



# NATIONAL CONGRESS OF AMERICAN INDIANS

## TESTIMONY BEFORE THE HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON EARLY CHILDHOOD, ELEMENTARY, AND SECONDARY EDUCATION

### “EXAMINING THE CHALLENGES FACING NATIVE AMERICAN SCHOOLS”

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### PRESIDENT BRIAN CLADOOSBY APRIL 22, 2015

On behalf of the National Congress of American Indians (NCAI), thank you for the opportunity to testify at this important hearing as the Committee begins to examine the challenges and issues facing Native students in Bureau of Indian Education (BIE) schools. NCAI is the oldest and largest American Indian organization in the United States. Tribal leaders created NCAI in 1944 as a response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. Since then, NCAI has fought to preserve the treaty rights and sovereign status of tribal governments, while also ensuring that Native people may fully participate in the political system. As the most representative organization of American Indian and Alaska Native tribes, NCAI serves the broad interests of tribal governments across the nation. NCAI looks forward to working with this Committee as you examine the needs of Native students in the federal education system.

### INTRODUCTION

No resource is more important to the continued success and growth of our nation and Indian Country than our children. It is vital that we all work together to strengthen our human capital in all tribal communities across America. The most effective way to do that is to provide a high-quality, culturally-appropriate education that effectively and equally benefits all of our nation's children—including our Native children. Ensuring equal educational opportunities is not simply a matter of fairness, but is even more importantly in today's challenging economic climate—it is an essential component to securing the nation's future prosperity especially in tribal communities. Education also drives personal advancement and wellness, which in turn improves social welfare and empowers tribal communities—elements that are essential to protecting and advancing tribal sovereignty and maintaining tribes' cultural vitality. Furthermore, the education of Native youth takes on increased importance because the Native population is young. According to the 2010 U.S. Census, 32% of the Native population is under the age of 18 when compared with only 24% of the total population.

The federal government provides education to Indian students in two ways, through federally funded Bureau of Indian Education (BIE) schools or through education assistance to public schools attended by Indian students. The mission of the BIE is “to provide students quality education opportunities starting in early childhood in accordance with a tribe's needs for cultural and economic well-being.” The BIE educational system is derived from the federal government's trust relationship with

Indian tribes, a responsibility established in the U.S. Constitution, federal statutes, treaties, court decisions, and executive actions.

The BIE school system is one of only two federally-run school systems, the other being Department of Defense Schools. The Department of Defense schools serve approximately 78,000 students in 181 schools located in 12 foreign countries, seven states, Guam and Puerto Rico. Funding for BIE schools is derived primarily from federal sources (about 75% from the Department of the Interior; 24% from the Department of Education and 1% from the Department of Agriculture and other federal agencies). In comparison, public schools nationwide receive about 9 percent of their funding from federal sources and rely mostly on state and local funding.

Currently, 620,000 or 92% of Indian students attend public schools and approximately 48,000 or 7% attend BIE schools. There are 184 BIE-funded schools (including 14 peripheral dormitories) located on 63 reservations in 23 states. Three quarters of those schools and students are located in four states: New Mexico, Arizona, North Dakota and South Dakota.

### **BACKGROUND ON INDIAN EDUCATION**

The federal government's responsibility to educate Indian students and the methods of education delivery has varied with federal policies toward Indian tribes. Federal treatment of tribes throughout various periods of federal-tribal policy has been a strong determinant of the type and quality of education Native students received. These time periods are important not just in historic terms but because each era has a significant, and lasting, impact on the continued education issues affecting Native students. A brief summary of Indian education and its correlation to federal Indian policy is below:

*Colonial Period (1492-1828):* Early on, the colonial governments treated tribes as sovereign governments which set up the future treaty-based relationships. It was during this time that the Civilization Act of 1819 was passed which was the first piece of federal legislation that provided education funding for all Indian students.

*Removal, Reservation, and Treaty Period (1828-1887):* This period was marked by the forced migration of tribes onto reservations and the creation of "treaty" reservations—over 370 treaties were ratified with tribes ceding their lands for the right to self-govern. The federal government first acknowledged its responsibility of providing education to Indian students, and in 1870, Congress passed the first general appropriation of \$100,000 for Indian schools not provided under treaties. In 1883, the first Superintendent of Indian Education was appointed to oversee the construction, funding, and operation of the federal school system. This federal system would later become what is now known as the Bureau of Indian Education located within the Department of the Interior.

*Allotment and Assimilation Period (1887-1934):* Allotment and Assimilation policies marked a shift from tribal self-governance toward blending individual Indians and families into the general society. The Dawes Act of 1887 divided tribally-held lands into parcels of 40 to 160 acres and allotted them to individual Indians and families for agricultural purposes. Tribal lands were diminished by over 90 million acres, all without compensation to the tribes.

To achieve the overarching policy of blending of Indians into the general society, Native youth were removed from reservations and placed in boarding schools where the goal was to "Kill the

Indian to Save the Man.” This caused a significant disruption in the cultural and language practices of tribes which weaken of Native tribes, families, and practices. Not surprisingly, it was during this period that the federal government began closing schools on reservations and moved toward educating Indian students at public schools. As early as 1890, the Commissioner of Indian Affairs used his general authority to contract with local public schools to take over the Bureau’s responsibility for educating Indian students. By 1920, more Indian students were in public schools than BIA schools.

*Indian Reorganization Period (1934-1945):* With the passing of the Indian Reorganization Act of 1934, federal policy shifted back towards an acknowledgement of tribal governments and their inherent right to self-govern. This period was intended to reverse the failed policies of allotment and assimilation by allowing tribes to regain and restore their lost tribal homelands, to reorganize and support tribal governments, and to pursue economic development as tribal entities.

Congress also passed the Johnson O’Malley Act which further recognized the federal responsibility to ensure that the unique needs of Indian students were met. The Johnson O’Malley (JOM) program is designed to meet the specialized educational needs of Indian students. JOM funds are used to supplement other educational programs, and can be used for tutoring, books, supplies, Native language classes, cultural activities, after-school activities, and any other education-related activities for Indian students.

*Termination Period (1945-1965).* Unfortunately, the Reorganization Period was only a short decade-long and federal policy once again shifting back to attacking tribal governance and attempting to absolve the federal government of its trust responsibilities to tribes. In just two decades, over 100 tribes were terminated, individual Indians were urged to relocate to urban centers, and there were again significant losses of tribal lands.

The termination period led to increased migration of Indian students to public schools. In 1953, Congress enacted the Impact Aid Act which was the first education funding provided by the Department of Education for Indian students. This Act provided funding to school districts to help fund the education of children from federally-impacted areas (schools located on, or near, Indian reservations that have at least 3% or 400 federally-connected students). Federally-impacted areas also include places where the federal government owns property, such as trust lands and military bases. Because most school districts are funded through the federal government and local property taxes, and taxes cannot be collected on federal land and an Indian land, the Impact Aid Act compensates local school districts for the education of children who reside on federal lands. Impact Aid funding is now part of title VIII of the Elementary and Secondary Act which provides a set-aside for BIE schools.

*Self-Determination Period (1965 to current).* With the recognition that the prior policies of terminations, assimilation, and removal had failed, federal policy once again acknowledged that tribes are best suited to self-govern and to make the decisions impacting the needs of their members. The Elementary and Secondary Education Act was initially passed in 1965 and is now the primary source of federal aid for K-12 education.

It was also during this period that the Kennedy Report on Indian Education was presented in 1969. That report was significant: it acknowledged that education (or lack of education) had been used as an assimilation tool and that stripping language and culture from Native children was damaging not

only to the individual Indian, but to the successful functioning of the tribe as a whole. The Kennedy Report illustrated many of the needs that tribes still have today including a need to increase graduation rates, receive adequate funding, incorporate language and culture into the curriculum, and investigate discrimination of Native students attending public schools. The report did lead to two significant pieces of education that are still impactful today.

First, The Indian Education Act of 1972, established the Office of Indian Education within the Department of Education. This was the first office outside the Department of Interior established to oversee a federal Indian education program. Second, the Indian Self-Determination and Education Assistance Act of 1975 enabled tribes to take over the operation of their BIE schools and perform the functions that the BIA had performed. Today, 124, or two-thirds of the 184 BIE schools are grant schools.

For purposes of this hearing, it is important to note the policies, many of them failed policies, of the past in order to understand the current state of Indian education. The removal of Native youth from their homes, the prohibition of language and culture, and the view that Native students should assimilate into public schools are policies not far removed from Native students today. Those affected were the grandparents and great-grandparents of today's students and the inconsistent and harmful policies intended to erase culture and identity are still at the core of the challenges still faced today by Native students in the BIE schools system, as well as the public school system.

### **CHALLENGES FOR NATIVE STUDENTS**

Many challenges exist in reforming the educational system for Native students. The severity of the current state of Indian education is perhaps most apparent in the Native high school graduation rate. The graduation rate for American Indian and Alaska Native high school students is 69.7 percent—the lowest of any racial/ethnic demographic group across all schools. Even worse, the graduation rate for Native students in the Bureau of Indian Education school system is a staggering 61 percent compared to the national average of 80 percent.

The reason for lagging academic performance at BIE schools is multi-faceted but there is clear agreement at the federal, tribal, and school level that significant changes are necessary in order to provide better education for Native students. At her first hearing following confirmation, Secretary Jewell stated, “Indian education is an embarrassment to you and to us. We know that self-determination and self-governance is going to play an important role in bringing the kind of academically rigorous and culturally appropriate education that children need.”

Administrative Functions. Two recent reports by the General Accounting Office highlight some of the Administrative issues facing BIE schools. The first report, entitled “Better Management and Accountability Needed to Improve Indian Education” (GAO-13-774) points to the need for improved communications, management controls, and strategic goals and measures in order to improve administrative functions.

Another recent report issued in November of 2014, entitled “Bureau of Indian Education Needs to improve Oversight of School Spending” (GAO-15-121) recommends the development of a workforce plan to ensure processes and oversight of spending is done in a way to improve school processes.

It must be noted however, that these GAO reports follow other reports that examined the administrative functions at BIE. GAO testimony over the years and prior reports illustrate a need for sustained review and concrete improvements to the BIE educational system. To address these issues, Secretary Jewell and Secretary of Education Duncan created the American Indian Education Study Group to examine the challenges and issues faced by Native students with the BIE school system.

For the most part, the issues raised by tribal participants, school personnel, parents, and students in response to the study group were issues that NCAI has heard throughout the years—that it is difficult to attract and retain teachers at BIE schools, in part because of their remote locations, and in part due to other factors impacting tribes such as housing shortages. Commenters also cited: the overly burdensome administrative requirements that hampered the ability of BIE schools, and even tribally-run BIE schools, to have a real impact on tailoring the education of students to the specific tribal needs, especially in the areas of language and culture curriculum; the under-funding of tribally controlled schools who routinely receive only 67% of the cost required to operate the tribal school: the requirement that across the BIE system, tribes are required to comply with state standard, meaning 23 sets of standards exist for BIE schools: and lack of consistency in leadership at the BIE (33 directors have been named in the past 36 years).

The Study Group resulted in a plan intended to improve educational experiences and outcomes of BIE students based on four pillars of reform: 1) to recruit, retain, and empower highly-effective teachers and principals; 2) to develop BIE into a responsive organization that provides the resources, direction, and services to tribes so they can help their students attain higher levels of student achievement; 3) to develop a budget that supports tribal capacity building and best practices; and 4) comprehensive support through partnerships. The core of the BIE plan is to support current tribally controlled schools with capacity building, while identifying other schools that may elect to take over control of their programs, with the BIE transitioning into more of a support function than an administrative function.

The recommendations have been met with mixed reactions from tribes. Some tribes are concerned that the BIE is trying to “get out of the education business” and that this reform effort is a step towards removing accountability from the BIE and other tribes are encouraged to exert more control over the academic success of their students. What we have found is that there is no “one size fits all” in Indian Country and NCAI is constantly looking for best practices to share with other tribes. Tribal self-governance, at its core, is about each tribe making the educational decisions and putting in place the processes that work for their students, their communities, and their tribe.

School Infrastructure. Another issue for BIE schools is the condition of those schools. According to prior testimony by the BIE, of the 184 BIE schools, 34 percent (63 schools) are in poor condition, and 27% are now over 40 years old. These substandard conditions are not conducive to educational success and impact the quality of education that the students receive. It is worth noting that a significant disparity exists in the treatment of BIE schools when compared to Department of Defense school funding. Despite demonstrated need, the, Department of the Interior has consistently proposed low levels of funding for replacement school funding when compared with Department of Defense schools. At a 2014 Senate hearing where the Department of Defense testified, it was noted that the fiscal year budget request for replacement of Department of Defense schools was \$315 million compared to a budget request of \$2 million for BIE schools. This is despite a demonstrated need of \$1.3 billion to clear the construction backlog at BIE schools.

## **CONCLUSION**

There is much room for improvement in the BIE school system. NCAI appreciates the efforts of this Committee to take a look at the challenges within the system and commitment to make improvements to the system. At the very basic level, tribes are seeking the fulfillment of the same promise of fulfillment of the true trust relationship with the federal government -- tribal control over the education of our students in a way that incorporates language and culture and ensures academic success – not only for their well-being, but for the continued prosperity of our tribes.