



## SUMMARY OF PROPOSED AMENDMENTS TO THE HIGHER EDUCATION ACT (113<sup>th</sup> Congress)

The presidents of the nation's Tribal Colleges and Universities (TCUs), who together are the American Indian Higher Education Consortium (AIHEC), recommend the following amendments be included in any legislation enacted as the 113<sup>th</sup> Congress considers the reauthorization of the Higher Education Act. In addition to changes to the current TCU-Title III-A program, TCUs seek the authorization of two additional programs within Title III-A to help address the continuing need for expanded programs to support services for students and Native language vitalization and training programs at TCUs.

Recommended amendments to Title IV of the Higher Education Act include 1) restoring eligibility for Federal financial aid to disenfranchised populations, and 2) more equitable disbursement process for Federal Supplemental Educational Opportunity Grants (FSEOG) and Work-Study Grants.

Additionally, the Tribally Controlled Colleges and Universities Assistance Act will be reauthorized in conjunction with the HEA and AIHEC will seek to update this critical legislation during that process.

The following are requests and justification of changes sought, by Title:

### TITLE III: INSTITUTIONAL AID

I. **A technical amendment** to simply remove a requirement that the U.S. Department of Education impose an inappropriate, burdensome, and unnecessary pre-application process on the clearly defined, and therefore strictly limited pool of participants in the Tribal Colleges and Universities Title III-A program (Sec. 316).

**AMENDMENT LANGUAGE:** The Higher Education Act of 1965 is amended as follows:

"Strike Title III-A Sec 316 (d)(1) and redesignate the subparagraphs accordingly."

The requirement is intended to define and narrow the pool of applicants eligible to compete in the general Title III Strengthening Institutions program. Since 2008, the TCU-Title III-A program is formula funded and therefore, it is not necessary or relevant to impose the pre-application process in order to be eligible to receive a grant. It is worth noting that the Historically Black Colleges and Universities programs under Title III-B, which have always been formula funded, are not subject to the pre-application process in order to be eligible to receive a grant under said program. Yet, until the statutory language is removed, the Department will continue to require that all TCUs go through the process of applying for eligibility, *months prior to* submitting an application for participation. This unnecessary and often confusing step is contrary to existing statutory language which directs the Department to "simplify and streamline the process of applying for grants" under the TCU Title III program. (Sec. 316(d)(2)(B))

### Background and Explanation of Request:

Issues with Section 312(b), which specifies the eligibility criteria for participation in the Title III-A programs, as applied to the TCUs' Title III-A program, include:

- Under current law, this eligibility criterion applies to all programs authorized under Title III-A of the Higher Education Act that are not specifically exempted from all or part of Section 312(b). For the past several years, the Department has required that any tribal college wishing to compete in the TCU-specific program must submit an online "application for eligibility," which typically is due several months before the actual program proposal deadline. This has not always been the case, and has led to some confusion among TCUs. When the program was originally implemented in the late 1990s, the Department did not require TCUs to submit an eligibility application because it was clear to the Department which institutions were eligible for the specific TCU program by definition.
- The arbitrary imposition and enforcement of the eligibility application process on TCUs has led to several TCUs being excluded from this vitally needed program. For example, in FY2008, Navajo Technical College (NTC) in Crownpoint, New Mexico was excluded from participating in the program simply because its name had changed (from Crownpoint Institute of Technology) between the time that it last filed an eligibility application and the FY2008 competition. The FY2008 competition was especially important because it included a one-time solicitation for \$60 million in mandatory construction funding under the *College Cost Reduction and Access Act* (CCRAA), specifically for TCUs. Without notifying the institution or asking a single question about the new name, Department of Education staff simply threw out its application, thus leaving NTC out of the competition for \$60 million in construction funding, as well as the smaller discretionary TCU construction program. Another TCU (Fort Peck Community College in Montana) also was arbitrarily excluded from the program, even though the institution received a letter signed by a Department official stating that it was eligible to compete.
- The criteria clearly are not relevant to Tribal Colleges and Universities:
  - Another example, 26 of the TCUs are funded under Title I of the Tribally Controlled Colleges and Universities Assistance Act (TCCUAA), and thus receive an IDENTICAL amount of funding, per student, for "educational and general expenditures," therefore, section 312(b)(1)(B) is essentially irrelevant to these TCUs.
  - Included in the eligibility application is a waiver option for TCUs for both the needy student and the educational and general expenditures (E&G) requirements, which make it clear that the Department recognizes that this additional step in the application process is irrelevant for Tribal Colleges and Universities.
- Two amendments have been adopted to the TCU Title III program, in recognition of the small and clearly defined pool of eligible applicants and the burdensome application process: the first, included language that (a) directs the Secretary to "streamline and simplify the application process" for the TCU program and (b) exempts the TCU program from the 2-year wait out period applicable to the general Title III-A program; and most recently, the TCU program was changed from a competitive to a formula funded program.
- **Authorization of Appropriations:** We are requesting a \$35 million authorization for fiscal year 2014 and "such sums" for each succeeding fiscal year. We are looking to increase funding

authority to a level adequate to continue to support those institutions currently qualified to apply for funding under the TCU program, as well as to accommodate a number of identified emerging TCUs. These new TCUs will further expand access to and completion of quality higher education opportunities for American Indian and Alaska Native peoples.

## **II. TRIBAL COLLEGES AND UNIVERSITIES SUPPORT SERVICES FOR STUDENTS PROGRAM.**

An amendment creating a new section under Title III-A to establish and expand student support services programs that will allow for more efficient and effective application and administration of such programs addressing the unique population of students at the nation's Tribal Colleges and Universities.

**AMENDMENT LANGUAGE:** Part A of Title III of the Higher Education Act of 1965 (20 U.S.C. 1057 et seq.) is amended by adding at the end the following:

### **“SEC. TRIBAL COLLEGES AND UNIVERSITIES SUPPORT SERVICES FOR STUDENTS.**

“(a) DEFINITIONS.—In this section:

“(1) TRIBAL COLLEGE OR UNIVERSITY.—The term ‘tribal college or university’ has the meaning given the term ‘Tribal College or University’ in section 316(b).

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary shall establish a program, to be known as the ‘Tribal Colleges and Universities Program’ to establish and expand support services for students that will allow for more efficient and effective application and administration of such programs addressing the unique population of students at the nation's Tribal Colleges and Universities.

“(2) REQUIREMENTS.—

“(A) BASIS.—The Secretary shall provide grants under paragraph (1) on a competitive basis.

“(B) TERM.—The term of a grant under paragraph (1) shall be not more than five years.

“(3) APPLICATION.—

“(A) IN GENERAL.—To be eligible to receive a grant under this subsection a tribal college or university shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants under this section.

“(C) INCLUSIONS.—An application under this paragraph shall include a plan for the program proposed to be carried out by the tribal college or university using the grant, including —

“(i) a description of a 5-year strategy of the tribal college or university for meeting the unique needs of American Indian/Alaska Native students;

“(ii) the number of students to be served for each year of the grant;

“(iii) a description of the services to be provided under the program; and

“(iv) a description, to be prepared in consultation with the Secretary, of the performance measures to be used to assess the performance of the tribal college or university in carrying out the program.

“(D) REQUIREMENT.—A program plan under subparagraph (C) shall be consistent with the purposes of this section, as determined by the Secretary.

“(c) USE OF FUNDS.—A tribal college or university may use a grant provided under this section to carry out activities, including—

“(1) academic tutoring, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

“(2) advice and assistance for students in navigating -

(A) course selection

(B) mentoring programs

(C) student financial aid programs, including scholarships and assistance in completing public and private financial aid applications

(D) education or counseling services designed to improve financial and economic literacy

(E) application for admission to, and securing financial assistance for enrollment in four-year and/or graduate programs

(F) other activities proposed in the application that contribute to carrying out the intent of this program as described in subsection (b) and are approved by the Secretary as part of the review and acceptance of such application

“(d) APPLICABILITY OF OTHER PROVISIONS.—

“(1) CONCURRENT FUNDING.—A tribal college or university that receives a grant under this section may concurrently receive funds under section 316.

“(2) EXEMPTION.—Sections 312(b) and 313(d) shall not apply to a tribal college or university that receives a grant under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2014 through 2018.”.

**Explanation of Request:** Tribal colleges must find stable funding for student support services to achieve their collective goal to increase participation, retention, and completion rates of American Indian/Alaska Native students in postsecondary education. Among institutions of higher education, TCUs have a disproportionate number of students in need of developmental/remedial education and other services that can only be addressed through a sustained and comprehensive student support program. The penultimate TRIO student support services (SSS) competition (2005) resulted in a 26 percent drop in the number of SSS grants being awarded to TCUs. As a result of the latest competition (2010), the number of TCUs with SSS grants dropped by another 11.8 percent. The drop is not an indication of inferior proposals. On the contrary, it illustrates the extreme need and lack of adequate funds available for such vital grant programs, nationwide. The grant scoring cut off of these SSS competitions is exceedingly high, further illustrating the dearth in available resources, and leaving many worthy programs unfunded. Clearly institutions such as tribal colleges and universities will be hard pressed to compete with larger, more developed institutions that have the stable resources and are in a position to hire professional grant writers. Prior experience points, complexity of application, and lack of adequate resources have kept TCUs from being able to participate in this critical program, at even a fraction of need. Tribal colleges propose this competitive program to afford the TCUs, which number less than 35, a solid opportunity to secure funds to build stable student support programs at their respective institutions. The 2005 and 2010 TRIO SSS competitions resulted in more than 37 percent of TCUs that had SSS grants losing their program funding. This most unfortunate situation must be reversed so that TCUs can continue to provide access and foster success in quality higher education opportunities for the Native and non-Native students enrolled at the nation’s Tribal Colleges and Universities.

### **III. TRIBAL COLLEGE OR UNIVERSITY NATIVE AMERICAN LANGUAGE VITALIZATION AND TRAINING PROGRAM.**

An amendment creating a new section under Title III-A to provide grants to tribal colleges or universities to promote the preservation, revitalization, relevancy, and use of Native American languages.

**AMENDMENT LANGUAGE:** Part A of Title III of the Higher Education Act of 1965 (20 U.S.C. 1057 et seq.) is amended by adding at the end the following:

#### **“SEC. NATIVE AMERICAN LANGUAGE VITALIZATION AND TRAINING PROGRAM.**

“(a) DEFINITIONS.—In this section:

“(1) TRIBAL COLLEGE OR UNIVERSITY.—The term ‘tribal college or university’ has the meaning given the term ‘Tribal College or University’ in section 316(b).

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary shall establish a program, to be known as the ‘Native American Language Vitalization and Training Program’, under which the Secretary shall

provide grants to tribal colleges or universities to promote the preservation, revitalization, relevancy, and use of Native American languages.

“(2) REQUIREMENTS.—

“(A) BASIS.—The Secretary shall provide grants under paragraph (1) on a competitive basis.

“(B) TERM.—The term of a grant under paragraph (1) shall be not more than five years.

“(3) APPLICATION.—

“(A) IN GENERAL.—To be eligible to receive a grant under this subsection a tribal college or university shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants under this section.

“(C) INCLUSIONS.—An application under this paragraph shall include a plan for the program proposed to be carried out by the tribal college or university using the grant, including—

“(i) a description of a 5-year strategy of the tribal college or university for meeting the needs of American Indians or Alaska Natives, as appropriate, in the area served by the tribal college or university;

“(ii)(I) an identification of the population to be served by the tribal college or university; and

“(II) an identification of the status of Native American language understanding and use within that population and a description of the manner in which the program will help preserve and revitalize the relevant Native American language;

“(iii) a description of the services to be provided under the program, including the manner in which the services will be integrated with other appropriate activities; and

“(iv) a description, to be prepared in consultation with the Secretary, of the performance measures to be used to assess the performance of the tribal college or university in carrying out the program.

“(D) REQUIREMENT.—A program plan under subparagraph (C) shall be consistent with the purposes of this section, as determined by the Secretary.

“(c) USE OF FUNDS.—A tribal college or university may use a grant provided under this section to carry out activities, including—

“(1) curriculum development and academic instruction, including educational activities, programs, and partnerships relating to students in prekindergarten through grade 12;

“(2) professional development for tribal college and university faculty and in-service training programs for prekindergarten through grade 12 instructors and administrators; and

“(3) innovative Native American language programs for students in prekindergarten through grade 12, including language immersion programs.

“(d) APPLICABILITY OF OTHER PROVISIONS.—

“(1) CONCURRENT FUNDING.—A tribal college or university that receives a grant under this section may concurrently receive funds under section 316.

“(2) EXEMPTION.—Sections 312(b) and 313(d) shall not apply to a tribal college or university that receives a grant under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2014 through 2018.”.

**Explanation of Request:** Tribal Colleges and Universities are engaged institutions of higher education created by American Indians for American Indians primarily on rural and isolated Indian reservations, which were virtually excluded from the rest of this nation’s system of higher education. Tribal Colleges and Universities and their students contribute significantly to the economic and social health of reservation communities. The TCUs offer a variety of social services for students and community members and often serve as community centers, libraries, tribal archives, career and business centers, economic development centers, public meeting places, and childcare and wellness centers. The nation’s 37 TCUs are ideal forums for advancing the time-sensitive efforts to rescue Native languages from extinction. Of the 155 Indigenous languages still being spoken in the United States, 135 of these are spoken only by elders. Native languages have rich oral cultures with stories, songs, and histories passed on to younger generations, but many have no written forms. When a language is lost, it is lost forever and with it an entire culture is lost. Language and culture are at the heart of the mission of each Tribal College and University, and these institutions play a strong leadership role in Native language immersion. Indeed, TCUs are responsible for the majority of the 50 or so Native language immersion programs in the United States. Despite the proven success of TCU Native language preservation and vitalization efforts, only minimal federal and private sector resources are directed toward these critical activities. Because many Native languages are on the verge of

extinction we do not have the luxury of time. We must address this critical issue now, before it is too late.

#### **TITLE IV: STUDENT ASSISTANCE**

- **Federal Supplemental Educational Opportunity Grants (FSEOG) and Work-Study:** In addition to increasing authorization levels for these campus-based programs, changes are needed in order to create a system closer to parity between older institutions (those institutions in existence prior to 1979) that continue to benefit from “hold harmless” provisions of the law and newer institutions. Currently, aid disbursements for FSEOG and Work-Study programs fund older institutions at levels that are much higher than institutions established after 1979, even though student need is equal or greater at the newer institutions.

We do not believe that institutions should be penalized when documented student need is equal *or greater*, simply because they were not in existence when a program was originally established or modified. We urge reevaluation of the current funding and distribution processes for these programs in order to create a system that is fair to all students in need, regardless of the age of the institution they attend.

One possible solution would be to stipulate that for the disbursement of new funds, priority for full funding shall be given to institutions with high rates (85 percent or higher) of students in financial need. (The Pell grant threshold could be used for FSEOG and Work-Study.)

- **Restore eligibility for Federal financial aid to disenfranchised populations:** The elimination of aid for prisoners and individuals with drug-related convictions represents an excessive and imprudent penalty for individuals who are already paying their debt to society. To help ensure that these individuals will become productive, taxpaying citizens, efforts must be made to promote their rehabilitation and positive contribution to the Nation. Restoring eligibility for Federal financial aid would be a step toward breaking recurring negative patterns and promoting rehabilitation among this population.

#### **TITLE IX: AMENDMENTS TO OTHER LAWS.**

The American Indian Higher Education Consortium will also seek to update the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 USC 1801 et seq], which is reauthorized in conjunction with the Higher Education Act. Additionally, the Tribal Colleges and Universities may seek changes regarding the governance and administration of the two postsecondary institutions that are currently operated by the Bureau of Indian Education (Department of the Interior).