

Waiver Considerations

STANDARDS ASSESSMENTS AND ACCOUNTABILITY FINAL RULE 25 CFR PART 30
IMPLEMENTATION OF EVERY STUDENT SUCCEEDS ACT (ESSA)
BUREAU OF INDIAN EDUCATION

Benefits of the BIE Unified Standards, Assessments, and Accountability System

1. Common language regarding content standards
2. BIE content standards analogous to most State content standards
3. Collective understanding of accountability measures
4. Tribal Civics
5. Modifications of standards and test items for cultural responsiveness
6. Alignment of resources
7. School Accreditation should not be impacted
8. No fiscal obligations to participate in BIE summative assessments

Standards, Assessments and Accountability – Final Rule

§30.101 Added a definition of “technical assistance.”

§30.117 Outlines the process for “technical assistance.”

§30.103 “Standards Assessment and Accountability Plan” (SAAP) with the term “Agency Plan”.

§30.112 to §30.119 outlines the process for waivers and alternative proposals in subpart B of the proposed rule. Tribal governing bodies or school boards can waive in part or whole.

Revised the language of §30.104 (c) consistent with ESEA.

Option A – Examples of Minor Changes

Requesting one or more of the following:

- a different set of commonly used content standards and the use of a different assessment that is already aligned to your standards, peer-reviewed, and approved by US Department of ED

Request Format: Letter from the Tribe addressed to BIE and the US Department of ED

Timeline for approval: approximately a few weeks to 6 months, depending on the request and availability of appropriations

Option A – Examples of Minor Changes

- Replacing the BIE Assessment with another assessment such as the Smarter Balanced Assessment, or other off-the-shelf assessment that is already peer reviewed and is aligned to content standards being used
- Replacing the BIE Assessment with ACT in high school

Timeline for approval: approximately a few weeks to 6 months, depending on the request and availability of appropriations

Option B – Examples of Major Changes

Requesting one of more of the following:

- a different set of content standards and linked assessment that has not been peer reviewed and approved by the US Department of ED
- a new accountability system, including different indicators, weights and methodologies to identify schools for improvement

Request Format: Standards approval plan, Assessment approval plan or possibly a ESSA “State Plan” or comparable format, or a combination of multiple formats.

- ESSA Consolidated State Plan Template and State Plan Peer Review Criteria: <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/essa-consolidated-state-plans/>
- General ESSA Resources: <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/the-elementary-secondary-education-act-the-every-student-succeeds-act-of-2016/every-student-succeeds-act-essa/>

Timeline for approval: approximately 1 year or longer, depending on the request and availability of appropriations

Examples of Option B – Major Changes

- Replacing a peer-reviewed assessment like PARCC with a new customized assessment where new test items need to be developed
- Designing a separate accountability system

Timeline for approval: approximately 1 year or longer, depending on the request and availability of appropriations

Factors Affecting Waiver Timeline



Technical Assistance Response Timeline

§30.117 What is the process for requesting technical assistance?

- Requests for technical assistance must be in writing and sent to the Director of BIE and the Department of Education's Assistant Secretary of the Office of Elementary and Secondary Education.
- The Director, or designee, will acknowledge receipt of a request for technical assistance.
- No later than thirty (30) days after receiving the original request, the Director will identify a point-of-contact and begin the process of providing technical assistance

§ 30.118 When should the tribal governing body or school board request technical assistance?

- A tribal governing body or school board may request technical assistance in writing at any time.
- It is welcomed and encouraged to request technical assistance before formally notifying the Secretary of its intention to waive the requirements established by the Secretary.

Waiver and Alternative Proposal

§30.113 How does a tribal governing body or school board waive the Secretary's requirements?

- The tribal governing body or school board must notify the Secretary and the Secretary of Education in writing of the decision to waive the Secretary's requirements in part or in whole.
- Within sixty (60) days of the decision to waive the Secretary's requirements, the tribal governing body or school board must submit to the Secretary for review and, in coordination with the Secretary of Education, approval, a proposal for alternative requirements that are consistent with section 1111 of the Act.
- The Secretary encourages the request for technical assistance well in advance of submission of a plan to the Secretary for review.
- The tribal governing body or school board must continue to follow the Secretary's requirements until a proposal is approved and until alternative requirements become effective.
- A tribal governing body or school board may request in writing an extension of the sixty (60) day deadline for the provision of technical assistance.

Timeline to Review Proposals

§30.119 How does the Secretary review and approve alternative requirements?

- Upon receipt of a proposal, the Secretary will begin coordination with the Secretary of Education on review and approval of proposal.
- The Secretary will provide a status update regarding the processing of the proposal within 120 days of receipt of the proposal and every thirty (30) days thereafter to discuss the stage of the review process.
- If approved, the tribal governing body or school board will be notified of the effective date.
- If not approved, the tribal governing body or school board will be notified of the reasons why proposal was not approved and will be provided technical assistance to help overcome the reason why the proposal was not approved.
- If a proposal is not approved, Tribes may individually request formal consultation with the Secretary and Secretary of Education.

Considerations Affecting Waivers and Alternative Proposals

Authority to waive and propose alternative requirements – governing documents – “who” is the actor?

What agreements with other entities, such as States, may be required and how long to develop – funding, data sharing, etc. - ?

Is funding available, from whom/where, how much, and when available?

Timeliness – are the waiver and alternative proposal coming during a school year or well in advance? BIE has 120 days to provide a status update and every 30 days thereafter.

How will the proposal benefit students given their unique circumstances and needs?

How does the proposal fit into BIE’s other accountability requirements?

Would assurances of technical assistance and support to implement BIE’s requirements help?

Resources

- ESSA Consolidated State Plan Template and State Plan Peer Review Criteria: <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/essa-consolidated-state-plans/>
- General ESSA Resources: <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/the-elementary-secondary-education-act-the-every-student-succeeds-act-of-2016/every-student-succeeds-act-essa/>
- BIE is updating a template for a Data Sharing Agreement. An older version can be found at: www.bie.edu/cs/groups/xbie/documents/document/idc1-034247.pdf
- BIE Final Rule: <https://www.govinfo.gov/content/pkg/FR-2020-03-26/pdf/2020-06148.pdf>

Example of a Letter to Request Technical Assistance

-Tribal Governing Body Letterhead-

Date

BIE Director
Bureau of Indian Education
U.S. Department of the Interior
1849 C. Street, NW
Washington, DC 20240

Dear BIE Director:

(Tribal Governing Body) is requesting technical assistance to explore potential alternatives to the Secretary's requirements that are consistent with section 1111 of the Every Student Succeeds Act. Particularly, the (Tribal Governing Board) is interested in receiving technical assistance in the following area(s):

_____.

Thank you and we look forward to hearing from you.

Sincerely,

(Tribal Governing Body)

CC: Office of School Support and Accountability, U.S. Department of Education

Points of Contact

Dr. Tamarah Pfeiffer

Chief Academic Officer

Tamarah.Pfeiffer@bie.edu

Dr. Maureen Lesky

Program Analyst

Maureen.lesky@bie.edu

Adyel Duran

Program Officer, Title I, Part A

US Department of Education

OESE.TitleI-A@ed.gov