

Congress of the United States

Washington, DC 20515

February 11, 2025

The Honorable Doug Burgum
Secretary
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretary Burgum:

We ask for the Department of the Interior to immediately initiate formal consultation with the Tribal Nations that could be impacted by the President's executive actions, including the January 29th, 2025 Executive Order on "Expanding Educational Freedom and Opportunity for Families." As you know, the U.S. government has both trust and treaty responsibilities to provide Tribal education services, led by the Bureau of Indian Education under the Department of the Interior. We are gravely concerned that the administration's recent Executive actions may lead to the dismantling of BIE and violate or undermine Tribal sovereignty, existing federal law, and the federal-Tribal government-to-government relationship.

Specifically, Section 7 of that Executive Order directs the Secretary of the Interior to "review any available mechanisms under which families of students eligible to attend Bureau of Indian Education (BIE) schools may use their Federal funding for educational options of their choice, including private, faith-based, or public charter schools, and submit a plan to the President describing such mechanisms and steps that would be necessary to implement them for the 2025-2026 school year."¹ As you are no doubt aware, numerous administrations have worked successively since the 1970s to reform and improve the BIE system and to ensure that BIE-operated and BIE-funded Tribally-Controlled Schools, as well as Tribal Colleges and Universities, are able to continue the vital programs they are legally required to fund and provide. We are deeply concerned that the language contained in Section 7 will be used to further defund these vital programs and close schools on which Tribal communities and students across the country depend.

The BIE administers funding for hundreds of schools and programs that are vital to meeting the Federal government's obligations to Tribes—obligations that in many cases predate both the Department of the Interior and the Department of Education. Moreover, they are explicitly laid out in both treaties and in statute. Currently, nearly 48,000 Native students attend BIE-operated or Tribally-Controlled Schools. Many of these students live in rural or remote areas, in areas that include both the traditional homelands of Tribes and places where Tribes were forcibly relocated by the United States government. In many of these areas, BIE-operated and funded schools are the primary schools available to Native communities, with few to no other options. Furthermore, these schools provide culturally informed educational opportunities for Native students, including vital language programs, which are not available in other educational environments. That is why, time and time again, Tribal leaders, educators, parents, and students have affirmed the importance of BIE programs and the need to increase—not decrease—funding for them.

Congress has already worked with Tribes to establish authorities for Tribally-Controlled Schools and to place school choice into the hands of Tribal communities through the Tribally Controlled Schools Act (P.L. 100-297), which President Reagan signed into law in 1988. We urge you to review sections (a) through (d) of the Act,


¹ <https://www.whitehouse.gov/presidential-actions/2025/01/expanding-educational-freedom-and-opportunity-for-families/>

which clearly state that “Congress declares that a national goal of the United States is to provide the resources, processes, and structure that will enable tribes and local communities to obtain the quantity and quality of educational services and opportunities that will permit Indian children— (1) to compete and excel in areas of their choice; and (2) to achieve the measure of self-determination essential to their social and economic well-being.”² As the National Indian Education Association stated in a recent letter to you: “The existence of the BIE allows for Tribal citizens across the Nation to have a culturally-specific choice of school in their local Bureau-funded school. These schools are our schools of choice.”

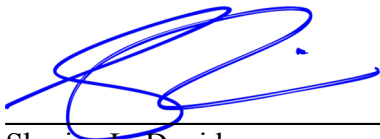
We are gravely concerned that the January 29th Executive Order is part of a larger set of actions in recent days that are intended to unilaterally delay, cancel, or dismantle programs vital to Tribal communities and students and dismantle the BIE and Department of Education. These actions have sown widespread chaos and uncertainty that have impacted programs and families across the country. Federal statute and the Constitution are clear that the President does not have the authority to authorize or withhold federal funds and that the President and Executive Branch must abide by trust and treaty laws and consult with Tribal Nations before making decisions that impact them. Furthermore, any actions to unilaterally end or move Tribal programs or funds at BIE or the Department of Education must not happen without formal Tribal consultation. In this case, any unilateral attempts to disrupt existing services administered or funded by the BIE would directly violate the trust and treaty obligations of the United States and the fundamental separation of powers.

We again urge you to engage in formal Tribal consultations and ensure that BIE programs are fully funded, as appropriated by Congress, including critical accounts such as the Indian School Equalization Program. Any attempts to unilaterally dismantle or defund BIE schools, under the guise of school choice, is a clear violation of the law.

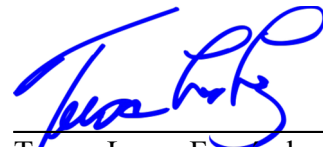
Sincerely,



Melanie Stansbury
Member of Congress



Sharice L. Davids
Member of Congress



Teresa Leger Fernandez
Member of Congress

² <https://www.law.cornell.edu/uscode/text/25/2501>