

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee

*October 30 – November 1, 2018 – Albuquerque, NM
Meeting Summary*

Consensus Agreements

The Standards, Assessments, and Accountability System Negotiated Rulemaking Committee reached consensus on the following during the meeting:

1. Meeting #1 summary;
2. Support for a uniform set of standards in the regulations;
3. Creating an ad hoc subcommittee on the 'state' plan and establishing its members;
4. Memorializing Tribal caucus discussions;
5. Replacing "State" with "BIE" and using the "Secretary of the Interior" versus "Secretary" within the draft regulations;
6. Topics for the December meeting;
7. Subcommittee calls to include technical experts to share their expertise and open to observers by invitation and consensus of the subcommittee members;
8. To have a caucus of the Tribal Committee members at the end of each meeting day, and when appropriate to invite the Federal Committee members; and
9. Agreed on next steps for Committee/subcommittee tasks.

Welcome

Sue Bement Designated Federal Officer (DFO) welcomed the Committee and provided a brief introduction.

Invocation

Committee member Lucinda Campbell opened the meeting with a prayer to thank all those who have gathered to discuss, share ideas, collaborate, and focus on the needs of the Native American children in the Bureau schools. See Appendix A for a list of attendees.

Agenda Review and Approval, Goals and Courtesies

Ms. Palmer (Facilitator), welcomed the Committee to Albuquerque, shared information on absent Committee members, and clarified how facilitation will be conducted during deliberations.

The Facilitator reviewed the meeting agenda, binder contents, and handouts for the Committee. The meeting objectives are to: learn how assessments, accountability system, and waivers are described in Section 1111 apply to BIE, hear reports from each subcommittee, learn about how

states are operationalizing N-size and N-size means for the BIE regulations, begin deliberations on the draft regulations related to standards, assessments and accountability system and waivers, and agree on next steps for Committee deliberations.

The Facilitator asked the members of the public to provide a brief introduction of themselves and welcomed them to the meeting.

Remarks from BIE Director Dearman

Director Dearman thanked the Committee for their commitment and appreciates their task of developing regulations for the Bureau of Indian Education that currently has an educational system with a 23 state assessment and shared the following remarks:

The BIE is unable to compare student performance across state lines because of the 23 state assessments. BIE would like to develop one set of standards, assessments, and accountability system to spread across the 23 states for BIE to gauge the performance of the students. In meeting with the Department of Defense with a school system spread out all over the world; they take one test, they drive one curriculum, and they drive professional development. In the future, it would be great for the BIE to have a professional development, push out the curriculum, and technical assistance to the Bureau schools located in the 23 states. The final results of the Committee's work will be equivalent to any state that will hold the schools and staff accountable. The Committee's work is critical for the years to come. Director Dearman also shared a presentation, see Appendix B.

Committee members had the following questions and concerns addressed to Director Dearman. Director Dearman's responses are noted in italics below.

- You were speaking about the Army and the incredible work they have done, is the vision across BIE to have common standards, assessments, and accountability system across all schools? Is it the goal or that each school will have their own standards? It will change the focus/direction of our work if the goal is to have the same set of standards to apply to all schools? We are focused on writing the regulations that govern what the Secretary does with those standards. If that's the goal of the BIE, it will help steer the direction. *With the schools residing in 23 states and the different assessments, it's not working. The goal of the BIE will be the goal of the work of the Committee. The BIE does not want the Committee's work to be impacted by outside agencies as we (BIE) have the people needed to work on this Committee (i.e., school leaders, community members, Tribal leaders, etc.); what does the Committee feel like the BIE needs? A lot of the Tribes will say they don't want to go along with BIE; they have the right to waive. Too really gauge, the 23 state assessments is not working for the BIE.*
- Some were under the wrong assumption; we believe we were selected to help develop the standards, assessments and start working on accountability workbook. At our last meeting we were told to do the regulation and BIE will build the standards, assessments and the accountability workbook. I didn't come here to spend the next six months writing a regulation. I came to help develop and create the standards, assessments, and accountability workbook for BIE for an opportunity for not only the BIE schools, but the

treaty Tribal schools to use. My question is what are we here to do? *The Secretary with the Assistant Secretary – Indian Affairs is going to work on what this Committee recommends [relating to standards, assessments and accountability system].*

- What are we here to do, are we here to develop standards for all of our schools and evaluate the standards and find a growth model assessment that applies to all of our students and work on accountability workbook for all these schools? Or are we here to write the regulation so someone else can do these others things? *The Committee will have a presentation to clarify the tasks.*
- I've been in the Tribal grant schools for 15 years and sons are part of the Tribal grant school and a daughter in the BIE school system. The Committee has close to a \$500,000 budget to formulate a plan. In Section 8204, the Department of the Interior may use not more than 1.5% of the funds consolidated under this section for the cost related to the administration. Are they citing the administrative costs of title funding from U.S. Department of Education in the Interior? And that 1.5% does that describe what the resources will be to implement this process? *The 1.5% is in statue for each state where the title program gets 1.5% administration. The 1.5% administration is used by the Bureau to fund DPA essentially and for some other things. For special education, it's under a different statutory authority percentage.*
- Can the Committee get the actual numbers of the 1.5% for this year, last year, and the upcoming year? *The Department of Education publishes each year as public record and the BIE will provide to the Committee.*
- At the school level we are starting to experience the changes that are occurring above us. For example, to have a real school safety inspection and to receive feedback. And to have professional development constantly being offered to us in regards to school safety is very refreshing and look forward to having that roll over in some of our other areas that is lacking in the professional development. The big question is, when you say we are 48% staff and I looked at USAjobs.gov it doesn't reflect 52% jobs advertised. Do we have the funding to hire those 52%? *BIE is prioritizing position because the funding is not available to be 100% staffed. BIE adjusts based on what Congress funds so you're not seeing those jobs advertised as BIE is prioritizing. The other thing is in order to hire an effective organizational chart we need to hire upper management before hiring staff, and overcome the office space crunch.*
- My Tribal leadership asked if I was aware of the BIE Strategic Plan, which I have been for a year now. The question was around funds allocated under the Strategic Plan. Will you be allocating resources so that if a Tribally controlled school sees that as part of their continuous school improvement plans there aligned with BIE strategic goals? Will BIE be providing resources so we can actually implement some of the BIEs goals? *That is one of the questions NIEA is asking BIE, what budget you have that aligns with the strategic direction. Year one is a lot of research where they are identifying resources, needs, and will be a question depending on the budget and whether BIE can do that. But right now, having school systems across 23 states, we need to see where our needs are then sit down to look at the allocations. The BIE is looking into this.*
- When will the BIE complete a needs based survey? And a follow up to that is the population is growing while the dollars and resources seem to be shrinking every year. How can we grow the ISEP dollars? *ISEP dollars and working with our Tribal*

leadership need to lobby Congress. As Federal employees we cannot lobby for additional funding, but our Tribal leaders can. Tribal leadership can go to their Senator if they feel action needs to be taken then a Senator will come to the Agency to get things done. BIE stresses to the Tribal leaders to utilize their power, if they're not happy, we need you to go to Congress to have a strong voice with Congress, and what Congress does is they come to us and tells us to get this straight. Anything with funding that is where Tribal leaders need to go to Congress. Congress determines what is appropriated down to the Department of the Interior.

- In reality we know resources are going to decrease and we also know there will be additional cuts to education. Overall, how does that affect BIE with their schools, do you have a needs based survey done? *BIE is not aware of a needs based survey that encompasses 183 schools, but that is something we can look at. The President's proposed budget is what this Administration feels is needed to get the country back on track. The President's proposed budget goes to Congress and they determine how much funding they provide us (BIE). We are part of the Department of the Interior so when people talk about all this additional funding coming to us; in order for us to get additional funding someone else has to lose out because we are part of a piece of the pie. With additional funding, where is it going to come from and who is going to go without.*
- The Tribal Interior Budget Council, is that composed of BIE people, or is it composed of Tribal leadership? *It's composed of leadership throughout Indian Country but not all of them have our (BIE) schools on their reservation. When you look at the TBIC priorities, it's on scholarships and JOM. TBIC really wants to support BIE and they are getting involved and want to be a part of the budget process.*

Clarification on the Scope of This Committee's Charge, BIE's Authorities Under Section 1111

Brian Quint, Attorney Advisory with the Office of the Solicitor provided an overview of the primary purpose of this committee's work on draft regulations and the relationship of draft regulations to language in Section 1111 regarding a "State Plan". Clarify what "State", "SEA" and "LEA" in Section 1111 mean in relation to BIE and draft regulations. See Appendix C for the Section 8204 and Committee Tasks presentation.

Jeff Hamley added: the Committee is to develop regulations as a framework for the Secretary to choose a system which will go out for review under Tribal consultation for further stakeholder input. The government's position is to develop a uniform standard, assessments, and accountability system to be applied to all schools/students just as the states developed a uniform system. We are here to develop regulations, not the actual standards, assessments, and accountability system. However, there are options for Tribes to waive and implement what they think is best for their students. Your proposed regulations and recommendations you put into a report will assist the Secretary to make well informed decisions on behalf of our children.

Committee members had the following questions and comments about the tasks:

- The way I read 8204, it has two purposes not only establishes the regulations but the second is to participate in the 'shall' define responsibility of the Secretary. When I

looked at the law and I wrote out the workflow of how it goes, that's what I see and it isn't just a regulatory action that this Committee does, it's also to help 'define'. That goes back to my question to Director Dearman, what is the goal? If the goal is to have a standard set that applies to all schools we need to know that to fulfill our charge according to the law. I need to clarify because up to this point my understanding has been through our Charter and what we've talked about here that we are only to develop the regulations. I think that in this case it would be a disservice to Indian Country if that's all that we do. *The way we read this is 'The Secretary of the Interior, using the negotiated rulemaking process to develop regulations for implementation, ..., shall define standards, assessments, and accountability system consistent with section 1111. We read that as the Secretary's responsibility to define those terms, much as it was under the No Child Left Behind where there was very similar language there. The rulemaking committee developed regulations that enable the Secretary to implement his responsibility to define the term for adequately yearly progress under NCLB, for here it's standards, assessments, and accountability system.*

- Is there anything within that sentence that prohibits this Committee to go into defining the standards, accountability system, assessments? *It says that the standards, assessments, and accountability system maybe defined on a national, regional, or Tribal basis as appropriate. And you should take into consideration subsection C(2) which allows tribal governing bodies or school boards to waive these definitions in part or in whole.*
- If we're going to have an impact, we need to do more than just look at regulations for the Secretary to follow. We need to look at what's good for the children and I don't think it's been good to have 23 different sets of standards across Indian Country for schools. I recognized how difficult it would be to work on a common set of standards that we would agree or disagree or can live with that will affect all of our schools. Certainly Tribes can decide through the waiver process what they do or do not like of what this Committee creates but when I apply to be a part of this Committee, it wasn't just to write regulations. *This Committee can come up with recommendations outside of the rule and include in the report that you will be ultimately writing that encompasses the recommendations. The main task is to write these regulations.*
- Everything here is in advisory and is a recommendation. Are we prohibited by this law to also make recommendations on standards, accountability systems and assessments? *You can make recommendations but the task of this Committee is finite; to focus on the regulations.*
- I'm trying to understand what this law says so we can fully explore and support that. Which is why I asked Director Dearman, what is his goal? Because if the goal is to have the same standards that applies to all of their schools, aside from any waivers that our Tribes might implement, we need to step up and do that. But if we are stepping up for our children we really need to know what he is trying to accomplish. If it's just to write regulations and whose going to do the work on the standards?
- At some point I would like to have a caucus and call in a technical expert to speak to the Committee on this subject.
- If the high school chooses their assessment, say they choose ACT, but the law says there has to be standards, the validity, the reliability the vigorous, all those things have to be in

place because the law says that. If there's no accompany standards, than ACT doesn't work, that whole flexibility and option question goes away. It was part of our discussion as assessments. *There is a provision in the law that says a state can select another type of assessment. A number of states (15-20) have chosen ACT. If the Secretary chose PARCC or Smarter Balance then the Tribe could approach the Secretary for a waiver and use ACT.*

- Were back to who builds the train, it's the Secretary as we understand. But we know the Secretary is not going to do it himself. Back in 2005 the BIE was given \$10 million to do exactly this, to develop standards, assessments, and accountability workbook. It was too hard to do, the money was given back and we were thrown to the 23 states. You gave us a tool; MAPS and NWEA. You gave us an assessment that we believed and used that showed a growth model for each of our students. We have an individual education plan for every student, and what the professional development is needed for the teachers. It tells us the students weakness and their strengths. I came here to create and develop for the students, for the Native students so that our children are not labeled as failures. *This is a chance in writing these regulations on how these standards, assessments and accountability system are defined by the Secretary. There's a chance to identify a unique need for BIE and to allow for flexibility.*
- It's not realistic that \$500,000 and four meetings are going to write the standards, assessments and accountability. We have our prospective at looking at those legal terms to be able to give input. It is important to put our spin on it and what can it mean for us as educators. When those standards and assessments are developed, who will get to sit at the table and what will that look like? How can we as a Committee with our expertise impact what actually gets done? And what that will look like.
- I share the frustration. When you look at this scope and not willing to take a hard look at things like transportation, you're not willing to look at student health and wellness, you're not willing to look at weighted student units, gifted and talented funding, special education funding, facilities, access to technology, etc. I agree the plan can be in place. But if 1.5% of title funding is allotted to DPA, then there should be a formulated plan that says we're going to use these resources in a more creative beneficial way. And those core principals have to guide our direction here. Because the scope of this regulation is going to influence personnel funding moving forward. And if we can learn anything from the No Child Left Behind (NCLB) you have to look at those factors to learn from.
- At the first session we all want to be on that negotiated rulemaking committee that makes those regulations that impacts us as Bureau-funded schools, but particularly Tribal controlled. The importance of being on this committee is that we look at the regulation, the law, and we can craft the regulation that allows as much flexibility as we can for the group that comes after us to be able to allow the schools to implement those options and implement those waivers. We don't want to go back into this law and create anything that is so restrictive. We have to shift that lens from I want to be the ones drafting the standards / assessments because that's not what we are here for. I want to be the one to sit at this table to say we gave those Tribes and those Tribally controlled school boards and the BIE as much flexibility as they can have to do what those Tribes want to do within their programs. To demonstrate that there students are proficient and not in this gap.

- Since all the other states have done their plan, are the BIE schools being penalized since this law was passed in 2015 and we're just now implementing our regulation? What were some of the deadlines given to the states? Does that throw us out of some of those options like innovative assessment, pilots, and things like that? *The BIE itself is being sanctioned for missing the statutory deadline on these. As the BIE Director said, we are working the Department of Education.*

The Facilitator asked if she could test the Committee as this is critical moving forward. Is the Committee clear about your purpose as a Committee? The Committee indicated they are not clear with the purpose as a Committee. Next question, what are items the Committee needs clarification on?

Committee members had the following questions and comments on the clarity of the purpose:

- As we talk through all of this and for the Tribes that have already applied for the waivers, how does ESSA apply to those who have already applied for the waiver? *BIE is talking with those Tribes as they will have to resubmit under ESSA. If the Secretary comes up with a beautiful system that addresses all of their needs they may not need to apply for a waiver.*
- Can the Committee receive another copy of the Report Outline? *The document is located on the BIE webpage and will be sent to Committee.*
- I called for a caucus earlier with this topic I would like to defer to Dr. Bordeaux of his interpretation and perspective of this particular topic. Is that possible? Can he talk to the Committee as a whole, or do we need to go into a caucus on this point before you start into the subgroups.

Non Federal Committee Members Caucus

The non-Federal Committee members caucused with Dr. Bordeaux, without the facilitator, Federal Committee members, and members of the public to clarify the language around the interpretation of Section 1111 with the Committee.

Continuation on the Clarification on the Scope of This Committee's Charge, BIE's Authorities Under Section 1111

The Federal team and the Department of Education met while the Tribal members of the Committee caucused. The Federal team provided the following report.

Brian Quint, Attorney Advisory with the Office of the Solicitor provided an overview on the Report Outline shared with the Committee in Billings (MT), see Appendix D. The work product of the Committee under the Charter is to produce a recommendation on a rule that is submitted to the Secretary in a report that contains any other recommendations that the Committee considers appropriate. We envision the Committee to develop a report with three parts; recommendation on a rule, recommendations on definitions, and recommendations on other recommendations. This Committee could provide a lot of advice to the Secretary (reflected in the middle column) in the report that are important for the Secretary to consider in defining the standards, assessments,

and accountability system, which may include other topics created under the previous negotiated rulemaking committee (i.e., transportation, etc.). Conceptually, we need to consider the proposed rule first on how the Secretary will define the standards, assessments, and accountability system. How that rule will be implemented will be based in part of the recommendations from this Committee on the definitions; this middle part of the report. The Secretary will consider your recommendations, as well as publishing your report. There are opportunities for this Committee to have a say on specific recommendations for the definitions to be implemented by the Secretary and have a broad enough proposed rule to enable the Secretary to implement the standards, assessments, and accountability system for the BIE funded schools.

The Facilitator provided a recap – to develop recommendations on a rule, and develop recommendations regarding definitions or those things that the Committee thinks are relevant and important to include in the recommendations. The priority is the proposed rule because it enables the other part; the definitions to be implemented. The recommendations are also important because this is what the Secretary will take into consideration from this Committee as far as what specifics of these definitions should be without those actually being written into the regulation.

Steps for finalizing the proposed rule:

1. The proposed rule will be published in the Federal Register for comment and Tribal consultations to receive feedback; and
2. Based on those comments received those will be taken into consideration for the development of the final rule.

Committee members had the following questions and comments:

- If this is not already included could we get copies again, even though I know we got a copy the last time (Report Outline)? *Yes, and it's also on the website under the meeting #1materials and will be sent via email to the Committee.*
- Unless it's a firm rule that the consultation happens after the draft regulation is done, I would encourage them to consider involving Tribal leaders prior to that. Because one of the biggest objections is that we have is that we're not part of the process in developing the rule. *Yes, that part of the Administrative Procedures Act the agency will take into consideration any comments that are received in response to the proposed rule.*

Report from Tribal Committee Caucus

The Tribal Committee members heard from Dr. Bordeaux on his perspective on the process. In summary the Committee:

1. Discussed the discrepancies between Section 8204 on the process of defining standards, assessments, and accountability system, the Charter, and emphasizing the need to be vigilant to receive everyone's perspective to incorporate the entire process;
2. Discussed the law states that the Tribe or the school boards can waive. In the interest of Tribal sovereignty it's not an application for a waiver, the Tribe or the school board waives and the Secretary can only object if it doesn't meet the requirements of Section 1111;

3. Discussed communication between the Department of the Interior and the Department of Education and the Committee would like to receive Education's perspective on the process; and
4. Discussed Dr. Bordeaux to be conserved a technical expert from this point forward.

The Facilitator acknowledged the Committee's request on receiving feedback from the Department of Education and asked the Committee for consensus on - is there sufficient clarity around the purpose of your tasks as a Committee to move forward; all were in consensus. The Facilitator asked the Committee if there is no clarity as we move forward, to ensure we pause to seek clarity.

Standards Subcommittee Report

Committee member Jennifer McLeod provided the report of the Standards Subcommittee, see Appendix E. In addition to the presentation, the following points were made:

- We had comments that were directly to the standards but as far as what the law said, what are we supposed to be doing, is our work with standards strictly related to writing regulation, or did it also include definitions;
- Recommendations of a fourth requirement around Tribal civics, working with Tribes, and the need to align an assessment for the course;
- Section 1111 refers to 'public schools' and when we're referring to public schools it will be important to parse that out in the regulations, it could be a parenthetical reference of what it is but it will need to be defined; and
- Will immersion schools be held to the same standards as English? We want to look at if they're going to assessments on those languages that they omit reading/writing if no resources are available.

Committee members had the following questions and comments about the standards subcommittee report:

- In some states (i.e., New Mexico), the Bureau schools are classified as private schools. So will that be a contradiction of title funding listed as a private school? *That's another good point that we don't know, we didn't touch that one but it's a really good question.*
- I think it's an important to point in terms of 'state'. Local Tribal schools boards and Tribes that pursue a waiver; by default do they become an SEA?
- The law requires reading, math, and science, and the spirit of Tribal government. So that element and the other element (language), how would you merge language into that? Or are we not touching language? *If you look at non Tribal standards regulations, language is taught separately and has its own standards that have to be meeting in terms of fluency. This was just so they (students) understood what a Tribal nation is, and the relationships.*
- In a Tribal setting, when you say culture, history, language, religion in some settings; how do you apply that? *The subcommittee recognized there will be different interpretations in cultural processes might be different amongst Tribes and within their own communities. The subcommittee was looking at as teaching for Tribal leadership and understanding their Tribal government; more of a function of what is a Tribe, what*

makes it unique, and how you relate to the government. That would include the U.S. Constitutions where Tribes are mentioned and what does that mean. What are your rights under the U.S. Constitution, what is dual citizenship; those could all be assessed. Each Tribe will be different and each Tribal government has a unique relationship with the government. [Civic class].

- With the civic class, do you want that to be a part of the accountability system? The part in the CFR that talks about the requirement for cultural clusters (SQSS) and those types of things, is that where this class should go, or should it go into the accountability system itself? To clarify, in the CFR that says there is a requirement for a student to have specific credits in order to graduate. I'm wondering if the civic class should be a part of the graduating requirements. Or is it you want the civic class to be a part of the accountability system itself to measure how schools are doing in teaching that? *BIE indicated introducing the civic course to be included in the graduation requirements may have a cascading affect across the system. The subcommittee was thinking a Tribe could create its own waiver to say the civic class would take the place of a government or humanities required for graduation. It would not be in place of or seen as language, language could stand on its own. BIE will look at other relevant parts in the statute and its ripple effect.*
- Is the civic class just for high school? Or is there any assumption of grade levels? *The subcommittee didn't make any assumptions on grade level at this point but would like this to be included as a standard for the schools.*

Assessments Subcommittee Report

Committee member Frank No Runner provided the report of the Assessments Subcommittee, see Appendix F. In addition to the presentation, the following points were made:

- Difficult to determine an assessment for Native language as there are many different languages amongst the Tribes, as well as variation of dialects within a Tribal community; and
- Tribal Governments will/can certify who can teach the Native language and discrepancies arise as to who speaks the correct language if there are variations of dialects.

Committee members had the following questions and comments about the assessments subcommittee report:

- In regards to the science assessments it's supposed to be given once from grades 3-5, 6-9, and 10-12. We're a K-6th school and the science assessment is given at 4th grade. What responsibility do we have to ensure wherever (school) our students attend are being assessed again at 7th, 8th, or 9th grade, if the school does not do an assessment at 6th grade? *It would be the school's responsibility to ensure those students are assessed when they relocate to a new school.*
- Our school receives supplemental funding from the State of Wyoming, Department of Education. The school is not required to use the Wyoming Content of Performance Standards used for the state standards but the students will be assessed on them because the school receives supplemental funding. *There are schools in certain states receiving state funding in place of Title I funding (would be duplicate funding) and those states*

require the school to be under the state assessment to be eligible for funding. What will happen if the Bureau selects a different assessment for those schools? That option would be to request a waiver to continue to use the state assessment to be eligible for state funding.

The Facilitator asked the standards subcommittee to be aware of the proposal for Native language that needs to be addressed and the assessments subcommittee has flagged it as well, and to work with the Federal team on the appropriate place to include in the draft regulations and/or other recommendations.

Overview of BIE Assessments and Accountability System

Brian Quint, Attorney Advisor and Jeff Hamley, Bureau of Indian Education provided an overview on what BIE needs in assessments and accountability regulations. The presentation was provided to the Committee in advanced under tab 3 in their binders. See Appendix G for the presentation. In addition to the presentation, the following points were made:

- The Committee was provided a backdrop paper on multiple interim assessments. See BIE webpage to view ‘ASR ESSA Interim Considerations’ pdf document;
- To clarify ‘out-of-grade content’ – if a 4th grade student is reading at 7th grade level the test adapts to the students ability level to provide a true reading;
- English language proficiency has become an indicator in ESSA and is elevated. The Bureau will have to move to an EL assessment because the Bureau is using the 23-states without the data. The Bureau will have to publicly report and will become an indicator for each school’s proficiency;
- With alternate assessments for students with significant cognitive disabilities there’s a 1% cap; the Bureau is well over 1% that raises questions. The Bureau may need to seek a waiver for over 1%;
- Participation requirement for testing at least 95%, the opt-out option is only a parental right; not the Tribe, the school or the Bureau;
- Under Native language assessments, what extent does this apply to BIE? And what was the Congressional intent? This may have been intended by Congress to address the 250 foreign languages spoken in public schools from various countries; and
- Long-term goals are set by data and the Bureau will need to task a [internal] group to work on setting goals. It’s based on data and what proficiencies have been made.

Committee members had the following questions and comments about the assessments and accountability system overview:

- You used the example of a 4th grader testing at a 7th grade reading level, does this allow to test a student in the 4th grade reading at a 2nd grade level? Does ESSA allow the assessment of that student not reading at the standard grade content level? *The expectation is the students are being delivered grade level content and they are held accountable to the grade level standards. The exception is with an alternative set of achievement standards for the cognitive delayed students. The students are being delivered grade level standards and they are being assessed at those standards with a*

range of difficulty and a range of content within those standards that does allow for them to dip down. It is incorrect to state a 7th grade student is tested at a 4th grade level.

- For computer adaptive test they would still have to be tied to the grade level standards. *The expectation is what standards will be delivered to that student.*
- MAPS is incorporated into BIE Tribal grant schools with a threshold of testing at 4th grade, 8th grade and 10th grade. As a Committee we can adapt that level of assessment and take the average over three years? Or is there another element for MAPS to meet that classification? *MAPS have not been peer reviewed for use.*
- In the section for testing three times a year, you can't take the top score; you have to use an average of all three? *The Committee was provided a paper for review to help answer those questions.*
- In terms of the data for the BIE strategic plan; I can see the NWEA scores are available and used for this strategic plan. I understand public schools use the same testing and helpful for students transferring in/out of public/BIE schools. The comments I have is the dynamics of those schools systems are completely different. Are you taking kids that self-disclose they are Native American? My understanding is most public schools don't ask for CDIB? Where do those numbers come from? Just a comment.
- Hypothetically speaking, if the Committee supported NWEA MAPS or something to that extent, is there an estimated cost/process/timeline if NWEA is an adequate testing system for BIE-funded schools to use/how long that would take? *The Secretary may decide based on the Committee's recommendations and Tribal consultation feedback. Within the law, it allows partnership among states. Assuming this allows the BIE to partner with a state and use that states' assessments versus spending the funds for the same system that has been created for another state. It's unknown if states can partner with Tribes.*
- Within the Oglala Sioux Tribal Council that gives a charter to the local governing elected school board; six Tribal grant schools. If American Horse School wanted to do a waiver, Little Wound, Loneman, Porcupine, and Wounded Knee didn't want to do it. As a local governing board and the waiver in place does their status change to an SEA? *The BIE is the SEA through a MOU with the Department of Education with accountability responsibilities that includes reporting to EdFacts.*
- Comment / we need to be careful of naming the assessments because we haven't named the standards.
- I understand the desire of wanting something to use for progress monitoring to show growth. For those people who are using NWEA and have a state assessment like Smarter Balance or PARCC, does that data truly indicate success on those tests? Are those aligned to common core or aligned to that assessment?
- Looking at our students with significant cognitive disabilities, I'm sure it's over 1%.
- A question as it came up in both the assessments and the accountability subcommittees, there's the language in Section 1111 on the parental opt-out; how has the opt-out option impacted participation rates in state programs? How will the Bureau schools meet this 95% participation requirement knowing we may have students opting out by parental choice? *The student is counted in the participation rate with a report of no score and impacts a school in terms of accountability but does not impact the student.*
- What are the consequences with dipping below (95% participation rate)? I saw it was a hit on the school report card? Will there be an effect on Title I funding? Any penalty?

Or is the BIE hoping to develop a school report card system? *The Department of Education is issuing guidance on this topic and the Bureau will follow up with the Committee and provide, when available.*

- To what extent, is there data available on Native languages? *The Bureau does not have the data and it will have to be looked at.*
- We're going to set long-term goals but don't have any data to know where we even are? *BIE has sample data from PARCC and Smarter Balance. BIE also has NWEA data but would have to talk with NWEA on how to make proficiency levels meaningful. BIE also has all the English, language, arts and math data from all the states but it's not comparable. It's possible to determine long-term goals with some work.*

Review and Approve Meeting 1 Summary

Meeting one summary was sent in advanced for the Committee to review and provide any edits prior to meeting two; no edits were received. The Committee was asked to review meeting one summary located under tab 4 of the binder for any edits to the content of the meeting summary.

Committee members had the following questions and comments about the meeting one summary:

- Question on page four (4), what is the difference with the text that is italicized? *The italics indicate clarification or answer to the question/comment.*
- The Committee has talked about the three categories; the regulations, definitions, and the research paper/report/recommendations; that is where a lot of these fall into. Some of them are unanswered questions at this point. *If you have unanswered questions, please help us (Federal team) to flag those questions to ensure they are memorialized as action items for the BIE to clarify/respond.*
- The question here on the last negotiated rulemaking had an opportunity to look at the factors that directly affected our schools (page 4), what does that look like? Is that just us saying these are bad within BIE that we want to improve? *If this Committee wants to make recommendations over and above writing the regulations, yes. If this Committee wants to recommend to the Department to re-engage in rulemaking on the topics that have been mentioned (i.e., transportation, student funding) can be included in the report for recommendations.*
- On page ten (10), second bullet, the term 'relevant' is still a remaining question that needs to be clarified on 'relevant' career and technical education standards. How is relevant defined? *This will be an action item for BIE to follow up with the Committee.*

The Facilitator asked for consensus among the Committee to approve the meeting one summary; all Committee members were in consensus. The meeting one summary will be marked as FINAL and will be posted on the Committee's webpage.

Call to Public for Public Comments

No members of the public had any comments at this time.

Accountability Subcommittee Report

Committee member Lora Braucher provided the Accountability Subcommittee report, see Appendix H. In addition to the presentation, the following points were made:

- In the Bureau system, there may be a school with only 25-50 students compared to another school with 400 students, can you have an N-size on a sliding scale based on the number of students since Bureau schools are so different;
- More information and suggestions on the SQSS indicator; school climate, attendance, post-secondary readiness and can you have a different one for each group. An elementary school SQSS differ from the high school in the same accountability system;
- Equal access to all students across Indian country and the importance of “why” there is a need for the same set of standards, assessments, and accountability system across the Bureau; regardless of the uniqueness of our Tribal cultural it still can be accommodated and taught within that standard versus creating a specific standard; and
- Look at state plans for recommendations on an accountability system and pull together additional information for a creation of a plan on indicators and weighting for recommendations.

Committee member had the following question/comment about the accountability subcommittee report:

- The N-size, is that for the whole BIE system versus the school? *N-size applies to the Bureau. The state sets the N-size and for the four subgroups.*

The Facilitator reminded the Committee of the N-size document shared in advanced and placed within their binders for additional information. The document “Best Practices N-Size – 2017147” can also be found on the BIE webpage.

Waivers Subcommittee Report

Committee member Charles Cuny Jr., provided the report of the Waivers Subcommittee report, see Appendix I. In addition to the presentation, the following points were made:

- There should be a level of customer service (technical assistance) received from the Bureau and the Department of Education as part of their government-to-government relationship with Tribes seeking a waiver;
- Under a Tribe that may have different governing boards, the authority to waive could be left open unless there are other legal opinions;
- With a waiver, a response should be provided within a fair amount of time and provisions put into place to allow the waiver to move forward until the full waiver is complete;
- Who will put together the waiver template and checklist for the Tribes to streamline the process; and
- It is critical for technical assistance to be defined; whether it’s an annual budget, an initiative over a course of time, a shared responsibility between BIE and Department of Education, and when it’s approved and who authorizes it.

Committee members had the following questions and comments about the waivers subcommittee report:

- I share many concerns that are addressed in the report, the Department of Education and Department of the Interior is not granting the waiver, the Tribe or the school board waives. And they (Department of Education and the Department of the Interior) have only to determine if your plan is inappropriate under Section 1111. I'm suggesting that they have X number of days; if the Tribe is only provided 60-days to submit a plan, give the Secretary's 60-days to approve, and if there is no response, then the waiver will be automatically approved. This is all under Tribal sovereignty and we need to get away from the notion of asking the government. One additional item to add is the Tribes are held harmless under the waiver system.
- When you read it I'm concern of the 60-days option. The absence of an approval or response from anyone is the indication to move forward and approved. The 60-days have to be reciprocal on both sides; the plan submitted in 60-days and the plan has been found appropriate. The 60-days do not allow input from our own stakeholders. On the technical assistance the wording on fair and equitable, how can we ensure the resources allocated to the Tribe are fair and equitable if there is more than one Tribe going through the waiver process?
- How long of a time frame did Department of Education had to respond to the submission of the state plan? *The question will be made into an action item for follow up to the Committee.*
- To clarify, there are a number of ways a Tribally controlled school grant can be approved. Both the Tribally controlled school act mentions several ways that an application can be submitted; one is through a Tribe and the other is through a Tribal organization. The issue of who actually has authority to submit a waiver, it would be very fact specific; it's not one thing or the other. Also, the 60-day timeline for submission of an alternate proposal, that's banked into the statute. But in the existing regulations under NCLB, in the technical assistance section there is a suggestion that technical assistance should come before a waiver so there is time build in to work on it.
- Listening to Director Dearman, there are 23 states servicing 64 reservations and with a little math, that's 1,472 possible examples of how a waiver could look. When you ask about resources, the states are allotted 1.5% of this funding; I don't think their budget is going to factor in that level of technical assistance. I hope there can be specific language within the regulations to define how that is calculated. The resources behind it should be clearly defined in the regulations.
- The criticism or observation with the Bureau not providing adequate technical assistance has been noted. The Bureau has started memorializing what type of technical assistance has been provided in the last two years as the inquiries have been increasing.
- Need clarification – Navajo was told to re-do the waiver as it's not under ESSA, and now you were saying the waiver was approved and signed by both Secretary's. Which is it? *It is both, the waiver was approved and the approval letter was submitted under the NCLB. The Bureau is talking with Navajo to begin discussion on what is in their current plan, what is proposed in the phase two and how it overlaps with ESSA. This is a beginning in a series of meetings between BIE, Navajo Nation and Department of Education.*

- There's not enough time in the 60-days to gather information from the constituents and that is where the problem is with Navajo and their waiver. The school boards are saying they have not seen the plan; a storm is coming but it hasn't happened yet. The constituents, we the school boards have not seen the total plan and caught in a dilemma. *The waiver for Navajo Nation and Miccosukee has been provided to the waivers subcommittee. The process for stakeholder input is important in the waiver process and determining when it should happen.*
- If Navajo or Miccosukee had the plan approved under NCLB, do they default back to their plan until something new has been approved under ESSA? *Yes, they will revert back to their approved plan.*
- As a Tribal governing body, I wouldn't waive anything until there is something to take its place. As a responsible government I wouldn't put my school in a situation where we didn't already have community input. It's written in statute and you can't change that but there might be in the regulations for a way to say that if a response is submitted it doesn't mean the whole application has to be, but to find a path so that Tribes are not held in violation of that 60-days. We could also write they are held harmless until the process is complete, to avoid a punitive situation and difficult to manage. The Tribe or governing authority that does the waiver and the Secretary is only looking to see if the plan is inappropriate, does that mean there is going to be a different set of letters and checklist that you will have to only determine if the plan is inappropriate? *Under necessity there will be a number of different ways of responding to a request for a waiver as it can be in part or in whole.*
- It's not a request for a waiver. The Tribe or the governing authority has waived and they are sending you a plan for you to determine if it's inappropriate with Section 1111. That is the only criteria you have to look at; is it appropriate, does it comply with this law, and if it does you have to concur that it meets the requirements,. *A process clarification – the Tribe thinks this section of the assessments is inappropriate for our Tribe for the following reasons via a Tribal resolution that goes to Interior and in the 60-days Interior has it the Tribe has worked on their alternative plan. And it's that plan Interior has to review, work with the Tribe for technical assistance and concurs with the plan and says the Interior is going to move it forward to the Department of Education to say they concur it aligns with Section 1111; it's looking at the plan.*
- It's not granting of a waiver, it's looking at the plan. The Tribe shall be held harmless unless you determine that it's not appropriate. "The Secretary of the Interior and the Secretary shall approve such standards, assessments, and accountability system unless the Secretary determines that the standards, assessments, and accountability system do not meet the requirements of Section 1111." That means unless you find it deficient you have to approve it. My biggest thrust is to make a point for everybody here that you don't ask for permission for a waiver, you (Tribal governing body or school board) waive it. The first sentence reads "The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive"; it doesn't say the Secretary waives.
- Our Tribe submitted a resolution to waive the state standards and assessments, and create our own. The resolution to waive was sent in and has been there for 60-days and 2-years. The Tribe waived the South Dakota standards and assessment, we sent it forward, we were told it was approved, and then we move forward and worked with the Department

of Education and BIE with technical assistance to do what we need to do to get our accountability workbook put together. This is where all the experts came in or else they would have said no, Oglala you are not allowed to waive this. What was said is how we followed the whole process. I've asked BIE and they said yes, yours is in the works with the Department of Education. I've talked to Department of Education and said yes were going to start technical assistance. Then I asked is it waived or not waived; yes it's waived. I do agree we need to get the regulations done. We were advised we had to wait for the negotiated rulemaking and then we meet with the Department of Education and basically said, no you don't have to wait because you're a treaty Tribal school, your Tribe is wavering you not a BIE school who has to wait for the negotiated rulemaking. *This conversation is productive beyond the point of clarifying that in the Section 8204(c)(2) "The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole" the initiating waiver is coming from the Tribe or the school board. There is concurrence on that language.*

- A BIE funded school doesn't have a school board they have an advisory board correct. *Yes, I think that is part of the piece around a "school board of a school funded by the Bureau of Indian Affairs."*
- In the regulations we need to be really specific to avoid this conversation happening every single time someone wants to do a waiver. A few things, one a stakeholder input being in 60-days, whoever is approving that waiver would have the information before they would be approving it. It might be worth taking some of the language from the P.L. 100-297 process where it indicates multiple specific timelines not just for the submission of the application but also hearing back from the Feds, and if it's not approved another timeline in which the Tribe can reconcile with technical assistance from the BIE. *To clarify, that is something the waiver subcommittee is working on to add language of a set of mutual expectation amongst the requested Tribe and the responding government officials.*
- My question is more on the structure of the SOL being a part of the negotiated rulemaking. The process of negotiated rulemaking, is the SOL role here to make sure we are following the policies and procedures and give his legal determination/opinion at certain areas? And as a Committee do we have the ability to say this is a particular point we're we disagree and we want to see a different opinion? *It's a mix of both and to remind the Committee in the operating protocols there is a description of what the legal advisor role. One of his functions is to make sure that the recommendations and draft regulations the Committee comes up with are consistent with the law. So when they are reviewed within Interior the Committee's product is supported. There are interpretations important to clarify for the regulation for SOL/BIE to understand the Tribal interest and how do we meet that within the law.*
- Hypothetically, we get the regulations written with the SOL review that we are not in violation of the law. As a Committee can we take the regulations for review by another think tank group to take a look at as ask what do they think? *As a Committee if you want additional advice as part of this process you can do that but/and remember what's going to matter is the ability for the Federal folks to make sure this holds water inside the Interior. It's a really important function.*

- That's a good point because that is why we filed an injunction against the reorganization of the BIE, we both get to have our say in the court system.
- In regards to states outside of this Committee, if the state submitted a waiver do they have timelines where they have to respond to schools that are requesting those? And how does that look for other organizations? It is unacceptable for the BIE not to respond to the schools out there. We need clear timelines.

The Facilitator summarized the important discussion, reiterating a key take away from Section 8204(c)(2) "The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive." As we look at the language and hearing the Committee, the approval is more around approving the proposed alternative definition, versus approving the waiver.

Day 1 Wrap Up

The following was summarized with the Committee at the close of the meeting:

- The Facilitator recap day-one action items;
- Committee member Jennifer McLeod provided clarification on her discussion with Director Dearman on the replacement of the Navajo Nation representatives and the alternates are for the full committee;
- One member of the public reminded all to speak louder for the public to hear in the back of the room; and
- Committee member Charles Cuny Jr., provided clarification on this letter addressing the Tribes concern with the replacement of the Navajo Nation representative.

Adjourn

Sue Bement, DFO adjourn the meeting.

Day 2, October 31, 2018

Welcome, Reflections from the Group, Confirm Today's Agenda

The DFO welcomed the Committee to day-two. The Facilitator went over the changes to the agenda for day-two, the handouts, and shared Committee member Gloria Coats-Kitsopoulos is absent due to her school receiving the 2018 Values Driven Award for Excellence for the Midwest Region for Advanced Education.

Overview of N-size

Deborah Sigman, Center on Standards and Assessment Implementation (CSAI) provided a presentation to clarify the purpose of N-size in ESSA, its relationship to reporting as well as indicators, and how states make the determination and operationalize N-size. See Appendix J for the presentation. In addition to the presentation, the following points were made:

- Two parts to minimum N-size; accountability – how many students / what is the threshold to be included in the accountability system to measure how will the schools are

performing and second is reporting out to parents, the school report card etc. Those two numbers do not have to be the same. There is flexibility;

- All the state plans provided in the N-size examples have been approved;
- The minimum N-size is not dependent on your total population. You should be selecting a minimum N-size based on the criteria in the law. The issue of how large your schools are will come into play in terms of how many schools do you want to miss in the accountability system; and
- The accountability system is to hold schools and LEA's accountable to serve every student in their schools system.

Committee members had the following questions and comments on the N-size presentation:

- Is this (state example chart) further broke down by grade level? *Yes, although some states may aggregate grade levels for minimum if they don't meet it; particularly for sciences if the school does a grade span.*
- Could you go lower than 10 (minimum N-size)? *You could; one state may have gone lower than 10 in their plan. It will be tricky in terms of statistical soundness, reliability, and think of the influence of any one student in that measure; it can be very impactful.*
- Do you know what the smallest BIE Tribal school is in terms of student enrollment? *It may be as low as 20 students (total student population) as the BIE does have many small schools.*
- Is that by grade level (SD gap vs no gap groups)? *Yes.*
- On the table with Native American schools (Arizona), are those schools listed as elementary, middle schools, high schools as individual schools? Or school districts? Is there a breakdown of BIE tribal grant schools? *Its total individual public schools in Arizona, not BIE.*
- They are saying of the population there are 74,531 as American Indian and they are looking at 2,401 schools in their state, and for an N-size of 30 and the last column of 10, that is how many schools will be excluded. *Yes and it would exclude schools, not students.*
- In those schools there are 20 or less, or 30 or less? *Less than, this is 2016/2017 data.*
- This is a state chart (Arizona), could you put those same number in for the BIE Tribal grant schools and come up with a number? *Yes it is doable and we can work with BIE for their data.*
- What is the advantage to the state in the end to have so many schools excluded (Arizona chart)? How does it help schools in their accountability model? How is this information helpful to the schools? *I don't know if there is an advantage.*
- Could a state make a determination to change their N-size to not count a certain group of people on the state data? Could it happen? *No. Example from 20 years ago: an effort to exclude English learners from taking the test and was well intended, but the students were excluded from information and being able to serve those students. It went to court and as a result a law was put into place that you could not encourage to exclude; you had to assess those students.*
- Oklahoma is right at 500 schools with a lot of small schools. Over several years the legislative body has tried to starve them out for consolidation like the neighboring state and what is being done over there. This Committee (in OK) was comprised of educators

then politicians and they want out regarding the numbers. Without schools, they have no community. Transportation is way too far to consolidate with the number of counties we have in Oklahoma.

- The state has never had enough money. I've been reading material on the N-size and we have to look at smaller numbers. I look at my own state and it's pitiful and they lowered from 40 to 30 as they are looking at how much money they're going to get.
- When a state suppresses it (AZ-Privacy slide) data, how does that impact their ability to hold the school accountable? *The school will be held accountable; they will have to have an alternate method.*
- If we reflect back on NCLB, how did you make those determinations because you were following the state? *The Bureau had a full range of N-sizes and the states determined their N-size on their schools, not the Bureau schools. It was a mismatched and a challenge.*
- For example if there was XYZ state with an N-size of 30, as an administrator of that school district we would have the data from our testing to determine what's the best route. But if you reflect back on AYP under NCLB, wasn't there a process of a school in this classification that didn't make the requirements they were under a school improvement? The administrator would have to be changed? *There were tiered level of sanctions that were supposed to occur.*
- The determination of the N-size for the Bureau schools do you think that is a critical element; if you said it was 10 its one thing, if you said it was 40 it's another, when it's applied to our schools? *Yes, N-size is critical element for any school. You want to serve the students that are in your schools. Accountability shines the light on needs. Both ESSA and ESEA are about making sure the students in every school (Bureau or public), have access and equity for those students. Rather than thinking of sanctions, think of it as interventions; looking through a different lens. The idea is the state or the system wants to identify schools that have needs; a call to action. And those needs are based on those indicators. The Bureau is unique because of small school size; you might have to consider the averaging over 3-years for some of your subgroups. There is still an all students category.*
- If I had a school of 50 students K-8, would I say I want an N-size of 5? And when you say privacy issues, 2 of the 5 students have IEP? *You will have an issue with privacy.*
- Could we commission a study to get some data specific to BIE Tribally-grant schools? *BIE will need to form a working group within the Bureau and ask Deb for her assistance.*
- In Oklahoma, they have just allowed the Freedman to be recognized and they will be in the BIE schools. Just recent, within the last 6-months or so, our Tribe recognized Freedman as citizens if they can trace back on the Dawes roll. There are several that have been able to do that and because of that they are granted citizenship entitled to scholarship money, to be a part of the BIE schools; it hasn't happen yet but it's going to happen. We do have some making applications for college scholarships and so it's happening on the secondary level as well. *The BIE will look into. In your case there may be other subgroups that you want to include.*
- For the accountability subcommittee and hearing the information on N-size, do you have an idea on what you might recommend? *I don't think we can go lower than 10 or else we will eliminate some of our schools.*

- Chemawa has students representing 73 different Tribes. *Thinking outside the box; how you can serve your students, there may not be any difference in the pattern of performance, but you could establish subgroups by Tribes, Native language or something like that. Not suggesting but saying if there's a particular interest in disaggregating more if you have the numbers, it's a possibility.*
- Is there flexibility at a school level or at a district level in a state to have different subgroups? Or is it additional subgroup in a state? *Yes, additional subgroup in a state.*
- Those on the accountability subcommittee with this information do you guys have an idea where you want to go with regards to N-size? Knowing you don't have a specific number. *We may be going up to 10 because anything bigger than that we would be excluding so many of our schools. Even at 10 we will be excluding schools but if you go below 10 we may have an issue with privacy. As for the subgroups, I think that would be interesting as far as the Tribes but I don't see it as a reality because it could be taken in a negative direction. I look at this and think we really don't have a lot of subgroups.*
- As an Administrator at our school we looked at N-size within the conversation of AYP. In the best of all worlds you want to look at accountability; are we serving the needs of our students whether there are sanctions attached to all of this. New Mexico is at 25 under NCLB; how do we navigate, how do we serve the best needs of our students and how do we stay away from sanctions. It's a tricky conversation especially when you have large subgroups, students with disabilities is a large subgroup that we all deal with. I'm fearful around the determination of N-size because sanctions are right there. *It's a cultural shift and all administrators, teachers, parents, will all be on a common ground around wanting to make sure our students succeed. You have the ability/choice to think about what are the reading, math, science standards that you want to hold your schools accountable for and you want your students to be able to know and to do. That can change the conversation about this assessment is assessing what we think our students should know and be able to do. I cannot overstate the importance in making sure that you have your academic standards in place because that's a statement to your educators, parents, and to your students about what you value and what you think is really important. Then you have measures that are going to appropriately measure those. Then you have an accountability system that says we have schools that are not appropriately serving our children to get to the point we've said we want to get them to.*
- In terms of the subgroup can we take a consensus that we can do that? Adding a subgroup to study that (N-size) as a Committee. We can write the regulations but I can't tell you have the subgroup which is going to play out in 5-years and how our community is going to look at the data. If we could utilize what we already have from the last 10-years and have a pilot project to say this is how it would look. *As an action item BIE will create a chart similar to the Arizona side for BIE schools looking at different N-size for the schools and it may contain 4 to 5 existing subgroups and to provide to the Committee.*
- The presentation given here compared to what was provided in Billings was you looked at AZ, SD, OK, key stakeholders at the table. The graph that was shown of schools being excluded / included, it would provide a better view of our Bureau schools. *BIE will work on a graph for the Committee.*
- Under NCLB where did the states put their N-size in the state plan? Can the states change it based on data and public response? What is the history of changing the number

over the time? *It's located in the accountability workbook and yes, a state can change the N-size with concurrence with the Department of Education. I would assume that will still be the case once a state plan is approved. Regulation language that ensures transparency, statistical soundness and privacy versus a recommendation of what goes into a state plan. For states, the N-size sits inside the plan.*

- In the accountability subgroup we had the same conversation about the struggle you have as a school administrator about caring for your students, accountability and wanting to make sure those needs are being met. On the other side of have restrictions or penalties put upon you because of your accountability. But we can't get better without it. We have to keep pushing the decisions that are the best for the students. *The language in ESSA is not punitive it lays out a different kind of system than what you are use to having. There is a lot more engagement with schools that are identified in terms of their ability to make choices about what they do and to think about it as a system of support as opposed to a system of sanctioned.*
- I'm so tired of our officials telling us our students are failing. What we are doing is copying external environment expectations with our children. Our children think differently, act differently, and are intelligent and can succeed. Because of the pressures from the external environment and the expectations, it causes some failures and dropouts. We do really need to change the standards because we want to show the strength of our students. Being a sovereign nation it is time to take a look at the standards and put in our own standards. Being sovereign you are given more freedom to do what you want. And I don't think we've really taken advantage of it we've always been told this is the way to do it. If you don't do it, here are the sanctions and discourages a lot of people. *Defining those standards is the first part of the charge.*
- If we do have a timeline for the workgroup (N-size), to identify the output and tasks that we want them to complete. When we're thinking of regulations we're missing what that N-number will be, we need to find what the issues will be. One thing we haven't talked about is the impact on the waiver system, if schools waive this they stand alone, what happens then; a Tribe waives the accountability system particularly for our smaller schools. What we put into the regulations around this is really important to allow schools to work around if in 7-years the N-size we choose or the accountability system is glaring not working, not just in accountability but for all the sections with this Committee thinking forward for the students. *It's not uncommon in a regulatory process to have a statement that there will be a reexamination in a particular timeframe. If you want flexibility in the regulations, you might want to think about a framework of recommendations that are more specific about operationalize the regulations. Example: you can have a broad statement on N-size including reexamination and a recommendation of what BIE to consider in the plan we recommend N-size to be X number.*
- How did the states handle the collaboration with stakeholder's engagement and how will that look like for Indian Country? If the Secretary writes the state plan how will we know that Tribes had an input and able to view before it is finalized and set to the Department of Education? *The law makes it clear there is a process to include stakeholder input. Interior will be held accountability for transparency to hold Tribal consultation and will be memorialized on the Interior's website.*

- When you talk about standards, accountability workbooks, I know there are many different accountability workbooks and some that are specific to a Tribe. It's easier to put together a culturally relevant curriculum for that specific subgroup but I can see the challenge for Chemawa Indian School where you have over 70 Tribes coming in and trying to put a standard together to meet that cultural need. But I also think the capacity to do that and the people who have been talking about that for the last 40-years whether it's ingrained in your individual Tribal cultural beliefs and building the curriculum around that. I don't think that's unrealistic and the regulations have to allow for it and the only way to be successful. *Standard is an overarching statements about what we expect our students to know and be able to do in reading, math and science. Curriculum includes the how, the materials one would use in order to teach those standards but you have more flexibility in that curriculum. If you get to that broad look around standards that may be a little less challenging. When I say standards, I'm not suggesting using a unified, or standardizing, or a uniform curriculum.*
- If you don't think the local community doesn't say that's a failing school because they're receiving a comprehensive support your wrong. They are labeled and that is a targeted support group. You can say ESSA, were supportive and just because the language has changed the belief and the perception about that school is not changed. *You can change the language but it takes a lot longer to change the culture around it. The first step is how we talk about it. Every school in the country is facing that.*
- We have the tracks we are developing which is our picture frame that we'll define the implementation parts. But within the recommendation portion of our report, there is an opportunity to influence the building of the train. And so as a Committee to not lose sight of that as we move forward.
- As we go through this process and making recommendations, we would hopefully have some input and impact on those recommendations into the plan itself. The recommendations that come from the subcommittees would then still be agreed upon by the whole group? *Yes.*
- What I like about of putting into the regulations is the need for and the call for the review of the plan at a certain timeframe. And even having the opportunity for that stakeholder input upon a review.
- I'm sensitive to how labels are attached to Tribal schools and underachieving schools. To have that cultural change it has to start at the top with the law, with the restricting of the sanctions and turning it around so when any school is in that vulnerable position as a cry for help, instead they are being punished. *Look at this as an opportunity to provide additional support to those schools.*
- In our community we do have both the BIE and the state school, and serving both students. Our schools were both labeled as poorly performing schools and it became a label. The public school received state support and through the years they have made tremendous gains and have become one of the top schools in the state for their K-8 program under ESSA with recognition by the state. The change had to come from the top but it also had to be supported at the local level for those changes to happen. We've seen our (BIE) school lose our higher performing students to the public school because they started to receive more support. We've been on the new school construction list for so long that any upgrades we try to do to our technology system is throwing the money

away. How many times do we vocalize our needs, we come to the table and we are not heard, and maybe now we are going to have these changes.

Overview of BIE Waivers

Brian Quint, Attorney Advisory and Jeffrey Hamley, Bureau of Indian Education provided an overview of what BIE needs in waivers regulations. The presentation referenced Section 8204 (tab 9) and the draft Part 30 side-by-side in the Committee's book. In addition to the presentation, the following points were made:

- A discussion occurred in the waiver's subcommittee of a checklist to be included in the regulation of what could be in an alternative proposal. In NCLB, there was a checklist. However in ESSA, there are many possibilities of what can be waived as it's very broad;
- Under NCLB the BIE developed internal guidelines on technical assistance for alternative accountability systems and how Tribes can seek a waiver, and can develop materials under ESSA; and
- The current Part 30 was too sparse and lack information.

Committee members had the following questions and comments on the statute in reference to waivers presentation:

- I want to go back to the law and clarify at the point that a Tribe or a school board does the waiver process it's not an intention to waive, it is waived. I don't want anyone to think that portion of it is still conditional, it's done. At that point, the Secretary will go through and either concur or state that it is not consistent. A simple checklist as you go line by line of the plan that's been submitted, it's yes or no; is it consistent or isn't. Then the negotiation goes back and forth and technical assistance to help the Tribe(s) to bring it into compliance. Once a Tribe decides that the waiver is not going to say we are waiving this inconsistent with Section 1111. I don't think it should be an approval, it's not an approval, it's a concurrence to agree it meets the test of the law or it does not and then you identify what that is and help them fix it. I'm trying to break old habits that we are seeking a waiver and when we have words of intention to waive. I'm going to continue to be the watchdog and look out for that wording because if we allow those types of phrases to stand it becomes how we think, we need to think differently. In the spirit of true partnership and helping Tribal schools if in your expertise you identify something that is non-compliant, and you find a thought/something that would help the Tribe would welcome those thoughts, this would naturally evolve from a true partnership, but the actual process is yes or no and technical assistance.
- I'm trying to keep in mind were not doing sanctions, its interventions. This section we were given the hard copy that's on the Bureau website with the draft regulations? Those are available for the public? *Yes.* The draft proposed, who actually wrote those? *A group of BIE and SOL drafted the regulations for the Committee to look at as a model. The draft was not intended to be a final product.*
- My understanding in Billings (MT) we were waiting on a checklist from the Department of Education. So were saying we don't want to put that checklist into the law but are we going to write some level of what a waiver should include? *Under NCLB there was a*

checklist (template) used as a tool for Tribes to use to waive. BIE is in the process to create a checklist that conforms to ESSA.

- Will the Department of Education be able to speak to the Committee on their perspective of their expectations to the Committee to build capacity between Ed, Interior and Tribes? It would be helpful for the entire Committee to hear. *The Facilitator asked the full Committee if it would be helpful to hear from the Department of Education on what they are looking for when reviewing on an alternative proposed definition; all were in consensus.*
- I echo the suggestion of having a larger perspective for the entire Committee because I was at the Washington meeting. We had three officials there and as a Tribal leadership Congress we were asking how do we go about the waiver process? The response was we're not sure because it falls under the Federal government. And the BIE said were not sure because it falls under the Department of Education. And the Department of Education wasn't sure because there wasn't an answer from the BIE. It is important for clarity and to go back to what was said about partnership, it really hits at the purpose of our work together collaboratively to serve our Native children; a partnership not compliance or oversight. And that partnership is something I would like to see replicated here in some manner. As were considering the waiver that must be the approach with definitive timelines for our Tribal schools, Nations and the process so it's clear.
- The question is what are governing Tribes or school boards waiving? The current Secretary definition is in the old Part 30 that the Committee is revising. That's all that can be waived. The Secretary will not have a new system until this Committee completes the work and the Secretary memorializes what his new system will be. Right now a Tribe is waiving the state system and not ESSA. Technically the Bureau is still under the AYP regulations until this group changes those regulations. Under NCLB the BIE had clear checklist and were hoping to get there for ESSA. And folks would like to see the checklist sooner than later and the Bureau will discuss with the Department of Education on this topic.
- What we are interested in right now is this parallel track here as Tribally controlled schools we want to draft the regulations to ensure we can submit waivers and at the same time what is this checklist and once the regulation have been vetted though it's process, then how can we be ready to jump into the conversation of waivers. Going back to the resource allocation the 1.5% of the funds, how much is that actually? If I want to begin the process immediately, I want to know how much money I have on the table so I can begin this process. What are we actually looking at in terms of the resources here (for technical assistance)? *The 1.5% funds do not support the waiver; those are administrative funds and a breakdown will be provided to the Committee.*
- I'm reiterating the point in section 30.102 in the current regulations, 'the Act requires the Secretary to develop and define of AYP through negotiated rulemaking...' The draft says "The Act requires the Secretary to define standards, assessments, and accountability system consistent with section 1111 of the Act for schools on a national, regional, or tribal basis as appropriate." When I read that, the full scope of negotiated rulemaking was applied a certain way with NCLB and this current draft kind of says we'll leave that up to the Secretary.

- You asked a very interesting question, what are they waiving? When I look at it, it says they will be waiving any of the requirements in paragraph one and what those are, the Secretary's definitions of the standards, assessments, and accountability systems. Let's say a Tribe wanted their children to be sent to a credit bearing university but they've decided they want to prepare them for a career in animal farming. The Tribe goes through and looks at all the definitions and say this isn't relevant to what we want our children to do, etc. That is what they will be waiving. If their plans for their children under Section 1111 because they have the option of credit bearing university or career or technical and they decided they wanted classes that they've created for their own needs at the direction of the Tribe. Under what circumstances would a Tribe or school board request a waiver, to accomplish what? It could be a Tribe wants to exercise their sovereignty and say we are waiving this even though they've adopted every single thing that's there. That's still their right to do.
- Once the alternative is approved by the Secretary, what happens further down the line if there are changes made? 8-years later they change their assessment model, does that have to be resubmitted? And if so, is that identified? *At any point the Tribe can reconsider what's in it and be looking at what they've done and how it works. Just like the states, they would do a revision and submit.*
- In the statute I don't see anything that identifies a time frame of how long a waiver is in effect for X many years. My assumption, once a Tribe has an approved standards, assessments, and accountability system, that's its approved with no timeline on it until the next amendment to ESEA. *It's until the state decides to revise and resubmit to the Department of Education it's in effect.*
- You spoke of the intent if there are changes it would be resubmitted. Is there some sort of regulation around that or is that in the statute that were missing? If changes are made at some point it needs to be resubmitted. If that is the intent of the Committee it would be important to have some regulations around what is considered a change, what triggers that, what's the process for that as it could cause some issues. Especially with so many Tribes doing this for the first time. *If there are dramatic changes, it will need to be resubmitted. Indirectly it's in the statute; to be consistent with Section 1111.*
- The BIE Director spoke to the Committee with the message of, it's up to you guys, were hoping for the best, and good luck were excited about it. If our recommendations hold water, it's going to make it over to the Department of Education and they're going to say OK.
- We've talked about the clarification of Tribes and school boards that really needs to be looked at on how they govern themselves internally, it needs to be clear.
- I'm still stuck on the question from day-one where it was said the waiver; is there a definition, are we defining it, are we developing it? That was my question that really didn't get answered. *As long as it's clarification on the existing law and BIE agrees there is a need for clarification for defining waivers.*
- For example, if a Tribe got approval for a waiver, can we come to the table and ask for Tribal consultation from the Department of Education because we feel like the administrative support of 1.5% should be 638 directly to our Tribe? If a Tribe really went down the road in the waiver process you could almost argue if they choose a waiver, they probably should be entitled to a certain level of that 1.5% administrative

funding that is an agreement between the Department of Education and Interior. But those funds are directly related to individual Native American students. *The 638 process is with Interior. There are certain things a Tribe can 638. BIE would have to defer to other Attorneys in Interior that specialized on 638.*

Subcommittee Meetings

The Facilitator went over the tasks for each subcommittee and where they will meet for the afternoon. Members of the public were welcome to observe.

Call to Public for Public Comments

No members of the public had any comments at this time.

Adjourn

Sue Bement, DFO adjourn the meeting.

Non Federal Committee Members Caucus

Non Federal Committee members caucused with Dr. Bordeaux, without the facilitators and Federal Committee members.

Day 3, November 1, 2018

Welcome, Reflections from the Group, Confirm Today's Agenda

Sue Bement, DFO welcomed the Committee to day-three. The Facilitator went over the changes to the agenda for day-three and the handouts.

Standards Subcommittee Report

Committee member Michael Dabrieo provided an overview of the subcommittee's work on the draft Part 30 side-by-side went through each section to make appropriate changes, added recommendations and additional questions. The standards subcommittee's work is reflected in Appendix K in the draft Part 30 side-by-side. In addition to the presentation, the following points were made:

- In 8204 the threshold for assurance for Tribes to have alternative standards is different than what states have to do. In Section 1111, all states had to submit an assurance that standards, assessments, and accountability system that meets the requirements of Section 1111. But within 8204 there are added items a Tribal governing board has to do to submit to the Secretary of the Interior that the Secretary of the Interior does not need to submit to the Secretary of Education, more for Interior's knowledge that it's happening;
- Changing 'Indian Education Plan' to just 'Education Plan';
- Didn't understand the purpose of the language around "National, regional, or tribal basis"; and

- Graduation requirements are defined by a different Act and would be good to review that Act as well on the influence it would have on this work as well as what that means when the standards are developed.

Committee members had the following questions and comments on the standards subcommittee's work:

- [Referencing 30-102] An assurance is generally government. An assurance is listed with all the statutory requirements as to why the assurance is being requested. Are you asking the Secretary to sign an assurance sheet? Do you see a form that the Secretary will sign? *If you look at Section 1111 which requires states must submit an assurance. In no way the Secretary of Education ask for evidence of standards, assessments, and accountability; it's an assurance. The Secretary of the Interior would not submit those things to the Secretary of Education, there submitting an assurance that the BIE has done that. The form would be in the form acceptable that the states have provided should be parallel to the Secretary. The law doesn't say the state to submit a state plan, it will submit an assurance. The intent is to keep the responsibilities of the Secretary as close to those that required of states.*
- I'm looking at the questions NIEA provided in terms of opportunities and consideration, have you looked at those? Can we go through them? *No as they were received late in day-two.*
 - First line item of consideration is adding subsections for defining standards, defining assessments, and defining accountability to ensure each term is fully defined. *My question is does that happen now, within each subsection and would have to refer back to Section 1111 to see what is defined in there?*
- In the waiver subcommittee we made a note which was within the 60-days of the decision. The question was raised, who's decision and in what form? It became a rhetorical question. I'm wondering if this was a question in your subcommittee.
- In section 102, about the contract going to the Tribes or school boards. The subcommittee recommends changes to read 'through a contract to a tribal governing body or authorized school board that has notified the Secretary of a waiver.' *From the original text of '...school board that seeks a waiver' changed to '...authorized school board that has notified the Secretary of a waiver.'*
- The BIE had a working group to develop the draft regulations. One of the ideas was to put the state plan into law. And this came up at the last meeting in Billings where a Committee member asked, what is the legal authority for the Bureau to do a state plan? And I responded there is no legal authority. ESSA requirement for a state to do a state plan; the BIE is not a state and it does not apply to the Bureau so there is no legal authority. But by putting it in regulation it creates a legal authority. I'm opposed to putting any reference to state plan/education plan in law. I think it's a policy decision and within Interior there is a process to create policy. I'm going against my workgroup of putting state plan into the regulation.
- What is the difference between regulation and law? It's my understanding we are writing regulation, not necessarily the law like 1111. So putting it in the regulation when they mention an education plan I don't understand how that puts it into law it isn't able to be changed when regulations and processes can be changed? Does it require confirmation

of Congress? Who approves the regulation? Say 10-years down the line we want to change that we would go through a simple process than having a giant change done by Congress? *Regulations have the same effect as law. To make changes you would have to go through the rulemaking process again which is time consuming and expensive.*

- I meet with the BIE Director a year ago and ask if they were going to follow the restructuring plan? And he replied yes, we got to see how it works. So if this goes into effect and we say this doesn't work in our part of the country and we want more technical assistance that's going to be a long process, right? To say it doesn't work and we want to do it in a different way. Across all the regulations there's the term "define" and "develop" and in this context of the wording to be broad this is the general scope of what we are trying to do here and we don't want to constrain individual Tribes to implement it. There are key terms and certain sections that need to be explicit if we're going to define things and were going to allow for the development of how it plays out. Can we say this is a bad plan and we need to reconvene in 3-years?
- Can you put into regulation a process by which there is stakeholder and Tribal input, or a review of a plan? The Secretary puts in a plan that doesn't work that nobody is happy with. Are they going to have to live with that for 10-years or to the next negotiated rulemaking? Can a mechanism or verbiage be included about a periodic review or a timeframe of a review of such plan and to ensure that there is meaningful Tribal input into that review? I'm talking about the whole package that the Secretary has the power/authority to create. The concern is if Tribes think it's a horrible thing or all this dissent with it, you're going to have waiver after waiver after waiver. When there shouldn't be waiver after waiver after waiver. Is the plan ineffective? Just the transparency and the allowance and provision for that input and review is something that really needs to be considered. *State plans do change in response to feedback. They rewrite their consolidated application that's published on the website, some states rewrite them every other year based on how it's working and feedback. The Tribes have a lot more power than the government. That is a good question, what is the avenue for the Secretary to change the plan and how do states do it? Currently, the plan has been out for stakeholder input minus the Secretary's standards, assessments and accountability system and it's also scheduled to be co-consulted with the proposed rule. Maybe when the Secretary defines the standards, assessments, and accountability system, it's put into the whole plan that additional consultation would need to occur.*
- I still want to address the plan. My participation is based on two levels of experience, one as a Tribal leader and looking out for the good of Tribal nations, and the other as an educator of being in the classroom and knowing what worked and what didn't. As an educator I believe in plans. The other part of me as a Tribal leader I'm looking at this whole thing from the BIE as a treaty right. The waiver process that the Tribes have that's delineated in this law goes back to waiving these regulations as well. It doesn't say you can only waive the standards and the accountability systems, it says 'may waive' anything that is mentioned in paragraph one. And that includes development of these regulations and if the regulations say developing a plan the Tribe can waive that as well. The other part of me agrees with what you're saying about having a really good plan that everybody can align with unless there are other needs they have. The Tribal leader in me says own it, it's yours. And I see the BIE as that part of the Federal government that's

responsible for fulfilling the treaty obligation which includes technical assistance. I want everyone to understand those unique perspectives because that's what makes us unique. And you're right, Tribes do have a lot of power and we need to understand that because for so many years we have not because we didn't have the education to understand what the treaty law meant.

- The verbiage was already there about providing technical assistance for Tribes or school boards, has there been any conversation about how that could be conflicting? If there's internal conflict between a Tribe and a school board both want technical assistance. Would that be a conflict? *The legal obligation from the Bureau of Indian Education is to the Tribe. We could insert 'authorization' with school board.*
- The graduation requirements are outlined in the CFR 36.2. That may be something in our recommendation of a review of that if we are going to one system that what we're doing here and the plan aligns we need the graduation requirements to align as well.
- As a Committee, we've never asked ourselves if we want a common plan and would like to discuss.
- Do we want a common set of standards; I would say yes, it's better than what we got now. I'm not familiar with the standards outside of two states but a common set of standards would be much better than what we have; we could do much better. We can make it generic enough for Native Americans to allow room for fine tuning it to our specific culture and languages.

The Facilitator asked the Committee, is there support for a uniform set of standards in the regulations; the committee is in consensus for a uniform set of standards.

The next question asked of the Committee, do we want a plan in the regulation. The Committee had the following questions and comments on the question.

- I want a plan. I want them [BIE] to offer up what they are going to do to fulfill the treaty obligations. It doesn't say once the plan is made it can never be changed, in fact it says they have to review and revise. Regulations go both ways and we can craft this regulations so it's good for Tribes to hold them accountable for creating a plan.
- I don't know if the specific of the plan need to be in the regulations but the plan does need to be in there. We have to hold people accountable for creating a plan that is communicated and has stakeholder input. My question is there a Department of Education requirement for state plan review and revision? Do they have a set timeframe like every 3-year the state must revise? *States change their plan as needed and there are no requirements to go through an approval process again.*
- I want to understand the difference between of not wanting the plan listed in the regulation; can you clarify your ideas on that? *The Bureau does not have statutory authority to have a state plan so why would we put into regulation. As far as needing a plan, BIE agrees. It was left to the Secretary as to what form that will take and in this case we are saying the BIE needs a parallel thing to say the Secretary of the Interior will define what that plan is and how it will be reviewed; parallel of what the states are doing on an education plan. The term 'education plan' needs to be clearly identified with a few more words that we need to identify.*

- To clarify on one point, Section 1111 describes the requirements the states had to fulfill in order to receive ESEA Title I funding. The Department of the Interior has a different set of statutes under 8204; not everything in Section 1111 that applies to states, applies to the BIE and one of those is the state plan. The BIE is not required to have a state plan. To the question on is there anything in the statute on periodic review, on footnote seven (7) ‘each state plan shall remain in effect for the duration of the state’s participation and be periodically reviewed and revised as necessary. I believe the Department of Education regulation that was vetoed in January 2017; they recommended every 5-years (review and revise).
- The subcommittee did notice the footnote but we were pushing for is that it’s just not the state educational agency; its expanded if we keep the plan if we keep regulations around revision I would urge the Committee to put a mechanism in for Tribes to come together in a timeframe to trigger a review process on their own that the Secretary would have to follow. I don’t know if NCLB had a revising process in it; nothing changed it was a mess for X amount of years.
- It’s good that we require a plan. I don’t see anything in here that requires the plan to be submitted to the Secretary of the Department of Education. BIE needs a plan, I don’t see they should have to have it written into these regulations that make them accountable because the Secretary of Education says they don’t have to have an equivalent of a state plan and submitted along those same processes. It’s already been like a set aside. But I think the requirement for the Bureau to have a plan should still be in there (regulation).

The Facilitator restated the Committee does not have consensus on state plan (using language for the moment) knowing it’s focused on BIE. The task for the standards subcommittee is for BIE to consult internally on revisions shared in the draft regulations and report back to the subcommittee with understanding their interest where the BIE can meet those interests and where the hurdles to sort through. The next call is scheduled on November 14.

The next task is to sort through state plan; what could be in regulation, what it will be called and if it’s not in regulation, where else would it and could it be. The Committee agreed to create an ad hoc subcommittee on the ‘state’ plan; all were in consensus with the following members: Jeff, Sherry, Rick, Lucinda, Lora, and Amy. The subcommittee will bring back information at the December’s meeting.

Waivers Subcommittee Report

Committee members Charles Cuny Jr. and Amy McFarland provided an overview of the waiver process based on a flow chart process, see Appendix L. In addition to the presentation, the following points were made:

- Change to tone of asking for a waiver to a submission of a waiver;
- Design language in the regulation for reciprocal accountability between the two agencies for a descriptive pathway to ensure the Tribe/school board to follow with government acknowledgement, feedback, and technical assistance through the process;

- The remaining items the subcommittee needs to continue its work on is; a definition of what technical assistance looks like within each of the areas and what those options might be; and
- An example of a conversation was, if the Navajo Nation has an alternative plan, that is half the Native American students in the US, and are they going to say they need half the resources to develop their accountability system? Will the technical assistance be equally available for all Tribes?
- When considering an alternate definition for assessments as an example, looking at funding sources, is it a per pupil allocation that already exist in the current pot of funds that gets reallocated for that Tribe to be used in different way; not additional funding but funding in a flexible manner; and
- How the waiver process is funded opens up many more questions to support the Native American students.

Committee members had the following questions and comments on the waiver process flowchart:

- I appreciate the timelines for the waiver understanding that there are roles and adding in what happens after that. I think that adding that were not seeking approval, it's the BIE supporting a Tribe to get to this point. It might be important to adding if the proposal requires a revision that the timeline keeps on going, 30-days, 30-days, until approved.
- Add if no response, proposal takes effect without any revisions required. It's not like they can come back a year later and say you need to revise this.
- I would like to see somewhere in here that Tribes are held harmless throughout this whole process, that funds are not withheld, there's no punishment, no sanctions. Don't hold up the funding because they don't agree on one thing. *All the schools have signed assurances regarding the funds they've received. I'm not sure how that fits in with all the assurances that have already been signed.*
- At the time a Tribe waives, that first assurance needs to be set aside and another type of status then. *Those assurances have gone through consultation. There would have to be a process thought out in the context of the assurance they have already signed.*
- Important to have some time lines because when you don't things just sit forever. There should be a process that doesn't hold some Tribes back as were waiting on other people. I realize the complicated relationship of having to forward things through several layers before action can be taken but it needs to be clear in the process so that people don't feel like they are being ignored.
- When I think about the waiver, respecting the solicitor's opinion with the process but also to get other legal opinions to support the perspective of the Tribal grant schools. It's important to try to put in every level of flexibility for the individual Tribes in the waiver process.
- Would like to unpack everything that can be waived and having some sort of checklist. I know it refers to Section 1111, may be this is a recommendation and not in the regulations but to be really clear for the Tribes; these are the specific opportunities you have and what you can opt-out of.
- Having a clear line of what paragraph one of accountability states and a simple list of that would be helpful. If we look at this, it looks like everything is up; the regulations and

definitions can be waived by Tribes. Maybe there's another step that can be done that once a Tribe submits a plan and there is one item that is not exactly in alignment with Section 1111 the Bureau concurs with the plan with the exception of the one item, and then work on it. Rather than making it all or nothing and establish a timeline for working on it.

- BIE agrees to have clarity on what a Tribe can waive. Will need to develop another workbook to be able to have clarity on what items can be waived around ESSA. A clear checklist and a process need to be defined.
- One item to flag with the flowchart is the regulation is with the Department of the Interior and I don't believe this process can regulate and put a timeline with the Department of Education. But the Department of Interior and the Department of Education can agree to a timeline.
- Where does this say in the waiver part that it has to be submitted to the Secretary of Education? *The alternative definition proposal has to be approved by both Education and Interior.*
- The subcommittee's thought process was that they (Interior and Education) both got it at the same time at least they would be aware of it.
- Is there any relationship with this whole process you see the MOU/MOA with Interior and Department of Education, do you think that has to be revamp if half the Tribes goes with a waiver? *No, the MOU is only between the Department of Interior and the Department of Education on how the Interior is going to use funds.*
- Say Navajo Nation goes with a waiver they represent half of the students that are funded under BIE. If I were the Navajo superintendent I would say should we get half that money for admin costs for our admin cost for administrating. *A larger question is as we think about this being implemented, how is funding for technical assistance for alternative proposed definitions, how is that allocated amongst requesting Tribes? There needs to be certainty and assurance around technical assistance.*
- The Committee can not commit the United States government to a particular amount of funds. The statute talks about providing technical assistance either directly or through a contract, it's not discussing a particular method.
- Congress and both the 25 CFR 30 existing are silent on the whole funding issue, it says the Bureau will provide for technical assistance. The position of the BIE is that they will provide technical assistance to the Tribes.
- This is part of the issue with 8204. This idea of its beyond our scope of work we can't talk about it is incorrect. We have a right to make recommendations on things whether it on increasing funding. Limited us to that scope when it's very much directly connected to what we're doing is disingenuous to what we're trying to do. It's my understanding we can make recommendations if they increase funding, provide opportunity through a TED grant that the BIE has done before, it's well within our scope. It goes back to the issue of 8204 were Tribes do have a higher level than states do in regards to going to these alternative standards, assessments, and accountability systems. States just have to submit an assurance and for some reason we have to be approved, not by one Secretary but by two Secretaries [Interior / Education]. That is a major point of concern and a key point that we are all circling around that's an issue.

- The regulation for waiver does already obligate the Secretary for the Interior and that approval is triggered by the findings of the Secretary. If the Secretary finds that the Tribes submitted a plan is in compliance, it says the Secretary shall; both Secretaries' shall approve it. If there's no compliance issues it shouldn't be a problem that it should be a routine thing that the Secretary issues a letter to the Secretary of the Interior stating that there investigation has found no compliance issues and it should trigger something that is automatically approved. However, if there is a finding that there's something that is not in compliance, the Secretary of the Interior is not obligated to concur and approve the plan. We do need to put in something in there that compels timely assistance, technical assistance to bring it into compliance. Timelines for that is not obligating the Secretary of Education either, its obligating of Secretary of the Interior to assist the Tribes because that's the charge that the Department of the Interior is giving you.
- As a Tribal grant school we've been fighting an uphill battle of 40-years of not getting adequate technical assistance. We don't try and advocate and put regulations in place for adequate technical assistance; then what's the point. It's you can do this, you can't do this.
- On the charts need clarification, is the 30-days for the negotiations refer to a deadline for it to be done or to begin or conclude? *Begin.* In general, if districts are looking for flexibility and a state sends in a waiver to the Department of Education, how long does that process take? Did they have timelines?
- The current waivers that are in place are for the process now. And when this new process begins does that mean those two tribes resubmit waivers? *Yes, they will have to submit new waivers in compliance with Section 1111.* With that in mind do they need to go through the process again of seeking the stakeholder input into the waiver process? *That is something that needs to be looked into. They should get stakeholder input.*
- Authorized local school board but what is that definition? *The Tribe is the governing body. Some Tribe through their Tribal code can authorize authority to their school board.*
- To understand and moving forward on this and how it will affect the two tribes who have already submitted plans for waivers, was the process under NCLB actually a request for a waiver from the Bureau? Or is it still that the Tribes waived and had submitted a plan? If it's still the Tribe that waives they shouldn't have to do another one of those. They should only have to resubmit a plan concurrent with the new law.

The Facilitator went over the next steps for the waivers subcommittee prior to the December meeting:

1. Revise the process based on Committee input and sent draft to BIE to provide a response on the next scheduled call; and
2. Work on the steps around technical assistance to reaffirm the key questions, and develop the next version to be shared with the full Committee in December

The Facilitator asked the Committee if the waivers subcommittee is on the right track thus far; there was no dissent on the process from the Committee.

A Committee member asked if there is a transcription of the meetings (word for word) other than the meeting summary to capture the consensus of the Committee on what was proposed/agreed upon so that 10/15-years down the line, that information will be available. Also agree that after a caucus, the consensus of the Committee be reiterated for the record. The Facilitator reminded the Committee that every decision resulting from a caucus is not agreed upon by the full Committee because some Committee members are excluded. But/and it doesn't mean those should not be memorialized. The Facilitator asked the Committee if discussions should be memorialized in Tribal caucus; all Committee members agreed. The next question asked is if there is any dissent with using the recorder in the caucus and having it transcribed; all Committee members agreed.

Non Federal Committee Members Caucus

Non Federal Committee members called a caucus to include a Federal Committee member representing a Bureau school with selected members of the public.

Assessments Subcommittee Report

Committee member Frank No Runner started off with a statement to the Committee: The schools that receive state supplement funding, is there a way that we can provide language in the regulation so the state won't have to disaggregate our data? In our state we're required to take their assessment and our data is not disaggregated by the state department of education. With accreditation every five-years for advanced education the school is required to provide data from our assessments, including the state assessment taken every year. They are looking for a comparison of that data within a district, within a state and at a national level. We had to prepare data from then and received a low rating by comparing schools in the Rocky Mountain Region. We were unable to pull data on a national level as it does not exist. The Bureau can only provide data for the last two-years but the need is for five-years. Advanced education will be back in 2020 and want to see the trend data for the last five-years. The assessments language is going to affect our school, how are we going to be able to compare data within our BIE schools? Let's find a way to use similar assessments so we can compare each other's and focus on growth.

Jeffrey Hamley, Bureau of Indian Education provided an overview of the subcommittee's work on the two-column document and went through to make appropriate changes, added recommendations and additional questions, while preserving the original comments. The assessments subcommittee's work is reflected in Appendix M. In addition to the presentation, the following points were made:

- Changing the term state to BIE and would apply to the other sections;
- There are a lot of circular references and the regulation needs to ensure those are clarified and preserve those if required;
- Native language or program was added. The biggest issue for Native language that if it's an oral language assessment has never been developed and gone through peer review;
- The BIE has two native language specialist that was created in the reorganization and \$2 million in grants have been awarded; and

- The BIE will pull guidance together on the 1% cap as there are still outstanding questions on this topic on if there are penalties, how that is factored in, etc., as people want answers. The Bureau as a whole is over the 1% cap.

Committee members had the following questions and comments on the assessments subcommittee report:

- If we move to a one standard accountability system, will the Bureau relook at the potential MOA with advanced education? *It's not based on standards or accountability system were using, it's just if the Bureau wants to enter into and SEA relationship. Advanced education has expanded their services into a new area and they are working on an SEA relationship with several states. The Bureau wanted to see how robust there school improvement initiative was. We need to get leadership on board and will be beneficial for consideration but costly.*
- Would it be appropriate for us to get consensus on the use of BIE instead of the state in the regulations? That would be something that someone could just actually go through and amend all parts?

The Facilitator asked the Committee is there consensus around replace the phrase state with BIE; the Committee was in consensus.

- As for as Ojibwa is concerned with the immersion efforts, there is both an oral approach that some elders are promoting and two that are adding the written dimension. We're getting better results with the oral approach but at some point they have to add that other dimension. I have lots of questions about that, really concerned about how our immersion schools are going to get together and work on that assessment. It's a lengthy and timely process. *The question here, when you put it in the box of accountability then its meeting a new standard and it has to meet these Federal requirements as being valid and reliable for peer review and that's the challenge.*
- Would like to echo my concern with Tribal languages in the schools and looking at the reading and writing assessments and things of that nature. Among the Ojibwa we have not agreed on how we're going to write our language and there are the dialytic differences within communities. We brought it up in the standards subcommittee and wrote in there that for immersion school purposes that we look at the standards to addressing reading and writing and how those can be accommodated for those Tribes that don't have written languages.
- If you put it into the regulation it's a sensitive subject within our Tribe with the when, how, and who should teach it? Currently in the BIE system what is the level of funding to support languages. Would your ISEP funding support it? *There is an ISEP category and was called LEP. When a school checks that a student is LEP in NASIS there is funding available. That money could be used to support Native language or to use to support English language proficiency. When you get that money your supposed to have a program to address the two different needs.*
- Some schools may use Title VI funding to supplement language which is Department of Education funding. At some point there may be a subcommittee to look over those concerns on native language / language organizations as a starting point. There's a

contract that the Bureau has with someone doing something with native language and we told them we don't want them at the schools because the level of communication was not there. That was a disrespect on our Tribes perspective. I would love to meet with them eventually but it should be approached in a different manner. I don't know if other schools will have the same contractor to evaluate their language system.

- As the Navajo Nation put their Native language program they did try to put together an oral proficiency and became a real big debate on actual conversational Navajo into 3rd grade level Navajo. It took a couple of years to finally decide how that will look and was disseminated into the schools last year. When the results came back, it didn't reflect what they expected. They want to start over on where these levels of proficiency exist in language. It does come to a level of can you hold a conversation and that level you need a certified teachers. We didn't have certified teachers who could agree on the dialect to teach. They agreed on a book but speaking had a different dialect and there were a lot of issue with that.
- Within our recommendations its important we suggest parses out the Native language and EL situation with ISEP because you can have a student learning their Native language and is a English learner and your only funded once for them. It's confusing when you do the ISEP on them and should be two separate items. Title VI has an incredible limit on what you can spend those funds on with a small amount that can be spent on personnel. When we're thinking on regulations around this it will be important to think about what the BIE is putting forth as a standardize option and what the process would be for Tribes who submits a waiver and if there trying to get that waiver as an immersion option, what would that be.
- We just received a grant on language and it takes a different approach it terms of gathering date from the elders and the communities who still speak the language and putting together different teaching methods to reestablish the language in the homes. Language is an individual decision not only for the tribe but even within the tribe with different dialects, etc. I would hate to put more regulation on how a tribe implements a language program. If we touch on it, it should open up the doors for equal access. The big recommendation is if Indian Affairs and BIE is serious about it they should put real funding behind it.
- Something that may be an interest to the Committee is that Hawaii operates several native language immersion schools and submitted for peer review written assessments for reading and language arts and mathematics that you might find interesting. *Hawaii is not bog down by the Federal government; it's more of a state relationship.*
- How will their achievement be captured (exception for advanced math in middle school)? Those are the students that are showing your advanced level of kids; if your waiving them from the 8th grade assessment, how will that look with the accountability with that group of students? If they take a different assessment, how will that be factored in? Would they be the 5% who didn't test? That's something to think about when we're talking about the accountability workbook. You still have to be able to capture that so what will that look like for those advanced 8th graders?
- This is going to be important to align with standards to create a definition on significantly cognitive disabled / each state defines their own definition. *Action item for Education to pull definition off of current state plans on special education.*

- My frustration with special education for SD is; there hasn't been any level of real technical assistance from BIE in terms of Tribal grant schools. There's application of special education policy that when you look for answers there's the application for Federal funding and we should follow Federal policy but there is also the interpretation is not in compliant with our reservation; a big void for those schools in SD.
- I know were talking K-12 primarily. In other states when they have a language speaking community, do they do any preschool assessments, Kindergarten assessments, or is it done in Kindergarten roundup? I know the Bureau supports a lot of pre-K educational activities and wondered if this couldn't be a general recommendation that they may consider that activity prior to Kindergarten. *The FACE program does not have any language assessments per say but many of our programs do an oral test for the kids.*
- I had a question of the wording on Secretary approval. *We'll flag this and sort through as we work on the waiver process.*
- Navajo got their waiver and it's in place. There still not considered an SEA at that point? *The BIE has had many meetings with them as that is what they wanted to be but it was explained to the Navajo Nation it would require Congressional action and Interior did not have the authority to make them an SEA.*
- On 2I where you say this doesn't apply to BIE on deferral. I think you're reading it wrong if we're saying the BIE is the state. That means the BIE can suspend the administration but not the development of assessments for a year unless they give us that amount of money which there not. *This is the independent authority for the Department of Education that they can exercise. The BIE can defer the assessments and will need to be worked out between Interior and the Department of Education.*
- We use the accountability system from the states, so is this kind of the same thing with special education. Which one supersedes? *The BIE will need to review further.*
- In 25 CFR BIE indicates the number of instruction hours per grade that we're mandated to have, so I'm assuming that the expressed as a percentage means you can't exceed a ratio X over whatever that amount of hours for the school year for each grade. We probably need to reference that.
- Question on 2J on adaptive assessments, I'm seeking clarity for the recommendation for NWEA or PARCC as opposed to others? *These were a couple of examples and not specific recommendations.*
- I made a note when you were speaking about the one issue with the states being able to opt out of the Federal override. When you're looking at that please keep in mind we need to create an environment for Tribal education that's in the least restrictive environment. If the states have that option to opt out, we should probably not create a more restrictive environment for Tribes by not having that option. Or else our kids could attend a public school. *The Bureau will research guidance that is available.*
- Can we clarify the difference between the Secretary of the Interior and the Secretary of Education every time the term is used?

The Facilitator went over the next steps for the assessments subcommittee prior to the December meeting:

1. BIE can make the two changes around using BIE in lieu of state with keeping in mind the context of state and specific on which Secretary is referenced; and

2. A list of action items to follow up on and report to the subcommittee for further deliberations in preparation for the December meeting.

Accountability Subcommittee Report

Committee member Lora Braucher provided an overview of the subcommittee's work with the following statements made:

- Going through the notes on Section 1111, the draft Part 30 side-by-side and determining what needs further clarification;
- Each subcommittee report affects the accountability subcommittee, as well as the more the Committee learns impacts the work of each subcommittee;
- Started a very small list of recommendations to continue the work on;
- Need to review the NIEA document for consideration;
- There was some confusion on the N-size and schools not being accountable in the chart presented in the N-size presentation referencing the data from Arizona. If there counted in the accountability equation but not accountable to that subgroup is there any mechanism for that to be still accountable;
- There was clarification on the 95% testing, anything under the 95% with the additional percentage that is not tested will be non-proficient and will still negatively impact your accountability; and
- Challenge of long term goals and we looked at examples of states that had goals for 5-years, 10-years, and 15-years. How do you decide what that long term goal is? How do you determine what that goal should look like if we really don't have good data to know where we are? What data do you use and how long do you think it will take us to get there. Need a picture of where we are.

Committee members had the following questions and comments on the accountability subcommittee report:

- Everything that we're doing is connected, for our next meeting it might be really important to have big post-it to identify impacts so when we talk about things what impact does that have on accountability to keep a running list and each subcommittee can be responsible of keeping track to map out.
- Students that start in one school and left that school, what factors do we use there to determine the period of time of who gets the score? *When the states calculate the determination they have to calculate the FAY (full academic year).*
- I want to add that Deb said that states have two N-sizes, one for accountability and one for reporting so that is something to be considered as well.
- If I have a student that comes from another school starts and finishes the school year, gains credit and goes to a boarding school for a year then transfer to public school for their last year. In the Bureau system, it will reflect that student didn't finish high school because there is not a sharing of information which isn't a fair assessment. *It's up to us at the school level to update the registrar of tracking and recording the information.*
- The Committee wants to make sound recommendations and being educated on the data to know where we are at (for long-term goals). At the Committee level how are we able to make a good recommendation if we can't see the data to know where we are at to even

make recommendations on long-term goals? The states had their data of where their students are and we do not. The states knew exactly where their students were in proficiency or testing to have realistic long-term goals. What is realistic and where are we as a system to the best of our knowledge? To be able to get some of that data would be so helpful.

- We have calculations in Mississippi and in NASIS there are two different ways to pull the graduation based on the national governors council definition and the DOE, which one is the Bureau looking at, which formula for graduation rates? We have a way to look at how our states calculate graduation rates. If someone transfers to another school that doesn't count against the school in the graduation calculation if 4-years later it shows they transferred to another school. When we look in the computer and things don't match up, it's a constant discussion in our location of what our graduation rate is and how it's calculated.
- I agree with what you had to say with regards to understanding how that (graduation rates) are calculated because it does have that impact on the report card and I think clarity is important. I too respectfully disagree about the resources that are available to Bureau schools as compared to states. The states have experts that not only have data but they came as experts in their field of whether it be special education, psychometrics, and I understand of not getting the data between now and the next meeting but I don't think its an unrealistic expectation to ask for that information. It clearly illustrations the tension and frustration in that Tribal schools experience when they ask for technical assistance and it's either denied or is given no response such as this you gave a few minutes ago (long-term goal data). I respectfully disagree about that. *A clear list of the request for the next meeting to go through the DFO to the Director.*
- With the waiver we don't necessarily have a narrative. Can we ask the Facilitator to draft up regulations that we set up here on the waiver process and finalize something in two weeks and spend some time on it?
- We meet earlier today and discussed of how we define standards. That's like drawing the picture to say let's put to the test there is one single assessment for BIE, how does it look, what are the pros/cons, what do we need to be aware of. If we're going to draft a general set of standards how's that really going to look, will it be general enough that it doesn't exclude anybody. How are we going to touch on language in the right way so it doesn't constrain resources? Were done with 6-days and we have 6 more to go, whether they're face-to-face or the Committee says we're appointed for two-years these are very important topics and realistic were not going to be done within 12-months, maybe 18-months. It's worth taking the time to look at those things even though it's not what we're called out to do but if the Committee sees some other things, if we pulled out Navajo's sheet on accountability and talked about it and see what they are doing good/bad, those things should be taken into consideration. What's a realistic timeframe, what's a realistic operating budget for this process, and what do we really need to make these decisions on regulations. Were still at a point of having a lot of questions, we have more questions than we did in Billings (MT) a month ago.
- In accountability, it was difficult for us to really try to say were going to hold these schools accountable for this when we didn't have any of that data because it's like were being asked to hold up a measuring tape just in the air, there is nothing to measure from.

There is a lot of meaning behind knowing how we're really going to meet the unique needs of all these students. Realistically the time, some of the information we need to base these decisions on are important. It's disappointing and frustrating to sit here and then be told that we don't need that piece.

- This committee is expressing themselves in a way to feel like there's no negotiation being done. This Committee was put together after a long period of time and we haven't had that time to work together like the Federal folks and it's hard when you don't have much time to comprehend everything. We just want an opportunity to be able to speak up and provide our perspective. When it's all over, like it or not we're going to get credit for it, whether it's right or it's wrong. Everyone wants to be heard.
- In the area of science I learned on Monday that the common core science is assessed but not necessarily counted right now, under the old standards. The subcommittee discussed if we want to keep it that way because other subcommittee members indicated there are a lot of areas that have certified science teachers. Are we going to keep it that way? Are we going to keep that we're going to test in that area but the score is not counted? If that's the case Tribal schools and state may want that test. Is there a need for a waiver if they want the science to be included? *In the waiver for Miccosukee they did request science be counted. If it's not counted in the Secretary's accountability system and a governing Tribe wanted to include, they would submit a waiver.*
- At present, schools are using ACT and SAT. Why can it not be your best score counted versus the one score that you take so we can compare with everyone else? I have a granddaughter that has taken it 5-times and every time she takes it, she's increased her score. The reason being is because she takes the subject area that is needed to get the higher score. She doesn't take trig until it's her junior or senior year. Why can it not be counted then and why does it have to be counted the one time?
- The recommendation is the general sentiment if I create something I would want the resources to create a culturally sensitive, effective standard based assessment for my tribe that had everything in mind. Also like to have the ability to waive certain rights without losing Federal funding. But I also understand how do we get to the point where you want to hold people accountable like the BIE Director said we want a standard equivalent to the states. There's a vested interest in terms of these are our schools we are willing to send our children to. But I wish the relationship; there's this constant feeling that we (Federal) can't do that or maybe not. I wish in the kinder gentler way the BIA can come together and say it's different now, we respect the tribes, we want to hear what you have to say, we want to try to make this work, but it seems like it's not.
- During our caucus meeting we came to a consensus with those who were in the meeting that we don't believe that looking at the definitions of regulations on assessments and accountability is outside the scope of this group and moving forward we would like to make time and resources available for us to do that.
- The accountability system is to hold schools accountable but also to streamline resources and support. And you don't put science and we all know as an area that is truly needed improvement in our schools. If we test it but don't make it part of our accountability system, then I feel like we're saying we don't need to funnel resources and support in that area.

- This could be a win-win situation. The plan hasn't been developed yet, the research, the information as were looking at a lot of these things it still needs to take place. Having us want to be more educated to be thoughtful and the Committee feel responsible to make sound recommendations. In the end game it will be very beneficial for the BIE and the Secretary for creating their plan. I understand the lack of capacity for the items being requested especially the timeframe being matched to them.

The Facilitator provided the Committee an observation in a multi-partial way, as you negotiate with one another it's the concept around being hard on those issues, getting that information that you need to do that and respecting the limitations of others and looking for ways to solve collectively those limitations could be. That's an important piece here as we think about what you all need to be fully informed as a Committee to make draft regulations, to make draft recommendations and I heard BIE say as we get specific questions they will go to the Director of BIE to resource how they will be given to the Committee. There's a big question on what's the amount of time it takes for that to happen but it's a BIE issue to sort through.

The Facilitator went over the next steps for the accountability subcommittee prior to the December meeting:

1. Continue to revise draft recommendations and add to the list of questions;
2. Review NIEA suggestions and how to build into ideas;
3. Ask Deb to share with the subcommittee a crosswalk of 3 state plans to see how they identified indicators and other elements of the accountability systems; and
4. Schedule the next call.

Call to Public for Public Comments

Comment from Dr. Bordeaux:

Just one small comment when your drafting the standards for reading, math and science, I would suggest you take a look at what is in a website: www.acts-tribal.org and under resources there is a set of standards from the creating scared places for children project that is just going from K-3 in reading but I have a whole booklet which is probably a foot long at least for almost all content areas. It includes content standards with resources and suggested ways of implementation. And we professed at the time we did that project with the Department of Education that it is culturally relevant. It will give you an opportunity to take a look at it.

Comment from Deborah Bordeaux:

I couldn't hear the full conversation around Native languages but I did hear Dr. Hamley talk about peer review and I don't know if it fits in what's going on with what's there but I just think that it's important to encourage and support Tribes in the development of their languages. And I know that this assessment is intended for math, reading, language arts, this type of stuff and science, but I hope that we can encourage the support for Native language, especially from an oral perspective. Our people are more oral communicators than they were of being written and so it's just not always there; to have that oral perspective and if it isn't written than we need to work together and develop so it's

universal to our people so that we can have something like that. I felt discourage after the conversations so I just would encourage that we try to stay focus on positive and move forward on something. One more thing, in the future get microphones so people can hear what's going on.

Planning for Meeting 3

The Facilitator asked the Committee for clarification on the following to plan for meeting 3:

- Setting time aside on Monday to reconvene subcommittee work prior to the start of the public meeting with travel implications on Sunday;
- Materials and resources required to provide inform recommendations around the definitions of standards, assessments and accountability systems to include in the Committee's report within the scope of the work and acknowledging those areas that are outside the scope of the work;
- Communication to the public on the work of the Committee and following the guidelines as outlined in the operating protocols by either a press release or from an individual Committee experience;
- Timeline on a package of proposals from each subcommittee to deliberate with the full Committee for tentative consensus and crosswalk to align the work towards a final consensus for January 2019 meeting;
- Understand examples of standards and common core from the states of Arizona, New Mexico, Washington, and South Dakota;
- Possible presentation on the various accountability systems used: PARCC, Smarter Balance, and NWEA (has not been peer reviewed), and NIEA has indicted what is being used by each state the Bureau schools are located;
- Deb to provide data for the N-size chart and provide a presentation on the ins/outs of those state accountability systems for the full Committee; and
- Share information on graduation rates with requirements, explanation on a 5-year cohort consideration, and include the current regulation in the December packet.

The Facilitator asked the Committee for consensus on the following:

- Topics for the December meeting; all but one had consensus as there was no dissent;
- Subcommittee calls for deliberation with technical experts who are welcomed to share their expertise, open to observers by invitation with ground rules to minimize disruption of the work; all were in consensus; and
- To have a caucus of the Tribal Committee members at the end of each meeting day with context, when appropriate, to invite the Federal Committee members to join the caucus; all but one had consensus as there was no dissent.

Action Items

The Facilitator reviewed the action items that emerged from the meeting presentations and discussions, and added clarification. See Appendix N for the list of the Committee's action items.

The Facilitator went over the accomplishments of the Committee during meeting #2:

- Clarifying the purpose of the Committee to develop draft regulations and provide recommendations related to standards, assessments and accountability system;
- Reached consensus on meeting #1 summary;
- Learned about N-size and how it's determined by states for accountability as well as for reporting and has to have statistical validity and protect personal information;
- Reached consensus on a uniform set of standards;
- Reached consensus on edits to the draft regulations by replacing state with BIE, and using Secretary of the Interior instead of Secretary;
- Begun deliberations on the sections of standards, assessments and accountability, and started identifying those key topics related to definitions; and
- Agreed on Committee deliberations for subcommittee tasks.

Adjourn

Committee member Lucinda Campbell provided the closing prayer to thank everyone to work as one and for safe travels. Sue Bement, DFO adjourn the meeting.

Attachments

Appendix A – Attendees
Appendix B – BIE Director Dearman’s Presentation
Appendix C – Section 8204 and Committee’s Task
Appendix D – Report Outline
Appendix E – Standards Subcommittee Report
Appendix F – Assessments Subcommittee Report
Appendix G – Assessments and Accountability System
Appendix H – Accountability Subcommittee Report
Appendix I – Waiver Subcommittee Report
Appendix J – Minimum N-size Requirements under ESSA
Appendix K – Standards Subcommittee Report on draft Part 30 side-by-side
Appendix L – Waiver Subcommittee Process
Appendix M – Assessments Subcommittee Report
Appendix N – Action Items

Appendix A – Attendees

Names		Organization	Attendance		
			Oct 30	Oct 31	Nov 1
Non-Federal Committee					
Charles Cuny Jr.		Little Wound School Board	Yes	Yes	Yes
Dr. Gloria Coats-Kitsopoulos		Oglala Sioux Tribe	Yes	---	---
Sherry Tubby		Mississippi Band of Choctaw Indians	Yes	Yes	Yes
Ron Etheridge		Cherokee Nation of Oklahoma	Yes	Yes	Yes
Michael Dabrieo		Santa Clara Pueblo	Yes	Yes	Yes
Patricia Sandoval		Pueblo of Laguna	Yes	Yes	---
Jennifer McLeod		Sault Ste. Marie Tribe of Chippewa	Yes	Yes	Yes
Dr. Rick St. Germaine		Mille Lacs Band of Ojibwe	Yes	Yes	Yes
Genevieve J. Jackson		Dine Bi Olta School Board Association, Inc.	Yes	Yes	---
Dr. Amy D. McFarland		Chief Leschi Schools	Yes	Yes	Yes
Frank No Runner		Northern Arapaho Business Council	Yes	Yes	Yes
Lucinda Campbell		Dine Grant Schools Association	Yes	Yes	Yes
Tasha Racawan		Navajo Nation	---	---	---
Leslie Harper		Leech Lake Band of Ojibwe	---	---	---
Federal Committee					
Sue Bement		Designated Federal Official	Yes	Yes	Yes
Jeffrey Hamley		Bureau of Indian Education	Yes	Yes	Yes
Jimmy Hastings		Bureau of Indian Education	---	---	---
Lora Braucher		Bureau of Indian Education	Yes	Yes	Yes
Brian Quint		Office of the Solicitor	Yes	Yes	Yes
Sarah Palmer		Facilitator	Yes	Yes	Yes
Members of the Public		See the following sign in sheets			

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee
Albuquerque, NM / October 30, 2018
Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Peter Thomas	Navyjo - Shonto Prep.
Chris Cantrell	Hobbs, Straus, Dean + Walker
ROBERT SAILEY	US Dept of Education
Priscilla B. Choe	Lukac. Comm. School
Vernon Z. Vande	Zulacholam School
Laura Kalori	NIEA
Patrick Koney	US Dept of Education
Adrienne Elliott	NIEA
Alan Alan Benigan	Theodore Roosevelt School
LUCRETIA WILLIAMS	Mississippi Band of Choctaw-DOE/TED
Deborah Bordeaux	Rosebud Sioux Tribe Ed Dept
Nina Smith	Santa Fe Indian School
Sharon Pinto	Navyjo / BIE Deputy Dir SO
Roger Bordeaux	ACTS INC.
Ben Woolly Jr.	P2C65 member
Juanita Mendoza	BIE
Christopher Bordeaux	OSEC
Shelone Pastorena	Education

Albuquerque, NM

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee
 Albuquerque, NM / October 30, 2018
 Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Ervin Chavez	Namjo
Maurice Leroy	BIE
Alto Hall	ACOM POE

Albuquerque, NM

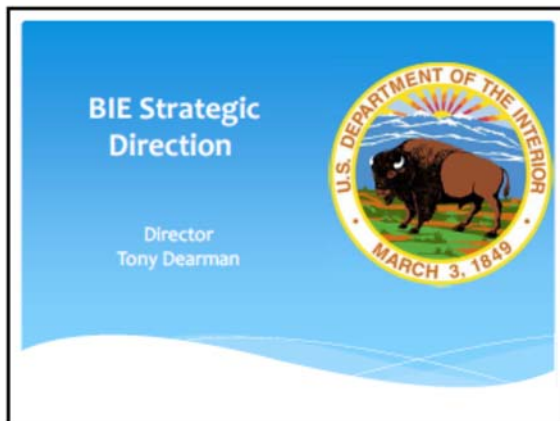
Standards, Assessments, and Accountability System Negotiated Rulemaking Committee
Albuquerque, NM / October 31, 2018
Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Peter Thomas	Navajo - Shonto Prep.
Imrantz Vrand	Lukachukai (OH) School
Chris Cantrell	Hobbs, Straus, Dean & Walker
Stan Holder	ACUM PAE
Prisilla B Chiee	Lukachukai Community School
Laura Kaloi	NIEA
Nina Smith	Santa Fe Indian School
Sherrone Pastorek	DE Education
ROBERT SALLEY	US Dept of ED
Adrianne Elliott	NIEA
Patrick Rooney	U.S Dept. of Education
Deborah Sigman	CSAI
Roger Bordeaux	ACTS
Lucretia Williams	MBCI / DOE / TED
Dorothy Bordeaux	RST ED
Ben Woody Jr.	Dine Grant school
Chris Bordeaux	OSEC
Ervin Chavez	Navajo

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee
 Albuquerque, NM / November 1, 2018
 Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Chris Cantrell	Hobbs, Straws, Dean & Walker
Ninae Smith	Santa Fe Indian School
Adrianne Elliott	NIEA
Deborah Bordeaux	RST ED
Stan Hilder	Acorn PoE
Sharon Pasternak	Education
ROBERT SALLEY	Education
Chris Bordeaux	OSEC
Martin Williams	MBCI / DOE / YED
Roger Bordeaux	ACTS INC

Appendix B – BIE Director Dearman’s Presentation



Key Topics: GAO High Risk

- In February 2017, the GAO released its High Risk Report (GAO-17-317 High Risk Series) designating BIE as a high risk agency due to inadequately addressing recommendations.
- In three separate reports dating back to 2013, the GAO provided thirteen recommendations to improve Indian Affairs' management of BIE schools.
- In May 2017, the GAO issued three additional reports with ten new recommendations.
- BIE has now closed nine of the 13 outstanding recommendations, most recently finalizing the Strategic Direction.

Key Topics: Strategic Direction

- **GAO Report 13-774, Indian Affairs: Better Management and Accountability Needed to Improve Indian Education:**
 - High leadership turnover
 - Lack of an organizational strategic plan
 - "Develop a strategic plan that includes detailed goals and strategies for BIE...[d]evelopment of the strategic plan should incorporate feedback from BIE officials and other key stakeholders."
- BIE finalized its Strategic Direction in August 2018 in preparation for the school year.
- The plan can be found at www.bie.edu.

Key Topics: Strategic Direction

BIE employees carry out the mission to achieve the vision through guiding organizational principles underpinning how the work of the BIE is successfully accomplished.

- **Excellence:** The BIE achieves success through continuous self-assessment and improvement.
- **Focus:** The BIE is student-centered, committed to addressing the holistic needs of students.
- **Integrity:** The BIE maintains high standards of character and professionalism as the foundation upon which the agency is built.
- **Respect:** The BIE fosters communities of support through mutual regard and collaboration.
- **Service:** The BIE supports students through proactive and responsive teamwork with schools, Tribes, and communities.

Key Topics: Strategic Direction

GOALS

- All students will enter kindergarten academically, socially, and emotionally prepared to succeed in school.
- All students will develop the knowledge, skills, and behaviors necessary for physical, mental, and emotional wellbeing in a positive, safe, and culturally relevant learning environment.
- All students will develop the knowledge, skills, and behaviors necessary to progress successfully through school and be prepared for postsecondary education and/or career opportunities.
- All students will graduate high school ready to think globally and succeed in postsecondary study and careers.
- All students will develop the knowledge, skills, and behaviors needed to lead their sovereign nations to a thriving future through self-determination.
- All students will benefit from an education system that is effective, efficient, transparent, and accountable.

Key Topics: Negotiated Rule Making

- **September 14, 2017:** Rulemaking Committee Nominations
- **April 17, 2018:** Rulemaking Committee Establishment: Proposed Membership
- **August 2, 2018:** Rulemaking Committee Notice of Establishment and Schedule of Committee Meetings
- **September 25, 2018:** First meeting held in Billings, MT
- **October 30, 2018:** Second meeting scheduled in Albuquerque, NM
- **December 4, 2018:** Third meeting scheduled in Arlington, VA
- For more information or written comments, please email BIEComments@bia.gov.

Accomplishments

- Completed construction of the Bug-O-Nay-Ge-Shig school serving the Leech Lake reservation with other schools being constructed from the facilities index.
- Supported Pueblo of Acoma to assume control of their Bureau-operated school; now operating as Haak'u Community Academy.
- Hired two senior leadership positions – Associate Deputy Director Bureau-operated Schools and Deputy Bureau Director – to improve capacity in supporting the field.
- Employed talent recruiters to assist schools in their local hiring.
- Recognized state teacher certifications to help our schools compete with local public schools in recruitment.
- Created a data governance board to coordinate and improve data gathering and dissemination as well as data-informed decision making.

Accomplishments

- Addressed nine of 13 outstanding Government Accountability Office recommendations to address the high-risk designation – on track to close additional recommendations by year end.
- Completed 100 percent of school safety inspections for the third consecutive year and working to improve the quality of inspections.
- Published the Strategic Direction and created a performance management system for monitoring work and increasing accountability.
- Held regional training series on improving performance appraisal metrics, providing professional development for school-level staff, and sharing best practices for improving technical assistance to Tribes and schools.
- Partnering with Indian Affairs to create more autonomy for the BIE through acquisitions and procurement and school safety support.


Appendix C – Section 8204 and Committee Tasks

1

SECTION 8204 AND COMMITTEE TASKS

Bureau of Indian Education
U.S. Department of the Interior


Negotiated Rulemaking Committee -
Standards, Assessments & Accountability System



2

Application of section 1111


- Section 1111 applies to states “desiring to receive a grant” and directs such states to file a “state plan” with the Secretary of Education and describes what must be included in the plan.
- However, DOI/BIE is not defined as a “state” or “state education agency” in ESEA. See 20 U.S.C. §7801(48)-(49).



3

Application of section 8204

- Instead, DOI/BIE is required to have *definitions* for SAA consistent with section 1111 for BIE-funded schools through 20 U.S.C. 7824(c)(1).
- Likewise, per 20 U.S.C. 7824(c)(2) alternative proposals for SAA from tribal governing bodies or school boards must *meet the requirements* of section 1111.
- Thus, the definitions of and distinction between “state,” “SEA,” and “LEA” in section 1111 are not particularly relevant here.




4

Committee Focus

Committee should focus on the requirements for definitions of standards, assessments, and accountability system (subsections (b)-(d)) “taking into account” the BIE-funded school system’s unique circumstances and needs.

Other provisions of section 1111 are not required strictly speaking.


Committee might consider where provisions of section 1111 do not make sense for the BIE-funded school system, and where there are options.



5

Examples


- Section 1111 requires states to have state plans and describes what states must include in their state plans.
However, BIE is not a state and 7824(c)(1) does not mention a state plan, only definitions for SAA.
- Section 1111 provides that states may allow LEAs to administer locally selected assessments from a list of nationally-recognized assessments approved by the state.
However, tribal governing bodies and school boards already have the authority to waive the Secretary's definition of assessments.



6

Examples


- Section 1111 describes how states may comply with section 1111 if no state entity or official has the authority to adopt challenging academic standards and academic assessments aligned to those standards.
However, Congress provided DOI/BIE with the authority to define SAA through negotiated rulemaking.
- Section 1111 describes a need to demonstrate in a state plan that an SEA has implemented high-quality assessments in consultation with LEAs.
However, negotiated rulemaking along with DOI's tribal consultation policy necessarily involves consultation with stakeholders and the public.



7

Note – Rules for definitions

- The recommendation on a rule concerns the Secretary's definitions and waiver procedures. This needs to be able to accommodate the variety of circumstances and needs at BIE-funded schools and the students served by them.
- Specific alternative options that a tribal governing body or school board might chose that may "meet[] the requirements" of section 1111 might best be explored through a separate request for technical assistance.



Appendix D – Report Outline

Draft for Discussion Purposes

September 27, 2018

+ Report Outline		
Recommendation on a Rule	Recommendations Regarding Definitions	Other Recommendations and Information
A regulation or a rule is “a general statement issued by an agency that has the force and effect of law and is designed to implement, interpret, or prescribe law or policy.” Rules fill gaps left explicitly or implicitly in statutory law.	Things the Committee feels are important for the Secretary to consider, but that might be better left not specified in the recommended rule. In other words, what the Committee wants the Secretary to pay attention to in developing definitions or the “state plan.” For instance, recommendations for where there are options available (specific indicators or categories of possible “other” standards, for instance); where requirements for states in section 1111 do not make sense for BIE-funded schools; and where BIE should negotiate alternatives with Department of Education for inclusion in the MOA.	For instance, recommendations on rulemaking not authorized or required here, that the Secretary should engage in in the future.

Appendix E – Standards Subcommittee Report

<div>2</div> <div>STANDARDS SUBCOMMITTEE</div> <div>Bureau of Indian Education Negotiated Rulemaking Committee - Standards, Assessments & Accountability System</div>	<div>2</div> <div>Tasks from Billings Meeting</div> <div>Task 1: Review the 'side-by-side' of the draft regulations related to Standards and identify concerns, questions, pros/cons, identify where technical experts/assistance is needed.</div> <div>Product: Share findings, and proposals for draft regulations regarding standards with the Committee.</div> <div>Task 2: Review Section 1111 related to Standards and identify concerns, questions, pros/cons, where technical experts/assistance needed.</div> <div>Product: Share findings with the Committee.</div>
<div>3</div> <div>Tasks from Billings Meeting</div> <div><ul style="list-style-type: none">• We did not draft new regulations• Reviewed information provided, provided thoughts, concerns, pros/cons etc.</div>	<div>4</div> <div>Task 2 - : Review Section 1111 related to Standards and identify concerns, questions, pros/cons, where technical experts/assistance needed.</div> <div><ul style="list-style-type: none">• Major concern is in regards to interpretation of law into draft side-by-side<ul style="list-style-type: none">- Who wrote the side-by-side?- The law defines what should be happening in NRMCM different than what we are actually doing.<ul style="list-style-type: none">- ESEA 8204 – "use a negotiated rule-making process to develop regulations for implementation...shall define the standards assessment accountability."- NRMCM Charter – "the committee will advise the Secretary...it is the Secretary's responsibility to define standards, assessment, and accountability system."- We are not drafting regulations, we are proof-reading/editing a pre-made format</div>

3

Task 1- Review Side by Side

- Section 1111 states the Secretary shall not have any say in approving or defining standards, but the side-by-side gives that power to the Secretary of the DOI.
- Identifies what academic standards will include:
 - Reading
 - Math
 - Science
 - We recommend adding a fourth requirement such as tribal governments and civics that explores: sovereignty, the relationship between tribes and the federal government, treaty law and why tribes and the federal government have a nation to nation relationship.

6

Task 1 – Review Side by Side

- “Same knowledge, skills and levels at all bureau schools” – however, “same knowledge” is not accurate, should be “same type”
 - Refers to 1111 – “public schools”
 - What are public schools? How are we defining them?
 - How does this play into the waiver system?
- Students with Cognitive Disabilities – if the BIE chooses an assessment and the tribe waives that assessment, does the tribe still need to choose an assessment or can the tribe opt out entirely? (Secretary MAY...)

7

Task 1 – Review Side-by-Side

- Credit Bearing Coursework Alignment – institutions identified are not necessarily credit bearing.
 - Should be “higher education or...” not *and*
 - What are “relevant career and technical standards”?
- Secretary *must adopt English Language Proficiency Standards* – does this apply to immersion schools?
 - Speaking, listening, reading, writing
 - What resources will be available?
 - What if there are none?

8

TA/Additional Information Asks

1. What other subjects have States added to their standards? [1111(b)(1)C]
2. What are college entrance requirements for tribal colleges and are there national standards? [1111(b)(1)D(i)]
3. Need to define additional terms so that our interpretation of the language in Section 1111 is memorialized in the regulations.
4. Where does our work with Section 1111 and Section 8204 intersect?
5. Need legal review of 8204?

Appendix F – Assessments Subcommittee Report

<div>2</div> <div>ASSESSMENTS SUBCOMMITTEE</div> <div>Bureau of Indian Education Negotiated Rulemaking Committee - Standards, Assessments & Accountability System</div>	<div>2</div> <div>Sub Committee Findings</div> <ul style="list-style-type: none">Discussed the questions that were generated by the Assessment Subcommittee's prep work.Decided that the initial side-by-side draft regulations (work document) were over-simplified.Switched to the 4x4 version Assessment Subcommittee Task 2 Section 1111 Assessments consolidated 102518 - Clarifications need to be madeMajor issues<ul style="list-style-type: none">Eliminate State Plan references (eliminate confusion)Name BIE as the SEAClarified "partially delivered" RE portfoliosMore discussion on Assessments on the Language – Does this mean Native Language?More discussion of Leslie Harper's Insertion Section 2(B)(ix)N-Size – Should go in the Accountability sectionKeep exemption for 8th grade Advanced Mathematics
<div>3</div> <div>Subcommittee Findings con't</div> <ul style="list-style-type: none">The Local Cap – needs further discussion (LEA or school)State Authority – Does this apply to BIE?Language Assessments – needs further discussion – the State can request assistance from the Secretary of EducationHow does Locally Selected Assessments apply to the BIE?	<div>4</div> <div>Tasks from Billings Meeting</div> <p><i>Task 1: Review the 'side-by-side' of the draft regulations related to Assessments and identify concerns, questions, pros/cons, identify where technical experts/assistance is needed.</i></p> <p>Product: Share findings, and proposals for draft regulations regarding standards with the Committee.</p> <p><i>Task 2: Review Section 1111 related to Assessments and identify concerns, questions, pros/cons, where technical experts/assistance needed.</i></p> <p>Product: Share findings with the Committee.</p>

Section 1111 (b)(2) Clarifications Required from BIE

1. Should references to "State" or "SEA" be interpreted as "BIE"?; When is a Tribe an LEA or SEA?
2. How do Tribally-controlled schools fit into the regulations?
3. Section 2(B)(vi) - 'partially' delivered. Is partially defined in ESSA?
4. Section 2D(ii)(I) - Prohibition on the local cap – Is there a regulation that needs to be written to clarify what is needed for justifying the need to exceed the cap? Need to make sure that there is not a non-response situation. Is it clear how to apply for a waiver for a cap?
5. 2(E) State Authority. Does this section apply to BIE? What does this section mean?
6. Section 2F(i) Language Assessments. What is the State in this case? What does 'present to a significant extent' mean?
7. Section 2(I) Deferral. How does this apply to BIE?
8. Section 2(L) Limitation on Assessment Time. Who determines the time limits for assessments is it the LEA, or BIE? What does "expressed as a percentage of annual instructional hours" mean?
9. Section 3. Exception for English Learners. How many ELs are in the BIE student population?

Section 1111 (b)(2)

Additional Information Needed Regarding:

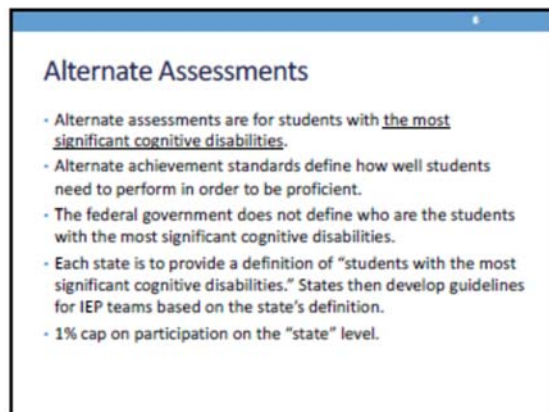
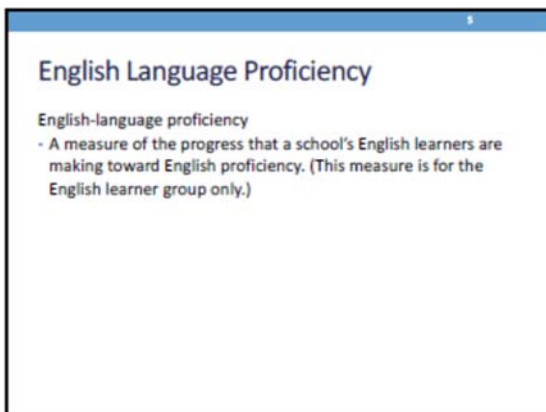
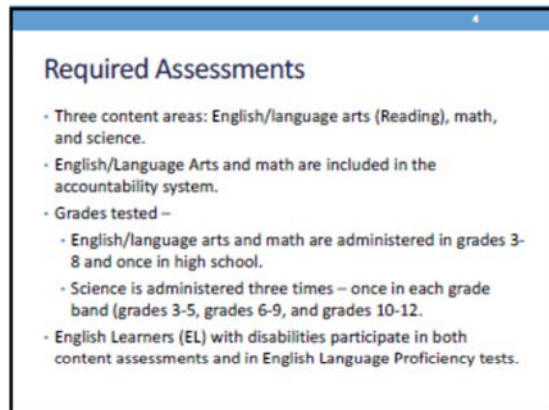
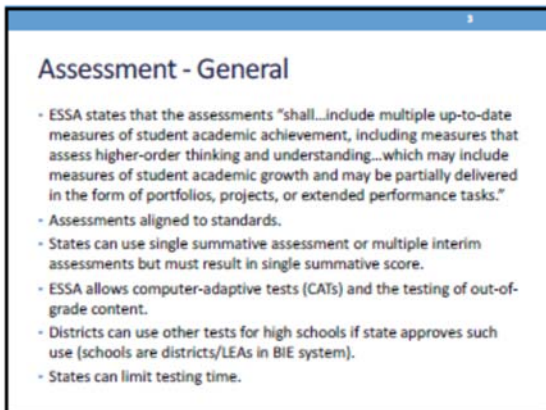
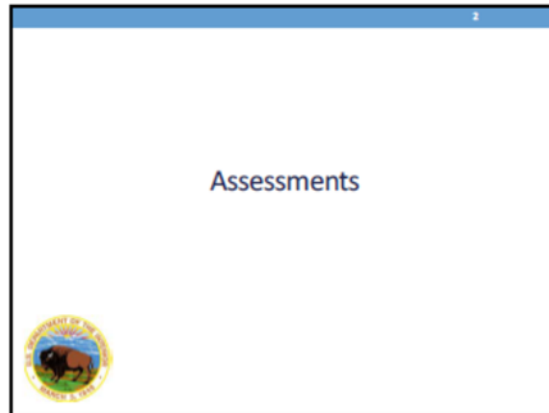
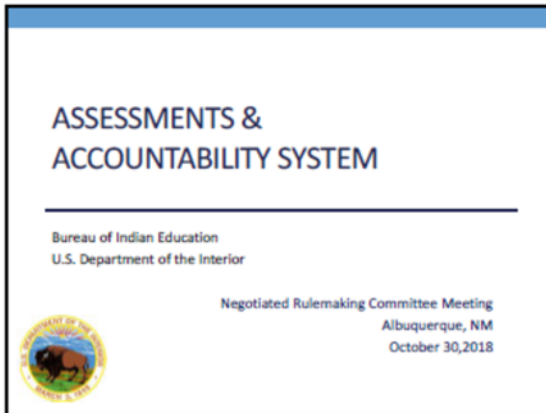
1. Section 2(B) (xi) Requirements. N-size is critical, how do we write the rule that allows for N size that is meaningful.
2. Section 2(F) Language Assessments. Possible technical assistance from Dept. of Education on how to create assessments, and their requirements for assessments. Are there existing models perhaps at Tribal colleges?
3. Section 2(K) Rule of Construction. How does the opt out option of parents impact the participation rate requirements in the accountability section requiring 95% participation?

Section 1111 (b)(2) Initial Ideas to Link to the Side-by-Side Regulations

Under subcommittee discussion:

1. Section 2(B) (ix) add [to regulations] : *"Students who are attending schools in a Native American language or program"* (i.e., immersion school). Helps align with civil rights aspect of ESSA. Something similar is in ESSA ED Regs 200.6 includes a definition of Native Language or immersion programs.
2. Section 2(F) Language Assessments - How do we consider Native languages? Also civil rights assurance that Native languages are attended to.
3. Section 2(H) Locally Selected Assessments. Is there enough information for an LEA to implement this option? What LEA assessments are currently being used?

Appendix G – Assessments and Accountability System



Participation Requirements

- Requirement is to test at least 95% of all students and subgroups, including students with disabilities
- Includes all “public” school students
- If school falls below 95% participation, non-participants must be counted as non-proficient
- Opt-outs enable schools to escape accountability for some students
- Assessment participation –
 - Most students participate in general assessments, with or without accommodation
 - Some student participate in alternate assessments based on alternate achievement standards (up to 1% percent or total)

Accommodations

- Accommodations are changes in process or procedures that enable students to meaningfully access instruction and assessments.
- ESSA requires that student with disabilities and ELs be provided with appropriate accommodations.
- IEP teams make accommodations decisions.
- Students who use an accommodation the state test must have been provided the accommodation during instruction, although not all accommodations used during instruction are appropriate for use on the state test.

Native Language Assessments

- Provide definition for “languages other than English that are present to a significant extent in the participating student population” and identify the specific languages that meet the definition
 - Identify existing assessments in languages other than English and specify for which grades and content areas those languages are available
 - Indicate languages that meet the State’s definition for which assessments are not available and are needed
- Describe how the State will make every effort to develop assessments, at a minimum, in languages other than English that are present to a significant extent by providing
- Plan and timeline for developing such assessments
 - Process for consultation on need for such assessments
 - As applicable, explanation of why the State has not been able to develop such assessments

Native Language Assessments

- State must describe how it will make every effort to develop assessments, at a minimum, in languages other than English that are present to a significant extent by providing
 - Plan and timeline for developing such assessments
 - Process for consultation on need for such assessments
 - As applicable, explanation of why the State has not been able to develop such assessments.

Accountability System



Accountability Systems

- Accountability systems are the set of policies and practices that a state uses to measure how schools are performing for students, reward those that are serving all of their students well, and prompt improvement in those that are not.

-The Education Trust

Accountability System - Indicators

ESSA requires states to include five indicators.

1. Proficiency on assessments, which may include growth in proficiency in high school;
2. Growth in proficiency in grades below high school or another academic indicator;
3. High school graduation rates;
4. Progress of English language learners toward proficiency; and
5. A non-academic indicator/indicator of school quality or student success (SQSS).

Indicators

Academic achievement

- A measure of how schools' proficiency rates in English/language arts and math for all students and each student group compare with state-set goals.
- For high schools, states can also include student growth as part of this indicator.
- When calculating proficiency rates, states have to count most students who do not participate in the assessment as not proficient.

Indicators

Another academic indicator

- For high schools, a measure of how graduation rates for all students and each student group compare with state-set goals.
- For elementary and middle schools, this measure may include individual student growth or another statewide, valid, and reliable indicator of student learning.

Indicators

Additional indicator of school quality or student success (SQSS)

- Another valid, reliable, and statewide indicator of school quality, which may include measures of postsecondary readiness, student engagement, or school climate. The indicator must measure these results for all students and each student group.

Indicators

School Quality or Student Success Indicator(s) – Examples from States

Examples from States

- Chronic absenteeism and college-and-career readiness are by far the most popular new areas of focus for accountability among the 40-plus states submitted State Plans – *Education Week*
- Chronic absenteeism or attendance
 - Related, suspensions and discipline rates (CA)
- College-and-career readiness
 - Postsecondary-readiness measure, such as ACT scores, SAT scores, dual enrollment, Advanced Placement, career and technical education pathways, a mix of those factors

Indicators – General

- All accountability system indicators, including the measure of SQSS, must be:
 - Measured annually for all students and for each subgroup.
 - Able to provide meaningful differentiation between schools.
 - Where appropriate, based on the long-term goals in the state plan.
 - Included in state and district report cards.

Indicators

Assigning weight to Indicators

- States will determine exactly how much each indicator will count in school accountability ratings.
- First three indicators – academic achievement, another academic indicator, and English proficiency – must each carry substantial weight, and together, carry much more weight than the additional measure of school quality.

Indicators

Participation Rate

- States must also explain what will happen to a school's rating if fewer than 95 percent of all students, or of any group of students, participate in the state assessment.

Subgroups

Overall Requirements – Subgroups

List each major racial and ethnic group the State includes as a subgroup of students, consistent with ESEA section 1111(c)(2)(B)

- If applicable, describe any additional subgroups of students other than the statutorily required subgroups (i.e., economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English learners) used in the Statewide accountability system
- Does the State intend to include in the English learner subgroup the results of students previously identified as English learners on the State assessments required under ESEA section 1111(b)(2)(B)(v)(I) for purposes of State accountability? ☐ Yes or ☐ No
 - A student's results may be included in the English learner subgroup for not more than four years after the student exits English learner status

Eight Grade Math Exception

- Does the State administer an end-of-course mathematics assessment to meet the requirements under section 1111(b)(2)(B)(v)(I)(bb) of the ESEA? ☐ Yes or ☐ No
- If the State responds "Yes," does it plan to exempt an eighth-grade student who takes the high school mathematics course associated with the end-of-course assessment from the mathematics assessment typically administered in eighth grade under section 1111(b)(2)(B)(v)(I)(aa) of the ESEA? ☐ Yes or ☐ No
- If the State responds "Yes" that it plans to use the eighth grade math exception, it must describe strategies to provide all students the opportunity to be prepared for and take advanced
- mathematics coursework in middle school

Minimum N-Size

Accountability – N-size

- Provide the minimum number of students that the State determines are necessary to be included to carry out the requirements of any provisions under Title I, Part A of the ESEA that require disaggregation of information by each subgroup of students for accountability purposes.
- Describe:
 - How the minimum number of students is statistically sound
 - How the minimum number of students was determined by the State, including how the State collaborated with teachers, principals, other school leaders, parents, and other stakeholders when determining such minimum number.
 - How the State ensures that the minimum number is sufficient to not reveal any personally identifiable information.

Minimum N-Size

Accountability

- If the State's minimum number of students for purposes of reporting is lower than the minimum number of students for accountability purposes, provide the State's minimum number of students for purposes of reporting.

Note: The N-size in State Plans submitted for peer review ranged from 10 to 30. The Secretary will select for BIE an n-size that makes sense for the size of BIE-funded schools.

25

Long-Term Goals

Academic Achievement – Proficiency in R/LA & M

- Describe the long-term goals for improved academic achievement based on proficiency in the annual statewide reading/language arts and mathematics assessments, for: all students, and each subgroup of students, including:
 - Baseline data
- The timeline for meeting the long-term goals, for which the term must be the same multi-year length of time for all students and for each subgroup of students
- How the long-term goals are ambitious

26

Long-Term Goals

Academic Achievement – Measures of interim progress

- Provide the measurements of interim progress towards meeting the long term goals for academic achievement.
- Describe how the long-term goals and measurements of interim progress (toward the long-term goals) take into account the improvement that will be necessary to make significant progress in closing statewide proficiency gaps.

27

Long-Term Goals – Achievement

Examples from states:

- Maine:** All students and subgroups hit various performance targets on state exams by 2030; goal is for 75.2 percent of all students to be proficient in reading/language arts, and 69.2 percent to be proficient in math; 90 percent of all students and student subgroups to graduate in 2030 or maintain their current graduation rate, whichever is higher, using the four-year adjusted cohort method.
- Michigan:** Proposes 75 percent of schools and 75 percent of all subgroups reach various proficiency targets on state exams in English/language arts, math, science, and other subjects by 2024-25.
- Nevada:** By 2022, 61 percent of all students and subgroups proficient in English/language arts and 41 percent proficient in math; have 84 percent of high school students graduate after four years.

28

Long-Term Goals

Graduation Rate – Four-year adjusted cohort graduation rate

- Describe the long-term goals for the four-year adjusted cohort graduation rate for all students and for each subgroup of students, including:
 - Baseline data
- The timeline for meeting the long-term goals, for which the term must be the same multi-year length of time for all students and for each subgroup of students
- How the long-term goals are ambitious

29

Long-Term Goals

Graduation Rate – Extended-year adjusted graduation rate

- If applicable, describe the long-term goals for each extended-year adjusted cohort graduation rate, including:
 - The timeline for meeting the long-term goals, for which the term must be the same multi-year length of time for all students and for each subgroup of students
- How the long-term goals are ambitious
- How the long-term goals are more rigorous than the long-term goal set for the four-year adjusted cohort graduation rate

30

Long-Term Goals

Graduation Rate – Measures of interim progress for graduation rate

- Provide the measurements of interim progress toward the long-term goals for the four-year adjusted cohort graduation rate and any extended-year adjusted cohort graduation rate.
- Describe how the long-term goals and measurements of interim progress for the four-year adjusted cohort graduation rate and any extended-year adjusted cohort graduation rate take into account the improvement necessary to make significant progress in closing statewide graduation rate gaps.

Long-Term Goals

English Language Proficiency (ELP) – Long-term goals for English learners

- Describe the long-term goals for English learners for increases in the percentage of EL students making progress in achieving English language proficiency (as it is measured by the statewide English language proficiency assessment), including:
 - Baseline data
 - The State-determined timeline for such students to achieve English language proficiency
 - How the long-term goals are ambitious
- Provide the measurements of interim progress for the percentage of English learners making progress in English language proficiency toward the long-term goal for increases.

Appendix H – Accountability Subcommittee Report

<div data-bbox="311 405 751 438">ACCOUNTABILITY SUBCOMMITTEE</div> <div data-bbox="448 489 755 554">Bureau of Indian Education Negotiated Rulemaking Committee - Standards, Assessments & Accountability System</div>	<div data-bbox="888 317 1209 350">Tasks from Billings Meeting</div> <div data-bbox="893 359 1356 417"><i>Task 1:</i> Review the 'side-by-side' of the draft regulations related to Accountability and identify concerns, questions, pros/cons, identify where technical experts/assistance is needed.</div> <div data-bbox="893 438 1328 476"><i>Product:</i> Share findings, and proposals for draft regulations regarding accountability with the Committee.</div> <div data-bbox="893 499 1312 556"><i>Task 2:</i> Review Section 1111 related to Accountability and identify concerns, questions, pros/cons, where technical experts/assistance needed.</div> <div data-bbox="893 577 1175 596"><i>Product:</i> Share findings with the Committee.</div>
<div data-bbox="293 1050 466 1079">Section 1111 (c)</div> <div data-bbox="315 1079 540 1100">Clarifications Required from BIE</div> <div data-bbox="315 1121 774 1228"><ol style="list-style-type: none">1. Minimum Number of Students: What is BIE's current N-size?2. Long-Term Goals: What is a long term goal, 5, 10 years?3. Annual Measure of Achievement: If don't have 95% of students taking assessments then what...? How do you determine performance?</div> <div data-bbox="315 1251 566 1272">Key Comments from Subcommittee</div> <div data-bbox="315 1272 769 1388"><ol style="list-style-type: none">1. Annual Meaningful Differentiation: Must be able to do this annually. Important to ensure students are making progress.2. Partial Attendance: Wherever the student resides the longest should have the largest impact on the student. This is very difficult to track and who is responsible for determining where the student was enrolled the longest?</div>	<div data-bbox="901 1056 1094 1087">Section 1111 (c)</div> <div data-bbox="888 1087 1218 1110">Additional Information Needed Regarding:</div> <div data-bbox="888 1113 1349 1274"><ol style="list-style-type: none">1. N size that is meaningful. Research on school systems and numbers for subgroups e.g. rural schools with small class sizes. Do schools use a sliding scale? If not what do they use.2. 95% Participation Rates – implications if don't meet the threshold.</div>

Appendix I – Waiver Subcommittee Report

<div>2</div> <div>WAIVERS SUBCOMMITTEE</div> <div>Bureau of Indian Education Negotiated Rulemaking Committee - Standards, Assessments & Accountability System</div>	<div>2</div> <div>Tasks from Billings Meeting</div> <div>Task 1: Review the 'side-by-side' of the draft regulations related to Waivers and identify concerns, questions, pros/cons, identify where technical experts/assistance is needed.</div> <div>Product: Share findings, and proposals for draft regulations regarding waivers with the Committee.</div> <div>Task 2: Review Section 1111 [8204(c)] related to Waivers and Technical Assistance and identify concerns, questions, pros/cons, where technical experts/assistance needed.</div> <div>Product: Share findings with the Committee.</div>								
<div>3</div> <div>Clarifications Required from BIE</div> <table><tr><th>Draft Language</th><th>Question</th></tr><tr><td>§30.107. May a tribal governing body or school board waive the Secretary's definition of standards, assessments, and accountability system?</td><td><ul style="list-style-type: none">Who gives the authority to request a waiver? Is it individual to each tribe?Meaning of 'tribal governing body or school board'</td></tr></table>	Draft Language	Question	§30.107. May a tribal governing body or school board waive the Secretary's definition of standards, assessments, and accountability system?	<ul style="list-style-type: none">Who gives the authority to request a waiver? Is it individual to each tribe?Meaning of 'tribal governing body or school board'	<div>4</div> <div>Subcommittee Ideas/Comments</div> <table><tr><th>Draft Language</th><th>Comments</th></tr><tr><td>§30.108. How does a tribal governing body or school board waive the Secretary's definitions?</td><td><ul style="list-style-type: none">Include in the regulations a sequence e.g., DOI, then ED, or simultaneous and/or specify a timeframe for: federal receipt, time of review and response.Extend the 60-day timeframe so that the tribe has sufficient time to develop its proposal.Add language on what the Tribe can implement during the review process.Insert the how the waiver is submitted. Via tribal resolution, formal letter, how?</td></tr></table>	Draft Language	Comments	§30.108. How does a tribal governing body or school board waive the Secretary's definitions?	<ul style="list-style-type: none">Include in the regulations a sequence e.g., DOI, then ED, or simultaneous and/or specify a timeframe for: federal receipt, time of review and response.Extend the 60-day timeframe so that the tribe has sufficient time to develop its proposal.Add language on what the Tribe can implement during the review process.Insert the how the waiver is submitted. Via tribal resolution, formal letter, how?
Draft Language	Question								
§30.107. May a tribal governing body or school board waive the Secretary's definition of standards, assessments, and accountability system?	<ul style="list-style-type: none">Who gives the authority to request a waiver? Is it individual to each tribe?Meaning of 'tribal governing body or school board'								
Draft Language	Comments								
§30.108. How does a tribal governing body or school board waive the Secretary's definitions?	<ul style="list-style-type: none">Include in the regulations a sequence e.g., DOI, then ED, or simultaneous and/or specify a timeframe for: federal receipt, time of review and response.Extend the 60-day timeframe so that the tribe has sufficient time to develop its proposal.Add language on what the Tribe can implement during the review process.Insert the how the waiver is submitted. Via tribal resolution, formal letter, how?								

Subcommittee Ideas/Comments	
Draft Language	Comment
§30.109. What should a tribal governing body or school board include in a waiver and alternative proposal?	<ul style="list-style-type: none"> Who is responsible for the Waiver Template, BIE or ED? Add the template and waiver checklist to the regulations. Demonstrate engagement with stakeholders such as governing boards, school boards, advisory boards etc.

Subcommittee Ideas/Comments	
Draft Language	Comment
§30.111. Will the Secretary provide technical assistance to tribal governing bodies or school boards seeking a waiver?	<ul style="list-style-type: none"> Technical Assistance is a trust responsibility. What is Technical Assistance is it for a seeking a Waiver and/or for preparing alternative proposed definition? Should be provided by BIE, directly or through contract. An annual allocation for such technical assistance should be provided and published in the BIE budget.

Subcommittee Ideas/Comments	
Draft Language	Comment
§30.112. What is the process for requesting technical assistance?	<ul style="list-style-type: none"> Letter for TA Add to paragraph b <i>'and a point of contact and a timeline to work out arrangements and what is needed'</i>

Subcommittee Ideas/Comments	
Draft Language	Comment
§30.114. How does the Secretary review and approve an alternative definition?	<ul style="list-style-type: none"> Include in the regulations a sequence e.g., DOI, then ED, or simultaneous and/or specify a timeframe for: federal receipt, time of review and response. Include a provision for a tribe to move forward with its process if no decision from BIE or ED is provided within the stated timeframe.

Appendix J – Minimum N-Size Requirements Under ESSA

Minimum N-Size Requirements Under ESSA:

Deb Sigman
Albuquerque, NM| October 31, 2018

THE CENTER ON STANDARDS & ASSESSMENT IMPLEMENTATION
LUNARIS CRESST



Accountability and Reporting

- Two parts of the law pertaining to minimum n-size
 - Accountability
 - Reporting
- Blending Policy and Psychometrics
 - Statistical soundness
 - Transparency
 - Privacy

Statewide Accountability System – ESEA Section 1111 (c)(3)(A)(i)) – Page 30

Each State shall describe—

(A) with respect to any provisions under this part that require disaggregation of information by each subgroup of students—

(i) the minimum number of students that the State **determines are necessary** to be included to carry out such requirements and how that number is **statistically sound**, which shall **be the same** State-determined number for all students and for each subgroup of students in the State;

Statewide Accountability System – ESEA Section 1111 (c)(3)(A)(ii)) – Page 30

Each State shall describe—

(ii) **how** such minimum number of students was **determined** by the State, including **how the State collaborated** with teachers, principals, other school leaders, parents, and other stakeholders when determining such minimum number; and

Statewide Accountability System – ESEA Section 1111 (c)(3)(A)(iii)) – Page 30

Each State shall describe—

(iii) how the State **ensures that such minimum number is sufficient to not reveal any personally identifiable information**.

State Examples

STATE	BIE SCHOOLS	TRIBALLY OPERATED	N
• ARIZONA	22	32	12,097
• SOUTH DAKOTA	3	19	6,634
• NORTH DAKOTA	4	8	3,727
• OKLAHOMA	1	4	1,116



7

State Plan Requirement: Minimum N-Size

- Does the SEA provide the minimum number of students that the State determines is necessary to meet the requirements of any provisions under Title I, Part A of the ESEA that require disaggregation of information by each subgroup of students for accountability purposes, including annual meaningful differentiation and identification of schools?
- Is the minimum number of students the same State-determined number for all students and for each subgroup of students in the State (i.e., economically disadvantaged students, students from each major racial and ethnic group, children with disabilities, and English learners) for accountability purposes?



8

Arizona – Minimum N-Size

- All Arizona public schools and LEAs will have an n-size of 20 for accountability and reporting
- Number considered large enough to provide valid and reliable results, but small enough to ensure schools are held accountable.
- Additionally, this n-size offers privacy protection for those subgroups too small to report without disclosing personally identifiable information.



9

South Dakota – Minimum N-size

- N-size of 10 for both public reporting and for accountability determinations
- Applies to all students, each subgroup, and the two super subgroups
- Historical acceptance and allows for inclusion of many small schools.
- **Using a number larger than 10 would exclude a large number of schools from accountability and would decrease transparency in the state.**



10

South Dakota – Gap vs No Gap Groups

- In addition to the above accountability subgroups, South Dakota also uses the super subgroups of Gap and Nongap. The Gap group was conceived as a means of improving transparency in public reporting. Defining the Gap group has resulted in schools across South Dakota reporting information for an additional 1,052 subgroups.
- The Gap group composition was calculated based on the achievement results from the 2008-09, 2009-10, and 2010-11 school years. The performance of students in each subgroup was compared to the performance of the "all students" group. Those groups that performed consistently under the all students group became part of the Gap group; those that performed above comprised the Nongap group.



11

North Dakota – Minimum N-size

- North Dakota has established the sample size of N>9 as the minimum number of students required in a school or subgroup for any public reporting or accountability determination to occur.
- If any current-year's achievement rates are based on a sample size less than this defined limit, then any accountability determination and reporting must revert to multiple-year calculations, until a sufficient sample size is achieved.
- This minimum sample size reflects long-standing state policy regarding the minimum sample size required for the purposes of protecting individual students from possible identification, consistent with the Family Education Rights to Privacy Act.



12

Oklahoma – Minimum N-Size

- Discussion - a large minimum N-size can bolster the reliability of the resulting decisions, but because it excludes certain populations from the system who do not meet the minimum sample size, it also undermines the validity of the system to meaningfully differentiate schools.
- OSDE will continue to use an N-size of 10 for all accountability indicators and data reporting.
- This low N-size should ensure that a high number and percentage of schools and student subgroups are included in the statewide accountability system



13

State Plan Requirement: How the SEA Determined Minimum N-Size

- Does the SEA describe how it determined the minimum number of students?
- Does the description include how the State collaborated with teachers, principals, other school leaders, parents, and other stakeholders when determining such minimum number?



14

Determining N-Size and Engagement – Arizona

- Below is a table displaying how varying n-sizes could impact Arizona schools and the accountability system. This table shows how many schools could be excluded from accountability by subgroup depending on the n-size that is selected.
- As expected, the smaller the n-size, the more schools that would be included in accountability. The decision regarding n-size needs to be balanced with statistical validity and reliability.
- The A-F Ad Hoc committee that proposed this n-size consisted of teachers, superintendents, parents, educational lobbyists and State Board of Education members. The committee reviewed data and made recommendations.
- The State Board of Education also did a month long roadshow, including an online survey and 18 face-to-face meetings, to incorporate feedback from all stakeholders prior to the State Board of Education making final decisions
- Thus, a final n-size of 20 has been determined and approved by the State Board of Education.



15

Arizona

Demographic	Total Students	Total Schools	N=6	N=8	N=10	N=20
African American	66,541	2401	1,343	1,071	956	469
American Indian	74,511	2001	1,679	1,577	1,474	1,076
Hispanic/Latino	401,634	2408	408	345	332	246
Asian	42,302	2001	1,643	1,297	1,278	858
Booster	2,271	2000	1,410	1,412	1,408	1,101
White	404,639	2401	302	465	375	242
Multi-Racial	41,930	2001	1,383	1,438	1,364	831
English Learner	95,708	2001	1,238	1,161	1,087	754
Economically Disadvantaged	434,402	2001	878	836	843	605
Children with Disabilities	147,407	2001	948	847	783	562



16

South Dakota – Determining N-size and Engagement

- During the course of its consultations on this plan, SD DOE brought together an Accountability Work Group comprised of school administrators, teachers, and other stakeholders with varied backgrounds to provide recommendations to the state.
- This group considered the question of n size in the context of what South Dakota has utilized and how other states approach this question.
- The group recommended continuing to use an n size of 10.
- These discussions were also held in the English Learner Work Group meetings, Parent Advisory Council meetings, and have been ongoing discussions at Technical Advisory Committee meetings.



17

North Dakota – Determining N-size and Engagement (1)

- North Dakota historically has used the N size of 10 for accountability purposes. This issue was discussed at length within our State ESSA Planning Committee.
- The North Dakota Standards, Assessment, Accountability and Reporting subcommittee wanted to be thorough in creating our state plan and explored increasing the N-size to 15 and reporting every year.
- They sought input from their constituents and determined if the state's accountability plan required school districts to report every year, a larger schools' factors are different from a smaller one.
- In addition, if the N size were to increase, then a smaller school district may never have enough students to report or would need to aggregate too many years.



18

North Dakota – Determining N-size and Engagement (2)

- In addition, if the N size were to increase, then a smaller school district may never have enough students to report or would need to aggregate too many years.
- This scenario was unsatisfactory to the subcommittee, and they recommended to the full North Dakota State ESSA Planning Committee to keep the N size at 10 and for the smaller districts to aggregate two to possibly three years of data.
- After further dialogue, the North Dakota State ESSA Planning Committee agreed with the subcommittee's recommendation and voted to keep the accountability number size at 10.



19

Oklahoma – Determining N-size and Engagement –

- OSDE held regional meetings across the state and convened the Oklahoma Assessment and Accountability Task Force to deliberate over the many technical, policy and practical issues, including the minimum N-size associated with implementing an approved assessment and accountability system.
- Those giving input included teachers, Pre-K-12 administrators, higher education representatives, career technical representatives, parents, legislators, business representatives, tribal representatives and other community members.
- In the Oklahoma ESSA State Plan Draft 1 Survey, stakeholders were asked to respond to the question of whether an N of 30 for accountability was reasonable.
- Many comments reflected the desire to see a lower N-size to ensure the maximum number of students is included in accountability; therefore, the state has selected an N-size of 10.



20

State Plan Requirement - Statistical Soundness of Minimum N-Size

- Is the selected minimum number of students statistically sound ²

Footnote 2

Consistent with ESSA section 1111(f), information collected or disseminated under ESSA section 1111 shall be collected and disseminated in a manner that protects the privacy of individuals consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g, commonly known as the "Family Educational Rights and Privacy Act of 1974"). When selecting a minimum n-size for reporting, States should consult the Institute of Education Sciences report "[Best Practices for Determining Subgroup Size in Accountability Systems While Protecting Personally Identifiable Student Information](#)," to identify appropriate statistical disclosure limitation strategies for protecting student privacy.



21

Arizona – Statistical Soundness

- An n-size of 20 was established as that number is large enough to provide statistically valid and reliable results, but small enough to ensure schools are held accountable.
- Additionally, this n-size offers privacy protection for those subgroups too small to report without disclosing personally identifiable information.



22

South Dakota – Statistical Soundness

- The decision regarding n size was made after discussions with Accountability Work Group members, SD DOE's Technical Advisory Committee, SD DOE's Parent Advisory Council, and by utilizing the recent Institute of Education Sciences Report "Best Practices for Determining Subgroup Size in Accountability Systems While Protecting Personally Identifiable Student Information."
- This number strikes a balance between inclusion and indicator stability in the system, ensuring that many of the small schools in the state are still included in the state accountability system, and ensuring transparency for stakeholders and parents related to student outcomes.
- Schools not meeting the minimum n size of 10 at the school level undergo a Small and Special School Audit that utilizes a review of three years of data to determine whether the school is meeting accountability criteria.



23

Oklahoma – Statistical Soundness

- Oklahoma has chosen an N-size of 10 for all accountability student groups and indicators.
- Oklahoma has a significant number of small schools (e.g., 57 schools in schools year 2015-16 had fewer than 30 tested students in mathematics).
- Using a minimum N-size of 10 for calculating indicators in Oklahoma's accountability system will allow for greater transparency for rural schools and underrepresented student groups.
- If an N-size of 10 cannot be met in a single year for a student group, Oklahoma will aggregate data up to three prior years in order to reach an N-size of 30. Schools that cannot reach an N-size of 10 over three years will be subject to an alternate accountability model.



24

A.4 ii d: Minimum N-Size and Ensuring Student Privacy
(ESEA section 1111(c)(3)(A)(iii))

- Does the SEA describe how it ensures that the minimum number of students will protect the privacy of individual students?

Arizona – Privacy

- Arizona Department of Education suppresses aggregate data that falls below the minimum n-size to ensure that student information is protected. Additional ways to protect data are also being discussed.
- Student privacy is of utmost importance when reporting data and will be ensured for all students and subgroups.

South Dakota – Privacy

- South Dakota has long used an n size of 10 in order to report and hold schools accountable. This established number has been demonstrated through research and peer review as effective in complying with the Family Educational Rights and Privacy Act to protect student information.
- South Dakota uses multiple techniques to provide protection against disclosure or identification of an individual student's outcomes, including suppression of small group outcomes, suppression of complementary group outcomes, and suppression of small category outcomes.

Oklahoma – Privacy

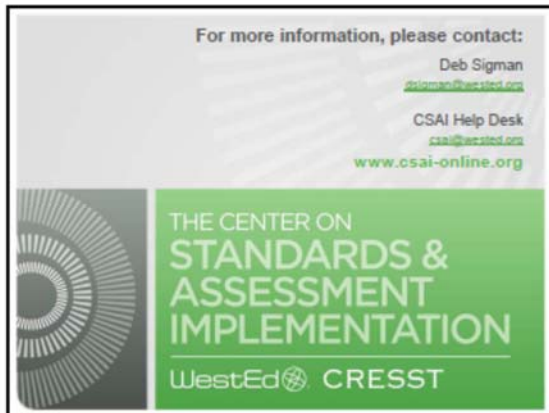
- Personally identifiable information is protected in multiple ways.
- First, Oklahoma ensures that student information remains private by employing complementary suppression of the information when all students score at a certain level (for example, 100% graduation rate) or when no students score at a certain level (for example, 0% graduation rate).
- Oklahoma also employs complementary suppression within student groups that are mutually exclusive and exhaustive. For example, if data for one racial/ethnic group are suppressed due to not meeting the minimum N-size of 10, then the racial/ethnic group with the second-lowest N-size will be suppressed as well.
- Measures comprised of fewer than 10 students are not reported regardless of the result

North Dakota – Privacy

- The *Family Educational Rights and Privacy Act* (FERPA) forbids the reporting of any information that might lead to the identification of an individual student. Historically, North Dakota has used an N<10 rule (i.e., sample size less than ten students) to govern the public identification or publication of student achievement rates.
- Thus, if a school's or a subgroup's sample size is fewer than 10 students in either one year or up to three years combined data, providing for a sufficient reportable sample size, then no achievement data would be reported for that school or specific subgroup.

Policy and Psychometric Considerations

- Balance between
 - Transparency leading to access and equity
 - Statistical soundness
- Essentially a policy decision as the parameters are broad



Appendix K – Standards Subcommittee Report – Draft Part 30 Side-by-Side

DRAFT FOR DISCUSSION PURPOSES ONLY

<p>“Bureau Operated school” means a school operated by the Bureau of Indian Education.</p>	
<p>Title 25 – Indians Chapter I – Bureau of Indian Affairs, Department of the Interior Subchapter E – Education Part 30 – Standards, Assessments, and Accountability System Subpart A – Defining Standards, Assessments, and Accountability System</p>	
<p>§30.102. What does the Act require of the Secretary?</p> <p>The Act requires the Secretary to define standards, assessments, and accountability system consistent with section 1111 of the Act for schools on a national, regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools, using regulations developed through a negotiated rulemaking process.²</p> <p>A tribal governing body or school board may waive these requirements, in part or in whole, and submit a proposal for alternative definitions within 60 days, which the Secretary and the Secretary of Education will approve unless the Secretary of Education determines that the proposal does not meet the requirements of section 1111, taking into account the unique circumstances and needs of such school or schools and the students served.³</p>	<p>§30.102. What does the Act require of the Secretary?</p> <p><i>The Act requires the Secretary to provide an assurance that the BIE has adopted challenging academic standards consistent with Section 1111 of the Act for schools on a national, regional, or tribal basis as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools, using regulations developed through a negotiated rule making process. (footnote 2)</i></p> <p><i>Is this threshold of assurance the same as what will be expected in the waiver process?</i></p>

² 20 U.S.C. §7824(c)(1). “For the purposes of part A of title I [20 U.S.C. §6311 *et seq.*], the Secretary of [the] Interior, in consultation with the Secretary, if the Secretary of the Interior requests the consultation, using a negotiated rulemaking process to develop regulations for implementation no later than the 2017-2018 academic year, shall define the standards, assessments, and accountability system consistent with section 1111 [20 U.S.C. §6311], for the schools funded by the [BIE] on a national, regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.”

³ 20 U.S.C. §7824(c)(2). “The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the requirements established pursuant to paragraph (1) where such requirements are determined by such body or school board to be inappropriate. If such requirements are waived, the tribal governing body or school board shall, within 60 days, submit to the Secretary of [the] Interior a proposal for alternative standards, assessments, and an accountability system, if

DRAFT FOR DISCUSSION PURPOSES ONLY

<p>The Act further requires the Secretary and the Secretary of Education to provide technical assistance, upon request, either directly or through a contract to a tribal governing body or school board that seeks a waiver.⁴</p>	<p><i>Change to “...through a contract to a tribal governing body or authorized school board that has notified the Secretary of a waiver.</i></p>
<p>§30.103. How will the Secretary implement the requirements of the Act?</p> <p>(a) The Secretary, through the Director, must define the standards, assessments, and accountability system for use at BIE schools in accordance with this Part.⁵</p> <p>(b) The Director will implement an Indian Education Plan⁶ that will provide Indian tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE Schools.</p>	<p>§30.103. How will the Secretary implement the requirements of the Act?</p> <p><i>(a) The Secretary will convene a committee of tribally selected representatives, including (INSERT LANGUAGE FROM NRM) to define the standards to apply to all BIE-funded schools. These standards will apply to all schools in the BIE, except those who have notified the Secretary of a waiver.</i></p> <p><i>(b) Change “Indian Education Plan” to “Education Plan, also known as the State Plan”; ...that will provide tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE-funded schools.</i></p>

applicable, consistent with section 1111 [20 U.S.C. §6311], that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior and the Secretary shall approve such standards, assessments, and accountability system unless the Secretary determines that the standards, assessments, and accountability system do not meet the requirements of section 1111 [20 U.S.C. §6311], taking into account the unique circumstances and needs of such school or schools and the students served.”

⁴ 20 U.S.C. §7824(c)(3). “Technical assistance. The Secretary of [the] Interior and Secretary shall, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks a waiver under paragraph (2).”

⁵ 20 U.S.C. §7824(c)(1). “For the purposes of part A of title I [20 U.S.C. §6311 *et seq.*], the Secretary of [the] Interior, in consultation with the Secretary, if the Secretary of the Interior requests the consultation, using a negotiated rulemaking process to develop regulations for implementation no later than the 2017-2018 academic year, shall define the standards, assessments, and accountability system consistent with section 1111 [20 U.S.C. §6311], for the schools funded by the [BIE] on a national, regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.”

⁶ BIE is not included within the definition of “State” or “State educational agency” under ESEA. See 20 U.S.C. §7801(30)(E), (48). On the other hand, the definition of “local education agency” provides that the term includes BIE-funded schools “except that [such schools] shall not be subject to the jurisdiction of any State educational agency other than the [BIE].” 20 U.S.C. §7801(30)(C) (emphasis added). As such it is unclear whether BIE is required to have a State Plan. However BIE/DOI functions as a State for purposes of ESEA. Under a 2012 agreement with the Department of Education (ED) pursuant to 20 U.S.C. §7824(a), ED considered BIE’s responsibilities to be “comparable” to those of a

<p>(c) The Director shall review and revise the Indian Education Plan periodically as necessary to reflect changes in the Bureau's strategies and programs.⁷ The Secretary shall engage in active consultation with tribes and other interested parties while engaged in review and revision of the Indian Education Plan.⁸</p> <p>(d) The Director may voluntarily partner with States to develop and implement challenging State academic standards and assessments.⁹</p>	<p>(c) The Director shall review and revise the <i>Education Plan</i> periodically as necessary to reflect changes in the Bureau's strategies and programs. The Secretary shall engage in <i>meaningful and timely</i> consultation with tribes and other interested parties while engaged in review and revision of the <i>Education Plan</i>.</p> <p>a. <i>Timely is defined as providing a minimum of thirty (30) days written notice and a copy of the draft Education Plan to all tribal governing bodies or authorized school boards before holding a consultation session.</i></p> <p>b. <i>Meaningful is defined as holding consultations in a manner that provides for intentional, focused discussion and provides ample time for input and revisions from all interested parties.</i></p> <p>(d) <i>No Changes</i></p>
<p>§30.104. How will the Secretary define standards?</p> <p>(a) The Secretary will define academic standards for Bureau-funded schools on a national, regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools by:</p> <ul style="list-style-type: none"> • adopting challenging academic content standards and • aligned academic achievement standards (standards) consistent with section 1111(b)(1) of the Act.¹⁰ 	<p>§30.104. How will the Secretary define standards?</p> <p>(a) <i>After convening the committee identified in Section XXXX of this document, the Secretary will define the challenging academic standards for Bureau-funded schools, taking into account the unique circumstances and needs of such schools and the students served by such schools by:</i></p> <p>(question – what is the purpose of National, regional, or tribal basis?)</p> <ul style="list-style-type: none"> • adopting challenging academic content standards and • aligned academic achievement standards (standards) consistent with section 1111(b)(1) of the Act.¹⁴

⁷ 20 U.S.C. 6311(a)(6)(A)(i)-(ii). "(6) Duration of the plan. (A) In general. Each State plan shall – (i) remain in effect for the duration of the State's participation under this part [Section 1111 *et seq.*; 20 U.S.C. §§6311 *et seq.*]; and (ii) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State's strategies and programs under this part [Section 1111 *et seq.*; 20 U.S.C. §§6311 *et seq.*]"

⁸ See, e.g., 20 U.S.C. §6311(a)(1)(A)(State plans are "developed by the State educational agency with timely and meaningful consultation with..."); Department of the Interior Tribal Consultation Policy.

⁹ 20 U.S.C. §6311(j). "Voluntary partnerships. A State retains the right to enter into a voluntary partnership with another State to develop and implement the challenging State academic standards and assessments required under this section..." Even if we are unsure as to whether BIE has or will have the resources to develop and implement such standards and assessments, it would be a good idea to codify the ability to enter into such partnerships in case it becomes necessary in the future.

¹⁰ The requirements for challenging State academic standards are located at 20 U.S.C. §6311(b)(1)(A)-(G). "(A) In general. Each State, in the plan it files under subsection (a), shall provide an assurance that the State has adopted challenging academic content standards and aligned academic achievement standards (referred to in [20 U.S.C. §§6311 *et seq.*] as "challenging State academic standards"), which achievement standards shall include not less than 3 levels of achievement, that will be used by the State, its local

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<p>Described collectively in the Act as "challenging State academic standards."</p> <p>(b) The academic standards will include:</p> <ul style="list-style-type: none"> • mathematics • reading or language arts, and • science • And may have such standards for any other subject determined by the Secretary.¹¹ <p>These standards shall apply to all Bureau-funded schools and students at those schools.</p> <p>(c) Academic achievement standards Academic achievement standards shall include the same knowledge, skills, and levels of achievement expected of all students at Bureau-funded schools. The Secretary may adopt alternate academic achievement standards for students with the most significant cognitive disabilities.¹²</p>	<p>(b) The academic standards will include:</p> <ul style="list-style-type: none"> a. Mathematics b. Reading or language arts, and c. Science, and d. Tribal government/civics (name to be determined) <p>These standards shall apply to all Bureau-funded schools and students at those schools, <i>unless the standards have been waived by the tribal government or school board.</i></p> <p>(c) Academic Achievement standards: Academic achievement standards shall include the same <i>types</i> of knowledge, skills, and levels of achievement expected of all students at Bureau-funded schools. The Secretary may adopt alternate academic achievement standards for students</p>
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educational agencies, and its schools to carry out this part. (B) Same standards. Except as provided in subparagraph (E), the standards required by subparagraph (A) shall - (i) apply to all public schools and public school students in the State; and (ii) with respect to academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State... (F) English language proficiency standards. Each State plan shall demonstrate that the State has adopted English language proficiency standards that - (i) are derived from the 4 recognized domains of speaking, listening, reading, and writing; (ii) address the different proficiency levels of English learners; and (iii) are aligned with the challenging State academic standards."

¹⁴ The requirements for challenging State academic standards are located at 20 U.S.C. §6311(b)(1)(A)-(G). "(A) In general. Each State, in the plan it files under subsection (a), shall provide an assurance that the State has adopted challenging academic content standards and aligned academic achievement standards (referred to in [20 U.S.C. §§6311 *et seq.*] as "challenging State academic standards"), which achievement standards shall include not less than 3 levels of achievement, that will be used by the State, its local educational agencies, and its schools to carry out this part. (B) Same standards. Except as provided in subparagraph (E), the standards required by subparagraph (A) shall - (i) apply to all public schools and public school students in the State; and (ii) with respect to academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State... (F) English language proficiency standards. Each State plan shall demonstrate that the State has adopted English language proficiency standards that - (i) are derived from the 4 recognized domains of speaking, listening, reading, and writing; (ii) address the different proficiency levels of English learners; and (iii) are aligned with the challenging State academic standards."

¹¹ Are there any other academic standards that might be useful or appropriate? 20 U.S.C. §6311(b)(1)(C). "Subjects. The State shall have such academic standards for mathematics, reading or language arts, and science, and may have such standards for any other subject determined by the State".

¹² Should such alternate standards be adopted? 20 U.S.C. §6311(b)(1)(E). "Alternate academic achievement standards for students with the most significant cognitive disabilities. (i) In general. The State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards- (I) are aligned with the challenging State academic content standards under subparagraph (A); (II) promote access to the general education curriculum, consistent with [IDEA]; (III) reflect professional judgment as to the highest possible standards achievable by such students; (IV) are designated in the individualized education program developed under section 614(d)(3) of [IDEA] for each such student as the academic achievement standards that will be used for the student; and

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<p>(d) The Secretary will support assessment of students with cognitive disabilities with the administration of a uniform exam.</p> <p>(e) The academic standards must be aligned with entrance requirements for credit-bearing coursework at institutions of higher education and relevant career and technical education standards.¹³ The Secretary will select an assessment that indicates college readiness for credit bearing coursework.</p>	<p>with the most significant cognitive disabilities.¹⁵ <i>If the Secretary chooses not to adopt alternative academic achievement standards, the tribal government or school board may.</i></p> <p>(d) The Secretary will support assessment of students with <i>significant</i> cognitive disabilities with the administration of a uniform exam.</p> <p>a. <i>All BIE-funded schools must assess their students with significant cognitive disabilities, either through an alternative assessment (ensure to define) or the general assessment selected by the Secretary if no alternative assessment is chosen.</i></p> <p>(e)) The academic standards must be aligned with entrance requirements for credit-bearing coursework at institutions of higher education <i>or</i> relevant career and technical education standards.¹⁶ The Secretary will select an assessment that indicates college readiness for credit bearing coursework. <i>What are the guidelines for both of these options? What regulations need to be in place to clarify graduation requirements? What is the impact on this for the waiver process, when tribes will create their own s, a, as</i></p>
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(V) are aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of [29 U.S.C. § 701 *et seq.*]. (ii) Prohibition on any other alternate or modified academic achievement standards. A State shall not develop, or implement for use under [ESEA title I], any alternate academic achievement standards for children with disabilities that are not alternate academic achievement standards that meet the requirements of clause (i)."

¹³ We will need to figure out what this means for the BIE. 20 U.S.C. § 6311(b)(1)(D). "Alignment. (i) In general. Each State shall demonstrate that the challenging State academic standards are aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards. (ii) Rule of construction. Nothing in [ESEA, as amended] shall be construed to authorize public institutions of higher education to determine the specific challenging State academic standards required under this paragraph."

¹⁵ Should such alternate standards be adopted? 20 U.S.C. § 6311(b)(1)(E). "Alternate academic achievement standards for students with the most significant cognitive disabilities. (i) In general. The State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards- (I) are aligned with the challenging State academic content standards under subparagraph (A); (II) promote access to the general education curriculum, consistent with [IDEA]; (III) reflect professional judgment as to the highest possible standards achievable by such students; (IV) are designated in the individualized education program developed under section 614(d)(3) of [IDEA] for each such student as the academic achievement standards that will be used for the student; and (V) are aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of [29 U.S.C. § 701 *et seq.*]. (ii) Prohibition on any other alternate or modified academic achievement standards. A State shall not develop, or implement for use under [ESEA title I], any alternate academic achievement standards for children with disabilities that are not alternate academic achievement standards that meet the requirements of clause (i)."

¹⁶ We will need to figure out what this means for the BIE. 20 U.S.C. § 6311(b)(1)(D). "Alignment. (i) In general. Each State shall demonstrate that the challenging State academic standards are aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards. (ii) Rule of construction. Nothing in [ESEA, as amended] shall be construed to authorize public institutions of higher education to determine the specific challenging State academic standards required under this paragraph."

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<p>(f) The Secretary must adopt English language proficiency standards that (i) are derived from the four recognized domains of speaking, listening, reading, and writing; (ii) address the different proficiency levels of English learners; and (iii) are aligned with the challenging State academic standards.</p>	<p>(f) include immersion schools perhaps exclude reading and writing assessments in the immersion language unless standardized resources exist.</p> <p>Standards Subcmnt Comments, Questions, Edits:</p> <p>Tasks for Subcommittee after Second Session:</p> <ol style="list-style-type: none"> 1. Brian will be on next subcommittee call to identify red flags 2. Sort through state plan – what could be in regulation, what is it called, should it even exist? 3. Ad hoc group on "The Plan" <ol style="list-style-type: none"> a. Sherry, Jeff, Rick, Lucinda, Lora, Amy will focus on part 2 of this section. <p>Remaining Questions 10/31/2018</p> <p>High school graduation requirements – will the BIE create these? Workforce Innovation and Opportunity Act</p> <p>University credit bearing institution requirements</p> <p>What is the purpose of identifying national, regional, and tribal</p> <p>Is this threshold of assurance the same as what will be expected in the waiver process? (Section 30.102)</p> <p>Include immersion schools perhaps exclude reading and writing assessments in the immersion language unless standardized resources exist.</p> <p>Require language from NRMC register to identify who should be on committee to define standards, assessments, accountability system.</p> <p>Questions from initial Sub-Committee meeting in early October</p> <p>Paragraph (a)</p> <p>'national, regional, or tribal basis' shows flexibility in standards. Tribal basis could be through waivers. How do we differentiate national or regional standard? Need to define this [in the regulations].</p> <p>Note from BIE: 'national, regional, or tribal basis' comes from Section 8204.</p> <p>If have 4th standard on Tribal Sovereignty/civics could be a regional or national standard.</p>
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	<p>What is the Sec. role? Is it to adopt Common Core or is it something else? If have standards in place a tribe / school can flesh things out. Note from BIE: Ultimately SEC DOI will need to make /define standards, assessments, accountability system.</p> <p>Paragraph (b): 4th bullet, Propose adding "Tribal Government, Trust, Treaties/Civics" need to be assessed and taught in tribal schools.</p> <p>Possibly some language about Native language could be added here too.</p> <p>Paragraph (c) 'same knowledge' it will be same <u>type</u> of knowledge but may/will be unique to each Tribe. This term needs to be defined for the regulations. Note from BIE: 'same knowledge' hasn't been interpreted this way, good. Needs to be aligned with assessments, this could be a waiver if a tribal/school wanted to make this unique. Tribes could develop own stnds/assessments.</p> <p>If assess, what would that look like? If have same standards, would LEA determine level of proficiency on demonstrate this knowledge? Many states have not chosen interim assessments. Assessments on tribal civics could be the same questions but the answers could be different for each tribe e.g. "what treaty links to of xx tribe".</p> <p>Paragraph (d) Important to include this language and have students participate. Note from BIE: This relates to a subgroup ... there is a 1% cap on number of students in this category. BIE's initial analysis is that BIE students in this subgroup exceeds the 1 % cap, BIE need will to get waiver from ED.</p> <p>Paragraph (e) Mike: Questions focused around tribes that have elementary schools only, colleges that are not aligned to what we are doing. With language immersion.</p> <p>Jennifer: What are the goals? Are they reflected in the SATs? What is a relevant technical education standard?</p>
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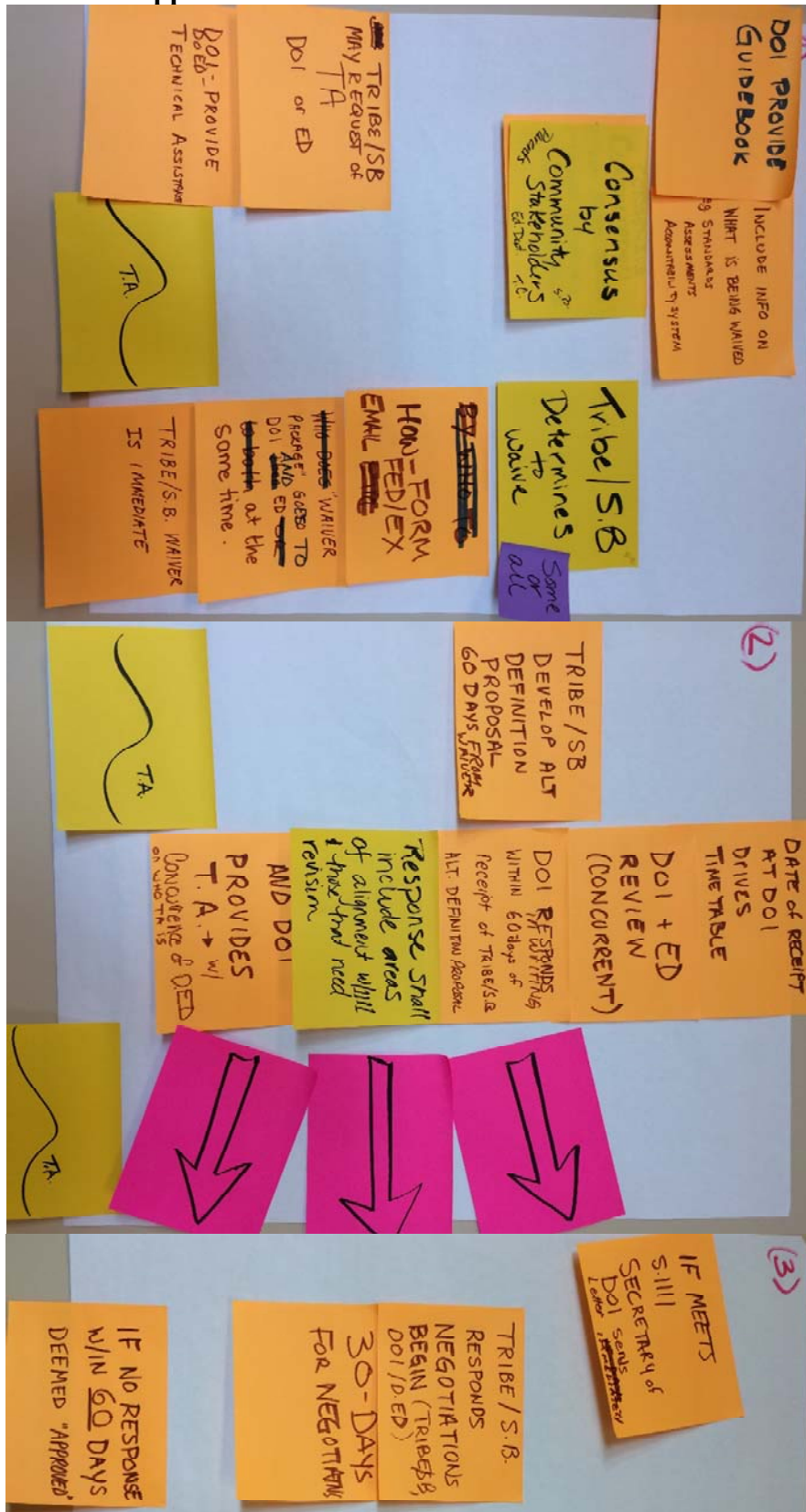
	<p>Select an assessment that indicates readiness for...</p> <p>Mike: Common Core for college. Who determines?</p> <p>Jennifer: Credit bearing coursework and relevant career standards.</p> <p>Higher education, or relevant career....</p>
<p>§30.105. How will the Secretary define assessments?</p> <p>(a) The Secretary shall define assessments for Bureau-funded schools by:</p> <ul style="list-style-type: none"> implementing a set of high-quality student academic assessments consistent with section 1111(b)(2) of the Act. <p>(b) These assessments will be aligned to the Bureau's challenging academic standards in:</p> <ul style="list-style-type: none"> Mathematics Reading or Language Arts, and Science And in any other subject chosen by the Secretary taking into account the unique circumstances and needs of Bureau-funded schools and the students served by such schools.¹⁷ <p>(c) These assessments will be administered to all elementary</p>	

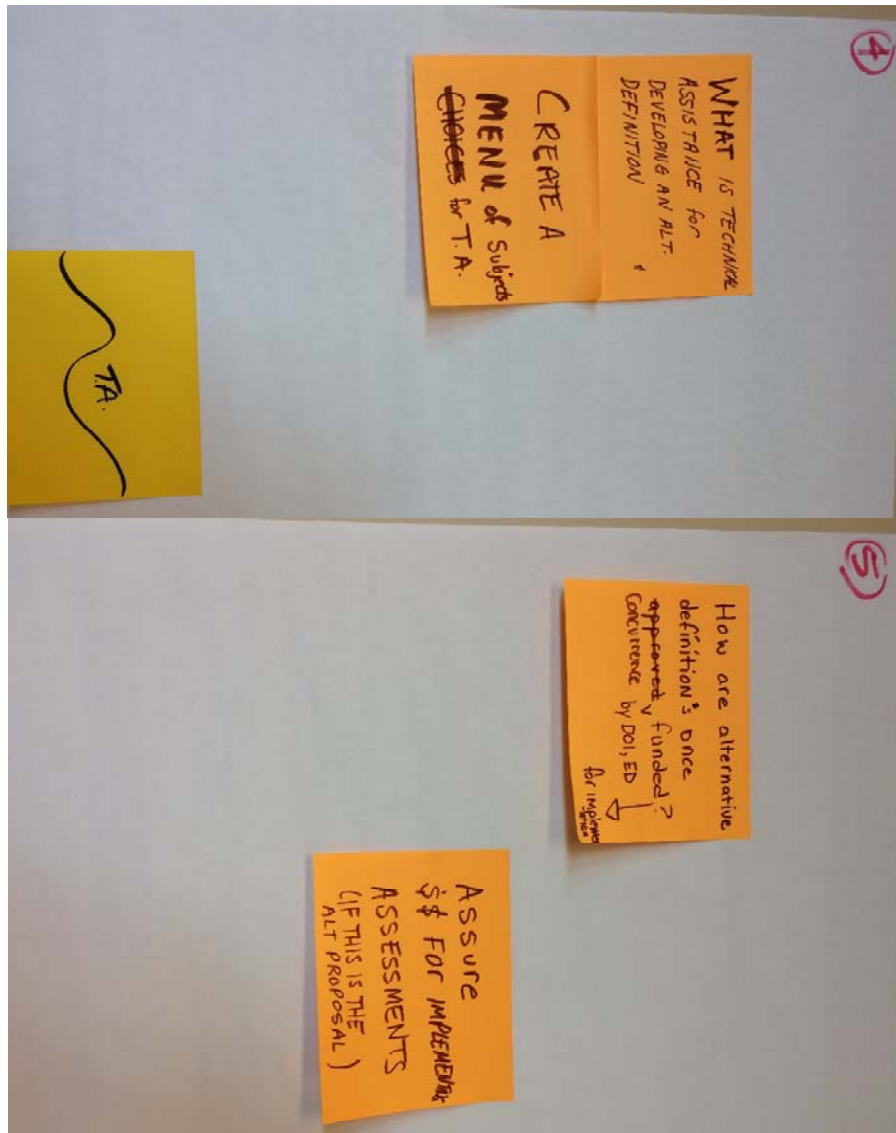
¹⁷ The requirements for high-quality student academic assessments are located at 20 U.S.C. §6311(b)(2). The statutory requirements seem particularly specific, which should limit the number of decisions that the Secretary has to make concerning how to define assessments and implement the definition. Should assessments in other subjects be chosen? 20 U.S.C. §6311(b)(2)(A). "In general. Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality student academic assessments in mathematics, reading or language arts, and science. The State retains the right to implement such assessments in any other subject chosen by the State." See also 20 U.S.C. §7824(c)(1).

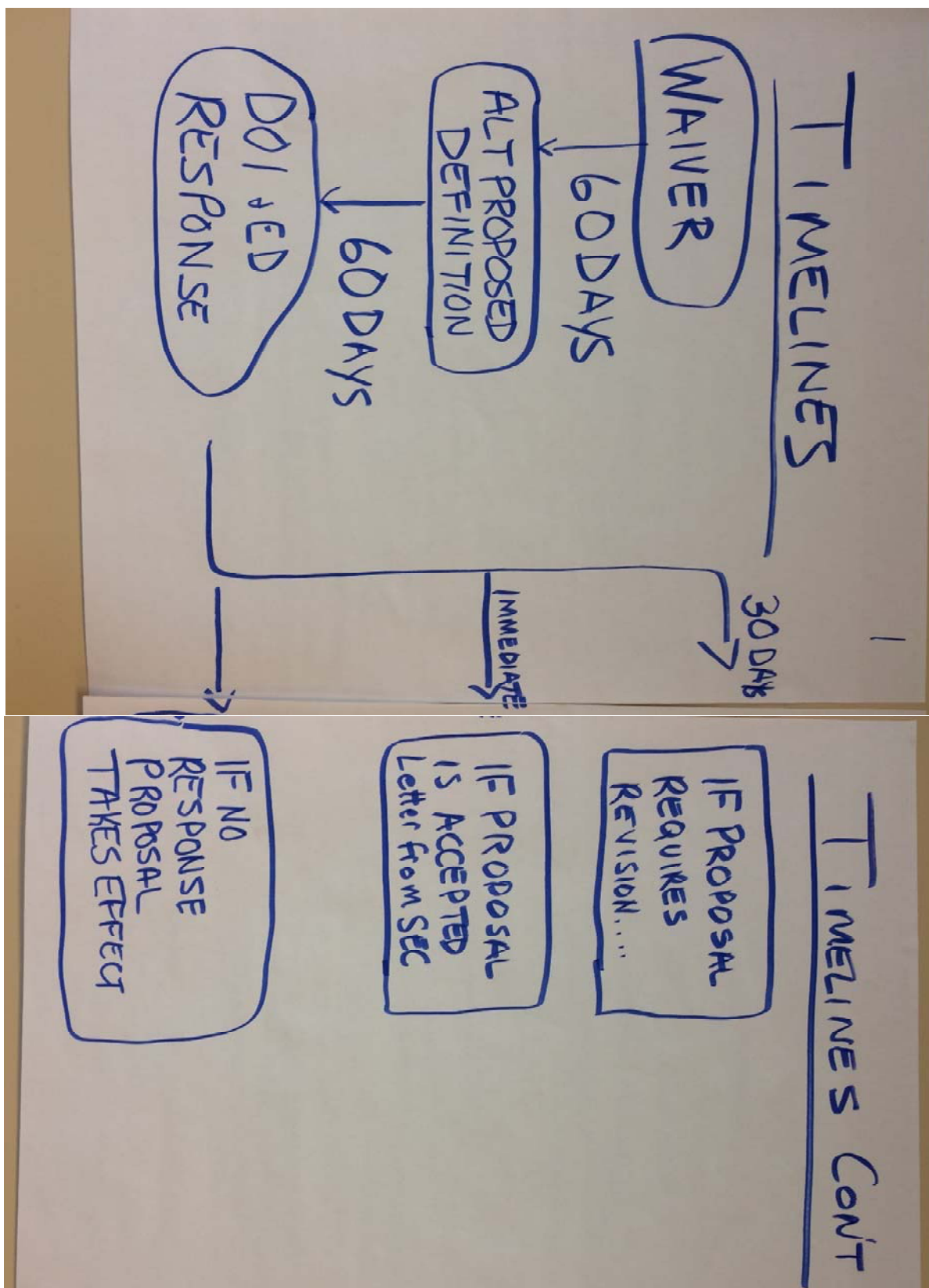
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Appendix L – Waiver Subcommittee Process







Appendix M – Assessment Subcommittee Review of Section 1111(B)(2) Assessments

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Assessments Subcommittee review of Section 1111(B)(2) Assessments

The Subcommittee reviewed and discussed each element under the Assessments in Section 1111 of ESSA. Member comments and questions are reflected below. Text in red are subcommittee comments received on October 25. Topics where expert advice may be needed are noted in the far-right hand column.

Element in Section 1111 Assessments	Comments/Concerns
2(A) IN GENERAL. Each State plan shall demonstrate that the State educational agency, The Bureau of Indian Education (BIE), in consultation with local educational agencies, has implemented a set of high quality student academic assessments in mathematics, reading or language arts, and science. The State BIE retains the right to implement such assessments in any other subject chosen by the State.	<p>Note: Change State to BIE throughout.</p> <p>Comments:</p> <p>Leslie: Ensure 'State' will consult with LEA individual schools. How will BIE consult with all of the 'LEA's to ensure maximum participation, least burdensome to BIE?</p> <p>Jim: BIE not a 'state' not sure the BIE plan is already developed.</p> <p>Ensure "State" (BIE) consults with tribally controlled schools as LEAs (ps)</p> <p>Questions:-</p> <p>Leslie: Need a definition of 'State' in order to move forward with draft regulations. Either must propose a definition. Or, a definition is provided to the com in order to move forward.</p> <p>BIE acts as State is part of MOA between DoE and DoI (ps)</p> <p>Last sentence: Is it broad enough to stand but allow for diversity of implementation of LEAs?</p>
2(B) REQUIREMENTS.—The assessments under subparagraph (A) shall— (i) except as provided in subparagraph (D) Alternate Assessments , be— (I) the same academic assessments used to measure the achievement of all public elementary school and secondary school students in the State; and (II) administered to all public elementary school and secondary school students in the State; (ii) be aligned with the challenging State academic standards, and provide coherent and timely information about student attainment of such standards and whether the student is performing at the student's grade level; (iii) be used for purposes for which such assessments are valid and reliable, consistent with relevant, nationally recognized professional and technical testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable	

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<p>information;</p> <p>(iv) be of adequate technical quality for each purpose required under this Act and consistent with the requirements of this section, the evidence of which shall be made public, including on the website of the State educational agency;</p> <p>(v)(E) in the case of mathematics and reading or language arts, be administered—</p> <p>(aa) in each of grades 3 through 8; and</p> <p>(bb) at least once in grades 9 through 12;</p> <p>(II) in the case of science, be administered not less than one time during—</p> <p>(aa) grades 3 through 5;</p> <p>(bb) grades 6 through 9; and</p> <p>(cc) grades 10 through 12; and</p> <p>(III) in the case of any other subject chosen by the State, be administered at the discretion of the State;</p> <p>(vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding, which may include measures of student academic growth and may be partially delivered in the form of portfolio, projects, or extended performance tasks;</p> <p>(vii) provide for—</p> <p>(I) the participation in such assessments of all students;</p> <p>(II) the appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities (as defined in section 602(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(3))), including students with the most significant cognitive disabilities, and students with a disability who are provided accommodations under an Act other than the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), necessary to measure the academic achievement of such children relative to the challenging State academic standards or alternate academic achievement standards described in paragraph (1)(E); and (III) the inclusion of English learners, who shall be assessed in a valid and reliable manner and provided appropriate accommodations on assessments administered to such students under</p> <p>this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency, as determined under</p> <p>subparagraph (G);</p>	<p>Questions:-</p> <p>Section (vi) 'partially' delivered. Is partially defined in ESSA? Important to clarify for administration of assessments by LEAs. Assessment subcommittee, No, partially delivered is not defined in the law.</p> <p>Are there valid, reliable assessments for reading/language arts and mathematics in Native languages? Leslie: Yes: Ojibwe immersion schools have such assessments.</p> <p>What resources are available for LEAs to develop these assessments? (Don't need to put in regulations but flag for awareness of the need for the BIE to provide TA.)</p>
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<p>(viii) at the State's discretion—</p> <p>(I) be administered through a single summative assessment; or</p> <p>(II) be administered through multiple statewide interim assessments during the course of the academic year that result in a single summative score that provides valid, reliable, and transparent information on student achievement or growth;</p> <p>(ix)(aa) notwithstanding clause (vii)(III), provide for assessments (using tests in English) of reading or language arts of any student who has attended school in the United States: not including the Commonwealth of Puerto Rico for 3 or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed 2 additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;</p> <p>(x) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii), regarding achievement on such assessments that allow parents, teachers, principals, and other school leaders to understand and address the specific academic needs of students, and that are provided to parents, teachers, and school leaders, as soon as is practicable after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;</p> <p><u>(bb) Students who are attending schools in a Native American language or program.</u></p> <p>(xi) enable results to be disaggregated within each State, local educational agency, and school by—</p> <p>(I) each major racial and ethnic group;</p> <p>(II) economically disadvantaged students as compared to students who are not economically disadvantaged;</p> <p>(III) children with disabilities as compared to children without disabilities;</p> <p>(IV) English proficiency status;</p> <p>(V) gender; and</p> <p>(VI) migrant status,</p> <p>except that such disaggregation shall not be required in the case of a State, local educational agency, or a school in which the number of students in a</p>	<p>I think the law says that assessments for math/ELA and science must still be assessed only in the native language, is this correct? (ps)</p> <p>Propose: Section 2(B) (ix) add [to regulations]: "Students who are attending schools in a Native American language or program" (i.e., immersion school). Helps align with civil rights aspect of ESSA. Something similar is in ESSA ELP Regs 200.6 includes a definition of Native Language or immersion programs</p>
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<p>subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;</p> <p>(xii) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, other school leaders, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items; and</p> <p>(xiii) be developed, to the extent practicable, using the principles of universal design for learning.</p>	<p>Section (vi) Native is critical, how do we write the rule that allows for Native that is meaningful.</p> <p><u>Assessment subcommittee. Assigned to accountability group. Note. Address both accountability and reporting.</u></p>
<p>2(C) Exception for Advance Mathematics in Middle School - A State may exempt any 8th grade student from the assessment in mathematics described in subparagraph (B)(v)(I)(aa) if—</p> <p>(i) such student takes the end-of-course assessment the State typically administers to meet the requirements of subparagraph (B)(v)(I)(bb) in mathematics;</p> <p>(ii) such student's achievement on such end-of-course assessment is used for purposes of subsection (c)(4)(B)(i), in lieu of such student's achievement on the mathematics assessment required under subparagraph</p>	<p><u>No comment</u></p> <p><u>Ensure State (BIE) maintain the option to exempt (pc);</u></p> <p><u>Assessment subcommittee. Yes, will maintain.</u></p> <p><u>Lara = Mom captured in accountability.</u></p>

<p>(B)(v)(I)(aa), and such student is counted as participating in the assessment for purposes of subsection (c)(4)(B)(vi); and</p> <p>(iii) in high school, such student takes a mathematics assessment pursuant to subparagraph</p> <p>(B)(v)(I)(bb) that—</p> <p>(I) is any end-of-course assessment or other assessment that is more advanced than the assessment taken by such student under clause (i) of this subparagraph; and</p> <p>(II) shall be used to measure such student's academic achievement for purposes of subsection</p> <p>(c)(4)(B)(i).</p>	
<p>2(D) Alternate Assessments for Student with the Most Significant Cognitive Disabilities—</p> <p>(i) ALTERNATE ASSESSMENTS ALIGNED WITH ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS.—A State may provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards described in paragraph (1)(E) for students with the most significant cognitive disabilities, if the State—</p> <p>(I) consistent with clause (ii), ensures that, for each subject, the total number of students assessed in such subject using the alternate assessments does not exceed 1 percent of the total number of all students in the State who are assessed in such subject;</p> <p>(II) ensures that the parents of such students are clearly informed, as part of the process for developing the individualized education program (as defined in section 614(d)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)))—</p> <p>(aa) that their child's academic achievement will be measured based on such alternate standards; and</p> <p>(bb) how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma;</p> <p>(III) promotes, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the involvement and progress of students with the most significant cognitive disabilities in the general education curriculum;</p>	

<p>(IV) describes in the State plan the steps the State has taken to incorporate universal design for learning, to the extent feasible, in alternate assessments;</p> <p>(V) describes in the State plan that general and special education teachers, and other appropriate staff—</p> <p>(aa) know how to administer the alternate assessments; and</p> <p>(bb) make appropriate use of accommodations for students with disabilities on all assessments required under this paragraph;</p> <p>(VI) develops, disseminates information on, and promotes the use of appropriate accommodations to increase the number of students with significant cognitive disabilities—</p> <p>(aa) participating in academic instruction and assessments for the grade level in which the student is enrolled; and</p> <p>(bb) who are tested based on challenging State academic standards for the grade level in which the student is enrolled; and</p> <p>(VII) does not preclude a student with the most significant cognitive disabilities who takes an alternate assessment based on alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.</p> <p>(ii) SPECIAL RULES.—</p> <p>(I) RESPONSIBILITY UNDER IDEA.—Subject to the authority and requirements for the individualized education program team for a child with a disability under section 614(d)(1)(A)(i)(V)(bb) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(V)(bb)), such team, consistent with the guidelines established by the State and required under section 612(a)(16)(C) of such Act (20 U.S.C. 1412(c)(16)(C)) and clause (i)(II) of this subparagraph, shall determine when a child with a significant cognitive disability shall participate in an alternate assessment aligned with the alternate academic achievement standards.</p> <p>(II) PROHIBITION ON LOCAL CAP.—Nothing in this subparagraph shall be construed to permit the Secretary or a State educational agency to impose on any local educational agency a cap on the percentage of students administered an alternate assessment under this subparagraph, except that a local educational agency exceeding the cap applied to the State under clause (i)(I) shall submit information to the State educational agency justifying the need to exceed such cap.</p> <p>(III) STATE SUPPORT.—A State shall provide appropriate oversight, as determined by the State, of any local educational agency that is required to submit information to the State under subclause (II).</p>	<p>Assessment subcommittee: The I.E.A. might exceed the 1% cap, but the State/BIE cannot and would want to talk to the I.E.A. a v exceeding 1%.</p> <p>Questions-</p>
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<p>(IV) WAIVER AUTHORITY — This subparagraph shall be subject to the waiver authority under section 8401.</p>	<p>Section 2D (ii) II - Prohibition on the local cap — Is there a regulation that needs to be written to clarify what is needed for justifying the need to exceed the cap? Need to make sure that there is not a non-response situation. Is it clear how to apply for a waiver for a cap? Will the BIE Plan include steps for this process to make it clear?</p> <p>Action Item: BIE confirm that this is part of the BIE Plan.</p>
<p>2(E) State Authority — If a State educational agency provides evidence which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt challenging State academic standards, and academic assessments signed with such standards, which will be applicable to all students enrolled in the State's public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by—</p> <p>(i) adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or</p> <p>(ii) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt academic content and student academic achievement standards and academic assessments signed with such standards, which—</p> <p>(i) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and</p> <p>(ii) are applicable to all students served by each such local educational agency.</p>	<p>Questions- 2(E) Does this section apply to BIE? What does this section mean? (Action Item: ask BIE and Brian Quint) <u>Assessment committee & Brian Q: No, the BIE has authority to adopt under section 8204.</u></p> <p><u>Also, renumbering required.</u></p>
<p>2(F) Language Assessments —</p> <p>(i) IN GENERAL — <u>Each State plan</u> shall identify the languages other than English that are present to a significant extent in the participating student population of the State and indicate the languages for which annual student academic assessments are not available and are needed. <u>The BIE will define a methodology to identify the languages other than English that are present to a significant extent in the participating student population.</u></p> <p>(ii) SECRETARIAL ASSISTANCE — The State Bureau of Indian Education shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the</p>	<p>Comments- Section 2(F) Language Assessments - How do we consider Native languages? Also civil rights assurance that Native languages are attended to...</p> <p>Questions- Section 2(F)(i): What is the State in this case? What does 'present to a significant extent' mean? <u>Assessment subcommittee: "State" is BIE.</u></p> <p>What are our student populations that we are drawing from? <u>Assess. Sub: BIE needs to define grades included.</u> How are numbers being identified?</p>

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<p>needed languages, but shall not mandate a specific academic assessment or mode of instruction.</p>	<p>Is the Sec ED able to provide this type of TA to LEAs?</p>
<p>2(G) Assessments of English Language Proficiency —</p> <p>(i) IN GENERAL — Each State plan shall demonstrate that local educational agencies in the State will provide for an annual assessment of English proficiency of all English learners in the schools served by the State educational agency.</p> <p>(ii) ALIGNMENT — The assessments described in clause (i) shall be aligned with the State's English language proficiency standards described in paragraph (1)(F).</p>	<p>Ensure BIE allows LEAs tribally controlled schools as LEAs to determine the assessment they will utilize. BIE is part of WIDA network. (ps)</p> <p><u>Assessment subcommittee: BIE, as LEA, will select an EL assessment for BIE system. However, governing tribes or school boards can waive Secretary's EL assessment and use a different EL assessment, upon Secretary approval.</u></p>
<p>2(H) Locally Selected Assessment ASSESSMENT —</p> <p>(i) IN GENERAL — Nothing in this paragraph shall be construed to prohibit a <u>local educational agency, tribal governing body or school board</u> from administering a locally-selected assessment in lieu of the State-designed academic assessment under subclause (D)(bb) and subclause (D)(cc) of subparagraph (B)(v), if the local educational agency selects a nationally-recognized high school academic assessment that has been approved for use by the State <u>BIE</u> as described in clause (iii) or (iv) of this subparagraph.</p> <p>(ii) STATE TECHNICAL CRITERIA — To allow for State approval of nationally-recognized high school academic assessments that are available for local selection under clause (i), a State educational agency shall establish technical criteria to determine if any such assessment meets the requirements of clause (v).</p> <p>(iii) STATE APPROVAL — If a State educational agency chooses to make a nationally-recognized high school assessment available for selection by a local educational agency under clause (i), which has not already been approved under this clause, such State educational agency shall—</p> <p>(I) conduct a review of the assessment to determine if such assessment meets or exceeds the technical criteria established by the State educational agency under clause (ii);</p> <p>(II) submit evidence in accordance with subsection (a)(4) that demonstrates such assessment meets the requirements of clause (v); and</p> <p>(III) after fulfilling the requirements of subclauses (I) and (II), approve such assessment for selection and use by any local educational agency that requests to use such assessment under clause (i).</p> <p>(iv) LOCAL EDUCATIONAL AGENCY OPTION —</p> <p>(I) LOCAL EDUCATIONAL AGENCY — If a local educational agency chooses to submit a nationally recognized high school academic</p>	<p>Comments- There are rights here for LEA's—</p> <p><u>Assess. Sub: BIE-funded schools are LEAs in BIE system. So it would be the tribal governing body or school board that would exercise this option for tribally controlled schools.</u></p> <p>Ensure "State" (BIE) allows LEAs (tc) option for portfolio, presentations, etc. (ps)</p> <p>Questions- Section 2(H) Locally Selected Assessments Is there enough information for an LEA to implement this option? <u>AC: Subcommittee will explore ED regs, because they clarified information on this topic. See 209.3.</u></p> <p>What LEA assessments are currently being used? <u>AC: ACT and SAT.</u></p> <p>What are the BIE tasks to administer this section, is it clear enough [in the regulations]?</p>

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<p>assessment to the State educational agency, subject to the approval process described in subclause (I) and subclause (II) of clause (iii), to determine if such assessment fulfills the requirements of clause (v), the State educational agency may approve the use of such assessment consistent with clause (i).</p> <p>(II) STATE EDUCATIONAL AGENCY.—Upon such approval, the State educational agency shall approve the use of such assessment in any other local educational agency in the State that subsequently requests to use such assessment without repeating the process described in subclauses (I) and (II) of clause (iii).</p> <p>(v) REQUIREMENTS.—To receive approval from the State educational agency under clause (iii), a locally selected assessment shall—</p> <p>(I) be aligned to the State's academic content standards under paragraph (1), address the depth and breadth of such standards, and be equivalent in its content coverage, difficulty, and quality to the State-designed assessments under this paragraph (and may be more rigorous in its content coverage and difficulty than such State-designed assessments);</p> <p>(II) provide comparable, valid, and reliable data on academic achievement, as compared to the State-designed assessments, for all students and for each subgroup of students defined in subsection (c)(2), with results expressed in terms consistent with the State's academic achievement standards under paragraph (1), among all local educational agencies within the State;</p> <p>(III) meet the requirements for the assessments under subparagraph (B) of this paragraph, including technical criteria, except the requirement under clause (i) of such subparagraph; and</p> <p>(IV) provide unbiased, rational, and consistent differentiation between schools within the State to meet the requirements of subsection (c).</p> <p>(vi) PARENTAL NOTIFICATION.—A local educational agency shall notify the parents of high school students served by the local educational agency—</p> <p>(I) of its request to the State educational agency for approval to administer a locally-selected assessment; and</p> <p>(II) upon approval, and at the beginning of each subsequent school year during which the locally selected assessment will be administered, that the local educational agency will be administering a different assessment than the State-designed assessments under subclause (I)(bb) and subclause (II)(cc) of subparagraph (B)(v).</p>	
<p>2(i) Deferral. A State may defer the commencement or suspend the administration but not assess the development of the assessments described</p>	<p>Questions- Section 2(i) Deferral. How does this apply to BIE?</p>

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Redlines as of November 1, 2108

<p>in this paragraph, for 1 year for each year for which the amount appropriated for grants under part B is less than \$140,100,000.</p> <p>2(J) Adaptive Assessments</p> <p>(i) IN GENERAL.—Subject to clause (ii), a State <u>BIE</u> retains the right to develop and administer computer adaptive assessments as the assessments described in this paragraph, provided the computer adaptive assessments meet the requirements of this paragraph, except that—</p> <p>(I) subparagraph (B)(i) shall not be interpreted to require that all students taking the computer adaptive assessment be administered the same assessment items; and</p> <p>(II) such assessment—</p> <p>(aa) shall measure, at a minimum, each student's academic proficiency based on the challenging State academic standards for the student's grade level and growth toward such standards; and</p> <p>(bb) may measure the student's level of academic proficiency and growth using items above or below the student's grade level, including for use as part of a State's accountability system under subsection (c).</p> <p>(ii) STUDENTS WITH THE MOST SIGNIFICANT COGNITIVE DISABILITIES AND ENGLISH LEARNERS.—In developing and administering computer adaptive assessments—</p> <p>(I) as the assessments allowed under subparagraph (D), a State shall ensure that such computer adaptive assessments—</p> <p>(aa) meet the requirements of this paragraph, including subparagraph (D), except such assessments shall not be required to meet the requirements of clause (i)(II); and</p> <p>(bb) assess the student's academic achievement to measure, in the subject being assessed, whether the student is performing at the student's grade level; and</p> <p>(II) as the assessments required under subparagraph (G), a State shall ensure that such computer adaptive assessments—</p> <p>(aa) meet the requirements of this paragraph, including subparagraph (G), except such assessment shall not be required to meet the requirements of clause (i)(II); and</p> <p>(bb) assess the student's language proficiency, which may include growth towards such proficiency, in order to measure the student's acquisition of English.</p>	<p>Action Item for BIE Brian Quint ET: need not be in our text.</p> <p>Comments- Ensure "State" (BIE) retains the right to develop computer adaptive tests that meet the requirements of ESSA to demonstrate student growth (p1)</p> <p>Given option to contract with NWEA or PARCC to develop interim assessments, provide summative, develop levels, demonstrate growth, etc. (p1) or any other assessment a tribe or school board selects (waiver) (p1)</p> <p>A Sub. Okay as is.</p>
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<p>2(K) Rule of Construction on Parental Rights—Nothing in this paragraph shall be construed as preempting a State or local law regarding the decision of a parent to not have the parent's child participate in the academic assessments under this paragraph.</p>	<p>Comments— Where there is an opt out provision it must be in plain language and clear to the parents that they maintain that right.</p> <p>Parents right to exempt out of assessment still holds school accountable for 95% participation rate (ps)</p> <p>Questions— If state and tribe are equal, should this part of the regulation Tribe or School Board can do this as well? Section 2(K) Rule of Construction. How does the opt out option of parents impact the participation rate requirements in the accountability section requiring 95% participation?</p> <p>Law/NTEA: See 200.2. If state has an opt out law, does federal law preempt state law.</p>
<p>2(L) Limitation on Assessment Time -- Subject to Federal or State requirements related to assessments, evaluations, and accommodations, each State. The Secretary may, at the sole discretion of each State, set a target limit on the aggregate amount of time devoted to the administration of assessments for each grade, expressed as a percentage of annual instructional hours.</p>	<p>Comments— Note: the limitation is couched as a 'may' == optional.</p> <p>Questions— Section 2(L) Who determines the time limits for assessments is it the LEA, or BIE? What does "expressed as a percentage of annual instructional hours" mean?</p> <p>See 25 CFR on metric hours.</p>
<p>3 Exception for Recently-Arrived English Learners— (A) ASSESSMENTS.—With respect to recently arrived English learners who have been enrolled in a school in one of the 50 States or the United States or the District of Columbia for less than 12 months, a State may choose to— (i) exclude— (i) such an English learner from one administration of the reading or language arts assessment required under paragraph (2); and (ii) such an English learner's results on any of the assessments required under paragraph (2)(B)(i)(I) or (2)(C) for the first year of the English learner's enrollment in such a school for the purposes of the State-determined accountability system under subsection (c); or (u)(i) assess, and report the performance of, such an English learner on the reading or language arts and mathematics assessments required under paragraph (2)(B)(i)(I) in each year of the</p>	<p>Comments— A: In Southwest very low to non-existent. In NM region there are a number of students there are ELL. Tribally controlled schools use other assessments.</p> <p>BIE uses WIDEA but it is time intensive.</p> <p>In WY don't test ELL. In small districts the cost of testing ELL is an obstacle.</p> <p>Questions— Section 3. Exception for English Learners. How many ELs are in the BIE student population?</p>

<p>(i) for the purposes of the State-determined accountability system— (i) for the first year of the student's enrollment in such a school include the results on the assessments described in subsection (i); (ii) include a measure of student growth on the assessments described in subsection (i) in the second year of the student's enrollment in such a school; and (iii) include proficiency on the assessments described in subsection (i) in the third year of the student's enrollment in such a school and each succeeding year of such enrollment.</p> <p>(A) ENGLISH LEARNER SUBGROUP.—With respect to a student previously identified as an English learner and for not more than 4 years after the student ceases to be identified as an English learner, a State may include the results of the student's assessments under paragraph (2)(B)(v)(I) within the English learner subgroup of the subgroups of students (as defined in subsection (c)(2)(D)) for the purposes of the State-determined accountability system.</p>	
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Additional Comments/Questions from Pat sent 10/25/18.

1. The same language that is used in the waiver, "Tribes and tribal school boards" should be referenced in each section.
2. Agree with Leila, that there should be clarification on BIE as a state. There is no statute that actually states that they are the our state, regardless, in the greater discussion of sovereignty tribes have the same authority as states, so tribes should be able to make the same educational decisions – regulation should be explicit.
3. ESSA speaks specifically to measuring to demonstrate progress over time, so the assessment needs to provide the information required to measure growth. Right now, which of the assessments provide this information other than NWEA MAP. If a tribe seeks to utilize another assessment, the BIE will have to enter into a contract to create the assessment to meet the requirements of the law – interim assessments that result in a summative assessment, levels of achievement: basic, proficient, advanced, and itemized score analysis. BIE also needs to be responsible for supplying the supplemental materials also a requirement of the law. ESSA states that these types of reports need to be available for parents and administrators to make informed decisions. BIE will need to foot the bill for these as part of regulation as they are currently not doing it for the PARCC assessments.
4. There are a number of assessments that have been used in the past, prior to PARCC, for example the Stanford 9, ITBS, State assessments; what are the standards these other assessments are based on?
5. In order to meet the requirement of the law the assessments there needs to be a set of "challenging standards." If we are to replace the high school assessment with ACT or the SAT, what are the standards to which these are aligned if an LEA decides to utilize these assessments?
6. Do we still have a set of national standards?
7. Request information from PARCC that their assessment was actually tested on a population of Native students prior to the first time PARCC was utilized. The information probably came after. Assessments must have comparable validity and reliability with subgroups assessed.

8. Tribes and tribal school boards can "waive" any part to can they waive both the standards and the assessment. If this is the case, the tribes and/or school boards use any assessment but they must also meet the other qualifications (interim, summative, levels, cut scores); can these also be waived?

Appendix N – Action Items

Draft for Discussion Purposes

November 5, 2018

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee Meeting #2 Action Items V2

Task	Lead	Complete by
BIE and / or Legal Advisor		
1. Check with ED if BIE is eligible for innovative assessments pilot	Jeff	November 2, 2018
2. How will a tribal civics standard impact graduation requirements under other existing regulations? And issuance of diplomas under a BIE system. What is the impact for students seeking post-secondary access. (Possible link to regulations??) 25 CFR 36.32	Jeff, Lora	November 27, 2018
3. How are computer adaptive tests implemented? And testing outside the grade level, specifically under grade level.	Deb	November 27, 2018
4. Share information on how States address exceeding the 1% cap on students with disabilities. (written response)	Deb	November 27, 2018
5. What does the term 'relevant' mean in: With relevant career and technical education standards, where do those come from? <i>Many states have adopted relevant career and technical standards. The word relevant is important in determining what that means for schools.</i> See page 10 second bullet of meeting 1 summary.	Jeff	November 27, 2018 (target)
6. What is the timeline for states to develop state plans (written response)	Deb	November 27, 2018
7. Provide Extension Letter to Navajo Nation accountability workbook waiver.	Jeff, Juanita	Ongoing ASAP
8. Provide set-aside amounts for states and BIE under Title I A (1.5%)	Jeff	November 27, 2018
9. Identify the other subgroups in BIE funded schools.	Jeff	November 27, 2018
10. Create a chart like the AZ N slide analysis for BIE schools (possible presentation). BIE has run the demographic. Need to contact Deb and Bryan H.	Jeff, Deb	November 27, 2018
11. If a state requests a waiver how long does that process take for ED approval? (written response). What is the ED approach for reviewing?	Deb and/or ED?	November 27, 2018
12. Webinar with Accountability Subcommittee to cross-walk state plans AK, IN, xx to see how they identify indicators etc. in accountability	Deb	Week of November 12 or 19

Action Items and Accomplishments Mtg 2 V2 Updated

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systems.		
13. Evaluate how section 1111 paragraph 2(k) Rule of Construction on Parental Rights, applies to BIE funded schools.	Brian, Jeff	November 27, 2018
14. Clarify how Technical Assistance for Waivers is resourced.	Jeff	November 27, 2018
15. Advance education requirements – what issues are BIE funded schools facing with these requirements? (revisit meeting notes to clarify what is requested and relevance)	Jeff, Maureen Lesky	November 27, 2018
16. Review and respond to proposed language changes in Standards, Assessments, Accountability, Waiver subcommittee texts and provide feedback to each subcommittee	Jeff, Brian where needed.	2-days in advance of each subcommittee call
17. Data for creating long term goals. Need to engage Director.	Jeff, with assistance from BIE leadership and other staff.	
18. Post Meeting #2 presentations to website	Leonda	November 7, 2018
19. Post Meeting #1 summary to website	Leonda	November 7, 2018
Committee Members		
1. Sign and submit Mtg #1 and Mtg #2 Travel Voucher to Annette or Louie	Members	November 5, 2018
2. Make hotel reservations for December meeting.	Members	November 11, 2018
3. Contact Directors of Indian Education from states regarding standards.	Rick	November 15, 2018
4. What are the common standards, assessments used among the states	Mike	ASAP
Facilitator		
1. Send schedule requests to LT & Subcommittee for calls	Sarah	
2. Disseminate Action Items and Accomplishments from Mtg #2	Sarah	November 5, 2018
3. Prepare draft meeting summary, circulate to Committee for review	Regina	November 15, 2018
4. Send Mtg #3 Read Aheads to Committee	Sarah	November 27, 2018
5. Plan for Subcommittee meetings on Monday afternoon (December 3)	Sarah/Regina	November 27, 2018

Accomplishments from Meeting #2

- Clarified the purpose of the Committee: to develop draft regulations and provide recommendations related to standards, assessments, and an accountability system.
- Reached consensus on summary of meeting #1
- Learned about how N-size is determined for accountability and reporting and the key considerations related to statistical validity and protecting personally identifiable information.
- Reached consensus on using a uniform set of standards
- Deliberated on draft regulations for standards, assessments and accountability and began to identify topics related to standards, assessments, and accountability recommendations are needed.
- Agreed on next steps for Committee deliberations as defined in Subcommittee tasks.