

Bureau of Indian Education Johnson-O’Malley Modernization Act Final Report

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I. Introduction

The supplemental educational Johnson-O’Malley (JOM) Program is authorized by the Johnson-O’Malley Act of 1934 (Act) and the implementing regulations are provided in 25 CFR Part 273. As amended, this Act authorizes the Secretary of the Interior to enter into contracts with States, schools, and private nonsectarian organizations, and to expend appropriated funds in support of eligible Indian students under such contracts. Federally recognized Indian tribes and tribal organizations are also eligible to apply for JOM contracts. A local JOM program operates under a Bureau of Indian Education (BIE) approved individual educational plan. The JOM educational plans include objectives designed to address the educational needs of eligible American Indian and Alaska Native students, which offers them various opportunities. It may include, but is not limited to, cultural enrichment, tribal language support, academic assistance, and dropout prevention programs. JOM assistance contracts provide these students with resources to meet their unique and specialized educational needs to help them stay in school and increase their chance of success, as well as afford parents the opportunity to actively involve themselves in their child’s education.

The JOM Supplemental Indian Education Program Modernization Act (JOM Modernization Act) became Public Law 115-404 on December 31, 2018. The JOM Modernization Act outlines several requirements for BIE. The major requirements include:

- Conduct consultation on the most applicable and accurate data examining multiple data sources from the U.S. Census Bureau (Census), U.S. Department of Education National Center for Education Statistics (NCES) and data from current grantees;
- Conduct consultation in the interest of expanding the JOM program, e.g., adding additional contractors;

- Publish a Preliminary Report that includes the number of eligible students receiving JOM services or potentially served by each eligible entity, based on feedback from consultation;
- Conduct rulemaking to determine how the regulatory definition of ‘eligible Indian student’ may be revised, and how the funding formula may be clarified and revised;
- Publish a Final Report on the initial determination of the number of eligible Indian students served or potentially served by each eligible entity; and
- Publish an Annual Report that includes the number of eligible Indian students receiving JOM services, recommendations on appropriate funding levels, and an assessment of JOM contracts.

Among the requirements presented by the JOM Modernization Act is the publication of a Final Report. The JOM Modernization Act states:

(iv) FINAL REPORT.—Not later than 120 days after concluding the consultation [on the Preliminary Report] described in clause (iii) ¹, the Secretary shall publish a final report on the initial determination of the number of eligible Indian students served or potentially served by each eligible entity, including justification for not including any feedback gained during such consultation, if applicable.

The Final Report comprises the number of eligible students receiving JOM services or potentially served by each eligible entity, based on feedback from consultation on the Preliminary Report.

II. Consultation with Eligible Entities

Before preparing the Preliminary Report, the BIE conducted consultation with eligible entities on June 21, 2019, to obtain oral and written comments to determine which of the three sources (Census, NCES, or current contractor data) can provide the most applicable and accurate data for improving services under the JOM program. BIE conducted tribal consultation via teleconference to provide tribes, other eligible entities, and interested parties an opportunity to provide input. Eligible entities are defined as existing JOM contractors and potential JOM contractors, including States, public school districts, tribal organizations, Indian corporations, and BIE’s previously private schools. Interested parties include, but are not limited to, JOM Indian Education Committee members, employees of public schools serving American Indian students, urban Indian communities, Indian school boards, parents, and student organizations.

The recommendations were included in a Preliminary Report published in October 2019 describing the number of eligible Indian students served or potentially served by entities eligible for participation in a JOM Supplemental Indian Education Program.

Upon publishing the Preliminary Report, BIE announced the opportunity for public comment by publishing a notice in the Federal Register. *See* 84 Fed. Reg. 57880 (October 29, 2019). In

¹ Clause (iii) states: After publishing the preliminary report under clause (i) in accordance with clause (ii), the Secretary shall establish a 60-day comment period to gain feedback about the preliminary report from eligible entities, which the Secretary shall take into consideration in preparing the final report....

accordance with the Act’s requirements, the comment period was open for 60 days, ending December 30, 2019.

The following section presents information on data sources that were presented in consultation, and as part of a Preliminary Report, to inform recommendations on the current student count.

III. Data Sources

As highlighted above, the JOM Modernization Act required the BIE to present various data sources to eligible entities to gain feedback on which data sources are the most applicable. The three data sources presented were: Census, NCES, and current contractor data.

A. U.S. Census Bureau

Each year, Census administers the American Community Survey (ACS) and provides single-year and multi-year estimates based on the sample received. Single-year or one-year estimates are calculated based on one calendar year (12 months) of data collection, whereas five-year estimates include survey data collected over five calendar years (60 months). The ACS questionnaire includes items in several main topic areas including age, ancestry, employment status, educational attainment, and more for the respondent and individuals living in each student’s respective household. The ACS is considered a self-reported instrument, meaning that responses to each question are provided by the respondent without any additional method to verify the accuracy of the information provided. Census provides information on their website related to margins of error for their respective estimates (single-year and multi-year), as well as response rates and associated error related to sampling method. Multi-year and single-year estimates each have important considerations. For example, using a multi-year estimate (e.g. five-year estimate) instead of a single year estimate may be advantageous because a multi-year estimate is considered more accurate and to have more statistical reliability due to a smaller margin of error in the estimate. Conversely, a single-year estimate is considered to be more “current” and will reflect fluctuations from year to year as compared to a multi-year estimate. However, a single-year estimate will likely have a larger margin of error.

For the purposes of this report, both single-year and multi-year estimates of the number of American Indian and Alaska Native students were obtained using the Census’ online tool, American FactFinder (now at data.census.gov).

Table A below includes information for a one-year estimate (survey collected January 2017-December 2017) of the number of American Indian and Alaska Native students enrolled from preschool to grade 12 in any type of school in the country. For this report, estimates and respective margins of error were provided for each state. Estimates for each state were aggregated by BIE staff to create the overall estimate for 2017.

Table A. U.S. Census Bureau One-Year Estimate 2017

Data Source	2017 American Community Survey
Data Table Description	Provides estimates and margins of error for the number of students (American Indian and Alaska Native) enrolled from preschool to grade 12 by each state.
Years of Estimate	One Year Estimate 2017
Estimate	581,241

Table B below includes information for a five-year estimate from data collected from years 2013-2017 of the ACS. The data table from this report included an estimate for each grade level, pre-school to Grade 12, of number of enrolled American Indian and Alaska Native students (three years and older) for the entire United States geographic area. The estimates for each grade were aggregated to produce a total estimate and is provided in Table B.

Table B. U.S. Census Bureau Five-Year Estimate 2013-2017

Data Source	2013-2017 American Community Survey Five-Year Estimates
Data Table Description	Provides estimates and margins of error for the number of students (American Indian and Alaska Native) enrolled in grades preschool to grade 12 in the United States.
Years of Estimate	Five-Year Estimate 2013-2017
Estimate	600,217

B. National Center for Education Statistics (U.S. Department of Education)

Table C below includes information from the NCES, including the Common Core of Data (CCD). Data tables were exported using the online Elementary/Secondary Information System (EISi) hosted by NCES. The most recent data available includes that from school year 2016-2017. The data set includes numbers of enrolled students in grades preschool to Grade 12 in public schools that were identified as American Indian/Alaska Native. Determinations for students considered “American Indian” or “Alaska Native” are made at the school level.

Table C. U.S. Department of Education, National Center for Education Statistics, Common Core of Data, Students with Tribal Affiliation, School Year 2016-2017

Data Source	U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD), “Public Elementary/Secondary School Universe Survey,” 2016-2017, volumel.a.
Data Table Description	The number of students having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition as reported by each school.
Years of Estimate	School Year 2016-2017
Estimate	502,152

Data included in Table D below was exported from the online tool, Education Demographic and Geographic Estimates (EDGE) hosted by NCES. The datasets included in this resource includes Education Tabulations from the ACS (ACS-ED). All the data included in this tool are based on ACS five-year period estimates. The most current five-year estimate available on this site was from 2014 -2018. The data table included one total estimate for all American Indian and Alaska Native children enrolled in school (including public and private schools).

Table D. National Center for Education Statistics, American Indian and Alaska Native Children Enrolled in School, 5 Year Estimate 2014-2018.

Data Source	ACS 2014-18 Profile
Data Table Description	Provides an estimate for the number of children categorized as “One race: American Indian and Alaska Native” (enrolled in public and private schools).
Years of Estimate	5 Year Estimate 2014-18
Estimate	578,070

C. Current Grantee Data

The BIE has contacted JOM contractors during various years for an updated JOM student count in 1995, 2014 and 2019. The method for data collection included sending a form, such as an Excel file, to contractors to fill out and return to BIE via email.

The BIE’s latest effort to collect a JOM student count in 2019 included publishing a data collection form on-line, sending forms via email to contractors and coordinating communication to contractors with the assistance of the Office of Self-Determination, Office of Self-Governance and the Workforce Development Office. The BIE has not received a 100 percent response from contractors, but data collection improved. While data is improved, the numbers may not represent the total number of students served by JOM programs. Ninety-three percent (315 out of 340) of contractors submitted their data as of April 30, 2020.

Table E. JOM Contractor Data

Year	JOM Student Count
1995	271,884
2014	341,126
2019	316,747 (as of 4/30/2020)

D. Summary of Data from Each of the Sources

In reviewing the data sources specified by the JOM Modernization Act, the range of students served by JOM or self-reported through a Census survey is approximately 200,000 – 600,000. See Table F. The average of the student counts from various data sources is 452,416, including current incomplete BIE contractor data.

Table F. Summary of JOM Student Counts from Various Data Sources

Source	Year(s)	Estimate
U.S. Census	2013-17 (5 years)	600,217
U.S. Census	2017	581,241
ED-NCES	2014-18 (5 years)	578,070
ED-NCES	2018-19 (School Year)	484,876
BIE	1995	271,884
BIE	2014	341,126
BIE	2019	316,747*

*2019 BIE JOM student count reflects 315 of the 340 JOM contractor responses or a 93% response rate.

IV. Summary of Input from Eligible Entities During Consultation

General comments on data sources from the June 21, 2019 JOM consultation included that BIE should:

- (1) Use information on tribal membership of children from various tribal databases;
- (2) Use a combination of the presented data sources; and
- (3) Cross reference averages between the higher and lower count data sources.

Comments/recommendations BIE received during the 2019 60-day comment period on the Preliminary Report included that BIE should:

- (1) Use a variety of data sets to determine JOM student eligibility.
- (2) Use the U.S. Census Bureau 5-year estimate numbers for JOM student eligibility.
- (3) Allow extra time for JOM contractors to submit their student count numbers to ensure BIE is collecting accurate student count figures.

V. Initial Determination of the Number of Eligible Indian Students

The BIE will utilize the most recent NCES, 5-year estimate data, 578,070 (2014-2018) as an initial determination of students eligible or potentially eligible to receive JOM services. The NCES is based on actual reported numbers from public schools across the nation. The data table from the 5-year estimate report includes an estimate for each grade level, preschool to Grade 12, of the number of American Indian and Alaska Native students (3 years and over) enrolled in grades preschool to Grade 12 in public schools for the entire United States geographic area. The BIE estimates the number of eligible Indian students is higher than current contractor data due to low response rates from contractors in the field and the turnaround time for reporting, but estimates from the U.S. Census Bureau data have a higher uncertainty rate due to estimations based on self-reported data.

BIE did not adopt recommendations to use a combination of data sources or data sets. The diversity of data sources and their associated methods for estimating numbers of American Indian and Alaska Native students introduces a great deal of complexity when considering combining or using multiple data sources together. For example, due to a shorter data collection period (one calendar year) Census one-year estimates inherently have a larger margin of error associated with the estimate. Therefore, an advantage of using a multi-year estimate is greater reliability compared to a single-year estimate (Census, 2018). Combining or averaging across estimates is not recommended due to the potential overlap in data based on the time period of data collection. For instance, a five-year estimate that used data collected from 2014-2018 would include the same data as a single-year estimate from 2016.

Similarly, combining or averaging across different data sources is not recommended due to differences in their time periods of data collection, data collection approach, and data analysis methods. Unlike estimates provided by Census, which uses samples to generate estimates, data from NCES is based on actual reported numbers or student counts from schools across the nation. The reported numbers from NCES are also based on a school year rather than the calendar year utilized by Census.

In regard to the comments received to provide JOM contractors the extra time to accurately report annual JOM student count information, this has been addressed as BIE now accepts JOM contractor student count submissions throughout the school year following the requested reporting period.