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Testimony of Dr. Willard Sakiestewa Gilbert, President
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before the
Subcommittee on Early Childhood, Elementary and Secondary Education
On Challenges Facing Bureau of Indian Education Schools in Improving
Student Achievement
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Chairman Kildee and members of the Subcommittee on Early Childhood, Elementary, and Secondary Education, thank you for this opportunity to submit testimony on behalf of the National Indian Education Association with regard to Bureau of Indian Education (BIE) and challenges facing BIE schools in improving student achievement.

Founded in 1969, the National Indian Education Association is the largest organization in the nation dedicated to Native education advocacy issues and embraces a membership of nearly 4,000 American Indian, Alaska Native and Native Hawaiian educators, tribal leaders, school administrators, teachers, elders, parents, and students.

NIEA makes every effort to advocate for the unique educational and culturally related academic needs of Native students. NIEA works to ensure that the federal government upholds its responsibility for the education of Native students through the provision of direct educational services. This is incumbent upon the trust relationship of the United States government and includes the responsibility for ensuring educational quality and access. Recognizing and validating the cultural, social and linguistic needs of these groups is essential in guaranteeing the continuity of Native communities. The way in which instruction and educational services are provided is critical to the achievement of our students to attain the same academic standards as students nation-wide.

There are only two education systems for which the Federal government has direct responsibility: the Department of Defense Schools and Federally and Tribally operated schools that serve American Indian students through the Bureau of Indian Education (BIE) within the Department of the Interior. The federally supported Indian education system includes 48,000 elementary and secondary students, 29 tribal colleges, universities and post-secondary schools. Approximately 10% of Native children attend BIE schools while the remaining 90% attend public schools supported through the Department of Education.

NIEA has heard the concerns of our membership regarding the lack of assistance and funding provided to schools operated and funded by the Bureau of Indian Education, and as a result, scheduled five field hearings this summer throughout Indian country. The purpose of these NIEA facilitated sessions has been to gather information on the challenges faced by BIE schools, including how NCLB is being implemented, and additional concerns of BIE schools impacting the achievement of their students. Testimony from the witnesses focused on the following topics: 1) NCLB and Adequate Yearly Progress, 2) Indian school construction and facilities maintenance, and 3) student transportation. In addition, testimony regarding services and funding for the Johnson O'Malley Programs and Tribal Colleges was offered. These sessions served as a focused follow up discussion to the eleven field hearings NIEA held in 2005 about the implementation of NCLB in Indian Country. The sessions in 2005 were the basis for the legislative language NIEA has drafted to be considered for inclusion in the bill to reauthorize the No Child Left Behind Act (NCLB.)

This past June, the GAO issued the report, *Bureau of Indian Schools: Improving Interior's Assistance Would Help Some Tribal Groups Implement Academic Accountability Systems* pursuant to a request of Chairman Miller, Chairman Kildee, Representative Grijalva, and Representative Herseth Sandlin. This report highlighted many challenges that BIE schools, tribal communities, and Indian students face under the Act and raised questions about the effectiveness of the BIE and the Department of Education in providing educational services to Indian students.

The following is a summary of the concerns NIEA has heard throughout the past few years about BIE schools and student achievement. NIEA has provided recommendations for some of the concerns raised, including legislative amendments to NCLB, which were provided to the Committee in March of 2007.

Stronger Cooperation between the Departments of Education and Interior
Executive Order 13096, signed by President Bush in April of 2004, directed the Departments of Education and Interior, among other Federal agencies, to work together to “assist American Indian and Alaska Native students in meeting the challenging student academic standards of the No Child Left Behind Act of 2001 (Public Law 107-110) in a manner that is consistent with tribal traditions, languages, and cultures.”¹

The United States Department of Education funds the education of Native American students by operating Native American-targeted programs and setting aside funds within general education programs, which are transferred to the BIA for BIE managed schools. Often, that is where the interaction between the two Departments ends, despite the directive given in the Executive Order for the agencies to work together. Given the limited capacity of BIE and the larger pool of expertise in education and increasing academic achievement that is available at the Department of Education, NIEA encourages a stronger relationship between the two Departments. More specifically, NIEA would like for the Department of Education to serve as technical advisors to the BIE Regional and Education

¹ Executive Order No. 13096, American Indian and Alaska Native Education (April 30, 2004).

Line Offices, when the expertise is not available at the BIE, on issues of improving academic achievement and in the development of tribal standards and assessments.

Adequate Yearly Progress

For the past three school years, only 30% of BIE schools made the AYP goals established by the state in which the school was located. Department of Education statistics indicate that student performance at BIE schools is lower than for students in public schools. In response to the lack of performance at BIE schools, the Department of Interior has launched the Improving Indian Education Initiative to help BIE students meet AYP under NCLB. NIEA commends BIE for this effort and hopes to see some positive gains in BIE student academic achievement as a result. However, NIEA remains concerned about the applicability of state standards to Native children attending BIE schools given the limited, if any, opportunities Tribes have had in the development of these standards.

Tribal communities are in the best position to determine the needs and the appropriate assessment methods for Native students. NIEA's amendments to NCLB provide for the ability of a consortium of tribes, BIE funded schools, or school boards to apply for a waiver of the definition of AYP. As the law is currently written, a single tribe, school board or BIE funded school may apply for a waiver, however, considering the significant amount of time and resources needed to successfully submit an application, very few tribes, if any, have been able to submit an application on their own.

Additionally, NIEA supports a structured process with BIE that provides deadlines for the BIE to respond to tribes that submit an application to waive the definition of AYP, in addition to an appeals process. As reported in the GAO report "one tribal group alerted BIE of its intent to use an alternative assessment as early as October 2006 but did not receive any response from BIE until June 2007 and technical assistance was not provided until November 2007."²

Other challenges that have prevented tribes from applying for an alternative definition of AYP include the lack of technical assistance provided to the tribe from the BIE, the lack of funding available to develop the standards and assessments, and the lengthy commitment needed to navigate the process complete the application.³ NIEA supports a defined process that provides a timeline in reviewing the applications for alternative definitions of AYP and collaboration between the Department of Education and BIE to provide technical assistance to tribes seeking to apply and develop an alternate definition of AYP.

Increased Collaboration among Tribes, States, and the Federal Government

For Tribes that are unable to develop their own standards and assessments and must use the state definitions, states should be required to involve tribes located within their boundaries in the development of state plans to allow for the coordination of activities under the

² United States Government Accountability Office, (June 2008). *Bureau of Indian Education Schools, Improving Interior's Assistance Would Help Some Tribal Groups Implement Academic Accountability Systems*, p. 8.

³ Ibid, p. 5.

different titles of NCLB. As documented in the GAO Report, more often than not, states develop the standards without consultation and inclusion of the tribal communities although the BIE and “almost all of the 174 BIE schools have adopted state definitions of AYP”.⁴

NIEA seeks stronger emphasis in encouraging states, tribal governments and communities, neighboring areas, and the federal government to work together in developing the educational standards and related assessments under Title I.⁵ NIEA’s proposed amendments to the NCLB provide for the inclusion of tribal input in the development of the various state, local educational agency, and school plans. NIEA supports the strengthening of NCLB to provide resources for collaboration among tribes, states, and the Federal Government to allow for increased opportunities in the development of standards that recognize the cultural backgrounds of Native students. NIEA supports assessments that consider the cultural and educational needs of Native students. Additionally, NIEA’s amendments promote coordination of programs across Titles I and VII to foster better programming to meet the unique cultural, language, and educational needs of Indian students

Culturally Relevant Programs

Current research demonstrates that cultural education can be successfully integrated into the classroom in a manner that would provide Native students with instruction in the core subject areas based upon cultural values and beliefs. Math, reading, language arts, history, science, physical education, music, cultural arts and other subjects may be taught in curricula instilled in Native traditional and cultural concepts and knowledge.

Title VII of NCLB recognizes that Native children have unique educational needs due to their cultures and backgrounds. The purpose of Title VII⁶ of NCLB is to provide culturally based educational approaches for Native students. These approaches have been proven to increase student performance and success as well as awareness and knowledge of student cultures and histories. In general, these approaches include recognizing and utilizing native languages as a first or second language, pedagogy that incorporates traditional cultural characteristics and involves teaching strategies that are harmonious with the native culture knowledge and contemporary ways of knowing and learning. It also includes curricula based upon native culture that utilizes legends, oral histories, songs and fundamental beliefs and values of the community. In addition, it involves parents, elders and cultural experts as well as other community members’ participation in educating native children utilizing the social and political mores of the community.⁷ Part A of Title VII deals specifically with the education of American Indian and Parts B and C address the educational needs of the Alaskan Native and Native Hawaiian students. NIEA has

⁴ United States Government Accountability Office, (June 2008). *Bureau of Indian Education Schools, Improving Interior’s Assistance Would Help Some Tribal Groups Implement Academic Accountability Systems*, p. 4.

⁵ NIEA Amendments to the No Child Left Behind Act, March 2007.

⁶ Title VII of the No Child Left Behind Act incorporates the Indian Education Act of 1972.

⁷ Demmert, W. G. & Towner, J. C. (2003). Final Paper: A Review of the Research Literature on the Influences of Culturally Based Education on the Academic Performance of Native American Students. *Northwest Regional Educational Laboratory*, Portland OR

proposed amendments to focus the purpose of Title VII to include both academic achievement through culturally based education and to increase the cultural and traditional knowledge base of Indian students.

Part A of Title VII contains provisions for American Indian Education and provides supplemental grants to the BIE and local educational agencies, tribes, Native organizations, educational organizations, and others to provide programs and activities to meet academic, cultural, and language needs of Native children. Native learning is strengthened through instruction that integrates traditional cultural practices with basic skills and embraces the knowledge of the environment, Native fine arts and crafts, leadership, character education and citizenship.

The National Indian Education Study 2007: Part II reported that there is a higher percentage of students in high density of Indian student population schools that receive instruction on topics related to native cultures as compared to students in low density Indian student population schools⁸. Students attending BIE schools fall within the high density schools definition. Additionally, the report goes on to state that higher percentages of BIE school students than public school students had teachers who reported integrating Native culture and history into their curriculum. “For example, higher percentages of fourth- and eighth graders in BIE schools than in public schools had teachers who said the integration of AI/AN culture and history into their curriculum occurred “almost every day.”⁹ The Study also noted that “teachers’ reliance on AI/AN content or cultural standards for reading/language arts instruction was reported for higher percentages of BIE school students than for their peers in public schools.”¹⁰

NIEA believes that the BIE should expand upon the culturally based instruction currently taking place in BIE schools by promoting stronger integration of Native cultures and languages into the curriculum. Given that Native children are performing at far lower academic achievement levels than other categories of students, Title VII programs should be expanded and strengthened to ensure that No Child Left Behind also means No Culture Left Behind through the use of culturally based education to meet the unique educational needs of Native students. NIEA’s proposed amendments to Title VII provide for more emphasis on meeting the unique cultural, language and educational needs of Indian students through enrichments programs that supplement other NCLB programs and will result in academic achievement of Indian students

Native Language Programs

Native language immersions programs have fostered higher academic achievement and interest in learning from American Indian, Alaska Native, and Native Hawaiian students. Studies have shown that while Native American children and youth have often experienced stagnant educational achievement, those in Native language immersion programs have

⁸ National Indian Education Study 2007: Part II

⁹ National Indian Education Study 2007: Part II at p. 39.

¹⁰ National Indian Education Study 2007: Part II at p. 40.

demonstrated remarkable promise in educational achievement.¹¹ National studies on language learning and educational achievement indicate the more language learning, the higher the academic achievement. Native language immersion programs provide a proven method to enable Native students to achieve academically in the areas of math, reading, and science as well as in other content areas. For many Native students living in rural and isolated areas, subjects that are taught in non-cultural pedagogies and removed from a tribal perspective are often lost on Native students due to the non-relevance of the materials to their environment, lives and identities.

The National Indian Education Study 2007: Part II reported that 16% of fourth grade BIE students had teachers who used Native languages frequently during instruction compared to one percent of the public school students.¹² NIEA is pleased that BIE students are receiving some exposure and instruction in Native languages and supports stronger Native language curriculum at BIE schools. NIEA believes that BIE schools could be the models for successful integration of Native language immersion programs and culturally based education if given the opportunity and support needed to implement these specific types of programs.

Indian School Construction

In 1997, GAO issued a report “Reported Condition and Costs to Repair Schools Funded by the Bureau of Indian Affairs” that documented an inventory of repair needs for education facilities totaling \$754 million. In 2004 the backlog for construction and repair was reported to have grown to \$942 million.

More recently, in March of 2008, The Consensus Building Institute (CBI) with the U.S. Institute for Environmental Conflict Resolution issued a *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs- Funded Schools Facilities Construction*. CBI reported in their findings of the conditions of the schools that “many schools are ill equipped for the information age”, “security needs and related funding are major sources of concern for many schools”, “aging or poor design may lead to a substandard educational environment”, “operation and maintenance needs are not matched by operation and maintenance annual funding”, and “overcrowding is a major concern and a source of accelerating physical decline.”¹³ Additionally, the report stated in the findings that the Facility Management Information System (FMIS) doesn’t sufficiently allow for educational programming needs, including libraries, adequately sized classrooms and gymnasiums, wiring to allow for technological needs and partitions and noise reducing walls.¹⁴

The amounts over the past few years have failed to fund tribes at the rate of inflation, once again exacerbating the hardships faced by Native American students. Further, the funding

¹¹ Pease-Pretty on Top, J. (2003). Native American Language Immersion: Innovative Native Education for Children & Families. *American Indian College Fund*: Denver, Colorado.

¹² National Indian Education Study: Part II, p. 38.

¹³ The Consensus Building Institute with the U.S. Institute for Environmental Conflict Resolution (March 5, 2008). *Final Convening Report: Negotiated Rulemaking Committee on Bureau of Indian Affairs – Funded School Facilities Construction*, pp 16-18.

¹⁴ *Ibid.*, p. 19.

that has been allocated over the past few years will not keep pace with the tremendous backlog of Indian schools and facilities in need of replacement or repair. The Mandaree Day School located in Mandaree, North Dakota has taken out a loan in the amount of \$3 million to cover the costs of building a new education facility. The Mandaree Day School could not wait any longer for the funding from the Department of Interior to build their school. The loan only covers the facility structure and the 210 children attending this school have no playground and the teachers do not have a paved parking lot.

The purpose of education construction is to permit BIA funded schools to provide structurally sound buildings in which Native American children can learn without leaking roofs and peeling paint. It is unjust to expect our students to succeed academically, if we fail to provide them with a proper environment to achieve success.

Indian Education Facilities Improvement and Repair Funding

The continued deterioration of facilities on Indian land is not only a federal responsibility; it has become a liability of the federal government. Old and exceeding their life expectancy by decades, BIA schools require consistent increases in facilities maintenance without offsetting decreases in other programs, if 48,000 Indian students are to be educated in structurally sound schools.

Of the 4,495 education buildings in the BIA inventory, half are more than 30 years old and more than twenty percent (20%) are older than fifty years. On average, BIA education buildings are 60 years old; while, 40 years is the average age for public schools serving the general population. Sixty-five percent (65%) of BIA school administrators report the physical condition of one or more school buildings as inadequate. Although education construction has improved dramatically over the last few years, the deferred maintenance backlog is still estimated to be over \$500 million and increases annually by \$56.5 million. As noted by the House Interior Appropriations Subcommittee in its Committee Report accompanying the FY 2006 Interior appropriations bill, "much remains to be done." Of the 184 BIA Indian schools, 1/3 of Indian schools are in poor condition and in need of either replacement or substantial repair.

School Transportation

Student transportation impacts student attendance and the ability of school districts to offer educational programs. BIE provides extensive student transportation required of largely rural and widely dispersed school service populations and according to the FY 2009 Department of Interior (DOI) Budget Request, Departmental Highlights, during the current school year, BIE-funded school buses will travel nearly 15 million miles, often over gravel or dirt roads. As reported by a witness during the session NIEA held in Rapid City, South Dakota, the Little Wound School, located on the Pine Ridge Reservation in South Dakota, runs thirteen bus routes each day during which the buses travel on average of 1,575 miles per school day totaling 267,750 miles annually for "regular bus runs not including activity runs."¹⁵ An additional seven buses run each day for the after school activities for athletic trips, field trips, activity runs, medical trips, etc. totaling 106,083 miles per year.

¹⁵National Indian Education Association Hearing on Transportation Cost Funding, July 10, 2008, Rapid City, South Dakota, testimony of Janice Richards, President, Little Wound School.

The FY 2009 DOI Budget Request notes that the condition of roads often traveled by BIE-funded school buses increases the wear and tear on vehicles, requiring more routine maintenance and more frequent replacement of vehicles by BIE compared to other school systems and further notes that the remote location of the BIE schools also results in higher fuel costs relative to other locales.

The cost of fuel is steadily rising and transportation costs is a major concern for a number of school districts that serve American Indian and Alaska Native students and if assistance is not available through federal or state resources, the high cost of transporting students in rural areas may be offset by funding that could potentially be used for instructional purposes. Little Wound School has reported that a shortfall of \$170,411.15 for transportation funding “has had a tremendous affect on our budget.”¹⁶

Johnson O’Malley Funding

President Bush continues to attempt elimination of Johnson O’Malley (JOM) grants and NIEA and the Johnson O’Malley Association Board urge Congress to continue supporting these programs crucial to Indian students.

JOM grants are the cornerstone for many Indian communities in meeting the unique and specialized educational needs of Native students who attend public schools. Many Indian children live in rural or remote areas with high rates of poverty and unemployment. JOM helps to level the field by providing Indian students with programs that help them stay in school and attain academic success. Even though JOM funding is extremely limited due to BIA budget constraints, it is being used across the country in a variety of basic as well as innovative ways to assist Indian students to achieve academically. JOM funding provides vital programs designed to build self-esteem, confidence, and cultural awareness so that Indian students may develop and mature to become productive and contributing citizens within their communities and society respectively. For example, JOM funds help students achieve and succeed by providing such services as: eyeglasses and contacts, resume counseling, college counseling, culturally based tutoring, summer school, scholastic testing fees, school supplies, transition programs, musical instruments, Native youth leadership programs, student incentive programs, financial aid counseling, fees for athletic equipment and activities, caps and gowns, art and writing competitions, etc. Other programs administered by the federal government, such as NCLB funding at the Department of Education, do not allow funding for these types of activities.

Under-funding for JOM is exacerbated by certain factors. In 1995, a freeze was imposed on JOM funding through DOI, limiting funds to a tribe based upon its population count in 1995. The freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth. NIEA urges that the JOM funding freeze be lifted and that other formula-driven and head count-based grants be analyzed to ensure that tribes are receiving funding for their student populations at a level that will provide access to a high quality education.

¹⁶ Ibid. at p. 3.

Although the purpose of JOM funding is to support Indian students in public schools, due to the transitory nature of Indian students between BIEA and public schools, we find that JOM programs do have an impact on the education of many of the Indian students attending BIE schools.

Tribal Education Departments

As mandated in many treaties and as authorized in several federal statutes, the education of Indian children is an important role of Indian tribes. The involvement of tribes in their children's educational future is key to the educational achievement of Indian children. Tribal Education Departments (TED) provide tribes with the opportunities to become actively involved in the education of their children. The authorization for TED funding was retained in Title VII, Section 7135 of the No Child Left Behind Act. Despite this authorization and several other prior statutes, federal funds have never been appropriated for TEDs. The use of TEDs would increase tribal accountability and responsibility for their students and would ensure that tribes exercise their commitment to improve the education of their youngest members.

TEDs are authorized for funding at the BIE as well as the Department of Education under NCLB, but have never been funded. TEDs develop educational policies and systems for Indian communities that are attuned to the cultural and specialized academic needs of Indian students. TEDs partner with the federal and state governments and schools to improve education for tribal students. NIEA is requesting that both DOI and DOE fund tribal education departments.

Conclusion

NIEA is committed to accountability, high standards and the rigorous education of our children and will continue to hold the BIE accountable for ensuring BIE students reach their highest academic potential with an education that considers their cultures, languages, backgrounds, and identities. We believe that with good faith collaboration that we can provide our children with an education that honors their Native identity while simultaneously preparing them for successful futures by providing them the opportunity to incorporate into the curriculum their rich cultural heritage, language, traditions, and native ways of knowing.

As part of its efforts on reauthorization, NIEA will continue to perform as much outreach as possible so that Congress can better understand the needs of Native students, thereby allowing student needs to be addressed during reauthorization of NCLB. I speak to you on behalf of all our Native children and the need to ensure their successful academic achievement. We, NIEA's membership, are their voice and as President of NIEA, I am obligated and privileged to advocate for their future.

NIEA thanks the Committee for its tremendous efforts on behalf of Native communities. With your support we are hopeful that we can begin to provide the programs and funding for education that Native communities deserve. On behalf of the National Indian Education Association, I would like to thank Chairman Kildee for championing on behalf of all Native students and their successful educational achievements. Kwakwha!