

**Statement of the  
NATIONAL INDIAN EDUCATION ASSOCIATION  
Before the  
SENATE INDIAN AFFAIRS COMMITTEE  
on the  
REAUTHORIZATION OF  
THE ELEMENTARY AND SECONDARY EDUCATION ACT**

**Submitted on behalf of  
Dr. Gloria Sly (*Cherokee*)  
President**

**by  
John W. Cheek (*Muscogee Creek*)  
Executive Director**

**October 27, 1999**

**M**r. Chairman and Members of the Committee:

The National Indian Education Association (NIEA), would like to thank the Committee on Indian Affairs Chairman, Ben Nighthorse Campbell, ranking member Daniel K. Inouye, and the members of the committee for providing the opportunity to present comment on the reauthorization of the Elementary and Secondary Education Act (ESEA). NIEA is the largest and oldest national non-profit organization representing the education concerns of over 3,000 American Indian and Alaska Native educators, tribal leaders, school administrators, teachers, parents, and students. This year NIEA celebrates its 30<sup>th</sup> anniversary as a national advocate on behalf of Indian people. NIEA has an elected board of 12 members who represent various Indian education programs and tribal constituencies from throughout the nation. On October 20, the NIEA Board of Directors installed their new President for the 1999-2000 year. Dr. Gloria Sly (*Cherokee*), replaces Dr. Sherry R. Allison (*Navajo*) as president. Due to scheduling conflicts, however, Dr. Sly is unable to attend today's hearing on behalf of NIEA.

The National Indian Education Association convened its national conference October 17-20 in Oklahoma City, Oklahoma. The nearly 4,000 participants attending this year's event approved several resolutions supporting increased funding for certain Indian education programs, support for tribal sovereignty curriculum, and support for federal native language education funding and policy. In relation to the reauthorization of ESEA, the NIEA membership approved a resolution opposing efforts by the U.S. Department of Education, and others, to repeal authorizations establishing federal Indian education programs including any type of block granting provisions. This resolution is key in that it supports NIEA's position in maintaining the integrity of the Indian

Education Act, as provided in the current version of Title IX of the Improving America's Schools Act (IASA).

Another major development at this year's convention was the adoption of Native Hawaiians as General Voting Members of NIEA. The adoption of this amendment to NIEA's constitution is one of the first, if not the first, that allows Native Hawaiians to be included among the voting membership equal with American Indians and Alaska Natives. Since 1993, Native Hawaiians have been seeking official recognition within NIEA as an aboriginal peoples with full voting privileges. We are pleased to see their inclusion as equal members of our association and look forward to working with them on issues of mutual and national concern.

Our comments today provide insight into how Indian educators, nationally, perceive the various proposals for the reauthorization of ESEA. During this session of Congress, NIEA has presented reauthorization testimony before the House Education and the Workforce Committee and the Senate Health, Education, Labor and Pensions subcommittee. NIEA's approach to this year's ESEA reauthorization is to advocate keeping intact all provisions related to the education of Indian people. The administration's proposal, as well as the House and Senate versions, eliminate certain authorizations under Title IX of IASA. We feel this is a step backward in light of the Indian Education Executive Order that was signed last summer by President Clinton. While the order promises to decrease the dropout rate and increase academic achievement of Indians, it sends the wrong message when programs that can accomplish these goals are eliminated. Below we provide a perspective on the demographics of Indian people and their education.

### **American Indians and Alaska Natives Today**

Today there are over two million American Indians and Alaska Natives living in the United States. The population of Indians increased substantially between 1980 and 1990 from 1.4 million to 2 million, representing a 43 percent increase. The 2000 Census will likely show a marked increase with some early estimates showing the population growing to over 3 million. We are a young population compared with the public at large. According to the 1990 Census, 40 percent of the Indian population is under the age of 20 compared to 28 percent nationally. There are 557 federally recognized tribes in 23 states and dozens of non-federally and state-recognized tribes throughout the country as well.

There are approximately 600,000 Indian students attending the nations public, private, and Bureau of Indian Affairs (BIA)/tribal schools. The primary provider of Indian education services to public school Indian students, however, is the Department of Education's Office of Indian Education (OIE) formula program. This program has been in existence since 1972 and provides supplemental services focusing on the unique educational needs of Indian children. By and large, these programs have operated independently over the years and owe much of their success to the inclusion of parents in local planning decisions. In the current schools year (FY1999) there are 415,297 public school Indian students and 45,485 BIA students receiving services through this program for a total of 461,000. The number of grants awarded in 1999 includes: 1,120 to public schools; 84 to BIA-grant/contract schools; and 70 to BIA-operated schools for a total of 1,274 awards. Since 1989, the number of students being served through OIE programs increased by over 23 percent (88,000 students). Funding over the same period, however, increased by only 18

percent to \$62 million in 1999. Bureau of Indian Affairs schools have been eligible to apply for funding through the Indian Education formula program since the 1988 reauthorization of ESEA.

As has been the case with OIE's student count, so too have BIA schools seen enrollment increases over the past ten years. The 1989 enrollment was 39,000 compared to 51,378 students in 1999. Today, BIA students attend 185 federally-operated or contracted schools located in 23 states. The general trend in BIA education shows tribes beginning to assume more control over local education programs. This trend is likely to continue as tribes become more sophisticated in their abilities to manage their own affairs including administration of education programs.

Between 1980 and 1990, the high school completion rate for American Indians 25 years or older living on reservations increased by 11 percent from 43 percent to 54 percent. The graduation rate for all American Indians in 1990 was 66 percent (10 percent over 1980), but still below the national average of 75 percent. The 1990 Census identified only 9 percent of American Indians and Alaska Natives over the age of 25 with a bachelor's or higher degree compared with 20 percent nationally.

### **The Indian Education Act of 1972**

In the 1930's state schools became involved with Indian education on a compensatory basis under federal legislation called the Johnson O'Malley Act. However, Indian people were not given the opportunity to participate in either the operation or the direction of their own education. It was not until the 1960's that Indian people had their educational needs brought to national attention. In 1968, the Congress created a Subcommittee on Indian Education, Chaired by Robert F. Kennedy Jr., which held hearings throughout the country during 1968 and 1969. The report documented the deplorable health, safety and economic conditions facing Indian people in their communities and the lack of effective education models for Indian students. Dropout rates of 100 percent were not uncommon in many reservation areas around the country. The hearings resulted in major federal legislation, which afforded Indian people a first real opportunity to participate in the policies and programs that affect their educational needs. This new legislation was signed into law in 1972 and called the Indian Education Act of 1972 (Public Law 92-318). The Act provided supplementary funds for new and innovative programs for Indian students. The initial appropriation under this Act was \$18 million.

The enactment of the Department of Education on October 17, 1979, changed the organizational placement and status of Indian Education Programs authorized by Public Law 92-318, Title IV, the Indian Education Act of 1972. Prior to the establishment of the Department, all Title IV Indian Education Programs were located in a distinct and separate organizational entity within the Office of Indian Education (OIE) at the Department of Health, Education and Welfare (HEW). The top Indian administrator of OIE, Dr. William Demmert, was the first Deputy Commissioner to be appointed on January 30, 1975. During the initial phase of the Act, the Deputy Commissioner reported directly to the Commissioner of Education. Although all Title IV Indian Education Programs remained intact after establishment of the United States Department of Education, the Secretary of Education authorized a change in the organizational placement of Indian Education Programs to their present location with the Office of Elementary and Secondary Education (OESE). The status and identity of Title IV programs were then changed from a separate Office of Indian Education to Indian Education Programs and the title of the top Indian administrator was

changed from the “Deputy Commissioner for Indian Education” to “Deputy Assistant Secretary for Indian Education”. This position formally changed in 1981 to “Director of Indian Education Programs” who now reports to the Assistant Secretary for OESE, rather than the Secretary of Education. This reflects a significant change in status.

To date, no other single piece of legislation has permitted such a far-reaching impact on educational achievement for American Indian and Alaska Native people than the Indian Education Act of 1972.

Without these programs there would be little educational emphasis linking the unique culture of Indian people with public education. Even with the focus of Indian Education programs over the past twenty seven years, there still remains an educational gap that shows Indian students achieving at a rate lower than all other ethnic groups. A large part of this can be traced to the historical relationship Indian nations have had with the federal government over the past few centuries. Most Indian educators agree, however, that were it not for the programs offered through the Office of Indian Education, Indian students would be achieving at levels even lower than they are today.

### **1999 Reauthorization of ESEA and Implications for Indian People**

The Administration’s proposal for the reauthorization of the Elementary and Secondary Education Act makes several changes to Indian education programs. First, it eliminates all unfunded authorizations within the Act. NIEA strongly opposes this. The programs designated to be eliminated include: Indian Fellowships; Gifted and Talented Programs; Grants to Tribes for Education Administration, Planning and Development; Adult Education and programs for Native Hawaiians. Indian Fellowships and Adult Education programs were last funded in 1995 and 1996. The remaining programs have never been funded since being authorized in the 1994 reauthorization of ESEA. Below we address the major impact of OIE programs and the impact the proposed legislation will have if passed in its present form.

### Tribal Education Departments

The Tribal Departments of Education authority has been in existence for four years and has never been recommended for funding within the Department of Education budget hierarchy. Since its initial authorization, NIEA has advocated annually for at least \$3 million to assist tribes in developing education department infrastructures. As tribes move toward more local control over education programs, they will need the ability to manage and design programs in accordance with tribal codes and state/national assessment criteria. The Bureau of Indian Affairs has a similar authority and with the exception of one \$100,000 grant to the Mississippi Choctaw Indian Nation several years ago, has never been funded. Although no funding is provided in the President's FY2000 BIA education budget, NIEA has recommended \$3 million for tribal departments of education. We believe that sufficient funding should be provided to assist tribes in planning and developing their own centralized tribal administrative entities in order to accomplish their goals of school reform and accreditation. Whether this is accomplished through the Department of Education or Interior is irrelevant given the fact that both agencies would need to be involved to ensure accountability. This would be appropriate given the recent trend to convert more schools from BIA to Tribal control. Funding for tribal education departments has been endorsed by NIEA’s membership as well as by the National Congress of American Indians (NCAI) which represents over 250 tribes.

### Adult Education Program

The Adult Education program was funded for many years and clearly addressed a major need in the Indian community. The adult education program was a success because it went to where the Indian adults were, in their communities. The reason many Indian adults did not finish high school was because of the difficulty in trying to cope in a non-Indian environment. Adult education programs assisted on average anywhere from 5,000 and 11,000 participants annually. After the Department of Education declined to request funding for the Adult Education Program, appropriators simultaneously cut BIA's adult education budget in half to \$2.5 million which is its current appropriation request for 2000. Prior to 1996, the Indian adult education effort of the federal government exceeded \$10 million.

NIEA has consistently advocated for this program and has identified adult education as one of the major priorities for Indian people in 1999. When funding for the program was eliminated in 1995, Members of Congress looked at the idea of creating a similar program under the Adult Education Act which was then undergoing its own reauthorization. The proposal was dropped when the Office of Vocational Education (OVAE) data indicated that American Indians seemed to be served well under State adult education programs. NIEA has always been concerned with the data collection efforts of the Department and the way it collect data on the number of Indian participants.. The practice of self-identification typically does not include any type of documentation to verify that an individual is, in fact, a member of a certain tribe. As a result, we feel the numbers acquired through most Department of Education studies are greatly inflated.

### Gifted and Talented

The Gifted and Talented authority has been in effect since 1988 and federal officials have been reluctant to fund an outright Indian-specific program. The authority, to our understanding, was seen as overly prescriptive and would have required the Secretary to fund two gifted and talented centers at tribal colleges, plus several demonstration grants, including other projects with BIA schools. A 1991 Longitudinal study on eighth grade students reported that the average participation in programs specially designated for gifted and talented students is about 8.8 percent. In comparison, the American Indian and Alaska Native participation rate is only 2.1 percent. NIEA supports gifted and talented programs for Indian students as a means of increasing the representation of American Indians into increasingly technical professions such as medicine, engineering, computer technology and math and science fields. From recent data surveys, the representation of Indian participants in these areas is extremely low.

### Indian Fellowships

The Department and the Administration proposed the repeal of the fellowships authority in 1993-94, arguing that the program didn't create any real incentive for Institutions of Higher Education (IHEs) to make an effort to educate Indian students. It was assumed that a better approach was to pursue IHE-based programs rather than a costly grants-to-individuals program. An Inspector General's report in August 1993, detailed the problems of administering the fellowship program to individuals rather than to institutions of higher education. Lack of permanent leadership in OIE, and insufficient staff resources led to the program being abandoned by the Department in favor of other approaches to assisting postsecondary Indian students.

As a former staffer with the National Advisory Council on Indian Education (NCAIE), which once had the authority to review Indian fellowship applications prior to funding, there was a consistent gap in meeting the postsecondary needs of Indian students. Those applications slated to be funded were always rated at 100 points or the maximum allowable. Even dozens of applications below the cut-off would be highly-scored as well, but could not be funded due to funding limitations. On average 600 to 800 applications would be received in any given grant cycle and of this only 150 applications on average could be funded. Between 1985 and 1994 the number of applications awarded dropped from 221 to 80 due to funding reductions. The last year of funding provided awards to 75 students. Between 1985 and 1996 a total of 1,900 students went through the Indian Fellowship program. The program was eventually phased out in 1996 after allowing those who had received prior year awards to complete their programs.

The benefits of providing scholarship assistance to Indian students, in our opinion, outweigh to perceived program management difficulties within the Department. While current initiatives focus on teacher training, which is also needed, there are no specific higher education programs which ensure that a finite number of Indian applicant's enter other fields of study. The Indian Health Service program allows for a little over 100 students to enter the health professions and BIA scholarships, as administered by tribes, assist less than 10,000 students with an average of \$3,000 in 1999. The Department of Education estimate for the number of Indians attending postsecondary institutions is over 130,000. The current estimate in the number of Indian students being served by specific Indian higher education programs is estimated at 35,000 which includes 25,000 tribal college students. How the remaining 105,000 Indian students are being supported in postsecondary institutions is a question NIEA would like to have answered.

#### Indian Technical Assistance Centers

The 1994 reauthorization of ESEA eliminated six Indian Technical Assistance Centers (ITACs) which provided programmatic-based assistance to formula grantees nationwide. With the advent of the new Comprehensive Regional Technical Assistance Centers in 1994, fewer and larger centers were thought to better provide for the technical assistance needs or programs in the field for all Department of Education K-12 programs. The concern at the time was that Indian grantees would receive fewer technical assistance opportunities without a center specifically identified for their needs. From a cursory review of recent Indian grantees, we found that indeed technical assistance among Indian grantees was lacking in sufficient quality and quantity.

The 1999 proposal for the reauthorization of ESEA plans to eliminate these centers as being ineffective in meeting the demands at the local education agency level. The focus will change by having local districts and states assume the technical assistance needs of their schools. NIEA has little data to support how well the current comprehensive centers have met the needs of Indian grantees, but our estimation is that they have been unable to serve all 1,200 grantees who make up the formula program under Title IX. The previous ITACS were regionally dispersed and better able to meet the needs of Indian projects by providing in-service workshops on a variety of topics associated with OIE programs. In relation to NIEA, they served a valuable purpose by conducting annual showcase events at our national convention, and awarded the programs which demonstrated best practices in their regions. These events showcased how well projects could be designed utilizing systemic reform and schoolwide approaches. The new reauthorization indicates that two categorical centers would be developed which would meet the needs of special

population groups. One of these would be targeted to the specific needs encountered by Indian programs. We do see a problem with this center being able to meet the needs of all 1,200 Indian education grantees that are located in 41 states. NIEA fully supports a return to technical assistance centers to assist local grantees in meeting their educational goals.

#### Indian Education Executive Order

In August of 1998, President Clinton signed Executive Order 13096 on Indian Education. It had as its centerpiece initiative six goals that federal agencies should meet. These include: 1) Improving reading and mathematics; 2) Increasing high school completion and postsecondary attendance rates; 3) Reducing the influence of long-standing factors that impede educational performance, such as poverty and substance abuse; 4) Creating strong, safe, and drug-free school environments; 5) Improving science education; and 6) Expanding the use of educational technology. These goals laid the groundwork for federal agencies to begin coordinating efforts and resources to begin addressing the education needs of all American Indians and Alaska Natives.

NIEA's overriding concern in light of the Administration ESEA proposal is to have answered how a plan that removes such key authorizations could even consider meeting the goals being espoused by the Executive Order. The language of the Order clearly commits the Administration to comprehensive actions to improve the education of American Indian people, but doesn't make any commitments with respect to individual programs. To reiterate, the authorizations being removed from ESEA include: 1) fellowships for Indian students, 2) gifted and talented education, 3) adult education, and 4) support for tribal departments of education. NIEA's recommendation is to leave these authorization intact and begin funding them accordingly. These programs provide the perfect vehicle for ensuring the goals of the executive order are reached. New proposals are often more difficult to get into law and in the case of Indian programs are often the easiest to remove since the constituent fallout is less due to a smaller voting population.

All of these provisions, in one form or another, could be used to implement the Executive Order. The adult education provision, which focuses primarily on adult literacy, could serve as "pipeline" for future teachers, especially in line with the proposed American Indian Teacher Corps which is in the Administration's budget request at \$10 million. The Indian Fellowship program, while very expensive, could serve as a gateway opportunity to under represented professions. The Gifted and Talented program would help identify effective practices that could be applied to all Indian students.

But the provision that may have the most compelling link to the Executive Order is the tribal departments authority which would provide funding for tribal governments to create and/or strengthen educational administrative structures within the tribal organization. By creating a more stable tribal structure, tribes could more readily collaborate with the SEAs and the LEAs as directed in the EO. By all accounts, the Department of Education has historically opposed this provision arguing that this should be the sole responsibility of the Bureau of Indian Affairs. NIEA believes both agencies need a hand in ensuring the success of Tribal Departments of Education. One for the role of tribal governance and one for the needs of the Indian learner. What better example could there be of federal agency coordination than that envisioned by Tribal Departments of Education? NIEA believes that it would provide a much needed boon to the Department's relationship with tribes and that it would reinforce the Administration's commitment to the executive order.

## **H.R.2, Student Results Act of 1999**

The House, following the lead of the Education and the Workforce Committee, has passed H.R.2, the Student Results Act of 1999. The bill, in its present, form would consolidate several authorizations into the existing Title I program within ESEA. Indian education would be included under this title. NIEA is vehemently opposed to the incorporation of Indian education into Title I. Moving Indian education into this title is a direct contradiction to the precept of sending federal dollars directly to the classroom. Title IX programs were unique in that the dollars appropriated were sent directly to the local education agency, bypassing state education agencies. By moving Title IX into Title I, the independent nature of Indian programs are assumed into a one-size-fits-all approach which the majority Congress says its opposed to. The elimination of several unfunded authorizations, including Indian fellowships, gifted and talented, adult education, tribal departments of education and the Native Hawaiian authorization also sends a signal that these minority-focused programs are ineffective in meeting the educational needs of Native people. While some of these authorizations have not been funded since 1995, the tribal departments of education authorization has never been funded, so its ineffectiveness can only be assumed. As previously mentioned, these programs, if funded adequately, would do much to alleviating the low academic achievement levels now being experienced by all Native people.

NIEA is perplexed by the irony set forth, as Congress moves to eliminate yet another authorization for Indian people. Self-determination and the trust responsibility of the federal government for education, as exemplified by these programs, has led to many accomplishments at the individual and tribal level. The elimination of these programs assumes that a better approach can cure the educational inadequacy of Native people and disregards any advancements made to date. For centuries, history has shown that when the federal government takes charge and tells Indian people what to do, the result is usually failure on a grand scale. We submit that the lack of educational programs of sufficient quality and quantity will lead to even more educational failure among Indian people as we move into the 21<sup>st</sup> century. We strongly urge Congress to reject elimination of current Indian education authorizations and to provide adequate funding thereof. In addition, we ask for the Committee's assistance in providing the voice for Native people in regards to this reauthorization.

## **Conclusion**

On behalf of the NIEA Board of Directors and the NIEA membership, I would like to thank the Committee for allowing us to share our concerns today. We appreciate the opportunity to provide comment on what is probably the most important aspect of life in Indian communities today. Once a tool to decimate and forcibly assimilate Indians into modern day existence, education has proven to be an effective deterrent to the many social ills which face Indian people today. The lack of a consistent and focused federal policy on Indian education has only delayed the educational advancement of this country's only indigenous population. Until a clear and direct approach is undertaken to elevate every education level of all American Indians and Alaska Natives in this country, we will continue to see the dismal affects that unfortunately continue to plague Indian Country. We hope that our comments here today have helped to clarify the educational need that continues to exist in Indian Country. I would be happy to answer any questions the Committee may have.