



**NATIONAL INDIAN EDUCATION**  
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 advance comprehensive educational opportunities for American Indians, Alaska Natives, and Native Hawaiians throughout the United States.

**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.<sup>1</sup> 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

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<sup>1</sup> 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/0BxoEEsWnwrneb0pILTQwcWF3SWM/view?ts=598ddd47>.

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Report's central recommendation—made 89 years ago—was to incorporate key elements of 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 of 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 6101 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.

The language above from the Policy Section of Title VI—Section 6101—highlights the importance of cultural education and the federal government's responsibility for Native education. Any evaluation of the program must fully consider how the language in Section 6101 elevates the need to provide culturally relevant services to Native students, along with the subsequent part of Title VI, which gives specific meaning to the educational and culturally related needs of Indian children.

Section 6102, which is titled "Purpose," provides the specific meaning of the policy:

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.

The first two purposes define two basic culture-based education approaches for Native students in schools. The first focuses on providing culturally appropriate instruction to Native students so they may accomplish challenging state academic standards. The focus is on pedagogy that resonates to culturally related teaching and learning styles, which will positively impact the achievement of Indian children, and involves everything in the school; even courses that offer culture as a subject need to be taught in a culturally appropriate way.

The second purpose focuses on the curriculum that is provided Native students within the school. Integration of history, culture, and heritage into the curriculum is critical to the success of Native students in the classroom and beyond. This can be accomplished by inclusion of this information into existing curriculum, unique courses focused on Indian history, culture, and heritage, and specific courses and/or experiences provided specifically to Indian students.

The third purpose is to provide for the professional development needs of the educational staff and others that serve Indian students so that they can provide culturally appropriate and effective instruction and support to Native students. Any one of these purposes can be accomplished through a combination of resources as delineated on the comprehensive plan with the requirement that there be no supplanting.

### **NIEA's Initial Views on the Proposed Evaluation**

Based on the above analysis, NIEA believes the proposed study of Title VI has two major areas of concern. (1) The study as mentioned does not understand the policy and purposes of the statute and (2) the study focuses too narrowly on the specific activities funded by grant funds as well as retaining the bias toward achievement related measures.

With respect to purpose of the statute, the policy and purposes statements show that the overall intention of Title VI is to impact all of the educational experiences of Native students in schools so that instruction is informed by their unique culturally related academic needs. The requirements of the comprehensive plan in Section 6114 (b) further defines how each of the three purposes in Section 6102 must be aligned to local and state plans so that the unique culturally related academic needs of Native students can be met. Only when the comprehensive plan is fully integrated and implemented over time would it be possible to begin to consider the impact of culturally related education upon the academic achievement of Indian students.

With respect to program funds, the funds appropriated for Title VI formula grants are for specific programs designed to enhance or add to the education program specifically for Native students. As was considered at the Tribal Working Group (TWG) meeting, Title VI program funds used

for a culturally appropriate tutoring, can be considered to supplant existing funding, since Title I funds could just as easily be used to provide for the very same services and retain its culturally appropriate approach. NIEA is concerned that the purpose of Title VI is currently being subverted: the program funds are being used to supplant Title I funding and not to provide the comprehensive program to improved outcomes for Native students that is set forth in Title VI itself.

### **NIEA’s Specific Concerns**

In addition to our initial views on the evaluation, which are outlined above, we also have five specific concerns about the evaluation that we identify below. We identify these specific concerns separately, because they each reflect particular points that NIEA wishes to make now, which could, on their own, prevent the evaluation from being beneficial for Native education.

While we do not prejudge the evaluation tools 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 five primary concerns about the study, along with brief recommendations on how to best address them, starting with our concerns about using assessments.

#### **1) Summative Assessments Are Inappropriate 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 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.<sup>2</sup> 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 through evidence of tribal enrollment 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. Under Title I, Native students are determined as self-

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<sup>2</sup> 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).

reported for purposes of assessments. 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.

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.

### **3) Lack of Consultation**

NIEA is also very concerned that tribes were not engaged in consultation, which is required under the Department's Tribal Consultation Policy.<sup>3</sup> 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 do not qualify as consultation.

In addition, we submit that notifying the previously seated National Advisory Council on Indian Education (NACIE), prior to the evaluation was begun, would have been appropriate. NACIE's express purpose, as outlined in Section 6141 of ESSA is to advise the Secretaries of Education and Interior on Native education. As we understand it, this study was begun when the previous NACIE Board was seated – thus their direct involvement in the study should have been included.

### **4) Why is this Evaluation Being Conducted?**

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 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

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<sup>3</sup> 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>.

nations and Native students have undergone. Our views with respect to the evaluation as a whole will certainly be impacted by the answers to the above questions.

### **5) 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 approving of the study. 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 Recommendations**

ED has convened the TWG to “provide expert advice at critical points during the study. In particular, the TWG will be asked to review and provide feedback on the study design, data collection instruments (a grant coordinator survey and set of interview protocols), and the final report.”<sup>4</sup>

While we reiterate that this group does not replace the need for direct tribal consultation, we do urge ED to utilize the TWG as technical experts and to engage them as such. NIEA recommends that the TWG be provided a copy of the draft report before ED finalizes it and/or believes it is useful for any purpose. NIEA views it as essential that the TWG fully review and have the independent ability to analyze the study before it is considered valid. Additionally, if the recommendations of the TWG are not incorporated into the final report, NIEA requests that ED provide justification for their exclusion. 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 ED’s consultation policy. 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, we request that ED fully include Native evaluators and NIEA as the evaluation moves forward.<sup>5</sup> Language and cultural

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<sup>4</sup> Email to TWG Members dated April 24<sup>th</sup>, 2017.

<sup>5</sup> NIEA specifically requests that the TWG be able to evaluate the tools to be used for this evaluation, including the proposed survey and the potential case study.

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, 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 Committees**

NIEA believes that the direction of the survey is incomplete. A stated requirement of Title VI is the development of an Indian Parent Advisory Committee (PAC). We recommend reviewing whether LEAs are following this requirement and spotlighting how PACs functioning overall within schools. NIEA regularly hears of instances where Title VI funding is being used generally to help Non-Native students at a school without the approval of the PAC or with coerced or minimally explained approval. With this critical funding being pulled away from the students it was meant to served, evaluating the PAC's is an essential component of any evaluation of Title VI as a whole.

### **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](mailto: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