



ALASKA FEDERATION OF NATIVES
**EDUCATION COMPACTING
PROJECT REPORT**

SEPTEMBER 2023



Photo by Stacy Unzicker, courtesy of Sealaska Heritage Institute's Baby Raven Reads program.

INTRODUCTION

The primary goal of the Alaska Federation of Natives Education Compacting Project was to outline a potential path that would lead to the negotiation and execution of a state-tribal compact in which Alaska Natives would administer a K-12 public school. AFN's task was limited to a scoping effort that would focus on the legal foundation that could ultimately lead to a state-tribal education compact of a public K-12 school or schools. As part of the project — and as necessary — AFN would:

- Engage with Alaska Native leaders and subject matter experts on educational compacting.
- Provide informational materials and legal opinions.
- Participate in discussions with the State of Alaska and the various committees and staff of the Alaska State Legislature to respond to questions.
- Compile relevant material related to educating Alaska Native students and design seminars for educators and administrators on compacting.
- Explore the federal government's role in Alaska Native education and options to support the quality of Native education and state compacting efforts.

AFN would not be involved in facilitating any negotiations between the State and Alaska tribes and/or tribal organizations or provide any type of compacting related technical assistance. AFN's efforts were to serve as first steps in a process to create an option for tribal compacting as a mechanism for positive change to benefit of Alaska Native students. The intent was that AFN's collaboration with Department of Education and Early Development (DEED) and our independent efforts would facilitate legislation that could support education compacting legislation. Legislation would position the Alaska State Board of Education, DEED and interested tribes to move forward in partnership on the development of State-Tribal compacts.

BACKGROUND

Achievement gaps in education outcomes for Alaska Native students have existed for many decades. Alaska Native teachers, Indigenous scholars and other academic researchers have long argued that the education of Alaska Native students requires systemic change that include schools that are Native controlled, Native administered and Native in approach and practice. While many Alaskan schools have incorporated specific recommendations to include Native language education and other aspects of Native culture as part of the curriculum, these efforts have been uneven and limited. Students have benefited, but far too many are still not receiving the kind of education and skills they need to prepare them for life. Significant disparities in attendance, academic scores, graduation, and dropout rates persist.

These are the same issues identified almost three decades ago by the Alaska Natives Commission. The Commission was established by Congress to examine Alaska Native issues related to Alaska Native health, social and cultural dynamics, economics and economic development, education, and governance following the publication in 1989 of the “Report on the Status of Alaska Natives: A Call for Action” by the Alaska Federation of Natives. The Commission Report findings from 1994 are almost identical to the concerns expressed today by AFN Alaska Native leaders, the Board of Education, DEED and the Governor:

“Despite the success of several innovative local programs, on a statewide basis the public education system now serving Alaska Native children fails to provide an education that will prepare them for life. In too many cases, the education system does not provide our children the education they need to become good citizens, productive adults, and individuals with self-respect and dignity in the communities of their choice.”

- Alaska Natives Commission Reports, Section Four, Alaska Native Education Report of the Education Task Force, May 1994

In 2015, DEED began measurement of academic progress in English language arts and mathematics called Alaska Measures of Progress through standardized testing in grades 3 – 10 statewide. The results of these test were disappointing with only 1/3 of all Alaska students meeting minimum proficiency standards in English and Math. In some of the larger rural school districts, where many of the students speak English as a second language, the percentage of students meeting minimum standards was in the single digits. In 2017, DEED introduced a new measurement tool, the Performance Evaluation for Alaska’s Schools; also looking at language arts and math. According to DEED, more than 60% of students who took the test failed to meet minimum grade-level standards in English and Math; with rural schools having the poorest outcomes with some school districts having only scores as low as 7% proficiency in math and English.

In 2017, under then-Governor Walker, the State undertook a multi-year reform initiative to improve public education. What became known as **Alaska’s Education Challenge** gathered input from across the state that included parents, educators, legislators, Tribal leaders, partner organizations and local school boards. The State Board of Education established five committees to address five strategic priorities for improving public education for all students. One of those committees focused solely on the board’s strategic priority to “inspire tribal and community ownership of educational excellence.” The committee’s only recommendation to the Board was to create the option for self-governance tribal compacting for the delivery of education. The Board adopted the recommendation for tribal compacting.

Governor Dunleavy, who replaced Governor Walker in 2018, concurred with the State Board’s recommendation and, during his address to the October 2019 AFN Convention assembly in Fairbanks, spoke of his commitment to improve education and announced his support for the concept of education compacts. In his remarks, he stated, “I asked the Commissioner of Education and the State Board of Education to work

with the tribes to facilitate the creation of tribal compacting between the State School Board, tribes and school districts.”

Following the AFN Convention, DEED Commissioner Michael Johnson reached out to Alaska tribal leaders and others involved in K-12 education, informing them of the intention to create the option for self-governance tribal compacting for education and inviting their participation in future telephonic and in person meetings that would take place over the next year.

“The Department of Education and Early Development (DEED) is committed to working with Tribal governments and school districts to create an optional tribal compacting pathway and system for the delivery of public education across the state, and to achieving this objective through robust and innovative partnerships.

As the first peoples of this land, Alaska Native communities have developed remarkable, complex ways of living and knowing that train learners to meet life’s challenges. We must address injustices and grievances in education by working to ensure every student has access to an equitable education that honors and celebrates these indigenous ways of knowing and living that enrich our entire state.

The state is committed to pursuing a compacting process that respectfully engages and honors Tribal governmental voices, educators, and school communities, as we work together to improve the educational outcomes of Alaska’s greatest treasure – all of its children. Alaskans should not be satisfied until every student has the opportunity to receive an excellent education every day.”

- Michael P. Johnson, Commissioner, DEED, December 3, 2019

At the beginning of the 2021 legislative session, Senator Gary Stevens introduced Senate Bill 34 which provided for the establishment of public schools through state-tribal compacts. The University of Alaska, Tanana Chiefs Conference, Central Council Tlingit Haida Indian Tribes of Alaska, First Alaskans Institute, and Alaska Department of Education and Early Development (DEED) Commissioner Michael Johnson offered testimony in support of the bill during Senate Education Committee meetings. While there were no objections to the concept, there were oft repeated statements that compacting was a complicated process and would require a good deal of work. The bill did not make it out of the Education Committee.

During the time that SB34 was stalling in Committee, DEED Commissioner Michael Johnson approached AFN President Julie Kitka about the role AFN might have in helping to advance the compacting effort.

The Alaska Federation of Natives has long promoted legislative and other avenues to improve Alaska Native education. The AFN sponsorship of the 10-year Alaska Rural Systemic Initiative, in partnership with the National Science Foundation, Alaska Department of Education and University of Alaska, provided a wealth of foundational education research, language and culture curriculum; developed policy guidance and helped implement rural school reforms and education initiatives. Given AFN’s commitment to quality education for Alaska Native students, AFN enthusiastically accepted a grant from DEED to begin to scope out a potential path toward the negotiation and execution of a K-12 state-tribal education compact or compacts.

A grant agreement with the State of Alaska for an Education Compacting Project was executed in June 2021.

AFN EDUCATION COMPACTING PROJECT

From the onset of the project, AFN focused on broad objectives to advance the compacting option and improve education outcomes for Alaska Native children. These included the development of the legal foundation for state-tribal education compacts; passage of State legislation that could lead to the implementation of compacting as a mechanism for interested Alaska tribes to operate K-12 schools; and re-engaging the federal government in their trust responsibilities related to the public education of for Native children. AFN secured legal assistance from Paul Moorehead, a principal in Powers Pyles Sutter & Verville's Indian Tribal Government Group and Richard (Rick) Agnew with VNF Solutions. Both attorneys and their firms are familiar with Alaska and its tribal governments and worked on a variety of matters for AFN over the years. Both are well versed in Indian law as well as the complicated business of educating and working with Congress and federal agencies to consider new ideas and opportunities to better existing federal policies and services in Indian country.

State-Tribal school compacts can transform education for Alaska Native children by creating unique, tailored agreements that can meet the specific education needs of a community or even a consortium of communities. A compact would allow for innovation and flexibility at a systemic level so that tribes and local communities can address educational needs for themselves and develop culturally driven curriculums and teaching methods that would create an environment where students would thrive academically, personally, and socially. It is clear that our schools need to implement pedagogies based on and provided through Alaska Native cultural perspectives and compacting may be the best mechanism to accomplish that transformation.

While there may be challenges on this path to tribally operated schools, there are also exciting opportunities to develop partnerships, leverage of public and private resources, foster new areas of state-tribal-federal cooperation and coordination, and promote options that will support educational innovation in our schools and communities.

Federal Efforts on AFN Tribal Compacting of Education Initiative

During the project, AFN conducted legal research and analysis of existing federal and state law and policy affecting providing educational programs and operations serving Alaska Native students and communities. One area of focus evaluated federal responsibilities for education of Alaska Native students. This stage involved detailed research, scoping, and analysis of the federal laws, regulations, and programs for primary and secondary education of Alaska Natives. This work included state law, regulation, and policy to the extent they were relevant. A key objective of this research was to achieve a better delineation of the federal trust responsibility to deliver education of Native American students.

This research and analysis culminated in two white papers, issued in December 2021, that made a clear and positive case for the legal foundation of state-tribal school compacts.

“The Origins, Meaning and Future of Indian Self-Determination” provides a background to the case for tribal compacts. The paper examined the history, legal and political relationship between American Indian and Alaska Native Tribes and the Federal government of the United States from British colonization through now. The paper explores self-determination policies and interpretations, trust responsibilities, the Alaska Native Land Claims, the current legal, policy and regulatory obstacles tribes face and offers recommendations for remedial action.

“Transformational Education, Post Pandemic: A Path Forward” included a comprehensive history and catalogue of enacted legislation, including appropriation amendments in the form of “riders” as well as issues raised in congressional hearings, report language directives, regulations, programs, and policies. The paper offered analysis of all federal laws dating back to before Alaska was designated a Territory, up to and subsequent to legislation and legislative history involving the transfer of Bureau of Indian Affairs (BIA) schools in Alaska to the State of Alaska. Among its conclusions, the report describes how the federal government retains responsibility to deliver educational services to Alaska Native students, even during times when the State of Alaska educational system provides, as required by the Constitution of the State of Alaska, educational coverage, and services to all students in Alaska. The report also identifies the ways in which the federal government is falling short in this responsibility and offers examples of how some of the obstacles preventing the federal government from fulfilling its responsibilities could be removed.

At AFN’s request, in February 2022, the Senate Committee on Indian Affairs held an oversight field hearing in Anchorage titled, “Transformative and Innovative Strategies for Better Educational Outcomes for Alaska Native Students.” In addition to AFN, there was witness testimony from Commissioner Michael Johnson, Sandy Kowalski (as a NANA shareholder,) Aaron Leggett, President of the Native Village of Eklutna, and William Naneng, Sea Lion Corporation. Written statements were submitted by Cook Inlet Tribal Council, Iñupiat Community of the North Slope, and the Department of Education.

AFN President Julie Kitka testified that AFN requested the hearing to urge the Committee to take action to help strengthen the federal trust responsibility in education for Alaska Native children, acknowledge the sometimes contradictory actions of the federal government over the years, and direct the Departments of the Interior and Education to support the growing partnership with the State of Alaska in evaluating and demonstrating the potential of tribal compact schools as well as scale up other innovative efforts currently taking place in Alaska.

Specifically, AFN called on the Committee to pursue the repeal of federal prohibitions, often referred to as the “Steven’s Rider,” contained in Appropriations sections which purport to prohibit the use of federal funds for facilities that serve for the sole purpose of the education of Alaska Native student. These provisions, enacted during the period of transferring schools from the Bureau of Indian Affairs to the State of Alaska educational system, were not intended to deprive students of education, but rather to facilitate the completion and operation of schools for the benefit of Alaska Native students within the educational system of the State. That said, the report notes that the continued adherence to a federal prohibition which on its face denies educational facility funding when it is available to other Native American students in other states is anachronistic and discriminatory, even if the original purpose was to facilitate transfer, and there are other funds available for Alaska Native student education.

The Appropriations restriction remains a key hurdle to the federal government’s delivery of educational services identified in AFN’s December 2021 white paper. This provision was included in the 1994 appropriations legislation for the Department of the Interior and Related Agencies, and it prohibited the use of funding other than through the Johnson-O’Malley Act to support the operation of elementary and secondary schools in Alaska. This provision was included at the request of Assistant Secretary of Indian Affairs Dr. Eddie Brown because a few Alaska villages had applied for the BIA to take over education services and the BIA did not have sufficient funds to grant those requests. Dr. Brown asked for language added to the appropriations bill that would prohibit the expenditure of BIA funds to support the operation of elementary and secondary schools in Alaska, and that language was included.

For some time after 1994, annual appropriations legislation for DOI regularly included an administrative provision prohibiting BIA expenditures to support the operation of elementary and secondary schools in

Alaska, except through the Johnson-O'Malley program. AFN believes this provision violates the federal government's trust responsibility to Alaska tribes as currently applied to education programs now and looking forward and asks this Committee to repeal that provision. In the field hearing, AFN also requested that the Committee exercise its jurisdiction to review the need for upgrading and improving the delivery of education to Alaska Native students.

Since the late 1960s, Indian tribes have pressed for more authority to plan, design, and implement the programs that serve their people and communities. The enactment in 1975 of the *Indian Self-Determination and Education Assistance Act* (ISDEA, Pub.L.93-638, 25 USC 5301 et seq.) has resulted in higher quality programs and services to tribal communities by shifting authority to carry out the administration of services from the Federal government to Indian tribes. By 2020, more than half of the budgets and staffing of the Bureau of Indian Affairs (BIA) and the Indian Health Service was under tribal management via contracts and compacts pursuant to the ISDEA and the *Tribal Self-Governance Act*.

As discussed earlier in this report, Congress has prohibited Federal funding for BIA schools in Alaska for many years. In 1970, Congress authorized the conveyance of Federal schools to state or local authorities. Since then, the education of Native children has been conducted by the State of Alaska, with results that do not well serve the children or the communities. Tribal and State officials are now considering a paradigm shift in the education of Alaska Natives that would provide more autonomy to Alaska Native entities when it comes to education, language, and culture. AFN invited the administration to be part of that effort.

AFN requested that the Solicitor for the U.S. Department of the Interior prepare a legal opinion confirming the federal government's trust responsibility to provide for the education of Alaska Native students and offering analysis as to whether it may enter compacts on behalf of other federal departments, such as the United States Department of Education. If the Department of the Interior has that authority, it may act as a conduit for federal Department of Education funds supporting Alaska's tribal compacting demonstration program on a temporary basis until direct Congressional authority is obtained. AFN's initial legal analysis suggests such authority exists under the Johnson-O'Malley Act and its implementing regulations, the JOM Modernization Act of 2018, and the clear compacting authority of ISDEAA.

In support of this effort, AFN prepared for the Solicitor a document outlining "Proposed Principles for Consideration of Federal Obligations to Maintain and Encourage Educational Programs and Applicable School Funding Benefitting Alaska Natives." In this document, AFN provided the legal basis for the requested Solicitor's opinion, including the considerable legal authority that already exists for the federal funding and operation of education programs for the benefit of Alaska Native peoples. The key principles are that:

1. The Federal government has a clear obligation to provide education programs to Alaska Natives based on their status as Native Americans and the long-standing special legal and political relationship between the Federal government and Alaska Natives.
2. While the obligation of the Federal government to Alaska Natives for education programs is not founded in Treaty rights, it is based on numerous long-standing Federal education statutes which provide for Alaska Native program eligibility.
3. Any bar of Federal funding for schools or educational program benefitting Alaska Natives while providing funding for other Native American schools or educational programs raises significant constitutional issues.

4. A challenge to the constitutionality of the ongoing annual appropriations bar exposes the Federal government to significant liability.
5. The Federal government has a poor prior history of providing for Alaska Native education, which further exposes the government to liability. While this history stems from racially based statutes dating from early in this century, the history remains clear and unambiguous and presents a poor factual background for defense of any bar to funding specifically singling out Alaska Natives for being banned from school funding.
6. To avoid liability arising from a challenge to Federal funding limitations on funding of Alaska Native educational programs, the Federal government should acknowledge its responsibility in the realm of education to Alaska Natives and restore full eligibility of Alaska Natives for education programs.
7. ISDEAA provides clear authority for compacting of a wide array of Federal programs to and through Tribally compacted schools.
8. The Federal Government is authorized and likely required to exercise authority under ISDEAA to foster and encourage education programs available to Alaska Native students, in both existing school contexts as well as compacted schools.

The reports prepared by AFN, together with congressional testimony of AFN and others, show a detailed history of federal educational actions in furtherance of responsibilities for the full education of Alaska Native students. While the efficacy of the federal actions fluctuated over the past decades, the responsibilities remain in force and the federal government now has more tools available to deliver educational services to Alaska Natives, rather than fewer.

Federal responsibility for the education of Alaska Natives now needs greater attention and holds greater promise for transformational value in this pandemic era. Those responsibilities remain today and require more complete and continual actions by the federal government to meet the educational needs of Alaska Native students, in cooperation with the State of Alaska. One clear and promising avenue for the delivery of these needed educational services and facilities is through compacting authorities fully available under federal law, including the Indian Self Determination and Educational Assistance Act (ISDEAA).

In AFN's view, compact schools should be supported with the full weight of the federal trust responsibility for education, as well as the full weight of the State of Alaska constitutional mandate to provide education. AFN holds the belief that in this forward-looking effort, this new type of school option for Alaska has the potential to transform and improve education while protecting and utilizing the federal trust responsibility of the federal government to provide education to Native Americans, including Alaska Natives.

AFN strongly supports the removal of the federal legislative language that prohibits Bureau of Indian Education funding of K-12 Native education in Alaska. However, it is important to consider any potential impacts on federal education funds currently available to Alaska tribes and tribal organizations. Existing resources are competitive grants with limited funding but provide valuable program opportunities for advances in Alaska Native education. AFN's review, entitled "[Steven's Rider Effect on Funding for Alaska Schools](#)," concluded that any repeal or revision of the Stevens rider must ensure that the funding awarded under the dedicated Alaska Native Education Equity Program is protected to ensure that such funds continue to benefit Alaska Native students.

Alaska Legislative Efforts

AFN presented the two white papers discussed earlier in this report to the AFN membership, Commissioner Johnson and DEED Tribal Liaison Joel Isaac, Senator Murkowski, the Secretary of Education, the Department of Interior and SB34 sponsor Sen. Gary Stevens. AFN proposed that, in this initial stage, a demonstration project or projects as a first step toward compacting made the most sense and was more likely to be adopted by the Legislature. The Commissioner concurred and this became DEED's operational plan. Senator Stevens was equally supportive. AFN provided definitions and background materials relevant to a compacting demonstration project for the Senator's review.

AFN's December 2021 Convention introduced the education compacting project collaboration to its membership, other Alaskans and interested listeners in the lower 48 and abroad. The Convention featured a panel on transformational education with supportive presentations from Governor Mike Dunleavy, Alaska Commissioner of Education Michael Johnson, U.S. Secretary of Education Miguel Cardona, and AFN President Julie Kitka.

Senator Stevens, in March 2022, offered a substitute SB34 bill entitled "*An Act providing for a post-pandemic demonstration project to support innovation in education through state-tribal education compacts.*" Legislative staff working on the bill believed that a compacting demonstration bill would at least make it out of committee this year. AFN's goal was to see legislation pass in the 2022 session.

The legislative session work began in earnest in March when hearings began on the amended SB34 proposed by Senator Stevens. The bill went through a dozen hearings with AFN, DEED and others testifying to the various Senate and House committees; addressing questions and concerns raised by Legislators. The language of the bill changed as well. A much-modified version passed on May 18, 2022.

The adopted measure to implement a "Demonstration State-Tribal Education Compact" requires the State Board of Education (Board) to negotiate education compacts with Federally recognized Indian tribes or tribal organizations. The compacts may not be for more than 5 years and may not include more than 5 compact schools. The new law lays out a series of events relating to education compacts as follows:

- On or before December 30, 2022, a Federally recognized Indian tribe may submit a resolution to the Board requesting a negotiation on an education compact;
- Not later than March 31, 2023, the Board is required to meet with the governing bodies of the tribes that submitted a resolution to negotiate the terms of the compact.
- For each school district that will have a demonstration compact in its boundaries, the Board is required to meet with the governing body of the school district and a representative of the collective bargaining unit that represents the teachers of that district.
- Not later than January 31, 2024, the Board is required to submit a report with recommendations to the Alaska Legislature relating to the compacts and the compact schools. The report may include proposed legislation related to the compact and the compact schools. Prior to submitting a report, the Board is required to consult with the tribes or tribal organizations that will be party to the compact.
- Any demonstration compact negotiated under the new law takes effect only after the enactment of a state law on or before June 30, 2026, authorizing the compacts and the compact schools.

Selected tribes or tribally empowered organizations will work with DEED to develop model compacts with proposed statutory and regulatory language changes. The work product would be in the form of a report to the Legislature. The report and its recommendations will be due at the beginning of the 2024 Legislative session and require legislative approval to move forward.

On July 28, 2022, the Governor signed into law Senate Bill 34 at a ceremony held at the Alaska Native Heritage Center in Anchorage. The law became effective the following day and DEED began its implementation. Governor Dunleavy, Senator Gary Stevens, Julie Kitka, and a crowd of attendees celebrated the passage of the bill with an auditorium as a historic event.

"As an educator, I'm excited about this innovative step to facilitate pilot projects between the state and Tribes. We can improve our education outcomes, increase school choice, and respect the heritage and culture of our Tribes. State-Tribal compact schools will create a new avenue for preparing our children to be productive and strong community members."

- Governor Michael Dunleavy

"This is a historic opportunity to embrace our unique Alaska Native heritages, providing a means for local tribal governments to determine their own path for educating young Alaskans. I'm proud to have contributed to and be a part of this historic occasion."

-Senator Gary Stevens, SB34 Sponsor

"We collectively want to maintain our language, culture, and traditional ways of life," said Julie Kitka, President of the Alaska Federation of Natives. *"Educational compacting is one way that we can improve education for our tribal children."*

Implementing SB34

The Department of Education and Early Development solidified the plan drafted in anticipation of approval by the Governor and final adoption of SB34. DEED began outreach to tribes and issued a request for applications entitled State Tribal Education Compaction Demonstration Tribal Partner Grants and stated they were seeking a variety of applications based on geographic representation, a variety of educational methodologies, representation of different size schools, and communities, and overall statewide representation. The stated intent was to "have a demonstration project that shows how State-Tribal Education Compact schools can work across all of Alaska. The goal of the demonstration phase is to lead to a more permanent widely available education compacting process."

DEED's initial schedule for SB34

2022 June and July

- Draft Request for Information (RFA)

2022 Upon Bill signage and finalization of the RFA

- Publicly Post RFA and notify Tribes of the opportunity.
- Host webinars on the RFA
 - *August Overview of the RFA – for Tribal leadership to understand what is being requested at a broad policy level.*
 - *September Technical session – for those who are completing the application.*
 - *October be present at AFN.*

2022 December 30

- Applications due by December 30

2023 January 1- March 15

- State Board of Education and DEED reviews the applications.

2023 March 15-16

- Selects five (5) Tribes at the March 15-16 meeting and meets with them to start negotiations (Prior to March 31)

2023 March 16-July

- Negotiation between Tribes and DEED
 - *Consultation with Districts and teachers' unions*
- Draft Report to Legislature

2023 July-November

- Consult with Tribes on Draft Report to Legislature

2023 December Board Meeting

- Finalize Report to Legislature

2024 January 31

- Submit Report to Legislature by January 31

The 2022 AFN Convention in October in Anchorage presented the new state tribal compacting legislation to attendees and those in virtual attendance throughout the state. Education and compacting featured prominently. Main agenda presentations included two panel discussions:

- Re-Imagining the Future of Education with Aaron Leggett, Chief and President, Native Village of Eklutna and Gloria O'Neil, President, and CEO, Cook Inlet Tribal Council Inc.
- The Future of Alaska Native Tribal Education Compacting which was moderated by Joel Isaak, Alaska Department of Education and Early Development; Heidi Teshner, Acting Commissioner Alaska Department of Education and Early Development; Senator Gary Stevens; and Sandy Salaktuna Kowalski, Alaska State Board of Education.

Two education specific sessions connected to the compacting project were part of the Convention:

- Unity Through Our Indigenous Languages and Cultures: A Gathering of Alaska's Indigenous Educators

This gathering for Alaska's Indigenous Educators is an opportunity to share ways in which we could support one another as teachers and shape our vision for our students' success in school and in life. Co-Facilitators: Lolly Ac'aralek Carpluk and X'unei Lance Twitchel.

- Alaska Department of Education & Early Development – Education Compacting Workshop

A workshop for interested tribes on the Compacting Demonstration project and application. Led by Joel Isaac, DEED Tribal Liaison and Compacting Coordinator.

The passage of SB34 meant the primary purpose of the state tribal education compacting project with AFN was accomplished. Five tribal entities applied to the Alaska Board of Education and Early Development and were granted the opportunity to partner with DEED in the compacting demonstration effort:

- Central Council Tlingit Haida Indian Tribes of Alaska
- Iñupiat Community of the Arctic Slope
- Ketchikan Indian Community
- King Island Native Community
- Knik Tribe

These tribes and DEED will be shouldering the hard work of developing model compacts and will be establishing a blueprint for education reform in the state. Those that advance to become a pilot state-tribal compact school will be in a position, for the first time, to embrace innovation and explore and implement education grounded in and driven by their culture, language, traditions, and values.

Post Pandemic Innovation in Alaska Native Education

“The last 20 months brought us extraordinary challenges, especially for Native students, our families and communities who have been disproportionately affected by COVID-19. As we recognize the challenges of this moment, let’s also recognize the opportunities. We recognize, now more than ever, that education has transformative power, and it has the power to bring people together and facilitate healing and growth.”

-US Secretary of Education Miguel Cardona, AFN Convention, October 2021

The Covid pandemic served as a harsh lesson that reminded families of the essential role that schools play in our communities and in our daily lives. As the world emerges from the pandemic, we are just beginning to understand its effects, especially the impact on our children and their education.

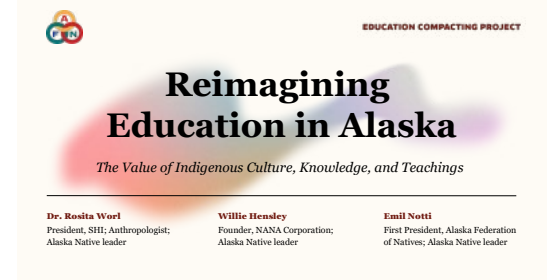
As Alaska looks toward tribal compacting as a mechanism to improve Native education outcomes, it is clear that we need to consider and explore further the impacts of Covid. The long-term impacts, with some studies suggesting consequences for a generation, should serve as inspiration to challenge our current education methodologies and embrace novel approaches for Native students, such as tribal schools, culture and language driven teaching philosophies, land-based learning, and greater community involvement whenever possible. It is time to take these collective experiences of the past few years and envision education that can emerge stronger, more meaningful, and more connected to and supportive of our culture and way of life.

As part of this project and the next steps for education, AFN commissioned a number of videos that provide additional insight related to planning a new future for Alaska Native education. The purpose is to help Alaskans understand Alaska history, the connection to current education practices and the need for culturally driven education; the State’s interest in tribal compacting as a way to improve educational

outcomes and better serve students; and what education compacting opportunities might look like in Alaska. The three videos produced are:

The Value of Indigenous Culture, Knowledge, and Teachings

To explain the history, context, and need for a culturally driven and relevant education for Alaska Native students, AFN spoke with Alaska Native leaders and pioneers Dr. Rosita Worl, Willie Hensley, and Emil Notti about the value and promise of Indigenous culture, knowledge, and teachings in educational institutions.



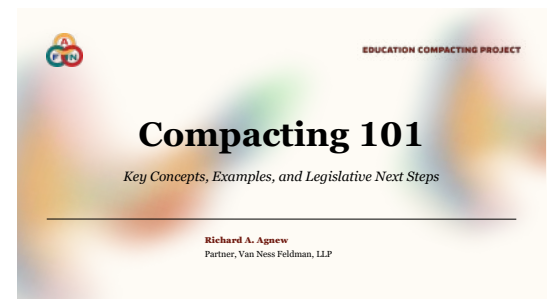
The Future of Tribal Compacting: Pathways, Benefits, and Opportunities

What might educational compacting opportunities look like in the state of Alaska? AFN spoke with former Commissioner of the Alaska Department of Education and Early Development Dr. Michael Johnson and former Alaska State Board of Education and Early Development Board Member Sandra Kowalski to highlight the pathways, benefits, and opportunities for Tribal Compacting in the state of Alaska.



Compacting 101: Key Concepts, Examples, and Legislative Next Steps

To help illustrate the design, structure, and legal precedent for tribal compacting, AFN spoke with Richard A. Agnew about key concepts, successful implementation, and legislative next steps for Alaska. A partner with Van Ness Feldman, LLP, Rick is familiar with Alaska and its tribal governments and has worked on a variety of matters for AFN over the years. He has been a consulting partner with AFN regarding the Education Compacting project and has written several papers on the topic.



These discussions are delivered as videos that are a part of this report and available for public viewing on AFN's website.

AFN also asked for analyses of the impacts of the pandemic on education, and the toll on students, teachers and parents:

The white paper, [Covid 19 and Education in the North](#) addresses the impacts of Covid-19 on education, especially on rural education in northern areas and includes a summary of key lessons from around the world. [Covid 19 Impact on Education](#) provides a deeper dive into the disruption to Alaska and global education, along with impacts and implications.

In Alaska, pandemic shifting out of the classroom was made more difficult for students, teachers and parents by the extreme digital divide. The lack of high speed and reliable internet is a fact of life in most villages and rural communities. Though this situation was a struggle for many parents and teachers, the use of technology during the pandemic demonstrated its potential. Current plans to expand broadband in Alaska

will give communities the digital infrastructure to re-envision teaching and learning in new ways that strengthen and preserve indigenous languages, art, history, and cultures.

Dr. Oscar Kawagley, a Yup'ik anthropologist and education scholar, spoke to the need for a different approach to indigenous education decades ago:

“Teachers should use the community and environment as sources of instruction and learning. Elders should be included often to share their life experiences and observations. Schools are usually bereft of mnemonics to the communities’ Yupiaqness. Artifacts, photos and posters pertaining to Yupiaq people, values, and admonishments to leading a good and long life should be highly visible. Local and visiting Native leaders should be invited to speak to classes sharing what it took for them to get to their positions.”

“In the past, Native people tended to view formal education as a hindrance to their traditional ways, but now they are beginning to look at it in a different light. They are seeking to gain control of their education and give it direction to accomplish the goals they set for it, strengthening their own culture while simultaneously embracing western science as a second force that can help them maintain themselves with as much self-reliance and self-sufficiency as possible. They have learned to thrive in a tough environment, and they can make it easier and less harsh, first as humans, secondly as scientists, with a carefully developed technology supported by an attuned educational system (Kawagley, 1995).”

Technology has made incredible strides since Dr. Kawagley wrote these words. Technological advances emerge every day that can revolutionize education and provide a mechanism for the kind of education Dr. Kawagley described.

One component of this change is to expand how technology is currently used in education and embrace innovations with the potential to support state-wide efforts to improve Native student outcomes; provide curriculum development options for future state- tribal schools; and meet the education goals established by the DEED’s strategic plan, “Meeting Alaska’s Education Challenge Together.”

Post pandemic, AFN believes it is critical that planning for state-tribal compact schools should include larger discussions about Native education and how to best engage students and strengthen our culture and language. With this concept in mind, AFN began discussions with Alaska Native Heritage Center (ANHC) and Sealaska Heritage Institute (SHI) to develop a demonstration interactive hologram visual program related to Alaska Native education including history, tribal sovereignty and compacting. It was scheduled to premiere at the Alaska Native Federation in October 2023 and then be housed at the Alaska Native Heritage Center for visitor viewing—an educational tool for students, parents, and teachers.

As indigenous education tools, hologram and other augmented reality technologies have the potential to engage students in a powerful way. Visual and interactive lessons are not only exciting but bring a different level of meaning when created by their tribal community. Through technology, students could learn from an ever-expanding network of Native teachers, elders and subject matter experts for generations to come. Storytelling is an integral part of indigenous education and culture. Hologram technology can bring oral teaching traditions to life with stunning delivery that enables viewers to literally interact with hologram presenters forever and offer wide access and resource libraries for schools and the public.

The planned production with AFN and ANHC was meant to demonstrate the technology and its educational potential for state-tribal schools, plus serve as a stand-alone resource related to Alaska Native education and compacting. Our hope was that it would become an inspiration to tribes, tribal organizations, Native corporations, school districts and DEED to explore collaborative efforts aimed at utilizing technology as an

educational tool that preserves and shares indigenous languages, history, art, skills and cultures of Alaska Native people.

The concept, while very exciting, simply required more time to complete the production and address some of the legal and ethical concerns linked to intellectual property rights, cultural appropriation, and any activity involving virtual reality or artificial intelligence. The experience raised questions for AFN about how these issues might (or should) be addressed in the development of Native education curriculum and teaching materials.

There is tremendous educational potential for incorporating Artificial Intelligence but, at the same time, there are ethical implications that must be addressed before work is done.

AFN commissioned several analyses to help tribal and non-tribal educators consider these issues:

Impacts of Artificial Intelligence Across Societies delves into the burgeoning field of Artificial Intelligence and its relevance in the real world including through machine learning and deep learning techniques. The paper offers insights into the amazing potential of AI applications for education and much more, but also provides caution about the technology and impacts of concern.

The Holography Report is an introduction to the practical basics of holography, which is the technology that creates three-dimensional images. The paper explains the fundamentals of holography and the basic principles of how it works, the equipment required, types of holograms and current and potential applications.

AFN EDUCATION COMPACTING PROJECT OUTCOMES

AFN approached the education compacting project in the spirit of innovation with a goal to begin a new chapter in Alaska Native education. This was a first of its kind partnership with the State of Alaska Department of Education and Early Development, intended to create an opportunity for Alaska's tribes and the State to work together to benefit Alaska Native students. AFN and our membership fervently believe there is a critical and urgent need to improve the education of Alaska Native children and that compacting is one of the most effective tools we have. A compact allows for innovation and flexibility at a systemic level for tribes and local communities to address educational needs for themselves.

AFN's original role was limited to a scoping effort that would focus on the legal foundation for a state-tribal education compact and a potential path forward that could lead to the negotiation and execution of state-tribal K-12 public school compacts. To that end, AFN provided foundational legal research, white papers and media presentations; enabled Governor Dunleavy, former DEED Commissioner Johnson and US Secretary of Education Cardona to speak to a statewide audience about education and compacting at the 2021 and 2022 AFN Convention; provided information on Alaska Native education issues and the potential Alaskan State-Tribal education compacts at a U.S. Department of Interior Alaska Education Field Hearing of the Senate Committee on Indian Affairs; and explored federal options that aligned with their Native education trust responsibilities and could support Alaska's interest in tribal compacting.

Though the initial goal was to design an outline of a potential path toward compacting, AFN wanted our role in the project to conclude with an action plan ready for immediate implementation. The passage of legislation authorizing the Board of Education and Early Development to partner with interested Alaska Tribes to develop up to five model state-tribal education compacts is a major step forward. The collaboration between DEED and the tribal partners moves Alaska closer to the option for tribes to operate schools and represents a critical step in advancing educational success for Alaskan students.

AFN recognizes there is uncertainty about new educational approaches and the logistics of state-tribal school compacts; but we believe the approach adopted provides the perfect mechanism to test out the concept, address any concerns or unanticipated challenges, and identify best practices. The process of developing and negotiating the model compacts and the pilot schools that result from those compacts will provide valuable information for tribes and the state that will help guide Native education planning in Alaska and support the potential to grow into broader use of state-tribal education compacting. An action-oriented framework is now in place that enables the State and interested tribes to explore compacting as an avenue to improve educational outcomes and ensure that Alaska Native children are prepared to be healthy, productive community members positioned for success. The potential for Native youth to learn in schools grounded in their own culture and using indigenous teaching methodologies and languages is genuinely exciting. Alaska is moving forward to achieve one of AFN's long-standing priorities: to ensure that Native children in Alaska have access to the best education available.

ADDENDUM

Learn more at www.nativefederation.org/education.

Alaska State-Tribal Schools Compacting Timeline 2016-2023

2016

- In the fall of 2016, Commissioner Michael Johnson and the Alaska State Board of Education & Early Development recognizing the critical need to improve Alaska students' educational outcomes and overall well-being, established new strategic priorities aimed at improving public education for all students in Alaska. The Board identified five measurable goals:
 1. Support all students to read at grade level by the end of third grade
 2. Increase career, technical, and culturally relevant education to meet student and workforce needs
 3. Close the achievement gap by ensuring equitable educational rigor and resources
 4. Prepare, attract, and retain effective education professionals
 5. Improve the safety and well-being of students through school partnerships with families, communities, and tribes

The effort to address these goals would become known as the Alaska Education Challenge and would span several years.

2017

- Governor Walker, in his January State of the State address, spoke of the need to improve public education in Alaska. The Governor's comments launched an effort to craft changes in our education system that will address student achievement gaps and increase graduation rates by making sure that every student across the state has equitable opportunity to learn and succeed.
- As part of the ongoing Alaska Education Challenge, the Department of Education and Early Development (DEED) released a public survey in February asking Alaskans to share their priorities for public education reform. Nearly 1,400 Alaskans in 109 communities submitted over 18,000 ideas for topics to be considered.
- The State Board invited 100 Alaskans representing diverse backgrounds and interests to the Dena'ina Center in Anchorage. Participants, including students, teachers, administrators, parents, employers, tribal and tribal organization representatives, legislators, university representatives, and healthcare providers, volunteered to serve on the following committees:
 1. Amplify Student Learning
 2. Ensure Excellent Educators
 3. Modernize the Education System

4. Inspire Tribal and Community Ownership of Educational Excellence

5. Promote Safety and Well-Being

These committees began a six-month effort to examine Alaska's public education system. The committees were asked to develop up to three recommendations for each of the five strategic priorities set by the state Board.

The committee charged with exploring ways to “inspire tribal and community ownership of educational excellence” proposed a single recommendation to “create the option for self-governance compacting for the delivery of Education between the State of Alaska and Tribes or tribally empowered Alaska Native organizations.” This recommendation was reviewed and accepted by the Board of Education.

- During the fall, DEED (Joel Isaak, DEED Director of Tribal Affairs, Office of the Commissioner and Niki Tshibaka, then-Assistant Commissioner) continued to hold in person and telephonic sessions with parents, students, legislators, school boards, districts, and tribal leaders as well as attend other meetings in Alaska and around the country related to Native education and the Board of Education recommendations. The Board designated a subcommittee on tribal compacting.

2018

- At the beginning of the year, the Alaska State Board, DEED Commissioner Johnson, then-Governor Walker, then-Lt. Governor Mallott, legislators, and representatives from the five committees and partner organizations held a press availability event and provided an overview of the work completed to date and shared next steps. Since then, DEED has continued collaborating with partner organizations to focus its work on the five measurable goals that are most likely to improve student outcomes.

2019

- Alaska House Resolution Number 17 was introduced in April by Representative Kopp, Lincoln and Zulkosky “Urging the Alaska delegation in Congress to repeal the federal law that prohibits funds under the Indian Self-Determination and Education Assistance Act from being used for education by tribes in the state.” The bill was referred to the House Special Committee on Tribal Affairs and the Education Committee.
- Governor Dunleavy, at the October 2019 AFN Convention in Fairbanks, announced his support of tribal compacting of education and his intent to introduce legislation to make that a reality. In his remarks, the Governor stated, “I asked the Commissioner of Education and the State Board of Education to work with the tribes to facilitate the creation of tribal compacting between the State School Board, tribes and school districts.”

2020

- Governor Dunleavy, in his State of the State address, highlighted teacher retention and recruitment and the importance of reading at grade level by the end of third grade – both priorities align with the Alaska's Education Challenge measurable goals. He charged Commissioner Johnson with assembling a working group to review the root causes of teacher retention and recruitment issues in order to attract and retain great teachers. He also introduced the Alaska Reads Act during the 2020 Legislative Session – an approach to reading that would reallocate resources with a focus on statewide teacher training,

reading specialists, early literacy interventions. The Governor did not introduce legislation related to state-tribal school compacting.

2021

- Senator Gary Stevens presented SB 34 in January, which provided for the establishment of public schools through state-tribal compacts. Testimony was offered in support of the bill during Education Committee meetings by the University of Alaska, Tanana Chiefs Conference, Central Council Tlingit Haida Indian Tribes of Alaska, First Alaskans Institute, and Alaska Department of Education and Early Development (DEED) Commissioner Michael Johnson. While there were no objections to the concept, there was oft repeated statements that compacting was a complicated process that required a good deal of work. The bill did not make it out of the Education Committee.
- Commissioner Johnson and AFN President Julie Kitka discussed the role AFN might have to in advancing the compacting effort. Those discussions resulted in a grant from DEED to scope out a potential path toward the negotiation and execution of a K-12 state-tribal education compact. AFN's work would include identifying relevant state and federal laws that provide the legal foundation for state-tribal education compacts, exploring the federal government's role in Alaska Native education and options to support state compacting efforts and working with the State of Alaska and legislative bodies as needed.
- Legal analysis completed by AFN on tribal governments, self-determination and compacts and a potential plan to move forward on State-Tribal school compacts made a clear and positive case for the legal foundation of state-tribal school compacts in Alaska. The analyses were presented to AFN membership, Commissioner Johnson and DEED staff, Senator Murkowski, the Secretary of Education, Department of Interior and SB34 sponsor Sen. Gary Stevens.
- AFN proposed to the Commissioner that it made more sense in this initial stage to have a demonstration project or projects as a first step toward compacting. The Commissioner agreed and this became DEED's promoted plan. Senator Gary Stevens was equally supportive and planned to introduce an amendment to SB34.
- AFN submitted a request to Senator Murkowski, that the U.S. Senate Committee on Indian Affairs (of which Senator Murkowski is Vice Chairman) hold a field hearing in on Alaska Native education issues. Following discussions with Committee staff, a hearing was scheduled for February 24, 2022, in Anchorage.
- During the 2021 AFN Convention in December, AFN President Julie Kitka introduced the tribal compacting initiative to the AFN membership. Invited guests U.S. Secretary of Education Miguel Cardona, DEED Commissioner Michael Johnson and Governor Mike Dunleavy spoke of the importance utilizing all potential approaches to promote tribal involvement and administrative and academic reforms to better the education experience and outcomes for Native K-12 school students. They spoke wholeheartedly in support of the concept of compacting as a means to accomplish these goals.

2022

- AFN requested assistance from Bob Anderson, Solicitor at the Department of Interior in securing a legal review of the authority of the Department to serve as a partner, or conduit, in an innovative approach to compacting.

- A webinar for AFN membership and others provided an overview and update of the status of the project, legal analysis completed to date and a discussion of the plan.
- At the end of January, AFN provided Senator Gary Stevens information on approaches to education compacting. Senator Stevens subsequently offered a substitute bill entitled “An Act providing for a post-pandemic demonstration project to support innovation in education through state-tribal education compacts.”
- First Alaskans Institute, at AFN’s request, live-streamed “virtual coffee time” sessions on education, self-determination and compacting with Māori and Alaska Native education scholars and leaders.
- The Senate Committee on Indian Affairs held a field hearing on February 24th in Alaska on “Transformative and Innovative Strategies for Better Educational Outcomes for Alaska Native Students.” Witnesses included Commissioner Johnson, Julie Kitka, Sandy Kowalski (as a NANA shareholder though she is also on the Board of Education), Aaron Leggett, President Native Village of Eklutna, and William Naneng, Sea Lion Corporation. Written statements were submitted by Cook Inlet Tribal Council, Iñupiat Community of the North Slope, and the Department of Education.
- The legislative session work began in earnest with Senator Stevens staff and other legislators. Between March and May there were a dozen hearings; with AFN, DEED and others testifying, as requested, to the various Senate and House committees. The language in the bill changed as well. A much-modified version was passed close to the end of the legislative session. It included authorization for up to five demonstration project proposals that would include model compacts, proposed statutory and regulatory language changes, and would require Legislative approval. The deadline for the models and report would be at the beginning of the 2024 Legislative session.
- On May 18, the Alaska Legislature approved, by unanimous consent, SB34: “An Act relating to the demonstration state-tribal education compact; relating to demonstration State-tribal compact schools; and providing for an effective date.”
- Governor Dunleavy signed the compacting bill on July 29 at a well-attended signing ceremony at the Alaska Native Heritage Center that was in person and live streamed. The compacting bill and the tribal recognition bill were both signed during the celebratory event.
- With the Governor’s signature, DEED and the Alaska Board of Education and Early Development were able to officially begin implementation. DEED requested interested Alaska Tribes and Tribal Organizations to submit applications and a tentative timeline. The goal was to identify tribal partners ready to work with the State towards development of the demonstration state-tribal schools. The Request for Applications became available throughout the state in the fall. DEED held a series of technical assistance webinars for tribes and tribal organizations interested in applying.

Five applications were submitted by the December 30, 2022, due date.

- A zoom meeting with the Solicitor’s Office, U.S. Department of the Interior (DOI) discussed Alaska state tribal school compacts, the impacts of US Code 25 292b on Alaska Native students and possible legal remedies. Marie Bledsoe Downes, the Principal Deputy Solicitor and Joel West Williams, Deputy Solicitor for Indian Affairs represented DOI at the meeting.
- Legal research and analysis related to federal engagement in Alaska Native education and follow up to AFN meeting with the Department of Interior Solicitor continued. Principles for consideration by DOI of federal obligations for Native education and school funding in Alaska were drafted along with language for repeal of the section in federal law that prohibits Alaska Native education funding.

- The October 2022 AFN Convention included a main agenda panel discussion on education and compacting along with focused sessions for Native educator and DEED’s Demonstration Project grants.
- A post-Convention Tribal Education Opportunities Podcast presented by AFN’s Alice “Qannik” Glenn explored Native education and compacting with Alaska Pacific University (APU) President Janelle Vanasse, APU research professor Dr. Beth Leonard, Indigenous-focused educator, student, and PhD candidate Lolly Carpluk, and University of Alaska Southeast Language professor Lance X’unei Twitchell. The Podcast can be found at www.nativefederation.org/education.

2023

- The Alaska Board of Education and Early Development reviewed the five tribal applicants and determined that all the applicants were ready to have a tribal school. The selected State Tribal Education Compact Demonstration Tribal Partnerships grantees were:
 - Central Council Tlingit Haida Indian Tribes of Alaska
 - Iñupiat Community of the Arctic Slope
 - Ketchikan Indian Community
 - King Island Native Community
 - Knik Tribe

Negotiations with those tribes to create models for compacts and a report to the Legislature are underway.

The five approved tribal applications can be found at www.nativefederation.org/education.

DEED’s Director of Tribal Affairs and lead on the compacting effort, Joel Isaac, spent the spring and early summer months working with the newly approved tribal partners and implementing the plan for negotiations and drafting the report to the Legislature.

AFN continued to explore options for federal funding and any legislative changes and would strengthen Alaska Native K-12 education. While there was some support, and acknowledgement of the federal trust responsibility regarding Alaska Native education, the political climate proved to be resistant to change at this time.

In December 2023 the Alaska Board of Education and Early Development is scheduled to review the state-tribal compacting report drafted by DEED and the tribal partners. If approved, the report will be submitted to the Alaska Legislature by January 31, 2024.

Two white papers and three videos on education compacting were produced by AFN during this period:

White Papers:

- Advantages of Compact Schools v. Charter Schools
- Stevens Rider Effect on Funding for Alaska Schools
- Overview of Indian Preference in Hiring, TERO, and State-Tribal Education Compacting
- Covid-19 and Education in the North
- COVID-19 Impact on Education

- Impacts of Artificial Intelligence Across Societies
- Holography

Report Videos:

- Reimagining Education in Alaska
- The Future of Tribal Compacting
- Compacting 101

AFN concluded its part in the Education Compacting project on September 30, 2023.

Attachments

White Papers

- [The Origins, Meaning and Future of Indian Self Determination](#)
- [Transformational Education Post Pandemic: A Path Forward](#)
- [Stevens Rider Effect on Funding for Alaska Schools](#)
- [Advantages of Compact Schools v. Charter Schools](#)
- [Overview of Indian Preference in Hiring, TERO, and State-Tribal Education Compacting](#)
- [Covid-19 and Education in the North](#)
- [COVID-19 Impact on Education](#)
- [Holography Report](#)
- [Impacts of Artificial Intelligence Across Societies](#)

2021 AFN Convention Education Presentations Transcripts

- [Julie Kitka, President of AFN, and Secretary Michael Miguel Cardona, U.S. Department of Education](#)
- [Julie Kitka, President of AFN; Governor Mike Dunleavy; Commissioner Michael Johnson, Department of Education and Early Development](#)

2022 AFN Convention Panels Transcripts

- [Alaska Native Boarding Schools](#)
- [Reimagining the Future of Education](#)
- [Future of Alaska Native Tribal Education Compacting](#)

[Letter to Department of Interior Solicitor](#)

[Committee on Indian Affairs United States Senate Field Hearing, February 24, 2022 in Anchorage, Alaska](#)

[25 U.S. Code 292b](#)

[Alaska Senate Bill 34](#)

2023 State Tribal Education Compact Demonstration Tribal Partnerships Grant Applications (approved)

- [Central Council Tlingit Haida STEC Application](#)
- [Iñupiat Community of the Arctic Slope \(ICAS\) STEC Application](#)
- [Ketchikan Indian Community STEC Application](#)
- [King Island Native Community STEC Application](#)
- [Knik STEC demonstration STEC Application](#)

Videos

- [Reimagining Education in Alaska](#)
- [The Future of Tribal Compacting](#)
- [Compacting 101](#)

Podcasts

- [AFN Tribal Education Opportunities Podcast](#)
- First Alaskans Institute Webinar on Tribal Compacting in Education:
 - [Part 1](#)
 - [Part 2](#)
 - [Part 3](#)

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