



# USET

## SOVEREIGNTY PROTECTION FUND

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July 24, 2025

Tony Dearman  
Director  
Bureau of Indian Education  
Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Dear Director Dearman,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments to the Bureau of Indian Education (BIE) in response to the follow-up Tribal consultations on President Trump's Executive Order (EO) on, "Expanding Educational Freedom and Opportunity for Families." Specifically, BIE held follow-up consultations to review proposals that were developed based on feedback from Tribal Nations during the March 2025 Tribal consultations held on Section 7 of the EO. Section 7 of the EO directed the Secretary of the Interior to submit a plan to the President detailing steps for families of students eligible to attend BIE schools to use their federal funding for other educational options and the provide the necessary steps to implement them for the 2025-2026 school year. While we appreciate BIE's effort to further consult on this matter, we remain concerned about the EO's implications for the BIE school system and our students, especially since the BIE school system has been subjected to chronic underfunding, staffing shortages, and inadequate facilities. These compounding issues have consistently impeded BIE's ability to deliver upon its obligation to provide high-quality education in safe environments without direct financial support from Tribal Nations. Rather than taking critical resources away from BIE schools, the federal government must invest in their infrastructure, including our teachers and other personnel, so that our students receive the best educational opportunities available.

USET SPF is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.<sup>1</sup> USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

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<sup>1</sup> USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

*Because there is Strength in Unity*

### **The Delivery of Indian Education is a Trust and Treaty Obligation**

The provision of education to Tribal Nations and Native people remains a foundational aspect of federal trust and treaty obligations. Ensuring that the BIE receives the necessary federal dollars and resources to become a strong, quality, and well-funded institution is essential to upholding the education promises the federal government made to Tribal Nations. Rather than pursue school choice, the federal government is legally mandated by its trust and treaty obligations and implementing statutes to fully fund and improve BIE and other Indian education schools. We remind the BIE that Congress has already enacted a rigorous system of funding for Native education through Public Law 95-561 and Public Law 100-297. Carrying out this legal mandate, through full appropriations and technical assistance, can provide Native students with the high-quality education they deserve and adheres to the federal government's trust and treaty obligations to provide this service.

However, the BIE school system has been historically underfunded, leading to persistent deficits in resources, staffing, and facilities. The Indian School Equalization Program (ISEP) formula, which determines school funding, often fails to keep up with inflation and the actual costs of running schools in remote locations. Insufficient funding affects teacher salaries, student programs, and the ability to maintain aging infrastructure, all of which contribute to hindering the ability of these schools to provide the high-quality education that they have been charged with. Many BIE schools operate in deteriorating buildings with outdated heating and cooling systems, poor internet connectivity, and unsafe classroom conditions. Further, the Department of the Interior (DOI) has reported a deferred maintenance backlog exceeding \$800 million, with estimates suggesting that \$6.7 billion is needed to fully address infrastructure deficiencies.

We remind BIE that the United States' delivery of these direct services and funding to support the Indian education system is a trust and treaty obligation recognized and implemented through federal statutes. For instance, 25 USC Sec. 2000 states, "Congress declares that the Federal Government has the sole responsibility for the operation and financial support of the Bureau of Indian Affairs funded school system that it has established on or near Indian reservations and Indian trust lands throughout the Nation for Indian children." Due to this explicit responsibility of the federal government that is enshrined in law, the Indian education system should be exempted from any reductions or reallocation in federal funding and receive the full appropriations necessary for successful operations.

### **"School Choice" Programs Must Be Funded Separately from Existing BIE-Operated and Tribally Controlled School Funding Streams**

The Indian Self-Determination and Education Assistance Act of 1975 and the Tribally Controlled Schools Act of 1988 already establish a school choice system based in self-determination for Tribal Nations, allowing Tribal Nations to operate their own schools with federal funding. Taking funding away from BIE-operated or Tribally controlled schools to send Native children elsewhere to receive these opportunities, or to bring in outside providers to offer these opportunities, is contrary to the Tribally Controlled Schools Act, Tribal sovereignty, and the United States' trust and treaty obligations to provide for the education of Native people.

Yet, despite pronounced objections received during the Tribal consultations held in March 2025 to reallocate federal dollars to support "school choice" initiatives, BIE has proposed to reserve nearly \$1.3 million of its Elementary and Secondary Education Act (ESEA) allocation under Section 1003A to fund a "range of direct student service options," such as advanced coursework, dual enrollment, tutoring, and out-of-school enrichment activities. USET SPF notes that the underlying goals of Section 1003A of the ESEA were created to support the improvement of low-performing schools by providing funding to schools for the purpose of developing capacity within those schools—not to individuals. Therefore, BIE's proposal to shift

this critical funding away from school institutions and instead direct it toward individual students will exacerbate already inadequate funding levels. While we support the underlying goals of BIE's proposals to offer direct student service options, such as access to advanced courses, dual enrollment, academic tutoring, career and technical education, personalized learning, and out-of-school activities, this must be pursued in a manner that is Tribally directed and does not affect current funding levels for BIE and Tribally controlled schools.

Further, we have serious concerns regarding BIE's ability to administer an additional funding program through its proposals to reserve funds from its ESEA allocation under Section 1003A when BIE-funded schools already suffer significant delays in receiving statutorily mandated funding. In addition, under federal law, if BIE—acting as a state education agency—elected to make a reserved allocation under Section 1003A, the reserved allocation would come out of BIE-funded schools' Title I, Part A allocations. This is unacceptable as BIE-funded schools simply cannot afford any reductions in Title I, Part A allocations without serious negative consequences for our children and their families. Further, if BIE were to make a Section 1003A reservation, the result would be that all local education agencies would receive a reduction in Title I, Part A funding, but not all local education agencies would be guaranteed any additional funding. Thus, a Section 1003A reservation has the potential to take away—not add to—the resources necessary for the federal government, Tribal Nations, and Native communities to provide for the education of our children. Utilizing Section 1003A reservations would not produce any meaningful results for many BIE-operated and Tribally controlled schools because, in practice, Section 1003A reservations typically allow schools to approach school improvement by increasing student access to opportunities offered outside the school they regularly attend.

While this may be feasible in some areas, for many families of Native children attending BIE-operated or Tribally controlled schools, accessible out-of-school opportunities and outside education providers are non-existent, thus frustrating the positive outcomes desired for Native children in small communities and rural areas. Ultimately, to achieve the goal of offering additional direct student services, there must be new funding appropriated for Indian Country education rather than a diminishment of existing funding levels in one area to try to prop up another area. In fact, many BIE schools already offer the very student services being proposed and more would be able to offer and expand these services if there were sufficient and stable federal investment in Native schools.

### **Support for Tribal Nations Assuming Control of BIE-Operated Schools**

USET SPF supports BIE's efforts to determine the interest of Tribal Nations in exercising authority to assume control of BIE-operated schools under the Tribally Controlled Schools Act. We also support the continued provision of technical assistance to Tribal Nations assuming operation of BIE-operated schools. However, gauging Tribal interest in assuming operation of BIE-operated schools will likely lead to the conclusion that Indian Country has realized for decades. This conclusion being that Tribal Nations have are well aware that any efforts to support additional assumption of BIE-operated schools by must go hand-in-hand with efforts to improve the facilities conditions and overall funding levels of BIE schools. Many Tribal Nations wanting to assume control of their local BIE-operated school have been deterred by the cost and administrative burden required to make school facilities a healthy, safe, and comfortable learning environment. Further, the recent proposals to reduce BIE construction by 80% in the President's Fiscal Year 2026 Budget Request will only exacerbate the challenges Tribal Nations face in assuming control of BIE-operated schools and undercut the goal of promoting Tribal self-determination.

If BIE is serious about promoting the Tribal assumption of BIE-operated schools, then it must work to remove barriers to such efforts as well as to create parity between BIE-operated schools and Tribally controlled schools. Therefore, Tribal Nations assuming school operations must receive sufficient and

sustained funding for facilities, staffing, and program delivery. Otherwise, conversion becomes a pathway to underperformance and disrepair, not empowerment and self-determination. We also note that while BIE-operated schools remain woefully underfunded, Tribally controlled schools shoulder additional burdens. For example, Tribally controlled schools are currently unable to offer the Federal Employee Retirement System (FERS) benefits to their employees, while employees of BIE-operated schools enjoy these benefits. Because Tribally controlled schools cannot offer these benefits, they struggle to recruit and retain quality educators, which greatly affects their ability to provide consistent, quality education to their students. This issue is further exacerbated since Tribal Nations seeking to assume control of these schools struggle to attract certified teachers through competitive salaries, address unsafe buildings, and/or establish housing without federal investment. Until these conditions change, many conversions are simply not viable. Addressing these challenges must take a holistic approach, which must first be addressed by fully funding the budgets necessary to accomplish these goals.

### **Conclusion**

USET SPF supports federal mechanisms to increase Tribal control of Indian education, promote Tribal sovereignty, and build internal capacity for Tribal Nations to operate robust education programs. However, BIE's proposals to reserve \$1.3 million of its Elementary and Secondary Education Act (ESEA) allocation under Section 1003A without ensuring adequate and full funding for BIE and Tribally controlled schools will further exacerbate current funding levels. BIE schools already exist in dilapidated states of disrepair and contend with issues of attracting and retaining certified teachers. This is not the fault of these schools or the Tribal Nations that operate them. Rather, it is the result of the persistent failure of the federal government to provide the full and necessary funding and resources to support these schools and address construction and maintenance issues.

Instead of pursuing efforts to shift already critical resources away from these schools, the federal government must fulfill its trust and treaty obligations to provide the appropriate resources required to provide high-quality education and a safe learning environment for Native students. This includes providing the support and resources necessary for Tribal Nations to assume authority in managing BIE-operated schools. The current plights of the BIE school system are the result of centuries long neglect and mismanagement by the federal government. Rather than shift already limited resources away from these institutions in pursuit of short-term goals and fixes, a broader approach must be taken to invest in the infrastructure and human resources required to bring these schools into compliance to deliver high-quality education. Moving forward, we anticipate continuing dialogue and the exchange of ideas with BIE to develop solution-oriented mechanisms that appropriately address these issues. However, this must first begin with full funding for Indian education. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at [LMalerba@usetinc.org](mailto:LMalerba@usetinc.org) or 615-838-5906.

Sincerely,



Chief Kirk Francis  
President



Kitcki A. Carroll  
Executive Director