

Testimony before the U.S. House of Representatives Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies

Charles Cuny, Jr., Little Wound School Superintendent
On behalf of the Oglala Lakota Nation Education Consortium

February 12, 2020

Chairwoman McCollum, Ranking Member Joyce, and honorable members of this subcommittee.

Thank you for the opportunity to testify on behalf of the Oglala Lakota Nation Education Consortium, which represents the Oglala Sioux Tribe's authorized grant schools.¹ I serve as the superintendent of one of these schools, Little Wound School District, on South Dakota's Pine Ridge Indian Reservation. My testimony today focuses on the challenges our tribal grant schools face as a result of underfunding within the Bureau of Indian Affairs and the Bureau of Indian Education. Specifically, how inadequate appropriations to the Indian School Equalization Program hinders our ability to recruit and retain great teachers; maintain our aging facilities; equip our classrooms with 21st century technology; and provide our students with the high quality education they deserve and were promised.

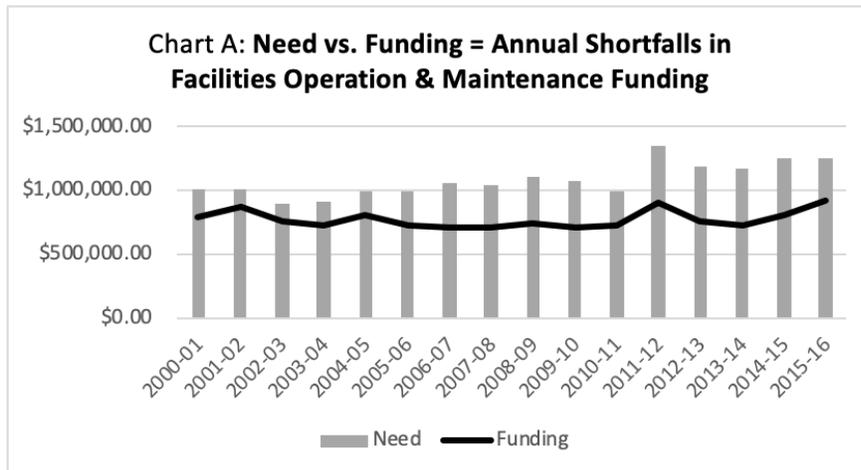
In 1868, the Fort Laramie Treaty was signed between representatives of the Lakota Nation and the United States. This treaty established the federal government's role and commitment to "best promote the education" of Lakota youth by providing teachers, schools, and educational funding.

Today, the primary means of this support, the Indian School Equalization Program, or ISEP, provides a per-pupil allocation to Bureau of Indian Education-funded grant schools for general operating expenditures. These funds, according to the Bureau's own documentation, are designed for education-related programming, such as staff salaries and benefits, classroom supplies, textbooks, gifted and talented programming, and extracurricular activities. Unfortunately, ISEP funding is not sufficient to operate our schools well.

One reason why is that other federally-funded programs, like transportation, food service, special education, and facilities—are themselves underfunded, and ISEP dollars must be used to plug these budget holes. Draining ISEP funds for needed expenses in other areas leaves our schools with less money to pay teachers and invest in student programming.

The BIA Facilities Operation & Maintenance (O&M) program is a prime example. Since 1981, our school has only received full O&M funding once, and between 2000 and 2016, our school received \$5 million less in facilities funding than needed (see Chart A, below). Unfortunately, this stands in direct contradiction to CFR Title 25, Chapter 1, Subpart L, Section 39.1203, which states that "The Assistant Secretary shall arrange for full funding for operation and maintenance of contract schools by fiscal year 1981." Although it has been 39 years, we still look forward to the day when this arranging has been completed and our schools are consistently provided with the full funding we are statutorily assured.

¹ Six of thirteen schools on the Pine Ridge Indian Reservation are tribal grant schools: American Horse School, Crazy Horse School, Little Wound School, Loneman School, Porcupine School, and Wounded Knee District School.



Between 2000 and 2016, Little Wound School has received \$5 million less in facilities funding than needed. A BIE software update in 2016 no longer provides data to schools about facilities operations and maintenance underfunding.

In the meantime, our schools continue falling into disrepair, and we do not have the funds to maintain, let alone upgrade, our buildings. At Little Wound, our elementary school building is more than 75 years old, and middle school students attend classes in a 40 year old metal building designed for temporary use. These buildings are heated by an outdated oil-burning furnace that would cost more than \$5 million to replace and we have not received any funding from the Bureau to make this upgrade. Heating these antiquated buildings with an inefficient furnace is a significant drain on our already limited facilities funding. We are consistently forced to direct ISEP money to facilities upkeep at the expense of education-related programming. (This is to say nothing of the fact we've received no maintenance improvement and repair funding from the BIE since 2014/15 and no quarters improvement and repair funding since 2015/16.)

One solution is appropriating or allocating funds within the Bureau for new school construction projects and facility upgrades. For the past five years, the BIA has been conducting a series of Component Replacement Feasibility Studies, ranking tribal schools on different scales and metrics in the hopes of identifying the schools that are most in need of rebuilding. While we appreciate that these studies are taking place, there have not been commensurate increases in the Bureau's budget for new school construction. In fact, the Education Construction budget within the BIE has been decreasing. Sadly, this does not seem to be changing any time soon: The FY2020 Greenbook budget justifications published by the BIE show continued reductions and acknowledges that only 76% of needed Facilities O&M funding is provided by the Bureau itself.

This illustrates a pattern: Consistently underfunded programs at the BIA and BIE force tribal grant schools to fill those gaps with ISEP money. Money that was intended to hire great teachers, pay them a living wage, provide them with adequate healthcare and retirement benefits, equip classrooms with technology and books and materials, and enrich student education through gifted and talented programming and extracurriculars is siphoned away to compensate for underfunding of other Bureau programs. Last year alone (as shown in Chart B, below), more than half of our ISEP income was used subsidize underfunding for food service, transportation, and facilities operation and maintenance, along with our outlays for special education and private health insurance. After these budget adjustments, less than half of ISEP funds remain for educational programming and staff salaries.

My testimony could approach this topic from many angles and end up at the same conclusion: that tribal grant schools suffer as a result of inadequate federal funding, particularly in the Indian School Equalization Program. Last year was the 150th anniversary of the 1868 Fort Laramie Treaty, and somehow our tribal nations are still working to see its education provisions honored.

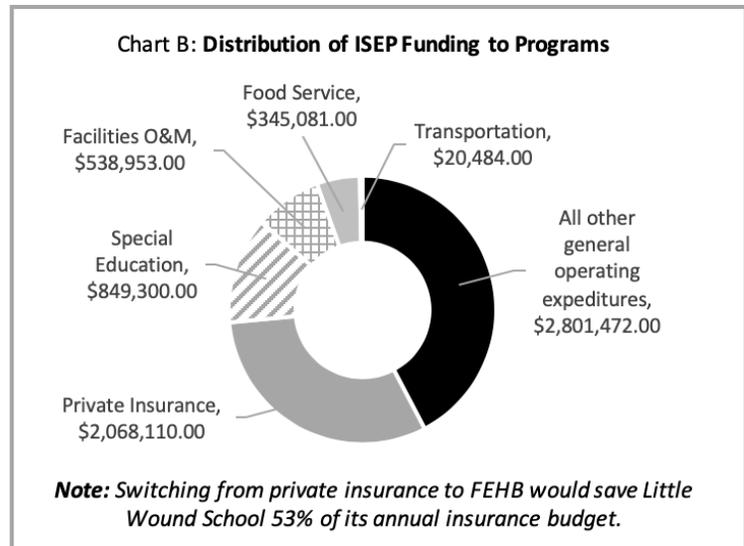
This funding reality places tribal grant schools at a unique disadvantage, especially when

compared to BIA-operated and state-funded schools, which are often just down the road from our own. One example is teacher pay, which affects our ability to recruit and retain our educators. Oglala Lakota County School District, also on the Pine Ridge Reservation, is state-funded and offers starting teacher salaries \$9,000 greater than Little Wound School. Each year, we plan for a teacher turnover rate of 20%, as our staff members leave for higher paying schools down the road. We would love to raise the salary we offer to our instructional staff, but the ISEP dollars we would need are already being used to compensate for underfunding elsewhere.

To attract and retain excellent staff, we must also offer competitive benefits. Private insurance comes at a significant cost, and is paid for out of ISEP funds. At Little Wound, we offer a \$5,000 deductible plan for individuals, which costs \$1,032 per month. The out-of-pocket cost for families is \$2,400. These insurance premiums have more than doubled since 2008, further constraining our budget. This affects tribal grant schools significantly more than BIE-governed schools. Down the road from Little Wound is Pine Ridge School, governed by the BIE, which offers its staff a \$500 deductible plan for \$464 a month. Pine Ridge School directly benefits from the fact that it has access to Federal Employee Health Benefits (FEHB), and we do not.

Bipartisan legislation has been introduced in both chambers of Congress, the Tribal Schools Federal Insurance Parity Act (H.R. 895 and S. 279), that would fix this disparity. Passage of this legislation would make tribal grant schools eligible to participate in FEHB. FEHB would reduce our individual schools' insurance costs by half. These savings would help increase teacher salaries and programming for students. Our analysis at Little Wound shows that switching from private to federal health insurance would save our school \$1.4 million annually.

Our schools should have always been eligible for FEHB, and this legislation rectifies a historical error. It was only in 1975, when the Indian Self-Determination and Education Act, or PL 93-638, passed that tribes gained some authority over schools. In 1988, Congress authorized Tribally Controlled Schools as part of PL 100-297, for the first time permitting tribal schools to elect their own school boards. After centuries of outside control, most tribes exercised sovereignty over their schools when given the chance. Unfortunately, PL 93-638 and PL 100-297 are written such



that the tribal grant schools they authorized lose access to Federal Employee Health Benefits in exchange for the autonomy of local governance, even though a majority of school funding is Bureau of Indian Education-sourced—however insufficient it may be. We do not receive supplemental funding from the State of South Dakota or the Oglala Sioux Tribe, and our schools are located in America’s poorest county. No luxury casino payments prop up our budgets.

The financial constraints impacting tribal grant schools today in many ways stem from this decision, made decades ago: whether to remain under the authority of the BIE or allow our communities to exercise local governance. About two thirds of BIE-funded schools chose the latter, including all the schools that comprise the Oglala Lakota Nation Education Consortium. At the time these decisions were made, funding between the two models was functionally equal. But the models diverged over time, and tribal grant schools today suffer from less than full funding. Compounded over decades, these federal appropriations and allocations decisions have put our schools at a distinct disadvantage in our work to serve Native American youth.

Systemic challenges make our work even harder. Over the past 40 years, the Great Plains Region has had limited access to technical assistance and on-the-ground support from the Bureau. The Division of Facilities Management and Construction is far away, in Albuquerque, and the nearest field office is in Aberdeen—300 miles away. Additionally, the BIE reorganization, outlined in the 2014 Blueprint for Reform, leaves many questions unanswered and we have concerns about its implementation. For example, the Bureau is supposed to locate an Education Resource Center (ERC) in Kyle, and more than five years later this remains undone.

The evidence is not purely anecdotal, nor isolated to our tribal grant schools on the Pine Ridge Indian Reservation. Over the years, reports from the Government Accountability Office and the Department of the Interior’s Office of the Inspector General have shined light on shortcomings at the BIA and BIE and how these challenges impact tribal grant schools. They note that only a fifth of BIA construction projects managed between 2003 and 2016 (and there were only 49) were on schedule.² The same report acknowledged that most BIE facilities “are in poor condition and have safety hazards.” Others have found that the BIE lacks written procedures for financial oversight and is understaffed to a point that it cannot “conduct site visits and maintain regular interaction with school personnel.”³ And another has found “systemic programmatic weaknesses” at the Bureau, chronic “facility deficiencies,” and noted that the facilities records maintained by the BIE are “misleading,” “inaccurate,” and “skewed.”⁴

150 years after the Fort Laramie Treaty was signed and 40 years after tribally controlled grant schools were authorized, we still seek an education that “best promotes the education” of our Lakota children. Underfunding of the Indian School Equalization Program and other BIA and BIE programs, like Facilities Operation and Maintenance, does not help. As you consider appropriations, we ask that you keep in mind tribal grant schools and the promises made to us.

Thank you for your time and this opportunity to testify about these important issues.

² GAO: Actions Needed to Better Manage Indian School Construction Projects. GAO-17-447 (2017).

³ GAO: Bureau of Indian Education Needs to Improve Oversight of School Spending. GAO-15-121 (2015).

⁴ DOI OIG: Condition of Indian School Facilities. C-EV-BIE-0023-2014 (2016).