



NATIONAL JOHNSON-O'MALLEY ASSOCIATION
PO Box 126
Okmulgee, Oklahoma 74447
(918) 732-7839

"We are the elected voice and liaison to Congress for JOM Programs Nationwide"

TESTIMONY OF THE
NATIONAL JOHNSON O'MALLEY ASSOCIATION
BEFORE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON
APPROPRIATIONS, SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED
AGENCIES, AMERICAN INDIAN/NATIVE ALASKAN WITNESS HEARINGS

March 23, 2010

Chairman Harold Rogers, Ranking Member Norm Dicks, and Members of the Subcommittee, my name is Virginia Thomas a member of the Muscogee Nation and I am here with Harold L. Dustybull of the Blackfeet Nation. We are here today representing the National Johnson O'Malley Association, which I serve as President and Mr. Dustybull as Vice President.

We thank you for your time in allowing us to come before the subcommittee and express our concerns. We represent the JOM programs nationwide and have been entrusted to speak on their behalf. We are so grateful to have the JOM program back in the Presidential and Congressional budget and that Congress recognizes the trust responsibility that the Department of the Interior has to the oversight of the JOM program.

We fully understand that your support for the JOM program has kept it alive and to the benefit of American Indian and Alaska Native students across the nation. As Educators we see firsthand the positive affects that the Johnson-O'Malley program has with both rural and urban public schools and tribal programs.

We have submitted our position paper for your review, but we would like to highlight our four major concerns:

1. Opposition to eliminate or combine the Johnson-O'Malley Program with Title VII. The JOM Program is a trust responsibility under the Interior and not the U.S. Department of Education.
2. Increase the federal funding to match the 1994 funding level of 24 million. We estimate that un-met needs of funding in some tribes vary from 10% to 40% of their student population.
3. To conduct a current JOM student count. We are still using the student count from 1994. Tribes cannot show the growth of the student population or justify their un-met need because no current count is available for comparison.
4. Finally, we hope that this committee will urge the DOI to appoint one staff person who can assist JOM programs moving forward. Much can be gained by having a person at the Department specifically charged with fulfilling the intent of the regulations. Additionally, we simply need someone in Washington who is dedicated to understanding and advocating internally for our program.

We are very grateful for this opportunity to testify and stand ready to answer any questions you may have.



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**National Johnson-O'Malley Association Position
Paper
FY 2013 JOM National Budget**

The Johnson-O'Malley Act was enacted in 1934 to allow the Department of the Interior to provide assistance to Indians in the areas of education, medical attention, agricultural assistance, social welfare, and relief of distress because of findings that Indians needed support to transition from Indian-only settings to general population settings such as the environments found in public schools and in urban areas. Seventy-eight years later, JOM continues to provide critical support to Indian kids – most of which live in impoverished areas.

JOM grants provide Indian tribes, school districts, tribal organizations, and parent committee's supplemental funds designed to address the unique and specialized educational needs of Indian students enrolled in public schools or non-sectarian schools. The purpose of JOM grants is to provide supplementary financial assistance for Indian students ages 3 to grade 12. JOM have historically provided basic resources so that Indian students can participate in school like their non-Indian peers, which, in turn, gives them a chance to achieve academically.

Without JOM program dollars, Indian student's at all academic standings, remedial as well as gifted and talented, would not be able to afford essential ideas that would lead to a successful graduation. JOM is set up to meet the special and unique needs of Natives students who otherwise would not have a funding source to provide for items such as school supplies, college counseling, athletic equipment, eye glasses, after school tutoring, culturally specific education, Native youth leadership programs and caps and gowns. Other programs administered by the federal government, such as funding through the Department of Education, do not allow funding for these types of activities.

The four major issues that need to be addressed are:

1. Opposition to eliminate or combine the Johnson-O'Malley Program with Title VII. In testimony from Ken Salazar before the Senate Committee on Indian Affairs on the priorities for Indian Affairs – February 2009, "I am committed to ensuring that the Department of the Interior fulfills the trust responsibility of the United States". The JOM Program is a trust responsibility under the Interior and not the U.S. Department of Education. The attempt to move the JOM Program under the U.S. Department of Education is in our eyes a violation of the trust responsibility that is held by the Department of the Interior/BIE. Under the Title VII program Indian parents spend less time in meetings, act only in advisory roles, never seeing the details of programs. The Title VII Parent Committee does not have authority to oversee budgets and programs and never make final decisions on programs. The federal regulation CFR 25 Part 273, an act of congress, fully empowers the Indian parents as part of the JOM program. Title VII and the JOM Program are regulated under two different and separate federal regulations with totally different expectations placed on both parents and schools.

2. Increase the federal funding to match the 1994 funding level of 24 million. The current funding is based on the frozen student count from 1994. The current funding has not taken into account the growth of the eligible JOM student population since 1994. We estimate that un-met need of funding in some tribes varies from 10% to 40% of their student population.
3. The JOM student count was frozen in 1994 by the BIA. Tribes cannot show the growth of the student population or justify their un-met need because no current count is available for comparison. We are requesting that a current student count be conducted as soon as possible to show that the BIA/BIE has not lived up to the trust responsibilities for our children.
4. To urge the DOI to appoint one staff person who can assist JOM programs moving forward. Much can be gained by having a person at the Department specifically charged with fulfilling the intent of the regulations. Additionally, we simply need someone in Washington who is dedicated to understanding and advocating internally for our program.

BACKGROUND

The U.S. Department of Education oversees the Title VII Indian Education Act programs and Title VIII Impact Aid funding. The Title VII program is run directly through the school districts and is not subject to tribal control. The tribes have no actual authority over the design or implementation of the Title VII programs. Under the JOM regulations, parents of eligible JOM students are 'vested with the authority' to design and implement their JOM programs. By regulation, (25 CFR, part 273.16-17) the JOM programs are based on community needs assessments, not the needs of the school district and serve a much broader range of needs and services. The JOM program is the only federally-funded program that allows for student, parent and community involvement in meeting their educational needs which are both academic and culturally-based. Also, the eligibility for Title VII students is not based on students being an enrolled member of a federally-recognized tribe – they just need to identify themselves as Indians on a USDOE FORM 506.

The new BIE leadership positions supports the concept on improving BIA school construction and direct services to BIA school student. The BIA schools serve 7% of all Indian children. The other 93% of the Indian children are being served through the JOM programs in public school systems across the U.S. The BIA's own mission statement reads: "The mission of BIA is to fulfill its trust responsibilities and promote self- determination on behalf of federally recognized Indian Tribes." The trust responsibility is to insure that the "unique and specialized needs of Indian children" are being met. This should include the 93% that are in the public school system.

The Johnson-O'Malley program is the one remaining Federal program that puts the program under the strict control of an Indian Education Committee. The Indian Education Committee is composed of parents of eligible students enrolled in the school district. Choices are made at the local level, with scarce resources going to locally determined needs.

The Subcommittee on Interior and Related Agencies in March 2008 made it very clear that they were opposed to the elimination of the JOM program. "The Committee has once again rejected the Administration's proposal to eliminate the Johnson-O'Malley Education Assistance grants.

Every attempt by this Administration to terminate this program has been resoundingly rejected by Congress. The feckless justification for the termination of this program--that Department of Education programs can take the place of these grants--has never been substantiated or explained to any level of adequacy. The Committee implores the Administration to include this program in future requests.” There are two separate federal regulations that govern the JOM program and Title VII. JOM allows for “full participation, with vest authority over the program” and Title VII has strictly an “advisory” capacity to the school districts. Both may have parent committees but their responsibilities and tribal involvement are at opposite ends of the spectrum.

Even with the funding requested, \$24 million will not keep pace with the special and unique needs in Indian Country. In 1995, a freeze was imposed on JOM funding through DOI, limiting funds to a tribe based upon its population count in 1995. The freeze prohibits additional tribes from receiving JOM funding and does not recognize increased costs due to inflation and accounting for population growth.

The following is the statutory authority for the Johnson-O’Malley program – the Snyder Act, as found in the U.S. Code. The USDOE Title VII and VIII funding have to be reauthorized, whereas Johnson-O’Malley does not.

25 U.S.C. Sec. 452. Contracts for education, medical attention, relief and social welfare of Indians:

The Secretary of the Interior is authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory.