



NATIONAL INDIAN EDUCATION ASSOCIATION
Advancing Excellence for All Native Students

August 14, 2017

Director of the Information Collection Clearance Division
U.S. Department of Education
400 Maryland Avenue SW., LBJ Room 216-42
Washington, D.C. 20202-4537

***Re: Comment Request: Evaluation of the ESEA Title VI Indian Education
LEA Grants Program***

To Whom It Concerns/Ms. Yan:

Introduction

Thank you for the opportunity to provide comments in response to the U.S. Department of Education's (ED) request for input on the Evaluation of the Elementary and Secondary Education Act (ESEA) Title VI Indian Education Local Educational Agency (LEA) Grants Program. The National Indian Education Association (NIEA) represents Native students, educators, families, communities, and tribes. Our mission is to ensure that all Native students receive a high-quality academic and cultural education.

History of Federal Indian Education Legislation

NIEA believes a thorough understanding of the history of Indian education legislation and implementation is an essential prerequisite to consideration of this particular study. Formal education for Native people, until recently, has been a system of forced assimilation. Tribal leaders were forced to sacrifice Native ways of knowing and culture in the name of U.S. nation building.¹ Tribes recognize the value and importance of a formal education – with many negotiating to include education for Native youth in the treaties they signed. Unfortunately, the role and quality of that education has been shaped by the federal government, which has usually not valued Native language, culture, and history.

The first evaluation of the Federal system for education Native students occurred in 1928 – 50 years after the founding of the Carlisle Indian School. For much of its existence, Carlisle followed the philosophy of its founder, Captain Pratt, who infamously said “Kill the Indian and save the child.” The study, now known as the Meriam Report, criticized the condition of Indian schools, the care of the students, and the overarching philosophy of the schools' curriculum. The Report's central recommendation—made 89 years ago—was to incorporate key elements of

¹ For NIEA's summary of the history of Native education, see: *Native Nations and American Schools: The History of Natives in the American Education System*, 2016, which can be accessed at:

<https://drive.google.com/file/d/0BxoEEsWnwrneb0pILTOwcWF3SWM/view?ts=598ddd47>

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Indian life and culture into the curriculum. NIEA believes that recommendation was right then, and remains critical in the potential evaluation of Title VI's Indian Education LEA Grants Program.

More recently, Congress and the federal government have steadily moved in the direction of recognizing the importance of Native culture and language in federal programs designed to serve Native students. In 1972, the Indian Education Act established the Office of Indian Education and the National Advisory Council for Indian Education. The 1975 Indian Self-Determination and Education Assistance Act and subsequent Tribally Controlled Schools Act of 1988 allowed tribes to control and operate Bureau of Indian Education (BIE) schools themselves- the first federal promotion of self-determination in Indian education. Now as we teach students under the era of the Every Student Succeeds Act (ESSA), tribes and states have a new opportunity to coordinate efforts to provide a quality and culturally appropriate education.

The Purpose of the Indian Education Formula Grants in ESSA is Cultural Education

NIEA is concerned that an evaluation of the Formula Grant program may rely on a non-Native perspective on evaluation that is inconsistent with the cultural purpose of Title VI outlined in ESSA. Title VI, Part A, Section 6101 and 6102 provide the statement of policy and purpose of the program. These sections outline the Federal government's ongoing trust responsibility towards Indian children and the importance of cultural education, which distinguish Title VI from Title I. Section 6102 reads:

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.

This language highlights the importance of cultural education and the federal government's responsibility for Native education. Any evaluation of the program must fully consider how this language in Section 6102 elevates the need to provide culturally relevant services to Native students.

The purpose language in Section 6102 reinforces NIEA's conviction that any evaluation of the program must evaluate the effectiveness of the cultural benefits of Title VI funding, and not the narrower view of academic achievement that Title I has emphasized during the No Child Left Behind era:

It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities—

- (1) to meet the unique educational and culturally related

- academic needs of Indian students, so that such students can meet the challenging State academic standards;
- (2) to ensure that Indian students gain knowledge and understanding of Native communities, languages, tribal histories, traditions, and cultures; and,
- (3) to ensure that teachers, principals, other school leaders, and other staff who serve Indian students have the ability to provide culturally appropriate and effective instruction and supports to such students.

This three-part purpose of the program illustrates the view that NIEA has held since its founding in 1969: unless Native students see their culture respected in the American education system, the likelihood of academic progress is low. We reiterate the point as evaluation of Title VI is considered now: **Title VI is designed to address the unique cultural needs of Native students and any evaluation must be considered very carefully in light of that purpose.**

NIEA's Perspective on this Proposed Evaluation

Our perspective on this evaluation—which we found out about after the proposed members of the Tribal Working Group was formed—is inevitably influenced by the plain text of ESSA and the history of assimilation and evaluation described above. More recently, NIEA's former President of its Board of Directors, Dr. David Beaulieu, who also served as the first Assistant Secretary for Indian Education, published an analysis in 2008 that discusses Native education history from the 1990's through 2008.²

Dr. Beaulieu's article traces a critical truth that is applicable in this case: an evaluation of Native education conceived without tribal input follows a path of evaluation rooted in the view that assimilation is the best means to improve Native education. We reject that view.

Based on this analysis, we have significant concerns about this evaluation as a whole. While we do not prejudge the survey and best practice case studies that are under consideration, NIEA would be remiss if we did not register our concern with focusing on assessments without extensive consideration of the cultural purposes of Title VI. Accordingly, we outline four primary concerns about the study, along with brief recommendations on how to best address them.

1) Summative Assessments Are Neither Reliable Nor Appropriate Data for Evaluation of Title VI

The main educational purposes of Title VI are to provide Native students with basic educational needs, **but also** to provide for the unique educational and culturally related academic needs of these children. The words “but also” are emphasized because they shed light on how the Federal government seeks to fulfill its trust responsibility to Native students. It is critical to note and understand that the goal of improving the academic achievement for Indian children is not the sole responsibility of Title VI. Instead, increasing academic achievement for Native students is a shared responsibility between multiple Titles throughout ESSA. Title VI seeks to enhance that

² Beaulieu, David, “Native American Research and Policy Development in an Era of No Child Left Behind: Native Language and Culture during the Administrations of Presidents Clinton and Bush.” *Journal of American Indian Education*, Volume 47, Issue 1, 2008

coordination by ensuring the presence of culturally appropriate programs and services led by Native voices.

NIEA strongly cautions ED from collecting and/or utilizing data on the receipts of Title VI Formula Grants to assess how Native students are performing academically. The results of this study would be fundamentally flawed since the approximate amount of Title VI funding per student is \$262.³ Expecting that Native student assessment scores will show significant measurable improvement based on \$262 in 2017 dollars would be foolish—even if the purpose of Title VI was solely academic achievement, which it clearly is not.

2) The Native Students Identified in Title VI are Not the Same as those Tested via Title I

Under Title VI, schools are required to verify Native students' eligibility status in order for those students to have access to programs and services that comes through Title VI. This process is done via 506 forms. Under Title I, states must assess all of their students in each major racial and ethnic group. States have interpreted Section 1111 of Title I to mean that Alaska Native and American Indian students must be assessed and data must be reported on Native students as a group.

The definition of Native students in Title I as different from the one in Title VI means that evaluating Title VI using assessment data presents serious problems from a data and analytical standpoint. More specifically, the number of students that identify and select the Alaska Native/American Indian category in a particular state may not equal the total number of Native students identified to receive Title VI support throughout the state. Under Title VI, schools and districts must verify students' eligibility through evidence of tribal enrollment. As a result, there has and will be a fundamental disconnect in how Native students are both being identified and counted under Title VI and Title I.

3) Why is this Evaluation Being Conducted? Why was there no consultation with tribes?

NIEA understands that part of ED's responsibility is to evaluate the effectiveness of the educational programs that the agency supports. However, as the national convening organization for Native education, NIEA is unclear as to why ED is conducting this study and at this time.

NIEA is also very concerned that tribes were not engaged in consultation, which is required under the Department's Tribal Consultation Policy.⁴ Under the guidance in that policy, the standards for what should raise consultation on page 3 specifically identify regulatory changes or other actions that significantly impact Title VI as worthy of consultation. This evaluation of Title VI certainly meets that standard, so we ask why tribes were not engaged in consultation prior to the beginning of this work. To be clear, representatives on the Tribal Working Group are certainly beneficial, but notifying the tribes in addition is a distinct, and critical step that is necessary to recognize tribal sovereignty. In addition, we submit that notifying the National Council on Indian Education (NACIE) before this evaluation was begun would have been appropriate.

³ This estimate is based on the Fiscal Year 2016 appropriation of \$100,381,000) divided by the sum of the number of students in Title VI public schools and the number of students in BIE schools (382,533).

⁴ See the Department of Education's Tribal Consultation Policy, accessed 8/14/2017 via the Office of Indian Education's website at: <https://www2.ed.gov/about/offices/list/oese/oie/index.html>

Beyond our two above questions on the timing of the study and consultation, NIEA has several specific questions we would like clarity on. We understand that these questions are answered partially in the binder provided to the Tribal Working Group under the purpose section, but we would ask for more detail and request your understanding as we believe that this evaluation very likely has a more specific purpose that the Office of Indian Education and the Policy and Program Studies Service should be able to share. Our specific questions are:

1. What is the legal basis—and specific statute—that requires this evaluation of Title VI?
2. What is ED’s specific rationale for not pursuing consultation in this case?
3. What prompted ED to pursue an evaluation study of Title VI Indian education LEA grants program?
4. Will ED share the content of this study to NIEA before distribution?

NIEA respectfully request that ED provide answers to these questions as background and as a courtesy that we hope is understandable in light of the troubled history of studies that tribal nations and Native students have undergone.

4) How will the Results of this Study Be Used?

NIEA is also very concerned about how ED will utilize the data it collects on Title VI grantees. The length of the history of mistrust between the Federal government and Native communities is chronicled in our *Native Nations and American Schools: The History of Natives in the American Education System* report, which is referenced above. That summary, almost all would acknowledge, is only a brief but fair outline of the history. Based on that history, NIEA is cautious of how this evaluation could be used. Accordingly, we would like to reiterate: any data collected on students that benefit from Title VI should be not correlated with academic assessments alone: assessment and academic achievement is the responsibility of multiple Titles under ESSA.

Recommendations

Despite our concerns, NIEA recognizes that analyzing/evaluating Title VI could—under the right circumstances—be used to share best practices and encourage Native control of Native education. We offer several recommendations that should not be interpreted in any way as NIEA giving its blessing—which we would not be able to do until we have seen a copy of the proposed evaluation prior to its finalization. Instead, these recommendations should be considered as ideas for how an evaluation should be conducted if ED moves forward with the study.

1) Request that ED Fully Include Tribal Working Group (TWG) Recommendations

ED has convened the Tribal Working Group (TWG) either in lieu of tribal consultation and notification of NACIE and tribal-serving nonprofit engagement. NIEA views it as essential that the TWG fully review and have the independent ability to analyze this review of Title VI before it is considered valid. NIEA believe it is reasonable for the TWG to see a copy of the draft report that ED considers before ED finalizes it and/or believes it is useful for any purpose. We believe this is critical because of the concerns regarding the evaluation we have raised below. Fundamentally, Title VI has a different purpose from Title I, and, therefore, the questions used to evaluate Title VI should be carefully considered by the TWG before this study is considered by

ED or any stakeholders. Simply put, Native insight into Title VI is fundamental and must be considered first—not later or as an afterthought.

2) Request to Review ED’s Draft of this Title VI Evaluation

NIEA would have viewed an invitation for tribal organizations and Native communities to be part of the development of this evaluation from the beginning of the process rather than at the end as consistent with consultation that ED and the federal government should follow. Tribal inclusion is critical to ensuring that this evaluation is not only accepted by Native communities, but also to ensure that Native communities will benefit from it. Since that has not been the case, a tangible recommendation that NIEA provides to ED moving forward is to fully include Native evaluators and NIEA as the evaluation moves forward. Language and cultural misconceptions can serve as real barriers to maximizing participation of this evaluation. Native evaluators who both come from and understand Native communities will have a deeper connection to the grantee recipients, which may serve as a way to increase participation rates.

Moreover, as the national convening organization on Native education, NIEA represents tribal governments and Native students and communities. Since this evaluation will be conducted on the very individuals that NIEA serves and advocates on behalf of, NIEA requests to view a copy of the evaluation in its entirety. It is paramount that a reputable and well respected organization in Indian Country has the opportunity to vet the evaluation before it is distributed.

3) Evaluation of Indian Parent Committee

NIEA believes that ED’s direction in which they wish to take the survey is incomplete. We recommend spotlighting how Indian Parent Advisory Committees (PACs) function, since we regularly hear of instances where Title VI funding is being used generally to help Non-Native students at a school without the approval of the parent committee or with coerced or minimally explained approval. Conducting an initial assessment of PACs would enable ED to identify existing implementation practices. This type of data collection would allow ED to identify services, resources, and strategies applied by PACs for greater inclusion.

Conclusion

With these concerns and through these recommendations on the Department’s proposed Title VI evaluation, NIEA looks forward to working to improving Title VI and driving federal resources to 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,



Ahniwake Rose
Executive Director

CC: Bernard Garcia, Acting Director, Office of Indian Education
Monique Chism, Acting Deputy Assistant Secretary for Elementary and Secondary Education