



Annual Report to Congress 2018-2019

**National Advisory Council on Indian Education
(NACIE)**

September 12, 2019

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RE: Annual Report to Congress

September 12, 2019

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer
Senate Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Kevin McCarthy
House Minority Leader
United States House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

The Honorable David Bernhardt
Secretary of the Interior
U.S. Department of the Interior
1849 C St., NW
Washington, DC 20240

Dear Majority Leader McConnell, Minority Leader Schumer, Madam Speaker, Minority Leader McCarthy, Secretary DeVos, and Secretary Bernhardt:

I am pleased to transmit the enclosed report, entitled "Annual Report to Congress" on behalf of the National Advisory Council on Indian Education (NACIE). The Annual Report is submitted to Congress as required by statute and reflects the activities of the Council for Fiscal Years 2018 and 2019. 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 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 Indian children or adults as participants or that may benefit Indian children or adults; 2) Make recommendations to the Secretary for filing the position of the Director of Indian Education whenever a vacancy occurs; and 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, with twelve members serving and three vacancies, currently. NACIE has worked diligently throughout the year to assure that purpose and functions have been met. The Council takes this responsibility with great commitment to the education of our Native students. We also appreciate 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 us in bringing about the fruition of this report and recommendations to benefit American Indian and Alaska Native students.

The Council looks forward to working with the U.S. Department of Education Secretary Betsy DeVos, the U.S. Department of the Interior Secretary David Bernhardt, and the Office of Indian Education staff to carry out responsibilities under the Council's Charter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dr. Deborah Jackson-Dennison".

Dr. Deborah Jackson-Dennison, Ed.D.
NACIE Chair
National Advisory Council on Indian Education

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Cover photo (left to right): Dr. Aaron Payment, Phyliss Anderson, Dr. Theresa Arevgaq John, Dr. Deborah Jackson-Dennison (Chair), Patricia Whitefoot, Angeline Boulley (Director, OIE), Secretary Betsy DeVos, Dr. Joely Proudfit, Doreen Brown, and Robin Butterfield.

Executive Summary

The National Advisory Council makes the following recommendations to Congress:

I. Supporting Tribal Sovereignty

- 1.1 Support and designate funds for the position of Assistant Secretary of Indian Education within the U.S. Department of Education.
- 1.2 Allocate increased funds to support NACIE in performing its unique responsibilities.
- 1.3 Support Federal agencies to address issues that disproportionately affect and devastate American Indian and Alaska Native (AI/AN) students and families.
- 1.4 Emphasize language that Title VI funding is not used to supplant other Title programs.
- 1.5 Advocate for increased hiring of Native Americans as subject matter experts for technical assistance, discretionary grant reviewers, and evaluators for programs serving AI/AN students.
- 1.6 Revise the definition of AI/AN and remove the Indigenous inhabitants of South America and Central America from the AI/AN category.
- 1.7 Support the National Indian Education Study (NIES) and other opportunities to increase the participation of AI/AN students in data collection efforts of the National Center for Education Statistics (NCES).
- 1.8 Revitalize Native languages by expanding funding, classifying as a World Language rather than a Foreign Language, and recognizing tribal authority to determine expertise of Native language speakers.

II. Distinct Funding for Native Education

- 2.1 Support both Title VI and the Johnson O'Malley programs and require accurate student counts to be provided annually.
- 2.2 Increase funding for the Office of Indian Education (OIE) to support the unique cultural, language, and educational needs of AI/AN students.
- 2.3 Increase funding for Tribal Colleges and Universities (TCUs).
- 2.4 Increase funding for Nontribal Institutions Serving Native Americans.
- 2.5 Provide funding for oversight and monitoring of local educational agency (LEA) accountability to Tribal leaders and parents of AI/AN children regarding Title VII Impact Aid Indian Policies and Procedures.

III. Improving Lifelong and Comprehensive Education

- 3.1 Authorize and appropriate funding for the Office of Indian Education to collect data and disseminate information on promising practices within Discretionary and Formula programs.
- 3.2 Support lifelong learning for AI/AN students from early childhood through adulthood, including support for high-quality childcare, and expanding Head Start and Early Head Start.
- 3.3 Support parent engagement through additional funding for technical assistance and support for parent committees including Johnson O'Malley, Title VI, and other Title programs within ESSA.
- 3.4 Support increased technical assistance for programs serving AI/AN students.

IV. Building and Sustaining Tribal Nations

- 4.1 Ensure accountability for the implementation of Tribal Consultation at the Federal, State, and local levels.

ANNUAL REPORT TO CONGRESS

2018-2019

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

In recognition of this EO and previous legislation enacted in support of American Indian and Alaska Native (AI/AN or Native American, Native and Indian) 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. 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 for the period of 2018-2019, with recommendations and rationale to the 115th Congress. The recommendations herein are based on NACIE's foundation that, if fully implemented with sufficient funding, will help to achieve culturally related academic student success and meet the provisions of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by Every Student Succeeds Act (ESSA) and related legislation and policies.

These recommendations are congruent with and in many cases identical to the recommendations the NACIE has made in its previous NACIE Reports to Congress. To date, Congress has failed to provide any response to NACIE for these Reports.

The NACIE affirms that the federal trust responsibility to AI/ANs makes it essential that ED increase accountability for Native children success in public schools on or near Indian reservations, urban, rural, and Bureau of Indian Education (BIE) schools. More than half of AI/AN children attend K-12 schools in our nation's large urban centers and over ninety-three percent of Native students attend public schools. It is important to recognize the unique needs of the diverse communities where our 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 of AI/AN students through Indian education in every way possible.

I. Supporting Tribal Sovereignty

1.1 Assistant Secretary Position

NACIE recommends that Congress support and designate funds for the position of the Assistant Secretary of Indian Education within ED.

Rationale: As a recognition of 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 Director position within OIE. It would also encourage 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. The ASIE would take a leadership role in ensuring that the interagency collaboration envisioned in the EO actually yields concrete results.

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

NACIE recommends Congress allocate increased funds to ED to support NACIE in performing its expanded unique responsibilities under the EO.

Rationale: The EO 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 and after, to allow NACIE to fulfill its EO responsibilities.

1.3 Interagency Collaboration

NACIE recommends Congress support ED, the Department of Justice, and related Departments and Federal agencies when conducting Indian Country Listening Sessions to address school discipline disparities, special education disparities, civil rights violations and the school-to-prison pipeline that disproportionately affects and devastates AI/AN students and families.

Rationale: The disproportionate dropout and incarceration rates of AI/AN students, discipline disparities, and substance abuse issues adversely affect Indian Country and warrant steps to end the school-to-prison pipeline.

1.4 Unique Title VI Services that do not Supplant Other Title Programs

NACIE recommends that all ESSA Title Programs include language that emphasizes the importance of coordination with the Indian Education Act Title VI 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 education agencies (SEAs), but also to local education agencies (LEAs) to clarify the differences between all ESSA 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.

NACIE is concerned that budgeted and unfilled vacancies at ED have reduced the capacity to monitor all ESSA grant programs and 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. 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 target the unique, culturally related academic needs of AI/AN students. 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 AI/AN students.

1.5 Technical Assistance for Tribes and Local Education Agencies (LEAs)

NACIE recommends that Congress advocate for increased hiring of Native Americans as experts and reviewers, and for technical assistance designed to have direct impact on AI/AN 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. Such preferences are consistent with the Indian hiring preferences of ED, DOI, and Indian tribes. If qualified AI/AN people cannot be found after a diligent hiring search, the programs should be continued nonetheless using non-Native employees. NACIE encourages Congress to support the inclusion of subject matter experts (SMEs) and discretionary grant field reviewers and evaluators who are Native American whenever possible.

Rationale: Native expert reviewers bring a unique and invaluable perspective to the evaluation of discretionary programs and services that will have an impact on AI/AN 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.

1.6 Definition of American Indian and Alaska Native (AI/AN)

NACIE recommends that Congress collaborate with ED and Office of Management and Budget (OMB) to revise the definition of AI/AN at all levels and remove the indigenous inhabitants of South America and Central America from this category; and further, that ED and OMB engage in consultation with AI/AN concerning the appropriate scope of this critical definition.

Rationale: In 1997, race and ethnicity categories were created by OMB – without tribal consultation – 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, "AI/AN," be neither under- nor over-inclusive.

However, the categories do not denote scientific definitions of anthropological origins, and the category AI/AN was developed and promulgated without meaningful federal consultation with federally recognized American Indian tribes or state recognized tribes. As a result, the category of AI/AN is broader than the concept that has informed the countless agreements, treaties, statutes, etc., that for literally hundreds of years have constituted the legal relationship between AI/AN 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:

- AI/AN (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) (emphasis added)
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White

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

1.7 Data Collection a Federal Responsibility

NACIE recommends Congress continue to support the National Indian Education Study (NIES) and other opportunities to increase participation of AI/AN 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 AI/AN students constitute high percentages of student enrollment.

Rationale: Failure to adequately include and properly operationalize AI/AN 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 AI/AN students are being appropriately educated, or to effectively address persistent inequities, or to identify schools that are educating AI/AN 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 AI/AN 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 AI/AN 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 impacts on both practitioners and researchers as they work to understand and respond to the educational conditions and subsequent outcomes of 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.

1.8 Revitalizing Native Languages

A. Expand Funding

NACIE urges Congress to enact laws that provide financial support for providing AI/AN 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 ESSA Title III (Language Instruction for English Learners and Immigrant Students), in addition to Title VI funding.

Rationale: AI/AN 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 AI/AN communities.

Tribes should be encouraged 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 USDOE, BIA/BIE, Health and Human Services, Justice, and SAMHSA. 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 legislative acts should preempt state laws (like Arizona's English Only Law) that impinge upon or disable the educational programs of AI/AN 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. Native Language vs. World Language

NACIE encourages Congress to 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.

Further, NACIE recommends that Congress recognize that Native language be classified under World Languages, instead of as foreign languages, and be allowed to satisfy non-English language proficiency requirements.

Finally, NACIE recommends that Congress find ways (such as the Enhanced Assessment Grants) to encourage ED to establish assessment supports for SEAs and LEAs.

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 needs to be validation by SEAs. (An excellent model to consider is the adopted Alaska State Culturally Responsive Curriculum and Standards as efficient models.)

C. Certification for Teachers of American Indian and Alaska Native Languages

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 who are 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.

II. Requests for Distinct Funding for Native Education

2.1 Maintaining 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 of both programs and services. NACIE also asks that student counts of eligible students within these programs be accurate and maintained annually.

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.

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 belong to or be eligible for enrollment in a federally recognized tribe. Title VI eligibility requires that either the student, a parent, or grandparent be an enrolled member in a federally recognized or state recognized Indian tribe. Both the National JOM Association and the National Indian Education Association support these distinctions.

2.2 Increased Support of Title VI / Office of Indian Education

NACIE recommends that Congress increase funding for the Office of Indian Education through Title VI in support of the unique educational, language, and cultural needs of AI/AN students.

Rationale: As a result of the Federal Trust Responsibility, Title VI funding supplements basic school support dollars and other federal ESSA programs. Since ninety-three percent of Native students attend public schools, and Title VI services supplement those provided for AI/AN students in regular school programs there continues to be a critical need for funding at an appropriate level, so that AI/AN student have an equal educational opportunity to succeed with their non-Native peers. At present levels of funding, the needs of AI/AN education can only partly be addressed. The annual funding for Title VI Formula grants has remained stagnant at \$105,381,000. Increasing funding will help ensure the full participation of all eligible AI/AN students. The Title VI program is underfunded and does not counter the costs of inflation and sequestration. The table below details the funding levels from 2018 to 2019.

OIE / Title VI Program	FY 2018 Obligated	FY 2019 Budgeted
Formula Grants for Indian Children	\$105,381,000	\$105,381,000
Professional Development (PD) Grant Program (new awards only)	\$6,813,189	\$0
State Tribal Education Partnership (STEP) Grant Program	\$1,795,000	\$1,572,844
Native American Language (NAL@ED) Grant Program	\$2,114,069	\$2,363,507
Demonstration (Demo/NYCP) Grant Program (new awards only)	\$29,158,976	4,000,000

2.3 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.

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.

Rationale: There are 37 TCUs, serving 130,000 Native students. Tribal colleges provide a significant number of AI/AN 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 AI/AN 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. Funds the colleges receive is based on the “beneficiary” students who are members of 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 Bureau of Indian Affairs 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 percent of the student enrollment. Many of the tribal colleges are located in rural and remote communities, where access to a higher education is limited.

The annual funding for TCUs and Public institutions serving a significant number of AI/AN 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 pace to accommodate the growth and change. To responsibly execute its financial responsibilities to AI/AN students, Congress should rely on the best available data regarding student populations and their institutions of higher education.

Finally, mandatory funding under HEA Title III will expire after fiscal year 2019, essentially cutting in half TCU Title III funding and resulting in a loss of nearly \$30 million annually to TCUs and tribal students , families, and communities they serve.

2.4 Public Colleges & Universities

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

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 AI/AN students who participate in post-secondary education. This would include all programs dedicated to the recruitment and retention of AI/AN students as well as the number of AI/AN 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.

Rationale: AI/AN students should be prepared to enter higher education and should be welcome to attend any institution they meet the criteria. According to the U.S. Census only 14 percent of Native American and Alaska Natives over the age of 25 have a bachelor's degree compared to the 30.3 percent U.S. average. Higher education institutions must be required to foster AI/AN students' sense of belonging throughout their campus communities. Currently many policies and institutions create environments that disenfranchise AIAN students. Invisibility on college campuses is a modern form of racism; this invisibility erases opportunities for AI/AN students. It is this invisibility that leads to a lack of college access and the current college dropout crisis. When 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.

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 AI/AN students' college profile, including:

- degree attainment;
- financial resources dedicated to AI/AN population;
- recruitment and retention efforts;
- number of AI/AN students enrolled;

-
- systems of evaluation and assessment; and
 - number of AI/AN faculty & staff.

The reports should be developed in partnership with tribal nations and AI/AN 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 AI/AN student degree completion.

2.5 Impact Aid - Title VII

A. Indian Policies and Procedures

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.

Rationale: The current Indian Policies and Procedures process was amended to be more accountable to greater review and approval from Tribal Education Department's and tribal leaders. The Department of Education conducted consultations for tribal input for changes to the Indian Policies and Procedures process found in Subpart G of Part 222 (CFR 222.90-.122). Through these consultations, organizations that represent Indian lands children attending public schools such as the National Indian Impacted Schools Association (NIISA) submitted language to the Department that strongly encouraged open lines of communication, verbal and written, throughout the school year, not just during the IPP consultation process. NIISA recommended that LEAs poll parents of children residing on Indian lands and tribal officials to determine the most efficient and effective means of communication. NIISA also encouraged LEAs to seek IPP waivers where appropriate.

The Impact Aid Program Office needs to closely monitor the implementation of the procedures now in place to ensure that tribal leaders and parents of Indian children are assured meaningful input into their school's curriculum and student activities. In addition, the Impact Aid Program Office needs to ensure that school districts provide in written form any and all comments from consultation between the tribe and the school district.

B. Protect Title VII Impact Aid from Future Sequestrations

NACIE recommends that Congress protect Title VII Impact Aid from any future sequestration.

Rationale: Indian lands public schools 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. When more than 92- 93% of AI/AN children attend public school districts across the country, it is inevitable that including Title VII Impact Aid in any future

sequestration or across the board cuts will directly negatively affect any progress being made toward school reform under the ESEA. By including Impact Aid as a discretionary fund in sequestration school districts educating AI/AN students will be severely hurt as was the case during the 2012-2013 school year. Despite the increase in Impact Aid payments beginning in Fiscal Year 2016, recovery from the FY 2013 sequestration is still on-going. The reduction in Impact Aid payments during the 2012 – 2013 school year resulted in huge staff layoffs and program cutbacks within Indian lands public schools and communities where already many of the unemployment rates are higher than 50% and academic performance scores are lower than any other ethnicity. School consolidations and school closures have often caused AI/AN children to bus between school and home on unpaved, dirt roads for more than an hour each way.

Moreover, the uncertainty of funding and timely payments has added to the historically existing challenges around recruitment and retention of highly qualified teachers and administrators in addition to the staff and teacher layoffs that resulted in larger class sizes and overcrowding which has added to the prevailing challenges of Indian Country and society as a whole.

The Impact Aid Program must be shielded from any future cuts as the result of sequestration or any other line item reductions in education programs.

C. Forward fund the Title VII Impact Aid Program

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

Rationale: Forward funding would provide funding stability for Indian lands school districts as they would know in July what their payments would be for the upcoming school year. There is nothing in the Impact Aid law that prohibits Impact Aid from being forward funded. If the program was forward funded, Indian lands school districts would be much better equipped to budget Impact Aid. Currently Indian lands school districts have no idea what to budget for Impact Aid as they prepare for each school year, especially with the 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)

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

Rationale: Under the present law, AI/AN 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 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 setting that serve AI/AN students.

The inequities resulting from Section 7009 continue to exist. Currently three states are equalized under the provisions of Section 7009: Alaska, Kansas, and New Mexico. New Mexico, which serves a large number of American Indian students, utilizes a foundation aid formula that is less than the national average, which further complicates school district funding at a time when school districts are implementing academic reforms, thus adds to the already huge inequities in Indian education school system reforms. Impact Aid students are affected adversely by not being able to attend school when all other public schools remain open for all other students.

Equalization does not allow Impact Aid funding to go directly to benefit AI/AN students, because equalized states consider Impact Aid a state resource. For example, New Mexico treats students equally regardless of geographic challenges and economic status. If New Mexico were not equalized, Impact Aid funding would go directly to those students who generate Impact Aid dollars, instead of to the state. This is because as the government applies Impact Aid dollars against 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. New Mexico treats all its students equally no matter where they reside and attend school, which presents a great inequity for New Mexico's Indian lands 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. Congress could consider using infrastructure dollars to meet this critical unmet need.

Rationale: Indian lands 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. A recent survey of 205 buildings in 66 school districts serving Indian land students 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 responding to survey was just under \$1 billion.

F. Impact Aid Study

NACIE recommends the 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 Program, if needed, due to meaningful differences between rural and urban environments.

III. Improving Lifelong and Comprehensive Education

3.1 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 so they could 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 wishes to commend 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 Early Childhood Education

NACIE recommends that Congress support lifelong learning for AI/AN 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 AI/AN students, especially programs aimed to educate children and families in Native language revitalization.

Rationale: To build community support of our children and families, culturally responsive policies and practices must build on educational pedagogy and curriculum that incorporate our 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, we must work to ensure equitable access to early childhood education.

The 2015 study, “Transforming the Workforce for Children Birth Through Age 8,” demonstrates, “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 children bear a great responsibility for their 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 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 the care and education that children receive, and ultimately improve outcomes for children. NACIE affirms that "school readiness" is not merely determining that a 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 Parent Engagement

NACIE recommends that Congress provide additional funds for technical assistance and support for parents of AI/AN students. Though programs such as JOM, Title VI, Title I, and other titles in ESSA 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.

Rationale: According to research, parent participation in almost any meaningful form affects 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 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.

The historical tragedy of AI/AN education is that originally 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 AI/AN 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.

3.4 Technology

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 AI/AN students.

Rationale: Once NACIE is informed of what steps are being taken to address the needs of AI/AN 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.

IV. Building and Sustaining Tribal Nations

4.1 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 are sovereign governments which predate the formation of the United States with intended government to government relations embodied in the Northwest Ordinance and enshrined in Article I, Section 8, Paragraph 3 of the United States Constitution. The United States' obligation to provide for "health, education and social welfare" into perpetuity is based on the exchange of over 500,000,000 acres of ceded Indian Lands and is recognized in hundreds of still-binding treaties, judicial precedence and administrative actions including Presidential Executive Orders and Memorandum. Consistent with EO 13175 (November 6, 2000), extended through subsequent Presidential Memoranda, and further stipulated in the 2015 Every Student Succeeds Act, ED must ensure coordination and consultation with AI/AN tribes, especially for the policies and standards that have tribal implications. ED is in substantial compliance with regulations consistent with Tribal Consultation in matters that pertain to the development of performance measures, policies and standards. This includes requiring ED, as a condition of funding, perform rigorous reviews of all state ESSA Implementation Plans as well as SEA and LEA plans for the inclusion of strategies to ensure educational equity and to improve educational opportunities for AI/AN students.

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 Registrar with no less than 90 days to gather input. The requirement for Notice and Comment, however, does not preempt or supplant the need requirement for Tribal Consultation pursuant to E.O. 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. The exercise of effective Listening and Tribal Consultations, provides ample advance notice, webinars when possible in advance, unfettered input in person, a preliminary summary and posting of draft results with the allowance of tribes who could not participate in person to submit formal input after the fact, and a careful synthesis of input in summary form with verbatim input gathered posted for public review.

A number of Tribal Consultations were conducted with tribal leaders in 2018-2019:

Date	Topic	Location / Details
4/22/18	The U.S. Department of Education (ED) in coordination with the Bureau of Indian Education (BIE) and the White House Initiative on American Indian and Alaska Native Education (WHIAIANE) Tribal Consultation	Albuquerque, NM At Tribal Self Governance Conference (with online and teleconference participation)
6/3/18	U.S. Department of Education and the Bureau of Indian Education Joint Tribal Listening Session	Kansas City, MO At NCAI Mid-year conference (with online and teleconference participation)
6/3/18	U.S. Department of Education (USED) Tribal Consultation on the Alaska Native Education Program (ANEP), Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015	Kansas City, MO At NCAI Mid-year conference (with online and teleconference participation)
6/29/18	U.S. Department of Education and the Bureau of Indian Education Virtual Tribal Consultation	Online and teleconference participation only
11/15/18	U.S. Department of Education Tribal Consultation on the Indian Education Professional Development Grants program	Washington, DC (with online and teleconference participation)
12/13/18	U.S. Department of Education (ED) Tribal Consultation on the Office of Indian Education's State Tribal Education Partnership (STEP) program under the Elementary and Secondary Education Act of 1965, as amended	Washington, DC (with online and teleconference participation)
4/4/19	U.S. Department of Education (ED) Tribal Consultation on the Office of Indian Education's Native American Language program under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act	Acme, MI At Tribal Self Governance Conference (with online and teleconference participation)
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 Every Student Succeeds Act	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 Every Student Succeeds Act	Washington, DC (with online and teleconference participation)

Two American Indians appointees participated during the 2015 ESSA Negotiated Rule Making process. At the conclusion of this process, the Negotiated Rule Making team stipulated that in formulating state compliance with 2015 ESSA, states would perform Tribal Consultation to gather input inclusive of curriculum development and language inclusion and culturally appropriate assessment. Some states like the State of Michigan serve as a model for how Tribal Consultation was implemented including the creation of a Michigan Department of Education document which prescribes how to facilitate true and respective Tribal Consultation including how such input effectuates the development of the State of Michigan ESSA plan. Other states would be well served to follow a similar process which respects tribal sovereignty. NACIE and ED should perform an assessment of the efficacy of such plans identifying best and promising practices and prescribe a list of recommendations for states to model in developing and/or revising their state ESSA plans. A series of formal Tribal Consultations should ensue to ensure that tribal input is gathered pursuant to the 2015 ESSA, EO 13175 and subsequent Presidential Memoranda. This exercise should be seen as a formative rather than summative one in order to evolve plans during their implementation.

About NACIE

NACIE is a Federal Advisory Committee created by Congress. NACIE provides advice to the Secretary of Education and the Secretary of the Interior concerning the funding and administration of any program, including any program established under Title VI, Part A of the ESEA of 1965, with respect to which the Secretary has jurisdiction and that includes AI/AN children or adults as participants or that may benefit AI/AN children or adults.

NACIE also 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 AI/AN children or adults. The findings and recommendations of NACIE do not represent the views of the Department.

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 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 member's 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.

The Designated Federal Official for NACIE is Angeline Boulley, who was hired as the new Director for the Office of Indian Education at the U.S. Department of Education and began in the position in March 2019.

There are three vacancies as of June 30, 2019.

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

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

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*Vacancies: 3