

The National Advisory Council on Indian Education

ANNUAL REPORT TO CONGRESS

2015-2016

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

In recognition of this EO and previous legislation enacted in support of AI/AN, the United States acknowledges the unique political and legal relationship with the federally recognized Indian tribes, as set forth in the Constitution of the United States, treaties, Executive Orders (EOs), and court decisions. For centuries, the Federal Government's relationship with tribes has been guided by a trust responsibility – a long-standing commitment of the Federal Government to protect the unique rights and help ensure the well-being of tribes, while respecting their tribal sovereignty (Office of Indian Education, ED).

In 2015-2016, NACIE had one meeting in Washington, D.C. on April 25 - 26, 2016. As a result of discussions and information presented to NACIE during the 2015-2016 reporting year (July 1, 2015 to June 30, 2016) NACIE submits this report with recommendations and rationale to Congress. The recommendations herein are based on NACIE's foundation that, if fully implemented with sufficient funding, they will help to achieve culturally responsive student success and meet the provisions of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by Every Student Succeeds Act (ESSA) and related legislation and policies.

These recommendations are congruent with and in many cases identical to the recommendations NACIE made in its Report to Congress last year (2014-2015) and the year before (2013-2014). To date, Congress has made no response to these Reports nor to the Report filed for 2012-2013. Likewise, many of our recommendations this year replicate those made to the Secretary of Education in a letter dated July 1, 2015. As of the date of this Report, NACIE has received no response to that letter.

The Council affirms that the federal trust responsibility to Native Americans makes it essential that ED increase the visibility of Native children in the public education schools on or near our Indian reservations, urban, and rural schools. More than half of Native children attend K-12 schools in our nation's large urban centers and it is important to recognize the unique needs of the diverse communities where our students attend public education. As in previous years, NACIE members are unanimous in our agreement that the first priority for the federal government should be to raise the profile of AI/AN through Indian education in every way possible.

## I. Supporting Tribal Sovereignty

### 1.1 Assistant Secretary Position

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

Rationale: An Assistant Secretary of Indian Education would provide critical leadership for cross federal agency accountability and collaboration at a higher level than the current Director position in the Office of Indian Education (OIE). It would also encourage collaboration across agencies, for example, working with the Department of Interior, Bureau of Indian Education (BIE) officials to address the comprehensive educational needs in Indian Country. The Assistant Secretary would take a leadership role in ensuring that the interagency collaboration envisioned in the EO actually comes to pass and yields concrete results. In the short term, a K-12 policy advisor for Indian education within the Department could help fill this need. This recommendation has been supported in tribal leader consultations across the country and by Native educational organizations.

### 1.2 NACIE White House Initiative

NACIE recommends that Congress allocate additional funds to ED to support NACIE in performing its expanded obligations under the EO.

Rationale: The EO launched the White House Initiative on American Indian and Alaska Native Education. The EO designates NACIE as the EO's official advisory committee and specifies particular roles for it to perform. These roles will require expenditures by ED. Yet ED and NACIE have not received additional funds in NACIE's budget to cover these expenses. This recommendation asks Congress to provide an increase in NACIE's operating budget for FY17 and after in order to allow NACIE to fulfill its EO responsibilities.

### 1.3 Interagency Collaboration

NACIE recommends that Congress support ED, the Department of Justice and related agencies when conducting Indian Country Listening Sessions to address school discipline disparities, special education disparities, civil rights violations and the school-to-prison pipeline that disproportionately affects and devastates families of AI/AN. NACIE further recommends that a study be funded and conducted to compare the formula grant federal programs within ED to determine the equity of funds provided in addressing the unique needs of Indian Country and our Native students' culturally responsive success in public education.

Rationale: The disproportionate dropout and incarceration rates of AI/AN students, discipline disparities, and substance abuse issues adversely affect Indian Country and warrant steps to end the school-to-prison pipeline. NACIE acknowledges and supports the President's 2014 My Brother's Keeper initiative, which aims to increase opportunities for boys and young men of color, who too often fall into this pipeline. This recommendation would advance the purpose of

similar Presidential initiatives, as well as the Tribal Law and Order Act and the Substance Abuse and Mental Health Services Administration.

The per pupil amounts in states and districts for such programs as Title I, Title III, and Title VI vary dramatically, but in general Title VI funds are considerably less than the other two federally funded programs. The historical underfunding of Title VI has hindered the quantity and quality of culturally responsive services that can be provided to Native students and has limited the achievement gains that can be realized.

#### 1.4 Title VI Unique, not Supplanting Title I

NACIE recommends that Title I language emphasize the importance of coordination with the Indian Education Act Title VI program to ensure that Title VI funds are not used to supplant Title I funds and services for high poverty Native students. NACIE also recommends that technical assistance be provided to state education and LEA leaders to clarify the difference between Title I and Title VI funds and the appropriate uses for each. Further, Title VI technical assistance should underscore the importance of parent committees in determining the use of Title VI funds.

Rationale: ED does not have the capacity to monitor all grant programs and so some school districts are currently out of compliance with appropriate use of Title I and Title VI funds. NACIE's goal in this recommendation is to ensure that Title VI funds go specifically toward the Indian students and tribal communities for whom they are intended and that services target the unique, culturally related academic needs of AI/AN students. Consistent with the principles of Indian self-determination in education, the involvement of Native parents in Title VI is intended to empower them, yet their involvement has been marginalized in some districts. Indian preference must be fulfilled in hiring to the fullest extent possible in order to represent the AI/AN communities and students that the programs are intended to serve.

#### 1.5 Technical Assistance

NACIE recommends that Congress support ED in its efforts to improve technical assistance by including stronger language to current Title programs during any reauthorization, to emphasize the accountability of the federal government to AI/AN schools, students, and communities, for all programs, including but not limited to bilingual education, safe and drug-free schools and other related educational programs. By placing a high priority on improving technical assistance to Indian Country, ED will better assist tribal and state education departments, tribally controlled community colleges, state offices of Indian education, and educational labs and centers, in the delivery of a higher quality of services. Further, it is recommended that these services be delivered by qualified Native educators where at all possible to help build capacity in Indian communities consistent with the policy of Indian self-determination.

Rationale: While OIE has done much over the past few years to increase technical assistance via webinars and annual meetings to Indian Education Act grantees, many other Titles and programs within the Department have not offered the same kind of necessary support. The federal trust

responsibility for assisting tribes in the expenditure of federal program funds has not been met for decades, especially for Indians in rural areas. Improved technical assistance is necessary to support tribes' and Native parents' efforts to build effective programs and strong infrastructures and to improve Native student achievement; to support tribal sovereignty and Indian self-determination as enunciated in the Technical Assistance Centers Act and ESSA; to improve instructional options, teacher quality, and academic rigor; and to fully implement the President's directive on tribal consultation. Adding accountability language and requirements to general educational Title programs builds accountability into the entire Department's educational infrastructure as a whole and ensures that all involved are aware of the importance of Indian education and its needs, not just AI/AN communities.

## 1.6 Native Expert Reviewers

NACIE recommends increased hiring of Natives in all areas of technical assistance delivery. This includes hiring for OIE Discretionary Grants administration, Comprehensive Centers, Equity Assistance Centers, Special Education Technical Assistance Centers, etc. Such preferences are consistent with the Indian hiring preferences of the Department, as well as those of tribes. If qualified AI/AN people cannot be found after a diligent hiring search, the programs should be continued nonetheless using non-Native employees. NACIE encourages Congress to support the inclusion of Native expert reviewers.

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

## 1.7 The National Center of Educational Statistics (NCES) Staff

NACIE recommends that Congress maintain the overall size and scope of the 2009 National Institute of Educational Statistics (NIES) and strongly encourages the NCES to include BIE schools and staff within all future iterations of the National Schools and Staffing Survey and, continue oversampling, analyzing data and publishing the results of public schools in which AI/AN students constitute high percentages of student enrollment.

Rationale: Failure to adequately include AI/AN students in the collection, analysis and dissemination of national level educational data represents a failure of the Federal government to observe its trust responsibility. Without data collection, analysis and reporting, it is impossible to know the extent to which AI/AN students are being appropriately educated, or effectively address persistent inequities, or recognize schools that are educating AI/AN students in academically and culturally appropriate ways.

The NCES should not downsize analysis and dissemination of data by the NIES. This would result in data being collected, but only being made available via electronic format. Given the lack of technology access and use in many parts of Indian country, this will impact the overall

accessibility and utility of these important data. This will also compromise the work of researchers who depend on these data to accurately portray the educational conditions and outcomes of AI/AN students.

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

Native communities should have more frequent access to training in data collection and analysis, either by the NCES or another provider. ED should provide Indian preference in the selection process for data collectors and analysts, to build capacity in tribal communities, and as far as possible, a team approach to data handling should be utilized. Recommend provisions that support Indian country to build capacity in analyzing and utilizing data.

## II. Requests for Distinct Funding for Native Education

### 2.1 Title VI and Johnson O'Malley (JOM)

Because of the significantly growing number of affected students, NACIE recommends that Congress maintain its support in the reauthorization of the Title VI and JOM programs, and encourage ED and BIE to maintain the separate identities of both programs. Further, Congress should require the Bureau of Indian Affairs (BIA)/BIE to issue annual JOM reports so Congress can be adequately informed on the impact of JOM programs.

Rationale: The BIA and ED have two different eligibility requirements. JOM students must belong to or be eligible for enrollment in a federally recognized tribe. Title VI identifies students both federally and state recognized with no need to be actually enrolled in a tribe. This issue has been brought up in the past by the BIA. However, evidence clearly shows support in Congress to maintain the programs' separate identities, and both the National JOM Association and the National Indian Education Association support this outcome. If this issue is brought up by the BIA as a funding cut solution, tribes must be afforded the opportunity to submit their concerns at consultations and to have their suggestions or directives acted upon.

The 2012 JOM student count was completed upon request from Congress but has fallen short of obtaining an accurate count. The 2012 student count, though completed, has not yet been completely vetted within the BIA and the written report to Congress has not been submitted. Even the inadequate 2012 count, however, shows an increase of students and with the proposed updated student count it is clear that Congress must acknowledge the need for increased funding. According to findings by the Senate Committee on Indian Affairs in 2012, there are 690,000 Indian students in the age group eligible to receive JOM assistance, 93 percent of whom attend public schools. With the 2012 student count it is apparent there is an even larger number of students with unmet needs. Congress must be accurately informed so funding is appropriated at amounts that adequately address the needs of Native students.

NACIE also requests that Congress mandate directing the BIA/BIE to submit, as part of the President's annual budget submission, a report on JOM program results, accomplishments, and achievements to ensure Congress is annually informed of positive impacts and outstanding achievements of the supplemental education programs provided by JOM funds. This will guarantee that sufficient steps are taken to ensure the full participation of all eligible Indian students and the public schools they attend.

## 2.2 Title VI

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

Rationale: Currently, there are over 640,000 AI/AN students in the United States. Between ninety two and ninety three percent of these students attend public schools, while eight percent attend schools administered by the BIE. Title VI provides supplemental academic, cultural and linguistic support to Native students who are not attending BIE schools. However, at present levels, the Title VI program is underfunded and the proposed flat funding for FY17 will not counter the costs of inflation and sequestration. The increase of this critical funding recommended by NACIE supplement regular school programs at an appropriate level, so that AI/AN students have an equal opportunity with their non-Native peers to learn and demonstrate educational achievement.

## 2.3 Tribal Colleges

NACIE recommends that Congress enhance current levels of funding for Tribal Colleges and Universities (TCUs) and increase funding to TCUs where increasing student enrollment and other needs of the institutions are demonstrated. Congress should support the higher education of AI/AN students attending institutions that are not TCUs, by reinstating the federal fellowship program for qualified Native Americans and maintain current levels of financial support for Native American-Serving, Nontribal Institutions and Non-Native Institutions where significant numbers of AI/AN students attend.

In addition, Congress should gather data, in collaboration with community colleges and other entities that serve high numbers of AI/AN students, to assess their total cost of attendance, including debt burden on graduation, job or graduate school placement rate, and other indicia of their mission effectiveness.

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

## 2.4 Native Languages

NACIE recommends that Congress enact legislation to expand funding for indigenous language acquisition and proficiency by adult tribal members and continue to support language acquisition and proficiency by children through culturally responsive programs including, but not limited to, immersion schools, as well as support legislation that addresses itself to promoting the vitality of Native culture and the health of Native people, as advocated by the United Nations Indigenous Human Rights Law, especially regarding the children and the elderly. Funding should be obtained from the current Title III, not from Title VI.

Rationale: AI/AN languages are not spoken anywhere else in the world, and if they are not enhanced they will disappear forever. In Native communities across the country, Native languages are in rapid decline. NACIE urges Congress to enact laws that provide financial support for providing our children with an education that honors their unique Native languages, histories, and cultures, while preparing them for a successful future from pre- birth to life-long learning. Successful language acquisition and proficiency by children depends on a community of proficient language speakers to take hold and flourish. Tribes should be encouraged to develop and implement programs appropriate for adult members wishing to learn or deepen their knowledge of traditional languages. Learning is a holistic enterprise that intersects all aspects of children's lives. Therefore, we ask Congress to urge and support increased collaboration by all federal entities that have an impact on Native language revitalization, including but not limited to ED, BIE, Health and Human Services, Justice, and SAMHSA. In this way, children studying in tribal immersion schools or other educational environments will be able to enhance and reinforce their language-learning at home and in their communities. Congress should acknowledge and insist that Executive Orders such as EO 13592 and relevant federal legislative acts should preempt state laws that impinge upon or disable the educational programs of Native American students and their learning of Native languages and cultures (example: Arizona's English Only Law).

Further, Congress should see that the appropriate federal entities strenuously enforce federal laws and regulations aimed at protecting indigenous peoples' cultures and languages, such as the Native American Language Act. This includes requiring ED as a condition of funding to perform rigorous reviews of all SEA and LEA plans for this purpose.

## 2.5. Impact Aid - Title VII

NACIE recommends that Congress adopt the following proposals that pertain to Title VII, Impact Aid:

2.5 (a) Amend regulations 34 CFR Part 222 Subpart G 222.90-.122 - Indian Policies and Procedures (IPP) process to ensure greater authority and control over the education of all AI/AN children.

Rationale: Although Impact Aid is not Indian Education funding, with 92-93% of all AI/AN children attending public school districts across the country, Tribal leaders have stressed the need

to have greater authority and control over how Impact Aid funds are used when educating those American Indian children attending Public schools across the country that receive Impact Aid funds.

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

2.5 (b) Continue to exclude Title VII Impact Aid from any future sequesters.

Rationale: Indian lands public schools are heavily reliant on federal Impact Aid to replace nontaxable federal lands and have severely been hurt from sequestration. When more than 92-93% of AI/AN children attend public school districts across the country, it is inevitable that including Title VII Impact Aid in sequestration has directly negatively deteriorated progress made toward school reform under the ESEA. By including Impact Aid as a discretionary fund in sequestration school districts educating AI/AN students were severely hurt and will take years to recover. Impact Aid payments were greatly reduced resulting in huge staff layoffs and program cutbacks within Indian lands public schools and communities where already many of the unemployment rates are higher than 50% and academic performance scores are lower than any other ethnicity. School consolidations and school closures have often caused AI/AN children to bus between school and home on unpaved, dirt roads for more than an hour each way. Moreover, staff and teacher layoffs have resulted in larger class sizes and overcrowding which has added to the prevailing challenges of Indian Country and society as a whole.

2.5 (c) Forward fund the Title VII Impact Aid Program

Rationale: There is nothing in the Impact Aid law that prohibits Impact Aid from being forward funded. Rather, the House and Senate Appropriation Committees simply do not elect to forward fund the program. If the program was forward funded, Indian lands school districts would be much better equipped to budget Impact Aid. Currently Indian lands school districts have no idea what to budget for Impact Aid as they prepare for each school year, especially with the sequester in place. Forward funding would provide funding stability for Indian lands school districts as they would know in July what their payments would be for the upcoming school year. Additionally, the Impact Aid program is the only non-competitive education program that is not forward funded in ED.

## 2.5 (d) Repeal Section 8009 (Equalization)

Rationale: Currently three states are equalized under the provisions of Section 8009: Alaska, Kansas, and New Mexico. Under the present law, AI/AN students are negatively impacted by the application of the equalization provisions as documented in the 2009 National Indian Education Study. Section 8009 does not take into account the inability of public school districts enrolling children residing on trust/treaty or lands claimed under the Alaska Native Claims Settlement Act to generate local revenue due to the lack of taxable land nor does it recognize the high per pupil cost associated with districts in rural setting that serve AI/AN students. New Mexico, which serves a large number of American Indian students, utilizes a foundation aid formula that is less than the national average, which further complicates school district funding at a time when school districts are implementing academic reforms, thus adds to the already huge inequities in Indian education school system reforms. Children enrolled in the districts of off-reservation schools will remain open. If New Mexico were not equalized, Impact Aid funding would go directly to those children who generate Impact Aid dollars, instead of to the state. This is because as the government applies Impact Aid dollars against what a school district would receive under the state funding formula. The Impact Aid formula is designed to allow states with federally connected students such as those on Indian lands, to equalize up to the level of federal impact. New Mexico treats all its students equally no matter where they reside and attend school, which presents a great inequity for New Mexico's Indian lands children.

## 2.5 (e) Address Title VII, Section 8007 (Construction and Renovation of Facilities).

Rationale: Indian lands children deserve the same high quality of facilities as non-impacted students, yet impacted school districts have very limited or no avenues to pursue construction funding due to the federal presence. Consequently, there is a backlog of Title VII, Section 8007 facilities needs to be addressed.

## 2.5 (f) Amend Title VII, Section 8002 (Federal Property) as provided in authorizing committee reported bills of both the House and Senate.

Rationale: The proposed change will improve payment efficiency for all federally connected school districts. The change will remove subjectivity from the current formula, thus making the program more efficient and improving the payment timeline for all districts.

## 2.5 (g) Conduct a study on the effect of Impact Aid on both rural and urban schools.

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

# III. Improving Lifelong and Comprehensive Education

## 3.1 Definition of “AI/AN”

NACIE recommends that Congress collaborate with ED and Office of Management and Budget

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

Rationale: In 1997, race and ethnicity categories were created by OMB, without tribal consultation, that are used to describe groups to which individuals belong or with which they identify. The designations are used to categorize U.S. citizens, resident aliens, and other non-citizens to determine eligibility for various federal programs and other federal purposes. Thus it is crucial to NACIE that the definition of one such category, "AI/AN," be neither under- nor over-inclusive.

However, the categories do not denote scientific definitions of anthropological origins, and the category AI/AN was developed and promulgated without meaningful federal consultation with Native individuals or groups. As a result, the category of AI/AN is broader than the concept that has informed the countless agreements, treaties, statutes, etc. that for literally hundreds of years have constituted the legal relationship between AI/AN peoples and the U.S. government, a relationship that the Trust Doctrine attempts to nurture and protect. Specifically, the current definition has arbitrarily and capriciously includes the original peoples of South America and Central America. These groups do not have treaties, agreements, statutes or other historical legal relationships with the U.S. Government, and their well-being is not contemplated under the Trust Doctrine.

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

- Hispanic or Latino or
- Not Hispanic or Latino

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

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

Because the OMB did not engage in meaningful consultation with AI/AN in formulating its over-inclusive category of AI/AN, the category AI/AN should immediately be revised to delete inclusion of persons of South or Central American origins, and ED and OMB should move quickly to consult with representative AI/AN communities and individuals to assure that the category AI/AN is neither over- nor under-inclusive. NACIE asks that Congress cooperate with these government entities in their important work of revision. There is a critical need for accurate counts of Native students, not only because it dramatically impacts the funding of program allocations, but is needed to collect reliable data on program effectiveness, challenges, and successes.

### 3.4 Promising Practices

NACIE recommends that Congress direct OIE to require all grantees under OIE discretionary and formula grant programs to disseminate broadly information on promising practices that could be replicated elsewhere in Indian Country.

Rationale: This recommendation stems from the principle of tribal self-determination and AI/AN preferences embraced in the Indian Self Determination and Education Act. NACIE wishes to commend Congress for taking actions consistent with this Recommendation that have resulted in progress on disseminating promising practices. Still, much work remains to be done in this area. While communities currently receive grants and develop successful and innovative programs, there is still insufficient information sharing or data collection about what works well in those programs. Information on the successful practices of beacon programs should be more widely distributed so other programs can learn from them.

### 3.5 Early Childhood Education

NACIE recommends that Congress support lifelong learning for AI/AN from early childhood through adulthood. The Administration's promising Preschool for All initiative affirms the need for quality of child care, empowering parents, raising the bar for early learning, and reforming and expanding Head Start and Early Head Start (HS/EHS). Congress should support Native language programs directed specifically to AI/AN, especially programs aimed to educate children and families in Native language revitalization.

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

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

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

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

### 3.6 Technology

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

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

## IV. Building Tribal Nations and Sustainability

### 4.1 Tribal Consultation, Education Consultation

NACIE recommends that Congress ensure ED's responsibility to see that the President's "Memorandum to the Heads of the Executive Departments and Agencies," dated November 5, 2009, on Tribal Consultation, be adhered to within ED and OMB in matters that pertain to the development of performance measures, policies and standards. Further, consistent with EO 13175 of November 6, 2000, coordination and consultation with AI/AN is warranted especially for these policies and standards that have tribal implications.

Rationale: NACIE is encouraged by the Tribal Leader Consultation Sessions held in 2012 – 2015 pursuant to Executive Order 13592. At the same time, the Government Performance Results Act (GPRA) measures enacted between OMB and ED must fulfill the Tribal Consultation Policy in the ESSA provisions, particularly Title VI, Indian Education and Discretionary Indian Education Programs. Congress should monitor standard compliance with this obligation.

In 2009, the Presidential Memorandum on Tribal Consultation (Memorandum) was issued to agency heads regarding consultation with Indian tribes pursuant to EO 13175. The Memorandum

directed each agency to develop a plan of actions for implementing the directives of EO 13175. In response to the President's Memorandum and feedback from Indian tribes, ED developed its 2010 "Plan of Actions for Implementing Executive Order 13175: Consultation and Coordination With Indian Tribal Governments" (2010 Plan). The 2010 Plan details the steps that ED determined to be most appropriate for providing meaningful consultation to strengthen its government-to-government relationship with Indian tribes. This new ED Consultation Policy supersedes ED's 2010 Plan.

In 2011, ED senior officials consulted with Indian tribes on the development of more effective education policies for Indian students. As a result, President Obama issued EO 13592: Improving AI/AN Educational Opportunities and Strengthening Tribal Colleges and Universities. EO 13592 directs Federal agencies to support activities that expand educational opportunities and improve educational outcomes for all Indian students. It also established the White House Initiative on American Indian and Alaska Native Education (WHIAIANE) and directed the Executive Director of WHIAIANE to coordinate frequent consultations with Indian tribes.

The mission of ED is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. As part of its mission, ED is committed to helping to improve the educational outcomes of all AI/AN students, including those attending public schools, who constitute over 90% of all Native students. ED also administers many programs that are directed toward, or have specific impacts on, AI/AN students and other tribal members. Pursuant to EO 13175, Consultation and Coordination with Indian Tribal Governments, the policies of the OIE, and in recognition of the Federal government's trust responsibility, ED will further strengthen its relationship with Indian tribes by implementing a process that ensures meaningful consultation and collaboration with Indian tribes when developing ED policies and actions that have tribal implications.

#### 4.3 Consolidated State Plans

Even though they are included as part of the peer review process for Consolidated State Plans at the LEA and SEA levels, NACIE recommends strengthening the inclusion of American Indian educators, stakeholders, or various organizations, to ensure that states are working toward serving the specific needs of Native students.

Rationale: Congress recognizes the sovereignty of tribal governments and their jurisdiction over lands and people within reservation boundaries except as limited by federal law. While various protections for Indian students and Native sovereignty exist at the federal level, those protections are not always translated into state and district education plans, and state plans are not currently evaluated for their compliance with federal law and executive orders. The goal of this recommendation is to respect tribal sovereignty and to ensure that states are accountable to Native populations as required under federal law.

#### 4.4 Native Language vs. World Language

NACIE recommends that Congress look for ways to include cultural relevancy in the

implementation of the Common Core State Standards and Assessments. Native languages should be classified under World Language instead of foreign language and be allowed to satisfy non-English language proficiency requirements. Further, NACIE recommends that when ED establishes assessment supports to states and schools, such as the Enhanced Assessment Grants, that officials intentionally focus funds and supports for Native schools and communities focusing on the revitalization of Native languages, especially when used as the medium for instruction. An excellent model to consider is the adopted Alaska State Culturally Responsive Curriculum and Standards as efficient models.

Rationale: Common Core State Standards and assessments that take account of cultural relevancy would be strong tools for indigenous teachers' professional development and student achievement performance outcomes.

#### 4.5 Native Teachers/Languages

NACIE recommends that Congress clarify that teachers of Native languages in schools be certified by their respective tribes and that this unique expertise be valued as highly qualified.

Rationale: Native language speakers who are teaching Native languages in public schools should be exempt from any requirement in the reauthorization of ESEA which would be detrimental to Native language instructors. They should be valued for the unique expertise that they bring. Asking an elder to go back to school through a teacher certification program is unrealistic and unlikely to happen. These highly qualified experts in Native languages can only be certified for their specific language expertise through their respective tribes.

#### About NACIE

NACIE is a Federal Advisory Committee created by Congress. NACIE provides advice to the Secretary of Education concerning the funding and administration of any program, including any program established under Title VII, Part A of the ESEA of 1965, with respect to which the Secretary has jurisdiction and that includes AI/AN children or adults as participants or that may benefit AI/AN children or adults. NACIE also submits an annual report to Congress not later than June 30 on its activities and may include any recommendations that the Council considers appropriate for the improvement of federal education programs that serve AI/AN children or adults. The findings and recommendations of NACIE do not represent the views of the Department. NACIE is authorized by section 7141 of the ESEA as amended, 20 U.S.C. 7471, and governed by the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. II. Pursuant to federal law, NACIE consists of 15 members, each of whom is a citizen of a federally recognized Indian tribe. NACIE members are appointed by the President and serve at his or her pleasure.

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One vacancy