June 28, 2013

Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Mr. Secretary:

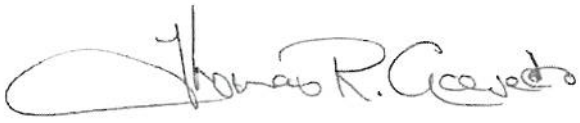
I am pleased to transmit the enclosed report, entitled "Report to Congress." This NACIE annual report is submitted to Congress as required by the statute and the report reflects the activities of the Council for FY 2012-2013. The National Advisory Council on Indian Education (NACIE) is authorized by section 7141 of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. 7471; and governed by the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. II.

The fifteen NACIE members are appointed by the President and serve with the following purpose and functions: To advise the Secretary of Education (Secretary) concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under Title VII, part A of the ESEA, with respect to which the Secretary has jurisdiction and that includes Indian children or adults as participants or that may benefit Indian children or adults.

As of June 28, 2013, NACIE has 14 members serving on the Council.

The Council looks forward to working with the U.S. Department of Education Secretary Arne Duncan and the Office of Indian Education staff to carry out responsibilities under the Council's charter.

Sincerely,



Thomas R. Acevedo
Chairperson
National Advisory Council on Indian Education

Enclosure

The National Advisory Council on Indian Education

ANNUAL REPORT TO CONGRESS

2012-2013

The National Advisory Council on Indian Education (NACIE or "the Council") advises the Secretary of Education concerning the funding and administration of any program with respect to which the Secretary has jurisdiction and that includes Indian children or adults as participants or any program that may benefit Indian children or adults. NACIE submits this Annual Report 2012-2013 to Congress as required by federal law.

In 2012-2013 NACIE held one meeting in Washington, D.C. (February 6-7, 2013) and one meeting by teleconference (June 17, 2013). As a result of discussions and information presented to NACIE during the 2012-2013 reporting year (July 1, 2012-June 30, 2013), NACIE makes the following recommendations to Congress. The recommendations herein are based on NACIE's belief that, if implemented, they will help to achieve culturally responsive student success and meet the provisions of the Elementary and Secondary Education Act of 1965 (ESEA) and related legislation and policies. These recommendations follow on and in many cases are identical to recommendations NACIE made to the Secretary of Education in a letter dated April 9, 2013.

The Council believes that the federal trust responsibility to Native Americans makes it essential that the Department of Education (ED) increase the visibility of Native children in the public education schools in 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. ***NACIE members are unanimous in our agreement that the first priority for the federal government should be to raise the profile of Indian education in every way possible.***

Elevate the Importance of Native Education

1. **NACIE recommends that members of Congress and their staff meet regularly with NACIE to review and discuss the recommendations in NACIE's annual Report.**

   Rationale: Although federal law requires NACIE to file an annual Report to Congress, NACIE has have never heard from a single senator or representative about our recommendations or the serious issues that they address. We recommend that the members of Congress and their senior staffers regularly attend our meetings when their committee placement and/or expertise on Indian education would, in our opinion, warrant it.

2. **NACIE recommends that Congress support and fund the position of Assistant Secretary of Indian Education within the Department of Education.**

Rationale: An Assistant Secretary of Indian Education could cooperate across federal agencies at a higher level than the Office of Indian Education director, working, for example, with officials in the Department of the Interior 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 Initiative 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.

3. **NACIE recommends that Congress allocate additional funds to the Department of Education to support NACIE in performing its expanded obligations under EO 13592.**

Rationale: Executive Order 13592 (EO) launched the White House Initiative on American Indian and Alaska Native Education. The EO designates NACIE as the Initiative's advisory committee and specifies particular roles for it to perform. These roles will require expenditures by the Department of Education. Yet the Department and NACIE have not received additional funds in NACIE's budget to cover these expenses. This Recommendation asks Congress to provide a modest increase in NACIE's operating budget for FY14 and after (amount to be determined) in order to allow NACIE to fulfill its EO responsibilities.

4. **NACIE recommends that Congress direct the Office of Indian Education 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 American Indian/Alaska Native (AI/AN) preferences embraced in the Indian Self Determination and Education Act. While communities currently receive grants and develop successful and innovative programs, there is little information sharing or data collection about what works well in those programs. Information on the successful practices of beacon programs should be widely distributed so other programs can learn from them.

Stimulate the Vitality of Native Languages, Histories and Cultures

5. **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 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, especially children and the elderly. Funding should be obtained from the current Title III, not from Title VII.**

Rationale: Native languages are not spoken anywhere else in the world, and if they are not preserved 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 the Department of Education, 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 the Department of Education as a condition of funding to perform rigorous reviews of all SEA and LEA plans for this purpose.

6. **NACIE recommends that Congress clarify that the requirement in No Child Left Behind that teachers be "highly qualified" should not be used in a manner detrimental to Native language teachers.**

Rationale: The teacher-training section of Title II of "No Child Left Behind" requires that all teachers be "highly qualified" to teach in their subject area. If would-be teachers are not "highly qualified" as defined by Title II they must go back to school for further professional development. Native language speakers who are teaching Native languages in public schools should be exempt from this requirement. 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.

Support Early Childhood Education

7. **NACIE recommends that Congress support lifelong learning for Native peoples from early childhood through adulthood. To that end, Congress should support the Administration's language programs for Native Americans, especially programs aimed to educate children and families, and support the improvement of Head Start and Early Head Start (HS/EHS).**

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. Integral to this effort is school readiness.

School Readiness - We believe "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 early learning professionals 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 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. According to the National Association for the Education of Young Children, early childhood education includes children ages birth to 8 years.

In reviewing essential data as they pertain to AI/AN, it is evident that there is much work to be done to ensure the systematic collection, management and analyzing of culturally relevant information, as well as research and the preparation and effective dissemination of reports and other publications that address the unique needs, policies, goals, and approaches of Native education. Native early childhood education policy deserves strong and sustained advocacy and must involve a partnership with the Departments of Health and Human Services, Interior and the federal agencies to address the specific priorities stated above.

Head Start/Early Head Start – We believe Congress should support the improvement of Head Start and Early Head Start (HS/EHS) by:

(a) seeking ways to continue to improve the tribal consultation process where funding allocations, distribution of formulas, and other issues affecting the delivery of services are openly discussed and resolved in a timely manner;

(b) waiving the teacher qualification for teaching staff so that tribes can employ qualified, and sometimes certified, tribal language speakers in their HS/EHS programs. The current

regulations for meeting the qualification requirements produce burdensome challenges for tribal programs seeking to revitalize Native languages at early ages. Many of the language speakers are elders and are not interested and are unlikely to seek a degree;

(c) assuring sufficient research dollars within HS/EHS to actualize the 2007 required charge to conduct specific research affecting tribal grantees. It is difficult to make informed decisions when further information is needed; and

(d) establishing a process to hold harmless the American Indian and Alaska Native grantees that score below the CLASS thresholds for determining quality services, until culturally responsible reviewers can be deployed. The lack of cultural competency is jeopardizing otherwise successful grantees.

Preserve Distinct and Adequate Funding Sources for All Programs

8. **NACIE recommends that Congress support reauthorizing Title VII and JOM, and encourage the Department of Education to maintain the separate identities of both programs.**

Rationale: We regard it as highly problematic that the BIA or the DOE would want to combine the two federal funding sources of Title VII and JOM. This is because the two federal programs have two different eligibility requirements. JOM students must belong to or be eligible for enrollment in a federally recognized tribe. Title VII 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 Johnson-O'Malley Association and the National Indian Education Association support this outcome. If this issue in 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.

9. **NACIE recommends that Congress amend Title I language to clarify that other funding sources, such as Title VII funds, cannot be used to supplant Title I funds, and that technical assistance be provided to state education chiefs to clarify the difference between Title I and Title VII funds and the appropriate uses for each.**

Rationale: The Department of Education 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 VII funds. NACIE's goal in this recommendation is to ensure that Title VII 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 and education, 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.

10. **NACIE recommends that Congress maintain 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 maintaining 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: Education should be a life-long endeavor. But the high cost of college today causes many middle class families to struggle to pay tuition. The financial and cultural challenges for Indian families is often much greater. AI/AN graduates are virtually always underrepresented in their fields. AI/NA faculty members are consistently underrepresented nationally. There is a crying need for trained educators, health care providers, business leaders, and other professionals to serve tribal communities. Accordingly, as TCUs continue to increase in enrollment, funding from year to year needs to increase to accommodate that growth and change. In response, Congress should create and support programs that incentivize AI/AN young people and adults to seek higher education by enrolling in programs, TCU and non-TCU, that are offered on-ground, online, or as hybrids. Finally, it is critical that Congress generate and promote initiatives aimed at improving college access, persistence, and timely graduation, without exorbitant debt, for all college-bound AI/AN students, regardless of age.

11. **NACIE recommends that Congress grant eligibility to tribes, consortia of tribes, and the BIE to apply and compete with states or districts for funds awarded under Race to the Top or similar initiatives, and further, that for states or districts of 5% or more AI/AN population, as a requirement of fund eligibility, states or districts must demonstrate meaningful consultation with their federally or state-recognized tribes, and this consultation must be subsequently, and meaningfully, incorporated into their plans.**

Rationale: In some states and districts, addressing the needs of Indian-land schools or schools with high concentrations of AI/AN students comes as an afterthought. Meaningful consultation should be built into the process and made evident from the beginning. This is a clear implication of the United States' centuries-old obligation to our country's indigenous peoples and their tribal communities, as set forth in the Trust Doctrine and its many legal foundations.

12. **NACIE recommends that Congress adopt the following proposals that pertain to Title VIII, Impact Aid:**

Exclude Title VIII Impact Aid from Sequestration - 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 85% of American Indian children attend public school districts across the country, it is inevitable that including Title VIII - Impact Aid in sequestration has directly negatively deteriorated progress made toward school reform under the Elementary and Secondary Education Act. Sequestration has already severely hurt school districts educating American Indian and Alaska Native students. 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 further resulted in having to now bus Indian children to and from schools many times on unpaved, dirt roads for more than an hour-long ride each way. Moreover staff and teacher layoffs have resulted in larger class sizes and overcrowding which altogether will only add to the prevailing challenges of Indian country and society as a whole.

Forward fund the Title VIII Impact Aid Program - 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.

Repeal Section 8009 (Equalization) - Currently 3 states are equalized under the provisions of Section 8009: Alaska, Kansas, and New Mexico. Under the present law, American Indian/Alaska Native students are negatively impacted by the application of the equalization provisions as documented in the 2009 National Indian Education Study (NIES). 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 American Indian and Alaska Native students. For New Mexico which serves a large number of American Indian students, there foundation aid formula 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 systems striving for reform. Children enrolled in the districts off reservation schools will remain open. If New Mexico was not equalized, Impact Aid funding would be going directly to those children that generate Impact Aid dollars instead of the state as they credit Impact Aid dollars against what a school district would otherwise receive from 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 due to the federal impaction. Rather, New Mexico treats all students in the state equally no matter where they reside and attend school, which presents a great inequity for New Mexico's Indian lands children.

Address Title VIII - 8007 Construction and Renovation of Facilities - Indian lands children deserve nothing less than non-impacted students yet the impacted school districts have very limited or no avenues to pursue construction funding due to the federal presence. The federal government must address Title VIII, 8007needs and find solutions for adequate funding to begin to address the backlog of need.

Amend the Section 8002 (Federal Property) provision as provided for in both the House and Senate authorizing committee reported bills - The change will improve payment efficiency for all federally connected school districts. The change will remove the subjectivity from the current formula making the program more efficient improving the payment timeline for all districts.

Conduct a study on the effect of Impact Aid on both rural and urban schools - The findings will help determine policy changes in the Impact Aid Program if needed.

Support Technical Assistance to Indian Country

13. **NACIE recommends that Congress place a high priority on improving technical assistance to Indian Country, and support the Department of Education in its efforts to implement strategies to provide technical assistance to tribal and state education departments, tribally controlled community colleges, state offices of Indian education, educational labs and centers, delivered by qualified Native educators where at all possible.**

Rationale: The federal trust responsibility for assisting tribes in the expenditure of federal program dollars has been significantly underperformed for decades, especially for Indians in rural areas. Improved technical assistance is necessary to support tribes' efforts to build effective programs and strong infrastructures and to improve school achievement; to support tribal sovereignty and Indian self-determination as enunciated in the Technical Assistance Centers Act and ESEA; to improve instructional options, teacher quality, and academic rigor; and to fully implement the presidential order on tribal consultation. It bears emphasizing that there should strong tribal hiring and project control preferences in all areas of technical assistance delivery. 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 workers.

14. **NACIE recommends that Congress support the Department of Education 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 programs for bilingual education and safe and drug free schools and related educational programs.

Rationale: Including accountability language in the reauthorization of existing legislation will help ensure that current programs will allocate resources toward the AI/AN schools and communities that they are already supposed to be serving. Adding accountability language and requirements to general educational programs (i.e., not just Title VII) builds accountability into the 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 and AI/AN education policy and advocacy organizations. Discretionary grants to and administration of Comprehensive Centers, Equity Assistance Centers, Special Education Technical Assistance Centers, and Race to the Top, must provide for the delivery of services by qualified Native educators and must also demonstrate strong Indian preference in hiring and preference for tribal control and/or partnerships for all specific programs and projects.

15. **NACIE recommends that Congress support the Office of Indian Education in its efforts to develop a plan that will demonstrate how it will strengthen and expand technical assistance using state education staff, comprehensive centers, chief state school officers, Indian tribes, Indian educators and organizations, and other means to help meet Title VII needs.**

Rationale: In the past, state education organizations have been valuable partners in meeting the educational needs of Indian students. The goal of this recommendation is to educate state partners and rebuild these relationships to counteract the narrow educational focus created by No Child Left Behind.

16. **NACIE recommends that Congress support the Department of Education's School Support and Technology Programs and Technical Assistance Programs to identify how current technical assistance is being targeted specifically to serve AI/AN students.**

Rationale: Once NACIE is informed by the Department of Education 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. NACIE asks that Congress support its recommendations in this important area.

Support Standards and Assessment Tools Appropriate to Indian Country

17. **NACIE recommends that Congress cooperate with the Department of Education to begin immediately to work with the Office of Management and Budget (OMB) to revise the definition of "American Indian or Alaska Native" at all levels to remove the indigenous inhabitants of South America and Central America from this category, and further, that**

the Department and OMB engage in consultation with American Indians and Alaska Natives concerning the appropriate scope of this critical definition.

Rationale: In 1997, the OMB developed race and ethnicity categories that are used to describe groups to which individuals belong or with which they identity. 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, "American Indian or Alaska Native" ("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 American Indian and Alaska Native 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 wellbeing 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:

- American Indian or Alaska Native (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 American Indians or Alaska Natives 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 the Department and the OMB should move quickly to consult with representative tribal communities and Native 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. Johnson-O'Malley (JOM) program student counts have not been updated since 1995.Therefore, JOM funding and the certified student count of 278,000 has been frozen at its 1995 level. The current student count of 321,250 was updated by the Bureau of Indian Education in 2012 but has yet to be certified. Additionally, 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. This leaves more than 360,000 students with unmet needs. Congress must be adequately informed so funding is appropriated at amounts that address the needs of Native students.

This body also requests that the United States 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.

18. **NACIE recommends that Congress support the Department's efforts to direct or work with the School Officers and National Governors Association to include cultural relevancy in the formation of the Common Core State Standards and assessments. Native languages should be classified under World Language instead of foreign language and allowed to satisfy non-English language proficiency requirements.**

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.

19. **NACIE recommends that Congress support the Department of Education's responsibility to see that the President's "Memorandum for the Heads of the Executive Departments and Agencies," dated November 5, 2009, on tribal consultations, be adhered to within the Department and Office of Management and Budget (OMB) in matters that pertain to the development of performance measures policies and standards. Further, consistent with Executive Order 13175 of November 6, 2000, coordination and consultation with tribes is warranted especially for these policies and standards that have tribal implications.**

Rationale: The Government Performance Results Act measures enacted between the Department of Education and OMB must fulfill the Tribal Consultation Policy in the ESEA provisions, especially Title VII, Indian Education and Discretionary Indian Education Programs. Congress should monitor compliance with this obligation.

20. **NACIE recommends that Congress support the Department in making extraordinary efforts to include Native expert reviewers for special initiatives, competitive grants, requests for waivers and similar undertakings where the wellbeing of Native peoples is concerned.**

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.

21. **NACIE recommends that Congress support the Department in strongly encouraging the OIE to maintain the overall size and scope of the 2009 NIES and strongly encourage the National Center for Education Statistics (NCES) to include BIE schools and staff within all future iterations of the national Schools and Staffing Survey, to continue oversampling public schools in which American Indian and Alaska Native students constitute high percentages of student enrollment, and to analyze the data and publish the results.**

Rationale: 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. The Department of Education 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.

As to publicity of the data, NACIE advises that the results be published as an update to the 1995 report, "Characteristics of American Indian and Alaska Native Education: Results from the 1990-91 and 1993-94 Schools and Staffing Survey," coauthored by Pavel and Curtin.

Finally, 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 abide by 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.

Advance Intergovernmental Collaboration

22. **NACIE recommends that Congress monitor and enforce compliance with federal laws requiring that when state plans are submitted to the federal government, they are reviewed for their accountability to Native populations. Reviewers should be instructed to closely examine a plan's service to parents and their indigenous communities. State plans that include Native students should have Native reviewers. In the reauthorization of the ESEA, include stronger language that clarifies the support states can provide in serving 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.

23. **NACIE recommends that Congress support the continued coordination of the Bureau of Indian Affairs Operations and Maintenance Program (O&M) and the Bureau of Indian Education (BIE) on school construction to increase alignment between the two departments and resolve the current school construction backlog. Collaboration between the Departments of Education and the Interior should be the norm.**

Rationale: Currently, the BIE has the responsibility for ensuring that sufficient facilities exist for BIE students, but it has no budgetary control over school construction or facilities improvement. Though gains have been made, increased coordination with O&M would allow the BIE to have input in the decision making related to school construction budgets.

24. **NACIE recommends that Congress support NACIE's recommendation that the Department of Education and the Department of Justice conduct joint listening sessions in Indian Country to address school discipline disparities and the school-to-prison pipeline that disproportionately affects AI/AN students.**

Rationale: The disproportionate dropout and incarceration rates of AI/AN children, discipline disparities, and substance abuse issues adversely affect Indian Country and warrant steps to disrupt the school-to-prison pipeline. This recommendation would advance the purposes of the Executive Order and Initiative as well as the Tribal Law and Order Act and the Substance Abuse and Mental Health Services Administration.

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 Elementary and Secondary Education Act of 1965, with respect to which the Secretary has jurisdiction and that includes American Indian and Alaska Native (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, 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 pleasure.

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Elmhurst, IL 60126

Alyce Spotted Bear
Fort Berthold Community College
220 8th Ave. N.
New Town, ND 58763

Virginia Thomas
P.O. Box 775
Okmulgee, OK 74447

Patricia Whitefoot
P.O. Box 460
White Swan, WA 98952

Note: The resignation of one of NACIE's 15 members in 2011-2012 created a vacancy that is unfilled as of June 30, 2013.