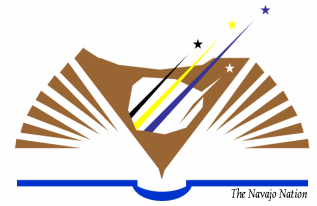




**DEPARTMENT OF DINÉ EDUCATION
THE NAVAJO NATION**

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**Testimony of Dr. Tommy Lewis
Superintendent of Schools
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Window Rock, AZ (Navajo Nation)**

**Before the
United States Senate Committee on Indian Affairs**

**Hearing on
Bureau of Indian Education: Examining Organizational Challenges in Transforming
Educational Opportunities for Indian Children.**

Wednesday, May 13, 2015

Chairman Barrasso, Vice Chairman Tester, and Members of the Committee, my name is Dr. Tommy Lewis, and I am the Superintendent of Schools of the Navajo Nation Department of Diné Education. Thank you for this opportunity to present testimony on the organizational challenges that we face in transforming educational opportunities for our children. My testimony will focus on challenges that the Navajo Nation has encountered as a result of the fragmented bureaucracy governing Indian education at the Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE), the BIE's reorganization, and will offer recommendations for improving the system to enhance educational opportunities for Native children.

The Navajo Nation has a tremendous stake in improving the education of our children. We must prepare them for active and equal participation on the national and global marketplace. We must prepare them to be productive citizens in the 21st century and to be positive, involved members of our communities. Most importantly, we must prepare them to be the future leaders of our Nation. There is no more vital resource to the continued existence and integrity of our Nation than our children.

A Profile of Education and Schools on the Navajo Nation

The Navajo Nation is situated within 3 states: Arizona, New Mexico, and Utah. 17 school districts are operating schools on the Navajo Nation, with a total of 244 schools. There are a combined total of 38,109 Navajo students in all schools on the Navajo Nation. Approximately 60.5% or 23,056 of these Navajo students attend public schools on the Navajo Nation. Another 48,172 Navajo students attend public schools off of the Navajo Nation. 66 out of the 183 BIE-funded schools and residential halls are located on the Navajo Nation, of which 32 are BIE-operated schools (out of 57), 1 is a Public Law 93-638 contract school, and 33 are Public Law 100-297 tribally-controlled grant schools. BIE operated

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and tribally controlled grant/contract schools collectively educate 39.5% of all Navajo students, with 21.2% attending BIE-operated schools, and 18.3% attending grant/contract schools.

At this moment, the Navajo Nation does not have a uniform educational system that allows for consistent regulatory oversight of the educational opportunities offered to Navajo students. The system is highly fragmented. The BIE is in charge of the schools that they control directly. The P.L. 100-297 and P.L. 93-638 grant/contract schools operate as their own individual school districts (local education agencies), where they have their own school boards, superintendents, personnel, finances, and transportation departments, as well as individual curriculums (or lack thereof), and individual teacher/principal evaluations (or lack thereof).

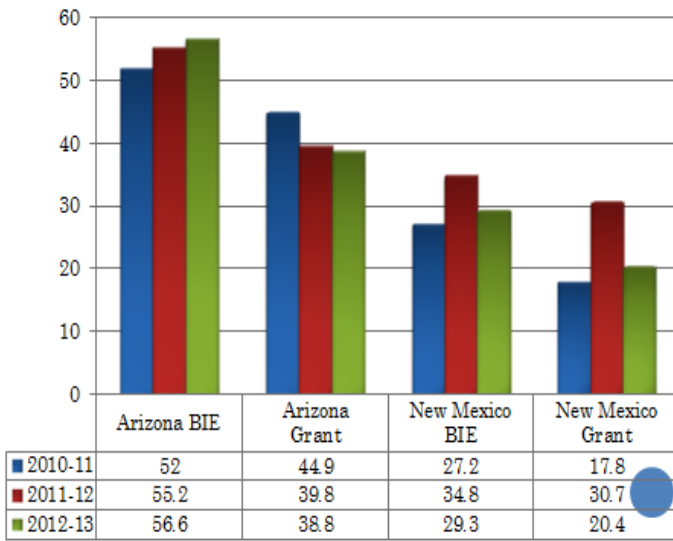
The reorganization of the BIE sets the stage for a discussion on how we can improve the quality of education for our students within our schools and to build a high quality Navajo Nation education system. The Navajo Nation must be more involved in and in control of the education of our children. We have taken the reorganization of the BIE as an opportunity to study our existing education system, and have conducted a Feasibility Study on assuming control of all BIE-funded schools on the Navajo Nation. We are developing a plan of action to improve our education system in part through a Sovereignty in Indian Education Grant (SIEG). We've received valuable input and feedback from numerous Navajo Nation schools and leaders from various public hearings that we've held on this matter.

The BIE is trying to improve, despite all the challenges that they face as an organization. The changes made to the BIE should be measured and the BIE held accountable for outcomes. Over the past three (3) years, the BIE's reorganization and attempt to build a Navajo "school district" model appears to be producing results. Aggregate test scores provided by the BIE and Department of Diné Education Office of Education Research and Statistics show modest improvements in test scores among BIE-operated schools, in contrast to tribally controlled grant/contract schools.

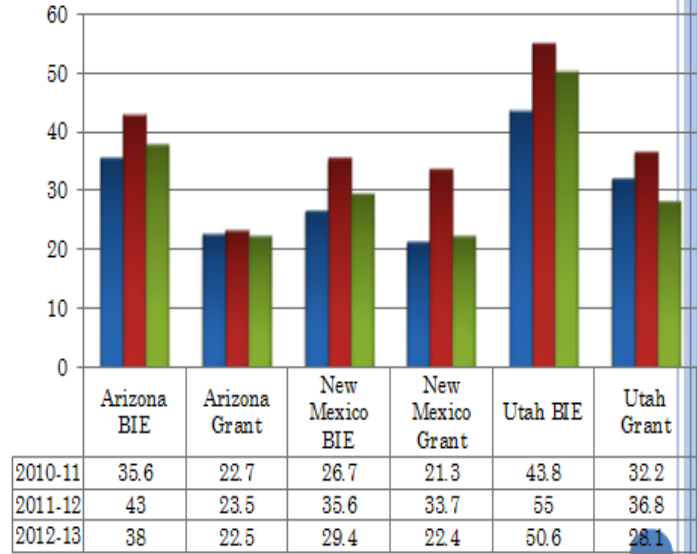
The "district model" that the Navajo BIE-operated schools are using for their schools appears to be working because they have been able to develop and implement a more uniform system, instead of each school going in different directions and/or left without support. The BIE "Navajo district" has been able to develop and implement a uniform and rigorous curriculum aligned to common core standards, rather than each school developing their own curriculum that may or may not be aligned to standards. Professional development, interventions, instructional strategies, data analysis, etc., seem to be more effective when used in a "district system" because the BIE is able to control and influence those factors, rather than each school operating as their own Local Education Agency (LEA). In contrast, tribally controlled grant/contract schools on the Navajo Nation operate independently as their own LEAs with 34 different systems. The BIE legally cannot mandate or hold tribally controlled grant/contract schools accountable to improve, aside from releasing federal funds to those schools.

Attached below are data charts using state assessments (AIMS, NMSBA, UPASS) over the past three (3) years showing significant differences in academic achievement between BIE-operated schools and tribally controlled grant/contract schools from SY 2010-11, SY 2011-12, and SY 2012-13.

READING: PROFICIENT & ADVANCED



MATHEMATICS: PROFICIENT & ADVANCED



Systemic and Organizational Challenges Experienced by the Navajo Nation

The GAO has reported several times on ‘systemic management challenges’ that hinder efforts to improve Bureau of Indian Education (BIE) schools, and recently reported that steps to implement recommendations made by GAO to address these problems had not been fully implemented. The GAO’s previous studies noted that several organizational realignments have resulted in a fragmented bureaucracy with several units being responsible for academic and administrative functions. They have reported that this fragmented system has led to confusion on such basic matters as whom to contact about building maintenance issues. The GAO has noted that frequent staff turnover and a lack of a strategic plan for the BIE have compounded problems. The GAO has also noted additional problems including many vacant positions at the BIE, staff lacking requisite knowledge and skills, and inconsistent accountability of school construction and monitoring of school construction.

Many issues arise from the fragmented organizational responsibilities at BIE-funded schools. One area of significant concern is school facilities and construction. Navajo schools have to deal with the BIE on many issues, but then deal with Bureau of Indian Affairs (BIA) for construction. This lack of coordination causes confusion and inefficiency. Overall, the school construction program has been a tediously slow process.

Another common complaint among BIE-operated schools (not grant schools) are that decisions regarding personnel, procurement, accounting, school operations take a very long time within the BIE structure.

The inability of the BIE and BIA to properly maintain BIE school facilities has had an impact on the Navajo Nation’s deliberations on the extent to which it can exercise greater sovereignty in education

by assuming control of the remaining 32 BIE-operated schools on the Navajo Nation. This is because the dilapidated and poor conditions at existing facilities would expose the Navajo Nation to a tremendous financial liability.

The BIE needs to improve how it monitors finances and audits. The BIE has been better at communicating with and informing the Department of Diné Education on school finances and audits, but there remain problems. One of the schools (Rockpoint) that was cited in a previous GAO report, with \$1.2 million in federal funds being sent to off-shore bank accounts, that was missing three (3) federal audits, and accused of misusing school funds, was eventually taken over by the Department of Diné Education in 2012. Working in partnership with the BIE/BIA and DODE, the school is now in compliance with the law and is an example of how tribes can assume greater control and responsibilities over schools.

The organizational challenges to transforming opportunities for Native children do not end at the managerial. The BIE is undergoing another reorganization, but still has no meaningful plan for how they will hold schools accountable or intervene in failing schools. The BIE uses state accountability systems. On the Navajo Nation, this plus the many different school systems existing on the Navajo Nation make it difficult to measure the academic performance of Navajo children or adequately evaluate the effectiveness of academic programs. Because of the highly fragmented education system that exists on the Navajo Nation, there is also no consistent or uniform method to measure the effectiveness of teachers, principals and school administrators on the Navajo Nation.

Recommendations for Reform

The organizational challenges to transforming opportunities for Native children are many, but we have some recommendations for reform.

Support Tribal Sovereignty in Education – Properly executed, greater sovereignty in education will help to improve academic outcomes and alleviate the systemic challenges at BIE-funded schools. The Navajo Nation’s Alternative Accountability Workbook (AAW) is the foundation of the Navajo Nation’s efforts to develop the tools to effectively govern Navajo education. The AAW also provides the foundation for a true Navajo standards-based curriculum for use at our schools. The Navajo Nation is still waiting for final approval of the AAW by the BIE and the Department of Education.

Approval of the AAW by the BIE and the Department of Education has been unreasonably delayed for several years while Navajo children continue to receive a substandard education. Most recently this unreasonable delay has taken the form of the BIE and Department of Education seemingly losing track of our last submitted draft. The Navajo Nation Alternative Accountability Workbook must have its final review and approval in order for the Navajo Nation to exercise its right to sovereignty in education.

As the BIE reorganizes, and Congress debates changes to the Elementary and Secondary Education Act, the ability of tribes to exercise sovereignty in education must be maintained, and tribes must be given additional tools to be able to meaningfully assert control over the education of their children in a

timely manner. The Navajo Nation seeks the ability to be designated and recognized as a “State Education Agency (SEA)” under federal law. Tribally developed assessments or accountability plans should be deemed approved if they are not denied within a specified timeline. The Family Educational Rights and Privacy Act should be amended to allow tribes that are able to ensure the security of sensitive student data access their students’ educational data. This will enable tribes to be able to properly evaluate the effectiveness of their tribally developed academic programs.

Providing tribes with the tools to meaningfully assert sovereignty in education, where a tribe is able to and desires to take such control, would also vitiate many of the systemic management challenges at the heart of the GAO’s reports by removing the fragmented federal bureaucracy from the equation.

The BIE Needs to be a “Stand Alone Agency” - Based on the comments and feedback provided by Navajo schools and school boards, the current BIE needs to function as a “stand alone agency,” which aligns with the reform goal of “building an agile organizational environment.” Many issues arise from having to deal with separate agencies for separate functions. In particular, one area of significant concern is school facilities and construction. Navajo schools have to deal with the BIE on many issues, but then deal with Bureau of Indian Affairs (BIA) for construction. This lack of coordination causes confusion and inefficiency. At the moment, the current BIE reorganization does not seem to include merging the authority of the BIA over school facilities and construction into the BIE’s organizational structure. Overall, the school construction program has been a tediously slow process, which needs to be streamlined and restructured to be more efficient.

Funding for School Replacement and Construction Needs to be Prioritized - The BIE/BIA and federal government also needs to prioritize upgrading, fixing and replacing existing schools just as they do for the Department of Defense Education Activity (DoDEA) schools. As noted above, the poor conditions at BIE facilities is a disincentive to the Navajo Nation to exercise greater sovereignty in education.

Operational and Financial Decisions within BIE-Operated Schools Needs Quicker Action – As noted above, a common complaint at BIE-operated schools is that decisions regarding personnel, procurement, accounting, school operations take a very long time within the BIE structure. Operational and “back office” decisions should not unnecessarily impede schools.

BIE Needs Better Fiscal Management and Oversight of School Spending - As noted in previous GAO reports, the BIE needs better management and accountability, improved oversight of school spending. To the BIE’s credit, they have been providing better communication and information to the Department of Diné Education on school finances and audits. The BIE and DODE have also been working together to ensure greater oversight over tribally controlled grant/contract schools regarding late audits and misuse/mismanagement of school funds as demonstrated by the example of the Rockpoint school described above.

Conclusion

We must have first access to the minds of our children to ensure a bright and prosperous future for the Navajo Nation. With your help, we can achieve this future. Thank you for your time and attention to these matters.