

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - Second Year, 2016

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND
NAABIK'ÍYÁTI' COMMITTEES; APPROVING THE DINE BI OLTA SCHOOL
BOARD ASSOCIATION, INC. POSITION STATEMENT ON THE BUREAU OF
INDIAN EDUCATION BUDGET FOR FISCAL YEAR 2017

SECTION ONE. AUTHORITY

- A. The Navajo Nation established the Health, Education and Human Services Committee (HEHSC) as a standing committee of the Navajo Nation Council, with the authority to review and recommend resolutions regarding matters concerning education. See 2 N.N.C. §§ 164 (A) (9), 400 (A), 401 (B) (6) (a) (2015); See also CO-45-12.
- B. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and has the authority to review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo people and the Navajo Nation. See 2 N.N.C. §§ 164 (A) (9), 700 (A), 701 (A) (7) (2015); see also CO-45-12.
- C. The Navajo Nation has a government-to-government relationship with the United States of America and holds the government of the United States responsible for the education of the Navajo People, pursuant to the Treaty of 1868, Aug. 12, 1868, 15 Stat. 667; See also CJY-37-05.
- D. Pursuant to Public Law 107-110, "Congress declares that the federal government has the sole responsibility for the operation and financial support of the Bureau of Indian Affairs funded school system that it has established on or near Indian reservations and Indian trust lands through the Nation for Indian children."

SECTION TWO. FINDINGS

- A. The Navajo Sovereignty in Education Act of 2005 (hereinafter NSEA), mission statement: "[i]t is the educational mission of the Navajo Nation to promote and foster lifelong learning for the Navajo people, and to protect the culture[al] integrity and sovereignty of the Navajo Nation." See CJY-37-05 (July 19, 2005).
- B. The NSEA established the Diné Bi Olta School Board Association (DBOSBA), as "the only school board association recognized by the Navajo Nation to represent local community school boards." See N.N.C. § 301; See also CJY-37-05 (July 19, 2005).
- C. There are currently sixty-six (66) federally funded schools within the Navajo Nation, thirty-four (34) are operated by grant or contract under Public Law 93-638 or Public Law 100-297. See Exhibit A (DBOSBA Position Statement on the Proposed FY 2017 Federal Budget, Mar. 18, 2016).
- D. The Bureau of Indian Education Central Office provides policy, budget and administrative services for Bureau of Indian Affairs (BIA) schools, there are six (6) Line Offices located within the Navajo Nation; Line Offices work with all sixty-six (66) schools and eight (8) residential/dormitory programs, serving Navajo students. See Exhibit A (DBOSBA Position Statement on the Proposed FY 2017 Federal Budget, Mar. 18, 2016).
- E. The DBOSBA proposed fiscal year budget increases includes: a commitment to self-determination; Indian School Equalization Program (ISEP); facilities; education program enhancements; school transportation; broadband and information technology enhancement; Bureau of Indian Education (BIE) school construction; early childhood and family development; and BIE education program management. See Exhibit A (DBOSBA Position Statement on the Proposed FY 2017 Federal Budget, Mar. 18, 2016).
- F. The DBOSBA also recommends BIE to establish a Division of Budget Analysis and opposes the BIE reorganization. See Exhibit A (DBOSBA Position Statement on the Proposed FY 2017 Federal Budget, Mar. 18, 2016).

G. It is in the best interest of the Navajo Nation to support and approve the Diné Bi Olta School Board Ass'n, Inc., position statement on the proposed Federal Budget for Fiscal Year 2017.

SECTION THREE. APPROVING POSITION STATEMENT

The Navajo Nation hereby supports and approves the Diné Bi Olta School Board Ass'n, Inc., position statement on the proposed Federal Budget for Fiscal Year 2017, and further recognizes and recommends the importance for teacher/staff housing when considering annual budget development.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 15 in favor and 1 oppose, this 23rd day of June, 2016.



Honorable LoRenzo Bates, Chairperson
Naabik'íyáti' Committee

Motion: Tom Chee

Second: Benjamin Bennett

NAVAJO NATION

RCS# 448

Naa'bik'iyati Committee

6/23/2016
03:15:39 PM

Amd# to Amd#

Legislation No. 0146-16

PASSED

MOT Chee

Approving the Dine' Bi Olta

SEC Bennett

School Board Association, Inc.

Position Statement on the BIE

Yea : 15

Nay : 1

Not Voting : 8

Yea : 15

Begay, K
BeGaye, N
Bennett
Chee

Damon
Daniels
Filfred
Hale

Jack
Phelps
Slim
Smith

Tso
Witherspoon
Yazzie

Nay : 1

Tsosie

Not Voting : 8

Bates
Begay, NM

Brown
Crotty

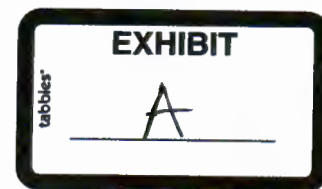
Perry
Pete

Shepherd
Vacant



DBOSBA

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DINÉ BI OLTA SCHOOL BOARD ASSOCIATION, INC.
Position Statement on the Proposed FY 2017 Federal Budget
March 18, 2016

Greetings Honorable Members of the House Sub-Committee on Interior Appropriations, My Name is Angela Barney Nez. I serve as the Executive Director of the Diné Bi Olta School Board Association, Inc. (DBOSBA). Pursuant to Navajo Nation Code 10§301 et.seq. the Navajo Nation established the DBOSBA organization as the only school board association recognized by the Navajo Nation to represent local community school boards to address the views and situations of community controlled schools operated and funded by the Bureau of Indian Education. There are currently 66 federally funded schools on the Navajo Nation, 34 of which are operated by a grant or contract under P.L. 93-638 or P.L. 100-297 as amended.

The Proposed FY 2017 Budget Increases

The FY 2017 budget proposal by the Department of the Interior for BIE Education looks reasonably good when viewed in conjunction with the FY 2016 final appropriations. DBOSBA hereby submits its position on the FY 2017 Budget Request and also provides input and guidance on the overall direction of the BIE Education System going forward.

- **COMMITMENT TO SELF-DETERMINATION** - DBOSBA strongly supports the Administration's commitment to self-determination, particularly the proposal to continue funding 100% of the Administrative Cost Grants (\$2.1 million increase). We support continuation of full funding for the Tribal Education Departments in 2017, but would point out that the authorized level should be increased beyond the current \$2 million level. On Navajo, in spite of tribal authorization to establish a true educational system, a lack of funding continues to hamper the development activity.
- **INDIAN SCHOOL EQUALIZATION PROGRAM (ISEP)** - DBOSBA supports an increase in this line item for the basic instructional program of BIE funded schools. However, the amount of \$6.5 million seems a very minimal amount, particularly since there was only a minimal increase for ISEP in the FY 2016 budget. The ISEP formula funding is only now getting back to the FY 2010 level. We would like to see an estimate of the funding needed to meet the DOD teacher pay requirement compared to the proposed overall increase.
- **FACILITIES O & M** - DBOSBA strongly supports the increase in Facilities O & M of \$6 million. Combined with the significant increase in FY 2016, this is greatly appreciated and will reduce the problem of schools having to divert instructional dollars to "keep the lights on." The failure through the years to adequately fund these line items results in minor problems evolving into major repairs.
- **EDUCATION PROGRAM ENHANCEMENTS** - The BIE has requested an increase of \$2 million in this program. It is unfortunately not always clear how this funding is used and

whether it has been effective. In the past, it appears that large contracts were given to education assistance companies that were springing up in response to the unrealistic demands of NCLBA. The FY2016 budget justification states that the funding would be used for "*capacity building*" for tribal departments of education as well as a discretionary fund to "*drive reforms and spur innovations in the 126 tribally controlled schools operating on 64 reservations.*" Since FY 2008, more than \$100 million has been appropriated for this program. The justifications for the program have been rather vague and the results seem negligible. If indeed this funding is requested for capacity building for tribal education departments, there should be a fair and transparent process established for moving resources to the tribes for this purpose.

- **SCHOOL TRANSPORTATION** – DBOSBA strongly supports the \$4 million increase in transportation. Most schools agree that the funding provided historically via this line item has been inadequate to cover the full cost of the transportation program. This shortfall means that the schools must take funding out of their instructional programs just to get the students to school. More actual data seems to be needed to identify the extent of the shortfall.

- **BROADBAND AND I.T. ENHANCEMENT** - DBOSBA strongly supports the \$16.8 million for bringing Broadband and digital access to all Bureau schools. BIE received only a \$2.0 million increase for information technology in the FY 2016 appropriations, far less than the \$34 million increase proposed. While this proposal for FY 2017 is not as substantial as the request made in FY 2016, the funding would have a very significant impact on the access and use of technology in the Navajo classrooms. A great many innovative teaching techniques and materials, now including testing materials; are based on digital platforms and cannot be used without such access.

- **BIE SCHOOL CONSTRUCTION** – DBOSBA supports the continuation of the FY 2016 school construction funding level in the FY 2017 budget (\$138 million). We know the Bureau is currently consulting with the tribes and school officials concerning the procedures for developing the priority lists for school construction. DBOSBA strongly supports the appropriation committees' suggestion that the Bureau "*model its efforts on the process used by the Department of Defense (DOD)...*"

- **EARLY CHILDHOOD AND FAMILY DEVELOPMENT** – DBOSBA supports the increase of \$4 million for the FACE program. We believe that this program is successful in strengthening Navajo families and student readiness for school. Along with the appropriations committees, we look forward to the release of the 2013-2014 Study and internal review of the program.

- **BIE EDUCATION PROGRAM MANAGEMENT** – The FY 2017 budget requests \$8.0 million "to further establish a School Operations Division..." DBOSBA supports this request if this funding will be used to finally implement 25 USC 2006 (a) and (b) that vests all education functions in the AS -IA and then states that the AS - IA will "*carry out such functions through the Director of the Office of Indian Education Programs.*" (Now known as BIE) In paragraph (b)(1), it states that "*The Director shall direct and supervise the operations of all personnel directly and substantially involved in the provision of education program services by the Bureau, including school or institution custodial or maintenance personnel, and personnel responsible for contracting, procurement and finance connected with school operation programs.*" True implementation of this statute would almost certainly involve a transfer of functions, personnel, and funding, from the BIA to the BIE as well as provide new funding for BIE. Paragraph (b) (2) requires the

AS -IA *"to coordinate the transfer of functions relating to procurements for, contracts of, operation of, and maintenance of schools and other support functions to the Director."* DBOSBA believes there is absolutely no confusion about the meaning of these provisions of the statute! Furthermore, these statutory provisions are in consistent with the GAO recommendations.

Recommendations for BIE Education System

- **BUDGET ANALYSIS DIVISION** – 25 USC 2009 requires that BIE establish a Division of Budget Analysis not later than one year after enactment of NCLBA. It would have been a tremendous help through the years if such a division were in existence and providing the type of information called for in the statute. In addition, 25 USC 2001 (h) requires the Comptroller General to conduct a study *"to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau-funded schools..."* The long standing failure of the Bureau to implement these provisions has created a void of information where it has become increasingly difficult to justify funding based upon objective data. As part of the reform measures called for by the appropriation committees, DBOSBA believes these two statutory mandates should be specifically mentioned for implementation.
- **BIE REORGANIZATION** - DBOSBA has actively opposed portions of the BIE reorganization. The problem has been that the Department has treated the existing statute as though it is somehow optional and proceeded to ignore the structure mandated in the statute. The Department has received a conditional approval of its reorganization contingent on its consistency with the GAO Report 13-774. The Committee Report states: *"As the Department takes steps to reform the system, the Secretary is reminded that future support from Congress will continue to be based in large part upon successful implementation of GAO report recommendations. In particular, consistent with GAO report 13-774, the Secretary is urged to reorganize Indian affairs so that control and accountability of the BIE system is consolidated within the BIE, to present such reorganization proposal in the fiscal year 2017 budget request..."* Specifically named are problems related to the *"organizational structure, accountability, finance, health and safety, and ultimately student performance."* Since the detailed FY 2017 budget justification (Green Book) has not yet been released, DBOSBA does not know if the Department has complied with the Committees' strong suggestion; however, the Department's original reorganization plan ignored the GAO report, as well as the applicable statute (25 USC 2006). DBOSBA believes that going forward with the Department's original reorganization plan does not address the GAO's recommendations, is not in compliance with applicable statutes, and would make matters worse in the field. We have submitted written testimony/correspondence on numerous occasions to no avail. We now urge the appropriations committees to review this matter carefully.

- **RELATIONSHIP WITH THE U.S. DEPARTMENT OF EDUCATION**

Shift to Department of Defense (DOD) budget model

As the Committee is aware, the Department of the Interior has been involved with developing a major initiative for BIE Education. One of the suggested options that came out of those discussions/consultations was an idea to utilize the Department of Defense budget model as it relates to the flow through funding from the Department of Education. Currently the BIE

receives about \$200 million from the Department of Education via a set aside in the authorizing legislation (now ESSA). Conversely, the Department of Defense Education System, receives its total funding *through its own DOD appropriation*. It is therefore free to develop its educational program to meet the special needs of the students it serves. This is a fundamental difference between the two education systems operated by the Federal government. In our estimation, there is no question that the Department of Defense model is superior to the Bureau of Indian Education model.

Memoranda of Agreement have been reached through the years whereby the BIE is supposed to function as an SEA (State Education Agency) in order to receive the Department of Education funds and administer the various programs to the LEAs (Local Education Agencies). Rather than work with tribes and local BIE funded schools in designing its curriculum and ensuring that the needs of its students are met, the Bureau is forced to comply with Department of Education rules devised for the states.

Following the passage of NCLB, these rules and procedure became much more detrimental to BIE school programs. The Bureau began neglecting its own statutory authorizations in favor of its clearer SEA role as the enforcer of NCLB rules. The result was that the BIE Education System, set up to meet the special needs of Indian children, was forced instead to try to set up the same education system that was in the process of failing in most of the rest of the country. Of course, the failures in Indian country have been more significant since the BIE was ignoring the very principles that have been developed through the years based on numerous studies and years of experience. Increases in BIE funding were funneled into NCLB implementation. Genuine initiatives toward self-determination, including at least two on Navajo, were squelched due to lack of funding.


We believe that it is time for a major change in the structure. We recommend that the BIE set aside funding from the Department of Education in ESSA be transferred to the Interior Budget for BIE. The BIE should then be required to have substantive consultations with the tribes, school staff and BIE funded school boards to further develop a unique education system, based on self-determination and deemed to be the most beneficial and effective for Indian youth. We believe that this change would require a statutory change and were disappointed that the new ESSA did not deal in any substantial way with Indian Education. We believe the statutory change to be minor but believe the benefits could be significant.

Thank you for this opportunity to inform the Sub-Committee on our comments and concerns.

Document No. 005788Date Issued: 04/11/2016**SECTION 164 REVIEW FORM**Title of Document: NDOH Issue Papers for 2016 DHHS Regional Contact Name: ETSITTY, SYLVIA M.Program/Division: DEPARTMENT OF HEALTHEmail: sylvia.etsitty@nndoh.org Phone Number: 928-871-6350Division Director Approval for 164A: 

Check document category: only submit to category reviewers. Each reviewer has a maximum 7 working days,
except Business Regulatory Department which has 2 days, to review and determine whether the document(s) are
sufficient or insufficient. If deemed insufficient, a memorandum explaining the insufficiency of the document(s) is required.

Section 164(A) Final approval rests with Legislative Standing Committee(s) or Council

<input checked="" type="checkbox"/>	Statement of Policy or Positive Law			Sufficient	Insufficient
	1. OAG: <u></u>	Date: <u>4/14/16</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)				
	1. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	2. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	
	3. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>	

Section 164(B) Final approval rests with the President of the Navajo Nation

<input type="checkbox"/>	Grant/Funding Agreement or amendment:			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Subcontract/Contract expending or receiving funds or amendment:			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. BRD: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	5. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment:			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	M.O.A. or Letter of Assurance expending or receiving funds or amendment:			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>