half of the local community school boards' missions with forty-two percent (42%) of 60 schools.

A low match for local community which shows that DODE's mission (which did not mention local community) was very low with eighteen percent (18%) of 60 schools, so most

local schools included direct statements about the importance of local community in their mission statement. This percentage also was very similar to the accountability metrics which embraces the state accountability systems. Accountability metrics are concepts such as college and career ready, common core state standards, or adequate yearly progress. Accountability metrics was very important for the local community school boards' missions with seventeen percent (17%) of 60 schools. The lowest match was for sovereignty, which was very high in DODE's mission statement. The language of sovereignty was represented by statements that discussed a collective awareness of the nation and is not articulated as individualistic for the student. Sovereignty concepts were items such as nation building, Navajo society, tribal nation. Sovereignty was important for the local community school boards' missions for only seven percent (7%) of the 60 schools. Overall, the relationship of DODE mission to the local community school was very minimal. As a consequence, the goals of the nation were not being articulated at the local level. The analysis of the value systems of the tribal and local levels reflects the multiple expressions of tribal sovereignty occurring at the tribal and local levels. But local community mission and vision statements had a few perfect fits to the DODE mission which shows that conceptually, the idea of a collective version of sovereignty is occurring at the local level.

The two locally controlled schools with the highest match based on a coding scheme that focused on the four areas of high value to the DODE mission of Navajo identity, Lifelong learners, local community, low accountability metrics, low local control, and high sovereignty in Education. These two schools' missions are as follows:

> [The school] is committed to providing a nurturing and safe environment where culturally based, and academically challenging programs are utilized in providing holistic,

> experiential, and problem based learning that promotes life-long learners whose knowledge will benefit Diné, First Nation's people, and Global societies (School 1).
>
> The school's mission is that [the school] will instill the roots and promote the growth of a lifelong love of learning through education, tradition and technology to prepare for an ever-changing diverse world. Our vision at [the school] is to preserve Diné Fundamental Law, Language, and Culture so students will achieve to become self-sufficient and responsible citizens and lead with SUCCESS (School 2).

The two mission statements reflect a similar purpose of the purpose for education. There is a strong sense of retaining the Navajo identity not for the individual success of the student, but the student larger success in protecting the sovereignty of the Navajo Nation. This is evidenced in the reference to *benefit Diné* and to *preserve Diné Fundamental Law.*

In the revised structure of the Department of Diné Education (DoDE), the mission reflects a shift in lines of authority, increased authority, and a clarified compliance driven structure. These changes over time reflect a reorganization of tribal sovereignty. It's also reflected in what the tribe values in the mission of DODE.

In this last part of my analysis, I look at the funding and staffing comparison of DODE to BIE schools, and to public schools to provide a sense of scale.

Resource Limits to Sovereignty

The DODE's authority is defined to reauthorize schools but operate at a fraction of the funding received by other state agencies that occupy the Navajo Nation. Figure 12 shows the scale of resources provided to the schools by other sources (e.g. state governments, direct federal funding, local bonds) compared to the funds that are directly distributed by the DODE.

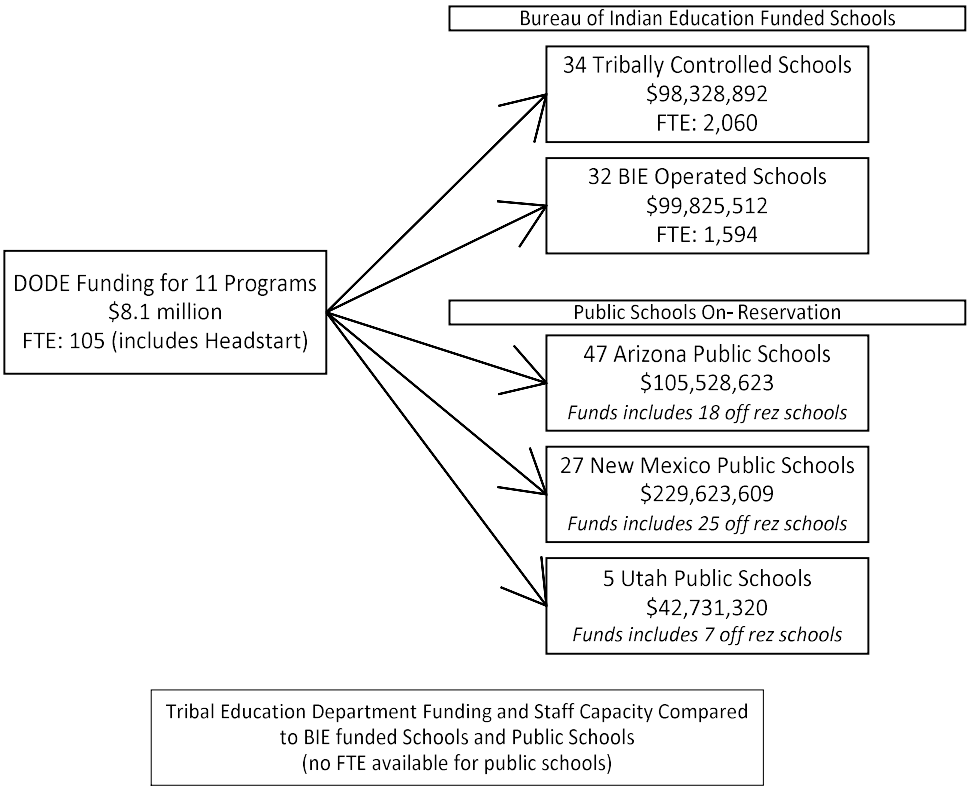

Figure 12: DODE funding comparison to BIE schools and public schools (funding data from the Bureau of Indian Education, public school data from state stat book of financial reports, and DODE from discussions with interviewees).

DODE in Fiscal Year 2012 received $8.1 million dollars to manage the goals and objectives of their title 10 educational code. This was a ten percent decline from the prior year which forced the DODE to cut down on travel and remove staffing. These funds do not include federal funding for Johnson O'Malley, Headstart, Scholarship, and Special Education. The funding I've identified is specific to the resources that are used by DODE to work directly with locally tribally controlled schools. In contrast to the funding received by tribally controlled schools with a budget of over $98 million annually, which covers the operations of their schools, their staffing and impact is 12 times greater than DODE's resources. This difference between the local school boards and the tribe demonstrates the gaps in building out the tribal goals of authority and

control. The size of resources also reflects the number of staffing differences. For DODE, they had a total staff of 105 compared to the 2,060 staff in the schools.

This chapter captured the current responses of the tribe to the local community's concerns. It is apparent that the arena in which change is made is in the tribal council where the refinement of the DODE's organizational authority and design are developed. Although the DODE continues to try to enforce their local tribal schools to be accountable, DODE is seeking other ways to continue fulfilling the goals of its feasibility study, which still exists in recommendation form. But recent efforts, informed by the feasibility reform efforts were rejected. The *Navajo Times* articles captured this hoped for change:

> Proposal being considered to postpone 2016 school board elections (December 23, 2015)
> HEHS [Health Education Human Service] takes no action on BIE School Boards (February 18, 2016)

The article titles show an effort by DODE to change the structure of the school boards. Unfortunately, the HEHSC rejected the request partially because they felt they didn't have enough information to make the decision.

The effort by DODE to take over schools is in its early stages. The meaning of "taking over schools" also has functional meaning that asks, "Take over to do what"? The existing DODE structure has been designed strictly to reauthorize schools and to provide technical assistance to resolve any concerns. But this is also very constrained due to the limit or resources. The other side of taking over schools, is does the tribe intend to "operate schools". Meaning to deal with the implementing curriculum, hiring of teachers, principals and staff, budgeting and procuring school services, conducting professional development for staff, and more. Or does the tribe intend to operate like a state education agency and manage funding distribution, be responsible for the monitoring and compliance of those funds and program goals, and doing the

state reporting for its schools? These are important considerations as DODE continues to exercise their tribal sovereignty over education. In moving this analysis forward, the last chapter will highlight themes generated by my interviews with the educational leaders to answer a very core question about sovereignty: where does it originate from and what are other proposed strategies to achieve that final vision of tribal sovereignty? Then I will conclude the last chapter with a description of how tribes are working in the blurred lines of tribal sovereignty, especially as the federal government has supported these projects.

Chapter 5: New Understandings and Organizations of Tribal Sovereignty

In this concluding chapter, the interviews with educational tribal leaders provide insight into the ambiguous space of tribal sovereignty. As the federal government promotes the view that tribes know best since 1968 (Kennedy Report), tribal knowledge has been put to the test as Navajo Nation has worked to build organizations and institutional practices to resolve the educational dilemmas confronting their tribal communities.

Although the BIE embraces the spirit of tribal control through self- determination, they are also pressured to find tools to still hold tribally controlled schools accountable which challenges the meaning of self-determination. Recently, the Government Accountability Office released a flutter of reports about the BIE's management practices. They have targeted the Bureau of Indian Education and indirectly have referenced the weak relationship of the federal agency to tribes. In the GAO report, the responsibility and action of poor tribal school spending is placed upon the federal agency. The very visible attack against the Bureau of Indian Education leadership took place on the Congressional floor. Underlying the issues is that the BIE has problems holding tribally controlled schools accountable for mis-spending. They state, "BIE lacks sufficient staff with expertise to oversee school expenditures…processes for oversight do not adequately ensure that funds are spent appropriately" (GAO-15-21 November 2014). The report reflects an additional layer to the inner workings of the federal agencies as the Bureau of Indian Education clamors for its own legitimacy.

Another wave of efforts to resolve the issues at BIE that undermine the recent 2013 Blueprint for Reform efforts show the tension between Congress and the Department of the Interior's bureau agency. Congressman John Barrasso, Senator from Wyoming, released the Reforming American Indian Standards of Education (RAISE) Act of 2016. This has yet to be

approved by Congress, but it shows Congress's efforts to tinker with the Bureau of Indian Education. The proposed act would create a standalone Indian Education Agency to streamline the administration of Indian education. The functional priority for the proposed reorganization addresses long standing criticisms directed to the BIE. The main features of this bill would do the following:

- Termination of the Bureau of Indian Education and transfer of functions to the Indian Education agency.
- Presidential appointment of the Director, Bureau of Indian Education
- Creation of Assistant Director of Education Curriculum and Assistant Director of Facilities Management
- Transfer of existing personnel to new structure

This bill design is fascinating because it's clear what the Congressional priorities are, and it's not to resolve the financial mismanagement occurring at the tribally controlled schools. The focus on the creation of Assistant Directors for both Education Curriculum and Facilities Management show an unaligned proposal that doesn't match the GAO's suggested recommendations. The exercise of the federal agency to continually hit restart on reform efforts diminishes any long term benefits of creating sustainable results.

The point of this example is to show that tribal sovereignty on a federal scale is always one step away from being threatened by other agendas. Tribal sovereignty creates enormous possibilities but in practice it enters limited confines that have to be negotiated by a multitude of federal, tribal, and local players. Each believe they are developing strategies to resolve the issues impacting tribal nations.

Although the BIE voices its view that self-determination and tribal sovereignty are at work, they also must operate on the sidelines watching, through the hidden vehicle of technical assistance and audit reviews. So as the Navajo Nation builds off its institutional practice honed

by the last twenty-four years (1988 to 2016) of reauthorizing tribally controlled schools, they have also forged new relationships with old partners.

As the nation builds up its institutional practices and meanings of the local community school, they are experiencing the pressure by communities to resolve some of the most systematic problems impacting tribal nations. In the next section, the interviews by educational leaders articulate the continued organizational "revisions" that will get the tribe one step closer to a "pure" version of tribal sovereignty. But ultimately, they are building organizational structures that strengthen their capacity to ensure accountability and compliance within the walls of DODE and over schools.

In this section, tribal and local leaders describe the visions that set up the origins of tribal sovereignty, how it plays out in their leadership of their organizations, the challenges to sovereignty, and their perceptions of other partner organizations. The interviews center around the following major educational decision-makers within the Navajo Nation.

- Navajo Nation Health Education Human Services Committee
- Navajo Nation Board of Education
- Navajo Nation Department of Diné Education
- Tribally Controlled Schools

Navajo educational leaders were asked about their vision of tribal sovereignty in Indian education to illuminate how an institutional logic, such as tribal sovereignty, becomes anchored into an organizational design and how organizational design constrains these visions. American Indian leaders have created tribal organizations that reflect a form of sovereignty that is contrary to the type of tribal sovereignty desired by tribal governments.

In this next section, I will focus on the continued organizational dilemmas each has encountered and their proposed agenda to resolve these issues. The first is, locating tribal sovereignty.

Locating and Limiting Tribal Sovereignty

The interviews defined a unique view of where tribal sovereignty originates. The interviewees articulated where they viewed tribal sovereignty's origins. By establishing its point of creation, the meaning of tribal sovereignty was derived by that space. These concepts of tribal sovereignty enhance the educational debates on tribal sovereignty and the possible source of contention.

The debates surrounding the national and academic discussions surrounding tribal sovereignty have articulated tribal sovereignty as an exertion by tribal nations to act against the federal government (Wilkins and Lomawaima, 2001; Deloria and Lytle, 1984; Bruyneel, 2007; Barker, 2005). Joann Barker describes the complexity of sovereignty, writing, "There is no fixed meaning for what sovereignty is – what it means by definition, what it implies in public debate, or how it has been conceptualized in international, national, or indigenous law. Sovereignty – and its related histories, perspectives, and identities – is embedded within the specific social relations in which it is invoked and given meaning" (Barker 2005:21). The looseness of meaning of sovereignty has its advantages, but for tribal leaders trying to resolve issues of educational results, sovereignty takes on a specific meaning and becomes anchored into its organizational structures, practices, and rituals. In the case of these tribal leaders, their interpretation of sovereignty motivates how they act on the external forces, "international, national, or indigenous law" (Barker 2005). But internal to tribal communities, tribal leaders encounter the local

challenges that transforms the meaning of tribal sovereignty. The leaders here articulate their view of where sovereignty originates.

Sovereignty comes from the home. “Sovereignty to me is … at the home level, you have a home, you have sheep, cattle, horses, and a home, farm, you own those and make a life out of it, you have your thoughts and values tied into those, you make it go. That’s what I think of sovereignty, we own things” (NNBOE President, September 18, 2013). The concept of sovereignty is rooted in the home. This view generates the rootedness and meaning that is embedded in to a value of “ownership”. In the bounded space of ownership, which is experienced at the home level, Navajo families educate their children and families of how to care for the land. The home is where the notion of ownership and identity are formulated. Tribal sovereignty is built around the principles of ownership, care, growth, and identity—these concepts formulate the basis for tribal sovereignty, but obviously pose serious challenges to the legitimacy of a centralized tribal government.

The main actor in this vision of sovereignty is the parent operating in the bounded space of the home. In this vision, the tribe’s organizational structure has limited authority. There are very few examples of the tribe entering this space but these efforts receive far too much resistance by tribal families and members. Efforts to come to this space have been the development and implementation of Navajo Truancy Laws. The DODE’s effort to resolve the high dropout rates on the Navajo Nation, the tribal council has asked the TED to deliver a policy strategy. Truancy laws have been slowed down by the lack of enforcement. The preliminary drafting of truancy laws is to hold parents accountable for allowing their children to miss school. Even with the additional support of other departments, the Department of Justice and Department of Corrections, the DODE is limited in its ability enter the home space. Another pathway to

supporting the home level is parent involvement conferences, but these sessions rarely pull in lots of family members.

Sovereignty comes from the local level. The Superintendent states, “Sovereignty is being able to institute the vision, mission within your nation, community, however when you are too big, the resources that may be available may not reach where it needs to be, the local communities” (Superintendent, September 13, 2013). The leadership conceptualize sovereignty as ultimately impacting a community as part of the local. The local embodies a collection of homes, families, neighbors, and friends. The local is reaffirmed in the selection of school board members, local chapter officials. These bodies of governing authority become symbols of a local self that reflect a local tribal sovereignty. A community identity is established that formulates a differing texture to sovereignty that is embedded in an idea of community.

Although the DODE’s influence on the local community is restricted to the reauthorization process, they challenge the everyday agenda occurring within the following areas of everyday school operation. Under school, the DODE has pushed for a uniform stipend policy and mandated full attendance at its reauthorization meetings. These moments are to hold schools accountable through the practice of upholding the commitment to P.L. 100-297 Tribally Controlled Schools act and the P.L. 93-638 Indian Self Determination contracts. The school boards, represented by the elected body, are authorized through the Navajo Nation. These requests fulfill the school board’s request to grant them the grantee status to manage individual schools. The Navajo Nation’s tribal council is authorized to renew the school’s grantee status based on their financial and academic performance. The governing board acts on all areas of academics, financial, human resources, and facilities and operations of buildings.

At the tribal level, the enactment of sovereignty is happening daily. “Sovereignty in education relates to the concepts, that every community across the country deal with, what should be taught, who should teach it, and who will pay for it” (Council Delegate, September 4, 2013). Defined at the tribal level, the action of sovereignty in education is defined here by those that hold the “purse strings”. In this case, the tribal council exerts sovereignty over the DODE because the council controls the purse strings and defines the agenda. But because the DODE is a central player in holding schools accountable, the action of sovereignty has been activated through the media, the tribal court, among tribal leaders, and in the boardrooms.

DODE conceptualize the concept of “our people”, “our laws”, “our kinship”, “our homeland” (Dinétah, ké), “our language”—and this grounds a larger identity as prompting what is important and what should be taught to tribal children which is embedded in a notion of “our right” that has been established long before ‘western education’ and embedded into concepts of sovereignty.

Here, the origin of tribal sovereignty clearly does not come from the federal level. The federal space is where sovereignty dialogue is enacted. Although none of the interviewees identified this as the site of where tribal sovereignty originates, it’s a place where the DODE defends its tribal sovereignty. From the House and Senate to Department of Interior, the DODE has voiced to the Senate Committee on Indian Affairs (SCIA) their intention to become a State Education Agency (SEA) (Lewis Testimony, May 13, 2015; Benally Testimony, May 21, 2014). Tribal representatives that come to the table to present a tribal issue tailor a discussion of a right embedded in the concept of tribal sovereignty. It becomes evident that an issue tribes speak of becomes a ‘Navajo issue’, an ‘Oglala issue’, a ‘Salt River’ issue – a powerful setting that shapes a collective notion upon the debate of sovereignty. Tribal testimony then becomes a measuring

stick of the performance of federal agencies and programs that proclaim the message of "improving Indian Country". This federal place is alien—as American Indian people are put on display —to be scrutinized – but tribes take ownership of the meaning of sovereignty in the federal space. Here, it is a tribe's decision to take their education policies in any direction. The DODE's influence is felt in this space but at times encounters the constraints and incremental moves required by the federal government. The Navajo Nation has exerted a stronger extension of their tribal sovereignty by asking Congress to allow it become a State Education Agency. Although Congress has not committed itself, the Bureau of Indian Education has committed themselves to support the Navajo Nation in developing their organizational capacity to move towards those pivotal steps (Roessel Testimony, May 13, 2015).

The origins of tribal sovereignty, described by the leadership interviewed, suggest that location also explains limitations to where tribal sovereignty can be practiced. The actors of tribal sovereignty will not be permitted into certain spaces and this is where one source of tension lies. Those that believe it comes strictly from the tribe will conflict with those that believe it comes from the home. These interviews offer a perspective of the organizational challenges confronting the DODE as they define their relationship to the spaces of home, local, tribal, and federal.

In the next section, the interviews provide some additional perspective to the organizational challenges of enacting tribal sovereignty. But by enacting tribal sovereignty, they also spell out hopes that tribal sovereignty will cure the ailments that hinder the success of Navajo students.

Resolving the Jurisdictional Challenges

The superintendent recognized the challenges posed by the vastness of the Navajo Nation. He identified how to address the financial need and define an arena in which to formulate some hopeful goals of what the practice of tribal sovereignty could provide for the nation. He highlighted how a range of educational jurisdictions crisscross the Indian reservation. The collection of all these jurisdictions captured the multiple educational institutions operating on the reservation. These jurisdictions were designed to organize the Navajo Nation's educational landscape and make sense of the vast territory for its end-user, whether the federal government or the state. Instead, this complex layering of jurisdictions has created a quagmire of obstacles for the Navajo Nation to exert its governmental authority. In the Navajo Nation, both BIE operated and tribally operated schools educate nearly 15,000 Navajo students annually. Students and teachers move on and off the landscape of competing jurisdictions that complicate the DODE's effort to exert their tribal sovereignty. These geographical meanings not only organize schools, but they also represent the competing visions of Navajo education.

For the superintendent, the answer in resolving these jurisdictional inconsistencies rests in the DODE's quest to become like a State Education Agency. "When we have some kind of State Education Agency established, we have more autonomy and more delegation from the United States Department of Education (ED). With that, hopefully we have more funding and be able to apply for funds like the race to the top. With funds like that, we can set up as an SEA and have the professional staff and have an impact for our schools. But the reason why the ED doesn't relinquish SEA status to the tribe is that they fear if one tribe is allowed to be given that one status, there are 529 tribes, they will also have the same eligibility. That the state will lose its power, its law, within those states for the tribes" (Superintendent, September 13, 2013). The

benefits of being a State Education Agency for the purposes of federal policy are recognized as the next big step needed to push forward the agenda for educational autonomy.

The first step towards SEA status is to design and develop an accountability workbook. Under the No Child Left Behind (NCLB), the workbook was recognized by the Department of Education as the state's plan to ensure that all students were receiving an equitable education. The accountability workbook highlighted how the state would establish performance goals and rubrics to show that students' reading and math scores were at grade level. The ultimate goal was that all students would be reading at grade level by SY 2014. Annual achievement growths of students would be based on a metric not by multiple states, but by one unified system managed by the Navajo Nation.

Every state must comply with the Elementary and Secondary Education Act (ESEA) which clarifies the roles and responsibilities of an SEA. The authority of the SEA would allow any tribal nation to manage the funding for all the schools that fall within their borders. These schools, defined as local education agencies, would have to follow the state policy and goals. The Superintendent's understanding of becoming a recognized SEA that the authority to make decisions would fall into the hands of the tribe – although the law of the land would be generated by Congress through the reauthorization of the ESEA.

The Navajo Nation drafted its first accountability workbook in 2007 and submitted it to the BIE. This engagement sparked a dialogue between U.S. Department of Education (ED) and BIE to develop a review of the accountability workbook. The U.S. Department of Education (ED) had reviews of these processes to determine if tribes were eligible to submit a waiver to the state's accountability workbooks, i.e. the state in this case is the Bureau of Indian Education.

When this was finally determined, the ED had to clarify the definition of tribes as tribal education agencies (TEA) to substantiate the role for tribal education departments. Then finally, the ED had the document peer reviewed and raised a significant number of concerns on how the use of the Adequate Yearly Progress would replace state assessments in Navajo language and culture. The major critique from the ED was that all assessments had to be statistically *valid* and *reliable.* This added hurdle hindered the final approval of the accountability workbook. The workbook continues to receive continuous revisions and input between the ED, BIE, and the Navajo Nation.

The underlying purpose for becoming like a state is to create tribal sovereignty reflected in the Navajo Nation's Sovereignty in Navajo Education Act. This first step towards an accountability workbook would only impact the BIE's 66 schools operating on the Navajo Nation. This does not include public schools but it would begin the tribe's effort to formulate a system to resolve some continuous challenges to the full exertion of sovereignty.

Funding Tribal Sovereignty

The next challenge for the Navajo Nation is the lack of funding that diminishes the goals of tribal sovereignty. The Navajo Nation tribal council delegate described sovereignty as having absolute control of Indian education. He stated, "If we were to become totally self-determining and invoke sovereignty within education, the issue would be we could do that, but you would also not have the funds come in that we get from the state or federal government. The funds would have to come another way and the tribe would have to make up for it which is a critical piece for us as well" (Council Delegate, September 4, 2013). But for the tribe to obtain these funds, the tribe would be under the rules of the federal government's "purse strings". This view

shared by the council delegate identified the resource constraint for DODE. If the tribe could obtain funding from the tribe's coffers, then that would translate to less dependency on the federal or state level. The superintendent of schools described that there are resources coming from the outside but requires the tribe to abide by the No Child Left Behind Act of 2001. "The size of our nation, and three major system[s], the state, the BIE, and grant system, really hinders full implementation of that sovereignty. Also the resources are coming from the outside. We don't have our own resources to pay for the education system that we want to develop. We have to abide by NCLB or whatever new ESEA that will be authorized. Yes, a small tribe with their gaming and other resources, they are able to implement the few schools they have. They have in the largest tribe is 10 schools or the smallest one or two. For example, the STEP grant, the two school districts we have to work with is hindered by the New Mexico Indian Education Act." (Superintendent, September 13, 2013).

The tribal council delegate recognized the severe financial and resource constraints confronting the education department in contrast to the other five major human services divisions he oversees. He has observed that each approaches these programs differently. According to the council delegate a major hindrance to the Department of Diné Education (DODE) in contrast to other divisions is the lack of federal funds earmarked for administrative overhead costs. DODE is fully funded by Navajo Nation general funds. The impact has made DODE completely reliant upon the funds from the tribal government which encounters decreases annually. This last point shows that the council envisions external partners and resources are necessary to assist in the advancement of the tribe's sovereignty goals. The funding is not to construct a system driven by greed but rather that funding constraints limit the management and administrative control of the tribe over its educational programs.

If the tribe was to become a true State Education Agency, which embodies the vision of the tribe, there would be a greater need for funding support. Potentially, if the tribe did support this view, it would require resources from tribal gaming dollars to help support the tribe in the implementation of their sovereignty goals.

Here the concept of sovereignty is defined as having self sufficiency through financial independence. An ideal sovereignty agenda would allow the tribe to rely on external funds coming from the federal or state. Although both recognize that the they would have to conform to laws and regulations for funding, it would still recognize their legitimacy. By framing sovereignty into this structure of independence, it puts resources at the forefront that defines the type of sovereignty the tribe can define.

The challenge for the tribal education subcommittee is to assist in creating the best decisions legislatively to support these divisions. The challenge is the committee members are constantly being vetted for multiple issues which require a certain level of expertise. Therefore, the committee members rely heavily upon the divisions to develop initiatives and to address the policy necessary to continue pushing forward.

This point raised by the committee member reveals the level of influence of the division/department upon the policy development made by the legislative program. This power and authority is needed by the Department of Diné Education (DODE) to influence the decision making of the HEHSC. The advantage stated by the committee member is that many other divisions struggle to retain its focus on providing services.

Not only is sovereignty described as financial self-sufficiency for the tribe, but it also is about expectations upon tribal members. Sovereignty is about expecting more from your students. The superintendent explained that the tribe has enacted its own criteria for success.

Sovereignty will Improve our Navajo Identity for Academic Success

The superintendent described the existing tribally controlled schools. Their academic performance was of high concern given they are under restructuring status, meaning they have not met the Adequate Yearly Progress (AYP) to show student performance. AYP is defined through No Child Left Behind. Many of the 66 schools under BIE control started 5 years behind the expected level of achievement and have never caught up. This failure under the terms of the NCLB is now being repeated as education is moving towards the Common Core Standards which change the framework of assessments for students being tested. Currently there are two assessments linked to the common core standards. "We know when we mean we want our own Dine' education system. The last 40 years with Rough Rock and Rock Point, these grant schools, have proven that if you have allowed Navajo curriculum, Diné curriculum,…they were successful. The product of those students are in professionals now" (Superintendent, September 13, 2013).

The council delegate pointed out, "AYP [Adequate Yearly Progress] doesn't currently look at a person holistically". The council delegate described that a new formula should look at students and schools through the lens of relationship, rigor, and relevance. Under the NCLB, these areas were severely overlooked especially by the states that fall within the boundaries of the Navajo Nation. Addition, the superintendent criticized the states of Arizona, New Mexico, and Utah as creating assessments that were very weak in order for them to meet AYP. The

Navajo Nation Board President stated, “A workbook would allow the tribe to regain their language and culture, to regain what has been lost to survive in our land base”. Therefore, the use of an accountability workbook would allow the education program to create an assessment that reflected the values of the Navajo Nation.

These concerns voiced by the superintendent, board president and council delegate reflect a future hope of considering alternative paths towards creating a Navajo education system that reflected the specific cultural background of Navajo students. One answer rests in the approval of the alternative accountability workbook which give the DODE control over what their Navajo students were being tested on.

Another benefit of the alternative accountability workbook is that it would create a uniform assessment for all Navajo students. In the future, all school types on the Navajo Nation would be coordinating their standards to the assessment. No longer would the schools have to comply with the variations of three state assessments, but this could be combined into one. Students moving from one school system to the next would not have to play catchup. The tribe’s Title 10 act also would receive more traction in performing the oversight and control needed by the nation to take control of its educational endeavors.

The Superintendent states that, “Sixty percent of High School students are unprepared. Throughout the Navajo Nation, there are 245 schools with 90,000 students which includes public schools. Creating a unified system would address one of the biggest challenges is the movement of Navajos. Many of these students are moving on and off the reservation and attending schools in cities such as Albuquerque, Phoenix, Salt Lake City, and Denver. They return to the reservation and the curriculum and education is unaligned. Then there is movement of students

from tribally controlled schools to public schools and back again. This slows the progress of education for students.

When the superintendent was asked which school has the biggest success on the Navajo Nation, he identified the Tuba City Boarding Schools. He stated that the school has met the state's Adequate Yearly Progress (AYP) since the requirement was established. He points out that, "It's one of our grant schools. The success is the stability of the administration, the teachers, trainings, and evaluation. It's an effective school" (Superintendent, September 13, 2013). The vision of tribal sovereignty, being recognized as a SEA and obtaining the accountability workbook would transform the existing DODE organizational structure. What that design could be is dependent on whether the tribe decides to mimic local state education agencies, or if they would develop an independently operated structure. The hopes and goals articulated here reveal how tribal sovereignty gives tribes a chance to consider the possibilities.

The goal for effective schools is highlighted as a key goal for the Navajo Nation. Administrators, teachers, and students demonstrate a high mobility on the Navajo reservation. He highlights the problems of highly mobile populations that hurt the goals of creating an effective school. "[On the Navajo Nation], one third of our administrator is new. It takes 3 years for them to grow. It's just the availability of the professionals. You have to take what you can get in the community. It takes stability to be effective. The remoteness and things available to our community [cause administrators to move]. Administrators that can't make it in one school and they roam from one school to another. We can only meet only 30% of our achievement" (Superintendent, September 13, 2013).

The Director for the School Improvement stated that when schools are required to justify why they are performing poorly, "Schools provide an emotionally charged justification for their school. But the data shows that the large teacher turnover data has a big impact on student performance. They also sometimes come into the teaching field without the deep content knowledge needed to interact with the student at the classroom level to learn and understand" (Program Manager, September 11, 2013).

In light of these struggles, the DODE has a state centric view of all local schools and are seeking remedies to resolve these persistent problems of instability which is a key component of effectiveness of schools. The DODE look to the authorities that are offered in the vision for state education agency status.

Finding the Ideal Sovereignty Actors

The Superintendent finally discussed a major dilemma to enacting sovereignty, which is how to get the right actors in place. He states, "Out of the 84 positions, there are only 5 positions that have staff certification. Out of those positions, hopefully there are 10 staff that speak, read, write Navajo fluently. If we are to lead in the education system, then we need to have certified education specialists, comparable to the three states we are in, in order to have an impact as a State Education Agency. You will need the capacity. Unless we have our own personnel system and salary system, we can build that system with funding and budget. We are not ready and with our policies and procedures in place. We don't have the man power. It's an issue of our personnel system. We are not able and we don't have the capacity that we are trying to establish. Lets say we want to certify our teacher. We only have 3 staff members in AdvanceED and only one is certified. In order to be reliable, for the schools to look at the nation, the way they see it.

That we aren't capable. That we lack the infrastructure" (Superintendent, September 13, 2013). The superintendent's reflections in finding staffing is they needed to embody what defines and makes Navajo people navajo. Although, within the Department of Diné Education, the staff are all Navajos, there is still a vision of what a Navajo should be that comes through the language. This seems to be a dilemma that won't be resolved through the vision of state education agency. The goal for many tribes is to create models of legitimacy and showing the distinctiveness of one's identity for the Superintendent is modeled on a fluent Navajo speaker.

In summary, the interviews by key leadership working on education issues reflect the continued efforts to make tribal sovereignty more meaningful but they also recognize the challenges confronting them in terms of their organizational structures and design.

Conclusion

The Department of Diné Education's efforts to revise their organizational structure to fit their goals of a State Education Agency will still require continued Congressional pressure to make this change. In the meantime, the DODE's efforts to resolve the contentious demands igniting throughout their tribal nation extend beyond their authority to reauthorize the schools. The challenges confronting the DODE is to create a system that resolves many of the systematic issues impacting all their schools. These are the issues: students aren't learning their language and culture; assessments are testing on values that don't promote tribal values; there is continuous movement of students going from tribally controlled schools to public schools which delay learning, but this movement also drops graduation and attendance rates; effective teachers are hard to find because they are consistently moving; and the good teachers play schools off each other to get the best salary. These issues seem to have an easy solution, which is to create a

unified structure to defray all the problems. Unfortunately, the local school boards do not see the global "state-view", but they are not paid to do so. But they see the Navajo Nation as a conglomerate of agendas that are centralized in one space which diminishes the many local communitys'confidence in their own tribal government.

At the local community level, many communities have a very proud history of their schools and take offense to the intrusion by tribal representatives. The school boards have refined their skills to resist these intrusions to both challenge and question their authorities. The pushback on the tribal organizations force them to refine their own organizational designs to build out their legitimacy and effectiveness.

The tensions between the tribe and local will continue. As DODE refines its organizational design to match their charge to implement the Sovereignty in Navajo Education code (Title 10), they are left to creating unique organizational responses to hold their local and themselves accountable. In the movement towards improving Navajo education, both the tribal and local school board are activating existing tools to make education work better for students. The existing tools are building off old partnerships and working together with tribal leadership to forge ahead with the recognition they have the tools in front of them that allow them to operate like a state education agency. At the local level, some schools have generated success in the effectiveness of student growth and learning. There is very little tribal recognition that some school systems have done very well within the organizational confines of their local systems.

The effort to exert tribal sovereignty is occurring across the Navajo Nation and it has created innovative structures. But the push to refine these structures does come at the cost of

protest and pushback by local school boards. The path towards tribal sovereignty is an endless conversation with local schools.

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