



News from

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Attorney General

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ATTORNEY GENERAL CALLS FOR IMMEDIATE REVERSAL OF SCHAGHTICOKE RECOGNITION BECAUSE OF BIA ERROR

Attorney General Richard Blumenthal said today that the Schaghticoke recognition decision should be immediately reversed because of a key error acknowledged formally by the Bureau of Indian Affairs (BIA).

“We will take action before the Internal Board of Indian Appeals (IBIA) immediately seeking denial of the Schaghticoke recognition decision,” Blumenthal said. “Once confronted with the mistake, the only conclusion can be to deny the group’s recognition petition.”

Blumenthal’s office has received a BIA filing acknowledging that the agency used a flawed method that mistakenly overstated the percentage of Schaghticoke-to-Schaghticoke marriages during the 19th century. When calculated properly, the Schaghticoke intra-marriage rate falls to less than 20 percent, far below the BIA’s 50 percent recognition requirement, Blumenthal said.

An intra-marriage rate of at least 50 percent was vital to the BIA finding that a Schaghticoke community and political entity existed during the 19th century, Blumenthal said. Without those two factors, the Schaghticoke petition fails to meet the BIA’s recognition requirements, he said.

“This dynamite concession means that recognition must be denied,” Blumenthal said. “It is an apparently unprecedented, unique admission of error. The BIA used the marriage rate to satisfy essential recognition requirements for almost the entire 19th century. Without the now discredited marriage information, the BIA has conceded that it had insufficient evidence to recognize the Schaghticoke group. Contrary to its own practice and precedents, the BIA vastly inflated the percentage of group members in intra-group marriages by counting each individual as a separate marriage. Given this admitted mistake, the recognition should be swiftly nullified.”

The BIA acknowledged that it improperly calculated the 19th century Schaghticoke intra-marriage rate by counting the percentage of married individuals instead of the percentage of married couples.

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For example, say that 12 Schaghticoke members are married. Six are married to other Schaghticoke members, making three internal marriages. The other six are married to non-Schaghticoke members, making six external unions for a total of nine marriages. The proper BIA analysis concludes that three of the nine marriages are intra-group unions, yielding a intra-marriage rate of 33 percent.

The BIA's analysis in the Schaghticoke decision, however, counted each individual married member. In this example, that meant the BIA would have concluded six of the 12 Schaghticoke members married within the group, wrongly inflating the intra-marriage rate to 50 percent. This analysis, which the BIA now admits was mistaken, essentially double-counts members in internal marriages.

Blumenthal's office worked closely with the town of Kent and the Kent School in determining the true Schaghticoke intra-marriage rate.

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