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**Testimony of Cindy La Marr  
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Before the Senate Committee on Indian Affairs  
on the No Child Left Behind Act**

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Chairman Campbell, Vice Chairman Inouye and Members of the Senate Committee on Indian Affairs, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association (NIEA) with regard to the impact of the No Child Left Behind (NCLB) Act on Indian students and educators of Indian students. NIEA actively advocates on behalf of our membership and their requests to address their concerns and issues relating to the education of Native youth throughout the nation.

Thank you for responding to NIEA's request for an oversight hearing on the NCLB. It is an important beginning as we work together to implement the newly signed Executive Order on American Indian and Alaska Native Education and address concerns of the NCLB Act.

**"No Child Left Behind" Act**

The primary legislation that authorizes federal spending on education, the Elementary and Secondary Education Act (ESEA) was reauthorized in January of 2002, now known as the "No Child Left Behind" Act. NCLB requires states to set 12-year goals to ensure that all students meet state academic standards and to close achievement gaps between rich and poor, and minority and non-minority students.

The central pillars of NCLB are: (1) increased accountability through testing; (2) more choices for parents and students who attend Title I schools that fail to meet State standards; (3) greater flexibility for states, school districts, and schools in the administration of NCLB programs; and (4) a major emphasis on reading through the Reading First initiative.

In addition, Title VII of the NCLB specifically addresses programs for Indian, Native Hawaiian and Alaska Native Education.

Title VII of the NCLB states:

*It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian*

*Children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children. (NCLB, Section 7101)*

This provision squarely situates Federal Indian Education policy within the Federal Government's trust responsibility to Indian people. The real question is what can be accomplished and will the Federal Government make a commitment sufficiently great as to ensure the success of that policy, whose purpose is largely to undo the extraordinary harm that the Federal government has done to Indian peoples over the course of many years.

True success will come only when Indian students are receiving a high quality education that not only prepares them for the demands of contemporary society, but also thoroughly grounds them in their own history, culture and language.

### **Concerns**

Congress coupled the new reforms in ESEA with historic increases in funding and targeting schools with high percentages of low-income children. However, the President's FY05 Budget under funds ESEA by \$9.4 billion below the authorized level. Our emphasis right now should be to follow through on this previous commitment made by the President and Congress, and to meet the goals of the NCLB, especially for Indian children.

A basic tenet of federal Indian policy is that the education of Indians is the responsibility of the federal government. The NCLB law directly addresses improving the quality of education for Indian students in the BIA school system; however, over 92% of the nation's Indian children attend State run public schools. U.S. Department of Education's National Center for Education Statistics (NCES) most recent data charts (2001) indicate 584,153 Indian children attend the nation's public schools, while only about 49,000 attend BIA schools.

The 460,285 children served under NCLB Title VII Formula Grants to school districts (OIE data, 2001), generate minimal funds, at an average of \$226 per pupil per year. These meager amounts of money cannot come close to guaranteeing equal access to quality educational services for the vast majority of Indian students attending State-run public schools across the nation.

In order to develop a comprehensive approach to improve the educational level of Indian people, federal policy must be developed and implemented in collaboration with Tribes and Indian educators. State public education systems and local public schools must be made accountable to put policies and programs into practice that uphold the rights of American Indian students to reap the benefits of education reform as promised in NCLB.

NIEA has serious concerns about several obstacles this Act presents to Indian communities, particularly to those who live in remote, isolated and economically disadvantaged environments. Key factors that inhibit the successful implementation of NCLB in Indian communities include:

Financial Resources. Schools serving Indian students receive inadequate levels of funding through Title VII to allow for the development of culturally oriented academic programs. President Bush's proposed FY 2005 Budget for the Department of Education, while providing for an overall increase of 3%, provides no increases for the Title VII programs serving American Indian students.

According to a September 2003 GAO report on BIA schools, the BIA student population "is characterized by factors that are generally associated with higher costs in education. Almost all students live in poverty, and more than half are limited in English proficiency. A substantial number have disabilities." (GAO Report: GAO-03-955, p. 5). Similar factors would increase costs to non-BIA schools with large Indian populations.

Time Frames for Results. The time frames for results do not adequately account for the investment in time and resources required to develop effective culturally based education approaches or to develop curricula that reflect the cultural and linguistic heritage of the community. In Indian Country, there is no "one size fits all" when it comes to culturally based curricula. Each Indian community has to develop its own curriculum because each Indian community has its own language, culture and history. Obviously, developing sound curricula is going to be a lengthy and costly process.

Testing Validity and Reliability. School-based testing requirements fail to recognize the implication of the high student mobility and drop-out rates that are characteristic of Indian communities. Therefore, year-to-year measures and comparisons of the effectiveness of school-based improvements are meaningless. Also, tests measuring academic performance and achievement are generally culturally inappropriate for Indian students. As a result, cultural and Indian language programs are often subsumed as schools shift the curriculum to meet the stringent academic standards measured by these tests.

Definition of "Highly Qualified." According to NCLB, the definition of a highly qualified teacher refers to subject matter competence as defined by certification and college majors. The statute does not add to this definition the concept of capacity and knowledge of local traditions, beliefs and values in order to be an effective teacher of Indian students or the fact that remote and isolated communities have limited access to highly qualified teachers as defined.

Available Knowledge of "What Works." Knowledge of "what works" for Indian education programs may exist but often are not locally available. High quality information that is both available and accessible is needed in order to develop effective strategies to improve school programs.

Available Strategic Partnership. Accomplishment of the broad based goals of the statute requires strategic partnerships. The availability of these partnerships in small, rural and isolated communities is limited and often very difficult to coordinate

Accountability. Many schools that serve Indian populations simply do not have the resources to meet the NCLB standards. Alternatives are not readily available and accountability must be

guided by practicality and a real focus on supporting disadvantaged school systems in their efforts to improve educational outcomes.

Other Issues. NCLB also provides confused guidance on adequate yearly progress mandates, inadequate assessment examples for limited English proficient students, weakened protections to prevent high dropout rates to occur, a lack of focus on parental involvement, a lack of recognition of paraprofessional's qualifications, and a basic denial of civil rights protections for children.

The recent waivers and extensions of time frames for results granted by Secretary of Education, Rod Paige, are also needed in Indian County, as they relate to teacher qualifications and regulations mandating the testing of special education students and those who speak limited English.

### **Executive Order on American Indian and Alaska Native Education**

On April 30, 2004, President Bush signed the Executive Order on American Indian and Alaska Native Education (E.O. 13336) whose purpose is to assist American Indian and Alaska Native students to meet the challenging academic standards of the No Child Left Behind Act *in a manner consistent with tribal traditions, languages and cultures*. NIEA worked closely with the U.S. Department of Education and The White House in the drafting of the Executive Order.

NIEA has high expectations that the EO will lead to specific proposals to enhance Indian education under the NCLB. It will take extensive consultation with Indian Country and sufficient Federal funding to fulfill the promise of this Executive Order and of the NCLB. Through this EO, Congress and the Administration have recognized that a culturally based education approach is, for Natives, not only an educational strategy for improved achievement but also a fundamental "civil right" for Indian people. Indian communities have a fundamental right to support and retain their languages and culture.

The EO firmly establishes several major principals with regard to Indian education, including:

- recognition of the legal relationship between the United States and American Indian tribes, as well as a special relationship with Alaska Native entities;
- the commitment of the Federal government to work with tribes on a government-to-government basis;
- evidence of the Administration's support for tribal sovereignty and tribal self-determination;
- parameters to assist American Indian and Alaska Native students to meet the challenging academic standards of the No Child Left Behind Act *in a manner consistent with tribal traditions, languages and cultures*.

This is an important step towards refining the No Child Left Behind Act so that it works for Indian students in a manner that supports Indian culture.

### **Budget Issues**

FY 2005 Education Budget Request. The FY 2005 Budget Request proposes a 3% increase for the Department of Education. However, Indian Education program funding levels would remain the same as for FY 2004 (and remain down from the FY 2003 level); the Education for Native Hawaiians program would remain the same as for FY 2004, as would the Alaskan Indian Education Equity Funding. It is difficult to understand why these programs were not given an equitable funding increase.

The FY 2005 Budget Request for Impact Aid, which provides financial support to school districts affected by Federal lands, is also proposed to be held flat. Because of the trust status of most Indian lands, this program is extremely important for public schools located on or near Indian lands.

Also, the President's FY 2005 Budget Request includes a \$1 billion increase (8 %) for low-income school grants which are provided through Title I of the NCLB. This increase falls more than \$7 billion short of the NCLB authorized level. The President's budget would also provide a \$1 billion increase (10 %) for special education grants which are authorized through the Individuals with Disabilities Education Act which still is less than half the full funding authorization level when the IDEA was first adopted in 1975. These inadequate increases also eliminates 38 education programs that provide vital services to Indian children, such as dropout prevention, gifted and talented education, school counseling, and after-school programs.

While increases in Title I funding are relatively large overall; if a relatively small portion of that increase were placed in the Title VII Indian Education Funding, the impact would be vast. Data does not show how Title I increases have benefited Indian students. NIEA recommends that some portion of Title I funds be shifted to Title VII Indian Education programs, or that a concerted measure be put into place that guarantees Title I funds truly reach Indian students.

FY 2005 Department of the Interior Budget Request. The overall Interior budget is proposed to be cut by 0.5%, which includes \$66 million cut for Indian school construction funding. The Senate needs to resolve this oversight and restore the education funds proposed to be cut put back into the Interior budget.

Based on the BIA's budget book, education programs are targeted for reductions of nearly \$79 million, which includes:

- Scholarships reduced by \$547,000;
- Early Childhood Development reduced by \$33,000, which includes the highly regarded Family and Child Education (FACE) program and a cut to the Therapeutic Residential Model (TRM) program to help at-risk Indian students.
- Student Transportation reduced by \$58,000;
- Administrative Cost Grants/Administrative Cost Grants Fund reduced by \$3.2 million;
- School Statistics reduced by \$2,000, although the No Child Left Behind Act calls for maintenance of performance-related data;
- Tribal Colleges and Universities are proposed to be cut by \$5.2 million, with the United Tribes Technical College in North Dakota and Crownpoint Institute of Technology in New Mexico slated for elimination; and

- Replacement school construction and for facilities improvement and repair is proposed to be reduced by \$69 million cut or \$65 million, when reduced by related offsets.

The House Appropriations Committee recently requested funds be restored and includes \$645 million for BIA education, a \$4 million increase over current funding levels. The Committee also recommended restoration of funding for BIA school construction, the United Tribes Technical College and the Crownpoint Institute.

### **Conclusion**

Although our concerns reflect a negative tone, NIEA is encouraged by the atmosphere of the Congress to move forward with real efforts to address the needs of our children. The priority for them to have a successful future rests on our shoulders and they should not have to sacrifice while we deliberate their basic educational needs.

NIEA respectfully urges this Committee to make Indian education a priority, working to find ways to ensure true progress for Indian students. We encourage this committee to hold field hearings and listening sessions throughout Indian Country to hear the Indian voice. It is eloquent and compelling, and without exception calls for a greater investment in our children.