

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0064-17

**DATE:** February 10, 2017

**TITLE OF RESOLUTION:** AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND NAABIK'ÍYÁTI'; DEMANDING THAT THE BUREAU OF INDIAN EDUCATION AND THE SOLICITOR'S OFFICE SHARE WITH THE NAVAJO NATION THE SOLICITOR'S ANALYSIS AND INTERNAL DISCUSSIONS AND DELIBERATIONS ON PLANS TO REORGANIZE THE BUREAU OF INDIAN EDUCATION

**PURPOSE:** This resolution will demand that the Bureau of Indian Education and the Solicitor's Office share with the Navajo Nation the Solicitor's analysis and internal discussions and deliberations on plans to reorganize the Bureau of Indian Education.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

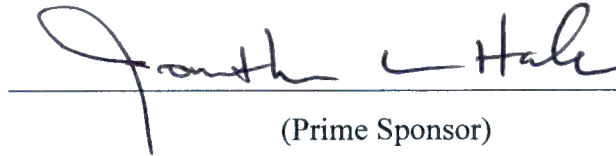
5-DAY BILL HOLD PERIOD: None  
Website Posting Time/Date: 5:28pm 2/19/2017  
Posting End Date: 2/19/2017  
Eligible for Action: 2/20/2017

Health, Education & Human Services Committee  
THENCE

Naa'bik'íyáti' Committee

PROPOSED STANDING COMMITTEE RESOLUTION  
23<sup>rd</sup> NAVAJO NATION COUNCIL -- Third Year, 2017

INTRODUCED BY

  
(Prime Sponsor)

TRACKING NO. 0004-17

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND  
NAABIK'ÍYÁTI'; DEMANDING THAT THE BUREAU OF INDIAN EDUCATION  
AND THE SOLICITOR'S OFFICE SHARE WITH THE NAVAJO NATION THE  
SOLICITOR'S ANALYSIS AND INTERNAL DISCUSSIONS AND  
DELIBERATIONS ON PLANS TO REORGANIZE THE BUREAU OF INDIAN  
EDUCATION

**Section One. Authority**

1. The Health, Education and Human Services Committee (HEHSC) is a standing committee of the Navajo Nation Council. It is empowered to review and recommend resolutions regarding certain matters, including health, education and social services. 2 N.N.C. §§ 164 (A)(9), 400 (A), 401 (B)(6)(a) (2012); *see also* CO-45-12.

2. The Naabik'íyáti' Committee of the Navajo Nation Council, among other duties and responsibilities, "coordinate[s] all federal, county and state programs with other standing committees and branches of the Navajo Nation government to provide the most efficient delivery of services to the Navajo Nation. 2 N.N.C. §701(A)(4).

**Section Two. Findings**

1. The Bureau of Indian Education (BIE) states as its mission, "to provide quality education opportunities from early childhood through life in accordance with a tribe's

1 needs for cultural and economic well-being, in keeping with the wide diversity of Indian  
2 tribes and Alaska Native villages as distinct cultural and governmental entities. Further,  
3 the BIE is to manifest consideration of the whole person by taking into account the  
4 spiritual, mental, physical, and cultural aspects of the individual within his or her family  
5 and tribal or village context." *www.bie.edu*.

6 2. There are currently plans to reform and reorganized the BIE. The Navajo Nation is  
7 concerned that these plans for reform and reorganization are not being shared with Indian  
8 tribes, the major stakeholders under all educational programs managed and operated by  
9 the BIE. The Navajo Nation must be consulted on all plans for reform and all efforts in  
10 reorganizing the BIE. Certainly, any reform and reorganization of a program established  
11 for the benefit of Indian children impact trust responsibilities owed by the federal  
12 government. Similar requests for information have been made by the National Indian  
13 Education Association. See attached Exhibits A, B, C and D.

14 3. A governing principle of the Department of the Interior's policies on Tribal  
15 Consultation is stated as:

16 "Consultation is a deliberative process that aims to create effective collaboration and  
17 informed Federal decision-making. Consultation is built upon government-to-government  
18 exchange of information and promotes enhanced communication that emphasizes trust,  
19 respect, and shared responsibility. Communication will be open and transparent without  
20 compromising the rights of Indian Tribes or the government-to-government consultation  
21 process. Federal consultation conducted in a meaningful and good-faith manner further  
22 facilitates effective Department operations and governance practices. To that end, Bureaus  
23 and Offices will seek and promote cooperation, participation, and efficiencies between  
24 agencies with overlapping jurisdiction, special expertise, or related responsibilities  
25 regarding a Departmental Action with Tribal Implications. Efficiencies derived from the  
26 inclusion of Indian Tribes in the Department's decision-making processes through Tribal  
27 consultation will help ensure that future Federal action is achievable, comprehensive, long-  
28 lasting, and reflective of Tribal input."

1     **Section Three. Demanding Solicitor's Analysis and Information on Internal**  
2     **Discussions on Plans to Reorganize the Bureau of Indian Education**

3     1. In regards to all plans for reforming and reorganizing the Bureau of Indian Education,  
4     the Navajo Nation requests that the Bureau of Indian Education comply with all policies  
5     on Tribal Consultation as mandated by the Department of the Interior.

6     2. Consistent with the federal government's trust responsibilities, and pursuant to Tribal  
7     Consultation policies, the Navajo Nation demands that the Bureau of Indian Education  
8     share with the Navajo Nation all plans to reform and reorganize the Bureau of Indian  
9     Education, including any internal discussions and deliberations on the subject matter.  
10    The Navajo Nation further demands copies of the Office of the Solicitor's Analysis on  
11    plans to reorganize the Bureau of Indian Education.



NATIONAL INDIAN EDUCATION ASSOCIATION  
Advancing Excellence for All Native Students

January 13, 2017

President Russell Begaye  
100 Parkway  
Diné Bi Olta School Board Association (DBOSBA)  
Box 7440  
Window Rock, Arizona 88515



Dear President Begaye,

Dear Ms. Barney Nez,

I write to update you on the outcome of a resolution that Ms. Angela Barney Nez submitted at the National Indian Education Association's (NIEA) Annual Convention in Reno, NV last October, Resolution 2016Eg02, "Relating to the Legal and Policy Issues Concerning the Reorganization of the Bureau of Indian Education (BIE) to Portions of its Implementation."

The Resolution called on NIEA to renew our request for a thorough legal and policy review of the Bureau of Indian Education (BIE) reorganization and to make sure BIE is accountable for serving Native students optimally through its organizational structure.

Attached you will find the letter NIEA sent to Secretary of Interior Sally Jewel requesting the legal analysis and deliberations that the BIE has undergone in the course of its reorganization efforts under its Blueprint for Reform (Reform). NIEA specifically noted in our request concerns that the Reform will only succeed if it is solidly founded on the trust relationship and an inclusive, cooperative framework of tribes and local stakeholders. We also called on the Department of Interior to enter into negotiated rulemaking with tribes.

We are also enclosing the letter from the BIE and Department of Interior's Office of the Solicitor that responds to NIEA's request. The response states that the BIE and the Solicitor's Office will not share the Solicitor's Office analysis and internal deliberations. The Secretary's letter also sought to address some of the concerns that we raised in our letter regarding consultation, the need for BIE to serve Native students well, and Congressional oversight.

NIEA still believes that the release of the Solicitor's opinion is necessary and has filed a Freedom of Information Act request for its release. While we have not yet received the response, we will review it as soon as it arrives and follow up to make the case for tribal involvement in this critical matter.

Thank you for your leadership and for your continued commitment to making sure that BIE reorganization serves Native students. NIEA will continue to work on this issue and will keep you updated appropriately as to developments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yatibaey Evans', with a stylized flourish at the end.

Yatibaey Evans  
President

Enclosure:

Letter from Secretary Sally Jewell

Letter from NIEA to Secretary Sally Jewell

Resolution 2010-0Y

Resolution 2016-E-02





NATIONAL INDIAN EDUCATION  
Advancing Excellence for All Native Students

October e5, e016

The Honorable Sally Jewell, Secretary  
U.S. Department of the Interior  
1e49 C Street NW  
Washington, DC e0e40



*Re: Request for the Release of Bureau of Indian Education (BIE) Reform Analysis*

Dear Secretary Jewell,

On behalf of the National Indian Education Association (NIEA), the largest and oldest Native organization representing over 2,500 Native educators, students, teachers, parents, and tribal leaders, we thank you for your leadership and support on Native education. NIEA looks to the Department of Interior (DOI) as an extension of the federal government charged with fulfilling the federal trust responsibility to tribes. This includes ensuring that Native students are provided an equal opportunity to be academically successful, particularly those attending Bureau of Indian (BIE) funded and operated facilities.

NIEA has cautiously supported the reorganization efforts of the BIE's Blueprint for Reform (Reform). However, as efforts to reorganize the BIE move forward, they must be done with vigilance and be mindful of the established trust responsibility that exists between tribes and the federal government. Through treaties, federal law, and U.S. Supreme Court decisions, the federal government has a moral and fiduciary obligation toward parity in access and equitable resources to Native education. The Reform will only succeed if BIE continues to move forward with a solid foundation of the trust relationship and an inclusive, cooperative framework of tribes and local stakeholders.

From the vantage point of ensuring that the Reform proceeds in a manner that upholds its statute requirements, NIEA renews its respectful request for an analysis on the Reform from the Solicitor's Office. Specifically, we would like an inquiry on whether the Reform complies with and is reflective of laws P.L. 95-651: An Act to Extend and Amend Expiring Elementary and Secondary Education Programs, and for Other Purposes and P.L. 100-297: Tribally Controlled School Grants Act of 1988. Both of which require the Secretary to enter into negotiated rulemaking with tribes.

NIEA membership supported and passed Resolution 2010-07 "Assessment of the Bureau of Indian Education U.S. Department of Interior" over five years ago. Our organization and membership have been awaiting the release of the analysis – and, with the Reform entering the

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[NIEA.org](http://NIEA.org)

second phase, our membership was clear at our 2016 Annual Convention, through passage of Resolution 2016-E-02 "Relating to Legal and Policy Issues Concerning the Reorganization of the Bureau of Indian Education (BIE) to Portions of its Implementation," that we must restate our request and express our concern about any continuous rollout until the analysis is completed and publicly released.

The BIE Reform process, as well as the attention that Native youth and education are receiving, has the potential to make a meaningful impact in the lives of Native students and their communities. We cannot miss this opportunity. Working together, we are confident that we can build the collaborative relationships necessary to strengthen tribal self-determination in education. NIEA will be sharing our support and guidance for the BIE Reform with Congress and tribal leaders.

For more information or inquiries, please contact Ahniwake Rose, NIEA Executive Director, at [arose@niea.org](mailto:arose@niea.org).

Sincerely,



Yatibaey Evans  
President

Enclosure:  
Resolution 2010-07  
Resolution 2016-E-02

Cc:

Representative Ken Calvert, Chairman, Subcommittee of Interior, Environment, and Related Agencies  
Senator Tom Udall, Ranking Member, Subcommittee on Department of Interior, Environment, and Related Agencies  
Principal Deputy Assistant Secretary, Indian Affairs, Lawrence S. Roberts  
Deputy Assistant Secretary, Indian Affairs, Indian Affairs, Policy and Economic Development and Acting Director of the Bureau of Indian Education, Ann Marie Bledsoe Downes





## **National Indian Education Association**

110 Maryland Avenue, N.E., Suite 104  
Washington, DC 20002  
(202) 544-7290 / (202) 544-7293 fax



### **NIEA RESOLUTION 10-7**

**TITLE: ASSESSMENT OF THE BUREAU OF INDIAN EDUCATION  
U.S. DEPARTMENT OF INTERIOR**

**WHEREAS**, the National Indian Education Association (NIEA) was established in 1970 for the purpose of advocating, planning, and promoting the unique and special educational needs of American Indians, Alaska Natives and Native Hawaiians; and

**WHEREAS**, NIEA as the largest national Indian organization of American Indian, Alaska Natives and Native Hawaiian educators, administrators, parents and students in the United States, provides a forum to discuss and act upon issues affecting the education of Indian and Native people; and

**WHEREAS**, through its' unique relationship with Indian nations and tribes, the federal government has established programs and resources to meet the educational needs of American Indians, Alaska Native and Native Hawaiians, residing on and off their reserved or non-reserved homelands; and

**WHEREAS**, all Native American children shall receive equal opportunities from the federal government based upon the unique indigenous status, language, and cultural history,

**WHEREAS**, through its unique relationship with Indian nations and tribes, the federal government has established programs and resources to meet the educational needs of American Indians and Alaska Native residing on and off their reserved or non-reserved homelands; and

**WHEREAS**, among those institutions now operated by the Bureau of Indian Education (BIE), within the U.S. Department of Interior (DOI), are educational institutions from preschool to higher education; and

**WHEREAS**, Tribal control of education institutions that serve Native Americans and Alaska Natives have shown to be an effective mechanism for governance of these institutions; and

**WHEREAS**, to gain a more thorough understanding of Bureau of Indian Education schools and institutions, there is a need for a national intergovernmental assessment of the governance structures and success rates of Native students; i.e., graduation, persistence, dropout, and other factors that demonstrate the achievement of the principles of the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638, as amended); now

**THEREFORE BE IT RESOLVED**, that NIEA membership calls upon the National Congress

of American Indians and the National Indian Education Association to work collaboratively with the U.S. Department of Interior and Department of Education to develop an Assessment Plan of the Bureau of Indian Education and report back to NIEA; and

**BE IT FURTHER RESOLVED**, that NIEA directs its Executive Director to ensure that the present Presidential Administration and appropriate Congressional leaders and Committee Chairmen receive a copy of this Resolution and that this policy goal be pursued until it is accomplished.

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Mary Jane Oatman-Wak Wak (2010-2011)  
President  
National Indian Education Association



## NATIONAL INDIAN EDUCATION ASSOCIATION

1514 P Street, NW, Suite B, Washington, DC 20005  
(202) 544-7290 (Phone) NIEA@niea.org (E-mail) www.NIEA.org

### NIEA Resolution 2016- E-02

#### **Relating to Legal and Policy Issues Concerning the Reorganization of the Bureau of Indian Education (BIE) to Portions of its Implementation**

**WHEREAS**, the National Indian Education Association (NIEA) was established in 1970 for the purpose of advocating, planning, and promoting the unique and special educational needs of American Indians, Alaska Natives, and Native Hawaiians, and provides a forum to discuss and act upon issues affecting the education of Indian and Native people; and

**WHEREAS**, the BIE is currently in the process of reorganizing its structure in such a way that violates various provisions of the governing statute, namely the organizational and operational provisions of PL 95-561; and

**WHEREAS**, in spite of numerous efforts from members of this organization directly involved with BIE education programs at the local and tribal level, the BIE is going forward with its reorganization without responding to the concerns of the tribal entities in violation of the consultation requirements of 25 USC 2011; and

**WHEREAS**, the organization changes proposed by the BIE undermines the role of local and agency school boards and confuses the lines of authority within BIE, and BIE ignores specific GAO reports that have made specific recommendations concerning the organizational deficiencies of BIE, such recommendations have been endorsed by the Congressional appropriations committees; and

**WHEREAS**, the instructional improvement oriented policies embedded in the reorganization could have easily been implemented with a major restructuring that does not violate the law.

**THEREFORE BE IT RESOLVED**, that the National Indian Education Association passed resolution 2014-11 on BIE implementation in 2014 and seeks to make sure BIE is accountable and serves Native students optimally through its organizational structure; and

**BE IT FURTHER RESOLVED** that on behalf of its member constituents, NIEA renews our requests for a thorough legal and policy review of the BIE reorganization prior to any further implementation; and

**BE IT FURTHER RESOLVED** that within the next two weeks, NIEA take action to implement this resolution; and

**BE IT FINALLY RESOLVED** that this resolution shall be the policy of NIEA until it is withdrawn or modified by subsequent resolution.

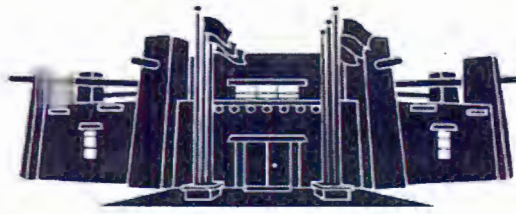
**CERTIFICATION**

I do hereby certify that the following resolution was duly considered and passed by the National Indian Education Association on October 7<sup>th</sup>, 2016 at which a quorum of the membership was present.

*Patricia L Whitefoot*


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Patricia Whitefoot  
President



## MEMORANDUM

To : Hon. Jonathan Hale, Council Delegate  
Navajo Nation Council

From :   
Ron Haven, Attorney  
Office of Legislative Counsel

Date : February 10, 2017

Re : AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND NAABIK'ÍYÁTI'; DEMANDING THAT THE BUREAU OF INDIAN EDUCATION AND THE SOLICITOR'S OFFICE SHARE WITH THE NAVAJO NATION THE SOLICITOR'S ANALYSIS AND INTERNAL DISCUSSIONS AND DELIBERATIONS ON PLANS TO REORGANIZE THE BUREAU OF INDIAN EDUCATION

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. As to format, the resolution as drafted is legally sufficient. Regarding substance, as with any legislation, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. Further, the Speaker may decide to assign this proposed resolution to other committees than ones suggested in the title of the resolution.

If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

xc : Levon Henry, OLC

OLC # 17-59-1



THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0064-17\_\_

SPONSOR: Jonathan L. Hale

**TITLE: An Action Relating To Health, Education And Human Services And  
NAABIK'IYATI'; Demanding That The Bureau Of Indian Education And  
The Solicitor's Office Share With The Navajo Nation The Solicitor's Analysis  
And Internal Discussions And Deliberations On Plans To Reorganize The  
Bureau Of Indian Education**

*Date posted:* February 14, 2017 at 5:28 PM

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)

Written comments may be mailed to:

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

**Please note:** This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW SUMMARY**

**LEGISLATION NO.: 0064-17**

**SPONSOR: Honorable Jonathan L. Hale**

**TITLE: An Action Relating To Health, Education And Human Services And NAABIK'IYATI'; Demanding That The Bureau Of Indian Education And The Solicitor's Office Share With The Navajo Nation The Solicitor's Analysis And Internal Discussions And Deliberations On Plans To Reorganize The Bureau Of Indian Education**

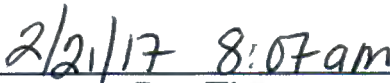
**Posted: February 14, 2017 at 5:28 PM**

**5 DAY Comment Period Ended: February 19, 2017**

**Digital Comments received:**

<b>Comments Supporting</b>	<i>None</i>
<b>Comments Opposing</b>	<i>None</i>
<b>Inclusive Comments</b>	<i>None</i>

  
\_\_\_\_\_  
**Policy Analyst  
Office of Legislative Services**

  
\_\_\_\_\_  
**Date/Time**

Committee Report

THE HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE OF THE NAVAJO  
NATION COUNCIL to who has been assigned;

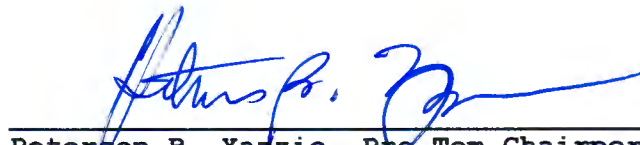
LEGISLATION NO. 0064-17

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BUREAU OF INDIAN EDUCATION

*Sponsor: Honorable Jonathan L. Hale*

Has had under consideration and report the same with the recommendation  
that Legislation 0064-17 PASS with no amendment and no directive; And  
therefore referred the same to the NAABIK'IYATI' COMMITTEE OF THE NAVAJO  
NATION COUNCIL

Respectfully Submitted,



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Peterson B. Yazzie, Pro Tem Chairperson  
Health, Education and Human Services Committee

Dated: February 21, 2017

**Main Motion**

Motion by: Honorable Nelson BeGaye

Seconded by: Honorable Nathaniel Brown

Vote: 4 in favor; 0 Opposed; Pro Tem Chairperson Not Voting