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Testimony of Mary Jane Oatman-Wak Wak, President Elect
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before the
Senate Committee on Indian Affairs
On Indian Education: Did the No Child Left Behind Act Leave Indian Students
Behind?
June 17, 2010

Chairman Dorgan and Members of the Senate Committee on Indian Affairs, on behalf of the National Indian Education Association (NIEA), thank you for the opportunity to submit testimony about the No Child Left Behind Act (ESEA) and Native students.

Founded in 1970, NIEA is the largest Native education organization in the nation representing American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, elders, parents, and students. NIEA is dedicated to advocating for the unique educational and culturally-related academic needs of Native students and to ensuring that the federal government upholds its unique trust responsibility to these students and their communities.

In examining the lessons learned from the last decade of NCLB, it is important to focus on the task before us. The task of making certain that the reauthorization of ESEA recognizes and supports the unique cultural, social, and linguistic needs of Native students in ways that ensure that no Native child is ever left behind.

No Child Left Behind Act (NCLB) and Native Students

Since 2005, NIEA has been actively preparing for the reauthorization of NCLB, including conducting 11 field hearings with over 120 witnesses in Native communities across the country and the development of NIEA's *Preliminary Report on NCLB in Indian Country* and its NCLB Policy Recommendations. NIEA continued to conduct numerous listening sessions and meetings with Native students, educators, school administrators, Native parents, and tribal leaders to learn about the challenges Native people encountered under NCLB.

What emerged through this extensive dialogue was an appreciation for the goal of Title VII of NCLB to meet the unique cultural and educational needs of Native children. However, it was clear that many areas of concern existed about how NCLB/ESEA was unable to fully address the

educational needs of Native students and communities, along with ideas about how NCLB/ESEA could and should be improved.¹ These areas of improvement included the need to:

- *improve and expand the ability of Title VII to address the unique cultural and educational needs of Native children*
- *increase flexibility and Native control over the selection and implementation of programs and services supporting the learning of Native students*
- *improve consultation, collaboration, and cooperation among tribes, states, and the federal government*
- *strengthen support for instruction in Native languages*
- *improve support and development of effective teachers of Native students*
- *improve opportunities for the maximum participation of parents, families, and tribes and Native communities in the education of Native children*
- *improve and develop appropriate systems of assessment and measurement of academic progress*
- *support the development and collection of comprehensive data and research about the education of Native children*
- *increase funding for NCLB (ESEA), especially Title VII*

Also clear was the deeply held commitment of Native communities for ensuring that Native students receive the highest quality education through instruction and methods that reflect an understanding and affirmation of their unique strengths and needs as Native people. While high standards and expectations for achievement, accountability of schools for the results of the education they provide, and access to rigorous curriculum are key components of this vision of high quality education, Native Ways of Knowing, or knowledge that is unique to Native tribes and cultures, are equally critical cornerstones for providing the kind of relevant and high quality instruction and education that ensures Native students attain the same level of academic achievement as students nationwide.

In addition, Native parents, communities, educators, and tribes also spoke about the need to see the education of Native children beyond the context and content of schools. As stated in NIEA's 2005 testimony before this Committee,² there is a need "to focus comprehensively on the needs

¹ Please see NIEA's *Preliminary Report on NCLB in Indian Country*; 2007-2009 Briefing papers on the Reauthorization of NCLB/ESEA; and NIEA's 2007 Testimony on the Reauthorization of NCLB in Indian Country for more detailed descriptions of these concerns. All are available at www.niea.org

² Testimony of David Beaulieu, Ph.D., then President of the National Indian Education Association, before the Senate Committee on Indian Affairs on Indian Education on June 16, 2005. Available from NIEA.

of Native Children in light of the long and growing health and overall needs of Native children. Mental health issues including high levels of substance abuse, suicide rates, poor housing and health conditions all impact the capacity of Native children to learn and schools to be responsive to their principal education purposes. The future of Indian tribes and Native communities is not only dependent upon effective and meaningful educational programs but also upon healthy self confident and reliant young people growing and developing in strong families and communities. We must comprehensively develop strategies that engage families, communities, and tribes in every aspect of the care and education of Native children and young people.”

Based on this extensive input from Native communities, educators, parents, and tribes, NIEA has developed a set of recommendations to address the shortcomings of NCLB and to improve the ability of ESEA to meet the needs of Native students.

Recommendations for the Reauthorization of the Elementary and Secondary Education Act (ESEA)

Strengthen Native American and Tribal Control of Education

ESEA should reflect the modern federal policy of respecting tribal sovereignty and the self-determination³ of Native peoples, and the protection of Native American⁴ languages. Greater Native American control over the education of Native American students will lead to better results and healthier Native American communities.

Over ninety percent (90%) of Native American children attend public schools throughout the nation. Native American students, who attend these schools often reside in economically deprived areas and are impacted by general programs for disadvantaged students, including Title I grants used for school improvement, state assessments, Pell grants to assist in accessing higher education, and funding to support English language acquisition.

However, Native American students have unique educational needs that can only be met through increased Native American sovereignty and self-determination in the education of these students.

- Restore the position of Director of Indian Education, now a Title VII grant manager position, to Assistant Secretary for Indian Education, with authority to engage in various titles of the ESEA that touch Native education. The Assistant Secretary of Indian

³ In understanding tribal sovereignty, it is important to understand that Native Americans are not a minority, ethnic, or diverse population, nor are they a racial group. Judicial decrees, federal statutes, executive orders and most importantly treaties distinguish American Indians and other Native Americans from any other group of people in the United States. Native Americans have a unique political status; they are a political classification, not a racial one, with unique guarantees in the United States constitution affirming their inherent right to sovereignty and self-determination. Unfortunately this political anomaly is misunderstood by federal officials who often times treat Indian education as a special interest constituency group.

⁴ “Native American” is defined in the Native American Languages Act (NALA) as “an Indian, Native Hawaiian, or Native American Pacific Islander.” P.L. 101-477 (October 30, 1990).

Education also should be authorized to facilitate ED and DOI collaboration and implement the role of Tribal Education Departments and Agencies (TEDs/TEAs) within various titles.

- Respect the sovereign status of Indian tribes by elevating the authority of Tribal Education Departments and Agencies (throughout various titles in ESEA that touch Indian Country, giving TEDs the same access to federal funding and education planning resources as State Education Agencies (SEAs) and Local Education Agencies (LEAs). As mandated in many treaties and as authorized in several federal statutes, the education of Indian children is an important role of Indian tribes. Tribal Education Departments (TED) provide tribes with the opportunities to become actively involved in the education of their children. Despite this authorization and several other prior statutes, federal funds have never been appropriated for TEDs. The use of TEDs would increase tribal accountability and responsibility for their students and would ensure that tribes exercise their commitment to improve the education of their youngest members.
- Require federal agencies and states to collaborate with Indian tribes to ensure adequate planning and support for Native learners and Native education providers. Require Department of Education (ED) and Department of the Interior (DOI) cooperation that opens greater ED financial and technical support for DOI Indian schools, including the opportunity for alternative measurement assessments and the development of tribal measurements of academic progress.
- Support and fund programs and practices that ensure the maximum participation of Native parents, families, and tribal communities. Resources should be specifically designated to tribal communities to support parent and family involvement in schools, including evening activities, funding for transportation, and support groups for parents of children with disabilities.
- Support the development and collection of comprehensive data and research about the education of Native children, including improved data collection and sharing of data with tribes. Specific resources should be allocated to conduct Native driven and Native focused research on culturally and linguistically based education and best practices in order to determine research supported ways to improve Native student achievement and how to develop and determine appropriate academic measures of school success. In addition, there should be resources to support data collection about the migratory nature of Native students, Native students with disabilities, and assist with the need for proper enrollment and placement of Indian students. This should include targeted efforts at building capacity in Native education systems to develop, implement, collect and analyze systematic data on the educational status and needs of Native students. Support for partnerships between Native educational school systems and the Departments of Education and Interior that would support initiatives focused on Native education program services and program accountability.

Ensure Consultation and Collaboration

A unique government-to-government relationship exists between federally-recognized Indian tribes and the Federal Government. This relationship is grounded in numerous treaties, statutes, and executive orders as well as political, legal, moral, and ethical principles. This relationship is not based upon race, but rather is derived from the legal status of tribal governments. The Federal Government has enacted various regulations that establish and define a trust relationship with Indian tribes. An integral element of this government-to-government relationship is that consultation occurs with Indian tribes. President Obama recently re-affirmed this relationship with an Executive Memorandum, which requires each federal agency to develop a plan to implement consultation and coordination with Indian tribal governments as required by Executive Order 13175.

Therefore, the reauthorization of the ESEA must:

- Include specific language requiring the Department of Education to consult with tribal governments. Whenever the Department of Education consults with States or local education agencies, tribes should also be specifically included.
- Engage in meaningful consultation with Native American tribes and communities as outlined by President's Obama's promise to tribal leaders. This can be accomplished through the following recommendations:
 1. Tribes should define, in coordination with Department of Education officials, where consultation is expected and important
 2. Tribes and the Department of Education should agree on a consistent consultation schedule, including agreeing on locations and time considerations for consultations
 3. The Department of Education must give advance notification of consultation hearings and coordinate topic areas with tribes. Recently Secretary Duncan announced pending consultation hearings throughout Indian Country; it is not too late for the Department of Education to include tribal stakeholders in the planning of these hearings.
 4. Tribes must have an opportunity to call for consultation on matters that are of high concern rather than the Department of Education holding exclusive authority to call for consultations
 5. Tribes should control who speaks for them and what the ED considers to be the official tribal view
 6. The Department of Education should disclose what weight is being given to tribal views and report back to tribes in a timely manner
 7. The Department of Education should justify its promulgation of rules, regulations and policy when they are advanced in opposition to tribal views acquired through consultation
 8. The Department of Education should take advantage of existing tribal gatherings where a critical mass of elected tribal leadership will be present to build consultation venues, one such venue should be the annual NIEA convention.

- Establish a tribal advisory committee to advise the Secretary of the Interior on policy issues and budget development for the BIE school system. There has never been a formal, established mechanism for tribally-operated schools to raise issues and provide substantive advice to the Secretary on an on-going basis – especially on development of the budget request for programs serving BIE schools. Since the schools in the BIE system are the sole responsibility of the Federal Government, the Secretary of the Interior should be consulting closely and regularly with representatives selected by the tribes and the tribal school boards who operate those schools to learn directly from them about their needs and hear ideas about how to fill those needs.

Support Instruction of Native American Languages and Culturally Based Education

NIEA supports and appreciates the commitment to immersion schools, Native language instruction, and culture in the education of Native American students expressed in the *A Blueprint for Reform: Reauthorizing the Elementary and Secondary Education Act*.

Both the Blueprint and Title VII of ESEA⁵ recognize that Native children have unique educational needs due to their cultures and backgrounds. The purpose of Title VII⁶ of ESEA is to provide culturally based educational approaches for Native students and to support the Native language. These approaches have been proven to increase student performance and success as well as awareness and knowledge of student cultures and histories. In general, these approaches include recognizing and utilizing Native languages as a first or second language, pedagogy that incorporates traditional cultural characteristics, and involves teaching strategies that are harmonious with the native culture knowledge and contemporary ways of knowing and learning. It also includes curricula based upon Native culture and language that utilizes legends, oral histories, songs and fundamental beliefs and values of the community. In addition, it involves parents, elders and cultural experts as well as other community members' participation in educating Native children utilizing the social and political mores of the community.⁷

Current research demonstrates that culture and language can be successfully integrated into the classroom in a manner that would provide Native students with instruction in the core subject areas based upon cultural values and beliefs. Math, reading, language arts, history, science, physical education, music, cultural arts and other subjects may be taught in curricula instilled in Native traditional and cultural concepts and knowledge. The National Science Foundation funded Native Science Connections Research Project at Northern Arizona University, is a research model that successfully integrated native language, culture and traditions into BIA funded schools' science elementary curriculum. On-going analysis of data revealed increased

⁵ Part A of Title VII deals specifically with the education of American Indians and Parts B and C address the educational needs of Native Hawaiian and Alaskan Native students.

⁶ Title VII of the ESEA incorporates the Indian Education Act of 1972.

⁷ Demmert, W. G. & Towner, J. C. (2003). A Review of the Research Literature on the Influences of Culturally Based Education on the Academic Performance of Native American Students. *Northwest Regional Educational Laboratory*, Portland OR

student mastery of science and math concepts, deeper levels of student engagement in science and math and increased student achievement in math and science.⁸

NIEA believes ESEA should reflect the policy mandates of the Native American Languages Act (NALA), which encourages Native American languages as a medium of instruction to increase overall Native student achievement.

- Title I should (1) include schools using a Native language as the medium of instruction similar to those of Puerto Rico; (2) Allow for alternative measurement assessments, AYP standards, and teacher qualifications relative to the teaching of Native American students based in unique linguistic, cultural, and political status considerations. Include federal assistance and recognition of meeting tribal AYP standards as an alternative to meeting state AYP standards for schools enrolling Native American students; (3) authorize the credentialing of Native language teachers under the definition of highly qualified and upon recommendation by a tribal government or other Native governing entity; (4) accommodate limited Native language proficient students in Native language medium schools (Sec. 1111) similar to Limited English Proficient (LEP) accommodations.
- Authorize a formula grant program in Title VII to support immersion schools, including tribally-operated, private, and Bureau-funded schools.
- Establish a Part D in Title VII that authorizes early childhood immersion infant-kindergarten learning centers.
- Title III amendments should include provisions and funding to support Native language instruction and remove barriers to full fledged instruction in Native languages, acknowledging that most Native learners enter school with limited English proficiency, even if they are English only speakers.
- Restore Culturally Based Education Technical Assistance and Resource Centers, technical assistance centers that would provide regional support to Title VII programs, advance Culturally Based Education (CBE) best practices, and promote teaching strategies that integrate Native traditional and cultural concepts into curricula.
- Give preference to Tribal Colleges and Universities and the Hawaiian Language College in receiving funding to develop Native American language resources and skills for community members, which would provide greater support for learning and using Native American languages in local schools, similar to the support for district language needs of young immigrant school community members.

⁸ The Reauthorization of No Child Left Behind in Indian Country: Hearing before the U.S. House of Representatives Education and Labor Committee, 110th Cong., 1st Sess. (2007) (testimony of Dr. Willard Sakiestewa Gilbert, President-Elect, National Indian Education Association).

Improve Support for Teachers of Native Students

NIEA supports Administration efforts to increase the number of effective teachers and principals, including an initiative to increase the number of teachers for low income and minority students.

More than any other community in America, Indian Country suffers from a paucity of highly skilled teachers. Regardless of success in other schools or academic credentials, highly effective teachers do not necessarily see their success as educators transfer to tribal settings. For this reason and a host of cultural differences, specialized training for teachers and other education practitioners serving Native American students is critically important and should be a part of any ED initiative to elevate and strengthen quality of instruction.

Teaching in schools serving Native American students needs to be incentivized through a combination of quality housing, financial compensation, loan forgiveness, upward mobility, and professional development. Currently with the vast majority of Bureau funded and public schools on tribal lands classified as failing or in need of improvement there is little incentive for highly qualified teachers to work in these schools. Combined with extreme and persistent poverty, ongoing social problems, lack of housing, isolated rural settings, and dangerously poor facilities, the majority of schools serving Native American students are at a deep disadvantage in recruiting and retaining a critical mass of highly qualified teachers.

NIEA believes ESEA should authorize greater support of teachers of Native students, utilizing the particular expertise of the tribal colleges, universities, the Hawaiian Language College and the School of Hawaiian Knowledge. Tribal Colleges and Universities should be the primary training campuses for both Indian educators and non-Indians who are working with Native learners.

- Require set asides for the training, recruitment and retention of teachers of Native students. This should include a **Tribal Priority Allocation** under the proposed initiative to increase the number of teachers for low income and minority students within the Department of Education to ensure that Indian Country is fully vested in this initiative and receives a fair apportionment of the requested 3.9 billion.
- Support Tribal Colleges and Universities, the Hawaiian Language College, and the School of Hawaiian Knowledge should to be supported through Title II and VII provisions so that they can play a central role in developing a critical mass of educators for Native learners.
- Authorize a tribal “Teacher Preparation Initiative” geared towards educators who are working in schools serving Native American students and educators who are interested in working at schools serving Native American students. This should also include provisions for improved and appropriate teacher evaluation systems and support for more effective career advancement systems.

Adequate Funding for Native Education under ESEA

When NCLB was enacted, Congress promised to provide the resources necessary to meet its many requirements, provide school improvement funds to schools that failed AYP, provide increased resources especially for disadvantaged students and to help close achievement gaps by improving teacher quality, student achievement, and program accountability. However, NCLB was never funded at the authorized levels.

Title VII, especially, provides critical support for culturally based education approaches for Native students and addresses the unique educational and cultural needs of Native students. It is well documented that Native students thrive academically in environments that support their cultural identities while introducing different ideas. Title VII has produced many success stories but increased funding is needed in this area to bridge the achievement gap for Native students.

Therefore, NIEA supports the:

- Adequate funding of Title I programs
- Adequate funding for the following programs within Title VII: Indian Education, Alaska Native Education Equity, and Education for Native Hawaiians
- Improved oversight of the allocation and use of Title VII resources so they cannot be supplanted to meet the shortfalls in other Titles of ESEA or of public school budgets.

Conclusion

Mr. Chairman, on behalf of NIEA thank you and the Committee for the tremendous efforts on behalf of Native communities. With your support we are hopeful that the reauthorization of ESEA will help ensure that Native students receive the high quality education that they need and deserve.

Chairman Dorgan, we especially thank you for your personal commitment in championing the cause for all Native Americans, but especially for your unwavering dedication to improving the education and well being of Native children. We extend our best wishes as you move on to new endeavors. We will greatly miss your leadership and friendship.