



NATIONAL INDIAN EDUCATION ASSOCIATION

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For the United States Senate Committee on Indian Affairs
Oversight Hearing on Native Communities**

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On behalf of the National Indian Education Association (NIEA), the oldest and most inclusive Native education organization, thank you for this opportunity to provide testimony for the US Senate Committee on Indian Affairs Oversight Hearing on Native Communities. In communities across the US, many Native students do not have access to high-quality culture-based education options that would provide them opportunities to thrive. Safe and healthy classrooms that center language and culture are essential to equity in education. From early childhood through postsecondary education, Native students must have access to programs and resources that provide the best chance at success.

NIEA was founded to advance comprehensive, culture-based educational opportunities for American Indians, Alaska Natives, and Native Hawaiians, representing Native students, educators, families, communities, and Tribal Nations. NIEA advocates for educational excellence by working to ensure that students receive equal access to high-quality academic and cultural education.

Rooted in treaties between Tribal Nations and the federal government, the U.S. Constitution, federal law, and U.S. Supreme Court decisions, the federal government has a direct fiduciary responsibility to Tribal Nations and their citizens. The trust and treaty responsibility are an acknowledgement that the debt paid for by our ancestors through the loss of life and land, is to be paid for, in part, with education.

The Federal Trust Responsibility

In December 2018, the U.S. Commission on Civil Rights released a report titled, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. This report noted that many federal programs designed to support Native communities and uphold the federal trust responsibility are chronically underfunded.¹ Full funding for Native education is pivotal to Native governance and community development leading to empowered Native youth thriving in the classroom and beyond.

¹ *Broken Promises* Report, Letter of Transmittal to the President, <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

Originally conceived to acculturate and assimilate Natives, Indian education continues to be a pillar of federal policy. Modern Indian education programming instead uplifts tribal sovereignty, by including Native history, culture, and language in curricula for tribally controlled schools (TCSs), Bureau of Indian Education (BIE) operated schools, and public schools. It is uniquely important that federal support for Native education continue to strengthen self-governance and Tribal Nations' ability to address their communities' unique need given the century long federal Indian boarding school policy era. The federal debt to Indian education grew exponentially during this period, due to the increased loss of our children's lives and the misuse of Indian trust monies to pay for boarding school operations.² The initial Federal Indian Boarding School Initiative's investigation has already found over 500 deaths which took place at these schools and expects the numbers to rise as the investigation continues.³

The Department of the Interior, succeeding the Department of War, has served as the center for educating Natives in the US for almost two centuries. Today however, 93 percent of Native students do not attend BIE-funded schools.⁴ The federal trust responsibility to includes the obligation to provide parity in access and equal resources to all Native students, regardless of where they attend school, encompassing the Office of Indian Education (OIE) at the Department of Education (ED), Administration for Native Americans (ANA) and Substance Abuse and Mental Health Services Administration (SAMHSA) at the Department of Health and Human Services, the National Telecommunications and Information Administration (NTIA), and the Department of Agriculture (USDA) alongside the Bureau of Indian Education at the Department of the Interior, Congress, and the rest of the federal government.

Early Childhood Education

Native-serving Early Childhood Education (ECE) and Head Start programs are some of the most successful federal programs that focus directly on the unique circumstances faced by Native children. These programs work to address health and education disparities as well as family and community needs. By supporting children from the cradle, these programs are similar to our traditional educational practices by including our youngest relatives as a central focus for community-based work. A strong ECE foundation with community support and resources sets families on a trajectory that promotes foundational knowledge and increases the capacity to be engaged throughout their child's educational experience. It is essential that Native communities have the ability to include as much culturally-grounded and community oriented curriculum and alternative assessments for Head Start. This includes creating and integrating culture and language standards and assessments that align with tribal knowledge and understandings. NIEA calls for increased access to birth to Pre-K programs that bridge home-to-school learning pathways, and promote family engagement in literacy, nutrition and growth. In addition, these programs should nurture culture and language learning, and promote school entry and social skills development.

² Department of the Interior, Bureau of Indian Affairs, 2022, Federal Indian Boarding School Initiative Investigative Report, 44. https://www.bia.gov/sites/default/files/dup/inline-files/bsi_investigative_report_may_2022_508.pdf.

³ Ibid., 9.

⁴ National Center for Education Statistics (NCES), 2021, Table 203.50, https://nces.ed.gov/programs/digest/d21/tables/dt21_203.50.asp?current=yes.

Social Emotional Learning

NIEA promotes a framework for Native education that seeks to reclaim the brilliance of our Native students by ensuring community, family, and mental health are part of the academic wheel. This approach aims to close the gaps that fail to address the mental, spiritual, physical, and emotional needs of our Native students.

Programs that support Social and Emotional Learning (SEL), including Native languages and cultural programming, have been effective strategies in closing the achievement gap for Native youth and have been rehabilitative. SEL strategies have been proven effective in mitigating the effects of complex trauma and improving academic achievement. More resources must be given in remote areas, as well as hands-on implementation at the school and community levels. This includes mental health specialists. If the federal government is committed to high-quality education, it must actively work to alleviate trauma, embrace greater equity, and create healing in school communities.

One of the largest wounds that exists in Native communities across the country is the lasting effects of federal Indian Boarding School policies. Students today still experience intergenerational trauma from the harms many of their relatives and ancestors experienced. The Truth and Healing Commission on Indian Boarding School Policy Act would establish a comprehensive examination of the Indian boarding school legacy and would ensure Native students, both past and present, have their stories heard and their traumas addressed. We urge Congress to pass this legislation and thoroughly own up to the negative effects of the boarding school era in Indian Country, including those effects that directly impact our students in the classroom today. This must also include culturally appropriate support services for all Native students.

Indian Child Welfare

Native students succeed the most when their communities are thriving. Keeping families and communities together is essential to the mental and cultural wellbeing of our Native children and youth. The Indian Child Welfare Act (ICWA) was enacted in 1978 to address the alarmingly high number of Indian children being removed from their homes by both public and private agencies.⁵ Before ICWA (1978), approximately 80% of Native families living on reservations lost at least one child to the foster care system, according to data compiled by the National Indian Child Welfare Association.⁶ However, ICWA is currently facing many serious challenges, including the recent Supreme Court Case *Brackeen v. Haaland*. Tribal Nations and Congress must work together to ensure that colleagues across the federal government are educated on the benefits of ICWA, its relationship to good child welfare practices, and opportunities to strengthen ICWA implementation and protect the law at the federal, state, and local levels.

⁵ National Indian Child Welfare Association, *The Indian Child Welfare Act: A Family's Guide*, 1. <https://www.nicwa.org/wp-content/uploads/2020/10/Family-Guide-to-ICWA-2018.pdf>

⁶ National Indian Child Welfare Association, *Disproportionality in Child Welfare Fact Sheet*, 2021. https://www.nicwa.org/wp-content/uploads/2021/12/NICWA_11_2021-Disproportionality-Fact-Sheet.pdf.

Native Languages

There is a direct link between cultural identity and the cognitive success of students. For Natives across the country, linguistic and cultural identity are intrinsically linked. Due to over a century of assimilative policy, followed by unprecedented loss of Native elders during the COVID-19 pandemic, cultural heritage, ceremonies, religions, and languages face extinction today. It is critical to our communities that fight, harder than ever, to protect our Native languages. NIEA is proud that Congress and the administration are currently working to increase the supports for Native language programs, with the passing for the Durbin Feeling Native Languages Act and the Native American Language Resource Centers Act and the announcement of a 10-year National Plan on Native Language Revitalization. This should only be the start of a full federal government commitment to Native language revitalization. Native culture and languages are within the foundation of the United States, alongside the land we have known for generations.

As we work together to protect our unique heritage, there must be supports for Teachers, principals, school leaders, and staff that serve Native youth to meet and advance the unique cultural, linguistic, and educational needs of our students. Further, our Native language programs are in need of larger, sweeping financial support to sustain their work. Many of the grants which fund language work are housed across various agencies, the Bureau of Indian Education, the Department of Education, the Office of Indian Economic Development, and the Administration for Native Americans. Congress should work with the interagency Native Languages Workgroup to maximize the federal government's efforts in promoting Native Languages.

Child Nutrition

Native students and families are nearly twice as likely to experience food insecurity than white communities due to high rates of poverty and the rural/remote nature of Native communities, increasing the likelihood of food deserts and significantly higher food costs. This means Native students participate in school nutrition programs and services at rates disproportionately higher than those of their peers. Though some schools which serve Native students have implemented programs to offer traditional foods within a wider culture-based education approach, there is not currently federal program which allows Tribal Nations and tribally-controlled schools to operate their own school lunch programs or other school meal programs. NIEA strongly recommends passage of the Tribal Nutrition Improvement Act which would not only provide a pilot program for tribally controlled school meals, but would make Native students at BIE-funded schools categorically eligible for free school lunches.

Bureau of Indian Education

School lunch is not the only major inequity for BIE-funded schools. There are only two educational systems for which the federal government is directly responsible: Department of Defense (DOD) schools and federally operated and federally funded tribal schools. BIE schools, however, lag far behind DOD schools in funding, school construction, and student achievement. While DOD schools are being renovated and remodeled, schools within the BIE system are woefully outdated and, in some cases, dangerous for students and staff. As one of the most vulnerable populations, Native students should have equal access to resources and opportunities. Congress should fulfill

its responsibility to Native students by remedying the disparities between these two federally operated school systems.

The Department of Interior has estimated that more than \$639 million would be needed to fix only the most pressing deferred maintenance issues for BIE schools. Beyond this it will take over an estimated \$1 billion to cover all the associated costs to bring BIE schools up to a quality which would be considered adequate for the federal education trust responsibility. Better school buildings lead to improved conditions for learning, academic outcomes, and student achievement. These accounts must also authorize construction for educator housing. The rural nature of tribal communities makes it difficult to attract high-quality educators, something which can easily be rectified by offering housing. Education construction for tribally controlled schools provides long-term investments for better education objectives.

The other 93 percent of Native students attend public schools, but are still in face unique educational needs.⁷ The Johnson O'Malley (JOM) program provides these critical educational resources for after school programs, academic support, dropout prevention, funding for college access testing, the purchase of school supplies, and Native cultural and language enrichment. JOM is supported by its parent committees which determine the needs of Native students in their communities. However, while currently supported by many tribes, the federal government needs to follow the thread of local tribal control and allow Tribal Nations to use P.L. 638 contracting to operate JOM programs themselves. In this vein, they should also be able to determine their own eligibility for their programs.

Impact Aid

The Department of Education (ED) operates a number of essential programs for educational success for Native students. Some are the same as programs non-Native students participate in, such as Impact Aid, a key program with a goal of ensuring all schools have the financial resources they need, regardless of the tax base they have access to. Though Native students, as Federally Impacted Indian Children, represent a disproportionate number of those eligible for Impact Aid, the current law still leaves many Native children behind. NIEA advocates for expanding the Impact Aid Program to include Tribally Controlled Schools. These schools are in a unique situation as they are run by Tribal Nations, who do not have the same access to a traditional tax base due to complications in the federal tax code. Therefore, they too should be eligible to receive Impact Aid. Further, though American Indians and Alaska Natives (AI/ANs) are eligible as federally Impacted Indian children, Native Hawaiians are not. Even when these are students living on federal trust lands, known as Hawaiian Homesteads, the same as other AI/ANs in the lower 48 states and Alaska. We urge Congress to rectify these inequities.

Conclusion

Prosperous Native communities can only come from strong, intentional support of Native youth by fully upholding the United States treaty and trust obligations to Native education. It is the responsibility of this committee and the entire federal government to federal policies that truly

⁷ National Center for Education Statistics (NCES), 2021, Table 203.50, https://nces.ed.gov/programs/digest/d21/tables/dt21_203.50.asp?current=yes.

support tribal education sovereignty and provide direct, full funding of all education programs serving Native students so that Tribal Nations and citizens can forge a brighter future.

Thank you for the opportunity to testify before this committee's Oversight Hearing on Native Communities. We look forward to working with each of you on a regular basis to ensure that our children have access to the high-quality, culturally-grounded education our ancestors paid for in perpetuity.