

# Bureau of Indian Education



## Tribal Consultation

on the

### BIE ESEA Flexibility Request

**Tuesday, July 17, 2012**

**8:00am –12:00pm**

Magnuson Hotel and Meridian  
Convention Center  
737 S. Meridian Ave.  
Oklahoma City, OK 73108  
(405) 942-8511

**Friday, July 20, 2012**

**8:00am –12:00pm**

Little America Hotel \*  
2515 E. Butler Avenue  
Flagstaff, AZ 86004  
(928) 779-7900

**Tuesday, July 24, 2012**

**8:00am –12:00pm**

Renaissance Seattle Hotel  
525 Madison Street  
Seattle, WA 98104  
(206) 583-0300

**Friday, July 27, 2012**

**8:00am –12:00pm**

United Tribes Technical College \*  
3315 University Dr.  
Bismarck, ND 58504  
(701) 255-3285

\*These two meeting locations have been changed from the

Tribal Leader Letter dated June 12, 2012.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

**JUN 12 2012**

Dear Tribal Leader:

Thank you for your work to improve the quality of education for schools serving our Nation's tribal communities. While progress is being made by dedicated leaders and educators, the academic achievement of students attending schools funded by the Bureau of Indian Education (BIE) is a topic of shared concern. Sadly, students in BIE-operated and tribally-controlled schools achieve significantly below the national norms in reading and math. Bold action is required to correct this situation.

We write today to invite consultation about a proposal that would help BIE achieve the objectives of President Obama's Executive Order 13592 (White House Initiative) concerning improving educational opportunities provided to American Indian and Alaska Native students. This proposal would allow BIE to utilize an accountability system based on a unitary set of academic standards and assessments in BIE-funded schools, rather than the current system that is based on 23 states' standards and assessments. BIE and the U.S. Department of Education have been in discussions about how BIE can be part of a major initiative taking place across the nation. This effort is specifically designed to improve educational opportunities for elementary and secondary school students, adequately measure their progress, take action to help students improve academically, and prepare students for college or careers after graduation. Consistent with the objectives of the White House Initiative, BIE would like to participate in this effort to ensure that all students in BIE-funded schools are given educational opportunities to help them succeed.

In February 2012, the U.S. Department of Education began granting flexibility waivers from the No Child Left Behind Act of 2001 (NCLB) to 19 states. Eighteen additional states and the District of Columbia have submitted flexibility waiver requests, with decisions expected soon. BIE understands that additional states intend to submit flexibility waiver requests but have not yet done so. In exchange for these flexibility waivers, the states have agreed to implement bold reforms around standards and accountability, which include raising standards, improving accountability, and generally implementing essential changes to improve teacher effectiveness. The U.S. Department of Education's decision to provide these flexibility waivers followed extensive efforts to work with Congress to amend requirements that the NCLB introduced into the Elementary and Secondary Education Act of 1965 (ESEA). The ESEA is five years overdue for reauthorization.

For BIE, flexibility waivers from the NCLB accountability mandates are especially necessary because BIE-funded schools are measured against the accountability standards of the states in which they are located. In essence, BIE implements 23 accountability systems for BIE-funded schools. The unintended consequence of this scheme is that BIE must calculate adequate yearly progress (AYP) annually using 23 sets of standards and assessments resulting in a situation where student achievement data cannot be compared across all BIE-funded schools. The

progress (AYP) annually using 23 sets of standards and assessments resulting in a situation where student achievement data cannot be compared across all BIE-funded schools. The flexibility waivers the Department of Education is granting to states will pose additional challenges as the waivers will allow states to move to entirely new and disparate accountability systems beginning in the 2012-2013 school year. This will make it impossible for BIE to meaningfully assess student achievement across all BIE-funded schools.

Therefore, the BIE would like to consult on adopting a unitary accountability system for use in all BIE-funded schools. For example, Common Core Standards could serve as the foundation for the accountability system, and accompanying growth model assessments could measure the performance of schools toward meeting incrementally-increasing targets. The BIE's approach to teaching and learning would be standardized and strengthened as a result of reforms implementing common standards, curriculum, instruction, and assessments. This measure would give BIE an exceptional opportunity to improve the quality of instruction and increase student achievement.

The BIE would also like to consult on the actions it and the Department of Education could take to implement such a unitary accountability system. The actions under consideration include:

- The BIE could obtain ESEA flexibility waivers from the Department of Education, consistent with the flexibility waivers it grants to states;
- Upon approval of the BIE's flexibility waiver request, BIE will adopt an interim final rule to offer a unified accountability system across all BIE-funded schools in time for the 2012-2013 academic year, pending a negotiated rulemaking procedure to permanently modify the definition of AYP in BIE's regulations;
- Alternatively, if the Department of Education grants BIE's flexibility waiver request, the BIE could also request that the Department of Education waive the negotiated rulemaking requirement of NCLB to allow BIE to modify its regulations, through the notice-and-comment rulemaking procedures set forth in the Administrative Procedure Act, 5 U.S.C. § 553, to be consistent with the reforms outlined above.

Four consultation sessions are scheduled to discuss the BIE proposal:

Tuesday, July 17, 2012  
8:00 A.M. – 12:00 P.M.  
Magnuson Hotel and Meridian Convention Center  
737 S Meridian Ave.  
Oklahoma City, Oklahoma 73108

Friday, July 20, 2012  
8:00 A.M. – 12:00 P.M.  
Radisson Woodlands Hotel Flagstaff  
1175 W Route 66  
Flagstaff, Arizona 86001

Tuesday, July 24, 2012  
8:00 A.M. – 12:00 P.M.  
Renaissance Seattle Hotel  
525 Madison Street  
Seattle, Washington 98104

Friday, July 27, 2012  
8:00 A.M. – 12:00 P.M.  
Best Western Plus Seven Seas Hotel  
611 Old Red Trail  
Mandan, North Dakota 58554

Information about the BIE ESEA flexibility waiver request will be available on the following websites: <http://www.bia.gov/WhoWeAre/AS-IA/Consultation/index.htm> and <http://www.bie.edu/consultations/index.htm>. Comments may be submitted by email to: [eseaconsultation@bie.edu](mailto:eseaconsultation@bie.edu), or by U.S. mail to: BIE ESEA Flexibility Waiver Request Comments, Office of the Assistant Secretary – Indian Affairs, U.S. Department of the Interior, Mail Stop 4141 MIB, Washington, DC 20240. Comments will be accepted through August 6, 2012.

Questions concerning the BIE ESEA flexibility waiver request should be sent to Dr. Jeffrey Hamley at [jeffrey.hamley@bie.edu](mailto:jeffrey.hamley@bie.edu).

Sincerely,



Donald E. Laverdure  
Acting Assistant Secretary-Indian Affairs

