



**Testimony of the National Indian Education Association  
Submitted to the United States Senate Committee on Indian Affairs**

**Regarding the May 13, 2015 Oversight Hearing:  
“Bureau of Indian Education: Examining Organizational  
Challenges in Transforming Educational Opportunities for Indian Children.”**

**Introduction.** Thank you for this opportunity to submit testimony regarding the Committee’s May 13, 2015 hearing on the Bureau of Indian Education’s (BIE) organizational challenges. Founded in 1969, the National Indian Education Association (NIEA) represents 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. NIEA advocates for educational excellence by working to ensure that students receive equal access to high-quality academic and cultural education models. By serving as the critical link between our communities and the diverse array of institutions that serve our students, NIEA holds all accountable for improving achievement.

**The State of Emergency in Native Education.** Native education is in a state of emergency. As Interior Secretary Sally Jewell has stated, “Indian education is an embarrassment to you and to us. It is not for the lack of desire. This [the BIE] is the one part of the Department of the Interior that deals directly with services to children. We know that self-determination and self-governance is going to play an important role in bringing the kind of academically rigorous and culturally appropriate education that children need.”<sup>1</sup>

The Department of Education has recently applauded the improvement in nation-wide graduation rates, particularly the improvement among students of color. BIE students, however, are not experiencing the progress in graduation rates that the rest of the country is witnessing, with Native graduation rates often over around 50% in many states. Native students also continue to lag behind their peers on other important educational indicators.

**The Trust Responsibility for Native Education.** Established through treaties, federal law, and U.S. Supreme Court decisions, the federal government’s trust responsibility to tribes includes the obligation to provide parity in access and equal resources to all American Indian and Alaska Native students, regardless of where they attend school. The federal government’s trust

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<sup>1</sup> Hearing before the Committee on Indian Affairs, S. Hrg. 113-92 (May 15, 2013).

responsibility in the field of Native education is a shared responsibility between the Administration and Congress for federally recognized Indian tribes.

To the extent that measurable trust standards in Native 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 continued failure to uphold the trust responsibility and effectively serve our students. This is unacceptable because only through equal educational opportunities can we expect our future generations to be prepared for academic achievement and, consequently, successful in college and careers.

**Bureau of Indian Education Schools.** There are only two educational systems for which the federal government is directly responsible: Department of Defense (DOD) schools and federally operated and federally funded tribal schools. BIE schools, however, lag far behind DOD schools in funding, school construction, and student achievement. While DOD schools are being renovated and remodeled, schools within the BIE system are woefully outdated and, in some cases, dangerous for students and staff. As America's most vulnerable population, Native students should have equal access to resources and opportunities. Congress should fulfill its responsibility to Native students by remedying the disparities between these two federally operated school systems.

Over 60 BIE schools currently rated in "poor" condition, and construction issues continue to put Native students at an educational disadvantage. Meanwhile, GAO reports have found that better school facilities are associated with better student outcomes.<sup>2</sup> We urge support for a long-term school replacement plan that would set out priorities for school construction and replacement over the next 40-60 years and that would include a plan for adequate maintenance funding. Accountability, in addition to funding, is required to ensure that BIE's school construction funds are used to effectively and efficiently improve the educational opportunities of Native students. Therefore, we also urge increased oversight over BIE school construction funds.

BIE schools also face enormous challenges regarding their staffing and operation.<sup>3</sup> Currently, over 40% of regional positions are vacant. Additionally, employees are often not placed in positions for which they have the necessary skills. Communication is lacking, as school staff are often confused about who to contact within the BIE when they have problems. Finally, as the Government Accountability Office has noted, the BIE lacks staff with the expertise required to oversee school expenditures. These staffing and administration issues must be overcome, and increased oversight must be provided, for the BIE system to work effectively and efficiently for Native students.

**Recommendations for Reform.** NIEA is generally supportive of BIE reform. However, we urge transparency in the design and execution of the reform in order to include tribal

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<sup>2</sup> See GAO, School Facilities: Physical Conditions in School Districts Receiving Impact Aid for Students Residing on Indian Lands, GAO-10-32 (Oct. 29, 2009).

<sup>3</sup> See, e.g., GAO, Bureau of Indian Education Needs to Improve Oversight of School Spending, GAO-15-121 (Nov. 2014).

participation, facilitate congressional oversight, and ensure that reform fulfills the federal government's trust responsibility regarding delivery of trust- and treaty-based educational rights. See NIEA Resolution #2014-11. NIEA has several recommendations regarding how reform can be undertaken in a way that honors the federal government's responsibilities, respects the government-to-government relationship between tribes and the United States, and achieves much-needed progress regarding our Native students' education.

*Keeping the BIE within the Department of Interior.* Although reform is needed, it is essential that Native education remain the purview of the BIE and that BIE remains housed within the Department of Interior, which has extensive experience carrying out the United States' trust responsibility. Tribal leaders have repeatedly stated that the BIE should stay within the Department of Interior. NIEA joins tribes in strongly opposing any effort to move Native education to the Department of Education. However, we look forward to follow-up hearings to determine what the BIE and the Department of Education are doing to work together to address the needs of Native students.

*Follow-up hearings with both BIA and BIE officials.* The BIE is extremely limited in what it can do without its partners in the Bureau of Indian Affairs (BIA). A number of the areas that the GAO has identified as needing reform are areas that involve BIA responsibilities, operations, and staff.<sup>4</sup> Therefore, follow-up is needed that involves both BIE and BIA officials in order to facilitate dialogue regarding BIE reform and to determine how communication can be strengthened between the BIE and BIA.

*Stated authority.* Tribes have repeatedly questioned whether BIE authority to move forward with reform based on the Tribally Controlled Schools Act (P.L. 100–297). NIEA has requested an opinion from the Department of Interior's Office of the Solicitor on this matter. However, an opinion has not yet been provided.

*Facilities and maintenance funding.* As stated, over 60 BIE schools currently rated in "poor" condition. Native children are learning in buildings that are crumbling around them. We appreciate the attention that has been paid to the dilapidated Bug-O-Nay-Ge-Shig school. This school is, unfortunately, representative of the significant problems facing schools that linger on the BIE's school construction list. Additional funds for facilities and maintenance are desperately needed so that the BIE can reduce the construction and repair backlog, addressing schools in the order they appear on the BIE construction list so that schools that have long awaited facilities funding will not continue to be neglected. We also urge the creation of a long-term school replacement plan and increased oversight over school construction funds to ensure the effective administration of federal funds.

*BIE-focused budget advisory committee.* Additionally, we recommend the formation of a tribal budget advisory committee focused specifically on BIE issues to advise the Department of Interior on educational issues. Although the Tribal–Interior Budget Council (TBIC) provides an avenue for tribal input on budget issues, TBIC focuses on all issues relevant to Indian Country and therefore lacks the education-specific knowledge required to help transform Native

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<sup>4</sup> See GAO, Indian Affairs: Better Management and Accountability Needed to Improve Indian Education, GAO-13-744 (Sept. 2013).

education. A tribal education advisory committee would form an important point of contact for tribal leaders and tribal educators. Such a committee would also be well positioned to make recommendations that would address both BIE and BIA educational activities.

*Continued oversight over the reform process.* As NIEA has previously stated, and has expressed in Resolution # 2014-11, continued congressional oversight over the BIE reform process is necessary. In particular, the proposed offsets that the Department of Interior has identified in order to pay for the BIE redesign should be made public. NIEA has requested this information, but it has not yet been provided. Additionally, now that we are a year into the BIE redesign, the BIE should be required to provide more detailed plans regarding the reform as well as a timeline for implementation. This timeline should include a public list of the proposed closings of line offices. As the reform moves forward, details of the reform should continue to be made public, tribal input should be prioritized, and congressional oversight should continue.

**Conclusion.** We thank the Committee for holding this oversight hearing. The current BIE reform process has the potential to make a meaningful difference in the lives of Native students. We urge Congress and the Administration to use this opportunity to work closely with tribes. NIEA firmly believes that self-governance in education is the answer to the current crisis in the Native education system. Tribes have demonstrated time and time again that we are better equipped to address the needs of our own peoples. Working together, with bipartisan support from Congress, we are confident that BIE can be reformed in a manner that furthers tribal self-determination in education.

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