December 9, 2016

Diane Douglas
Superintendent of Public Instruction
Arizona Department of Education
1535 W Jefferson St, Phoenix, AZ 85007

Re: Arizona State Education Agency (SEA) Consolidated State Plan

Dear Superintendent Douglas,

Thank you for the opportunity to provide feedback on Arizona’s Department of Education’s (ADE) State Education (SEA) Consolidated State Plan under the Every Student Succeeds Act (ESSA). The National Indian Education Association (NIEA) works to ensure that all Native students receive a high-quality academic and cultural education. As NIEA expands to support high Native student population states, Arizona is among our top tier states that we will be working in. We look forward to strengthening our work with ADE as we work in partnership with the Arizona Indian Education Association (AIEA) and the 22 tribal nations throughout the state of Arizona.

**NIEA Supports AIEA and the Native Nations in Arizona**
First and foremost, NIEA recommends that ADE work in close partnership with tribes and the Arizona Indian Education Association to better understand tribal priorities as they relate to ESSA implementation. By law part of that coordination must include tribal consultation at the state and district levels. In practice, ESSA provides a fresh opportunity for stakeholders to collaborate and to better serve Native students. With the law and this new opportunity in mind, we ask ADE to remember that Native students are best represented by tribal leaders, Native parents and educators, and tribal organizations.

**NIEA Looks forward to working with ADE to Effectively Implement ESSA**
NIEA views ADE as a critical partner to ensure that Native students are provided an equal opportunity to be successful. We support ADE’s mission to serve Arizona’s community by ensuring that every child has access to an excellent education and share ADE’s commitment to investment in great schools, excellent teachers, and successful students.

As the country transitions to conform to the new law, states will take on more responsibility for educating Native students in exchange for greater transparency regarding how policy decisions are made. This exchange—and the unique and continuing federal trust obligation—makes ADE’s
role more essential than ever before. And, for Native students, no area of support is more important than how Arizona consults with tribal nations within the state.

**NIEA’s Top Priority: Timely and Meaningful Consultation**

The most critical part of the Arizona Plan is the requirements for the submission of state plans and “timely and meaningful” consultation consistent with federal regulation Section 299.13(b) as described on page 11 of the Arizona Plan. This Section of the plan highlights various stakeholders in the development of each of the four components identified in Sections 299.16 through 299.19 of its consolidated plan. The development of the following areas of the Arizona Plan require meaningful consultation with tribal governments:

- Challenging Academic Standards and Academic Assessments;
- Accountability, Support, and Improvement for Schools;
- Supporting Excellent Teachers;
- Supporting all Students.

Tribal leaders, Native communities, and Native students know from decades of experience that education in Indian Country without significant, sustained family, and community engagement has failed.

**Tribal Engagement**

NIEA has one recommendation that we think is consistent with Section 1111(a) of ESSA but is not reflected as clearly in the Arizona Plan as we believe is intended in the law. States should be required to engage with tribal governments above and beyond stakeholder engagement. The sovereign status of tribal nations under federal law strongly support clarifying in Section 299.15 that “representatives of Indian tribes located in the State” means that elected or appointed tribal government leaders must be consulted.

- The addition of Native representatives is critical and strongly supported by NIEA—but should not be named as surrogates for tribal government representation. We ask that 299.15(5) Target Audiences as described on page 12 of the Arizona Plan, be amended to clarify that the tribal elected or appointed representatives must be consulted.

**Tribal Consultation**

NIEA advocated strongly throughout the consideration of ESSA that the law should include a requirement that local educational agencies (LEAs) consult with tribal representatives on decisions that impact Native students. Section 8538, “Consultation with Indian Tribes and Tribal Organizations,” is the result of that advocacy and congressional recognition of the importance of consultation with tribal leaders and tribal organizations. The language in Section 8538 applies to an LEA’s “submission of a required plan or application for a covered program under this Act.” Under this language, the Comprehensive Strategic Plans discussed in the Arizona Plan should be amended to clarify that ADE must require the inclusion of tribal representatives on page 6.

- Since the Comprehensive Strategic Plan will provide the vehicle for schools and LEAs to local plans that are driven by their respective Comprehensive Needs Assessments (as
described on page 6 of the Arizona Plan), it is critical to add tribal representatives explicitly to make sure Native students are represented adequately.

The tribal consultation at the LEA that we seek does not apply to every LEA (Local Education Agencies) in the state, but it is vitally important for LEA’s where ESSA requires it. Under Section 8538, LEAs have this obligation when more than 50% of the students in the LEA are Native students.

- ADE should amend the Arizona Plan to make sure all Native students benefit from tribal engagement in identification of schools and culturally appropriate interventions to improve education for Native students. This additional step referring to Section 8538 is consistent with the government-to-government recognition that tribal leaders deserve as representatives of sovereign nations.

ADE’s Tribal Consultation Policy
In order for consultation to be effective and meaningful, there needs to be a Tribal Consultation Policy approved by tribes that states and districts adopt. ADE released a draft copy of a Tribal Consultation Policy on September 22, 2016. NIEA recommends that ADE continue outreach to tribes and tribal organizations, to review and provide edits on the draft copy. At the heart of meaningful tribal consultation is the involvement of tribal governments before any decisions are made that affect their citizens.

- NIEA commends ADE for taking initial steps to develop this critical policy and encourages ADE to continue this outreach as it begins to schedule the tribal consultations that we believe are required by ESSA.

- Once the Tribal Consultation Policy is finalized, NIEA recommends including it in the Arizona Plan.

Tribal Sovereignty in Education
Over the past decade, increased tribal sovereignty in Native education systems has gained more and more support. ADE is in a unique position to collaborate with 22 tribal nations and work towards their respective educational priorities in the state of Arizona. Tribes know how to best support their citizens, which is why consulting with tribal leaders is critical.

To implement the philosophy of Native control of Native education in the Arizona Plan, NIEA recommends adding references to a provision in ESSA that moves us toward tribal sovereignty in education: the State Tribal Education Partnership (STEP). The STEP program allows tribes to directly administer education programs, which includes formula grant programs.

- NIEA recommends that ADE strengthen its relationship with districts that have high Native student populations and tribal education departments. We encourage districts work collaboratively with tribes to ensure that Native students are supported all around.
NIEA encourages ADE to work seamlessly with tribes, consistent with the Navajo Nation’s work with Bureau of Indian Education schools. Just three months ago, a significant victory on behalf of tribal sovereignty in education took place when the U.S. Department of Interior and Education approved an accountability plan for Navajo schools. The accountability plan highlights Diné language, history and culture, which have proven to increase the academic performance of Native students and provides much needed consistency for mobile students attending BIE operated and funded schools between three different state-based accountability plans (New Mexico, Utah, and Arizona).

- NIEA supports the direction that DSAP is going and we hope that ADE will include in its Arizona Plan language that is explicitly supportive of Native control of Native education.

**Conclusion**
Through the recommendations listed here, the final regulations, and the implementation of the transition to ESSA, NIEA looks forward to working alongside tribes, tribal organizations, ADE, and Native education advocates. The guidance provided from tribal communities is invaluable and will best support Native students throughout the state of Arizona. If you have any questions, please contact Ahniwake Rose, NIEA Executive Director, at arose@niea.org.

Sincerely,

Yatibaey Evans
President