



Testimony of the National Indian Education Association

United States Senate Committee on Indian Affairs

Legislative Hearing on Senate Bills 1948 and 2299

June 18, 2014

Chairman Tester, Vice Chairman Barrasso, and members of the Committee, tribal leaders and Native advocates have consistently listed education as a top priority for our communities. As such, the National Indian Education Association (NIEA) is excited that the Senate Committee on Indian Affairs has heard the collective call and is working to highlight the condition of Native education across all grade levels in order to find solutions to persistent problems. As NIEA and Native education stakeholders have stated for years, equal opportunities from early to higher education are critical to the future of tribal nations and Native communities.

The renewed commitment of this Committee and its focus on improving all education systems serving Native students is critical. We are happy to see legislation introduced that supports the strengthening of these education systems through language immersion and cultural teaching models. As part of our continuing partnership to ensure equitable education opportunities for Native students, we are excited to echo the broad, overwhelming support we have heard from Indian Country and provide this testimony in staunch support of the following Senate Bills:

- S. 1948 – A bill to promote the academic achievement of American Indian, Alaska Native, and Native Hawaiian children with the establishment of a Native American language grant program; and
- S. 2299 – A bill to amend the Native American Programs Act of 1974 to reauthorize a provision to ensure the survival and continuing vitality of Native American languages.

NIEA, founded in 1969, is the most inclusive Native organization in the country representing Native students, educators, families, communities, and tribes. NIEA's mission is to advance comprehensive educational opportunities for all American Indians, Alaska Natives, and Native Hawaiians throughout the United States. From communities in Hawaii, to tribal reservations across the continental U.S., to villages in Alaska, to urban communities in major cities, NIEA has the most reach of any Native education organization in the country. By serving as the critical link between our communities and education institutions, NIEA hopes the Committee will take our testimony into consideration as you act on this legislation.

Native Education Crisis Due to Federal Mismanagement

As all of us realize, Native education is in a state of emergency partly due to the inability of the federal government to uphold its trust responsibility. Native students lag behind their peers on

every educational indicator, from academic achievement to high school and college graduation rates. In 2010, only one in four Native high school graduates who took the ACT scored at the college-ready level in math, and only one in three for reading. In the same year, more than half of the majority students in high school tested at college-ready levels, illustrating the persistent readiness gap among Native and non-Native students. As Native students leave high school underprepared for higher education, academic failure or extensive remediation become commonplace for Native students. In the last decade, only 52% of Native students enrolled in higher education programs immediately after high school graduation and fewer than 40% of those students graduated with a bachelor's degree in six years. In contrast, nearly 62% of White students graduated within six years.

Native Student Demographics Snapshot

- 378,000, or 93% of Native students, attend U.S. public schools, comprising 0.7% of the total public school population, with the remainder attending federal Bureau of Indian Education-(BIE) operated, charter, or tribally-controlled schools.
- Of all Native students, 33% live in poverty, compared to 12% of White students.
- 29% of these students attend high-poverty city public schools, compared to 6% of White students.
- In 2012, 17% of Native students age 25 and older held at least a bachelor's degree in comparison to 33% of White students.
- In 2012, 6% of Native students held an advanced graduate degree (i.e., M.A., M.S., Ph.D., M.D., or J.D), as compared to 12% of the White population.¹
- Of the 210 Native languages still spoken in the United States and Canada, only 34 (16%) continue to be taught as a first language to Native children.²

The Trust Responsibility to Native Education

Since its inception, NIEA's work has centered on reversing these negative trends, a feat that is possible only if the federal government upholds its trust responsibility to tribes. Established through treaties, federal law, and U.S. Supreme Court decisions, this relationship includes a fiduciary obligation to provide parity in access and equal resources to all American Indian and Alaska Native students, regardless of where they attend school. Under the federal government's trust corpus in the field of Indian education, it is important to state that the obligation is a shared trust among the Administration and Congress for federally-recognized Indian tribes.

To the extent that measurable trust standards in Indian education can be evaluated, NIEA suggests this Committee refer to the government's own studies encompassing Native test scores, treaty-based appropriation decreases, and Government Accountability Office (GAO) Reports, among other reports, which illustrate the continued inability of the federal government to uphold the trust responsibility and effectively serve our students. Too often, the trust responsibility is broken as Native-serving institutions are unable to receive the funding they require to support critical educational services, such as language immersion programs.

¹ National Center for Education Statistics, Institute of Education Sciences, United States Department of Education. National Indian Education Study. 2011. (NCES 2012-466). <http://nces.ed.gov/nationsreportcard/nies/>

² Contents largely drawn from McCarty, T. L. (2011). [State of the field: The role of Native languages and cultures in American Indian, Alaska Native, and Native Hawaiian student achievement](#). Tempe, AZ: Center for Indian Education; and Demmert, W.G., Jr. (2001). [Improving academic performance among Native American students: A review of the research literature](#). Charleston, WV: ERIC Clearinghouse on Rural Education and Small School

As the Department of Health and Human Services (HHS) Commissioner Lillian Sparks Robinson outlined in her recent testimony to this Committee, “the unmet demand [for language immersion] remains high.” Although tribes and Native communities have consistently provided broad-based support for language immersion education models, the existing investment opportunities are not meeting demand and therefore, should be increased. Unless the federal government provides Native students equal education opportunities and learning through immersion, it will be nearly impossible for our future generations to be prepared for academic achievement and consequently, success in college and careers.

Strengthen Native Language and Culture to Raise Student Outcomes

Native language revitalization and preservation is a critical priority to tribes and Native communities because language preservation goes to the heart of Native identity. In many ways, language is culture. Learning and understanding their own languages helps Native students thrive and is a critical piece to ensuring schools serve Native students effectively. Immersion programs thereby serve the dual purpose of increasing academic achievement and guaranteeing that a student’s language will be carried forward for generations.

For example, students with sustained, cumulative Native language and cultural instruction perform as well as, or better than, their peers in mainstream classes on completing academically challenging tasks.³ Furthermore, those students who enter school with a primary language other than the school language (i.e., English) perform significantly better on academic tasks when they receive constant and cumulative academic support in the primary language for a minimum of four to seven years, illustrating the need for sustained, longitudinal immersion funding.

As comprehensive academic achievement remains elusive for many Native populations, language immersion courses provide an opportunity to improve student outcomes. Strong programs with elements like Native language and cultural immersion, language and culture maintenance, and dual language and one-way immersion programs contribute to improved attendance and college enrollment rates, lower attrition, and enhanced teacher-student and school-community relations.⁴

For example, longitudinal data from the Rough Rock English-Navajo Language Arts Program, which serves approximately 200 students each year in Kindergarten through sixth grade, illustrate that after four years in the program, average student scores on criterion-referenced tests of English comprehension increased from 58% to 91%. On standardized reading tests, Native students’ scores initially declined, but then rose steadily, in some cases, approaching or exceeding national averages. When individual and grade cohort data were analyzed over five years, students attending the Rough Rock Program demonstrated superior English reading, language arts, and mathematics performance compared to a matched peer group who did not participate in the program.⁵

Congressional Intent over Agency Interpretation

Unfortunately, legal barriers and agency interpretation often inhibit our communities from providing such services to Native students. While our communities’ unique cultural and linguistic traditions are critical cornerstones for providing relevant, high-quality instruction as

³ McCarty, T. L. (2011).

⁴ McCarty, T. (2013). Language planning and policy in Native America: History, theory, praxis. Tonawanda, NY: Multilingual Matters

⁵ McCarty, 2011, pp. 6-7.

part of an education, current education statutes and improper agency interpretation often gravely obstruct Native students from attaining the same level of academic achievement as the majority of students.

P.L. 100-297, Tribally Controlled Grant Schools Act, and P.L. 93-638, Indian Self Determination and Education Assistance Act, as well as P.L. 109-394, Esther Martinez Native American Languages Preservation Act of 2006 and the Native American Languages Act of 1990, all promote a policy of self-determination and investment in Native languages, including language immersion schools. Further, the White House Initiative on American Indian and Alaska Native Education promises to support opportunity expansion and outcome improvement for Native students by promoting education in Native languages and histories. Yet, legal and regulatory structures that undermine these aims persist.

NIEA is proud of the exemplary immersion models, such as those at Niigaane Ojibwemovin Immersion Program and School serving the Leech Lake Band of Ojibwe and Rough Rock English-Navajo Language Arts Program serving the Navajo Nation – both of which have won the prestigious NIEA Cultural Freedom Award for their efforts in full-day language immersion. Unfortunately, federal agency interpretation under varying Administrations as well as enacted administrative procedures produced under No Child Left Behind – the current iteration of the Elementary and Secondary Education Act (ESEA) – often restrict tribes and Native communities from running such schools because language programs are often interpreted to be at odds with the “one-size-fits-all” model mandated under the ESEA.

ESEA’s performance standards do not take into account language diversification. As such, successful language programs, like those listed above, as well immersion programs in Hawaii, are often considered underachieving. While Puerto Rico – the only exception allowed under ESEA – has the authority to provide education instruction in a language other than English, tribes and Native-serving schools are not afforded this same understanding and deference when providing assessments to their students. Too often, the regulations created under ESEA require testing to take place only in English – even if the Native language is utilized as the primary medium of instruction and recognized as a state’s official language. This drives down assessment scores and initiates interventions for schools that were considered successful prior to ESEA. Such obstacles are simply unfair for schools that are working successfully to protect and strengthen Native languages and increase student outcomes through immersion instruction.

NIEA Legislative Recommendations: S. 1948 and S. 2299

To begin addressing this issue, NIEA requests that the congressional intent of self-determination and Native language support behind statutes, rather than the agency interpretation of ESEA and other law, be enforced so that tribes and Native communities have the ability to deliver effective education programs. NIEA was excited to see Senate Bills 1948 and 2299 introduced because these legislative measures provide some necessary resources for strengthening language immersion and cultural learning. While NIEA has several minor suggestions for improving the bills under consideration, the recommendations do not negate our stalwart support for the legislation.

NIEA has decades of testimony and membership resolutions that support Native languages and learning through language immersion (NIEA Resolutions 2007-08; 2008-03; 2009-07; etc.). To

accompany those official NIEA actions, we request the recent June 2014 NIEA support letters be submitted for the record to accompany this testimony. We also recommend that the Committee utilize the numerous support letters submitted by Native communities, tribes, and organizations as it works to move the bills. Prior to the introduction of this language, large organizations such as the Alaska Federation of Natives (AFN) provided broad-based support letters calling for increased immersion resources and many tribes have since submitted letters supporting the introduction of the bills. As such, we hope the Committee will move quickly to incorporate our recommendations, garner additional congressional support, and move the bills toward Senate passage.

I. Senate Bill 1948

While we have stated concerns with Administration and agency actions that diminish the ability to institute language immersion programs, we were excited to see President Obama endorse Native language immersion programs during his speech to Indian Country on June 13, 2014. As such, we hope this will usher in a new level of support for Native language learning. Now is the time to turn the initiatives described in the December 2, 2011 Executive Order 13592 -- Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities – into action and support Native languages through this critical legislation that works to support immersion learning.

Senate Bill 1948 works toward the Executive Order and provides a means to strengthen Native languages and increase academic outcomes. Native language immersion – one of NIEA’s key ESEA reauthorization recommendations – is a critical priority to tribes and Native communities and is a crucial piece to ensuring schools educate Native students effectively. NIEA also supports the bill’s corresponding appropriation authorization of \$5 million to fund its new immersion program.

This is critical because additional funding ensures that existing programmatic funds under ESEA Title VII are not reduced. It is the policy of NIEA that any new programs or authorizations must do no harm to existing Title VII programs. While immersion schools need and deserve federal support, this funding must be additional to and separate from that which currently exists under Title VII as there is already inadequate funding under the ESEA Native education title. NIEA looks forward to working with the Committee to identify suitable offsets for S.1948 to support the bill’s goals to advance immersion schools.

Furthermore, NIEA submits our joint organizational comments with this testimony requesting that S. 1948 include greater tribal authority over immersion programs by defining Indian tribes as “eligible entities” to receive grants. We also recommend the elimination of the requirement that grant monies correlate to language immersion success via increased graduation rates. This could be misconstrued to contradict the original intent of Title VII, which is based on enhancing the cultural traditions of students, not outcomes. While increasing outcomes could be the result of language immersion programs, the original intent of Title VII should be upheld as Congress initially stipulated.

While we are strong supporters of the language in its current iteration, we hope the suggested additions will be incorporated to ensure inclusivity as well as reinforcement of the original intent of ESEA Title VII.

NIEA Recommendations:

- Enforce congressional intent of self-determination and Native language law, rather than agency interpretation of ESEA, so that tribes and Native communities have the ability to deliver effective education programs.
- Work with NIEA to identify suitable offsets for S. 1948 outside of ESEA Title VII to support the bill's goals to advance immersion schools.
- Include NIEA joint organizational recommendations within the language to ensure tribes are "eligible entities" as well as uphold the original intent of Title VII.
- Collaborate with NIEA to create a "Dear Colleague Letter" to garner support for marking up the language and moving the bill to a full Senate vote during the 113th Congress.
- Ensure any ESEA Reauthorization that progresses includes the Native language immersion grant program.

II. Senate Bill 2299

While Congress continues to appropriate funds to the Administration for Native Americans (ANA) under HHS, this bipartisan bill is crucial for reauthorizing a non-controversial program that efficiently and effectively provides grants to revitalize Native languages. Currently, ANA provides competitive grants, training, and technical assistance to tribes and Native communities. Under the Esther Martinez Native American Languages Preservation Act of 2006, ANA administers grants for language immersion and restoration programs, which are attributed to saving endangered Native languages and providing culturally-respectful education systems.

Due to continuing unmet need and insufficient funds under these programs, NIEA supports the recommendations highlighted in Commissioner Sparks Robinson's testimony provided before this Committee that highlights the need to extend funding cycles for Language Preservation and Maintenance projects in order to increase sustainability and effectiveness. Funding should be provided for five year intervals, rather than the current length of three years. This extension would provide grantees the opportunity to develop fluent speakers, build and strengthen partnerships, and secure funds to track success and best practices, rather than participating only in the initial planning and implementation stages.

Furthermore, we request that the required number of participants be lowered from ten to five students for language nests and from fifteen to ten students for survival schools, so that smaller communities, such as remote Alaska Native villages with small populations, have the opportunity to apply and compete for crucial language preservation funds. We also think it sensible to review the timeframe for the reauthorization of Esther Martinez. While a five year reauthorization is often standard, due to the recent partisanship in Congress and the non-controversial nature of the ANA program, it could be prudent to extend the reauthorization period from five year intervals to seven or ten year authorization periods.

NIEA Recommendations:

- Work with NIEA to garner support for marking up the language and moving the bill to a full Senate vote during the 113th Congress.
- Analyze the opportunity to extend the reauthorization period from five years to a longer period of time.

- Extend the programmatic grant period from three to five years to ensure sustainability.
- Decrease the required number of participants so that smaller communities have the opportunity to participate.

Conclusion

We appreciate the hard work of Chairman Tester, Senator Johnson, and the bipartisan group of co-sponsors for introducing these critical legislative pieces, and we look forward to seeing these bills move out of Committee to become law. Furthermore, NIEA appreciates the continued support of this Committee and the leadership it has provided to receive comments on S. 1948 and S. 2299. NIEA enthusiastically supports both measures, and we look forward to working closely with the Committee to move these bills forward. In addition to this legislative hearing, we also appreciate the 2014 education hearing series because we cannot confront the challenges facing our Native students one facet at a time. Only by working with all stakeholders in all education systems will we increase our students' preparedness for success. Once again, thank you for this opportunity, and if you have any questions, please contact Ahniwake Rose, NIEA Executive Director, at arose@niea.org.