

Indian Education Congressional Briefing
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Good morning, I am John Echohawk, Executive Director of the Native American Rights Fund (NARF), the national non-profit legal defense fund for Native Americans. I appreciate this opportunity to speak to you today, and I thank Senator Johnson and Ryan Wilson for taking the lead in organizing this event.

As you know, in federal law and policy, American Indian and Alaska Native tribes are sovereign governments. For the past 25 years, NARF has been at the forefront of representing Native American tribes and organizations on matters of tribal sovereignty in education. We began with the Rosebud Sioux Tribe. The Tribe had started its own award-winning tribal college, Sinte Gleska University. But it was struggling with elementary and secondary education, which mostly is provided by state public schools on its Reservation in South Dakota.

The Rosebud Sioux Tribe thought that more students would stay in school and do better there if the Tribe and members of its community were present and able to assist the schools in teaching about the Tribe's history, language and culture, and sovereignty. The Tribe asked the school district about this and offered to help. The school district's response was "we don't need to – there's no law that requires us to do that."

With NARF's help, the Rosebud Sioux Tribe enacted a tribal law that set up a Tribal Education Department (TED) and sought to contribute to how and what the public schools teach. Back in 1991 this was very groundbreaking and controversial. But today more than 200 of the over 560 federally-recognized tribal governments across 32 states have TEDs. Many of these TEDs belong to the Tribal Education Departments National Assembly (TEDNA), an advocacy organization that NARF and the U.S. Department of Education under President George W. Bush founded to improve Indian education law and policy by increasing the role of tribal governments and their education departments in Indian education.

Through their State Education Agencies and public schools, including about 740 public schools located on or near Indian reservations, states educate over 92% of Native American K-12 students nationwide. Over a dozen states with high Native populations like Montana, New Mexico, and Washington have changed their laws recently to recognize the role that tribal histories, language and culture, and tribal governments have in state public education. These remarkable state laws can be attributed to the dedicated leadership and wisdom of Natives and non-Natives.

But the South Dakota school district still has a point – there is today no federal law that clearly recognizes tribal sovereignty and the important role of tribal governments and TEDs in public school education. You – the Congress – have the opportunity and the power to change that.

For over 40 years, the federal government under its policy of tribal self-determination, has authorized tribal governments to operate a wide variety of federal programs that serve tribal communities, in areas including health care, law enforcement, natural resource management, and domestic relations. This sound policy has worked – most tribally-operated programs better serve tribal communities than federally-operated, and in most cases, state-operated programs.

Decades of federal reports like the Kennedy Report, Indian Nations at Risk, and Tribal Leaders Speak have recommended that the policy of tribal self-determination be applied to Indian education, stating consistently that increasing the role of tribal governments and TEDs in public schools to support student access to tribal languages, cultures and histories, as well as Native American teachers and administrators, will improve Native American student academic outcomes. But federal law and policy supporting tribal government administration, operation, and management of Indian education is notably lacking. Outdated federal laws recognize only a minimal role for tribal governments in elementary and secondary education. Federal laws typically exclude tribes from being eligible to operate federal education programs and receive federal education funding.

Unfortunately, this lack of reform leaves K-12 Native American students functioning poorer academically than any other student group. The national dropout rate for Native American high school students is over 65%. Native American students perform the lowest on standardized tests and are less likely to attend college than any

other student group. These statistics are linked to social and economic problems such as poverty, unemployment, drug and alcohol abuse, and high crime rates.

Tribal governments have dedicated tribal resources to helping their students by establishing TEDs as administrative agencies of tribal governments charged with a general mandate to implement the Tribe's educational goals and policies. TEDs can, and should, help the federal and state governments and their education agencies better serve Native American students. TEDs can assist with the most fundamental education improvement and accountability functions like data collection, reporting, and analysis. TEDs can help in other areas as well, including the development of curricula, standards, and assessments; teacher training; research; and, specific local initiatives like truancy intervention, dropout prevention, and tutoring programs.

For example, Cherokee Nation Education Services, a TED located in Oklahoma, has 329 employees that serve almost 30,000 people through its programs and services. Over the last ten years, the Cherokee Nation TED has contributed over \$19 million to more than 100 public school districts. Through a contract with the Bureau of Indian Education, it operates the Sequoyah Schools system. Under the TED's leadership, the Sequoyah Schools have met No Child Left Behind's "Adequate Yearly Progress" for at least the past five years. Another model example is the Hoopa Valley Tribal Education Department located in California. Among other programs, it operates the Hoopa Valley Learning Center. This academically-focused state and tribally funded program provides

student support services. 80% of its students begin the program as “at-risk” students with failing grades – 90% of these students finish the program with passing grades.

Congress recognized the critical role of TEDs in 2011 when for the first time it authorized direct federal appropriations for TEDs in the FY’12 Appropriations Act. This historic funding through the Department of Education is being used to support the State-Tribal Education Partnership program, a pilot project that authorizes TEDs to operate Elementary and Secondary Education Act programs in schools serving Native American students. Five test projects are being implemented under this program and we look forward to learning about their success.

But for TEDs across the country to reach their full capacity to serve all of their students, Congress must pass new comprehensive Indian education legislation. Some progress in this area was made in the last Congress. Several roundtables and listening sessions were held, where tribal leaders and Indian educators were consulted. The extraordinary culmination of this work was the Native Culture, Language, and Access for Student Success Act (the Native CLASS Act), which was passed out of the Senate Committee on Indian Affairs but was not passed by the full Senate or Congress.

The Native CLASS Act recognized the vast untapped potential of tribal governments, acting through TEDs, to improve Indian education. It included many innovative provisions, such as an authorization of tribal-state education cooperative agreements, tribal authorization to receive funding for and implement a variety of

Elementary and Secondary Education Act programs, including school turnaround, dropout prevention, curriculum and standards development, and authorizations for new funding to support Native American students. The Native CLASS Act has vast potential to institutionalize and nationalize improvement for Native American students and this Congress should adopt the Act in its entirety.

Alternatively, at a minimum, this Congress should enact provisions from the Native CLASS Act that are “cost-free.” For example, a few no-cost provisions from the Act that would lead to meaningful reform include:

1. Authorizing tribal-state education cooperative agreements;
2. Authorizing tribes to receive federal education funding for and operate federal education programs;
3. Authorizing the teaching of Native American language and culture, and tribal sovereignty in all state public schools; and
4. An amendment to the Family Educational Rights and Privacy Act that would allow tribal governments and TEDs to access the public school data of their tribal members.

These four provisions alone would help our Native students succeed in school by linking TEDs to state partners in education and providing much needed data to TEDs without costing anything to the federal government.

In conclusion, Native American students and this country shouldn't have to keep hearing that "there is no law" for tribal sovereignty in education. Nor need we wait for the politics to be resolved regarding a complete reauthorization of the Elementary and Secondary Education Act. This Congress can and should pass stand-alone legislation that increases tribal sovereignty in education and makes federal Indian education law consistent with federal tribal self-determination law and policy. I strongly urge this Congress to enact the Native CLASS Act in its entirety or at a minimum, to enact its no-cost provisions. Thank you for your time.