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Testimony of Quinton Roman Nose, Treasurer  
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before the  
Senate Committee on Indian Affairs  
Oversight Hearing on Does Indian School Safety Get a Passing Grade?  
May 13, 2010

Chairman Dorgan and Members of the Senate Committee on Indian Affairs, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association about the shocking disparity in the safety of Bureau of Indian Education (BIE) schools.

Founded in 1970, NIEA is the largest Native education organization in the nation with a membership of over 3,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, elders, parents, and students. NIEA is dedicated to promoting Native education issues and embraces every opportunity to advocate for the unique educational and culturally-related academic needs of Native students.

NIEA advocates for the unique educational and culturally related academic needs of Native students, working to ensure that the federal government upholds its responsibility for the education of Native students through the provision of direct educational services and facilities that are safe and structurally sound. This is incumbent upon the trust relationship of the United States government with tribal nations and includes the responsibility of ensuring educational quality and access. The environment in which instruction and educational services are provided is critical to the achievement of our students and their ability to achieve academically and to be healthy, successful members of their communities.

However, appalling disparities exist in the levels of safety, both structural and personal, in Bureau of Indian Education funded schools, creating educational environments that are a threat to the emotional and physical well-being of Native students.

An August 2008 report issued by the Office of the Inspector General (OIG), Department of the Interior (DOI) titled *Evaluation of Controls to Prevent Violence at Bureau of Indian Education Operated Education Facilities* documented the lack of “laws,

presidential orders, or directives outlining safety measures for Indian Schools.”<sup>1</sup> Even more shocking was the fact that grant agreements for Indian schools do not require a plan for addressing and preventing of campus violence.

In a February 2010 follow up report from the DOI OIG, *Evaluation Report: School Violence Prevention*, an assessment of safety measures and procedures at 22 Indian schools “revealed many indicators of potential violence, deficiencies in school policies aimed at preventing violence, and substantial deficiencies in preventative and emergency safety procedures resulting in schools being dangerously unprepared to prevent violence and ensure the safety of students and staff.”<sup>2</sup>

Given these long term and continuing conditions, Native families, communities, and tribal governments remain appalled that these concerns remain unaddressed while the well-being of Native students hangs in the balance. From the experiences of our membership and Native communities in Indian Country, critical areas needing immediate action include funding to repair and correct structural or equipment deficiencies, appropriate preparation and training of personnel and staff, implementation or development of policies and procedures that impact school safety, and increased and useful collaboration and cooperation among tribal, federal, and local agencies with a role in ensuring student safety and well-being

#### *Funding to Correct the Disrepair and Dangerous Conditions of Indian Education Facilities*

First and foremost is the issue of structural deficiencies and the lack of funding to address them remain of paramount concern. Of the 4,495 education buildings in the BIE inventory, half are more than 30 years old and more than twenty percent (20%) are older than fifty years. Sixty-five percent (65%) of BIE school administrators report the physical condition of one or more school buildings as inadequate. Although education construction has improved dramatically over the last few years, the deferred maintenance backlog is still estimated to be over \$500 million and increases annually by \$56.5 million. Of the 184 BIE Indian schools, 1/3 of Indian schools are in poor condition and in need of either replacement or substantial repair. In addition, lack of consistently functioning electrical systems, unrepaired gaping holes in security fences, broken or uninstalled surveillance cameras, and unsecurable doors and windows directly affect the ability of schools to ensure student and staff safety.

In 1997, GAO issued a report, *Reported Condition and Costs to Repair Schools Funded by the Bureau of Indian Affairs* that documented an inventory of repair needs for education facilities totaling \$754 million. In 2004 the backlog for construction and repair was reported to have grown to \$942 million. More recently, in March of 2008, the Consensus Building Institute (CBI) with the U.S. Institute for Environmental Conflict

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<sup>1</sup>The Office of the Inspector General, Department of the Interior *Evaluation of Controls to Prevent Violence at Bureau of Indian Education Operated Education Facilities* (August, 2008), p.7.

<sup>2</sup> The Office of the Inspector General, Department of the Interior *Evaluation Report: School Violence Prevention* (February, 2010), p. 2.

Resolution issued a *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs- Funded Schools Facilities Construction*. CBI reported in their findings of the conditions of the schools that “security needs and related funding are major sources of concern for many schools,” “aging or poor design may lead to a substandard educational environment,” “operation and maintenance needs are not matched by operation and maintenance annual funding.”<sup>3</sup>

In May of 2007, the Office of the Inspector General, Department of Interior, issued *Bureau of Indian Affairs and Bureau of Indian Education: Schools in Need of Immediate Action*, a flash report that describes the conditions at BIE schools that require “immediate action to protect the health and safety of students and faculty.” Although the Inspector General visited thirteen schools as part of their investigation, four schools were highlighted in the flash report -- Chinle Boarding School, Shonto Preparatory School, Keams Canyon School, and the Kayenta Boarding School. In the report, the Inspector General cites deterioration ranging from “minor deficiencies such as leaking roofs to severe deficiencies such as classroom walls buckling and separating from their foundation.” In his conclusion, the Inspector General states that the “failure to mitigate these conditions will likely cause injury or death to children and school employees.” This flash report describes the alarming and life-threatening situation at BIE schools that the federal government has created in its failure to properly maintain these schools. Native children should not have to risk their lives on a daily basis to access their fundamental right to an education.

Testifying at the NIEA-sponsored BIA/BIE regional hearing in Navajo Nation/Window Rock, AZ, Hopi Tribal Chairman, Benjamin Nuvamsa stated, “our students are at extremely high risk because of exposure to hazardous materials in our school facilities. [Recently] severe reductions in annual appropriations for the building Operations, Maintenance and Repairs (OM&R) program results in the ever-increasing number of projects placed in the Facilities Maintenance Inventory System (FMIS). While waiting for funding, our students and staff are subjected to exposure to hazardous materials. Almost all schools have asbestos and radon issues which put the students and staff at risk.”<sup>4</sup>

The purpose of education construction is to permit BIE to provide structurally sound buildings in which Native children can learn without leaking roofs and peeling paint. It is unjust to expect our students to succeed academically when we fail to provide them with a proper environment to achieve success. The amount of funding over the past few years has failed to fund tribes at the rate of inflation, once again exacerbating the hardships faced by Native American students. Further, the funding that has been allocated over the

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<sup>3</sup> The Consensus Building Institute with the U.S. Institute for Environmental Conflict Resolution (March 5, 2008). *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs – Funded School Facilities Construction*, pp. 16-18.

<sup>4</sup> Bureau of Indian Affairs and Bureau of Indian Education: Hearings before the National Indian Education Association, Window Rock, AZ (August 21, 2008) (testimony of Benjamin Nuvamsa, Hopi Tribal Chairman).

past few years will not keep pace with the tremendous backlog of Indian schools and facilities in need of replacement or repair.

The Bureau of Indian Affairs (BIA)'s budget has historically been inadequate to meet the needs of Native Americans and, consequently, Indian school needs have multiplied. For FY 2008, the funding level was \$142.94 million, for FY 2007, the funding level was \$204.956 million; and, for FY 2006, the funding level was \$206.787 million. Congress and the BIA has sought to justify the decrease over the past few years by stating that it wants to finish ongoing projects, however NIEA has repeatedly heard from several BIE schools who have indicated their "shovel ready" status. While the Recovery Act did provide \$450 million to be shared among BIA school construction and repairs, detention facilities, roads, and irrigation projects, this funding has provided little headway considering the lengthy list of schools waiting to build and repair their facilities. Therefore, NIEA previously requested a \$150.4 million increase from the FY10 enacted level of \$112.994 million for a total of \$263.4 million in FY11 to the BIA for Indian school construction and repair.

The continued deterioration of facilities on Indian land is not only a federal responsibility; it has become a liability of the federal government. Old and exceeding their life expectancy by decades, BIA schools require consistent increases in facilities maintenance without offsetting decreases in other programs, if 48,000 Indian students are to be educated in structurally sound schools. However, in addition to being structurally sound, these schools must also be structurally safe. With adequate funding to address school safety through the use of perimeter fencing to secure school grounds, surveillance cameras and metals detectors to deter weapons and on campus crime, and improved locks and other physical security measures.

While structural concerns may be the most visible indicators of school safety, several other areas of critical concern also need to be swiftly and adequately addressed.

### *Personnel*

As noted in the February 2010 evaluation report, the staff in many Indian education facilities are unaware of or unable to implement basic safe plans such as performing lock down or school evaluation drills. High staff turnover, including principals and other administrators, results in a lack of institutional knowledge about safety procedures or available resources used to address and defuse potentially violent situations. In addition, lack of funding and a consistent plan for the training of incoming personnel means that most staff members lack adequate training areas critical to student well-being. Staff need to be trained to recognize and address indicators of potential violence, including gang and suicide prevention, how to address substance abuse, bullying prevention, and more. In addition, it is important to have adequate funding to support the hiring and retention of staff who can provide students with counseling and therapeutic interventions while also helping to train other school staff in appropriate measures for dealing with potential violent situations.

### *Policies and Procedures*

Previous reports about school conditions and safety measures indicate that implementation or enforcement of policies and procedures that would help to ensure students and staff safety are often not implemented or enforced. For example, dress codes that prevent the wearing of gang related colors in schools may be not be enforced with consistency or consequences. Also, procedures restricting and monitoring visitor access to schools are critical in maintaining a safe school environment. While this may be heavily dependent on the quality of the physical building and its entrances, exits, locks, and other devices, a highly quality locking door is only as useful when it gets locked. According to both the 2008 and the 2010 OIG reports, the evaluators found multiple doors open or unlocked during the school day. Critical procedures also include the need to standardize and improve the NASIS (Native American Student Information System) and the FMIS (Facility Management System) systems. School personnel report struggling to use either system due to multiple procedural obstacles, including lack of consistent procedures for entering data and no ability to use the information for monitoring violent incidents or to analyze for predicting or identifying a specific trend or issue for intervention as is the case with NASIS. Or school personnel have very limited access and ability to enter or share data, including school facility managers being unable to enter basic safety deficiencies of school facilities with respect to the FMIS.<sup>5</sup> And related to this is a need for oversight and support to ensure that annual safety inspections are completed and verified – with deficiencies addressed before the next safety inspection is due. Procedures also need to address and rectify policies that are counterproductive and outdated. For example, facilities are currently only reimbursed 49 cents on the dollar for scheduled maintenance, making it next to financially impossible to make much needed improvements.

### *Coordination and Collaboration*

Currently multiple agencies, including tribal, BIE, Health and Human Services (HHS), Indian Health Services (HIS), state and local laws enforcement and social services all assume different roles and responsibilities for students and their families. A lack of coordination and collaboration among the various agencies has resulted in little to no service provision for Native students in schools, or services not being rendered in a timely manner. Therefore, having requirements for collaboration built into funding sources or as part of mandatory programmatic objectives would help overcome jurisdictional conflicts and provide incentives for collaboration. Also, there is a critical need for transparent and strong leadership by BIE in helping schools and tribes to address safety concerns through the use of workable safety plans, or even the implementation of a general BIE safety plan. Tribal communities are in the best position to advise and help develop culturally relevant and appropriate methods for addressing issues like bullying prevention, substance abuse prevention, anti-gang programming, and suicide prevention for their Native students. Therefore, BIE also needs to firmly support the role of tribes as

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<sup>5</sup> Currently only safety directors can enter data into the FMIS system and many are not based onsite at school facilities.

the best resource for knowledge about culturally relevant interventions, such as peace keeping circles, that provide students and schools with culturally appropriate tools and models for behavior and conflict resolution. Finally, increased transparency on the part of BIE is a necessary component in correcting safety concerns in BIE funded schools. Plans for how to address the concerns raised in recent OIG reports should be publicly shared with a request for feedback and input from tribes and Native communities. Also, accurate lists and plans for addressing structural deficiencies and distribution of resources to schools is important for school planning and prioritizing of even minor repairs or safety equipment purchases.

### *Conclusion*

As an official interviewed in the August 2008 OIG report stated, it is “a matter of ‘when and where’ - not ‘if’ - a violent act would happen” in Indian education facilities.<sup>6</sup> It is a collective responsibility to do all that we can to ensure that our children do not have to risk their lives in deteriorating buildings without adequate supports for their wellbeing and personal safety in order to obtain an education. NIEA thanks the Committee for its hard work and diligence on behalf of Native communities and hopes that elevated congressional engagement around the issue of Indian school safety will help promote and ensure much needed improvements. With your support, we are hopeful that Indian Country will have the resources, oversight, and assistance it needs to create the kind of educational environment that Native children deserve.

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<sup>6</sup> The Office of the Inspector General, Department of the Interior *Evaluation of Controls to Prevent Violence at Bureau of Indian Education Operated Education Facilities* (August, 2008), p.1.