



**NATIONAL
INDIAN
EDUCATION
ASSOCIATION**
Advancing Excellence for Our Native Students

**Testimony of Melvin Monette, President-Elect
on behalf of the
National Indian Education Association**

**United States Senate
Committee on Indian Affairs**

**Oversight Hearing on "Ensuring the Bureau of
Indian Education has
the Tools Necessary to Improve"**

May 21, 2014

Chairman Tester, Vice Chairman Barrasso, and members of the Committee, thank you for inviting the National Indian Education Association (NIEA) to testify. I am Melvin Monette, President-elect of NIEA and a citizen of the Turtle Mountain Band of Chippewa Indians. On behalf of NIEA, I am grateful for this opportunity to provide testimony for the record on “Ensuring the Bureau of Indian Education (BIE) has the Tools Necessary to Improve,” as part of the Committee’s Indian Education series. I would also like to thank the Committee for hearing the collective call of tribes and Native communities regarding the need to address the current state of Native education. The renewed commitment of this Committee to focus on improving all education systems serving Native students is critical as we work together to ensure equitable educational opportunities.

NIEA, founded in 1969, is the most inclusive Native organization in the country—representing Native students, educators, families, communities, and tribes. NIEA’s mission is to advance comprehensive educational opportunities for all American Indians, Alaska Natives, and Native Hawaiians throughout the United States. From communities in Hawaii, to tribal reservations across the continental U.S., to villages in Alaska and urban communities in major cities, NIEA has the most reach of any Native education organization in the country.

Native Education Crisis Due to Federal Mismanagement

As all of us realize, Native education is in a state of emergency partly due to the inability of the federal government to uphold its trust responsibility. Native students lag behind their peers on every educational indicator, from academic achievement to high school and college graduation rates. Just over 50% of Native students are graduating high school, compared to nearly 80% for the majority population. For students attending BIE schools, rates are even lower. According to the latest results from the National Assessment of Educational Progress (NAEP), BIE schools are among the worst performing in the nation. The federal government’s continued inadequacy in directly educating our students hinders our children from developing a strong education foundation that prepares them for future success.

Native Student Demographics Snapshot¹

- 378,000, or 93% of Native students, attend U.S. public schools, with the remainder attending federally-funded BIE schools.

¹ National Center for Education Statistics, Institute of Education Sciences, United States Department of Education. National Indian Education Study. 2011. (NCES 2012-466). <http://nces.ed.gov/nationsreportcard/nies/>

- As of the 2011-2012 school year, there are 183 Bureau-funded elementary and secondary schools, located in 23 states, serving approximately 41,051 Indian students.
- Of all Native students, 33% live in poverty, compared to 12% of Whites (2011-2012 school year).
- 29% of these students attend high-poverty city public schools, compared to 6% of Whites (2009-10 school year).
- Only 52% of Native students live in two-parent households, compared to 75% of Whites (2011).
- After the most recent census, only 65,356 Natives ages 25 years and older had a graduate or professional degree.

The Trust Responsibility to Native Education

NIEA's work for more than forty years has centered on reversing these negative trends. We are making sure our communities have the future leaders needed to help tribes thrive as well as preserve and strengthen local cultural and linguistic traditions. This begins by providing our future generations' equal educational opportunities that prepare them for academic success no matter where they attend school – tribal grant and contract, charter, or public. As tribes work to increase their footprint in education, there must be support for that increased participation. The federal government must uphold its trust responsibility. Established through treaties, federal law, and U.S. Supreme Court decisions, this relationship includes a fiduciary obligation to provide parity in access and equal resources to all American Indian and Alaska Native students, regardless of where they attend school.

The federal government's trust corpus in the field of Indian Education is a shared trust between the Administration and Congress with federally-recognized Indian tribes. To the extent that measurable trust standards in Indian education can be evaluated, NIEA suggests this Committee refer to the government's own studies encompassing Native test scores, treaty-based appropriation decreases, and Government Accountability Office (GAO) Reports, among others, which illustrate the continued inability of the federal government via the BIE to uphold the trust responsibility.

Recommendations to Improve the Bureau of Indian Education

The BIE's mission, as stated in Title 25 CFR Part 32.3, is to provide quality education opportunities from early childhood through life in accordance with a tribe's needs for cultural and economic well-being, in keeping with the wide diversity of Indian tribes and Alaska Native villages as distinct cultural and governmental entities. The BIE is to manifest consideration of the whole person by taking into account the spiritual, mental, physical, and cultural aspects of the individual within his or her family and tribal or village context.

Unfortunately, the BIE is failing its mission by inadequately educating our children. Reform, without abrogating the federal trust responsibility and treaty obligations, is needed within the Department of the Interior (DOI). Agency reform should begin locally in BIE schools and at the direction of our tribal leaders and Native education stakeholders. To ensure the support of our communities, the federal government must work with tribal leaders and experts in order to ensure change addresses the concerns and prerogatives tribes have called for over the last several decades. Tribally controlled contract and grant schools are the future of Indian education and as such, those institutions of self-determination must be supported based on local needs, not at the direction of the Department or the Administration.

The following recommendations are based on resolutions passed by our membership as well as through local work with tribal leaders and Native communities. However, it is important to note that NIEA is still awaiting additional input from our stakeholders who attended recent consultation sessions on BIE reform. This testimony should not be considered our comments on the Indian Education Study Group's report on the BIE. This testimony is to serve as general recommendations for improving the federal education system serving Native students to make sure the system has the tools necessary for strengthening and supporting tribal self-determination.

I. Strengthen Tribal Self-Determination

The federal government implemented assimilation and termination policies in the 19th and 20th Centuries by breaking down traditional family patterns in Native communities and forbidding the use of cultural traditions. Education systems, such as boarding schools, supported these efforts and restricted traditional family structures. The United States then separated Native children from their parents and tribal families in order to destroy cultural kinship. Through these systems, the U.S. robbed tribes of their ability to educate their children.

As tribes fought and achieved the ability to once again exercise their inherent rights as sovereign governments in the latter 20th Century, tribes began contracting with the Bureau of Indian Affairs (BIA) to administer education functions under the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638). However, as a result of history and legal statutes, the federal government had positioned itself as the direct education provider for many Native communities. Through this context, the federal government created an inability for BIE reform to succeed internally because the system functioned and continues to operate under a model rooted in outdated practices that often run counter to tribal self-determination.

Precedence of Self-Determination

Even as tribes reasserted their ability to perform some education functions under statutes, such as the Tribally Controlled Schools Act of 1988, other legal barriers such as those under Public Law 107-110, the Elementary and Secondary Education Act (ESEA), continue to drive the Bureau's means for working with tribes, families, and students. As a result, BIE schools working with local communities have developed an internal bureaucratic mentality that tribes often work to support local Bureau schools rather than BIE schools serving tribes and supporting self-determination.

Congress should create federal policy and ESEA reform that ensures the BIE collaborates with and supports tribes in their self-determination, rather than dictating local educational policy on tribal communities. To facilitate the critical reform that is needed, Congress should provide BIE the tools and resources necessary for developing its capacity to support tribes as they administer education functions and ensure that self-determination statutes take precedence over ESEA and other restrictive mandates.

II. Support and Strengthen Native Language and Culture

Native language revitalization and preservation is a critical priority to tribes and Native communities because language preservation goes to the heart of Native identity. In many ways, language is culture. Learning and understanding traditional languages helps Native students thrive and is a critical piece to ensuring the BIE is serving Native students effectively. Immersion

programs not only increase academic achievement, but guarantee that a student's language will be carried forward for generations. Our communities' unique cultural and linguistic traditions are crucial for the success of our students and are critical cornerstones for providing relevant and high quality instruction as part of an education that ensures Native students attain the same level of academic achievement as the majority of students. NIEA requests the Committee work with tribes and the BIE to ensure that reform strengthens the ability of the federal government to support tribes in the delivery of culturally-relevant curricula.

Expansion of Language Immersion and Congressional Intent

NIEA supports expanding immersion opportunities in BIE supported schools. P.L. 100-297, Tribally Controlled Grant Schools Act, and P.L. 93-638, Indian Self Determination and Education Assistance Act, as well as P.L. 109-394, Esther Martinez Native American Languages Preservation Act of 2006, all promote a policy of both self-determination and investment in Native languages—specifically language immersion schools. Further, the White House Initiative on American Indian and Alaska Native Education promises to support expanding opportunities and improving outcomes for Native students by promoting education in Native languages and histories.

NIEA acknowledges that exemplary immersion models, such as those at Niigaane Ojibwemovin Immersion Program and School serving the Leech Lake Band of Ojibwe and Rough Rock Community School serving the Navajo Nation, have won the prestigious NIEA cultural freedom award for their efforts in full-day language immersion. However, federal agency interpretation and administrative procedures often restrict tribes from running schools, such as Niigaane and Rough Rock, by creating barriers to tribal self-determination. To begin addressing this issue, NIEA requests that congressional intent of legal statutes, rather than agency interpretation, be utilized so that tribes can deliver effective education programs.

III. BIE Internal Reform

BIE as a Technical Service Provider

As the Administration progresses its reform agenda for the BIE, Congress should work with tribes and the Administration to ensure the BIE becomes a technical assistance provider that has the ability to strengthen tribal self-determination in education. The BIE should become an entity that assists tribes who wish to participate in the delivery of their children's education by working with tribes as they strengthen their education agencies. Since the late 20th Century, Congress has worked to strengthen tribal capacity to directly serve their citizens in other services. In this spirit, tribes should have the same ability as state and local education agencies to administer education. To assist those efforts, the BIE should become a central nexus that provides technical assistance to its local BIE contract and grant schools, charter, and even public schools where requested.

The BIE should become an entity similar to a Regional Educational Laboratory (REL) that would, rather than providing direct education to Native students, work in partnership with tribes, tribal colleges and universities, school districts, and state departments of education, to be a technical and best practices provider that collects and utilizes data and research to help tribally-administered schools improve the academic outcomes of Native students.

BIE Capacity Transition

In order to successfully reform the BIE into a technical provider and capacity builder, DOI and the BIE staff need a fundamental shift in thinking in Washington and regionally. Some staff at

the BIE have served their communities for decades, which builds experience and expertise. However, that expertise is based on a flawed and outdated model that has yet to decrease the achievement gap among our students and the majority population. NIEA suggests that DOI ensure educators and administrators understand the needs of their local Native communities and prepare them to engage and work with tribes and their education agencies.

BIE reform should not be an internal, Bureau-wide capacity building effort set on hiring an influx of new thought leaders in Washington. Rather, we need a change in capacity and a restructuring that supports community collaborators who will sit with a principal chief in Oklahoma or a pueblo governor in New Mexico to find solutions to local problems. Simply, we need the right people in the right positions supporting tribal capacity to administer education services. Tribal leaders understand their children best and tribal communities can better address a child's unique educational and cultural needs. Rather than directly educating Native students, the BIE should be situated to provide support services to tribal leaders and education agencies, similar to the Indian Health Service's (IHS) relationship with tribes as they administer health services.

IV. BIE Funding

As tribes work with Congress and the Administration to reform education institutions and increase tribal responsibility in administering education, federal leaders should also increase treaty-based appropriation levels for tribal governments and Native education institutions in order to repair the damage caused by shrinking budgets and sequestration. Historical funding trends illustrate that the federal government is abandoning its trust responsibility by decreasing federal funds to Native-serving programs by more than half in the last 30 years. These shortfalls persistently affect the ability of the BIE to provide transportation services, construct new buildings, and effectively educate Native students. These issues would be unacceptable in any other school system and must be addressed now if we are to systemically improve the BIE's ability to serve our communities and strengthen self-determination.

BIE Budget Authority

For too long, bureaucratic issues between the BIA and the BIE have decreased the ability of the BIE to meet the educational needs of our youth. Congress and federal agencies should fund Native education programs that strengthen tribal self-determination, such as tribal education agencies, and ensure adequate resources are appropriated to the BIE to address tribal concerns and needed systemic changes. To start, the Department of the Interior should transfer budget authority from the BIA to the BIE to increase its efficiency and effectiveness by decreasing the bureaucracy inhibiting funds from positively impacting Native students and tribal self-determination.

As a result of BIA authority over the BIE budget, the BIE is often low in priority when compared to other programs. Recently, internal BIA FY 2014 Operating Plan reallocations reduced BIE Johnson O'Malley Assistance Grants by \$170,000 as well as cut BIE higher education scholarships. While the reduced lines were under tribal priority allocations, such reductions were not authorized by tribal leaders but were a result of internal redistributions in the agency. Although the reductions are small as compared to the overall increase in the BIA budgets after Congress postponed sequestration, rescissions without appropriate consultation are unacceptable. Providing the BIE the ability to develop its own budget would ensure the BIA cannot reallocate funds from the BIE as it would be a separate Bureau with its own budget authority.

BIE Grant Pilot

As the BIE works to support tribes and their education agencies, BIE reform would be strengthened by providing funds for a competitive grant pilot that incentivizes capacity building in tribally-controlled grant and contract schools. This grant program would be modeled on best practices from existing competitive grants in use within the Department of Education. For \$3 million, the BIE would administer a pilot to spur urgent and abrupt systemic reform that would substantially improve student success, close achievement gaps, improve high school graduation rates, and prepare students for success in college and careers.

The three-year competitive incentive-based grant, similar to existing Race to the Top initiatives for which BIE continues to be excluded, would provide resources to tribes for accelerating local reforms and aligning education services to tribal education priorities that include language and culture. Further, performance metrics for the grant would include student attendance rates, graduation rates, college enrollment rates, and measures on educator accountability. In order to catalyze reform efforts and create a set of high-performing, tribally-controlled grant schools, the BIE would also provide on-going technical assistance to build the capacity of those schools that applied for, but did not receive, a grant.

Tribal Grant Support Costs

NIEA was happy to see Indian Health Service and BIA contract support costs fully funded under self-determination and self-governance contracts and compacts this year. However, Public Law 100-297 grant or Public Law 93-638 self-determination contracted BIE schools were exempt from full funding, which will result in budget shortfalls. Full funding for tribal grant support costs in FY 2015 and subsequent years is just as important as full funding for contract support costs as these dollars help tribes expand self-determination and tribal authority over education programs by providing funds for administrative costs, such as accounting, payroll, and other legal requirements. The BIA currently funds only 65 percent of support costs in the 126 tribally managed schools and residential facilities under the BIE purview. This forces the schools to divert critical classroom education funding in order to cover unpaid operational costs, which make it unrealistic to improve educational outcomes and bridge the achievement gap among Native and non-Native students.

Connect BIE Schools to Educate

The President's goal in the ConnectED Initiative is to connect 99 percent of America's students to the Internet through high-speed broadband by 2018. Unfortunately, tribal areas are already far behind their counterparts due to geographical isolation, ineligibility, and inadequate capacity to apply for funds. The BIE recently reported 130 to 140 BIE schools applied for and received E-rate funds over the last nine years—out of a total 183 BIE entities. However, of the E-rate funds committed for these BIE schools over the past nine years, only 60 percent was actually spent. Furthermore, many eligible BIE schools did not apply because they did not meet the 80% threshold to receive a discount. These statistics illustrate persistent gaps in E-rate adoption among BIE schools that are similarly prevalent in other Native-serving institutions due to their geographical isolation and inability to meet Universal Service Administrative Company (USAC) guidelines. If BIE schools are, on average, spending just 60 percent of E-rate awarded funds then there should be further collaboration among Congress, the Federal Communications Commission (FCC), and BIE to ascertain these reasons and work to ensure internal broadband capacity is present.

We must work together to make sure tribes and Native-serving schools benefit under this initiative. Limited data already suggests overall connectivity funding for schools and libraries on tribal lands is disproportionately low and inadequate for connectivity. To prevent tribal nations and their citizens from becoming the one percent that remains disconnected, this Committee should work with the FCC, the BIE, and tribes to decrease barriers that hinder tribal participation in the E-rate program and 21st Century education.

V. Elevate Native Education

Deputy Assistant Secretary of Indian Education

Tribes have spoken loudly that Indian education belongs within the Department of the Interior in order to ensure the federal trust responsibility is upheld. Unfortunately, DOI continues to fail at including education experts and educators in key policy and budget decisions. As we work to find ways to increase the effectiveness of the BIE and improve the state of Native education, we must have people leading in Washington who understand the needs of our students and have the authority to drive successful reform.

Our students need a federal leader to address colleagues and the President on the federal government's trust responsibility to Native education. We request this Committee pursue a means to create a Deputy Assistant Secretary of Indian Education in order to elevate the needs of our students. While the recent attention on the BIE is welcome and necessary, this focus often ebbs and flows. There should be an advocate in DOI that works with tribes to maintain this focus and ensure our Native students become the highest-achieving students in the country and that the BIE is supporting tribes who are running state of the art schools.

DOI Tribal Education Budget Council

We also request that DOI create a Tribal Education Budget Council that functions similar to the Tribal Interior Budget Council and is presided by tribal leaders and the Deputy Assistant Secretary of Indian Education. This would help guarantee that education issues do not fall in priority. Tribal leaders are often forced to choose between issues and focus on providing for present-day emergency measures, such as fire prevention or medical funds, as compared to long-term preventative solutions to education. Providing equity to education and a venue to address our students' needs is crucial to elevating Native education and ensuring that persistent issues are addressed.

Conclusion

NIEA appreciates the continued support of this Committee and we look forward to working closely with its members under your leadership. We share your commitment to Native education. Strengthening our partnership will ensure all Native-serving schools are as effective as possible and that tribes have more access to administer education services. We must make sure BIE has the tools necessary to improve and assist tribes and Native communities in providing services to our citizens, but only if that is supported by the local community. This effort cannot be a top-down approach, but a measure created through grassroots support at the tribal level. The current proposal for BIE reform, while well intentioned, was not a direct result of tribal consultation. We appreciate the efforts and ideas, but without tribal support, we cannot expect BIE reform to succeed.

To achieve success, there must be collaboration among all entities that touch a Native child's life and at all levels – tribal, federal, state, and local. We appreciate this 2014 education series because it is difficult to speak of increasing the success of Native students when addressing only one facet of the education system. Only by working with all stakeholders in all education systems will we increase our students' preparedness for success. Once again, thank you for this opportunity and if you have any questions, please contact Ahniwake Rose, NIEA Executive Director, at arose@niea.org.