

**Testimony of Amy Bowers
Staff Attorney, Native American Rights Fund
Regarding S.1262 the
Native Culture, Language, and Access to Success in Schools Act**

**Submitted to the Senate Committee on Indian Affairs
June 30, 2011**

Good afternoon, Chairman, Vice Chairman, and members of the Committee. Thank you for inviting me to testify on S.1262, the Native Class Act. My name is Amy Bowers. I am a staff attorney at the Native American Rights Fund (NARF). I am also a member of the Yurok Tribe of Northern California. I represent the Tribal Education Departments National Assembly (TEDNA), a non-profit organization for tribal education departments and agencies nationwide.

I'd first like to unequivocally thank the Committee for this bill. NARF and TEDNA are greatly appreciative of it and we support it. Its excellence reflects that the Committee has really listened to Indian country. It incorporates very well many of the key recommendations that TEDNA, other Indian organizations and major reports have urged - elevation of the role of tribal governments in education, meaningful support of tribal education agencies (TEAs), and clear provisions for partnerships among other education entities and tribes. The bill's provisions regarding tribal access, TEAs, and cooperative agreements, all of which my testimony will address, are indeed unprecedented.

Currently over 93% of K-12 Native American students attend public schools on and off Indian lands. There are 740 elementary and secondary public schools in this country located on Indian lands. Many of these schools have student populations that are predominately Native American, and in a high number of these schools the population is overwhelmingly (80-90% +) Native American.

But, nationwide, Native American students perform lower on standardized tests than any other student group. The national Native American student high school dropout rate is over 65%, which is higher than any other group. The high dropout rate is linked to unemployment, drug and alcohol abuse, teen pregnancies, and other social issues. Previous reauthorizations of the Elementary and Secondary Education Act have tried to address these matters, but the problems have persisted. The many stakeholders who collaborated on S.1262 knew this, and knew that a new approach was called for – one that firmly recognizes and supports the role of tribal governments as sovereigns in addressing these problems.

Many of us have been immersed in this bill but for those who haven't, they may be unfamiliar with the need for this innovation in federal education law. Simply put, tribal governments and TEAs must be empowered to become true partners with the states and schools in education. This bill is major first step in accomplishing this goal.

Are tribes ready for this? Yes. They are ready and have the capacity to be leading agencies in education. TEAs can operate federal education programs. They can perform roles and activities of local education agencies (LEAs) and state education agencies (SEAs). Tribes with TEAs and education programs have improved schools, student performance, and community relations. To continue this success, TEAs need federal law support like S.1262. Otherwise, federal law will continue to exclude tribes as governments in education; leaving TEA efforts unsupported and tribes with little to no real control over the systems that teach the majority of their members. This discourages tribal-state-school partnerships or even communication in education and ultimately, hurts Native American students.

Notably, even with little to no true support in federal law, many tribes to date have created TEAs and developed their capacities. Some tribes are performing LEA and SEA functions – without federal funding or authorization. In short, some TEAs already voluntarily do what federal law requires and funds SEAs to do. Other tribes have fostered cooperative agreements with LEAs and SEAs in education. Moreover, in recognition of tribal government contributions several states recently have enacted laws specifically acknowledging roles and responsibilities for tribal governments in public schools.

Through the now well-established federal policies of Indian self-determination, tribal self-governance, and economic development tribes have vastly increased their governance, managerial and technical capacities and resources. Tribes operate their own health clinics, provide social services, and manage a variety of natural resources. In these areas tribes typically receive federal funding and must comply with applicable reporting and accountability requirements. It is time to include education among the vital services provided and resources managed by tribes.

The federal government provides billions of dollars annually to SEAs and LEAs, but hardly any funding to TEAs and tribal governments for education. The enormous missed opportunity to invest in TEAs and tribes, for the sake of Native American students must be seized. S.1262 does this. It aligns federal law with what is already happening and with what needs to happen. S.1262 carefully allocates new funding and authorizations between already high capacity TEAs and developing capacity TEAs. This sound structure supports TEAs of all abilities and tribes of all sizes in their efforts to contribute at appropriate levels to Native American student success.

Will SEAs and LEAs see “reduced” funding under S.1262? The bill allows for some shifts at the Secretary of Education’s discretion, to tribes and TEAs in limited instances. Such shifts of course do not divert any funding from students served. In this sense, S.1262 puts education funding on a par with many other pots of federal money that tribes and states share such as Temporary Assistance to Needy Families or environmental resources management funding. As in these areas, adding tribes as eligible grantees will improve programs and service delivery at the local level. Conversely, continuing to leave out tribes will likely maintain the status quo, including Native American students’ persistent high dropout rates and low academic performance.

Additionally, S.1262 has new funding authorizations for Native American students. The new money will increase local control of education by bringing tribal governments, tribal communities, and Indian parents into the schools. It will increase communication and collaboration among tribes, LEAs, and SEAs. It will empower TEAs to take the lead in developing culturally relevant curriculum, teacher training, and tribal education goals and policies. The result will be education systems with rigorous academic standards and tribal language and culture supported and directed by the community. To date none of this has been adequately or coherently addressed in federal law or authorized appropriations.

Does S.1262 increase “bureaucracy”? Not really; in fact, proper recognition of the role of tribal governments and TEAs in education could result in decreased bureaucracy. Indian education is already fragmented among states, LEAs, federal, and tribal entities administering different systems and a host of federal programs. As Congress has recognized since the 1988 and 1994 TEA appropriation authorizations, TEAs are

uniquely best situated to coordinate all of these various systems and programs and track Native American students through the myriad of services and providers. Ideally, in the long-term TEAs will serve as the primary education agency for many Native American students. This will reduce state and federal bureaucracy and maximize the amount of money and services to Native American students.

A final comment regarding S. 1262's important and innovative TEA pilot project. The project allows up to five tribes to apply to the Department of Education to perform SEA functions and receive funding to support the activities in a public school located on the tribe's land that has a majority of Native American students. Tribes are very excited about this project because it represents a monumental step for tribal sovereignty. It enables them to direct and control education on their reservation by performing high-level SEA functions including training teachers, setting accreditation and assessment standards, assisting low performing schools, tracking student data, and setting policies. These are core components of education, of which tribal assumption has never before been supported expressly by federal law.

In conclusion, NARF and TEDNA support S.1262. We have come this far in partnership with the Committee and we look forward to continuing to work closely with our partners to refine the bill. For example, we recommend ensuring that both TEA authorizations appropriations amounts are at the level of \$25 million and clarifying that all tribes have equal access to much needed tribal member student data. We are happy to help address any concerns or questions regarding S. 1262, and to ultimately see it through the legislative process and become law. Thank you for the opportunity to address the Committee today.