

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WICHITA AND AFFILIATED TRIBES,
WASHOE TRIBE OF NEVADA AND
CALIFORNIA, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

DOUG BURGUM, in his official capacity as
Secretary of the Interior, THE UNITED
STATES DEPARTMENT OF THE
INTERIOR, THE BUREAU OF INDIAN
AFFAIRS, AND THE BUREAU OF
INDIAN EDUCATION,

Defendants.

Case No. 1:25-cv-03235

FIRST AMENDED
CLASS ACTION COMPLAINT

Plaintiffs Wichita and Affiliated Tribes (“Wichita” or “Wichita Tribe”) and Washoe Tribe of Nevada and California (“Washoe” or “Washoe Tribe”) (collectively, “Plaintiffs”), individually and on behalf of all others similarly situated (the “Class,” as more fully defined below), bring this First Amended Class Action Complaint against Doug Burgum, in his official capacity as the Secretary of the Interior, the United States Department of the Interior, the Bureau of Indian Affairs, and the Bureau of Indian Education, (“Defendants”), upon personal knowledge, and on information and belief based on an investigation by counsel, and allege as follows:

I. INTRODUCTION

1. This trust accounting action arises out of one of the most shameful policies in American history—the tragic advent and perpetration of the grossly abusive Federal Indian Boarding School Program by the United States.

2. For nearly as long as it has existed and through the present day, the United States has assumed, through treaties and statutes, solemn trust responsibilities for the education of Native Nations’ children. These trust responsibilities were assumed in exchange for land, treasure, and peace, and are enshrined in law: “It is the policy of the United States to fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people **for the education of Indian children.**” 25 U.S.C. § 2000 (emphasis added).

3. The horrors inflicted by the Boarding School Program were a fundamental betrayal of that “unique and continuing trust relationship with and responsibility . . . for the education of Indian children.” In a recent report published in 2022 (“Vol. I” or “Volume I”), and materially supplemented in 2024 (“Vol. II” or “Volume II”; and Vol. I and Vol. II together, “the Boarding Schools Investigative Report” or “Investigative Report”),¹ the United States has now admitted, *for the first time*, that it systematically used the Native Nations’ *own funds* to implement the abuses of the Boarding School Program, all in an effort to service twin goals of dispossessing Native Nations of territory while destroying Native Nations’ cultures. The Investigative Report also reveals that the documents which prove this fundamental violation of the United States’s trust duties have been, and largely are still, under the United States’s exclusive control.

4. In the Investigative Reports, the United States admitted that it has identified at least 171 treaties with Native Nations “that implicate the Federal Indian boarding school system or education generally,”² and it has provided excerpts of 127 treaties “that explicitly include Federal

¹ Dep’t of Interior, B. Newland, *Federal Indian Boarding School Initiative Investigative Report, Vol. I* (May 2022) (hereinafter “Vol. I”); Dep’t of Interior, B. Newland, *Federal Indian Boarding School Initiative Investigative Report, Vol. II* (July 2024) (hereinafter “Vol. II”). Both volumes, and their cited appendices, are included as Exs. 1 and 2 of this Complaint. App. J is Ex. 3; App. B is Ex. 4; App. I is Ex. 5.

² Vol. II, at 93.

Indian boarding schools or general Indian education provisions.”³ These treaties, along with a series of statutes, including statutes which establish federal “responsibility for . . . education of Indian children,”⁴ and a “unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children,”⁵ create a uniform class of beneficiaries among Native Nations with common education rights.

5. In the Investigative Reports, the United States admits that it “has unique treaty and trust responsibilities to Indian Tribes, Alaska Native Villages, Alaska Native Corporations, and the Native Hawaiian Community, including to protect Indian treaty rights and land and other assets.”⁶ It further admits that “[t]he text of many Indian treaties documents that Indian education was a priority of U.S.-Indian relations.”⁷ This priority is demonstrated in treaties “that the U.S. entered into with Indian Tribes and ratified by the Senate that implicate the Federal Indian boarding school system or education generally.”⁸

6. But, rather than provide the education that was promised and legally owed to the Native Nations’ children, the United States forcibly separated Native children from their parents, and systematically sought to erase their cultural identity, killing, torturing, starving, and sexually assaulting many of these children in the process and doing untold damage to generations of the Native Nations.⁹

³ Vol. II, at 17, citing Ex. 3, Vol. II, App. J.

⁴ Indian Self-Determination Assistance Act, 25 U.S.C. § 5301(b)(2).

⁵ 25 U.S.C. § 2000; 25 U.S.C. § 2501(b).

⁶ Vol. I, at 3.

⁷ Vol. I, at 34.

⁸ Vol. II, at 93.

⁹ The term “Native Nations” includes Indian Tribes, Alaska Native Villages, Alaska Native Corporations, and the Native Hawaiian Community. “Native children” refers to children born into Native Nations. The term “Native American” refers to members of Native Nations, except where the Complaint cites to Census

7. And, the United States forced the Native Nations to put up the money to pay for it.

8. The Investigative Reports, along with newly revealed documents in Interior archives, tell a lengthy history of a continuous trust violation:

9. In 1819, the United States began to operate Federal Indian Boarding Schools (“Boarding Schools”). In 1879, the notorious Carlisle Indian Industrial School (the “Carlisle School”) was founded—a militaristic, repressive institution dedicated to “Killing the Indian” inside of the children put into its care.¹⁰ Following its founding, the Carlisle School became the acknowledged model for the other schools in the Federal Indian Boarding School Program (the “Boarding School Program” or “Program”).¹¹

10. By 1926, 83% of Native Nations’ children were enrolled in a Boarding School.¹² As the United States now admits, this removal of Native Nations’ children was national policy, effectuated through treaties that deceived the Native Nations into giving up their land for, in material part, the false promise of “education” to be provided by the Boarding Schools.

and survey records, in which case it uses the definition used in the respective survey. Where the Complaint quotes sources, it does not change the term used.

¹⁰ Mr. Pratt’s statement was made in the context of a lengthy speech he made at the National Conference of Charities and Correction in June 1892. He also stated: “It might consume all my time in giving like illustrations—and even stronger ones— showing where mere association of Indians with whites has brought about entire change in them , but perhaps no one will dispute the potency of these influences. A great general has said that the only good Indian is a dead one, and that high sanction of his destruction has been an enormous factor in promoting Indian massacres. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man.” The full text of the speech is available here: https://carlisleindian.dickinson.edu/sites/default/files/docs-resources/CIS-Resources_1892-PrattSpeech.pdf.

¹¹ *The Carlisle Indian Industrial School: Assimilation with Education after the Indian Wars*, Nat’l Park Serv., <https://www.nps.gov/articles/the-carlisle-indian-industrial-school-assimilation-with-education-after-the-indian-wars-teaching-with-historic-places.htm> (last visited May 31, 2026).

¹² *US Indian Boarding School History*, Nat’l Native Am. Boarding School Healing Coalition, <https://boardingschoolhealing.org/education/us-indian-boarding-school-history/> (last visited May 31, 2026).

11. The Boarding School Program would last until 1969 and represents one of the most shameful state-sponsored crimes in American history—the intentional attempted destruction of Native Nations and Native families through the systematic abuse of Native children.

12. Throughout the 150 years of the Boarding School Program, Native children were routinely physically and/or sexually abused, barred from speaking their native tongues, forced into physical labor, provided deficient instruction that did not equip them to participate in modern life, placed in overcrowded conditions, and regularly denied adequate nutrition and health care.

13. Families that resisted giving up their children to the Boarding Schools were denied rations; when starvation failed, the United States turned to abduction. Children as young as four years old were taken away from their families and separated from their siblings. Many children died.

14. The children forced to live—and, all too often, die—at these schools hailed from different tribes, traditions and regions. They were purposefully intermixed so that they would lose their native tongues—the core of their cultural heritage.

15. To date, the Department of the Interior (“DOI” or “Interior”) has positively identified at least 18,624 Native children who entered the Boarding School Program and has admitted that 973 child deaths have been documented at the Boarding Schools—*i.e.*, approximately five percent of identified documented enrollees—found in marked and unmarked graves on school grounds.¹³ But, as President Biden admitted in 2024, “the real number is likely to be much, much higher.”¹⁴

¹³ Vol. II, at 15.

¹⁴ Justin Gomez, *Biden apologizes for Native American children forced into federal boarding schools*, ABC News, Oct. 25, 2024, <https://abcnews.go.com/Politics/biden-apologize-government-forcing-indian-children-boarding-schools/story?id=115146385>. The apology, previously available on the White House

16. These children were all members of Native Nations, removed from their families, and deliberately severed from relatives and communities—all so that they could be stripped of their culture.

17. In a barbaric twist, “*the United States stuck Tribes with a bill for these programs,*” wherein “[a]t points as much as 95% of the funding for Indian boarding schools came from ‘Indian trust fund monies’ raised by selling Indian land.”¹⁵

18. The United States paid for the Boarding School Program with a pooled set of funds held in trust for all Native Nations’ *benefit*, including funds taken *from the Nations themselves*.¹⁶ In other words, the United States took an unknown amount of tribal trust funds, pooled them together, and used revenues from a pooled Indian trust fund “to finance schools . . . for Indians.”¹⁷ That pooling of trust assets was further revealed in newly uncovered archival evidence described herein.

19. The United States Government, the trustee for both the education of Native Nations’ children and for the Native Nations’ funds, has never accounted for the funds that it took to support

website, has been removed. *See*, White House, Fact Sheet: President Biden Touts Historic Support for Indian Country and Transformation of the Nation-to-Nation Relationship with Tribal Nations (Oct. 24, 2024) <https://www.whitehouse.gov/briefing-room/statements-releases/2024/10/24/fact-sheet-president-biden-touts-historic-support-for-indian-country-and-transformation-of-the-nation-to-nation-relationship-with-tribal-nations/> [<https://web.archive.org/web/20250113225523/https://www.whitehouse.gov/briefing-room/statements-releases/2024/10/24/fact-sheet-president-biden-touts-historic-support-for-indian-country-and-transformation-of-the-nation-to-nation-relationship-with-tribal-nations/>](discussing the “historic Presidential apology for the Federal Indian Boarding School era”). The United States has since cut millions of dollars in grants to support research relating to the Boarding School Program. *See* Hallie Golden, *Trump administration makes major cuts to Native American boarding school research projects*, Associated Press, (Apr. 19, 2025), <https://apnews.com/article/boarding-school-native-americans-research-grants-6309640a3df5934e46bc1151e78c99f8>.

¹⁵ *Haaland v. Brackeen*, 599 U.S. 255, 301 (2023) (Gorsuch, J. concurring) (emphasis added).

¹⁶ Vol. I, at 44–45.

¹⁷ Ex. 6, October 7, 1980 Report To The Congress Of the United States by the Comptroller General Regarding “Inappropriate Use of An Indian Trust Fund to Subsidize BIA Activities.”

the Boarding School program, or detailed how, or even whether, those funds that it collected for purported “educational” purposes were ultimately expended on Native Nations at all. Indeed, evidence exists that some unknown amount of these funds were not spent for Native Nations’ purported benefit, but instead taken unlawfully by Interior for unrelated agency expenses.¹⁸ The Department of the Interior has also failed to identify any funds that remain.

20. Determining where the money came from to support these repressive Boarding Schools, whether Indian trust funds were simply taken by Interior for itself, what was obtained, what monies, if any, are left, and how the monies were spent or misspent in support of the schools is the purpose of this lawsuit.

21. In October 2024, the President of the United States—for the first time—formally apologized for the Boarding School Program, calling it “a significant mark of shame” and “a blot on American history,” and acknowledged that the apology was “long, long, long overdue.”¹⁹ The Department of the Interior published the Investigative Report, which itself acknowledged the systematic taking of Native Nations’ assets to pay for a brutal violation of the United States’s trust responsibility for Native children’s education. And yet, despite this presidential level apology, and despite the Investigative Report’s repeated *mea culpas*, no accounting took place.

22. Much more is owed. The United States’ duty of trust over Native children’s education was never disavowed and never repudiated, as the United States continues to recognize its “responsibility for . . . education of Indian children,”²⁰ based on a “unique and continuing trust

¹⁸ October 7, 1980 Report To The Congress Of the United States by the Comptroller General Regarding “Inappropriate Use of An Indian Trust Fund to Subsidize BIA Activities.”

¹⁹ Justin Gomez, *Biden Apologizes for Native American Children Forced into Federal Boarding Schools*, ABC News (Oct. 25, 2024), <https://abcnews.com/Politics/biden-apologize-government-forcing-indian-children-boarding-schools/story?id=115146385>.

²⁰ Indian Self-Determination Assistance Act, 25 U.S.C. § 5301(b)(2).

relationship with and responsibility to the Indian people for the education of Indian children.”²¹ As part of its ongoing trust obligations, the United States must account for the funds, including misappropriation of Nation Nations’ own monies, to perpetuate the Boarding School Program.

23. In May 2022, the United States *admitted* that the “total amount of Tribal or individual Indian trust fund account monies . . . used to directly support the Federal Indian boarding school system” remains unknown.²² And, in July 2024, in the “final volume” of the Boarding Schools Investigative Report, the United States still had not accounted for funds that had been obtained “from Tribal trust accounts for the benefit of Indians and maintained by the United States” and then used on the Boarding School system.²³

24. The United States also now *admits* that the “U.S. Government made appropriations available of more than \$23.3 billion in FY23 inflation-adjusted dollars between 1871 and 1969” for the “Federal Indian boarding school system” and associated policies, ***but this \$23.3 billion admission barely scratches the surface of the Native Nations’ losses***: as the Investigative Report explains, this amount “does not include the present-day value of Indian territory loss associated with the Federal Indian boarding school system [or] any funds that may have been obtained from Tribal trust accounts for the benefit of Indians and maintained by the United States.”²⁴ Nor does this estimate include “wealth generated by Indian or Native Hawaiian children while in the [Boarding School] system including for the agriculture and railroad industries, Indian domestic

²¹ 25 U.S.C. § 2000; 25 U.S.C. § 2501(b).

²² *Id.*

²³ Vol. II, at 93; *Federal Indian Boarding School Initiative*, U.S. Dep’t of Interior <https://www.doi.gov/priorities/strengthening-indian-country/federal-indian-boarding-school-initiative> [<https://web.archive.org/web/20241213021353/https://www.doi.gov/priorities/strengthening-indian-country/federal-indian-boarding-school-initiative>] (last visited May 31, 2026).

²⁴ Vol. II, at 93.

and other labor for non-Indian families and communities through the Outing System,” without which the boarding schools “could not possibly be maintained.”²⁵

25. As just one example, an unknown amount of Indian Trust fund monies, along with income generated by children at the schools, was ultimately deposited into an account called the “Indian Moneys, Proceeds of Labor” trust fund—a fund that was created in 1881 and that the United States Government Accountability Office has confirmed was used to pay for expenses at boarding schools, for which the United States has, again, never accounted. The GAO also explained that a large portion of the money in the Indian Moneys, Proceeds of Labor fund was also improperly diverted to pay Interior’s unrelated bills, rather than supporting Indian children’s education in any way.

26. The United States also, for the first time, admitted, in Volume I, that there were at least five separate sources of funds used to generate money for the Boarding School Program:

- Appropriations made under the educational provisions of existing treaties with Native Nations;
- Funded investments of bonds and other securities held by the United States;
- Proceeds of the sale of lands of certain Native Nations;
- Accumulations of money in the Treasury resulting from the sale of Native Nations’ lands; and
- Annual appropriations by U.S. Congress for Indian school purposes.²⁶

²⁵ Vol. II, at 18; Vol. I, at 63; *see also Haaland v. Brackeen*, 599 U.S. 255, 301–02 (2023) (Gorsuch, J. concurring) (“To lower costs further and promote assimilation, some schools created an ‘outing system,’ which sent Indian children to live ‘with white families’ and perform ‘household and farm chores’ for them. This program took many Indian children ‘even further from their homes, families, and cultures.’ Advocates of the outing system hoped it would be ‘extended until every Indian child was in a white home.’”) (internal citations omitted).

²⁶ Vol. I, at 43.

27. The United States has not detailed how (or even whether) these funds were actually spent, and has never provided an accounting of the economic harm, including the financial and property losses, inflicted on the Native Nations by the United States's misappropriation and misuse of Native Nations' trust funds collected to be spent on the boarding school program.

28. In other words, the United States has now *admitted* that it made Native Nations pay for their own attempted destruction, but it does not yet know—or has not yet revealed—how much the Native Nations paid, how much money was actually spent, the precise nature of those expenditures, where any of those funds are now, or how much damage was wrought through the United States' misappropriation and misuse of the Native Nations' money and property.

29. The United States also now *admits* that many of the material records relating to the Boarding School Program that it used to assemble the Boarding Schools Investigative Report—records spanning approximately 103 million pages²⁷—were, and continue to be, solely “under its control.”²⁸ Until the United States's issuance of the Boarding Schools Investigative Report, no one had notice of the full scope of the atrocities that occurred, much less how the Boarding Schools were funded, or the scope of Native Nations' money and land taken for purported support of the Boarding Schools.

30. Plaintiffs, individually and on behalf of all others similarly situated, demand an accounting. The United States must disclose the value of the land ceded and amount of Native Nations' funds taken for purported support of the Boarding School Program and in support of Native children's education, and detail how, and indeed whether, those funds were ever dispensed for the Native Nations' collective benefit as required. The United States Government must also

²⁷ Vol. II, at 5.

²⁸ Vol. I, at 5.

account for the labor that Native Nations' children expended, which the United States Government now admits for the first time, was essential to the functioning of the Boarding School Program. It must identify all accounts with Native Nations' trust assets—including pooled assets derived from multiple Native Nations—used for the Boarding School Program, and identify from which Nations the funds were taken, and how those funds were ultimately spent. It must also finally account for the damage it has done to the Native Nations in its role as trustee.

31. That such an accounting may be difficult is no excuse. As the Supreme Court recently observed, the United States's arguments against following through on obligations owed to Native Nations “follow a sadly familiar pattern. Yes, promises were made, but the price of keeping them has become too great, so now we should just cast a blind eye.”²⁹ But, after decades of broken promises, the Supreme Court has declared enough:

We reject that thinking. If Congress wishes to withdraw its promises, it must say so. Unlawful acts, performed long enough and with sufficient vigor, are never enough to amend the law. To hold otherwise would be to elevate the most brazen and longstanding injustices over the law, both rewarding wrong and failing those in the right.³⁰

32. The United States took upon itself the role of trustee of Native children's education. In that capacity, it forcibly took toddlers and young children away from their families. It subjected Native children, solely because they were Native children, to physical and sexual abuse, denied them adequate health care and nutrition, barred them from speaking their native tongues, and deprived them of basic human rights. Many children died. The Boarding Schools are littered with unmarked graves, and the details of those deaths remain hidden.

²⁹ *McGirt v. Oklahoma*, 591 U.S. 894, 937 (2020).

³⁰ *Id.* at 937–38.

33. The harm inflicted by the Boarding School Program endures in the broken families and poor mental and physical health of Boarding School survivors and their descendants. It endures in the cycles of poverty, desperation, domestic violence, and addiction directly caused by the Boarding School Program. The harm endures—and has multiplied—in the silence of lost language and culture, and the quiet desperation of so many survivors and their descendants, families that carry scars down through generations. It endures in the missing remains and unmarked graves of the children who died.

34. The abuse continued for 150 years, and, throughout this time, the United States forced Native Nations to fund their own abuse and the destruction of the lives of their own children. The impact of the United States's actions continues to be felt by every member of the Native Nations. The suffering so long inflicted cannot be undone. But the law does not turn a blind eye toward historic wrongs. Justice demands a remedy. That remedy begins with an accounting.

II. PARTIES

A. Plaintiffs

35. Plaintiff Wichita and Affiliated Tribes are a federally recognized tribe headquartered in Anadarko, Oklahoma. The Wichita concluded a Treaty with the United States on May 15, 1846.³¹ The Wichita Treaty was ratified by the Senate on February 15, 1847, and signed by President James K. Polk on March 8, 1847.³² Wichita children were forced to attend Federal Boarding Schools across the United States.

³¹ Treaty with the Comanche, Aionai, Anadarko, Caddo, Lipan, Longwa, Keechi, Tawakoni, Tonkawa, Wichita, and Waco Indians, May 15, 1846–Mar. 8, 1847 (hereinafter “the Wichita Treaty”), <https://www.lipanapache.org/LAT/assets/PDFs/treaties/Treaty05-15-1846.pdf>.

³² Instrument of Ratification Signed by President James K. Polk and Sec. of State James Buchanan (Mar. 8, 1847), <https://catalog.archives.gov/id/175516195?objectPanel=transcription>.

36. Plaintiff Washoe Tribe of Nevada and California and its affiliates are a federally recognized tribe, headquartered in Gardnerville, Nevada, and which have had a presence in the region for approximately 6,000 years. While the Washoe have no formal treaty with the United States, they have been a federally recognized tribe since 1936. Washoe children were forced to attend Federal Boarding Schools across the United States.

B. Defendants

37. Defendant Doug Burgum is sued in his capacity as Secretary of the United States Department of the Interior.

38. Defendant the United States Department of the Interior is a Cabinet-level agency that manages the United States's natural and cultural resources. Interior is charged with honoring and fulfilling the United States's trust responsibilities and special commitments to Native Nations.

39. Defendant the Bureau of Indian Affairs ("BIA") is a bureau within Interior tasked with promoting opportunity for Native Nations and for carrying out the United States's responsibilities to Native Nations. As it describes itself, its "mission is to enhance the quality of life, promote economic opportunities, and to carry out the federal responsibilities entrusted to [the United States] to protect and improve the trust assets of American Indians and Alaska Natives."

40. The Bureau of Indian Education ("BIE") is a bureau within Interior that funds and operates schools for Native Nations' children.

41. Interior (including through BIA and BIE), along with its predecessor agencies, implemented and oversaw the Boarding School Program and its successors.

III. JURISDICTION AND VENUE

42. The United States District Court for the District of Columbia is the proper jurisdiction and venue for this action because Defendants Doug Burgum, in his official capacity as

Secretary of the Interior, and the agencies United States Department of the Interior, Bureau of Indian Affairs, and Bureau of Indian Education, are headquartered and/or maintain principal offices in Washington, D.C. Venue is proper in this District under 28 U.S.C. § 1391(e) because Defendant Doug Burgum resides in this District and a substantial part of the events or omissions giving rise to the claims occurred here.

43. This Court has subject matter jurisdiction under 28 U.S.C. § 1331, because the case arises under the Constitution, laws, or treaties of the United States.

IV. FACTUAL ALLEGATIONS

A. Overview

44. Pursuant to a United States Department of the Interior Secretarial Memorandum, issued June 22, 2021, then-Assistant Secretary of Indian Affairs Bryan Newland (“Assistant Secretary Newland”) published Volume I of the Federal Indian Boarding School Initiative Investigative Report in May 2022, which “shows for the first time that between 1819–1969 the United States operated or supported 408 boarding schools across 37 states (or then territories), including 21 schools in Alaska and seven schools in Hawaii.”³³

45. In Volume I, the United States admitted for the first time, among other material matters, that “the United States directly targeted American Indian, Alaska Native, and Native Hawaiian children in the pursuit of a policy of cultural assimilation that coincided with Indian territorial dispossession.”³⁴

46. Volume II was issued in July 2024 and updated the list of Native Nations boarding schools to include 417 schools, added substantial profile information for each school and listed the

³³Apr. 1, 2022 Letter from B. Newland to Secretary of Interior Haaland *in* Vol. I.

³⁴*Id.*

Native Nations whose children were victimized. Volume II also revealed additional material facts regarding the Boarding School Program.³⁵

47. In Volume II, the United States also admitted, for the first time: “Congress made appropriations available of more than an estimated \$23.3 billion in FY23 inflation-adjusted dollars between 1871 and 1969 for the Federal Indian boarding school system as well as for similar institutions and associated assimilation policies. This amount does not include the present-day value of Indian territory loss associated with the Federal Indian boarding school system, any funds that may have been obtained from Tribal trust accounts for the benefit of Indians and maintained by the United States, or funds expended by other institutions including religious institutions and organizations for Indian boarding school operation.”³⁶

48. In Volume II, the United States admitted for the first time that “the assimilation of Indian children through the Federal Indian boarding school system was intentional and part of that broader goal of Indian territorial dispossession for the expansion of the United States.”³⁷

49. In Volume II, the United States also admitted for the first time: “Further review is required to determine the reach and impact of the violence and trauma inflicted on Indian children through the Federal Indian boarding school system. The Department has recognized that targeting Indian children for the Federal policy of Indian assimilation contributed to the loss of: (1) life; (2) physical and mental health; (3) territories and wealth; (4) Tribal and family relations; and (5) use of Tribal languages. This policy also caused the erosion of Tribal religious and cultural practices

³⁵ Vol. II, at 5, 13.

³⁶ Vol. II, at 93.

³⁷ Vol. II, at 94.

for Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community, and over many generations.”³⁸

50. Following the publication of Volume I, then-United States Secretary of the Interior Deb Haaland (“Secretary Haaland”) engaged in a year-long tour in 2023, in which she met with Boarding School survivors and encouraged them and their families to share their stories.³⁹ The narratives revealed a pattern of physical and sexual abuse in the boarding school system that continued until the Boarding School Program ended in 1969, and further revealed that the Boarding School Program continues to harm Native Nations today.

B. The Boarding Schools Had a Devastating and Lasting Impact

51. At a May 2022 meeting with Secretary Haaland at the site of the Riverside Indian School in Oklahoma—a meeting that took place immediately following publication of Volume I—survivor Donald Neconie from Anadarko, Oklahoma, rose to speak.⁴⁰

52. What Mr. Neconie recounted would have been familiar to generations of Native children victimized by the Boarding School Program:

Actually, my story begins in St. Patrick’s Mission⁴¹ . . . the moment I landed there, they took me downstairs, took all my clothes off and threw a bunch of green stuff all over me and it stung like hell. It stung my eyes. It stung all over me, and when they put the water on me, it stung even worse. They did not care . . .

I used to talk Kiowa . . . every time I tried to talk Kiowa, they put lye in my mouth. And they washed my mouth. And when I got out of St. Patrick’s Mission, I thought

³⁸ Vol. II, at 94–95.

³⁹Kalle Benallie, *A Look at the Nearly Two-Year ‘Road to Healing’*, ICT (Nov. 13, 2023), <https://ictnews.org/news/a-look-at-the-nearly-two-year-road-to-healing>.

⁴⁰ The “Road to Healing” meetings with survivors and survivors’ families have been recorded; Donald Neconie, Remarks at Riverside Indian Sch. Road to Healing Listening Tour (July 9, 2022) *in* Riverside Indian Sch. Road to Healing, Dep’t of Interior 11:14 (July 9, 2022) <https://www.doi.gov/sites/default/files/rth-ok-riverside-indian-school-transcript.pdf> (“Neconie Testimony”).

⁴¹ St. Patrick’s Mission and Boarding School was located in Anadarko, Oklahoma, and operated by the Bureau of Catholic Indian Missions. Ex. 4, Vol. II, App. B at 367.

it was over. But then, I landed at Riverside,⁴² here. And it started all over again. The same way. They put the lye on me . . . They washed my mouth out with lye to make me stop talking Kiowa.

And it was 12 years of hell [when the Matron] saw that we were doing something wrong, we were herded downstairs by Mr. Eshman And he pulled down our clothes and he whipped us, repeated beating -- during the daytime when we would walk and some getting ahead of us would walk and his coveralls would get stuck in his back because the blood would drain from his butt. We were almost all that way.

And when we went to the dungeon, we called it the dungeon. In the morning, there was a man by the name of (Incomprehensible), he was cross-eyed. And when we sat down, we had to put our chins inside of our neck and our legs would have to be underneath that chair and he -- the boys would come and kick, kick, kick, kick . . .

We were sodomized. Men, girls, boys, we were sodomized. And people knew that was going on and did nothing to stop it. When the authorities came, and they said to put us in jail. They didn't put the people that did that to us, they put -- they didn't put them in jail. They didn't do anything to the people and we went through hell again because we were told that if you told anybody, you would get the hell beat out of you.⁴³

53. Mr. Neconie is hardly alone. The New York Times recently reported the statements of Mr. James LaBelle, a boarding school survivor who attended a school in southeast Alaska in 1955. Mr. LaBelle recounted his experiences of sexual violence and explained that when he was a child “[d]uring weekdays, it was common for supervisors to tell children to undress so they could be paddled or whipped with a cat-o-nine-tails. . . . And when weekends came . . . it was time for the ‘gauntlet,’ when some children were ordered to get completely naked and others were ordered to hit them with belts for perceived violations of school rules.”⁴⁴

⁴² Riverside Indian School, also located in Anadarko, Oklahoma, was originally opened as a “government reservation boarding school” in or about 1871. Vol. II, App. B at 290.

⁴³ Neconie Testimony at 11:17–14:12.

⁴⁴ Zach Levitt, et al., *War Against the Children*, N.Y. Times (Aug. 30, 2023), <https://www.nytimes.com/interactive/2023/08/30/us/native-american-boarding-schools.html>.

54. Anthony Galindo, a member of the Wichita, recently shared the story of his grandmother, Ethel Roberts Wheeler. As a little girl, she was seized by Federal Marshals from Camp Creek in Oklahoma and taken to the Riverside School nearby. After her fourth or fifth escape attempt, she was placed in a cattle car with other children and sent to a school in Phoenix, Arizona. On information and belief, this was the Phoenix Indian School, which opened in 1891 and was the site of at least 23 student deaths.⁴⁵ Ethel remembered the brutal beatings that awaited children who spoke their native tongue. The effects of the school never left her. As Anthony said, “She lived in fear all her life.”

55. Oscar Stephens was a Wichita boy who had a similar experience to Ethel Wheeler’s. When Oscar was about ten years old, and playing by a creek near his Anadarko Oklahoma home, he was taken by federal agents—at the time, he spoke two words of English, “Yes” and “No.” He was sent to the Riverside School, spent three to four years there, and then was sent onward to the notorious Carlisle school, enrolling on Sept. 10, 1908 as a thirteen-year-old boy. Files describe Oscar as a thirteen-year-old student, weighing 94 pounds, with “numerous scars,” round shoulders, and “fair development.”⁴⁶

⁴⁵ Vol. II, Ex. 5, App. I, at 3.

⁴⁶ *Apr. 6, 1909 Physical Examination: Oscar Stephens* in Oscar Stephens Student File 3 (last visited May 31, 2026), https://carlisleindian.dickinson.edu/student_files/oscar-stephens-student-file.

56. The files reveal that his mother died a year later—before Oscar returned home—as did a brother and a sister.⁴⁷ His head was shaved, and he was beaten for speaking his native tongue, the only language he knew. Records show that over the years as a young teenager he was routinely placed with families to do servile work—his file described him doing housework for a family at the age of 14—and routinely ran away.⁴⁸ His records report he repeatedly “Ran from outing:”⁴⁹

4-7-15	Ran from outing	
4-16-15	Returned from running to outing	9-3-
3-30-16	Trav R. C. Larue, Hatboro, Pa. #1	9-1-1
4-11-16	Ran Returned to Outing	4-14-
6-1-16	Ran " " " "	6-8-

57. Eventually, Oscar would join the army, and fight in World War I. Only when he returned from the war was he finally, at long last, able to go home.

58. Michelle Emerson, another member of the Wichita, lived with the Boarding School Program’s intergenerational impacts. Both her parents spent their entire youth within the Boarding Schools—Riverside for her mother, and Flandreau Indian School in South Dakota for her father. Like so many others, they both entered the military to serve the United States upon graduation. Their marriage was short, alcohol-infused, and violent. For Michelle, the line from the Boarding Schools to her parents’ anguish was a direct one: “They were never around a structured family, so

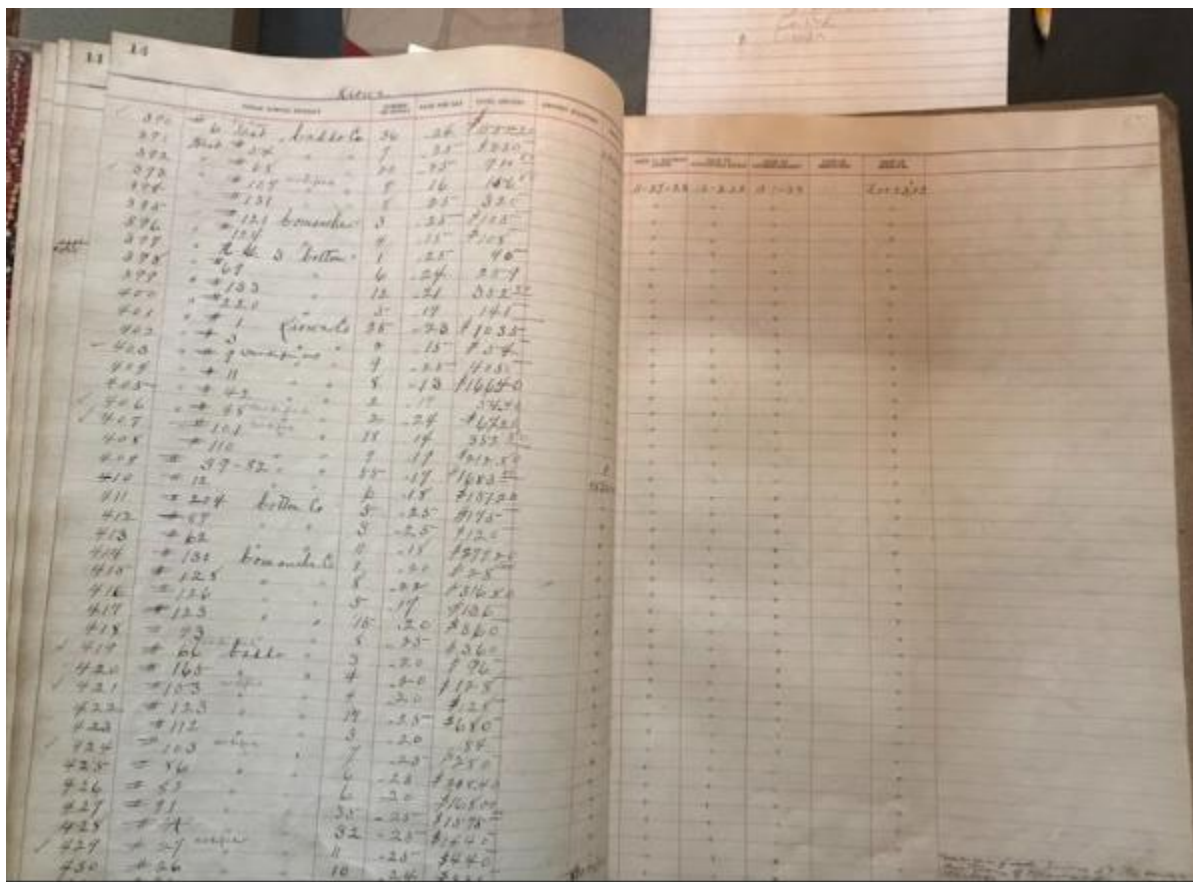
⁴⁷ Letter from Examiner of Inheritance, U.S. Dep’t of Interior, to Superintendent Carlisle Indian Sch. (Feb. 5, 1915) in Oscar Stephens Student File 23 (last visited May 31, 2026), https://carlisleindian.dickinson.edu/student_files/oscar-stephens-student-file.

⁴⁸ *Descriptive and Historical Record of Student: Oscar Stephens*, in Oscar Stephens Student File 2 (last visited May 31, 2026) https://carlisleindian.dickinson.edu/student_files/oscar-stephens-student-file; *Outing Record: Oscar Stephens in Oscar Stephens Student File 43-44* https://carlisleindian.dickinson.edu/student_files/oscar-stephens-student-file.

⁴⁹ *Descriptive and Historical Record of Student: Oscar Stephens* in Oscar Stephens Student File 2 (last visited May 31, 2026) https://carlisleindian.dickinson.edu/student_files/oscar-stephens-student-file.

they didn't know how to model it. I know they loved us," she said, "but they could never express that."

59. Archival records, reviewed in 2026, reveal that children from various tribes were gathered in boarding schools, with payments made out to the school for each child. One example of a ledger, reflecting children under the jurisdiction of the Kiowa Agency (which would have included Wichita members at the time), is reflected here:⁵⁰



⁵⁰ King Decl., ¶ 11, Ex. 1 (NARA1_0035).

60. The ledger follows the pattern of the earlier ledgers describing the number of tribal students who were in a particular school district, the rate charged per student, and the total amount Interior (using, in part, Native trust funds) paid per student.

61. Until May 2022, the United States had not revealed which vast records from the American Indian Records Repository (not open to the general public) existed regarding the Boarding School Program,⁵¹ nor did it attempt to describe either the comprehensive, national reach of the Boarding School Program, the harm that Boarding School Program caused, or the manner in which it was funded. That changed with the publication of the Boarding Schools Investigative Report—completed in July 2024—which identified the schools by name and revealed, for the first time, much, but by no means all, that occurred within.

62. **Children were killed.** For the first time, the United States now admits it is responsible for “the deaths of Indian children” in boarding schools—approximated in the “thousands or tens of thousands”—and that the deaths of those “children while under the care of the Federal Government, or federally supported institutions, led to the breakup of Indian families, and the erosion of Indian tribes.”⁵²

63. Volume I disclosed marked and unmarked burial sites at approximately 53 different schools across the Boarding School Program.⁵³

⁵¹ Interior located a substantial portion of the materials relied upon for the Boarding School Investigation Report from the American Indian Records Repository (AIRR) in Lenexa, KS. Vol I. at 10. According to Interior, “[a]ccess to the AIRR is restricted and not open to the general public. Direct access to the records maintained by the AIRR at the Federal Records Center is limited exclusively to authorized federal employees and federal contractors. Individuals seeking access to these records must contact the relevant offices of the Bureau of Trust Funds Administration, Bureau of Indian Affairs, or Bureau of Indian Education for further assistance.” <https://www.doi.gov/ost/office-trust-records>. Beyond these words on Interior’s website, there is no published policy, procedure, or criteria for how anyone outside of the government can review any material that is held at the AIRR.

⁵² Vol. I, at 93.

⁵³ Vol. I, at 8.

64. In Volume II, Interior revealed that it uncovered additional sites: there were at least 74 marked and unmarked burial sites at 65 different school locations, with 973 confirmed deaths of children who perished while attending the Boarding Schools.⁵⁴

65. **Language and culture were lost.** The Boarding School Program’s official policy was to destroy Native children’s cultural attachments, including and especially their attachment to language. Children were beaten for speaking their native languages and students were routinely mixed with students from dozens of other Native Nations so that their only possible common tongue was English, ensuring a “break up of the tribal associations.”⁵⁵ While the use of Native languages was once universal among Native Nations, today only about 6% of Native Americans speak a Native language, and without the single most spoken Native language, Diné, that number drops to 3%.⁵⁶ It is now clear, for the first time, that the Boarding School Program is the primary cause for this devastating loss. Indeed, the United States now admits that the Boarding Schools were “designed” to “force the complete abandonment of” Native languages.⁵⁷

66. **Families were destroyed.** As the United States now admits, the Boarding School Program was intentionally “designed to separate a [Native] child from his [] family” in furtherance of its official “policy to assimilate Indian children” by “disrupt[ing] the Indian family unit.”⁵⁸

⁵⁴ Vol. II, at 5.

⁵⁵ Vol. I, at 40 (citing Annual Report to the Secretary of the Interior 6 (1886), Commissioner of Indian Affairs (hereinafter “ARCIA for [year])).

⁵⁶ Ana I. Sánchez-Rivera, *et al.*, *A Look at the Largest American Indian and Alaska Native Tribes and Villages in the Nation, Tribal Areas and States*, U.S. Census (2023) <https://www.census.gov/library/stories/2023/10/2020-census-dhc-a-aian-population.html>; *Census Shows Native Languages Count*, Language Mag. (last visited May 31, 2026), <https://www.languagemagazine.com/census-shows-native-languages-count>.

⁵⁷ Vol. I, at 51.

⁵⁸ Vol. I, at 38, 51.

67. When parents refused to surrender their children, the United States now admits that it withheld rations it promised in treaties to starve Native Nations into submission.⁵⁹

68. And “when economic coercion failed,” the United States simply abducted children. Justice Gorsuch recently explained, quoting contemporaneous sources: “officers would ‘visit [Native towns] unexpectedly with a detachment of officers, and seize []children’ . . . ‘When parents hurried their children off to the mountains or hid them away in camp, [federal agents] chased and captured them like so many wild rabbits.’”⁶⁰

69. The program relied on “complete isolation of” Native children from their families, because the “warm reciprocal affection existing between parents and children was among the strongest characteristics of the Indian Nature.”⁶¹

70. As Secretary Haaland has noted in her official remarks on behalf of the United States in December 2021: “Many [Native] children []never made it back to their homes. Each of those children is a missing family member, a person who was not able to live out their purpose on this earth, because they’ve lost their bodies as part of this terrible system.”⁶²

71. **The Boarding School Program has lasting health impacts.** Recent studies “systematically and quantitatively examine[d] the relationship between American Indian boarding school child attendance and physical health status,” including chronic health conditions:

Indian boarding school child attendees had a 44 percent greater count of past-year chronic physical health problems (PYCPHP) as adults compared with adult nonattendees. Now-adult attendees were more likely to have cancer (more than

⁵⁹ Vol. I, at 35.

⁶⁰ *Haaland v. Brackeen*, 599 U.S. 255, 300 (2023) (Gorsuch, J. concurring) (citing to Vol. I, at 36 & ARCIA 1886, at 199).

⁶¹ *Id.* at 299.

⁶² Eesha Pendharkar, *Native American Children Endured Brutal Treatment in U.S. Boarding Schools, Federal Report Shows*, Education Week (May 11, 2022), <https://www.edweek.org/leadership/native-american-children-endured-brutal-treatment-in-u-s-boarding-schools-federal-report-shows/2022/05>.

three times), tuberculosis (more than twice), high cholesterol (95 percent), diabetes (81 percent), anemia (61 percent), arthritis (60 percent), and gall bladder disease (60 percent) than nonattendees. Other studies demonstrate that now-adult attendees experience increased risk for PTSD, depression, and unresolved grief. As a result, a “prevailing sense of despair, loneliness, and isolation from family and community are often described.” **“Both individual and paternal boarding school attendance are associated with chronic health problems” of now-adult Indian boarding school attendees.** A father’s boarding school attendance was independently associated with chronic physical health problems. Participants whose fathers attended Indian boarding school had on average a 36 percent greater PYCPHP count than those whose fathers did not attend boarding school. When controlling for maternal and paternal boarding school attendance, only a father’s attendance was related to an increased number of PYCPHP in adulthood, suggesting that a father’s Indian boarding school attendance is an **independent** predictor of his child’s adult PYCPHP. Previous research has noted that American Indian men experienced more physical and sexual abuse in boarding school than women, particularly those more “language-experienced.”⁶³

72. Another study noted that “at a minimum, the separation from family” contributed to poor health impacts on boarding school survivors.⁶⁴ The United States now admits that the “studies reinforce that Federal Indian boarding school policies often impacted several generations.”⁶⁵

73. **Communities remain devastated.** The Boarding School Program’s systematic destruction of Native Nations’ culture has had a devastating impact on them. Cultural connectedness is a statistically significant “social determinant of mental health/well-being” in Native and Indigenous communities.⁶⁶

⁶³ Vol. I, at 88–89 (citations to Ursula Running Bear studies omitted) (emphasis added); Vol. II, at 60.

⁶⁴ Vol. I, at 88 (citing Maria Yellow Horse Brave Heart, *The Historical Trauma Response Among Natives and Its Relationship with Substance Abuse: A Lakota Illustration*, 35 J. of Psychoactive Drugs 1, 7–13 (2018)).

⁶⁵ Vol. I, at 90 (citing Ursula Running Bear et al., *The Impact of Individual and Parental American Indian Boarding School Attendance on Chronic Physical Health of Northern Plains Tribes*, 42 Fam. & Community Health 1 (2019)).

⁶⁶ Paul Masotti et al., *The Culture is Prevention Project: Measuring Culture as a Social Determinant of Mental Health for Native/Indigenous Peoples*, 27 Am. Indian & Alaska Native Mental Health Rsrch. 86, 97 (2020).

74. Native Americans have the highest rates of alcohol, marijuana, cocaine, inhalant, and hallucinogen use disorders compared to other ethnic groups in the United States.⁶⁷ One of the strongest predictors of substance abuse among Native Americans is a lack of connection to Native identity and culture—Native American youth with strong Native identities are approximately 50% less likely to abuse alcohol.⁶⁸ According to one study, Native American youth who have the most cultural pride are significantly less likely to abuse alcohol than Native American youth with the least cultural pride.⁶⁹ In Native Nations with weaker traditional cultures, youth are more likely to commit suicide⁷⁰ and are more likely to engage in unprotected sex,⁷¹ resulting in higher youth pregnancy and sexually transmitted diseases.

75. In the Cherokee community, to take but one example, “before the Federal Government took control of Cherokee affairs,” the Cherokee Nation was “90 percent literate in its native language and used bilingual materials to such an extent that Oklahoma Cherokees had a

⁶⁷ Nicholas Jones et al., *2020 Census Illuminates Racial and Ethnic Composition of the Country*, Census.gov (Aug. 12, 2021) <https://www.census.gov/library/stories/2021/08/improved-race-ethnicity-measures-reveal-united-states-population-much-more-multiracial.html>; Detailed Tables, 2021 National Survey on Drug Use and Health, Substance Abuse and Mental Health Administration, U.S. Dep’t Health & Human Servs. (2021), <https://www.samhsa.gov/data/sites/default/files/reports/rpt39441/NSDUHDetailedTabs2021/NSDUHDetailedTabs2021/NSDUHDetTabsSect5pe2021.htm#tab5.6a>.

⁶⁸ Jennifer Unger et al., *Spirituality, Ethnic Identity, and Substance Use Among American Indian/Alaska Native Adolescents in California*, 55 *Substance Use Misuse* 1194 (2020) manuscript avail. at <https://pubmed.ncbi.nlm.nih.gov/31996077/>.

⁶⁹ ManSoo Yu & Arlene Rubin Stiffman, *Culture and Environment as Predictors of Alcohol Abuse/Dependence Symptoms in American Indian Youths*, 32 *Addict Behaviors* 2253 (2007) manuscript available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1989129/>.

⁷⁰ Irving N. Berlin, *Suicide Among American Indian Adolescents: An Overview*, 17 *Suicide & Life-Threatening Behavior* 218 (1987). *See also*, Melissa D. Zephier Olson & Kirk Dombrowski, *A Systematic Review of Indian Boarding Schools and Attachment in the Context of Substance Use Studies of Native Americans*, 1 *J. Racial & Ethnic Health Disparities* 62 (2019).

⁷¹ Mike Anastario et al., *Sexual Risk behaviors and the Legacy of Colonial Violence Among Northern Plains American Indian Youth: A Mixed Methods Explanatory Study*, 258 *Soc. Science Med.* (Aug. 2020).

higher English literacy level than the white populations of either Texas or Arkansas.”⁷² However, following the federal takeover—including the forced recruitment of Cherokee students into boarding schools—as of 1968, “40 percent of adult Cherokee [were] functionally illiterate.”⁷³

76. According to the United States, more than 25% of all Native Americans live in poverty. The Native American share of the United States population in poverty is more than 200% more than their share of the total United States population. No other demographic group comes close to this rate of overrepresentation in poverty.⁷⁴

77. On reservations and trust land, 34.5% of Native American households live in poverty. Almost *half* of Native children living in those areas live in poverty.⁷⁵

78. **The United States Admits Ongoing Harm.** In 2024, the President of the United States apologized for the Program, stating “quite frankly, there is no excuse that this apology took 150 years to make.”⁷⁶ The President admitted, for the first time, that the “federally-run Indian boarding school system was designed to assimilate Native Americans by destroying Native culture, language, and identity through harsh militaristic and assimilationist methods.”⁷⁷ The President

⁷² Report of the United States Senate Committee on Labor and Public Welfare, *Indian Education: A National Tragedy – a National Challenge*, S. Rep. No. 91-501, at 19 (1969) (hereinafter, “Kennedy Report”).

⁷³ *Id.*

⁷⁴ Emily A. Shrider & John Creamer, U.S. Census Bureau, *Poverty in the United States: 2022*, at 5–6 (Sept. 2023).

⁷⁵ Native Community Data Profiles, Fed. Reserve Bank of Minneapolis, MinneapolisFed.Org <https://www.minneapolisfed.org/indiancountry/resources/native-community-data-profiles>.

⁷⁶ *Full speech: Biden apologizes for forced Native American boarding school policy*, NBC News (Oct. 25, 2024), <https://www.nbcnews.com/video/full-speech-biden-apologizes-for-forced-native-american-boarding-school-policy-222701125937>.

⁷⁷ *Id.*

stated the Boarding School Program caused “trauma and shame passed down through generations.”⁷⁸

79. Former United States Secretary of the Interior Haaland and Former Assistant Secretary of the Interior for Indian Affairs Newland admitted on behalf of the United States the lasting and present impact the Program continues to have on Native Nations. In their words:

- **Secretary Haaland:** “Federal Indian boarding school policies have touched every Indigenous person I know. . . . Some are survivors, some are descendants, but we all carry this painful legacy in our hearts. . . . My ancestors and many of yours endured the horrors of Indian boarding school assimilation policies carried out by the same department that I now lead.”⁷⁹
- **Assistant Secretary Newland:** “Federal Indian boarding schools have lasting impact on Native people and communities across America. That impact continues to influence the lives of countless families, from the breakup of families and tribal nations to the loss of languages and cultural practices, . . . This has left lasting scars for all indigenous people.”⁸⁰
- **Secretary Haaland:** “The consequences of federal Indian boarding school policies—including the intergenerational trauma caused by forced family separation and cultural eradication—were inflicted on generations of children as young as 4 years old and are heartbreaking and undeniable.”⁸¹

⁷⁸ *Id.*

⁷⁹ Isabella Breda, *Interior secretary visits Tulalip in wake of boarding school revelations*, Seattle Times (Apr. 23, 2023), <https://www.seattletimes.com/seattle-news/interior-secretary-visits-tulalip-in-wake-of-boarding-school-revelations/>.

⁸⁰ Eesha Pendharkar, *Native American Children Endured Brutal Treatment in U.S. Boarding Schools, Federal Report Shows*, Education Week (May 11, 2022), <https://www.edweek.org/leadership/native-american-children-endured-brutal-treatment-in-u-s-boarding-schools-federal-report-shows/2022/05>.

⁸¹ *Boarding Sch. Initiative Vol. I: Hearing Before the Comm. on the Dep’t of Interior*, 117th Cong. (June 22, 2022) (statement of Deb Haaland, Sec’y, U.S. Dep’t of Interior), <https://www.doi.gov/ocl/boarding-school-initiative>.

80. Secretary Haaland summed up the treatment of students in the Boarding School Program as follows: “It’s almost like the folks at these schools got together and decided how to best make these children’s lives a living terror.”⁸²

81. Secretary Haaland is right, and the making of the “children’s lives a living terror” was part of a deliberate project by the United States that would continue throughout the Boarding School Program’s existence. The “terror” was not an incidental outcome of the Boarding School Program: it was the goal.

C. The Boarding Schools Represented the United States’s Systematized Campaign to Harm Native People and Dispossess Them of Their Land

82. The United States opened Boarding Schools throughout the country beginning at least as early as 1819.

83. The Carlisle School, established in 1879 in Carlisle, Pennsylvania, became a template for other schools, and was dedicated to stripping students of their identity to serve “[t]he goal [of] provid[ing] a maximum of rapid coercive assimilation into white society.”⁸³

84. First, rather than take Native children from nearby reservations, the Carlisle School took Native children from across the United States, including from Plaintiffs. As the United States admits, this model was “designed to separate a child from his reservation and family, strip him of his tribal lore and mores, force the complete abandonment of his native language, and prepare him in such a way that he would never return to his people.”⁸⁴

⁸² Johnny Dodd, *Interior Sec. Deb Haaland on Hearing Accounts of Native American Boarding School Survivors: ‘Hard Not to Cry’*, People (Oct 10, 2022), <https://people.com/human-interest/interior-secretary-deb-haaland-native-american-boarding-school-survivors/>.

⁸³ Kennedy Report at 148; *see also*, *Official Report of the Nineteenth Annual Conference of Charities and Correction* 46–59 (1892), reprinted in Richard H. Pratt, *Americanizing the American Indians* 260–71 (Harvard Univ. Press, 1973), available at <https://historymatters.gmu.edu/d/4929/>.

⁸⁴ Vol. I, at 51 (citing Kennedy Report, at 12).

85. The idea, as declared by Carlisle School’s head, Captain Richard Henry Pratt, was simple: “[A]ll the Indian there is in the race should be dead. Kill the Indian in him, and save the man.”⁸⁵

86. Removing children far from their familial bonds was crucial to the destruction of the Native Nations’ culture, as was intermixing the children of multiple tribes to break down their Native identity and deprive them of the opportunity to speak their native language.

87. For example, records from the Haskell Institute—another militaristic program established at approximately the same time as the Carlisle School, and which would remain open until at least 1968—indicate that students from separate tribes were purposefully intermixed, meaning that in many cases the students’ *only* possible common language was English, ensuring a “break up [of] the tribal associations.”⁸⁶

88. Indeed, in 1886 alone “the [Haskell] Institute intentionally mixed Indian children from 31 different Native Nations to disrupt Tribal relations and discourage or prevent Indian language use across the ‘Apache, Arapaho, Cheyenne, Cherokee, Chippewa, Comanche, Caddo, Delaware, Iowa, Kiowa, Kickapoo, Kaw, Mojave, Muncie, Modoc, Miami, New York, Omaha, Ottawa, Osage, Pawnee, Pottawatomie, Ponca, Peoria, Quapaw, Seneca, Sac and Fox, Seminole, Shawnee, Sioux, [and] Wyandotte’ children.”⁸⁷

89. Second, and relatedly, having removed the children from their families and tribal communities, the schools used physical abuse and coercive identity-altering methods to strip the children’s cultural bonds.

⁸⁵ *Haaland v. Brackeen*, 599 U.S. 255, 299 (2023) (Gorsuch, J., concurring) (internal citation omitted).

⁸⁶ Vol. I, at 40 (citing ARCIA for 1886, at 6).

⁸⁷ Vol. I, at 40 (citing ARCIA for 1885, at 5).

90. The United States now admits that “[s]ystematic identity-alteration”⁸⁸ practices metastasized across the Boarding School Program, and included, but were not limited to:

- Forbidding the use of Native American languages through abusive methods like washing out children’s mouths with lye soap;
- Enforcing rules through severe physical punishment such as whipping and cuffing;
- Physical and sexual abuse;
- Renaming Native American children from their Native American names to different English names;
- Cutting the hair of Native American children;
- Requiring the use of military or other standard uniforms as clothes;
- Forbidding Native American students to follow their own religious practices;
- Forcing students to adopt western practices and Christianity; and,
- Placing Native children into Christian families, often to work as unpaid domestic laborers.⁸⁹

91. In addition, the schools specifically limited “text-book instruction” to train Native children to “toil by [their] hands” and in vocational skills in fields disappearing in a rapidly industrializing United States.⁹⁰

92. The United States formed a “uniform curriculum,” under which children were required to do four hours of “industrial work” a day as part of the Boarding Schools’ focus on “agriculture and homemaking.”⁹¹

⁸⁸ Vol. I, at 53.

⁸⁹ Vol. I, at 53–54 (citing various sections of ARCIA for 1886, 1889, and 1904).

⁹⁰ Vol. I, at 60 (citing ARCIA for 1902).

⁹¹ Vol. I, at 62 (citing ARCIA for 1916).

93. Indeed, the United States now admits that “[i]n addition to well-documented livestock and poultry raising, dairying, and western agriculture production, including for sales outside the Federal Indian boarding school system, Indian children at Federal Indian boarding schools engaged in other manual labor practices including, but not limited to the following: lumbering, working on the railroad—including on the road and in car shops, carpentering, blacksmithing, fertilizing, irrigation system development, well-digging, making furniture including mattresses, tables, and chairs, cooking, laundry and ironing services, and garment-making, including for themselves and other children in Federal Indian boarding schools.”⁹²

94. Forced child labor was not merely part of “instruction.” The children’s hard labor was used to keep the schools running.⁹³ As reported in one boarding school in Arizona, “One hundred of the 191 girls are 11 years of age or under. The result is that the institutional work, instead of being done wholly by able-bodied youths of 15 to 20 nominally enrolled in the early grades, has to be done . . . by very small children, moreover, who, according to competent medical opinion, are malnourished.”⁹⁴ And the United States did not pay the young, malnourished Native children for their hard labor. The United States now admits that “[t]he economic contribution of Indian and Native Hawaiian children to the Federal Indian Boarding school system and beyond remains unknown.”⁹⁵

⁹² Vol I, at 60–61 (citations omitted).

⁹³ Vol. I, at 63 (citation omitted).

⁹⁴ *Id.* (citing Meriam Report, at 375).

⁹⁵ Vol. I, at 63.

95. The Boarding School Program’s rules were enforced through severe punishment, including corporal punishment,⁹⁶ solitary confinement,⁹⁷ “flogging, withholding food, . . . whipping[,]”⁹⁸ and “slapping, or cuffing.”⁹⁹ “At times, rule enforcement was a group experience: . . . ‘a reprimand before the school is far better than a dozen whippings, because . . . it is humiliating to the offender and answers better than whipping.’”¹⁰⁰



101

⁹⁶ Vol. I, at 8.

⁹⁷ Vol. I, at 54 (citing ARCIA for 1896, at 343).

⁹⁸ Vol. I, at 54 (citing ARCIA for 1899, at 206; Ursula Running Bear et al., *The Impact of Individual and Parental American Indian Boarding School Attendance on Chronic Physical Health of Northern Plains Tribes*, 42 *Fam. Community Health* 1 (2019)).

⁹⁹ Vol. I, at 54 (citing ARCIA for 1886, at 195; ARCIA for 1896, at 107, 123 (describing punishment for failure to speak English)).

¹⁰⁰ Vol. I, at 54 (citing ARCIA for 1886, at 195).

¹⁰¹ Mary Annette Pember, *Photograph of Child Handcuffs*, in Rebecca Onion, *The Sad History of the Kid-Sized Handcuffs*, *Slate* (Jan. 11, 2013), <https://slate.com/human-interest/2013/01/small-handcuffs-the-artifact-was-used-to-bring-native-american-children-to-boarding-school.html>.

96. Children who attempted to escape the Boarding Schools were captured, forcibly returned, and punished. For students like Anthony Galindo’s grandmother, Ethel, repeated escape attempts resulted in forced expulsion, by cattle car, to a Boarding School even further from home.

97. The United States also now admits that it contracted with a number of religious orders to run boarding schools on the federal government’s behalf, including the Catholic, Congregational, Episcopal, Methodist, and Presbyterian Churches, the better for, as one school superintendent put it in a report to the Secretary of Interior, “lead[ing Native American] people, whose paganism has been the chief obstacle to their civilization, into the light of Christianity.”¹⁰²

D. The United States Took Upon Itself the Role of Trustee Over Native Education

98. For well over 200 years, the United States has obligated itself to “teach [the] children” of Native Nations to “improve[the] condition of [Native Nations.]”¹⁰³

99. In 1819, Congress laid the groundwork for the Boarding School Program with the Civilization Fund Act. The purpose of this Act was ostensibly to provide “against the further decline and final extinction of the Indian tribes . . . and for introducing among them the habits and arts of civilization.”¹⁰⁴ The Act instructed the President to “employ capable persons of good moral character to instruct [Native Americans] in the mode of agriculture suited to their situation [] and for teaching [Native] children in reading, writing, and arithmetic and performing such other duties . . . according to such instructions and rules as the President may give and prescribe for the regulation of their conduct”¹⁰⁵

¹⁰² Vol. I, at 49.

¹⁰³ Civilization Fund Act of 1819, 3 Stat. 516 (1819).

¹⁰⁴ See 25 U.S.C. § 271.

¹⁰⁵ *Id.*

100. The United States apportioned the funds contemplated under the Civilization Fund Act, including “monies held in Tribal trust accounts” among “societies and individuals—usually missionary organizations—that had been prominent in the effort to ‘civilize’ the Indians.”¹⁰⁶ The Federal government paid these societies “on a per capita basis for Indian children to enter the Indian boarding schools.”¹⁰⁷

101. The Boarding School Program’s first schools were opened with monies from the Civilization Fund Act soon thereafter.¹⁰⁸

102. Since then, Congress has repeatedly enacted laws which underscored the United States’s obligation to educate all Native children. These statutes *do not* differentiate by tribe—rather, they mandate a responsibility to all Native Nations’ children.

103. The following statutes illustrate Congress’s decision to make the United States a trustee of the Native Nations, responsible for, among other things, their educational well-being:

- Act of Mar. 3, 1883, ch. 141, § 2, codified at 25 U.S.C. § 155: “All miscellaneous revenues derived from Indian reservations, agencies, and schools, except those of the Five Civilized Tribes and not the result of the labor of any member of such tribe, which are not required by existing law to be otherwise disposed of, shall be covered into the Treasury of the United States under the caption ‘Indian moneys, proceeds of labor[,]’ and are made available for expenditure, in the discretion of the Secretary of the Interior, for the benefit of the Indian tribes, agencies, and schools on whose behalf they are collected.”

¹⁰⁶ Vol. I, at 7 (citing Kennedy Report, at 143).

¹⁰⁷ Vol. I, at 7.

¹⁰⁸ Vol. I, at 6. For example, the Eliot School in Holcomb, Mississippi was opened in April 1819 with the use of Federal funding, and the Mayhew School in Starkville, Mississippi was opened around the same time. Vol. II, App. B., at 106, 217.

- Indian Self-Determination and Education Assistance Act of 1975, § 3 codified at 25 U.S.C. § 5302: “The Congress declares its commitment to the maintenance of the Federal Government’s unique and continuing relationship with, and responsibility to, individual Indian tribes and to the Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the Federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. In accordance with this policy, the United States is committed to supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities.”
- Education Amendments of 1978, pt. B § 1120, codified at 25 U.S.C. § 2000: “It is the policy of the United States to fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children and for the operation and financial support of the Bureau of Indian Affairs-funded school system to work in full cooperation with tribes toward the goal of ensuring that the programs of the Bureau of Indian Affairs-funded school system are of the highest quality and provide for the basic elementary and secondary educational needs of Indian children, including meeting the unique educational and cultural needs of those children.”

- Native American Language Resource Center Act of 2022, § 2, 136 Stat. 6143: Establishing a program within the Department of Education to support Native American language centers “to preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages in furtherance of . . . the United States trust responsibility to Native American communities.”
- Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 2000: “It is the policy of the United States to fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children and for the operation and financial support of the Bureau of Indian Affairs-funded school system to work in full cooperation with tribes toward the goal of ensuring that the programs of the Bureau of Indian Affairs-funded school system are of the highest quality and provide for the basic elementary and secondary educational needs of Indian children, including meeting the unique educational and cultural needs of those children.”

104. Congress also enacted several statutes taking Native Nations’ funds and empowering the United States military to support the United States’s twin goals of dispossession and assimilation through the Boarding School Program:

- Act of June 23, 1879, Ch. 35, § 7, 21, codified at 25 U.S.C. § 273, *repealed by* 136 Stat. 4419 (2022): “The Secretary of the Army shall be authorized to detail an officer of the Army, not above the rank of captain, for special duty with reference to Indian education.”

- Act of July 31, 1882, Ch. 363, 22 Stat. 181, codified at 25 U.S.C. § 276 (2020):
“The Secretary of War is authorized to set aside, for use in the establishment of normal and industrial training schools for Indian youth from the nomadic tribes having educational treaty claims upon the United States, . . . *Provided*, That moneys appropriated or to be appropriated for general purposes of education among the Indians may be expended, under the direction of the Secretary of the Interior, for the education of Indian youths at such posts, institutions, and schools as he may consider advantageous, or as Congress from time to time may authorize and provide.”
- In 1883, the trust fund known as the “Indian Moneys, Proceeds of Labor” fund was created by legislation (22 Stat. 582, 590), to provide, inter alia, for Federal management of revenues from selling products on Indian reservations.¹⁰⁹ The Government Accountability Office (“GAO”) later explained that “revenue from the . . . trust fund was used to finance schools and other services for Indians.”¹¹⁰ As explained in a 1926 committee report, while the Indian Moneys, Proceeds of Labor fund in theory required segregation by tribe, “any part of tribal funds required for support of schools . . . shall be excepted from segregation . . .”¹¹¹ The fund would later become known as “Indian Moneys, Proceeds of Labor, Agencies, Schools, and So Forth.” Further, at least as of 1926, all revenues derived *from* those schools was likewise put into this Indian Moneys, Proceeds

¹⁰⁹ See also *supra* at ¶ 103.

¹¹⁰ See Report to Congress by the Comptroller General of the United States, *Inappropriate Use of An Indian Trust Fund To Subsidize BIA Activities*, General Accounting Office, October 7, 1980.

¹¹¹ See Ex. 7, Calendar No. 643, Committee Report, Hon. J.W. Harreld, Chairman Committee on Indian Affairs, April 19, 1926.

of Labor account. The GAO has also admitted that some unknown amount of these trust fund moneys was not used for Indian tribes' benefit, but ultimately was used to fund Department of the Interior expenses.¹¹² On information and belief, no adequate accounting of the Indian Moneys, Proceeds of Labor fund—including the amount of money taken from plaintiffs, spent on education, or otherwise misspent—has taken place.

- In 1887, Congress passed the General Allotment Act, also known as the Dawes Act, which instructed federal authorities to divide up, distribute, and sell off Native lands.¹¹³
- Along with the General Allotment Act, the Federal Government passed laws that empowered the Secretary of the Interior to force Native children into Boarding Schools and mandated that Native Nations surrender their children to DOI agents to be taken to distant boarding schools. For example, in March 1893, Congress passed the following law, codified at 25 U.S.C. § 283, and which was only repealed in 2022:

The Secretary of the Interior may in his discretion establish such regulations as will prevent the issuing of rations or the furnishing of subsistence either in money or in kind to the head of any Indian family for or on account of any Indian child or children between the ages of eight and twenty-one years who shall not have attended school during the preceding year in accordance with such regulations . . . The Secretary of the Interior may in his discretion withhold rations, clothing and other annuities from Indian parents or guardians who refuse or neglect to send and keep their children of proper school age in some school a reasonable portion of the year.¹¹⁴

¹¹² See Report to Congress by the Comptroller General of the United States, *Inappropriate Use of An Indian Trust Fund To Subsidize BIA Activities*, General Accounting Office, October 7, 1980.

¹¹³ General Allotment Act, 24 Stat. 388 (1887), *repealed by* Indian Reorganization Act, 25 U.S.C. § 5101 (1934).

¹¹⁴ 27 Stat. 612, 628 (1893).

- In 1922, Congress authorized the “Secretary of the Interior to issue land patents of up to 160 acres to religious institutions and organizations or missionary boards already engaged in religious or school activities on Indian reservations.” But that act specified the Native Nations maintained a reversionary interest in those land patents, and the lands “shall revert to the” Native Nation once the lands were no longer “used for mission or school purposes.”¹¹⁵

105. It was not only through statutes that enforceable duties running from the United States to the Native Nations were established. Binding treaties with individual Native Nations or groups of Native Nations—still in effect and never repealed—separately established the United States’s trust duty with respect to the education of Native Nations’ children.

106. Provisions regarding the education of Native children were tied to coercive treaties designed to strip Native Nations of their land, and in which Native Nations designated the funds from the sale of their lands for educating their children. The Wichita were one of the many Native Nations that entered into a treaty under which they agreed to “forever [] remain at peace with the United States” in exchange for the United States, among other commitments, sending school-teachers to the Wichita “for the purpose of instructing” the Nation’s children.¹¹⁶ The United States “pledge[d]to carry [the Treaty] into full execution, in good faith and sincerity.”¹¹⁷ This treaty is binding law and remains in full force today, and underscores the United States’s repeated acknowledgment of its trust duty over Native Nations’ education.¹¹⁸ This treaty, standing alone,

¹¹⁵ Vol. II, at 49 (citing Act of September 21, 1922, ch. 367 § 3, 42 Stat. 994, 995 (1922)).

¹¹⁶ *Treaty with the Comanche, Aionai, Anadarko, Caddo, etc.*, The Wichita Treaty, at Arts. 10, 13.

¹¹⁷ *Id.* at Arts. 10.

¹¹⁸ As noted, to the extent any doubt remains, such is resolved by the canon of construction that the United States’s treaties with tribes should be construed against the drafter, that is, in favor of the Native Nations.

forecloses the United States’s systematic abuse of those children. And as the United States has recognized, “commitments made through written treaties” with Native Nations “established enduring and enforceable Federal obligations” to them.¹¹⁹

107. The guarantees of the Wichita Treaty are representative of the ironclad educational guarantees the United States made to other Native Nations. As the Supreme Court has recognized, this was because they knew that schooling was necessary to “secur[e] a foothold for their children in a rapidly changing world.”¹²⁰

108. Indeed, in at least 171 treaties, in exchange for the Native Nations’ homelands and everlasting peace, the United States promised to provide for Native American education.¹²¹ A sample of the language in those treaties demonstrates the United States’s explicit, wide-ranging obligations to numerous tribes:

- “In consideration of [their homeland], the United States do hereby agree to pay . . . annually, forever to support of schools in said nation.”¹²²

See Minnesota v. Mille Lacs Band of Chippewa Indians, 526 U.S. 172, 196 (1999) (holding courts must “give effect to the terms” of treaties “as the Indians themselves would have understood them”); *see also, Worcester v. Georgia*, 31 U.S. 515, 582 (1832) (McLean, J., concurring) (“The language used in treaties with the Indians should never be construed to their prejudice”).

¹¹⁹ 2016 Indian Trust Asset Reform Act, 25 U.S.C. § 5601(4–5) (Congress confirming its belief that “commitments made through written treaties” with the tribes “established enduring and enforceable Federal obligations” to them). *See also Moe v. Confed Salish and Kootenai Tribes of Flathead Res.*, 425 U.S. 463, 472–77 (1976).

¹²⁰ *Haaland v. Brackeen*, 599 U.S. 255, 298 (2023) (Gorsuch, J., concurring).

¹²¹ Vol. II, at 93.

¹²² Treaty with the Choctaw, Art. 2 (1825) (guaranteeing the annuity will go towards education for 20 years, and then to education or other purposes “at the option of the Choctaw Nation”); *see also, e.g.*, Treaty with the Miami, Art. 4 (1828) (same); Treaty with the Potawatomi, Art. 2 (1828) (same); Treaty with the Creeks, Art. 5 (1833) (same); Treaty with the Sauk and Foxes, Art. 4 (1837) (same); Treaty with the Menominee, Art. 5 (1848) (same); Treaty with the Ottawa, Art. 4 (1821) (same).

- Earmarking funds from the sale of Native Nations’ homelands “for the purpose of raising a fund, to be applied, under the direction of the President, to the support of schools for the education of [the tribes’] children.”¹²³
- Obligating the United States to build schoolhouses.¹²⁴
- Requiring the United States to set aside funds “to be applied in the discretion of the President of the United States, to the education of the said Tribes and Bands.”¹²⁵

109. The United States highlights the similar characteristics of the treaties in its recent Boarding Schools Investigative Report, updated and particularized in 2024, with a selection of “127 Indian Treaties that explicitly include Federal Indian boarding schools or general Indian education provisions.”¹²⁶ In addition, the United States now admits that numerous treaties expressly link educational provisions to the cession of Native Nations’ land.¹²⁷

110. Through these treaties, the United States took control of Native Nations’ children’s education, assuming duties to provide for and fund the education of Native Nations’ children in their familial and Native settings; and further obtained discretionary power to spend funds and direct schools for the purported benefit of all Native Nations, often using the Nations’ own funds to do so.¹²⁸

¹²³ Treaty with the Kansa, Art. 5, (1825); *see also, e.g.*, Treaty with the Choctaw, Art. 7 (1820) (same); Treaty with the Delawares (1829) (same).

¹²⁴Treaty with the Chippewa, etc., Art. 3 (1859); *see also, e.g.*, Treaty with the Navaho, Art. 3 (1868) (same).

¹²⁵ Treaty with the Sauk and Foxes, Art. 5 (1830); *see also, e.g.*, Treaty with the Miami, Art. 4 (1828) (same); Treaty with the Menominee, Art. Fifth (1831) (same).

¹²⁶ Vol. II, at 17, App. J.

¹²⁷ *See e.g.*, Vol. II, App. J.

¹²⁸ *See, e.g.* Treaty with the Choctaw, Art. 7 (1820) (“Three-fourths of said fund [raised from sale of the Choctaw Nation’s land] shall be appropriated for the benefit of the schools here”).

111. But this discretion was subject to the highest standards of fiduciary responsibility that the United States bears in executing its duties as trustee to manage the resources of and protect Native Nations.

112. Through these treaties, associated statutes, and its actions, the United States bound itself as a trustee overseeing Native children's education. The United States now fully admits that "a priority of U.S.-Indian relations is Indian education, a treaty right, demonstrated by the 171 Treaties that the U.S. entered into with Indian Tribes and ratified by the Senate that implicate the Federal Indian boarding school system or education generally."¹²⁹

E. The United States Coercively Exercised Its Trust Responsibility Over All Native Nations

113. When Interior assumed control of the United States's dispossession and assimilation strategy in 1849, it dramatically increased the use of the Boarding School Program and the forced enrollment of Native children into those schools.

114. In 1850, Interior stated that it was "indispensably necessary that [the Indians] be placed in positions where they can be controlled, and finally compelled, by stern necessity, to resort to agricultural labor or starve."¹³⁰

115. As one Congressional Report acknowledged, "[t]he interrelationship between the educational policy and the land policy of this period is obvious—coercive assimilation at any cost."¹³¹

116. In a reported episode from November 1894, U.S. soldiers arrived at the Hopi reservation in Northern Arizona with orders to take the children and:

¹²⁹ Vol. II. at 93.

¹³⁰ Vol. I, at 37–38 (citing ARCIA for 1850, at 1).

¹³¹ Kennedy Report, at 150.

[f]acing resistance, authorities had tried bribing Hopi parents with yards of cloth, or tools like axes. They used their bare fists, striking Hopi who didn't want to send their children away. They withheld food supplies guaranteed by treaties in a bid to starve the Hopi into submission. When even those tactics failed, and resistance to having their children hauled away was compounded by tensions over farmland, two cavalry companies arrived to arrest 19 Hopi men. The captives were imprisoned on California's Alcatraz Island for nearly a year, and the removal of Hopi children proceeded as planned.¹³²

117. As control of the United States's Native American policy shifted from military to civil control in 1849, Congress empowered the President and the Department of War to aid Interior in carrying out its forced removal of Native children into the Boarding School Program. Appropriations relating to "Indian education" applied to all Native Nations collectively, rather than to any specific Native Nation individually.

118. The national policy implemented through treaties with Native Nations guaranteeing educational duties and expenditures for the "benefit" of Native Nations continued as a policy of the United States taking upon itself the responsibility for "Indian Education," writ large, codified by statutes that guaranteed the educational duties, expenditures and ongoing trust relationships first established by numerous treaties.

119. By 1926, the United States had **forced 83% of Native children** into boarding schools controlled by Defendant the Bureau of Indian Education—a product of the United States's acknowledged "responsibility" over Native children's education, and subject to the uniform curriculum set by the Federal government.¹³³

¹³² Zach Levitt, et al., *War Against the Children*, N.Y. Times (Aug. 30, 2023), <https://www.nytimes.com/interactive/2023/08/30/us/native-american-boarding-schools.html>.

¹³³ See, e.g., Vol. I, at 62 (citing ARCIA for 1916). *US Indian Boarding School History*, Nat'l Native Am. Boarding School Healing Coalition (last visited May 31, 2026), <https://boardingschoolhealing.org/education/us-indian-boarding-school-history>.

F. Payment For the Boarding School Program: Appropriations Pooled with Trust Funds

120. “Adding insult to injury, the United States stuck tribes with a bill for” the Boarding School Program; at times “as much as 95% of the funding for Indian boarding schools came from ‘Indian trust fund monies.’”¹³⁴

121. On information and belief, Plaintiffs allege that the Defendants pooled monies from Tribal and individual Indian trust accounts, Indian treaty funds, and proceeds from the sale of tribal land, and expended that money on the Federal Indian Boarding School Program pursuant to its trust relationship with the tribes. The United States’s and Defendants’ own recent admissions, the statutory record, and U.S. government documents point to the existence of this as-yet-unaccounted for pooled fund or set of funds—which funds include Indian trust fund money from multiple tribes and the ill-gotten profits of Indian labor at schools—and used to pay for the Indian Boarding School Program.

122. **Neither the composition of this pool, its size, nor how (or how much) funds were ultimately distributed from Federal accounts, has ever been accounted for** since, as the United States now admits, “[d]ue to time and resource constraints, [it] did not research actual amounts spent on Federal Indian boarding schools and similar institutions.”¹³⁵

123. Further, the United States has not accounted for “the present-day value of Indian territory loss associated with the Federal Indian boarding school system [or] any funds that may have been obtained from Tribal trust accounts for the benefit of Indians and maintained by the United States.”¹³⁶

¹³⁴ *Haaland v. Brackeen*, 599 U.S. 255, 301 (2023) (Gorsuch, J. concurring) (emphasis added).

¹³⁵ Vol. II, at 18.

¹³⁶ Vol. II, at 93.

124. Finally, the United States has not accounted for, among other matters, “Treaty-stipulated support, religious institution and organization support . . . wealth generated by Indian or Native Hawaiian children while in the system including for the agriculture and railroad industries, [or] Indian domestic and other labor for non-Indian families and communities through the Outing System.”¹³⁷

125. And yet, the United States has admitted that the “actual amount of funds spent on Indian boarding schools [] must include Indian child labor both for institution operations and through the Outing System to non-Indian families,” and that “appropriations made under the educational provisions of existing treaties with Native Nations” were used to fund the Boarding School Program.¹³⁸ As the United States acknowledges—the actual amount of funds spent on Indian boarding schools is likely far greater” than the \$23.3 billion Interior estimated the United States appropriated for the Program.¹³⁹

126. The fact is plain: **No true accounting has ever taken place of the pooled funds, which included Native Nations’ trust funds, through which the United States paid for the Indian Boarding School Program in purported benefit of the Native Nations as a whole.**

127. As purported beneficiaries, Plaintiffs and the other Class members have a right to such an accounting now, by equitable right as beneficiary, and by statute.

128. At least three separate sources point to the existence of a pooled fund or set of funds, comprised at least in part of pooled money taken out of Native Nations’ trust accounts for the purported purpose of providing for Native children’s education: (a) admissions by the United

¹³⁷ Vol. II, at 18.

¹³⁸ Vol. II, at 55; Vol. I, at 43.

¹³⁹ Vol. II, at 51.

States, including and especially admissions in the Investigative Report; (b) the Congressional Record; and (c) recently uncovered archival evidence.

a. Recent United States Admissions Point to Pooled Fund Or Set Of Funds

129. That Native Nations' trust funds were used to pay for much of the Boarding School program is not in reasonable dispute, as the United States has itself explained that funds owned by Native Nations were a primary source of backing for the schools. For example, between 1845 and 1855, Federal government records indicate that \$2 million—the rough equivalent of \$73 million in present dollars¹⁴⁰—was expended to support the Boarding Schools then in existence. Of that amount, “only one-twentieth, or about \$10,000 per year, came from Federal Government appropriations.”¹⁴¹ The rest came from funds “owned” by Native Nations, pooled together by the United States and expended on the Program.¹⁴²

130. The 1887 Dawes Act systematized the appropriation of Native Nations' monies in support of the Boarding School Program. Section 5 of the Dawes Act specified that surplus lands not allotted to individual Native Americans were to be held in trust in the Treasury of the United States, and were to be “at all times subject to appropriation by Congress **for the education and civilization of such tribe or tribes of Indians or the members thereof.**”¹⁴³ The General Allotment Act was read by the Federal Government to allow it to collect “unused” funds “given” to specific Native Nations in exchange for their land, and to use those funds for education of

¹⁴⁰ The dollar has had an average inflation rate of 2.14% per year, translating to a cumulative price increase of 3,551.39% since 1855.

¹⁴¹ Kennedy Report, at 146.

¹⁴² *Id.*

¹⁴³ General Allotment Act, ch. 119, § 5, 24 Stat. 388 (1887) *repealed by* Indian Reorganization Act, 25 U.S.C. § 5101 (1934) (emphasis added).

“tribes” without distinction.¹⁴⁴

131. The United States for the first time admitted, in Volume I, that there were at least five separate sources of funds used to generate money for the Boarding School Program:

- Appropriations made under the educational provisions of existing treaties with Native Nations;
- Funded investments of bonds and other securities held by the United States;
- Proceeds of the sale of lands of certain Native Nations;
- Accumulations of money in the Treasury resulting from the sale of Native Nations lands; and
- Annual appropriations by Congress for Indian school purposes.¹⁴⁵

132. Also, for the first time, the United States has explained that what resulted from this collection of money was a fund or set of funds—purportedly for the benefit of all Native Nations—for which it has never accounted. Indeed, the United States, in summarizing the use of Native Nations’ trust funds to support the boarding school program, does so in general terms — implying that the funds were pooled together for a common goal. As it is explained in the Boarding Schools Investigative Report:

- “The United States used monies resulting from Indian wealth depletion from cessions of territories, and held in Federal trust accounts for Indian Tribes, to pay for the attempted assimilation process of Indians.”¹⁴⁶
- This spending “depleted funds Indian Tribes were entitled to.”¹⁴⁷

¹⁴⁴ Kennedy Report at 150.

¹⁴⁵ Vol. I, at 43.

¹⁴⁶ Vol. I, at 44.

¹⁴⁷ Vol. I, at 45.

- “[I]t is apparent that proceeds from cessions of Indian territories to the United States through treaties—which were often signed under duress—were used to fund the operation of Federal Indian boarding schools. As a result, the United States’ assimilation policy, the Federal Indian boarding school system, and the effort to acquire Indian territories are connected.”¹⁴⁸ Vol. I, 43.
- “Funding for the Federal Indian boarding school system included both Federal funds through congressional appropriations and funds obtained from Tribal trust accounts for the benefit of Indians and maintained by the United States.”¹⁴⁹
- “The Federal Indian boarding school system predominately used the manual labor of American Indian, Alaska Native, and Native Hawaiian children to compensate for the poor conditions of school facilities and lack of financial support from the U.S. Government.”¹⁵⁰
- The United States still needs to “[a]pproximate the amount of Tribal or individual Indian trust funds held by the United States in trust that were used to support the Federal Indian boarding school system, including to non-Federal entities and, or individuals, recognizing that some records are no longer available.”¹⁵¹

133. Despite admitting that the Boarding School Program depleted funds to which Native Nations were entitled, the United States has never provided an accounting of those funds, much less an explanation regarding, among other things: (a) the amount of such funds purportedly

¹⁴⁸ Vol. I at 43.

¹⁴⁹ Vol. I, at 92.

¹⁵⁰ Vol. II, at 93.

¹⁵¹ Vol. I, at 96.

earmarked for the Boarding School Program; (b) how such funds were expended; (c) whether all such funds taken for purported support of the schools were actually expended; (d) how such funds were otherwise invested pursuant to the United States's fiduciary duty with respect to them; (e) the amount of any remaining, unexpended, funds belonging to Native Nations; or (f) the damage caused by the expenditures that did take place.

b. Congressional Record Evidence Of A Pooled Fund Or Group of Funds For Which The United States Has Never Accounted

134. The United States General Accounting Office has also admitted that the Boarding Schools were funded—at least in part—from a fund that has existed at least since 1883, when Congress created a trust fund known as the “Indian Moneys, Proceeds of Labor” fund (22 Stat. 582, 590), to provide, among other things, for Federal management of revenues from selling products on Indian reservations. The Government Accountability Office (“GAO”) later explained that “revenue from the...trust fund was used to finance schools and other services for Indians.”¹⁵²

135. Early reports from the Indian Moneys, Proceeds of Labor describe the undifferentiated expenditure of funds for the purpose of supporting schools. For example, in 1912, the Secretary of Interior reported to Congress regarding the “expenditures of money carried under the caption of ‘Indian Moneys, Proceeds of Labor’ during the Fiscal Year ended June 30, 1912.”¹⁵³ In that Report, the Department of the Interior described \$2,356,772.45 expended in 1912, with

¹⁵² See Report to Congress by the Comptroller General of the United States, *Inappropriate Use of An Indian Trust Fund To Subsidize BIA Activities*, General Accounting Office, October 7, 1980.

¹⁵³ See Ex. 8, Letter From The Secretary Of The Interior, Transmitting Detailed Report of Expenditures Of Money Carried Under the Caption of “Indian Moneys, Proceeds Of Labor,” During The Fiscal Year Ended June 30, 1912 (December 4, 1912).

\$205,814.13 spent on “Support of Government schools” and \$46,040.68 in “Support of contract schools”:

2 EXPENDITURES OF CERTAIN INDIAN MONEYS.	
ANALYSIS OF EXPENDITURES.	
Support of Government schools.....	\$205,814.83
Support of contract schools.....	46,040.68
Agency and tribal expenses.....	536,960.64
Per capita payments.....	1,294,102.07
Irrigation work.....	62,846.75
Attorney fees—contract.....	33,702.15
Miscellaneous expenditures.....	1,619.08
To settle indebtedness incurred during prior years.....	175,686.25
	\$2,356,772.45
Amount placed in Oklahoma banks, under the provisions of the act of Congress approved Mar. 3, 1911 (36 Stat. L., 1058-1070).....	3,049,803.45
Total.....	5,406,575.90

136. On information and belief, the expenditures for “Government Schools” and “Contract Schools” were both to support the Indian Boarding School Program. Further, as is evident by the expenditure itself, no differentiation is made by Tribe: the moneys were expended from an unsegregated “Indian Moneys, Proceeds of Labor” or “IMPL” account—drawn from Indian trust funds—to support “government schools.” Put simply: a pooled set of funds was expended to support Native Nations’ education.

137. That pooled set of funds is further referenced in the Congressional Record, including statutory language itself. For example, the Act of May 25, 1918, ch. 86, § 28, 40 Stat. 591 described Treasury’s obligation to deposit IMPL trust funds that exist on behalf of tribes at 4% interest. However, funds that were taken from trust funds for the purposes of payment of schools were treated differently—they were, in the words of the statutory record, to remain “**excepted from segregation.**” *Id.* (emphasis added). In other words, money was pooled together, not delineated by tribe, and spent to support the boarding school program.

138. In a 1926 Committee Report, Senator J.W. Harreld, Chair of the Committee on Indian Affairs, explained that the funds contained in the IMPL “have been relied upon for a good

many years to meet a very material part of the necessary expenses connected with the support, civilization, and education of Indians.”¹⁵⁴

139. Included in that same committee report was a letter from the United States comptroller. The letter quotes at length from the May 25, 1918 Act—including the proviso that “any part of the tribal funds required for support of schools . . . shall be excepted from segregation,” and notes that this non-segregation requirement was important, as it represented affirmative evidence that some portion of Native Nations’ trust funds would be required to be placed into banks and earn interest, whereas others would be expended—in a non-segregated form—in support of schools:

It is evident from the language used in this law that the interest on Indian moneys segregated and placed in banks in some cases for the express purpose of drawing interest should not again become a part of the common fund in the Treasury after such interest has accrued. It would appear rather from the provision of law quoted that the amount of interest accruing on such funds should become a part of the principal amount thereof. This view is strengthened by the proviso that any part of tribal funds required for support of schools or pay of tribal officers should be excepted for segregation or deposited, the same to be expended for such purposes.

140. The Indian Moneys, Proceeds of Labor fund would be expanded by 1926. In that year, the Department of the Interior requested amending legislation to account for additional sources of income. At least as of that year, revenues derived *from* those schools was likewise put into this Indian Moneys, Proceeds of Labor account. As the GAO would later explain, “Pursuant to the Department’s request, amending legislation . . . was enacted to include all miscellaneous revenue derived, not only from reservations, but also from agencies and schools.”¹⁵⁵ As GAO would also explain, at least “[u]ntil July 1, 1930, **all revenue in the trust fund was carried on the books of the Treasury Department in a single account. At that time, legislation segregated**

¹⁵⁴ Calendar No. 643, Committee Report, Hon. J.W. Harreld, Chairman Committee on Indian Affairs, April 19, 1926.

¹⁵⁵ Report to Congress by the Comptroller General of the United States, *Inappropriate Use of An Indian Trust Fund To Subsidize BIA Activities*, General Accounting Office, October 7, 1980, at 2.

tribal funds from other funds in the trust.”¹⁵⁶ However, as noted above, money for payment of schools was *not segregated*: in other words, it was a pooled account, consisting of funds drawn from Native Nations’ trust funds.

141. In a 1980 Report, the GAO explained that the IMPL was a key means of supporting payment for schools, stating succinctly that at one time “revenue from the Indian moneys Proceeds of Labor trust fund was used to finance schools . . . for Indians.” However, over time, the GAO explained that some unknown amount of money from the IMPL was taken away from *any* benefit of Native Nations. The Report explained that the IMPL generated “millions of dollars annually that the Bureau of Indian Affairs uses to subsidize its administrative expenses,” which subsidies were not “disclosed in the Bureau’s budget submissions.” As the 1980 Report succinctly stated:

TRUST FUND INAPPROPRIATELY USED FOR
BUREAU ACTIVITIES FUNDED BY THE CONGRESS

Each year the Bureau of Indian Affairs receives an annual appropriation for the operation of Indian programs including an amount to pay for administrative expenses and for activities specifically authorized by the Congress. The Bureau spends several million dollars of trust fund money each year to pay its administrative expenses, a practice circumventing congressional control that has been addressed in previous GAO and Interior reports. The Bureau also uses the fund to finance some of its support operations on a revolving basis. This financing approach, which has not been approved by Congress, permits the Bureau to circumvent congressional control and has allowed the Bureau to earn interest on appropriated money.

¹⁵⁶ *Id.*

142. Of course, nothing authorized Interior to finance its own operations with Native Nations' funds, much less a trust account that was drawn from Native Nations' own trust funds and purportedly meant to be expended for Native Nations' educational benefit. Indeed, as GAO put it:

The Bureau policy is questionable because it authorizes using an Indian trust fund for the general purposes of the agency rather than for the benefit of the Indian schools or agencies on whose behalf the trust fund money should have been collected. Moreover, the Bureau has not advised the Congress of this policy nor disclosed in its budgets the amount of such funds that would be available to offset funding established by the Congress.

143. In any event, the 1980 GAO Report shows that the IMPL was one of the pooled funds or group of funds, drawn from Native Nations' trust funds, used to pay for the Indian Boarding Schools.¹⁵⁷ Indeed, GAO admits that such fund could have been “useful at one time to account for expenses and revenues from Indian . . . schools operated by the Bureau.”¹⁵⁸ By act of Congress, funds in IMPL could not be expended following September 30, 1982, with a requirement that by September 30, 1985, Interior determine “the extent to which the funds held [in IMPL] represent income from the investment deposits relating to specific tribes or individual Indians.” 25 U.S.C. § 155b. By September 30, 1987, “unobligated balances” were to be “deposited into miscellaneous receipts of the Treasury.” *Id.*

144. But, on information and belief, no adequate accounting of the Indian Moneys, Proceeds of Labor fund—including the amount of money taken from plaintiffs, spent on education,

¹⁵⁷ Upon information and belief, there are other such funds that will be disclosed in discovery, and that likewise necessitate an accounting.

¹⁵⁸ See Report to Congress by the Comptroller General of the United States, *Inappropriate Use of An Indian Trust Fund To Subsidize BIA Activities*, General Accounting Office, October 7, 1980.

or otherwise misspent on Department of the Interior expenses rather than Native Nations' education—ever took place. It did not take place following the 1980 GAO review. It did not take place in 1985 following the Secretary's purported review of ownership of portions of the funds. And it did not take place following passage of the American Indian Trust Fund Management Reform Act ("1994 Act"), when in 1996 the Department of the Interior submitted a report to Congress "identifying for each tribal trust fund account for which the Secretary is responsible a balance reconciled as of September 30, 1995." 25 U.S.C. § 4044. Indeed, Interior limited its reconciliation of any accounts to the twenty-year period between July 1972 through September 1992.¹⁵⁹ Pursuant to the United States's trust responsibility over Indian education, an accurate accounting is required as Interior's attempt to comply with 25 U.S.C. §4044 was materially and intentionally limited such that the acknowledged time frame of the Boarding School Program (i.e. up until 1969) was absent from the trust reconciliation project's scope.¹⁶⁰

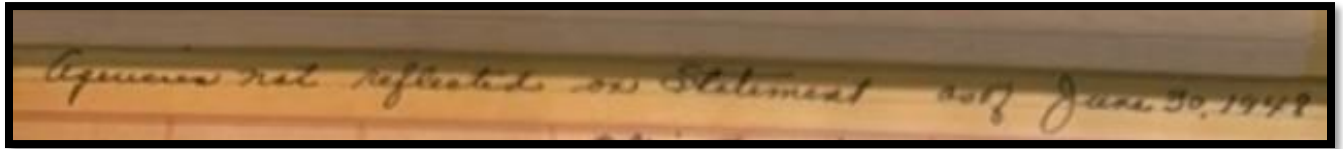
c. Archival Evidence Of A Pooled Fund

145. Worksheets from the Department of the Interior further evidence that the agency took Indian trust funds from various tribes, pooled them, and used those pooled funds to pay for Indian schools. By way of one small non-limiting example, the National Archives Records Administration (NARA) contains work sheets for the "Statement of Fiscal Affairs of Indian Tribes as of June 30, 1946 and 1947. These ledgers reveal that various amounts of "tribal funds" are

¹⁵⁹ See *Cherokee Nation v. Department of the Interior*, 754 F.Supp. 3d 107, 115-116 (D.D.C. 2024) (detailing inadequacies of the reconciliation reports prepared by the Arthur Andersen accounting firm engaged by Interior that attempted the "historical accounting" as required by 25 U.S.C. §4044).

¹⁶⁰ Further, only with the revelations from the Interior Investigative Report – which was the first attempt at any systematic explanation of the Boarding School Program and its funding sources – would even the most diligent Tribe consider looking to the IMPL accounts to determine how, and how much, of trust funds were collected and misspent on the boarding school program.

factored alongside “public funds” to meet obligations. One page of the reconciliation — written in hand—describes “Agencies not reflected on Statement as of June 30, 1948.”¹⁶¹



146. The ledger describes funds available to meet Interior obligations. Undifferentiated “tribal funds” (in an amount of over \$9 million) are factored alongside “public” funds to meet obligations.¹⁶²

Budget - 1948	
Trust	6,887,003
Grant	41,917,057
Total	54,254,480
Tribal Statement	
Public Funds	3,139,575.70
Transfer	8,205,344.7
Tribal Funds	9,707,506.9
	43,669,860.38
Funds not included	1,121,788.99
	52,897,649.37

147. Later in the ledger, there are further categories of expenditures, including columns listing expenditures for “Salaries of Employees” and “Support of Civilization” — the latter of which, on information and belief, includes payment for the Boarding School program.

148. Again, “Tribal Funds” for the purpose of “Supporting Civilization” appear to be treated as a single unit—effectively, a trust fund created by pooling Native Nations’ trust moneys,

¹⁶¹ King Decl., ¶ 12, Ex. 2 (NARA1_0038).

¹⁶² *Id.*

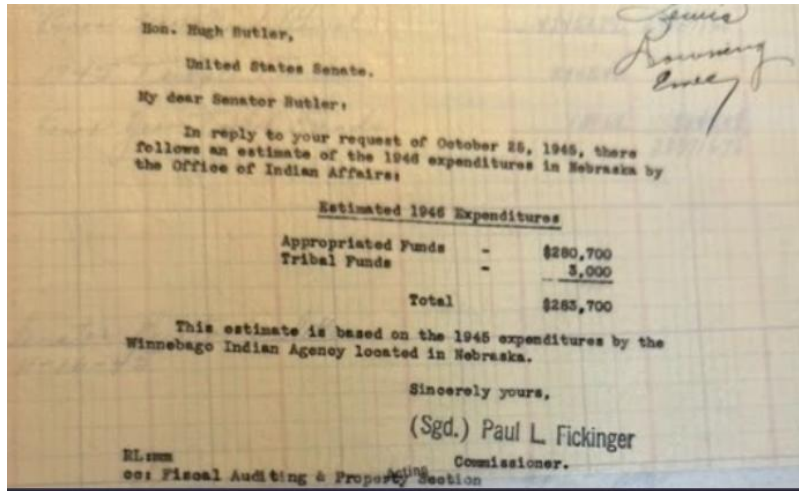
which pooled funds would be used to pay for, among other things, the boarding school program. This single ledger appears to describe \$1,645,493.29 out of “Tribal Funds” to pay for such “civilization”.¹⁶³

Support and Civilization		Tribal Funds		Public Funds		Total	Unit
Account	Amount	Account	Amount	Account	Amount	Total	Unit
187791.7	187791.7	512504	75231019	1922522	15120172	71621610	✓
200482.7	200482.7	512504	1922522	1323551	200482.7	14258723	✓
117285.97	117285.97	4122	463718	15702578	265684	18761594	✓
100000.00	100000.00	19000	1702445	-	7000	17705865	✓
180664.99	180664.99	1912029	25794021	-	1453121	27245822	✓
979619.46	979619.46	44644	165822	4816129	18532	46209627	✓
520609.00	520609.00	7082	7245792	5321044	104000	23127428	✓
490470.00	490470.00	48877	1626270	12518099	782700	2589470	✓
278465.7	278465.7	8283	447577	3137954	205010	445572	✓
216316.09	216316.09	2122	28100	24601678	16627	24601678	✓
422537.0	422537.0	5522	812072	2472470	-	2472470	✓
150735	150735	-	40000	-	200197	571247	✓
205232.09	205232.09	-	21200	149266	-	149266	✓
144771.82	144771.82	2009	28300	28164281	27222	28164281	✓
318410.00	318410.00	16701	72452	1078242	26827	1078242	✓
180505.01	180505.01	49022	49022	-	170301	5167257	✓
181923.08	181923.08	09252	1746274	416220	45327	652079	✓
219284.01	219284.01	34399	34399	4031028	207221	207221	✓
412740.25	412740.25	21752	1810022	2521832	-	243287	✓
225222.1	225222.1	2022	2220001	5260044	402109	1721627	✓
117610.85	117610.85	20642	20642	19760146	10852	240227	✓
24615.29	24615.29	17791	207205	1846265	10112	52810	✓
154571.25	154571.25	22779	274210	2025075	-	14922729	✓
18977.82	18977.82	7040761	2160659	400000	158890	158890	✓
142181.47	142181.47	40278	257708	2891071	74447	2891071	✓
1010712270	1010712270	16422780	16422780	901299270	8182418	16784699	✓

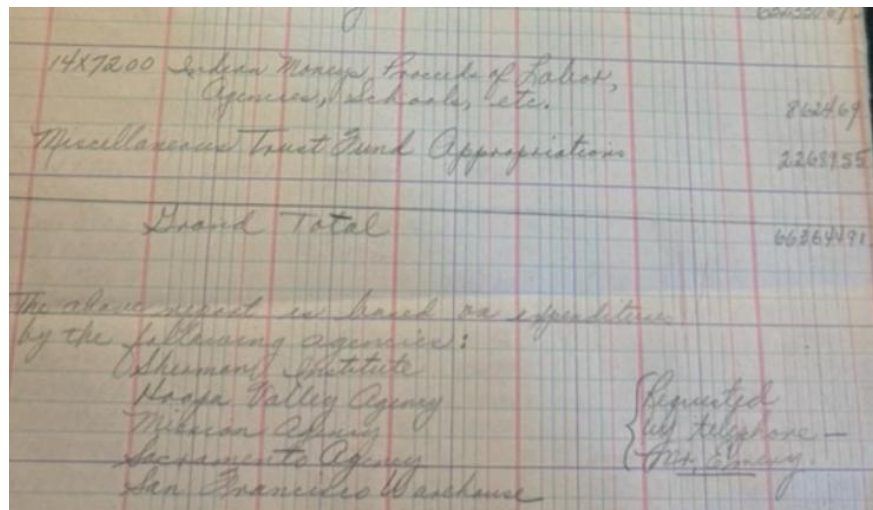
149. Further archival evidence supports the pooling of tribal funds—as a category unto itself—to support the Department of the Interior’s activities, including support of the Boarding School program. For example, in a November 6, 1945 letter to United States Senator Butler, Paul Fickinger, the Commissioner of Indian Affairs, describes the estimate of 1946 expenditures “in Nebraska” by the Office of Indian Affairs. The expenditures were described in two categories: “\$280,700” in “appropriated funds,” and \$3,000 in “Tribal funds”.¹⁶⁴

¹⁶³ King Decl., ¶ 13, Ex. 3 (NARA1_0040).

¹⁶⁴ King Decl., ¶ 14, Ex. 5 (NARA1_0053).



150. The letter was no outlier. In a 1945 description of expenditures of funds in California, Department of the Interior records indicate that undifferentiated funds were drawn from the “Indian Moneys, Proceeds of Labor, Agencies, Schools, etc.” fund in the amount of \$8,624.69 and combined with “Miscellaneous Trust Fund Appropriation” in the amount of \$22,689.55 to support, among other things, the “Sherman Institute,” a notorious¹⁶⁵ boarding school at which children were placed from many different tribes, located in Riverside, California:¹⁶⁶



¹⁶⁵ Promotional footage of the Sherman Institute from 1915 shows it to have been a highly militarized boarding school which, among other things, contained individuals from multiple Indian tribes, and emphasized children’s manual labor. See <https://www.youtube.com/watch?v=7QHzzllbwOD4>. Volume 2 of the Boarding School Report indicates that students from at least 190 tribes (including Washoe) attended the Sherman Institute over the years, and at least 28 students were identified to have died there while doing so.

¹⁶⁶ King Decl., ¶ 15, Ex. 5 (NARA1_0057).

151. That payments were made in this manner is unsurprising, since, as noted above, the payments for “Indian Schools” were, by law, not to be segregated. At bottom, the archival evidence, which represents a very small amount of the evidence that remains in possession of the Department of the Interior, accordingly shows that “Tribal Funds” (drawn from two separate omnibus pooled accounts, the “Miscellaneous Trust Fund Appropriation” and “IMPL”) were treated as a single pooled fund to support the Boarding School Program writ large. No accounting of these “Tribal Funds” collected, pooled together, and used to support the Boarding School program, has taken place.¹⁶⁷

¹⁶⁷ NARA materials reviewed by Plaintiffs reflect a recurring Treasury/BIA accounting structure spanning receipts, balances, obligations, and disbursements, but those records are highly technical, coded, fragmentary, and in later years often survive only as loose and poorly organized sheets. Defendants alone possess the broader record universe, account crosswalks, and institutional knowledge necessary to determine how these funds were actually received, pooled, transferred, obligated, and disbursed. For example, a series of loose “Bureau of Indian Affairs Cash Status June 30, 1963” sheets confirm that BIA cash-status reporting was organized across multiple fund classes—current authorizations, permanent authorizations, revolving funds, consolidated revolving funds, and trust funds—and that the trust-fund section expressly included “Indian Moneys, Proceeds of Labor, Agency, Schools, etc. 14X8500.” These records are consistent with the existence of an integrated fiscal framework in which school-related accounts, tribal trust-related funds, and other federal monies were administered through common accounting machinery. The scale and condition of the surviving records further confirm the burden of any full accounting. Plaintiffs’ archival review identified multiple bound volumes exceeding 1,000 pages as well as later-year boxes containing large masses of loose, unbound, and only partially organized receipt-account and trial-balance sheets. Those materials, covering only a handful of years, suggest that Defendants’ own accounting system was extensive and that only Defendants can realistically assemble and interpret it. *See generally*, King Decl.

G. The United States’s Trust Obligations to the Native Nations Are Ongoing

152. The United States has repeatedly and recently reaffirmed its education trust obligations, through treaty, statute, and proclamation.¹⁶⁸ It has **never** repudiated them.

153. Indeed, as Congress explained in one statute, the Federal government holds a “unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children.”¹⁶⁹

154. The Department of the Interior further explicated this longstanding trust responsibility—unbroken to this day—in a December 2011 Report:

[T]o secure a nation independent from the English crown, early U.S. governments were obliged to enter into more than 100 treaties with American Indian tribes. Treaties have long been regarded as the most legitimate and steadfast form of agreement between two nations. According to the United States Constitution, “. . . all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.” These treaties constituted contractual agreements between sovereign nations. Through these contracts, American Indian tribes ceded vast stretches of their ancestral lands since time immemorial to the United States in exchange for specific promises and considerations. Many of those treaties include solemn commitments by the United States to accept trust responsibility for the education of American Indian children.¹⁷⁰

155. The 2011 Report, *Broken Schools, Broken Promises*, (the “2011 *Broken Schools* Report”) explained that the United States’s trust obligations to the Native Nations were explicitly reconfirmed in more recent Congressional acts and appropriations.

156. For example, the 2011 *Broken Schools* Report cites the Indian Self-Determination

¹⁶⁸ In addition to the repeated affirmations of this trust duty in the Investigative Report, *see, e.g., supra* at 103-104; *Shoshone Indian Tribe of the Wind River Reservation v. United States*, 364 F.3d 1339 (Fed. Cir. 2004); U.S. Dep’t of Interior, *Broken Promises, Broken Schools: Report of the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee* 11 (2011), available at <https://www.bia.gov/sites/default/files/dup/assets/as-ia/raca/pdf/idc1-025523.pdf>.

¹⁶⁹ 25 U.S.C. § 2000; 25 U.S.C. § 2501(b).

¹⁷⁰ U.S. Dep’t of Interior, *Broken Promises, Broken Schools: Report of the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee* 6 (2011), available at <https://www.bia.gov/sites/default/files/dup/assets/as-ia/raca/pdf/idc1-025523.pdf>.

and Education Assistance Act, 25 U.S.C. § 2000, which describes Congress’s recognition of the United States’s ongoing and unbroken trust duties to provide for Native children’s education. That Act acknowledges “[i]t is the policy of the United States to fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children and for the operation and financial support of the Bureau of Indian Affairs-funded school system”¹⁷¹ The 2011 *Broken Schools* Report further cites learned treatises for the proposition that there has long existed a “trust responsibility” from the Federal Government “respecting American Indian Education.”¹⁷² The 2011 *Broken Schools* Report emphasizes: “The federal obligation to American Indian children continues today.”¹⁷³

157. Despite these explicit obligations, the United States admitted in 2022 that there has never been an “accounting of Federal support for the Federal Indian boarding school system, including a proactive approximate accounting of any Tribal and, or individual Indian trust funds held in trust by the United States used to support the Federal Indian boarding school system.”¹⁷⁴ There has likewise never been an accounting of the contribution to the Boarding School Program

¹⁷¹ *Id.*

¹⁷² The 2011 *Broken Schools* Report excerpts Cohen’s Handbook of Federal Indian Law, Section 22.03: Education, which states as follows: “Provisions regarding Indian education appear with the earliest colonial laws. Beginning with the 1794 Treaty with the Oneida, [7 Stat. 47 (1794)] over 150 treaties between tribes and the United States have included educational provisions. For almost as long a time, Congress has legislated to provide for Indian education generally. In 1819, Congress established a permanent “civilization fund,” which, until its repeal in 1873, authorized the executive to spend an annual sum to employ teachers in Indian country to provide “against the further decline and final extinction of the Indian tribes . . . and for introducing among them the habits and arts of civilization.” Civilization Fund Act, Act of Mar 3, 1819, 3 Stat. 516.

¹⁷³ U.S. Dep’t of Interior, *Broken Promises, Broken Schools* 7 (2011). That trust responsibility is described elsewhere as well in the United States Code. For example, 25 U.S.C. § 5301(b)(2) describes the “Federal responsibility for . . . education of Indian children” 25 U.S.C. § 5302(a) acknowledges “the obligation of the United States to . . . assur[e] maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.”

¹⁷⁴ Vol. I, at 97.

by wealth created through forced labor of Native children.

158. In the 21st Century, the United States has repeatedly affirmed its duty to educate Native children,¹⁷⁵ and, as recently as 2021, the United States recognized that the Federal government's obligations to Native Americans includes "educational equity [and] excellence."¹⁷⁶

159. While the United States has consistently failed to fulfill its obligations, "the magnitude of a legal wrong is no reason to perpetuate it."¹⁷⁷

160. No statute of limitations concerning losses or mismanagement of trust funds begins to run until the affected tribe or individual Indian has been furnished with an accounting or such funds from which the beneficiary can determine whether there has been a loss.¹⁷⁸

161. The United States has admitted that no such accounting with regard to the Boarding School Program has ever taken place, and only the Boarding Schools Investigative Report revealed the very existence and nature of the funds for which an accounting is clearly owed.

H. The Boarding Schools' Reprehensible and Tragic Legacy Persists

162. Secretary Haaland and Assistant Secretary Newland, as representatives of the United States, have now admitted on multiple occasions, including but not limited to in the

¹⁷⁵ 25 U.S.C. § 2000 (the Federal Government holds a "unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children"); U.S. Dep't of Interior, *Broken Promises, Broken Schools* 7 (2011) ("The federal obligation to American Indian children continues today.").

¹⁷⁶ Executive Order on the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities, Exec. Order No. 14049, 86 Fed. Reg. 57313 (2021).

¹⁷⁷ *McGirt v. Oklahoma*, 591 U.S. 894, 934 (2020).

¹⁷⁸ Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, 128 Stat. 5, 305-306 (2014) (providing that the statute of limitations "shall not commence to run on any claim . . . concerning losses to or mismanagement of trust funds, until the affected Indian tribe . . . has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss."). See *Tanner-Brown v. Haaland*, 105 F.4th 437, 449 (D.C. Cir. 2024) (declining to reach limitations issue on appeal but noting that the 2014 appropriations act provides that limitations on claims concerning losses to or mismanagement of trust funds does not run until the affected tribe or individual Indian has been furnished with an accounting).

Boarding Schools Investigative Report, that the negative effect of the Boarding School Program is currently felt by every single Native American, including not only survivors, but also those survivors' descendants and their communities.

163. As the United States has now admitted, “[t]he targeting of Native American Children was not fair, right, or just” and continues to harm Native Nations through “deep and far-reaching socioeconomic impacts such as low life expectancies, loss and disconnection from Culture and land, and persistent poverty. Tribal Communities and Indigenous people today are dealing with the historical trauma of boarding school abuse.”¹⁷⁹

164. When the United States tore Native children from their homes, it deliberately destroyed the kinship and family bonds that provided supportive upbringings. As detailed herein, children at Boarding Schools were subject to sexual and physical abuse leading to widespread trauma and depression.¹⁸⁰ The destruction of the family unit and other horrors experienced by Native children directly contribute to high levels of substance abuse among Boarding School survivors, which has in turn reverberated across generations.¹⁸¹

¹⁷⁹ White House Council on Native Am. Affairs Educ. Comm., *Framework for the 10 Year National Plan on Native Language Revitalization White House Tribal Nations Summit 2022* (last accessed March 23, 2025), https://www.bia.gov/sites/default/files/dup/inline-files/framework_for_10yr_national_plan.pdf. See also White House Council on Native Am. Affairs, *10-Year Nat'l Plan on Native Language Revitalization* 10, 42 (Dec. 2024) (“Native Nations rightfully expect the federal government to honor its treaty and trust obligations by allocating funding for language revitalization”).

¹⁸⁰ Maria Yellow Horse Brave Heart, *Gender Differences in the Historical Trauma Response Among the Lakota*, 10 J. Health & Soc. Pol’y 4:1 (1999); Melissa D. Zephier Olson & Kirk Dombrowski, *A Systematic Review of Indian Boarding Schools and Attachment in the Context of Substance Use Studies of Native Americans*, 1 J. Racial & Ethnic Health Disparities 62 (2019).

¹⁸¹ Melissa D. Zephier Olson & Kirk Dombrowski, *A Systematic Review of Indian Boarding Schools and Attachment in the Context of Substance Use Studies of Native Americans*, 1 J. Racial & Ethnic Health Disparities 62 (2019).

165. According to one study, Boarding School survivors were 93% more likely to have had a child removed from their care than other Native Americans.¹⁸² Children taken from their parents in turn face higher rates of suicide, mental health problems, and substance abuse disorders.¹⁸³

166. The Boarding School Program had a lasting, cognizable, universal, and overwhelmingly negative effect on Native Nations. As Secretary Haaland stated soon after announcing the Report: “The federal policies that attempted to wipe out Native identity, language, and culture continue to manifest in the pain Tribal communities face today, including cycles of violence and abuse, the disappearance of Indigenous people, premature deaths, poverty, and loss of wealth, mental health disorders and substance abuse.”¹⁸⁴

167. An accounting—which the United States is legally required to undertake—is an important step toward trying to right this horrific wrong.

V. CLASS ACTION ALLEGATIONS

168. All Class members’ claims derive directly from the United States’s wrongful violation of its treaty-based and statutory duties to provide Native Nations’ education.

169. The underlying facts are the same for all Class Members: the United States collected and pooled together funds on behalf of all Native Nations for the purported benefit of all

¹⁸² Abram J. Lyons, *et al.*, *Factors Associated with Child Removal Among American Indian and Alaska Native People in an Alcohol Intervention Study*, 28 *Child Maltreatment* 599 (2023).

¹⁸³ Childs. Rts. Litig. Comm., Am. Bar Assoc., *Trauma Caused by Separation of Children from Parents* 4–5 (2019), https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/child-separation-memo/parent-child-separation-trauma-memo.pdf.

¹⁸⁴ Deb Haaland, Sec., Dep’t of Interior, Remarks on UN Int’l Day of World’s Indigenous People at the Wash. Foreign Press Ctr. (Aug. 5, 2021) *in Sec. Haaland on the Biden-Harris Admin.’s Commitment to Indigenous Communities*, State.gov (Aug. 5, 2021) <https://2021-2025.state.gov/briefings-foreign-press-centers/secretary-haaland-on-the-biden-harris-administrations-commitment-to-indigenous-communities/>.

Native children and executed a uniform policy for the education of Native Nations' children that was designed, for all Native Nations, to strip them of their unique identity, destroy their language and culture, and forcibly assimilate them, all while depriving them of an adequate education.

170. The United States was systematic in its actions and did not discriminate among Plaintiffs in implementing it.

171. Accordingly, Plaintiffs bring this lawsuit as a class action on their own behalf and on behalf of all other persons similarly situated as members of the proposed Classes, pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(1), and 23(b)(2). This action satisfies the numerosity, commonality, typicality, and adequacy requirements of those provisions. Plaintiffs respectfully propose the following class:

All Native Nations whose citizens between 1819 and 1969 attended a boarding school pursuant to the Boarding School Program.

172. Excluded from the Class are: (a) Defendant and its members, agencies, divisions, departments, and employees; (b) any legal counsel or employee of legal counsel for any Defendant; and (c) the presiding Judge in this lawsuit, as well as the Judge's staff and their immediate family members.

173. Plaintiffs reserve the right to amend the Class definition and create or amend any subclass if discovery or further investigation reveals that the Class should be expanded or otherwise modified.

174. **Numerosity.** The Native Nations class is composed of hundreds of Native Nations and thus is so numerous that joinder of all members is impracticable.

175. **Common Questions of Law and Fact.** Common questions of law and fact exist for all Class Members. These common legal and factual questions include, but are not limited to, the following:

- a. The amount of funds taken from Class Members, including the value of land ceded, to fund the Boarding School Program for the Class Members' purported benefit;
- b. The nature of the funds used to pay for the Boarding School Program;
- c. Whether the United States must account for the funds used to fund the Boarding School Program;
- d. Whether the United States must account for the value of Class Members' lands it took in exchange for education under treaties with Native Nations;
- e. Whether the United States must account for the value of Class Members' lands sold to fund the Boarding School Program;
- f. Whether the United States must detail how the funds taken from Class Members to fund the Boarding School Program were spent;
- g. Whether the monies used to fund the Boarding School Program consisted of monies taken from Class Members;
- h. Whether the United States pooled Class members' resources together to fund the Boarding School Program;
- i. Whether the United States used Class Members' forced labor to support the Boarding School Program, and the value of such labor;
- j. Whether Defendants misused Class Members' funds to implement the Boarding School Program; and
- k. Whether the Class Members' claims are timely.

176. **Typicality.** Plaintiffs' claims are typical of those of the other Class Members' claims in that Plaintiffs and each of the other Class Members are Native Nations to whom the

United States owed a treaty-based and/or statutory duty of trust with respect to Native children's education, and whose members (including ancestors) were forced to attend federal boarding schools, and whose funds, resources, and/or labor were used to support the Boarding School Program.

177. **Adequacy.** Plaintiffs will fairly and adequately protect the interests of the other Class members. By prevailing on their own claims, Plaintiffs will establish Defendants' liability to all Class Members. Plaintiffs' counsel are unaware of any conflicts of interest between Plaintiffs as class representatives and absent Class Members with respect to the matters at issue in this litigation; Plaintiffs will vigorously prosecute the suit on behalf of the Class. Plaintiffs have retained counsel with substantial experience in handling complex class action litigation, including actions relating to Native Nations' equitable rights. Further, Plaintiffs and their counsel are committed to the vigorous prosecution of this action.

178. **Insufficiency of Separate Actions.** Absent a class action, Plaintiffs and the other Class members will continue to suffer the harms described herein, for which they would have no remedy. This is a complex trust matter which applies to each and every Native Nation, including numerous that are small and lack the resources to pursue such a claim on their own.

179. The Class may be certified under Rule 23(b)(1) for the following reasons:

- a. The prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudication concerning individual Class members, which would establish incompatible standards of conduct for Defendants; and
- b. Adjudications of claims of the individual Class members against Defendants would, as a practical matter, be dispositive of the interests of other Class

members who are not parties to the adjudication and may substantially impair or impede the ability of other Class members to protect their interests. In particular, the intermingling of Native Nations' funds may prevent meaningful tribe-by-tribe accounting, any settlement would drain funds from a general pool for all Native Nations, and any assessment of the United States's trust duties to Native Nations collectively would affect all Class members.

180. Class action status is warranted under Rule 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to all Class members, all Class members have irreparable injuries, the remedies available at law are inadequate to compensate Class members for those injuries, in light of the balance of hardships a remedy in equity is warranted, and the public interest is not disserved by declaratory relief, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

181. The United States implemented the Boarding Schools Program without differentiating among Native Nations and treated Native Nations on grounds that apply generally to all Class Members. Plaintiffs, individually and on behalf of the other Class Members seek declaratory and equitable relief, including an accounting.

VI. ENTITLEMENT TO EQUITABLE RELIEF

182. To the extent Plaintiffs' remedy of an accounting is unavailable at law, Plaintiffs, individually and on behalf of the other Class members, allege that no plain, adequate, and complete remedy exists at law to address Defendants' actions. Further, when a fiduciary relationship exists, "the existence of a remedy at law is irrelevant."¹⁸⁵ As detailed herein, the United States has taken

¹⁸⁵ *Becker v. Bank of New York Mellon Tr. Co. N.A.*, 172 F. Supp. 3d 777, 788 (E.D. Pa. 2016) (citing *Am. Express Travel Related Servs. Co., Inc. v. Laughlin*, 623 A.2d 854, 856 (Pa. Super. Ct 1993) *appeal denied* 633 A2d 149 (Pa. 1993)). This principle flows from the historical fact that actions by trust beneficiaries

upon itself a special role of trustee over Native Nations’ children’s education and accordingly owes “the most exacting fiduciary standards.”¹⁸⁶

183. In addition, and without limitation, 25 U.S.C. § 4011 provides that “[t]he Secretary shall account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian . . .” The statute further requires the Secretary to “provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited and invested”¹⁸⁷ The funds allocated from Native Nations’ trust accounts for the purported benefit of Native children’s education are funds “held in trust by the United States for the benefit” of Indian tribes.¹⁸⁸ They have never been accounted for.

184. 25 U.S.C. § 4044 additionally ordered a reconciliation of tribal accounts, whereby there would be a “report identifying for each tribal trust fund account for which the Secretary is responsible a balance reconciled as of September 30, 1995.”

185. These statutory obligations are stated with sufficient particularity to establish an enforceable duty to account for covered trust funds, and therefore support Plaintiffs’ request for equitable relief in the form of an accounting.

against trustees for breach of fiduciary duty were within the exclusive jurisdiction of courts of equity. (In *re BYJU’s Alpha, Inc.*, 661 B.R. 109, 121 (2024) (citing *Local No. 391 v. Terry*, 494 U.S. 558, 567 (1990) (stating that breach of fiduciary duty claims “were within the exclusive jurisdiction of courts of equity”)).

¹⁸⁶ *Seminole Nation v. United States*, 316 U.S. 286, 297 (1942); see also *Arizona v. Navajo Nation*, 599 U.S. 555, 564 & 564 n.1 (2023) (holding that Tribes must also “establish, among other things, that the text of a treaty, statute, or regulation imposed certain duties on the United States”).

¹⁸⁷ 25 U.S.C. § 4011(b).

¹⁸⁸ 25 U.S.C. § 4011(a).

186. To the extent that legal remedies currently exist, they are inadequate because they are not “equally prompt and certain and in other ways efficient” as equitable relief of an accounting.¹⁸⁹

VII. CLAIMS ASSERTED ON BEHALF OF THE CLASS

COUNT I

ACCOUNTING PURSUANT TO FEDERAL TRUST RESPONSIBILITY

187. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-186, above.

188. At least 171 treaties were signed by the United States, and recently identified in Volume II, guaranteeing Native children’s education, and the United States recently and repeatedly reaffirmed in statutes and proclamations its on-going fiduciary obligation to ensure that all Native children receive an adequate education. The United States’s long-acknowledged trust responsibility with respect to Native Nations’ children’s education endures to this day.

189. The United States has affirmed its obligation in statutes including, but not limited to: 25 U.S.C. § 5301(b)(2); 25 U.S.C. § 2000; 25 U.S.C. § 2501; ch. 86, 3 Stat. 516 (1819); 25 U.S.C. § 271; 25 U.S.C. § 155; 25 U.S.C. § 273; ch. 35, 21 Stat. 30, 35 (1879); Pub. L. No. 117-317, 27 Stat. 612, 628 (1893); ch. 367, 42 Stat. 994, 995 (1922); and 25 U.S.C. § 5601(4–5).

190. The Boarding Schools Investigative Report was the United States’s first attempt “in the history of the country” to “account[] for its role in operating Indian boarding schools to forcibly

¹⁸⁹ *Am. Life Ins. Co. v. Stewart*, 300 U.S. 203, 214 (1937); *see also United States v. Bluit*, 815 F. Supp. 1314, 1317 (N.D. Cal. Oct. 6, 1992) (“The mere existence’ of a possible legal remedy is not sufficient to warrant denial of equitable relief.”); *Quist v. Empire Water Co.*, 204 Cal. 646, 643 (1928) (“The mere fact that there may be a remedy at law does not oust the jurisdiction of a court of equity. To have this effect, the remedy must also be speedy, adequate, and efficacious to the end in view . . . It must reach the whole mischief and secure the whole right of the party in a perfect manner at the present time and not in the future.”).

assimilate Indian children”¹⁹⁰ or to “comprehensively address the facts and consequences of its Federal Indian boarding school policies.”¹⁹¹

191. “Due to time and resource constraints,” Volume II was unable to provide a full accounting of federal support, and it “did not research actual amounts spent.”¹⁹² Further, the Boarding Schools Investigative Report’s estimate of \$23.3 billion excluded “Treaty-stipulated support . . . U.S. military support, wealth generated by Indian or Native Hawaiian children while in the system [and] . . . Indian domestic and other labor for non-Indian families and communities through the Outing System.”¹⁹³ It explicitly excluded any funds taken from Native Nations’ trust funds or other assets and used to support of the Boarding School Program. This incomplete estimate is no substitute for an accounting of these funds.

192. The United States has also admitted that it appropriated Native Nations’ funds in purported support of this trust responsibility and for use in the Boarding School Program. The United States revealed for the first time in the Boarding Schools Investigative Report that there were at least five separate sources of funds used to generate money for the Boarding School Program:

- Appropriations made under the educational provisions of existing treaties with Native Nations;
- Funded investments of bonds and other securities held by the United States;
- Proceeds of the sale of lands of certain Native Nations;

¹⁹⁰ Vol. II, at 4.

¹⁹¹ Letter from Sec. of Interior Deb Haaland, *Federal Indian Boarding School Policies* (May 11, 2022). Available at https://www.bia.gov/sites/default/files/dup/inline-files/bsi_secretarial_cover_letter_esb46-007491_signed_508.pdf.

¹⁹² Vol. II, at 51.

¹⁹³ Vol. II, at 51.

- Accumulations of money in the Treasury resulting from the sale of lands;
- Annual appropriations by Congress for Indian school purposes.¹⁹⁴

193. Also, for the first time in the Boarding Schools Investigative Report, the United States has explained that what resulted was a fund or set of funds—purportedly for the benefit of all Native Nations—for which it has never accounted. It admits:

- “The United States used monies resulting from Indian wealth depletion from cessions of territories, and held in Federal trust accounts for Indian Tribes, to pay for the attempted assimilation process of Indians.”¹⁹⁵
- This spending “depleted funds Indian Tribes were entitled to.”¹⁹⁶
- “Funding for the Federal Indian boarding school system included both Federal funds through congressional appropriations and funds obtained from Tribal trust accounts for the benefit of Indians and maintained by the United States.”¹⁹⁷
- “The Federal Indian boarding school system predominately used the manual labor of American Indian, Alaska Native, and Native Hawaiian children to compensate for the poor conditions of school facilities and lack of financial support from the U.S. Government.”¹⁹⁸
- The United States still needs to “[a]pproximate the amount of Tribal or individual Indian trust funds held by the United States in trust that were used

¹⁹⁴ Vol. I, at 43.

¹⁹⁵ Vol. I, at 44.

¹⁹⁶ Vol. I, at 45.

¹⁹⁷ Vol. I, at 92.

¹⁹⁸ Vol. I, at 92.

to support the Federal Indian boarding school system, including to non-Federal entities and, or individuals, recognizing that some records are no longer available.”¹⁹⁹

194. Other evidence supports the existence of such a pooled fund or set of funds containing tribal trust funds, and that these funds were used to pay for the Boarding School Program. Indeed, the Act of May 25, 1918, ch. 86, § 28, 40 Stat. 591 specifically ordered that Indian Moneys, Proceeds of Labor funds used for schools were to remain “unsegregated.” Such creation and use of a pooled fund or set of funds comprised of trust fund moneys taken from Native Nations’ trust accounts has further been shown through archival evidence described herein. For example, as also detailed above, Department of the Interior Records indicate that undifferentiated funds were drawn by Interior from accounts containing pooled tribal trust funds—including at least the Indian Moneys, Proceeds of Labor, Agencies, Schools, etc.” fund, and a “Miscellaneous Trust Fund Appropriation” account—to make payments to boarding schools, including the notorious Sherman boarding school in California.

195. The United States recently admitted more work is necessary to “approximat[e] a full accounting of Federal support for the Federal Indian Boarding School system, including a proactive approximate accounting of any Tribal and, or individual Indian trust funds held in trust by the United States to support the Federal Indian Boarding School system.”²⁰⁰

196. That accounting is not merely necessary, it is required by law and equity.

¹⁹⁹ Vol. I, at 96.

²⁰⁰ Vol. I, at 97.

197. As trustee over Native Nations’ education trust accounts—which included but was not limited to moneys drawn from Native Nations’ trust accounts—the United States has a statutory and common law duty to accurately account for all trust asset expenditures.

198. 25 U.S.C. § 4011 further provides that “[t]he Secretary shall account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian” The statute further requires the Secretary to “provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited and invested”²⁰¹ The funds allocated from Native Nations’ trust accounts for the purported benefit of Native children’s education are funds “held in trust by the United States for the benefit” of Indian tribes.²⁰² Despite the requirements of 25 U.S.C. § 4011, the United States has never accounted for the pooled fund that it created from Native Nations’ trust funds, and used to pay for the Boarding School program.

199. 25 U.S.C. § 4044 further ordered a reconciliation of tribal accounts, whereby there would be a “report identifying for each tribal trust fund account for which the Secretary is responsible a balance reconciled as of September 30, 1995.” As discussed *supra*, Interior’s effort to comply with §4044, by design, did not attempt to account for Native Nations funds that were expended for the Boarding School Program.

200. No such reconciliation ever took place with respect to accounts used to pay for Native children’s education, including those expended for the Boarding School Program.

201. Only in the Boarding Schools Investigative Report completed in July 2024 did the United States admit that there even existed a pooled fund or set of funds used to pay for the

²⁰¹ 25 U.S.C. § 4011(b).

²⁰² 25 U.S.C. § 4011(a).

Boarding School Program, which was taken from Native Nations and purportedly used for those Native Nations' benefit.

202. The United States has *never* provided an accounting of that fund/set of funds. It has never provided a statement respecting such deposit of monies, much less the "performance," 25 U.S.C. § 4011, of those funds, or whether those funds were in fact expended to the benefit of Native children's education, despite being drawn for that explicit purpose from Native Nations' trust accounts.

203. The United States has failed to provide the accounting required by dint of its duty as fiduciary and trustee under 25 U.S.C. §4011.

204. Plaintiffs accordingly seek an Order from this Court requiring the Defendants to provide an accounting of Trust Funds that are held or have been held by the United States as a trustee over the Native Nations for purposes of the education of Native Nations' children, as required by equity, treaties, and statutes.

205. At a minimum, this accounting must provide a detailed itemization of:

- a. The \$23.3 billion the United States estimates were appropriated for the Boarding School Program and associated policies, including how such funds were disbursed for the Native Nations' purported benefit;
- b. The monies removed from Native Nations' Trust accounts for expenditure on the Boarding School Program and associated policies, including detail regarding the retention by the United States and/or subsequent disbursement of such funds for the Native Nations' purported benefit;
- c. The manner in which such monies from Native Nations' Trust accounts were pooled;
- d. The performance as a result of investment by the United States of any funds held in trust by the federal government for the purpose of Native children's education;
- e. The value of land ceded in exchange for the United States's promises to Native Nations related to education;

- f. The “Treaty-stipulated support” spent to support the Program;²⁰³
- g. The value, including any monies, generated by “Indian child labor both for institution operations and through the Outing System to non-Indian families;”²⁰⁴
- h. The economic harm caused by the Boarding School Program; and
- i. The remainder of Native Nations’ funds and assets that have been taken by the United States and allocated for the education of Native Nations’ children.

206. An accounting is required.

207. The Defendants must also preserve all documents it used to prepare the Boarding Schools Investigative Report, and any other relevant documentation, until a full accounting is provided and authenticated.

COUNT II
EQUITABLE ACCOUNTING PURSUANT TO
THE ADMINISTRATIVE PROCEDURE ACT – 5 U.S.C. §§ 706(1–2)

208. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-186, above.

209. Interior is an agency within the meaning of the APA. *See* 5 U.S.C. § 551.

210. Doug Burgum, in his official capacity as the Secretary of the Interior, and the United States Department of the Interior (together, “Interior Defendants”) were required, through the ongoing trust relationship established by treaties and statutes, to properly account for Native Nations’ funds that Defendants controlled only as a result of their ongoing trust relationship with Native Nations. Defendants have failed to provide such an accounting.

²⁰³ Vol. II, at 51.

²⁰⁴ Vol. II, at 55.

211. The APA directs courts to “compel agency action unlawfully withheld or unreasonably delayed” when an agency has failed to take a specific action that it was required to take. 5 U.S.C. § 706(1); *Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 64 (2004).

212. The APA directs courts to hold unlawful and set aside agency actions that are found to be “[a]rbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(a).

213. Agency action is arbitrary or capricious where it is not “reasonable and reasonably explained.” *Ohio v. EPA*, 603 U.S. 279, 292 (2024) (quotation omitted). This standard requires that agencies provide “a satisfactory explanation for its action[,] including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quotation omitted). An action is also arbitrary and capricious if the agency “failed to consider . . . important aspect[s] of the problem.” *Dep’t of Homeland Sec. v. Regents of the Univ. of Calif.*, 591 U.S. 1, 25 (2020) (quotation omitted) (alterations in original).

214. Interior Defendants’ actions alleged herein constitute “[a]gency action made reviewable by statute,” 5 U.S.C. § 704, as well as “final agency action for which there is no other adequate remedy in a court,” 5 U.S.C. § 704, and are therefore subject to judicial review. 5 U.S.C. §§ 702, 704.

215. Interior Defendants’ actions alleged herein are arbitrary and capricious because the decision to not provide an accounting required by law, or to carry out other mandatory duties, was not objectively reasonable and Interior Defendants failed to provide a reasoned explanation for that decision.

216. Plaintiffs have suffered a legal wrong as a result of, and have been adversely affected or aggrieved by, Interior Defendants' agency actions alleged herein for purposes of 5 U.S.C. § 702.

217. The Interior Defendants are required, through treaty and statute, including 25 U.S.C. § 4011 and 25 U.S.C. § 162a(d)(1-2), to provide, but have not and are not providing, accounting of receipts and disbursements from the Native Nations' pooled funds for the Boarding School Program that are controlled by the United States.

218. The Interior Defendants are required, through treaty and statute, including 25 U.S.C. § 4011 and 25 U.S.C. 162a(d)(3), to provide, but have not provided, the Native Nations with a timely reconciliation of their account activity that would show the use or misuse of their trust funds to facilitate the Boarding School program which would assure the accuracy of accounts in violation of their nondiscretionary duties.

219. The Interior Defendants have not determined and are not determining accurate cash balances in the Native Nations' pooled fund or set of funds, first substantively revealed by the Boarding Schools Investigative Report, in violation of their nondiscretionary duties under 25 U.S.C. § 4011 and 25 U.S.C. § 162a(d)(4).

220. The Interior Defendants have not prepared and are not preparing or supplying the Native Nations with periodic statements of the account performance and with balances of the pooled education fund available on a daily basis in violation of their nondiscretionary duties under 25 U.S.C. § 4011(a) and 25 U.S.C. § 162a(d)(5).

221. The Interior Defendants have not established and are not establishing consistent, written policies and procedures for trust fund management and accounting for the Native Nations'

pooled education fund in violation of their nondiscretionary duties under 25 U.S.C. § 4011 and 25 U.S.C. § 162a(d)(6).

222. The Interior Defendants have not provided the Native Nations with as full and complete an accounting as possible of the Native Nations' funds used to support Native Nations' education, including the Boarding School Program, to the earliest possible date.

223. Because the Interior Defendants breached each of these duties set forth herein, as well as other obligations specifically set forth in treaties, other statutes, regulations, and orders, the Interior Defendants, through their agencies and sub-bureaus, have acted contrary to statutory obligations and the Plaintiffs are entitled to review thereof under 5 U.S.C. §§ 702, 704, and 706.

224. Accordingly, the Interior Defendants have withheld agency action that is required by statutes, including 25 U.S.C. § 4011 and 25 U.S.C. § 162a.

225. Interior Defendants have acted in an arbitrary and capricious manner by not providing reasoned explanations for their failures to provide an accounting, and by providing an incomplete estimate of Federal support for the Program. Those decisions were not objectively reasonable.

226. Failure to account for Native Nations' funds for decades is a final agency action within the meaning of the APA. *See* 5 U.S.C. § 551; *c.f. Cobell v. Norton*, 240 F.3d 1081, 1095 (D.C. Cir. 2001) (decades-long failure to conduct accounting of Native Americans' funds held in trust was "unreasonable" and an agency action "tantamount to denying review altogether").

227. In addition, Interior's actions with respect to the Investigative Report constitute independent arbitrary and capricious action in violation of 5 U.S.C. § 706. Acting pursuant to a Secretarial directive, Interior undertook the Federal Indian Boarding School Initiative, reviewed approximately 103 million pages of records, and issued Volume I in 2022 and Volume II in 2024.

In those reports, Interior set forth its official findings concerning the history, scope, and funding of the Boarding School Program, including an estimate of congressional appropriations and express statements as to categories of funding and value that Interior did not quantify or trace.

228. Interior's issuance of Volume II as the final volume of the Initiative, together with the agency's express decisions concerning what categories of monetary support and trust-related funding it would estimate, exclude, or leave unresolved, constitutes final agency action within the meaning of 5 U.S.C. § 704 because it marked the consummation of Interior's decision-making process concerning the scope of its investigation and public accounting-related disclosures regarding the funding of the Boarding School Program. The reports are not merely historical publications; they are the Department's operative statement of what inquiry it undertook, what findings it adopted, and what monetary categories it chose not to trace. Unlike a typical investigative report that merely describes past events, Interior's final Boarding School reports addressed the very subject matter as to which Defendants owe ongoing trust-accounting obligations, drew on records solely within Defendants' control, and fixed the Department's official final position as to what it would and would not determine or disclose about the monetary dimensions of that history. The final reports define the extent of the trustee's asserted disclosure while withholding the information necessary for beneficiaries to determine the source, use, and loss of trust-related funds connected to the Boarding School Program. In that respect, the reports do not merely recount history; they shape and constrain the beneficiaries' ability to vindicate statutory accounting rights.

229. Interior's final action was arbitrary, capricious, an abuse of discretion, and not in accordance with law, 5 U.S.C. § 706(2), because Interior purported to issue the agency's final accounting-related determination concerning the funding of the Boarding School Program. It did

so while expressly excluding categories it acknowledged were materially relevant, including funds that may have been obtained from Tribal trust accounts, treaty-stipulated support, and value generated by Indian child labor and related activities.

230. Interior’s final action was further arbitrary and capricious because the agency acknowledged that the actual amounts spent on federal Indian boarding schools had not been researched due to time and resource constraints, despite the trustee’s exclusive control over the broader record universe necessary to reconstruct those amounts and despite the agency’s own recognition that such omitted categories bore directly on the true sources and uses of funds connected to the Boarding School Program. Interior Defendants’ decision to omit “Treaty-stipulated support, [] U.S. military support, [and the] wealth generated by Indian or Native Hawaiian children while in the system including for the agriculture and railroad industries, Indian domestic and other labor for non-Indian families and communities through the Outing System” from the “final volume” of the Boarding Schools Investigative Report is a final agency action within the meaning of the APA because the defendants had a mandatory duty to include this information.²⁰⁵ 5 U.S.C. § 551.

231. To the extent Interior contends that its reports did not themselves provide or consummate the accounting required by law, and in the alternative, Interior has unlawfully withheld agency action under 5 U.S.C. § 706(1) by failing to perform the discrete and legally required accounting duties imposed by 25 U.S.C. § 4011 with respect to monetary trust assets used for or connected to the Boarding School Program.

²⁰⁵ Vol. II, at 51; *Federal Indian Boarding School Initiative*, U.S. Dep’t of Interior <https://www.doi.gov/priorities/strengthening-indian-country/federal-indian-boarding-school-initiative> [<https://web.archive.org/web/20241213021353/https://www.doi.gov/priorities/strengthening-indian-country/federal-indian-boarding-school-initiative>] (last visited May 31, 2026).

232. Interior’s final and official accounting-related determinations and omissions, as embodied in the Boarding School reports and related agency statements, are reviewable under § 706(2). Interior’s continued failure to perform the accounting acts required by statute remains reviewable under § 706(1).

233. As a result of Interior’s final action and unlawful withholding, Plaintiffs have been deprived of a lawful and reasoned accounting-related determination regarding the trust-related and monetary sources and uses of funds connected to the Boarding School Program.

234. Plaintiffs therefore seek relief under the APA.

235. As remedy, Plaintiffs seek an Order requiring that the Interior Defendants account for and provide a detailed itemization of:

- a. The \$23.3 billion the United States estimates were appropriated for the Boarding School Program and associated policies, including how such funds were disbursed for the Native Nations’ purported benefit;
- b. The monies removed from Native Nations’ Trust accounts for expenditure on the Boarding School Program and associated policies, including detail regarding the retention by the United States and/or subsequent disbursement of such funds for the Native Nations’ purported benefit;
- c. The manner in which such monies from Native Nations’ Trust accounts were pooled;
- d. The performance as a result of investment by the United States of any funds held in trust by the federal government for the purpose of Native children’s education;
- e. The value of land ceded in exchange for the United States’s promises to Native Nations related to education;
- f. The “Treaty-stipulated support” spent to support the Program;²⁰⁶
- g. The value, including any monies, generated by “Indian child labor both for institution operations and through the Outing System to non-Indian families,”²⁰⁷

²⁰⁶ Vol. II, at 51.

²⁰⁷ Vol. II, at 55.

- h. The economic harm caused by the Boarding School Program; and
- i. The remainder of Native Nations' funds and assets that have been taken by the United States and allocated for the education of Native Nations' children.
- j. An order setting aside Interior's unlawful final accounting-related determinations and omissions to the extent described above, and remanding to the agency for further action consistent with law.

VIII. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the other Class members, respectfully request that this Court:

- A. Declare that this action is a proper class action, certify the Class as requested, designate Plaintiffs as Class Representatives, and appoint Plaintiffs' counsel as Class Counsel;
- B. Order the Defendants to:
 - 1. Conduct a full accounting of Native Nations' funds used in connection with the Federal Indian Boarding School Program, including, at minimum, a detailed itemization of:
 - a. The \$23.3 billion the United States estimates were appropriated for the Boarding School Program and associated policies, including how such funds were ultimately disbursed;
 - b. The monies removed from Native Nations' Trust accounts for expenditure on the Boarding School Program and associated policies, including detail regarding the retention and/or disbursement of such funds;
 - c. The manner in which such monies from Native Nations' Trust accounts were pooled;
 - d. The performance as a result of investment by the United States of any funds held in trust by the federal government for the purpose of Native children's education;
 - e. The value of land ceded in exchange for promises related to education;

- f. The “Treaty-stipulated support” spent to support the Program;²⁰⁸
 - g. The value, including any monies, generated by “Indian child labor both for institution operations and through the Outing System to non-Indian families;”²⁰⁹
 - h. The economic harm caused by the Boarding School Program; and
 - i. The remainder of Native Nations’ funds and assets that have been taken by the United States and allocated for the education of Native Nations’ children;
2. Publish and preserve all documents related to the Boarding School Program on an openly accessible electronic database; and
 3. Preserve all documents it used to prepare the Boarding Schools Investigative Report, and any other relevant documentation, until a full accounting is provided and authenticated.
- C. Award Plaintiffs reasonable attorneys’ fees and reimbursement of their litigation costs;
- D. Order such other and further relief as the Court may find just and proper.

²⁰⁸ Vol. II, at 51.

²⁰⁹ Vol. II, at 55.

Dated: June 1, 2026

Respectfully submitted,

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