

National Indian Health Board



Submitted via: <http://www.regulations.gov>

January 15, 2016

Secretary Sylvia Mathews Burwell
Attn: Kathy Greenlee
U.S. Department of Health and Human Services
Administration for Community Living
330 C St SW
Washington, DC 20201

Re: Comments on the Independent Living Services Program (HHS-OS-2015-0012-0001)

Dear Secretary Burwell,

On behalf of the National Indian Health Board, thank you for the opportunity to comment on the proposed rules resulting from the Workforce Innovation and Opportunity Act (WIOA); specifically, the proposed regulations for the Independent Living Services Program

The NIHB is governed by a Board of Directors consisting of a representative from each of the twelve Indian Health Service (IHS) Areas. Each Area Health Board elects a representative to sit on the NIHB Board of Directors. In areas where there is no Area Health Board, Tribal governments choose a representative who communicates policy information and concerns of the Tribes in that area with the NIHB. Whether Tribes operate their entire health care program through contracts or compacts with IHS under Public Law 93-638, the Indian Self-Determination and Education Assistance, or continue to also rely on IHS for delivery of some, or even most, of their health care, the NIHB is their advocate.

Notice of Proposed Rulemaking Federal Register [Docket ID HHS-OS-2015-0012-0001]

1. Proposed Regulation Sec. 1329.4 – Definition of “Minority group”

The proposed rule defines “Minority group” to include American Indian and Alaskan Native based on the Office of Management and Budget Standards for the Classification of Federal Data on Race and Ethnicity (62 FR 58782 (Oct. 30, 1997)), considered in conjunction with the definition for minority in National Science Foundation regulations, 34 CFR part 637 and with the Centers for Disease Control and Prevention's Office of Minority Health's definitions.

- **We commend the Secretary for clarifying that American Indians and Alaska Natives (AI/AN) will be included in this definition.**

2. WIOA Section 705 (b)(2) – Amending Membership of the Statewide Independent Living Council

The WIOA made several amendments to section 705 of the Act, 29 U.S.C. 796d, regarding the Statewide Independent Living Council (SILC). Amended section 705 (b)(2) requires that voting members of the SILC include, in a state in which one or more Centers for Independent Living (CIL) are run by, or in conjunction with, the governing bodies of American Indian Tribes located on Federal or State reservations, at least one representative of the director of such Centers.

Hundreds of treaties, along with the Supreme Court, the President, and Congress, have repeatedly affirmed that Tribal nations retain their inherent powers of self-government. These treaties, executive orders, and laws have created a fundamental contract between Tribes and the United States. Tribal governments provide multiple programs and services, including, but not limited to, social programs, first-responder services, education, workforce development, and energy and land management. In a majority of federal agencies, Tribes operate their own services through grants and contracts.

Tribal members seek services provided by Tribal governments. This reality is recognized by most federal agencies. Regarding AI/ANs with disabilities, Tribes have a statutory set-aside to provide Vocational Rehabilitation services on Federal and State Reservations through the Department of Education's American Indian Vocational Rehabilitation Services (AIVRS). These programs provide services that are culturally-centered. Independent Living services are integral to accessing necessary community supports for AI/ANs with disabilities to become as self-sufficient as possible.

- **We were unable to locate any CILs run by a Tribal government. We recommend the Secretary publish the location and contact information for any CIL currently providing services to AI/ANs in conjunction with a Tribe on a Federal or State Reservation.**
- **There are currently 83 AIVRS programs located on Federal and State Reservations providing services to AI/ANs with disabilities. Since there is no other federal program that provides culturally-centered services AI/ANs with disabilities in their efforts to live independently, we recommend that each state where there are Federal and State Reservations the SILC conduct concerted and documented outreach to an AIVRS program and/or a Tribal Government.**
- **We recommend that in each state where there are Federal and State Tribal Governments the SILC include a Tribal Representative on the SILC.**
- **Due to geographic isolation and lack of public transportation, most AI/ANs cannot access services from CILs. We recommend that the Secretary support the development of a Demonstration Project for five Tribes to establish and operate a CIL on Federal and State Reservation lands.**
- **We recommend that the Secretary support the establishment of a Tribal set-aside through amending the statutes that govern CILs.**

Thank you for providing an opportunity to comment on the proposed regulations in these two NPRMs. If there are any questions regarding my/our comments, please contact our Director of Federal Relations, Devin Delrow, at ddelrow@nihb.org.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Lester Secatero', with a long horizontal flourish extending to the right.

Lester Secatero, Chair
The National Indian Health Board