

United States Senate

WASHINGTON, DC 20510

June 08, 2020

The Honorable David Bernhardt
Secretary
U.S. Department of the Interior
1849 C St NW
Washington, D.C. 20240

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Ave. SW
Washington, D.C. 20202

Dear Secretaries Bernhardt and DeVos:

We write today with serious concerns that the federal government has not done its part to mitigate the impacts of the COVID-19 public health crisis on Native students' educational opportunities. Specifically, we believe that your Departments' slow disbursement of *CARES Act* resources to Tribal schools has exacerbated education disparities and significantly impacted Indian Country's efforts to deploy viable and effective distance learning programs.

As you are no doubt aware, the nationwide networks of 35 Tribal Colleges and Universities (TCUs) and 183 Bureau of Indian Education (BIE) funded schools and dormitories serve nearly 80,000 students. These schools, like most others in the U.S., closed their campuses at the start of the COVID-19 public health emergency to slow the spread of the virus and keep their communities safe. However, information provided by the BIE,¹ the National Indian Education Association,² and the American Indian Higher Education Consortium³ suggest that a number of these schools have not been able to offer their students meaningful distance learning opportunities, which exacerbates longstanding educational inequities.

Tribal leaders and educators have made clear that one of the primary barriers in providing high-quality distance learning to Native students is their limited access to broadband and technology equipment. Indeed, it is well-documented that Indian Country is on the wrong side of the digital divide – the Federal Communications Commission estimates that over 50 percent of Native households on rural Tribal lands do not have access to fixed broadband services.⁴ In some of the areas where COVID-19 has hit Indian Country the hardest, like the Navajo Nation, over 60 percent of homes are without internet access at all.⁵

¹ Email from Aaron J. Thiele, Advisor, Office of Cong. & Legislative Affairs, U.S. Dep't of the Interior, to Kimberly Moxley, Senior Policy Advisor, Office of the Vice Chairman, S. Comm. on Indian Affairs (May 4, 2020, 04:24 EDT) (on file with S. Comm. on Indian Affairs).

² NAT'L INDIAN EDUCATION ASS'N, NIEA SURVEY ON IMPACT OF COVID-19 IN NATIVE SCHOOLS (2020), *available at* <https://static1.squarespace.com/static/5cffbf319973d7000185377f/t/5ebd5e9ab070e916865a15a2/1589468831789/Survey+Results.pdf>.

³ American Indian Higher Education Consortium, *COVID-19: TCU Operating Status*, AIHEC, http://www.aihec.org/covid19/COVID19_TCU_operating_schedule.html (last visited May 27, 2020).

⁴ FED. COMM'N COMM'N, REPORT ON BROADBAND DEPLOYMENT IN INDIAN COUNTRY PURSUANT TO THE REPACK AIRWAVES YIELDING BETTER ACCESS FOR USERS OF MODERN SERV. ACT OF 2018 3 (2019), *available at* <https://docs.fcc.gov/public/attachments/DOC-357269A1.pdf>.

⁵ Kate Groetzinger, *Navajo Families Without Internet Struggle to Home-School During COVID-19 Pandemic*, NPR (Apr. 22, 2020), <https://www.npr.org/2020/04/22/839948923/navajo-families-without-internet-struggle-to-homeschool-during-covid-19-pandemic>.

To help Indian Country keep Native students safe and address these anticipated barriers to distance learning and other COVID-19 related costs, Congress reserved \$222 million in the *CARES Act* specifically for the BIE to support Indian Education Programs, which includes BIE schools and TCUs, and tasked your Departments with administering those funds. However, neither Department has issued these funds – over two months after enactment. Only funds reserved for TCUs through the Higher Education Emergency Relief Fund have been made available; yet, even those funds have faced some avoidable complications and have yet to reach all institutions.

This lack of action means that most BIE schools and TCUs will end the 2019-2020 school year without receiving any dedicated, federal COVID-19 response resources. These are resources that could have increased Native students' access to broadband or technology equipment, invested in professional development to support educators in delivering distance instruction, and supported Native students' continuity of learning during this challenging period. The lack of robust distance instruction following school closures has significantly reduced Native students' access to instruction and will likely result in significant learning loss that will leave Native students underprepared for when school resumes in the fall. Your Departments' delays to disburse funds compound these inequities and have limited the ability of BIE schools and TCUs to respond effectively to this crisis.

Accordingly, we request you allocate *CARES Act* BIE funding within the next seven business days. We also ask that you answer the following questions within the next 15 days:

1. Have your Departments collected any data on—
 - a. Which BIE-funded schools and TCUs offered distance learning opportunities to their students following COVID-19-related campus closures;
 - b. Which method(s) each school used to deliver instruction during this period, if so how are your Departments assessing the success of that instructional delivery;
 - c. The percentage of BIE and TCU students that have consistent access to computer equipment and broadband internet for participating in online learning opportunities; and
 - d. If your Departments have not collected any of the data listed above, please provide a timeline for providing a data collection plan to Congress.
2. How has the Department of the Interior ensured that BIE peripheral dormitory residents are able to access distance learning opportunities offered by the non-BIE schools they attend?
3. How have your Departments ensured that BIE students with disabilities have equal access to educational opportunities and the services identified in their individual education programs during COVID-19-related campus closures?
4. What distance learning guidance and technical assistance have your Departments provided to Tribes, BIE-funded schools, and TCUs?
5. What distance learning resources have your Departments offered BIE and TCU administrators, educators, parents, and students?

6. What additional steps will your Departments undertake to ensure BIE schools and TCUs are prepared to continue distance learning or modify their instructional plans for the 2020-2021 school year?

We look forward to receiving the requested information and your prompt response to our questions and to continuing our shared work to fulfill the United States' trust and treaty responsibilities to Native students.

Sincerely,



Tom Udall
U.S. Senator



Patty Murray
U.S. Senator



Jon Tester
U.S. Senator



Elizabeth Warren
U.S. Senator

/s/

Martin Heinrich
U.S. Senator



Krysten Sinema
U.S. Sinema



Tina Smith
U.S. Senator



Bernard Sanders
U.S. Senator



Jacky Rosen
U.S. Senator



Tammy Baldwin
U.S. Senator



Jeffrey A. Merkley
U.S. Senator



Maria Cantwell
U.S. Senator