

**TESTIMONY
OF
TONY DEARMAN
DIRECTOR – BUREAU OF INDIAN EDUCATION
U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON EARLY CHILDHOOD, ELEMENTARY, AND SECONDARY
EDUCATION
AND THE
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE FOR INDIGENOUS PEOPLES OF THE UNITED STATES
U.S. HOUSE OF REPRESENTATIVES
“EXAMINING THE POLICIES AND PRIORITIES OF THE
BUREAU OF INDIAN EDUCATION”**

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Introduction

Good morning, Chairman Sablan, Chair Leger Fernandez, Ranking Members Owens and Obernolte, and Members of the Subcommittees.

Thank you for the invitation to appear today on behalf of the Bureau of Indian Education (BIE) at the Department of the Interior (Department) to update the Subcommittees on the BIE’s work for our Native students and Indian Country. I am Tony Dearman, a citizen of the Cherokee Nation and Director of the BIE.

I have been an educator for 29 years, 16 of which I have been working directly for the BIE. My entire career has been spent in Indian education. I began my career working for my Tribe at Sequoyah High School in Tahlequah, Oklahoma. Prior to becoming the BIE Director in November 2016, I also served as the Associate Deputy Director (ADD) for Bureau-Operated schools, overseeing 17 schools, four off-reservation boarding schools, and one peripheral dormitory.

Today, the BIE serves Native students from the 574 federally recognized tribes at 183 elementary and secondary schools and dormitories. We also operate two post-secondary institutions, Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute. Of the 183 elementary and secondary schools, the BIE directly operates 53 schools and dormitories, while tribal governments, through local control, operate the remaining 130 schools and dormitories through grants or contracts. In total, BIE-funded schools serve approximately 47,000 K-12 American Indian and Alaska Native students. Approximately 3,400 teachers, professional staff, principals, and other school administrators work to support students served by Bureau-operated schools. We are working with the urgent recognition that we face challenges in providing a high-quality education to BIE students. With such challenges come tremendous opportunities for improvement in the way we operate on a day-to-day basis. As we work to improve local service delivery, the BIE is focusing its attention on allocating critical resources

effectively and efficiently to achieve the Agency’s core mission while, at the same time, increasing accountability throughout the BIE.

GAO High Risk Status

In February 2017, the Government Accountability Office (GAO) listed the BIE in its High-Risk report (GAO-17-317 High-Risk Series). At that time, the GAO highlighted the following persistent weaknesses noted in prior reports that inhibit the BIE from efficiently executing its mission to serve Native students:

- Indian Affairs’ (IA) oversight of school safety and construction, as well as how IA monitors the way schools use Interior funds;
- The impact of limited workforce planning in several key areas related to BIE schools;
- The effects of aging BIE school facilities and equipment and how such facilities contribute to degraded and unsafe conditions for students and staff; and,
- How a lack of internal controls and other weaknesses hinder IA’s ability to collect complete and accurate information on the physical conditions of BIE schools.

In its most recent High-Risk Series report, (GAO-19-445T) GAO noted significant progress on the part of the BIE. However, the 2019 High-Risk Series report noted that the BIE continues to address challenges to recruiting and retaining a highly skilled workforce. Specifically, in 2017, the BIE was staffed at approximately 40 percent. In 2019, the BIE had increased its human capital capacity by nearly 15 percent. Today, I am thankful to report that the BIE has increased its staffing level to 68 percent, despite nation-wide labor shortages. Importantly, we are focused on ensuring that our teacher and staff pay levels support both BIE recruitment and retention goals. Our annual budget requests to Congress include funding for pay parity for all our teachers, including our 130 Tribally-Controlled Schools which use Tribal employees. This is significant progress to ensure that pay among the state, Tribal, and federal systems is aligned.

We still have opportunities for growth and are actively working to align our efforts to improve educational outcomes for all students. One way we are doing this was highlighted in recent GAO audits, which outlined the Bureau’s management and oversight of special education services. We remain committed to actively reforming the BIE in a manner that fully addresses our remaining audit findings.

To date, the BIE has fully addressed and closed a total of 23 of 39 GAO recommendations contained in ten separate reports, including a High-Priority recommendation.

I want to take an opportunity to share the BIE’s complete GAO implementation status, which is as follows:

GAO-13-774—INDIAN AFFAIRS: Better Management and Accountability Needed to Improve Indian Education (September 2013).

GAO made five recommendations:

1. Develop and implement decision-making procedures, which are documented in management directives, administrative policies, or operating manuals;
2. Develop a communication strategy;
3. Appoint permanent members to the BIE-Education committee and meet on a quarterly basis;
4. Draft and implement a strategic plan with stakeholder input; and
5. Revise the BIE strategic workforce plan.

Outcome: BIE has fully implemented and GAO has formally closed all five recommendations.

GAO-15-121—INDIAN AFFAIRS: Bureau of Indian Education Needs to Improve Oversight of School Spending (November 2014).

GAO made four recommendations:

1. Develop a comprehensive workforce plan;
2. Implement an information sharing procedure;
3. Draft a written procedure for making major program expenditures; and
4. Create a risk-based approach in managing BIE school expenditures.

Outcome: BIE has fully implemented and GAO has formally closed all four recommendations.

GAO-16-313—INDIAN AFFAIRS: Key Actions Needed to Ensure Safety and Health at Indian School Facilities (March 2016).

GAO made four recommendations:

1. Ensure that all BIE schools are inspected as well as implement a plan to mitigate challenges;
2. Revise inspection guidance and ensure usage thereof by safety inspectors;
3. Develop a plan to build schools' capacity to promptly address safety and health problems with facilities and improve the expertise of facility staff to maintain and repair school buildings; and
4. Consistently monitor whether schools have established required safety committees.

Outcome: BIE has fully implemented and GAO has formally closed all four recommendations.

GAO-17-421 – INDIAN AFFAIRS: Further Actions Needed to Improve Oversight and Accountability for School Safety Inspections (May 2017).

GAO made six recommendations:

1. Develop and take corrective actions to address BIA safety program weaknesses identified in prior Interior evaluations;
2. Develop and implement a plan to assess employees' safety training needs and monitor employees' compliance with Indian Affairs' safety training requirements;

3. Ensure performance standards on inspections are consistently incorporated into the appraisal plans;
4. Develop a performance standard on inspection report quality and establish a process to routinely monitor the quality of inspection reports;
5. Document when inspection reports sent to schools and establish a process to routinely monitor the timeliness of reports; and
6. Use information gathered from monitoring the timeliness of school safety inspection reports to assess the performance of employees.

Outcome: BIE has fully implemented and GAO has formally closed all six recommendations.

GAO-17-423 – TRIBAL TRANSPORTATION: Better Data Could Improve Road Management and Inform Indian Student Attendance Strategies (May 2017).

GAO made a total of eight recommendations, two (recommendations 7 and 8) of which were BIE related:

7. Provide guidance to BIE schools to collect data on student absences related to road and weather conditions; and
8. Review and amend the BIE transportation funding formula.

Outcome: BIE has fully implemented and GAO has formally closed these BIE related recommendations.

GAO-17-447 – INDIAN AFFAIRS: Actions Needed to Better Manage Indian School Construction Projects (May 2017).

GAO made a total of six recommendations, two (recommendations 5 and 6) of which were BIE related:

5. Improve oversight and technical assistance to tribal organizations to enhance tribal capacity to manage major construction projects; and
6. Develop and implement guidance for maintaining complete contract and grant files for all BIE school construction projects.

Outcome: BIE has fully implemented and GAO has formally closed recommendation 6. BIE continues to work collaboratively with our Indian Affairs Deputy Assistant Secretary – Management (DAS-M) partners to fully implement Recommendation 5. Specifically, DAS-M has increased oversight and the availability of technical assistance by hiring six additional project and program managers. DAS-M has also assigned a designated project manager responsible for grantee oversight and technical assistance.

GAO-20-308 – BUREAU OF INDIAN EDUCATION: Actions Needed to Improve Management of a Supplemental Education Program (April 2020).

GAO made five recommendations:

1. Develop a systematic process for identifying Johnson O'Malley (JOM) contractors and maintaining an accurate and complete list of contractors and other relevant information about contractors;
2. Establish a process to track and monitor the timeliness of JOM disbursements to non-tribal contractors;
3. Develop a timeline to assess the usefulness of the information they are collecting from JOM contractors and update JOM information collection forms;
4. Develop and provide training to contractors on administering the JOM program; and
5. Clearly define the roles and responsibilities and identify the staff necessary for conducting critical JOM functions.

Outcome: BIE has fully implemented and GAO has formally closed recommendations 1 and 4. The BIE is in the final stages of developing a comprehensive JOM Policy and Handbook that will address the three remaining recommendations.

GAO-20-358 – INDIAN EDUCATION: Actions Needed to Ensure Students with Disabilities Receive Special Education Services (May 2020).

GAO made seven recommendations:

1. Establish consistent requirements for schools on making up missed special education and related services;
2. Work with Indian education stakeholders to establish a community of practice designed to identify and disseminate promising practices for schools to recruit, hire, and retain special education teachers and contracting with providers;
3. Rescind the policy of its division overseeing tribally controlled schools that does not meet Interior's requirement to annually review all schools' documentation to verify the provision of services for every special education student;
4. Update the agency's workforce plan to include a strategy and timeframe for filling vacant special education positions;
5. Fully implement the agency's high-risk monitoring policy for the Individuals with Disabilities Education Act and deliver reports and technical assistance plans to schools within 30 days;
6. Establish special education training requirements for staff in the agency's Education Resource Centers; and
7. Ensure that all of the agency's Education Resource Centers conduct outreach with schools.

Outcome: BIE has submitted a closure request regarding recommendation 3 and expects closure in the coming weeks. To address the multi-faceted recommendations in this GAO report, the BIE has extensively researched national best practices and is in the final drafting stages of a proposed comprehensive special education policy and handbook. BIE anticipates the newly established special education policy will fully implement GAO's remaining recommendations.

GAO-20-600 – NATIVE AMERICAN YOUTH: Agencies Incorporated Almost All Leading Practices When Assessing Grant Programs That Could Prevent or Address Delinquency (August 2020).

GAO made a total of three recommends, two (recommendations 2 and 3) of which were BIE related:

2. Alert grantees of the Native Language Immersion Cooperative Agreement when they are late in submitting performance reports; and
3. Develop a process to assess the quality and reliability of a sample of grantee performance data.

Outcome: The BIE continues to make improvements to its use of strategic data. BIE is actively conducting a Bureau-wide data inventory and analysis that will reform the manner in which the BIE collects and uses its data. The BIE expects that, following this process, its new data policy and procedure will fully implement GAO’s two recommendations.

GAO-21-429T – INDIAN EDUCATION: Schools Need More Assistance to Provide Distance Learning (April 2021).

GAO made two recommendations:

1. Provide comprehensive guidance on distance learning; and
2. Develop and implement written policies and procedures for identifying IT needs at schools.

Outcome: As outlined below, the BIE continues to work with our IA partners to ensure that guidance and technical assistance is provided and that IT needs are identified through the BIE’s Electronic Learning Management System (eLMS) program.

As Director, I continue to lead our teams to focus on making BIE better for our students, educators, and communities. We appreciate the opportunity to continue to learn from the GAO’s specific recommendations. We will continue to improve based on these recommendations and BIE will be better for the work we are doing to modernize policies and collectively improve Native education.

Education in the COVID-19 Environment

Over the course of the last two years, the BIE has navigated the unprecedented challenges imposed by the COVID-19 pandemic. I find myself incredibly grateful to lead a highly skilled and motivated team in making actionable solutions to challenges that feel as if they have unfolded – almost hourly – since March 2020.

In the face of new and evolving challenges, BIE continually pivots in how services are delivered to Bureau-Operated schools and support is provided our Tribally-Controlled Schools to keep our Native communities safe. Simultaneously, we provide services that are essential to the health and wellbeing of students and their families. Achieving each of these goals requires creative solutions.

Because BIE required an unprecedented shift to remote education, there were many opportunities for growth and learning in our system. This was an especially challenging task in Indian Country due to the extremely remote communities that lack basic infrastructure, such as internet connectivity, served by the BIE. Most school districts, and therefore best practices, came from geographically similar school locations. By contrast, BIE is operating in numerous locations throughout the country that are subject to varying Tribal, state, and federal orders.

Many BIE student homes do not have electricity, much less access to adequate internet suitable for a shift to online learning. To address this, the BIE deployed school buses with Wi-Fi connections in some isolated communities to provide students and families with internet connectivity. The BIE team provided critical services throughout the initial shutdown, including partnering with local emergency services to ensure that students continued receiving nutritional assistance, as well as a combination of online and paper remote learning packets.

For example, the principal at Lake Valley, in the Navajo Nation, personally went to each home to help families identify the best place to physically place the internet hotspot. She marked it with an X in blue painter's tape on the wall and would help redirect families to that specific point when there were Wi-Fi challenges. This same principal provided school desks for each student to have in their home. However, homes with multiple students and multi-generations oftentimes could not fit 3-4 school desks within the home. So, in these cases, she would order the students lapboards to have a flat learning surface to complete school lessons. I am both in awe of the initiative this principal took and humbled by the hearts of our school leaders who innovate to provide for our students. They are the best examples of the most valuable contributors during the crises of the last two years.

During the summer of 2020, the BIE initiated and executed a comprehensive school reopening plan. The bureau-wide effort resulted in successfully procuring, deploying, configuring, and issuing more than 10,000 laptops and 7,000 Wi-Fi devices to support distance learning at Bureau-Operated schools. This was despite deep nationwide IT shortages prior to the start of the Fall 2020 school year. Simultaneously, the BIE implemented a school Help Desk contract to support devices issued to students, parents, and guardians. This effort required the BIE team to establish education network gateways and circuits for both Bureau-Operated and Tribally-Controlled schools to support a phased deployment of 1GB bandwidth upgrades. BIE also provided timely technical assistance support for Tribally-Controlled schools that enabled local schools to provide their own remote learning services. Thanks to these efforts, BIE-funded schools have been providing high-quality educational services to BIE students in a manner that safeguards the health of our students, staff, and Tribal communities despite the challenges presented by COVID-19.

Throughout our response, the BIE team established and maintained two-way communication with BIE partners, Tribal leadership, and stakeholders. This was through both formal and informal paths including a series of consultations, listening sessions, and other forms of strategic communication. The BIE also established cooperative working relationships with the Centers for Disease Control (CDC), the Indian Health Service (IHS), and White House leadership. Because of the Bureau's work with the CDC, IHS, and White House, each of the BIE's four off-

reservation boarding schools successfully welcomed students back to in-person class on October 25, 2021. The BIE continues to provide flexible educational services that are designed to meet the particular needs of each school location. This honors the self-governance and self-determination of each tribal sovereign.

COVID-19 Funding

Since the start of the COVID-19 pandemic, the BIE worked effectively and efficiently to direct its COVID-19 resources toward high-impact areas of need. Pandemic impacts in Indian Country were, and remain, significant so the BIE obligated 100 percent of CARES Act and initial Department of Education Stabilization Funds as quickly as possible. This included adding temporary budget and accounting staff to immediately incorporate COVID-19 resources and oversight into required internal control activities and reporting processes. Overall, the BIE received approximately \$1.5 billion dollars in COVID-19 assistance through the CARES Act (CARES), Department of Education - Education Stabilization Funds, and the American Rescue Plan Act (ARPA). These funds have served a critical role in the BIE's ability to address the challenges of providing educational services in the COVID-19 environment.

For example, the BIE used funds to establish its first-ever Education Learning Management Program. This effort empowers the BIE to invest in critical infrastructure and to deploy necessary technology into the classroom. Our other major investment is providing professional development for teachers and school leaders. The BIE is also using its COVID-19 supplementary funding to support the physical and mental health of our students. In addition to procuring and distributing millions of masks, and hundreds of thousands of COVID-19 testing kits, the BIE has deployed its COVID-19 funding to support the Bureau's ongoing Behavioral Health and Wellness Support initiative. This initiative has served to support the mental health needs of our students and staff and their families and has had an incredibly positive impact on the schools and communities we serve.

Throughout our response to COVID-19, the BIE has provided schools with technical assistance and oversight activities regarding the use of COVID-19 supplemental funds. This included best practices in both application and examples of the statutory use of funds in Frequently Asked Questions (FAQs) for CARES and ARPA funds. Additionally, BIE Division of Performance and Accountability and School Operations Budget and Finance Groups held virtual COVID-19 webinars and training sessions on use of COVID-19 funds. These were attended by a significant number of school leaders and staff from Bureau-Operated and Tribally Controlled Schools. In addition to training sessions, in 2021 a Tribal Listening Session with the Secretary of the Interior, the Bureau of Indian Affairs, and the BIE on ARPA funding was held.

All schools received guidance on COVID-19 supplemental funding spend plans. These were developed to assist schools in identifying their COVID-19 spend plans by categories of statutory use of funds (i.e., Remote Learning and Information Technology, Personal Property and Equipment, Mental Health and Behavioral Science). These spend plans by school had various deadline dates throughout the pandemic to monitor school spending in accordance with the fund and availability period. School Operations Financial Analysts are assigned a portfolio of schools

to assist school-level staff with guidance on COVID-19 spending, assist with Spend Plans, and address any questions on the use of funds. School Operations Finance Charge Card Team members are assigned Charge Card transaction reviews of assigned card-holders at the school-level or Education Resource Center Level.

Another improvement is that BIE Financial Reporting and COVID-19 Teams have monitored school financial transactions through the Departmental Financial and Business Managements System (FBMS). This monitoring includes school-level purchases tracked by a unique COVID fund, which are also Treasury ID Accounts. This reporting analysis identifies purchase requisitions, obligations, and available balances by fund and includes standard budget object class information.

Conclusion

I have spent my entire career in Indian education, and there have always been unique challenges. However, the last few years have certainly been unprecedented in their impact on education generally, and Indian education specifically. I am especially proud of the work that the BIE team has done. Through the dedicated service of our teachers, school administrators, and support staff, the BIE has emerged stronger and better equipped to address the obstacles of today and tomorrow. The BIE team continues to use GAO's Audit Recommendations as a road map to keep improving our service delivery to students. I know that the dedicated team of education professionals at BIE is up to the important task of providing a high-quality education to Indian students.

I am incredibly proud of the educational professionals I work with and the memories I have of the great kids we have the honor of educating. In my work across Indian Country, some of the students I coached and led are the tribal officials working to keep BIE accountable. I am thankful for the full-circle that I am seeing in my educational career that fills the pipeline of leadership in Indian Country.

Our students will achieve great things and the BIE is committed to improving service delivery to help them reach their goals. The BIE looks forward to partnering with you and receiving your insights to help us continuously improve.

Thank you for your public service and time today learning more about BIE. I am honored to answer any questions you may have.