

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

ANNUAL REPORT

FY 2006 – 2007

**NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION
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2006-2007**

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 Director of 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.

Former Department of Education Secretary Rod 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 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 Chair and Donna Brown (North Dakota) serves as the Vice-chair.

II. Activities and Accomplishments

The Council conducted two meetings during the 2006-2007 year; a closed teleconference meeting on December 12, 2006, and an open meeting on May 2, 2007, in Washington, D.C. Quorum (eight members) was established at each meeting. An OIE contractor, New West Technologies compiled a summary of the minutes of the May 2, 2007, meeting, which are available via the OIE web page at www.ed.gov.

Indian education programs and legislative information directly related to Council function and activities were 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.

As provided for by the NACIE charter, 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: co-chaired by Carol Lee Gho (Alaska) and Lennie Pickard (Virginia) 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 the 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. Higher Education Group: Chaired by Cynthia Lindquist (North Dakota) focused on issues pertinent to institutions and programs servicing the higher education needs of American Indian/Alaska Native college students.

III. Priorities and Recommendations

As a result of discussions and information presented to the Council during the 2006-2007 reporting year (July 1, 2006-June 30, 2007), the Council has established the following priorities and recommendations:

1. **Reauthorization of the No Child Left Behind Legislation.**

NACIE has reviewed documentation provided from sources including but not limited to: the Department of Education's *Blueprint for strengthening the No Child Left Behind Act*; the National Indian Education Association's proposed amendments to the Elementary and Secondary Education Act; the National Education Association's top legislative priorities for ESEA; and a Letter to NACIE from Tribal Education Departments National Assembly (TEDNA) dated April 12, 2007.

Recommendations:

- a. **Growth Models:** NACIE recommends states be allowed to use growth models to measure individual progress towards grade level proficiency.
- b. **Title VII, Part A - Indian Education:**
 - **Federal Changes in Title VII for Carry-over Funds:** NACIE recommends that the Secretary seek legislative authority to allow carry-over monies from one fiscal year for up to 12-months for Title VII – Indian Education, just as it is for other federal educational programs.
 - **Indian Preference:** NACIE recommends that AI/AN Preference continue to be a major weight in selecting employees for Title VII.
- c. **Budget Items:** Per the National Indian Education Study (NIES) conducted by the National Center for Education Statistics (NCES), American Indian/Alaska Native children score significantly lower than white and Asian students but above African American and Hispanic students at 4th and 8th grade in mathematics and reading, the Council supports fully funding all budget requests including:

Alaska Native Education Equity in Title VII of NCLB (\$33.9 million), and *Strengthening Alaskan Native and Native Hawaiian - Serving Institutions* (\$11.8 million). The President's FY 2008 budget proposes eliminating funding for these programs. NACIE recommends these programs be reinstated in 2008 and beyond.

Exchanges with Historic Whaling and Trading Partners. This program has been proposed for elimination. These programs have focused on the needs of our children and the proposed elimination of these programs would cause a negative disparate impact on Native students.

Title VII, Part A – Indian Education. The funds for these programs are the only sources of funding that specifically address the unique cultural and academic needs of American Indian/Alaska Native students.

Title I Programs. 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.

Johnson O'Malley Funding. For FY 2008, NACIE urges Congress to not only restore JOM, but also increases funding by \$7.6 million for a total of \$24 million. The President's justification for eliminating JOM—that there are other programs in the government that could provide these services—is incorrect. JOM is not duplicative of other government programs.

Scholarships and Adult Education: NACIE urges Congress to fully restore Scholarships and Adult Education to its original level. The BIE has requested a decrease in scholarship funding of \$5 million. NACIE recommends BIE scholarship fund be fully funded in 2008 and beyond.

- d. **Teacher Training and Development:** NACIE recommends increased training and professional development so that AI/AN paraprofessionals and teachers can more readily meet the NCLB "highly qualified teacher" requirements; develop teacher and paraprofessional cultural responsiveness through collaboration with mainstream and tribal colleges and universities; and, encourage the integration of Native American culture into the curricula and flexibility with certification options.
- e. **Highly Qualified Teachers in Small Schools:** NACIE recommends NCLB legislation retains the requirement that such teachers are fully certified (not on an emergency, temporary, or provisional basis) and hold at least a bachelor's degree.
- f. **Language, Traditions and Culture:** NACIE recommends 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 AI/AN children.
- g. **Scientifically Based Research:** NACIE recommends the facilitation of opportunities that support broad-based collaboration and provide direct funding, to train AI/AN researchers; as well as support partnering of Indian tribes, Indian organizations, and tribal colleges and universities on research projects, in a concerted effort to illuminate Indian education research issues and successful models and practices. These partnerships should be considered a priority for Title VII national activities fund dissemination. The national activities item should be increased by \$4 million to \$8 million as proposed by NIEA. Additionally, NACIE recommends that NCES invite one of the members of the Council to serve on the Technical Review Panel of the NIES.
- h. **Local, Tribal, State and Federal Collaborations:** NACIE recommends that local, tribal, state, and federal entities collaborate and communicate on issues directly related to the education of AI/AN children; and, 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.
- i. **Insure Safe, Secure, Healthy, Learning Environments:** NACIE recommends that funding be made available for school to implement social services and programs so students will be better equipped to handle social issues.

2. Tribal Consultation

As a result of Executive Order 13175 (November 6, 2000), all Federal Agencies, including the U.S. Department of Education, were required to develop a tribal consultation plan. The Executive Order mandated the plans for the purpose of obtaining and disseminating information and seeking advice concerning American Indian and Alaska Native education. The consultation process was established as a process that would lead to information exchange, respectful dialogue, mutual understanding, and informed decision making. The U.S. Department of Education approved its consultation plan in December 2001. However, NACIE feels that the plan had not been implemented as mandated by Executive Order 13175 and Executive Order 13336.

In March 2007, the U.S. Department of Interior Bureau of Indian Education and the U.S. Department of Education announced their intent to conduct six regional consultation sessions planned in accordance with the Bureau of Indian Affairs Government-to-Government Consultation Policy. Authority and responsibility for the Department of the Interior and the Department of Education to consult with Indian Country on education issues is provided in 25 USC 2011 and Executive Order 13175.

In April 2007, consultation meetings were conducted by the U.S. Department of Education and the U.S. Department of the Interior in the designated locations. The issue was to find legislative alternatives that reconcile the perceived conflicting Congressional policies reflected in 1) the Elementary and Secondary Education Act, the Individuals with Disabilities Education Act, and the McKinney-Vento Act; and in 2) both the Tribally Controlled Schools Act and the Indian Self Determination and Education Assistance Act. Tribal leaders, school board members, tribal community members and other interested parties participated in the meetings.

The U.S. Department of Education's participation was a positive first step in meeting its mandate to consult with American Indian and Alaska Natives. However, in the opinion of the Council, this effort does not meet the intent of the Executive Order 13175. The Department of Education's obligation is to 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."

Recommendations:

- a. Develop effective collaboration methods while gathering information from representatives of American Indian and Alaska Native organizations. This information could be used in identifying valid issues, concerns, and recommendations from stakeholders that could be prospective consultation

topics. There were many issues that could have been included in the recent consultation process if adequate time and information were made available.

- b. Develop strategies to establish an effective method of disseminating information regarding consultation dates, schedules and topics. The March 2007 notice of consultation was not received by interested organizations and individuals who had a vested concern in the issues. The DOE should strongly encourage participation by all interested parties.
- c. Establish a time for respectful consideration of tribal views. The DOE should strive to initiate consultation as early in the decision process as is reasonably practicable. While the appropriate time to initiate consultation may vary depending upon the nature and the circumstances of the proposed action, DOE staff should plan sufficient time to allow for meaningful discussion and consideration of tribal views.
- d. Develop strategies to locally improve federal, state, and tribal communication and coordination on education issues that affect Native American and Alaska Natives.
- e. Establish a regular consultation schedule that enables DOE to consult with Indian tribes prior to taking any actions that may significantly or uniquely affect them and fosters improved communication with tribal governments to respond effectively to tribal education concerns.

3. Higher Education

The Higher Education sub-committee consisted of Council members who work directly with Tribal Colleges and Universities. The following recommendations are representative of their research and work on tribal college and university initiatives with regard to American Indian/Alaska Native students:

Recommendations:

- a. **Increase the Authorized Institutional Operations Funding Level:** Tribal Colleges and Universities request that the Committee include an increase to the per Indian student authorized level for operations to "\$8,000 adjusted annually for inflation," in its bill regarding the reauthorization of the Tribal College Act.
- b. **Forward Funding:** No additional language is needed as the authority already exists in the Tribal College Act to forward fund the institutional operations of eligible TCUs. Tribal Colleges and Universities request that the Committee recommend that the Appropriations Committee and the Administration work to secure the one time appropriation needed to achieve forward funding in fiscal year 2009.
- c. **Authorization for Tribally Controlled Postsecondary Career and Technical Institutions:** The Board of Directors of the American Indian

Higher Education Consortium (AHEC) approved a resolution on March 23, 2007, supporting the inclusion of a new title to the Tribal College Act to authorize institutional operating funds for UTTC and NTC provided that it would have no negative impact on funding the tribal colleges currently receiving institutional operating funds from the Department of the Interior. Tribal Colleges and Universities urge the Committee to work with the presidents of our two affected institutions in determining the details of language and implementation of the proposed new title.

- d. **Expand and increase authority for the Tribal Colleges and Universities' Title III-A Developing Institutions Program** – The Tribal Colleges and Universities request that the Committee include the language contained in Sec. 303 of S. 1614, reported from the Senate HELP Committee in the 109th Congress to formula fund the Tribal Colleges' 5-year developing institutions grants and also retain the critically needed construction grants that are competitively awarded on an annual basis, in its bill or any recommendations sent to the Senate HELP Committee regarding the reauthorization of the Higher Education Act.

4. Director of the Office of Indian Education vacancy

The director position has been vacant for nearly two years and must be filled as soon as possible. NACIE recommends the Department of Education make filling this position a priority with a goal of filling the position by October 1, 2007. Without leadership (i.e. position filled) Indian country has been left out of the loop regarding policy and legislative changes. There has been a significant breakdown in communications between tribal leaders and educators and the Dept of Education. The seriousness of education disparities in Indian country is unfortunately 'being left behind' and the gap is greater instead of diminishing. The position fills a critical role in functioning as a liaison for the Department and Indian country.

NACIE respectfully requests a written response to these recommendations or face-to-face meeting from the Secretary of Education by September 1, 2007.

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 AI/AN children or adults. The findings and recommendations of the Council do not represent the views of the U.S. Department of Education.

Appendices

- A. NACIE Membership Contact Information**
- B. NACIE Charter**

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Chairperson

Dr. Lori V. Quigley

Salamanca, NY

Seneca Nation of Indians of New York

Vice Chairperson

Dr. Donna L. Brown

Grand Forks, ND

*Turtle Mountain Chippewa Tribe of
North Dakota*

Mr. Gregory Anderson

Eufaula, OK

Creek Tribe of Oklahoma

Mr. Michael C. Parish

Brimley, MI

Bay Mills Indian Community of Michigan

Mr. Robert Chiago

Tempe, AZ

Navajo Tribe

Mr. Lennie L. Pickard

Sterling, VA

*Chiricahua-Warm Springs Apache Tribe of
Oklahoma*

Carol Lee Gho

Fairbanks, AK

Inupiaq Eskimo of Alaska

Ms. Joyce A. Silverthorne

Pablo, MT

*Confederated Salish and Kootenai Tribes of
Montana*

Ms. Kathy Hopinkah Hannan

Wheaton, IL

Ho-Chunk Nation Tribe of Wisconsin

Ms. Virginia Thomas

Okmulgee, OK

Muscogee Creek Nation of Oklahoma

Ms. Michelle D. Henderson

Missoula, MT

Fort Belknap Assiniboine Nakota Nation of Montana

Dr. Linda Sue Warner

Lawrence, KS

Comanche Tribe of Oklahoma

Dr. Cynthia A. Lindquist-Mala

Fort Totten, ND

Spirit Lake (Dakota) Nation of North Dakota

Dr. Arthur Zimiga

Rapid City, SD

Oglala Lakota of South Dakota



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

CHARTER

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Authority

The National Advisory Council on Indian Education (Council) is authorized by section 7141 of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. 7471. The Council is governed by the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. II, which sets forth requirements for the formation and use of advisory committees.

Purpose and Functions

The Council --

1. Advises the Secretary of Education 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;
2. Makes recommendations to the Secretary for filling the position of the Director of Indian Education whenever a vacancy occurs; and
3. Submits to the Congress, not later than June 30 of each year, a report on the activities of the Council, including any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.
4. In accordance with section 2(b) of Executive Order 13336, at the request of the Executive Order Interagency Working Group, may provide that group with information and advice concerning American Indian and Alaska Native Education.

Structure

The Council consists of fifteen members who are Indian (including Alaska Native) as defined in 20 U.S.C. 7491(3), and are appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations. The fifteen members represent different

geographic areas of the United States. These members serve as Special Government Employees (SGEs). The SGEs are asked to provide their own best judgment without representing any particular point of view, group or special interest, and more importantly, in a manner that is free from any conflict of interest. The SGEs provide advice and recommendations based on the member's judgment formed by their expertise and experience.

The Assistant Secretary for Elementary and Secondary Education appoints a Designated Federal Officer for the Council. The Council may establish such subcommittees as it deems necessary to carry out its functions. The Council keeps the Department of Education (the Department) Committee Management Officer informed of the subcommittee structure, including membership, functions, and estimated frequency of meetings. A subcommittee acts under the policies governing the Council as a whole and presents recommendations to the Council for further deliberation.

Meetings

The Council and any subcommittee meet at the call of the Designated Federal Officer in consultation with the Chairperson. The Chairperson sets the agenda for the meeting with the approval of the Designated Federal Officer. Eight members of the Council constitute a quorum.

Meetings are open to the public unless the Assistant Secretary for Elementary and Secondary Education, in concurrence with the General Counsel of the Department, determines otherwise in accordance with section 10(d) of the Federal Advisory Committee Act. Advance notice of all meetings is given to the public. Meetings are conducted and records of proceedings are kept as required by applicable law.

Estimated Annual Cost

Members of the Council who are not full-time employees of the Federal Government are entitled to receive compensation for meetings at a rate determined by the Secretary, plus per diem and travel expenses in accordance with Federal Travel Regulations. The number and frequency of Council meetings will depend upon available funds. The estimated annual cost for the Council is \$45,000. This includes compensation and travel expenses for members to attend two meetings per year (at approximately \$27,000) and to provide staff support at 0.3 FTE (\$18,000).

Reports

The Council submits to the Congress, not later than June 30 of each year, a report on the activities of the Council, including any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program. The report includes a list of Council meetings held and a summary of Council activities conducted and recommendations made during the preceding fiscal year. Copies of the report should be submitted to the Assistant Secretary for Elementary and Secondary Education and to the Committee Management Officer.

Termination Date

The Council is hereby rechartered in accordance with section 14(b) of the Federal Advisory Committee Act. This charter expires two years from date of filing. The duration of the Council within the meaning of section 14(a) of FACA is provided by its enabling legislation.

Approved:


Secretary

APR 10 2007

Date

Establishment Date: March 26, 1979

Filing Date: APR 10 2007