



## ADVANCING NATIVE EDUCATION A POLICY FRAMEWORK SUPPORTED WITHIN THE U.S. CONSTITUTION

### NATIVE EDUCATION AND THE CONSTITUTION, TREATIES, AND LAWS OF THE UNITED STATES

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From the earliest days of the United States, the Founders recognized the importance of America’s relationship with Native nations and Native peoples. They wove important references to that relationship into the Constitution (e.g., Art. I, Section 8, Cl. 3 (Indian Commerce Clause); Article II, Section 2, Cl. 2 (Treaty Clause). These constitutional references were given immediate life in treaties that the United States entered into with Indian nations beginning with the Treaty with the Delaware in 1778 and continuing through an additional 373 treaties.

In a testament to the importance of education, approximately 1/3 of these treaties specifically address Indian education in some manner. Additionally, in the first decades of the United States, numerous laws were enacted addressing the details of the Federal-Tribal relationship (e.g., Trade and Intercourse Acts of 1790, 1793, 1796, 1799, 1802, and 1834.), even as the Federal courts defined the Federal government’s trust obligation to Indian nations (e.g., Cherokee Nation v. Georgia (1831)).

Eventually, Congress would adopt a wide range of laws and policies addressing Indian education. Some of these were very harmful, such as the forced assimilation efforts of the Indian boarding school system, whose philosophy was captured by the founder of the Carlisle Indian School in the phrase “Kill the Indian in him, and save the Man.”<sup>1</sup> Fortunately, American greatness has led to more enlightened policies since the boarding school era, not only in laws, but also in executive orders put forth by American presidents (e.g., EO 13096 (Bill Clinton) and EO 13336 (George W. Bush).

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<sup>1</sup> Captain Richard H. Pratt. The full quote is: “A great general has said that the only good Indian is a dead one, and that high sanction of his destruction has been an enormous factor in promoting Indian massacres. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man.”

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In turn, Native peoples educated the European settlers in how to survive in the Americas. This contribution by Natives is captured in a romanticized fashion in America's celebration of the Pilgrims and Thanksgiving. Natives even influenced the Founders in the development of the Constitution as recognized by the 100<sup>th</sup> Congress, when the Senate and the House passed a concurrent resolution that "on the occasion of the 200<sup>th</sup> Anniversary of the signing of the United States Constitution, acknowledges the historical debt which this Republic of the United States of America owes to the Iroquois Confederacy and other Indian Nations for their demonstration of enlightened, democratic principles of government and their example of a free association of independent Indian nations;..." (S. Con. Res. 76, 100<sup>th</sup> Congress.)

One has only to walk the halls of the Capitol to see many works of art and sculpture that depict, although sometimes in ways that are objectionable to Native peoples, the central role that Native nations have played in the development of America's national identity. Not depicted on the walls of the Capitol are the many injustices that Native peoples have suffered as a result of Federal policy, including Federal actions that sought to erode Native learning and culture. Out of those injustices, and from other legal sources, there has arisen a Federal trust obligation that includes supporting Native education.

## A FEDERAL POLICY THAT SUPPORTS NATIVE EDUCATION, SELF-SUFFICIENCY AND SELF-DETERMINATION

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Native peoples are very aware that we were once self-sufficient. We seek to become fully so again. We are proud of our history and our culture and want it taught to our children, and indeed to all Americans. We are proud of the sovereign status of our governments, as recognized by the Constitution. We are also proud of America in many ways, and serve in the military in greater number than any other ethnic group.

But we ask that America remember its obligation to its Native peoples. We ask that that obligation take a concrete form in the 112<sup>th</sup> Congress. Specifically, in working with the Congress, NIEA seeks to advance laws and policy that will:

1. Strengthen Tribal Control of Indian Education.
2. Promote Investment in Cultural and Language Revitalization.
3. Increase the Focus on Native Teachers, Administrators, and Leaders.
4. Promote Intra-Agency Coordination and Collaboration.
5. Improve Consultation between the Federal government and Native nations and Native educators.

## PROTECTING NATIVE EDUCATION IN TOUGH FISCAL TIMES

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NIEA urges the Congress as it makes difficult budget decisions to protect the critical funding gains made in recent years in the Indian education area. For millennia, Native American cultures and communities flourished on this continent. However, in recent centuries our ability to educate our children has been under assault. The Federal government historically has displayed a keen understanding of the central importance of our ancient ways, beliefs, culture and language to

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tribal unity and strength - and for years made every effort to destroy those beliefs, including establishing boarding schools on the evil principle “Kill the Indian to Save the Man.” This effort to kill our minds and our spirits failed, but not without first doing great damage. Indian languages are in retreat. Native students perform far below their potential. Federal paternalism has encouraged poor self-esteem for too many of our youth. Extraordinarily, the Native spirit has endured and, in recent years, grown stronger. Much of the harm inflicted upon Native peoples is being undone by Native people themselves - *and yet the resources needed to complete this great task can only be found with the originator of the harm – the Federal Government.*

It is a mark of America’s unique character that the anti-Indian policies of the past have been replaced with more humane policies. For example, Title VII of the No Child Left Behind Act/Elementary and Secondary Education Act provides: *“It is the policy of the United States to fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian Children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.”* (No Child Left Behind, Section 7101)

NIEA urges that Congress fulfill the promise made in No Child and stand strong for Native youth in the FY 2013 budget. If the Federal government starts cutting funding for Indian education initiatives, not only will it be violating its trust obligation to Tribal nations, but it will also be setting back Indian education for a generation, with an untold loss among our youth.

It is the experience of Tribes and Tribal educators that it would not be possible to preserve the traditions, language and culture of Native peoples against powerful and incompatible outside influences if the Federal government does not strongly support Tribal sovereignty and vigorously live up to its trust obligation. As tribes have assumed greater and greater control of the education of their youth - something that is a critical right of any sovereign to do in the interests of its people - we have seen Native youth and Native culture flourish. We ask that the Congress support Native dreams of self-sufficiency through education.

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