



NATIONAL INDIAN EDUCATION ASSOCIATION

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For the Senate Committee on Indian Affairs**

**“Oversight Hearing on Native Communities’ Priorities for the 119th Congress”
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On behalf of the National Indian Education Association (NIEA), and the students, educators, and Tribal Nations we serve, thank you for this opportunity to provide testimony regarding the critical issues surrounding Native education and the Federal government’s trust and treaty obligations to American Indians and Alaska Natives and the Federal trust obligation to Native Hawaiians. Sovereignty is the cornerstone of effective education in Indian Country, and the federal trust responsibility to Indian education is one of the most fundamental commitments the United States government has made. This responsibility, deeply embedded in over 150 years of treaties, statutes, and cases, has been integral to ensuring that Native students receive the support and resources needed for educational success. Education is not merely a tool for individual success it is the foundation for the future of our Nations.

Native students in Bureau of Indian Education (BIE)-funded schools, as well as those in public schools serving Native populations, are subjected to overcrowded classrooms, deteriorating facilities, and that does not respond to the needs of the local communities or cultures. In many instances, Federal policies do not sufficiently recognize or support the inherent sovereignty of Tribal Nations in managing their own educational systems, often leaving Native communities at the mercy of bureaucratic red tape and restrictive federal oversight. This oversight results in a lack of agency for Native peoples over their own educational systems, which should be driven by cultural, linguistic, and community-specific priorities.

NIEA urges this Committee to act on these critical issues. By making meaningful investments in Native education, updating outdated policies, and recognizing the inherent sovereignty of Tribal Nations, we can begin to close the gaps in educational opportunity and outcomes for Native students. This includes prioritizing funding and flexibility for BIE schools and Tribal Education Agencies, protecting the status of Native education programs across the government, and removing administrative barriers that hinder Native communities from fully controlling and shaping their educational systems. The stakes are high, not just for Native students but for the future of our communities and our shared future as a Nation. By supporting Native education, we are not only investing in the future of our youth but in the strength and vitality of Tribal Nations and the United States as a whole.

I. Affirming the Political Status of Native Students

The first step in improving Native education is affirming the political status of Native students. The political status of Native students—whether American Indian, Alaska Native, or Native Hawaiian—is deeply intertwined with their communities’ sovereignty and their relationship with the U.S. government. These communities have a unique and complex legal and political standing that must be recognized and respected in the development of federal education policy. Native students face unique challenges, and their education must be designed with their cultural heritage and future economic success in mind. The federal trust responsibilities to American Indians, Alaska Natives, and Native Hawaiians, are an essential part of this relationship, obligating the U.S. government to protect the resources, lands, and rights of Tribal Nations and Native communities, including ensuring access to education.

Congress has long understood this unique duty, reaffirming the political status of Native students through centuries of legislation, beginning with the Civilization Fund Act of 1819, codified as a Federal directive in the Snyder Act of 1921, and later revised under the Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA), P.L. 93-638, and the Tribally Controlled Schools Act of 1988, P.L. 100-297. Meanwhile, the trust responsibility to individual Native children in public schools has been reinforced in federal law since the Johnson O’Malley (JOM) Act of 1935, followed by P.L. 81-874 (1950), Title VI of the Elementary and Secondary Education Act of 1965, the Indian Education Act of 1972, and the Native Hawaiian Education Act of 1988. Congress must continue to advocate for policies that reaffirm the political status of Native students. This can be achieved by providing greater flexibility and control to Tribal communities in areas such as curriculum development, governance, teacher recruitment, and funding allocation. Tribal Nations should be empowered to make decisions that reflect their values, traditions, and educational priorities. These programs are not simply a matter of cultural pride but also critical to the future economic success of Native communities, as they help to preserve and promote valuable skills and traditions.

II. Ensuring Stable and Adequate Funding for Native Education

A critical element of fulfilling the federal government’s trust responsibility, the Federal government must ensure that funding for Native education is adequate, stable, and protected. The Federal government must commit to long-term, consistent funding that supports Native education programs and ensures that Native students have access to the resources they need to succeed. This includes support for Tribal Education Agencies (TEAs), which play a crucial role in operation of Tribally Controlled Schools, Tribal charter schools, and the development and implementation of education programs for Native students, as well as funding for programs like Head Start, Johnson-O’Malley, and Native language revitalization efforts. TEAs provide invaluable resources that help close educational gaps for Native students, but they cannot operate effectively without adequate funding.

The financial stability of Tribal education programs is a foundational element of ensuring long-term success for Native students. To achieve this, it is critical that Congressional appropriations for Tribal education remain stable and predictable through Advance Appropriations. Advance Appropriations provide guaranteed, consistent funding for federal programs, allowing Tribal governments and educational institutions to plan and implement long-term projects without the uncertainty of fluctuating annual budgets. This stability is particularly crucial in education,

where programs rely on predictable funding to address the unique needs of Native students. Without stable, guaranteed funding, Native communities often face interruptions in services, delays in programming, and difficulty in maintaining quality educational standards. Advance Appropriations would protect these programs from the uncertainty of the annual budget cycle and ensure that Tribes can meet the educational needs of their youth without disruption.

In addition, funding for Native education programs should be protected across the entire Federal government. Funds for programs like Title VI, Title I grants, and the Johnson-O'Malley program must be fully funded to address the unique needs of Native students who do not attend BIE schools but still maintain a political relationship with the Federal government. These programs are critical to closing the achievement gap, but their effectiveness is undermined when funding is not consistent and when there are no guarantees that resources will be allocated where they are most needed.

III. Expanding Self-Governance in Education Through P.L. 477 and 638 Authorities

One of the most effective ways to empower Tribal Nations in managing educational programs is to expand self-governance authority through P.L. 477 and 638. These policies allow Tribes to take on greater control and responsibility over federal programs that impact their communities, creating more flexible and culturally relevant solutions for Native students.

Under P.L. 102-477, Tribes have the ability to consolidate multiple federal programs under a single compact or contract, offering a streamlined approach to service delivery. Expanding this authority throughout the Administration for Children and Families (ACF) would allow for better integration of education programs such as Head Start and Native language revitalization efforts under the Administration for Native Americans (ANA). By consolidating funding streams and reducing the administrative burden of navigating multiple federal requirements, Tribes can tailor these programs to meet the specific needs of their communities, fostering greater community involvement and long-term sustainability.

Similarly, fully extending 638 authority to more federal programs—particularly those within the U.S. Department of Agriculture (USDA), like Child Nutrition Services—will provide Tribes with the autonomy to design and administer programs that are culturally appropriate and responsive to their community's unique needs. This would enable Tribes to manage their own nutrition services for students, ensuring that the meals provided are nutritious and reflective of cultural preferences, which directly impacts student health and academic success.

By expanding both P.L. 477 and 638 authority, Tribes can exercise greater sovereignty and self-determination in the administration of education-related programs, leading to more efficient, effective, and culturally relevant services. These efforts will help bridge the gap in educational disparities and support the success of Native students by ensuring that educational programs are aligned with community values and priorities.

IV. Improving BIE Facilities and Resources

The Bureau of Indian Education is a primary mechanism through which the federal government provides education to Native students. Unlike Department of Defense (DOD) schools, which receive significant funding for modern facilities and ongoing renovations, BIE schools are often operating in buildings that are outdated and, in some cases, hazardous for students and staff. In many cases, BIE schools lack basic infrastructure, such as heating and ventilation, and face ongoing challenges with building maintenance and teacher recruitment.

In 2019, a study by the Department of the Interior estimated that addressing the most critical maintenance issues in BIE schools would require more than \$639 million. However, even after this immediate funding is provided, BIE schools would still face a funding shortfall of over \$1 billion to address the full scope of the infrastructure needs. This disparity is an ongoing injustice, as Native students should have access to the same quality of education facilities as their peers in other parts of the country.

Tribal Nations often face significant barriers in securing and maintaining funding for school facility construction, repair, and renovation through traditional funding mechanisms. We urge Congress to consider providing additional funding for the BIE school facilities, including through the reauthorization of the Great American Outdoors Act (GAOA) Legacy Restoration Fund, and streamlining the process for accessing these funds. Investing in facilities is an investment in the future of Native students and their communities.

V. Enhancing Tribal Control Over Education Infrastructure: 105(l) Leases

Making 105(l) leases mandatory appropriations offers Tribes an alternative model for improving school infrastructure. Under Section 105(l) of ISDEAA, Tribes can lease school facilities to the federal government as part of self-governance compacts or contracts. This allows Tribes to build, repair, and maintain schools independently while ensuring the federal government meets its fiduciary duties. The leases are essentially payment agreements between Tribes and the BIA, BIE, or IHS, compensating Tribes based on the "fair market value" of their facilities for use in federal programs. However, because these payments are currently discretionary, they increasingly face the possibility of being offset by cuts to other Tribal programs. To encourage Tribal participation in 105(l) leasing and give Tribes more control over their facilities, these payments should be made mandatory. Doing so would reduce bureaucratic delays, empower Tribes with self-determination over education infrastructure, and address the current backlog in school maintenance.

VI. Tribal Head Start, Early Childhood Education, and the Alyce Spotted Bear Report

Early childhood education is a critical foundation for Native students' future success, yet Tribal Head Start and other early childhood education programs often face chronic underfunding and barriers to full participation. The Alyce Spotted Bear and Walter Soboleff Commission on Native Children, through its 2019 report, highlighted the urgent need for culturally relevant early childhood education programs that are responsive to the unique needs of Native communities. The report underscored the importance of improving access to Head Start programs and other early education services, ensuring they reflect Native languages, cultures, and values.

To address these needs, Congress must increase funding for Tribal Head Start programs, which provide crucial developmental and educational opportunities for Native children. Additionally, enhancing access to early childhood education by supporting Tribally operated programs and ensuring they meet the specific needs of Native communities will help improve the overall educational outcomes for Native students. Many of these programs were outlined in the final Alyce Spotted Bear Commission Report and should be fully implemented. Federal investment in these programs not only prepares children for academic success but also strengthens the cultural fabric of Native communities by providing children with a connection to their heritage from a young age.

VII. Ensuring Culturally Relevant Education and Teacher Retention

In order to create an education system that is truly responsive to the needs of Native students, it is essential that Tribal Nations have the ability to develop their own curricula and educational assessments. Currently, many BIE schools are required to use standardized assessments that do not take into account the cultural and linguistic backgrounds of Native students. This often leads to unfair evaluations of student achievement and reinforces disparities in academic outcomes. By allowing BIE-funded schools to develop and use their own assessments, we can better support Native students in their educational journey.

Furthermore, it is crucial to invest in teacher retention and professional development programs across all levels of education. The Native American Teacher Retention Initiative (NATRI) has been successful in increasing the number of Native teachers and providing ongoing support to those in the profession. Continued support for NATRI and similar programs will help address the teacher shortages in Native communities and ensure that Native students have educators who understand and respect their cultural backgrounds. Programs such as this should be expanded to include recruitment and retention programs for Early Childhood Education (ECE), where typical teacher shortages are exacerbated even further. These programs should include mentoring, leadership development, and professional growth opportunities to support teachers' long-term success in the classroom.

VIII. The Other 93 Percent: Addressing the Educational Needs of Native Students in Public Schools

While BIE schools serve a significant portion of Native students, the majority—about 93 percent—attend public schools. Title VI of the Elementary and Secondary Education Act (ESEA) is a vital resource for Native students in public schools. Title VI programs play a crucial role in addressing the unique educational needs of Native students. Title VI grants fund vital resources for Native students, including after-school programs, academic support, dropout prevention initiatives, and assistance with college access testing. Equally important is the inclusion of Native Hawaiian Education and Alaska Native Education programs, which aim to address the specific needs of Native Hawaiian and Alaska Native students.

Additionally, Title I grants, which target disadvantaged students, are particularly vital for Native students who often face socioeconomic challenges in schools across the Nation. BIE Schools also receive this funding. There have been many recent conversations regarding the future and

the structure of these grants. It is essential that the role these grants play in fulfilling the trust and treaty obligations to Native education are not redirected to the States. Here, TEAs again play an important role and should be eligible to receive the funding directed at their students, similar to State Education Agencies (SEAs) or Local Education Agencies (LEAs).

Maintaining robust funding for these programs is critical, as they provide essential resources and services that public schools might otherwise lack. Programs such as Title VI are essential because they go above and beyond what the BIE and JOM can serve, including descendants of federally recognized tribes, as well as state-recognized tribes, ensuring that more Native students can benefit from these programs and also affirming the Federal government's commitment to meeting the unique needs of Native communities within the broader public education system.

IX. Protecting Impact Aid and Supporting Tribally Controlled Schools

Impact Aid is a federal program designed to support school districts that serve students whose families live on federal lands or who are military dependents. For many Native communities, Impact Aid is a critical funding source that helps bridge the gap between what local districts can raise through taxes and what is required to provide quality educational services. However, the current structure of the program does not adequately account for Tribally controlled schools, which do not have access to traditional tax revenue. Additionally, while Native students living on federal lands are eligible for Impact Aid, Native Hawaiians are not, even though they face similar challenges.

NIEA advocates for expanding the Impact Aid program to include Tribally Controlled Schools, as these schools are in a unique position. They are run by Tribal Nations, which do not have the same access to tax revenue as other school districts. Allowing these schools to benefit from Impact Aid would provide essential funding that could be used to improve educational opportunities for Native students.

Furthermore, while American Indians and Alaska Natives are recognized as federally impacted children, Native Hawaiians, even those living on Hawaiian Homesteads, are excluded from these benefits. This is a significant gap in the system, and it is essential that Congress take steps to ensure that Native Hawaiians are not excluded from federal educational support.

X. Expanding Educational Opportunities Through Charter Schools and Self-Determination

Charter schools have become a valuable tool for Native communities seeking to regain control over the education of their children. Tribally run charter schools offer Native students a culturally relevant curriculum, focused on language revitalization, cultural identity, and the educational priorities of their communities. Charter schools also allow for innovative approaches to education, such as project-based learning and community partnerships, which are essential for the success of Native students. Allowing Tribal Nations and TEAs to be recognized as authorizers for Native charter schools on their lands or within their communities will help provide an education system that aligns with the values and needs of Native students, while also offering flexibility to adapt to the diverse educational needs across Indian Country.

This is especially so, given the 1995 moratorium on additional BIE schools, and the lack of funding which exists even if the moratorium were to be lifted. For all of the Tribes who do not have BIE schools in their communities, and even for those that do, supporting and expanding access to charter schools for Native students is an important step toward promoting self-determination and create additional choice in Native education.

Conclusion

The federal government has a sacred trust responsibility to Native peoples, particularly when it comes to education. By honoring the commitments made to Native students and strengthening sovereignty in education, we can ensure that Native students receive an education that will not only improve economic outcomes but also strengthen the resilience of Native communities for generations to come.