



# **Native American Appropriation to Fund Tuition Waiver**

*State of Colorado  
Contractual Obligation*



# Native American Appropriation to Fu

## History of College and Relationship to Native Americans

The history of Fort Lewis College has been intimately linked to Native Americans. The College gets its name from a U.S. Army post established in 1878 in Pagosa Springs, CO, which moved in 1880 to Hesperus, CO.

When the U.S. government abandoned the site as a military post in 1891, it established in its place an Indian boarding school. Most of the Indian pupils attending the boarding school were from out of state, primarily from New Mexico, Arizona, and Indian Territory. This nationwide assimilationist effort was short-lived, but the impacts have been long standing.<sup>1</sup>

In 1910, the U.S. government deeded to the State of Colorado the property then known as the “Fort Lewis School” stipulating as a condition of that grant “that said lands and buildings shall be held and maintained by the State of Colorado as an institute of learning and that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils.”<sup>2</sup>

## nd Tuition Waiver at Fort Lewis College

In 1911, the State closed the boarding school and created a rural high school; in 1927, the high school evolved into a junior college; in 1956, the junior college moved from Hesperus to Durango, and in 1962, a four-year college came into being.

### **College's Continuing Commitment to its Historic Mission**

The College continues to pursue its historic mission to educate Native American students within the context of its broader contemporary mission in the Colorado public higher education system as a selective liberal arts college offering “accessible, high quality, baccalaureate liberal arts education to a diverse student population, preparing citizens for the common good in an increasingly complex world.”

Today about one of five students attending Fort Lewis is Native American. Their educational opportunities are maintained by the College and by the State of Colorado based on federal/state agreements and court decisions. The College's success is evident in that Fort Lewis College ranks first in the nation in the number of baccalaureate degrees awarded to Native Americans. <sup>3</sup>



## **Litigation Challenges to Colorado's Contractual Obligation**

In 1971, the Colorado General Assembly passed bill 124-14-5 (tuition fees-Indians), which sought to restrict the granting of free tuition at the College to only Native American Colorado residents who are “not otherwise able to pay tuition.”<sup>4</sup> In response, the U.S. government filed an action against the State in District Court challenging this legislation. The District Court struck down the legislation, finding that it constituted a breach of the State’s original contractual obligation to “Indian pupils” created by the Act of 1910 and that under the contract the State had undertaken the obligation to admit to Fort Lewis **all** Indian students tuition free who were otherwise qualified.<sup>5</sup>

## **Final Court Decision**

In 1972, upon appeal by the State, the U.S. Court of Appeals (10<sup>th</sup> Circuit) affirmed the District Court’s decision that a contractual obligation indeed existed between the Indian pupils and the State of Colorado.<sup>6</sup>

## References

- 1 *Adams, David W. Education for Extinction: American Indians and the Boarding School Experience 1875-1928. Lawrence: University Press of Kansas, 1995.*
- 2 *Federal Indian Appropriation Bill of April 4, 1910, 36 Stat. 269 (1910).*
- 3 *National Science Foundation, WebCASPAR, Integrated Science and Engineering Resources Data System (2008).*
- 4 *Colorado Revised Statutes 1963, Section 124-14-5 (1971 Cumulative Supplement).*
- 5 *Order of the United States District Court Tahdooahnippah v. Thimmig United States v. State of Colorado – August 14, 1972 Denver, Colorado.*
- 6 *Tahdooahnippah v. Thimmig United States v. State of Colorado, 481 F2nd 438 (10<sup>th</sup> Cir).*

## For more information

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