



# Annual Report to Congress 2019-2020

National Advisory Council on Indian Education (NACIE)  
December 18, 2020

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December 18, 2020

RE: NACIE 2019-2020 Annual Report to Congress

**The Honorable Mitch McConnell**

Senate Majority Leader  
United States Senate

**The Honorable Charles Schumer**

Senate Minority Leader  
United States Senate

**The Honorable Nancy Pelosi**

Speaker of the House  
United States House of Representatives

**The Honorable Kevin McCarthy**

House Minority Leader  
United States House of Representatives

**The Honorable Betsy DeVos**

Secretary of Education  
U.S. Department of Education

**The Honorable David Bernhardt**

Secretary of the Interior  
U.S. Department of the Interior

**Dear Esteemed Congressional Leaders, Secretary DeVos and Secretary Bernhardt:**

On behalf of the National Advisory Council on Indian Education (NACIE, the Council), I am pleased to transmit this report, entitled "Annual Report to Congress". The Annual NACIE Report is submitted to Congress as required by statute and reflects the activities of the Council for Fiscal Years 2019 and 2020. NACIE is authorized by §6141 of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Every Student Succeeds Act (ESSA), 20 U.S.C. §7471. The Council is governed by the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, which sets forth requirements for the formation and use of advisory committees.

NACIE members are appointed by the President of the United States and serve with the following purpose and functions:

1. Advise the Secretary of Education and the Secretary of the Interior concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under Title VI, Part A of the ESEA, with respect to which the Secretary has jurisdiction and that includes American Indian and Alaska Native (AIAN) children or adults as participants or that may benefit AIAN children or adults;
2. Make recommendations to the Secretary of Education for filling the position of the Director of the Office of Indian Education (OIE) whenever a vacancy occurs;
3. Submit to the Congress a report on the activities of NACIE, including any recommendations the Council considers appropriate for the improvement of Federal education programs; and 4) Advise the White House Initiative on American Indian and Alaska Native Education (WHIAIANE).

NACIE is a fifteen-member Council representative of AIAN populations across the country, with ten members serving and five vacancies, currently. NACIE has worked diligently throughout the year to assure that those purposes and functions have been met. The Council takes this responsibility with great commitment to the education of our Native students. NACIE also appreciates Congress' review of this annual report. There is a great need to have members of Congress and their staff to meet regularly with NACIE to act upon these recommendations. NACIE is open to such meetings at your privilege to assist NACIE in bringing about the fruition of this report and recommendations to benefit AIAN students.

The Council looks forward to working with the Secretaries of Education and Interior, and the Office of Indian Education staff to carry out responsibilities under the Council's Charter.

Respectfully Submitted,



Deborah Jackson-Dennison, Ed.D.  
Chairperson, National Advisory Council on Indian Education

CC:

<b>The Honorable Tom Cole</b> (Chickasaw) US House of Representatives	<b>The Honorable Sharice Davids</b> (Ho-Chunk) US House of Representatives
<b>The Honorable Debra Haaland</b> (Laguna Pueblo) US House of Representatives	<b>The Honorable Markwayne Mullin</b> (Cherokee) US House of Representatives

Members of the National Advisory Council on Indian Education\*

**Deborah Jackson-Dennison, Ed.D.,** *Navajo*  
**Phyliss J. Anderson,** *Mississippi Band of Choctaw Indians*  
**Theresa Arevgaq John, Ph.D.,** *Yup'ik*  
**Mandy Smoker Broaddus,** *Fort Peck Assiniboine Sioux*  
**Doreen Brown,** *Yup'ik*  
**Robin Butterfield,** *Winnebago/Chippewa*  
**Aaron A. Payment, Ed.D.,** *Sault Ste. Marie Tribe of Chippewa*  
**Joely Proudfit, Ph.D.,** *Pechanga, Luiseño*  
**Virginia Thomas,** *Muscogee (Creek) Nation*  
**Patricia Whitefoot,** *Confederated Tribes and Bands of the Yakama Nation*

\* Vacancies: 5

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# EXECUTIVE SUMMARY

*The National Advisory Council makes the following recommendations to Congress:*

## **I. Honor Tribal Sovereignty**

- 1.1 NACIE recommends that Congress designate funds for the position of an Assistant Secretary of Indian Education within ED.
- 1.2 NACIE recommends Congress allocate increased funds to ED to support NACIE in performing its expanded unique responsibilities under the current EO.
- 1.3 NACIE recommends Congress support cross-departmental resources for the Department of Education, the Department of Interior, the Department of Justice, Department of Health and Human Services, and other Departments, federal agencies, and related federally established commissions, such as the U.S. Commission on Civil Rights Broken Promises Report<sup>1</sup>.
- 1.4 NACIE recommends that all ESEA Title Programs include language that emphasizes the importance of coordination with the Title VI Indian Education Act programs to ensure that Title VI funds are not used to supplant other Title Program funds and services for Native students. NACIE also recommends that technical assistance be provided not only to state educational agencies (SEAs), but also to local educational agencies (LEAs) to clarify the differences between all ESEA Title Programs.
- 1.5 NACIE recommends that Congress specifies increased hiring of AIAN professionals as experts and reviewers, as well as for technical assistance designed to have direct impact on Native students. This includes, but is not limited to, hiring for OIE Discretionary Grants administration, Comprehensive Centers, Equity Assistance Centers, Special Education and Technical Assistance Centers.
- 1.6 NACIE recommends that Congress collaborate with ED and the Office of Management and Budget (OMB) and the U.S. Census Bureau (Census) revise the definition of AIAN at all levels and remove the indigenous inhabitants of South America and Central America from this category; and further, that ED, OMB and Census need to engage in consultation with AIAN tribes and Native communities concerning the appropriate scope of this critical definition. There are various government criteria and eligibility requirements that define AIAN students, which is important to know and understand. The OMB and Census definition is an issue that must provide consultation in its' definition of AIAN.
- 1.7 NACIE recommends that a Native Student Identity Task Force be created to review and provide the necessary education and understanding of the misclassification and under-representation of AIAN students and their unique tribal heritage and experiences. Native students and their families' indigenous ways of life meets the eligibility criteria of the Migrant Education program services. However, Native students in tribal and urban communities have not fully benefitted from the comprehensive services provided.
- 1.8 NACIE recommends that Congress continue to support the National Indian Education Study (NIES) and other opportunities to increase participation of AIAN students in other data collection efforts of the National Center for Educational Statistics (NCES), including

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<sup>1</sup> U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*, 2018, <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>

- BIE schools and staff within all future iterations of the National Schools and Staffing Survey and, continue oversampling, analyzing data, and publishing the results of public schools in which AIAN students constitute high percentages of enrollment.
- 1.9 (A) NACIE recommends that Congress enact laws that provide financial support for providing AIAN students with an education that honors their unique Native languages, histories, and cultures, while preparing them for a successful future from pre-birth to life-long learning. NACIE recommends that Congress enact legislation to expand funding for Indigenous language acquisition and proficiency by adult tribal members. NACIE also recommends that Congress continue to support language acquisition and proficiency for Native students through culturally responsive programs including, but not limited to, immersion schools. Funding should be expanded within ESEA Title III (Language Instruction for English Learners and Immigrant Students), in addition to Title VI funding.
- (B) NACIE recommends Congress prioritize the revitalization of Native languages. Additional Congressional appropriations are needed for ED to intentionally focus funds and supports for Native schools and communities that are working to revitalize Native languages, especially when used as the medium for instruction.
- (C) NACIE recommends that Congress recognize the expertise of Native language speakers, particularly Native elders as proficient and as highly qualified in their respective language area, and to recognize tribal authority to establish a certification endorsement.

## **II. Requests for Distinct Funding for Native Education**

- 2.1 NACIE recommends that Congress maintain its support for both the Title VI and JOM programs with separate identities of both programs and services. NACIE also asks that student counts of eligible students within these programs be accurate and maintained annually.
- 2.2 NACIE recommends that Congress increase funding for the OIE to support the unique cultural, language, and educational needs of AIAN students.
- 2.3 NACIE recommends that Congress continue to promote the unique role and responsibilities of Tribal Colleges and Universities (TCUs) in Indian Country and increase current levels of funding where increasing student enrollment and other needs of the institutions are demonstrated.
- 2.4 NACIE recommends that Congress appropriate additional funds for ED to collect data specific to Native students in post-secondary institutions of all types. It is imperative that Congress receive an annual report from ED on the number of AIAN students who participate in post-secondary education. This would include all programs dedicated to the recruitment and retention of AIAN students as well as the number of AIAN faculty and staff serving at Public institutions. This would also include technical and community college data. Such data should be able to assess the total cost of attendance, including debt burden on graduation, job or graduate school placement rate, and other indicia of their mission and effectiveness.

- 2.5 NACIE recommends that Congress increase Funding and Support for Impact Aid – Title VII
- (A) NACIE recommends that Congress provide effective oversight of ED monitoring of implementation of the Title VII Indian Policies and Procedures (IPP) to ensure LEA accountability to tribal leaders and parents of Indian children.
  - (B) NACIE recommends that Congress provide Title VII Impact Aid funding to ensure payments are at or exceed 100% of the Learning Opportunity Threshold (LOT) as provided for in Section 7003 (b)(3).
  - (C) NACIE recommends that Congress forward fund the Title VII Impact Aid program.
  - (D) NACIE recommends that Congress repeal Section 7009 of the Impact Aid law.
  - (E) NACIE recommends that Congress secure additional funds to help alleviate the backlog of Title VII, Section 7007 school construction and renovation needs including the passage of a Facilities Infrastructure Bill that would provide much need infrastructure funding for Indian land schools including teacher housing.
  - (F) NACIE recommends the Congress fund a study on the effect of Impact Aid on both rural and urban schools.

### **III. Improve Lifelong and Comprehensive Education**

- 3.1 NACIE recommends that Congress create legislation that supports the Programs within OIE so that OIE can more broadly disseminate information on promising practices within discretionary and formula grant programs so they could be replicated elsewhere in Indian Country.
- 3.2 NACIE recommends that Congress support lifelong learning for AIAN students from early childhood through adulthood. There is a need for quality childcare, empowering parents, raising the bar for early learning, and reforming and expanding Head Start and Early Head Start (HS/EHS). Congress should recommend Native language programs be directed specifically to AIAN students, especially programs aimed to educate children and families in Native language revitalization.
- 3.3 NACIE recommends that Congress provide additional funds for technical assistance and support for parents of AIAN students. Though programs such as JOM, Title VI, Title I, and other titles in ESEA may contain the establishment of parent committees, there is an on-going need for helping restore the skills and knowledge of Native parents, especially in how they can reinforce school learning.
- 3.4 NACIE recommends that ED's School Support and Technology Programs and Technical Assistance Programs identify how current technical assistance is being targeted specifically to serve AIAN students.
- 3.5 NACIE recommends that ED improves school climate through a Secretarial Dear Colleague Letter encouraging the removal of potentially harmful Native imagery and iconography.

### **IV. Build and Sustain Government to Government Relations with Tribal Nations**

- 4.1 NACIE recommends that Congress ensure accountability for the implementation of tribal consultation at the federal, state, and local levels.



# ANNUAL REPORT TO CONGRESS

## 2019-2020

### Context for American Indian and Alaska Native Education

The establishment of the National Advisory Council on Indian Education (NACIE) was one of the major provisions of the Indian Education Act of 1972, Pub. L. No. 92-318, 86 Stat. 235. The Indian Education Act of 1972 is part of the Elementary and Secondary Education Act (ESEA) of 1965, Pub. L. No. 89-10, 79 Stat. 27. Successive reauthorizations of the ESEA have retained the provisions establishing NACIE; they are currently codified at 20 U.S.C. §7471. NACIE produced annual reports from 1973 to 1993; however, beginning in fiscal year 1994 and continuing to fiscal year 2004, congressional appropriations for NACIE were eliminated or so drastically reduced that preparation of the required annual report to Congress did not occur.

The National Advisory Council on Indian Education (NACIE) advises both the Secretary of the U.S. Department of Education (ED) and the Secretary of the U.S. Department of the Interior (Interior) concerning the administration and funding of all programs over which the Secretaries have jurisdiction. This includes all programs and/or services that may benefit American Indian/Alaska Native (AIAN) children or adults as participants. In addition, Executive Order 13592 (EO), signed on December 2, 2011, launched the White House Initiative on American Indian and Alaska Native Education (WHIAIANE). The EO designates the National Advisory Council on Indian Education (NACIE) as the EO's advisory committee and specifies particular roles for the NACIE.

In fulfilling the NACIE responsibilities and functions, consistent with the NACIE Charter, three sub-committees were established to complete specific responsibilities and include the following:

1. OIE Director Advisory Hiring Sub-Committee
2. By-laws Sub-Committee
3. Annual Report Sub-Committee

In recognition of this EO and previous legislation enacted in support of AIAN education, the United States acknowledges the unique political and legal relationship with the federally recognized Indian tribes, as set forth in the Constitution of the United States, treaties, Executive Orders (EOs), and court decisions. Over 800 treaties were initially signed for which Angsplatt reports that 120 had education provisions as “consideration” (2001). Reinhardt and Tippeconnic<sup>2</sup> (2010) document the federal responsibility to educate American Indians in exchange for over 500 million acres of treaty ceded territory. Of the 374 American Indian treaties, about a third (116) contain educational provisions. Per the canons of [treaty] construction<sup>3</sup> (Canby, 2009), tribes interpret and understand this negotiated obligation exists into perpetuity.

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<sup>2</sup> Reinhardt, M., and Tippeconnic, J. (2010). Treaty basis for Michigan Indian education. *Indigenous Policy Journal* Vol. XXI, No. 4 (Winter 2010).

<sup>3</sup> Canby, W. (2009). *American Indian law in a nutshell, 5th edition*. West Group Publishing, St. Paul, MN.

For centuries, the Federal Government's relationship with tribes has been guided by a trust responsibility: a long-standing commitment of the Federal Government to protect the unique rights and help ensure the well-being of tribes, while respecting their tribal sovereignty.

NACIE seeks to fulfill its responsibility and submit an Annual Report to the 116th Congress for the period of 2019-2020, with recommendations and rationale. The recommendations herein are based on NACIE's foundation that full implementation, with sufficient funding and ongoing substantive support by both the Departments of Education and Interior, will help to achieve culturally related academic student success, and meet the provisions of the ESEA and related legislation and policies.

These recommendations are congruent with, and in many cases identical to, the recommendations NACIE has made in previous NACIE Reports to Congress. To date, Congress has neglected to provide any response to NACIE for these Reports. Accountability to Congress in fulfillment of the purpose for which NACIE was enacted, necessitates a presentation of this annual report to the Senate Committee on Indian Affairs and any Congressional committees of jurisdiction.

The NACIE affirms that the federal trust responsibility for AIANs makes it essential that the Department of Education (ED) increase its accountability for Native children's success in public schools on or near Indian reservations, urban, rural, and BIE schools. More than half of AIAN children attend K-12 schools in our nation's large urban centers, and over 93% of Native students attend public schools. It is important to recognize the unique needs of the diverse tribal and non-tribal communities where AIAN students attend school. As in previous years, NACIE members are unanimous in establishing that the first priority for the federal government should be to raise the profile and academic success of AIAN students through Indian education in every way possible.

### **AIAN Education Grade: How Are We Doing?**

Finally, to contextualize both the legal and moral responsibility for Indian Education, it is important to recognize the worst of the worst outcomes experienced by AIAN students explained by historical and inter-generational trauma<sup>4</sup> (Brave Heart, 2000, 2004; Newbreast, 2011); tribal critical race theory<sup>5</sup> (Brayboy, 2005); the Indian Boarding School and forced assimilation experiences; federal removal and reservation policy, all of which have negatively impacted social, economic and equitable educational opportunities, and, have perpetuated adverse outcomes and stark disparities between AIANs and the general population. (documented in the Broken Promises Report (U.S. Commission on Civil Rights)).

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<sup>4</sup> Brave Heart, M. Y. H. (2000) Wakiksuyapi: Carrying the historical trauma of the Lakota. *Tulane Studies in Social Welfare*, 21-22, 245-266.; Brave Heart, M. Y. H. (2004). The historical trauma response among Natives and its relationship to substance abuse: A Lakota illustration. *Journal of Psychoactive Drugs*, 35 (1), 7-13.; Newbreast, T. (2011). *Historical trauma and Native Americans: Training of trainer workshop*. Chico: CA. Connecting Circles of Care. Retrieved <https://www.nativewellness.com/events.html>

<sup>5</sup> Brayboy, B. M. J. (2005). Toward a tribal critical race theory in education. *The Urban Review*, 37(5), 425-444. doi: 10.1007/s 11256-005-0018-y

**Educational attainment rates for Native students are the lowest of any racial or ethnic group in the United States (U.S.).** As a group, Native students are underperforming academically, as evidenced by relatively low reading and math proficiency; low test scores; and less access to high rigor courses. The dropout rate for Native students is highest of any racial or ethnic group: 13.1% of male students (ages 16–24) and 9.9% of female students (ages 16–24) have dropped out, as compared with 7.2% of male students (ages 16–24) and 5.2% of female students (ages 16–24) of all races. Only 17% of Native students begin college, as compare to 62% of all students nationwide.

**Native students, in the aggregate, score far lower than their non-Native peers on national assessments of reading and math proficiency.** For example, in 2017, fourth grade Native students scored an average of 21 points lower on reading assessments, and an average of 14 points lower on math assessments than non-Native students; likewise, eighth grade Native students scored an average of 14 points lower on reading assessments, and an average of 17 points lower on math assessments than non-Native students. From 2003–2017, score gaps between fourth grade Native students and non-Native students increased by 8 points for reading and 4 points for mathematics assessments; while average scores of Native students in reading remained the same and average mathematics scores increased over that period. From 2003–2017, score gaps between eighth grade Native students and non-Native students increased one point for reading assessments and 6 points for mathematics assessments. The average scores of Native students in both reading and math increased over that time (2018).

**The COVID-19 pandemic has only exacerbated longstanding educational disparities that directly result from the federal government’s chronic underfunding of its trust and treaty responsibilities.** Approximately 620,000, or 93%, of Native children are currently enrolled in public schools, both urban and rural, while 48,000, or 7%, attend schools within the BIE system. There are 183 BIE funded schools (including 14 peripheral dormitories) located on 63 reservations in 23 states. In addition, there are currently 37 Tribal Colleges and Universities (TCUs) in the United States, serving more than 160,000 AIAN students, and other rural residents each year through a wide variety of academic and community-based programs.

Limited broadband access in Native communities hampered efforts to provide effective virtual culture-based education options for Native students throughout the pandemic, particularly those who attend BIE and tribally controlled schools. In 2017, the National Center for Education Statistics reported that 36% of Native students nationwide did not have internet access in their homes, compared to 17% of white students and 18% of students nationwide. A 2019 report from the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis further clarified that this discrepancy is more pronounced on tribal lands, where only 61% of households have broadband access, compared to the 70% average in the county that overlaps a reservation and the 69% nationwide average. Due to lack of internet access at home, BIE funded schools serving students on and near tribal lands have struggled to implement virtual education options during the COVID-19 outbreak.

In addition, prior to the pandemic, the federal government recognized that AIAN students were being educated in **inadequate facilities**. For example, the Department of the Interior identified

\$629 million in deferred maintenance for BIE-funded education facilities and \$86 million in deferred maintenance for BIE educational quarters, including **severely overcrowded** classrooms. In addition to these **infrastructure disparities** that result in less than ideal learning conditions, the BIE has historically had **difficulties with recruiting and retaining highly effective teachers**. **Inadequate housing**, the inability for tribally controlled schools to provide their staff **Federal Employee Health Benefits**, and **low salaries** make it difficult for quality teachers to consider careers in the BIE system.

## Excerpt from “Yup’ik Village of Toksook Bay and Our Pandemic Story”

*The full story may be viewed in the appendix*

*Cang’erlak* is Yugtun term for pandemic, *cang’erlarpak* is the great pandemic. Many of our ancestors died during the 1918 epidemic, 60% of the population, and few survived. My 102 years old grandmother, *Cingyukan* Albertina Dull from Nightmute, Alaska, has witnessed this great death and tells local-based Indigenous traditional oral stories of how to deal with the pandemic...

For educational agencies, the community has one K-12 school, and an early learning center for pre-school. The local school building is also used for the annual village ceremonial dances, regional tribal social gatherings, other extra curricula social activities, funeral services and for basketball activities. This is because the village does not have a large gathering communal center that can house large conventions. Teacher family housing is provided by the Lower Kuskokwim School District and the school buildings have running water and sewer system in place...

My sister Dr. John-Shields is teaching from home due to University of Alaska system virus lock down. Youngest sister manages the Alaska Statewide BIA tribal agency office from her office. Eldest brother is half retired and works from home...

Today, one of my brothers, who lives in Bethel is tested positive with his family. Two of my nieces are COVID 19 positive, one in the village and one in Anchorage. Distant relatives in the village and surrounding villages are experiencing positive surges in COVID...

We love all family members unconditionally and hope best for all village communities.

# I. Honor Tribal Sovereignty

## 1.1 Create and Fund an Assistant Secretary Position

**NACIE recommends that Congress create and fund the position of an Assistant Secretary of Indian Education within ED.**

Rationale: As a recognition of Tribal sovereignty and the Federal Trust Responsibility, an Assistant Secretary of Indian Education (ASIE) would provide critical leadership, accountability, and collaboration at a higher level than the current OIE Director position within ED. This recommendation would also strengthen collaboration across other Federal agencies, for example, working with the Department of Interior (DOI), BIE officials to address the comprehensive educational needs in Indian Country. Then the NACIE would take a leadership role to ensure that interagency collaboration envisioned in the EO would yield measurable results.

## 1.2 Reinvigorate the White House Initiative on American Indian and Alaska Native Education

**NACIE recommends Congress allocate increased funds to ED to support NACIE's expanded responsibilities under EO 13592.**

Rationale: The EO, signed December 2, 2011, was launched with the White House Initiative on American Indian and Alaska Native Education. The EO designates NACIE as the official advisory committee and specifies particular roles for it to perform. These roles will require expenditures by ED. Yet to date, NACIE has not received increased funds in its budget to cover these expenses. This recommendation asks Congress to provide an increase in NACIE's operating budget for FY2020-2021 and after to allow NACIE to fulfill its EO responsibilities.

## 1.3 Expand the Cross-Departmental Collaboration as required by EO 13952

**NACIE recommends Congress support cross-departmental resources for the Department of Education, the Department of Interior, the Department of Justice, Department of Health and Human Services, and related other Departments, federal agencies, and related federally established commissions.**

Rationale: As justification for this need for collaboration, issues of school discipline disparities, substance abuse issues, special education disparities, civil rights violations and the school-to-prison pipeline disproportionately affects and devastates AIAN students and families. Collaboration between federal departments is necessary when conducting Indian Country Listening Sessions on such topics. Further, resources and new strategies are necessary to better address these circumstances that exist in Indian Country. Initiatives like *Ist Kids First* which involves collaboration between the National Indian Education Association (NIEA), the National Congress of the American Indian (NCAI), the National Indian Child Welfare Association (NICWA), and the National Indian Health Board (NIHB) has directly impacted student outcomes.

For example, Native students who are overdisciplined do not learn proactive social skills. Instead, they develop an increased likelihood of challenging behavior in the future. Additionally, overdisciplined students do not develop or enhance their capacity to function in a normalized environment and those Native students may feel traumatized, inhibiting their ability to establish relationships with essential personnel who would otherwise offer support and guidance in their educational growth.

Native families, community members, and other professionals must have opportunities to engage and implement strategies for effective behavior support practices for all students, especially for Native students and students receiving special education services, who are disproportionately affected by current discipline policies and practices.

#### **1.4 Ensure Supplement Not Supplant of Title VI “Indian Education”**

**NACIE recommends that all ESEA Title Programs include language that emphasizes the importance of coordination with the Title VI Indian Education Act programs to ensure that Title VI funds are not used to supplant other Title Program funds and services for Native students. However, NACIE also recommends that technical assistance be provided not only to state educational agencies (SEAs), but also to local educational agencies (LEAs) to clarify the differences between Title VI and all ESEA Title Programs.**

Rationale: Title VI uses Indian Education grants in targeted ways, adhering to the federal government’s commitment to Native students. Further, Title VI technical assistance should underscore the importance of parent committees in determining the use of Title VI funds.

Congress needs to continue to support the Indian Education Act, Title VI legislation, to promote the vitality of Native cultures and the health of Native people (as advocated by the United Nations Indigenous Human Rights Law), especially regarding the children and the elderly. NACIE’s responsibility is to ensure that all federal funds and services are implemented to the benefit of AIAN students.

NACIE's goal in this recommendation is to ensure that Title VI funds go specifically toward the Indian students and tribal communities for whom they are intended and that services continue to target the unique, culturally related academic needs of AIAN students. NACIE is concerned that budgeted and unfilled vacancies at ED and OIE have reduced the capacity to monitor all ESEA grant programs to ensure that Title funds are spent appropriately. There are school districts that may be out of compliance with the appropriate use of Title VI and other Title programs funds. There are instances at both the SEA and LEA that do not include Native students in the services that specific Titles are required to provide. Conversely, Title VI funds and services have been used to provide services that Title I, Title III, Migrant Education, Special Education and other Titles should be using to provide targeted resources and services, specifically with Native students.

#### **1.5 Increase and Improve Technical Assistance for Tribes and Local Educational Agencies (LEAs)**

**NACIE recommends that Congress through legislation advocate for increased hiring of AIAN professionals as experts and reviewers, as well as for technical assistance designed to have direct impact on Native students. This includes, but is not limited to, hiring for the OIE Discretionary Grants administration, Comprehensive Centers, Equity Assistance Centers, Special Education and Technical Assistance Centers.**

Rationale: Native expert reviewers bring a unique and invaluable perspective to the evaluation of discretionary programs and services that will have an impact on AIAN students. Engaging the services of Native expert reviewers increases the likelihood that Native history and culture will be understood and respected in the decision-making process. Having Native expertise makes a powerful and knowledgeable impact on programs and services that affect Native students.

Such preferences are consistent with the Indian hiring preferences of ED OIE, DOI, and Indian tribes. If qualified AIAN people cannot be found after a diligent hiring search, the programs should be continued nonetheless using non-Native employees. NACIE encourages Congress to advocate for the inclusion of subject matter experts (SMEs) and discretionary grant field reviewers and evaluators who are AIAN whenever possible.

#### **1.6 Review the Definition of American Indian and Alaska Natives (AIANs)**

**NACIE recommends that Congress collaborate with ED and the Office of Management and Budget (OMB) and the U.S. Census Bureau (Census) revise the definition of AIAN at all levels and remove the indigenous inhabitants of South America and Central America from this category; and further, that ED, OMB and Census need to engage in consultation with AIAN tribes and Native communities concerning the appropriate scope of this critical definition. There are various government criteria and eligibility requirements that define AIAN students, which is important to know and understand. The OMB and Census definition is an issue that must provide consultation in its' definition of AIAN.**

Rationale: There is a critical need for accurate counts of Native students, not only because it dramatically impacts the funding of program allocations but is needed to collect reliable data on program effectiveness, challenges, and successes. In 1997 and 2000 respectively, race and ethnicity categories were created by OMB and Census to describe groups to which individuals belong or with which they identify. The designations categorize U.S. citizens, resident aliens, and other non-citizens to determine eligibility for various federal programs and other federal purposes. It is crucial to NACIE that the definition of one such category, "AIAN," **be neither under- nor over-inclusive.**

However, the categories do not denote scientific definitions of anthropological origins, and the category AIAN was developed and promulgated without meaningful federal consultation with federally recognized American Indian tribes or state recognized tribes or Alaska Natives. As a result, the category of AIAN is broader than the concept that has informed the countless agreements, treaties, agreements, statutes, etc., that for literally hundreds of years have constituted the legal relationship between AIAN peoples and the U.S. government, a relationship that the Trust Doctrine attempts to nurture and protect. Specifically, the current

definition has arbitrarily and capriciously included the original peoples of South America and Central America. **These groups do not have treaties, agreements, statutes or other historical legal relationships with the U.S. Government, and their well-being is not contemplated under the Trust Doctrine.**

A look at the categories is instructive. First, individuals are asked to identify as:

- Hispanic or Latino or
- Not Hispanic or Latino

Second, individuals are asked to indicate one or more races that apply among the following:

- AIAN (a person having origins in any of the original peoples of North and South America [including Central America] who maintains cultural identification through tribal affiliations or community attachment)
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White

Because OMB and Census did not engage in meaningful consultation with Tribes in formulating its over-inclusive category of AIAN, the category should immediately be revised to delete inclusion of persons of South or Central American origins. ED and OMB should move quickly to consult with representative AIAN communities and individuals to assure that the category AIAN is neither over- nor under-inclusive. NACIE asks that Congress cooperate with these government entities in their important work of revision.

**Note:** The Indian Health Service uses a narrower definition applicable to Alaska Natives and American Indians that have an affiliation with a tribal group of the United States to establish eligibility for their programs; thus, it does not include indigenous people of Latin America or Canada. "Any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendent, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary" (*The Indian Healthcare Improvement Act*, Public Law 94-437, 25 U.S.C. 1603(c)-(d)).

## **1.7 Create a Native Student Identity Taskforce**

**NACIE recommends that a Native Student Identity Task Force be created to review and provide the necessary education and understanding of the misclassification and under-representation of AIAN students and their unique tribal heritage and experiences. Native students and their families' indigenous ways of life meets the eligibility criteria of the Migrant Education program services. However, Native students in tribal and urban communities have not fully benefitted from the comprehensive services provided.**



Rationale: As the original migratory people of this land, Native students continue to be engaged in their traditional ways of life by traveling across school district boundaries to fulfill their historical practices of fishing, indigenous food gathering, agricultural work and forestry stewardship. As Indian Country brings a unique and invaluable experience to the program, it's imperative the DOE develop an Indian Education Recruitment and Outreach Plan, including central and state staff positions, in collaboration with the DOE Office of Indian Education. It's incumbent on DOE to fulfill its' trust responsibility in ensuring Native students no longer experience erasure in this unique educational opportunity.

## **1.8 Increase Federal Accountability for Data Collection and Assessment**

**NACIE recommends that Congress continue to support the National Indian Education Study (NIES) and other opportunities to increase participation of AIAN students in other data collection efforts of the National Center for Educational Statistics (NCES), including BIE schools and staff within all future iterations of the National Schools and Staffing Survey and, continue oversampling, analyzing data, and publishing the results of public schools in which AIAN students constitute high percentages of enrollment.**

Rationale: Failure to adequately include and properly operationalize AIAN students in the collection, analysis, and dissemination of national level educational data represents a failure of the Federal government to observe its trust responsibility. Without accurate and complete data collection, analysis and reporting, it is impossible to know the extent to which AIAN students are being appropriately educated, or to effectively address persistent inequities, or to identify schools that are educating AIAN students in academically and culturally appropriate ways. Further, since ED collects data on all other students, it is the department's responsibility to take appropriate means to include AIAN students, including oversampling, if necessary. Oversampling is important to ensure valid and reliable data.

The NCES should not downsize analysis and dissemination of data pertaining to Native students by the NIES. This could result in data that is collected but being made available only via an electronic format. Given the lack of technology access and use in many parts of Indian country, this will impact the overall accessibility and utility of these important data. This will also compromise the work of researchers who depend on these data to accurately portray the educational conditions and outcomes of AIAN students.

The NCES should not eliminate BIE affiliated schools and staff from the Schools and Staffing Survey. The loss of these data would have significant, negative impact on both practitioners and researchers, as they work to understand and respond to the educational conditions and subsequent outcomes of AIAN students within these schools.

Native communities should have more frequent access to training in data collection and analysis, either by the NCES or another provider. ED should emphasize Indian preference in the selection process for data collectors and analysts, to build capacity in tribal communities. If possible, a team approach to data handling should be utilized.

## 1.9 Continue to Reclaim Native Languages

### A. Expand Funding

**NACIE recommends that Congress enact legislation that provides financial support for providing AIAN students with an education that honors their unique Native languages, histories, and cultures, while preparing them for a successful future from pre-birth to life-long learning. Congress needs to enact legislation to expand funding for Indigenous language acquisition and proficiency of adult tribal members. There is also tremendous need to continue to support language acquisition and proficiency for Native students through culturally responsive programs including, but not limited to, immersion schools. Funding should be expanded within ESEA Title III (Language Instruction for English Learners and Immigrant Students), in addition to Title VI funding.**

Rationale: AIAN languages are not spoken anywhere else in the world, and if they are not enhanced, they will disappear forever. In Native communities across the country, Native languages are in rapid decline. Successful language acquisition and proficiency by children depends on a community of proficient language speakers to take hold and flourish.

U.S. assimilation policies have created historical trauma and damaged Native American identity. Numerous federal reports conclude that language and culture ameliorate the negative outcomes of Federal Indian Policy. Evidence-based research shows that Native language revitalization is a key empowerment tool for AIAN communities.

Tribes should be encouraged and supported to develop and implement programs appropriate for adult members wishing to learn or deepen their knowledge of traditional languages. Learning is a holistic enterprise that intersects all aspects of children's lives. Therefore, NACIE asks Congress to urge and support increased collaboration by all federal entities that have an impact on Native language revitalization, including but not limited to ED, BIA/BIE, Health and Human Services (HHS), and Department of Justice (DOJ). In this way, Native students studying in tribal immersion schools or other educational environments will be able to enhance and reinforce their language-learning at home and in their communities. Congress should acknowledge and insist that Executive Orders such as EO 13592 and relevant federal legislation should preempt state laws (like Arizona's English Only Law) that impinge upon or disrupt the educational programs of AIAN students and their learning of Native languages and cultures.

Further, Congress should see that the appropriate federal entities strenuously enforce federal laws and regulations aimed at protecting indigenous peoples' cultures and languages, such as the Native American Language Act.

### B. Clarify the Distinction Between Native Languages vs. World Languages

**Additional Congressional appropriations are needed for ED to intentionally focus funds and supports for Native schools and communities that are working to revitalize Native languages, especially when used as the medium for instruction.**

Rationale: Not all SEAs and LEAs have the capacity to fully support the development and continuation of Native language revitalization efforts. But where there are those that do have the interest and involvement of Native speakers, there is a need for articulated agreements between SEAs, LEAs, and Tribes.

Further, NACIE recommends that Congress recognize that Native language be classified under World Languages, instead of as foreign languages so that Native languages may be allowed to satisfy non-English language proficiency requirements. Finally, NACIE recommends that Congress find ways (such as the Competitive Grants for State Assessment) to encourage ED to establish Native Language assessment supports for SEAs and LEAs.

### **C. Expand the Certification of AIAN Language Speakers**

**NACIE recommends that Congress recognize the expertise of Native language speakers as proficient and as highly qualified in their respective language area, and to recognize tribal authority to establish a certification endorsement.**

Rationale: Native language speakers, particularly the elders, teaching Native languages in public schools should be exempt from any requirement in the reauthorization of ESEA which would be detrimental to Native language instructors. They should be valued for the unique expertise that they bring.

Asking an elder to go back to school through a teacher certification program is unrealistic and unlikely to happen. These highly qualified experts in Native languages can only be certified for their specific language expertise through their respective tribes. Though this certification exists in some states, it is not universally employed by all SEA that have AIAN populations.

## **II. Requests for Distinct Funding for Native Education**

### **2.1 Clarify and Maintain the Distinction Between Title VI and Johnson O'Malley (JOM)**

**NACIE recommends that Congress maintain its support for both the Title VI and JOM programs with separate identities and purposes of both programs and services. NACIE also asks that student counts of eligible AIAN students within these programs be accurate and maintained annually.**

Rationale: Since ED administers the implementation of the Title VI programs and BIE oversees the JOM program there are distinct differences in how students are identified, which services are provided, and what student outcomes are established. BIE and ED have different eligibility requirements, purposes, and allowable costs. JOM students must a member of a federally recognized tribe or be one-fourth or more Indian and be 3 years old to grade 12 student. Title VI eligibility requires that either the K-12 student, a parent, or grandparent be an enrolled member in a federally recognized or state recognized Indian tribe or Alaska Native community. Both the National JOM Association and the National Indian Education Association support these distinctions.

As part of Congress’s annual budget submission NACIE requests that Congress direct the BIE to submit a report on JOM program student counts, results, and accomplishments, to ensure Congress is annually informed about the positive impacts and outstanding achievements of the supplemental education programs provided by JOM funds.

**2.2 Increase Commitment and Funding for the Title VI OIE in support of the unique culturally related academic and linguistic needs of AIAN students.**

**NACIE recommends that Congress increase funding for the Office of Indian Education (OIE) to support the unique cultural, language, and educational needs of AIAN students.**

Rationale: As a result of the Federal Trust Responsibility, Title VI funding supplements basic school support dollars and other federal ESEA programs. The Title VI, Part A program is underfunded and does not counter the costs of inflation and sequestration. Since 93% of Native students attend public schools, and Title VI services supplement those provided for AIAN students in regular school programs there continues to be a critical need for funding at an appropriate level, so that AIAN students have an equal educational opportunity as their non-Native peers. At present levels of funding, the needs of AIAN education can only partly be addressed. The annual funding for Title VI Formula grants has remained stagnant at for the last 10 years. Increasing funding will help ensure the full participation of all eligible AIAN students.

Finally, there needs to be an investigation into per pupil expenditures of Title VI, as compared to the per pupil expenditures of the other ESSA Titles. The allocation of funds for Title VI is significantly less than all other Titles which limits the ability of the Title VI, Part A programs to provide services for AIAN students. The table below details on proposed funding for fiscal years 2020 and 2021.

<i>Title VI, Part A – U.S. House &amp; Senate Proposed Funds</i>	<i>FY 2020</i>	<i>FY 2021</i>
<i>Formula Grants for Indian Children</i>	<b>\$106,525,000</b>	<b>\$106,525,000</b>
<i>Special Programs for Indian Children</i>	<b>\$17,993,000</b>	<b>\$17,993,000</b>
<i>National Activities</i>	<b>\$5,565,000</b>	<b>\$5,565,000</b>

**2.3 Continue Funding for Tribal Colleges and Universities (TCUs)**

**NACIE recommends that Congress continue to promote the unique role and responsibilities of Tribal Colleges and Universities (TCUs) in Indian Country and increase current levels of funding where increasing student enrollment and other needs of the institutions are demonstrated.**

Rationale: There are 37 TCUs, serving more than 160,000 American Indian, Alaska Natives, and other rural residents each year through a wide variety of academic and community-based programs. Tribal colleges provide a significant number of AIAN students the opportunity to pursue an education ranging from adult basic education and certification to associate and bachelor's degrees. It is important for Congress to recognize and act on the need for parity in funding and resources so the mission of the tribal colleges to bring education, social and economic opportunities to AIAN students and their communities can be achieved. Tribal colleges rely on federal resources through the Tribally Controlled Colleges and Universities Act (TCCU). The federal funds secured through TCCU provides resources for the majority of the general operating budgets. Funding the colleges receive is based on the "beneficiary" students who are members of a Tribe or are at least one-fourth degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the BIA and the ED. Over the years, tribal colleges have a history of enrolling a significant number of "non-beneficiary" students who are not enrolled in a federally recognized tribe. Tribal colleges do not receive federal resources for these students which creates a budget shortfall to also educate these students, who make up 10-30% of the student enrollment. Many of the TCUs are in rural and remote communities, where access to a higher education is limited.

Further, NACIE supports the permanent reauthorization of HEA Title III F, Strengthening Institutions-Tribal Colleges and Universities Program, administered by ED, at a minimum level of \$35 million annually and encourages Congress to work to secure permanent funding with increases thereafter.

The annual funding for TCUs and Public institutions serving a significant number of AIAN students should reflect the increasing student enrollment and other needs of these institutions. As these colleges continue to increase in enrollment, funding from year to year should keep place to accommodate the growth and change. To responsibly execute its financial responsibilities to AIAN students, Congress should rely on the best available data regarding student populations and their institutions of higher education.

#### **2.4 Increase Funding for Services and Scholarships for Native Students Attending Public Colleges and Universities**

**NACIE recommends that Congress appropriate additional funds for ED to collect data specific to Native students in post-secondary institutions of all types. It is imperative that Congress receive an annual report from ED on the number of AIAN students who participate in post-secondary education. This would include all programs dedicated to the recruitment and retention of AIAN students, as well as, the number of AIAN faculty and staff serving at non-tribal public higher education institutions. This would also include technical and community college data. Such data should be able to report the-total cost of attendance; including debt burden upon graduation; job or graduate school placement rates; and other indications of their mission and effectiveness.**

Rationale: AIAN students should be prepared to enter higher education and should be welcome to attend any institution for which they meet the criteria. According to the U.S. Census only 14%

of AIANs over the age of twenty-five have a bachelor's degree compared to the 30.3% U.S. average. Higher education institutions must be required to foster AIAN students' sense of belonging throughout their campus communities. Currently, many institutions and their policies create environments that disenfranchise AIAN students. Invisibility on college campuses is a modern form of racism. This invisibility erases opportunities for AIAN students. It is this invisibility that leads to a lack of college access and the current college dropout crisis. When Native students are invisible, their academic and social needs are not met. This leads to students feeling alienated and alone, resulting in derailed matriculation and the delay of the realization of their dreams and career potential.

Congress can support the higher education of AIAN students attending public institutions by reinstating the federal fellowship program for qualified AIANs. Additionally, Congress should increase the current levels of financial support for Native American Serving, Nontribal institutions and Non-Native institutions where significant numbers of AIAN students attend.

Higher Education institutions have a responsibility to uphold tribal sovereignty by generating meaningful government-to-government relationships with tribal nations. Each state's higher education institutions should be accountable by providing annual reports that address AIAN students' college profile, including:

- degree attainment;
- financial resources dedicated to AIAN population;
- dedicated resources and space specified for AIAN students;
- recruitment and retention efforts;
- number of AIAN students enrolled;
- systems of evaluation and assessment; and
- number of AIAN faculty & staff.

The reports should be developed in partnership with tribal nations and AIAN researchers to ensure appropriate measurement and collection. On a national level, higher education student data must be transparent across sectors (federal, state, tribal, and institution) to advance policies, to grow funding investments, and to advocate for and to enact systemic and structural strategies and policies that encourage and increase AIAN student degree completion.

## **2.5 Increase Funding and Support for Impact Aid, Title VII**

### **A. Congress needs to provide effective oversight of ED to monitor implementation of the Impact Aid, Title VII Indian Policies and Procedures (IPP) to ensure LEA accountability to tribal leaders and parents of Indian children.**

Rationale: Regulations governing the Title VII Indian Policies and Procedure process as provided for in Section 7004 of the Impact Aid statute, were previously amended to be more accountable to greater review and approval from Tribal Education Department's and tribal leaders. ED has been forthright in overseeing the implementation of the regulations to insure meaningful tribal input. NACIE encourages ED to continue to closely monitor the implementation of the procedures now in place, to ensure that tribal leaders and parents of AIAN

children are assured meaningful input into their school’s curriculum and student activities. In addition, the Impact Aid, Title VII Program Office through their IPP review process needs to ensure that school districts provide in written form, any and all comments from consultation between a tribe and the school district. In addition, the Impact Aid, Title VII Program Office should provide technical assistance to both tribal leaders and LEAs at their request to ensure that the requirements as per the regulations are being followed.

**B. Congress needs to support Impact Aid, Title VII funding to ensure payments are at or exceed 100% of the Learning Opportunity Threshold (LOT), as provided for in Section 7003 (b)(3).**

Rationale: Public schools on or near Indian lands are heavily reliant on federal Impact Aid to replace nontaxable federal lands. In Fiscal Year 2013 the Impact Aid Program was severely hurt from sequestration suffering a loss of \$65 million causing the percentage that the ED could pay out under the LOT formula to drop to 87.06%. The reduction in Impact Aid payments during the 2012 – 2013 school year resulted in huge staff layoffs and program cutbacks. The Impact Aid, Title VII must be shielded from any cuts as the result of any future discretionary spending reductions and Congress should insure that the LOT percentage payout remains in the 95% to 100% range with the goal being to insure that future payments exceed a 100% LOT payout. Over the past 6 years the LOT percentage payout has exceeded 90% with the FY 2019 LOT percentage exceeding 98%. The FY 2020 LOT percentage will remain in the 98% to possible 100% range which is a positive trend. Currently, FY 2021 payments will see a drop due to the lack of discretionary dollars as per the Budget Agreement of last year. The drop will not be catastrophic as was the case in FY 2013 because it is expected to remain at or above 95%. With more than 92-93% of AIAN children attend public school districts across the country, it is inevitable that including Impact Aid, Title VII funding in any future appropriation bills continues to remain in the 95% to 100% range. The Impact Aid program hasn’t been above a 100% LOT payout since Fiscal Year 2010. It should be noted that the Impact Aid program overall is funded at 65% of the amount needed to ensure all federally connected districts receive their full entitlement.

Moreover, the uncertainty of funding and timely payments has added to the existing challenges around recruitment and retention of highly qualified teachers and administrators. The staff and teacher layoffs contribute to larger class sizes and overcrowding which further adds to the prevailing challenges for Indian Country and society as a whole.

The Impact Aid Program must be shielded from any cuts as the result of any future discretionary spending reductions and Congress should insure that the LOT percentage payout remains in the 95% to 100% range with the goal being to insure that future payments exceed a 100% LOT payout.

**C. Forward fund the Title VII Impact Aid Program**

**NACIE recommends that Congress forward fund the Impact Aid, Title VII program.**

Rationale: Forward funding would provide funding stability for school districts on or near Indian

lands, as they would know in July what their payments would be for the upcoming school year. There is nothing in the Impact Aid, Title VII legislation that prohibits it from being forward funded. If it was forward funded, school districts, receiving those funds would be much better equipped to budget. Currently, these school districts have no idea what to budget for Impact Aid as they prepare for each school year, especially with a sequester in place. Additionally, the Impact Aid program is the only non-competitive education program that is not forward funded in ED. This would establish parity with other non-competitive programs.

#### **D. Repeal Section 7009 (Equalization) of Impact Aid, Title VII**

**NACIE recommends that Congress repeal Section 7009 of the Impact Aid legislation.**

Rationale: Under the present Impact Aid, AIAN students are negatively impacted by the application of the equalization provisions as documented in the 2009 National Indian Education Study. Section 7009 does not take into account the inability of public school districts enrolling Native children residing on trust/treaty or lands claimed under the Alaska Native Claims Settlement Act to generate local revenue due to the lack of taxable land, nor does it recognize the high per pupil cost associated with districts in rural settings that serve AIAN students.

The inequities resulting from Section 7009 continue to exist. Although New Mexico's state aid formula has failed to meet the Section 7009 requirements for equalization, two states Alaska and Kansas remain equalized. Impact Aid students are affected adversely by not being able to attend school when all other public schools remain open. Equalization does not allow Impact Aid funding to go directly to benefit AIAN students, because equalized states consider Impact Aid a state resource thereby reducing what a school district would receive under the state funding formula. The Impact Aid formula is designed to allow states with federally connected students such as those on Indian lands, to equalize up to the level of federal impact. Alaska and Kansas treat all their students equally, no matter where they reside and attend school, which presents a great inequity for AIAN students.

#### **E. Address Construction and Renovation of Facilities in Title VII, Section 7007**

**NACIE recommends that Congress secure additional funds to help alleviate the backlog of Title VII, Section 7007 school construction and renovation needs, including the passage of a Facilities Infrastructure Bill that would provide much needed infrastructure funding for Impact Aid schools, including teacher housing.**

Rationale: Impact Aid, Title VII students deserve the same high-quality facilities as non-impacted students. Impact Aid school districts have very limited or no avenues to pursue construction funding due to the inability to secure construction bonds. Consequently, there is a backlog of Title VII, Section 7007 facilities' needs. \$17 million dollars as provided each year under Section 7007 is totally insufficient when one considers that the estimated need ranges between \$750 million (a conservative estimate) to over \$2 billion. Congress needs to address the facility needs of Impact Aid districts through passage of an Infrastructure School Construction Bill that includes Indian land school districts on or near AIAN lands.



A recent survey of 205 buildings in 66 school districts serving students attending school districts on Indian lands, conducted by the National Indian Impacted Schools Association found that 56% of the buildings were in poor or fair condition; 33% reported safety code violations; 44% had capacity issues; 40% reported internet capacity or connectivity issues. Teacher housing conditions were reported as poor in 38.5% of the districts. The total cost of addressing the needs of the schools addressed in the survey was just under \$1 billion.

<b>Summary of 176 schools on Indian lands with 40% or more AI/AN Student Enrollment</b>				
<b>Schools with less than 100 AIAN students</b>	<b>Schools with less than 200 AIAN students</b>	<b>Schools with less than 500 AIAN students</b>	<b>Schools with more than 500 AIAN students</b>	<b>Schools with more than 1,000 AIAN students</b>
32 schools or 18.18%	64 schools or 36.37%	113 schools or 64.20%	63 schools or 35.80%	25 schools or 14.20%

#### **F. Establish an Impact Aid Study**

**NACIE recommends that Congress fund a study on the effect of Impact Aid on both rural and urban schools.**

Rationale: The findings will help determine policy changes in the Impact Aid, Title VII program, if needed, due to meaningful differences between rural and urban environments.

### **III. Improve Lifelong and Comprehensive Education**

#### **3.1 Identify and Disseminate Promising Practices**

**NACIE recommends that Congress create legislation that supports the programs within OIE, so that OIE can more broadly disseminate information on promising practices within discretionary and formula grant programs that can be replicated elsewhere in Indian Country.**

Rationale: This recommendation stems from the principle of tribal self-determination embraced in the Indian Self Determination and Education Act. NACIE commends Congress for taking actions consistent with this recommendation that have resulted in progress on disseminating promising practices. Still, much work remains to be done in this area. While communities currently receive grants and may develop successful and innovative programs, there are limited funds and insufficient information sharing. In addition, adequate resources are needed for data collection about what works well in those programs. Information on the successful practices should be more widely distributed so other programs can learn from and replicate them.

#### **3.2 Improve and Expand Early Childhood Education for AIAN students**

**NACIE recommends that Congress support lifelong learning for AIAN students from early childhood through adulthood. There is a tremendous need for quality childcare, empowering parents, raising the bar for early learning, and reforming and expanding Head Start and Early Head Start (HS/EHS). Congress should recommend Native language programs be directed specifically to AIAN students, especially programs aimed to educate children and families in Native language revitalization.**

Rationale: To build community support for AIAN children and families, culturally responsive policies and practices must build on educational pedagogy and curriculum that incorporates Native children's rich heritage, language, culture, and Native ways of knowing. The success of Native children is vital to our sustainability and nation building within Native communities and society. Therefore, Congress must work to ensure equitable access to early childhood education.

The 2015 study, *Transforming the Workforce for Children Birth Through Age 8*, maintains that Children are already learning at birth, and they develop and learn at a rapid pace in their early years. This provides a critical foundation for lifelong progress. The adults who provide for the care and the education of young Native children bear a great responsibility for AIAN health, development, and learning. Despite the fact that they share the same objective, to nurture young children and secure their future success, the various practitioners who contribute to the care and the education of Native children from birth through age 8 are not acknowledged as a workforce unified by the common knowledge and competencies needed to do their jobs well. Young children thrive and learn best when they have secure, positive relationships with adults who are knowledgeable about how to support their development and learning and are responsive to their individual progress. *Transforming the Workforce for Children Birth Through Age 8* offers guidance on system changes to improve the quality of professional practice; specific actions to improve professional learning systems and workforce development; and research to continue to build the knowledge base in ways that will directly advance and inform future actions.”

It is imperative that such practices be considered in making needed improvements in the quality of care and education that children receive, and ultimately improve outcomes for children. NACIE affirms that "school readiness" is not merely determining that a Native child is ready to succeed in school. It also means that schools and communities are ready to support that success by working collaboratively with families, teachers and tribal communities to create a sustainable, culturally responsive, educational environment to support transition into Kindergarten and beyond.

Early childhood education must support the holistic needs of children, including their social, health, environmental and educational needs. This includes but is not limited to, prenatal health, childcare, Head Start, migrant education, public and private preschool, faith-based and home and center-based daycare programs, special education, teen parenting, parent education, homeless children care and foster care.

### **3.3 Expand Resources to Increase and Support Native Parent Engagement**

**NACIE recommends that Congress provide additional funds for technical assistance and support for parents of AIAN students. Though programs such as JOM, Title VI, Title I, and other titles in ESEA may contain the establishment of parent committees, there is an on-going need to help restore the skills and knowledge of Native parents, especially in how they can reinforce school learning.**

Rationale: Historically, AIAN education was used by the federal government as a weapon to estrange Native children from their cultures, their parents and their communities. Education was an intentional act of intellectual genocide and was actualized by sending AIAN students thousands of miles from their home communities to attend boarding schools. Though this practice is no longer the norm, the scars of this shameful legacy remain. As a result, just as much attention needs to be placed on restoring the integral role of Native parents in education.

According to research, parent participation in almost any meaningful form positively impacts student behavior, achievement, attendance, and attitudes about self and school in general. Achievement gains are most significant and long-lasting when parents are an integral part of the teaching-learning process from preschool through high school. Gains in basic student skills are reported when parents directly teach their children and when they are involved in supporting and reinforcing teachers and school learning. Surfacing as one of the most universal themes, improving Native parent participation provides one of the greatest opportunities for success in Native educational endeavors; requiring strong administrative commitment, limited financial resources, significant staff training, and a variety of options to ensure that participation is meaningful.

### **3.4 Study and Improve the Availability of Technology Use in Indian Country**

**NACIE recommends that ED's School Support and Technology Programs and Technical Assistance Programs identify how current technical assistance and how it is being targeted specifically to serve AIAN students.**

Rationale: Once NACIE is informed of what steps are being taken to address the needs of AIAN students in existing technical assistance programs, it can make suitable recommendations for how to focus technical assistance more strategically, especially in addressing the unique needs of rural Indian reservations and remote Alaska Native villages.

### **3.5 Improve School Climate for Natives in Schools**

**NACIE recommends that ED improve school climate, specifically in schools educating AIAN students through a Secretarial Dear Colleague Letter encouraging the removal of potentially harmful Native imagery and iconography. In addition there is a need for a targeted study about school climate in AIAN schools.**

Rational: Currently, more than 2,000 U.S. schools use a Native American mascot or nickname

for their school or their sports teams, making Native Americans the most common reference for mascots in U.S. sports. These potentially harmful mascots negatively affect Native American students by interfering with self-identity, perpetuating negative stereotypes, encouraging bullying and teasing, and ultimately create unhealthy learning environments. ED should encourage schools, colleges, and universities to replace Native American themed mascots, team names, and imagery with choices that are less likely to contribute to racially hostile environments and more likely to promote an inclusive learning environment for all students.

In addition to recognizing negative impacts of mascots on AIAN school learning, there are many other strategies that can be identified and implemented to improve the climate in schools. It is important to identify these best practices and fund pilot sites to implement them. NACIE is asking Congress to fund a study to explore strategies and target resources to improve school climates in AIAN schools.

## **IV. Build and Sustain Government to Government Relations with Tribal Nations**

### **4.1 Continually Monitor and Improve Education Consultation with Tribes**

**NACIE recommends that Congress ensure accountability for the implementation of tribal consultation at the federal, state, and local levels.**

Rationale: Tribal Nations were independent sovereigns prior to the formation of the United States and the original policy of the United States was to respect tribes as sovereigns, with inherent rights to self-government, liberty, and possession and control of their territory and most importantly to engage with tribes on a nation-to-nation basis, founded on mutual respect, mutual consent, and deference to internal tribal self-governance. This relationship still exists today and has been reaffirmed by Executive Orders, legislation, and the Supreme Court. Consistent with EO 13175 (November 6, 2000), extended through subsequent Presidential Memoranda, and further stipulated in the 2015 reauthorization of the ESEA, ED must ensure coordination and consultation with AIAN tribes, especially concerning the policies and standards that have tribal implications. Specifically, ED under section 8538 of the ESSA requires LEAs that either: 1) have 50% or more of their student enrollment made up of AIAN students; or 2) received a Title VI Indian education formula grant in the previous FY that exceeds \$40,000 to consult with tribes prior to submitting a plan or application for certain programs. These ESEA programs include, but are not limited to the following 1) Title II, Part A, Supporting Effective Institution; 2) Title IV, Part B, 21st Century Schools; and 3) Title V, Part B, Subpart 2, Rural and Low Income School Program.

While ED is in compliance with regulations consistent with Tribal Consultation in matters that pertain to the development of performance measures, policies and standards, tribes and their elected leader often express that the current process does not allow or encourage tribes to have substantial and meaningful input in the policy making process before such policies or actions are carried out.

NACIE recognizes the issue of tribal consultation is complex. True and meaningful tribal consultation is best understood as a dynamic process rather than a static outcome. Too often, federal consultation in general is limited in scope, after the fact or with pre-determined outcomes such that the exercise of consultation takes the form of a unidirectional listening session for which decisions are already made.

Tribes recognize this as a continuation of a paternalistic approach of the federal government harkening back to a time when American Indians were classified as “wards of the state”. From time to time, Congressional or Administrative action calls for tribal input in the development of federal regulations. As such, the scope of such input is typically posted in the Federal Register with no less than 90 days to gather input. The requirement for Notice and Comment, however, does not preempt or supplant the need for Tribal Consultation pursuant to EO 13175. Additional detailed input and articulation of implementation plans are achieved through a sequential exercise of Listening Sessions to help formulate formal questions to be posed during Tribal Consultation Sessions. Even then, respect for sovereignty of tribal governments necessitates an inclusive formative rather than summative process for gathering Tribal Consultation input.

*A number of Tribal Consultations and Listening Sessions were conducted in 2019-2020:*

<i>Date</i>	<i>Topic</i>	<i>Location / Details</i>
5/2/19	U.S. Department of Education (ED) Tribal Consultation on the Office of Indian Education’s Demonstration Grants for Indian Children program under the Elementary and Secondary Education Act of 1965, as amended by the ESSA	Seattle, WA (with online and teleconference participation)
5/7/19	U.S. Department of Education (ED) Tribal Consultation on the Office of Indian Education’s Demonstration Grants for Indian Children program under the Elementary and Secondary Education Act of 1965, as amended by the ESSA	Washington, DC (with online and teleconference participation)
04/28/20	U.S. Department of Education (ED) Listening Session for hearing feedback from tribal leaders and education stakeholders regarding the \$153 million that will flow to the BIE from ED through the Education Stabilization Fund.	Washington, DC (with online and teleconference participation)
04/30/20	U.S. Department of Education (ED) Listening Session for hearing feedback from tribal leaders and education stakeholders regarding the \$153 million that will flow to the BIE from ED through the Education Stabilization Fund.	Washington, DC (with online and teleconference participation)

## **About the NACIE**

NACIE submits an annual report to Congress on its activities and may include any recommendations that the NACIE considers appropriate for the improvement of federal education programs that serve AIAN children or adults. The findings and recommendations of NACIE do not represent the views of the ED.

NACIE is authorized by section 7141 of the ESEA as amended, 20 U.S.C. 7471, and governed by the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. II. Pursuant to federal law, NACIE consists of 15 members who are Indian, including Alaska Native, and are appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and Native organizations. The fifteen members represent different geographic areas of the United States. NACIE members serve as Special Government Employees, and provide advice and recommendations based on the members' judgment formed by their expertise and experience.

In 2019 NACIE met on April 25-26 for a face-to-face meeting in Washington, D.C. with online and teleconference participation availability for those members unable to attend in person. The meeting, including the online and teleconference options, was open to the public. A second face-to-face meeting took place on September 11-12, 2019 in Washington, D.C. with online and teleconference options. There was also an in-person meeting on February 13-14, 2020, at the National Museum of the American Indian (NMAI). The meeting had both teleconference participation and was open to the public.

The Designated Federal Official (DFO) for NACIE is Angela Hernandez, Education Program Specialist with the OIE. The Alternate Designated Federal Official (ADFO) is Donna Sabis-Burns, Ph.D., Discretionary Group Leader with the OIE. The Director of the Office of Indian Education is Julian Guerrero, Jr.

There are five vacancies as of June 30, 2020.

A list of current NACIE members is provided on the final page of the Report.

## APPENDIX: COVID-19 Impacts on Indian Country

### Yup'ik Village of Toksook Bay and Our Pandemic Story<sup>6</sup>

Dr. Theresa Arevgaq John (NACIE Council member)

October 29, 2020

*Cang'erlak* is Yugtun term for pandemic, *cang'erlarpak* is the great pandemic. Many of our ancestors died during the 1918 epidemic, 60% of the population, and few survived. My 102 years old grandmother, *Cingyukan* Albertina Dull from Nightmute, Alaska, has witnessed this great death and tells local-based Indigenous traditional oral stories of how to deal with the pandemic.

Toksook Bay or Nunakauyaq, a traditional Yup'ik Eskimo village along the coast of the Bering Sea, is where 700 Yupiit people reside on Nelson Island. The village tribal members speak *Yugtun*, a local heritage language, and English is their second language. The villagers mainly live off the natural resources from the land, ocean and nature. People share their food catch with the respective Elders, widowed and community. Their main food stable includes marine mammal, seal oil, variety ocean and river fish, moose, caribou, birds, tundra greens, traditional plants and berries.

Store bought food supplement subsistence economy and everything is very expensive to purchase in rural cost of living. Storewide products are airlifted to the village. Price for a gallon of milk is \$15.00, a frozen chicken is \$20.00, a jar of clorox is \$19.00, and a gallon coffee is \$19.00. Gasoline is \$8.00 per gallon and fuel is very high. The life for people without employment is harsh and makes life very difficult to survive. In order for the people to hunt and gather food resources, people need to have money to purchase hunting equipment like 20-foot sea boat with an outboard motor, a four-wheeler, and shotguns. With distance education, parents are required to acquire an internet connectivity to be able to participate in distance education. The household members live in one shelter due to the shortage of village homes. In this region, there is no road system in place. People drive four wheelers, outboard motors, snow machines and airplanes as forms of transportation. The village has an airport, electricity is provided by Alaska Village Electric Company and GCI is the rural technology agency. Bush technology system is very unreliable. There is no movie theatre or restaurants in the village. For television news and entertainment, people can purchase Dish satellite services to watch local, statewide and national news such as the MSNBC, and CNN News. Parents purchase family broadband services for \$500.00 per month. Families with many children purchase many cell phones for safety and protection of their children.

For educational agencies, the community has one K-12 school, and an early learning center for pre-school. The local school building is also used for the annual village ceremonial dances, regional tribal social gatherings, other extra curricula social activities, funeral services and for

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<sup>6</sup> <https://deltadiscovery.com/status-of-covid-19-pandemic-in-yk-delta/>  
<https://www.kyuk.org/post/coffee-kyuk-oct-23-2020-why-covid-19-cases-are-surgin-y-k-delta>  
<https://www.kyuk.org/post/ykhc-recommends-all-schools-close-lockdowns-19-communities>

basketball activities. This is because the village does not have a large gathering communal center that can house large conventions. Teacher family housing is provided by the Lower Kuskokwim School District and the school buildings have running water and sewer system in place. There are three small local stores in the village that carry necessary food staples, limited clothing, and general household necessities. There is one gas station owned by the village Nunakauyaq Corporation. Postal office is 10x14 foot plywood that was built in 1970's, and a Catholic church.

The Sub-Regional health clinic provides serves for the local-residents and for the four surrounding villages. Majority of the villages do not have water and sewer system or reliable airports. Walkways within the communities are not paved and limited wooden trails are in place. The regional Public Health Service Hospital called Yukon Kuskokwim Health Corporation (YKHC) is 100 air miles away located in Bethel, which is the nearest hub city. The nearest road system is 500 miles away in Anchorage, Alaska. When residents need to see their health providers they have to fly by air into Bethel or Anchorage for more advanced care. Subsistence economy is mainly keeping everyone alive in the villages. Employment opportunity is limited. My best assumption is that less than 100 villagers have full time work at the school, clinic, municipal, corporate and tribal offices, local stores and the rest of the community members rely upon federal welfare system.

### **John family and the pandemic**

My father was the late Doctor Chief Kangrilnguq Paul John and my mother Anguyaluk Martina. As Chief for half century, he served 56 Yukon/Kuskokwim villages and was an Honorary Board member of YKCH. I have five brothers and three sisters. Due to pandemic, mother was sent to Anchorage to live with her daughters and to be located near the hospital. She is 84.5 years old and has COPD, arthritis and vision problem. She currently has positive COVID along with my sister Dr. John-Shields, a University of Anchorage Alaska (UAA) distance education Professor. Family wanted our mother to live near hospital facilities because the village does not have necessary health tools to battle health related crisis such as oxygen machines. My three sister's and older brother life in Anchorage. One of my three sister's is legally blind and depend upon federal agencies for health and livelihood services. She has a high school age daughter, that was relocated to younger sisters' home where she will have support for her distance education needs like internet and a laptop computer. She has not seen her mother in weeks and probably will remain there until school is done.

My sister Dr. John-Shields is teaching from home due to University of Alaska system virus lock down. Youngest sister manages the Alaska Statewide BIA tribal agency office from her office. Eldest brother is half retired and works from home. My siblings in Anchorage own their homes and can afford to live a reasonable good life. Their children attend public schools or University of Alaska and others are unemployed.

Today, one of my brothers, who lives in Bethel is tested positive with his family. Two of my nieces are COVID 19 positive, one in the village and one in Anchorage. Distant relatives in the village and surrounding villages are experiencing positive surges in COVID. My brother's that live in the village have income to support their families. They're able to provide technology to work from home and for their children/grandchildren's distance education.



The limited 100 data available per month internet cost is \$300. Distance Education is increasing data usage for families meaning that they are required to purchase additional data. The school district is supposed to provide child's Internet Program and iPads but many have parents have not received technical support. Most parents are struggling to balance their cost of living through unexpected costs due to distance education, climate change and pandemic trauma.

We set-up family Facetime calls with our mother to stay connected while we all honker down on our own homes. Thanks to smartphones our family can stay informed of pandemic nuances through text, videos and messaging. Special family times are set for craft projects to keep our minds occupied.

As a family, we try our best to stay positive emotionally, mentally, psychologically and physically as we experience this global deadly pandemic. We have a positive outlook in life no matter the battles we face on a daily-basis. Regardless some family members are unable to adapt and adjust to pandemic trauma fall into addiction and end up in street life. We can only pray for their wellness, safety and try to inspire them to return to family and homeland.

We love all family members unconditionally and hope best for all village communities.

**NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION**

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\*Vacancies: 5