National Advisory Council on Indian Education (NACIE)

ANNUAL REPORT TO CONGRESS 2020–2021

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December 23, 2021

RE: NACIE 2020–2021 Annual Report to Congress

The Honorable Charles Schumer
U.S. Senate Majority Leader
United States Senate

The Honorable Mitch McConnell
U.S. Senate Minority Leader
United States Senate

The Honorable Nancy Pelosi
U.S. Speaker of the House
United States House of Representatives

The Honorable Kevin McCarthy
U.S. House Minority Leader
United States House of Representatives

The Honorable Miguel Cardona
Secretary of Education
United States Department of Education

The Honorable Debra Haaland
Secretary of the Interior
United States Department of the Interior

Dear Esteemed Congressional Leaders, Secretary Cardona, and Secretary Haaland:

On behalf of the National Advisory Council on Indian Education (NACIE or the Council), it is my pleasure to transmit this *Annual Report to Congress 2020–2021*. The NACIE Annual Report is submitted to Congress as required by statute and reflects the activities of the Council for Fiscal Years 2020 and 2021. 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:

- 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;
- Make recommendations to the Secretary of Education for filling the position of the Director of the Office of Indian Education whenever a vacancy occurs;
- 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
- Advise the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities, formally the White House Initiative on American Indian and Alaska Native Education. Additional duties are delineated on **page 6** of this report.

NACIE is a 15-member Council representative of AIAN populations across the country, with 10 members currently serving and 5 vacancies remaining to be filled. 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 across the country.

NACIE's primary goal and purpose in transmitting a comprehensive annual report to Congress is the result of our strong convictions based on our expertise and experiences that each recommendation, when reviewed and addressed by Congress, will help AIAN students receive a more equitable and quality education and improve the quality of life throughout Indian Country. Therefore, NACIE strongly urges Congress's review and oversight and foresees a great need to have members of Congress and their staff meet regularly with NACIE to act upon these recommendations. NACIE is open to such meetings at your request to assist NACIE in bringing about the fruition of this report and recommendations to benefit AIAN students, their communities, and society.

The Council looks forward to working with Secretary Cardona (Education), Secretary Haaland (Interior), and Secretary of Marty Walsh (Labor), as well as the Office of Indian Education team, to carry out responsibilities under the Council's Charter (pursuant to EO 14049).

Ahéhee' (Thank you)

Deborah Jackson-Dennison, Ed.D. (Navajo) Arizona

Members of the National Advisory Council on Indian Education*

Phyliss J. Anderson (Mississippi Band of Choctaw Indians) Mississippi
Theresa Arevgaq John, Ph.D. (Yup'ik) Alaska
Mandy Smoker Broaddus (Fort Peck Assiniboine Sioux) Montana
Doreen Brown (Yup'ik) Alaska
Robin Butterfield (Winnebago/Chippewa) Oregon
Aaron A. Payment, Ed.D. (Sault Ste. Marie Tribe of Chippewa) Michigan
Joely Proudfit, Ph.D. (Pechanga, Luiseño) California
Virginia Thomas (Muscogee Creek Nation) Oklahoma
Patricia Whitefoot (Confederated Tribes and Bands of the Yakama Nation) Washington
** Vacancies: 5*

CC: US House of Representative (Indigenous Members)

The Honorable Tom Cole (Chickasaw)
The Honorable Kaiali Kabele (Native Hawaiian)
The Honorable Sharice Davids (Ho-Chunk)
The Honorable Markwayne Mullin (Cherokee)
The Honorable Yvette Herrell (Cherokee)

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EXECUTIVE SUMMARY

The National Advisory Council makes the following recommendations to Congress:

I. Build and Sustain True Government-to-Government Relations with Tribal Nations through Consultation

1.1 NACIE recommends that the Biden Administration update Congress on the implementation of Consultation with Tribal Nations at the Federal, State, and local levels

II. Honoring the Treaty and Trust Obligation for Education

2.1 NACIE recommends creating and funding an Assistant Secretary of Indian Education.

2.2 NACIE recommends Congress commit necessary funds to DoED to substantively implement various Presidential Directives including EO 13175 on Consultation as reaffirmed in President Biden's Presidential Memorandum, *A Proclamation on Indigenous* Peoples' Day, 2021, and President Biden's EO 14049 expanding the White House Initiative.

2.3 NACIE recommends Congress substantively commit cross-departmental resources for the DoED and the DOI in coordination with the U.S. Departments of Justice, Health and Human Services (including the Administration for Children and Families), Labor, and related Departments, Federal agencies, and related federally established initiatives and commissions.

2.4 NACIE recommends that funds be allocated for State education agencies (SEAs) to oversee AIAN education to gather and analyze data on Native student outcomes; set priority goals for educational improvement; review and develop AIAN curriculum; and provide technical assistance to LEAs and evaluate progress of goals identified. These positions can also focus other ESEA funds that should be providing services for Native students both at the SEA and LEA levels.

2.5 NACIE recommends that all Title programs within ESEA include language that emphasizes the importance of coordination with Title VI, the Indian Education Act, to ensure that Title VI funds are not used to supplant other Title funds and services for Native students. Until these language changes are made to the ESEA legislation, additional technical assistance is necessary for SEAs and LEAs to make sure that all funds are used appropriately.

2.6 NACIE recommends that Congress through legislation advocate for the hiring of AIAN professionals as experts and reviewers, as well as for technical assistance. This includes, but is not limited to, hiring for OIE discretionary grant administration, Comprehensive Centers, equity assistance centers, and other technical assistance centers.

2.7 NACIE recommends that there be an increase in the amount and quality of technical assistance provided to AIAN tribes, communities, and school districts.

2.8 NACIE recommends that the DoED request collaboration with the Office of Management and Budget and appropriate Federal administrative agencies and departments to operationalize a definition of AIAN at all levels to analyze and report data for various categories of AIANs. The results should be put to formal Tribal Consultation with AIAN tribes concerning the appropriate scope of this critical definition.

2.9 NACIE recommends that a Native Student Identity and Resiliency Task Force be created to review and provide the necessary education and understanding of this social phenomenon as a contributing factor to the misclassification and underrepresentation of AIAN students and their unique tribal heritage and experiences.

2.10 NACIE recommends that Congress continue supporting the National Indian Education Study and other opportunities to increase participation of AIAN students in other data collection efforts of the National Center for Education Statistics (NCES). This should include both public schools and BIE schools and staff within all future iterations of the Schools and Staffing Survey. The practice of oversampling should continue along with analyses and publication of the results of BIE schools and public schools.

2.11 Continue to Reclaim and Strengthen Native Languages

A. 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 lifelong learning.

B. NACIE recommends additional congressional appropriations are needed for DoED 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 as proficient and as highly qualified in their respective language area and to recognize tribal authority to establish a certification endorsement.

III. Requests for Distinct Funding for Native Education

3.1 NACIE recommends that Congress maintain its support for both the Indian Education Act (Title VI) and JOM programs with distinct purposes, services, and funding requirements. NACIE also asks that student counts of eligible AIAN students within these programs be accurate and maintained annually.

3.2 NACIE recommends that Congress increase funding for the Office of Indian Education to support the unique cultural, language, and educational needs of AIAN students

3.3 NACIE recommends that Congress continue to promote the unique role and responsibilities of TCUs in fulfilling the treaty and trust obligation and increase current levels of funding where increasing student enrollment and other needs of the institutions are demonstrated.

3.4 NACIE recommends Congress support a Federal Annual Progress Report Card on the AIAN experience in higher education. Data collection and analyses should include factors that significantly impact AIAN retention and matriculation through to college graduation. Data-driven retention strategies should be fashioned to ameliorate adverse factors and support positive interventions, including increasing gift assistance, lessening loan burdens, and substantively addressing factors that influence educational outcomes.

3.5 Increase Funding and Support for Impact Aid, Title VII

A. NACIE recommends that Congress provide effective oversight of DoED to monitor implementation of the Impact Aid, Title VII Indian Policies and Procedures to ensure LEA accountability to tribal leaders and parents of Indian children.

B. NACIE recommends that Congress pass H.R. 5255, The Advancing Toward Impact Aid Full Funding Act, and provide increases to the Indian School Equalization Program formula for AIAN children enrolled in tribally controlled schools.

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

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

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-needed infrastructure funding for Impact Aid schools, including teacher housing.

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

IV. Improve Lifelong and Comprehensive Education

4.1 NACIE recommends that Congress expand Title VI legislation to support 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.

4.2 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. Congress should recommend Native language programs be directed specifically to AIAN students, especially programs aimed to educate children and families in Native language revitalization.

4.3 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 ongoing need to help restore the skills and knowledge of Native parents, especially in how they can reinforce school learning.

4.4 NACIE recommends that DoED's school support and technology programs and technical assistance programs identify current technical assistance regarding the use and availability of technology and how it is being targeted specifically to serve AIAN students, especially in light of circumstances exacerbated by the pandemic.

4.5 NACIE recommends that Congress funds a study to explore strategies and target resources to improve school climates in AIAN schools.

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Context for American Indian and Alaska Native Education

The United States acknowledges the unique political and legal relationship with the 574 federally recognized Indian tribes, as set forth in the U.S. Constitution, treaties, various Presidential Directives including Executive Orders, and court decisions. The Federal government's relationship with tribes has been guided by a treaty and trust responsibility: a long-standing commitment of the Federal government to protect the unique rights and ensure the well-being of tribes while respecting their tribal sovereignty. Most recently, during the 2021 White House Tribal Nations Summit, the Biden Administration reaffirmed and acknowledged treaty rights in the following attestation by Federal interagency memorandum of understanding (MOU) including the U.S. Departments of Interior and Education, which acknowledges that,

> "The United States Supreme Court has affirmed this principle of reserved rights, explaining that treaties are 'not a grant of rights to the Indians, but a grant of rights from them, a reservation of those not granted.' United States v. Winans, 198 U.S. 371, 381 (1905). Many of these treaties guaranteed the signatory tribes a unique set of rights... including [the] rights to... education."[1]

Reinhardt and Tippeconnic[2] document that of the 374 American Indian treaties, about a third (116) contain educational provisions. Per the cannons of treaty construction,[3] tribes interpret and understand this negotiated obligation exists into perpetuity.

Federal responsibility for Indian education began with the *Indian Civilization Act of 1817* and included the experience of American Indian children at Indian and mission boarding schools designed to "kill the Indian to save the man," which is a direct quote from General Richard H. Pratt, the superintendent of the Carlisle Indian School.[4] Notwithstanding this tragic past, our nation's historical first American Indian cabinet member, Secretary of Interior Deb Haaland (Laguna Pueblo), announced on June 22, 2021, a Federal Indian Boarding School Initiative to include "a comprehensive review of the troubled legacy of Federal boarding school policies." Through this initiative, "the Interior Department will address the inter-generational impact of

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[1] Advisory Council on Historic Preservation, U.S. Department of Agriculture, U.S. Department of Commerce, U.S. Department of Defense, U.S. Department of Education, U.S. Department of Energy, U.S. Department of Homeland Security, U.S Department of Housing and Urban Development, U.S. Department of the Interior, U.S. Department of Justice, U.S. Department of Labor, U.S. Department of State, U.S. Department of Transportation, U.S. Department of Veterans Affairs, U.S. Environmental Protection Agency, U.S. Office of Personnel Management, & White House Council on Environmental Quality. (2021). *Memorandum of understanding regarding interagency coordination and collaboration for the protection of tribal treaty rights and reserved rights*. https://www.doi.gov/sites/doi.gov/files/interagency-mou-protecting-tribal-treaty-and-reserved-rights-11-15-2021.pdf

[2] Reinhardt, M., & Tippeconnic, J, (2010). Treaty basis for Michigan Indian education. *Indigenous Policy Journal*, *XXI*(4).

[3] Canby, W. (2009). *American Indian law in a nutshell* (5th ed.). West Group Publishing.

[4] Perdue, T., & Green, M. (2010). *North American Indians: A very short introduction*. Oxford University Press.

Indian boarding schools to shed light on the unspoken traumas of the past, no matter how hard it will be."[5]

Key initiatives have occurred over the years, including the *Johnson-O'Malley Act of 1934* (JOM)[6] following the inclusion of a chapter on Indian education in a 1928 report called *The Problem of Indian Administration*, which included the recommendation to abandon the view that it was "necessary to remove the Indian child as far as possible from his home environment" because "a modern point of view in education and social work lays stress on upbringing in the natural setting of home and family life."[7] JOM originally "authorize[d] contracts for the education of eligible Indian students enrolled in public schools" and evolved to offer resources to "include such programs as culture, language, academics and dropout prevention."[8]

Beyond nominal funding awarded in the *1934 JOM Act* and thereafter, a more substantive commitment did not occur until the publication of a 1969 report that became known as the Kennedy Report. In this report, a foreword by Senator Edward Kennedy, chair of the Special Subcommittee on Indian Education, laid bare that the Federal government had failed in the treaty and trust obligation for Indian education.[9] Ironically, data shared in the Kennedy Report from 51 years ago that American Indian "drop-out rates are twice the national average in both public and Federal Schools" matches the current disparity as reported in the Broken Promises Report[10] for both Indian young men and women.

Three years after the Kennedy Report was published, the **National Advisory Council on Indian Education (NACIE)** was established as one of the major provisions of the Indian Education Act of 1972, Pub. L. No. 92-318, 86 Stat. 235. This Act is part and an extension 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 and are codified at 20 U.S.C. §7471. NACIE produced annual reports from 1973 to 1993; however, beginning in fiscal year (FY) 1994 and continuing to FY 2004, congressional appropriations for NACIE were eliminated or so drastically reduced that preparation of the required annual report to Congress did not occur.

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[5] U.S. Department of the Interior. (2021, June 23). *Secretary Haaland announces federal Indian boarding school initiative* [Press release]. https://www.doi.gov/pressreleases/secretary-haaland-announces-federal-indian-boarding-school-initiative

[6] U.S. Department of the Interior, Bureau of Indian Education. (n.d.). *Johnson-O'Malley*. https://www.bie.edu/topic-page/johnson-omalley

[7] Institute for Government Research. (1928). *The Problem of Indian administration.* https://www.narf.org/nill/documents/merriam/n_meriam_chapter9_part1_education.pdf

[8] U.S. Department of the Interior, Bureau of Indian Education. (n.d.). *Johnson-O'Malley*. https://www.bie.edu/topic-page/johnson-omalley

[9] Committee on Labor and Public Welfare, U.S. Senate, Special Subcommittee on Indian Education. (1969). *Indian education: A national tragedy - A national challenge*. https://www.narf.org/nill/resources/education/reports/kennedy/toc.html

[10] U.S. Commission on Civil Rights. (2018). *Broken promises: Continuing federal funding shortfall for Native Americans*. https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf

NACIE Advisory Role

NACIE advises the Secretaries of the U.S. Departments of Education (DoED) and 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 and Alaska Native (AIAN) children or adults as participants. In addition, Executive Order (EO) 13592, signed on December 2, 2011, launched the initial *White House Initiative on American Indian and Alaska Native Education* (WHIAIANE) and designated NACIE as the advisory committee and specified particular responsibility for NACIE. The recent 2021 EO (14049) updated the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities[11] (the White House Initiative) and substantively expanded NACIE's role to advise the Secretaries of Education, Interior, and Labor on aspects of the White House Initiative, including:

i. what is needed for the development, implementation, and coordination of educational programs and initiatives to improve educational opportunities and outcomes for Native Americans;

ii. how to promote career pathways for in-demand jobs for Native American students, including registered apprenticeships as well as internships, fellowships, mentorships, and work-based learning initiatives;

iii. ways to strengthen TCUs [Tribal Colleges and Universities] and increase their participation in agency programs;

iv. how to increase public awareness of and generate solutions for the educational and training challenges and equity disparities that Native American students face and the causes of these challenges and disparities;

v. approaches to establish local and national partnerships with public, private, philanthropic, and nonprofit stakeholders to advance the policy set forth in section 1 of this order, consistent with applicable law; and

vi. actions for promoting, improving, and expanding educational opportunities for Native languages, traditions, and practices to be sustained through culturally responsive education.

In fulfilling its responsibilities and functions at the President's direction and consistent with the NACIE Charter, two assignments from the previous reporting period remain and are addressed through subcommittees to complete specific responsibilities and include the following:

1. Annual Report Subcommittee
2. By-laws Subcommittee

[11] The White House. (2021). *Executive Order on the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities*. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/11/executive-order-on-the-white-house-initiative-on-advancing-educational-equity-excellence-and-economic-opportunity-for-native-americans-and-strengthening-tribal-colleges-and-universities

NACIE seeks to fulfill its responsibility and submit an annual report to the 117th Congress for the period of 2020–2021, with recommendations and rationale. The recommendations herein are based on NACIE's foundation that full implementation, with sufficient funding and ongoing substantive support from both the DoED and Interior, and most recently the U.S. Department of Labor per the new White House Initiative, will help to achieve AIAN 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 yet to provide a response to NACIE for these reports. Accountability to Congress necessitates a presentation of this annual report to the U.S. Senate Committee on Indian Affairs and any Congressional committees of jurisdiction.

NACIE affirms that the Federal trust responsibility for AIANs makes it essential that the DoED increase its accountability for Native children's success in public schools on or near Indian reservations and at urban, rural, and Bureau of Indian Education (BIE) schools. Over 93 percent of AIAN students attend public schools, with more than half enrolled in K–12 schools in our nation's large urban centers. 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 setting the first priority for the Federal government to raise the profile and academic success of AIAN students through Indian education in every way possible.

AIAN Education Grade Report: How Are We Doing?

It is important to recognize the worst outcomes experienced by AIAN students as explained by historical and inter-generational trauma,[12],[13] tribal critical race theory,[14] the Indian boarding schools, and forced assimilation experiences as well as the Federal removal and reservation policy, all of which have adversely impacted social, economic, and inequitable educational opportunities; have perpetuated adverse outcomes; and have resulted in stark disparities between AIANs and the general population.

Educational attainment rates for AIAN students remain the worst of any racial or ethnic group in the United States

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 remain the worst of any racial or ethnic group: 13.1 percent of male students (ages 16–24) and 9.9 percent of female students (ages 16–24) have dropped out, as compared with 7.2 percent of male students (ages 16–24) and 5.2 percent of female students

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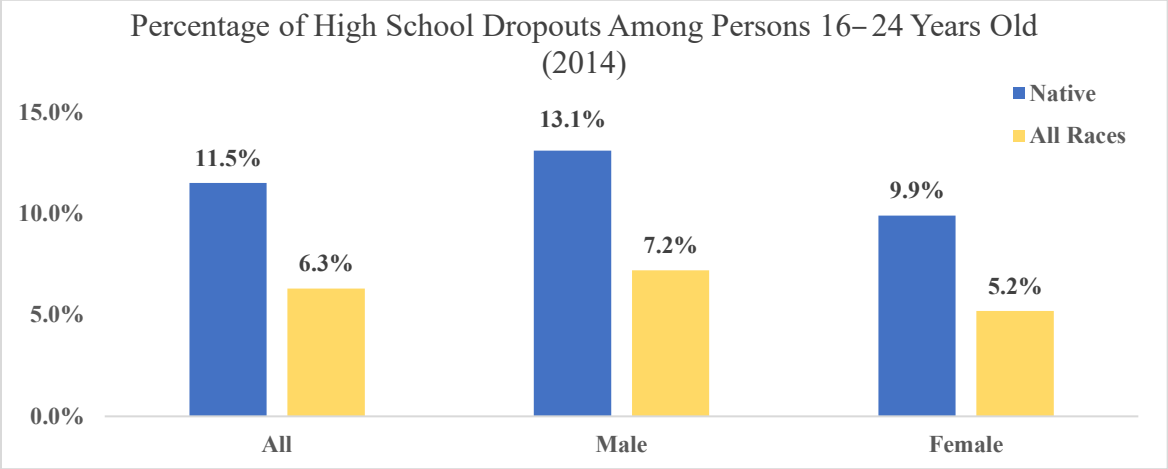
[12] Brave Heart, M. Y. H. (2000). Wakiksuyapi: Carrying the historical trauma of the Lakota. *Tulane Studies in Social Welfare*, *21*(22), 245–66.; Brave Heart, M. Y. H. (2004). The historical trauma response among Natives and its relationship to substance abuse: A Lakota illustration. *Journal of Psychoactive Drugs*, *35*(1), 7–13.;

[13] Newbreast, T. (2011). Historical trauma and Native Americans: Training of trainer *workshop*. Chico: CA. Connecting Circles of Care. https://www.nativewellness.com/events.html

[14] 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

(ages 16–24) of all races.[15] The dropout rate remains twice as high for Native students compared to all students, which suggests little progress has occurred since the 1969 Kennedy Report was published over a half century ago (**Exhibit 1**). Additionally, only 17 percent of Native students begin college, as compared to 62 percent of all students nationwide.[16]

Exhibit 1: Dropout Rate – Native Students vs. Other Racial or Ethnic Groups



Source: U.S. Department of Commerce, Census Bureau, American Community Survey (ACS), 2014

AIAN students, in the aggregate, score far lower than their non-Native peers on national assessments of reading and math proficiency

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 1 point for reading assessments and 6 points for mathematics assessments.[17]

The COVID-19 pandemic exacerbated long-standing educational disparities: Baseline understanding needed for comprehensive remediation

Approximately 620,000, or 93 percent, of AIAN K–12 students are currently enrolled in public schools, both urban and rural, while 48,000, or 7 percent, 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 TCUs in the United States that serve

[15] U.S. Commission on Civil Rights. (2018). *Broken promises: Continuing federal funding shortfall for Native Americans*. https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf

[16] Martinez, D. (2014). School culture and American Indian educational outcomes. *Procedia - Social and Behavioral Sciences*, *116*(21), 199–205.

[17] U.S. Commission on Civil Rights. (2018). *Broken promises: Continuing federal funding shortfall for Native Americans*. https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf

more than 160,000 AIAN students and other rural residents each year through a wide variety of academic and community-based programs.

When the transition happened from place-based education to virtual education during the COVID-19 pandemic in both the BIE and public schools, many education systems were caught off guard with very little curriculum effectively implemented for the three to four months at the end of the 2019–2020 school year. Without having adequate time to prepare, many districts or school systems simply issued worksheets with little or no virtual connectivity and inadequate devices for remote learning. The politics of the pandemic have exacerbated confusion of whether or not to send children into possible harm's way. Conversely, the lack of socialization when placed-based education was interrupted likely resulted in socioemotional, developmental, and academic challenges.

Pathway back from pandemic: Inertia in education

The complexity of a worldwide pandemic and its impacts on education are not yet fully known. Thus, a complete assessment of how AIANs fared through the pandemic is necessary in order to determine what remediations are needed to plot a pathway back from the challenges of the pandemic. New and innovative interventions are needed to catch students up to be at or ahead of grade level. While the Federal government did not create the pandemic, the conditions that AIAN students face as a result are fully the responsibility of the Federal government as part of the treaty and trust obligation. To prescribe solutions, we need a baseline understanding of the impacts of the pandemic in order to fashion response to intervention initiatives to aid AIAN students to reach grade-level proficiency and beyond.

Broadband connectivity to tribal communities is critical

Limited broadband access and limited technology infrastructure 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.

The advent of the COVID-19 pandemic laid bare the woefully inadequate broadband network connectivity available across the nation. These deficiencies are especially acute in Indian Country, often characterized by rural communities and checkerboard reservations. In addition, technology devices such as tablets or laptops were needed — both in timely distribution and maintenance, which often did not happen. While software- and website-based educational supplements have advanced as has the use of internet-based standardized assessment tools, district- and community-based technology to support these innovations has not kept pace. If necessity is the mother of invention, then temporary accommodations and innovations that have worked during the pandemic should be examined for their utility and retention. It seems limited to move backward to a face-to-face instructional environment without retaining some virtual innovations that may have worked for some students in some situations. This too should be more closely examined and developed to advance education. **Section 4.4** in this report expounds further on the interface of education and technology and the role of broadband in supporting continued innovation.

Additional infrastructure needs laid bare

Prior to the pandemic, the Federal government recognized that AIAN students were being educated in inadequate facilities. For example, the DOI 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, 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.

The BIE Education Construction Program reconstructs and rehabilitates BIE schools and dormitories. There are 183 BIE schools and dormitories in 23 States that serve approximately 48,000 students from K through 12th grade. In addition, BIE owns and operates two postsecondary institutions. The Facilities Condition Index is a system BIE uses to calculate, manage, and develop construction plans for repair and rehabilitation of school facilities. In FY 2015, there were 82 schools that were considered in good condition, 46 in fair condition, and 55 in poor condition. It would take approximately $388 million in deferred maintenance to bring the schools up to good conditions. According to the National Congress of American Indians (NCAI),[18] at the pace that BIE school construction is funded, it will take generations to catch up.

Budget formulation

At the time of the writing of this report, unfortunately, the H.R. 3684 Infrastructure Investment and Jobs Act (Infrastructure Bill) enacted did not include any substantive funding for the backlog of BIE school repairs or new construction.[19] Additionally, the House Build Back Better Act legislation (which may or may not be approved) appears to not include provisions for catching up the backlog of repairs, maintenance, and new construction for BIE schools. These needs also exist in the public schools as the main educators of AIAN students. Budget formulation efforts should be attuned to these needs, and this information should be share through the DoEd and BIE to the appropriate congressional committees of jurisdiction.

AIAN mascots: Safe and culturally appropriate environment for all students to learn?

Since the last annual NACIE report was published, national sports teams like the Washington and Cleveland teams have retired their American Indian-themed team names. Over the last two years, over 170 public school mascots have been retired. This leaves nearly 2,000 more schools across the nation that continue to use an AIAN mascot or nickname for their school or their sports teams.[20] The continued use of AIAN-themed mascots perpetuates the distinction of AIANs as the only race subjected to such practice. If the use of mascots is an act of honoring, as some claim, why are AIAN student the only group befitting from such an honor?

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[18] U.S. House Committee on Natural Resources, Subcommittee on Indian, Insular and Alaska Native Affairs. (2017, March 9). *Oversight: Hearing on improving and expanding infrastructure in tribal and insular communities* [Video]. https://naturalresources.house.gov/hearings/hearing-on-infrastructure-iiana-3-9-17

[19] H.R. 3684 Infrastructure Investment and Jobs Act. www.congress.gov/bill/117th-congress/house-bill/3684/text

[20] National Congress of American Indians. (2021). *Mascots – State activity tracker*. https://ncai.org/Ending.Indian.Mascots.Initiative.State.Activity.Tracker.pdf

The use of these American Indian mascots provides potentially harmful and negative impacts on AIAN students by interfering with positive self-identity and overall well-being, perpetuates negative stereotypes, encourages bullying, and ultimately creates unhealthy learning environments where not all students feel a sense of belonging and respect. Such harmful effects are well documented through research that shows "these mascots generate undesirable effects." They are psychologically detrimental to Native American students. For non-Native persons, they are associated with negative stereotypes of Native Americans. These mascots undertime intergroup relations by increasing negative stereotyping of AIANs.[21]

The National Policy Board for Educational Administration provides professional standards for educational leaders. These standards reflect expectations for effective educational leaders and include the following practices:

- Place children at the center of education and accept responsibility for each student's academic success and well-being [Standard 2c].
- Safeguard and promote the values of equity, social justice, and diversity [S2d].
- Lead with an understanding of all students' backgrounds and cultures [S2e].
- Ensure each student is treated fairly, respectfully, and with an understanding of each student's culture and context [S3a].
- Recognize, respect, and employ each student's strengths, diversity, and culture as assets for teaching and learning [S3b].
- Promote the preparation of students to live productively in and contribute to diverse cultural contexts [S3f].
- Confront and alter institutional biases of student marginalization and low expectations associated with race, class, culture, and language [S3e].[22]

A 10-minute primer on including the above standards in education is presented by the then-first vice president of the NCAI on the American Indian mascot issue from an academic, tribal leader, and advocate perspective. This primer is accessible on the NCAI website and linked herein.[23] It seems incongruous for educational leaders such as school superintendents, principals, teachers, or others in the educational environment to ensure these standards are met while vestiges of such racist practices are tolerated and equated with school pride.

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[21] Davis-Delano, L. R., Gone, J. P., & Fryberg, S. A. (2020). The psychosocial effects of Native American mascots: A comprehensive review of empirical research findings. *Race Ethnicity and Education, 23*(5), 613–633. https://www.changethemascot.org/wp-content/uploads/2020/06/Davis-Delano-Gone-Fryberg-The-Psychosocial-Effects-of-Native-Mascots....pdf#:~:text=First%2C%20they%20are%20psychologically%20detrimental%20to%20Native%20American,relations%20by%20increasing%20negative%20stereotyping%20of%20Native%20Americans.

[22] National Policy Board for Educational Administration. (2015). *Professional standards for educational leaders*. http://www.npbea.org/wp-content/uploads/2017/06/Professional-Standards-for-Educational-Leaders_2015.pdf

[23] National Congress of American Indians. (n.d.). *Ending the era of harmful "Indian" mascots* [Video]. https://www.ncai.org/proudtobe [time stamp ~ 30:35 to 39:40]

While NACIE recognizes that public education is primarily a district matter as guided by the respective States with facilitation by the DoED, the AIAN educational treaty and trust obligation is a federal matter. Therefore, the NACIE Council recommends that the DoED 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.

Further, while in 2015 the DoED, the White House Initiative, and NACIE collaborated on a comprehensive examination of this issue, the Federal government should ascertain what additional work is necessary and complete this prior work in order to issue a report on the impact of the continued use of such mascots on the impact of the only segment of American society subjected to such practice openly in public education.

Excerpt from "Recovery through Discovery – Language as a Path to Healing"

The full story may be viewed in Appendix A.

My name is Loretta Salazar, I am a proud member of the Tohono O'odham Nation. The history of my Native American culture did not start as I would have wished, but with absences of my culture that impacted me in my life's journey and my recovery from it to date.

I am the daughter of my father of Native American decent and daughter of my mother of Native American and Hispanic descent. This story is my life without my father and his culture. My father was 35 years old when he passed away from alcoholism, I was only 4 when he left this world. He was the link to my Native American culture. My father spoke both English and the O'odham language. My mother being raised in the Hispanic culture only could relay her memories of my father and his culture.

Growing up without my father, I just forgot to learn more about him. I grew up just doing what I needed to do in life. However, without my father, I didn't realize I had questions and emptiness that I was missing. I began identifying to myself as different to others around me. I identified as Hispanic only as this was all that I knew. I also knew I was Native American but never understood fully what that meant.

I went to high school in the late 1980s. My identity became more confusing at this age.

As I struggled with identity and the absence of "something" my grades fell. My interest in finding a "niche" became friends, parties, alcohol, and drugs. For the next 20 years I struggled with addiction and mental health issues.

Fast forward to substance abuse treatment. My mother knew I was close to losing everything and she approached me with treatment options for my addiction. She knew I always had questions about my father and his culture. She was able to connect with me by saying "I feel your father would want to take care of you right now, I know he is not here, but he wants to help." I fell to my knees crying and accepted substance abuse treatment. She introduced me to the Indian Health Service, and this is where my recovery began.

I became alive again at Native American Connections substance abuse treatment program. Native American Connections provided me with a path to my recovery. They taught me the Tohono O'odham language and the traditional aspects that connected me to my history, my father, my culture, my spirituality, and most importantly my identity.

Because of my surroundings in life today, I am educated in my Tohono O'odham language and history that was provided by Tohono O'odham Community College that offered free classes to tribal members . . . I am grateful for all the teachings and pray for more for others so we can continue to heal.

I. Build and Sustain True Government-to-Government Relations with Tribal Nations through Consultation

1.1 Continually Monitor and Improve Education Consultation with Tribes Including Reigniting Implementation of the *2015 Every Student Succeeds Act* (ESSA) and Regulations through the ESSA 2016 Negotiation Rule Making.

NACIE recommends that the Biden Administration update Congress on the implementation of Consultation with Tribal Nations at the Federal, State, and local levels.

Rationale: Tribal Nations were independent sovereigns prior to the formation of the United States. While treatment of the indigenous people of what is now the United States was not always respectful of tribal sovereignty, competition for resources among the various nations' intent on colonializing formulated a blueprint for original government-to-government relations. Federal U.S. Indian policy began to evolve and acknowledge tribes as sovereigns with inherent rights to self-government, possession, and control of their territory. This led to nation-to-nation relations with the Federal government that, through the Northwest Ordinance, extended government-to-government relations founded on mutual respect, mutual consent, and deference to internal tribal self-governance and self-determination.[24] This relationship has been reaffirmed through Supreme Court judicial precedence, legislation, and administratively through Executive Orders, Presidential Memoranda and Proclamations.

The original EO 13175[25] established modern-day government-to-government relations with Tribal Nations. It was extended through subsequent Presidential Memoranda, further stipulated in the 2015 reauthorization of the ESEA, and most recently transformed through President Biden's *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*.[26]

Tribal Nations and their elected leaders often express that the current process for Consultation does not allow or encourage tribes to have substantial, meaningful, and sustained input in the policy-making process before such policies or actions are carried out. President Biden's current Presidential Memorandum, however, establishes that, "It is a priority of my Administration to make respect for tribal sovereignty and self-governance, commitment to fulfilling Federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy."

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[24] Northwest Ordinance. (1787). (National Archives Microfilm Publication M332, roll 9); Miscellaneous Papers of the Continental Congress, 1774-1789; Records of the Continental and Confederation Congresses and the Constitutional Convention, 1774-1789, Record Group 360; National Archives. http://www.ourdocuments.gov/doc.php?flash=true&doc=8

[25] Exec. Order No. 13175, 3 C.F.R. (2001). https://www.doi.gov/sites/doi.gov/files/migrated/subsistence/upload/EO13175.pdf

[26] The White House. (2021). *Memorandum on Tribal Consultation and strengthening nation-to-nation relationships*. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/

Additionally, DoED under Section 8538 of the 2016 ESSA requires local educational agencies (LEAs) that either (1) have 50 percent 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.

NACIE recognizes that 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 predetermined outcomes such that the exercise of consultation takes the form of a unidirectional listening sessions for which decisions are already made. Tribes recognize that government-to-government relations are often 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 nor should it supplant Tribal Consultation pursuant to EO 13175 or President Biden's recent Presidential Memoranda updating consultation, which calls for facilitating frequent collaborations between the Initiative and Tribal Nations, Alaska Native Entities and other Tribal organizations.[27]

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 approach rather than summative conclusion for gathering Tribal Consultation input. The Tribal Consultations Conceptual Framework in Appendix B is illustrative of a reflexive process rather than a summative "one-and-done" conclusion. **Exhibit 2** summarizes the Tribal Consultations and listening sessions conducted in 2020–2021.

Exhibit 2: Tribal Consultations and Listening Sessions Conducted in 2020-2021

Date	Topic	Location / Details
04/19/2021	Policy Session – Tribal Consultation	https://oese.ed.gov/offices/american-rescue-plan/american-rescue-plan-american-indian-resilience-in-education-arp-aire/2021-tribal-consultations/
04/26/2021	State Tribal Education Partnership and American Rescue Plan	https://oese.ed.gov/offices/american-rescue-plan/american-rescue-plan-american-indian-resilience-in-education-arp-aire/2021-tribal-consultations/

[27] The White House. (2021). *Memorandum on Tribal Consultation and strengthening nation-to-nation relationships*. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/

II. Honoring the Treaty and Trust Obligation for Education

2.1 Create and Fund an Assistant Secretary of Indian Education Position

NACIE recommends creating and funding an Assistant Secretary of Indian Education.

Rationale: In recognition of the Federal treaty and trust obligation and responsibility for "education," an Assistant Secretary of Indian Education (ASIE) would provide a clear commitment, critical leadership, accountability, and collaboration at a necessary and higher level to fulfill the "education" component of the treaty and trust obligation for health, education, and social welfare. Elevated senior American Indian posts exist under the Secretary of Interior and Secretary of Health and Human Services (Assistant Secretary of Interior – Indian Affairs and Indian Health Service Director, respectively) and typically hold the rank of Executive Schedule V.

While the BIE under DOI implements the education treaty obligation for the 7 percent of the AIAN student population who attend BIE schools, the remaining 93 percent of AIAN students deserve no less of a commitment to an education pursuant to Indian treaties. Currently, the highest-ranking position of the Office of Indian Education (OIE) Director is a Government Services rank of GS-15. A more senior rank of ES V would have greater latitude to ensure cross-agency collaboration. An ASIE would ensure oversight and cross-cutting teamwork in the DoED, Federal Title equity program implementation, and in collaboration with the 2021 White House Initiative.

The establishment of an ASIE would provide leadership and support the White House Initiative Executive Director and the OIE Director and would provide a valuable collaborative link to the BIE Director. During the last five years, the White House Initiative position has operated on an interim basis. Solidifying an Indian education commitment through the establishment of an ASIE would ensure greater continuity. An ASIE would also strengthen collaboration across other Federal agencies including the DOI and BIE and other departments to comprehensively address educational needs of AIAN students at all educational levels.

In the transition to a new U.S. President, the NCAI, National Indian Education Association, National Indian Impacted Schools Association, and other national Indian organizations collaborated on a policy recommendation that reinforces establishment of an ASIE for Indian education.[28] This recommendation was made by several tribal leaders during formal Consultation conducted by DoED since January 2021.

[28] National Congress of American Indians. (2020). *Approval of the NCAI transition plan for the presidential transition effort following the November 2020 elections*. https://ncai.org/attachments/Resolution_KTvnWQsHnrFjTxNhVRWLulVxUXYuEZfITMKlFmZrGtrfTPpgYfz_PDX-20-054%20&%20Plan.pdf

2.2 Reinvigorate White House Indian Education Initiative, Other Presidential Directives, and Substantively Fund Implementation

NACIE recommends Congress commit necessary funds to DoED to substantively implement various Presidential Directives including EO 13175 on Consultation as reaffirmed in President Biden's Presidential Memorandum, *A Proclamation on Indigenous Peoples' Day, 2021*, and President Biden's EO 14049 expanding the White House Initiative.

Rationale: Two principal Federal actions in modern times called attention to and initiated the Federal obligation to an American Indian treaty right to an education — the establishment of NACIE in the *Indian Education Act of 1972*, Pub. L. No. 92-318, 86 Stat. 235, and in 1975 *The Indian Self-Determination and Education Assistance Act* (U.S.C. 450 et seq.). The current set of Presidential Directives further articulate the original EO 13175, which established government-to-government relations between the Federal government and Indian tribes. Presidential Memoranda over several administrations reaffirm and expand the administrative intent to support the treaty and trust obligation for Indian education.

EO 13270 (2002) focused on TCUs. Subsequently, EO 13592 (2011) expanded this commitment beyond tribal colleges to include educational opportunity for AIAN students at all levels by establishing WHIAIANE. This EO designates NACIE as the official advisory body and specifies its advisory responsibilities. The most recent Presidential Memoranda issued by President Biden in January 2021 establishes timelines for ensuring all Federal agencies comply with establishing department and agency-level consultation policies. It also recommitted and expanded the Federal government's commitment to the White House Initiative on AIAN education with an enhanced facilitative role of NACIE to perform under the direction of the DoED with linkages to the Secretaries of Interior and Labor as co-chairs of the current White House Initiative.

President Biden's Proclamation designating the nation's first Indigenous Peoples' Day crystalizes a commitment to promoting an insightful knowledge of the American Indians' role in American history. According to President Biden, "We must never forget the centuries-long campaign of violence, displacement, assimilation, and terror wrought upon Native communities and Tribal Nations throughout our country."[29] The 2021 EO establishing the White House Initiative recognized the detrimental role of Indian mission and boarding schools by noting that "their effects and resulting trauma reverberate in Native American communities even today" as well as their lingering impact on American Indian identity, self-esteem, and resulting aspirations.[30] Additionally, President Biden affirms that "we acknowledge the significant sacrifices made by Native peoples to this country — and recognize their many ongoing

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[29] The White House. (2021). *A proclamation on Indigenous Peoples' Day, 2021*. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/08/a-proclamation-indigenous-peoples-day-2021/

[30] The White House. (2021). Executive Order on the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/11/executive-order-on-the-white-house-initiative-on-advancing-educational-equity-excellence-and-economic-opportunity-for-native-americans-and-strengthening-tribal-colleges-and-universities

contributions to our Nation."[31] The enactment of the 2015 ESSA established a Federal directive for "Consultation" between States and tribes to address issues of American Indian curriculum and indigenous languages and assessment. Full implementation of an indigenous curriculum seeks the truth. During the entire previous administration and upon repeated requests, however, NACIE has been unable to secure a report on implementation or issuance of guidance to States to facilitate implementation. Fidelity to the 2015 ESSA warrants follow-up and oversight.

According to President Biden's EO 14049 on the White House Initiative, "the Federal Government must put strong focus on early childhood and K–12 educational opportunities. These are important to developing and strengthening Native American communities, and they set the stage for educational advancement and career development, including opportunities to attend TCUs."[32] This suggests a greater level of attention to matriculation from early childhood education to higher education inclusive of vocational technical training for those who choose this path. This greater level of commitment is not surprising given the dedicated focus of educational leaders and First Lady Dr. Jill Biden, who has visited the Diné Navajo Nation, Saginaw Chippewa Tribe, and Cherokee Nation, including touring early childhood and tribal college facilitates.

The original charge and expanded role of NACIE will require increased expenditures by DoED. As a carryforward recommendation from the last reporting year, no appreciable increased appropriations have been made to carry out these Presidential Directives. Additionally, NACIE has not received increased funds to cover additional expenses of full implementation of these directives. This recommendation asks Congress to provide targeted increases for Indian education for both the DoED and BIE. An increase in NACIE's operating budget for FY 2021–2022 and thereafter is necessary to allow NACIE to fulfill its expanded responsibilities per the President's welcomed direction.

2.3 Expand the Cross-Departmental and Multidisciplinary Collaboration as Required by EO 14049 and Restated in President Biden's White House Initiative

NACIE recommends Congress substantively commit cross-departmental resources for the DoED and the DOI in coordination with the U.S. Departments of Justice, Health and Human Services (including the Administration for Children and Families), Labor, and related Departments, Federal agencies, and related federally established initiatives and commissions.

Rationale: In addition to reaffirming the treaty right to an education, the interagency MOU previously noted calls upon several Federal agencies to collaborate in ensuring compliance with

[31] The White House. (2021). *A proclamation on Indigenous Peoples' Day, 2021*. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/08/a-proclamation-indigenous-peoples-day-2021/

[32] The White House. (2021). Executive Order on the White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/11/executive-order-on-the-white-house-initiative-on-advancing-educational-equity-excellence-and-economic-opportunity-for-native-americans-and-strengthening-tribal-colleges-and-universities

said treaty rights.[33] Further justification for the need for collaboration includes substance abuse issues, issues of school discipline and special education disparities, civil rights inequities, and the existing school-to-prison pipeline that disproportionately affects and devastate AIAN students and families. Collaboration between Federal departments and agencies is necessary when conducting listening sessions and consultations on related topics. Resources and new strategies are necessary to better address circumstances that exist in Indian Country.

The initiative 1st Kids First, with funding by the W.K. Kellogg Foundation, involved a collaboration between the National Indian Education Association, the NCAI, the National Indian Child Welfare Association, and the National Indian Health Board and has directly impacted student outcomes. More such initiatives should be instituted with collaboration to identify and address the needs of AIAN students. These efforts should coordinate and align with the Alyce Spotted Bear and Walter Soboleff Commission on Native Children.[34]

Evidence shows that AIAN students are subjected to greater-than-average disciplinary outcomes. According to a U.S. Government Accountability Office report published in March 2018, for the 2013–2014 school year, AIAN students were subjected to higher-than-average rates of corporal punishment, in-school and out-of-school suspensions, expulsions, referrals to law enforcement, and school-related arrests.[35] Even more disturbingly, while AIAN students make up 1.1 percent of the population of early childhood education, they represent a disproportionate 1.7 percent of the out-of-school suspensions.[36] AIAN students who are overdisciplined do not learn proactive social skills. Instead, they develop an increased likelihood of challenging behavior in the future.

Overdisciplined students do not develop or enhance their capacity to function in a normalized environment, and those AIAN students may feel traumatized, which may inhibit 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 behavioral support practices for all students, especially for Native students receiving special education services, who are disproportionately affected by current discipline policies and practices.

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[33] U.S. Department of the Interior. (2021, November 15). *Interior Department, federal partners commit to protect tribal treaty rights* [Press release]. https://www.doi.gov/pressreleases/interior-department-federal-partners-commit-protect-tribal-treaty-rights#:~:text=The%20Memorandum%20of%20Understanding%20%28MOU%29%20affirms%20the%20federal,and%20to%20fully%20implement%20federal%20government%20treaty%20obligations

[34] PUBL244.PS (congress.gov)

[35] U.S. Government Accountability Office. (2018). *K–12 Education: Discipline disparities for Black students, boys, and students with disabilities* (GAO-18-258). https://www.gao.gov/assets/gao-18-258.pdf

[36] U.S. Department of Education, Office for Civil Rights. (2021). *An overview of exclusionary discipline practices in public schools for the 2017–18 school year*. https://www2.ed.gov/about/offices/list/ocr/docs/crdc-exclusionary-school-discipline.pdf

2.4 Create Positions and Indian Education Plans (as Part of State Comprehensive Plans) at the State Education Agency Level to Oversee AIAN Education

NACIE recommends that funds be allocated for State education agencies (SEAs) to oversee AIAN education to gather and analyze data on Native student outcomes; set priority goals for educational improvement; review and develop AIAN curriculum; and provide technical assistance to LEAs and evaluate progress of goals identified. These positions can also focus other ESEA funds that should be providing services for Native students both at the SEA and LEA levels.

Rationale: The elimination of the original six regional AIAN technical assistance centers within the Improving America's Schools Act (prior to the No Child Left Behind Act and subsequent to ESSA), created a disadvantage for fully honoring the treaty and trust obligation for education. It has been decades since Native schools and districts have had comprehensive technical assistance for programs impacting AIAN students. While some States attempt to provide support for Title VI programs, not all States have chosen to provide comprehensive support, if at all. Some of the Comprehensive Centers have provided support, but only when additional funds have been allocated and targeted for Native education. Yet it is evident in looking at the data of Native student outcomes (i.e., graduation rates, discipline data, academic achievement scores, etc.) that much greater support is needed, not just to SEAs, but also directly to LEAs.

In addition, all Title programs should be providing services to Native students, including but not limited to special education, Title I, Title III, migrant education, and others.

2.5 Ensure Supplement Not Supplant of Title VI Indian Education Funds and Services

NACIE recommends that all Title programs within ESEA include language that emphasizes the importance of coordination with Title VI, the Indian Education Act, to ensure that Title VI funds are not used to supplant other Title funds and services for Native students. Until these language changes are made to the ESEA legislation, additional technical assistance is necessary for SEAs and LEAs to make sure that all funds are used appropriately.

Rationale: Title VI uses Indian education grants in targeted ways, adhering to the Federal government's trust responsibility for tribes and AIAN students. These funds should focus on the culturally related academic needs of AIAN students to promote the vitality of Native languages and cultures as well as the health of Native people (as advocated by the United Nations Declaration on the Rights of Indigenous Peoples and treaties between tribes and the U.S. Federal government). In addition, Native students may also qualify as migrant, bilingual (Title III), high poverty (Title I), and special needs students. All these Title program funds should be utilized in addition to Title VI funds because each Title addresses something different. Also, all these other Titles have higher per-pupil allocations to address student outcomes than Title VI does and should be used in addition to Title VI.

There are instances at both the SEA and LEA levels where Native students qualify but are not included in the services that specific other Titles are required to provide. NACIE is concerned that budgeted and unfilled vacancies at DoED and OIE have reduced the capacity to monitor all

ESEA grant programs to ensure that Title funds are used appropriately. Additional funds are needed to provide this much-needed oversight.

2.6 Increase the Hiring of AIAN Professionals as Experts and Reviewers, as well as Technical Assistance Designed to Have Impact on Native Students

NACIE recommends that Congress through legislation advocate for the hiring of AIAN professionals as experts and reviewers, as well as for technical assistance. This includes, but is not limited to, hiring for OIE discretionary grant administration, Comprehensive Centers, equity assistance centers, and other technical assistance centers.

Rationale: Native expert reviewers bring a unique and invaluable perspective to the evaluation of discretionary programs and services that will have a powerful and knowledgeable impact on Native students. Native expert reviewers increase the likelihood that Native history and culture will be understood and respected in the decision-making process. Whenever possible, NACIE encourages Congress to include in legislation Native subject matter experts as discretionary grant field reviewers and evaluators for all the Title programs within ESSA.

2.7 Increase and Improve the Quality of Technical Assistance and Capacity Building to Support the Improvement of AIAN Education

NACIE recommends that there be an increase in the amount and quality of technical assistance provided to AIAN tribes, communities, and school districts.

Rationale: The elimination of the original six regional AIAN technical assistance centers within the *Improving America's Schools Act* (prior to the *No Child Left Behind Act* and subsequent to ESSA), created a disadvantage for fully honoring the treaty and trust obligation for education. While some States attempt to provide support for Title VI programs, not all States have chosen to provide comprehensive support, if at all. Some of the Comprehensive Centers have provided support, but only when additional funds have been allocated and targeted for Native education. Yet it is evident in looking at the data of Native student outcomes (i.e., graduation rates, discipline data, academic achievement scores, etc.) that much greater support is needed, not just to SEAs, but also directly to LEAs. In addition, all Title programs should be providing services to Native students, including but not limited to special education, Title I, Title III, migrant education, and others.

2.8 Formal Consultation with Tribal Nations to Clarify the Definition of American Indian and Alaska Natives and the Categorical Inclusion of Native Hawaiians in the Total

NACIE recommends that the DoED request collaboration with the Office of Management and Budget and appropriate Federal administrative agencies and departments to operationalize a definition of AIAN at all levels to analyze and report data for various categories of AIANs. The results should be put to formal Tribal Consultation with AIAN tribes concerning the appropriate scope of this critical definition.

Rationale: There is a critical need for accurate counts of Native students, not only because it dramatically impacts the funding of program allocations but also because it is needed to collect reliable data on program effectiveness, challenges, and successes. Without properly

operationalizing "AIAN" as a category for data reporting, any analyses of academic performance or graduation statistics are likely to be spurious as an overcount, undercount, or false positives or negatives, making inferences unreliable and with questionable validity.

There are various government criteria and eligibility requirements that define AIANs and by extension AIAN students. Enumerating the number of AIANs is incredibly complex due in large part to forced assimilation policy and reluctance to self-report (elaborated in the following **Section 2.9**). One segment of the population is the number who are registered citizens of the 574 federally recognized Indian tribes. Add to this the population who are registered members of State-recognized tribes and those seeking Federal recognition as a Tribal Nation. Confounding the total is the voluminous population who self-report and may or may not trace descendancy to a Federal- or State-recognized tribe. Tribal enrollment in a Federal-recognized tribe is an actual statistic but not previously recorded in any reliable or official manner. However, the recent distribution of relief funds under the *American Rescue Plan Act of 2021* based on certified tribal counts resulted in a comprehensive total count of citizens of federally recognized tribes. Additionally, the Tribal-Interior Budget Council situated under the Interior has taken preliminary steps to formulate a comprehensive data collection initiative of the population of citizens of federally recognized tribes.

U.S. Census Chronic Undercounts and Error Rate for Indian Country

To elaborate the complexities of the AIAN count, changes from 2010 to 2020 in the U.S. Census count of AIANs in combination population increased by 160 percent. What portion of this count is attributable to Tribal Nation enrollments is not immediately discernable as the U.S. Census is self-report and not a verified count as is actual tribal enrollments. In 2020, the AIAN population (3.7 million) accounted for 1.1 percent of all people living in the United States compared with 0.9 percent (2.9 million) in 2010. An additional 5.9 million people self-identified as AIAN and another race group in 2020. Together, the AIAN alone or in combination population comprised 9.7 million people (2.9 percent of the total population) in 2020, up from 5.2 million (1.7 percent) in 2010. The AIAN alone population grew by 27.1 percent, and the AIAN in combination population grew by 160 percent since 2010.[37]

The current AIAN membership or heritage self-report efforts were developed and promulgated without full Consultation with federally recognized Tribal Nations or reconciliation against tribal enrollment populations. As a result, the category of AIAN is broader than the legal relationship between AIAN peoples and the U.S. government through the treaty and trust obligation. Specifically, the current definition has 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

[37] Norris, T., Vines, P. L., & Hoeffel, E. M. (2012). T*he American Indian and Alaska Native population: 2010* (C2010BR-10). U.S. Census Bureau. https://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf

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)

Categorical Reporting to Ensure Full Accounting

DoED and the Office of Management and Budget should consult Tribal Nations to assure that the AIAN category is neither over- nor under-inclusive. NACIE asks that Congress cooperate with these government entities in their important work in arriving at a valid and reliable AIAN count statistic with various strata of other related populations under the broader umbrella of American Indian.[38] All data reporting should reflect these categories.

As an example, the Indian Health Service uses a narrower definition applicable to AIANs who have an affiliation with a tribal group of the United States to establish eligibility for their programs. The Indian Health Service 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.[39]

2.9 Create a Native Student Identity and Resiliency Task Force

NACIE recommends that a Native Student Identity and Resiliency Task Force be created to review and provide the necessary education and understanding of this social phenomenon as a contributing factor to the misclassification and underrepresentation of AIAN students and their unique tribal heritage and experiences.

Rationale: Misclassification and underrepresentation of AIAN students is exacerbated by American Indian identity, which is complex as a result of contradictory and overlapping Federal Indian policies of assimilation to self-determination. First situated in the United States Department of War, then the Bureau of Indian Affairs, the Indian boarding school pedagogy was "kill the Indian to save the man." Not surprisingly, resulting American Indian identity issues are present and are understood through general theory of social anomie,[40] through the

[38] Regional Educational Laboratory Northwest. (n.d.). *Native youth count*. U.S. Department of Education. https://ies.ed.gov/ncee/edlabs/regions/northwest/pdf/aian-enrollment.pdf
[39] Congressional Research Service. (2016). *The Indian Health Service (IHS): An overview*. https://www.tribalselfgov.org/wp-content/uploads/2021/05/IHS-Overview.pdf
[40] Young, T. J. (1991). Suicide and homicide among Native Americans: Anomie or social learning? *Psychological Reports, 68*(3), 1137–8.

lens of historical and inter-generational trauma,[41] further explained by immigrant and ethnic studies,[42] and perpetuated through the systemic lack of opportunity for American Indian communities understood under the lens of tribal critical race theory.[43]

As the original migratory people of this land, AIANs and by extension AIAN 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. Further, as a possible indicator of social anomie — namely transience — tracking student academic progress and retention becomes intricate.

As Indian Country brings a unique and invaluable experience, it is imperative that the DoED develop an Indian Education Recruitment and Outreach Plan, including central and State staff positions, in collaboration with DoED's OIE. It is incumbent on DoED to fulfill its trust responsibility in ensuring Native students no longer experience invisibility and erasure in this unique educational opportunity. If historical and inter-generational trauma explain the worst-of-the-worst statistics as borne out in the Broken Promises Report, then solutions must start with addressing issues of Indian identity starting with follow-through with substantive and accurate curriculum inclusion of AIANs as recommended by the ESSA 2016 Negotiated Rulemaking Process.

Further, Native students and their families' indigenous ways of life meet 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.

2.10 Expand Federal Accountability for Data Collection and Assessment

NACIE recommends that Congress continue supporting the National Indian Education Study and other opportunities to increase participation of AIAN students in other data collection efforts of the National Center for Education Statistics (NCES). This should include both public schools and BIE schools and staff within all future iterations of the Schools and Staffing Survey. The practice of oversampling should continue along with analyses and publication of the results of BIE schools and public schools.

Rationale: First, it is important to recognize both the collective tribal and individual obligation for Indian education to both the respective Tribal Nation but also the individual AIAN student who is dependent upon the fulfillment of the treaty and trust obligation for education. While various efforts at data collection, analysis, and policy recommendation exist for evaluating the

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[41] Newbreast, T. (2011). Historical trauma and Native Americans: Training of trainer workshop. Chico: CA. Connecting Circles of Care; 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.

[42] Bender, E., & Kagiwada, G. (1968). Hansen's law of "third-generation return" and the study of American religio-ethnic groups. *Phylon, 29*(4), 360–370.

[43] 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; Williams, R. (2011). *The role of leadership in Native American student persistence and graduation: A case study of one tribal college* (Accession No. 3472237) [Doctoral dissertation, Mercer University]. ProQuest.

efficacy of the treaty and trust obligation for Indian education, an accurate accounting of academic performance collectively and individually remains elusive. 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 and reflexively evaluate its treaty and trust obligation for Indian education.

Admittedly, as **Sections 2.8 and 2.9** above show, an accurate count confounded by issues of Indian identity represent a unique challenge of operationalizing research related to AIANs. Without accurate and complete data collection, analysis, and reporting, however, it is impossible to know the extent and success to which AIAN students are being educated. Further, effectively addressing persistent inequities or identifying schools that are educating AIAN students in academically and culturally appropriate ways becomes diffuse. Since DoED collects data on all other students, it is the Department's responsibility to take additional and appropriate means to include AIAN students, including oversampling, if necessary. Given the *small n* data[44] challenges with statistics analyses, oversampling is important to ensure valid and reliable data.

The NCES should continue and expand analysis and dissemination of data pertaining to Native students by the National Indian Education Study. Any diminishment of this effort could result in data that is collected but being made available only via an electronic format. Given the lack of technological access and capacity issues in many parts of Indian Country, this may impact the overall accessibility and utility of these important data. This may 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 continue inclusion of BIE-affiliated schools and staff in the Schools and Staffing Survey as 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.

Finally, Tribal Nations and Native organizations should have more frequent access to training in data collection and analysis, either by the NCES or another provider. DoED 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.

2.11 Continue to Reclaim and Strengthen 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 lifelong learning.

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.

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[44] Sauro, J. (2013). *Best practices for using statistics on small sample sizes*. MeasuringU. https://measuringu.com/small-n/

U.S. assimilation policies have created historical trauma and damaged AIAN 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 DoED, the Bureau of Indian Affairs/BIE, and the U.S. Departments of Health and Human Services and Justice. 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 14049 and relevant Federal legislation should preempt State laws that impinge upon or disrupt the educational programs of AIAN students and their learning of their Native languages and cultures. 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 ESSA Title III (Language Instruction for English Learners and Immigrant Students) in addition to Title VI funding.

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 Languages Act.

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

NACIE recommends additional congressional appropriations are needed for DoED 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. Still, 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 Assessments) to encourage DoED 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 ESSA that 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 SEAs that have significant AIAN populations.

III. Requests for Distinct Funding for Native Education

3.1 Clarify and Maintain the Distinction Between Title VI and Johnson-O'Malley Programs

NACIE recommends that Congress maintain its support for both the Indian Education Act (Title VI) and JOM programs with distinct purposes, services, and funding requirements. NACIE also asks that student counts of eligible AIAN students within these programs be accurate and maintained annually.

Rationale: DoED administers the implementation of the Title VI programs, and the 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 DoED have different eligibility requirements, purposes, and allowable costs. Both the National Johnson-O'Malley Association and the National Indian Education Association support these distinctions.

The JOM Act was passed in 1934 and gave the Federal government the authorization to contract directly with tribes. However, until the 1970s most of the contracts were given to States and public school districts. These funds could be used to cover parental costs, counseling, and other services for AIAN students on or near reservation lands. JOM students must be a member of a federally recognized tribe or be one-fourth or more Indian and be 3 years old to Grade 12 students. Native parental involvement evolved over time, including the ability to approve or disapprove these programs.

The Indian Education Act of 1972 authorized new supplemental funds for programs and services for AIAN students, including Formula Grants to meet the unique educational and culturally related needs. This new legislation required open consultation by State public school districts with AIAN parents. These funds could be used by school districts anywhere that had at least 10 or more Native students. 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. Initially, when this legislation was enacted, it included funds for Adult Basic Education, competitive grants for targeted purposes,

scholarships for Natives going into education, Native teacher training programs, and six regional technical assistance service centers. Most of these components have been discontinued.

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.

3.2 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 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 ESSA programs. The Title VI, Part A program is significantly underfunded and does not counter the costs of inflation and sequestration. Since 93 percent 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 for the last 10 years. Increasing funding will help ensure the full participation of all eligible AIAN students.

Exhibit 3 summarizes the Title VI, Part A Congressional appropriations for FY 2020 and 2021 and the president's proposed budget for FY 2022.

Exhibit 3: Title VI, Part A – U.S. House and Senate Funds for FY 2020 through FY 2022[45]

Funding Type	FY 2020* appropriation	FY 2021* appropriation	FY 2022 President's Budget
Formula Grants for Indian Children	$105,381,000	$105,381,000	$110,381,000
Special Programs for Indian Children	$67,993,000	$67,993,000	$67,993,000
National Activities	$7,365,000	$7,865,000	$7,865,000

* Corrected from the previous report.

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. This severely limits the ability of the Title VI, Part A programs to provide services for AIAN students.

[45] US Department of Education. (2021). *Department of Education Budget Tables: FY 2022 President's Budget Request.* www2.ed.gov/about/overview/budget/tables.html

3.3 Expand Funding for Tribal Colleges and Universities to Lessen College Loan Burdens of AIAN Students Who Have a Unique Federal Right to an Education.

NACIE recommends that Congress continue to promote the unique role and responsibilities of TCUs in fulfilling the treaty and trust obligation and increase current levels of funding where increasing student enrollment and other needs of the institutions are demonstrated.

Rationale: While 62 percent of all students who graduate high school enter college, the comparable statistic for AIANs is just 17 percent.[46] There are 37 TCUs serving more than 160,000 AIAN students and other rural residents each year through a wide variety of academic and community-based programs. TCUs are seeing AIAN enrollment increases at disproportionately higher rates than general institutions of higher education. TCUs 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 and a few graduate degree programs. It is important for Congress to recognize and act on the need for parity in funding and resources so the tribal colleges' purpose of bringing education, social, and economic opportunities to AIAN students and their communities can be achieved.

The Tribally Controlled Colleges and Universities Assistance Act provides funding for tribal colleges and resources for the majority of the general operating budgets. Funding received by TCUs is based primarily on "beneficiary" students who are members of a federally recognized tribe or are at least one-fourth-degree Indian blood descendant of a member of an Indian tribe. TCUs have enrolled an increasing proportion of "non-beneficiary" students for which proportionate levels of funding do not follow. While this bodes well for demand to attend TCUs whether tribal or not, this creates a budget shortfall to educate non-beneficiary students who make up 10–30 percent or more of student enrollment. Many of the TCUs are in rural and remote communities, where affordable access to a higher education is limited.

NACIE supports the permanent reauthorization of Higher Education Act Title III F, Strengthening Institutions –Tribal Colleges and Universities Program, administered by DoED, at a minimum level of $35 million annually and encourages Congress to work to secure permanent funding with annual increases reflecting increasing AIAN students and other enrollment and other needs of these institutions. As TCUs continue to increase in enrollment, funding from year to year should keep pace to accommodate the growth and change.

With First Lady Dr. Jill Biden's experience as a community college faculty and her recent visits to the Diné Navajo Nation, Saginaw Chippewa Tribe, and the Cherokee Nation, including touring these Nation's respective tribal colleges, an increased attention and commitment are likely to result. Hopefully, this will translate into increased funding for TCUs. The *Build Back Better Act* approved by the U.S. House of Representatives on November 19, 2021, includes several recommendations for increased funding to TCUs.

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[46] Martinez, D. (2014). School culture and American Indian educational outcomes. *Procedia - Social and Behavioral Sciences*, *116*(21), 199.

3.4 Improve Data Collection, Funding, and Understanding of Retention and Matriculation Through to Graduation of AIAN Students Attending Non-Native-Serving Institutions

NACIE recommends Congress support a Federal Annual Progress Report Card on the AIAN experience in higher education. Data collection and analyses should include factors that significantly impact AIAN retention and matriculation through to college graduation. Data-driven retention strategies should be fashioned to ameliorate adverse factors and support positive interventions, including increasing gift assistance, lessening loan burdens, and substantively addressing factors that influence educational outcomes.

Rationale: Upon admission to institutes of higher education, AIAN students' education pursuits should be supported as a treaty and trust obligation. Nineteen percent of AIAN people have a Bachelor of Arts or higher compared to the national averages of 88 percent and 31 percent, respectively.[47] As **Sections 2.8, 2.9 and 2.10** of this report demonstrate, an accurate operationalization of the study of Native student retention is complex. Native students are also less likely to have family members who have attended college. In 2017, 21 percent of Native children under 18 years of age lived in a household with a parent who completed a bachelor's degree or higher compared to 52 percent of White households. Many institutions and their policies simply ignore the unique needs of AIAN students who continue to be represented as first-generation and/or disadvantage populations.

Data-Driven Retention Services

An Annual Progress Report Card developed in partnership with AIAN researchers and in Consultation with Tribal Nations should ensure appropriate measurement and data collection. Data-driven retention strategies should be fashioned to ameliorate adverse factors and support positive interventions, including increasing gift assistance, lessening loan burdens, and substantively addressing factors that influence educational outcomes.

On a national level, higher education student data must be transparent across institutes of higher education to ultimately advance policies that facilitate an increase in AIAN student degree completion. A restated recommitment to AIAN education through various Presidential Directives rings hollow without an Annual Progress Report Card. By extension of the Federal treaty and trust obligation, institutes of higher education have a responsibility to honor the treaty and trust obligation for Indian education.

[47] U.S. Census Bureau. (2017). *Table S1501: Educational attainment: 2016 American Community Survey 1-year estimates*. https://factfinder.census.gov/bkmk/table/1.0/en/ACS/16_1YR/S1501

Annual Progress Report Card

Thus, colleges and universities across the nation should be accountable for providing annual reports that address AIAN students' college profile, including:

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

Mitigating the Expense of Higher Education

While all students enjoy an equal protection right to an education through the U.S. Constitution, AIANs have a direct Federal right to an education per the treaty and trust obligation. Congress is advised to support the higher education of AIAN students attending public institutions by reinstating the Federal fellowship program for qualified AIANs and increasing Pell Grants awards and other Federal financial aid gift assistance, which lessen loan burdens for AIAN students. Further, higher education funding should follow AIAN students wherever they choose to pursue their educational pursuits, including vocational technical training, certification, and apprenticeships. Congress should increase the current levels of financial support for Native American-serving and non-Native institutions where significant numbers of AIAN students attend.

Importance of Pell Grants at All Institutes of Higher Education That Serve AIAN Students

As most enter college with first-generation status, AIAN students are typically economically disadvantaged. It is not only the Federal government's perpetual treaty and trust obligation to provide an education, is also an ethical duty to ameliorate the economic conditions that were forced upon Native people. As noted previously, 17 percent of Native students enter college versus 62 percent for the general population. Lack of financial resources and expected loan burdens are believed to play a critical role in why Native students who do graduate high school simply do not matriculate to the college level. Not surprisingly, nearly half of all Native college students qualify and use the Pell Grant program to attend college. Pell Grants are based on an individual's need calculated by the Free Application for Federal Student Aid. The persisting eligibility for more than half of all Native students corrects the notion that Indian gaming has solved the forced economic conditions of tribes. While Pell Grants play a key role in providing opportunity for AIAN students, the share of college costs covered by the grant is at an all-time low, and Pell Grant recipients continue to bear greater student debt burdens than their higher-income peers.

Earlier in 2021, Senator Hirono (D-HI) introduced the Pell Grant Preservation and Expansion Act to make long overdue and critically needed investments in the Pell Grant program by

doubling the maximum award, permanently indexing the grant to inflation, and shifting the program fully to mandatory funding. The Act would increase the current maximum Pell Grant from $6,495 by $1,475 for the 2022–2023 award year and double the maximum Pell Grant over a period of five years thereafter, restoring the relative value of the award. President Biden's Build Back Better Act would take a step in the right direction by increasing the Pell Grant by $550 annually and making it tax exempt.

Understanding AIAN College Student Needs

H Higher education institutions should foster AIAN students' sense of belonging throughout their campus environments. A survey of general student retention literature shows the student attrition model and theories of undergraduate socialization that explain environmental conditions, challenges, and disadvantages students face upon entering and matriculating through higher education institutions. Further, models of student departure, including *Tinto's Model of Institutional Departure*, explain a student's challenges in adapting to campus culture, which leads to attrition.[48] Add to this the unique challenges for AIAN students' adaption from their tribal or cultural environments to campus life as explained through cultural discontinuity. Environmental perspectives of college socialization suggest that offering campus socialization activities to adapt to college life may lead to increased retention.[49] For AIAN students, specifically addressing issues of cultural discontinuity through programming and retention services adapted to the profile of AIAN students may be the necessary connection that leads to graduation.

An invisibility and a sink-or-swim approach on college campuses is a modern form of privilege and elitist racism as it ignores the first-generation and/or disadvantage status of most AIAN students and the environmental factors for which many AIAN students enter from an inequitable position. A lack of culturally specific interventions leads to the current AIAN college dropout rates. When Native students are invisible and services are not suited to their unique needs, their academic and social needs are simply not met. This leads to students feeling alone, disconnected, and alienated, resulting in dropout status. Conversely, specifically addressing the unique needs of AIAN student may lead to higher rates of college graduation.

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[48] Schutz, G. (2007). *The impact of educational experience on student persistence at six public universities*. (Doctoral dissertation, Tennessee State University). Retrieved from Proquest (Accession No. 3259043); Spady, W.T. (1970). Dropouts from higher education: An interdisciplinary review and synthesis. Interchange, 1(1), 64-85; Spady, W.G. (1971). Dropouts from higher education: Toward an empirical model. Interchange, 2(3), 38-62

[49] Astin, A.W. (1984). *Student involvement: A developmental theory for higher education*. Journal of College Student Personnel 25, 297-308; Schmidtke, C. (2008). Success factors for American Indian students at a baccalaureate technical college. (Doctoral dissertation). Oklahoma State University. Retrieved from Proquest Dissertations and Thesis Database (3324748).

3.5 Increase Funding and Support for Impact Aid, Title VII

A. Congress Needs to Provide Effective Oversight of DoED to Monitor Implementation of the Impact Aid, Title VII Indian Policies and Procedures to Ensure LEA Accountability to Tribal Leaders and Parents of Indian Children

NACIE recommends that Congress provide effective oversight of DoED to monitor implementation of the Impact Aid, Title VII Indian Policies and Procedures 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 departments and tribal leaders. DoED has been forthright in overseeing the implementation of the regulations to insure meaningful tribal input. NACIE strongly urges DoED 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. NACIE supports the Impact Aid, Title VII Program Office through their Indian Policies and Procedures 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 make every effort to 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 Ensure That All AIAN Children No Matter Their Educational Settings Are Provided the Resources That Will Allow for Improved Access to a Quality Education That Supports Effective Learning and Cultural and Language Retention

NACIE recommends that Congress pass H.R. 5255, The Advancing Toward Impact Aid Full Funding Act, and provide increases to the Indian School Equalization Program formula for AIAN children enrolled in tribally controlled schools.

Rationale: Public schools on or near Indian lands are heavily reliant on Federal Impact Aid to replace nontaxable Federal lands. Congress has provided a stable funding level for Section 7003 of the Impact Aid Program over the past four years, but the program remains underfunded. In FY 2021, the Impact Aid Program was funded at approximately 60 percent of the amount needed to ensure that all school districts are fully funded. The importance of Impact Aid to school districts can best be underscored when program reductions occur. 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 ensure that the Learning Opportunity Threshold (LOT) percentage payout remains in the 95–100 percent range with the goal being to make certain that future payments exceed a 100 percent LOT payout. NACIE supports H.R. 5255, The Advancing Toward Impact Aid Full Funding Act, which authorizes Congress to fully fund the Impact Aid Basic Support formula, fund a proportional increase to the Federal Property (Section 7002), and increase funding for federally connected students with disabilities throughout the country.

With more than 92–93 percent of AIAN children attending 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 95–100 percent range. NACIE applauds Congress for funding the Impact Aid Program at just over a 100 percent LOT in FY 2020. With the passage of H.R. 5255, it would establish a standard that will ensure that the LOT percentage payout will continue to climb above a 100 percent maximum payout to where it should be — full funding. 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 by negatively impacting student learning opportunities.

NACIE also strongly urges the Congress to fully fund the BIE Indian Student Equalization Program formula to ensure that tribally controlled schools have the resources to provide AIAN children with a quality educational program. No matter the educational setting, NACIE supports and encourage Congress to fund both Impact Aid and Indian School Equalization Program at a level that will provide AIAN children the tools to be successful in today's highly technical world while at the same time retaining their Native identities through Native languages and culturally relevant teaching and learning.

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 Impact Aid was forward funded, school districts receiving those funds would be much better equipped to budget and prepare plans that will positively impact student learning opportunities to better confront the challenges that exist for Indian County and society as a whole. 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 DoED. 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 Section 7009 (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.

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 and the Alaska

formula is currently in question, Kansas remains 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. The $17 million 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 Indian lands public school construction bill that includes Indian land school districts on or near AIAN lands.

Although the BIE-funded schools will receive minimal infrastructure funds from the recently passed *H.R. 3684 Infrastructure Investment and Jobs Act*, NACIE finds the deletion of Impact Aid infrastructure funding from the November 15, 2021, Infrastructure law extremely unacceptable given the inability for Impact Aid schools to secure funds to meet the facility needs as follows:

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

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. Additionally, these findings highlight the discrepancies in infrastructure needs for Native schools and will help Congress become more aware of the differences and similarities between Impact Aid-funded schools and the much larger percentage of Native students who attend public schools as compared to other schools that serve Native students. In the current infrastructure bill, there were no funds targeting Impact Aid and public schools.

IV. Improve Lifelong and Comprehensive Education

4.1 Identify and Disseminate Promising Practices

NACIE recommends that Congress expand Title VI legislation to support 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 legislation 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. This recommendation also requires funds for technical assistance at both the State and local levels.

4.2 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. 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: A Unifying Foundation*, maintains that children are already learning at birth, and they develop and learn at a

rapid pace in their early years.[50] 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 to 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 day care programs, special education, teen parenting, parent education, homeless children care, and foster care.

4.3 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 ongoing 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 historical trauma. As a result, just as much attention needs to be placed on restoring the integral role of Native parents in education.

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[50] Institute of Medicine and National Research Council (2015). *Transforming the Workforce for Children Birth Through Age 8: A Unifying Foundation*. Washington, DC: The National Academies Press. Retrieved from www.nap.edu/read/19401/chapter/1

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. It also requires strong administrative commitment, greater financial resources, significant staff training, and a variety of options to ensure that participation is meaningful. This recommendation requires a significant investment in technical assistance at both the State and local levels.

4.4 Study and Improve the Availability of Technology Use in Indian Country

NACIE recommends that DoED's school support and technology programs and technical assistance programs identify current technical assistance regarding the use and availability of technology and how it is being targeted specifically to serve AIAN students, especially in light of circumstances exacerbated by the pandemic.

Rationale: Once NACIE is informed of existing technical assistance programming and support, it can make suitable recommendations for how to focus technical assistance more strategically, especially in addressing the unique needs created by COVID-19 and its impact on rural Indian reservations and remote Alaska Native villages.

Broadband Connectivity to Tribal Communities is Critical

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 NCES reported that 36 percent of Native students nationwide did not have internet access in their homes compared to 17 percent of White students and 18 percent 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 percent of households have broadband access compared to the 70 percent average in the county that overlaps a reservation and the 69 percent 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.

The 2021 implementation of the $1 billion for broadband grants is soon coming to fruition with a minimum of $500,000 per tribe and another $2 billion for broadband included in the *H.R. 3684 Infrastructure Investment and Jobs Act* signed into law on November 15, 2021. The additional $2 billion will help, but based on the justifications of up to $5 billion, it will fall short. Thus, much more is needed for AIAN education to keep pace with changing technology. With statewide assessments, online assessments, and virtual preparation sessions, it is long past time to stop ignoring minimal technology needs critical to a child's education in the 21st century. The worst-of-the-worst educational outcomes are made possible by not having adequate resources. The disparity of access for certain AIAN communities is a social justice and civil rights matter that must no longer be ignored for any population let alone those with a Federal treaty right to an education.

In addition, many schools lacked infrastructure required for timely distribution of technological devices to all students that was appropriate for grade levels. Without adequate devices it would be impossible to access daily instruction and other necessary supports provided by schools. Lastly, many devices utilized required ongoing repairs and upkeep to function at optimal levels that was often hampered by staffing and on-site capabilities. Lessons learned during the intense periods of all-remote learning should be gleaned to ensure students have proper technological devices needed in future remote learning situations.

4.5 Improve School Climate for Native Students

NACIE recommends that Congress funds a study to explore strategies and target resources to improve school climates in AIAN schools.

Rationale: There are many strategies that can be identified and implemented to improve the climate in schools. Some of the things to document in the study are the degree and quality of Native parent engagement; use of culturally and linguistically relevant curriculum; social-emotional learning supports; teacher and staff quality, as well as opportunities for professional development; disciplinary practices; strategies used to address historical trauma; wraparound services and coordination with other community agencies; attendance improvement strategies; and other unique practices that are making a difference in AIAN student outcomes. It is important to identify these best practices and fund technical assistance and 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.

About NACIE

NACIE submits an annual report to Congress on its activities and may include any recommendations that NACIE considers appropriate for the improvement of Federal education programs that serve AIAN children or adults. NACIE's findings and recommendations do not represent the views of the DoED. As noted previously, it is the policy recommendation of NACIE to encourage the DoED to request annual congressional testimony to ensure that the U.S. Senate Committee on Indian Affairs, the U.S. House Committee on Natural Resources, and any additional congressional committees of jurisdiction animate this report through requesting testimony, which should establish oversight in fulfilling the treaty and trust obligation for Education.

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 American 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 15 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.

Due to the worldwide pandemic, NACIE has not met in person for some time. 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 last in-person meeting was held February 13–14, 2020, at the National Museum of the American Indian. The meeting had both teleconference participation and was open to the public. Subsequent NACIE meetings have been held virtually and in full compliance with notification in the Federal Register and open to the public.

The Designated Federal Official for NACIE is Angela Hernandez, Education Program Specialist with the OIE. The Alternate Designated Federal Official is Donna Sabis-Burns, Ph.D., Discretionary Group Leader with the OIE. The Director of the Office of Indian Education is Julian Guerrero, Jr. While the Executive Director, White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Native Americans and Strengthening Tribal Colleges and Universities[51] remains vacant, duties have been performed on an interim basis for nearly six years.

There remain five NACIE vacancies. A list of current NACIE members is provided on the final page of the Report.

[51] Formally Executive Director, White House Initiative on American Indian and Alaska Native Education

APPENDIX A: Recovery through Discovery — Language as a Path to Healing

Loretta Salazar (Tohono O'odham Nation)

December 9, 2021

My name is Loretta Salazar, I am a proud member of the Tohono O'odham Nation. The history of my Native American culture did not start as I would have wished, but with absences of my culture that impacted me in my life's journey and my recovery from it to date.

I am the daughter of my father of Native American decent and daughter of my mother of Native American and Hispanic descent. This story is my life without my father and his culture. My father was 35 years old when he passed away from alcoholism, I was only 4 when he left this world. He was the link to my Native American culture. My father spoke both English and the O'odham language. My mother being raised in the Hispanic culture only could relay her memories of my father and his culture. Many times, we would visit my grandmother, mother of my father on the reservation. She would speak only in her Native language which we did not understand. We did understand the pain and suffering she was going through by the crying in her O'odham words. We had been told that her journey was a long one and that she had been separated from her family as a young child due to "the way the world was". That was all we were ever told. Her alcoholism was apparent and excused by the family since she hurt no one. She spoke to us through her food which consisted of huge tortillas and the most amazing beans. We often laughed at her only English words of "Don't knock over my beer" as she would hug us from the couch pushing her can of substance over to the side. She passed away when I was 8 years old from alcohol-related health issues. This was the last time we visited my grandmother's reservation. The culture for my family would stop at this point.

Growing up without my father, I just forgot to learn more about him. I grew up just doing what I needed to do in life. However, without my father, I didn't realize I had questions and emptiness that I was missing. I began identifying to myself as different to others around me. I identified as Hispanic only as this was all that I knew. I also knew I was Native American but never understood fully what that meant.

I went to high school in the late 1980s. My identity became more confusing at this age. In school we studied other cultures, and I remember I got embarrassed of who I was when we talked about Native Americans in the short mention of them in the class. However, one day, a girl named Hope in my class stated that she was going to eat lunch "next door." She said, "I'm Native American, I can go eat at the Indian school next door".

The Phoenix Indian School was next door to Central High School, my school. I never noticed the tall building of windows that ran along Central Avenue, nor did I see that there were students there.

I started asking questions to family about our culture but again the stories and history of my Native culture stopped with the memories of my father and grandmother. I felt a wall and gave up. As I struggled with identity and the absence of "something" my grades fell. My interest in

finding a “niche” became friends, parties, alcohol and drugs. For the next 20 years I struggled with addiction and mental health issues.

Fast forward to substance abuse treatment. My mother knew I was close to losing everything and she approached me with treatment options for my addiction. She knew I always had questions about my father and his culture. She was able to connect with me by saying “I feel your father would want to take care of you right now, I know he is not here, but he wants to help.” I fell to my knees crying and accepted substance abuse treatment. She introduced me to the Indian Health Service, and this is where my recovery began.

I became alive again at Native American Connections (NAC) substance abuse treatment program. NAC provided me with a path to my recovery. They taught me the Tohono O’odham language and the traditional aspects that connected me to my history, my father, my culture, my spirituality, and most importantly my identity.

I continued educational teaching and cultural awareness which filled the emptiness, with knowledge that was provided by an agency that provided the education of my recovery, that I needed to fulfill my journey. I get to share this with people of all races enjoying the teachings.

Because of my surroundings in life today, I am educated in my Tohono O’odham language and history that was provided by Tohono O’odham Community College that offered free classes to tribal members. Here’s a twist, the Phoenix Boarding School that once stopped the language from our ancestors is now a Phoenix Indian School Visitor Center, and this is where I went to learn the history and my language – go figure!

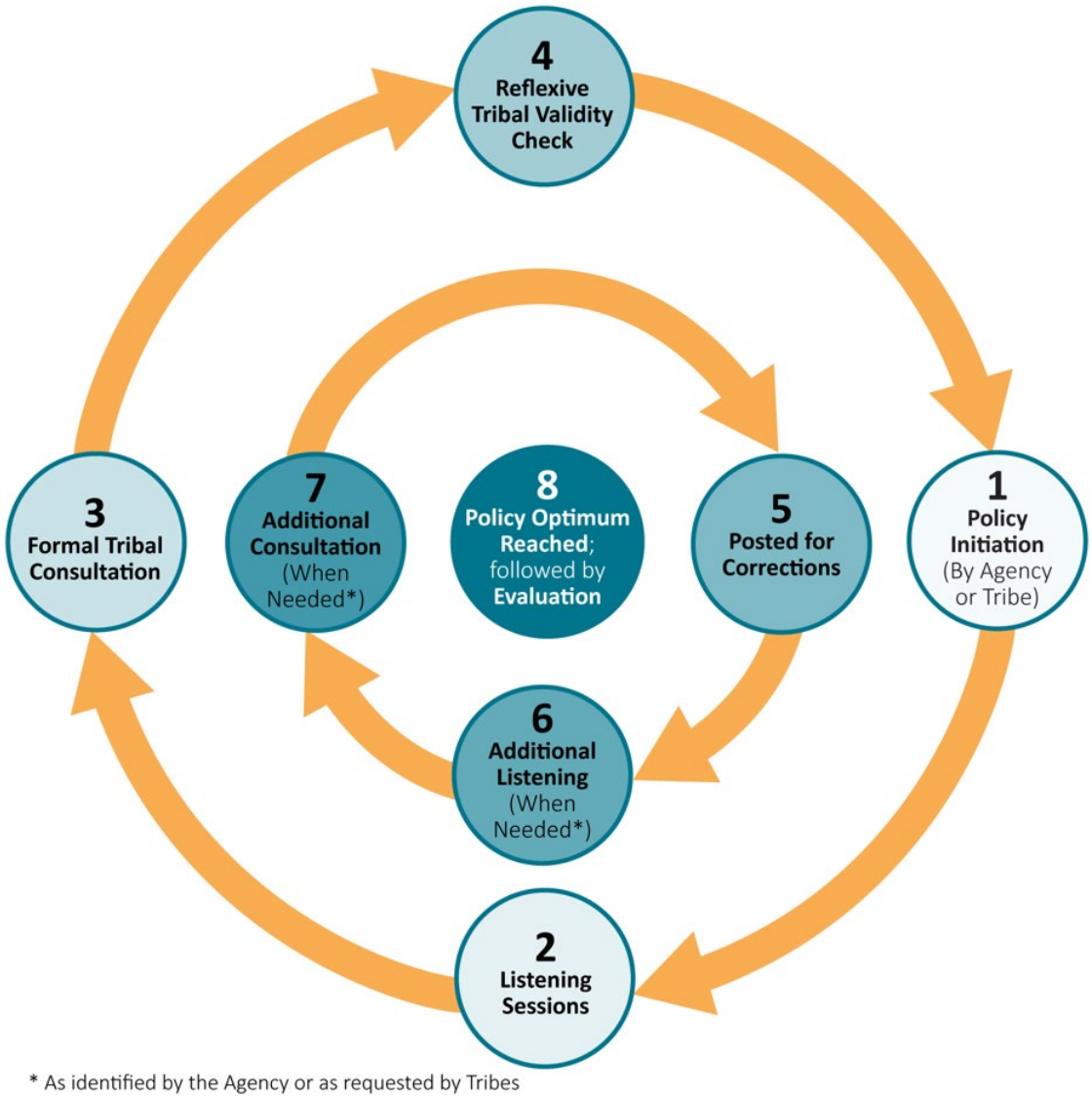
I am so thankful to Native American Connections. I could not have done any of this if it was not geared to me, my language, and the proud teachings of my culture.

Today I continue to educate what I have learned to the many of diverse people so hungry to know the culture. I am grateful for all the teachings and pray for more for others so we can continue to heal.

APPENDIX B: Tribal Consultations Conceptual Framework

Exhibit 4 presents the Reflexive Consultation Conceptual Framework as summarized by Dr. Aaron A. Payment, chairperson of the Sault Ste. Marie Tribe of Chippewa Indians who participated in over 40 Consultation sessions with the Federal government following President Biden's January 2021 Presidential Memorandum calling for Consultation with specific Federal agency and department deadlines.

Exhibit 4: Reflexive Consultation Conceptual Framework



The concept of Consultation can represent a "chicken and egg" challenge with the question ~ at what point is it appropriate to engage Tribal Consultation? To avoid a paternalistic approach of presenting pre-conceived outcomes, policy initiation should occur as soon as a problem or challenge (issue) arises or when requested by tribe(s). The above conceptual framework is intended to be reflexive throughout like a feedback loop and to be a guide rather than a regimented series of steps. While sequential, steps should allow for reflexively returning to an earlier stage if tribal agreement on substance or consensus is not reached **(Exhibit 5)**. This

makes for a more deliberative process and will likely build trust and buy-in by tribal governments.

Exhibit 5: Steps for Supporting the Reflexive Consultation Conceptual Framework

Step 1:	Once an issue presents itself, either the Federal government or a tribal representative initiates a request to begin Tribal Consultation.
Step 2:	To flesh out and to gain an exhaustive understanding of the issue, listening sessions should be held. Notice should go to tribal leaders but expect administrative representatives and subject experts to participate. Some level of agreement should be sought to determine if Consultation is necessary. Tribes should play the key role in making this determination.
Step 3:	Formal notice of Consultation (no less than a 30-day notice) with the tribal leaders should occur with the highest-ranking agency official possible. National and regional Native organizations should be engaged to assist in preparing tribes for a full scope of understanding of the policy issue and possible solutions.
Steps 4 & 5:	The full unedited or unfiltered results should be posted along a "notice and comment" approach. This step should allow for tribes to correct, make revisions, or provide addendums to provide a validity check and ensure substantive agreement.
Steps 6 & 7:	If substantive disagreement exists, to gain clarity, or if requested by tribes, these steps allow for fuller integration of the tribal perspective(s). If needed, this may necessitate cycling back to Step 1 on the area(s) in need of clarification or consensus.
Step 8:	Policy or *Pareto* Optimality is a state so as to make any one individual or preference criterion better off without making at least one individual or preference criterion worse off. This is an idealized state and may not be reached but true and meaningful Consultation with tribes warrants a process that invites and integrates the very individuals for whom a proposed solution is intended to benefit.

APPENDIX C: Executive Order Blueprint

Presidential Memo on Consultation

https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/

Proclamation on Indigenous Peoples' Day

https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/08/a-proclamation-indigenous-peoples-day-2021/

EO on White House Indian Education Initiative

https://www.whitehouse.gov/briefing-room/presidential-actions/2021/10/11/executive-order-on-the-white-house-initiative-on-advancing-educational-equity-excellence-and-economic-opportunity-for-native-americans-and-strengthening-tribal-colleges-and-universities/

EO 13175, Consultation and Coordination with Indian Tribal Governments

https://www.doi.gov/sites/doi.gov/files/migrated/subsistence/upload/EO13175.pdf

NCAI Biden Transition Plan Document

https://www.ncai.org/attachments/Resolution_KTvnWQsHnrFjTxNhVRWLulVxUXYuEZfITMKlFmZrGtrfTPpgYfz_PDX-20-054%20&%20Plan.pdf

https://www.doi.gov/pressreleases/interior-department-federal-partners-commit-protect-tribal-treaty-rights#:~:text=The%20Memorandum%20of%20Understanding%20%28MOU%29%20affirms%20the%20federal,and%20to%20fully%20implement%20federal%20government%20treaty%20obligations.

APPENDIX D: Glossary of Terms

Term	Definition
Administration for Native Americans (ANA)	Established in 1974 through the Native American Programs Act (NAPA), the ANA promotes self-sufficiency for Native American communities by providing financial assistance, capacity building, gathering, and sharing of data, and advocating for improved policies within the U.S. Department of Health and Human Services (HHS) and across the Federal government. ***Source:*** ***https://www.acf.hhs.gov/ana/***
American Indian Higher Education Consortium (AIHEC)	Established in 1972, the AIHEC represents the interests of Tribal Colleges and Universities (TCUs), which are controlled and operated by American Indian nations. AIHEC's membership consists of 36 TCUs in the United States and one in Canada. ***Source:*** ***http://www.aihec.org/who-we-are/index.htm***
Bureau of Indian Affairs (BIA)	Established in 1824, the BIA is an agency within the U.S. Department of the Interior that is responsible for implementing Federal laws and policies related to 1.9 million AIANs and administering and managing over 55.7 million acres of land held in trust by the US Federal government for Indian tribes. ***Source:*** ***https://www.bia.gov/bia***
Bureau of Indian Education (BIE)	The BIE is a division of the BIA under the U.S. Department of the Interior that provides culturally relevant educational services and support to BIE funded schools. As of 2020, the BIE provides education services to 47,000 students in 23 States. The BIE school system consists of 183 elementary and secondary schools located on 64 reservations. Of these, 53 are operated by the BIE and 130 are directly controlled by tribes and tribal school boards under contracts or grants with the BIE. The BIE also provides funding to 33 colleges, universities, and postsecondary schools. ***Source:*** ***https://www.bie.edu/topic-page/bureau-indian-education***
Culturally Relevant Instruction	Culturally responsive instruction is "a pedagogy that empowers students intellectually, socially, emotionally, and politically by using cultural referents to impart knowledge, skills, and attitudes." As an example of the form this type of instruction may take in the specific context of Indian education, the State of Montana requires "recognition of the distinct and unique cultural heritage of American Indians and a commitment in our educational goals to preserve their cultural heritage. Every Montanan, whether Indian or non-Indian, should be encouraged to learn about the distinct and unique heritage of American Indians in a culturally responsive manner. The Office of Public Instruction (OPI) Indian Education for All (IEFA) Unit works with districts, tribes, and other entities to ensure all schools have the knowledge, tools and resources necessary to honor the IEFA requirement and integrate it into their teaching materials and methods." ***Source 1:*** *The Dreamkeepers* (1994) Dr. Gloria Ladson-Billings ***Source 2:*** ***https://opi.mt.gov/Educators/Teaching-Learning/Indian-Education***

Term	Definition
Elementary and Secondary Education Act of 1965 (ESEA)	Enacted in 1965, ESEA allocates Federal funding for primary and secondary school education and forms the establishment of a national curriculum. Prior to this Act becoming law, the Federal government had very little involvement in education, opting to leave it as a State and local matter. This Act also provided a mechanism to hold schools accountable and to increase equality in education nationally. Children of low-income families, particularly rural, Native American, neglected, migrant, homeless, and English language learners are the primary target of its provisions. ***Source:*** ***https://education.laws.com/elementary-and-secondary-education-act***
Equality	In education, equality centers on similarity or sameness, rather than fairness, which is the focus of equity. Equality in education thus means that every student receives the same resources and opportunities. This could entail ensuring that all schools receive the same level of funding, the same quality of and abundance of materials and facilities, and/or the same quality of instruction. ***Source:*** ***https://www.nshss.org/blog/equity-vs-equality-in-education-why-both-are-essential-in-today-s-classrooms/***
Equity	In education, equity centers on fairness, rather than focusing on sameness as equality does. Equity in education thus means that every student receives the types of opportunities and resources that they need depending on their specific situation. The goal is to ensure that all students reach the same positive outcomes regardless of their respective starting points or unique challenges. In practical terms, this requires educators to take account of each student's situation, including, for example, cultural differences. Educators who operate classrooms equitably understand that their students will not all respond in the same way to the same instruction. ***Source:*** ***https://www.nshss.org/blog/equity-vs-equality-in-education-why-both-are-essential-in-today-s-classrooms/***
Esther Martinez Native American Languages Preservation Act (ANA, HHS)	Enacted in 2006, this bill amended the NAPA of 1974 to provide for the revitalization of Native American languages through Native language immersion and restoration programs. The resulting grant program is administered by the ANA at the HHS. Congress has reauthorized the legislation through FY2024. ***Source:*** ***https://www.acf.hhs.gov/ana/programs/native-language-preservation-maintenance/about***
Every Student Succeeds Act (ESSA)	Enacted in 2015, ESSA reauthorized the ESEA of 1965. It also replaced and updated the 2002 No Child Left Behind Act. ***Source:*** ***www.everystudentsucceedsact.org/***
Indian Education Act of 1972	The Indian Education Act established the Office of Indian Education and the National Advisory Council on Indian Education and provides Federal funds for AIAN education at all grade levels. It also empowers AIAN parents to form advisory boards for federally operated boarding schools and for public schools that have programs for American Indian students. ***Source:*** ***www.nlm.nih.gov/nativevoices/timeline/530.html***

Term	Definition
Indian Land Schools/Impact Aid	Many local school districts across the U.S. include areas of land that are owned by the Federal government or that have been removed from the local tax rolls by the Federal government, including Indian lands. Congress has provided financial assistance to these local school districts since 1950 through the Impact Aid Program. The Impact Aid law (now Title VII of ESEA) provides assistance to local school districts with concentrations of children residing on Indian lands, military bases, low-rent housing properties, or other Federal properties and, to a lesser extent, concentrations of children who have parents in the uniformed services or employed on eligible Federal properties who do not live on Federal property. ***Source:*** ***https://oese.ed.gov/offices/office-of-formula-grants/impact-aid-program/***
Johnson-O'Malley (JOM) Act	The JOM Act authorizes the Secretary of the Interior, through the BIE, to enter into contracts with Tribes, Tribal organizations, States, schools, and private non-sectarian organizations to address the education needs of Indian students. ***Source:*** ***/www.bia.gov/as-ia/raca/regulations-development-andor-under-review/JOM***
Johnson-O'Malley (JOM) Program	JOM is a Federal program whose primary purpose is to ensure Indian children receive educational opportunities that would not otherwise be provided through the public school system. JOM is a supplemental program providing special services to Indian students based on the needs of individual communities. ***Source:*** ***https://www.azed.gov/oie/johnson-omalley-jom-program***
Learning Opportunity Threshold (LOT)	For school districts that are funded below full funding under Impact Aid, the LOT percentage provides a mechanism for distributing funds to these districts. The general principle is that "more heavily impacted" local educational agencies (LEAs) will receive higher percentages of their maximum Impact Aid payments than less impacted districts. The LOT percentage is calculated by adding the percentage of an LEA's average daily attendance that is comprised of federally connected children and the percentage of an LEA's total current expenditures that is comprised of Section 7003(b) payments. ***Source***: ***https://sgp.fas.org/crs/misc/R45400.pdf***
Migrant Education Program – Title I, Part C	The Migrant Education Program provides funding to support high-quality education programs for migratory children. It also helps to ensure that migratory children are not penalized by disparities in curriculum, graduation requirements, and academic standards across different States and that they are provided with the services and opportunities appropriate to address their unique needs and meet the same challenging State academic standards that all children are expected to meet. ***Source:*** ***https://oese.ed.gov/offices/office-of-migrant-education/migrant-education-program/***

Term	Definition
Native American Programs Act of 1974 (NAPA)	NAPA promotes the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives. ***Source:*** ***https://www.hhs.gov/about/agencies/staff-divisions/iea/tribal-affairs/about-icnaa/napa/index.html***
Native American-Serving Nontribal Institutions (NASNTI)	The NASNTI Program provides grants and technical assistance to Native American-serving, nontribal institutions to enable such institutions to improve and expand their capacity to serve Native Americans and low-income individuals. Institutions use these grants to plan, develop, or implement activities that strengthen the institution. ***Source:*** ***https://www2.ed.gov/programs/nasnti/faq.html***
National Congress of American Indians (NCAI)	NCAI is a nonprofit social welfare organization that advocates for the protection of treaty rights, inherent rights, and other rights guaranteed to tribes through agreements with the United States and under Federal law; to promote the common welfare of AIANs; and to promote a better understanding of Indian peoples. ***Source:*** ***https://ncai.org/***
National Indian Education Association (NIEA)	Founded in 1969, educators and advocates have fought to ensure students receive an equitable and quality education that is afforded to many of their peers. By advocating for immersion programs, professional development of teachers, and increased funds for school buildings, NIEA has continued to be an important part of crafting policy at the State and Federal level. NIEA membership remains the driving force behind NIEA's work, passing resolutions and electing board members that guide NIEA's mission. ***Source:*** ***https://www.niea.org/***
National Indian Education Study (NIES)	NIES is designed to describe the condition of education for AIAN students in the United States. The study samples AIAN students in public, private, U.S. Department of Defense, and BIE-funded schools. Conducted in 2005, 2007, 2009, 2011, 2015, and 2019, the study provides educators, policymakers, and the public with information about the academic achievement in reading and mathematics of AIAN fourth and eighth graders. NIES is conducted under the direction of the National Center for Education Statistics through the National Assessment of Educational Progress on behalf of the DoED and OIE. ***Source:*** ***https://nces.ed.gov/nationsreportcard/nies/***
National Indian Impacted Schools Association (NIISA)	Established in 1983, NIISA is a non-profit that represents and advocates on behalf of nearly 600 Indian land school districts serving over a million students. Eligible districts receive Impact Aid as compensation for lost taxing authority as a result of Federal action to establish Indian treaty lands, Alaska Land Settlement lands and Federal trust lands. In total, these school districts received in excess of $500,000,000 in operational (general funds/non categorical) funds annually. In addition to seeking full funding of the Impact Aid Program, NIISA is working diligently with the Impact Aid Coalitions in the House of Representatives and Senate to address the back log of facility needs in impacted districts. ***Source:*** ***https://niisaindianlands.org/***

Term	Definition
Tribal Consultation	Per President Barack Obama's Presidential Memorandum issued on November 5, 2009, all Federal government agencies are required to engage in regular and meaningful consultation and collaboration with tribal officials. This Tribal Consultation is an enhanced form of communication that emphasizes trust, respect, and shared responsibility. It is an open and free exchange of information and opinion among parties, which leads to mutual understanding and comprehension. To establish and maintain a positive government-to-government relationship, communication and consultation must occur on an ongoing basis so that tribes have an opportunity to provide meaningful and timely input on issues that may have a substantial direct effect on them. ***Source:*** ***https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/Consultation***
Tribal Sovereignty	Tribal sovereignty is the authority of indigenous tribes to govern themselves within the borders of the United States. The U.S. Constitution recognizes Indian tribes as distinct governments and they have, with a few exceptions, the same powers as Federal and State governments to regulate their internal affairs. Sovereignty for tribes includes the right to establish their own form of government, determine membership requirements, enact legislation and establish law enforcement and court systems. The Constitution gives authority in Indian affairs to the Federal government, not to the State governments. Just as the United States deals with States as governments, it also deals with Indian tribes as governments, not as special interest groups, individuals, or some other type of non-governmental entity. There are 574 federally recognized AIAN nations. ***Source 1:*** ***https://www.ncsl.org/legislators-staff/legislators/quad-caucus/an-issue-of-sovereignty.aspx*** ***Source 2:*** ***https://www.ncai.org/about-tribes***
ESEA Title I	Title I provide the necessary provisions to allocate funding to elementary schools with more than 40 percent of its students (between Grades 1 to 6) classified as low income by the US government. The purpose of the funding is to increase test scores and encourage academic development. ***Source:*** ***https://education.laws.com/elementary-and-secondary-education-act***
ESEA Title II	Title II provides Federal funding to States and districts for activities that strengthen instructional leadership and teacher quality in all schools, especially those with a high proportion of children in poverty. Funding can be used to support a wide array of activities, including interventions for teacher professional development, so long as the activities are grounded in scientifically based research. ***Source:*** ***http://www.doe.virginia.gov/federal_programs/esea/title2/index.shtml***
ESEA Title III Language Instruction for English Learners	Title III helps ensure English learners attain English language proficiency and meet State academic standards. It provides for Federal funding to bilingual education and specialized programs for the advancement of Native Hawaiians, Alaskans, and Native Americans. The most important legacy of the Bilingual Education Act was the establishment of separate

Term	Definition
and Immigrant Students	bilingual classes for English language limited students, acknowledging that educating them alongside proficient students was detrimental to their long-term development and education. ***Source:*** ***https://education.laws.com/elementary-and-secondary-education-act***
Title IV	Title IV of the Higher Education Act contains nine parts that authorize a broad array of programs and provisions to assist students and their families in gaining access to and financing postsecondary education. The programs authorized under this Title are the primary sources of Federal aid to support postsecondary education. ***Source:*** ***https://sgp.fas.org/crs/misc/R43351.pdf***
Title VI Indian Education	Title VI, Part A of the ESEA establishes policies and provides financial and technical assistance for supporting LEAs, Indian tribes and organizations, post- secondary institutions and other entities in meeting the special educational and cultural-related academic needs of AIAN. ***Source:*** ***https://oese.ed.gov/offices/office-of-indian-education/***
Title VII of ESEA (Formerly Impact Aid)	Title VII compensates LEAs for the "substantial and continuing financial burden" resulting from Federal activities. These activities include Federal ownership of certain lands, as well as the enrollments in LEAs of children of parents who work and/or live on Federal land (e.g., children of parents in the military and children living on Indian lands). The Federal government provides compensation via Impact Aid for lost tax revenue because these activities deprive LEAs of the ability to collect property or other taxes from these individuals (e.g., members of the Armed Forces living on military bases) even though the LEAs are obligated to provide free public education to their children. ***Source:*** ***https://sgp.fas.org/crs/misc/R45977.pdf***
Tribal Colleges and Universities (TCUs)	TCUs are distinguished by being controlled and operated by federally recognized American Indian tribes. There are 32 fully accredited TCUs in the United States that service 30,000 full- and part-time students. ***Source:*** ***https://www.collegerecruiter.com/blog/2020/10/19/list-of-tcus/***
Tribal Education Departments National Assembly (TEDNA)	TEDNA is a nonprofit that seeks to provide ongoing resources for professional development and providing technical assistance to tribal education departments looking to craft more comprehensive educational systems. Specifically, TEDNA seeks to assemble and collectively represent sovereign nations' education departments. TEDNA accomplishes this by fostering effective relationships with government agencies, education agencies, and organizations, in addition to providing support and encouragement for each tribe's right to define and achieve its own education goals specific to their community. TEDNA represents Tribal Nations reclaiming sovereignty in education; through the empowerment of establishing tribal education departments or the re-establishment of the tribal education departments. ***Source:*** ***https://tedna.org/***

Term	Definition
Tribal Leaders (Elected)	Contemporary tribal governments are usually, but not always, modeled upon the Federal system of the three branches: Legislative, Executive, and Judicial. Within this organizational system, the chief executive presides over the tribe's legislative body and executive branch. The tribal council generally acts as any other legislative body in creating laws, authorizing expenditures, appropriating funds, and conducting oversight of activities carried out by the chief executive and tribal government employees. An elected tribal council and chief executive, recognized as such by the U.S. Secretary of the Interior, have authority to speak and act for the tribe as a whole, and to represent it in negotiations with Federal, State, and local governments. ***Source:*** ***www.bia.gov/frequently-asked-questions***
Trust Responsibility	A legal principle that the Supreme Court noted in *United States v. Mitchell* (1983) is "the undisputed existence of a general trust relationship between the United States and the Indian people." It is a legally enforceable fiduciary obligation on the part of the United States to protect tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of Federal law with respect to AIAN tribes and villages. ***Source:*** ***https://www.acf.hhs.gov/ana/fact-sheet/american-indians-and-alaska-natives-trust-responsibility***
White House Initiative on American Indian and Alaska Native Education (WHIAIANE)	The WHIAIANE, located within the DoED, seeks to support activities that will strengthen the nation by expanding education opportunities and improving education outcomes for all AIAN students. It is committed to furthering tribal self-determination and ensuring AIAN students, at all levels of education, have an opportunity to learn their Native languages and histories and receive complete and competitive educations, preparing them for college, careers, and productive and satisfying lives. ***Source:*** ***https://sites.ed.gov/whiaiane/***

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