



NATIONAL INDIAN EDUCATION ASSOCIATION

Written Testimony of the National Indian Education Association for the Department of Education Tribal Consultation

June 19, 2018

INTRODUCTION

Founded in 1969, the National Indian Education Association (NIEA) represents Native students, educators, families, communities, and tribes. NIEA's mission is to advance comprehensive, culture-based educational opportunities for American Indians, Alaska Natives, and Native Hawaiians. As the premiere organization advocating for Native students, NIEA works to achieve educational equity and excellence and to ensure all students are provided a high-quality academic and culture-based education. We provide the following testimony for the Department of Education's tribal consultation on proposed changes to regulations to the Alaska Native Education Program (ANEP).

KANSAS CITY IS NOT THE RIGHT PLACE FOR THIS CONSULTATION

NIEA is deeply concerned that this consultation occurred in Kansas City, MO, over 2,000 miles from where ANEP will be implemented. We recognize that there would be an additional cost for consultation in Alaska, but believe strongly that communities without resources should not go to the location most convenient for the White House Initiative on American Indian and Alaska Native Education and the Department of Education (Department).

Instead, the Department should hold a tribal consultation in the community where this program will be implemented. Doing so is culturally appropriate, consistent with the purpose of ANEP, which is set forth in Section 6102 of the Every Student Succeeds Act (ESSA). That purpose is explicitly cultural, stating that the program's goal is to ensure students gain knowledge and understanding of Native communities and ensure teachers and educators gain culturally appropriate knowledge.

Holding a tribal consultation in Kansas City does not "ensure" that students and teachers are in a place to succeed, as required by statute. The timing of this consultation and the reality that some tribes are not members of NCAI further support NIEA's this view. Summer is when many tribes are fishing and hunting both for subsistence and according to cultural tradition. In fact, holding the consultation in Kansas City could reasonably be construed as an attempt to limit tribal involvement by requiring tribes, some of whom have quite limited resources, to fly to Kansas City when they would not plan on attending. The federal trust responsibility for Native children should not put the burden of consultation on the communities it seeks to serve, particularly when some of our communities are low-income.

THE QUESTIONS FROM THE DEPARTMENT FOR THIS CONSULTATION

The Save the Date for the consultation includes seven questions. We answer the questions despite our concern that the consultation as a whole is not set up to succeed, because it is being held so far away from the students who will be influenced by the program.

Question 1: Are there changes needed to the definition of Alaska Native Organization (ANO), as established under the 2017 Notice Inviting Application for the ANE program?

NIEA believes that the definitions set forth in the 2017 notice inviting applications for ANEP are appropriate. NIEA supported statutory changes enacted in ESSA to clarify that Alaska Native Organizations should in fact be made up of and led by Alaska Natives. Specifically, the definitions in subsections (A), (B), and (C) of Section 6306 of ESSA are much clearer than the more general categories (1) and (2) of Section 7306 of No Child Left Behind.

The definition of Alaska Native Organization in the notice inviting new applications for fiscal year (FY) 2017 tracks precisely the new statute and fits with the clearer, focused definition that will enable these grants to go to entities that are in fact Alaska Native. No changes are necessary or appropriate.

Question 2: What are some criteria the Department should consider in determining whether an entity has experience operating programs that fulfill the purposes of ANE program?

NIEA believes that prior and current experience operating an ANE grant is relevant, but not the only factor in who should be awarded grants. Several other factors should be considered, with the significant caveat that the statute clearly intended that Alaska Native organizations should receive the grants. In the past, some predominately non-Native organizations have received grants. Such entities should not presumptively be deemed qualified to receive the awards. Instead, awards should be determined based on the above definition of Alaska Native Organization, and the following factors:

- Prior and current programs operations in any of the content areas in the mandatory and permissible activities identified in Section 6304(a)(2) and Section 6304(a)(3) respectively;
- Prior or current funded grants that clearly identify the programs services as going to Alaska Native students; and
- Program evaluations of prior or existing programs that clearly identify the Alaska Native students served in any of the areas specified in the mandatory or permissible activities in Section 6304 of ESSA.

Question 3: What information or data should applicants submit to determine whether an entity is predominately governed by Alaska Natives? Is the 80 percent minimum that was established in the 2017 Notice Inviting Application for the ANE program sufficient?

For clarity, NIEA would like to note that this question relates only to entities that are not a tribe or tribal organization, whose governing boards are Alaska Native by the terms of their organizational documents. Applicants should be required to submit documentation established in

the 2017 Notice Inviting Application to demonstrate that 80 percent of the applicant's board is Alaska Native, along with a short description of the organization's history describing the Alaska Native involvement and leadership of the organization. Both are necessary to strictly interpret the statute to ensure that the control of the ANEP program is in the hands of Alaska Native people.

Question 4: What documentation should be submitted with the application to demonstrate that the applicant has received an official sanction or charter from an Alaska Native tribe or an ANO? Is the documentation required under the 2017 Notice Inviting Applications for the ANE program sufficient?

NIEA does not believe that the documentation currently required under the 2017 Notice is sufficient. Many tribes use resolutions, in contrast to sanctions or charters, for official business. A resolution from the tribe should be added as an option for documentation to require of applicants. The phrase official sanction is helpful, as is a charter, but the language can be strengthened by adding an option for a resolution or other action clearly approved by a tribe or Alaska Native Organization. NIEA supports adding the word resolution and leaving discretion completely to the tribe or Alaska Native Organization as to which form of documentation is most appropriate.

Question 5: What information should be included in a Memorandum of Understanding/ Agreement for group or partner applications?

Memoranda of Understanding should include clear input and involvement of the Alaska Native Organization in program design and implementation, including adequate financial compensation to the ANO for participation. Specifically, grant budgets should include specific funding for ANO participation. Further, when a Memorandum of Understanding is drafted, ANOs must be integrally involved to ensure that Alaska Native cultures, languages, histories, and values are a core component of the program.

Question 6: What priority(ies) would improve the overall delivery and quality of the projects established under the ANE program?

NIEA supports the priorities identified in Section 6304 of ESSA, which define ANEP through mandatory and discretionary lists that must and may be included. The program's purpose is to serve Alaska Native through initiatives designed for both short and long-term benefits. Recognize identity and cultural development as critical factors in student success must be a critical component of the projects.

Tribal leaders, ANO's, and Native education experts in Alaska have highlighted several priorities in NIEA's conversations and discussions this year and over the course of our work since our founding in 1970. Programs that address kindergarten readiness, improve Alaska Native graduation rates, integrate trauma informed care, and seek to analyze the full landscape of successes and challenges impacting Alaska Native students show promise. In addition, NIEA supports the following specific priorities: early childhood and parenting activities, student enrichment programs that focus on science, technology, engineering and math, programs designed to improve graduation rates of Alaska Native students, and programs that use a strong data collection element.

Question 7: What suggestions do you have for strengthening the ANE program, as authorized under Section 6304 of the ESEA?

NIEA's views on strengthening the program are rooted in the belief that self-determination in the priorities and programs that will work to improve outcomes is critical. Both this sovereignty-based tenant that self-determination is essential as well as the language regarding the purposes of ANEP outlined in Section 6304 support self-determination rather than Department supplemental priorities that are not part of the ANE program.

NIEA also has three specific suggestions for better administration of the program. Notices inviting applications should be aligned with the school year to enable full implementation in year one. The typical May award followed by the transfer of funds in September causes issues in hiring qualified teachers, among other administrative challenges. We recognize fixing this problem is partly based on the congressional appropriations schedule, but ask this be addressed so that the limited funding available can be used most effectively.

Second, grant awards should be allowed to carryover funding if the funding is being used for grant purposes. Multi-year expenditure of the funds is appropriate to help the limited funding go as far as possible, and we recommend they are allowed.

Finally, grants should provide flexibility to grantees with respect to procurement for grant partners that have been identified in grant applications. Requiring the procurement process for approval of grantees is not necessary and is burdensome in cases with prior partner approval.

CONCLUSION

Thank you for considering these comments for the record. NIEA is committed to the sustained, committed work that we must do on behalf of Alaska Native students attending across the state.