



Denise Juneau, Superintendent
 Montana Office of Public Instruction
 www.opi.mt.gov

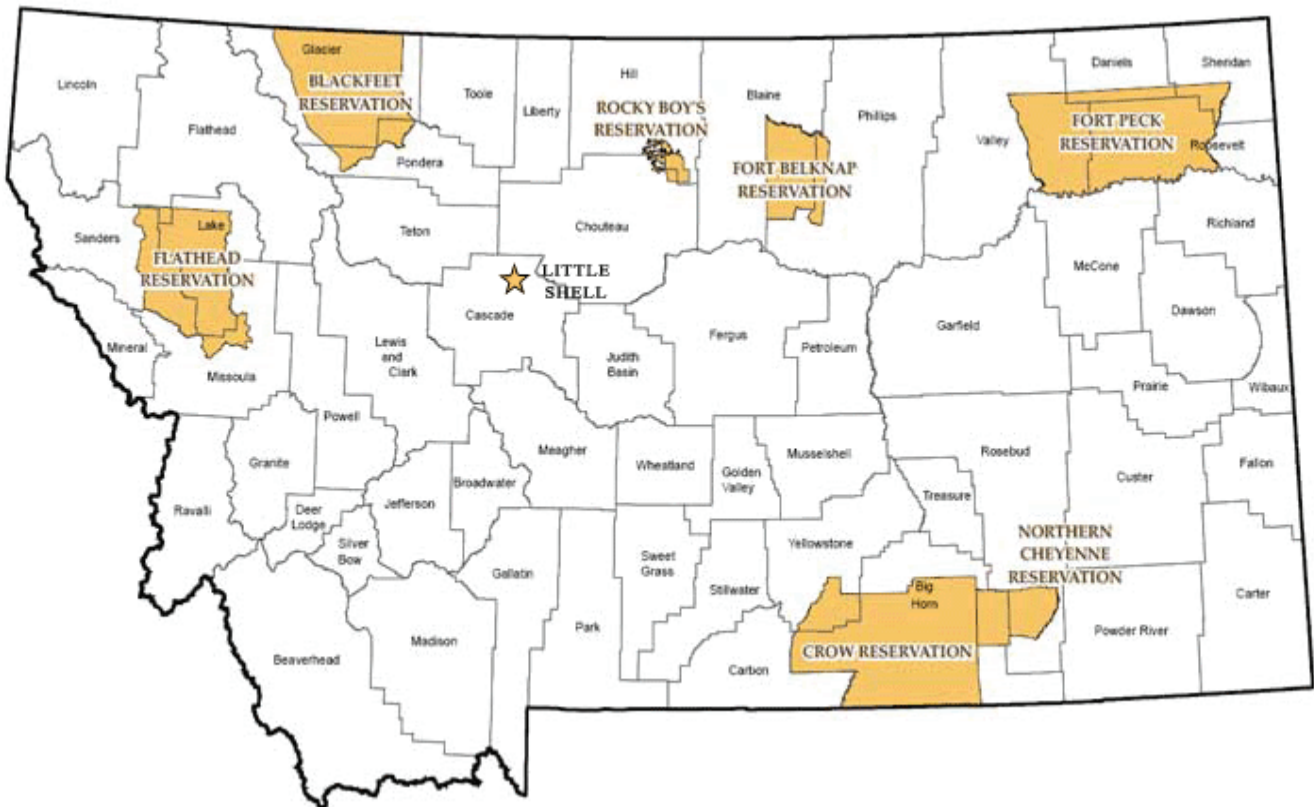
American Indians 101

Frequently Asked Questions



Q1: Which American Indian tribes are located on what reservations in Montana?

- A:
- Blackfeet Reservation: Blackfeet
 - Crow Reservation: Crow
 - Flathead Reservation: Salish, Pend d’ Oreille, Kootenai
 - Fort Belknap Reservation: White Clay (Gros Ventre) and Assiniboine
 - Fort Peck Reservation: Nakoda (Assiniboine) and Dakota (Sioux)
 - Northern Cheyenne Reservation: Northern Cheyenne
 - Rocky Boy’s Reservation: Chippewa Cree
 - The Little Shell Band of Chippewa Indians are landless, but headquartered in Cascade County



Q2: What is a reservation?

- A: 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.

Q3: Who is an American Indian?

- A: 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 (for more information on enrollment issues, visit the Bureau of American Indian Affairs website at <http://www.doi.gov/bureau-indian-affairs.html>). 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 U.S. 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.

Q4: Which term is more appropriate to use, American Indian or Native American?

A: When referring to the indigenous peoples of Alaska or the 48 contiguous states of the United States, it is appropriate to use the terms "Alaska Natives" and "American Indians," respectively. While the term "Native Americans" came into usage in the 1960's, most tribal groups in Montana refer to themselves as "American Indian."

Q5: Are American Indians citizens?

A: Yes, American Indians are citizens of the tribal group of which they are a member. American Indians became citizens of the U.S. in 1924 through the American Indian Citizenship Act and are also citizens of the state in which they reside.

Q6: What are tribal colleges and who can attend them?

A: Tribal colleges exist on each of the seven reservations in Montana. They are: Fort Peck Community College, Fort Belknap College, Chief Dull Knife College (Northern Cheyenne), Little Big Horn College (Crow), Blackfeet Community College, Salish Kootenai College, and Stone Child College (Rocky Boy's). 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 (see www.aihec.org for more information).

Q7: Do American Indians get a free college education?

A: 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's American Indian and Minority Achievement Program's webpage at (<http://www.mus.edu/che/arsa/AIMA/AIMA.asp>)).

Q8: What is Indian Education for All?

A: 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 MCA 20-1-501. This law is known as American Indian Education for All: *Every Montanan . . . whether Indian or non-Indian, be encouraged to learn about the distinct and unique heritage of American Indians in a culturally responsive manner . . . all school personnel should have an understanding and awareness of American Indian tribes to help them relate effectively with American Indian students and parents. . . . Every educational agency and all educational personnel will work cooperatively with Montana tribes . . . when providing instruction and implementing an educational goal.*

Q9: What does the term achievement gap mean and who does it apply to?

A: 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 white students in the state. American Indians, on average, face higher dropout rates, lower test scores (both on the Criterion Referenced Test and the Iowa Test of Basic Skills), take fewer college preparatory and advanced placement (AP) classes, and have startlingly lower completion/graduation rates (see the OPI Data Fact Sheet for more information at <http://www.opi.mt.gov/indianed/data.html>).

Q10: Do American Indians pay taxes?

A: 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 of 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 services lands are not, because states cannot tax federal lands. This lack of a property tax base is made up by the federal government. Counties in Montana are given Payment in Lieu of Taxes (PILT) 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 presence of 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.

Q11: Do American Indians get money for just being American Indian?

A: 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 that is 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.

Q12: How are Tribes organized?

A: Tribes have the inherent right to operate under their own system 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.

Q13: What does the term "Federally Recognized Tribe" mean?

A: "Federal Recognition" is a legal term meaning that 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 whites. Federally recognized tribes possess certain inherent rights of self-government and entitlement to certain federal benefits, services, and protections because of treaties and the subsequent federal trust duty.

Tribes can also be "State Recognized." The Little Shell Band of Chippewa Indians in Montana is a State Recognized Tribe. The Little Shell Tribe is working toward becoming a Federally Recognized Tribe through the process established by the federal government.

Q14: What is the relationship between the United States and the Tribes?

A: 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 United States 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 U.S. Supreme Court, through many cases, has established the U.S. 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 American Indian Tribes[.]*

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

Q15: What is the Federal Indian Trust Responsibility?

A: 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 that 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 U.S. and the tribes.

The federal Indian trust duty is the basis of a current longstanding lawsuit brought by individual American Indian landholders against the federal government. The individual American Indian landholders assert that the federal government breached its trust duty to protect their assets, provide an accounting of their assets, and provide them the correct compensation for the leasing of their lands (see www.indiantrust.com for more information).

Q16: What is the relationship between tribes and the states?

A: 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 U.S. 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 any and all rights to American Indian lands within its territory. Article I, Section 1 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 compacts or other agreements, that certain legal relationships exist. Additionally, the U.S. 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(s). Tribes possess both the right and the power to regulate activities on their lands and over their citizens independently from the neighboring state government.

Q17: What are Treaty Rights?

A: From 1777 to 1871, United States 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 U.S. government. Those rights, like any other treaty obligations of the United States, represent, according to Article VI of the U.S. 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.

Q18: Historically, did all American Indians and Alaska Natives speak a common language?

A: 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.

Q19: When is American Indian Heritage Day?

A: 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 addition, November is nationally designated as "Native American Heritage Month."

Q20: Where can I find information about American Indians and American Indian related issues?

A: Visit the American Indian Education Division link on the OPI Web site to find available and recommended resources and links: <http://opi.mt.gov/Programs/IndianEd/Index.html>. In addition, tribal education departments and/or tribal colleges can be contacted for information. Several national American Indian newspapers also offer contemporary issues. See Indiancountrytoday.com or nativetimes.com.