

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION



ANNUAL REPORT

FY 2005 – 2006



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I. Legislative Authority and Functions

The National Advisory Council on Indian Education (NACIE or the Council) is authorized by section 7141 of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. 7471; and governed by the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. II.

The Council, whose 15 members are appointed by the President and serve as Special Government Employees (SGEs), was established with the following purpose and functions:

- To advise the Secretary of Education (Secretary) concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under Title VII, Part A of the ESEA, with respect to which the Secretary has jurisdiction and that includes Indian children or adults as participants or that may benefit Indian children or adults;
- To make recommendations to the Secretary for filling the position of Assistant Deputy Secretary of Education and Director the Office of Indian Education (Director) whenever a vacancy occurs; and
- In accordance with Executive Order 13336 (EO) on American Indian and Alaska Native Education, Section 2(b), the Interagency Working Group may consult with the members of the Council for the purpose of obtaining information and advice concerning American Indian and Alaska Native Education.

Secretary Paige swore in 13 of the present Council members on April 30, 2004 (one member has since resigned due to an employment conflict). The Office of Indian Education (OIE) has been working with the White House, Office of Presidential Personnel, to fill vacancies. The Assistant Secretary of the Office of Elementary and Secondary Education swore in two new members on May 22, 2006.

Currently, the Secretary has appointed the acting Director of the Office of Indian Education (OIE) to serve as the Designated Federal Officer (DFO) of the Council. On May 23, 2006, the Council elected new officers. Lori Quigley (New York) now serves as the Chairperson and Donna Brown (North Dakota) serving as the Vice Chair.

II. Activities and Accomplishments

The Council conducted five meetings during the 2005-2006 year:

1. October 6, 2005, Denver, CO
2. January 20, 2006, Teleconference
3. March 21, 2006, Teleconference
4. May 23, 2006, Washington, DC
5. June 22, 2006, Teleconference

The Council had a quorum (eight members) at each meeting. An OIE contractor, New West Technologies, compiled summaries of the minutes of each meeting, and they are available via the OIE web page at www.ed.gov.

Indian education programs and legislative information directly related to Council function and activities has been the primary focus of the meetings. Information relating to accountability and funding, and programmatic efforts and how they fit into the No Child Left Behind (NCLB) legislation with focus on American Indian and Alaska Native students were presented and discussed.

Under Charter provisions, the Council established three subcommittees, to better coordinate and manage topics and material in order to make substantive recommendations to the Secretary:

- 1) NCLB Work Group, chaired by Donna Brown (North Dakota), focused on NCLB and its impact on American Indian and Alaska Native children who attend public schools or schools supported by the Bureau of Indian Affairs (BIA), Department of Interior; and
- 2) Tribal Consultation Work Group, chaired by Greg Anderson (Oklahoma), focused on Executive Order 13175: Consultation and Coordination with Indian Tribal Governments in relation to the Department of Education (Department) tribal consultation plan; and,
- 3) Business Work Group, co-chaired by Kathy Hopinkah-Hannan (Illinois) and Mickey Parish (Michigan) focused on the process for addressing concerns that are brought to Council members in consultation with the public, conducting of NACIE business, Charter renewal and clarifications, and the filling of Council vacancies.

III. Priorities and Recommendations

As a result of discussions and information presented to the Council during the 2005-2006 reporting year (July 1, 2005 to June 30, 2006), the Council has established the following priorities and recommendations:

1. **Reauthorization of the No Child Left Behind (NCLB) legislation.** On April 6-7, 2005, the Secretary of Education convened a forum, in cooperation with the Secretary of the

Interior, in response to the President's Executive Order 13336 on American Indian and Alaska Native Education. Prior to the conference, roundtables were held throughout the United States, to gather feedback on the implementation of NCLB. The Council reviewed the concerns presented and is making the following recommendations:

Closing the Achievement Gap

Recommendations: Address the reliability of the data and collection methods that federal, state, and local government agencies use to assess Adequate Yearly Progress (AYP). Encourage flexibility so that culturally relevant variables (i.e., language, culture) can be included in programs serving AI/AN students. Allow for alternative methods of assessment that utilize both qualitative and quantitative measures.

Per the National Indian Education Study, American Indian/Alaska Native children score significantly lower in mathematics and reading; the Council supports fully funding all budget requests including:

1. The **Johnson O'Malley program**, which services over 90% of AI/AN students that are not in the BIA school system.
2. **Math Now for Elementary and Middle Schools**, which are programs are modeled after the existing Reading First programs.
3. **Indian Education Formula grants**, which are funded to local educational agencies to supplement the regular school program, helping AI/AN children improve their academic skills, raise their self-confidence, and participate in enrichment programs and activities that would otherwise be unavailable.
4. **Special programs for Indian Children**, which support an estimated 23 demonstration grants that focus on readiness programs for 3 and 4 year old AI/AN children and college preparatory programs to improve competency and skills in academic subjects such as mathematics and science.
5. **Professional Development grants**, which support initiatives such as the **American Indian Teacher Corps** that trains Indian individuals for teaching positions in schools with concentrations of Indian students, and the **Administrator Corps**, designed to train AI/AN individuals at the master's degree level to become new school administrators in Indian communities.

The purpose of **Title VII** programs in NCLB is to meet the educational and culturally related academic needs of American Indian, Alaska Native, and Native Hawaiian students. The funds for these programs are the only sources of funding that specifically address the cultural, social, and linguistic needs of Indian students. At current levels, these programs are under funded and the proposed levels would only provide approximately \$204 per student (Indian Education grants).

The Council proposes an increase to \$250 per student. This increase in funding could be used to motivate students, support improved academic performance, promote a positive sense of identity and self, and stimulate favorable attitudes about school and others. Native students are more likely to thrive in environments that support their

cultural identities while introducing different ideas. The importance of such environments cannot be overstated.

Title I programs support approximately 90% of the 500,000 AI/AN children who attend public schools throughout the nation. AI/AN students, who attend these schools, often reside in economically deprived areas and are impacted by programs for disadvantaged students. The President's FY 2007 budget request fails to fully fund the Title I low-income school grants program, which is critical to closing achievement gaps. Level funding of \$12.7 billion still leaves Title I programs at more than \$7 billion below the authorized level for NCLB. Outside of fully funding Title I, the Council advocates for an increase that would at least keep pace with inflation so that none of the grants would receive a de facto decrease.

Teacher Training and Development

Recommendations: Facilitate increased training and professional development so that AI/AN paraprofessionals and teachers can more readily meet the NCLB "highly qualified" requirements. Develop teacher and paraprofessional cultural responsiveness through collaboration with mainstream and tribal colleges and universities. Encourage the integration of Native American culture into the curricula and flexibility with certification options.

More AI/AN students are entering post secondary programs. Many of these students are under prepared and require remediation and developmental classes. Tribal Colleges and Minority Serving Institutions help bridge the gap and prepare students to complete post secondary degrees. The Council supports an increase in funding for Tribal Colleges and Minority Serving Institutions. Tribally Controlled Postsecondary Vocational and Technical Institutions, Strengthening Tribally controlled Colleges and Universities and Strengthening Alaska Native and Native Hawaiian Institutions programs should receive a 10% increase in funding rather than the decreased funding that is being proposed.

The Council supports flexibility in the use of federal funds by states and local education agencies so that they may focus more on improving teacher quality. Under the mandates of NCLB ("all students are taught by quality teachers"), States are expected to ensure that effective teachers teach all children. The Council supports strengthening K-12 math and science education through math and science partnerships for states to work with institutions of higher education to improve instruction and curriculum.

Traditions, Language and Culture

Recommendation: Actively promote the continuity of tribal traditions, language, and culture through three strategies: support parental and family involvement in K-12 schools; provide training for parents and key school personnel on culture and language content and policies; and encourage tolerance of diversity in schools, particularly those serving Indian children.

On tribal lands across the country, Native language classes, including highly effective immersion programs, are turning the tide against the crisis of Native language loss and the threat this loss poses to native cultures. Immersion schools yield two dramatically positive results:

1. The schools successfully teach Native language fluency to the next generation of tribal communities, thus preserving the language; and
2. the tribal students in immersion programs perform substantially better academically, including on national tests, than native students who have not gone through such programs.

The Administration for Native Americans (ANA) administers a grant program in support of Native American languages, which in FY 2004 provided \$3.9 million in language grants to 33 native grantees, with only 10% funding immersion programs. The Council supports expansion of funding to support existing immersion schools and programs. *The Council calls for an increase of \$6 million to the ANA for existing and start-up immersion programs over and above the \$3.9 million currently allocated for native language programs, for a total language budget of \$9.9 million.*

AI/AN students learn when their curriculum is relevant to their world and their learning styles are identified. The Council supports the expansion of demonstration grants that target the development of culturally relevant pedagogy and the implementation of AI/AN learning styles into the curriculum.

Scientifically Based Research Methods

Recommendation: Facilitate opportunities that support broad-based collaboration and provide direct funding to train AI/AN researchers and support partnering of tribal institutions with tribal colleges and universities on research projects, in a concerted effort to illuminate Indian education research issues and successful models and practices.

Funding in the OIE National Activities budget has been diverted for the past three fiscal years. The Council has been made aware of the expense and the results of over sampling National Assessment of Education Progress (NAEP) data resulting in the National Indian Education Study. In the past, National Activities funding has been made available to fund approximately three to four ongoing AI/AN education research projects, where none are taking place currently. The Council supports funding dedicated to the support of AI/AN education research initiatives.

The Council supports initiatives for states and school districts to ensure that more technology funds reach the classroom. Funds should be targeted to high-need schools, including rural schools and schools serving high percentages of low-income students. Funding should include installation of technological infrastructure in remote localities where inadequate access currently exists.

Local, Tribal, State, and Federal Collaboration

Recommendations: Encourage local, tribal, state, and federal entities to collaborate and communicate on issues directly related to the education of AI/AN children. For over one year, the work sessions of the Federal Interagency Working Group on AI/AN education, in accordance with the EO 13336, have ceased. Work with the OIE Director to reconvene the Interagency Workgroup established through the Executive Order 13336 to discuss the work plan outlined in the Conference Report from the April 6-7, 2005 National Indian Education conference.

2. **Department of Education Tribal Consultation.** As a result of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, all Federal agencies, including the U.S. Department of Education, were required to develop a tribal consultation plan. On April 30, 2004, President Bush signed Executive Order 13336, American Indian and Alaska Native Education. Under EO 13336, an Interagency Working Group was established to oversee the implementation of this order. As stated in Executive Order 13336, “the Interagency Working group may consult with representatives of American Indian and Alaska Native tribes and organizations, in conformity with Executive Order 13175 of November 6, 2000, and with the National Advisory Council on Indian Education (NACIE). Any such consultations shall be for the purpose of obtaining information and advice concerning American Indian and Alaska Native education and shall be conducted in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation.” Proper consultation is an ongoing process that leads to information exchange, respectful dialogue, mutual understanding, and informed decision making. Currently, the Council believes that the Department has been negligent in upholding the tribal consultation requirement.

Recommendation: Establish a two-way exchange of information between the U.S. Department of Education and Tribes/Tribal Organizations in order to meet the goal of successful tribal consultation that supports a collaborative effort to listen, understand, consider and respect each other’s opinions, beliefs and needs.

As noted above, establishing and improving communication between the Department and tribal organizations is consistent with Executive Order 13175. EO 13175 provides that Federal agencies establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes. The EO requires federal agencies to consider the impact on and consult with tribal governments when promulgating regulations that impose “substantial direct compliance costs” or that have “tribal implications and that preempt tribal law.”

The United States Department of Education approved its consultation plan in December 2001; however, the plan has not been implemented for tribal consultation. Therefore, the Department has not consulted with American Indian or Alaska Native tribes as mandated by Executive Order 13175 and Executive Order 13336.

The Department's failure to meet its obligation to consult with American Indian and Alaska Native tribes is very troubling. Because the plan has never been implemented, it is difficult to ascertain the plan's effectiveness to properly consult with tribes. After reviewing the plan, it appears to meet the Orders' minimum criteria; however, the current document could benefit from expanded detail in the areas of process, coordination and identifying objectives and roles. Additionally, the inclusion of additional steps (Conflict Resolution, Annual Report, etc.) could assist the plan to thoroughly and effectively carry out the tasks and commitments as intended in a timely and coordinated manner.

During the past year, one area that would have benefited from consultation was the Department's decision to move the OIE from the Office of the Deputy Secretary (ODS) to the Office of Elementary and Secondary Education. The Council believes that this move should have been preceded by tribal consultation.

The two main roles of OIE are to 1) manage approximately \$120 million per year in grant money assigned to OIE, and 2) to coordinate all programs and policies throughout DOE and other agencies affecting AI/AN students (approximately \$1.8 billion per year). We believe that moving OIE has interfered with the purposes of the Office, specifically, oversight of all money coming from Congress to the DOE for Indian children under offices other than OIE, and advising the Secretary on Agency activities that impact the education of AI/AN children (largely, the Interior through Bureau of Indian Affairs-operated OIEP).

The Council believes that the initial purpose of the moving OIE to ODS was to empower OIE with the authority to oversee other offices within the Department of Education and other agencies impacting AI/AN education such as Title I, Title III, Impact Aid, Safe and Drug Free Schools, as they impact AI/AN students. In sum, we believe that the relocation of OIE has not assisted the work of the Interagency Working Group on AI/AN Education in implementing the Executive Order 13336, as assured by the Secretary.

Specifically, we believe that the first step in re-establishing Department of Education tribal consultation may be to identify the attributes of a successful consultation between tribes and the Department. The primary attributes of an effective consultation could be identified by thoroughly defining areas such as Policy, Philosophy, Objectives, Roles, Guidelines, Process, Conflict Resolution, Review, Summary, and Annual Reporting. One way to implement more successful consultation would be through the formation of a NACIE Task Force/Work Group. The Council is willing to assume the primary task of researching and suggesting ways to consult with tribes so that consultation is a process that seeks, discusses and considers the views of others, seeking agreement with them on how AI/AN education issues should be identified, considered, and managed.

The first initiative of the group might be to review consultation plans of other agencies such as the Department of Health and Human Services, Department of Interior, Department of Housing and Urban Development and the Environmental Protection Agency to aide in the revision of the DOE plan. The Department of Health and Human Services currently has a very effective and successful Tribal Consultation Plan in place and implemented. The group could collaborate with these agencies and identify, recommend and incorporate methods and standards from active and successful plans into its consultation policy revision.

Additional efforts could also be made to gather information from interested organizations and individuals through surveys, regional meetings and other effective methods that suggest successful protocols, techniques and special circumstances affecting Indian tribes throughout the United States. This review would enable the Department to comply effectively with EO 13175.

- 3. NACIE Charter Renewal.** The current charter for NACIE expires on April 18, 2007. The Council has expressed concern regarding the potential operating efficiencies and effectiveness of [MSOffice1] Council due to lack of established bylaws and the lack of clarity of certain operational procedures and structure in the existing charter, as well as the budgeting process for Council.

Recommendation: Revise the charter in order to enable the Council to more effectively execute its duties, given the significance of their role in advising the Secretary concerning the funding and administration of programs which impact and/or benefit AI/AN children or adults, and making recommendations for filling the position of Director of OIE whenever a vacancy occurs.

Disclaimer: The Council is a Federal advisory committee created by Congress. The Council provides advice to the Secretary of the U.S. Department of Education concerning the funding and administration of any program, including any program established under Title VII, Part A of the Elementary and Secondary Education Act of 1965, with respect to which the Secretary has jurisdiction and that includes American Indian and Alaska Native (AI/AN) children or adults as participants or that may benefit AI/AN children or adults. The Council also submits an annual report to Congress not later than June 30 on its activities and may include any recommendations that the Council considers appropriate for the improvement of Federal education programs that include AI/AN children or adults. The findings and recommendations of the Council do not represent the views of the U.S. Department of Education.

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

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