



# USET Sovereignty Protection Fund, Inc.

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September 15, 2016

Submitted via: [TribalConsultation@ed.gov](mailto:TribalConsultation@ed.gov)

Ron Lessard  
Chief of Staff  
White House Initiative on American Indian and Alaska Native Education  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, DC 20202

**Re: The Native American Languages Program at the Department of Education**

Dear Mr. Lessard,

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is pleased to offer the following comments on the Department of Education's (the Department) Tribal consultation on Native languages in the Every Student Succeeds Act (ESSA). USET SPF is a non-profit, inter-Tribal organization representing 26 federally recognized Indian Tribes from Texas across to Florida and up to Maine.<sup>1</sup> USET SPF is dedicated to enhancing the development of Tribal Nations, to improving the capabilities of Tribal governments, and assisting member Tribal governments in dealing effectively with public policy issues and in serving the broad needs of Indian people.

**Introduction**

The survival of Native languages is fundamental to the success of Tribal Nations and endurance of our cultures and customs. Our languages are the repository of all the collective wisdom our ancestors, containing ceremony, indigenous knowledge and mechanisms for social governance that have been thousands of years in the making. It is no wonder then, that teaching students in their Native language has proven to be an effective way of improving the achievement of American Indian children and bolstering their self-esteem. Data shows that students who learn in their Native languages have better outcomes, both educationally and emotionally. After decades of advocacy from all over Indian Country, USET SPF was delighted to learn that the Native American Language Program was included in ESSA, and that the law required Tribal consultation.

However, the Department published a flyer to provide notice of webinars on September 7th and 8th, 2016 that it indicated would serve as Tribal consultation on the Department's Native American Language Program ("NAL@ED Program") created through Section 6133 of ESSA. In joining the webinar, USET SPF was disappointed to learn that it presented no opportunities for meaningful consultation on the NAL@ED Program.

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<sup>1</sup> USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), 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), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), 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), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

### **Need for Meaningful Consultation**

In 2000, President Obama issued Executive Order 13175, which outlined the federal government's commitment to Tribal sovereignty. In 2011, the Department of Education issued its own *Consultation and Coordination with American Indian and Alaska Native Tribal Governments Policy*. In 2015, ESSA added timely and meaningful consultation as a requirement for consultation under Title I and the standard for consultation under the whole of ESSA. The information gathering conducted by the Department via webinar poll does not constitute Tribal consultation.

According to the Department's policy it, "believes that regular, timely, and meaningful dialogue through Tribal consultation is helpful in formulating effective...policies and programs." The September webinars were structured in a way that prohibited dialogue, real questions and answers, and the delivery of advice and guidance from Tribal Nations. Participants were only offered the opportunity to respond to a digital poll and ask questions via a chat box. This is not the type of engagement envisioned by any of the aforementioned policies or statutes. Nor does it constitute Tribal consultation. Under the Department's Policy, consultation must allow for meaningful dialogue in formulating the Department's policies and programs that have Tribal implications.

Tribal Nations and organizations, including the National Indian Education Association, have provided the Department with key elements that constitute meaningful Tribal consultation on several occasions. Tribal consultation on this and other provisions of ESSA will be critical to the success of its implementation in Indian Country. The voices of Tribal Nations and organizations, Native educators, and Native language experts must inform the development of the NAL@ED Program. It is with this in mind that we expect the Department to reinstate consultation on the Program, and in this new opportunity, to provide a better mechanism for dialogue. Our children deserve a program that was designed by their Tribal leaders, their elders, and their teachers.

### **Consultation Questions**

USET SPF reserves the right to offer additional input regarding the Department's questions as outlined in the webinar during subsequent consultation opportunities. In the meantime, we acknowledge the expertise held by the National Indian Education Association (NIEA) on this issue. We support the more specific recommendations that NIEA includes in their written comments.

### **Conclusion**

USET SPF hopeful that as ESSA implementation continues, the Department will provide additional opportunities for robust and meaningful Tribal consultation. Should you have any questions or require additional information, please do not hesitate to contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at (202) 624-3550 or by e-mail at [lmalerba@usetinc.org](mailto:lmalerba@usetinc.org).

Sincerely,



Brian Patterson  
President



Kitcki A. Carroll  
Executive Director

CC: USET Executive Officers  
Wanda James, USET Deputy Director

*"Because there is strength in Unity"*