

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Agency Superintendent for Education, Report and Recommendations  
on BIA School System)

RES. NO. 359-89

1 WHEREAS, the Legislative Council's Human Resources Development  
2 Committee and the Executive Branch have investigated the  
3 John Boone child sex abuse case. The investigation shows  
4 the Agency Superintendent for Education deceived the  
5 Tohono O'odham by not declaring the facts of the matter.

6 WHEREAS, the Human Resources/Executive Branch investigation of the  
7 Boone case further shows that prior to the summer of 1985  
8 the Agency Superintendent for Education knew there was a  
9 possibility Boone would eventually be charged with child  
10 sex abuse. There is the appearance that the Agency  
11 Superintendent for Education secured the principal's  
12 employment at the Santa Rosa Boarding School in the summer  
13 of 1985 in order to insulate him from the charges of  
14 administrative negligence that would follow Boone's  
15 arrest.

16 FAILURE TO CONSULT

17 WHEREAS, on or about March 22, 1989, the Agency Superintendent for  
18 Education was advised, in a writing from the Chairman of  
19 the Tohono O'odham Nation, that he had an incurable  
20 conflict of interest and therefore could not advise the  
21 Santa Rosa Boarding School Board with respect to renewing  
22 the employment contract of the school's principal.

23 WHEREAS, following receipt by the Agency Superintendent for  
24 Education of the Chairman's March 22, 1989 letter, a  
25 meeting of the Santa Rosa Boarding School Board was held  
26 in Casa Grande on or about April 4, 1989. Without giving  
27 notice of any kind to the Chairman or any other tribal  
28 government official, the Agency Superintendent for  
29 Education appeared at the Casa Grande meeting and advised  
30 the Board to approve a new contract with the principal.  
31 A new contract was approved during the Casa Grande  
32 meeting.

1 WHEREAS, by advising the Santa Rosa Boarding School Board to  
2 recontract with the principal without first consulting  
3 with the Chairman or any other tribal government official,  
4 the Agency Superintendent for Education violated the  
5 federal laws mandating tribal consultation (20 U.S.C. Sec.  
6 2010.b and related regulations).

7 PERFORMANCE

8 WHEREAS, a four year assessment by the Executive and the Human  
9 Resources Development Committee of the performance of the  
10 Agency Superintendent for Education shows severe and  
11 continuing weaknesses, including lack of ability, neglect  
12 of duty, and poor attitude.

13 FRAUD IN REPORTING

14 WHEREAS, the Agency Superintendent for Education defrauded the  
15 Tohono O'odham by not properly completing required reports  
16 to the federal government, school boards, and parents and  
17 guardians regarding the condition of the schools.

18 VIOLATION OF FEDERAL AND TRIBAL INFORMATION DISCLOSURE LAWS

19 WHEREAS, since March 1, 1989, the Agency Superintendent for  
20 Education has failed to provide information lawfully  
21 requested by the Chairman of the Tohono O'odham Nation  
22 pursuant to 25 CFR Parts 271.16 (Access to Bureau Records)  
23 and Tohono O'odham Nation Resolution No. 21-88 (Access to  
24 Bureau of Indian Affairs Information and Pre-application  
25 Technical Assistance).

26 SCHOOL BOARD AND DISTRICT ACTIONS

27 WHEREAS, on March 28, 1989 the Tohono O'odham High School Board  
28 passed a resolution demanding the removal of the Agency  
29 Superintendent for Education because of lack of  
30 leadership, failure to communicate, excessive absenteeism,  
31 improper administration of the off-reservation school  
32 attendance policy ("waivers"), poor attitude, and  
mishandling of an incident involving sexual abuse by a

1 teacher at the high school. On May 1, 1989, the high  
2 school board affirmed this resolution and requested  
3 assistance in dealing with the issue.

4 WHEREAS, the Districts of Hickiwan and Ge Vo'o have passed  
5 resolutions supporting the high school board's demand for  
6 removal of the Agency Superintendent for Education.

7 ACTIONS OF THE NATION'S OFFICERS AND EDUCATION COMMITTEE

8 WHEREAS, on October 19, 1989 the Chairman, through his  
9 representative, and the Legislative Council Chairman  
10 jointly called for the immediate reassignment and eventual  
11 termination from the federal service of the Agency  
12 Superintendent for Education.

13 WHEREAS, on October 19, 1989, the Education Committee resolved  
14 formally to support the call of the Chairman and the  
15 Legislative Council Chairman for immediate reassignment  
16 and eventual termination from the federal service of the  
17 Agency Superintendent for Education.

18 WHEREAS, termination of the Agency Superintendent for Education  
19 from the federal service is fully justified in the  
20 circumstances and must occur in order to prevent  
21 transmitting the problem to other Indian Nations.

22 UNDERLYING CAUSES

23 WHEREAS, the matters addressed in this resolution indicate that key  
24 components of the BIA school system and the Tohono O'odham  
25 Nation's oversight structure are not functioning properly.  
26 Accordingly, the Legislative Council and the Chairman of  
27 the Nation, in consultation with the affected groups and  
28 individuals, are required immediately to analyze the  
29 underlying causes of the problems and to take corrective  
30 action.

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32

FUNDING

1  
2 WHEREAS, it is the responsibility of the United States government  
3 to provide funding to assist the Tohono O'odham Nation in  
4 accomplishing the purposes of this resolution.

CONSTITUTIONAL AUTHORITY

5  
6 WHEREAS, the following provisions of the Tohono O'odham  
7 Constitution authorize the Nation to act: Article VI,  
8 Section 1(c)(2), Article VI, Section 1(c)(7), and Article  
9 VI, Section 1(k).

10 NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative  
11 Council that:

IMMEDIATE TRANSFER OF AGENCY SUPERINTENDENT FOR EDUCATION

12 The Tohono O'odham Nation demands that the Secretary of  
13 the Interior, the Assistant Secretary for Indian Affairs,  
14 and the Director of the Office of Indian Education  
15 Programs immediately transfer the Agency Superintendent  
16 for Education from his present position to a position  
17 which does not directly or indirectly have anything to do  
18 with the Tohono O'odham BIA schools.

19  
20 BE IT FURTHER RESOLVED that if the Chairman of the Tohono O'odham  
21 Nation determines that transfer of the Agency  
22 Superintendent for Education will not occur within a  
23 reasonable period of time, he shall use all available  
24 means to obtain a tribal court order removing and  
25 excluding the Agency Superintendent for Education from the  
26 lands of the Tohono O'odham Nation pursuant to Ordinance  
27 No. 02-82 (Removal and Exclusion of Non-Members).

TERMINATION OF AGENCY SUPERINTENDENT FOR EDUCATION  
FROM THE FEDERAL SERVICE

28  
29 BE IT FURTHER RESOLVED that the Tohono O'odham Nation finds in the  
30 circumstances cause for permanent removal of the Agency  
31 Superintendent for Education from the federal service.  
32

1 BE IT FURTHER RESOLVED that the Tohono O'odham Nation requests the  
2 United States Senate Select Committee On Indian Affairs  
3 to provide for an independent investigation (with the  
4 subpoena power) of all matters relating to this  
5 resolution.

6 BE IT FURTHER RESOLVED that the Tohono O'odham Nation requests the  
7 United States Senate Select Committee On Indian Affairs  
8 to insure that the severest possible personnel action is  
9 taken against the Agency Superintendent for Education.

10 APPOINTMENT OF ACTING AGENCY SUPERINTENDENT FOR EDUCATION

11 BE IT FURTHER RESOLVED that the Chairman of the Tohono O'odham  
12 Nation is authorized, in consultation with the Human  
13 Resources Development Committee and in his discretion  
14 other groups or individuals, to make such arrangements as  
15 may be necessary with the Director of the Office of Indian  
16 Education Programs to provide for the appointment of a  
17 person or persons to serve as the Agency Superintendent  
18 for Education on an acting basis.

19 PROCEDURES FOR PERMANENT APPOINTMENT OF AGENCY  
20 SUPERINTENDENT FOR EDUCATION

21 BE IT FURTHER RESOLVED that the Chairman of the Tohono O'odham  
22 Nation shall, in consultation with the Human Resources  
23 Development Committee and in his discretion other groups  
24 or individuals, prepare in draft -

25 a) tribal legislation specifying the procedures to be  
26 followed by the Nation with respect to the appointment  
27 of a permanent Agency Superintendent for Education, and

28 b) such special federal legislative proposals as may be  
29 necessary to address the matters in issue.

30 The draft tribal legislation and federal legislative  
31 proposals shall be presented for consideration at the  
32 regular session of the Legislative Council to be held  
during the month of January 1990.

1 BE IT FURTHER RESOLVED that the Tohono O'odham Nation requests the  
2 Secretary of the Interior, the Assistant Secretary for  
3 Indian Affairs, and the Director of the Office of Indian  
4 Education Programs to apply with the greatest possible  
5 flexibility the existing laws and regulations governing the  
6 appointment of a permanent Agency Superintendent for  
7 Education.

8 REPORT ON THE CONDITION OF THE BIA SCHOOL SYSTEM  
9 AND RECOMMENDATIONS FOR ACTION

10 BE IT FURTHER RESOLVED that the Chairman of the Tohono O'odham  
11 Nation and the Human Resources Development Committee, in  
12 consultation with other groups and individuals, are  
13 authorized to carry out such activities as may be necessary  
14 to -

- 15 a) assess generally the BIA school system and tribal  
16 government's relation to it, and  
17 b) to make such recommendations for legislative or other  
18 action as may be appropriate.

19 BE IT FURTHER RESOLVED that the Chairman of the Tohono O'odham  
20 Nation, through the Office Of the Prosecutor, is authorized  
21 to file suit in the tribal courts on behalf of the Tohono  
22 O'odham Nation in order to compel release of information  
23 withheld in violation of the provisions of this resolution.

24 BE IT FURTHER RESOLVED that following completion of the assessments  
25 authorized here, the Chairman of the Tohono O'odham Nation  
26 and the Human Resources Development Committee shall, in  
27 consultation with other groups or individuals, prepare  
28 reports with recommendations for action. Such reports and  
29 recommendations shall be presented for consideration by the  
30 Legislative Council no later than March 1990.

31 FUNDING AND CONGRESSIONAL SUPPORT

32 BE IT FURTHER RESOLVED that the Chairman of the Tohono O'odham  
33 Nation, in consultation with the Human Resources

1 Development Committee and in his discretion other groups or  
2 individuals, is authorized to prepare for consideration  
3 within the tribal legislative process such federal and  
4 private funding proposals and applications as may be  
5 necessary to accomplish the purposes of this resolution.

6 BE IT FURTHER RESOLVED that the Tohono O'odham Nation requests the  
7 Arizona congressional delegation to assist in accomplishing  
8 the purposes of this resolution.

9 The foregoing Resolution was passed by the Tohono O'odham Council  
10 on the 24th day of October, 1989 at a meeting at which a quorum  
11 was present with a vote of 1,558.0 for; -0- against; -0- not  
12 voting; 166.0 [10] absent, pursuant to the powers vested in the  
13 Council by Section 1(c)(2) & (7) and (k) of Article VI of the  
14 Constitution of the Tohono O'odham Nation, adopted by the Tohono  
15 O'odham Nation on January 18, 1986, and approved by the Acting  
16 Deputy Assistant Secretary - Indian Affairs (Operations) on March  
17 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48  
18 Stat. 984).

14 TOHONO O'ODHAM LEGISLATIVE COUNCIL

15 Edward D. Manuel  
16 Edward D. Manuel, Legislative Chairman  
17 26th day of October, 1989.

18 ATTEST:

19 Teresa M. Choyguha  
20 Teresa M. Choyguha, Legislative Secretary  
21 24th day of October, 1989.

22 Said Resolution was submitted for approval to the office of the  
23 Chairman of the Tohono O'odham Nation on the 26th day of  
24 October, 1989, at 3:15 o'clock, P.M.,  
25 pursuant to the provisions of Section 5 of Article VII of the  
26 Constitution and will become effective upon his approval or upon  
27 his failure to either approve or disapprove it within 48 hours of  
28 submittal.

26 TOHONO O'ODHAM LEGISLATIVE COUNCIL

27 Edward D. Manuel  
28 Edward D. Manuel, Legislative Chairman

29 [] APPROVED ) on the 29 day of October, 1989.  
30 [] DISAPPROVED) at 7:18 o'clock, P.M.

31 Angelo J. Joaquin, Sr.  
32 ANGELO J. JOAQUIN, SR., Chairman  
TOHONO O'ODHAM NATION

1 Returned to the Legislative Secretary on the 30<sup>th</sup> day of  
2 October, 1989, at 10:37 o'clock, A.M.

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4 Teresa M. Choyguha  
5 Teresa M. Choyguha  
6 Legislative Secretary  
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MOVED: Eugene Enis

SUBJECT: Agency Superintendent for

SECOND: Joanne Preston

Education Report and Recommendation on

DATE: October 24, 1989

BIA School System

RESOLUTION NO. 359-89

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
CHUKUT KUK 163.0	1. Rosita Ruiz (Rosemary Lopez)	81.5	X			
	2. Kenneth G. Williams (Harriet Toro)	81.5	X			X
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel)	62.5	X			
	2. Henry Ramon ( )	62.5	X			X
GU VO 114.0	1. Cross Antone (Juan Joe Cipriano)	57.0	X			
	2. Virgil Lewis (Michael Flores)	57.0	X			X
SAN LUCY 106.0	1. John Reno ( )	53.0	X			
	2. Albert Manuel, Jr. (Max P. Jose)	53.0	X			X
PISINEMO 119.0	1. Edward Manuel (Alex Antone)	59.5	X			
	2. Johnson Jose ( )	59.5	X			X
GU ACHI 166.0	1. Alex J. Ramon (Fernando Joaquin)	83.0				X
	2. Percy Lopez ( )	83.0				X
BABOQUIVARI 229.0	1. Joann Garcia (Frances Miguel)	114.5	X			
	2. Earl A. Francisco (Kenneth Chico, Sr.)	114.5	X			
SAN XAVIER 127.0	1. Joanne C. Preston (Carmelita Mattias)	63.5	X			
	2. Eugene Enis, Sr. (Michael Rios)	63.5	X			
SCHUK TOAK 107.0	1. Joseph Juan (Frances Francisco)	53.5	X			X
	2. JoAnn Francisco (David Valenzuela Sr.)	53.5	X			
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia)	155.0	X			
	2. Andrew Patricio (Daniel Lopez)	155.0	X			X
SIF OIDAK 158.0	1. Willard Juan, Sr. (Melissa Gregorio)	79.0	X			
	2. Mary Ann Antone (Nina Jose)	79.0	X			X
TOTAL		1,724.0	1,558.0	-0-	-0-	166.0