



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 27, 2020

Tony Dearman
Director
Bureau of Indian Education
1849 C Street, N.W.
Washington, DC 20240-0001

Dear Director Dearman:

I am writing in response to the Bureau of Indian Education's (BIE) request on March 23, 2020 that the U.S. Department of Education (Department) waive statewide assessment, accountability and reporting requirements in the Elementary and Secondary Education Act (ESEA) for the 2019-2020 school year due to widespread school closures related to the novel Coronavirus disease (COVID-19).

Specifically, the BIE requested a waiver of the following:

- Assessment requirements in section 1111(b)(2) for the school year 2019-2020.
- Accountability and school identification requirements in sections 1111(c)(4) and 1111(d)(2)(C)-(D) that are based on data from the 2019-2020 school year.
- Report card provisions related to assessments and accountability in section 1111(h) based on data from the 2019-2020 school year. These include:
 - Section 1111(h)(1)(C)(i) (accountability system description);
 - Section 1111(h)(1)(C)(ii) (assessment results);
 - Section 1111(h)(1)(C)(iii)(I) (other academic indicator results);
 - Section 1111(h)(1)(C)(iv) (English language proficiency results);
 - Section 1111(h)(1)(C)(v) (school quality or student success indicator results);
 - Section 1111(h)(1)(C)(vi) (progress toward meeting long-term goals and measurements of interim progress);
 - Section 1111(h)(1)(C)(vii) (percentage of students assessed and not assessed);
 - Section 1111(h)(1)(C)(xi) (number and percentage of students with the most significant cognitive disabilities taking an alternate assessment); and
 - Section 1111(h)(2)(C) with respect to all waived requirements in section 1111(h)(1)(C) as well as 1111(h)(2)(C)(i)-(ii) (information showing how students in an LEA and each school, respectively, achieved on the academic assessments compared to students in the State and LEA).

After reviewing BIE's request, I am pleased to approve, pursuant to my authority under section 8401(b) of the ESEA, a waiver of the assessment, accountability and reporting requirements listed above for the 2019-2020 school year.

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<http://www.ed.gov/>

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

I realize that this waiver may affect Tribes and their members; therefore, I considered whether, under the Department's Tribal consultation policy, it would be possible to conduct consultation with Tribes prior to issuing the requested waiver. Under the policy, in determining whether to consult, the Department must take into account the resource and time constraints for conducting agency business. Given the current COVID-19 crisis in the country, BIE's need for an immediate response on this issue, and Departmental resources and time constraints, I have determined that it is not feasible to conduct Tribal consultation prior to issuing this waiver.

In addition, because the Department is waiving BIE's specific Title I responsibilities of assessment and accountability for the 2019-2020 school year, there is no need for any Tribe that wishes to waive BIE's assessments and accountability system under section 8204 of the ESEA to submit any such request to the two Departments for the 2019-2020 school year, including the Navajo Nation and Miccosukee Tribes that previously received a waiver for the 2019-2020 school year.

As part of this waiver, BIE assures that:

- Any school that is identified for support and improvement in the 2019-2020 school year will maintain that identification status in the 2020-2021 school year and continue to receive supports and interventions consistent with the school's support and improvement plan in the 2020-2021 school year.
- BIE will provide the public, its affected Tribes and all of the schools that it funds, with notice of and the opportunity to comment on this request (*e.g.*, by posting information regarding the waiver request and the process for commenting, on BIE's website).

I know that you are doing all in your power to support your schools to ensure the health and well-being of students and educators. Thank you for your dedication to this effort. If you have any questions about this waiver, please contact my staff at OESE.TitleI-a@ed.gov

Sincerely,

/s/

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education