

**Bureau of Indian Education
Standards, Assessments, and Accountability System
Negotiated Rulemaking Committee**

*December 4-6, 2018 – Arlington, VA
Meeting Summary*

Consensus Agreements

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

1. Meeting #2 summary;
2. Section 30.101 a definition for *Tribal governing body or school board*;
3. Naming the plan as the *BIE Standards, Assessments, and Accountability System Plan*;
4. Regulatory language in Section 30.102, third paragraph;
5. Section 30.103 revising the section title;
6. Regulatory language in Section 30.103(a) – (d);
7. Section 30.104(b) to include *Tribal Civics* as an academic standard, retain the label as *Tribal Civics*, to be included in the assessments and accountability system on a phased approach and the assessments and assessment scheduled will be developed;
8. Table the subject of English Language Proficiency and Native American language until the subcommittee can receive additional information for further discussion via webinar and prior to the next in-person meeting;
9. Section 30.106(b) last sub-bullet for a review of the accountability system in consultation with tribes and stakeholders for continuous improvement;
10. Section 30.106(c)(1) to include an extended year cohort;
11. Regulatory language of *The Secretary will incorporate science in the accountability system* and the BIE will determine the placement of the language in the regulations;
12. Proposed opening statement to be used as preamble regulatory language;
13. Regulatory language in Section 30.108(a) – (e);
14. Support the development of a timeline for BIE to coordinate with the Department of Education as it applies to responding to those for a waiver;
15. Regulatory language in Section 30.109(a) – (b);
16. Regulatory language in Section 30.110;
17. Regulatory language in Section 30.111;
18. Regulatory language in Section 30.112(a) – (c); and
19. Include future corrective action plans to be a part of the BIE Standards Assessments and Accountability implementation plan.

Welcome, Invocation, Introductions

Sue Bement, Designated Federal Officer (DFO) opened the meeting. Committee member Jennifer McLeod opened the meeting with a prayer in her Native American (native) language for protection during our travels, blessing for all children, and assist all to move forward with a good

heart. Committee member Tasha Racawan provided an introduction of herself. Alternate Committee member Lucinda Campbell will serve as a primary Committee member in the absence of Amy McFarland at McFarland's request. Members of the public provided a brief introduction of themselves. See Appendix A for a list of attendees.

Agenda Review and Approval, Goals and Courtesies

Ms. Palmer (Facilitator) clarified how facilitation will be conducted during deliberations, reviewed the meeting agenda, binder contents, and handouts for the Committee. The meeting objectives are to: hear proposals from each subcommittee, engage in discussion and reach tentative consensus; get insights into critical information related to defining standards, assessments, and accountability system for BIE funded schools; and agree on next steps for Committee deliberations between December 2018 and January 2019. The Facilitator also reviewed the Committee's ground rules and when it's appropriate to call a Committee caucus.

Format of Meeting #3 Summary

The Committee had multiple deliberations among the three-days. Meeting #3 summary is organized in a different fashion, from previous meeting summaries but will cover the topics as described by the agenda. The meeting summary is organized as follows:

1. Remarks from Mark Cruz, Deputy Assistant Secretary for Policy and Economic Development Indian Affairs;
2. Review and approve Meeting #2 Draft Summary;
3. Overview of Sample Standards presentation;
4. Standards and Assessment Development presentation;
5. Understanding the N-size and Accountability and Support Systems presentation;
6. Section 30.101 – Definition for *Tribal governing body or school board*;
7. 'State' Plan Ad Hoc Report and Deliberations;
8. Section 30.102 regarding Technical Assistance;
9. Standards Subcommittee Report and Deliberations on Sections 30.103 and 30.104;
10. Assessments Subcommittee Report and Deliberations;
11. Accountability Subcommittee Report and Deliberations on Section 30.106;
12. Waivers Subcommittee Report and Deliberations on Sections 30.106 – 30.112;
13. Letter from the Department of Education;
14. Non Federal Committee Caucus;
15. Call to the Public for Public Comment;
16. Conclusion of the Meeting – Wrap up; and
17. Action Items.

Remarks from Deputy Assistant Secretary Mark Cruz

Mark Cruz, the Deputy Assistant Secretary – Indian Affairs for Policy and Economic Development (DAS-PED), and enrolled member of the Klamath Tribes in Oregon greeted the Committee and provided a brief introduction and shared the following remarks:

In recent days, the Indian Affairs laid out the goals for 2019 which includes the importance of Indian education and the work of this Committee. During his time as Chief of Staff to Representative Todd Rokita, a co-author of the Every Student Succeeds

Act of 2015, they were aware the big challenge was around the timelines for implementation. One of the biggest [goals] of Congress was allowing flexibility and the opportunity for the Bureau of Indian Education to make things right for the next generation. The pressure to implement ESSA is directed from the Government Accountability Office to assess BIE's work, Capitol Hill with Director Dearman responding to various congressional hearings, and the Department of Education with BIE needing to complete their work. Indian education is a priority. Mr. Cruz stated he is committed to the work of the Committee and will be accessible as appropriate.

Director Dearman greeted the Committee and thanked them for the work they are doing as they focus on the students in the Bureau schools.

Review and Approve Meeting #2 Draft Summary

The Facilitator asked the Committee to review meeting #2 draft summary for any corrections to be made. There were no edits/comments at this time. The Facilitator asked for consensus among the Committee to approve the meeting two summary; all Committee members were in consensus. The meeting #2 summary will be marked as FINAL and will be posted to the Committee's webpage.

The Facilitator informed the Committee that action items with responses resulting from meeting #2 are available for review (under Tab 2) in the binder.

Overview of Sample Standards

Dr. Roger Bordeaux provided an overview of the advantages of a Tribally-oriented set of standards for math, reading, language arts and science, see Appendix B. In addition to the document presented, the following points were made:

- Additional reference can be viewed at <http://www.acts-tribal.org/resources.html> in reference to the presentation;
- At the webpage, there is a listing of all books available; and
- A full evaluation report is provided on the website.

Committee members had the following questions and comments about the overview of sample standards:

- Where did the funding originally come from to complete this project? *Originally it was from BIE, then from the Office of Education Research and Improvement (OERI), and through other grants they received on their own.*
- You served on the NCLB negotiating committee back in 2003? And did that work guide you in the other standards and assessments? *I've been involved since the mid 1990's and the OERI work I was involved with that group and it guided this work.*

Standards and Assessment Development

Deb Sigman and Bryan Hemberg of the Center on Standards & Assessment Implementation provided an overview of the Standards and Assessments, see Appendix C. In addition to the presentation the following points were made:

- The 15% was specific to the flexibility waiver in terms of which standards to choose in terms of the content area. When states adopted the Common Core State Standards (CCSS) they agreed that only up to 15% of the standards in each content area would be different from the CCSS content area standards. So another way of putting it is that state who have adopted the CCSS would have at most 15% variance in their standards;
- The New Hampshire standard review timeline is an example guided by resources and deadlines defined by the Act (ESSA);
- The guiding principles and timeline will determine the process, if the number one guiding principle is stakeholder input on the what and the how, the acceptance from your stakeholders will lead to success;
- When we say ACT or SAT, those states have chosen that as their state assessment. It's not the statute that talks about the locally -or- national recognized high school assessment. States can choose to use ACT or SAT as their state high school assessment. Any adopted assessment must pass assessment peer review (if not previously approved);
- Neither ACT or SAT has been fully reviewed in the peer review process; and
- Most assessments (Smarter Balance and PARCC) use universal design for learning and building accessibility at the front end for visual impaired, hearing impaired, cognitive delayed students, etc. so you are not retrofitting an exam. It has become part of the assessment development process.

Committee members had the following questions and comments on the presentation:

- On slide 3, the data is from 2016. Are you seeing shifts in that, a decrease of using verbatim common core? *Colorado is a good example, it was one of the first states to develop college and career ready standards before the common core began by investing to meet their needs. Now Colorado uses common core and added what they wanted with a legislative requirement to review their standards every six-years.*
- If the BIE went out to create standards that is a lot of money. South Dakota call it the South Dakota standards but they are the common core standards.
- For the state (NH example) they took their existing standards and based their process on that to revise? *Yes and used as their foundation.*
- Within our Tribe there are a couple of public schools on the reservation and our Tribe may need a waiver to adopt the state's common core standards to accommodate our children going between the Bureau and public schools.
- For the state of NH, how much time and resources were dedicated? And what level of capacity to implement? What can be realistic for the Bureau? What resources will be made available to the smaller Tribes?
- Before we (BIE) develop our standards, what regulations do the states follow to get to this point of developing their standards? The BIE shouldn't be starting from scratch. *For most states this is operationalizing in their state plan. The Federal statute requires challenging academic standards, state law may identify subject areas beyond what is required under Federal law. The regulatory process may be broad. You want the regulations to be flexible.*
- Is it realistic for the BIE to develop standards in 23 different states and for the amount of FTEs to keep the bus moving? *Across the 23 states BIE will need to do an analysis on the similarities as a starting point.*

- We are diving beyond the regulation and looking at the implementation for the Bureau. You showed NH took ‘X’ amount of time for the content area. How many people will the BIE have working on this once started? If you could, reiterate the expectation on what should be implemented and who provided that expectation? We are doing our children a disservice if we rush an implementation plan. *The Bureau will have to hire consultants to assist with the work as the BIE has to do this according to the law.*
- Who imposed the September 2019 deadline? *BIE was issued a letter from the Department of Education on a deadline.*
- Does anyone know how much the Navajo Nation spent on their accountability plan as they started with the common core as their base? I have the same concerns on the quality of the project. When it comes down to the stakeholder presentation and feedback that is where you can have the greatest push back. *The BIE purchased the PARCC assessment used for the Navajo Nation. When a Tribe adopts different assessments, the Bureau will purchase.*
- Question on common core being used as the base, are you familiar with the research for students learning at an earlier age, before third grade? *Common core is fairly robust for students to succeed after high school.*
- With creating the standards, we do have to look at how we are going to measure the student achievement? If we do perform a gap analysis we need to include our native language medium and native language population is counted because there are a couple of sites that are implementing native language immersion with fidelity in Bureau schools under NCLB are not recognized as doing such program. There have been several sites that have been discouraged in the past from applying native language immersion methods and processes because it didn’t meet the standards. There may be more native language immersion sites developing in the future.
- The states that have their own developed assessment, are the assessments available for others to use? *The state owns the assessments and they can be purchased at a cost. They are also based on what standard they are going to assess.*
- Has ACT developed an alignment? *They have developed their own alignment.*
- When you look at ESSA and it talks about the growth and interim assessment, is there a vendor that is creating so we can use one assessment? *You can measure growth with a summative assessment, many states already do. Smarter Balance with PARCC and with state developed assessments. If a state chooses to use a growth measurement in their accountability system that is absolutely doable. The Federal statute allows you to have a growth measure as part of your accountability system. To date, no state is using an interim system in their state level system. Interims are not going to allow you to calculate a growth measure.*
- The assessment subcommittee had a request for information from PARCC related to their assessment on the population of Native American students in reference to the cultural relevance. Who did PARCC include in their bias and sensitivity review, field testing, etc.? *For Smarter Balance in the small scale pilots and the field tests there were a population of Native American students included and were included in all the technical aspects with the bias and sensitivity.*

- The Navajo Nation does use the PARCC and have fewer complaints than what was used before.

Understanding the N-size and Accountability and Support System

Deb Sigman of the Center on Standards & Assessment Implementation provided a presentation on the N-Size and a presentation on Understanding the Accountability and Support Systems, see Appendix D. In addition to the presentation the following points were made:

N-Size

- The data provided for the BIE schools are reflected for three school years;
- The N-size impact for BIE schools reflect the number of schools eliminated for the specific category that would not be reported based on the N-size (performance of those schools / by law disaggregate by the groups);
- For a school report card you can have a lower N-size;

Accountability Systems

- The second presentation was shared with the accountability subcommittee and it was requested it be shared with the full Committee;
- If the Committee decides to build a 'tribal civic' test for the system and include as your other academic indicator or as a school quality success indicator, you do not have to have that assessment peer reviewed;
- FAY is Full Academic Year and states can define what that means;
- You must have a four-year cohort and you can add a fifth-year cohort with the expectations being a higher graduation rate for fifth-year seniors;
- Using Alaska as an example, Alaska English Learners is seven years from initial entrance into the schools based on research and data;
- For Alaska, it took time (over a year) as they talked with their stakeholders to achieve their final program along with the feedback they received from the Department of Education it terms of acceptability; final plan is a different view from what they initially started with; and
- Some states include certain categories in their other academic indicators but don't weight them. Those items are important but they are not ready for it at that point in time.

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

- The students who are non-ISEP Students in the BIE schools, in South Dakota they are counted for our schools to receive funding of providing a service to them but our Bureau school does not receive any funding for them.
- The total number of students with disabilities in the Bureau schools puts us over the 1% threshold. *The 1% is for the significantly cognitive disabled students which is different. The 1% does not apply to the total number of students you have but applies to the total number of students tested.*
- Do you know why there is a significant drop in numbers from 8,422 down to 6,191? *Usually it's due to the change in how the data has been captured/students identified.*
- Based on the N-size impact, those schools will be eliminated from what? *By law you have to disaggregate by those groups. When you disaggregate you have to choose an N-size. For the schools eliminated you won't disaggregate the data. However, you could*

choose to report a different N-size number for reporting and states have done so. Some states have gone as low as five for reporting.

- *What is the average N-size for other states? The range is 9 to 40/45.*
- *Can you explain the advantage/disadvantage of a lower/higher N-size? It's a balance between a policy decision because the lower the N-size the more transparent you will be. Most of the groups will be captured in the data and displayed in those groups at most of the schools. You also have to make sure you're not providing specific information on students.*
- *I know other public schools have added in other disaggregation categories, such as, students of active military, students of foster care, etc. Would that exclude more of our schools if we add those into our categories? States have to collect and report that data for EdFacts but don't include in the N-size system. Plus, BIE is not tracking that data. Also consider the more groups you track then you really have to consider your N-size and have a way to collect the data.*

Committee members had the following questions and comments about the Accountability, Support and Improvement Systems presentation:

- *As it applies to this Committee, is it our role to identify the long-term goals? The Committee can provide a recommendation as a part of its report.*
- *One big question is what year will the BIE start its baseline for long-term goals when it uses 23 different assessments throughout the schools? That will be a challenge for BIE when they start working on the Standards, Assessments, and Accountability Plan.*
- *Do states include a five-year cohort for graduation? States include both, but states have to do a four-year and can add a fifth-year.*
- *Is there any data from BIE on students who graduate in five-years? Data is in NASIS and in theory it can be modeled and this Committee can make the recommendation. The expectations for a five-year senior will be a higher for long-term goals.*
- *In terms of English learners in Alaska, would the base remain the same when the Tribes are still speaking their native language at home, how do you get to 70%? I would think it will remain flat. The long-term goal of 70% for ten-years reflects progress being measured, not proficiency.*
- *Why did the subcommittee choose Alaska as an example? And does Alaska have any BIE schools? Alaska reflects an example of the process and there are no BIE schools in Alaska.*
- *I'm interested in the growth indicator and how much that can be weighted. The Bureau schools may be interested in how much weight can go into growth. With the Department of Education state planning guidance template there are parameters around achievement versus growth. See:*
<https://www2.ed.gov/admins/lead/account/stateplan17/essastateplanpeerreviewcriteria.pdf>
- *In Indian Country specific indicators with native language and cultural has been expressed by our communities and constituencies.*
- *What is Alaska's FAY? Starting with October 1 – the beginning with testing.*

- The percentages you showed for growth for math reflects 20%, what's the metric? *Determined by how many students scored proficient based on a 100% scale.*
- Question for the Committee, are we looking to define these percentages? And if not, can we get Alaska's regulations? *States are driven by state law and the state Department of Education, Commissioner of the state; there are many factors of how a state chooses to develop their plan.*
- It was not the intent for the accountability subcommittee to specify certain things but there was conversation of what recommendations can be included that will affect the schools.

Section 30.101 – Definition for Tribal governing body or school board

The waivers subcommittee discussed including a definition for a “Tribal governing body or school board” as the terms are defined elsewhere. To avoid conflict, this is referring back to how these terms are defined under PL 100-297 or PL 93-638. The Committee had the following discussion and revised the proposed definition based on the following:

- The definition needs to be clarified in the regulation.
- There is a difference between a board and a governing body.
- When a school goes under 100-297 or 93-638, the Tribe should have named in the original resolution who is the grantee and that grantee would be able to negotiate.
- This definition identifies the entity authorized under applicable Tribal or Federal law.
- Federal law recognizes the inherent right of Tribes to govern education.

The Committee came to a consensus and the Facilitator confirmed the revised definition to read: “Tribal governing body or school board means, with respect to waiver and submission of alternative proposals of the Secretary’s definition of standards, assessments, and accountability system at P.L. 100-297 grant or P.L. 93-638 contract schools, the entity authorized under applicable Tribal or Federal law to waive the Secretary’s definitions and negotiate an alternative proposal with the Secretary.”

‘State’ Plan Ad Hoc Subcommittee Report

Committee member Sherry Tubby provided the report of the ‘state’ plan ad hoc subcommittee report, see Appendix E (text and power point). The subcommittee recommends there be a plan and that it be called the ‘Standards Assessment and Accountability Plan’ with the acronym of (SAAP).

The Facilitator asked the Committee if there is consensus with name the plan as proposed, “BIE Standards, Assessments, and Accountability System Plan.” The Committee was in consensus with the name of the plan based on the following:

- The MOU with the Bureau of Indian Education and the Department of Education would be renegotiated under ESSA.
- BIE receives \$1.8 million a year. Implementation of the plan will exceed the funding and the Bureau would have to put additional Federal funds aside to make up the difference.
- Cultural relevance would be a part of the standards development process, as well as the guiding principles.

- In reference to language in 20 U.S.C. §6311(j); “Voluntary partnerships” is where states can partner with states. Whether or not states can partner with the Bureau would be dependent on state law.

Section 30.102 regarding Technical Assistance

Section 30.102 – What does the Act require the Secretary?

Within this section, the subcommittee did not have any problems with paragraph one and two as drafted by the BIE in the framework for the draft proposed regulatory language. The Facilitator asked the Committee to review the edits within section 30.102 third paragraph (refer to Appendix F). The Committee had the following discussion and revised the proposed language based on the following:

- This section talks broadly on what 8204 requires of the Secretary of the Interior and the section on waivers and technical assistance. It is important to point out the timing of technical assistance can occur before and/or after a waiver.
- Technical assistance is available to any school, not just to those schools seeking a waiver.
- Technical assistance should happen well in advance of a waiver for the proposal to be memorialized within a board resolution.

The Committee came to a consensus and the Facilitator confirmed the revised language in 30.102 third paragraph to read:

“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.”

Standards Subcommittee Report

Committee member Michael Dabrieo provided the report of the standards subcommittee, see Appendix F. In addition to the document the following points were made:

- The work has been pulled into a single text draft;
- The Tribal governing body or school board will ‘seek’ of a waiver and language will be changed throughout the document as opposed to applying for a waiver;
- The Committee has voiced involvement in the creation of the Secretary’s standards, assessments, and accountability system (SAAS) and the subcommittee inserted three options (page 2) as opposed for the Secretary to create the SAAS on his own;
- Added the idea of a ‘tribal government/civics’ course as a place holder to ensure it will be included as a challenging academic standard with additional questions as it applies to assessments, and accountability systems; and
- For the Bureau to acquire native language into immersion schools and how to reconcile with the requirements under Section 1111.

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

- Who is the first secretary (page 1/line 17)? *Secretary of the Interior.*
- Was there any conversation with the subcommittee around science and tribal civics in regards to be assessed and be a part of the accountability system? *Science is listed with math and language arts would be subject to a regulated form of assessment. On tribal*

civics we discussed how it would be standardized amongst all the various Tribes and that the development of those standards needs to be broad enough for all Tribes to adopt.

- It is my understanding science is assessed as there are reporting requirements to EdFacts; all states do.

Section 30.103 – How will the Secretary implement the requirements of the Act?

The Facilitator asked the Committee if there is consensus for revising the header language on section 30.103 to read as:

“How will the Secretary implement the Standards Assessments and Accountability system” [striking ‘requirements of the Act].

The Committee was in consensus.

Section 30.103(a) –

Refer to Appendix E. Within this section, the subcommittee did not have any problems as drafted by the BIE as framework for the draft proposed regulatory language

Section 30.103(b) – First Paragraph

The Facilitator asked the Committee if there is consensus with the proposed language in the first paragraph to read as:

“The Secretary, or his/her designee will provide Indian tribes, parents and other stakeholders with quality, transparent information about how the Act will be implemented for BIE schools. Information, at a minimum, to include the standards, assessments and accountability system consistent with Section 1111.”

The Committee was in consensus with the revised language.

Section 30.103(b) – Second Paragraph

The Facilitator asked the Committee to review the handout that incorporates the work of the Committee on both the standards language reached by consensus. Within section 30.103 the small group revised the language for the Committee to review. The Committee had the following discussion and revised the proposed language based on the following:

- Delete the second sentence.
- The language in 30.103(b) [third paragraph], replaces who will review the plan.

The Committee came to a consensus and the Facilitator confirmed the revised language to read:

“The Director will implement a Standards Assessments and Accountability Plan that will provide Indian tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE schools.”

Section 30.103(b) – Third Paragraph

The standards subcommittee inserted proposed language around directing the Department to convene a committee. The development/creation of a committee is to assist the Secretary in the development of the standards, assessments, and accountability system.

This negotiating Committee can provide recommendations that are outside of the regulations but are relevant to the regulations. On a legal concern of creating another committee is complying

BIE Standards, Assessments, and Accountability System Negotiated Rulemaking Committee Meeting Summary FINAL

December 4 – 6, 2018

with the Federal Advisory Committee Act (FACA). The Facilitator asked the Committee to discuss the three options knowing the interest is to make sure Tribes and individuals with expertise in Indian education have the opportunity to participate with implementing the requirements of defining the standards, assessments and accountability.

The BIE provided language as a counter proposal for discussion and a group of Committee members worked on revising the language. The group provided the following clarifications: there was a brief overview of the limiting factors related to FACA and ways the public can provide input to the government; some examples: the BIE Special Education Advisory Committee can go on to perpetuity because it is defined by statute; and meetings with Tribal leaders are government-to-government do not trigger FACA.

The Committee had the following discussion and revised the proposed language based on the following:

- It could be constructive to maintain the government-to-government relationship.
- When there is consultation there is very little negotiation and almost zero around product development.
- This negotiating Committee can include a recommendation to help decide what is being taught, to have a voice, and is part of sovereignty in Indian education.
- We are trying to create one system but if the Tribes waive, there will be a lot more systems the BIE would have to track; more than the 23 states.
- The amount of work is too large for the timeline. I don't support but will support the rational discussion of what will it take to see this be complete for our stakeholders.
- We can define who the stakeholders are to go along with the regulation that is not too restrictive on the definition of 'meaningful'.
- As a stakeholder, the concern is, unless it's spelled out that it must happen, there is no meaning, there has to be language in the regulation or else the stakeholder will be overlooked.
- The fundamental position of the Committee is to ensure we recommend an improved policy. The NCLB was a failure and these regulations need to be in place as a mechanism to improve the process as it's critical.
- The BIE is there to assist and support the Native American children as students in the schools, and the BIE works for us and we work for all the children by being inform/involved in the process every step of the way.
- This is going to affect our children's lives for the duration of ESSA. At some point in the future, standards will be reviewed along with the assessments and accountability system, and bring people back in to assist the Bureau; we are here for our children and how we teach.
- Suggest we add 'implementation' after 'creation'. It's one thing to create these concepts and another thing to implement, then to revise according to the needs of those tasks. The word 'meaningful' is a loaded word. In reference to the BIE Strategic Plan, I thought there was going to be more alignment between the different entities. If the focus of the BIE is to increase Tribal self-determination, it needs to be explicitly stated in the

regulations being developed and can be placed at the end of the sentence in order to support Tribal self-determination, then ‘meaningful’ has a purpose.

- The word ‘implementation’ is ongoing work and there has to be a mechanism for the engagement of Tribes for correction to problems as our responsibility of educating our children is not solely with the BIE.
- It’s important how the wording is placed in the regulations; it’s not redundant – the more we talk about Tribal self-determination the better.
- Include ‘educators’ to define BIE operated and Tribally controlled educators and administrators.
- The idea of the 3 R’s is to be transparent from the BIE.
- We want to ensure the stakeholders have their input; can we remove ‘to include’ and replace with ‘inclusive of’ to allow for flexibility as we will need different skills at different stages of the plan as it is being developed.
- Edits to include ‘educators from BIE operated schools and tribally controlled grant schools’.
- All of this is a work in progress and is key to developing a strong education system. The word ‘implementation’ is key; it’s just not the creation of the policy, it’s also working out the logistics.

The Committee came to a consensus and the Facilitator confirmed the revised language for section 30.103(b) – third paragraph to read:

“The Secretary will ensure meaningful, ongoing consultation with a diverse group of stakeholders inclusive of parents, educators (such as administrators and educators from BIE operated schools and Tribally controlled grant schools), Tribal governments, students and community members. Such consultations will ensure input is considered in the creation, implementation, review and revision of standards, assessments, and accountability system. These stakeholder consultations will include transparent reporting, recording and responding to input obtain therein.”

Section 30.103(c) –

Within this section, the subcommittee did not have any problems with the paragraph as drafted by the BIE as framework for the draft proposed regulatory language.

The Facilitator confirmed the proposed language in paragraph 30.103(c) to read:

“The Secretary shall engage in active consultation with Tribes and other potentially affected stakeholders when defining or revising definitions of standards, assessments, and accountability system.”

Section 30.103(d) –

Within this section, the subcommittee did not have any problems with the paragraph as drafted by the BIE as framework for the draft proposed regulatory language.

The Facilitator confirmed the proposed language in paragraph 30.103(d) to read:

“The Director may voluntarily partner with States, or Federal agency, to develop and implement challenging academic standards and assessments.”

Section 30.104 – How will the Secretary define standards?

Section 30.104(a) –

Within this section, the subcommittee did not have any problems with the paragraph as drafted by the BIE as framework for the draft proposed regulatory language.

Section 30.104(b) – Tribal Civics as a Standard

The standards subcommittee inserted proposed regulatory language of ‘tribal civics’ as the fourth academic standard for the Bureau schools. The Facilitator asked the Committee if there is consensus with the proposed tribal civics course/concept in section 30.104 of becoming a standard; the Committee was in consensus on the concept based on the following:

- The idea of including a course around Tribal sovereignty.
- The creation of the tribal civic standards is an important piece to have the same focus across the Bureau.
- We can set up goals and assurances that this topic was introduced as part of the educational process from Kindergarten forward, it needs to be there for every year of educational requirements (K-12).
- When parents have the choice of the public or the BIE schools, this type of course will make a difference of what the BIE schools are promoting and educating Tribal relations for success of our students as Tribal members and the unique educational system.
- Tribal sovereignty is a big issue and teaching in the lower grades is not too early to start as it’s important to strengthen the knowledge of the community the children live in and it’s our commitment to teach the children of who they are as Native Americans.
- This is a paradigm shift from what is required of the states to the idea of one Bureau system.
- The Bureau can create regional or Tribal standards and this is an opportunity for the Bureau to go on the record to say the schools do serve the Native American students in 23 states and the relationship with the Federal government defines who ‘we’ have become as Tribes.

Section 30.104(b) – Tribal Civics and the Elements

The Committee discussed the elements to be included in the concept of tribal civics and indicated the following were important:

- What is sovereignty? Where does it come from? Many people think sovereignty is granted by the government but it is not. Forms of Tribal government that will be regional based on Tribes in that area. History of the Termination Era, process for Federal recognition, dual citizenship, etc. These topics groom our children to become Tribal leaders.
- Around the history on a Tribal perspective: constitutions, the history of education, how DOI/BIA/BIE were created to serve Native Americans, policies around manifest destiny, just how Tribes came to be and the development of reservations.

- To be included are land rights, what is PL-280, self-determination, checker boarding of land, voting rights for members of Tribes, Tribal ordinances/laws/statutes; all to be provided on different levels in the schools.
- Termination, it's the big picture of what are all of the Federal laws that impact Tribes because we are still dealing with it today. Federal Indian law was not created to support Native Americans; it was created to determine how the Federal government was going to deal with us as Native Americans. There needs to be in-depth conversation on Indian law that has been generated over time, what the impacts were, and how they continue to impact Tribal sovereignty.
- Treaty law, tribal contribution to science, medicine, and the actual formation of the U.S. Constitution where it came from, colonial relationship to Tribes and to talk about distinguish Tribal people who were very involved with civil rights. Talk about current events and not all instructions from the past. Also major conflicts that have destroyed entire Tribes.
- Tribal relation in their state.
- Water rights and laws based on Tribal customs and beliefs. The way the common core standards are written with social studies is skill based and if these topics are broad enough it could align with common core standards; more skill based approach.
- Local government processes and how local Tribal governments operate.
- Contemporary topics on Tribal gaming, NAGPRA, rights around taxation, and sacred lands.
- All these topics that we've brainstormed, I've learned outside of our school. We need to put this in as a requirement for the BIE. There is a reason BIE exist to provide education for our Native American children.

Section 30.104(b) – Tribal Civics label

The Facilitator asked the standards subcommittee if they had a proposed alternate name for 'tribal civics' course. The subcommittee indicated they wanted to keep the standard as currently named. The Facilitator asked the Committee if there is consensus with the name of 'tribal civics' for the challenging academic standard; the Committee was in consensus on the name.

Section 30.104(b) – Tribal Civics – Should there be an Assessment and Accountability with the Standards and if so, would it be either another academic indicator or as a school quality or student success (SQSS) indicator?

The Facilitator asked the standards subcommittee to report on their thoughts on 'tribal civics' and if there should be an assessment and accountability with the standard. And if the Committee agrees, would 'tribal civics' be either as other academic indicator or as a school quality or student success indicator. The subcommittee shared the following:

- Would like it to be included in the assessments and accountability system as there are not a lot of subjects that are being assessed and those subjects become optional when funding is tight;
- The intent of this subject will be guaranteed as a requirement for students attending Bureau schools; and

- Also take into consideration of the length of time to implement to full completion and would like to develop goals on age appropriate topics and could be phased in.

The Committee had the following discussion on implementing tribal civics and proposed language based on the following:

- If this course is going into the standards and accountability, we need to think about a schedule for the assessment section. Phasing in is a good idea.
- Would like tribal civics to be included in K-12 and know there are some challenges with assessments. If we include in the accountability section they have to be peer reviewed.
- The goal is to teach children tribal civics before college.
- It is possible to assess standards that are general enough for all.
- There are states that include other standards and assessments in their accountability system through the local indicator or the school quality indicator, and then you would have more flexibility and would not have to be peer reviewed.
- We are creating something new; we can find a way to phase this in. If the accountability system is a problem, than let's look at other ways to be assessed. Within the Bureau we can create our own accountability. Maybe we can look at the teachers being the accountability system like they use to be to verify the student understands at this grade. We want this subject taught in the Bureau-funded schools as a requirement.
- Tribal civics would be the reason why parents want their children enrolled at the Bureau-funded school.
- We have consensus that tribal civics will be in standards. As we move towards assessments we can discuss how we work it in, as well as into the accountability section. Instead of trying to do that right now in the standards section. *Assessments are one way to provide evidence for your accountability system; they are not the only way. For example, if you want to phase this in and you understand the limitations about having a full on assessment, you might want to collect data about the number of students enrolled in certain courses, or collect different types of survey data from your school, from the teachers that would indicate a type of implementation of a course, as opposed to an assessment. That could be a school quality indicator.*

The Committee came to a consensus on phasing in tribal civics and the Facilitator confirmed the revised language in 30.104 (b) with placement of the text in the regulations to be determined to read:

“Phase in tribal civics assessments and accountability system starting as a school quality indicator and revisit as implemented.”

The Committee had the following discussion on assessing tribal civics and proposed language based on the following. The BIE will determine the placement of the language within the regulations.

- For the well-being of our Tribal children, there needs to be accountability so that no one can decide this course is an option. The children are taught the contents of this subject. As a new subject, it will need to be phased in to be developed and integrated; impossible to start in the new school year.

- There is more leeway as a school quality indicator for K-12.
- I believe a general standards and assessments can be created from the Bureau side and a Tribe can tailor for their school. There are models used in an urban setting that serve many different Tribes there that can be used. The question is should it be included and as we phase in we may start with is the school teaching tribal civics as a quality indicator with setting timeframes to include an official assessment, etc.
- When we're thinking of assessments it can be different. Section 1111 encourages varied measures of student academic growth to include portfolios, projects, extended performance tasks. Those are open ended types of assessments that will lend well to a tribal civics program and allow each Tribe to tailor a program to the specific needs.
- To start, we can recommend this class be a school quality indicator and as it's developed it can be more formalized and like the idea of a multiple choice exam.
- The intent of tribal civics would include an outline framework of topics that are age appropriate when developed and could be looked at as a 12-year curriculum to consider graduation requirements. The Committee came to consensus to include in each three sections of standards, assessments and accountability (30.103 for standards) as regulatory language to ensure it will be taught in the Bureau schools. This topic needs Tribal input through consultation (suggested location for a consultation be in Rapid City) to assist with its development within the three areas.
- Tribal civics and history is a regulation requirement through the CFR and there are no standards that I know of that the Bureau has for that current graduation requirement. The issue is how you quantify into a specific assessment or into an accountability system. Are there any concerns with this being mandated in this part of the CFR but doesn't exist in the instructional program portion of what is required to be taught? See CFR 36.22. *BIE has a requirement to have regulations to implement ESEA mandate to have definitions for the standards, assessments, and accountability systems using the negotiated rulemaking process. If this [tribal civic] comes through that process it would create a discrepancy that we need to address.*
- A consideration in our report of the Committee to recommend there could be a change down the road and other parts of the CFR to detail out what is required at every level (K-12). When you look at other parts of the CFR on what is required for instruction, it's not there. There is a conflict that needs to be addressed. Also if this is a requirement for graduation as written in the CFR, the BIE as our SEA should provide challenging academic standards in that area.

The Committee came to a consensus and the Facilitator confirmed the revised language to be placed in the regulations to read:

“Assessments and assessment schedule will be developed for Tribal Civics at the conclusion of the processes described in Section 30.103.”

Section 30.104(x) – English Language Proficiency, Native American Language, and Immersion Schools

Response from the Department of Education on the English Language Proficiency

Background information: The statute Section 1111 requires:

BIE Standards, Assessments, and Accountability System Negotiated Rulemaking Committee Meeting Summary FINAL

December 4 – 6, 2018

- (1) All states to have English Language Proficiency (ELP) standards,
- (2) All states to provide an annual ELP assessment for all English learners (EL), and
- (3) ELP is an indicator in the accountability system for all states.

New in ESSA is states have to provide standardized state wide entrance and exit procedures for English learners as part of their state plans. If it's a Native American language program, instead of having to test math, reading, and science in English each year, it provides that the Native American language school could assess using the Native American language; math, reading, and science, provided that certain conditions are met. To meet those conditions, you would have to submit the Native American language assessment for peer review, and continue to provide the ELP assessment and services for English learners in the school, and assess reading at least once in high school in English. All was a compromised resulting from the Department of Education's negotiated rulemaking process. There were other regulations related to Title I but they were overturned by Congress. The reason the Education regulations don't address standards and accountability for such schools is because that reg-neg was only for the assessment regulations for the Department of Education. Those statutory requirements still apply to all schools receiving Title I funding.

Committee members had the following discussion:

- To clarify there is no guidance for standards because they were not included in the Title I regulations, only in assessments? In the standards subcommittee, the question was around ELP on whether or not an immersion schools could opt out of reading and writing because some of the Native American languages are oral only; there is no written language. But it sounds like the ELP and assessment whether you are in an immersion school or not have to be included. There is no reference if the standards have to be in English or Native American language. *There are two different types of standards, the content area standards and ELP standards which the ELP assessment is based on. The content area standards are in reading, math, science, and any other standard the BIE adopts.*
- To clarify in section F, the Secretary must adopt ELP standards that are derived from those four domains, address the different proficiency levels that are aligned with the challenging state academic standards. The subcommittee was wondering for an immersion school if there is a way to opt out of pieces of those, specifically to reading and writing. Is the ELP a negotiable item? *There is another regulation regarding ELP assessments for students with disabilities who cannot be assessed in all four domains and must be assessed in the remaining domains in which they are able to take the assessment. That is an example where you will not be addressing all four domains. This is what the law is.*
- What current regulations exist regarding ELP standards under the law for the population that the Department of Education serves? What are public schools governed by the Department of Education to operate under for their standards? *Department of Education will have to check on for standards. We do have the peer review guidance for the states and assessment peer review. See:*
<https://www2.ed.gov/policy/elsec/leg/essa/essatitleiiiguidenglishlearners92016.pdf>

- I find it difficult to believe anyone in the Civil Rights community would allow there to be no regulation or guidance regarding ELP assessments. I request formal response from the BIE using resources to provide a response to the Committee. I find it hard to believe there is nothing for standards for English learners. It would be helpful to guide us.
- What I understand is Department of Education has left it to the states to develop these standards? What guidance do you give states for the development? *For the ELP standards there are large group of states that are members of one or another consortium; one is WIDA that have standards and states have adopted, another is ELPA 21, and other states have their own ELP standards. The Department of Education does not have guidance on what should be in those standards as that's a prohibited area for the Department of Education from rulemaking, can't dictate curriculum or standards.*
- Is it the intent of the Department of Education just to assess students in the ELP? The concern is Native American students in immersion schools will be identified as ELP even though they haven't been taught English yet with the intent to teach in 5th or 6th grade; they are not receiving English language instruction in earlier grades and are not recent arrivals. To have standards, we have to use WIDA and every year our focus is for the students to grow in their Native American language not in English during the early years of instruction. The concern is with labeling the students. *In Title I regulations in 200.6J – the state has to continue to assess the ELP of such English learner using the annual ELP assessment required and provide appropriate services to enable him/or her to obtain proficiency in English.*
- In order to answer some of the questions for the subcommittee regarding definitions of ELs and Native American language program it would be helpful to pull up the current definitions. There are other areas in this law that describes and define EL students and those populations. There are a lot places that are wanting to expand into language immersion sites but have been discouraged by agency representatives in years past because it wouldn't fit in and this is an opportunity to help our schools grow. Would like to request subject matter expertise and technical assistance that are knowledgeable on language proficiency and language transfer. Also provide assistance on the legal aspects of this topic.
- Would BIE have some guidance? *We don't have to content expert for the request.*

The Facilitator asked the Committee if there are other items that need to be covered with the Native American language and ELP standards:

- Since we are talking about standards, we need more information on assessing EL students. Are these standards going to be assessed? *It will be assessed as it's a Title I requirement. The BIE does have a contract with WIDA.*
- Given that many of our schools don't go on to high schools where they will be tested for ELP, is there a way to include regulatory language that addresses English is not going to be assessed in lower grades or immersion schools? In the development of standards it will need to address the fact that English might not be taught in the immersion schools at the lower grades but will be taught in higher grades to meeting the ELP requirement.
- This is a concern with Tribal sovereignty in education because Tribes who are going to ensure there is an immersion school for their children and are teaching all the academics;

it's compelling another Nations language criteria on our children. For the lower grades it should be a waiver, it should be an exception.

- I recognized that the requirement for ELP standards and assessments is required under statute and request we get the definition for identifying English learners and definitions to identify Native American language immersion school program participants. There is a requirement in the statute for ELP standards, there are schedules of how to administer and when they are to be administered at an educational site and there are many considerations for those ELP assessments; students who are recently arrived, etc. We can review to have a baseline for understanding for further discussion. Most Native American immersion sites have a minimum goal of bi-lingual proficiency of Native American language and ELP, especially if they do not continue on with the program and attend another high school. Do have to prepare transitioning students out, a strategic understanding of academic language proficiency. There are civil rights allowances and understand for our students that are recently arrived and our Native American students should be looked at with a broad a lens as possible.
- Suggest we gather more information and table until we can review. Looking at page 20 of Section 1111 in theory Tribes would be able to waive in part or in whole; the ELP requirement but by definition there would have to be something to replace that and would that mean replacing with a Native American language proficiency standard, they have to replace it with something. States still have to do this so there should be something to review.

There is a proposal to table the discussion that would be reflective in Section F and G in the standards regulatory language and the Facilitator will outline the request of additional information to be reported back to the Committee identified in the action items, see Appendix K. The Facilitator will work with the BIE and subject matter experts to provide the subcommittee additional information via a webinar prior to the next meeting. The Facilitator asked the Committee if there is consensus to table the subject of ELP and Native American language until the subcommittee can receive additional information for further discussion with the full Committee; the Committee was in consensus.

Assessments Subcommittee Report

Committee member Leslie Harper provided the report of the assessments subcommittee report, see Appendix G. In addition to the document reflected on the screen the following points were made:

- Did not have information from the standards subcommittee to include tribal civics as an assessment requirement and needs to be addressed;
- Content on the right hand column in red font are questions that remain outstanding and require further discussion/clarification;
- If the BIE is creating alternative assessments for the Bureau schools and a Tribe proposes alternative assessments through a waiver process, who will be responsible for creating the alternate assessments?
- Within 2(B)(xiv) there was a question if this needs to be spelled out in the standards section as it applies to assessments in English and for students enrolled in a school or program that provides instruction primarily in a Native American language;

- There may need to be regulatory language written to describe how a LEA can justify exceeding the 1% cap within their accountability section;
- Within 2(G) need to ensure there is regulatory language that allows for use of a different EL assessment under the waiver process;
- Within 2(H) there was a recommendation from the SOL to delete this section, the subcommittee needs further assistance to ensure we clarify which section it best fits;
- The subcommittee asked for data on EL in the current BIE system; and
- We still need subject matter experts to provide guidance on the questions that remain unanswered.

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

- On page 3(ix) the text ‘not including the Commonwealth of Puerto Rico’ was indicated to be deleted, don’t know why the rational for it being crossed out. Does it not apply to any Bureau schools? *Commonwealth of Puerto Rico does not apply to the Bureau schools.*
- If the Committee is going to address the assessments for students in an immersion school the Puerto Rico exception is what makes our Native American language immersion school exception.
- For section 2(H) are you (SOL) suggesting the whole section be cut out? If a Tribe wants to go this route, it’s helpful to keep the language and some are interested in using ACT and SAT. It gives more specificity on this particular avenue and it would be helpful to keep the language.
- Is this section 2(H) specifically applies to the high school assessments? *Yes.*
- Would recommend we keep this section 2(H) as it provides flexibility for schools to have other means for assessing students to ensure students are ready for post education. *The Facilitator will flag for further discussion.*
- There may be one place where we leave state in section 2(H) as BIE does not have designed assessments. *Could change to BIE select assessment.*
- At our ABQ meeting we had conversation around section 2(H), the high school could have a waiver and select an assessment. Can you refresh our thinking? *It’s covered by the waiver but would like the language to stay as it provide the requirements and helpful as schools have an interest in using ACT or SAT.*
- On section 2(I) it was stricken and want clarity as to why we are removing this language. Could it remain and be used to our advantage? *It’s not applicable to BIE as the grants for state assessments received of \$1.8 million a year is well below the threshold of \$369,100,000.*
- Under section 2(L) are we referring to all assessments or is this specific to high school assessments?
- I feel we over test already and different for every school/state. Are we going to put language to say test no more than three days a year? Bigger question is access to technology to ensure all students are tested. *The Facilitator flagged for further discussion.*
- Data on EL’s, does NASIS capture that information? *States are required to follow a process to capture data for EL. The Bureau uses the state EL policy. BIE has limited*

data and have been deficient in reporting in EdFacts. The data in NASIS is LEP not the same for ELs and are not congruent.

- Would like to include language in the regulations as the section around exception for recently arrived EL does not apply to the Bureau schools and indicate it does not apply at this time, in addition to other deleted section. But if a section would apply in the future, add language as to how this section would be addressed. Uncomfortable with deleting whole sections.
- On the Navajo Nation, there are students who enter school as an EL raised by primary Navajo speakers and are not proficient in English. To speak the language does not mean the student can academically grasp it, read it or write it. The primary Navajo speakers are not testing well even though they are conversational in Navajo they have not read the Navajo language. There is a gap and the schools are experiencing it. The more we talk about the uniqueness of the Bureau schools, these are the students not served in the public schools.
- The BIE does have a funded language program called the Language Development Program. It gets a 1.3 WSU per student that is in the program with five categories a student can be counted in the program. The one category that is at 100% for most of the schools is called the preservation and restoration of the language development program. In a lot of schools there are language programs the students are enrolled in at each grade level. The first two columns are ELL and the last two are for those students in their Native American language; column three is where most of the students are counted. Good program for funding purposes.
- The contracts that are made available to the BIE with the different technical advisors, are they not available to the schools for technical assistance if they are already in a contract? *BIE will follow up with the Committee.*

Accountability Subcommittee Report

Committee member Lora Braucher provided the accountability subcommittee report, see Appendix H. In addition to the document reflected on the screen the following points were made:

- The language reflected in the last two-days will need to be reflected in the accountability section;
- The subcommittee had multiple discussions around periodic review of the accountability system for long-term goals, changes when required, etc., for the plan to be reflective of continuous improvement. The BIE can establish long-term goals, as well as interim goals that can be reviewed every three-years and propose language that memorialize the continuous process;
- Need feedback on science and should that be a part of the accountability system or would we leave it up to the Secretary. If we want science included, we need to memorialize in the regulations; and
- Need to add language for continuous review of the accountability system.

Section 30.106(b) – reference to Continuous Review

The Facilitator asked the Committee if there is consensus for language on section 30.106(b) last sub-bullet. The Committee had the following discussion and revised the proposed language based on the following:

- Is it the SAAP that's being periodic review? *We are trying to memorialize the importance of the periodic review.*
- How does the Department of Education handle periodic review with the states to see how effective the states are performing?
- To clarify, Section 1111 does indicate the duration of the plan - "each state plan shall be periodically reviewed and revised as necessary by the SEA to report changes in the state strategy and programs in accordance with Section 1111."

The Committee came to a consensus and the Facilitator confirmed the revised language to read:
"Will be reviewed in consultation with tribes and stakeholders for continuous improvements as necessary, but not less often than every four years beginning on the date the plan is implemented."

Section 30.106(c)(1) – reference to Extended Year Cohort

The subcommittee needed feedback from the Committee on including an extended year cohort to in addition to the four-year cohort. The Committee had the following discussion and revised the proposed language based on the following:

- I support this but want to make sure the data is on hand to track and will be made available. *The Bureau doesn't have the data on five-year cohort.*
- We still want to hold the standard for a four-year graduation and allow for a five-year graduation. I would like the Bureau to stretch out NASIS to collect the data.
- I'm in favor of keeping it as a regulation and if the Secretary objects he can remove from the text. As representatives of people of Indian Country this is important.
- Leaving the language of extended year adjustment provides flexibility for the Tribes.
- The four-year graduation requirement will remain but there are students who do require more time to graduate. Under the current system, if a student does not graduate in four-years, the school gets no credit and you have failed the student. The extended year is to capture the students in the accountability system kids and not considered as a drop out. This is not in relation to lower standards. A lot of the states have an extended graduation rate.

The Committee came to a consensus and the Facilitator confirmed the revised language for 30.106(c)(1) to read:

"Include, at a minimum, improved academic achievement, as measured by proficiency on the Bureau's annual assessment in mathematics and reading or language arts under section 1111(b)(2)(B)(v)(I), and high school graduation rates, including the four-year adjusted cohort graduation rate and the extended-year adjusted cohort graduation."

Science as an Accountability Factor

The subcommittee needed feedback from the Committee on including science as an accountability factor to ensure the program will not be an option when funding is tight and to ensure the Bureau schools don't disservice the students.

The Facilitator asked the Committee if there is consensus of science to be included in the accountability system in the regulations as part of the other academic indicator or as a school quality or student success (SQSS) indicator; the Committee was NOT in consensus based on the following:

- Science can follow the same route as tribal civics as a SQSS to be assessed that way. I would not support placing as an assessment.
- I would like for science to be in the accountability system for it not to be an option.
- We need science with STEM initiative for our future and we need to prepare our students.
- The funding for STEM labs is not available under new school construction because science is not a core subject. We have to call the space something else even though our school needs a STEM lab. The Bureau is behind in science. Getting science memorialize in the regulations places the importance of the course and future funding to support.
- Some of the states do not implement science now and can be added later. Science can be a quality indicator. *To clarify, states don't necessarily include it but you do have to a set of standards and assess. In the accountability system to allow for the transitioning in, it would be weighted very minimal (minimal impact). Science could be placed in one of two places; as other academic indicator or the SQSS and dependent on what other things you want included in the SQSS.*
- Internally if the Tribe feels science is important, it will be implemented. I understand the importance of STEM but I don't want to be mandated to put some of the ISEP dollars towards it.
- Why are we so poor in math and science, it's because we don't have good teachers. The direction we are going is important for our kids to excel.
- The Committee can make a recommendation outside of the scope of our work to create a program that grows both the math and science teachers because our children need those resources to keep pace with the changing world.
- ESSA allows flexibility for science and don't understand why it will be included in the regulations when there will be input from Indian Country. *BIE to look at Section 1111 and provide a proposal around the accountability system.*
- The verbiage is straight from Section 1111 and the work is a result of the other subcommittee's work. We are asking if science is important enough to memorialize.

The Committee had the following discussion and developed regulatory language based on the following.

- Is there a limit on the number of academic indicators we can have? *No, but caution on having too many.*
- We've had other discussions with adding other academic indicators or as an SQSS indicator. That is in my mind as well, how are we weighting these different things, how do we prepare to roll this out and have it work for all of our sites. What other topics have been discussed. I'm not sure at this time of which indicator for our schools and for it to

be taught in K-12 for our schools. *Tribal civics and sciences are the only two discussed for indicators.*

- This is really about moving science into the accountability system and it's already in law that you have the standards and assess. The challenge you have is with which standards but every state has been challenged to create assessments and how well they are aligned. It's going to weigh on the overall success of the schools when you make it an indicator. Some states have developed their own assessments to align with their state standards and that might be the better way to go. Presents challenges to place in the accountability system.
- I need to look at the data and need to know where to better serve my kids.
- If science is mentioned as a standard already, they should be defined and specified elsewhere. It should be clear as to what standards are going to be covered. There are assessments already, NEWA map in the area of science used *[it's not peer reviewed]*. Having that vision for our Native American students is important to have science in there. Even if it's valued as a school quality indicator, that might be where we start.
- I support science to be in the accountability system for different reasons. When our school opened, the community thought science was lacking and wanted it included in the school. As a single system for all of BIE, we also have to think of waivers or not. If we are doing this with tribal civics, we should do it with science as well.
- This isn't about what we can't do, because it's not peer reviewed or our schools is not going to succeed. This is about what our children deserve. It needs to be assessed and held accountable. This can also show on a National scale that the Bureau is failing our schools in science. If we don't have this in place, how else are we going to hold them accountable? Our children need this.
- The majority of the states do not put science in the accountability system [30-states]. I'm suggesting the proposed language be in the report but I agree science is critical. If its across the system and if the school want it as part of an indicator, the school can make a waiver to do so.
- With science we have standards and we have assessments under Section 1111 – do we want to include it in the accountability system. I have not heard a good reason of why it should not be.
- ESSA leaves it open. I'm confused of that being a reason to not have it in the regulations.
- By leaving it open it allows a lot of flexibility even if it's an academic indicator it does not have to be a large percentage/piece. But it will be monitored and reflect we need more resources and support in those areas.
- The reason why the subcommittee asked for data on Alaska is because they do it as a quality indicator at 10%, it was small enough but still on the table.
- If it's another identified indicator, it doesn't apply to high school.
- Science could also be a growth indicator.
- Would the weighting be left for the Secretary to decide? *Yes.*
- The first proposal is vague and would like for the Tribes to have a voice on how it will impact their schools.

- There will be widespread input into the SAAP and will go through formal Tribal consultation.

The Committee came to a consensus and the Facilitator confirmed the proposed language to read:

“The Secretary will incorporate science in the accountability system.”

The BIE will determine the placement of the language within the regulations.

Waiver Subcommittee Report

The Facilitator provided handouts related to the waivers subcommittee work, see Appendix I. The text in red on the side-by-side is a response to the questions of the subcommittee. The additional document reflects items discussed in the assessments subcommittee work that needs to be addressed in the waivers section for further deliberation.

Proposed Opening Statement – Preamble

The Facilitator asked the Committee to review the language proposed on the opening statement in the waivers subcommittee’s work. The subcommittee wanted to include a statement of moral responsibility. The text provided might present a conflict with codified statute but could be added into the Committee’s report to reflect the government’s responsibility and to take these items into consideration for the Secretary to keep the principles in mind in reviewing the recommendations; could serve as a preamble to the report. The Committee had the following discussion and revised the proposed language based on the following:

- I’m concerned with the run-on sentences but appreciate the content. We can clean up.
- A lot of this is reflected elsewhere and not sure the purpose of including in the regulations. *The subcommittee wanted an opening statement that set a positive tone for the regulations.*
- In terms that this language may be unusual in terms of regulations that the relationship between the U.S. and Tribes is unique. Unless it’s prohibited elsewhere, we do need to set the tone and we need people to understand. Like this in the preamble.
- Far too many people who are looking for guidance don’t cross walk this information. I believe this language needs to be matched with the regulations with what we are doing as a preamble to the full regulations.

The Committee came to consensus and the Facilitator confirmed the proposed preamble language to be included in the regulations to read:

“Recognizing the special rights of Indian Tribes and Alaska Native entities and the unique government-to-government relationship of Indian Tribes and Alaska Native villages with the Federal Government as affirmed by the United States Constitution, U.S. Supreme Court decisions, treaties, Federal statutes, and Executive Orders, and as set out in the Congressional declaration in sections 2 and 3 of the Indian Self-Determination and Education Assistance Act ([Pub.L. 93–638](#); 88 Stat. 2203; [25 U.S.C. 450](#) and [450a](#)), it is the responsibility and goal of the Federal government to provide comprehensive education programs and services for Indians and Alaska Natives. As acknowledged in Section 5 of the Indian Child Welfare Act of 1978 ([Pub.L. 95–608](#); 92 Stat. 3069; [25 U.S.C. 1901](#)), in the Federal Government's protection and preservation of Indian Tribes and Alaska Native villages and their resources,

there is no resource more vital to such Tribes and villages than their young people and the Federal Government has a direct interest, as trustee, in protecting Indian and Alaska Native children, including their education. The mission of the Bureau of Indian Affairs, Office of Indian Education Programs, is to provide quality education opportunities from early childhood through life in accordance with the Tribes' needs for cultural and economic well-being in keeping with the wide diversity of Indian Tribes and Alaska Native villages as distinct cultural and governmental entities. The Bureau shall manifest consideration of the whole person, taking into account the spiritual, mental, physical and cultural aspects of the person within family and Tribal or Alaska Native village contexts.”

Section 30.107 – May a tribal governing body or school board waive the Secretary’s definition of standards, assessments, and accountability system?

Within this section, the subcommittee did not have any problems with the paragraph as drafted by the BIE as framework for the draft proposed regulatory language.

Section 30.108 – How does a tribal governing body or school board waive the Secretary’s definitions?

Section 30.108(a) – (e)

The Facilitator asked the Committee to review the draft side-by-side. There is red-line language on the left that the Tribe is doing the waiving reflected in (b) as discussed in ABQ. The language in (c) is the added language with the 60-day requirement. Proposed language was added in (d) in regards to the alternative proposals and in (e) to a template for alternate proposals. The Committee had the following discussion and revised the proposed language based on the following:

- The language referencing an extension of 60-days, does it continue to be extended? *There was concern over the impact of the 60-day deadline. The statute describes the 60-days but it doesn’t address what happens after the 60-days.*
- I appreciate the language for providing an extension as it was not thought about and providing language on a template for a waiver is huge.
- My emphasis as a Tribe going thru the process and not receiving an answer; does the wording indicate the school will not lose Title funding? *The Secretary’s definitions apply until an alternative proposal has been approved and the school will have a conforming system in place and no funding will be lost.*
- What is meant with applicable law? *This applies to who has authority to waive; Tribe or a school board.*
- I was going to propose we change to applicable ‘Federal or Tribal law’. There are other parts of the statute that include that line in other areas. *The Committee came to a consensus on the definition of tribal governing body or school board so it might not be applicable as it’s already defined.*

The Committee came to a consensus and the Facilitator confirmed the revised language in 30.108(a-e) to read:

“(a) If a tribal governing body or school board determines the Secretary’s definition of standards, assessments, or accountability system to be inappropriate, it may waive these definitions in part or in whole.

- (b) The tribal governing body or school board must notify the Secretary and the Secretary of Education of the decision to waive a definition.
- (c) Within 60 days of the decision to waive a definition the tribal governing body or school board must submit to the Secretary a proposal for alternative definitions that are consistent with Section 1111 of the Act and that take into account the unique circumstances and needs of such school or schools and the students served.
- (d) A tribal governing body or school board may request an extension of the 60 day deadline for the provision of technical assistance.
- (e) The Secretary will work with the Secretary of Education to develop and make available templates for alternative proposals.”

Section 30.108 – in regards to BIE working with the Department of Education on timelines for response to waivers.

The BIE is not opposed to the timeline provisions in general. However, this involves two agencies and the conversation needs to be tabled for now pending further discussion between the Department of Education and the Department of the Interior.

The Facilitator asked the Committee if there is consensus to support the development of a timeline for BIE to respond to alternative proposals knowing that BIE has to work with the Department of Education and will report back to the Committee.

The Committee was in consensus based on the following.

- I would like to offer some resource information and under ESSA Section 8451 for state waivers it already states that the state plan will be automatically approved if the Secretary of Education does not respond within the 120-days of receiving the plan. At the very least the BIE should have parity with that. *To clarify the 8451 applies to state plans not waivers. There is a different provision of the law that applies to request of waivers for ESEA and is in 8401 with a different 120-day timeline for Department of Education to respond to request for waivers and there is no provision for an automatic approval.*
- The only criteria for the Tribe for a waiver are to be in compliant with Section 1111.
- Will the Committee have an opportunity to weigh in on the timelines before it's added into the draft? *There will be input by the Committee on this matter.*
- I [Leslie Harper] would like to express for the public record and for the transcripts that I am disappointed that this subject matter expertise has been delayed to this point. This is our final meeting day of negotiations. This question has obviously been brought up in several subcommittee discussions and other discussions of the full Committee and I believe that this should have been attended to and requested from the Agency to any of the partnering Agency legal department. I want on the record that I'm disappointed the delay has caused this today.
 - With Leslie's permission I would like to demonstrate that I concur with her statement 100% [the Committee members are as follows: Jennifer McLeod, Sherry Tubby, Charles Cuny Jr., Gloria Kitsopoulos, Lucinda Campbell, Rick St. Germaine, Patricia Sandoval and Michael Dabrieo].

Section 30.109 – What should a tribal governing body or school board include in a waiver and alternate proposals.

The Facilitator asked the Committee to review the draft side-by-side. There is redline language on the left side are edits in response to subcommittee discussion reflected in (a) through (c).

Subsection (c) was added in regards to stakeholder engagement. The Committee had the following discussion and revised the proposed language based on the following:

- In paragraph (b) where it says ‘alternative proposals must include an explanation of how the alternative proposal of Section 1111 of the Act’ should be the only requirement. The Tribe has already made the determination that it is inappropriate. To include that adds an additional burden that the Tribe has to meet. It provides another opportunity for argument and disagreement.
- My question is around the template and checklist discussion. Can someone explain the difference? The intent will be good so that it will address all of the issues. *In the first subcommittee call BIE and/or Ed will have draft responsibilities on creating the template and in Section 108 there is language that both agencies will develop and make available to the Tribes. It is unknown the status of the template.*
- Going back to paragraph (c) that was added, that is imposing a process regulation on Tribes and how they are going to determine whether or not they are going to have a waiver and overreaching.
- The intent of a template is important for Tribes and for smaller schools as guidance for the process and thinking through and to ensure items are not missed.
- In (c) is this requirement in any other statute or regulation to reference? *Section 1111 speaks to stakeholder input and there were some members that thought this was important to include.*
- I would suggest we strike (c).

The Committee came to a consensus and the Facilitator confirmed the revised language in 30.109(a) and (b), with striking (c) completely for it to read:

“(a) Waivers must explain how the Secretary’s definition of standards, assessments, and accountability system are inappropriate.

(b) Alternative proposals must include an explanation how the alternative proposal meets the requirements of Section 1111 of the Act.”

30.110 – May a proposed alternative definition use parts of the Secretary’s definition?

The Facilitator asked the Committee to review the draft side-by-side. The subcommittee indicated the language was fine as written. The definition was defined in 30.101. The Committee had the following discussion and revised the proposed language based on the following:

- The second sentence is not clear. Does the Secretary want the plan in total including what the Secretary has that is agreeable to the Tribe? The Secretary does not want just the section that is being waived but the whole plan and outline what is being waived. *The intent is to present a complete package and if a parent wants to review they don’t have to reference another document.*

- The concern is around process so the whole thing is not being rejected, just the part that is being reflected.
- It is my understanding a waiver package will be a whole plan.

The Committee came to a consensus and the Facilitator confirmed the revised language in 30.110 to read:

“A tribal governing body or school board may waive the Secretary’s definitions in part or in whole. Alternative proposals will, clearly identify any retained portions of the Secretary’s definition.”

30.111 Will the Secretary provide technical assistance to tribal governing bodies or school boards seeking a waiver?

The Facilitator asked the Committee to review the draft side-by-side, language on the left and use the language on the right for contextual content as the language is close to statute. The Committee had the following discussion and revised the proposed language based on the following:

- Is the proposed language directly from statute? *Statute reads ‘the Secretary of the Interior and the Secretary of Education shall either directly or through a contract provide technical assistance upon request to a tribal governing body or a school board of a school funded by the Bureau of Indian Affairs that seeks a waiver under paragraph (2).’*
- Delete ‘yes’ as we just need a statement.
- In fairness to the Bureau the sentence that reads ‘A tribally governing body or a school board seeking such assistance should submit a request....’ How else will the Bureau know they are asking for a request? Delete ‘should’ because it says ‘upon request.’ Change to ‘will’.

The Committee came to a consensus and the Facilitator confirmed the revised proposed language in 30.111 to read:

“The Secretary and the Secretary of Education are required by statute to provide technical assistance upon request, either directly or through contract to a tribal governing body or a school board that seeks a waiver. A tribal governing body or school board seeking such assistance will submit a request to the Director. The Secretary will provide such technical assistance on an ongoing and timely basis.”

30.112 What is the process for requesting technical assistance?

The Facilitator asked the Committee to review the draft side-by-side left side at the proposed language for (a) through (c) that outlines timelines for technical assistance. The Committee had the following discussion and revised the proposed language based on the following:

- Would like to rewrite to change the tone in (a). *Edits were made.*
- Does the BIE really take 30-days to respond to a request? *We hope the Director will develop a system to identify specific individuals to assist with technical assistance.*
- There are 30-days to identify the point of contact. But the next piece is the contact will immediately begin work and there are many activities going on. Maybe the 30-days is to

identify the form, substance and timeline for the assistance. *The language was drawn directly from the existing regulations under NCLB.*

- I appreciate the flow outlined in (a) through (c), I would suggest in (c) or adding (d) because (c) does not talk about the actual technical assistance occurring. If we're going to have this flow, we need to identify technical assistance with a development of a plan in 30 days.
- Add designee to (b).
- If we want to make sure the Director receives it, we may want to add certify mail for tracking purposes as it's important.

The Committee came to a consensus and the Facilitator confirmed the revised proposed language in 30.112 to read:

“(a) Requests for technical assistance must be in writing from a tribal governing body or school board to the Director.

(b) The Director, or designee, will acknowledge receipt within 10 days of a request for technical assistance.

(c) No later than 30 days after receiving the original request, the Director will identify a point of contract and technical assistance will begin, including identifying the form, substance, and timeline for the assistance.”

Letter from the Department of Education

The Federal Negotiators shared a letter received from the Department of Education. On page two is a notification the BIE will need to have their accountability system in place by school year 2019/2020. ESSA was passed in 2015 and required the states to have their plan in place. Department of Education has granted the BIE two extensions. See Appendix J.

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

- Would like to have a copy of the letter prior to the Tribal caucus. *Hard copies were shared with the Committee.*
- Were there other letters previous to this one? *The BIE received extensions and were indicated in different letters.*
- There seems to be a significant dissatisfaction from the Department of Education in regards to the BIE's progress. Was that clearly indicated in specific language to the BIE before this Committee convened? Was there any corrective actions taken from the Department of Education towards the BIE? *There are recent sanctions of holding Title I funding from the BIE.*
- I would recommend tabling the discussion until after our caucus. This has to do with the work we are doing right now.

Discussion around Corrective Action – Response to the Department of Education Letter

The Facilitator asked the Committee to focus on regulatory language in sections 30.102 thru 30.104 that was already approved by consensus to include corrective action.

The Facilitator asked the Committee if there is consensus to include corrective action within section 30.102 – 30.104. The Committee was not in consensus and the regulatory language will stand.

The Facilitator asked the Committee if there is consensus to include future corrective plans to be a part of the SAAP implementation plan. The Committee was in consensus based on the following:

- When I pull up the BIE website, I always see the link to the Advisory Board for Exceptional Children. We should have a link on the website that establishes this type of advisory group for their responsibility; to not only address the standards assessments and accountability in a cyclical manner, but to also work in corporation with the BIE. The schools are responsible for sharing the data in a timely manner for the BIE. If there is a partnership with schools and the Bureau, an advisory group will help support the schools and each other. Corrective action plans does not fit here.
- This issue stands alone and is not part of the regulations. The BIE needs to be more transparent in response to the Department of Education as this is withholding stakeholder information. The Committee can make a recommendation for BIE to be more transparent.
- As a recommendation to the BIE Director to create a separate regulation that creates a standing committee in compliance with FACA and replenished every two years as an advisory to the BIE. It would be a healthy change for the BIE to alter the historical tone of the government amongst the schools.
- A corrective action plan or any type of activities does fall under how the Secretary is implementing standards assessments and accountability systems. We don't need to put a process into the regulations but as part of the implementation of the SAAP. It's an issue outside of the regulatory process.
- This is an issue outside of the regulations. The bases of the corrective action plan was included in Tribal consultations as they were developed, I don't recall being advised by the Department of Education they were considering corrective action plans. The Tribes should have a voice in what that corrective action plan should look like.

Non Federal Committee Members Caucus

Tribal Caucus on Tuesday, December 4, 2018:

Tribal Committee members meet in a Caucus along with one Federal Committee member, Dr. Bordeaux and Lisa Meisner. The following discussion was shared with the full Committee – by consensus of those included in the caucus is to include regulatory language for the creation of a 'committee' of stakeholders convened by the Secretary to work on defining the standards, assessments, and accountability system. Stakeholders to be included would come from Indian country and representatives from Tribal schools to work on the process, and would expect the Secretary to be conferring with technical experts.

The Facilitator typed up language to be included in the section to capture the concept and clarified with the Committee that the interest for including in the regulation is to memorialize for the Tribes and the time limitations by the Secretary.

Committee members had the following to add to the point of discussion:

- What are the guiding principles directing the work to be done for this process? If one of the guiding principles is the BIE's Blueprint for Reform, which is to build capacity with the Tribes, 'to promote educational self-determination for Tribal nations' then there has to be a voice every step of the way. It is critical that the Tribal point of view inserted into the regulations and allows the policy to be acceptable when implemented.
- We have all been vetted by the White House and speakers for our people. When we go to consultation we want to be part of the process so those participating in the consultation will be aware of the work done and our voice was heard. It will make the process easier. The reason the BIE exists is for the BIE to serve the Tribes as its responsibility.
- I want to clarify that it's not this negotiating Committee will be working with the Secretary. The BIE will have a lot of work coming their way and this would be helpful. The purpose of putting the language in regulations is for the BIE Director to work with the Tribes.
- An elder made a statement of if you're not at the table, you're on the menu. I want to be at the table to voice our opinion as it affects our children. If the Secretary determines we have overstepped our bounds, he can remove that language when time comes. We want participation with the Secretary as this affects our children.
- This request is doable and within the bounds of this Committee for stakeholder input in the creation of the Bureau standards, assessments, and accountability system. Within ESSA, stakeholder groups are identified and are transparent for the Federal government.

The language is for a joint effort to assist with developing the standards, assessments and accountability system. The Federal team will caucus Tuesday evening to discuss further on this topic and report on Wednesday with a proposal of alternative language and evaluate the next steps with the Committee.

Tribal Caucus on Wednesday, December 5, 2018:

Non-Federal Committee members caucused without the facilitators and Federal Committee members and invited BIE Director Dearman and Mark Cruz, Deputy Assistant Secretary – Indian Affairs for Policy and Economic Development to participate.

The non-Federal Committee members shared the following report from the caucus: It was important to have a brief reflection with the BIE Director for his vision for the Committee and where he wants it to be. The communication between the BIE Director and Committee members was receptive and supportive as he heard the concerns and frustrations. The Committee respects the BIE Director as a quality leader of the BIE and understands the commitment to our students. He also understands the BIE is not there to dictate but to serve the Tribes and the students. The BIE Director has been in the school systems and understands why this is so important to the Committee. The Committee made some recommendations and asked the letter received from the Department of Education be disseminated down to the schools that were acknowledged by the BIE Director. The timing for calling the caucus was excellent that provided an opportunity for Mark Cruz to meet everyone and understand the challenges and obstacles. The receptiveness from both was very supportive and the Committee needed to have that type of meeting. The

timing of the letter from the Department of Education was a big blow to this group and the additional pressures to complete the work as it affects all of our schools.

Call to Public for Public Comments

During the three-days no members of the public had any comments.

Conclusion of the Meeting Wrap Up

Juanita Mendoza of the Bureau of Indian Education informed the Committee the Bureau will support a fourth meeting in January 15-17, 2019 (Phoenix, AZ) with conditions of coming to consensus on both a single text draft regulation and the Committee's report of recommendations to the Secretary. The Committee will receive in advance of the meeting (by January 3, 2019):

- A single text draft regulations to include the preamble language, and flagging topics for further deliberations for consensus (BIE to provide) and
- A draft report of recommendations pulled together by – Mike Dabrieo, Tasha Racawan, and Lora Braucher.

Action Items

The Facilitator reviewed the action items that emerged from the meeting presentations and deliberations see Appendix K.

Adjourn

Committee member Jennifer McLeod closed the meeting with a prayer in her native language and for safe journeys home. Sue Bement, DFO adjourn the meeting.

Attachments

Appendix A – Meeting Attendees

Appendix B – Overview of Sample Standards presentation

Appendix C – Standards and Assessment Development presentation

Appendix D – Understanding the N-size and Accountability and Support System presentation

Appendix E – State Plan Ad Hoc Subcommittee Reports

Appendix F – Standards Subcommittee Report

Appendix G – Assessments Subcommittee Report

Appendix H – Accountability Subcommittee Report

Appendix I – Waivers Subcommittee Report

Appendix J – Letter from the Department of Education

Appendix K – Action Items

Appendix A – Attendees

Names	Organization	Attendance			
		Dec 4	Dec 5	Dec 6	
Non-Federal Committee					
Charles Cuny Jr.	Little Wound School Board	Yes	Yes	Yes	
Dr. Gloria Coats-Kitsopoulos	Oglala Sioux Tribe	Yes	Yes	Yes	
Sherry Tubby	Mississippi Band of Choctaw Indians	Yes	Yes	Yes	
Ron Etheridge	Cherokee Nation of Oklahoma	---	---	---	
Michael Dabrieo	Santa Clara Pueblo	Yes	Yes	Yes	
Patricia Sandoval	Pueblo of Laguna	Yes	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.	---	---	---	
Dr. Amy D. McFarland	Chief Leschi Schools	---	---	---	
Frank No Runner	Northern Arapaho Business Council	---	Yes	Yes	
Lucinda Campbell	Dine Grant Schools Association	Yes	Yes	Yes	
Tasha Racawan	Navajo Nation	Yes	Yes	Yes	
Leslie Harper	Leech Lake Band of Ojibwe	Yes	Yes	Yes	
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	Yes	Yes	Yes	
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
Arlington, VA / December 4, 2018
Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Laura Kaloi	NIEA
Adrienne Elliott	NIEA
Jennifer McLeod	SS. Main Tribe
Leslie Haysler	Leech Lake Band of Ojibwe
Deb Sigman	WestEd/CSAI
Bryan Hemberg	WestEd/CSAI
Lisa Meissner	Hobbs, Straus, Dean & Walker
Jim Hastings	BIE/Planned
Michael Brown	

Arlington, VA

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee
Arlington, VA / December 4, 2018
Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Shannon Pasternak	Education
Roger Bordbank	ACTS Inc.
Lucinda Campbell	DGSA
Robert Salley	Education
CASSANDRIA DORTCH	CONGRESSIONAL RESEARCH SERVICE

Arlington, VA

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee
Arlington, VA / December 5, 2018
Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Kathryn Bussay	NIEA, Cherokee Citizen (of C.K.)
Adrienne Elliott	NIEA
Laura Kaloi	NIEA
Jaimita Mendoza	BIE
Lisa Moissner	Hobbs, Straus
Jill Martin	ED
Deb Sigman	CSAI
Jacob Schellinger	NCAI

Arlington, VA

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee
Arlington, VA / December 5, 2018
Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Bryan Hemberg	CSAI

Arlington, VA

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee
Arlington, VA / December 6, 2018
Members of the Public Sign in Sheet

Name (Please PRINT Your Name)	Tribe / Tribal Organization / Organization
Adrianne Elliott	NIEA
Laura Kaloi	NIEA
Lisa Meissner	Hobbs Straus
Nicholas Courtney	NCAI
Sharon Posternak	Education ^{is part of}
JH Martin	"
Roger Bordeaux	ACPS
Cassandra Dethlefs	CRS

Arlington, VA

Appendix B – Overview of Sample Standards Presentation

AMERICAN INDIAN SUPPLEMENT TO NATIONAL CONTENT STANDARDS, 1995

- Completing the Circle, 2002
- Creating Sacred Places, 2000 – 2003, 2009
- NCLB – 2001 – 2016
- ESSA – 2015 -

CREATING SACRED PLACES FOR CHILDREN:

IMPROVING INDIAN SCHOOLS FOR THE 21ST CENTURY

US DEPT. OF EDUCATION

- Office of Education Research and Improvement (OERI) under the Comprehensive School Reform Capacity Building Grant Program
- October 2000 through Sept. 2003

Effective Schools Correlates

- Clear Sense of Educational Mission and Purpose
- Frequent Monitoring and Feedback of School, Staff and Student Progress
- Challenging Curriculum and Appropriate Instruction
- Access to Resources and Support for Teaching and Learning
- High Expectations for Student and Staff Success
- Safe and Nurturing Learning Environment
- Home, School and Community Partnerships
- Strong Instructional Leadership
- Participative Management and Shared Responsibility
- Cultural Responsiveness

Plus

Tribal Values and Organizational Culture
Wellness, Healing and Prevention Strategies
Leadership
Learning Record
Cultural Curriculum

Tribal Values and Organizational Culture – This CSPC enhancement provides a means for identifying, selecting, defining and exemplifying key values that are consistent with individual schools' tribal cultures. A plan is developed to integrate these values into school board, administrative, school and classroom activities and documents. These values are reviewed regularly to assess the degree to which they are modeled by school and community leadership and exercised by school and community members.

Wellness, Healing and Prevention Strategies – This program, based on the work of Dr. Clayton Smilg, focuses on developing a wellness curriculum and intervention. Key components of this program include coordinating the efforts of families, schools, and communities to develop a "Safe School Profile," a positive, proactive discipline system; behavioral interventions for anti-social or violent youth; high academic expectations with support for student success; comprehensive drug, alcohol, and tobacco education and prevention; data-based decision making; training in social competence skills; integration of core cultural values in school curriculum and organization; and parent and community involvement.

Leadership – Vision, Wisdom, Courage including a Strategic Visioning Process – CSPC Strategic Visioning, adapted from the process of Grove Consultants International, is a continuous cycle of self-examination that leads to the development of a plan expressing the vision, or goals, of all stakeholders, and founded on the needs of the school as well as solid research. Members from all stakeholder groups collaborate to examine the history of the school, develop a vision and a mission aligned with local values, examine strengths and weaknesses, leading to a plan of action for achieving the school vision.

The Learning Record (LR) – The LR is a classroom-based student assessment system that produces an annual record of achievement. The LR is standards-referenced, requiring analysis of patterns of performance observed and documented over time in the classroom setting. In contrast to conventional assessment systems which tend to emphasize low level skills, the LR encourages the use of natural settings to support learners' increasing abilities to solve problems in multiple ways, to interpret text from a base of personal and cultural relevance, to communicate their interpretations and to express informed opinions.

Cultural Curriculum – Developed and led by Dr. Sandra Fox, the CSPC cultural curriculum includes curriculum guides, lessons, and resources for grades K- 12. The goal of this curriculum is to improve the learning outcomes of Indian students using instruction and materials that are: (a) culturally relevant to Native American Students and based on Native American literature, (b) linked to state and national content standards, and (c) integrate research-based effective pedagogy for Native American students.

Cultural Curriculum

- Creating Sacred Places to Support Young American Indian and other Learners in Grades K-3
Volume I and II © 2002 NISBA
- Creating Sacred Places for Students in Grades K-3
Volume I and II © 2009 NISBA
- Creating Sacred Places for Children in Grades 4-6
© 2003 NISBA
- Creating Sacred Places for Children in Grades 7-8
© 2003 NISBA
- Creating Sacred Places for Children grades 9-12: Science
© 2003 NISBA
- Creating a Sacred Place for Students in Mathematics K-12
© 2004 NISBA
- Creating Sacred Places: Enhancement on Tribal Values and Organizational Culture Field book
© 2002 NISBA
- Leadership Beyond the 7th Generation III: Creating Sacred Places for Children
© 2003 NISBA

Plus other documents



Table of Contents	
Introduction	1
Background	2
Methodology	3
Results	4
Conclusions	5
References	6
Appendix A	7
Appendix B	8
Appendix C	9
Appendix D	10
Appendix E	11
Appendix F	12
Appendix G	13
Appendix H	14
Appendix I	15
Appendix J	16
Appendix K	17
Appendix L	18
Appendix M	19
Appendix N	20
Appendix O	21
Appendix P	22
Appendix Q	23
Appendix R	24
Appendix S	25
Appendix T	26
Appendix U	27
Appendix V	28
Appendix W	29
Appendix X	30
Appendix Y	31
Appendix Z	32
Appendix AA	33
Appendix AB	34
Appendix AC	35
Appendix AD	36
Appendix AE	37
Appendix AF	38
Appendix AG	39
Appendix AH	40
Appendix AI	41
Appendix AJ	42
Appendix AK	43
Appendix AL	44
Appendix AM	45
Appendix AN	46
Appendix AO	47
Appendix AP	48
Appendix AQ	49
Appendix AR	50
Appendix AS	51
Appendix AT	52
Appendix AU	53
Appendix AV	54
Appendix AW	55
Appendix AX	56
Appendix AY	57
Appendix AZ	58
Appendix BA	59
Appendix BB	60
Appendix BC	61
Appendix BD	62
Appendix BE	63
Appendix BF	64
Appendix BG	65
Appendix BH	66
Appendix BI	67
Appendix BJ	68
Appendix BK	69
Appendix BL	70
Appendix BM	71
Appendix BN	72
Appendix BO	73
Appendix BP	74
Appendix BQ	75
Appendix BR	76
Appendix BS	77
Appendix BT	78
Appendix BU	79
Appendix BV	80
Appendix BW	81
Appendix BX	82
Appendix BY	83
Appendix BZ	84
Appendix CA	85
Appendix CB	86
Appendix CC	87
Appendix CD	88
Appendix CE	89
Appendix CF	90
Appendix CG	91
Appendix CH	92
Appendix CI	93
Appendix CJ	94
Appendix CK	95
Appendix CL	96
Appendix CM	97
Appendix CN	98
Appendix CO	99
Appendix CP	100
Appendix CQ	101
Appendix CR	102
Appendix CS	103
Appendix CT	104
Appendix CU	105
Appendix CV	106
Appendix CW	107
Appendix CX	108
Appendix CY	109
Appendix CZ	110
Appendix DA	111
Appendix DB	112
Appendix DC	113
Appendix DD	114
Appendix DE	115
Appendix DF	116
Appendix DG	117
Appendix DH	118
Appendix DI	119
Appendix DJ	120
Appendix DK	121
Appendix DL	122
Appendix DM	123
Appendix DN	124
Appendix DO	125
Appendix DP	126
Appendix DQ	127
Appendix DR	128
Appendix DS	129
Appendix DT	130
Appendix DU	131
Appendix DV	132
Appendix DW	133
Appendix DX	134
Appendix DY	135
Appendix DZ	136
Appendix EA	137
Appendix EB	138
Appendix EC	139
Appendix ED	140
Appendix EE	141
Appendix EF	142
Appendix EG	143
Appendix EH	144
Appendix EI	145
Appendix EJ	146
Appendix EK	147
Appendix EL	148
Appendix EM	149
Appendix EN	150
Appendix EO	151
Appendix EP	152
Appendix EQ	153
Appendix ER	154
Appendix ES	155
Appendix ET	156
Appendix EU	157
Appendix EV	158
Appendix EW	159
Appendix EX	160
Appendix EY	161
Appendix EZ	162
Appendix FA	163
Appendix FB	164
Appendix FC	165
Appendix FD	166
Appendix FE	167
Appendix FF	168
Appendix FG	169
Appendix FH	170
Appendix FI	171
Appendix FJ	172
Appendix FK	173
Appendix FL	174
Appendix FM	175
Appendix FN	176
Appendix FO	177
Appendix FP	178
Appendix FQ	179
Appendix FR	180
Appendix FS	181
Appendix FT	182
Appendix FU	183
Appendix FV	184
Appendix FW	185
Appendix FX	186
Appendix FY	187
Appendix FZ	188
Appendix GA	189
Appendix GB	190
Appendix GC	191
Appendix GD	192
Appendix GE	193
Appendix GF	194
Appendix GG	195
Appendix GH	196
Appendix GI	197
Appendix GJ	198
Appendix GK	199
Appendix GL	200
Appendix GM	201
Appendix GN	202
Appendix GO	203
Appendix GP	204
Appendix GQ	205
Appendix GR	206
Appendix GS	207
Appendix GT	208
Appendix GU	209
Appendix GV	210
Appendix GW	211
Appendix GX	212
Appendix GY	213
Appendix GZ	214
Appendix HA	215
Appendix HB	216
Appendix HC	217
Appendix HD	218
Appendix HE	219
Appendix HF	220
Appendix HG	221
Appendix HH	222
Appendix HI	223
Appendix HJ	224
Appendix HK	225
Appendix HL	226
Appendix HM	227
Appendix HN	228
Appendix HO	229
Appendix HP	230
Appendix HQ	231
Appendix HR	232
Appendix HS	233
Appendix HT	234
Appendix HU	235
Appendix HV	236
Appendix HW	237
Appendix HX	238
Appendix HY	239
Appendix HZ	240
Appendix IA	241
Appendix IB	242
Appendix IC	243
Appendix ID	244
Appendix IE	245
Appendix IF	246
Appendix IG	247
Appendix IH	248
Appendix II	249
Appendix IJ	250
Appendix IK	251
Appendix IL	252
Appendix IM	253
Appendix IN	254
Appendix IO	255
Appendix IP	256
Appendix IQ	257
Appendix IR	258
Appendix IS	259
Appendix IT	260
Appendix IU	261
Appendix IV	262
Appendix IW	263
Appendix IX	264
Appendix IY	265
Appendix IZ	266
Appendix JA	267
Appendix JB	268
Appendix JC	269
Appendix JD	270
Appendix JE	271
Appendix JF	272
Appendix JG	273
Appendix JH	274
Appendix JI	275
Appendix JJ	276
Appendix JK	277
Appendix JL	278
Appendix JM	279
Appendix JN	280
Appendix JO	281
Appendix JP	282
Appendix JQ	283
Appendix JR	284
Appendix JS	285
Appendix JT	286
Appendix JU	287
Appendix JV	288
Appendix JW	289
Appendix JX	290
Appendix JY	291
Appendix JZ	292
Appendix KA	293
Appendix KB	294
Appendix KC	295
Appendix KD	296
Appendix KE	297
Appendix KF	298
Appendix KG	299
Appendix KH	300
Appendix KI	301
Appendix KJ	302
Appendix KK	303
Appendix KL	304
Appendix KM	305
Appendix KN	306
Appendix KO	307
Appendix KP	308
Appendix KQ	309
Appendix KR	310
Appendix KS	311
Appendix KT	312
Appendix KU	313
Appendix KV	314
Appendix KW	315
Appendix KX	316
Appendix KY	317
Appendix KZ	318
Appendix LA	319
Appendix LB	320
Appendix LC	321
Appendix LD	322
Appendix LE	323
Appendix LF	324
Appendix LG	325
Appendix LH	326
Appendix LI	327
Appendix LJ	328
Appendix LK	329
Appendix LL	330
Appendix LM	331
Appendix LN	332
Appendix LO	333
Appendix LP	334
Appendix LQ	335
Appendix LR	336
Appendix LS	337
Appendix LT	338
Appendix LU	339
Appendix LV	340
Appendix LW	341
Appendix LX	342
Appendix LY	343
Appendix LZ	344
Appendix MA	345
Appendix MB	346
Appendix MC	347
Appendix MD	348
Appendix ME	349
Appendix MF	350
Appendix MG	351
Appendix MH	352
Appendix MI	353
Appendix MJ	354
Appendix MK	355
Appendix ML	356
Appendix MM	357
Appendix MN	358
Appendix MO	359
Appendix MP	360
Appendix MQ	361
Appendix MR	362
Appendix MS	363
Appendix MT	364
Appendix MU	365
Appendix MV	366
Appendix MW	367
Appendix MX	368
Appendix MY	369
Appendix MZ	370
Appendix NA	371
Appendix NB	372
Appendix NC	373
Appendix ND	374
Appendix NE	375
Appendix NF	376
Appendix NG	377
Appendix NH	378
Appendix NI	379
Appendix NJ	380
Appendix NK	381
Appendix NL	382
Appendix NM	383
Appendix NN	384
Appendix NO	385
Appendix NP	386
Appendix NQ	387
Appendix NR	388
Appendix NS	389
Appendix NT	390
Appendix NU	391
Appendix NV	392
Appendix NW	393
Appendix NX	394
Appendix NY	395
Appendix NZ	396
Appendix OA	397
Appendix OB	398
Appendix OC	399
Appendix OD	400
Appendix OE	401
Appendix OF	402
Appendix OG	403
Appendix OH	404
Appendix OI	405
Appendix OJ	406
Appendix OK	407
Appendix OL	408
Appendix OM	409
Appendix ON	410
Appendix OO	411
Appendix OP	412
Appendix OQ	413
Appendix OR	414
Appendix OS	415
Appendix OT	416
Appendix OU	417
Appendix OV	418
Appendix OW	419
Appendix OX	420
Appendix OY	421
Appendix OZ	422
Appendix PA	423
Appendix PB	424
Appendix PC	425
Appendix PD	426
Appendix PE	427
Appendix PF	428
Appendix PG	429
Appendix PH	430
Appendix PI	431
Appendix PJ	432
Appendix PK	433
Appendix PL	434
Appendix PM	435
Appendix PN	436
Appendix PO	437
Appendix PP	438
Appendix PQ	439
Appendix PR	440
Appendix PS	441
Appendix PT	442
Appendix PU	443
Appendix PV	444
Appendix PW	445
Appendix PX	446
Appendix PY	447
Appendix PZ	448
Appendix QA	449
Appendix QB	450
Appendix QC	451
Appendix QD	452
Appendix QE	453
Appendix QF	454
Appendix QG	455
Appendix QH	456
Appendix QI	457
Appendix QJ	458
Appendix QK	459
Appendix QL	460
Appendix QM	461
Appendix QN	462
Appendix QO	463
Appendix QP	464
Appendix QQ	465
Appendix QR	466
Appendix QS	467
Appendix QT	468
Appendix QU	469
Appendix QV	470
Appendix QW	471
Appendix QX	472
Appendix QY	473
Appendix QZ	474
Appendix RA	475
Appendix RB	476
Appendix RC	477
Appendix RD	478
Appendix RE	479
Appendix RF	480
Appendix RG	481
Appendix RH	482
Appendix RI	483
Appendix RJ	484
Appendix RK	485
Appendix RL	486
Appendix RM	487
Appendix RN	488
Appendix RO	489
Appendix RP	490
Appendix RQ	491
Appendix RR	492
Appendix RS	493
Appendix RT	494
Appendix RU	495
Appendix RV	

Appendix C – Standards and Assessment Development Presentation

Standards & Assessment Development

Bryan Hemberg
Arlington, VA | December 4, 2018

THE CENTER ON STANDARDS & ASSESSMENT IMPLEMENTATION
UNIVERSITY OF CRENSHAW



Standards Overview

- Standards are statements of what students should know and be able to do at each grade level and thus provide the framework for classroom instruction and student learning
- The degree to which there is coherence and alignment among the standards, curricular materials, and instructional strategies used is directly correlated to opportunities for student learning
- Standards provide the foundation for developing meaningful and effective assessment
- Having consistent, high expectations for all students is critical as a safeguard against some students being taught at a lower level or less rigorous content than other students

3

Current Standards Landscape

What standards are states using?

- English language arts
 - Common Core State Standards – 34 states & DC
 - State-developed Standards – 16 states
- Mathematics
 - Common Core State Standards – 33 states & DC
 - State-developed Standards – 17 states
- Science
 - Next Generation Science Standards – 20 states & DC
 - State-developed Standards - 30 states

3

Current Standards Landscape (cont.)

Common Core State Standards

- Per a November 2016 report by the Center on Standards, Alignment, Instruction, and Learning (C-SAIL), out of the 42 Common Core-aligned states and D.C., about 50%-66% have accepted the Common Core State Standards verbatim.
- Of the remaining 33%, most states have made only minor changes or additions to the standards while several states (NY, CO, PA) have made major changes.
- Major changes seem to be motivated by a desire for increased clarity and attention to regional needs or by a desire to maintain state or local control.

3

BIE - Current Standards Context

What standards are BIE schools using?

- English language arts
 - Common Core State Standards – 18 states
 - State-developed Standards – 5 states
- Mathematics
 - Common Core State Standards – 17 states
 - State-developed Standards - 6 states
- Science
 - Next Generation Science Standards – 7 states
 - State-developed Standards - 16 states

3

Questions to Consider

- How does having a uniform academic standards promote equity within an education system? Consider:
 - Academic achievement
 - Communication of grade-level expectations for all BIE students
 - Efficiencies of support and training to all BIE schools and teachers
 - Alignment to entry requirements for institutes of higher education
- How can a uniform set of standards meet regional needs? Consider:
 - Meeting regional needs of stakeholders and students
 - Meeting the needs of individual schools
 - Potential difficulty selecting a single "best" set of standards



3

Standards Review Process

- This process varies for each state, but almost always involves the following components:
 - Identification of a need (*why are we doing this?*)
 - Development of Guiding Principles (*what is guiding the work?*)
 - Development of a process (*how are we doing this?*)
 - Development of a timeline (*when are we doing this?*)
 - Recruitment of stakeholder committees (*who is doing this?*)
 - Engagement with the public (*how are we being inclusive?*)
 - Development of an implementation plan (*what are we going to do when the standards are completed? how long will it take? who will be involved in the work and what are their roles?*)



3

Standards Review Process – NH

- The foundation for New Hampshire's process are established Guiding Principles:
 - Goals: Are the proposed standards consistent with the goals of New Hampshire parents and students?
 - Classroom Experience: In view of the students, parents and educators, how well do the standards serve as guides for instruction and learning?
 - Competency: Do the standards serve as an effective guide to help students achieve academic proficiency and mastery of academic content?
 - Clarity: Are the standards written and presented so that they are easily accessible and understood by educators, parents and students?



Standards Review Process – NH (cont.)

- Specific: Are the standards sufficiently specific to convey the type and level of student performance expected?
- Coherent: Do the standards convey a cohesive vision of the content and progression for student learning?
- Rigorous: Are the standards high when compared against other nationally and internationally ranked standards?
- Developmentally Appropriate: Are the standards developmentally appropriate for each grade level, especially at the younger years in kindergarten through grade 2?
- Measurable: Are standards developmentally appropriate and is attainment measure able through assessment frameworks, including classroom, local and state assessment?



Standards Review Process – NH (cont.)

- The 14-month process includes (for each content area) numerous activities:
 - Reviewing the Guiding Principles
 - Developing revision process protocols
 - Reviewing achievement data and standards research to determine required background materials
 - Developing a communication plan
 - Engaging stakeholders to gather feedback
 - Developing a Standards Revision Team application
 - Recruiting Standards Revision Team members



Standards Review Process – NH (cont.)

- The actual review process can then start, which includes:
 - Determining the aspiration that grounds the standards and what they should deliver for every student
 - Determining what components the standards should contain (review research)
 - Completing a thorough review of other state standards, national standards, international standards, and NAEP alignment studies
 - Completing an initial review of existing NH standards to identify concept/knowledge and skill gaps, grade-to-grade alignments and outdated content/concepts
 - Continuously review public feedback and make adjustments where believed necessary
 - Invite state and national experts in as necessary (and fiscally allowable) to assist in the work



Standards Review Process – NH (cont.)

- The Standards Revision Team develops four drafts, each building on the previous version and incorporating extensive feedback
- Feedback is provided by general public, students, parents, educators, post-secondary educators, business leaders, professional associations, Legislative Oversight Committee, etc.
- A five-region listening tour is conducted
- A formal public hearing is conducted
- A separate Review Committee is formed to conduct a review
- An independent technical review is conducted
- A review is conducted by the State Board of Education

State Standards Review Timeline



Standards are the Foundation

- States must be mindful of the impact that new standards or changes in standards may have on concurrent initiatives:
 - Professional development
 - Curriculum
 - Assessment
 - Communication
 - Technology
 - Early Childhood
 - Post-Secondary/Workforce readiness
 - Teacher preparation

Cost of Standards Review

- The costs incurred for standards development or review vary and depend on such things as the chosen process for development or review, the degree of shift from what was previously done, and the level of support provided to schools
- Some examples include:
 - The Arizona Department of Education requests \$1,099,000.00 annually to maintain with "minimal" support regarding review/alignment – no updates, no state-provided PD, no guidance documents – their standards. This money supports 10.5 FTE
 - Arkansas allocated \$2,500,000.00 and Idaho \$2,500,000.00 in 2017 to develop Computer Science standards, provide PD, and local grants

Questions to Consider

- What would a standards development or revision process likely look like for the BIE? Consider:
 - The benefits of developing new standards versus revising existing standards
 - How stakeholders would need to be involved for the effort to be acceptable
 - The amount of time and resources (staff, funding, etc.) required to undertake such an endeavor

Assessment Overview

- Annual assessments provide an objective measuring tool to determine student progress across classrooms, schools, and districts
- High-quality assessments:
 - Help expose gaps in performance between various student groups
 - Give schools and systems information they need to get better at educating all students
 - Can inform and improve teaching and learning

Current Assessment Landscape

What summative assessments (grades 3-8) are states using?

- English language arts & mathematics
 - PARCC – 6 states & DC
 - Smarter Balanced – 15 states
 - State-developed assessment – 29 states
- English language proficiency
 - ELPA21 – 10 states
 - WIDA Assets – 34 states & DC
 - State-developed assessment – 6 states
- Alternate assessments
 - DLM – 16 states
 - NCSC – 16 states & DC
 - State-developed assessments – 18 states



3

Current Assessment Landscape

What summative assessments (high school) are states using?

- English language arts & mathematics
 - ACT – 3 states
 - ACT Aspire – 2 states
 - ACT or SAT – 1 state
 - ACT Workkeys or SAT – 1 state
 - ACT & State-developed – 1 state
 - PARCC – 3 states
 - PARCC & SAT – DC
 - SAT – 8 states
 - Smarter Balanced – 7 states
 - State-developed – 24 states



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Current Assessment Landscape (cont.)

- Consortia assessments continue to be highly rated by USED peer reviews. 12 of 13 consortia states substantially met criteria vs. 7 of 16 non-consortia states
- The majority of states are working with vendors to develop and implement state assessments
- Some states are moving to using ACT and SAT as their high school accountability assessment.
- Now 13 states total, despite concerns about whether how well these tests measure state academic standards
- Neither SAT or ACT has been fully approved in the peer review system



3

BIE - Current Assessment Context

What summative assessments (grade 3-8) are BIE schools using?

- English language arts & mathematics
 - PARCC – 1 state
 - Smarter Balanced – 9 states
 - State-developed assessment – 13 states
- English language proficiency
 - ELPA21 – 5 states
 - WIDA Assets – 16 states
 - State-developed assessment – 2 states
- Alternate assessments
 - DLM – 6 states
 - NCSC – 9 states
 - State-developed assessments – 8 states



3

BIE - Current Assessment Context

What summative assessments (high school) are states using?

- English language arts & mathematics
 - ACT – 1 state
 - ACT & State-developed – 1 state
 - ACT Aspire – 1 state
 - ACT or SAT – 1 state
 - ACT Workkeys or SAT – 1 state
 - PARCC – 1 state
 - SAT – 1 state
 - Smarter Balanced – 5 states
 - State-developed – 11 states



3

Questions to Consider

- How does having a uniform summative assessment system promote equity within a state education system? Consider:
 - Understanding overall BIE academic achievement
 - Communication of assessment performance for all BIE students
 - Efficiencies of support and training to all BIE schools and teachers
 - Comparing student performance
- How does a uniform summative assessment meet the regional needs of a system? Consider:
 - Meeting regional needs of stakeholders and students
 - Meeting needs of individual schools



3

Assessment Development Process

- Clarify the uses and purposes of the assessment
- Establish a timeline
 - The timeline of the operational administration dictates the timing and pace of development
- Develop assessment specifications based on:
 - Academic standards
 - Detailed specifications about the learning objectives that support the standards
 - The rules dictating requirements for test content, format, and accessibility for all students



3

Assessment Development Process (cont.)

- Develop and review assessment materials
 - Item specification guides
 - Scoring rubrics
 - Graphic design requirements
 - Verification of content and standard alignment
 - Score report requirements
- Conduct pilot testing
- Conduct usability studies
- Conduct bias and sensitivity reviews



3

Assessment Development Process (cont.)

- Conduct field testing
 - Determine item performance
 - Item representation of content
 - Item accessibility
- Produce final assessment materials
 - Final test versions
 - Score reports
 - Administration manuals
 - Interpretation guides
- Administer, score, and report
- Ongoing evaluation of assessment performance



3

Assessment Development Process (cont.)

- How long does it take?
 - The amount of time varies and depends on approach
- The process outlined on the previous slides could be done:
 - In 12 months at a high cost with high levels of risk
 - In 24 months at a relatively lower cost with low levels of risk



3

Assessment Development Costs

- There are many required resources and numerous costs to developing and supporting an assessment, which is why states typically pay a vendor to undertake this process with them
- In 2015, the average per-student cost for a state-developed ELA/literacy and mathematics assessments was about \$27



3

Assessment Development Costs

- California is allocating \$21.4 million to develop a computer-based version of the English Language Proficiency Assessments for California (ELPAC).
- The ELPAC assesses whether students from non-English speaking households require special support to learn English.
- With the \$21.4 million, the state will contract with a vendor, who in turn is to convert the assessment from pencil and paper to computer based.



3

Assessment Development Costs

- For Iowa's statewide tests - which will be available in both paper-and-pencil and computer-based formats – are expected to cost \$31 million over a period of five and a half years, Hupp said
- An initial contract is expected to run for 20 months, with an annual renewal option for four years. The initial contract will cost \$8 million
- Iowa's previous assessment costs about \$8.50 per student for paper-and-pencil and \$15 per student for computer-based



2

Assessment Development Costs

- California allocated \$5.9 million to develop an Alternative ELPAC for Students With Disabilities.
- Some students with severe cognitive disabilities cannot be accurately assessed using the recently developed ELPAC. Under existing state law, these students' Individualized Education Program (IEP) teams are tasked with identifying appropriate alternative assessments on a case-by-case basis.
- With the \$5.9 million, the state will contract with a vendor to develop a single, statewide alternative assessment that would replace the case-by-case method of selecting alternatives.



3

Questions?



3

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BIE-Level Student Demographics

Entity	Total # Of Students in Academic Program	Total # of American Indian Students	Total # Of Residential Only	Total # of English Learners	Total # of Economica lly Disadvanta ged	Total # Students w/ Disabilities
BIE 15-16	45,095	45,095	6,275	8,664	45,095	8,271
BIE 16-17	45,231	45,231	6,342	7,814	45,231	8,422
BIE 17-18	45,149	45,149	6,168	7,296	45,149	6,191



BIE School-Level Student Demographics (17-18)

Demographic	Total Students	Total Schools	N30	N20	N15	N10
American Indian	45,149	174	-	-	-	-
English Learner	7,296	174	41	30	26	19
Economically Disadvantaged	45,149	174	-	-	-	-
Students with Disabilities	6,191	174	98	59	42	24



BIE School-Level Student Demographics (17-18)

School "Type A" (>500 students, n = 22)

- English Learners – range is 0 to 549 students
- Economically Disadvantaged – all match student counts
- Students with Disabilities – range from 64 to 189 students

School "Type B" (100-499 students, n = 125)

- English Learners – range is 0 to 301 students
- Economically Disadvantaged – all match student counts
- Students with Disabilities – range from 0 to 104 students

School "Type C" (13-99 students, n = 38)

- English Learners – range is 0 to 50 students
- Economically Disadvantaged – all match student counts
- Students with Disabilities – range from 0 to 42 students



BIE School-Level Student Demographics (17-18)

- English Learners
 - N = 10 (excludes 19 schools)
 - N = 20 (excludes 30 schools)
- Economically Disadvantaged
 - N = 10 (excludes 0 schools)
 - N = 20 (excludes 2 schools)
- Students with Disabilities
 - N = 10 (excludes 24 schools)
 - N = 20 (excludes 59 schools)



Appendix D – Understanding the N-size and Accountability and Support System

Committee Requested Information Regarding
N-Size – Replication of Chart from Arizona
Arlington, VA
December 5, 2018



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Recall Information from Arizona

Demographic	Total Students	Total Schools	N30	N25	N20	N10
African American	91,541	2401	1,165	1,072	956	668
American Indian	74,531	2401	1,679	1,577	1,474	1,079
Hispanic/Latino	692,634	2401	401	365	332	244
Asian	42,262	2401	1,443	1,367	1,278	938
Hawaiian	5,221	2401	1,413	1,412	1,405	1,335
White	601,639	2401	502	445	373	242
Multi-Racial	43,926	2401	1,385	1,433	1,264	831
English Learner	95,788	2401	1,239	1,161	1,057	734
Economically Disadvantaged	630,402	2401	878	858	843	805
Children with Disabilities	167,507	2401	948	867	780	562

BIE-Level Aggregated Student Demographics

BIE Year	Total # of Students in Academic Program	Total # of American Indian Students	Total # of Resident of Only	Total # of English Learners	Total # of Economically Disadvantaged	Total # Students w/ Disabilities	Non-IEP Students
BIE 15-16	45,095	45,095	6,275	8,664	45,095	8,271	865
BIE 16-17	45,231	45,231	6,342	7,814	45,231	8,422	888
BIE 17-18	45,149	45,149	6,168	7,296	45,149	6,191	948

Putting the BIE School-Level Student Demographics (17-18) into Context

- School "Type A" (>500 students, n = 22)
 - English Learners – range is 0 to 549 students
 - Economically Disadvantaged – all match student counts
 - Students with Disabilities – range from 64 to 189 students
- School "Type B" (100-499 students, n = 125)
 - English Learners – range is 0 to 301 students
 - Economically Disadvantaged – all match student counts
 - Students with Disabilities – range from 0 to 104 students
- School "Type C" (13-99 students, n = 38)
 - English Learners – range is 0 to 50 students
 - Economically Disadvantaged – all match student counts
 - Students with Disabilities – range from 0 to 42 students

N-Size Impact for BIE School-Level Student Demographics (17-18)

Demographic	Total Students	Total Schools	N30	N20	N15	N10
American Indian	45,149	174	-	-	-	-
English Learner	7,296	174	41	30	26	19
Economically Disadvantaged	45,149	174	-	2	-	-
Students with Disabilities	6,191	174	98	59	42	24

BIE School-Level Student Demographics (17-18)
Exclusion of Schools with N-Sizes of 10 and 20

- English Learners
 - N = 10 (excludes 19 schools)
 - N = 20 (excludes 30 schools)
- Economically Disadvantaged
 - N = 10 (excludes 0 schools)
 - N = 20 (excludes 2 schools)
- Students with Disabilities
 - N = 10 (excludes 24 schools)
 - N = 20 (excludes 59 schools)

Understanding the Accountability and Support and Improvement Systems Requirements Under ESSA State Plans

BIE Negotiated Rulemaking, Arlington, VA – December 5, 2018
Deb Sigman

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Illustrative Example - Alaska

- State Plan Peer Review Criteria
 - <https://www2.ed.gov/admins/lead/account/stateplan17/essastateplanpeerreviewcriteria.pdf>
- Alaska state plan
 - <https://www2.ed.gov/admins/lead/account/stateplan17/akconsolidatedstateplanfinal.pdf>
- Accountability components
 - Pages 12-42

Parts of the Accountability System

Description of system in ESSA statute (p. 30-34)

- Minimum n-size
- Long-term goals including measurements of interim progress
- Indicators
 - Annual meaningful differentiation
 - Identification of schools
 - Annual measurement of achievement
 - Partial attendance
 - More rigorous interventions

Alaska – Minimum N-Size

- Alaska will use 10 as the minimum number of students
- Applies to All Students and other subgroups
- Represents a balance between recognizing the small size of many subgroups and schools, prioritizing and ensuring student privacy, and incorporating actionable data into the accountability system.

Description of Required Elements – ESSA State Plan Peer Review Criteria

- Long-term goals including interim progress for each (pages 9-10)
 - Academic
 - Graduation
 - English proficiency

Description of Required Elements – ESSA State Plan Peer Review Criteria

Indicators (pages 10-12)

- Academic achievement
- Other academic (not high schools)
- Graduation rate
- Progress in achieving English language proficiency
- School quality or student success indicator



7

Indicators: Academic Achievement A.4.iv.a

- The **Academic Achievement** indicator used in the statewide accountability system is **described**, including affirmation that the SEA uses the same indicator for all schools in all LEAs across the State
- The description includes how the indicator is calculated, including: 1) that the **calculation is consistent** for all schools, in all LEAs, across the State; 2) a **description of the weighting** of reading/language arts achievement relative to mathematics achievement; 3) if the State uses one, a description of the performance index; 4) if, at the high school level, the indicator includes a measure of student growth, a description of the growth measure (e.g., a growth model); and 5) if the State averages data, a description of how it averages data across years and/or grades (e.g., does the State use a uniform averaging procedure across all schools).



8

Indicators: Academic Achievement A.4.iv.a

- The indicator **valid and reliable**. The indicator is based on the SEA's long-term goals.
- The indicator **can be disaggregated** for each subgroup of students.
- The indicator is **measured by grade-level proficiency on the annual statewide reading/language arts and mathematics assessments**.
- The indicator measures the performance of at least 95 percent of all students and 95 percent of all students in each subgroup.



9

Alaska – Academic Achievement

Student Group	ELA: Grades 3-8 EAF students only			Math: Grades 3-8 EAF students only		
	Baseline	Long-Term Goal	Annual Increment Needed	Baseline	Long-Term Goal	Annual Increment Needed
	2016-2017	2026-2027		2016-2017	2026-2027	
All Students	59.4%	68.7%	3.0%	55.4%	67.7%	3.2%
African American	26.7%	63.3%	3.7%	19.5%	58.8%	4.0%
Alaska Native/American Indian	16.4%	58.2%	4.2%	15.8%	57.9%	4.2%
Asian/Pacific Islander	30.2%	65.1%	3.5%	29.1%	64.5%	3.5%
Caucasian	54.0%	77.0%	2.3%	47.6%	75.8%	2.6%
Hispanic	55.4%	67.7%	3.2%	51.0%	65.5%	3.5%
Two or More Races	59.2%	68.6%	3.0%	57.1%	68.5%	3.1%
Students with Disabilities	12.3%	55.7%	4.4%	10.2%	55.1%	4.5%
English Learners	5.0%	52.0%	4.7%	8.4%	54.2%	4.6%
Economically Disadvantaged	25.6%	62.8%	3.7%	22.9%	61.4%	3.9%



10

Indicators: Graduation Rate A.4.iv.c

- The **Graduation Rate** indicator used in the statewide accountability system for public high schools in the State is **described**, including affirmation that the SEA uses the same indicator across all LEAs in the State
- The description includes how the indicator is calculated including: 1) that the **calculation is consistent** for all high schools, in all LEAs, across the State; 2), if applicable, whether the SEA chooses to lag adjusted cohort graduation rate data; and 3) if applicable, how the SEA averages data (e.g., consistent with the provisions in ESEA section 8101(23) and (25), which permit averaging graduation rate data over three years for very small schools)
- The indicator is **valid and reliable**, based on the SEA's long-term goals, and based on the four-year adjusted cohort graduation rate.



11

Indicators: Graduation Rate A.4.iv.c

- The indicator **can be disaggregated** for each subgroup of students.
- At its discretion, state **may include one or more extended-year** adjusted cohort graduation rates, and describes how the four-year adjusted cohort graduation rate is combined with that rate or rates within the indicator.
- If applicable, the description includes how the four-year adjusted cohort graduation rate and any extended-year adjusted cohort graduation rates includes students with the most significant cognitive disabilities assessed using an alternate assessment aligned to alternate academic achievement standards.



12

Alaska – Graduation Rate

Student Group	Four-Year Graduation Rate			Five-Year Graduation Rate		
	Baseline	Long-Term Goal	Annual Increment Needed	Baseline	Long-Term Goal	Annual Increment Needed
	2016-2017	2026-2027		2016-2017	2026-2027	
All students	76.1%	90.0%	1.3%	81.3%	93.0%	1.3%
African American	73.9%	90.0%	1.6%	81.5%	93.0%	1.5%
Alaska Native/American Indian	65.9%	90.0%	2.1%	72.5%	93.0%	2.1%
Asian/Pacific Islander	84.4%	90.0%	0.6%	85.6%	93.0%	0.7%
Caucasian	82.3%	90.0%	0.8%	84.5%	93.0%	0.8%
Hispanic	77.5%	90.0%	1.3%	81.4%	93.0%	1.5%
Two or More Races	76.1%	90.0%	1.3%	80.7%	93.0%	1.3%
Students with Disabilities	58.7%	90.0%	3.1%	64.6%	93.0%	2.8%
English Learners	57.7%	90.0%	3.2%	65.5%	93.0%	2.8%
Economically Disadvantaged	71.0%	90.0%	1.9%	77.4%	93.0%	1.6%

STANDARDS, ASSESSMENTS, & ACCOUNTABILITY SYSTEM IMPLEMENTATION
Annual Report

13

Indicators: Progress in Achieving English Language Proficiency A.4.iv.d

- The **Progress in Achieving English Language Proficiency** indicator used in the statewide accountability system is described, including that the SEA uses the same indicator across all LEAs in the State.
- The indicator is **valid and reliable**.
- The Progress in Achieving English Language Proficiency indicator is **aligned with the State-determined timeline** described in A.4.iii.c.1?
- The indicator **consistently measures statewide the progress of all English learners in each of grades 3 through 8** and in the grade for which such English learners are otherwise assessed under ESEA section 1111(b)(2)(B)(v)(I) during grades 9 through 12.
- The description includes the **State's definition of English language proficiency**, based on the State English language proficiency assessment.

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Annual Report

14

Alaska – Progress in Achieving English Language Proficiency

- Research indicates that the average time it takes English learners to reach proficiency is four to seven years.
- Over half of AK's 8,346 English learners enrolled in grades 3-9 on October 1, 2016, were representatives of Alaska's Native languages of Yup'ik, Inupiaq, and Athabascan.
- Over 100 languages are represented in the EL population in the state, especially in the state's urban center of Anchorage.
- Alaska's state-determined timeframe for an English learner to reach proficiency will depend on the student's initial overall composite proficiency level.
- This timeframe will be no more than seven years following the year of initial identification

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15

Alaska – Progress in Achieving English Language Proficiency

Baseline	Long-Term Goal	Annual Increment Needed
2016-2017	2026-2027	
41.9%	70.0%	
		2.8%

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Annual Report

16

Description of Required Elements – ESSA State Plan Peer Review Criteria

- Annual Meaningful Differentiation (pages 12-14)
 - Weighting of Indicators

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Annual Report

17

Alaska Annual Meaningful Differentiation

- Alaska will use an index system based on 100 points for annual meaningful differentiation of all public schools.
- Each school will receive an overall score of between zero and 100 based on performance on the individual indicators, which will also be on a scale of between zero and 100 points. Indicators will be weighted based on the weights and the K-6/7-12 enrollment percentages described in Section A.4.v.b.

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Annual Report

18

Alaska Accountability Indicator Weights: Schools that Do Not Serve Grade 12

Indicator		Grade Span	
		K-6	7 and above
Achievement	English Language Arts	15%	10%
	Mathematics	15%	10%
Growth	English Language Arts	20%	20%
	Mathematics	20%	20%
Graduation Rate	Four-Year	n/a	15%
	Five-Year	n/a	5%
	English Learner Progress	15%	10%
Chronic Absenteeism		10%	10%
Grade 3 English Language Arts		5%	n/a
Total		100%	100%

Alaska Accountability Indicator Weights: Schools that Serve Grade 12

Indicator		Grade Span	
		K-6	7-12
Achievement	English Language Arts	15%	30%
	Mathematics	15%	30%
Growth	English Language Arts	20%	n/a
	Mathematics	20%	n/a
Graduation Rate	Four-Year	n/a	15%
	Five-Year	n/a	5%
	English Learner Progress	15%	10%
Chronic Absenteeism		10%	10%
Grade 3 English Language Arts		5%	n/a
Total		100%	100%

Alaska Accountability Indicator Weights Example of Redistributed Weights: No English Learner Progress

Indicator		Grade Span	
		K-6	7 and above
Achievement	English Language Arts	17.65%	33.33%
	Mathematics	17.65%	33.33%
Growth	English Language Arts	23.53%	n/a
	Mathematics	23.53%	n/a
Graduation Rate	Four-Year	n/a	16.67%
	Five-Year	n/a	5.56%
	English Learner Progress	0%	0%
Chronic Absenteeism		11.76%	11.11%
Grade 3 English Language Arts		5.88%	n/a
Total:		100.00%	100.00%

- ### Description of Required Elements – ESSA State Plan Peer Review Criteria
- Identification of Schools (13-14)
 - Comprehensive Support and Improvement (CSI)
 - Lowest Performing
 - Low Graduation Rates
 - Additional Targeted Support for Not Exiting Such Status
 - Frequency of identification
 - Targeted Support and Improvement Schools

Alaska Identification of Schools: CSI

Comprehensive Support and Improvement (CSI)			
Criteria #	Criteria Category	Entrance Conditions	Exit Conditions
1	Lowest 5%	<p>TSI Schools Only: When ranked annually according to their accountability index value, the lowest performing schools that represent 5% of all TSI schools are identified as CSI schools. CSI schools will be identified annually based on this criteria. The accountability index value of the highest performing TSI school in this category will determine the lowest performance threshold and will be determined annually.</p>	<p>A CSI school designated under Criteria 1 may exit after three years if the school no longer meets the lowest 5% entrance criteria and if the school's accountability index score has improved since the CSI designation. A school may also exit CSI if it meets the school's long-term goal or measures of student progress for the all student group in academic achievement in ELA and Mathematics, 4-year graduation rate, and 6-year progress (as applicable).</p>
2	Low Graduation Rate	<p>All High Schools: Have a four-year adjusted cohort graduation rate less than or equal to 66%. Identified annually.</p>	<p>A CSI school designated under Criteria 2 may exit after one year if it attains a four-year adjusted cohort graduation rate greater than 66%.</p>
3	TSI Lowest Performing Subgroup	<p>All TSI Schools Only: Have met the entrance criteria for a targeted support and improvement (TSI) school for the same subgroup for three consecutive years without meeting the TSI exit criteria. These schools will be identified for CSI at the beginning of the next school year. The 2021-2022 school year will be the first year schools that have had three consecutive years of meeting the TSI entrance conditions for a subgroup will be designated as CSI schools.</p>	<p>Meet the TSI exit criteria as evaluated annually.</p>

Alaska Identification of Schools: TSI

Targeted Support and Improvement (TSI)			
Criteria #	Criteria Category	Entrance Criteria	Exit Criteria
1	Consistently Underperforming Subgroup	<p>All Schools not already identified as CSI: Have one or more subgroups whose accountability index value is less than or equal to the annually determined Lowest Performance Threshold of the CSI schools identified as the lowest performing 5%.</p> <p>Note: This definition of TSI qualifies all TSI schools for additional targeted support. A school that meets this criteria will be identified as a CSI school under the Lowest Performing Subgroup category if the school has met the TSI entrance criteria for the same subgroup three years in a row.</p>	<p>A school may exit at the end of a year if the school no longer meets the entrance criteria and the accountability index value of the subgroup has improved.</p>

Description of Required Elements – ESSA State Plan Peer Review Criteria

- Annual Measurement of Achievement (page 14)



25

Alaska Annual Measurement of Achievement

- AK will calculate the participation rate based on the percentage of students enrolled in grades 3-9 on the first day of testing who receive a valid score.
- If a school does not meet the participation rate requirement, the denominator of the Academic Achievement indicator will be 95 percent of all full academic year (FAY) students in grades 3-9.
- Schools that miss the 95 percent participation rate target for the all students group or any subgroup for two consecutive years must create and submit an improvement plan to the district.



26

Description of Required Elements – ESSA State Plan Peer Review Criteria

- Continued Support for School and LEA Improvement (page 15)
 - Exit Criteria for Comprehensive Support and Improvement (CSI) Schools
 - Exit Criteria for Schools Receiving Additional Targeted Support



27

Alaska Exit Criteria for Comprehensive Support and Improvement Schools

- Schools may exit CSI status after meeting the exit criteria aligned to the entrance criteria.
- A CSI school designated under Criteria 1 may exit after three years if:
 - the school no longer meets the lowest 5% entrance criteria, and
 - the school's accountability index score has improved since the CSI designation.
- A school may also exit CSI if it meets the school's long-term goal or measures of interim progress for the all students' group in academic achievement in ELA and Mathematics, 4-year graduation rate, and EL progress (as applicable).



28

Alaska Exit Criteria for Comprehensive Support and Improvement Schools (cont.)

- A CSI school that entered due to a low graduation rate can exit CSI status the first year the school's four-year graduation cohort rate exceeds the 66% requirement.
- Designated CSI schools due to low subgroup performance can exit CSI status the first year the school does not meet the TSI entrance criteria (has no subgroups performing at or below the Lowest Performance Threshold).
- Small School CSI schools may exit CSI status after three years if the small school performance review as described in Section A.4.v.c. no longer identifies them as CSI.



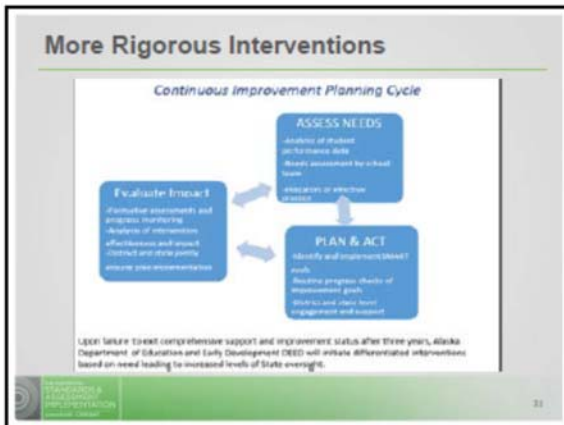
29

Alaska Exit Criteria for Schools Receiving Additional Targeted Support

- Exit from TSI status is determined annually.
- TSI schools may exit TSI status when:
 - The accountability index value of the subgroup that led to designation in the first place has improved; and
 - the subgroup's accountability index value no longer falls at or below the most recent Lowest Performance Threshold.
- A school may meet the exit criteria for one subgroup and be newly identified based on the accountability index value of another subgroup in the same year, resulting in continued identification as a TSI school for consecutive years.



30



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Appendix E – State Plan Ad Hoc Subcommittee Report

'STATE PLAN' AD HOC

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

Negotiated Rulemaking Committee -
Standards, Assessments & Accountability System

Tasks

- Review Language in Draft §30.103 a-d and footnotes
- Identify an appropriate name for the BIE "State Plan"

§30.103. How will the Secretary implement the requirements of the Act?

(a) BIE Proposed- The Secretary, through the Director, must define the standards, assessments, and accountability system for use at BIE schools in accordance with this Part.

Suggestions regarding 300.103 (a)

(NRMC proposes)

(a) The Secretary will convene a committee of tribally selected representatives, including (INSERT LANGUAGE FROM NRMC-qualifications of cmt members) 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.

Implementing a "State" Plan

(b) The Secretary, or his/her designee will provide Indian tribes, parents and other stakeholders with quality, transparent information about how the Act will be implemented for BIE schools. *Information, at a minimum, to include the standards, assessments and accountability system consistent with Section 1111.*

Continuing (b)

The Director will implement a "Plan" that will provide Indian tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE Schools. The Plan must be reviewed and revised as necessary to reflect changes in BIE's strategies and programs under this section.

Things to consider

- It is unclear whether BIE is required to have a "State Plan". Some places says no, 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 State Education Agency (SEA) and that BIE "assumes the responsibility of an SEA." The agreement also acknowledged that BIE would have and follow a State plan. As reflected in the 2012 agreement, if BIE intends to have a State plan, it is not absolutely necessary for such a plan to be described in this regulation, however if it is not described in regulation it may not be binding on grant and contract schools.

§30.103. How will the Secretary implement the requirements of the Act?

(C) The Secretary shall engage in active consultation with tribes and other potentially affected stakeholders when defining or revising definitions of standards, assessments, and accountability system.

§30.103. How will the Secretary implement the requirements of the Act?

(d) The Director may voluntarily partner with States, or a Federal agency, to develop and implement challenging academic standards and assessments.

State Plan Ad Hoc Committee Recommendations:

- BIE should have a "State Plan"
- Currently defined in the draft: "Indian Education Plan" means a document that will provide Indian tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE Schools.
- Since BIE is not a STATE and the "Indian Education Plan" (IEP) name would be confused with student special education plans, it is recommended this name not be used.
- "Standards Assessments Accountability Plan" (SAAP) is recommended.

What should be included in the plan?

- What is a state plan?**
- The Every Student Succeeds Act pushes states to move beyond test scores in gauging school performance and gives them all sorts of new flexibility when it comes to funding, turning around low-performing schools, and more. But states still have to submit an accountability roadmap—including long-term goals for student achievement—to the U.S. Department of Education for approval.
- The Every Student Succeeds Act technically went into effect for the 2017-18 school year. But before a state can put its plan into effect, the U.S. Department of Education needs to sign off. This analysis reflects our best understanding of approved state ESSA plans.

<https://www.edweek.org/ew/section/multimedia/key-takeaways-state-essa-plans.html>

What should be included in the plan?

- CHALLENGING STATE ACADEMIC STANDARDS AND ASSESSMENTS. (ESEA section 1111(b)(1) and (2) and 34 CFR §§ 200.1–200.8)
- EIGHTH GRADE MATH EXCEPTION
- NATIVE LANGUAGE ASSESSMENTS
- STATEWIDE ACCOUNTABILITY SYSTEM AND SCHOOL SUPPORT AND IMPROVEMENT ACTIVITIES
 - SUBGROUPS (ESEA section 1111(c)(2))
 - MINIMUM N-SIZE
- ESTABLISHMENT OF LONG-TERM GOALS
 - ACADEMIC ACHIEVEMENT
 - GRADUATION RATE
 - ENGLISH LANGUAGE PROFICIENCY
 - INDICATORS
 - ACADEMIC ACHIEVEMENT INDICATOR
 - (OTHER ACADEMIC INDICATOR), GROWTH, GRADUATION RATE, PROGRESS IN ACHIEVING ENGLISH LANGUAGE PROFICIENCY (ELP) INDICATOR, SCHOOL QUALITY OR STUDENT SUCCESS INDICATOR(S)...

MEET ESSA REQUIREMENTS

The important factors to consider for having a plan are:

- Transparency to tribes and stakeholders
- Clear definitions as to how academic standards, assessments, and accountability will be implemented and reported within BIE.
- Assurances that Native students achieve academically and that schools receive full funding for intervention and support.
- Effective implementation cannot happen without a cohesive plan developed through meaningful consultation with tribal nations and that plan is matched with funding and technical support.

§30.103. How will the Secretary implement the requirements of the Act?

(a) The Secretary, through the Director, must define the standards, assessments, and accountability system for use at BIE schools in accordance with this Part.¹

(b) The Secretary, or his/her designee will provide Indian tribes, parents and other stakeholders with quality, transparent information about how the Act will be implemented for BIE schools. Information, at a minimum, to include the standards, assessments and accountability system consistent with Section 1111.

The Director will implement a Standards Assessments and Accountability Plan that will provide Indian tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE Schools. The Plan must be reviewed and revised as necessary by to reflect changes in BIE's strategies and programs under this section.

(c) The Secretary shall engage in active consultation with tribes and other potentially affected stakeholders when defining or revising definitions of standards, assessments, and accountability system.

(d) The Director may voluntarily partner with States, or Federal agency, to develop and implement challenging academic standards and assessments.²

¹ 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."

² 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.

Appendix F – Standards Subcommittee Report

Draft for Discussion Purposes

December 3, 2018

1 **Title 25 – Indians**

2 **Chapter I – Bureau of Indian Affairs, Department of the Interior**

3 **Subchapter E – Education**

4 **Part 30 – Standards, Assessments, and Accountability System**

5 **Subpart A – Defining Standards, Assessments, and Accountability System**

6 **§30.102. What does the Act require of the Secretary?**

7 The Act requires the Secretary to define standards, assessments, and accountability system
8 consistent with section 1111 of the Act for schools on a national, regional, or tribal basis, as
9 appropriate, taking into account the unique circumstances and needs of such schools and the
10 students served by such schools, using regulations developed through a negotiated rulemaking
11 process.¹

12 A tribal governing body or school board may waive these requirements, in part or in whole, and
13 submit a proposal for alternative definitions within 60 days, which the Secretary and the
14 Secretary of Education will approve unless the Secretary of Education determines that the
15 proposal does not meet the requirements of section 1111, taking into account the unique
16 circumstances and needs of such school or schools and the students served.²

17 The Act further requires the Secretary and the Secretary of Education to provide technical
18 assistance, upon request, either directly or through a contract, to a tribal governing body or
19 school board that seek to notify the Secretary of a waiver.³

¹ 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.”

² 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 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.”

³ 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).”

20 §30.103. How will the Secretary implement the requirements of the Act? See 'state plan'
 21 ad hoc proposal on Wednesday morning. The Standards Subcommittee proposes the
 22 addition of the following concept in this section for Committee discussion.

23 **Proposed language from Standards Subcommittee:**

24 (x)The Secretary will convene a committee of tribally selected representatives, including (INSERT
 25 LANGUAGE FROM NRMCM re qualifications of cmt members) to define the standards to apply to all BIE-
 26 funded schools. These standards will apply to all schools in the BIE, except those who have notified the
 27 Secretary of a waiver.

28 The term consultation should be defined here to include stakeholders (parents, teachers etc).

29 Options offered by BIE to ensure compliance with Federal laws (FACA):

30 – Such a committee of tribally-selected representatives would have to be *advisory* only. Such a
 31 committee of tribally-selected representatives could make recommendations on definitions, but
 32 their recommendations could not automatically apply to BIE-funded schools without approved
 33 alternative definitions. The public may act in an advisory capacity in a number of ways. Among
 34 them are through FACA committees, government-to-government consultations, and responding
 35 to Federal Register notices. Requiring such a committee might tend to delay the preparation of
 36 draft definitions. That said:

37 (1) This Committee might consider recommending in its report that the Secretary convene a
 38 panel of technical experts who could advise on definitions and incorporate consultation with
 39 stakeholders.

40 (2) If this Committee sought to include this in the recommendation on a rule, this Committee
 41 might consider the language in the draft at left; or this Committee might consider language such
 42 as: "Prior to adopting or revising definitions for SAA, the Secretary will convene a panel
 43 consisting of X, Y, and Z persons, to advise on definitions for SAA. The Secretary will consult
 44 with potential effected stakeholders prior to implementing such definitions;" or

45 (3) This Committee might also recommend that meaningful consultation with stakeholders occur
 46 prior to implementing new definitions, e.g.: "Prior to implementing any changes to the definitions
 47 adopted through this Part, the Secretary will engage in consultation with effected stakeholders."

48 Or with more detail:

49 (x) The Secretary, through the Director, must periodically, but no less often than every
 50 five years, review the state of education at BIE Schools.

51 (x) Based upon such review, and if appropriate, the Director will develop
 52 recommendations for revisions to the definitions of standards, assessments, and accountability
 53 system consistent with Section 1111, to reflect changes in the Bureau's strategies and
 54 programs. Such recommendations shall be accompanied by a plan to meet the requirements of
 55 this Part, a statement explaining why any changes are being recommended, and how the
 56 recommendations are consistent with Section 1111.

(x) The Director must engage in meaningful and timely consultation with tribes and other interested parties any time the Director contemplates revisions to the definitions of standards, assessments, and accountability system after the review.

(x) The Director shall develop and make available a report on the outcome of consultation as well as any revisions to the definitions of standards, assessments, and accountability system that will be made as a result of the review and the consultation process. Such report shall include an assurance that the revisions are consistent with Section 1111, comply with the requirements of this Part, and a description of the timeline for implementation.

§30.104. How will the Secretary define standards?

(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:

- adopting challenging academic content standards and
- aligned academic achievement standards (standards) consistent with section 1111(b)(1) of the Act.⁴

Described collectively in the Act as “challenging State academic standards.”

(b) The academic standards will include:

- mathematics
- reading or language arts, and
- science
- Tribal government/civics*
- And may have such standards for any other subject determined by the Secretary.⁵

⁴ 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.”

⁵ 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”.

81 Such standards must be aligned to entrance requirements for credit-bearing coursework in higher
 82 education and relevant career and technical education standards. These standards shall apply to
 83 all Bureau-funded schools and students at those schools, unless the standards have been waived
 84 by a tribal governing body or school board and an alternative proposal approved.

85 (c) Academic achievement standards

86 Academic achievement standards shall include the same types of knowledge, skills, and levels of
 87 achievement expected of all students at Bureau-funded schools.

88 The Secretary must adopt alternate academic achievement standards for students with the most
 89 significant cognitive disabilities.⁶

90 (f) The Secretary must adopt English language proficiency standards that (i) are derived from the
 91 four recognized domains of speaking, listening, reading, and writing; (ii) address the different
 92 proficiency levels of English learners; and (iii) are aligned with the challenging State academic
 93 standards.**

94 (g) insert language here to acknowledge the unique standards/assessments in immersion schools.

95

96 **DISCUSSION WITH THE COMMITTEE**

97 * What broad concepts might a tribal civics course encompass?

98 e.g., legal standings

99

100 ** Is there leeway for immersion schools to exclude standards on ELP? What language is the
 101 assessments subcommittee contemplating?

102

⁶ 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)."

Appendix G – Assessments Subcommittee Report

Draft for Discussion Purposes Only

Redlines as of November 20, 2108

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. Subcommittee comments and discussion with BIE on 11/20/18 are noted in the right hand column by date. **Next Steps: BIE to update revised draft, respond to action items in right hand column by proposing language in the left-hand column. Send to Subcommittee no later than November 29.**

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 and will implement 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 StateBIE.	<p><u>Note: Change State to BIE throughout.</u></p> <p>Comments- 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- Leslie: Need a definition of 'State' in order to move forward with draft regulations. Either emt propose a definition. Or, a definition is provided to the emt in order to move forward.</p> <p>BIE acts as State is part of MOA between DoE and DoI (ps) Last sentence: Is it broad enough to stand but allow for diversity of implementation of LEAs?</p> <p>11/20/18 Subcommittee Questions: What is the recourse if an LEA doesn't agree with the BIE? What will the consultation process look like since there are two types of LEAs – tribally controlled and Bureau operated? The regulations need to say this, make distinct. Also make distinct – stakeholder and state consultation on the 'state' plan. Section 8538 in ESSA governs LEA consultations that needs to be clear.</p> <p>Would language that states the LEA will provide a statement of concurrence/non-concurrence be an over-reach? If LEAs disagree, would the follow 100.297 administrative appeal process?</p> <p>BIE: When Sec prepares 'state' plan there will be a consultation process, but this is for tribes not LEAs. There will also be consultation on the draft regulations. If DOI changes plan at any time it must go out to consultation.</p>

Assess. Subcmnt Task 2 Sec. 1111 Assessments-redlines -112018 181127 draft Assess. Subcmnt Task 2 Sec. 1111 Assessments-redlines -110118

Page 1 of 14

<p>2(B) REQUIREMENTS.—The assessments under subparagraph (A) shall—</p> <p>(i) except as provided in subparagraph (D) <u>Alternate Assessments</u>, be—</p> <p>(I) the same academic assessments used to measure the achievement of all <u>public elementary school and secondary school</u> BIE-funded school students in the State; and</p> <p>(II) administered to all public elementary school and secondary school BIE-funded school students in the State; and</p> <p>(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;</p> <p>(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 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 <u>BIE website of the State</u> educational agency;</p> <p>(v)(I) 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 <u>State</u> BIE, be administered at the discretion of the <u>State</u> BIE;</p> <p>(vi) involve multiple up-to-date measures of student academic</p>	<p>Action items for BIE: add language to the regulations that BIE will engage LEAs understanding that there are two types of LEAs. Action Item: Look up ESSA statute to draw language re consultation. Add potential language around what happens if an LEA disagrees.</p> <p>11-30-18 – Might be better to describe matters such as consultation requirements elsewhere (such as 30.103) to apply globally rather than provide for heightened processes for, say, assessments than standards.</p>
	<p>11/20/18 Subcommittee Discussion Assessments language should mirror ED regulations regarding Native American students and immersion schools. See discussion on page</p> <p>Action Item for BIE: Should references to 'all public elementary schools' change to BIE funded schools.</p> <p>In (ii) the State will provide coherent and timely information – this is the responsibility of BIE correct? JH: It will be the BIE who does this -</p> <p>BQ: Clarification: the context of the language is that the assessments themselves are meant to provide coherent and timely rather than an entity.</p> <p>Process question: if a tribe waives an assessment, is the school required to use the existing assessment until the waiver is approved? JH: yes, usually the approval letters specify a timeline for the new system to kick in. What is the timeline for creating assessments? A: typically several years.</p>

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Redlines as of November 20, 2108

<p>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 portfolios, 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 (I)(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 subparagraph (G);</p> <p>(viii) at the State's BIE'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) 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</p>	<p>Re: (vi) What are multiple up to date measures? Who develops these is it the BIE or the LEA? If BIE is doing for BIE funded schools then BIE will do this, likely using a contractor. If a tribe decides to waive and do its own assessments – then raises questions about who is responsible for creating those new assessments. Look at other entities such as ED on innovative assessment projects. Or look at states that did other assessments and how resourced. Keep regulations broad and not over burden the tribes.</p> <p>Action item for BIE: Consider moving waiver language up to the 'general' section and make clear if a waiver is done it is responsibility of tribe /governing school board.</p>
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<p>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; (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>(bb) Students who are attending schools in a Native American language or program</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 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><u>(xiv) (I) except as provided in paragraph (xiv)(II) of this section, the BIE is not required to assess, using an assessment written in English, student achievement in meeting the challenging State academic standards in reading/language arts, mathematics, or science for a student who is enrolled in a school or program that provides instruction primarily in a Native American language if – (aa) the BIE provides such an assessment in the Native American language to all students in the school or program,</u></p>	<p>Questions from 10/29/18 or prior submt calls.</p> <p>Section (vi) 'partially' delivered. Is partially defined in ESSA? Important to clarify for administration of assessments by LEAs. <u>Assessment subcommittee: No, partially delivered is not defined in the law.</u></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> <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 ED Regs 200.6 includes a definition of Native Language or immersion programs</p> <p>11/20/18 Subcommittee Discussion:</p> <p>Action item for BIE: make (bb) a new subparagraph e.g., (xiv) defining native languages and programs (draw from DEPT ED language)</p> <p>Discussion: concern about how assessments are funded. Need to look at big picture, number of schools, programs that are immersion schools is small, not all 500+ tribes. Would serve the bureau well to create language here for the immersion language.</p> <p>ED regulations – define immersion school language as 51% of school day.</p> <p>Where do we get the information on UDL?</p> <p>A : Should be on BIE NRM website. Action Item for Sarah: share information about UDL and website link provided by BIE. See the following posted on the BIE NRM webpage:</p> <p>ESSA-UDL-Final</p>
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<p>consistent with the requirements of 34 CFR 200.2; (bb) for an English learner, as defined in section 8101(20)(C)(ii) of the Act, the BIE continues to assess the English language proficiency assessment, and provides appropriate services to enable him or her to attain proficiency in English. (II) the BIE must assess using assessments written in English, the achievement of each student enrolled in such school or program in meeting the challenging State academic standards in reading/language arts, at a minimum, at least once in grades 9 through 12.</p>	<p>Universal Design for Learning in ESSA</p> <p>And: https://iris.peabody.vanderbilt.edu/module/ud/</p> <p>Section (xi) N-size is critical, how do we write the rule that allows for N size that is meaningful.</p> <p>Assessment subcommittee: Assigned to accountability group. Note: Address both accountability and reporting.</p> <p>11-30-18 – language on English language assessments at immersion schools from 34 CFR 200.6(i)-(k) edited. Note: peer review may or may not be required depending on the content of the new MOA with ED. As such language in the Department of Education's regulation on a requirement for peer review was removed from here. If the Committee wants to include peer review in its recommendation on a rule, make sure that a peer review requirement appears consistently throughout.</p>
<p>2(C) Exception for Advance Mathematics in Middle School - A State The BIE may exempt any 8th grade student from the assessment in mathematics described in subparagraph (B)(v)(D)(aa) if—</p> <p>(i) such student takes the end-of-course assessment</p> <p>the State BIE typically administers to meet the requirements of subparagraph (B)(v)(D)(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</p>	<p>No comments</p> <p>Ensure State (BIE) maintains the option to exempt (ps); Assessment subcommittee: Yes, will maintain.</p> <p>Lora – How captured in accountability?</p> <p>12-02-18 – Was this matter addressed/answered sufficiently?</p>

~~Assess. Subcmnt Task 2 Sec. 1111 Assessments-redlines -112018 181127 draft Assess. Subcmnt Task 2 Sec. 1111 Assessments-redlines -110118~~

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Redlines as of November 20, 2108

<p>achievement on the mathematics assessment required under subparagraph (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 (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 (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 <ins>****The BIE will</ins> provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards described in paragraph (I)(E) for students with the most significant cognitive disabilities, if the State <ins>BIE</ins>—</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 <ins>BIE-funded school system</ins> 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</p>	

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Page 6 of 14

Draft for Discussion Purposes Only

Redlines as of November 20, 2108

<p>involvement and progress of students with the most significant cognitive disabilities in the general education curriculum; (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; (V) describes in the State plan that general and special education teachers, and other appropriate staff—</p> <ul style="list-style-type: none"> (aa) know how to administer the alternate assessments; and (bb) make appropriate use of accommodations for students with disabilities on all assessments required under this paragraph; <p>(VI) develops, disseminates information on, and promotes the use of appropriate accommodations to increase the number of students with significant cognitive disabilities—</p> <ul style="list-style-type: none"> (aa) participating in academic instruction and assessments for the grade level in which the student is enrolled; and (bb) who are tested based on challenging State academic standards for the grade level in which the student is enrolled; and <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)(VI)(bb) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VI)(bb)), such team, consistent with the guidelines established by the <u>State-BIE</u> 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 BIE to impose 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 BIE-funded <u>school</u> exceeding the cap applied to the <u>State-BIE</u> under clause (i)(I) shall submit information to the <u>State educational agency</u> BIE justifying the need to exceed such cap.</p>	<p><u>Assessment subcommittee: The LEA might exceed the 1% cap, but the State/BIE cannot, and would want to talk to the LEA a y exceeding 1%.</u></p>
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Page 7 of 14

<p>(III) STATE <u>BIE</u> SUPPORT. — A State <u>The BIE</u> shall provide appropriate oversight, as determined by the State <u>BIE</u>, of any local educational agency <u>BIE-funded school</u> that is required to submit information to the State <u>BIE</u> under subclause (I).</p> <p>(IV) WAIVER AUTHORITY. — This subparagraph shall be subject to the waiver authority under section 8404.</p>	<p>Questions- 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 aligned 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 aligned 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> <u>Also, renumbering required.</u></p>
<p>2(F) Language Assessments —</p> <p>(i) IN GENERAL. — Each State plan 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 <u>Bureau of Indian Education</u> shall make every effort to develop such assessments and may request assistance from the Secretary of <u>Education</u> if linguistically accessible academic assessment measures are needed. Upon request, 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 2F(i): What is the State in this case? What does 'present to a significant extent' mean? <u>Assessment subcommittee: "State" is BIE.</u> 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>

<p>Secretary of Education shall assist with the identification of appropriate academic assessment measures in the 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 – (i) IN GENERAL. Each State plan shall demonstrate that local educational agencies in the State <u>The BIE will ensure that BIE-funded schools</u> will provide for an annual assessment of English proficiency of all English learners in the schools served by the State educational agency <u>BIE</u>. (ii) ALIGNMENT. —The assessments described in clause (i) shall be aligned with the State's BIE's <u>English language proficiency standards</u> described in paragraph (1)(F).</p>	<p><u>Ensure BIE allows LEAs tribally controlled schools as LEAs to determine the assessment they will utilize. BIE is part of WIDA network. (ps)</u></p> <p><u>Assessment subcommittee: BIE, as SEA, will select an EL assessment for BIE system. However, governing tribes or school boards can waiver Secretary's EL assessment and use a different EL assessment upon Secretary approval.</u></p>
<p>2(H) Locally Selected Assessment ASSESSMENT. — (i) IN GENERAL. —Nothing in this paragraph shall be construed to prohibit a local educational agency <u>tribal governing body or school board</u> from administering a locally-selected assessment in lieu of the State BIE <u>BIE</u>-designed academic assessment under subclause (1)(bb) and subclause (1)(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. (ii) STATE BIE <u>TECHNICAL CRITERIA</u>. —To allow for State BIE <u>approval</u> of nationally-recognized high school academic assessments that are available for local selection under clause (i), the State <u>the BIE</u> educational agency shall establish technical criteria to determine if any such assessment meets the requirements of clause (v). (iii) STATE BIE <u>APPROVAL</u>. —If a State educational agency <u>BIE</u> chooses to make a nationally-recognized high school assessment available for selection by a local educational agency <u>tribally governing body or school board</u> under clause (i), which has not already been approved under this clause, such State educational agency <u>the BIE</u> shall — (I) conduct a review of the assessment to determine if such assessment meets or exceeds the technical criteria established by the State educational agency <u>BIE</u> under clause (ii); (II) submit evidence in accordance with subsection (a)(4) that demonstrates such assessment meets the requirements of clause (v); and (III) after fulfilling the requirements of subclauses (I) and (II), approve such assessment for selection and use by any tribally governing body or school board <u>tribally governing body or</u> that requests to use such</p>	<p>Comments- There are rights here for LEAs'— <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><u>Ensure "State" (BIE) allows LEAs (tcs) option for portfolio, presentations, etc. (ps)</u></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 revs. because they clarified information on this topic. See 200.3.</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> <p>11/20/18 Subcmnt Discussion: If a tribe/School board want to use ACT they could, recent studies suggest it is not well aligned with State standards (there is partial alignment). Don't limit regulatory language to a type of assessment. What are the other assessments aside from ACT, SAT? E.g., NAEP what is aligned to? (Possible question for</p>

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Redlines as of November 20, 2108

<p>assessment under clause (i).</p> <p>(iv) tribally governing body or school board LOCAL EDUCATIONAL AGENCY OPTION.—</p> <p>(I) tribally governing body or school board LOCAL EDUCATIONAL AGENCY.—If a tribally governing body or school board local educational agency chooses to submit a nationally recognized high school academic assessment to the State educational agency BIE, 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 BIE may approve the use of such assessment consistent with clause (i).</p> <p>(II) STATE EDUCATIONAL AGENCY BIE.—Upon such approval, the State educational agency BIE shall approve the use of such assessment in any other tribally governing body or school board 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 BIE under clause (iii), a locally selected assessment shall—</p> <p>(I) be aligned to the State's BIE'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 BIE-designed assessments under this paragraph (and may be more rigorous in its content coverage and difficulty than such State BIE-designed assessments);</p> <p>(II) provide comparable, valid, and reliable data on academic achievement, as compared to the State BIE-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 BIE's academic achievement standards under paragraph (1), among all local educational agencies within the State BIE-funded schools;</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 BIE-funded schools to meet the requirements of subsection (c).</p> <p>(vi) PARENTAL NOTIFICATION.—A <u>tribally governing body or school board</u> local educational agency shall notify the parents of high school students served by the local educational agency—</p>	<p>Deb). This information should be available to tribes/school boards. Not enough. See https://www.air.org/news/press-release/new-study-examines-alignment-between-naep-and-common-core-state-standards-4th-8th from Jim Hastings, 12-02-18. This section on locally-selected assessments might be redundant and possibly in conflict with the statutory provisions on the waiver/alternative proposal process in section 8204(c)(2). <u>Recommend deletion.</u></p>
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Assess. Subcmr Task 2 Sec. 1111 Assessments-redlines -112018 181127 draft access-Subcmr Task 2 Sec. 1111 Assessments-redlines -110118

Page 10 of 14

<p>(I) of its request to the State educational agency <u>BIE</u> 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 <u>tribally governing body or school board</u> local educational agency will be administering a different assessment than the <u>State BIE</u>-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 cease the development, of the assessments described in this paragraph, for 1 year for each year for which the amount appropriated for grants under part B is less than \$269,100,000.</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 <u>the BIE's</u> 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 <u>the BIE</u> shall ensure that such computer adaptive assessments—</p> <p>(aa) meet the requirements of this paragraph, including subparagraph (D), except</p> <p>such assessments shall not be required to meet the requirements of clause (I)(I); 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>Questions- Section 2(I) Deferral. How does this apply to BIE? Action Item for BIE/Brian Quint <u>ED: need not be in our regs.</u></p> <p>Comments- Ensure "State" (BIE) retains the right to develop computer adaptive tests that meet the requirements of ESSA to demonstrate student growth (ps) Gives option to contract with NWEA or PARCC to develop interim assessments, provide summative, develop levels, demonstrate growth, etc. (ps) or any other assessment a tribe or school board selects (waiver) (ps) <u>A.Sub: Okay as is.</u></p>

<p>(II) as the assessments required under subparagraph (G), a State shall ensure that such computer adaptive assessments— (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 (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>2(K) Rule of Construction on Parental Rights –Nothing in this paragraph shall be construed as preempting <u>tribal law at tribally controlled contract or grant school</u> 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? Laura/NIEA: See 200.2. If state has an opt out law, does federal law preempt state law. 11/22/18 Subcommittee Discussion: Action Item: BIE to draft proposed language. Need to discuss how it effects BIE since it is a reference to state or local law. Is this a provision that does not need to be in regulations since it is in statutory law? Submit: see concern re 95% participation rate.</p>
<p>2(L) Limitation on Assessment Time -- Subject to Federal or State requirements related to assessments, evaluations, and accommodations, each State <u>The Secretary may, at the sole discretion of such 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.</u></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? See 25 CFR on instructional hours.</p>
<p>3. Exemption for Recently Arrived English Learners--</p>	<p>Comments-</p>

~~Assess. Subcmnt Task 2 Sec. 1111 Assessments-redlines -112018 181127 draft Assess. Subcmnt Task 2 Sec. 1111 Assessments-redlines -110118~~

Page 12 of 14

Draft for Discussion Purposes Only

Redlines as of November 20, 2108

<p>(A) ASSESSMENTS: With respect to recently arrived English learners who have been enrolled in a school in one of the 50 States in the United States or the District of Columbia for less than 12 months, a State may choose to—</p> <p>(i) exclude—</p> <p>(1) such an English learner from one administration of the reading or language arts assessment required under paragraph (2); and</p> <p>(4) such an English learner's results on any of the assessments required under paragraph</p> <p>(2)(B)(v)(4) or (2)(G) 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</p> <p>(ii)(1) assess, and report the performance of, such an English learner on the reading or language arts and mathematics assessments required under paragraph (2)(D)(v)(4) in each year of the student's enrollment in such a school; and</p> <p>(4) for the purposes of the State-determined accountability system—</p> <p>(aa) for the first year of the student's enrollment in such a school, exclude the results on the assessments described in subclause (1);</p> <p>(bb) include a measure of student growth on the assessments described in subclause (1) in the second year of the student's enrollment in such a school; and</p> <p>(cc) include proficiency on the assessments described in subclause (1) in the third year of the student's enrollment in such a school, and each succeeding year of such enrollment</p> <p>(B) (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 the BEI may include the results of the student's assessments under paragraph (2)(B)(v)(4) within the English learner subgroup of the subgroups of students (as defined in subsection (c)(2)(D)) for the purposes of the State BIE-determined accountability system.</p>	<p>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. 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>
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Additional Comments/Questions from Pat sent 10/25/18. 11/20/18 Per Pat, questions below addressed at ALBQ meeting

1. The same language that is used in the waiver, "Tribes and tribal school boards" should be referenced in each section.
2. Agree with Leslie, 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? **11/20/18 Need clarity on what assessments are aligned to what standards.**
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 so 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?

Summary of Committee Questions Regarding Assessments Regulations

Questions are in italics. Section numbers reference the language in the document: “*Assess. Subcmt Task 2 Sec. 1111 Assessments-redlines -112018_181127 draft 120418*” provided to the Committee on December 4, 2018.

1. Section 2A. Ensure “State” (BIE) consults with tribally controlled schools as LEAs. *Possible guidance from BIE? Is this addressed in revised Section 30.103?*
2. Section 2B. Requirements. *In relation to Tribal civics, do we need to outline when the courses will be taught from K-12 / as is done example with Math and Science? Would this be in the standard section and in section 2(B)?*
 - 2(B)(v)(I) in the case of mathematics and reading or language arts, be administered—
 - (aa) in each of grades 3 through 8; and
 - (bb) at least once in grades 9 through 12;
 - (II) in the case of science, be administered not less than one time during—
 - (aa) grades 3 through 5;
 - (bb) grades 6 through 9; and
 - (cc) grades 10 through 12; and
 - (III) in the case of any other subject chosen by the BIE, be administered at the discretion of the BIE;
3. *What is the timeline for creating assessments?* SP: Was this question addressed in Tuesday’s presentation from Bryan and Deb?
4. Section 2B(vi) “...may be partially delivered in the form of portfolios, projects, or extended performance tasks” The term ‘partially delivered’ is not defined in ESSA. *Should there be a committee recommendation that BIE define ‘partially delivered’ in the regulations?*
5. Section 2B (xiv) proposed language: *Needs committee discussion and input: “(xiv) (I) except as provided in paragraph (xiv)(II) of this section, the BIE is not required to assess, using an assessment written in English, student achievement in meeting the challenging State academic standards in reading/language arts, mathematics, or science for a student who is enrolled in a school or program that provides instruction primarily in a Native American language if – (aa) the BIE provides such an assessment in the Native American language to all students in the school or program, consistent with the requirements of 34 CFR 200.2; (bb) for an English learner, as defined in section 8101(20)(C)(ii) of the Act, the BIE continues to assess the English language proficiency assessment, and provides appropriate services to enable him or her to attain proficiency in English. (II) the BIE must assess using assessments written in English, the achievement of each student enrolled in such school or program in meeting the challenging State academic standards in reading/language arts, at a minimum, at least once in grades 9 through 12.”*
6. Section 2C Exception for Advance Mathematics in Middle School - The BIE may exempt any 8th grade student from the assessment in mathematics – *Should the committee recommend changing the ‘may’ to ‘shall’?*
 - a. How is Exception for Advance Mathematics in Middle School reflected in the accountability system regulations?

7. Section 2(D)(ii)(I) Prohibition on Local Cap. *What would the LEA need to present to BIE if it exceeded the 1% cap. Put in BIE plan or in regulation?*
 - a. In ABQ had indicated the BIE has exceeded the 1% cap. Recall: The LEA might exceed the 1% cap, but the BIE cannot.
 - b. Discuss how it will work with Dept of Ed. There is language is with the Dept of Ed regulations...see final Dept Ed regulations.
8. Section 2(F) Language Assessments.
 - a. *Should 'present to a significant extent' be defined in the regulations?*
 - b. *Committee to define -- what does this mean in a Bureau school around Native languages?*
9. Section 2(G) Assessments of English Language Proficiency.
 - a. *Should there be explicit language in this section or in waivers section that tribes or governing school boards can waive EL assessments?*
10. Section 2(H) Locally Selected Assessments.
 - a. *Per BIE: This section on locally-selected assessments might be redundant and possibly in conflict with the statutory provisions on the waiver/alternative proposal process in section 8204(c)(2). Recommend deletion.*
 - b. *Committee needs to discuss further – useful tool, option for LEAs. May be redundant but provides useful process guidance. Consider moving to waivers? Or reference here and link to the waivers.*
11. Section 2(L). Limitation on Assessment Time.
 - a. *See 25 CFR on instructional hours. Include reference in these regulations?*
 - b. *Clarify if this part of the regulation is specific to assessments in HS, required assessments or all assessments of the school*
 - c. *Need to define if summative or formulate assessments.*
12. Section 3. Exception for English Learners. *How many ELs are in the BIE student population?*
13. Overarching comment/proposal: *Retain placeholders for sections such as 2E State Authority, 2I Deferral, and 3 Exception for Recently Arrived English Learners. Include a statement under each retained heading to note that the section does not currently apply to BIE but could be reviewed and revised if necessary in the future.*
 - a. *Further discussion on a civil rights law as to why it doesn't apply to the Bureau and if it does apply down the road, what will the recourse be for the Bureau. See section (3) Exception for recently arrived EL.*

Appendix H – Accountability Subcommittee Report

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Possible 25 C.F.R. Part 30

Accountability Subcommittee as of 11/16/18 with comments from Brian Quint as of
12/02/18

§30.101. What definitions apply to terms in this part?

“Act” means the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, Public Law 114-95, enacted December 10, 2015.

“Bureau” means the Bureau of Indian Education.

“Department” means the Department of the Interior.

“Director” means the Director of the Bureau of Indian Education.

“BIE School(s)” means a school funded by the Bureau of Indian Education.

“Secretary” means the Secretary of the Interior or a designated representative.

“Subgroup of students” means a) economically disadvantaged students; b) students from major racial and ethnic groups; c) children with disabilities; and d) English learners.¹

“Indian Education Plan” means a document that will provide Indian tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE Schools.

“Tribally controlled school” means a school operated under a P.L. 93-638 contract or P.L. 100-297 grant.

“Bureau Operated school” means a school operated by the Bureau of Indian Education.

§30.106. How will the Secretary define accountability system?

(a) The Secretary shall define an accountability system for Bureau-funded schools consistent with section 1111(c)-(d) of the Act, including provisions for a single ~~statewide~~ Bureau-wide accountability system and school support and improvement activities.²

(b) To improve student academic achievement and school success among all elementary and secondary schools within the Bureau-funded school system the Secretary will:

¹ This definition is from 20 U.S.C. §6311(c)(2).

² The requirements for statewide accountability systems and school support and improvement activities are located at 20 U.S.C. §6311(c)-(d). Statewide accountability systems must comply with both subsections (c) (statewide accountability system) and (d) (school support and improvement activities). See 20 U.S.C. §6311(c)(1).

- 27 • Develop and implement a single, Bureau-wide accountability system in consultation with
 28 tribes and stakeholders (such as parents, educators etc.) that:
- 29 ○ Is based on the Bureau's challenging academic standards and academic
 30 assessments;
 - 31 ○ Is informed by ambitious long-term goals and measurements of interim progress;
 - 32 ○ Includes all section 1111(c)(4)(B)-consistent accountability indicators;
 - 33 ○ Takes into account the achievement of all elementary and secondary school
 34 students within the Bureau-funded school system;
 - 35 ○ Is the same accountability system used to annually meaningfully differentiate all
 36 schools within the Bureau-funded school system and the same accountability
 37 system used to identify schools for comprehensive and targeted support and
 38 improvement;³ and
 - 39 ○ Includes the process that the Bureau will use to ensure effective development and
 40 implementation of school support and improvement plans, including evidence-
 41 based interventions, to hold all schools within the Bureau-funded school system
 42 accountable for student academic achievement and school success.
 - 43 ○ Will be reviewed in consultation with tribes and stakeholders for continuous
 44 improvements as necessary, but not less often than every four years
 45 from beginning on the date the plan is implemented

47 (c) For all students and separately for each subgroup of students within the Bureau-funded school
 48 system the Bureau's long-term goals and measurements of interim progress will:

- 49 (1) include, at a minimum, improved academic achievement, as measured by proficiency
 50 on the Bureau's annual assessments in mathematics and reading or language arts under section
 51 1111(b)(2)(B)(v)(I), and high school graduation rates, including the four-year adjusted cohort
 52 graduation rate and, at the Secretary's discretion, the extended-year adjusted cohort graduation

³ 20 U.S.C. 6311(c)(4)(C)-(D). "(C) Annual meaningful differentiation. Establish a system of meaningfully differentiating, on an annual basis, all public schools in the State, which shall- (i) be based on all indicators in the State's accountability system under subparagraph (B), for all students and for each of subgroup of students, consistent with the requirements of such subparagraph; (ii) with respect to the indicators described in clauses (i) through (iv) of subparagraph (B) afford- (I) substantial weight to each such indicator; and (II) in the aggregate, much greater weight than is afforded to the indicator or indicators utilized by the State and described in subparagraph (B)(v), in the aggregate; and (iii) include differentiation of any such school in which any subgroup of students is consistently underperforming, as determined by the State, based on all indicators under subparagraph (B) and the system established under this subparagraph.

(D) Identification of schools. Based on the system of meaningful differentiation described in subparagraph (C), establish a State-determined methodology to identify- (i) beginning with school year 2017-2018, and at least once every three school years thereafter, one statewide category of schools for comprehensive support and improvement, as described in subsection (d)(1), which shall include- (I) not less than the lowest-performing 5 percent of all schools receiving funds under [ESEA] in the State; (II) all public high schools in the State failing to graduate one third or more of their students; and (III) public schools in the State described under subsection (d)(3)(A)(i)(II); and (ii) at the discretion of the State, additional statewide categories of schools."

Comment [SP1]: Is three years of implementation a long enough timeframe to get usable data to make recommendations?

Comment [SP2]: BQ: 12-02-18 – Does this language mean or limit review to only every four years? Perhaps: "Will be reviewed in consultation with tribes and stakeholders for effectiveness as necessary, but not less than every four years." I believe that the Department of Education at one point recommended that States review their plans periodically but at least once every five years.

Comment [SP3]: C(1) propose an extended year graduation rate

Comment [SP4]: BQ: 12-02-18 – Eliminating even the option of a four-year adjusted cohort graduation rate would seem to be inadvisable. It also may be inconsistent with section 1111. Is there a rationale based on the unique circumstances and needs of BIE-funded schools and the students served at such schools? Recommend re-inserting this.

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53 rate, except that the Secretary shall set a more rigorous long-term goal for such graduation rate as
54 compared to the long-term goal set for the four-year adjusted cohort graduation rate;⁴

55 (2) have the same multi-year length of time set to meet such goals for all students and for
56 each subgroup of students within the Bureau-funded school system;⁵

57 (3) take into account for subgroups of students who are behind on the measurements of
58 academic achievement and high school graduations rates the improvement necessary on such
59 measures to make significant progress in closing Bureau-wide proficiency and graduation rate
60 gaps;⁶ and

61 (4) will include for English learners a measurement of increases in the percentage of such
62 students making progress in achieving English language proficiency as defined by the Secretary
63 and measured by the assessments under section 1111(b)(2)(G) within a timeline determined by
64 the Secretary.⁷

65

66 (d) For all students and separately for each subgroup of students within the Bureau-funded
67 school system, the Bureau's accountability indicators will at a minimum include distinct
68 indicators for each school that, except for the English language proficiency indicator, will:

69 (1) measure performance for all students and separately for each subgroup of students;

70 (2) use the same measures within each indicator for all schools within the Bureau-funded
71 school system except that measures within the Academic Progress and School Quality or Student
72 success indicators may vary by each grade span;⁸ and

Comment [SP5]: C(4) timeline for ELP timeline should align with the timeline for long-term goals so that there is enough time to implement the system and evaluate progress made. Need to know what the timeframe is for long-term goals and how ELP timelines align with them.

Comment [SP6]: BQ: 12-02-18 – The timeline for ELP does not have to be the same as long-term goals. The indicators are important for school identification not the goals. These should be aligned to the graduation rate year for indicators.

Comment [SP7]: From BQ: The language "may vary by each grade span" may not be consistent with section 1111.

⁴ 20 U.S.C. §(c)(4)(A)(i)(I). "(A) Establishment of long-term goals. Establish ambitious State-designed long-term goals, which shall include measurements of interim progress toward meeting such goals- (i) for all students and separately for each subgroup of students in the State- (I) for, at a minimum, improved- (aa) academic achievement, as measured by proficiency on the annual assessments required under subsection (b)(2)(B)(v)(I); and (bb) high school graduation rates, including- (AA) the four-year adjusted cohort graduation rate; and (BB) at the State's discretion, the extended-year adjusted cohort graduation rate, except that the State shall set a more rigorous long-term goal for such graduation rate, as compared to the long-term goal set for the four-year adjusted cohort graduation rate."

⁵ 20 U.S.C. §(c)(4)(A)(i)(II). "(II) for which the term set by the State for such goals is the same multi-year length of time for all students and for each subgroup of students in the State."

⁶ 20 U.S.C. §(c)(4)(A)(i)(III). "(III) that, for subgroups of students who are behind on the measures described in items (aa) and (bb) of subclause (I), take into account the improvement necessary on such measures to make significant progress in closing statewide proficiency and graduation rate gaps."

⁷ 20 U.S.C. §(c)(4)(A)(ii). "(ii) for English learners, for increases in the percentage of such students making progress in achieving English language proficiency, as defined by the State and measured by the assessments described in subsection (b)(2)(G), within a State-determined timeline."

⁸ 20 U.S.C. §(c)(4)(B). "(B) Indicators. Except for the indicator described in clause (iv), annually measure, for all students and separately for each subgroup of students, the following indicators."

73 (3) incorporate an Academic Achievement indicator,⁹ an Academic Progress indicator,¹⁰
74 a Graduation rate indicator,¹¹ a Progress in Achieving English Language Proficiency indicator,¹²
75 and one or more indicators of School Quality or Student Success.¹³

Comment [SP8]: d(3) Ask the committee if want to recommend one or more indicators apart from the regulations?

76 (e) The Bureau's accountability system will annually measure the achievement of at least 95% of
77 all students, and 95 percent of each subgroup of students, who are enrolled in schools within the
78 Bureau-funded school system on the Bureau's assessments.¹⁴ The denominator for the purpose
79 of measuring, calculating, and reporting on each indicator shall be the greater of:

Comment [SP9]: Make a recommendation, separate from the regulation, on how non-participate rate is factored.

80 (1) 95 percent of all students, or 95 percent of each subgroup of students; or

81 (2) the number of students participating in the assessments.¹⁵

82
83 (f) The performance of students that have not attended the same Bureau-funded school for at
84 least half of a school year will not be used in the system of meaningful differentiation of school
85 for such school year, but will be used for the purpose of reporting on the Bureau and school

⁹ 20 U.S.C. §(c)(4)(B)(i)(I)-(II). "(i) For all public schools in the State, based on the long-term goals established under subparagraph (A), academic achievement- (I) as measured by proficiency on the annual assessments required under subsection (b)(2)(B)(v)(I); and (II) at the State's discretion, for each public high school in the State, student growth, as measured by such annual assessments."

¹⁰ 20 U.S.C. §(c)(4)(B)(ii)(I)-(II). "(ii) For public elementary schools and secondary schools that are not high schools in the State- (I) a measure of student growth, if determined appropriate by the State; or (II) another valid and reliable statewide academic indicator that allows for meaningful differentiation in school performance."

¹¹ 20 U.S.C. §(c)(4)(B)(iii)(I)-(II). "(iii) For public high schools in the State, and based on State-designed long term goals established under subparagraph (A)- (I) the four-year adjusted cohort graduation rate; and (II) at the State's discretion, the extended-year adjusted cohort graduation rate."

¹² 20 U.S.C. §(c)(4)(B)(iv)(I)-(II). "(iv) For public schools in the State, progress in achieving English language proficiency, as defined by the State and measured by the assessments described in subsection (b)(2)(G), within a State-determined timeline for all English learners- (I) in each of the grades 3 through 8; and (II) in the grade for which such English learners are otherwise assessed under subsection (b)(2)(B)(v)(I) during the grade 9 through grade 12 period, with such progress being measured against the results of the assessments described in subsection (b)(2)(G) taken in the previous grade."

¹³ 20 U.S.C. §(c)(4)(B)(v)(I)-(VIII). "(v) (I) For all public schools in the State, not less than one indicator of school quality or student success that- (aa) allows for meaningful differentiation in school performance; (bb) is valid, reliable, comparable, and statewide (with the same indicator or indicators used for each grade span, as such term is determined by the State); and (cc) may include one or more of the measures described in subclause (II). (II) For purposes of subclause (I), the State may include measures of- (III) student engagement; (IV) educator engagement; (V) student access to and completion of advanced coursework; (VI) postsecondary readiness; (VII) school climate and safety; and (VIII) any other indicator the State chooses that meets the requirements of this clause."

¹⁴ 20 U.S.C. §6311(c)(4)(E)(i). "(E) Annual measurement of achievement. (i) Annually measure the achievement of not less than 95 percent of all students, and 95 percent of all students in each subgroup of students, who are enrolled in public schools on the assessments described under subsection (b)(2)(v)(I)."

¹⁵ 20 U.S.C. §6311(c)(4)(E)(ii). "(ii) For the purpose of measuring, calculating, and reporting on the indicator described in subparagraph (B)(i), include in the denominator the greater of- (I) 95 percent of all such students, or 95 percent of all such students in the subgroup, as the case may be; or (II) the number of students participating in the assessments. (iii) Provide a clear and understandable explanation of how the State will factor the requirement of clause (i) of this subparagraph into the statewide accountability system."

report cards for such school year.¹⁶ In calculating the high school graduation rate, a high school student who has not attended the same school for at least half of a school year and has exited high school without a regular high school diploma and without transferring to another high school that grants a regular high school diploma during such a school year shall be assigned to the high school at which the student was enrolled for the greatest proportion of school days while enrolled in grades 9 through 12, or to the high school in which the student was most recently enrolled.¹⁷

Proposals for Negotiated Rule Making Committee for concurrence

- Verbiage in regs for “state plan”?
- Consultation of tribes and stakeholders before system/plan implementation
- Cycle for review and stakeholder input of accountability system (review cycle)
 - Should it align with long term goal timeframe?
 - Should it be a 3 (4 years from implementation) or 5 year data collection/review cycle?
- Science as a part of the accountability system
- Utilization of a 5 year adjusted cohort for graduation rates
- Recommendation not to add any additional specific language or indicators in regards to “state plan”

¹⁶ 20 U.S.C. §6311(c)(4)(F)(i)(I)-(II). “(F) Partial attendance. (i) In the case of a student who has not attended the same school within a local educational agency for at least half of a school year, the performance of such student on the indicators described in clauses (i), (ii), (iv), and (v) of subparagraph (B)- (I) may not be used in the system of meaningful differentiation of all public schools as described in subparagraph (C) for such school year; and (II) shall be used for the purpose of reporting on the State and local educational agency report cards under subsection (h) for such school year.”

¹⁷ 20 U.S.C. §6311(c)(4)(F)(ii)(I)-(II). “(ii) In the case of a high school student who has not attended the same school within a local educational agency for at least half of a school year and has exited high school without a regular high school diploma and without transferring to another high school that grants a regular high school diploma during such school year, the local educational agency shall, in order to calculate the graduation rate pursuant to subparagraph (B)(iii), assign such student to the high school- (I) at which such student was enrolled for the greatest proportion of school days while enrolled in grades 9 through 12; or (II) in which the student was most recently enrolled.”

Appendix I – Waiver Subcommittee Report

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Possible 25 C.F.R. Part 30	<div>Waiver Subcommit Notes</div> <div>As of 11/15/18</div> <p>Subcommittee questions are in red. BIE /Legal advisor questions, comments, suggestions from 11/15/18 in black and bold. <i>Italics</i> from the facilitator. 12/03/18: Edits in track changes are from BIE</p>
<p>Title 25 – Indians</p> <p>Chapter I – Bureau of Indian Affairs, Department of the Interior</p> <p>Subchapter E – Education</p> <p>Part 30 – Standards, Assessments, and Accountability System</p> <p>Subpart A – Defining Standards, Assessments, and Accountability System</p>	<p>Regarding an opening statement on moral responsibility, to all students in BIE and Tribal schools to support the academic, social, emotional well-being through our standards, assessments, and accountability system and waiver, note that 25 CFR 32.3 codified through 25 USC 2003, already provides that:</p> <p>“Recognizing the special rights of Indian Tribes and Alaska Native entities and the unique government-to-government relationship of Indian Tribes and Alaska Native villages with the Federal Government as affirmed by the United States Constitution, U.S. Supreme Court decisions, treaties, Federal statutes, and Executive Orders, and as set out in the Congressional declaration in sections 2 and 3 of the Indian Self-Determination and Education Assistance Act (Pub.L. 93–638; 88 Stat. 2203; 25 U.S.C. 450 and 450a), it is the responsibility and goal of the Federal government to provide comprehensive education programs and services for Indians and Alaska Natives. As acknowledged in section 5 of the Indian Child Welfare Act of 1978 (Pub.L. 95–608; 92 Stat. 3069; 25 U.S.C. 1901), in the Federal Government’s protection and preservation of Indian Tribes and Alaska Native villages and their resources, there is no resource more vital to such Tribes and villages than their young people and the Federal Government has a direct interest, as trustee, in protecting Indian and Alaska Native children, including their education. The mission of the Bureau of Indian Affairs, Office of Indian Education Programs, is to provide quality education opportunities from early childhood through life in accordance with the Tribes’ needs for cultural and economic well-being in keeping with the wide diversity of Indian Tribes and Alaska Native villages as distinct cultural and governmental entities. The Bureau shall manifest consideration of the whole person, taking into account the spiritual, mental, physical and cultural aspects of the person within family and Tribal or Alaska Native village contexts.”</p> <p>Add to 30.101: “Tribal governing body or school board” means, with respect</p>

Appendix I - Draft Part 30_Side_By_Side Waivers V2 111518 BIE feedback_ 181127 draftNOT IT

Page 1 of 11

DRAFT FOR DISCUSSION PURPOSES ONLY

<p>to waiver and submission of alternative proposals of the Secretary's definitions of standards, assessments, and accountability system at P.L. 100-297 grant or P.L. 93-638 contract schools, the entity authorized under applicable Tribal or Federal law to waive the Secretary's definitions and negotiate an alternative proposal with the Secretary.</p>	<p><i>The submit will need to come back to the second paragraph in this section to ensure it is consistent with any revised language developed in Subpart B.</i></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.¹</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.²</p> <p>The Act further requires the Secretary and the Secretary of</p>	

¹ 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."

² 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 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."

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. ³	<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.⁴</p> <p>(b) The Director will implement an Indian Education Plan⁵ 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>(c) The Director shall review and revise the Indian Education Plan periodically as necessary to reflect changes in the Bureau's strategies and programs.⁶ The Secretary shall engage in active</p>
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³ 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)."

⁴ 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."

⁵ 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/DOJ 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 State Education Agency (SEA) and that BIE "assumes the responsibility of an SEA." The agreement also acknowledged that BIE would have and follow a State plan. Whereas BIE must have regulations that are "consistent" with the requirements of section 1111, and section 1111 requires States to have State plans, it is not inconsistent with section 1111 for BIE to have a similar plan. As reflected in the 2012 agreement, if BIE intends to have a State plan, it is not absolutely necessary for such a plan to be described in this regulation, however if it is not described in regulation it may not be binding on grant and contract schools.

⁶ 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.*]."

consultation with tribes and other interested parties while engaged in review and revision of the Indian Education Plan. ⁷	
(d) The Director may voluntarily partner with States to develop and implement challenging State academic standards and assessments. ⁸	
<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 B – Waiver of Definitions, Technical Assistance, and Approval of Waivers</p> <p>§30.107. May a tribal governing body or school board waive the Secretary's definition of standards, assessments, and accountability system?</p> <p>Yes. A tribal governing body or school board may waive the Secretary's definition of standards, assessments, and accountability system in part or in whole. However, unless an alternative proposal is approved the Secretary's definitions apply.⁹</p>	<p>Q: Who gives the authority, is it individual to each tribe?</p> <p>Meaning of 'tribal governing body or school board' clarification: Depends on the authority of the school board given by the Tribe. May vary by Tribe. Per legal advisor 10/17/18</p> <p>Related Question: Multiple tribes submit a joint proposal – is it possible? Possible, it would require some formal action from each tribe affirming the joint effort. Per legal advisor 10/17/18</p> <p>11/15/18: Option: include a definition of authority in the regulations?</p>

⁷ 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.

⁸ 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.

⁹ 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 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."

<p>§30.108. How does a tribal governing body or school board waive the Secretary's definitions?</p> <p>(a) If a tribal governing body or school board determines the Secretary's definition of standards, assessments, or accountability system to be inappropriate¹⁰, it may waive these definitions in part or in whole in a manner consistent with applicable law. How is this done? 11/15/18: in a form appropriate /consistent with tribal law? (b) The tribal governing body or school board must notify the Secretary and the Secretary of Education of the decision to waive a definition. (c) Within 60 days [of the decision to waive a definition] the tribal governing body or school board must submit to the Secretary a proposal for alternative definitions that are consistent with section 1111 of the Act and that take into account the unique circumstances and needs of such school or schools and the students served. (d) A tribal governing body or school board may request an extension of the 60 day deadline for the provision of technical assistance. (e) The Secretary will work with the Secretary of Education to develop and make available templates for alternative proposals.</p>	<p>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. 11/15/18: BIE: Tribal governing body or school board notify Sec of Interior and re ED of the waiver.</p> <p>Add: US Dept of Ed will provide template to tribal governing bodies or school boards and respond to the request within 30 days of receipt or ... 11/15/18: DOI doesn't have authority to regulate ED. Replace with language: "DOI will work with ED to provide a template."</p> <p>Extend the 60-day timeframe so that the tribe has sufficient time to develop its proposal.</p> <p>11/15/18: 60-days is in statute. Add language that states it is to extend timeline for Technical Assistance</p> <p>Add language on what the Tribe can implement during the review process. 11/15/18: BIE: Concerns about implementation – after DOI/ED review process. Approval explains what is working when and what might take effect later on.</p> <p>Insert the how the waiver is submitted. Via tribal resolution, formal letter, how? 11/15/18: 'in a form appropriate /consistent with tribal law'</p>
<p>§30.109. What should a tribal governing body or school board include in a waiver and alternative proposal?</p> <p>(a) Waivers should <u>must</u> explain how the Secretary's definition of standards, assessments, or accountability system are inappropriate.</p>	<p>Should there be language about using the template provided by ED? Current template asks standards, assessments in general.</p> <p>11/15/18: BQ: Caution think about how might a template work, would it imply only one way to do things?</p>

¹⁰ As we discussed, the statute does not define "inappropriate." As this is a matter left to Tribal governing bodies and school boards under the statute, it might not be appropriate to try to define the term in these regulations.

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<p>(b) Alternative proposals should <u>must</u> include an explanation how the alternative proposal is consistent with <u>meets the requirements</u> of section 1111 of the Act and meets the unique circumstances and needs of the school(s) and students served.</p> <p>(c) Tribal governing bodies or school boards must engage with potentially affected stakeholders when considering a waiver and in the development of proposals for alternative definitions.</p>	<p>Should there be a checklist for a complete package? 11/15/18: BQ: old regs had such a checklist. BIE: has a template under development now. BIE also developing a checklist to guide BIE thinking. Does it go beyond the law to include the checklist in the regulations (v as a recommendation)</p> <p>Should the regulations include language directing a tribal governing body or school board to get community input when the governing body requests a waiver? 11/15/18 BIE: important idea. Alternative language: stakeholder engagement is encouraged.</p> <p>Paragraph 2 is important to ensure consistency with Section 1111.</p>
<p>§30.110. May a proposed alternative definition use parts of the Secretary's definition?</p> <p>Yes, a tribal governing body or school board may waive the Secretary's definitions in part or in whole. Alternative proposals should, however, clearly incorporate any retained portions of the Secretary's definitions.</p>	<p>Language is fine.</p> <p>Should the phrase 'tribal governing body or school board' be an 'and/or' 11/15/18: BIE – recommend original language...</p>
<p>§30.111. Will the Secretary provide technical assistance to tribal governing bodies or school boards seeking a waiver?</p> <p>Yes, the Secretary and the Secretary of Education are required by statute to provide technical assistance, upon request, either</p>	<p>Note: budget/cost implications for providing TA for assessments. 11/15/18: BIE is required by law to provide TA for waivers.</p> <p>Turn around is not quick. How much TA is provided? 11/15/18: BIE is required to provide TA and does so through its staff. Alt</p>

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<p>directly or through contract, to a tribal governing body or a school board that seeks a waiver.¹¹ A tribal governing body or school board seeking such assistance should submit a request to the Director. <u>The Secretary will provide such technical assistance on an ongoing and timely basis.</u></p>	<p>Language: "BIE encouraged to provide TA on a ongoing and timely basis,"</p>
<p>§30.112. What is the process for requesting technical assistance?</p> <p>(a) A tribal governing body or school board requesting technical assistance should submit a written request to the Director, specifying the form of assistance that is being sought.</p> <p>(b) The Director will acknowledge receipt <u>within 10 days</u> of a request for technical assistance and.</p> <p><u>(c) No later than 30 days after receiving the original request, the Director will identify a point of contact. This contact will immediately begin working with the tribal governing body or school board to jointly develop the specifics of the technical assistance, including identifying the form, substance, and timeline for the assistance.</u></p>	<p>How to fund TA... should that be in the regulation? 11/15/18 BIE will provide an annual budget allocation for Technical Assistance. How do we get TA for waivers if BIE and ED don't have resources? 11/15/18: BIE must provide TA. How much TA is available when requested? Once a year or more often? If it is limited then the regulations should clarify. 11/15/18: BIE: as needed eg Navajo Nation it was weekly/daily Add language that affirms what TA the entities can provide. Add to b 'and a point of contact and a timeline to work out arrangements and what is needed?' Add time frame for acknowledgement ? Add timeframe for initiating TA Should there be parameters around TA?</p> <p>11/15/18: BQ: Language is missing from subparagraph (b) see below from the current AYP:(a) The tribal governing body or school board requesting technical assistance to develop an alternative definition of AYP must submit a written request to the Director of OIEP, specifying the form of assistance it requires. (b) The Director of OIEP must acknowledge receipt of the request for technical assistance within 10 days of receiving the request. (c) No later than 30 days after receiving the original request, the Director of OIEP will identify a point of contact. This contact will immediately begin working with the tribal governing body or school board to jointly develop the specifics of the technical assistance, including identifying the form, substance, and timeline for the assistance.</p>

¹¹ 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)."
Appendix I - Draft Part 30_Side_By_Side Waivers V2 111518 BIE feedback_181127 draftNOT IT

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<p>§30.113. When should the tribal governing body or school board request technical assistance?</p> <p>A tribal governing body or school board should <u>is encouraged to</u> request technical assistance before formally notifying the Secretary of its intention to issue a waiver in order to maximize the time available for technical assistance.</p>	<p>The template should provide clarity around TA, need guidance around what to ask.</p> <p>Requesting TA should not be a requirement to requesting a waiver. TA should be timely, step by step as a trust responsibility to Tribes from BIE.</p> <p>11/15/18; BQ: TA not required before a waiver, consider change to 'encourage' or 'may' G.J: or 'could'</p> <p>BIE: important for TA to begin way before waiver and developing proposal.</p>
<p>§30.114. How does the Secretary review and approve an alternative definition?</p> <p>(a) The tribal governing body or school board submits a proposed alternative definition to the Director, within 60 days of its waiver.¹² <u>The tribal governing body or school board may request an extension of the 60 day deadline to allow for the provision of technical assistance.</u></p> <p>(b) The Director will notify the tribal governing body or school</p>	<p>REVISED LANGUAGE from subcommittee on 10/29/18:</p> <ol style="list-style-type: none"> 1. Tribe governing body or school board shall submit a letter of intent to enter into negotiations with the Director of Bureau of Indian Education and Department of Education Director of Indian Education. 2. The Tribe shall have xx days to complete the waiver application from the time of submitting the letter of intent. 3. Upon receipt of the application to the Director of BIE, the BIE acknowledges the receipt within xx days and shall provide a response in xx days regarding the proposal. 4. BIE offers Technical Assistance. 5. Tribes reserve the right to implement its proposed system if the review timelines

¹² 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 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."

<p>board of:</p> <p>(1) Whether the proposed alternative definition is complete; and</p> <p>(2) If the proposed definition is complete, an estimated timetable for the final decision; or</p> <p>(3) Will inform the tribal governing body or school board that more time is required to review the proposed alternative definition.</p> <p><u>(4) The Director and a tribal governing body or school board are encouraged to communicate on a monthly basis.</u></p>	<p>are not met.</p> <p>Change b2 to xx calendar days. Delete b3</p> <p>11/15/18: automatic approval, step 5 above—could impact students in schools. BIE proposed language: implement once approved.</p> <p>Add to (c) Within the above specified timeframe (as above). 11/15/18: BIE timelines problematic, make it hard to collaborate, GK: If don't have timelines, lack of communication. GJ: possible language to accommodate factor in size of tribes. BQ: alt. language: DOI and requesting tribe/school board are encouraged to communicate every 30 days. Question: How many people review tribal/school board requests? A: DOI and ED – 5 ppl. Meet as needed. For new proposals waiting on new regulations.</p>
<p>(c) If the proposed alternative definition is incomplete, the Director will provide the tribal governing body or school board with technical assistance to complete the proposed alternative definition, including identifying what additional items are necessary.</p> <p>(d) If the proposed definition is complete, the Secretary will work with the Secretary of Education to review the proposed alternative definition to determine whether it meets the requirements of section 1111 of the Act, taking into consideration the unique circumstances and needs of the school or schools and the students served.</p>	<p>NEW SECTION for (d) Once approved by the Secretary what happens next? Replace (d) Director recommends final approval by the Department of Education Indian Education. Director and response shall be provided within xx days. 11/15/18: BQ – DOI can't require ED to do something in regulations (could be negotiated apart from the regulations), BIE: DoE Indian Education Dir. Is not involved in this process.</p>
<p>(f) If the Secretary and Secretary of Education approve the alternative definition:</p> <p>(1) The Secretary shall promptly notify the tribal governing body or school board; and</p> <p>(2) <u>The alternative definition will become date on which the alternative proposal will be effective at the start of the following school year.</u></p>	<p>2. Approved applications shall be effective the following school year. 11/15/18: BIE proposed strike section f(2) language should go in the approval letter.</p> <p>(g) revise to set a different tone--- replace 'disapproved' If an alternative definition requires further revision based on Department of Education's review, then: 1. Shall notify the Tribe with in xx days 11/15/18: BIE challenge in gov't. First letters from Sec Interior took a long time. Contemplating letters being sent at Asst. Sec level. 2. Provide technical assistance to the tribe to 11/15/18: addressed in h.</p>
<p>(g) An alternative definition will <u>not</u> be disapproved approved if it does not meet the requirements of section 1111, taking into consideration the unique circumstances and needs of the school or</p>	

Appendix I - Draft Part 30_Side_By_Side Waivers V2 111518 BIE feedback_181127 draftNOT IT

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<p>schools and the students served. If the alternative definition is disapproved, the tribal governing body or school board will be notified of the following:</p> <p>(1) That the alternative definition has been disapproved; and</p> <p>(2) The reasons why the alternative definition has been disapproved.</p> <p>(h) If a proposed alternative definition is disapproved <u>not approved</u> under paragraph (g) of this section, the Secretary shall provide technical assistance to overcome the basis for the disapproval.</p>	<p>11/15/18: BQ: recommend replacing 'disapproved' language with statute: the Secretary of the Interior and the Secretary [of Education] 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 of this title, taking into account the unique circumstances and needs of such school or schools and the students served.</p> <p>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.</p> <p>11/15/18: BQ: statute is silent on who the waiver goes to. BIE: Notices go to Sec of Interior. Nothing to stop a notice from going to ED at the same time.</p> <p>Should there be a provision for a tribe to move forward with its process while the review of the waiver is underway?</p> <p>11/15/18: BIE must be approved to ensure alignment with S. 1111.</p> <p>Add language: Provisional approvals and phases need to be included.</p> <p>11/15/18: BIE: can't do a provisional approval – if by DOI b/c statute requires both DOI and ED review and approval. Phases needs to be case by case be depends on what in the proposal is severable and or what the pace of the tribe or school board may be.</p>
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Additional Questions / Ideas from Subcommittee Deliberations on 10/29/18

1. What is an authorized school board? – Needs clarification.
2. Need a template for the waiver – who develops the template.
3. What is the process for filling a waiver?
4. What is a rubric for defining what meets the requirements for alternative definitions of standards, assessments and accountability?
5. What is the timeframe for submitting a waiver and alternative definition from start to finish – what is realistic?
6. Add an opening statement a moral responsibility to all students in BIE and tribal schools to support the academic, social , emotional well-being through our standards, assessments and accountability system and waiver.
7. Add: If an alternative proposal requires a revision, it continues until it is approved.
8. Add to no response; takes effect, without revisions.
9. Add: Tribes are held harmless during this process, funding is not withheld and there are no sanctions to the Tribe.
10. Add: language where there is concurrence on each element of the alt .proposal except for.... Then there is clarity in what needs to be revised without holding the entire proposal up.

Appendix I - Draft Part 30_Side_By_Side Waivers V2 111518 BIE feedback_ 181127 draftNOT IT

Page 10 of 11

DRAFT FOR DISCUSSION PURPOSES ONLY

11. Note: all schools sign 'assurances' think through how assurances can be part of /included in waiver
12. All tribes should know why their proposal is lacking and there should be a clear, transparent process so that people don't feel ignored.
13. Important to ensure tribes have latitude/flexibility in the waiver process.
14. Unpack what can be waived, e.g. to be clear for tribes where the specific opportunities exist. Add: a clear paragraph under what is waived is it a definition or the regs or all.
15. Technical assistance funding: can't specify a \$\$ amount, need to explore in regs/or recommendation on how funding for TA is equitable; must be timely (add language to the regs) for timely TA. TA must be adequate.

BIE and Legal Advisor Initial Comments and / or Questions Provided 11/01/18

- Jeff: BIE develop guidebook
- Brian: cautions: Regulations are for DOI, not sure that language in DOI regulations can apply to ED
- Key concern around Tribes needing approval from both DOI and ED.
- If no compliance issues with Section 1111, then Sec. shall approve
- Is the 30-days for negotiations – is it for the process to begin? A: yes, it is meant to be cyclical.
- At what points in the alt. definition proposal process should there be stakeholder input?

Discussion related to Waivers

The following questions regarding waivers were raised in the review of the assessments proposed language. Committee questions are in italics. Responses from BIE are noted in plain text.

1. *If a tribe waives an assessment, is the school required to use the existing assessment until the waiver is approved?* BIE: yes, usually the approval letters specify a timeline for the new system to kick in.
2. *If a tribe needs to update an approved alternative definition (ie waiver) what is the process for making amendments?*
3. *If a tribe decides to waive and do its own assessments who is responsible for creating those new assessments?*
4. *Who is financially responsible for alternative assessments proposed by a tribe or governing school board?*
5. Regarding 2(G) Assessments of English Language Proficiency. *Should there be language in the waivers regulations that tribes or governing school boards can waive EL assessments?*
6. *If a Tribe has oral language and not written / is this the wavier? Or, does this apply to immersion school? Need clarification as to what the question was referencing. Statement of local schools to determine the assessments.*
7. Section 2(H) Locally Selected Assessments.
 - a. *Per BIE: This section on locally-selected assessments might be redundant and possibly in conflict with the statutory provisions on the waiver/alternative proposal process in section 8204(c)(2). Recommend deletion.*
 - b. *Committee needs to discuss further – useful tool, option for LEAs. May be redundant but provides useful process guidance. Consider moving to waivers? Or reference in assessments section and link to the waivers.*

Appendix J – Letter from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

NOV 28 2018

Tony Dearman
Director
Bureau of Indian Education
United States Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Director Dearman:

This letter is in regard to the Bureau of Indian Education's (BIE) implementation of Title I requirements under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). Specifically, BIE must complete several important actions, such as the development and adoption of new challenging academic standards and aligned assessments and a new accountability system that meets the requirements under the ESEA, as amended by ESSA. To address these issues, this letter outlines changes to BIE's existing Corrective Action Plan (CAP).

As you are aware, the U.S. Department of Education (Department) and BIE entered into a Memorandum of Agreement (MOA) in December 2012, which was subsequently extended in July 2017, in which BIE assumed the responsibilities of a State educational agency (SEA) for managing the ESEA-covered programs. As such, BIE is obligated to implement a full accountability system, including: (1) annually administer all Title, I Part A assessments to all students including students with disabilities in the appropriate grade spans; (2) report data to the Secretary; (3) produce annual SEA and local educational agency (LEA) report cards; (4) ensure federal funds are properly spent in accordance with the intent of the respective programs; and (5) provide supports and interventions to its lowest-performing schools in accordance with the requirements in section 1111 of the ESEA. Further, the MOA specifically stipulates that the Department "may take such as may be proper including withholding of funds and requiring corrective action as permitted by law or regulation, in the event of any non-compliance with such statutory and regulatory requirements."

The Department engaged in tribal consultation and collaborated with BIE in a joint listening session and consultation earlier this year. During these events, we received input on BIE's administration of federal funds provided by the Department to BIE for the benefit of BIE-funded schools and its students, specifically under the ESEA and Part B of the Individuals with Disabilities Education Act (IDEA). We considered this input before making the decision to require the further corrective actions described below regarding the BIE's implementation of an ESSA compliant accountability system, and continuing corrective action. The areas identified below are those that the Department identified as most important to effectively implement the ESEA and support BIE's schools and students.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Corrective Actions Beginning in School Year (SY) 2019-2020 Regarding Challenging Academic Standards and Aligned Assessments and an Accountability System

The ESEA section 8204(c) requires BIE to establish new regulations to govern its challenging academic standards, aligned assessments, and an accountability system so that the system is operational by SY 2017-2018. Even though the Department extended the time period for BIE to meet this statutory requirements, BIE failed to complete this task in SY 2018-2019. As noted in a letter dated July 3, 2018, the Department expects that the final regulations will be in place to ensure that the overall system will be implemented by the beginning of the SY 2019-2020.

BIE has begun the negotiated rulemaking process, however the Department remains concerned that BIE is not prepared to implement its regulations and ensure it has challenging academic standards and aligned assessments, and an accountability system in place by the start of SY 2019-2020. This is an essential and fundamental component of the educational system and is already seriously delayed. The Department is therefore requiring that BIE to address its progress towards the implementation of challenging academic standards and aligned assessments, and its accountability system in the quarterly CAP.

Actions Required:

- Submit to the Department by January 7, 2019, an implementation plan for Title I, Part A that includes a timeline for the implementation of new challenging academic standards and aligned academic assessments (meeting the applicable requirements of section 1111(b)(2)) and its new accountability system. Further, this timeline must include: (1) how BIE will ensure all required assessments are available and ready for schools to administer in SY 2019-2020; and (2) when BIE will identify schools for support and intervention using its new accountability system.
- Finalize an MOA with the Department by July 1, 2019, that includes, at a minimum, BIE's plans for the use of the funds transferred under each covered program, and the achievement measures and program objectives of each program to assess program effectiveness, as required by the ESEA.
- Submit to the Department by January 7, 2019 a plan and timeline to meet the reporting requirements in ESEA section 1111(h) to produce SEA and LEA report cards.
- Submit an annual statement of assurance that BIE has administered all required Title I assessments in all BIE-funded schools until such time BIE is notified in writing by the Department that this is no longer required.

Please note that if the BIE is unable to implement its challenging academic standards and aligned assessments and accountability system by the beginning of SY 2019-2020, it may result in additional enforcement actions being taken by the Department, up to and including the withholding of funds.

Corrective Actions for SY 2018-2019

Based on the Department's prior monitoring of BIE's administration of Title I, Part A, BIE was required to develop a CAP to address Title I, Part A findings documented in the monitoring reports. BIE is required to submit quarterly reports to the Department regarding its progress in implementing the CAP. While the Department notes that BIE has made progress in correcting certain areas of non-compliance described in the CAP, BIE has failed to complete all corrective actions, and lags in implementing the requirements of Title I. Therefore, the Department is requiring further corrective actions for SY 2018-2019.

A. Assessment Requirements

In BIE's Consolidated State Performance Report (CSPR) for SYs 2015-2016 and 2016-2017, BIE did not report assessment results for all required Title I, Part A assessments. In particular, the data submitted by BIE indicates that fewer than the total number of students in its system took the required reading/language arts and mathematics general and alternate assessments. Further, the Department understands BIE is not consistently administering science assessments, for both the general assessments and alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities. Lastly, the Department understands that BIE is not administering the required English language proficiency (ELP) assessments to English learners (ELs) in all BIE-funded schools.

As a result, BIE is out of compliance with the requirements under section 1111(b)(2) of the ESEA, which requires a State to implement high-quality, yearly student academic assessments in reading/language arts, mathematics and science and to measure student achievement on those assessments; to administer an alternate assessment for students with the most significant cognitive disabilities who cannot participate in the State's general assessments even with appropriate accommodations; and to administer ELP assessments to ELs.

The Department is concerned about BIE's ability to annually administer all required Title I, Part A assessments. In addition to Title I, Part A funds, BIE receives an annual appropriation of Title I, Part B funds, Grants for State Assessments (approximately \$1.8 million), which provides funding to develop and administer its assessments. Because BIE has not yet established regulations in ESEA section 8204(c), and will not be implementing its ESSA compliant accountability system for SY 2018-2019, BIE must meet the requirements under ESEA section 1111(k) and BIE's current regulations, which requires that each BIE-funded school administers the assessments of the State in which it is located.

Action Required in SY 2018-2019:

- BIE is required to administer assessments in reading/language arts, mathematics, science (including both general and alternate assessments based on alternate academic achievement standards to students with the most significant cognitive disabilities), and ELP assessments for all ELs (or ensure the administration of the State assessments for all BIE-funded schools).

B. Data Reporting

The Department is maintaining BIE's CAP action steps in the areas of data reporting and reports cards. While BIE has reported its data on-time to the Secretary for SYs 2015-2016 and 2016-2017, BIE's submissions did not contain all of the required elements. In conversations with the Department, BIE indicated that it has not received assessment results from all SEAs with which it has agreements and, in some cases, from certain schools. In addition, BIE has not produced SEA or LEA report cards for SYs 2015-2016 and 2016-2017. Timely and accurate information is essential for BIE and its schools in order to make informed decisions regarding student performance, allocate resources effectively, and provide transparent information to parents and the public about how schools are performing.

The Department is also concerned with the requirements under the IDEA which require BIE to make available to the public and report to the public with the same frequency and in the same detail as it reports on the assessment of non-disabled children, data on the participation and performance of children with disabilities on State assessments.

Actions Required in SY 2018-2019:

- BIE must submit SY 2017-2018 annual reports to the Secretary. BIE must submit all available data and meet the timelines identified by the Department to certify its submission on-time. Where data are missing, BIE must provide documentation of its efforts to secure data from external parties, where applicable.
- As necessary, BIE must show evidence of corrective actions it has taken against schools which fail to comply with the requirements in the law to provide data to BIE so that it may report on its performance.
- BIE must take steps to ensure it improves the accuracy of the data required for reporting to the Department. After submitting its annual performance data to the Secretary, BIE must respond to the Department's data quality feedback to address identified issues. Further, BIE must make progress in the quality and completeness of the data submitted by BIE on the performance of each of its schools.
- BIE must meet the SEA and LEA report card requirements in ESEA sections 1111(h)(1) and 1111(h)(2), respectively, which require BIE to make key information publicly available about BIE and each of its schools, including assessment results and other pertinent information on school performance beginning with SY 2016-2017.¹
- BIE must continue working with the Comprehensive Center, and report to the Department on how it utilizes these services, to build its capacity and correct identified deficiencies related to data.

C. School Improvement/Supports for Low Performing Schools

Based on data in BIE's CSPR for SYs 2015-2016 and 2016-2017, BIE is out of compliance with the provisions in ESEA section 1111 to identify schools in need of improvement and to provide the appropriate supports and interventions to BIE's identified schools. To the Department's knowledge, BIE has not updated its list of schools in need of improvement since SY 2010-2011. In its CSPR for SYs 2015-2016 and 2016-2017, BIE did not report data related to schools that are identified in corrective action or restructuring statuses under ESEA, as amended by No Child Left Behind (NCLB), nor provided a sufficient explanation of how funds are allocated to support these schools. BIE has an obligation to continue to support its lowest performing schools during its transition to ESSA.²

Actions Required in SY 2018-2019:

- By February 1, 2019, BIE must: (1) identify schools in need of improvement using its most recently available data (i.e., SYs 2015-2016 and 2016-2017) and its current approved methodology; (2) publish this information on its website; and, (3) provide evidence to the Department that BIE has completed this task.

¹ For SY 2016-2017, the report card requirements remain under the ESEA, as amended by the NCLB. Beginning with report cards for SY 2017-2018, the report card requirements follow the ESEA, as amended by ESSA. The Department's Dear Colleague Letter issued on December 18, 2015 describes the orderly transition authority that modified the reporting requirements for SEAs and LEAs for SY 2014-2015 through 2016-2017. See: <https://www2.ed.gov/policy/elsec/leg/essa/transition-dcl.pdf>.

² The Department's letter on April 10, 2017, required SEAs to continue to support low-performing schools in SY 2017-2018 school year in the same manner as in the 2016-2017 school year but provided some flexibility to SEAs. See: <https://www2.ed.gov/policy/elsec/leg/essa/dcltr410207.pdf>.

- BIE must: (1) submit a plan to the Department by February 1, 2019 for how BIE will provide supports and interventions to the schools on its list of identified schools; and, (2) continue to report on school supports and interventions through quarterly reports to the Department.
- Submit documentation by February 1, 2019, that BIE notified all schools whose designation or status changed. In addition, provide documentation that BIE or its schools notified parents of changes to the schools' designations.

D. Use of Funds

The Department continues to monitor BIE's compliance with sub-recipient fiscal monitoring requirements. Since BIE has not yet demonstrated sufficient internal controls and a fully implemented fiscal monitoring system to ensure the appropriate use of Title I funds by its schools, BIE must continue to report on its performance to the Department through quarterly CAP progress reports.

Actions Required:

- BIE must continue to annually implement a fiscal monitoring system that includes: (1) making annual risk determinations of all of its school (including BIE-operated and tribally controlled); (2) determining its cycle of monitoring of all its schools; and (3) annually overseeing all of its schools to ensure the proper use of funds and to take enforcement actions against schools which fail to appropriately use federal funds.

E. School Improvement Grants (SIG) and Section 1003 Funds

BIE has an obligation to ensure that it is providing funds, consistent with the ESEA, to schools identified as in need of improvement. In the appendix of the July 2017 MOA, BIE established that it will set aside the amount calculated under ESEA section 1003(a) for school improvement. That amount is the greater of 7 percent of BIE's Title I, Part A award or the sum of the amount BIE reserved for fiscal year 2016 under section 1003 of the ESEA, as amended by NCLB, and the amount received for fiscal year 2016 under the SIG program (section 1003(g) of the ESEA, as amended by NCLB). BIE must allocate 95 percent of those funds on a formula or competitive basis to schools for comprehensive or targeted support and improvement activities. Because BIE does not have its accountability system in place yet, BIE is required to continue to providing supports to low-performing schools in SY 2018-2019, as noted previously.²

BIE has not demonstrated that it set aside the required amount under section 1003(a) for school improvement in SY 2017-2018 and whether and how those funds were allocated to schools. In addition, the Department understands that BIE has not spent all its available SIG funds.

Actions Required in SY 2018-2019:

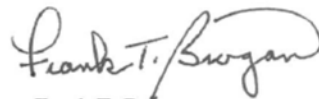
- Submit a plan and timeline to the Department by February 1, 2019, describing how it will use fiscal year 2017 and fiscal year 2018 funds it set aside under section 1003(a) of the ESEA to support identified schools. This includes providing documentation of its process for awarding such funds, including requiring an application that meets the requirements in section 1003 of ESEA.
- Submit a plan to the Department by February 1, 2019, as to how it will use its remaining SIG funds, including the amount of SIG funds remaining from each fiscal year's allocation and a plan

and timeline to spend such funds in identified schools consistent with either the SIG final requirements³ or consistent with the requirements in section 1003 of the ESEA.⁴

In conclusion, the actions detailed in this letter are necessary because of the importance of identifying schools in need of improvement and providing supports for those schools and students. In addition, it is important that BIE quickly and thoroughly plan for its successful transition to the ESEA requirements and to provide supports to schools and stakeholders in this important work. BIE must report on its compliance with the requirements through CAP quarterly progress reports as detailed in this letter. The Department continues to be interested in supporting your work. As you know, BIE can access technical assistance services through the Comprehensive Centers to address transitioning to ESSA implementation including assistance with accountability systems, assessments, data practices and internal capacity building.⁵

We appreciate our continued relationship with BIE and remain committed to working with you. We hope that our ongoing collaboration will lead to improved outcomes for Native youth. If you have any questions please contact Robert Salley of my staff at: OSS.BIE@ed.gov. Thank-you for your continued commitment to ensuring that all students have access to a high-quality education.

Sincerely,



Frank T. Brogan
Assistant Secretary for Elementary and
Secondary Education

Enclosure

cc: James Cason, Associate Deputy Secretary
Tara Sweeney, Assistant Secretary, Indian Affairs
Mark Cruz, Deputy Assistant Secretary, Indian Affairs

³ The provisions set forth in 80 FR 7223, published Feb. 9, 2015, comprise the SIG final requirements.

⁴ The Department issued a letter on January 9, 2018, which describes these two options available to States to use the remainder of any SIG funds. See: <https://www2.ed.gov/policy/elsec/leg/essa/sigflexibilitiesdci.pdf>

⁵ Pursuant to Sections 203-207 of the Educational Technical Assistance Act of 2002, and specifically the authority granted to the Secretary in Title III of Division H of the Consolidated Appropriations Act 2016 (P.L. 114-113), and successive appropriations acts. BIE is an eligible entity for technical assistance through the Comprehensive Center. Where noted, in this letter, BIE should continue to report through the CAP on how it uses these services to either meet the CAP requirements –or– to build its internal capacity.

Appendix K – Action Items

Draft for Discussion Purposes

December 10, 2018

Standards, Assessments, and Accountability System Negotiated Rulemaking Committee Meeting #3 Action Items V2

Task	Lead	Complete by
BIE and / or Legal Advisor		
1. Alert Committee of AS-IA decision regarding January meeting. If meeting is not approved share what the alternative plan will be.	Juanita	December 10, 2018
2. Share BIE's response to ED November 28, 2018 letter with Committee.	BIE (Jeff, Juanita, Sue)	When available
3. Prepare a single text of draft regulations incorporating Committee consensus language through December 6, 2018.	Jeff, Brian	January 3, 2019
4. Work with Department of ED on timeline language to include in the waivers section of the draft regulations. Specifically: Add to draft regulations a time-certain for BIE to respond to alternative proposals submitted. BIE: will work with ED on a timeline and provide the timeline for the Committee to respond. Note for FYI: ED Section 8401 regarding state waivers, the Sec Ed must respond within 120 days. [consensus 120618]	Jeff, Brian	January 3, 2019
5. Host one or more webinars regarding English Learner standards.	BIE with technical experts (Deb, Bryan H.) and others	January 10, 2019
6. Post Meeting #3 presentations to website	Leonda	December 13, 2018
7. Post Meeting #2 summary to website	Leonda	December 13, 2018
Committee Members		
1. Review meeting 1 & 2 summaries and identify topics for the potential recommendations section of the report. Send topics to Sarah for compilation.	Committee members	December 13, 2018
2. Sign and submit Mtg #3 Travel Voucher to Annette or Louie	Members	December 14, 2018
3. Work with Sarah on draft report of consensus recommendations by January 3 for consensus at meeting #4.	Lora, Mike, Tasha	January 3, 2019
4. Make hotel reservations for January (presumed) meeting.	Members	December xx, 2018
Facilitator		
1. Send schedule requests to LT & writing small group for calls	Sarah	December 10, 2018
2. Disseminate Action Items and Accomplishments from Mtg #3	Sarah	December 10, 2018
3. Prepare draft meeting summary, circulate to Committee for review	Regina	December 26, 2018

NEXT STEPS ACTION ITEMS 120618

Page 1 of 2

4. Send (presumed) Mtg #4 Read Aheads to Committee	Sarah	January 8, 2019
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English Language Proficiency Standards Discussion Notes From 12/06/18

Still to be decided by Committee: Is there leeway for immersion schools to exclude standards on ELP? What language is the assessments subcommittee contemplating? [what is in the standards section of ESSA?] ELP assessments for students with disabilities.

What regulations exist for ELP standards? Have peer review guidance on state plans, assessment peer review includes aspects of what technical things standards and assessments need to have for peer review.

Have experts, s.a. Dept ED and including experts on Native language proficiencies and oral language speak to the following questions.

1. How are ELP standards defined by the States? Provide examples from states.
2. Provide definitions EL in ED statute 8101 and Native Learners (if defined)
3. Would students in immersion schools be inadvertently identified as ELP (even though being taught English in later grades)?
4. Background on ELL students and how they are assessed. See ED Guidance: EL standards in B Question 5 explains difference between ELP standards and content standards Question 6 explains difference between ELP assessments and content standards.
5. See 200.6(f)(2)(i) and 200.6(j) in ED regulations for assessments. How might this language apply to BIE and/or should something similar be included in BIE regulations?