



NATIONAL INDIAN EDUCATION ASSOCIATION
Advancing Excellence for All Native Students

November 13, 2017

Secretary Betsy DeVos
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

***Re: Comment Request: Proposed Supplemental Priorities and
Definitions for Discretionary Grant Programs***

Dear Secretary DeVos:

Thank you for the opportunity to provide comments in response to your Proposed Supplemental Priorities and Definitions for Discretionary Grant Programs (the Supplemental Priorities). The National Indian Education Association (NIEA) works with the Department of Education (the Department) on discretionary grant programs through the Office of Indian Education and, depending on the year and grant cycle, through other programs that impact Native students. NIEA also works with the Department on an ongoing, annual basis on two formula grant programs—the Indian Education Formula Grant Program in Title VI, and the Impact Aid program in Title VII, of the Every Student Succeeds Act (ESSA).

NIEA has significant concerns with respect to the first priority due to the absence of recognition of tribal sovereignty. We also believe tribes should be included in the second priority on innovation and efficiency, as well as throughout the Supplemental Priorities. We see merit, however, in priorities three through eleven. NIEA would like to work with the Department on including tribes in all eleven priorities, since tribal sovereignty and Native leadership in Native education is essential to effectively improving outcomes for Native students.

The Federal Trust Relationship and Discretionary Grant Programs

Since our creation in 1969, NIEA's work has focused on making sure the federal government upholds its trust responsibility to tribes. Established through treaties, federal law, and U.S. Supreme Court decisions, this relationship includes a fiduciary responsibility to provide parity in access and equal resources to American Indian and Alaska Native students, regardless of where they attend school. So, as we look at the discretionary grant programs, it is important to state that under the federal trust responsibility in the field of Indian education, the Administration, along with Congress have a responsibility to provide sufficient funding for education for federally-recognized Indian tribes and to ensure that such funding is used to serve Native students.

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Sovereignty with Respect to the Education of Native Students

With respect to each of the 11 priorities, NIEA is concerned that tribal sovereignty is not recognized. Tribal sovereignty is the inherent ability of each tribal nation to determine how to use the resources that the federal government provides for Native students. This principal—first outlined in Article I Section 8 of the Constitution—was subsequently strengthened and confirmed through federal case law and numerous treaties with Native nations. Tribal nations have inherent sovereignty over their land and people, which is consistent with the focus on local control in the Supplemental Priorities.

Proposed Priority 1—Empowering Families to Choose a High-Quality Education that Meets their Child’s Unique Needs

NIEA is concerned that Priority 1 mentions local control, states, and Indian students, but does not mention tribal sovereignty and the importance of Native control of Native education. We believe this is an omission that could be corrected, consistent with Priority 1, but we want to emphasize that this is a significant concern for our membership.

Resolution 2016-008, “Opposition to Voucher Programs at Bureau of Indian Education Schools” identifies the lack of consultation with tribes, removal of funding, and the absence of research that vouchers for private schools improve education for Native students as concerns. Although the Supplemental Priorities would not impact BIE schools and instead would govern grants to public schools serving Native students, NIEA has similar concerns about using federal funding for private schools. We are committed to tribal consultation as a necessity in choice innovation. The history of the boarding school era where tribes and Native parents were shut out of the education of their own children necessitates a continued commitment to tribal sovereignty. Our commitment to tribal leadership, sovereignty, and consultation requires that we raise these concerns about Priority 1. We request that the Department engage with NIEA and tribal leadership to seek to address these concerns.

Proposed Priority 2—Promoting Innovation and Efficiency, Streamlining Education with an Increased Focus on Improving Student Outcomes, and Providing Increased Value to Students and Taxpayers

NIEA is open to evidence-based improvements in Native education, but does not support experimentation with respect to Native students without investing in schools to ensure such improvements are likely to succeed. For far too long, Native students have been the subject of experimentation, as shown by the Native boarding schools which sought to remove and assimilate Native students, disrespecting Native families and tribal sovereignty. Priority 2 identifies states, districts, schools, and institutions of higher education as entities that should be empowered to do things differently. NIEA knows tribes and tribal leaders who are innovating through charter schools and creative, culture-based approaches to classroom education. We request that tribal leaders be included in this priority.

NIEA also must note that in our 47 years of work in Native education, states and school districts have often not served Native students well. Innovation for its own sake is not in the best interest of Native students and some oversight with respect to grant funding is critical to efforts to serve Native students. As a result, we are concerned that Priority 2 may be too broad with respect to regulations that may help protect Native students.

Priorities 3 Through 11—Flexible Paths, Citizenship Education, Students With Disabilities and Gifted Students, STEM Education, Literacy, Effective Instruction, Economic Opportunity, School Climate, and Military Families.

NIEA recognizes the Department’s thorough efforts in crafting Priorities 3 through 11. We have no objections to the priorities and share several of them. Specifically, Proposed Priority 3’s focus on flexible paths to obtaining knowledge and skills and Priority 5’s recognition of the importance of better serving students with disabilities both resonate with NIEA’s work on behalf of Native students. Career focused education is critical for Native students and Native students with disabilities are a significant part of NIEA’s work.

The other identified proposed priorities are also important to NIEA and we believe they could each be laudable goals. For each of them, however, we are concerned that the laudable goals appear not to consider tribes and Native students, in many cases. We believe that inclusion of tribes, consultation with tribal council members, and consideration of Native students is a logical step in many cases, so we ask that the Department review Proposed Priorities 3 through 11 and add tribal leadership where states and localities are listed. Doing so would take the ideas in each case and make them good ideas for Native students as well.

Conclusion

With these concerns and through these recommendations on the proposed Supplemental Priorities, NIEA looks forward to working to improve outcomes for 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,

A handwritten signature in cursive script that reads "Jolene Bowman".

Jolene Bowman
President