



Haskell Indian Nations University
NATIONAL HASKELL BOARD OF REGENTS
155 Indian Avenue – Lawrence, Kansas 66046

February 17, 2025

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Hon. Doug Burgum, Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: *Waiver Request for Haskell Indian Nations University from the President's Executive Order Workforce Optimization Initiative Requiring Reductions in Force*

Dear Secretary Burgum:

On behalf of the National Haskell Board of Regents (“NHBR”), I write to ask your assistance for a waiver to President Trump’s Executive Order of February 11, 2025 “Implementing the President’s DOGE Workforce Optimization Initiative” (“WOI”) as directed to apply to Haskell Indian Nation Nations University on February 14, 2025 (“Haskell”).

Background. Haskell is a unique federal educational institution located in Lawrence, Kansas that is managed by the Bureau of Indian Education within the Department of Interior and funded through appropriations by Congress. Haskell, which has approximately 160 permanent and provisional employees, provides higher education services to 800 Indian students every year who represent nearly 150 Indian nations and tribes throughout the United States.

Haskell was established by the U.S. Army in 1884 as an Indian boarding school, with the School renamed the Haskell Institute in 1887 and operated as an elementary and high school for Indian children until 1965. In 1967, the School curriculum evolved to offer two-year degrees and was renamed Haskell Indian Junior College. Over the years the School continued to develop within the Bureau of Indian Education and began offering four-year, bachelor’s degrees in four areas of study. In 1993, it was renamed Haskell Indian Nations University.

The Federal Government’s Treaty, Trust, and Statutory Responsibility to Operate Haskell. The federal government established and continues to operate Haskell in fulfillment of its treaty, trust, and statutory responsibilities to American Indians and Alaska Natives.

Congress has supported this federal responsibility since the earliest days of the Republic. For example, treaties between Indian nations and the United States include provisions that require the government to provide education to Indians. *See e.g.* Treaty with the Cherokee of 1819, 7 Stat. 195 (ceding land to the United States to be held in trust for the Cherokee Nation as a school fund, and related educational purposes); Treaty with the Choctaw of 1830, 7 Stat. 333 (agreement of the United States to educate the Choctaw people to improve their education “under the direction of the President and at the expense of the U.S...”).

Congress has also enacted legislation specifically mandating the provision of educational services to Indians through the Snyder Act, 25 U.S.C. § 13 (“The Bureau of Indian Affairs,



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under the supervision of the Secretary of Interior, shall direct, supervise and expend such moneys as Congress may from time to time appropriate, for the benefit, care and assistance of the Indians throughout the United States for the following purposes... General support and civilization, including education...); *see generally*, Indian Self-Determination and Educational Assistance Act of 1975, Pub. L. 93-638, 88 Stat. 2203).

During his first term, President Trump and his Administration supported this important legal responsibility. Testifying before Congress on the President’s budget request, Assistant Secretary of Indian Affairs Tara Sweeney re-affirmed the Interior Department’s important legal responsibility to Indians and Alaska Natives as follows—

Indian Affairs is the principal Executive Branch component entrusted to fulfill Federal trust and treaty responsibilities to the [then] 573 federally-recognized Indian Tribes. In so doing, our programs directly serve the nearly two million individual American Indians and Alaska Natives in the United States ... We strive to implement our programs in a manner that respects tribal sovereignty and fosters strong government-to-government relations....

See Assistant Secretary-Indian Affairs Tara Sweeney, Testimony before the Senate Committee on Indian Affairs, “The President’s FY 2020 Budget Request for Indian Programs,” May 8, 2019.

A Waiver for Haskell to The Workforce Optimization Initiative is Justified By its Own Terms. Section 3(c) of the WOI directs that “temporary employees” performing functions “not mandated by statute or other law shall be prioritized in the RIFs.” Haskell should be exempted from the RIFs directed by the EO because Haskell temporary employees are performing functions mandated by “statute or other law,” which in this case includes treaties which are the “Supreme Law of the Land.” *See* U.S. Constitution, Art. VI, Cl. 2.

The Trump Administration Interior Department has Already Established that the Federal Government’s Responsibility to Indians are Not Race-based or Related to any Diversity, Equity, and Inclusion Policy Initiatives. Section 3(c) of the WOI clarifies that agency DEI initiatives are not mandated by “statute or other law” and have priority for the RIFs of temporary personnel. The Interior Department, however, has recently concluded that Executive Order 14151 does not apply “to eliminate, hinder, impair, or otherwise effect activities that implement legal requirements independent of the rescinded equity-related EOs, including but not limited to: ... (d) the statutory authorities, treaty, and/or trust obligations of the Department and its Bureaus/Offices to Tribal nations and the Native Hawaiian community.” *See* Walter Cruickshank, Acting Secretary of the Interior, Order No. 3416, *Ending DEI Programs and Gender Ideology Extremism*, Jan. 30, 2025.

In addition, the Department of Health and Human Services has already drawn a similar conclusion regarding the inapplicability of EO 14151 to Indian programs, as follows—

The Executive Order at issue does not apply to programs or activities of the Department of Health and Human Services that affect or serve AI/ANs. First, the Order, by its plain terms, does not apply to such programs. Second, it would be imprudent to read it as so applying given that the Tribes are separate sovereigns. Third, the Supreme Court has consistently applied the Indian canon of construction in favor of funding toward Tribes; application of that canon here counsels against reading the EO as applying to AI/ANs.



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Sean R. Keveney, Acting General Counsel, *Note to Heather Flick, Chief of Staff regarding Application of DEI Executive Order to American Indians and Alaska Natives*, Feb. 6, 2025.

A Waiver is Justified Because Implementation of the RIF will Cause Undue Harm to Haskell. By federal standards, Haskell is a small institution with only about 160 full-time and temporary employees. The proposed RIF to Haskell would result in the termination of about 40 employees, including faculty members, students services, operation, athletics, and IT personnel. If implemented, this reduction of 25% of the total Haskell workforce would have disastrous consequences for fulfilling its educational mission. Haskell is already underfunded and struggles to fulfill its educational mission. Further reductions in its workforce could threaten its ability to maintain operations.

Conclusion. The Board of Regents will continue to fulfill our advisory role in support of Haskell's important contributions to Indian Country and Alaska Natives. We seek to work in partnership with you as the Secretary of Interior and to draw upon you words that are especially important now: "At Interior, we will strengthen our commitment to enhancing quality of life, promoting economic opportunities, and empowering our tribal partners through those principles." See Opening Statement from the 55th Secretary of Interior, at <https://www.doi.gov/pressreleases/opening-statement-55th-secretary-interior-doug-burgum>.

Haskell is an important part of the federal government's commitment to enhancing the quality of life for Indian people. We of the Haskell Board of Regents ask that you relieve Haskell from the burden of losing its valuable personnel who help fulfill the School's important and legally required educational mission.

Thank you,

Dalton Henry, Interim President

Senator Jerry Moran, Kansas

Senator Roger Marshall, Kansas

Representative Tracy Mann, Kansas

Senator Lisa Murkowski, Chair of the Senate Indian Affairs Committee

Representative Bruce Westerman, Chair of the House Natural Resources Committee

Representative Jeff Hurd, Chair of the House Indian Affairs Subcommittee