Decision Making Guide:
Options for Tribal Education Departments to Enhance the Tribal Role in Select Federal K-12 Education Programs
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The Native American Rights Fund

The Native American Rights Fund ("NARF") is the national legal defense fund for American Indian and Alaska Native tribes. Founded in 1970, NARF concentrates on bringing cases and reforming laws that are of major importance to many Native people. NARF consistently has been at the forefront of issues and developments in Indian law in areas such as Indian treaty rights to land and water, and the rights of tribes as sovereign governments including tribal rights in education.

NARF historically has represented Indian clients on a variety of education issues. Since 1987, NARF has represented the Rosebud Sioux Tribe of South Dakota in establishing a precedent-setting tribal education code and implementing that code through a tribal education department. NARF seeks to “tribalize” formal education through developing tribal education laws and reforming state and national Indian education legislation. Tribal education laws are essential to effective tribal governance of education, yet few tribes have such laws. Tribal laws are essential to defining each tribe’s education rights and goals. Tribal laws are essential to delineating the forum and process for establishing tribal and non-tribal government-to-government relationships and working agreements on common education issues and goals.

The Tribal Education Departments National Assembly

The Tribal Education Departments National Assembly, Co. ("TEDNA"), is a non-profit organization. Its certificate of incorporation was filed in Delaware on October 27, 2003. TEDNA is a membership organization for the Education Departments of American Indian and Alaska Native Tribes. The founding of TEDNA has been supported by the Native American Rights Fund and the U.S. Department of Education’s Office of Indian Education.

TEDNA’s mission is to: assemble and represent collectively indigenous sovereign nations’ departments of education; respect and honor each nation’s distinct spiritual, cultural, linguistic, and economic identities; foster effective relationships with other governmental and educational agencies, organizations, and entities; facilitate communication and cultivate consensus amongst members by, among other things, providing current, accurate, and pertinent information to members; and support and encourage each member nation’s right to define and reach its own education goals for its students, families, and communities wherever they may be located.
Introduction

It has been well documented that Tribal Education Departments and Tribal Education Agencies (TEDs and TEAs) work in a variety of areas, including various federal, state, and tribal education programs. See generally Amy Bowers, Tribal Education Departments Report (2011); Dawn Mackety et al., American Indian Education: The Role of Tribal Education Departments (2009). Although there are some resources from the U.S. Department of Education ("Department") that can assist TEAs, it is very challenging to find applicable guidance for TEAs on how to approach each program. Most K-12 federal programs provide funding to either Bureau of Indian Education ("BIE") funded schools or to State Education Agencies ("SEAs") and Local Education Agencies ("LEAs"), i.e. public schools. While TEAs generally have not been directly accounted for in K-12 federal programs, there are multiple opportunities in many of these programs for TEA participation with BIE funded schools or SEAs and LEAs.

This Guide was developed in collaboration with the National Congress of American Indians through a grant provided by the Bill and Melinda Gates Foundation. One of the key purposes of the Grant was to help strengthen the role of tribal governments in Native education. This Guide is intended to help accomplish that goal by providing Tribes and TEAs with an outline of select K-12 federal programs in which TEAs can potentially participate and thereby provide options for TEAs to enhance their role in Native education. The Guide focuses on select programs under the Elementary and Secondary Education Act ("ESEA") as well as other federal laws. While the options presented here are not all encompassing, this Guide gives TEAs a basis for increased participation. Finally, a major goal of this Guide is to bring together TEAs, LEAs, SEAs, and the Department to improve collaboration for Native education.
Why Tribes and TEAs Should be Interested

During the 2010-2011 school year, there were 378,000 American Indian/Alaska Native students (“AI/AN”) in K-12 public schools nationwide, comprising 0.7% of the total public school population. Aud et al., The Condition of Education 2012 140 (2012). In that same school year, there were 49,152 students in BIE funded Schools. Bureau of Indian Education, Bureau Wide Annual Report Card (2010-2011). Without taking into account private school data, about 88% of AI/AN students attend state public schools and roughly 12% attend BIE funded schools.

Last year, the high school graduation rate for AI/ANs was 69.1% as compared to 78.2% for all students. Aud et al., The Condition of Education 2013 124 (2013). The average high school dropout rate for AI/ANs is 13% as compared to 8% for all students. Chapman, C., Laird, J., Ifill, N. & KewalRamani, A., Trends in High School Dropout and Completion Rates in the United States: 1972-2009 38, table 6 (2011). The average dropout rate for Caucasian students is 5%. Id. Further, recent studies show that Native students are failing to close achievement gaps when every other major ethnic group in the U.S. has made progress in closing achievement gaps. The education Trust, The State of Education for Native Students, August 2013, at 2-3. Because the majority of AI/AN students attend public schools and because of the disparities, it is particularly important for Tribes and TEAs to understand how they can participate in the programs that impact public schools and their students. The more that TEAs participate in educational programs that impact AI/AN students, the more likely Native education will be influenced in a positive manner.
Federal Programs TEAs Can Participate In

ESEA Programs

Many of the programs that will be outlined throughout this Toolkit are contained within various Titles of the Elementary and Secondary Education Act ("ESEA"), as amended. The current version of the ESEA is also known as the No Child Left Behind Act. Many TEAs may not be aware that they can participate in the highlighted programs. They can, however, with cooperation with SEAs and LEAs as demonstrated in the State Tribal Education Partnership ("STEP") program.

Title I

School Improvement Grants §1003(g)

Title I, Section 1003(g), of ESEA authorizes formula grants to SEAs. Each SEA must award at least 95 percent of the funds it receives to LEAs on a competitive basis. To be eligible to receive a School Improvement Grant, a LEA must have a Title I school identified for improvement, corrective action, or restructuring and must have one or more schools identified by the SEA in its School Improvement Grant application as eligible to receive school improvement funds.

Districts or LEAs must demonstrate the greatest need for the funds and the strongest commitment to use the funds to provide adequate resources in order to raise substantially the achievement of their students so as to enable the schools to make adequate yearly progress (AYP) and exit "In Need of Improvement" status. SEAs use School Improvement Grants primarily to make three-year awards to the highest need LEAs that commit to implement fully and effectively a locally selected school intervention model (Turnaround, Restart, School Closure, or Transformation), requirements for which vary from model to model, but which typically requires such measures as replacement of school leadership and other staff, high-quality professional development, implementation of a
research-based instructional program, and extended learning time. LEAs receiving School Improvement Grants must set annual school-level goals for improving student achievement and must measure progress on certain performance indicators. SEAs must review grantee performance against these goals and indicators before making second- and third-year awards.

**Activities**

TEAs could provide technical assistance to LEAs; assist with school improvement activities such as professional development; and provide or coordinate other services. For example, as part of its School Improvement Grant, the Shiprock High School in Shiprock, New Mexico, utilized language arts, math, continuous improvement, and Navajo language and culture coaches to provide job-embedded professional development at the school. See [http://www.ped.state.nm.us/sig/SIG%20Round%202/Shiprock%20HS/SHS%20SIG.pdf](http://www.ped.state.nm.us/sig/SIG%20Round%202/Shiprock%20HS/SHS%20SIG.pdf) at 25. One of the tasks for Shiprock’s improvement plan was to contract with Navajo language teacher(s) to provide coaching services to teachers. *Id.* Further, Shiprock planned to purchase culturally relevant library and instructional materials to help students and staff to better understand their community and its residents. *Id.* TEAs can utilize a similar approach to collaborate with LEAs to implement School Improvement Grants by working to locate and provide language and culture teachers to assist LEAs.

The Quil Ceda Elementary School also utilized professional development in cultural competency/cultural responsiveness as part of its School Improvement Grant program. See [http://www.k12.wa.us/StudentAndSchoolSuccess/SIG/Awardees/Marysville_School_District_SIG_App.pdf](http://www.k12.wa.us/StudentAndSchoolSuccess/SIG/Awardees/Marysville_School_District_SIG_App.pdf) at 226. The Tulalip Tribes funded the professional development to Quil Ceda, paying for the consultant. *Id.* TEAs can utilize a similar approach to assist LEAs implement School Improvement Grants by assisting in culturally sensitive professional development.

**Who May Apply**

In order to apply TEAs will have to work with their SEA and local LEA. The above examples from Shiprock and Quil Ceda are examples of how TEAs can get involved. The Department STEP program is another example of how utilizing this program can work.
Appropriations

Fiscal Year 2010 $545,633,000
Fiscal Year 2011 $534,561,734
Fiscal Year 2012 $533,551,678

Contact and Further Information

Name: Carlas L. McCauley
Email Address: Carlas.Mccauley@ed.gov
Mailing Address:
U.S. Department of Education, OESE
Student Achievement and School Accountability Program
Lyndon Baines Johnson Building
400 Maryland Ave. S.W., Rm. 3C116
Washington, DC 20202-6400
Telephone:
202-260-0824
Toll-free 1-800-USA-LEARN or 1-800-872-5327
Fax 202-260-7764

LINKS TO RELATED WEBSITES

Title I, Part A

This program provides financial assistance to LEAs and schools with high numbers or high percentages of children from low-income families to help ensure that low-achieving children meet challenging state academic standards. Federal funds are currently allocated through four statutory formulas that are based primarily on census poverty estimates and the cost of education in each state, as measured by each state's expenditures per elementary and secondary student. The four grants offered are Basic Grants, Concentration Grants, Targeted Grants, and Education Finance Incentive Grants.

In general, to be eligible for Title I basic funding, SEAs must develop and submit to the Secretary of Education plans that provide for academic standards, academic assessments, accountability, and many other requirements specified in NCLB. 20 U.S.C. § 6311. SEAs then sub-grant Title I funding to LEAs who have plans approved by the SEAs. 20 U.S.C. § 6312. Under Section 1116(g), with respect to schools funded by the BIA and/or a Tribe, the School Board acts as an LEA with respect to reviewing and reporting the academic assessment and school improvement progress to the Secretary of the Interior. 20 U.S.C. § 6316(g). When a BIA funded school determines its assessments, if it is accredited by a TEA, the school must use the TEA's assessment, and the Secretary of the Interior must ensure that the assessment is in compliance with NCLB. 20 U.S.C. § 6311(m)(3).

More than 50,000 public schools across the country use Title I funds to provide additional academic support and learning opportunities to help low-achieving children master challenging curricula and meet state standards in core academic subjects. For example, funds support extra instruction in reading and mathematics, as well as preschool, after-school, and summer programs to extend and reinforce the regular school curriculum for eligible children.

BIE funded schools must demonstrate AYP based on state, regional, or tribal accreditations. Thus, a tribe or TEA can come up with its own accreditation with approval from the Secretary of the Interior. 20 U.S.C. § 6311(m). As of 2008, Tribes representing about 44% of BIE students are working to develop their own assessments. U.S. Gen. Accounting Office, Bureau of Indian Education: Improving Interior’s Assistance Would Aid Tribal Groups Developing Academic Accountability Systems, GAO-08-1125T, at 2 (Sept. 2008).

Activities

A TEA could apply to develop a reservation wide Title 1-A plan in collaboration with an SEA. See e.g., Applications for New Awards; State-Tribal Education Partnership (STEP) Pilot Grant Competition, 77 Fed. Reg. 31,592, 31,595 (May 29, 2012) (“Programs that could be included in a STEP Pilot project are: Title I, Part A; School Improvement Grants (ESEA § 1003(g)); Migrant Education (Title I, Part C); Neglected and Delinquent State Grants (Title I, Part
A TEA could provide technical assistance to an LEA, or assist with school improvement activities similar to programs under the School Improvement Grant program. A TEA could provide or coordinate other services as well. Further, a BIA/Tribally Funded School can act as the LEA and apply for the funds directly and implement any programs an LEA could implement. Finally, a TEA could offer after school programs, summer programs, extra instruction, etc. in agreement with the LEA or SEA.

An example is the Chickasaw Nation. The Chickasaw Nation, under the STEP program, is working with Oklahoma on Title I, Part A. Chickasaw has dedicated an education specialist that will meet and train with the State of Oklahoma. The education specialist will be trained to audit federal education programs to ensure that schools are meeting Title I, Part A objectives. Eventually, the goal is to have the Chickasaw education specialists conduct the audits on behalf of the state. Currently, the education specialist is in the early stages of training with the state to do the audits.

Who May Apply

In order to apply, TEAs will have to work with their SEA and local LEA. The above example from Chickasaw shows how a TEA can get involved. The Department STEP program is another example of how utilizing this program can work.

Appropriations

Fiscal Year 2010 $14,492,401,000
Fiscal Year 2011 $14,442,927,000
Fiscal Year 2012 $14,516,457,566

Contact and Further Information

Name: Susan Wilhelm
Email Address: Susan.Wilhelm@ed.gov
Title I, Part D

The Title I, Part D, Subpart 1, State Agency Neglected and Delinquent program provides formula grants to SEAs that then make sub-grants to state agencies. State agencies use funds for supplemental education services to help provide education continuity for children and youths in state-operated institutions, in community day programs for neglected and delinquent children and youths, and in adult correctional institutions. These funds ensure that children and youths can make successful transitions to school or employment once they are released.

The Subpart 2 Local Educational Agency Program requires each SEA to reserve, from its Title I, Part A, allocation, funds generated by the number of children and youths in local correctional facilities or attending community day programs. Sub-grants are awarded to LEAs with high numbers or percentages of children and youths residing in locally operated correctional facilities for children and youths (including community day programs) to support programs in these facilities or in the LEAs' schools.
Activities

Grants support supplemental instruction in core subject areas, such as Reading and Mathematics, as well as tutoring, counseling, and transition services. TEAs can work with SEAs to help provide education continuity for tribal children and youth in correctional facilities, day programs, etc. See 77 Fed. Reg. 34,592, 34,595 ("Programs that could be included in a STEP Pilot project are . . . Neglected and Delinquent State Grants (Title I, Part D). . ."). TEAs can also work with their local LEA to provide supplemental instruction in core areas to tribal students that are neglected, delinquent, or at risk.

Who May Apply

TEAs would have to work with the SEA, local LEA, and any corrections facilities or other state agencies on implementing this program.

Appropriations

Fiscal Year 2010 $50,427,000
Fiscal Year 2011 $50,326,146
Fiscal Year 2012 $50,230,884

Contact and Further Information

Name: John McLaughlin

Email Address: John.McLaughlin@ed.gov

Mailing Address:
U.S. Department of Education, OESE
School Achievement and Student Accountability Programs
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. S.W., Rm. 3C130
Washington, DC 20202-6132
Title II

Part A

The purpose of this program is to increase academic achievement by improving teacher and principal quality. This program is carried out through efforts to: increase the number of highly qualified teachers in classrooms, increase the number of highly qualified principals and assistant principals in schools, reduce class size, and increase the effectiveness of teachers and principals by holding LEAs and schools accountable for improvements in student academic achievement.

State-level activities include, but are not limited to, efforts designed to: recruit and retain highly qualified teachers, assistant principals, and principals; increase the number of highly qualified teachers in classrooms; and reform teacher and principal certification programs. These activities must be based on a needs assessment, and, among other things, be aligned with state academic content standards, student academic achievement standards, and state assessments (for formula grants). The State Agency for Higher Education works in conjunction with the SEA to make competitive sub-grants to partnerships of Institutions of Higher Education, high-need LEAs, and other entities for specific activities that focus on professional development for teachers, highly qualified paraprofessionals, and, if appropriate, principals. In addition, SEAs distribute the bulk of program funds they receive by formula to LEAs in the state for a wide variety of teacher-quality activities that LEAs design consistent with their assessment of need.
Activities

Title II, Part A provides agencies the flexibility to use the funds creatively to address challenges to teacher quality, whether they concern teacher preparation and qualifications of new teachers, recruitment and hiring, induction, professional development, teacher retention, or the need for more capable principals and assistant principals to serve as effective school leaders.

TEAs can work with Institutions of Higher Education and high need LEAs to focus on culturally sensitive professional development for teachers under Subpart 3. TEAs can work with local LEAs to provide culturally sensitive professional development under Subpart 2. TEAs could promote native speakers to become certified paraprofessionals under Subpart 2. TEAs can assist the state in reforming or creating teacher certification standards for native languages under Subpart 1. Both SEAs and LEAs can sub-grant to TEAs for this work.

Who May Apply

A TEA can work with or subcontract through its SEA or local LEA on professional development work or recruitment and retention. Further, partnerships of at least one institution of higher education ("IHE") and its division that prepares teachers and principals, and a school of arts and sciences IHE, and a high-need LEA can apply.

Appropriations

Fiscal Year 2010 $2,947,749,000

Fiscal Year 2011 $2,464,876,077

Fiscal Year 2012 $2,466,567,300

Contact and Further Information

Name: Carol Manitaras

Email Address: Carol.Manitaras@ed.gov
Title III

Part A, Subpart 1 – Native American and Alaska Native Children in School

This program provides grants to eligible entities that support language instruction education projects for English Learner (“EL”) children from Native American, Alaska Native, Native Hawaiian, and Pacific Islander backgrounds. The program is designed to ensure that EL children master English and meet the same rigorous standards for academic achievement that all children are expected to meet.

Activities

Funds may support the study of Native American languages, and projects may include teacher training, curriculum development, and evaluation and assessment to support the core program of student instruction and parent-
community participation. Student instruction may comprise preschool, elementary, secondary, and postsecondary levels, or combinations of these levels.

TEAs can implement teacher training, curriculum development, and evaluation and assessment to ensure that EL children master English. TEAs can also work to promote student instruction with their local LEAs.

Who May Apply

Tribes and TEAs are authorized to directly apply with the Secretary of Education. In 2013 alone, the Winnebago Tribe of Nebraska, Chief Leschi Schools, Inc., Puyallup Tribe of Indians, Confederated Tribes and Bands of the Yakama Nation, and Lac Courte Oreilles Band of Lake Superior Chippewa were some of the tribal entities that were awarded grants under this program. See [http://www2.ed.gov/programs/naancs/awards.html](http://www2.ed.gov/programs/naancs/awards.html).

Appropriations

Fiscal Year 2010 $5,000,000

Fiscal Year 2011 $5,000,000

Fiscal Year 2012 $5,000,000

Contact and Further Information

Name: Trinidad Torres-Carrion

Email Address: Trinidad.Torres-Carrion@ed.gov

Mailing Address:

U.S. Department of Education, OELA
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. S.W., Rm. 5C145
Washington, DC 20202-6510
Title IV

Part B

This program supports community learning centers that provide academic enrichment opportunities during non-school hours for children, particularly students who attend low-performing schools. The program is intended to help students meet state and local performance standards in core academic subjects, such as reading and math; offers students a broad array of enrichment activities to complement their regular academic programs; and offers literacy and other educational services to the families of participating children.

Activities

Each eligible entity that receives an award from the state may use the funds to carry out a broad array of before- and after-school activities (including those held during summer recess periods) to advance student achievement. These activities may include: remedial education activities and academic enrichment learning programs, including those that provide additional assistance to students to allow the students to improve their academic achievement; mathematics and science education activities; arts and music education activities; entrepreneurial education programs; tutoring services, including those provided by senior citizen volunteers, and mentoring programs; programs that provide after-school activities for Limited English Proficient (LEP) students that emphasize language skills and academic achievement; recreational activities; telecommunications and technology education programs; expanded library service hours; programs that promote parental involvement and family literacy; programs that provide assistance to students who have been truant, suspended, or expelled to allow them to improve their academic achievement; drug and violence prevention programs; counseling programs; and character education programs.
Thus, a TEA could implement any of these activities.

**Who May Apply**

Eligible entities include local educational agencies, community-based organizations, other public or private entities, or a consortium of two or more of such agencies, organizations, or entities. States must give priority to applications that are jointly submitted by a local educational agency and a community-based organization or other public or private entity. Thus, a TEA could apply for a grant under this program as a community based organization or other public or private entity. Further, a TEA could work with an LEA. The application process, however, goes through the SEA.

**Appropriations**

Fiscal Year 2010 $1,166,166,000

Fiscal Year 2011 $1,153,853,668

Fiscal Year 2012 $1,151,673,216

**Contact and Further Information**

Name: Angela Hernandez-Marshall, Team Leader

Email Address: 21stCCLC@ed.gov

Mailing Address:

U.S. Department of Education, OESE
21st-Century Community Learning Centers
400 Maryland Ave. S.W., Rm. 3E204
LBJ Federal Office Building
Washington, DC 20202-6200
Title V
Part D, Subpart 9

This program provides grants to establish, improve, or expand innovative foreign language programs for elementary and secondary school students. In awarding grants under this program, the secretary of education supports projects that: show the promise of being continued beyond their project period; demonstrate approaches that can be disseminated and duplicated by other LEAs; and, may include a professional development component. The program supports foreign language instruction in elementary schools, immersion programs, curriculum development, professional development, and distance learning.

Activities

TEAs can work with their local LEAs to develop immersion programs, language instruction in elementary schools, curriculum development, professional development, and distance learning.

Who May Apply

TEAs will have to work with their local LEAs as the LEAs are the statutory grantee, but TEAs can work with the LEA on a specific program important to their students and community.
Appropriations

Fiscal Year 2010 $15,718,185
Fiscal Year 2011 $14,773,725
Fiscal Year 2012 $0

Contact and Further Information

Name: Rebecca Richey
Email Address: Rebecca.Richey@ed.gov
Mailing Address:
U.S. Department of Education, OELA
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. S.W., Rm. 5C144
Washington, DC 20202-6510
Telephone 202-401-1443
Toll-free 1-800-USA-LEARN or 1-800-872-5327
Fax 202-260-5496

LINKS TO RELATED WEBSITES


Part D, Subpart 10

This program provides grants to LEAs and Community Based Organizations to initiate, expand, or enhance physical education programs, including after-school programs, for students in kindergarten through grade 12. Grant recipients must implement programs that help students make progress toward meeting state standards.
Activities

Funds may be used to provide fitness education and assessment; instruction in motor skills and physical activity; development of, and instruction in, cognitive concepts about motor skills and physical fitness; opportunities to develop positive social and cooperative skills through physical activity; instruction in healthy eating habits and good nutrition; and professional development for teachers of physical education. TEAs can apply to implement any of these activities.

Who May Apply

LEAs, including charter schools that are considered LEAs under state law, and community-based organizations, including faith-based organizations, may apply. TEAs could work with their local LEAs or attempt to apply as a community based organization.

Appropriations

Fiscal Year 2010 $79,000,000

Fiscal Year 2011 $78,842,000

Fiscal Year 2012 $78,692,989

Contact and further information

Name: Carlette KyserPegram

Email Address: Carlette.KyserPegram@ed.gov
Mailing Address:

U.S. Department of Education, OESE
Office of Safe and Healthy Students
Potomac Center Plaza
550 12th Street S.W., Rm. 10071
Washington, DC 20202-6450
Telephone 202-245-7871
Fax 202-245-7166

LINKS TO RELATED WEBSITES


Part D, Subpart 14

This program provided grants to SEAs, LEAs, and Indian tribes for the purpose of increasing student access to quality mental health care by developing innovative programs that link school systems with local mental health systems.

Activities

A funded program has to include all of the following activities: enhancing, improving, or developing collaborative efforts between school-based service systems and mental health service systems to provide, enhance, or improve prevention, diagnosis, and treatment services to students; enhancing the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services, and ongoing mental health services; providing training for the school personnel and mental health professionals who will participate in the program; providing technical assistance and consultation to school systems and mental health agencies, and to families participating in the program; providing linguistically appropriate and culturally competent services; and evaluating the effectiveness of the program in increasing student access to quality mental health services and making recommendations to the secretary of education about the sustainability of the program.
Who May Apply

SEAs, LEAs, and Indian tribes/TEAs can apply.

Appropriations

Fiscal Year 2009 $5,913,000

Fiscal Year 2010 $0

Fiscal Year 2011 $0

Contact and Further Information

Name: Amalia G. Cuervo

Email Address: Amalia.Cuervo@ed.gov

Mailing Address:
U.S. Department of Education, OESE
Office of Safe and Healthy Students
Potomac Center Plaza
550 12th St. S.W., Rm. 10007
Washington, DC 20202-6450

Telephone 202-245-7881

Fax 202-245-7166

LINKS TO RELATED WEBSITES

This program is designed to address the unique educational and culture-related academic needs of American Indian and Alaska Native students, including preschool children, so that these students can meet the same state performance standards expected of all students. The program is one of the U.S. Department of Education’s principal vehicles for addressing the particular needs of Indian children.

Activities

Projects help Indian children sharpen their academic skills, assist students in becoming proficient in core content areas, and provide students an opportunity to participate in enrichment programs that would otherwise be unavailable. Grant funds supplement the regular school program. Funds support such activities as after-school programs, early childhood education, tutoring, career preparation, and substance abuse and dropout prevention. Thus, TEAs can apply to implement any of these programs.

Who May Apply

LEAs, including charter schools that are considered LEAs under state law, that enroll a threshold number or percentage of eligible Indian children and certain schools funded by the U.S. Department of the Interior’s Bureau of Indian Education (BIE) may apply. Indian tribes, under certain conditions, also may apply.

If an LEA does not apply, the TEA can apply directly to Secretary. If the local LEA does apply, then the TEA can work with the local LEA on the programs it will offer.

Appropriations

Fiscal Year 2010 $104,331,000
Fiscal Year 2011 $104,122,338
Fiscal Year 2012 $105,921,429
Part A, Subpart 2 – Improve Educational Opportunities

This program is designed to improve the educational opportunities and achievement of preschool, elementary, and secondary school Indian children by developing, testing, and demonstrating effective services and programs.

Activities

For several years, the absolute funding priorities for the program have limited project services to: school readiness projects that provide age-appropriate educational programs and language skills to 3- and 4-year-old Indian students to prepare them for successful entry into school at the kindergarten level; and college preparatory programs for secondary school students designed to increase competency and skills in challenging subject matter, including mathematics and science, to enable Indian students to transition to postsecondary education.
Who May Apply

SEAs; LEAs (including charter schools that are considered LEAs under state law); Indian tribes; Indian organizations; federally supported elementary and secondary schools for Indian students; and Indian institutions, including Indian institutions of higher education; or a consortium of such entities may apply. Thus, TEDs may apply for this program.

In 2013, the Chugach School District (Alaska), Qissunamiut Tribe (Alaska), Blackwater Community School (Arizona), Hoopa Valley Tribe (California), and Santa Ynez Band of Chumash Indians (California) were some of the entities that were awarded grants under this program.

Appropriations

Fiscal Year 2010 $10,377,000
Fiscal Year 2011 $10,335,000
Fiscal Year 2012 $10,623,000

Contact and Further Information

Name: Lana Shaughnessy
Email Address: Lana.Shaughnessy@ed.gov
Mailing Address:
U.S. Department of Education, OESE
Office of Indian Education
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. S.W., Rm. 3E231
Washington, DC 20202-6335
Telephone 202-205-2528
Fax 202-260-7779
Part A, Subpart 2 – Professional Development Grant

This program is designed to prepare and train Indian individuals to serve as teachers and education professionals.

Activities

Professional development grants are awarded to: increase the number of qualified Indian individuals in professions that serve Indians; provide training to qualified Indians to become teachers, and administrators; and improve the skills of those qualified Indians who serve currently in those capacities. Individuals trained under this program must perform work related to their training and that benefits Indian people or repay the assistance received. The absolute funding priorities for the program limit awards to projects that include data-based decision making and pre-service training for teachers, or pre-service training for school administrators, or both.

Who May Apply

Eligible applicants are: institutions of higher education ("IHEs"), including Indian IHEs; SEAs or LEAs (including charter schools considered LEAs under federal law), in consortium with an IHE; Indian tribes or organizations, in consortium with an IHE; and the U.S. Department of the Interior’s Bureau of Indian Education-funded schools (as defined in the Education Amendments of 1978, Section 1146) in consortium with an IHE.

Appropriations

Fiscal Year 2010 $8,542,000

Fiscal Year 2011 $8,534,000

Fiscal Year 2012 $8,173,000
Part A, Subpart 3 – National Activities

The National Activities authority funds research, evaluation, and data collection to provide information on the education status of the Indian population and on the effectiveness of Indian education programs. This authority enables the U.S. Department of Education to improve the national knowledge base on the education status and needs of Indians and to identify and disseminate information on best practices for serving this population.
Activities

The Department uses these funds, primarily through contracts, to support research, evaluation, and data collection on the status and effectiveness of Indian education programs, and for other activities and programs to improve the education of American Indians and Alaska Natives, age preschool through adult.

The STEP pilot, which is funded under this provision, provides grants to promote increased collaboration between TEAs and SEAs in the administration of state-administered formula grants programs under the ESEA.

Who May Apply

SEAs, IHE, LEAs, charter schools that are considered LEAs under state law, Indian tribes, Indian organizations, Indian IHEs, and other public and private agencies and institutions may apply. For the State-Tribal Education Partnership (STEP) pilot, tribal education agencies (TEAs) in partnership with an SEA may apply.

The Department of Dine Education (Navajo), the Confederated Tribes of the Umatilla Indian Reservation, Nez Perce, and the Chickasaw Nation were all awarded STEP Grants in 2012.

 Appropriations

Fiscal Year 2010 $3,891,000
Fiscal Year 2011 $3,883,218
Fiscal Year 2012 $5,871,881

Contact and Further Information

Name: Joyce Silverthorne
Email Address: Joyce.Silverthorne@ed.gov
Mailing Address:
U.S. Department of Education, OESE
Office of Indian Education
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. S.W., Rm. 3E201
Washington, DC 20202-6400
Telephone 202-401-0767
Fax 202-260-7779

LINKS TO RELATED WEBSITES

**Part B – Native Hawaiian**

The purpose of this program is to support innovative education projects to assist Native Hawaiians.

**Activities**

Authorized activities include, among others: early education and care programs; family-based education centers; beginning reading and literacy programs; activities to address the needs of gifted and talented Native Hawaiian students; special education programs; professional development for educators; and activities to enable Native Hawaiian students to enter and complete postsecondary education.

**Who May Apply**

Native Hawaiian education organizations; Native Hawaiian community-based organizations (CBOs); public and private nonprofit organizations, agencies, and institutions (including state education agencies (SEAs), local education agencies (LEAs), and institutions of higher education (IHEs) with experience in developing or operating
Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and consortia of the aforementioned may apply.

**Appropriations**

- Fiscal Year 2010: $34,315,000
- Fiscal Year 2011: $34,246,370
- Fiscal Year 2012: $34,181,275

**Contact and Further Information**

Name: Joanne Osborne

Email Address: Joanne.Osborne@ed.gov

Mailing Address:

U.S. Department of Education, OESE
Academic Improvement and Teacher Quality Programs
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. S.W., Rm. 3E214
Washington, DC 20202-6200

Telephone 202-401-1265
Toll-free 1-800-USA-LEARN or 1-800-872-5327
Fax 202-260-8969

**LINKS TO RELATED WEBSITES**

Part C – Alaska Native

The overall purpose of this program is to meet the unique education needs of Alaska Natives and to support supplemental education programs to benefit Alaska Natives.

Activities

Allowable activities include, but are not limited to, the development of curricula and education programs that address the education needs of Alaska Native students as well as the development and operation of student enrichment programs in science and mathematics. Eligible activities also include professional development for educators, activities carried out through Even Start programs and Head Start programs, family literacy services, and dropout prevention programs.

Who May Apply

Alaska Native organizations; education entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages; cultural and community-based organizations (CBOs) with experience in developing or operating programs to benefit Alaska Natives; and consortia of these organizations may apply. A state education agency (SEA) or local education agency (LEA) may apply as part of a consortium involving an Alaska Native organization. A consortium may include other eligible applicants.

Appropriations

Fiscal Year 2010 $33,315,000
Fiscal Year 2011 $33,248,370
Fiscal Year 2012 $33,185,161

Contact and Further Information

Name: Almita Reed
Email Address: Almita.Reed@ed.gov
Title VIII

Impact Aid

This program provides funding directly to local educational agencies for the education of children whose parents are federal employees, or who reside on federal or Indian lands. 20 U.S.C. 7703(a)(1). Districts receiving impact aid for Indian children must ensure that the funds equally benefit Indian children, and that parents and Indian tribes are involved in the planning and evaluation of education in the district. 20 U.S.C. § 7704.

Activities

Indian tribes must be afforded an opportunity to present their views on LEA programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities. Indian tribes must be consulted and involved in planning and developing programs and activities. Relevant applications, evaluations, and program plans
must be disseminated to Indian tribes, and Indian tribes must be afforded an opportunity to present their views to LEAs regarding the general educational program.

Who May Apply

LEA's get this funding and therefore TEAs will have to work with their local LEAs on implementing this program.

Appropriations

Fiscal Year 2010 $1,276,183,000
Fiscal Year 2011 $1,273,630,634
Fiscal Year 2012 $1,291,186,037

Contact and Further Information

Name: Alfred Lott
Email Address: Alfred.Lott@ed.gov
Mailing Address: U.S. Department of Education, OESE
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave. S.W., Rm. 3E105
Washington, DC 20202-6244
Telephone 202-260-3858
Toll-free 1-800-USA-LEARN or 1-800-872-5327
Fax 1-866-799-1272
Title X

Adult Education

The primary objective of this program is to provide federal financial assistance to eligible Indian adults and improve opportunities and experiences for Indian adults so they may acquire basic literacy and other skills necessary for continuing education, productive employment, and effective citizenship. 25 C.F.R. § 46.1.

Activities

Programs include direct support of local projects, programs, or courses designed to enable eligible Indian adults to acquire basic educational skills, including literacy; prepare for GED tests; continue their education through the secondary level; establish career projects to improve employment opportunities; prepare individuals to benefit from occupational training; and teach employment related and life coping skills such as budgeting, driver training, and income tax filing. 25 C.F.R. § 46.10.

Who May Apply

Tribes and tribal organizations may apply. 25 C.F.R. § 46.2.

Tribal Departments or Divisions of Education

The primary objective of this program is to provide federal financial assistance to eligible tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe. 25 U.S.C. § 2020.
Activities

Funds are to be used to facilitate tribal control in Indian education; to develop coordinated education programs; and to develop and enforce tribal education codes. Id.

Who May Apply

Tribes and TEDs may apply. This provision has never been funded, however.

The Johnson-O’Malley Act

The Jonson-O’Malley Act (“JOM”) authorizes contracts for education, medical care, relief, and social welfare of Indians. 25 U.S.C. § 452-457. JOM contracts, however, have primarily focused on funding education. JOM funds offer great flexibility. Any supplemental program for children aged 3 through grade 12 that meets certain procedural requirements and that addresses the specialized and unique educational needs of Indian students is considered an eligible proposal for funding. 25 C.F.R. § 273.13(a); see 25 C.F.R. §§ 273.14, 273.18. Priority goes to programs on or near reservations, a majority of whose participants are members of the tribes of the reservations. 25 C.F.R. § 273.12.

A foundation for the current program is the mandate to achieve “maximum Indian participation” in development, approval, and implementation of all JOM programs. 25 C.F.R. § 273.4. With that in mind, typically the affected tribe establishes an Indian education committee from among the parents or guardians of eligible children that is empowered to participate in the planning, implementation, and evaluation of JOM programs. 25 U.S.C. § 456; 25 C.F.R. § 273.15. The program must also encourage participation by the rest of the Indian community. 25 C.F.R. § 273.15(d).

Who May Apply

Tribal organizations, Indian Corporations, and school districts or States which have eligible Indian children attending public school districts and have established Indian Education Committees to approve supplementary or operational support programs beneficial to Indian students. Current funding is calculated with the 1995 JOM student count.
Appropriations

FY 11 $21,273,000
FY 12 est $21,510,000
FY 13 est $21,396,000

Contact and Further Information

Name: Jim Martin
Email: james.martin@bie.gov
Address:
Office of Indian Education Programs, Room MS 3609-MIB,
1849 C Street, N.W.,
Washington, District of Columbia 20240
Phone: (202) 208-5820.

Website Address:
http://www.bie.edu
https://www.cfda.gov/index?s=program&mode=form&tab=core&id=ac707cf589029a80e05e509d9ba4a50c
FERPA and the Importance of Data

It has become clear that the use of data is central to how many educators evaluate their practices and monitor students’ academic progress. See generally Hamilton et al., Using Student Achievement Data to Support Instructional Decision Making (2009). Student achievement data, discipline data, and attendance records, etc. are vitally important to evaluating educational practices, success, and student improvement. Id. As one scholar has noted, “better access to data offers an unprecedented opportunity for educators to become problem solvers; using hard evidence to analyze student performance and craft data-driven school improvement plans. But information is just a tool, and like any tool, it is only as powerful as the use to which it is put. . .” Fairlocth, Susan C., & Tippeconnic, III, John W, The Dropout/Graduation Rate Crisis Among American Indian and Alaska Native Students: Failure to Respond to Places the Future of Native Peoples at Risk 8 (2010). Despite this understanding, Tribes and TEAs face uphill challenges in accessing this data in the first place.

FERPA

The Family Educational Rights and Privacy Act (“FERPA”) of 1974, 20 U.S.C. § 1232g, generally allows federal, state, and local education agencies, authorities, and officials access to student records and other personally identifiable information kept by, among other institutions, the state public schools without the advance consent of parents or students. 20 U.S.C. § 1232g(b); 34 C.F.R. § 99.31(a). These records typically include attendance records, grades, and test scores. FERPA protects access to this information based on concerns for student and parental rights of privacy.

TEAs

In the 1988 Reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965, Pub. L. No. 89-10 (1965), Congress authorized a new program within the Bureau of Indian Affairs in the U.S. Department of the Interior, entitled “Tribal Departments or Divisions of Education.” See Title V, Sec. 5119, Pub. L. No. 100-297 (1988). In the 1994 Reauthorization of the ESEA, Congress authorized another new program within the U.S. Department of Education, entitled “Grants to Tribes for Education Administrative Planning and Development (also known as Tribal Education Departments).” See Title IX, Sec. 9125 of Pub. L. No. 103-382 (1994).

Both of these TEA program authorizations are retained in the most recent ESEA reauthorization, the No Child Left Behind (NCLB) Act of 2001, Pub. L. No. 107-110 (2001). See Title VII, Sec. 7135, currently codified at 20 U.S.C. Sec. 7455, and Title X, Sec. 1140, currently codified at 25 U.S.C. Sec. 2020. Congress envisions that TEAs will “plan and coordinate education programs;” “develop education codes and facilitate tribal control in education matters;” “provide support services and technical assistance to schools;” and, “cooperate with federal and state education agencies.” See generally 20 U.S.C. Sec. 7455 and 25 U.S.C. Sec. 2020. In essence, under these and other ESEA programs, TEAs are very much like SEAs and LEAs.
and other ESEA programs, TEAs are very much like SEAs and LEAs.

The Problem

Because of FERPA’s lack of clarity, many public school districts and / or states will not allow TEAs access to the protected 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 and information on tribal students, most of whom (92%) attend public schools nationwide, has hampered the efforts of TEAs to plan and coordinate education programs (funding for many of which, such as the NCLB Title VII Indian Education Act Formula Grant Program, go directly to LEAs); to develop education codes; to provide support services and technical assistance to schools; and to work with LEAs and SEAs as was envisioned by Congress. Most importantly, they have made it hard for TEAs to make data-based decisions in planning for and addressing the educational progress and needs of tribal students which would help close the tribal student achievement gaps under NCLB.

FERPA Amendment

In January of 2013, Congress amended FERPA to add an additional disclosure exception. The amendment permits LEAs, SEAs, and education institutions receiving federal funds to release education records of students without the written consent of their parents to a “tribal organization (as defined in section 450b of title 25) […]” The tribal organization must have “the right to access a student’s case plan,” as defined and determined by the tribal organization, when the organization is legally responsible, in accordance with tribal law, for the care and protection of the student. The disclosure can be made provided that the education records, or the personally identifiable information contained in such records, “will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student's education needs” and the disclosure is consistent with tribal laws applicable to protecting the confidentiality of the students records.

This is certainly a step in the right direction for providing Tribes and TEAs access to student records. It is still unclear, however, if the Department of Education will interpret this new provision to generally provide TEAs access to student records without prior consent as the context of the amendment deals with child welfare agency matters and records of foster children. See 158 Cong. Rec. H7450 (daily ed. Dec. 30, 2012) (statement by Rep. Roe) (“This is an important bill that will help improve the quality of education for children in foster care.”).
Ways around

The clearest way around the FERPA issue is for TEAs to obtain consent forms from parents of Indian students to release their records to the TEA. Under the new amendment, tribal welfare agencies will be permitted, in accordance with tribal law, to access student records without parental or student consent.

Conclusion

We hope that this Guide will assist TEAs in enhancing their role in Native education. Education is key to our future, and this Guide provides avenues for TEAs to explore. Several of the programs highlighted here have already proven to be areas that TEAs can collaborate with their SEAs and LEAs to improve Native education. For more information on TEDNA, please visit TEDNA’s website at TEDNA.org. For more information on NARF, please visit NARF’s website at NARF.org. For more information on NCAI, please visit NCAI’s website at NCAI.org.

References

No Child Left Behind Act of 2001, Public Law 107-110, which is mainly codified in Chapter 70 of Title 20, 20 U.S.C. § 6301 et seq.

Tribal Education Departments National Assembly, Tribal Education Departments Report, 2011.


The Native American Rights Fund, Indian Education Legal Support Project “Tribalizing Indian Education,” Major Federal Programs for American Indian, Alaska Native, and Native Hawaiian Education: What are They and How do they Involve Tribes? Part II: Programs under the No Child Left Behind Act of 2001, Titles VII (Indian Education Act); VII (Impact Aid); and, X (Bureau of Indian Affairs), June 2004.

The Council of Chief State School Officers, Major Elementary and Secondary Federal Education Programs Serving Tribal Students: What are they and What are the Roles of SEAs, LEAs, and Indian Tribes, April 2005.
COHEN’S HANDBOOK OF FEDERAL INDIAN LAW Section 22.03, at 1396-1416 (Nell Jessup Newton ed., 2012).

Indian Education Division, New Mexico Public Education Department: http://ped.state.nm.us/ped/IEDindex.html.

