



NATIONAL INDIAN EDUCATION
Advancing Excellence for All Native Students

September 15, 2016

Ron Lessard
Chief of Staff
White House Initiative on American Indian and Alaska Native Education
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Re: The Native American Languages Program at the Department of Education

Thank you for the opportunity to provide testimony on the Department of Education's (the Department) tribal consultation on Native languages in the Every Student Succeeds Act (ESSA). 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. NIEA works to achieve educational equity and excellence to ensure that Native students are provided a high-quality academic and culture-based education that prepares them to succeed in life.

The Department published a flyer to provide notice of webinars on September 7th and 8th, 2016 that it indicated would serve as tribal consultations on the Department's Native American Language Program ("NAL@ED Program") created through Section 6133 of ESSA. The flyer requested comment on five questions regarding the NAL@ED Program by September 15th. The webinars on September 7th and 8th consisted of 20 questions that sought stakeholder opinions via a poll and predetermined questions. NIEA's comments address consultation and seek to answer the five questions in the Department's original flyer.

The NAL@ED Webinars Do Not Serve as Consultation

The Department's webinars conducted on September 7th and 8th failed to meaningfully seek input from Native education stakeholders. By the Department's own standards, the new requirements for consultation in ESSA, and the spirit of NAL@ED's grant program, which establishes the importance of Native American languages after years of advocacy and legislation, the webinars were not the real dialogue we expected. NIEA does not consider them to have fulfilled the requirement that consultation occur.

In 2000, President Obama issued Executive Order 13175, which outlined the federal government's commitment to tribal sovereignty. In 2011, the Department of Education built on this commitment by establishing its own [Consultation and Coordination with American Indian](#)

National Indian Education Association
1514 P Street, Suite B Washington, DC 20005
Ph. (202) 544-7290 Fax (202) 544-7293
Email: NIEA@niea.org
NIEA.org

[and Alaska Native Tribal Governments Policy](#). In 2015, ESSA added timely and meaningful consultation as a requirement for consultation under Title I and the standard for consultation under ESSA as a whole. We respectfully submit that the webinars met none of these three standards.

The webinars the Department hosted on September 7th and September 8th, 2016 asked participants to take a doodle poll and respond to each question posed in the poll from their respective chat boxes. Attendees' only option to engage in a "discussion" was through a chat box that led to pre-determined questions that the Department developed. Under the [Policy](#), consultation must allow for meaningful dialogue in formulating the Department's policies and programs that have tribal implications. Polling on questions that are predetermined is not meaningful dialogue. NIEA has provided the Department with key elements that constitute meaningful tribal consultation on several occasions. The most recent can be found in this [letter](#). We request that the Department reissue a call for consultation, one that will be conducted in the true spirit of ESSA to create foundation of meaningful engagement and consultation to lead the implementation of this new law.

To be clear, NIEA understands that in certain circumstances, webinars may be necessary, however, the manner in which these were conducted did not constitute meaningful consultation. The perspectives, questions, and thoughts of Native language experts are not effectively heard via a doodle poll. The perspective of these Native language experts and the real opportunity for tribes, Native advocates, and Native communities to offer thoughts will be critical to the sustainability of NAL@ED Program. We request that the Department seek to engage in meaningful consultation via an additional webinar that offers a real dialogue regarding Section 6133.

NIEA Recommendations and Answers to the 5 Questions Outlined in the Notice

Preserving Native languages is an indispensable part of tribal heritage and culture. Over the last century, tribal leaders and Native educators have advocated for greater emphasis on teaching Native students in their Native languages. NIEA membership has declared its support for strengthening and expanding Native language initiatives numerous times. NIEA has long supported this, and has specific resolutions passed by its membership in 2008, 2009, 2010, and 2011 on allowing the use of Native languages in testing, research, schools, and the critical links to Native culture and identity. In ESSA, we advocated extensively for the grant program under Section 6133 and are very enthusiastic about the opportunity that it presents.

NIEA offers our recommendations below, which align with the questions outlined in the Department's notice. In addition, NIEA wishes to recognize the expertise of the Native serving organization with the expertise on the topic, the National Coalition of Native American Language Schools and Programs (Coalition).

Questions 1 and 2: Give NAL@ED Applicants Credit for Experience, but Don't Require It

NIEA supports giving credit to applicants who have had success operating Native language programs both in schools and in non-school settings. However, NIEA does not support a NAL@ED requirement for such experience. Due to the limited funding of the NAL@ED Program, it is important that the applicants, at the very least, have taken concrete steps to

establish a Native language program in their respective schools or organizations. This foundation will increase the likelihood of success for the NAL@ED Program along with ensure the sustainability of this program. Experience in the development or operation of Native language programs should not be the only factor in considering applicants, but it should weigh significantly in determining if an applicant will be able to utilize NAL@ED funding successfully.

Question 3: Grantees Should Not Be Required to Add Title VI Funds to NAL@ED Grants

The purpose of the Indian Education (Title VI) is to “fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children.” This language provides a framework for the federal government to collaborate with tribes, and other entities to provide high quality, culturally relevant programs and services to Native children in order for them to reach their highest academic potential. Requiring that grantees use Title VI funding to supplement their grants under the language program would limit tribal sovereignty and negatively affect schools that do not have Native language programs. Moreover, programs such as cooperative agreements and the State Tribal Education Partnership under Title VI are important priorities that we believe should continue. Instead of restricting Title VI funds to NAL@ED Program grantees, NIEA recommends creating a new appropriations line item for the NAL@ED Program. Such a line item would acknowledge the priority that tribal leaders have advocated for years, and simultaneously avoid jeopardizing other critical programs that are funded through Title VI.

Question 4: Make Data Collection a Priority for NAL@ED

NIEA appreciates the Department’s question on long-term data collection on the NAL@ED Program, which we believe is critical to assessing and sustaining the program. Participants need to collect long-term data on students in order to identify, streamline, and share evidence based strategies with entities that may want to apply for NAL@ED in the future. However, NIEA acknowledges that some participants may not have the resources or capacity to collect data on the NAL@ED Program. In these cases, NIEA recommends that the Department provide technical assistance to participants, while they build their internal capacity as a way to ensure that in the interim, data is being gathered. NIEA supports long-term data collection on the NAL@ED Program. We defer to the experts at the Coalition on this issue, but suggest data collection for five years post completion.

Question 5: Don’t Require that NAL@ED Grantees be a Title VI Grantee or a Public School

NIEA believes placing a requirement on an applicant to be a grantee of Title VI funding or be a public school is unnecessarily restrictive and does not fit with the range of organizations that can help strengthen Native languages. Section 6133 includes a list of entities that may apply for the NAL@ED Program. These applicants include tribes, tribal colleges or universities, tribal education agencies, schools operated by the Bureau of Indian Education (BIE), Alaska Native Regional Corporations, and more. Limiting NAL@ED Program funding to public schools runs counter to the plain language in the statute.

One Final Recommendation: Allow Tribes Flexibility on Native Language Assessments

NIEA believes that assessments play a critical role in understanding how students are performing. Deference should be given to the applicants on Native language assessments

since the Department does not typically have expertise in this area. During the tribal consultation webinars, attendees voiced concerns regarding the Department prescribing a set of assessments for program participants. These comments are critical since Native languages are unique and some are exclusively oral. Creating one set of assessments will not adequately measure the success of all the participants. NIEA recommends that assessments for the NAL@ED Program be developed at the tribal community level, where the experts for specific Native language programs reside.

Conclusion

Through these comments on the NAL@ED program and the implementation of ESSA, NIEA looks forward to working alongside the Department to support Native languages and the only students that the federal government has a direct responsibility to educate—Native students. If you have any questions, please contact Ahniwake Rose, NIEA Executive Director, at arose@niea.org.

Sincerely,



Patricia L. Whitefoot
President