

STRENGTHENING WIOA SECTION 166: INDIAN COUNTRY'S POLICY PRIORITIES

The following policy priorities seek to strengthen the [Workforce Innovation and Opportunity Act \(WIOA\)](#) – namely [Section 166](#) of the Act, which supports employment and training activities for American Indians, Alaska Natives, and Native Hawaiians to: “(a) develop more fully the academic, occupational, and literacy skills of such individuals; (b) make such individuals more competitive in the workforce and to equip them with the entrepreneurial skills necessary for successful self-employment; and (c) promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.”

These consensus priorities were developed by Native workforce development leaders and practitioners from across the U.S. through an iterative process that included a facilitated discussion at the May 2023 [National Indian and Native American Employment and Training Conference](#). Many reaffirm longstanding Indian Country priorities contained in the National Congress of American Indians [federal policy brief](#) published in 2020. The priorities listed below do not constitute an exhaustive list, but rather are the top-line recommendations for actions Congress and the Administration should take to strengthen WIOA Section 166 so it works better for Indian Country. **To learn more, please visit <https://www.ninaetc.net/flba2.htm>.**



POLICY PRIORITIES – CONGRESS

Congress should support and incorporate the following Indian Country priorities into: (1) the upcoming legislation reauthorizing WIOA, and (2) the annual appropriations process:

- **Protect Native Self-Determination in WIOA:** Protect [WIOA Section 166](#) and its key provisions supporting Native self-determination in workforce development from attempts to: (1) eliminate Section 166 from the reauthorized WIOA legislation, and/or (2) treat Native WIOA grantees the same as non-Native WIOA grantees (by, for example, transferring WIOA Section 166 programs to the State Adult formula grant program).
- **Create a Funding Set-Aside for Section 166:** Enhance the strength and stability of the Section 166 Program by creating a Native set-aside from the funding Congress allocates to the Department of Labor (DOL) for WIOA (Native grantees should *not* have to compete for funding with state grantees).
- **Increase Section 166 Funding to Meet the Needs of Native People and Grow the Program's Success:** The Section 166 Program has been chronically underfunded since the 1970s, utterly failing to keep pace with the rapidly increasing Native population in need of these services as well as the rising costs of education, training, and related services. Since its funding peak of \$225 million in 1979, Section 166 has experienced a precipitous funding decline to about \$70 million annually. Congress should: (1) increase dedicated funding for WIOA Section 166 grantees commensurate with Native population growth, the identified service needs of the eligible population, and inflation; and (2) convert this funding to forward funding to avoid ongoing issues with DOL moving money to grantees in a timely fashion.
- **Streamline 166 Grantee Reporting to Make it Fair and Equitable:** Revise line 6 in WIOA Section 166(e)(5) to change the word “and” to “or” to eliminate the additional, unnecessarily burdensome, and unfair reporting required of Section 166’s Native grantees that is *not* required of other WIOA grantees.
- **Recognize and Consider 166-Grantee Generated Data:** More than 40% of Section 166 grantees integrate WIOA Adult and Youth funding into comprehensive [Public Law 102-477](#) (477) programs, yet DOL does not consider 477 data in its evaluation of the positive workforce outcomes fostered by those grantees, creating a distorted picture of programmatic impact. Congress should require DOL to accept, integrate, and share 477 and other Section 166 grantee-generated data in: (1) documenting grantee performance, and (2) identifying appropriate funding levels for Section 166 by Congress and the Administration.
- **Elevate the Role of DOL’s Native American Employment and Training Council (NAETC) in DOL Decision-Making:** Mandate the DOL Secretary: (1) personally meet with the NAETC on an annual basis, and (2) formally consider resolutions passed by the NAETC and direct DOL staff to implement action steps to address them.
- **Strengthen the NAETC’s Stability and Functionality:** Expand WIOA Section 166(i)(4)(B) to add a provision stipulating that NAETC members will remain in their seats beyond the end of their appointed terms until their successors are appointed and seated to ensure the NAETC remains fully functional at all times.



POLICY PRIORITIES – ADMINISTRATION

The Department of Labor (DOL) should undertake the following key action steps to strengthen the WIOA Section 166 Program:

- **Eliminate the Unfair “Competitive” Requirement from DOL’s WIOA Section 166 regulations:** Remove the word “competitive” from all WIOA Section 166-related regulations, namely the Section 166 funding solicitation process, as the inclusion of this stipulation is not mentioned in or supported by the WIOA law and has been identified as a contributing factor to the declining number of 166 grantees over the past few years (see right). Most 166 grantees are either *departments of tribal governments* or *inclusive of them* (i.e., intertribal consortium organizations); as such, DOL should designate them “governments,” thereby insulating them from the competitive process.
- **Align Performance Requirements with Section 166 Grantees’ Priorities:** WIOA states DOL *must* negotiate performance metrics for Section 166 with the assistance of the NAETC and each 166 grantee, “taking into account economic conditions, characteristics of the individuals served, and other appropriate factors” (Section 166(h)(2)). DOL’s performance standards, however, fail to meet this critical threshold. With one isolated exception, it has failed to establish a performance standard addressing the third purpose of Section 166 programs as articulated in the law – to “promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities *in accordance with the goals and values of such communities.*” To correct this, DOL should work with the NAETC to modify its Section 166 performance requirement regulations to align with grantees’ needs, priorities, and criteria for client success; to that end, it also should work with each 166 grantee (using the waiver authority in WIOA Section 166(i)(3) as appropriate) to insure their performance metrics are appropriate for the economic and human environments in which it administers its program.
- **Expand Section 166 Eligibility for Adults in Need of Services:** Expand adult eligibility for WIOA Section 166 grantee programs by expanding the “High Poverty Zone” criteria currently used for the Section 166 Youth Program (SYS) to the Adult Program (CSP).
- **Enhance Section 166 Grantees’ Funding Flexibility:** Allow 166 grantees to transfer unspent Adult Program (CSP) funds to the Youth Program (SYS) to address community needs. Allowing such a transfer of funds would enable each grantee to fully expend their funding according to the distinct needs of the community it serves. The transfer could occur at the beginning of each four-year contract period or at the start of each contract year.
- **Assess and Address Attrition Among Section 166 Grantees:** A troubling number of Section 166 grantees (12 total) have dropped out of the 166 Program over the past few years. DOL should launch an assessment to learn why they chose to discontinue their participation and, based on its findings, take targeted steps to strengthen the Program for the purposes of grantee retention and growth.
- **Assess and Overhaul DOL’s Section 166 Training Program:** Systematically assess DOL’s current training program for 166 grantees and revamp it accordingly to ensure it meets the training needs of 166 grantee leadership and staff (the assessment should feature surveys, interviews, and focus groups with 166 grantees to determine the current program’s effectiveness and identify ways to improve it to better meet grantees’ needs).
- **Provide Fiscal Accountability to Section 166 Grantees:** In WIOA Section 166, Congress requires DOL to spend 1% of Section 166 funding on technical assistance (TA) for 166 grantees. For the past several years, DOL has refused to provide grantees with a full accounting of how that money has been spent. To ensure proper transparency, DOL should annually share with the NAETC and all Section 166 grantees a comprehensive report detailing how the Department has spent and will spend these TA dollars (such expenditures should be based on NAETC’s definition of what constitutes TA, which does *not* include covering NAETC meeting costs).
- **Increase/Enhance Data Collection and Analysis Efforts to Accurately Inform Funding for WIOA Section 166:** Use a portion of the WIOA Section 166 dollars mandated for TA to cover the costs of the U.S. Census Bureau performing a specific data run on Native unemployment, income, and related figures to enable the accurate setting of appropriate WIOA Section 166 funding levels.
- **Abolish DOL’s Unfunded Reporting Mandate:** Remove the unfunded mandate to report data that is not available to tribes regarding “employment status 3rd quarter after exit.” Tribes can and will report “entered unsubsidized employment” that Congress has requested. Without funding to track employment and without access to state data, tribes are unable to meet this unfunded mandate.
- **Ensure Full NAETC Membership at All Times:** Absent action by Congress, the Secretary of Labor should assure NAETC membership is always in place by extending current Council appointments should a forthcoming nomination process not align with the end of the current Council term.