

# Tribal Education Departments National Assembly



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## **TESTIMONY OF QUINTON ROMAN NOSE, EXECUTIVE DIRECTOR OF TEDNA, ON CHALLENGES FACING NATIVE AMERICAN SCHOOLS BEFORE THE HOUSE EDUCATION & AND THE WORKFORCE COMMITTEE, SUBCOMMITTEE ON EARLY CHILDHOOD, ELEMENTARY, AND SECONDARY EDUCATION**

**APRIL 22, 2015**

Chairman Rokita and Ranking Member Fudge, I am Quinton Roman Nose, Executive Director of the Tribal Education Departments National Assembly (“TEDNA”), a national non-profit membership organization for the Education Departments of American Indian and Alaska Native tribes. I appreciate the opportunity to speak to you today, and I thank Representative Rokita for setting this important hearing. While over 92% of American Indian students in K-12 are educated through State Education Agencies and public schools,<sup>1</sup> the Bureau of Indian Education still oversees 185 schools, serving about 41,000 students on or near Indian reservations.<sup>2</sup>

Overall, federal education policy is failing Native American students. Native American students drop out of high school at a higher rate and score lower on achievement tests than any other student group. The national dropout rate of Native American students is double that of their non-Indian peers. Likewise, the U.S. Department of Education’s Office of Civil Rights (“OCR”) Data Collection: Data Snapshot (March 21, 2014) recently recognized that Native American elementary and secondary students in public schools are disproportionately suspended and expelled. OCR also found that Native American kindergarten students are

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<sup>1</sup> *The State of Education for Native Students*, The Education Trust (2013), 4, [http://www.edtrust.org/sites/edtrust.org/files/NativeStudentBrief\\_0.pdf](http://www.edtrust.org/sites/edtrust.org/files/NativeStudentBrief_0.pdf).

among those held back a year at nearly twice the rate of Anglo kindergarten students, and that 9% of Native American ninth grade students repeat ninth grade.

In achievement, Native American 8th grade students are 18% more likely to read or perform in mathematics at a “below basic” level. Only a quarter of Native American high school graduates taking the ACT score at the “college-ready” level in math and only about one-third score at the “college-ready” level in reading. Although new data released on March 16 by the U.S. Department of Education indicates that graduation rates for Native American students have increased in recent years, Native Americans continue to have the lowest graduation rates of all ethnic and racial groups.<sup>3</sup>

At the same time, Tribal government involvement in the education of Native American students has been severely restricted until recently. Since 1988, Congress has authorized funding specifically to build Tribal capacity to directly serve Native students. Funds were recently appropriated for the first time, but these Tribal Education Agencies (“TEAs”) need continued funding in order to fulfill critical needs of Native American students. TEAs are in a unique position to halt and reverse the negative outcomes for Native students. TEAs have already proven that they are capable of improving Native American student outcomes. For example, the Chickasaw Nation of Oklahoma, one of the STEP grantees, has a science, technology, and math program, among many other education programs, that serves approximately 250 Chickasaw students. Ninety percent of senior students participating in the program enroll in college. The Chickasaw Nation has also stepped in to move expelled students into other alternative high school programs and provide counseling and other services in real time in public schools. Through this process, Local Education Agencies (“LEAs”) now understand that this is exactly the type of situation that the Chickasaw Nation TEA can address before the expulsion stage so intervention services can be provided, such as counseling, to students that are at risk.

The work of the Nez Perce Tribe’s TEA is another good example. The most current research indicates that Native American academic achievement must include effective teaching strategies. Also,

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<sup>2</sup> U.S. Gen. Accounting Office, Bureau of Indian Education Needs to Improve Oversight of School Spending 1 (2014).

<sup>3</sup> U.S. Department of Education, Achievement Gap Narrows as High School Graduation Rates for Minority Students Improve Faster than Rest of Nation (March 16, 2015), available at: <http://www.ed.gov/news/press-releases/achievement-gap-narrows-high-school-graduation-rates-minority-students-improve-faster-rest-nation>.

researchers studying the achievement of Native American students have found a connection between low achievement and low cultural relevance. The Nez Perce Tribe, another STEP grantee, has made a large in-road to providing teacher training on the integration of cultural pedagogy, tribal education standards, and common core standards. In addition, technical assistance is provided by the Nez Perce TEA to their partner LEA's on use of the Native Star Culture and Language Indicators. These indicators address culturally-responsive school leadership, community engagement, and infusion of culture and language into the school's curriculum and instruction.

While TEAs can assist in curbing the challenges, the challenges are widespread. For instance, the FCC estimates that the percentage of Americans in rural Tribal communities without access to fixed broadband is 8 times higher than the national average. Additionally, the *No Child Left Behind* School Facilities and Construction Negotiated Rulemaking Committee estimated that 63 of 183 BIE schools were in poor condition, and that bringing them to fair condition would cost \$1.3 billion. This widespread neglect of BIE school infrastructure is a source of great concern among tribal leaders, and there is ample evidence about cracked and condemned buildings, exposed wiring, leaking roofs, and other serious safety hazards within BIE schools.<sup>4</sup> These unique physical challenges lower moral and student success. TEDNA supports efforts to build or repair school buildings for tribal schools and would encourage more funding and a smoother streamlined process so that more buildings can be completed under the original plans.

As the GAO has noted in a series of reports, the BIE needs better management and accountability, improved oversight of spending, and to greatly upgrade many facilities. TEDNA generally supports the current BIE reorganization plan, but wants to ensure there is local and regional input from tribal leadership. The BIE reorganization plan will move toward allowing more tribes to have more control of their education system even though we recognize it will be a difficult process. We are aware of the arguments from both the pro and con sides of the reorganization plan but we support the efforts of those tribes and their TEAs who are willing to start participating in the process. We appreciate the BIE's SIE (Sovereignty In Education)

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<sup>4</sup> See generally U.S. Gen. Accounting Office, *Preliminary Results Show Continued Challenges to the Oversight and Support of Education Facilities* (2015).

grant. We also applaud the House's initiative in appropriating TEAs funding based on 25 U.S.C. § 2020, a historical appropriation. These recent initiatives recognize the importance of TEAs in improving success.

TEAs also face challenges in accessing student data. The Family Educational Rights and Privacy Act ("FERPA") of 1974 (20 U.S.C. § 1232g; 34 CFR Part 99) generally protects the privacy of student education records. FERPA, however, has been read to preclude tribes and TEAs from obtaining student records without parental consent, unlike SEAs or LEAs. Because of FERPA's lack of clarity, many public school districts and states will not allow TEAs access to the records and information of their tribal students unless the requisite parental or student consent is obtained in advance. The difficulty of accessing -- or the inability to access -- these records on tribal students has hampered the efforts of TEAs to plan and coordinate education programs; to provide support services and technical assistance to schools; and to work with LEAs and SEAs. FERPA should be clarified by a technical amendment that includes TEAs.

The Johnson-O'Malley is another area of concern. The BIA and BIE have failed to comply with Congressional mandates from fiscal years 2012 and 2014 to conduct a comprehensive student count of Johnson-O'Malley students and make public these results. Serious underfunding of the Johnson-O'Malley Program has resulted due to the absence of updated and accurate student counts. While it appears the BIE has not been able to produce an accurate count, several proposals have been offered by the National Johnson-O'Malley Association (NJOMA) including the use of U.S. Census Bureau data regarding American Indian populations.

While there are serious challenges facing Native American schools and students, there are promising TEAs and programs that are currently making advances. With the assistance of the House in appropriating funds for TEAs, we hope to continue to make gains and provide TEAs with a greater role in the education of their students. Again, I thank Chairman Rokita for recognizing the importance of Native Education and the challenges that we face in educating our students. Should you have any questions, I am happy to answer them.