

Native American Education Research and Policy Development in an Era of No Child Left Behind: Native Language and Culture during the Administrations of Presidents Clinton and Bush

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This article traces the history of policy development in Native American education from the second term of President William J. Clinton and his signing of Executive Order 13096 of August 6, 1998 on American Indian/Alaska Native education, through the passage and implementation of the No Child Left Behind (NCLB) Act and initial consideration of its reauthorization in the twilight of the presidency of George W. Bush. The article describes the interaction of political action, research, and policy development under the umbrella of the growing political influence of the National Indian Education Association (NIEA) to the successful passage of the Esther Martinez Native American Languages Preservation Act and preparation for reauthorization of NCLB. The analysis provides a unique perspective of the implementation of NCLB with American Indian, Alaska Native, and Native Hawaiian students through a personal narrative of those years by the author, who served in key positions within the federal government and NIEA. Throughout this period, a research agenda in American Indian/Alaska Native education evolved with a focus on the role of Native languages and cultures in Native American education. With the passage of NCLB, that role was threatened despite the plain language of Title VII in NCLB and the pronouncements of President Bush's American Indian/Alaska Native education executive order. This threat was blunted by a significant effort on the part of NIEA to protect the keystone of post-Meriam federal Indian education reforms: the foregrounding of Native languages and cultures in the education of Native students. Symbolic to this effort and foundational for future efforts was the 2006 passage of the Esther Martinez Native American Languages Preservation Act in a Republican-controlled Congress and its signing by President Bush.

Introduction

Although there are provisions of the Indian Education Act — Title VII of No Child Left Behind (NCLB) — and President George W. Bush's April, 2004 executive order on American Indian and Alaska Native education that seemingly emphasize the importance of Native language and culture in the education of Native students, the reality is that NCLB has severely abrogated the use of Native language and culture in schools serving Native students. In addition to the impact of the general provisions of NCLB upon allowable uses of Native language and culture in schools, the Bush administration, contrary to the pronouncements of the President's executive order, focused on a policy designed to remove Native language and culture from schools serving Native American students. The reaction to these contradictions — somewhat organized and informed by prior implementation of President Bill Clinton's 1998 executive order on American Indian and Alaska Native education — has been renewed and vigorous research and demonstration efforts to examine the relationship of culturally based education (CBE) to academic achievement (see, e.g., Aguilera et al., 2007), the Esther Martinez Native American Languages Preservation Act of 2006 (see Winstead et al., this issue), and a significant national effort to ensure that the use of Native languages and cultural knowledge in the education of Native Americans is truly supported and sustained through the reauthorization of NCLB.

This article covers the last 10 years of federal Indian education policy development from the second term of President Clinton beginning in January 1997, which included his Executive Order 13096 of August 11, 1998, through most of the presidency of George W. Bush and the passage and implementation of NCLB. It is a personal narrative, as during this period I served in a central role vis-à-vis Indian education policy. I was then director of the Office of Indian Education at the U.S. Department of Education (DOE) with formal responsibilities to manage federal Indian education programs, coordinate policy development, and identify research topics and priorities affecting American Indians and Alaska Natives. From 2003 to 2006, I also served on the board of the National Indian Education Association (NIEA), chairing the legislative and policy committee and serving as president in 2005. My work during this time was both informed by and interconnected with a partnership facilitated by William Demmert, Jr. of Western Washington University, that uniquely brought together research and policy development. This relationship was formalized following my departure from Washington D.C. as we worked on the development of a formal research effort to determine the impact of CBE on the academic achievement of Native American students. The period features the role of research in Indian education policy as it unfolded from the research agenda under the Clinton executive order that made as a central policy issue the role and impact of Native languages and cultures in the academic achievement of Native American students.

President Clinton's Executive Order on American Indian and Alaska Native Education: The Research Agenda

When I arrived in Washington D.C. in March 1997 to assume my post as director of the Office of Indian Education (OIE), I was presented with a red pamphlet from the White House, titled the *Comprehensive Federal Indian Education Policy Statement: A Proposal from Indian Country*. This document had been developed by the NIEA in coalition with the National Advisory Council on Indian Education (NACIE) and the National Congress of American Indians (NCAI), and was endorsed by nearly every national Indian organization and federally recognized American Indian tribal government and Alaska Native corporation. I was asked if I had any ideas about what should be done with the document (NIEA, 1997). I had also arrived at a time when many had thought that the federal role in Indian education was in decline. The Gingrich Congress, in cutting many social programs, had eliminated appropriations for all programs under the Indian Education Act except the formula grant program, for which \$54.6 million remained. During this time, although the NACIE had not been eliminated, its authority to meet and conduct business, indeed even use the telephone, was severely restricted (Debray, 2006, p. 1; Edmo, 1995).

The genesis of the proposed policy statement occurred following President Clinton's historic April 29, 1994 meeting with tribal leaders on the White House lawn. Following that meeting, the few Indian education leaders present approached the President and indicated that although many important issues had been discussed, the education of American Indians, except for a brief reference of the President to the Goals 2000 program, had not been addressed (White House, 1994). President Clinton challenged them to consider what they would like to accomplish and to present their ideas to him at a later date. After a series of meetings, it was determined that a federal Indian education policy would assist Indian tribes and the federal government to work together on Indian education (NIEA, 1997).

The document that now sat on my desk was modeled upon a statewide policy document in Minnesota, *The Comprehensive Statewide Plan for Indian Education*, enacted when I was state director of Indian education for Minnesota (Beaulieu, 1991; Minnesota State Board of Education, 1986). It also contained many of the recommendations of the *Final Report of the Indian Nations at Risk Task Force* (INARTF) co-chaired by then-Secretary of Education Terrell Bell and William Demmert, Jr., upon which I served as a member, as well as those endorsed by the 1992 White House Conference on Indian Education (INARTF, 1991; WHCIE, 1992). Among my first assignments as OIE director was to review the proposed policy statement and provide suggestions for an administration response to it. I developed an analysis of the statement in preparation for a meeting of the Working Group on American Indians and Alaska Natives of the White House Domestic Policy Council (Working Group), of which I was a participant (J. Kohlmoos, personal communication, September, 1997).¹

When the NIEA delivered what had become known as the Red Book to the White House, it sought to have the President sign off on it as the administration's federal Indian education policy. When it was realized that this was not advisable, I suggested to my immediate supervisor, Jim Kohlmoos, Deputy Assistant Secretary, Office of Elementary and Secondary Education (OESE), that the Red Book could be developed into an executive order similar to President Clinton's Executive Order 13021 of October 19, 1996 on tribal colleges, and that the proposed policy statement focused primarily on federal-tribal relationships in education but did not propose any specific goals or action items for the improvement of Native American education (D. Beaulieu, May 1997; J. Kohlmoos, personal communication, September, 1997).²

The Working Group developed an agenda to consider the policy statement and the recommendations of an education subgroup, including the possibility of an executive order. At a May 22, 1997 meeting, the Working Group agreed that the policy statement was needed and decided to seek an executive order directing federal agencies to adopt and implement the policy statement. In early June 1997, the NCAI passed a resolution in "Support of a Comprehensive Federal Indian Education Policy Statement Executive Order" (B. Babbitt, personal communication, September 30, 1997; D. Beaulieu, personal communication, October 10, 1997; D. Beaulieu, October 30, 1997; NCAI Resolution JNU-97-095; NIEA Resolution 97-01).³

The process of developing the order was shifted in my direction after the development of an executive order was formally considered in the domestic policy council and the NIEA, and NCAI began vetting the idea of an executive order in Indian Country. The draft executive order would be action-oriented to respond to the concerns raised about this omission in May 1997, and to align the activities closely to the principal policy areas of the Red Book (D. Beaulieu, personal communication, May 12, 1997; J. Kohlmoos, personal communication, September 1997; D. Beaulieu, October 10, 1997).⁴

An executive order began to take shape with goals and activities consistent with the Red Book converted into an action agenda. The drafting required significant interaction and vetting within the administration and with tribal government representatives and the NIEA, NCAI, and the Native American Rights Fund (NARF), which served as legal counsel to these organizations and NACIE. Lorraine Edmo and John Cheek of NIEA, Jack Jackson, Jr. of NCAI, Sherrie Red Owl, Rick St. Germaine and Rosemary Christiansen of NACIE, and Melody McCoy of NARF were instrumental, as were William Demmert and John Tippeconnic III, who had facilitated the development of the Red Book for these organizations (D. Beaulieu, October 10, 1997; G. Tirozzi, personal communication, October 15, 1997).⁵ The development of a federal Indian education policy originally proposed by NIEA and NCAI was incorporated into the order as a culminating activity informed by the other activities. The notion was that the administration would consider the various ideas for a comprehensive policy developed through implementation of the activities of the executive order

that would then be considered by the President for adoption (D. Beaulieu, April 30, 1998).⁶

President Clinton signed Executive Order 13096 on American Indian and Alaska Native Education in August 1998. Section F was a requirement to develop and implement a research agenda (Executive Order, 1998). The research agenda proceeded from the notion that Native educators and tribal leaders had important questions regarding the education of American Indian and Alaska Native (AI/AN) children that could be answered through research (NIEA, 1997, p. 7) The research agenda required that the Secretary of Education, through the Office of Educational Research and Improvement (OERI) and OIE, and in consultation with NACIE and participating agencies, shall develop and implement a comprehensive federal research agenda to: (1) establish baseline data on academic achievement and retention of AI/AN students in order to monitor improvements; (2) evaluate promising practices used with those students; and (3) evaluate the role of Native languages and cultures in the development of educational strategies.

The requirement that the research agenda evaluate the role of Native languages and cultures was very important given the significant position Native languages and cultures have in federal Indian education policy and programs. The need for research related to Indian education and particularly the role of Native languages and cultures in education programs was echoed in the recommendations of both the WHCIE and INARTF (Cahape, 1993; Demmert, 1994). Considering the federal government's historic coercive assimilationist policy which sought to destroy Native languages and cultures through schooling, most Indian education reform following the 1928 Merriam Report (Merriam et al., 1928) has sought to incorporate Native languages and cultures into Indian education programs to improve the academic achievement of Native students.

As early as 1999, the Office of Management and Budget (OMB) had proposed a study of the Indian education formula grant program to determine if it had any influence on AI/AN student achievement under the Government Performance Results Act of 1993. One purpose of Title IX of the Improving America's Schools Act (IASA) and Title VII of NCLB is to "meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, *so that such students can meet the same challenging State student academic achievement standards as all other students are expected to meet.*" This same phrase is incorporated in the statutes that provide funding to schools operated by federal and tribal governments and reflects one of the intended outcomes of the 1990/1992 Native American Languages Act. Although the statutes also recognized that Native American students should have their language and culture reflected in the curriculum of the schools they attend as a right unto itself, federal policy has increasingly focused on the quid pro quo relationship of Native languages and cultures to academic achievement.

Tying use of Native languages and cultures to improved academic achievement was not only a purpose of Indian Education Act programs but it also became something that could be challenged by research. In 1999, the idea was

not pursued when I argued that the near \$100 per student available at the time could never be considered influential no matter how correct the point of view or intention of the statute, and that many factors both within and outside the school's control impacted student achievement in complex ways. For those who understood that government policy increasingly required "proof" that federal programs had their intended effects, the need for quality research on CBE became ever more critical.

Research Agenda Development

Prior to the signing of the executive order, in April 1998 I had asked William Demmert to chair a committee of external experts on Indian education and representatives of the OIE, Bureau of Indian Affairs (BIA), and constituent groups such as the NIEA and the National Indian School Boards Association (NISBA) to determine issues and ideas related to the reauthorization of the Elementary and Secondary Education Act (ESEA) and Goals 2000 as they affect the education of American Indians, specifically Title IX of the Indian Education Act. Dr. Demmert had chaired the INARTF and had served as a member of President Clinton's 1992-1993 internal education transition team; at the time, he had been appointed to the congressionally created Independent Review Panel to advise the DOE on program evaluation under the 1994 reauthorization of the ESEA, principally Title I (Review Panel, 2001). I also asked Dr. Demmert to prepare a paper on the federal role in Indian education and to conduct a literature review for a reauthorization proposal I was developing, which would consider research on effective strategies for Native American education and reinforce the view that education was an aspect of the federal trustee relationship (D. Beaulieu, April 1, 1998; NACIE, personal communication, June 27, 1998).⁷ Many individuals consulted on the executive order ideas being developed were included in the same group that met to consider ideas for a reauthorization proposal (D. Beaulieu, April 30, 1998).⁸ The first meeting of the ad hoc committee to review recommendations for Title IX of the Indian Education Act as well as other ideas related to reauthorization was held in Bellingham, Washington June 12-13, 1998. The second meeting was held in Washington D.C. July 6-7, 1998 (W. Demmert, personal communication, June 29, 1998; W. Demmert, personal communication, August 16, 1998).⁹

The agenda for these meetings emphasized the relationship of research to effective practices and the language and cultural needs of Native American students. This followed a principal theme of the INARTF recommendations and recognition that very little research existed about what works or does not work with students from different Native American communities (INARTF, 1991, pp. 12-18). The reauthorization forums reviewed the recommendations of a number of studies and reports. These included literature indicating the influences of local Native cultures upon the learning environment and that:

- children's various intelligences can be developed to a higher degree through exposure to challenging environments and activity early in life;
- language development is one of the most important determinants of academic performance;
- children's physical, social, and cultural environments influence who they are and become;
- exposure to violence, poor health, substance abuse, disruptive family environments, and a lack of stable home relationships can retard emotional and intellectual development and cause major physiological problems among children;
- children need safe and culturally rich environments to mature properly (W. Demmert, personal communication, August 16, 1998; W. Demmert, personal communication, June 29, 1998).¹⁰

The work of David Grissmer of the Rand Corporation, Reid Lyon of the National Institute of Child Health and Human Development, Kathleen Cotton of the Northwest Regional Educational Laboratory (NWREL) on effective schooling, Roland Tharp and the Center for Research on Education, Diversity and Excellence (CREDE) at the University of California Santa Cruz, and the Center for Applied Linguistics in Washington D.C. was reviewed. There were also the examples of the Hawaiian Pūnana Leo preschools and immersion program, and the work of Frank Darnell and Anton Hoem related to Native education in the circumpolar north, which found that the "school community must have a high level of congruency with Native communities served or they will be viewed as an outside institution and not supported by the students and parents" (W. Demmert, personal communication, August 16, 1998; W. Demmert, personal communication, June 29, 1998).¹¹

From the literature review William Demmert proposed developing principles that could guide schools and communities in improving academic performance of Native students, and suggested a list of emerging principles that was considered by participants of the invitational forum. Priorities were identified as well as an assessment of the unique federal role and responsibility for Indian education in light of the fact that large numbers of Native American children had not done well in school (Demmert, 1998b, 1998c). The forums allowed for constituent input into the reauthorization proposal developed for vetting within the DOE. In addition to the two invitational forums, more formal meetings were conducted with NACIE's executive council, the NIEA, and NISBA to consider the ideas for change and development of Title IX. The Title IX reauthorization proposal forwarded to the administration placed strong emphasis on the role of Native languages and cultures in Native American education, support for funding of research in light of President Clinton's research agenda, and strengthening the comprehensive nature of Title IX and its applicability to other ESEA programs. The Clinton proposal was introduced in May 1999 but ultimately failed. The reauthorization of ESEA would wait until passage of NCLB (D. Beaulieu, September 2, 1998;¹² Debray, 2006, p. 43).

Following the signing of the 1998 executive order, the collaboration that began with asking William Demmert to chair the ad hoc committee on the reauthorization of Title IX was continued early the following year as I began to work on developing the research agenda required by the executive order. When the OIE took on the principal responsibility to facilitate the work of the Interagency Task Force and that of NACIE in the implementation of the executive order, I hired Lorraine Edmo to work directly on executive order responsibilities. The BIA's Office of Indian Education Programs (OIEP) assigned Charles Geboe to work on executive order activities in the OIE. Ms. Edmo had been NIEA's executive director during the time in which the Red Book was developed and presented to the White House. She was very familiar with the Red Book, the process of developing the executive order, the leadership in national Indian organizations, and the education needs of AI/AN people, and was instrumental to the successful implementation of the order. Mr. Geboe also accomplished significant work as well. He was subsequently forced to leave government service due to illness and passed away August 2, 2001 in Rapid City, South Dakota.

In January we began to plan a joint OIE and Western Washington University (WWU) research seminar to consider development of a research agenda. The seminar was held May 26-29 1999 at WWU and brought together participants of a case study research effort at WWU supported by CREDE, NACIE, and external experts such as John Tippeconnic, Karen Gayton Swisher, Rick St. Germaine, Bob Arnold, and Joseph Trimble (Demmert, 1998; W. Demmert, personal communication, May 5, 1999).¹³ William Demmert had begun to include representations of the importance of research in the work of the Independent Review Panel report on Title I. In an informal review of the draft of the Title I report, he indicated that:

the report focuses on Black and Hispanic student data (implying that they are the only students at risk of school failure or that they are the only minority students). Two problems [were noted]: (1) If other minority students are not mentioned because of the lack of data then that should be addressed; and (2) Indians as a primary federal responsibility are not mentioned. The federal responsibility for Indian students is not well met. At minimum, we should refer to the lack of research information for this particular group, the fact that they may be the most disadvantaged and that particular attention for meeting the Federal responsibility of this group might be appropriate. (W. Demmert, personal communication, February 26, 1999)¹⁴

Ultimately the revised report of the Independent Review Panel stressed increases in evaluation, research, and development funding to identify effective practices and refine model programs for wider distribution as well as longitudinal studies to measure achievement of students over time. Focused attention on the education research needs associated with American Indian education would await the development and implementation of the research agenda required in the executive order (Review Panel, 2001).

This work began in earnest with the jointly sponsored OIE-WWU seminar held in May 1999, which developed a series of research questions deemed

important to begin consideration of a research agenda. These included research on a number of topics and five priority areas:

1. The impact of early childhood education programs within Native America, especially as they influence language development and the incorporation of Native languages and cultural programs.
2. The level of congruency between the culture of a healthy community and the culture of the school.
3. Influences of violence in schools and communities on student achievement and overall development.
4. Characteristics of effective education programs and teachers serving Native America, including an analysis of curriculum teachers, school culture, and family and community involvement.
5. An analysis of the National Assessment of Education Progress (NAEP) to determine levels of growth in mathematics and reading among Native American children involved in the study (W. Demmert, personal communication, May 5, 1999).¹⁵

We agreed at the seminar on the following view concerning research related to Native American education:

There was a general consensus among the participants that research on Native American education is limited in both scope and depth and federal reports have generally focused on administrative problems. Research activity for Native Americans are generally part of large studies stratified to include a reliable sample of Native students and have not generally been of benefit to Native communities. They have presented existing problems of schooling Native America, not solutions; they have not included local community priorities; they do not support the building of a research community within Native America, and the creation of partnerships between community, researcher and schools or programs serving Native students have not generally occurred. (W. Demmert, personal communication, May 5, 1999).¹⁶

A Draft Strategy for the Development of a Research Agenda for American Indian Education was developed in August 1999 by David Boesel of the National Library of Education (Boesel, 1999). This strategy relied in large part upon the framework of suggestions for the research agenda led by the OIE and developed through a series of meetings, including the May 1999 seminar and meetings with NACIE. Because the executive order required the involvement of both OERI and OIE, a memorandum of understanding (MOU) between the two agencies was also put into place that created a working group representative of the various offices involved in research, and an expert committee was established, composed of representatives from OERI's National Educational Research Policy and Priorities Board (NERPPB) and NACIE (D. Beaulieu, 1999; D. Boesel, personal communication, August 20, 1999; Corwin, personal communication, October 6, 1999;¹⁷ Research Agenda Working Group [RAWP], 2001).

The task order for developing the research agenda required that it be built upon the findings of the 1991 INARTF report and take a broad view of the purposes of education for American Indians and Alaska Natives, indicating that educational achievement and academic progress in preparation for responsible citizenship, continued learning, and productive employment imply a broad definition of student learning, encompassing both academics and social development (E. McArthur, personal communication, May 12, 1999).¹⁸ A planning meeting of the Expert Committee was held at Stanford University on February 27-28, 2000 at the offices of Kenji Hakuta, who served as chair of OERI's National Educational Research Policy and Priorities Board. The work on a national research agenda had begun in earnest through retaining the services of WESTAT, particularly William Strang and Adrienne Von Glotz, who facilitated the work of the Research Working Group and Expert Committee.

The first of its kind and to date the only National Indian Education Research Conference ever held took place in Albuquerque, New Mexico on May 30-31, 2000. The conference brought together staff from the DOE, representatives from other federal agencies, tribal leaders, Indian educators, and academics to establish the parameters for a comprehensive research agenda. By the time of the conference, Michael Cohen, education advisor to President Clinton who had guided the development of the executive order, had been appointed as Assistant Secretary for Elementary and Secondary Education at the DOE. In his keynote address to the conference, he stressed the historic nature of the meeting. Never before had such a diverse group been brought together to develop a comprehensive research agenda. He stressed the need for such a summit focusing on the role of research to close the achievement gap between Native American and non-Native American learners, emphasizing the National Research Board's findings that identified three central principles in developing a research agenda for Indian education. The agenda should find ways to improve student learning and social development, ensure that research is of high quality and uses sound methodology, and present findings in a way that is acceptable to local Indian educators, tribal leaders, and community members (M. Cohen, personal communication, May 20, 2000).¹⁹

As the development of the agenda began, time was rapidly running out in the Clinton administration with the presidential election of November 2000 and the inauguration of a new president scheduled for January 20, 2001. In order to develop an immediate focus on research on American Indian education at the DOE, I commissioned two studies by William Demmert utilizing funds available from the OIE's national activities budget through OERI. One was an annotated literature review of research related to the education of American Indians that was published by the Education Resources Information Center (ERIC) and the other was a study with David Grissmer on American Indian achievement utilizing NAEP scores in states with large American Indian student populations. This study was modeled after the 2000 study by Ann Flanagan, David Grissmer, and their colleagues, *Improving Student Achievement: What State NAEP Test Scores Tell*

Us. Although the study that focused on American Indian achievement was completed, the Bush administration chose not to utilize funds available in the OIE national research activities budget to support its publication (Demmert, 2001).

In October 2000 I suggested that we could develop a competitive research grant program among schools with predominately Native student populations that would be required to have a relationship with a research institution or a specifically trained education researcher with a Ph.D. The study as conceived at the time would be focused on the students and school community. The results must be developed into specific recommendations for change and incorporated into a school improvement effort. By creating a competition we could evaluate ideas about doing research as well as promote specific projects that create new knowledge directly translatable into new school and program models, applying new knowledge where it really mattered. The idea of a competitive research grant effort continued early in the first year of the Bush administration (D. Beaulieu, October 19 2000, November 3, 2000).²⁰

In sum, the Clinton executive order years transformed Indian education at the federal level. The program authority that I had managed grew from \$55 million to \$122 million. New programs embraced the training of 1,000 new Indian teachers in a four-year period, a competitive Indian education research grant program including a \$1.75 million appropriation, and new policy initiatives related to the national research agenda. The executive order also rallied national American Indian organizations and tribal governments around Indian education issues and enhanced the profile of American Indian and Alaska native educational issues at the federal level.

Development and Implementation of the Research Agenda under the Bush Administration

A great deal of work remained to be accomplished on the Clinton executive order following the inauguration of George W. Bush as President on January 20, 2001. The vetting of the final draft of the Federal Indian Education Policy Statement with the OMB and federal agencies began on November 7, 2000 and was finally approved for signature by the Secretaries of Education and the Interior on the last day of the Clinton administration. Also within that last week of the Clinton administration, the new MOU between OERI and OIE related to cooperation on research was finalized, as was the department policy on consultation with tribal governments to implement Executive Order 13175 (D. Beaulieu, November 7, 2000, March 5, 2001, March 6, 2001; P. Rosenfelt, personal communication, January 17, 2001).²¹

The development and writing of the research agenda also continued early in the Bush administration until its completion in the second half of the year. In the interim, the competitive research grant program was developed, proposing an absolute priority for one of the three goals of the research agenda: evaluating the role of language and culture in developing educational strategies. Following a February Working Group meeting I outlined my ideas for a proposed research

priority that should have two aspects which could be combined: (1) studies that document and explain the effectiveness of schools or programs designed to regain or maintain Native American languages such as immersion schools or programs, summer language camps, classroom instructional and bilingual educational models; and (2) studies that document and explain the effectiveness of school-based approaches that are culturally and linguistically congruent and appropriate to meet the special educational and culturally related academic needs of American Indians so as to improve their academic achievement and retention rates (D. Beaulieu, February 12, 2001).²² A proposed priority was developed and circulated related to evaluating the role of language and culture in developing educational strategies given that a series of meetings and regional hearings to solicit advice from parents, teachers, administrators, tribal leaders, and researchers to identify high-priority research concerns had already occurred and that the role of Native language and culture was the most significant priority identified. Other priorities were to be considered after the research agenda had been published, but the first research completion would focus on the role of Native languages and cultures in education (D. Boesel, personal communication, March 4, 2001).²³

The proposed priority emphasized the ideas from the OIE-WWU research seminars indicating that recent research points to the degree of fit, or congruence, between the cultural contexts of home and school as a factor influencing academic and social development outcomes of students including, but not limited to academic achievement, reduced dropout rate, school engagement, responsible behavior, attendance, and high school completion; that research suggested achieving positive academic and social outcomes for students from diverse linguistic and cultural backgrounds may be enhanced by incorporating Native language and culture in the development of educational strategies; and research suggesting that family and community involvement in education was also vital to the academic and social development of students. For schools serving students from diverse linguistic and cultural backgrounds, the research also suggests that strong family and community collaboration with schools that reflect the language and culture of the community may support the efforts of schools to enhance student achievement and social development. The specific question that emerged hoped to learn the extent to, and the ways in which incorporating Native languages and cultures in educational strategies (including strong family and community collaboration with schools) contributes to the attainment of these positive academic and social outcomes for American Indian and Alaska Native students (D. Boesel, personal communication, March 4, 2001).²⁴

The proposed priority was intended to create opportunities for research on the role of Native language immersion in influencing academic achievement. I made a strong effort within the working group to develop wording that would reflect the intended inclusion of language immersion schools as a strategy that could be tested as to its influence upon academic achievement through seeking to add, "To what extent and in what ways does incorporating Native language learning programs and educational strategies such as immersion, bilingual

education or classroom based Native language instruction, affect achievement of Native language fluency among AI/AN children and students?" (D. Beaulieu, March 5, 6, 2001; K. Suagee, personal communication, March 2, 2001).²⁵ The possibility of testing various approaches to accomplishing Native-language fluency while also accomplishing academic achievement was a strategy for enabling the study of immersion. For example, how does classroom-based Native language instruction or Native language immersion affect academic achievement in other subjects (D. Beaulieu, March 5, 2001, March 6, 2001, September 1, 2001; T. Corwin, personal communication, March 9, 2001; P. Gore, personal communication, March 5, March 6, 2001, March 9, 2001)?²⁶

The substance of the issue of Native language instruction, including immersion, as it unfolded in the development of the priority, was that research must be related to achievement in "academic" subjects and that the administration may not support as a policy a focus on Native language fluency (T. Corwin, personal communication, March 9, 2001).²⁷ Native language was an area requiring academic achievement as well and in some schools it was a part of the curriculum and thus an "academic subject." Immersion schools sought to accomplish both Native language fluency and academic achievement since the academic subjects were taught through Native languages; thus, Native language instruction was a valid area for research so long it was linked to academic achievement in the "regular" curriculum.

Significant to what was to become a larger debate regarding the exclusive reliance on experimental research for AI/AN education was a debate within the Working Group concerning the use of the term "unbiased" to describe research in the announcement because it "reflects one of the fundamentals of empirical research" (D. Boesel, personal communication, March 4, 2001).²⁸ I questioned whether the wording "unbiased" was actually on the list of research requirements for all these types of notices or was it something felt critical for the announcement affecting (only) Indian education research (D. Beaulieu, March 5, 2001, March 6, 2001).²⁹

These discussions were influenced by my association with William Demmert and the various meetings described previously to frame a national research agenda. A meeting in March 2001 in Santa Cruz, California, had been planned for nearly a half a year before and was ultimately held during the time these issues related to research "bias" and the relationship of Native language and culture to achievement were being debated. The Santa Cruz meeting brought together a unique collaboration of Indian education researchers, including representatives of the Working Group and expert committees and representatives of the Greenland government who were working on similar issues as well as representatives of Pūnana Leo schools, and, significant to my own growing knowledge of CBE, Roland Tharp and CREDE, which supported most of the expenses for the meeting along with OIE. Through Dr. Demmert's sponsorship, I had been invited to the Circumpolar Conference of Education Ministries that periodically met in the countries, states, or provinces bordering the Arctic Circle.

These meetings brought Native education leaders in the various countries together with the governments' education leaders to discuss education issues in the far north. The meetings were heavily involved with issues related to the role of Native languages and cultures in the formal education of Indigenous peoples as well as broad concern for the loss of Indigenous languages and cultural shift among the peoples in the far north. I was fortunate to have attended a School Reform Conference in Greenland, a meeting of the Circumpolar Conference in Rovaniemi, Northern Finland and Yakutsk in the Republic of Sakha, Russian Federation (W. Demmert, personal communication, February 1, 2001).³⁰

The proposed changes I had sought within the Working Group for the research grant proposed priority were vetted by the NACIE board and the expert committee (D. Beaulieu, March 5, 2001, March 6, 2001; P. Gore, personal communication, March 5, 2001, March 6, 2001, March 9, 2001).³¹ The Notice of Proposed Priority that was sent out for public comment had the following absolute priority:

To what extent and in what ways does incorporating Native language and culture in educational strategies affect either academic achievement or social development of American Indian and Alaska Native students, or both? In addressing this question applicants must take into account other factors that may affect these outcomes, such as curriculum and instruction, standards and assessment, school and classroom settings, teacher professional development, and family and community collaboration with schools. (*Federal Register*, 2001a)

The term unbiased was replaced by the phrase that the research incorporates a well-conceptualized and theoretically sound framework.

The Notice of Final Priority was published June 15, 2001 and reflecting public comment, allowed flexibility for both urban and rural schools and distinguished between Native language and culture. With regard to Native language immersion, the Notice stated,

The Secretary also recognizes that total language immersion is a distinct approach in contrast to the supplemental nature of many instructional approaches to teaching language and culture. However, the Secretary does not wish to specify particular approaches, preferring that researchers identify approaches for study. Thus, no change has been made to distinguish total language immersion from the array of approaches to teaching language and culture...The final priority has been revised to allow applicants to address language or culture, or both elements. (*Federal Register*, 2001b)

A number of initial research efforts were funded by the appropriation that became available to the OIE through an increase in the national activities budget. The first project funded was through the OERI Field-Initiated Education Research Grant Program — a three-year project initiated on March 15, 2001 to study the impact of Native language shift and retention on American Indian students' English language learning and academic achievement. The purpose of the project, led by Dr. Teresa McCarty, now a professor of education policy studies at

Arizona State University (ASU), was to document the nature of Native language loss and retention among a select number of American Indian school-community sites, and to determine the impact of these sociolinguistic and cultural processes on Native students' acquisition of academic content and English (archived OERI Web site, 2001; see also McCarty et al., 2006a, 2006b; Romero-Little et al., 2007).

The OERI and OIE jointly supported four grants funded under an AI/AN education research grant competition conducted in 2001. These grants included a three-year study by the Seneca Nation of Indians to enable preschool children to actively construct knowledge of Seneca language and culture; a three-year study at ASU's Center for Indian Education to research a cohort of approximately 400 AI/AN candidates in teacher and leadership preparatory programs to investigate how such programs contribute to the development of effective practices that integrate language and culture and positively affect learning and social development; a one-year community research project at Anishinaabe Wi Yung in Cass Lake, Minnesota to study two methods of teaching Ojibwe language and culture — elders roundtable and master-apprentice programs; and a three-year University of Alaska Fairbanks study to investigate the effects of a culturally based mathematics curriculum on Alaska Native students' math performance. OIE's national activities budget also supported the National Childhood Longitudinal-American Indian Alaska Native Birth Cohort (archived OERI Web Site, 2001).

As the foregoing discussion chronicles, the national AI/AN research agenda was developed after many consultative meetings and reviews of existing research as to what were the most significant needs for research (Research Agenda Working Group, 2001, p. 3). The research agenda's foremost area was the role of Native language and culture in the education of Native children and youth. Within the research agenda was also a call for national study of American Indian education, a contribution I suggested and strongly endorsed, recalling the role the National Study on Indian Education had played in the development of the policy leading to the Indian Education Act of 1972 (Havighurst, 1970). Accommodating this call for a comprehensive national study, the central question for research remained and would ultimately become: *"Does the use of Native language and culture in the education of Native American students positively impact their academic achievement?"*

The National Study of American Indian Education

I left Washington D.C. October 1, 2001 to become the Electa Quinney Professor of American Indian Education established at the University of Wisconsin-Milwaukee by a \$1 million endowment from the Indian Community School of Milwaukee. In late 2001 and early 2002, the work of William Demmert on the literature review, "Improving Academic Performance among Native American Students: A Review of the Research Literature" (Demmert, 2001), which built on the literature review developed in connection with the reauthorization proposal

and research agenda strategy, was about to be published by ERIC, and the Rand study of American Indian academic achievement by Grissmer and Demmert was finally being initiated. With the publication of the research agenda initiated under the Clinton executive order in the fall of 2001, we waited for the DOE to move forward with a call for a national study on Indian education and prepared to work on the study. I had hoped for and advocated a broad-based, truly national in scope study of AI/AN education that might be patterned after the first such national study that had regional subcontractors in partnership with American Indians (D. Beaulieu, April 9, 2002).³²

As early as September 21, 2001, prior to my departure from the DOE, Dr. Demmert responded to a formal inquiry for ideas related to a proposed study of the status of AI/AN education, expressing concern that a description of the status of Native education, by itself, "may not go far enough in terms of identifying key *alterable* variables that relate directly to the quality of education and a concomitant increase in student achievement" (W. Demmert, personal communication, September 21, 2001).³³ Along with John C. Towner, emeritus professor of education, and Joseph E. Trimble, professor of psychology at WWU, Demmert suggested that a national research agenda should consist of three major components: (1) a national broad-based study to identify those key alterable variables that constitute dimensions of difference between successful and less successful Native students; (2) a series of smaller, site-specific studies that are carefully designed and executed with the intent of examining effects of the previously identified variables on student achievement; and (3) aggregation of the results of the smaller studies using standard meta-analytic techniques (W. Demmert, personal communication, September 21, 2001).³⁴

Realizing in early 2002 that the DOE was about to put together a request for proposals related to the role of Native languages and cultures in Native education, which, in light of our past involvement in the research agenda and research grant competition we perceived to be the basis for a national study, we prepared for a meeting to consider how to approach a national study on this topic. William Demmert began setting up a meeting and organizing a team that became known as the Native American Research Consortium Partners. At the same time, the research agenda was formally posted on the newly established Indian education research Web site. The meeting was arranged for the Chaminade Conference Center in Santa Cruz on May 19-23 2002 (D. Beaulieu, April 9, 2002; W. Demmert, personal communication, April 9, 2002, April 12, 2002, April 18, 2002).³⁵

As we planned to meet on how to respond to a possible research question related to CBE, the DOE posted a limited request for proposals to investigate the impact of language and culture on Native education. Regretfully for our partnership, the posting was for a limited group of contractors through a list of approved government providers the DOE uses for small contracts. One of the groups on the list, the same contractor that had done the work on developing the research agenda, had contacted me to see if I would be interested in working with

them while also asking me to provide a list of the best Native researchers in the United States. A potential list had already been contacted as a core group to work on the possible RFP and potentially to meet in Santa Cruz. We immediately contacted everyone who was part of the partnership and asked that they commit to our effort. Dr. Demmert contacted NWREL, also an approved contractor, which agreed to work with our partnership and began developing a response even prior to the formal posting of the capability statement due May 7, 2002 (W. Demmert, personal communication, April 23, 2002).³⁶

The Native American Research Consortium (NARC) Partnership, as we called ourselves, represented those who initially agreed to participate and was essentially the same group brought together for the research seminars and ad hoc reauthorization meetings and included, in addition to myself: David Grissmer (RAND), John W. Tippeconnic III (Pennsylvania State University), Joseph Trimble (WWU), Karen Swisher (Haskell Indian Nations University), Rick St. Germaine (Harvard University), Roland Tharp (CREDE), William Demmert (WWU), Kim Yap (NWREL), and Gerald Mohatt, University of Alaska Fairbanks (W. Demmert, personal communication, April 23, 2002).³⁷ The meeting at Santa Cruz included me, William Demmert, Jim Kushman (NWREL), and Roland Tharp (W. Demmert, May 20, 2002).³⁸

The DOE was initially interested in a feasibility study of experimental or quasi-experimental research to determine the impact of CBE on Native American student achievement. Our group's assumption was that following a feasibility study, the actual research would be contracted. In considering how to respond, we expressed concern about conducting experimental research on this topic considering that:

The reasons it is difficult to use experimental designs in the field of Indian education are the same (or closely aligned) with reasons for a lack of improving academic performance among many Native students....The extent and variety of these factors ... makes it difficult to control for the impact of an intervention. Also the professional quality of staff makes it difficult to insure that an intervention is delivered as intended or evenly applied in multiple locations. These factors noted in the literature on Indian schools and students make experimental and quasi-experimental designs problematic. (D. Beaulieu, May 23, 2002; May 29, 2002)³⁹

Among the approaches considered for the research design at the first meeting was the possibility of identifying all or most AI/AN language and culture programs in the U.S. and surveying a sample of exemplary programs to determine their willingness to participate in alternative research designs such as (1) an experimental study in which students, schools, or classrooms would be randomly assigned to an existing intervention; (2) a quasi-experimental design comparing select programs against matched groups (students, schools, or classrooms); (3) a national study sampling existing programs and correlating the quality of language/culture programs with student achievement and other educational outcomes. Existing standards could be used to determine the quality factors, such

as the Alaska Native Standards (Assembly of Alaska Native Educators, 1998), the CREDE standards, national standards for effective schools, or other examples. Quality standards would be quantified as part of the study (D. Beaulieu, May 23, 2002; May 29, 2002).⁴⁰ We also considered that a new program could be planned and implemented that would solicit grantees willing to participate in a carefully designed research and development program, but never developed this idea further (D. Beaulieu, personal communication, May 23, 2002; May 29, 2002).⁴¹

We received the full Statement of Work for Preliminary Study for Experimental Research on CBE for AI/AN Students on June 4, 2002 (K. Yap, personal communication, June 7, 2002).⁴² The proposal was written by me, William Demmert, Kim Yap, and Roland Tharp (K. Yap, personal communication, June 4, 2002).⁴³ Our group refined many of these ideas in a formal, successful submission. Working through NWREL, William Demmert first conducted a review of research on the impact of culturally based education on the school performance of AI/AN and Native Hawaiian students. The intent was to identify research in which the researcher had some control over the assignment of subjects to "treatment" conditions, using experimental or quasi-experimental designs. There were only six such studies that could be identified and most had only a tangential focus on Indian education.

Secondly, I conducted a national survey of all CBE programs to identify existing education interventions and determine the feasibility of developing experimental or quasi-experimental research designs among existing programs. These interventions varied significantly in their purposes, quality of programs and staff, context, and student characteristics. The task order statement guiding our work defined CBE interventions as follows:

Culturally based education incorporates Native language and/or important elements of Native culture. Culturally based interventions are deemed to be planned activities and materials designed to improve education and introduced within the education systems. They include broad programs that engage participants for long periods with a high degree of involvement (e.g., all-day immersion programs) and more specific interventions that entail less time and involvement (e.g., a specific language text). (NWREL 2004)

An earlier review of the relevant literature by Demmert and Towner (2003) identified three theoretical approaches to CBE relevant to our effort: cultural compatibility, cognitive theory, and cultural-historical activity theory (CHAT). These three approaches represent increasingly more elaborate iterations of the concept of congruence between the social-cultural dispositions of students and the social-cultural expectations of the school. CHAT, the most elaborate of the three theoretical approaches, provides a foundation for creating school conditions that facilitate linguistic, cognitive, and psychological development to enhance student academic achievement. The study team elaborated on this initial task order definition with the following:

Culturally based education, by expressing the values of the tribe and the community, ensures greater endorsement, involvement, and support by

parents and community resources. This in turn strengthens potential associations between student experience and the academic curriculum. Thus, a CBE intervention that is congruent with community goals is maximally efficacious for student academic achievement. Culturally based education can be considered as a broad-based schoolwide approach that seeks linguistic and social-cultural congruence of the Native student population in all aspects of the school program but particularly in classroom instruction....The capacity to create social linguistic approaches that are congruent with the Native student population is maximized in schools where Native students are a majority of the student population. (NWREL, 2004)

We began our feasibility study as the second year of the Bush administration ended. Also significant to our efforts was the passage of the Education Sciences Reform Act of 2002, which created the Institute for Education Sciences (IES) at the DOE. In its first report to Congress, the IES established goals that would guide its work and made clear that its approach would prioritize “the needs of education practitioners and policymakers,” adopting “research-based approaches” and making it “easy to access and use such evidence” (IES, 2004).

The Bush Administration Executive Order

Upon leaving my position in Washington D.C. in 2001, I decided to run for the board of the NIEA. I was elected to a three-year term in the fall of 2003 and later served as board president (2005) and as chair of the legislative committee in my third year (2006). In the year prior to running for the board, during the tenure of Robin Butterfield as NIEA president, I had been retained without fee along with John Tippeconnic to work with NIEA on the development of a new executive order potentially to be signed by President Bush (M. McCoy, personal communication, May 12, 2002).⁴⁴ Melody McCoy of NARF continued to advise NIEA and Greg Smith of Johnston and Associates, LLC, as a paid lobbyist for NIEA, all worked on developing a draft that could be considered for a new executive order.

In preparation for a meeting with Vickie Vasquez, who had in her selection as OIE director been appointed OIE assistant deputy secretary, I was asked to develop a paper for aligning the existing executive order with NCLB, outlining options for NIEA and NCAI to present at the meeting. The paper I developed included many ideas for articulating continuity with the work already accomplished through the Clinton executive order while seeking to strengthen those efforts. (M. McCoy, personal communication, November 26, 2002).⁴⁵

The thrust of my recommendations was to maintain the structure and processes of the executive order and provide within a new executive order opportunity for the Bush administration to add its particular focus and goals. The new order should maintain an interagency task force and consultation as well as a strong role for NACIE, which would require President Bush, because the terms of the NACIE board members had expired, to appoint new board members. It was vitally important to have as much endorsement of the fundamental ideas regarding the unique trust relationship between the federal government and American Indian

tribes and Alaska Natives, and the federal government's responsibility in AI/AN education (D. Beaulieu, November 27, 2002).⁴⁶

The goals section of the order could include the Bush administration goals for Native language and culture reflective of those in the Comprehensive Federal Indian Education Policy Statement developed through the Clinton executive order and signed by Secretaries Riley and Babbitt. An annual report card on Indian education could also be put in this section. It was this area that would allow for some constructive conversation around Bush administration goals for AI/AN education (D. Beaulieu, November 27, 2002).⁴⁷ The activities required in the executive order were at various stages of completion. Depending on the extent to which the Bush administration would wish to maintain these activities, it might have been possible to recognize in the executive order what we needed to continue to accomplish. The new executive order would provide an opportunity for the President to take the research activities a step further by calling for a national study. There were also some activities which were completed but the results had not been published, such as the *Report on Intergovernmental Relationships in Indian Education*. Some activities were pending completion. NIEA and NCAI could consider these by continuing to request policy work be accomplished in these areas (D. Beaulieu, November 27, 2002).⁴⁸ NIEA and NCAI formally submitted the recommendations for the executive order to Vicky Vasquez on December 3, 2002 (NIEA, personal communication, December 3, 2002).⁴⁹

I had some significant concern that the potential for a new order lay solely with Ms. Vasquez and the DOE. NIEA needed to begin to explore other avenues of support for the order, recognizing that the need for greater support within the administration than that which could be developed with DOE. I was also very concerned that domestic program reductions in the Bush administration would threaten Indian education programs without political support from a Bush executive order on Indian education. John Tippeconnic agreed with the multifaceted approach and recommended that we draft our own version of an executive order that could be circulated among tribes and Indian organizations to generate support from many directions (D. Beaulieu, February 16, 2003; J. Tippeconnic, personal communication, February 17, 2003).⁵⁰

As we considered a draft of a new executive order that the President might support, the Council of Chief State School Officers (CCSSO) was simultaneously considering how to respond to chief state school officers from states with large Native student populations who were increasingly concerned about the implications of NCLB upon the education of Native students in their states. Many public school districts with large Native student populations were very concerned that they would not be able to meet NCLB requirements. The unique educational needs of AI/AN students, combined with the unique circumstances of school operations in isolated rural areas, caused alarm that significant attention to AI/AN education was needed.

A conference to explore "Strengthening Partnerships for Native American Student Education" was held in Denver April 9-11, 2003. The expected outcome

was an action plan to build partnerships among educators, community members, and government officials to work on the development/implementation of best practices for AI/AN students. I was given the opening keynote address in which I emphasized the theory, practice, and policy of CBE in the education of Native American students and the history of efforts to improve Native American education as well as my increasing pessimistic assessment of how NCLB impacted the education of Native students (D. Beaulieu, April 9, 2003).⁵¹

The meeting and subsequent efforts to form a partnership ultimately became mired in the increasingly negative assessment of NCLB and its indirect and direct impacts upon CBE programs and the implementation of Title VII, the Indian Education Act. Nonetheless the theme of the meeting and its subsequent attempt to forge the intended partnerships to enable NCLB to work among AI/AN students was to become the theme for the Bush executive order and the political “shove” we would need to accomplish an executive order for President Bush at this stage of his administration.

During this time I worked with Greg Smith of Johnston and Associates, LLC, who facilitated the drafting of an order by NIEA. By June and July 2003 the draft was circulated among the Executive Order Working Group which included myself, William Demmert, NIEA President Robin Butterfield, and Joe Garcia of NCAI. During the time that NIEA was working on a draft, Vicky Vasquez also drafted her version of an executive order but did not provide a copy to be vetted by NIEA, although she verbally indicated what she believed an executive order might contain (G. Smith, personal communication, July 31, 2003).⁵² NIEA continued to develop a draft which built upon the goals of NCLB and developed ideas for areas we believed were to be eliminated in the Vasquez draft. Though we did not see the actual draft developed by Ms. Vasquez, the concept draft developed by NIEA was also brought to the White House with Ms. Vasquez. Ultimately, the NIEA version was used as the basis for developing the executive order.

The NIEA concept draft of the executive order contained strong sections on research, including the call for a national study on American Indian, Alaska Native and Native Hawaiian education, the development of comprehensive baseline data, identification of what works in the education of Native students, and the impact of the role of Native language and culture in Native education. The idea of a report card and the need to enhance the research capabilities of tribal-level education institutions were emphasized (G. Smith, personal communication, July 24, 2003). These and other ideas from the concept draft were almost entirely incorporated into the Bush executive order. As predicted by Vicky Vasquez, however, it eliminated references to Native Hawaiians as the order was built upon the “unique legal relationship with Indian tribes and a special relationship with Alaska Native entities as provided in the Constitution of the United States, treaties, and Federal statute,” and not in recognition of NIEA’s broader constituent base or the Native Hawaiian Education Act also contained in Title VII of NCLB (G. Smith, personal communication, July 31, 2003).⁵³

The purpose of President Bush's executive order, signed in April 2004, was to "assist American Indian and Alaska Native students in meeting the challenging student academic standards of the 'No Child Left Behind Act' in a manner that is consistent with Tribal traditions, languages, and cultures" (Executive Order, 2004). This theme expressed precisely the same intention of the Indian Education Act (Title VII of NCLB), and was the foundation of the primary research question of the AI/AN research agenda concerning the role of Native languages and cultures in Native education.

Section 3 of Executive Order 13336 on American Indian and Alaska Native Education included the requirement that the national study mentioned in the research agenda be accomplished and held out hope that the study would include an examination of the effect of Native language and culture on AI/AN student achievement:

The Secretary of Education, in coordination with the Working Group, shall conduct a multi-year study of American Indian and Alaska Native education with the purpose of improving American Indian and Alaska Native students' ability to meet the challenging student academic standards of the No Child Left Behind Act of 2001. The study shall include, but not be limited to the compilation of comprehensive data on the academic achievement and progress of American Indian and Alaska Native students toward meeting the challenging student academic standards of the No Child Left Behind Act of 2001 and identification and dissemination of research-based practices and proven methods in raising academic achievement and, in particular, reading achievement, of American Indian and Alaska Native students; *assessment of the impact and role of Native language and culture on the development of educational strategies to improve academic achievement*, development of methods to strengthen early childhood education so that American Indian and Alaska Native students enter school ready to learn; and development of methods to increase the high school graduation rate and develop pathways to college and the workplace for American Indian and Alaska Native students. (Executive Order 13336, 2004, emphases added)

NCLB, the Bush Executive Order, and CBE

In the first year of President George W. Bush's administration, there were two critical incidents that ultimately amounted to "say the right thing and do the opposite" on issues of Native language and culture in education. I had reviewed a strengthened version of the Indian Education Act now included in NCLB. This version recognized that education was an aspect of the federal trustee relationship and included strong language in support of Native language and culture. Although strengthened in the language of NCLB, many failed to notice that the *linkages* of the Indian Education Act with the rest of the ESEA (now NCLB) had been significantly weakened. The innovations of the IASA that reflected the recommendations of the INARTF Report and that were reinforced in the reauthorization proposal developed in the Clinton administration regarding linkages of the Indian Education Act to the other titles of ESEA, were to be trumped by the overriding requirements of NCLB (ERIC, 1996).

The second and more ominous incident was a visit I received from then Assistant Secretary of Elementary and Secondary Education Susan Neuman, who asked that I convert all the Indian education programs I managed into strictly reading programs. When I informed her that I could not do so because of the statutory requirements associated with the programs funded by the Indian Education Act and that of my position, she directed me to find a way. I left my position a short time later to take the university position mentioned previously. Susan Neuman resigned her position in January 2003 (Hicks, 2006).

With significant language regarding Native language and culture in Title VII of NCLB, the development and signing of President Bush's executive order as well as the continuing work on the research agenda initiated through the Clinton executive order, Bush's first term appeared to be very positive for AI/AN education. In reality, the Bush administration implemented NCLB in a manner designed to diminish almost entirely the role of Native languages and cultures in schools with Native students and to revert federal Indian education policy to a time prior to the 1928 Meriam Report. Its role in research related to Native American education was equally disappointing. Not only did programs supported by the OIE fail to focus on the central purposes of the Indian Education Act given the increasing attention of school districts upon testing and test results, the OIE was also engaging in a deliberate policy of banning the use of Native languages and cultural instruction in Indian education programs.

As a part of the feasibility study the NARC partnership had been working on to address the impact of CBE upon academic achievement, I conducted a survey of all CBE programs in the U.S. The survey included a review of all 145 Administration for Native Americans (ANA) language preservation grants which were culled to identify 77 instructionally-related programs. All of these programs had 90 to 100 percent Native participation. The survey also included a stratified random and purposeful sample of over 1,200 Indian Education Act formula grant programs and those funded by other sections of the Indian Education Act identified as culturally related programs. A review of all programs in the survey indicated that there were five types of CBE programs: culturally based instruction (CBI), Native language instruction (NLI), Native studies (NS), Native cultural enrichment (NCE), and culturally relevant materials CRM). Critical to the discussion of the impact of NCLB on CBE is that the review found that 66 percent of all federally-funded programs surveyed were not culturally related and that the majority were almost exclusively instructional time-added approaches such as summer school, after school, homework assistance, tutoring, home-school coordination/student incentives, attendance improvement, and dropout prevention. It became apparent that Title VII Indian education programs were becoming much more compensatory, similar to Title I of the ESEA (Beaulieu, 2006).

If the increasing replacement of CBE programs with efforts principally designed to increase instruction time for Native American students wasn't enough, OIE program officers began a policy of calling local school district

superintendents to inform them that their Indian education programs, which had already been approved by OIE, could not focus on Native language and culture but instead must focus on English reading and math despite the fact that the language and cultural programs were clearly allowable under the statute and that the current grants had been approved (Hicks, 2006; House Native American Caucus, personal communication, April 21, 2006;⁵⁴ K. Denman-Wilke, personal communication, January 27, 2005; February 8, 2006).⁵⁵

At the same time, the OIEP at the BIA had, contrary to the intentions of the tribal contract and grant school legislation, and without consultation with Indian tribes, engaged in a systematic effort to move all BIA-funded schools toward greater state control. The OIEP first returned a \$10 million grant to assist tribes in developing their own education standards and assessments to the DOE and required all schools to adopt the education standards of the state in which they resided despite statutory language allowing tribes to develop their own education standards and assessments. It then sent memoranda of agreement to state commissioners of education without the knowledge or required consultation with Indian tribes, requesting their approval that the states administer state assessments to tribal schools in accordance state education standards. The specific purposes detailed in the MOU were to ensure the BIA has access to the total assessment systems of the 23 states with BIA-funded schools; that assessments are coordinated in the same manner as publicly funded schools in their respective states; and to ensure assessment data are sent to the OIEP to be utilized in determining adequate yearly progress (AYP) status of BIA-funded schools (Department of Education and Department of the Interior, personal communication, August 26, 2005; J. Reimer, personal communication, August 19, 2005).⁵⁶

Any casual observer would consider the possibility that Indian education programs were looking a great deal like Title I programs and that the unique purposes related to the role of Native language and culture in Native education were being significantly diminished, thereby threatening the need for the programs altogether. With the appearance of duplication, the justification for the program would be threatened and considering that a Republican-controlled Congress had attempted to eliminate Indian education programs ten years earlier, it seemed all the more a possibility. The attempted move toward state standards and assessment systems would have tribally controlled schools looking little different than a state public school district receiving federal impact aid and an essential justification for tribal control would be eliminated. One would think the Bush administration was attempting to get out of the Indian education business altogether.

Lastly, President Bush's executive order, in emphasizing that its purpose was to assist AI/AN students in meeting the challenging student academic standards of NCLB in a manner "consistent with Tribal traditions, languages, and cultures," led the OIE to conduct regional hearings on NCLB. At the regional hearing held at the Minnesota Department of Education on January 26, 2005, the OIE had arranged for pre-selected witnesses to make presentations. Despite

selective invitations to this public hearing, many Indian educators with significant experience with the implementation of Title VII as well as parent representatives appeared anyway. When some invited witnesses began to dispute the viability of NCLB provisions among American Indians, the OIE representative interrupted, saying she didn't want to hear about such matters but instead wanted ideas for how to make the statute work with American Indian students. This caused others to also offer opinions about what they thought about the statute and to complain about the process used in the public hearing. The growing negative opinion about NCLB, as witnessed by both invited and non-invited guests, was reported to me as president of NIEA. It was then that I determined that NIEA could not let the government attempt to tell us what our own constituency thought of NCLB and to embark on our own national hearings (D. Beaulieu, June 16, 2005; K. Denman-Wilke, personal communication, January 27, 2005).⁵⁷

The National Indian Education Association NCLB Hearings

When I became President of NIEA I proposed that NIEA would focus greater attention on ensuring that our legislative and policy initiatives would be informed by our constituency. One idea was to hold field hearings on topics of interest such as NCLB, as was done with regional hearings of the INTFR (L. Sparks, personal communication, November 5, 2004).⁵⁸ The January hearing on NCLB held by OIE in Minnesota was the critical factor in causing me, as quickly as possible, to organize these hearings. I began to sense a growing and fundamental disaffection with NCLB within the Native American education community. NIEA held 11 hearings in a wide variety of locations, for the most part associated with large education-related conferences or meetings in Washington, D.C. (NIEA Legislative Summit); Honolulu, Hawaii (Native Hawaiian Education Association Conference); Helena, Montana (Montana Indian Education Association Conference); Window Rock, Arizona, Albuquerque, New Mexico, and Tacoma, Washington (Affiliated Tribes of Northwest Indians Mid Year Meeting); Green Bay, Wisconsin (National Congress of American Indians Mid Year Meeting); Oklahoma City, Oklahoma (Oklahoma Native Education Network Conference); Pine Ridge, South Dakota and San Diego, California (United National Indian Tribal Youth Conference); and Green Bay, Wisconsin (National Indian School Boards Association Conference). Witnesses represented a diversity of Native and non-Native individuals, including educators, teachers, counselors, teacher aides, principals and school superintendents, tribal and state leaders and officials, school board members, parents, and students. There were over 120 witnesses who testified plus numerous prepared written testimonies, e-mail messages, and letters submitted, representing approximately 35 distinct categories of comments gathered from the testimony (Beaulieu et al., 2005).

Despite the variety of locations at which hearings were held and the number of witnesses, the overall nature of testimony showed remarkable consistency in viewpoint. What emerged from the testimony were strong views about the public purposes of education for Native peoples against which NCLB

and Native education are positioned. There was an overall sense from the testimony that profound changes were underfoot in Native education and that the Native education community had only begun to recognize the impacts and dangers inherent in the intended and unintended consequences of NCLB. It is clear from the testimony that these changes lacked a Native voice (Beaulieu et al., 2005).

Summarizing the testimony from the hearings, witnesses agreed that holding schools and school districts accountable for results was a positive aspect of NCLB, but that despite its title, the statute had not accomplished that result and may in fact, contrary to its claim, leave Native children behind. Many areas of the statute do not fit or respond to the unique situations of Native communities and schools, particularly those located in rural areas. There are a number of unintended consequences of the statute that have resulted in major disruptions to local education systems that may fundamentally alter the education potential of schools while significantly narrowing their broad public purposes. This concern was most directly related to the impacts of the statute upon CBE, including the use of pedagogy and curriculum connected to the social, cultural, and linguistic heritage of Native children, the role of tribal governments in determining the direction of Indian education, and the role of teachers, parents, and community members in the educational lives of Native students. A number of witnesses also noted the negative impact of NCLB on such subjects as music, literature, and the arts. The focus on testing and accountability combined with insufficient funding had, in the opinion of witnesses, mitigated the ability of schools to focus on the broader public purposes of education. It was also noted that these so called "liberal arts" areas of the curriculum were the very same areas that provided opportunity to incorporate content related to Native American heritage and culture (Beaulieu et al., 2005).

The overwhelming focus on testing had resulted in an educational environment that had become increasingly boring and disconnected from student lives and a sense of future, creating a punitive system in which students are blamed for school failure. Some witnesses reported that increased achievement scores were due to higher student dropout rates associated with students' boredom with direct instruction approaches (see Cleary, this issue). A similar effect was noted for teachers and education professionals. Witnesses speaking on behalf of teachers and educators or on their own behalf felt that NCLB was driving teachers and educators from the field. There was also the view that "highly qualified teachers," as defined by the statute, did not seem to be related to teaching skills where linguistic and culturally unique students are concerned (Beaulieu et al., 2005).

The combination of the NCLB accountability system and lack of funding was believed to be unraveling the success and accomplishment of some standards-based reforms over the past few years. Noting that NCLB's accountability system is flawed by focusing on year-to-year results on standardized tests rather than on continuous student progress and measuring achievement accordingly, witnesses

expressed dismay at the one-size-fits-all approach that does not invest in improvement (Beaulieu et al., 2005; see also Reyhner & Hurtado, this issue).

The Preliminary Hearing Report on NCLB was formally released and presented at the 2005 NIEA convention in Denver, Colorado. The report's primary purpose was to generate needed information regarding NCLB's effects upon education programs for Native American students as viewed by NIEA's principal constituencies. There were many intangible effects caused by simply providing a forum for Native American parents and educators and tribal leaders to give voice to their opinions and to "hear" the voices of others from all over the United States. Something about the process and the sense that NCLB was undoing sustained progress initiated by the 1972 Indian Education Act energized the Native American education community and its tribal leadership. The most immediate result of this would be the 2006 passage of the Esther Martinez Native American Languages Preservation Act.

Inconsistencies in Federal Education and Language Policies

As NIEA prepared for NCLB's reauthorization, it appeared that the fundamental Indian education policy issue concerning the role of Native languages and cultures in the education of American Indian, Alaska Natives, and Native Hawaiians was severely threatened by this law and by federal education policies in general. There was a fundamental incongruence in two areas of federal statutes, the first between the purposes of Title VII as expressed in the Indian Education Act, the Alaska Native Education Act, and the Native Hawaiian Education Act and the overall purposes of NCLB. Although Title VII expressed strong support for Native language and culture and a belief that CBE had a positive effect upon academic achievement, the general provisions of NCLB did not support these purposes and the statute's implementation worked against Title VII implementation by local school authorities. The second incongruence concerns federal education statutes and federal support for Native languages, as recognized by the Native American Languages Act (NALA) of 1990/1992, which promises to "preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages," including as media of instruction in schools funded by the Department of the Interior (Native American Languages Act, 1990/1992). NALA also fully recognizes the inherent right of Indian tribes and other Native American governing bodies, states, territories, and U.S. "possessions" to take action on, and give official status to, their Native American languages for the purpose of conducting their own business. Although NALA provides these types of language support, there is no corresponding connection to federal education statutes. The long established principle of tribal sovereignty, recognition of tribal government authority and the federal trustee relationship, and recognition of the federal role vis-à-vis state-tribal government relationships have no viable recognition in federal education law (see also Winstead et al., this issue). A strong affirmative version of NALA should be included in NCLB.

Disregard of Tribal Authority and Native Voice

A third issue emerging from the NCLB testimony concerns the growing disregard, despite official pronouncements to the contrary, of the role of tribal governments and of Native American parents in the education of Native American children. Ultimately it may be necessary to consider the development of a new Indian Education Act that reconsiders the relationships of federal, state, and tribal governments established by the original Johnson O'Malley Act in 1934, enabling tribes to assume parallel state government authority in education.

Also, it had not gone unnoticed that there remained, at the time of the hearings, no solid research on the relationship between instruction incorporating Native languages and cultures and AI/AN student achievement, and that the Bush administration, with its focus on experimental research, had moved away from CBE approaches. In this regard, NCLB justifies a Native American education policy focus outside the trustee relationship, making that relationship very vulnerable.

Promising Research to Support Native Languages and Cultures in Schools

The NWREL study team continued with its feasibility study, submitting a final report to the IES in June 2004. But it was not until a year later, on May 10, 2005, that the team presented its study design options to the IES (Yap, 2004). During 2005, the OIE conducted four roundtables on NCLB, leading NIEA to embark on its own hearings. The OIE also held a "National Conference on Indian Education" at Santa Ana Pueblo, New Mexico, in April 2005. The purpose of the conference was to focus on the same objective as the OIE-sponsored roundtables and to learn how to make NCLB work with Native students. The results of these activities were not formally published following the publication of NIEA's report on NCLB.

The National Indian Education Study (NIES), as required by the Bush executive order, focused on a two-part investigation intended to describe the condition of AI/AN education. The study was conducted by the National Center for Education Statistics (NCES) for the DOE, with OIE support. The earlier Rand study conducted by Grissmer and Demmert, which looked at state-based NAEP data, was not supported for publication by the DOE. The role of Native language and culture in education was not a DOE priority and did not receive support within the NIES.

The NWREL study team of Tharp, Demmert, Beaulieu, and Yap presented a number of potential research designs at the IES symposium. Among the designs presented was a quasi-experimental design that proposed the use of matched comparison groups as a way to examine CBE programs. We identified a number of potential Native language immersion or language intervention programs where a matched comparison school providing education without the CBE intervention could be identified. We believed that schoolwide CBE, particularly approaches focused on social-linguistic approaches, would theoretically have the most

influence related to achievement. However, the IES and DOE did not support a research competition for any particular design option or which could potentially be developed to test the question (J. Kushman, personal communication, May 10, 2005;⁵⁹ Yap, 2005).

Upon passage of NCLB and an Arizona “English for the Children” initiative in 2000, the Window Rock Unified School District on the Navajo Nation began moving its various Native language immersion classrooms into a single elementary school, where progress and results could be more easily observed and measured. This move accommodated the quasi-experimental research design we had developed whereby a school with a CBE program could be compared to a school serving similar students in a school without such a program. Although the IES and DOE failed to support such a research design, our study team and partners, through William Demmert’s leadership, continued to pursue this research and to seek support from foundations and other entities to accomplish it. Along with Window Rock, our research partnership invited four other Native language immersion schools to participate, including Pūnana Leo (Hawaiian), Lower Kuskoquim (Yup’ik), the Piegan Institute (Blackfeet), and the Niigaane (Ojibwe) at Bugonaygeshig.

The research design required that we develop curriculum-based measures of achievement in the Native language and a rubric to measure the extent of CBE at each school site. To date the project has developed culturally based measures (CBMs) of academic achievement in five Native languages in mathematics, reading, and writing. These CBMs have very high correlations to achievement on standardized tests. The design also required the development of a rubric to determine the extent CBE exists in a school setting.

Despite the political and cultural issues surrounding English language education and Native language use and instruction, particularly regarding NCLB, administrators and some researchers have known since the late 1980s and early 1990s that students in immersion classrooms perform better academically in content area instruction than their peers in mainstream English programs (see, e.g., Holm & Holm, 2005; McCarty, 2003; Wilson & Kamanā, 2001). As if to prove this point, Tséhootsooí Diné Bí’ólta (TDB, The Navajo School at the Meadow Between the Rocks, also known as the Fort Defiance Navajo Immersion School) — a partner in our CBE research effort — has for the past three years met AYP (Benally, 2007). The school principal, Maggie Benally, states that:

Window Rock Unified School District #8 agrees with the goals of NCLB for Native American students...we make every effort that students at Tséhootsooí Diné Bí’ólta’ and students in the other schools in the district are provided with quality education to increase student success and performance with integration of language and culture into standards based instruction. By learning and being instructed in two different languages, students develop higher order thinking skills (learning content) and develop a higher level of both Diné and English language proficiency. Students learn to speak, read, write and think in the Diné language — ensuring the survival of the language for the future generations. For the past three years, Tséhootsooí Diné Bí’ólta’ met [AYP],

where other schools in the district were inconsistent. This shows that the goals of NCLB are not incompatible with those of the local community...nor are our communities' goals incompatible with NCLB. The fact is that the educational goals for our children can be achieved by validating our educational needs — to ensure the survival of the unique Diné culture and language. (Benally, 2007)

Benally goes on to point out that while there is a lag in achievement of primary immersion students, as measured by standardized tests, intermediate and secondary students at TDB not only reach the “meets” level of performance, but often “exceed.” Additionally, none of the immersion students drop out of high school, but rather go on to pursue higher education opportunities. She concludes:

The immersion school in Window Rock Unified School District is the only one of its kind on the Navajo Nation. Other communities and public schools on the Navajo Nation and across Indian Country...including Hawai'i, have the desire to revitalize and maintain their heritage language; however, contrary state policies ... limit what they can do. (Benally, 2007)

Changes in the Wind: The Esther Martinez Native American Languages Preservation Act

During my term as NIEA president, an opportunity arose to support additional funding for Native languages. I endorsed support for immersion efforts over other approaches as a way to focus limited potential funding on efforts that were showing promise both in terms of language fluency and academic achievement. However it wasn't until NIEA had invited First Lady Laura Bush to attend the Denver convention that progress began to be made. In her place she suggested Claude Allen, domestic policy advisor to the President, who accepted the invitation. Mr. Allen was impressed by the convention and what he witnessed regarding the need for Native languages. His initial support vanished when he was forced to resign his position. Following the Denver convention, as Ryan Wilson began his term as NIEA president and I as chair of the legislative committee along with Quinton Roman Nose, NIEA continued to garner increased congressional support for Native languages. I continued to endorse an approach that would provide limited support to Native language immersion schools so that they could continue to develop and document the relationship of CBE and Native language immersion to academic achievement, lest our broader policy goals continue to flounder. Although 14 years of efforts had failed to pass another Native language bill or adequately fund NALA, the NIEA approach to a bill that had previously failed to move very far in the Republican-controlled Congress began to rise to the top. It was not until Republican Congresswoman Heather Wilson, in a tight congressional race in New Mexico, needed further American Indian support, that the bill we had been developing was introduced as the Esther Martinez Native American Languages Preservation Act (NALPA) — so named after the late Tewa language educator and activist, Esther Martinez.

Our research involving Native language immersion schools and the intended principal beneficiaries of NALPA were featured at a colloquium on “Language, Literacy, and Cognition in Native Education” at the Santa Fe Indian School. The proceedings were published as a special issue of this journal in 2006, and were subsequently submitted as testimony in the NALPA hearings. The Senate committee chairman indicated that his reading of the evidence regarding Native language immersion had convinced him to support the bill. The bill passed the House and in December 2006, was signed into law by President Bush.

Interestingly, NALPA passed a Republican-controlled Congress and was signed by a Republican President — facts that seem ironic now in light of the current status of NCLB vis-à-vis Native language and culture programs. However, the original tenet behind the need to enact a major national research agenda related to the role of Native languages and cultures in Native education, originally in President Clinton’s executive order, seems more relevant now than ever. As the previous discussion has indicated, schools such as TDB are demonstrating that it is possible to accomplish AYP — and to do so consistently — by using the Native language as the primary language of instruction. How ironic is that?

The NIEA hearings on NCLB created a great sense of commonality and energy among American Indian, Alaska Native, and Native Hawaiian people about what must be done to change the highly negative aspects of NCLB. These processes have also awakened tribal governments and leadership to the significant threats regarding Native languages and cultures and the urgent need to be again very vigilant and proactive. Although we often talk about the unintended consequence of NCLB upon Native students, I don’t suppose the Bush administration and the Republican Congress ever imagined or intended that Native education be positioned as it at this time. As we look toward NCLB’s reauthorization, the time is ripe for capitalizing on this gathered energy to ensure that federal education policy embraces Native American languages and cultures, and is truly responsive to tribal education needs and concerns.

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