



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #FTL-04-005

TITLE: In Support of Legal, Political, and Fiscal Equity for Tribal Governments in the Access to and Systems Management of Student Records and Information Kept by State Public Schools

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, among the priorities of NCAI is the improvement of education and educational opportunities for the over 500,000 tribal elementary and secondary students nationwide; and

WHEREAS, over ninety percent (90%) of these tribal students attend state public schools; and

WHEREAS, federal law is increasingly requiring states and public schools to keep and report records and information on students, and in this era of high technology, states and school districts are spending about six billion dollars (\$6 billion) annually on technology to track and report on students; and

WHEREAS, access to state public school student records is governed by a federal law entitled "the Family Educational Rights and Privacy Act" (FERPA), 20 U.S.C. Sec. 1232g, Pub. L. No. 90-247, Title IV, Sec. 438,88 Stat. 571; and

WHEREAS, FERPA generally allows federal, state, and local education agencies access to state public school records and information on students without the advance consent of parents and students; and

WHEREAS, it is unclear whether Congress intended Indian tribes to be included among these governmental entities for whom advance parental or student consent is not required to access these records; and

WHEREAS, tribal governments need access to the records -- including attendance, grades, and test scores -- that are kept on tribal students, even those tribal students that attend state public schools, so that they can track the educational needs and progress of their students and make data-based decisions about improvements in education; and

WHEREAS, the lack of clarity in FERPA is a major but unnecessary obstacle to tribal access to public school records and information on tribal students; and

WHEREAS, tribal governments should have legal and political sovereignty equal to that of the federal and state governments, at least with respect to the records and information regarding students who are tribal members, regardless of whether the students attend state public schools or schools funded by the Bureau of Indian Affairs (BIA); and

WHEREAS, over one hundred and ten (110) of the federally recognized tribes in this country today have Tribal Education Departments (TEDs), and in efforts to improve education for tribal students, these TEDs are increasingly tracking and reporting on tribal students in both the state public schools and BIA-funded schools, and TEDs would benefit immensely in this area by the provision of sufficient federal funding which would allow them to be on a par with the federal and state governments and state public school districts in terms of their resources for technology to manage student information data bases and systems; and

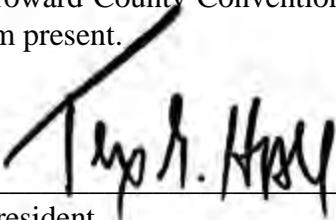
WHEREAS, all governments -- tribal, federal, and state (including the public schools which are political entities of the states) and especially tribal students would benefit from clarity in FERPA that recognizes that tribal governments are among the governments for whom advance parental or student consent is not required before student records and information may be accessed, and they all would similarly benefit from sufficiently funded tribal governments that can manage the student data with state-of-the-art technology.

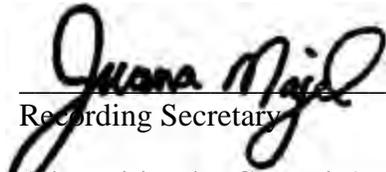
NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby support legal, political, and fiscal equity for tribal governments in this critical area of access to student records and information kept by the state public schools, and to achieve that equity, NCAI asks the Executive (Administration) and the Legislative (Congress) branches of the United States government to (1) clarify the Family Educational Rights and Privacy Act such that it acknowledges that tribal governments are among the governments for whom advance parental or student consent is not required to access these records and information and (2) request and / or appropriate sufficient federal funding to ensure that tribal governments can invest as much at least proportionately as states and their public school districts are investing in the needed technology to track and report on tribal students; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution; or until federal law is clarified appropriately and sufficient federal funding is provided to tribal governments with respect to access by tribal governments to public school records.

CERTIFICATION

The foregoing resolution was adopted at the 61st Annual Session of the National Congress of American Indians, held at the Greater Fort Lauderdale/Broward County Convention Center, Fort Lauderdale, Florida on October 10-15, 2004 with a quorum present.



President**ATTEST:**

Recording Secretary

Adopted by the General Assembly during the 61st Annual Session of the National Congress of American Indians, held from October 10th to the 15th at the Greater Fort Lauderdale/Broward County Convention Center in Fort Lauderdale, Florida.