



# **Oglala Sioux Tribe**

## **Office of the President**

**Pine Ridge Indian Reservation**

**Post Office Box 2070**

**Pine Ridge, South Dakota 57770**

**Phone: 605.867.8420**

**Fax 605.867.6076**

**bryan@oglala.org**



### **Statement of President Bryan Brewer, Oglala Sioux Tribe Before the U.S. Senate Committee on Indian Affairs**

**Prepared for the Oversight Hearing:  
"Indian Education Series: Ensuring the Bureau of Indian Education  
has the Tools Necessary to Improve."**

**May 21, 2014  
Washington, D.C.**

Chairman Tester, Vice Chairman Barrasso, and Members of the Committee, please accept my thanks on behalf of the Oglala Sioux Tribe for your invitation to testify today on the issue of Indian Education. I hope to use this testimony to relay to you the importance of education to our Tribe, how critical it is for our self-determination, and how this Committee and the Congress must redouble its efforts to support our schools and our students.

Furthermore, I am also the Secretary of the Great Plains Tribal Chairman's Association (GPTCA) and I bring forth the message that the sixteen Tribes in the states of South Dakota, North Dakota, and Nebraska which comprise the GPTCA wish to thank you for your interest in and attention to tribal education.

The Great Plains Tribal Chairman's Association was formed to promote the common interests of the sovereign Tribes and Nations and their members in the Great Plains Region. The Great Plains Tribes have the responsibility and obligation to provide tribal education to their enrolled members. The Reservations in the Great Plains comprise the largest geographical land base and trust land of any Region in the United States next to Navajo. The total acreage comprising the Reservations and homelands within the Great Plains that are Indian Country pursuant to 18 U.S.C. 1151, is over 10 million acres. The total population of the Great Plains Region Tribes, we understand, is second only to the Navajo Nation. Unemployment rates in the Great Plains Region are far above the national average and many of our members, even those who work, live below the poverty level. Jobs and economic development are desperately needed on our Reservations.

Significantly, for today's hearing, the Great Plains Region has approximately one-third of all tribal schools in the United States and 8 of the Tribal Colleges. Tribal education in the Great



Plains Region is at the center of our Region's tribal priorities, because of its impact on and connection with other issues, but also because the education of our children and the manner in which we educate them determines the future of our people.

The 1868 Treaty of Fort Laramie, which serves as a foundation of my Tribe's relationship with the United States, explicitly states that the United States promises to provide an education to Indian students. Such provisions were normal for Indian treaties, yet we are here 150 years later to remind the government of its continuing obligation to support our schools. To that end, I would like to mention the title of this hearing: "Ensuring the Bureau of Indian Education has the Tools Necessary to Improve." I think the more appropriate question to ask is: "How Do We Ensure that Tribal Schools have the Tools Necessary to Improve Education Opportunities for Our Students?"

*Tribally and Community Controlled Schools are an Expression of Sovereignty*

Education is both a trust and treaty right, and must be upheld by both the Government and Indian people. Self-determination and sovereignty are equally important values to uphold. Accordingly, Congress enacted both the Indian Self-Determination and Education Assistance Act in 1975 (P.L. 93-638) and the Tribally Controlled School Act in 1988 (P.L. 100-297), recognizing in the latter that "true self-determination in any society of people is dependent upon an educational process that will ensure the development of qualified people to fulfill meaningful leadership roles," and that "to achieve a measure of self-determination [is] essential to [Tribes's] social and economic well-being." Together with these federal laws, Tribes across the country have embraced the idea of running our own schools to achieve the educational objectives and priorities we value in our communities, seeking to use our own criteria for success, and making school a place where we can teach our language, culture, and history to our children.

There are thirteen schools and 6,275 K-12 students on the Pine Ridge Reservation, but there are four separate education systems. From largest to smallest, they are six Tribally Controlled Grant Schools, one BIE operated school, four county-run public schools, and two parochial schools. We also have 11 Headstart Centers with 469 students operated by Oglala Lakota College, which itself has more than 1,400 students. Counting the rest of the students in schools in neighboring towns and in off-reservation boarding schools, we have more than 9,300 students in our Tribe—nearly one third of our citizens on Pine Ridge. It is not hard to comprehend that we see tribal control of our schools as a critical part of ensuring our Tribe's future as a sovereign people, and as a way to strengthen our Tribe today.

In that way, we see the BIE's role not as one that should be controlling or administering education in Indian Country. That role is best filled by tribes themselves. The tools we must ensure the BIE has are tools that are employed only to serve tribal and local schools. We see little value in "improving" the BIE in a sense of reforming the bureaucracy there. For years we have had problems with the BIE's non-funded mandates in its ever-present need for more reporting, more data, more paperwork, and more confusing systems. Worse, even when we find it possible to fulfill the BIE's onerous requirements, we have seen little to show for it in terms of student achievement or funding. You only need to look at the now-disgraced "Reading First" program from No Child Left Behind for an example of how these programs do nothing for tribal



member students. That program was used as a cudgel against tribal schools that had to implement it or risk the loss of funding. Two years after it began, the nationwide Reading First Impact Study found it did not improve students' performance at all, and it was later zeroed out in the budget. Yet the BIE still pushes the program as "BIE Reads," despite proof that it does not work.

Let me tell you what does work: tribally controlled educational criteria like Native language and cultural education. We have found that our students who receive immersion instruction in Lakota do better in other subjects like math, science, and reading. Those students are not only more engaged at school, they become more engaged in their community. This is the kind of motivation that can help children learn. Positive examples come from our immersion program at the tribally run Wounded Knee District School, Red Cloud Indian School (a parochial school on the reservation), and other schools implementing the educational priorities set by the Tribe. We have seen the same from other schools outside of our Pine Ridge Reservation, and know that many schools on the Navajo Nation have seen similar positive results from their language programs.

A concrete step Congress can take is to slate funding for the already-authorized Tribal Education Department program. My Tribe supports NCAI's call to fund the Tribal Education Department line item at \$10 million. Tribal Educational Departments are administered by tribes, and accordingly, are the best entities to apply tribal educational priorities like the above-mentioned language programs, to set academic standards, to assess student progress, and better respond to the needs of Indian communities. Our Tribal Education Agency carries out the policies and requirements in the Tribe's education code for all schools on Pine Ridge, and is well-situated for any oversight necessary in running our schools, far better than the BIE would be. The BIE should focus funding and resources on our local educational departments to better serve our schools.

Congress should also force the BIE to remove institutional and budgetary barriers that impede local school success. The BIE currently has authority to issue tribal school waivers that exempt schools for BIE-imposed content and performance standards—standards that are both culturally inappropriate for our communities and dictated by externally created criteria. Yet, the BIE has little desire to issue these waivers, negating the legislative intent of Congress to enable tribes to apply their own criteria. This dismissal of our self-determination is troubling.

All of this points towards what I believe should be the ultimate role of the BIE: to encourage Tribes and Tribal communities to take over their schools and run those schools themselves. BIE's efforts should be to fulfill the goals of the Tribally Controlled Schools Act. BIE should be working to ensure that tribal and locally run schools have full resources, have access to funding through established grant programs, have facilities that are up to standard, have quality educators, and are able to access programs and funding throughout the rest of the government that can assist the schools. For the schools it does run, the BIE should be working closely with the tribes to implement tribal priorities while doing all of the above. We simply do not see a role for BIE where it has increased oversight roles, or as a gatekeeper for funding.



### *BIE's Proposed Reform Plan is Flawed*

We appreciate the attention the Secretaries of Interior and Education and the White House are giving to Indian education. As we know, it is an area that needs a lot of work, and we have long-awaited rolling up our sleeves and working with the United States to tackle the problems that hold our children back in education. While I believe the intent and objectives of the Secretaries and this Administration are true and well-founded, I have grave concerns about how they propose we carry out those intentions and meet those objectives.

Tribal Control of our school systems is paramount in protecting tribal sovereignty and self-determination. It is for this reason that I am so alarmed at the proposals contained in the BIE Indian Education Study Group's Proposed Reform Plan in which it proposes to "redesign" the BIE. I join many other Tribes in my Region, including the members of the Great Plains Tribal Chairmen's Association, in our opposition to the proposal in its current form.

In short, the Plan as authored is an unacceptable step toward centralizing power within the BIE Director, while paying mere lip service to tribal control of schools. I also note that the Secretaries of Interior and Education formed the Study Group "to diagnose the causes of chronic academic failure in BIE funded schools," not to redesign the BIE. We were never included in the process of determining what "academic failure" was, and we are now looking at determinations based on externally determined standards designed without incorporation of input from Indian Country. The same goes for the BIE's mention in the Plan to become either the "state" or "local" education agency for Indian schools. This is not BIE's role, and it should not attempt to wedge itself into such a role by unilaterally applying Race to the Top, Turnaround Principles, or other Department of Education initiatives to our schools. These standards and programs do not point to our own goals for ourselves, and recall a relic of paternalism that we had hoped to leave far behind.

The Plan has many problems—it is internally inconsistent, it does not describe what specific steps the BIE will take to achieve the goals, and it leaves unexplained the language it will employ to make these changes. Without getting into great detail, I will address a few of the ideas within the Plan about which we have grave concerns.

Most importantly, I find the most problematic portion of the Plan to be the proposed management redesign at BIE, or as it terms it: "agile organizational structure." This portion of the Plan is at direct odds with the idea of tribal and local control of schools, and proposes that the BIE "assume responsibility for school management of operational functions" and integrate management of the BIE, without explaining what exactly that means. I take it to mean a centralization of power and decision making authority at the BIE Director level. This reading is supported by the following from Page 13- of the draft proposal:

"In order for the BIE director to perform his/her responsibility to raise student performance in Indian Country, the director must be given authority over all the necessary functions that affect schooling quality and performance."

A proposal to consolidate that much authority with the BIE Director strikes at the heart of what we cannot stress enough is the most important aspect of education in Indian Country: tribal and



local control of the schools. We do not see how giving the BIE Director authority over these functions further the goals of the ISDEAA, the TCSA, the policy of self-determination, or the trust and treaty relationship.

The rest of the proposal is “top-heavy” in that it proposes to centralize control and school management in the BIE. We are also particularly alarmed by the Plan’s proposals to redirect funding of tribal formula grants to unspecified “competitive grants” with unspecified criteria. While well meaning, these competitive programs detract from our educational efforts, since they require time and resources to apply for, a reconfiguration of curricula if won, then—almost assuredly—the grants end after a few years with no provision for continuity. What’s worse, the Reform Plan proposes to use funds from already strapped Indian education formula funds to run these types of competitive grants. Further these Washington DC-run grants reflect the BIE or Department of Education priorities or goals—not those of the tribes. Any effort to direct the tribes from Washington will ultimately fail, no matter how lofty the Reform Plan attempts to make those plans seem. We do not need trick incentives to improve our schools, our incentives are our children!

It should be tribes and tribal schools who dictate the “redesign” of the BIE, not a small group that leaves out our voices. This Committee should work instead to revitalize tribal schools by increasing resources under our formula grants, reducing the amount of bureaucracy or program management in the BIE, providing funding for facilities and maintenance and ensuring instead that the TCSA is operating at its full potential. We attach the GPTCA’s Transformation Plan which sets forth in a graphic what we want for Indian education. Our graphic uses circles, our cultural and spiritual way of thinking; we reject the use of pillars used in the BIE Plan.

### *Faculty and Facilities*

While we largely agree with the overall goal of the Indian Education Study Group that tribal schools will benefit from the hiring and retention of high-caliber faculty and administrators, we disagree strongly that an effort to do so be run by the BIE with BIE-based criteria. It is the job for the tribes and local communities to determine who is qualified based on their own criteria.

A critical piece touched on by the Reform Plan is the current state of facilities of schools in Indian Country. If there is any part where we may begin to see eye-to-eye with the Indian Education Study Group, it is that there is a dire need for improved school and administration buildings, improved school facilities, improved teacher housing, and improved roads and buses.

The other federally funded school system—the Department of Defense Schools—in 2010 received an extra \$3.7 billion on top of its regular facilities funding for school construction and replacement. BIE schools have never had such an infusion of funding for our schools. According to a GAO Report in 2001, 65 percent of BIA schools and 76 percent of BIA dormitories suffer from “less-than-adequate condition,” a problem that affects less than a quarter of all public schools. Department of Defense schools reported only 32 percent of facilities in the same condition, yet received a great deal of funds to replace those schools. That same report showed an immense maintenance and repair backlog of over \$900 million for Indian schools,



including more than \$127 million in deficiencies related to safety *alone*. See U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-01-934, BIA AND DOD SCHOOLS: STUDENT ACHIEVEMENT AND OTHER CHARACTERISTICS OFTEN DIFFER FROM PUBLIC SCHOOLS' (2001). This report is thirteen years old, and conditions have not improved.

The need is great. On Pine Ridge, we have had facilities so dilapidated that they are immediately condemned by the BIE when students move to another building. Our 6 tribal schools have a backlog of \$20,217,484.00. We are concerned about the safety of our children going to schools that are in such bad conditions. Would anyone on the Committee want their children or grandchildren educated in buildings that have a total of over \$20 million in needed repairs? Poor facility conditions certainly do not make for conducive learning environments. Unfortunately, it is the same nationwide, as funds for new construction have actually been reduced, and the funds needed for operations and maintenance to keep up our schools are less than 50% of the need.

The state of school facilities is a problem that prevents us from reaching other goals in the Reform Plan. An effort to improve our facilities should be the BIE's first priority. However, we have seen too many times that study groups like this one, the BIE, or BIA will make calls for increased funding, only to see those priorities erased during the budget process. It is necessary that both Congress and the BIE be accountable for the budget increase. The BIE cannot simply blame Congress for not funding a proposal that receives support in name only from the BIE and the rest of the Administration. The BIE must commit to overcome institutional roadblocks within the Administration, whether they are in the DOI or the Office of Management and Budget, or the White House. My Tribe, and I assume Indian Country as a whole, will gladly partner with the BIE, this Committee and the rest of Congress to push the issue towards real funding, but we must have your promise you will see it through.

The situation is similar for faculty hiring. The simple matter is that it is very difficult to find well-trained and high caliber faculty who are willing to come teach in our schools, whether because of the state of our facilities, geography, or other factors. The way we must counteract this is to provide a premium in pay for our teachers, and bonuses to retain them after we train them to become better teachers. Our children struggle when there is a changing cast of teachers from year to year; stability in their instructors is a major benefit to them. Equally important is the idea that our communities must determine who to hire, and on what criteria. We need teachers who are effective at teaching our children on the topics and subjects that we define as our standards; any effort on part of the BIE to restructure faculty hiring should focus only on empowering tribes and schools to do so. We do not need a program centralized in Washington to dictate to us who to hire and on what basis—that is an echo of a dark past that we wish not to recall.

Along these lines, please let me reiterate how important it is to provide increased funding for education transportation grants. Roads in Indian Country can provide challenges to any driver, but are especially hard on high-mileage vehicles like our school buses. Further, it is very difficult for us to reach many students during rainy or snowy weather, given the poor condition of our roads. Our schools have only received one funding increase of \$0.45 a mile in the last 15 years, and the funding level is only \$2.52 a mile, which doesn't even cover our fuel costs. Such



realities make it hard for our children to reach school, which in turn harms our ability to teach them and for them to learn. Fixing basic problems like roads and facilities are essential for us to improve our students' educational experience overall.

### *The Reform Plan and Failed Consultation*

I will close my testimony with comments on the BIE's Indian Education Study Group's Plan and the Bureau's purported "consultation" for it. The Study Group came to Indian Country late last year and early this year to see our schools and to take comments from Tribes about what we would like to see in BIE reform. The GPTCA actually demanded consultation through resolution on this most important issue for us. I attach the GPTCA's Resolution. We gave our comments, but were disheartened to see that none of our priorities were reflected in the draft proposal. Instead, it reads as a product of the Group's own priorities—a group that did not include any voice of a tribal or local school, no tribal leaders, no directors of tribal educational departments, no school board members, and no principals or teachers from Indian schools.

Accordingly, we are left with the impression that the draft proposal is not meant for our input at all. Its rollout and claimed "consultation" supports that idea. The 31-page Reform Plan that will "redesign" the BIE was released to us on April 17, 2014. The first consultation on the plan was less than two weeks later, at our Loneman School on Pine Ridge (where I gave similar comments criticizing this plan). They held only three other consultations, and finished those just one week after the first. All in all, the release of the Plan, time to review it, and "consultation" with more than 160 Indian Schools took place in less than three weeks. Such an aggressive schedule shows that consultation isn't really consultation at all, but another presentation of "how it will be."

Such behavior is not only contrary to Executive Order 13175 and President Obama's subsequent statements directing compliance with consultation, but is a breach of our trust relationship and an insult to our treaty rights. There is a need to redesign BIE but not if it is to dictate paternalistic ideals. For tribal sanctioned schools the redesign should only serve to distribute treaty and trust financial resources and let the tribal governing bodies determine local school success. BIE's discretion of both spending and administration should be reduced as much as possible.

We are willing to work with the BIE to reform the agency, but I strongly stress that we must focus on tribal education priorities. We think the overarching goals of the Reform Plan aimed at improving schools are good ones, but we strongly disagree with how the BIE proposes to reach those goals. If this Committee is looking for tools for the BIE to improve, they need to look no further than those of us in Indian Country who are working to ensure quality education for our children.

I would be happy to take any questions you have.



# **GREAT PLAINS TRIBAL CHAIRMANS ASSOCIATION TRANSFORMATION PLAN**

TRIBAL CONSULTATIONS  
NATIVE AMERICAN EDUCATION STUDY GROUP

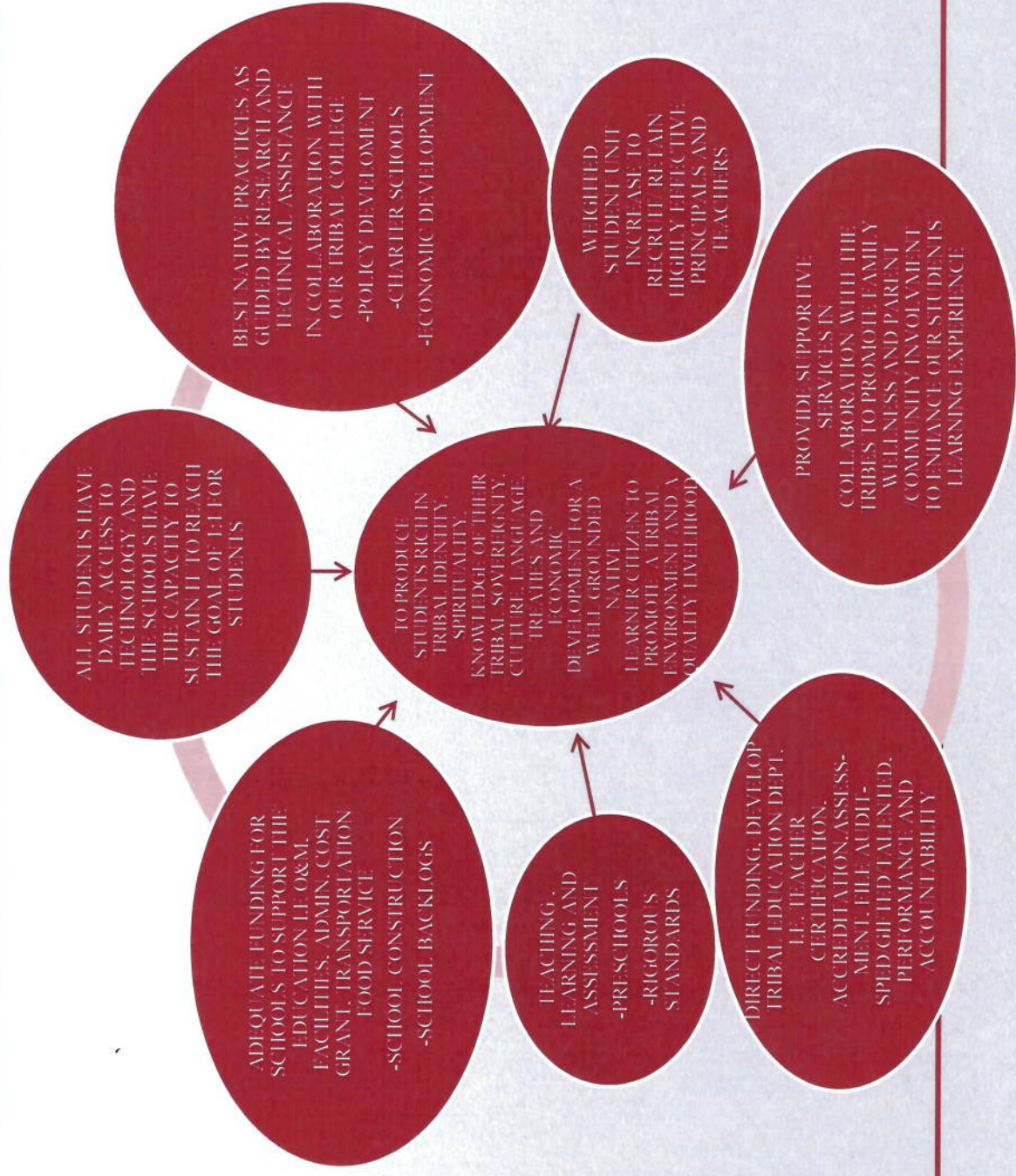
APRIL 28, 2014

Prepared by DWE

---



# TRIBES DIRECTLY OPERATING HIGH ACHIEVING SCHOOLS







# GREAT PLAINS TRIBAL CHAIRMAN'S ASSOCIATION

Mailing Address: US Post Office Box 988, Rapid City, SD 57701

Phone: (605) 721-6168

Physical Address: 321 Kansas City Street, Rapid City, SD 57701

Fax: (605) 721-6174

**Resolution No. 3-2-7-14**

## **GREAT PLAINS TRIBAL CHAIRMAN'S ASSOCIATION (GPTCA)**

### **Requesting the U.S. Department of Education and U.S. Department of Interior 'Redesign Team or Study Group' Schedule a Government-to-Government Consultation with The Great Plains Tribal Chairman's Association for a full Report and for Tribal Leaders and Educators to Present Comments and Recommendations on Indian Education.**

**WHEREAS**, The Great Plains Tribal Chairman's Association (GPTCA) is composed of sixteen elected Chairs and presidents of sovereign treaty tribes and nations ( or their duly appointed representative) that are located within the Great Plains Region of the Bureau of Indian Affairs in North Dakota, South Dakota, and Nebraska; and

**WHEREAS**, the GPTCA was formed to promote the common interests of the member tribes and their enrolled members in the Great Plains Region; and

**WHEREAS**, the United States has obligated itself in tribal treaties, agreements, and federal statutes to provide benefits and services to GPTCA member tribes, including the Snyder Act of 1921 as amended, the Indian Self-Determination Act of 1975, as amended, and other acts of Congress; and

**WHEREAS**, Indian Tribes are sovereign governments recognized by the United States that pre-date the founding of the United States; and

**WHEREAS**, pursuant to its constitution, the United States entered into treaties with the GPTCA tribes and nations whereby it recognized the tribes and nations right to self-government and a permanent homeland, and assumed a trust responsibility to each tribes to provide aid, education, healthcare, safety and subsistence as a quid pro quo for the acquisition or confiscation of portions of the tribes or nations Aboriginal territories and hunting rights; and

**WHEREAS**, the Great Plains Tribal Chairman's Association has established an Education Committee to address the inequities in the education of Native children including, but not limited to, the lack of adequate appropriations for direct instruction, school construction, facilities and maintenance, operations, transportation, food service, personnel, etc.; and

**WHEREAS**, the Great Plains Tribal Chairman's Association and Tribal Education Agencies are increasingly troubled about the education or lack thereof, of Indian children through the public school system(s) and Bureau of Indian Education program(s) (BIE); and



**WHEREAS,** the Great Plains Tribal Chairman's Association is greatly concerned about the lack of funding for our P.L. 100-297 Tribally Controlled Schools Act Schools who are only operating at 65 % of Funding need, with no increase in Funding forthcoming; and

**WHEREAS,** the United States, through its treaties , statutes , Constitution , and international law and policies , assumed the legal responsibility to protect Indian tribes , to provide certain goods and services ; to guarantee the right of tribal self-government, guarantee the protection and safety of tribal members, guarantee the right of Indian children to an well-rounded education that is culturally appropriate, and promote the viability of Indian reservations and lands as permanent homelands for tribes; and

**WHEREAS,** the Secretaries of the Department of the Interior and the Department of Education convened an American Indian Study Group (Study Group) or "Re-design Team" to conduct site visits to gather information on how to improve American Indian Education and consider solutions to the following stated challenges that Indian children are faced with: the need for the retention and recruitment of effective teachers ; the creation of a relevant curriculum ; the application of appropriate pedagogical practices; and addressing the achievement gap; and

**WHEREAS,** as part of President Obama's initiative to support Tribal self-determination , the Study Group focused on how to facilitate Tribal Sovereignty in American Indian education , and how to improve educational outcomes for students attending BIE-funded schools and was overseen by the Assistant Secretary for Indian Affairs; and

**WHEREAS,** member Tribes of the GPTCA have been verbally informed by other persons that the Study Group visited schools and classrooms, Tribal Governments, and Indian Affairs employees to gather information, listen to Tribal Governments', Tribal Schools' and Tribal Communities' concerns to find ways to improve American Indian education and learn how Tribal schools respond to critical challenges in their communities; and

**WHEREAS,** the Tribal Leaders of the GPTCA have not been fully consulted about this Study or recommendations, nor have Tribal Leaders, Educators and Families in the Great Plains received any Reports or been able to Review any comments, data or documents considered by the Study Group that will have long range effects on the Education for our Children; and

**WHEREAS,** the federal court in *Yankton Sioux Tribe et. al v. Kempthorne*, 442 F.Supp.2d 774 (D.S.D. 2006), made clear that government to government consultation requires pre-decisional meaningful and open dialogue prior to the implementation of decisions; and

**WHEREAS,** based on the information provided to GTPCA member Tribes from sources outside the Department of Interior, the GPTCA has cause to believe that the Study Group has developed recommendations for improving future Indian Education on how Indian students are educated in BIE funded schools, private schools and public schools without the required pre-decisional government to government consultation with the member Tribes of the GPTCA; and

**WHEREAS,** the Secretaries of Interior and Education have convened another important study and general investigation into the archaic and inefficient bureaucracy system with possible substantial policy shifts in all matters pertaining to education. The GPTCA wishes to exercise its right to government to government consultation and comment on the major tenets of administrative change, as well as policy



amendments that may be put forth for Congress to act on, and to set policy and guidance of overseeing and regulate the educational affairs of the Tribe all as required by 25 U.S. C. §2011 and 25 U.S.C. §4501, now

**THEREFORE BE IT RESOLVED**, that the Great Plains Tribal Chairman's Association does hereby demand the U.S. Department of Education and U.S. Department of Interior follow President Obama's Executive Order on Consultation and 25 U.S.C. §2501 and 25 U.S.C. §2011, which requires that, "[a]ll actions under this Act shall be done with active consultation with tribes," and immediately schedule a government-to-government consultation to actually listen and consider Tribal Recommendations prior to finalization of any Report or recommendations to the Congress, and prior to any Release of Conclusions or Final Declarations; and

**BE IT FURTHER RESOLVED**, that the Executive Director of the GPTCA is hereby directed to follow through with setting up the Consultation as soon as possible.

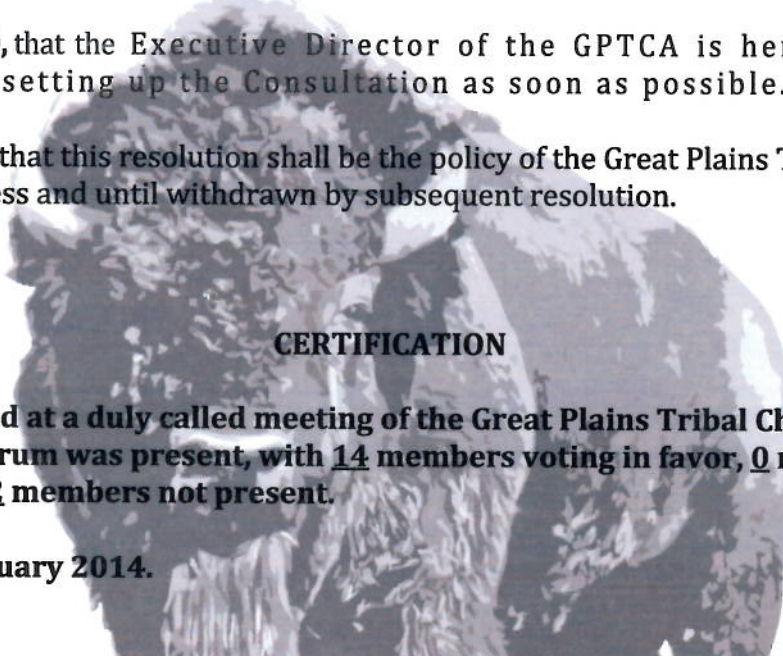
**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of the Great Plains Tribal Chairman's Association unless and until withdrawn by subsequent resolution.

**Resolution No. 3-2-7-14**

**CERTIFICATION**

This resolution was enacted at a duly called meeting of the Great Plains Tribal Chairman's Association on Feb 7, 2014 at which a quorum was present, with 14 members voting in favor, 0 members opposed, 0 members abstaining, and 2 members not present.

**Dated this 7th. Day of February 2014.**



*Bryan V. Brewer*

President Bryan Brewer, Oglala Sioux Tribe  
Secretary, Great Plains Tribal Chairman's Association

Attest:

*Tex Hall*

Chairman Tex "Red Tipped Arrow" Hall, Mandan, Hidatsa & Arikara Nations, Three Affiliated Tribes  
Chairman, Great Plains Tribal Chairman's Association