

TESTIMONY OF SUE PARTON

PRESIDENT, FEDERATION OF INDIAN SERVICE EMPLOYEES

SEPTEMBER 10, 2020

Good afternoon, Chairman Gallego, Ranking Member Cook and distinguished members of the subcommittee.

My name is Lahoma Sue Parton, and I am a member of the Kiowa Tribe of Oklahoma. I currently serve as the president of the Federation of Indian Service Employees, affiliated with the American Federation of Teachers. FISE is headquartered in Albuquerque, N.M., where I have worked and resided for the past 44 years. FISE represents about 6,700 employees in the Bureau of Indian Affairs, the Bureau of Indian Education, the Office of the Special Trustee for American Indians and the Office of the Assistant Secretary–Indian Affairs, under the Department of Interior, who work at about 350 work sites located in 22 states.

FISE represents 2,817 BIE bargaining unit employees who work at 55 bureau-operated schools and offices located in 10 different states. Currently, 2,281 of our members work in schools located in Arizona and New Mexico. The coronavirus has hit Native American communities especially hard, particularly in how it has affected BIE-operated schools and how misinformation, or no information, from BIE/DOI management has complicated the lives and careers of our members.

Although I became aware in January, through news reports, of COVID-19's devastating impact on a Washington state nursing home, I was not yet aware of its potential to become a pandemic that would affect us all. It was not I received an email at the end of January from the AFT, with guidance and resources regarding preparing for and taking precautions against a possible airborne viral pandemic, that I realized the implications of the coronavirus. About the same time, I received inquiries from some OST members who had questions as to why they were being advised to take home their laptop computers, just in case.

In early March, I was notified that my federal supervisor had attended a conference in Washington state and was told to quarantine for 14 days upon her return to Albuquerque. In mid-March, when the governors of New Mexico and Oregon shut down their public schools, many BIE schools were on spring breaks, so we were inundated with inquiries from employees as to what BIE was going to do. On Mar. 16 and 17, all bureau-operated schools were shut down and boarding schools were directed to send students home, but employees were directed to continue to report for duty. This raised many questions, but BIE did not provide consistent answers. Employees were eventually directed to "shelter in place," being initially placed on weather/safety leave provided through guidance from DOI/BIE. They were ultimately directed to telework, allowing them to fulfill their school year contracts. While this is the status of the majority of our BIE employees, employees were not provided with training or equipment to telework, and they lived in rural areas that had little or no broadband or internet access.

On Mar. 18, after numerous unsuccessful attempts to get decisive, consistent guidance from BIE/DOI and an increase in inquiries from worried employees, I sent out an email to our entire bargaining unit to

inform them that their union was pursuing every avenue to advocate for them and get answers to their concerns. This correspondence was sent through the government email system, per the collective bargaining agreement. I was censured by the Bureau of Indian Affairs for doing so.

In early April, management offered paid leave under the Family First Coronavirus Response Act, as a way for employees to remain on telework or to care for themselves and family members, but the administration of these leave policies were often misinterpreted and applied inconsistently throughout BIE. Once the decision was made for bureau-operated schools to remain closed through the end of the school year, the Employee Performance Appraisal Plan closeout issue was negotiated to fairly rate employees, which would affect their next year's contract.

At the end of April, FISE received a draft of the BIE School Reopening Plan. As the exclusive representative of the employees, we requested and were granted the opportunity to participate in the reopening plan. The first meeting of the BIE Reopening Task Force met by conference call on May 22, however all subsequent meetings were cancelled. On July 12, I received an email from BIE stating that the task force would not be reconvened. The reason given was to allow the BIE to align the reopening plan with the administration's "Opening Up America Again" guidelines.

To exacerbate the situation, on June 24, the BIA Office of Information Management Technology, which controls the BIE email system, sent out an email to employees stating, "Your BIE email is scheduled to migrate **THIS** evening." The BIE was migrating to Office 365, which required users to have a DOI-issued personal identity verification (PIV) card and card reader, which the majority of BIE employees, who were mostly on their summer furlough, did not have and could not acquire, due to the closures of credentialing centers. The BIE employees were immediately put in a position where they could not receive information from the union or directives and communication from their supervisors, since they could not access their government email. The situation continues to affect about 1,000 BIE contract educators today. The union was not notified of this change in employees' working conditions, which would have allowed the employees to bargain over the impact and implementation of the change, so a grievance was filed. We have been informed that our grievance has been upheld, but we have not yet received the relief we are seeking.

In late June, the BIE School Reopening Plan was published for comment in the Federal Register, with announcement of public and tribal consultation/comments sessions to be presented virtually. I sent the union's comments to the BIE per instructions for publication, but it was sent back to the BIE ER/LR office to address the concerns and questions. The union then submitted our proposal on the reopening plan, which was obviously ignored.

Throughout July, FISE made numerous attempts to communicate with BIE regarding the reopening plans and types of instruction, email issues, concrete information on types of leave for employees, and specific concerns for the bureau-operated schools that have residential operations, including the four off-reservation boarding schools located in Oregon, California, South Dakota and Oklahoma. We received only guidance provided to us by BIE's Human Resources office, from DOI, Indian Affairs, BIE, state governments and tribal governments, which may or may not be applicable to all four agencies we represent. It was confusing and proved difficult to decipher.

At the end of July, we were informed by BIE HR that there was a problem with contract educators who normally receive unemployment during their furlough, because of a glitch causing unemployment

applications to be denied. We learned that BIE sends personnel information to the Interior Business Center (payroll office), who sends the information to its processing contractor, Equifax, who sends it to various states' Labor departments for unemployment eligibility information for benefits. There was a problem with the transfer of information from IBC to Equifax, so employees did not receive unemployment benefits. BIE HR devised a "workaround" where individual employees would have to submit several documents on an individual basis to apply for retroactive benefits. I'm not sure if this has been resolved, but I doubt that it has, with the lack of internet access for most employees, except at their work sites, which they could not reach due to the pandemic.

Throughout the summer, we have requested a list of all of the BOS schools and what type of teaching they will be offering their students, so we can notify employees and "impact and implementation" bargain over any part of the plan to ensure a safe and productive working environment. It is now four work days before the reopening date, and we have not received any decision, other than the most recent version of the BIE reopening plan, "Return to Learn," which still states that BIE prefers to offer in-person teaching "to the extent possible." This leaves the decision on how to reopen schools on Sept. 16 up to each individual school working with the BIE associate deputy director for their schools, adhering to any tribal government directives and the guidelines provided by their state governors and their local health officials.

About 80 percent of our members are affiliated with a Native American tribe and traditionally live in multigenerational homes, which accelerates their concerns about contracting the virus and spreading it to members of their families, particularly the elderly with many underlying health conditions. The majority of Native Americans depend on Indian Health Service to provide their healthcare, which is as vastly underfunded as BIE. Having a personal computing device and a vehicle is often a luxury for many Native families.

FISE believes schools must reopen, but must do so safely. We must follow available science and public health guidance and the expertise of educators and health practitioners. As we are seeing across the country, premature return to "normal" activity without proper precautions risks infection surges and new shutdowns, which harms our communities and our economy.

Based on what is currently known about the disease and its spread, there are two essential components each community and our nation as a whole must commit to. These are imperative and should be considered non-negotiable, and they are preconditions for opening school buildings.

- 1) Physical distancing until the number of new cases declines for at least 14 consecutive days in a given region.
- 2) A robust public health infrastructure with the capacity for effective disease surveillance, tracing, isolation of those infected and quarantine.

The best way to keep students and staff in school is to ensure that community transmission is under control. However, getting students to and from school, and what happens in schools, are just as important.

As to the "Return to Learn" plan, non-negotiable safety measures are recommendations, not directives. There are several spaces where the guidelines are worded in equivocating language, such as "when feasible," "if possible," "within reason" or "to the extent practicable," when referring to safety measures

such as social distancing, face coverings and other PPE. Our tribal nations have already been decimated. I want to be clear that we are not calling for an overhaul of the BIE. To the contrary, we acknowledge that the BIE has the right intentions, and we support its mission 100 percent. What we want is an opportunity to truly collaborate with the agency and to be heard.

We share the BIE's goal of educational excellence and equity for Native students—to ensure that they are able to meet the same challenging college- and career-ready standards required of all students. It was encouraging to see that the plan aspires to meet the academic, health and social needs of our Native children.

In conclusion, I would like to say that our members have the right to a workplace with adequate infection-control practices and PPE to keep them safe from exposure to hazards like COVID-19, and our labor laws obligate employers to discuss these matters. As a union, we can engage in a solution-driven dialogue with employers that will ensure staff and students are protected from COVID-19 exposure in the workplace.

Thank you for this opportunity

Respectfully, Sue Parton, president

Federation of Indian Service Employees Union