



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

**United States Senate
Committee on Indian Affairs**

**Oversight Hearing on "Indian Country Priorities for
the 114th Congress"**

Wednesday, January 28, 2015

Chairman Barrasso, Vice Chairman Tester, and members of the Committee, thank you for inviting the National Indian Education Association (NIEA) to testify today. I am Melvin Monette, President 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 "Indian Country Priorities for the 114th Congress." I would also like to thank the Committee for hearing the collective call of tribes and Native communities regarding the need to highlight the priorities and needs of our communities. The commitment of this Committee is critical as we work together to ensure equitable educational opportunities are provided to Native students.

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.

The State of Native Education

Put simply, Native students are leaving high school unprepared for college and careers. Among numerous issues, these trends are often due to disproportionately high incarceration and criminal recidivism rates. In 2011, greater percentages of Native students and youth – nearly three to one – were incarcerated when compared to their non-Native peers. Consequently, in the last decade only 52% of Native students enrolled in higher education programs immediately after high school graduation with fewer than 40% of those students graduating with a bachelor's degree in six years.ⁱ In contrast, nearly 62% of White students graduated within six years.

For Native students to succeed in school and become our next generation of leaders, Native communities need the federal government to provide resources and support systems to guarantee tribally-led initiatives create safe environments and opportunities that decrease juvenile delinquency among Native youth.ⁱⁱ Education is critical to breaking the cycle of violence and criminal activity many Native students currently face. Unfortunately, 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. Although tribes work to divert precious funds to cover shortfalls, there are simply insufficient resources for decreasing crime and increasing student achievement. Until reinvestment takes place, reoccurrences of crime, violence, and low student achievement will remain commonplace.

The Federal Trust Responsibility

Since its inception, NIEA's work has centered on reversing the negative statistics characterizing Native students. Established through treaties, federal law, and U.S. Supreme Court decisions, the federal-tribal trust 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. Under the federal government's trust corpus in the field of Native education, it is important to state that the obligation is a shared trust among the Administration and Congress for federally-recognized tribes.

Native education is one of the most effective and efficient investments the federal government can make because data suggests that initial investments in education create future success, which results in fewer incarcerations, instances of traumatic violence, and repeat criminal offenses later in life. Likewise, reinvesting in the services and programs tribes and Native communities utilize to combat juvenile delinquency and criminal recidivism will support the education systems necessary for creating student preparation for college and careers.

As such, NIEA applauds this Committee's commitment toward upholding the trust relationship and our communities and tribes. NIEA priorities for the Committee broadly fall under three categories: Elementary and Secondary Education Act (ESEA), Bureau of Indian Education (BIE) reform oversight, increasing holistic Native youth support systems such as juvenile justice resources, as well as general priority provisions. Implementing the following recommendations would ensure the federal government upholds this trust relationship by reinvesting critical resources that decrease violence and improve the education systems serving Native students.

I. ESEA Reauthorization Recommendations

The ESEA reauthorization is a key opportunity for the federal government to uphold its' trust responsibility and fairly provide Native students education services based on principles of accountability, equity, and excellence. The ESEA is in pressing need of updating and we request that the United States honor its' commitment to tribes and Native education by strengthening tribal self-determination and fairly providing Native students comprehensive educational opportunities by incorporating NIEA's ESEA priorities within any reauthorization.

During the State of the Union Address, President Obama rightfully celebrated the nation's all-time high graduation rates among high school students. Unfortunately, the stressed graduation rates and academic successes are not representative of many Native communities. NCLB has done little to address the longstanding challenges affecting Native students. Over the past decade, Native students continue to trail their peers in reading and mathematics (grades four and eight). Nationwide, our students face some of the lowest high school graduation rates with even fewer students graduating from college. Native education is in a state of emergency and tribes have long awaited the opportunity to partner with Congress to take bold action that will significantly improve the education systems serving Native communities.

Tribes and Native communities have an enormous stake in their children's education. While the ESEA reauthorization must provide effective accountability to protect the civil rights of all Americans, the ESEA reauthorization must also be a commitment to the sovereignty of this country's First Americans. As such, the ESEA draft should be revised to support tribal nations as they develop their ability to deliver education services as well as coordinate with local and state educational agencies. Only by including the following priorities will an ESEA reauthorization

ensure effective and efficient use of funds and delivery of resources to Native communities as well as increase Native student achievement.

Priorities Implementation

- **Strengthen Native Participation in Education:** Tribes should have the authority to build their capacity to administer education title programs. Native leaders understand their children best and can better address their students' unique cultural and academic needs.
- **Encourage Tribal/State Partnerships:** While the federal government has a trust responsibility to work with tribes, tribal concerns are often excluded at the state and local level. The ESEA reauthorization should require local and state educational agencies to closely work and meaningfully consult with tribes when developing applications and plans for ESEA title programs.
- **Preserve and Revitalize Native Languages:** The continued existence of Native languages is crucial to protecting and strengthening Native culture and tribal communities as well as increasing the academic achievement of Native students. Any ESEA reauthorization should provide resources for eligible schools to participate in a program to develop and maintain Native language immersion education models.
- **Increase Access to Native Student Records:** Native students often transfer between federal, state, and tribal school districts, which creates information gaps as systems are not required to track and coordinate student data. The ESEA reauthorization should provide the ability for schools and state and local educational agencies to share Native student data with their local tribes. Providing such information will create longitudinal student statistics that will help schools and Native partners alleviate issues that decrease Native student achievement.

II. BIE Reform: Oversight and Accountability to Strengthen Tribal Self-Determination

While Native education stakeholders and tribes have numerous priorities geared toward improving their education systems, NIEA would be remiss if testimony excluded the important influence of BIE reform and its' reorganization. Since the late 20th Century, the federal government has worked to strengthen tribal capacity to directly serve their own citizens. In this spirit, Congress must ensure federal programs support local reforms necessary to increase self-determination.

Congress should work with the Administration to ensure proper oversights and accountability measures are in place for the BIE reform process. As the reorganization enters its second year, more information must be disseminated to tribes on the status of the reform. NIEA appreciates the BIE webinars and outreach held in coordination with our organization. However, tribes continue to request written information for what reform means for their local communities as well as guidance for the overall authority claimed by the BIE to make such reforms without congressional action.

The current proposal for BIE reform, while well intentioned, was not a direct result of tribal consultation, so we must ensure proper oversights and accountability measures are in place to monitor the Bureau's reorganization and its' federal programs utilized by tribes. The Committee should form a congressional investigation into the BIE restructuring and Blueprint for Reform to ascertain if the Secretarial Order creates a statutory conflict and to document Department of the Interior proposed offsets to pay for the restructuring. To carry out such measures, the Committee

should also convene oversight hearings with appropriate congressional committees to ensure oversights and accountability measures are in place for the reform process and that accurate information is provided to tribes and their education systems.

Priorities Implementation

- Congress should ensure federal programs support local reforms necessary to increase self-determination.
- Congress should work with the Administration to ensure proper oversights and accountability measures are in place for the BIE reform process as well as call on the Secretary of the Interior to disseminate detailed guidance to tribal communities for the local reform implementation process and what BIE reorganization means for local Native communities and Native students, families, and educators.
- The Committee should immediately call for and convene a tribal leaders' oversight committee to report to Congress on the current status of the reform in order to provide needed oversight and accountability.

III. Decrease Juvenile Delinquency in Native Communities

1.) Meaningful Cooperation: U.S. Department of Health and Human Services (HHS) statistics reveal that American Indian children face higher rates of child abuse and neglect, juvenile delinquency, suicide, substance abuse, and lower rates of academic achievement.ⁱⁱⁱ For example, the Youth Risk Behavior Survey illustrates that 16 percent of students at BIE schools in 2001 reported having attempted suicide, which is the second largest cause of death among Native youth – twice as many as the national average. As Native children face higher rates of violence at home, such unsafe environments often translate into issues in the classroom resulting in lower achievement rates.

NIEA was excited by the creation of the Attorney General's Advisory Committee within the Department of Justice (DOJ) as well as the work of the DOJ Task Force to hold open meetings and develop a 2014 Report on American Indian/Alaska Native Children Exposed to Violence. However, we were disappointed by the absence of classroom teachers and school administrators among Task Force experts, as they are on the front lines of school violence and understand Native students' needs. Educators are often the first to witness and handle occurrences of violence and this gap in expertise is discouraging. It is critical that the role of education is not underestimated in its ability to combat the many issues causing community violence and juvenile delinquency both in-school and after school.

Much work lies ahead. NIEA requests that Congress work with the Administration to take concrete steps to support the reforms required for increasing the capacity of tribes to govern education systems and address issues facing Native students. To achieve this, the federal agencies should help tribes increase their ability to administer education services in Native-serving schools and increase federal partnership opportunities with tribes and local leaders to support the tribal role to create community awareness that bolsters tribal collaboration and familial engagement that prevents violence and delinquency.

Priorities Implementation

- Engage Native education stakeholders, tribes, and local juvenile delinquency partners to create best practices and locally-led support services geared toward

providing Native students' safe learning and after-school environments conducive for student success.

2.) Agency Cooperation: Because the BIE is located in many Native communities beset by violence and juvenile delinquency, cross-departmental support is crucial as tribes increase their capacity to administer education, mental health, and violence prevention services that keep students in school, deter criminal activity, and decrease violence. Although the BIE only serves seven percent of Native students, the BIE is uniquely situated to become a fundamental component to fighting community violence. BIE schools are centrally located in many Native communities, which provide the BIE the opportunity to become a catalyst for working as a capacity builder and creating community awareness.

DOJ should join the BIE and other agencies in providing resources to tribes for accelerating local reforms and aligning violence-reduction services with tribal education priorities based on local needs. Federal agencies must work locally in order to catalyze reform efforts and create high-performing schools, federal agencies would also provide on-going technical assistance to help tribes become the education leaders in their communities. These efforts would include coordinating a local network of services – whether they are led by the Department of the Interior (DOI) or DOJ – to provide complimentary supports to increase academic achievement while also addressing issues, such as substance abuse or other violence or psychologically-related issues.

Priorities Implementation

- Federal agencies, such as the Department of Justice, should ensure local cross-departmental support assists tribes as they increasingly administer education, mental health, and violence prevention services that keep students in school, deter criminal activity, and decrease violence.
- Ensure the BIE becomes an entity that works directly and meaningfully with tribes to provide Native-serving schools culturally sensitive juvenile programs.

3.) Decrease Recidivism Rates Among Native Children through Policy and Appropriations Reform: The federal government should work with tribes to decrease the rates of violence and juvenile delinquency among Native children as well as instances of recidivism. Native students and young adults should be eligible to receive critical funding for education programs, even if they have been incarcerated. These populations are among America's most vulnerable and should have the resources necessary to provide them opportunity to overcome past transgressions and achieve an education to become a strong citizen. Unfortunately, under the No Child Left Behind Act of 2001 (NCLB) – the current iteration of the ESEA – entities operating as detention facilities under Justice and Delinquency Prevention programs are ineligible for ESEA Title funds because such facilities are not interpreted as eligible local education agencies.

ESEA statute prohibits such institutions from providing critical education resources to Native students. As such, NIEA recommends that Congress works to reform current law to provide all Native students education resources that set them on the path to success no matter where they are located. While Native youth comprise of only 1.1 percent of the national youth population, they account for 3 percent of offenders.^{iv} For some offenses, Native youth are arrested twice or three times as often. Therefore, providing education resources makes sense as more federal resources are often expended on recidivism and repeat offenders than would be otherwise provided for initial educational resources and tools to those serving in detention facilities. Creating

opportunities and a means for self-betterment makes more sense than supporting Native children repeatedly returning to a life of crime and violence.

Priorities Implementation

- Reform the ESEA to ensure entities operating as detention facilities under Justice and Delinquency Prevention programs are eligible for ESEA Title funds as local education agencies.
- Reinstate \$620,000 for juvenile detention education in BIA-funded facilities and increase the funding line to provide critical educational services to detained and incarcerated youth at 24 BIA-funded juvenile detention facilities.

4.) Disseminate Best Practices: While the ability to analyze and discuss issues facing Native youth in hearings, such as these is critical for developing plans to address violence and delinquency, action must be taken locally in our communities to gather input from and provide supports for those personally connecting with our children. Educators, tribal education and child welfare service directors, as well as parents and family members, must be engaged to increase collaboration, so they may detail local initiatives that meet their community's needs. Services from DOJ, such as technical assistance on juvenile delinquency and substance abuse, should be present to ensure complimentary support as tribes develop community-driven engagement models, such as town halls and professional development sessions, which create action in Native-serving schools for minimizing violence.

As tribes increase their governance in education, they can assist by accelerating relationship building by making the school the central nexus for engaging parents in a culturally-responsive methodology that creates community buy-in. Tribes must be engaged with their local educators and schools in order for Native-serving institutions to understand how to work with parents and build community relationships. DOJ and the BIE can support these efforts by setting up models for tribal collaboration among the schools and justice programs. NIEA has created similar community pilot programs that increased the ability of tribes to engage local teachers in curriculum development.

In the Jemez Pueblo located in New Mexico, tribal leaders hold monthly collaborative meetings with public, charter, and BIE school administrators and teachers in order to ensure they are meeting local needs by coordinating calendars, placing elders in the classroom to help with cultural learning, and implementing community-wide professional development training. Such trainings ensure the exchange of best practices as well as create support systems for addressing the needs of their Native children. This collaborative model can and should be used across a variety of Native communities in order to disseminate best practices among peers in battling crime and violence. Regardless of whether it is curriculum development or reducing violence in the community, local cooperation is critical for creating the family and tribal engagement needed to reduce local violence.

The opportunity for educators, families, and tribal leaders to change a child's life is extensive, but their support must be continually present. By tribes developing their capacity to increasingly work with their schools and families in order to provide services and collaborative engagement, families will stay informed and feel appropriately comfortable participating in their child's life. When a parent understands and trusts the system teaching or helping their child with an issue, the parent will support those institutions. The federal government should not work in a vacuum but

cooperate with local schools and tribes to develop the trust necessary to effectively combat community violence. It must be a coordinated effort centered on the tribe and its community ties.

Priorities Implementation

- Support federal engagement of local educators, tribal education and child welfare service directors, as well as parents and family members to increase collaboration for detailing local initiatives necessary for meeting community's needs.
- Reinforce successful tribal and state initiatives that are driving innovation for tribal-state collaboration, such as Jemez Pueblo collaborative meetings and New Mexico's tribal notification law that ensures that when youth from Native communities are arrested, the tribe is notified to ensure local culturally-respectful treatment and supports are provided.

IV. General Priorities

1.) Additional ESEA Recommendation: In addition to the priorities included above, NIEA also requests that the complete recommendations and draft language for reforming the Elementary and Secondary Education Act are included into the record.

2.) Budget Recommendation: NIEA also requests that our annual budget document funding requests are also entered into the record. Funding for many Native-serving programs is consistently underfunded. Only by appropriating the requested levels would the federal government begin to address the years of underfunding and uphold the federal trust responsibility.

3.) Carciari Recommendation: It has now been six years since the devastating Supreme Court decision in *Carciari v. Salazar*, which held that only tribes "under federal jurisdiction" in 1934 are eligible for the Indian Reorganization Act's land into trust provisions. This ruling jeopardizes the ability for all federally recognized tribes to rebuild their communities and provide critical programs, as tribal land bases are the very foundation of tribal sovereignty and economies. The legal ambiguities resulting from *Carciari* have further delayed the already severely backlogged land-into-trust process, and have resulted in other harmful case law challenging and destabilizing land that has been held in trust for decades. As such, we continue to seek legislative relief that would return tribes to a status quo of 75 years of prior practice – restoring the Secretary of the Interior's authority to take land into trust and reaffirming existing trust lands. NIEA, in coordination with our tribal partners, urges this Committee to end the chaos that has resulted from this erroneous decision and pass a clean *Carciari* fix.

Conclusion

NIEA appreciates the continued support of this Committee and we look forward to working closely with its members. 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 federal programs provide tribes and Native-serving schools the tools necessary to improve and assist Native communities in providing services to our citizens as well as decrease instances of juvenile delinquency and violence. This effort cannot be a top-down approach, but a measure created through grassroots support at the tribal level but supported through federal programs and funding.

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. Only by working with all stakeholders in all

education systems will we increase our students' preparedness for success and decrease the issues that lead to high dropout rates and increased juvenile delinquency in Native communities. Once again, thank you for this opportunity and if you have any questions, please contact Ahniwake Rose, NIEA Executive Director, at arose@niea.org.

ⁱ U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 2005, 2007, and 2009 National Indian Education Studies.

ⁱⁱ US Census Bureau, American Community Survey 2005-2009 estimates.

ⁱⁱⁱ Attorney General's Advisory Committee within the Department of Justice. 2014 Report on American Indian/Alaska Native Children Exposed to Violence. November 2014.

^{iv} Justice Policy Institute, Calculating the Full Price Tag for Youth Incarceration. December 2014