

UNITED STATES COMMISSION ON CIVIL RIGHTS

DATE: September 28, 1987

WESTERN REGIONAL OFFICE
3660 Wilshire Boulevard
Suite 810
Los Angeles, California 90010

REPLY TO
ATTN OF: WRD/Philip Montez

SUBJECT: Report Submission: Problems of Native Americans in Montana
School District #12

TO: Jay Neel
Deputy Staff Director
Office of the Staff Director

Enclosed please find the report, Problems of Native Americans in Montana School District #12, a product of the Montana Advisory Committee.

At its July 18 meeting the Committee advised regional staff that it did not wish this report published due to the changing circumstances within the school district since the Committee's study.

The report is presented for information only.

PHILIP MONTEZ
Regional Director
Western Regional Division

Enclosure

PROBLEMS OF NATIVE AMERICANS IN MONTANA SCHOOL DISTRICT #12

**MONTANA ADVISORY COMMITTEE
TO THE
U. S. COMMISSION ON CIVIL RIGHTS**

September 1987

A report of the Montana Advisory Committee to the U. S. Commission on Civil Rights prepared for the information of the Commission. Statements and viewpoints in this report should not be attributed to the Commission or the Advisory Committee, but only to individual participants in the community forums where the information was gathered.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on civil Rights, created by the Civil Rights Act of 1957, and reauthorized under the Civil Rights Act of 1983, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the laws; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

The Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

LETTER OF TRANSMITTAL

Montana Advisory Committee to the
U. S. Commission on Civil Rights
September 1987

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Dear Commissioners:

The Montana Advisory Committee submits this report in order to advise the Commission of issues and perceptions relating to the education of Native Americans in Montana School District #12.

The report summarizes information gathered at a community forum convened on September 21, 1985 in Fort Belknap, Montana. The Advisory Committee invited school officials and tribal representatives to share their views and experiences regarding the educational system in the Fort Belknap area.

The Advisory Committee submits this report for the information of the Commission only and does not wish to have it published. The Advisory Committee continues to monitor the issue and may, from time to time, submit its findings to the Commission.

Respectfully,

Mrs. Betty Babcock
Chairperson
Montana Advisory Committee

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Introduction

The April meeting of the Montana Advisory Committee in Billings featured several Native Americans who briefed the Committee on concerns and problems facing Indian tribes in the State. Mr. Charles "Jack" Plumage, an official of the Bureau of Indian Affairs at the Fort Belknap Indian Reservation, presented a compelling account of what he felt to be discriminatory and abusive treatment of Indian students in the Harlem Public Schools, located in Montana School District No. 12. This district encompasses the northern half of the Reservation and a sizeable, predominantly white community adjacent to it.

In his presentation to the Advisory Committee, Mr. Plumage's allegations included charges that residents of the Reservation had never been able to elect a representative to the District School Board due to the at-large voting system that prevailed and that this worked to their disadvantage because Indian parents had no voice in policy making. He stated that, as a result, the educational program was not geared to the needs of Indian children and that they were treated differently from white students. He also alleged that due to the large proportion of Indian students in the district, and the funds that they brought into the system from Federal and other sources, Harlem residents did not feel obligated to support the school with their own mill levy dollars. He claimed that as a result school facilities and program suffered. He also charged that Indian teacher applicants were greatly underrepresented in the school system due to discrimination in hiring.

On the basis of Mr. Plumage's presentation, which was reinforced by other Native Americans present at the meeting, the Advisory Committee voted to conduct a community forum at Fort Belknap to obtain more information on the situation in School District No. 12. This forum was conducted under the mandate of the Advisory Committee to monitor civil rights issues within the State. Prior to the forum, Staff interviewed school officials and tribal representatives to inform them of the purpose of the forum and to invite their participation. Twenty-three persons presented information to the Committee at the forum which was held on September 21, 1985. Prior to that date and in the months which followed, staff of the Rocky Mountain Regional Office and members of the Committee gathered statistical data which pertained to the district and collected further information on the issues from newspaper accounts and from written statements submitted by individuals. This memorandum summarizes information gathered to date.

1 It should be noted though there were a number of representatives from the School Board and administration present at the forum, only the Superintendent, a school principal, one School Board member and an official from the Montana Education Association chose to participate.

Geographic and Demographic Setting

School District No. 12 lies in Blaine County and encompasses the northern half of the Fort Belknap Indian Reservation and the predominantly white community of Harlem (population 1,023) which is located just north of the reservation. The public schools are all located in the town of Harlem. Blaine County has a largely agricultural economy, and Bureau of the Census statistics show that its population density is a low 1.64 persons per square mile. They also show that from 1940 to 1980 it experienced a drop in population from 9,566 to 6,999, a loss of 29.7 percent.

Though population figures for the School District are not available, Bureau of the Census data for census units which approximate the District show that, from 1960 to 1980, while the white population experienced a steady decline, the Indian population increased. During this period Harlem City residents (predominantly white) decreased from 1,267 to 1,023, and the population of the Harlem County subdivision less Harlem City dropped from 1,174 to 950, in both instances a 19 percent loss. On the other hand, the predominantly Indian population of Ft. Belknap had increased by 28 percent, from 1,452 to 1,854. By 1980, the population balance in this area had shifted to the point where Indian residents comprised a slight majority of the population with important implications for the potential accessibility of elective offices to them.

History of the Provision for Indian Education As Related by Mr. Plumage

In his presentation at the forum, Mr. Plumage outlined the following account of the history of efforts to obtain a satisfactory educational program for Indian children. In the early 1900's, shortly after the establishment of the Fort Belknap Reservation, Indians did not hold United States citizenship. As they were considered wards of the Federal Government, and as they had no tax base to support the public school system, it was felt that they were not entitled to a public education. Consequently, at the age of six, Indian children seeking a formal education were forced to attend government boarding schools as far as 1800 miles away from home. This was despite the fact that there was a public educational facility less than three miles from where they lived.

In an attempt to remedy this situation, reservation residents voted to designate Sections 16 and 36 out of every township on the reservation as "public school sections." In this manner, under the 1921 Allotment Act, title to 19,000 acres of Indian reservation land was transferred to the State of Montana for use in raising revenue for the public education of Indian children. Shortly afterwards, in 1924, Congress passed the Indian Citizenship Act which decreed that Indians are citizens of the United States with rights and privileges entitling them to public education. Notwithstanding, it was not until 1930 that

negotiations between the United States Government and the local school board resulted in an agreement whereby Indian children would be educated in the public school system, but in facilities on the reservation separate from white students. The agreement specified that the local school board would furnish a teacher, supplies and supervision for Indian children, while the government provided the class room, heat and lights and 25 cents a day for each child. Funding for Indian education was further supplemented by the Johnson-O'Malley Act of 1934 which allocated money to be used specifically for Indian children in the public schools.

Realizing that Federally-owned or controlled property within school district boundaries imposed a burden by reducing the tax base for the districts, Congress in 1950 passed two laws to provide funding to such districts in lieu of the reduced tax revenue. These were Public Laws 81-874 and 81-875, the Impact Aid Acts, both of which form a part of the Harlem School District No. 12's financial structure. P. L. 81-875 authorized construction money for Federally impacted school districts, and the role it plays in the district's finances is discussed in a later section of this memorandum.

Throughout the history of the attempt by Fort Belknap Indian Reservation residents to acquire public education for their children, the issue of the amount of financing they were contributing to the system has surfaced repeatedly. Mr. Plumage testified that despite the large contribution made by the Federal Government on their behalf through the Johnson-O'Malley and Impact Aid Acts, and State and Federal taxes which they do pay, they are still being told that they are a financial burden to the system. This, he feels, is at the root of many of the problems and tensions between the white and Indian communities which are outlined in this memorandum

Voting and School Board Representation

Mr. Plumage stated that, the total lack of representation from the reservation among the five members of the Board of Trustees for School District No. 12 has, for years, been a point of contention with the Indian community. Native American leaders, he said, contend that the inability to elect a reservation representative to the Board stems from the single-district, at-large representational system which prevails. They feel that such a system violates provisions of the Voting Rights Act of 1965 and discriminates against Native Americans in the voting process. In recent years a few individuals of Indian descent have been elected to the School Board, but as they have resided in the white community of Harlem, it is felt that they did not represent the concerns of children from the reservation who make up the large majority of the student population.

Mr. Plumage presented statistics on School Board elections since 1983 which illustrated a polarization of the popular vote (See Table I, P.5). Reservation residents, who comprise 38 percent of the registered voters in the district, voted almost entirely for Indian candidates, while Harlem residents, who comprise 62 percent of the eligible voters, voted heavily for white candidates, with the result that invariably Indian candidates from the reservation were not elected. Mr. Plumage reported that, though repeatedly requested by reservation residents, it was not until 1980, 56 years after Indians were given the right to vote, that a polling place was established on the reservation. He said that, previous school boards had claimed that it was too expensive.

Mr. Plumage stated that lack of representation on the School Board is not acceptable to the Fort Belknap Indian community. He said that in January 1985, representatives from the reservation had been refused a resolution of support from the School Board which they had requested in order to approach the State Legislature in an attempt to change the at-large representational system. At the Advisory Committee forum he urged that the U. S. Commission on Civil Rights recommend that the U. S. Department of Justice intercede in behalf of reservation residents by filing a suit to declare the at-large representational system in the school district in violation of the Voting Rights Act of 1965.²

Mr. Gary McGuire, a member of the School Board with four children in the district schools, stated that out of concern for the education of all the children in the district, and a desire to improve relations between the district and the reservation, and because of the large amount of money received from the reservation to run the school district, he had declared himself a candidate for the Board in order to have input into the system. He stated that the School Board in August of 1985 had created an ex-officio position on the Board which had been offered to the tribe to fill with their representative. Though the position would be without vote, he felt that it would enable the tribe to have significant input into policy making. In September, at the time of the forum, the reservation had taken no action to fill this position. At the forum Randy Perez and Jack Plumage implied that such a position without vote would lack influence and was not a solution to the problem of representation.

2 Ramona Howe, State Representative from Big Horn County informed Rocky Mountain regional Office Staff that in June 1986 the Federal District Court issued a ruling mandating single member voting districts for election of members of the School Board in Big Horn County. This ruling was in the process of being implemented. At the April 1986 meeting of the Advisory Committee, Jack Plumage reported that he had been elected to the District 12 School Board as a candidate from the Ft. Belknap Reservation.

TABLE 1

VOTES CAST FOR ELECTION OF SCHOOL DISTRICT NO. 12
BOARD OF TRUSTEES
1983-1985

<u>YEAR</u>	<u>CANDIDATE</u>	<u>HARLEM PRECINCT</u>	<u>FT BELKNAP PRECINCT</u>	<u>TOTAL</u>
<u>1983</u>				
1 year term:	Tim Welch	283	49	332
	*Randy Perez	40	108	148
	John McGrew	57	25	82
3 year term:	Bob Baker	287	24	311
	*Emery Gray	88	167	255
<u>1984</u>				
3 year term:	Floyd Frey	272	48	320
(2 vacancies)	Tim Welch	316	85	401
<u>1985</u>				
3 year term:	Jack Siemens	396	16	412
(2 vacancies)	Garry McGuire	370	24	394
	*Jack Plumage	72	297	369
	*Judy Gray	40	290	330

*Fort Belknap Reservation Candidates

School Financing

Though the Advisory Committee did not receive detailed information on all sources of income for School District No. 12, it was apparent that they are numerous. Indian representatives from the Fort Belknap Reservation listed the various sources and amounts authorized for expenditure by the Harlem Public Schools for the 1983-84 school year as follows:

*District Levy (voted annually)	\$	55,619	3.1%
Motor Vehicle Fees		9,003	0.5
Interest		68,607	3.9
Miscellaneous Revenues		1,869	0.1
*County Equalization		497,525	28.0
*State Equalization		315,737	17.7
*State Permissive Levy		169,520	9.5
State Land Payment		703	0.0
Federal Impact - P.L. 874		<u>661,138</u>	<u>37.1</u>
		\$ 1,779,721	99.9%

*From State and local property taxes.

Using these figures and others cited at the forum, Indian representatives from the Reservation attempted to demonstrate that Indian students provide their share and more of funding for the Harlem Public Schools. Jack Plumage charged that as the 70 percent enrollment of Indian students in the district bring in such a large proportion of the school system's budget, Harlem residents do not feel any particular obligation to support the school with their own mill levy dollars. In response to this assertion, Mrs. Marjorie King, a former member of the State Board of Education, noted that if 70 percent of the students in the district are Indian, perhaps 50 percent of whom live on the reservation where no property taxes are paid, a 37 percent contribution from Federal 874 funds does not seem to be out of proportion.

To support this assertion, Mr. Plumage cited statistics which demonstrated that each year since 1982 the district mill levy, one source of funding, would not have passed except for the heavy vote for it in the predominantly Indian Fort Belknap precinct.

Floyd Frey, a member of the Board of Trustees, implied that Harlem residents do not vote heavily for the mill levy as it would be a tax on themselves. Mr. Plumage stated that, reservation residents, on the other hand, interpret the hesitancy of Harlem residents to vote for the mill levy as an indication of a lack of interest in quality education and a willingness to depend upon Federal funding brought in by Indian students.

To bolster the assertion that Indian students are not a financial burden to the district, Mr. Plumage presented figures to show that for each year since 1980, while a large proportion of the school budget came from funds provided under P.L. 81-874, only a small fraction of the funds available from the voted mill levy were actually assessed and utilized.

When asked if the failure to use all funds available to the district from the voted mill levy implied that the school system was satisfied with the existing educational program, Superintendent of Schools Roger Ranta replied that he could not speak for past superintendents as to why the funds had not been used. He went on to add that the present system was not all that he would like to see, and that it was his hope that these funds would help to make Harlem one of the premier school districts in the State.

Quality of Programs and Facilities

At the Advisory Committee forum several parents expressed concern that many Indian children attending School District No. 12 were not learning. Judy Gray, representing the Fort Belknap Indian Community, stated that the majority of the Indian students were failing in school, and she provided statistics to demonstrate that a highly disproportionate number of Indian students were deficient academically. These figures showed that from 85 to 96 percent of the elementary students on the deficiency lists for academic years 1983-84 and 1984-85 were Indians. For Indian high school students during the same two years, the proportion ranged from 61 to 89 percent.

She pointed out that in 1984 the Harlem High School was dropped from the Northwest Association accreditation list, the only high school of the 104 in Montana to have this happen. Mr. Plumage attributed reasons for the loss of accreditation to (1) lack of foreign language, (2) inadequate facilities, (3) insufficient space, (4) substandard library, and (5) failure to meet health and safety standards. Mr. Plumage stated that, even more serious than loss of accreditation by the Northwest Association, the school was in danger of losing State accreditation. He said that this is the fourth year that the Harlem High School has been on probationary status, though by State law a school is supposed to lose its accreditation after three years on probation.³

³ In a telephone conversation on July 24, 1986, Mr. Bob Anderson, a member of the Montana Office of Public Instruction and regional representative for the Northwest Association, reported that the Harlem High School was not accredited by the Association due to inadequate facilities. He also reported that the state continued to carry the school on probationary status because, though necessary improvements had not been made, a grant had been received to build a new high school.

He charged that the school itself asked to be placed on probation by the Office of Public Instruction in order to bolster their application for Federal funds for school improvement construction under P. L. 81-815. He stated that when Indian parents asked at a School Board meeting what the alternative would be if the 815 funding failed to materialize, they were told by a non-member of the Board who was present, "Without help from 815 funds, we have to ask you people to find some other way to educate your people, because we aren't going to be able to do it." According to Mr. Plumage, the initial application for P. L. 81-815 funds contained the following statement which was subsequently deleted following vehement objections by Indians: "...[T]he school district of Harlem, Montana, is a slave to the Federal government by reason of the high levy impact on non-taxed Indian students."

According to Mr. Plumage, school boards as far back as 1968 recognized that the high school facilities, built in 1919, were structurally unsound and a fire hazard, and repeatedly set dates for abandonment of the building which have come and gone without any effort to rectify deficiencies. As a result, Indian parents allege that the school district, "...knowingly and willfully... violated the civil rights of our children by ... subjecting them to inferior public education in a building that was structurally unsound and potentially a fire hazard."

Other charges by Indian parents at the forum focused on problems related to the busing of Indian children from the reservation to the schools in Harlem. The allegations stated that the buses were drastically over-crowded and many times had no heat, though temperatures sometimes ranged 30-40 degrees below zero. School Superintendent Ranta responded by stating that a bus route had been added in the fall and that he had instructed drivers not to take any riders over bus capacity. He said that he had heard nothing about lack of heating, but that if there were problems he would deal with them.

Affirmative Action in Staffing

At the Advisory Committee forum a letter to the Committee from Dale Hoop, Superintendent of School District No. 12 from July 1980 to June 1984, was quoted as saying that no affirmative action program was established in the district during his administration and that there were no quotas or goals established with regard to employment of Native Americans. However, Judy Gray, a representative at the Advisory Committee forum from the Fort Belknap Indian Reservation, pointed out that School District No. 12 adopted an affirmative action policy in the spring of 1985 which reads as follows:

It is the policy of this school district to insure that all employees and all applicants for employment are treated equally without regard to their race, color, religion, national origin, age, marital status, ancestry, receipt of public assistance, political beliefs, physical or mental handicaps, unless physical or mental handicaps related to bonafide occupational requirements.

Mrs. Gray expressed concern to the Advisory Committee that the school district employs relatively few Indian teachers, who she felt could help to alleviate problems related to the allegedly insensitive manner in which Indian students are treated. She explained that until the current year, most Indians who were hired were funded on a year-to-year basis with Federal dollars supplied to the Title IV Indian Special Education Program. None of the staff for this program receive health benefits as do teachers funded by the district. The following table supplied by Mrs. Gray shows the number of Native Americans employed on the teaching staff with district funds and Federal funds since the 1979-80 school year.

TABLE 2

NATIVE AMERICAN TEACHING STAFF EMPLOYED
BY SCHOOL DISTRICT NO. 12

<u>School Year</u>	<u>District Funds</u>	<u>Federal Funds</u>	<u>Total</u>
1979-80	0	2	2
80-81	0	3 1(c)	3 1(c)
81-82	1	5 1(c)	6 1(c)
82-83	1	7	8
83-84	1	6 2(c)	7 2(c)
84-85	4 2(c)	7 3(c)	11 5(c)
85-86	7 5(c)	7 3(c)	14 8(c)

Note: (c) denotes certified teacher.

Ms. Gray reported that during the current year the district employs 14 Native American teachers and aides, or 18 percent of the total staff of 77 persons. Superintendent Ranta stated that the district tries to hire the best person available for any opening. Mrs. Gray stated that, at a School Board meeting last year, the high school principal stated that the school was actively recruiting Indian teachers but that it was difficult to compete with salaries paid by the Bureau of Indian Affairs and other agencies. School officials declined to produce the names of any Indian teachers who had turned down a job offer because of a better-paying job elsewhere.

Alleged Discriminatory Treatment for Native American Students

Several Native American participants at the forum related incidents in which derogatory or insensitive treatment was accorded Indian students or faculty. Some examples of the allegations are provided here. With regard to Indian children receiving free lunches, one teacher was reported to have told them, "If you kids don't straighten up and do your school work, you will turn out to be a bunch of bums and it is the working man like me that will have to support you and pay for the free lunches for your children."

Rhonda Langford alleged that a Native American teacher, who presented a program on the history of Native Americans, was called an incompetent Yah-hoo by white teachers. Ms. Langford also reported that Valentines made by teachers and sent to the Indian studies program displayed a fist labeled "White Power."

Superintendent Ranta emphasized that such racist and derogatory comments were not acceptable. He said,

... I have observed some comments that were not directed to students, but were within the hearing of students, and we have discussed that with them. They know my feelings. It is not acceptable.

Elma Cole, an Indian parent complained that when her son injured his knee in track, he was threatened with physical punishment if he didn't continue to compete. Later when it was determined that he had a broken knee, she said that the school offered to pay the medical expenses, but she has received nothing. Lyle Wilson complained that his handicapped daughter fell and broke her arm while getting off the bus and was left lying on the road for 10 minutes until a passerby picked her up and took her to the hospital. The school principal at the time was highly concerned and apologized, but medical costs were never paid by the school as promised.

In Conclusion

This report summarizes information received at the September 21, 1985, community forum conducted by the Montana Advisory Committee. It should not be considered to be an exhaustive review of issues facing the Harlem School District No. 12. Additionally, the report does not purport to identify all of the possible causes and implications of the alleged problems.

It is the intent of the Committee to continue to monitor events in the School District. Based upon its monitoring, the Advisory Committee may determine that further investigation and analysis of the situation is warranted.