# AMERICAN INDIANS 101
# Frequently Asked Questions

**Which American Indian tribes are located on what reservations in Montana?**

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|---|---|
| Blackfeet Reservation | Blackfeet |
| Crow Reservation | Crow |
| Flathead Reservation | Salish, Pend d'Oreille, Kootenai |
| Fort Belknap Reservation | Gros Ventre and Assiniboine |
| Fort Peck Reservation | Assiniboine and Sioux |
| Northern Cheyenne Reservation | Northern Cheyenne |
| Rocky Boy's Reservation | Chippewa Cree |

The Little Shell Band of Chippewa Indians has no reservation but are headquartered in Great Falls and they do have landholdings in the Great Falls area. They received federal recognition in 2019.

**What is a reservation?**

A reservation is a territory reserved by tribes as a permanent tribal homeland. Some reservations were created through treaties while others were created by statutes or executive orders. Most often reservations are comprised of part of a people's pre-contact homeland.

INDIAN EDUCATION FOR ALL
Montana Office of Public Instruction

## Who is an American Indian?

Legally and politically, an American Indian is a member of a tribe. Each tribe creates its own membership requirements to determine whether an individual is eligible for enrollment. Membership criteria varies from a certain degree of American Indian/tribal blood quantum to community recognition as a tribal member. Each tribe should be contacted as to the specific enrollment qualifications for that tribe. In order to be politically and legally recognized as an American Indian, this political connection between the tribe and the individual must exist, as it is that connection that determines whether the individual American Indian can access rights established by treaties between the tribe and the US government. Additionally, a tribe must be federally recognized for both the tribe and the individual American Indian to access protections and services established by those treaties.

An individual may be full-blooded American Indian, with blood from many different tribes, but without enough blood quantum of any specific tribe to meet any tribe's criteria for membership. Although this person may be considered an American Indian racially, he or she would not be considered an American Indian either politically or legally and could not access those federal protections and services established by treaties, nor take advantage of most tribal services. A person who is identified politically or racially as an American Indian is protected under both state laws and federal laws that protect minorities.

The state cannot legally establish criteria of tribal membership because that is a right solely reserved to each tribe. Montana's K-12 education system, therefore, allows parents to identify their children as American Indian for the purposes of state educational programs.

## Which term is more appropriate to use, American Indian or Native American?

When referring to the indigenous peoples of Alaska, Hawaii, or the 48 contiguous states of the United States, it is appropriate to use the terms "Alaska Native," "Native Hawaiian," and "American Indian" respectively. While the term "Native American" came into usage in the 1960s, most tribal groups in Montana refer to themselves as "American Indian." "Indigenous" is a term that has recently come into common usage in national and international realms, but being as tribally specific as possible is always the best approach for the correct terms of identification and description.

## Are American Indians citizens?

Yes, American Indians are citizens of the tribal group of which they are a member. American Indians became citizens of the United States in 1924 through the American Indian Citizenship Act. They are also citizens of the state in which they reside.

## What are tribal colleges and who can attend them?

Tribal colleges exist on each of the seven reservations in Montana. They are Fort Peck Community College (Fort Peck Reservation), Aaniiih Nakoda College (Fort Belknap Reservation), Chief Dull Knife College (Northern Cheyenne Reservation), Little Big Horn College (Crow Reservation), Blackfeet Community College (Blackfeet Reservation), Salish Kootenai College (Flathead Reservation), and Stone Child College (Rocky Boy's Reservation). These tribal colleges have open enrollment for any interested individual but do have specific programs and resources directed toward the recruitment and retention of American Indian students. Most are two-year colleges, but several offer four-year degrees (education, nursing, etc.). Contact each individual tribal college for more information. Contact information can be found in the Directory of Indian Education Programs in Montana.

## Do American Indians get a free college education?

No, American Indians do not receive a free college education. Montana does have a fee waiver for American Indian students, but it is based upon student financial need and only covers certain costs. College bound American Indian students fill out financial aid forms just like any other student, and in all cases, further funding

is dependent upon good academic standing (for more information see the Office of the Commissioner of Higher Education American Indian Minority Achievement Program page.)

## What is Indian Education for All?

In 1972 Montana rewrote its constitution. The constitutional delegates wrote, in Article X, Section 1(2), "*The state recognizes the distinct and unique cultural heritage of American Indians and is committed in its educational goals to the preservation of their cultural integrity."* In 1999 the Legislature passed House Bill 528 into law, which codified the constitutional intent as 20-1-501 MCA. This law is known as American Indian Education for All states, *(a) every Montanan, whether Indian or non-Indian, learn about the distinct and unique heritage of American Indians in a culturally responsive manner; and (b) every educational agency work in consultation with Montana tribes or those tribes that are in close proximity, when providing instruction or when implementing an educational goal or adopting a rule related to the education of each Montana citizen, to include information specific to the cultural heritage and contemporary contributions of American Indians, with particular emphasis on Montana Indian tribal groups and governments. (3) It is also the intent of this part, predicated on the belief that all school personnel should have an understanding and awareness of Indian tribes to help them relate effectively with Indian students and parents, that educational agencies provide means by which school personnel will gain an understanding of and appreciation for the American Indian people*

## What does the term achievement gap mean and to whom does it apply?

The achievement gap is a term used widely in national education circles to describe the persistent gaps between the academic achievements of different groups of children in the United States. In Montana this term applies predominately to the achievement levels of American Indian students as compared to non-Indian students in the state. American Indians, on average, face higher dropout rates, have lower test scores, take fewer college preparatory and advanced placement classes, and have startlingly lower completion/graduation rates. See the Office of Public Instruction (OPI) American Indian Student Achievement Data Report for more information.

## Do American Indians pay taxes?

Yes, both tribes and individual American Indians pay taxes. Individual American Indians pay federal income taxes and other taxes such as fuel and tobacco taxes. American Indians who work on a reservation do not pay state income taxes because of the state's inability to govern and tax American Indians within the reservation boundaries, a right reserved to tribes. However, American Indians who live and/or work off the reservation do pay state income taxes and all other taxes.

Tribal lands held in trust by the federal government are not subject to property tax, just as federal forest service lands are not, because states cannot tax federal lands. The federal government makes up this lack of a property tax base. Counties in Montana are given Payment in Lieu of Taxes monies to offset these tribal tax-exempt lands within their boundaries. Additionally, K-12 public schools located within reservation boundaries are provided Impact Aid, which assists local school districts that have lost property tax revenue due to the enrollment of federally tax-exempt federal property, or that have experienced increased expenditures due to the enrollment of federally connected children, including children living on American Indian lands. The Impact Aid law provides funds to districts with concentrations of children on American Indian lands, military bases, or other federal properties.

American Indians in Montana, like all other Montanans, are concerned about taxes and how tax dollars are spent. The value of water, mineral, gas, oil, timber, and other natural resources extracted from tribal lands over the last one hundred years by the state, counties, and individuals far exceeds any state taxes lost on federal trust lands within reservation boundaries.

## Do American Indians get money for just being American Indian?

No, American Indians do not receive payments from the federal government simply because they have American Indian blood. An American Indian person may receive distribution funds based on mineral or agricultural lease income on property held in trust by the United States or may represent compensation for lands taken in connection with governmental projects. Some tribes receive benefits from the federal government in fulfillment of treaty obligations or for the extraction of tribal natural resources, a percentage of which may be distributed as per capita among the tribes' membership.

## How are tribes organized?

Tribes have the inherent right to operate under their own systems of government. Tribal governments have diverse structures. Many have adopted constitutions, while others operate under Articles of Association or other bodies of law, and some still maintain traditional systems of government. The chief executive of a tribe is generally called the tribal chairperson, but may also be called principal chief, governor, or president.

## What does the term "Federally Recognized Tribe" mean?

"Federal Recognition" is a legal term meaning the United States recognizes a government-to-government relationship with a tribe and that a tribe exists politically as a "domestic dependent nation." A federally recognized tribe is one that was in existence, or evolved as a successor to a tribe, at the time of original contact with Euro-Americans. Federally recognized tribes possess certain inherent rights of self-government and entitlement to certain federal benefits, services, and protections because of treaties and subsequent federal trust duty.

## What is the relationship between the Unites States and the tribes?

The relationship between the tribes and the United States is one of a sovereign government to another sovereign government. This principle has shaped the entire history of dealings between the federal government, the states, and the tribes. The US government entered into treaties with tribal governments that exchanged tribal lands for federal protection and services. These treaties still form the basis of much of the Tribal-Federal relationship.

This relationship is established in the Constitution of the United States. The US Supreme Court, through many cases, has established the US Constitution Commerce Clause, Article I, Section 8, as the basis of the Tribal-Federal relationship. The Commerce Clause states, *"The Congress shall have the power to …regulate commerce with foreign nations, and among the several states, and with the Indian tribes."*

It is important to remember tribes pre-date the US Constitution and, as such, tribes are not bound by its provisions. In 1968, however, the US Congress passed the Indian Civil Rights Act, which established most, but not all of the US Constitution's Bill of Rights within Indian Country.

## What is the Federal Indian Trust Responsibility?

The federal Indian Trust Responsibility is a legal obligation under which the United States *has charged itself with moral obligations of the highest responsibility and trust* toward American Indian tribes (*Seminole Nation v. United States*, 1942; *Cherokee Nation v. Georgia*, 1831). Over the years, the trust doctrine has been the center of numerous other Supreme Court cases and it is one of the most important principles in federal American Indian law.

The Federal Indian Trust Responsibility holds the United States legally responsible for the protection of tribal lands, assets, resources, and treaty rights. The Supreme Court suggests the Federal Indian Trust Responsibility entails legal duties, moral obligations, and the fulfillment of understandings and expectations that have arisen over the entire course of dealings between the United States and the tribes.

The federal Indian trust duty was the basis of a longstanding lawsuit brought by Elouise Cobell and the Native American Rights Fund (NARF) and was the largest class action lawsuit ever filed against the federal government. The plaintiffs successfully sued the Department of the Interior (DOI) and the Bureau of Indian Affairs (BIA) on behalf of nearly half a million American Indians for mismanagement of trust funds.

## What is the relationship between tribes and the states?

Given that the United States and tribes have a sovereign government to sovereign government relationship, states do not have any power over tribes within their territories, and vice-versa. The US Constitution vests authority over American Indian Affairs in the federal government and, therefore, tribes and states also operate under a government-to-government relationship. In fact, in order to become a part of the United States, most states, including Montana, had to disclaim all rights to American Indian lands within their territories. Article I of the Montana Constitution (the Enabling Act), approved February 22, 1889, states, *"… all lands owned or held by any American Indian or American Indian tribes shall remain under the absolute jurisdiction and control of the congress of the United States, continue in full force and effect until revoked by the consent of the United States and the people of Montana."*

A tribe and a state can agree, through compact or other agreement, that certain legal relationships exist. Additionally, the US Congress can establish certain laws that create a state-tribal relationship on particular issues. Tribes retain the right to enact and enforce stricter laws and regulations than those of the neighboring state. Tribes possess both the right and the power to regulate activities on their lands and over their citizens independently from the neighboring state government.

## What are Treaty Rights?

From 1777 to 1871, US relations with individual American Indian nations were conducted through treaty negotiations. These contracts among nations created unique sets of rights for the benefit of each of the treaty-making tribes and the US government. Those rights, like any other treaty obligation of the United States, represent, according to Article VI of the US Constitution, *"the supreme law of the land."* As such, the protection of treaty rights is a critical part of the federal American Indian Trust Relationship. Treaties exchanged tribal land for certain protections and benefits. Those treaty rights often include, among other things, hunting and fishing rights for tribal members that may extend beyond reservation boundaries, education of tribal children, protection from the state by the federal government, and first priority to water rights.

## Historically, did all American Indians and Alaska Natives speak a common language?

No, American Indians and Alaska Natives speak many diverse languages. At the end of the 15th Century, more than 400 American Indian and Alaska Native languages were spoken. Today, some 250 tribal languages are spoken and many are written.

## When is American Indian Heritage Day?

In 1997, the Montana Legislature passed into law MCA 20-1-306, designating the fourth Friday in September as American Indian Heritage Day. Under this law, schools are to conduct *"appropriate exercises during the school day."* In 2009, the last Friday in September was established as American Indian Heritage Day for the state of Montana for all Montanans to "(1) *reflect on American Indian culture and heritage; and* (2) *celebrate American Indians and their culture and heritage in all lawful ways."* In addition, November is nationally designated as "Native American Heritage Month."

## Where can I find information about American Indians and American Indian related issues?

Visit the Indian Education in Montana page on the OPI Web site to find available and recommended resources and links.