

Capital Reporting Company
Tribal Consultation Meeting 05-18-2012

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TRIBAL CONSULTATION MEETING
UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
OFFICE OF THE ASSISTANT SECRETARY
BUREAU OF INDIAN AFFAIRS

DATE: May 18, 2012

TIME: 8:15 a.m.

LOCATION: THUNDER VALLEY CASINO RESORT
1200 Athens Avenue, Pano Hall - Salon A
Lincoln, California

REPORTED BY: James F. Peters
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A P P E A R A N C E S

DEPARTMENT OF THE INTERIOR:

Brian Drapeaux, Chief of Staff, Bureau of Indian Education

Jeffrey Hamley, Ph.D., Bureau of Indian Education

Joe Herrin, Ph.D., Bureau of Indian Education

Bart Stevens, Associate Deputy Director West, Bureau of
Indian Education

Anthony Walters, Counselor to the Deputy Assistant
Secretary of Indian Affairs

ALSO PRESENT:

Bruce MacAllister, Facilitator

Joyce Silverthorne, Director, Office of Indian Education

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1 PROCEEDINGS

2 MR. DRAPEAUX: We'll go ahead and get started
3 this morning.

4 I've asked Ms. Garcia from Ramah Navajo to start
5 us off this morning with the invocation.

6 (Invocation presentation.)

7 MR. DRAPEAUX: Thank you very much.

8 This morning we will cover two topics:

9 Johnson-O'Malley count, and Dr. Joe Herrin will
10 lead that discussion for us this morning.

11 And then after that we'll take a short break and
12 then we'll talk about the grant assurances and a document
13 that Mr. Bart Stevens will lead for us this morning.

14 This afternoon we'll be joined by our colleagues
15 from the U.S. Department of Education to discuss the
16 Department of interior and U.S. Department of Education
17 MOU. And it should be a good discussion. We'd look
18 forward to seeing you all, if possible, to stick around
19 and visit with us on the consultation on that piece as
20 well.

21 So we have a full day. We know we do, and we'll
22 go ahead and just get started. And I'll turn this over to
23 Dr. Herrin.

24 DR. HERRIN: Good morning. My name is Joe
25 Herrin. My primary function in Washington DC is budget

1 execution; that is, the allocation of funds. In addition
2 to our schools, we do allocate monies out to
3 Johnson-O'Malley, public schools.

4 MR. DRAPEAUX: Joe, you've got to hold it closer.

5 DR. HERRIN: You've got to hold it up?

6 MR. DRAPEAUX: Close to your face.

7 DR. HERRIN: Really --

8 MR. DRAPEAUX: Really close.

9 DR. HERRIN: Okay. My first contact with
10 Johnson-O'Malley was back in the 1970s. And then when I
11 was up in Alaska in the '80s I saw the individuals that
12 had the pleasure of entering all of the student names into
13 a -- on a diskette. And at that time they were using
14 these big 10-inch floppy diskettes. This was before they
15 even came out with computer diskettes, the 5 1/4.

16 But the intent today is to go through the JOM
17 Program. Congress has directed the Bureau to take and do
18 a new count. Our last count was in 1995.

19 In '95 -- pre-'95 the TPA funds were education.
20 Johnson-O'Malley Adult Ed and Scholarships resided in the
21 education office. And each year we would allocate those
22 dollars out to the various tribes.

23 MR. DRAPEAUX: Dr. Herrin, we need you to do
24 this.

25 DR. HERRIN: Okay.

1 (Thereupon an overhead presentation was
2 Presented as follows.)

3 DR. HERRIN: We would allocate the monies out to
4 the various tribes. And that worked, but there were some
5 complications. As you know, with 638 tribes can take and
6 reprogram dollars. At that time, they had to go back
7 through the Bureau. So if they wanted to reprogram
8 education dollars, they would come to education. If they
9 wanted to reprogram Indian Affairs dollars, they would go
10 to BIA and ask for permission to reprogram those dollars.

11 In '95 we moved the Johnson-O'Malley Adult Ed and
12 Scholarship monies over to the Bureau side of the house --
13 the Bureau of Indian Affairs side of the house. And they
14 then took care of all of the JOM Adult Ed and Scholarship
15 monies, put that into the contract, and that became the
16 base. So in '95 they moved the Johnson-O'Malley monies
17 from education over to BIA. And then they put those
18 dollars in the TPA bases, the Tribal Priority Allocation
19 basis, and those became your funding then for tribes
20 unless you took and reprogrammed dollars or there was a
21 change in the appropriation.

22 The other possible change was, with TPA programs
23 and self-governance programs you get a cost of living for
24 tribal employees, and you could have your Johnson-O'Malley
25 funding increase with that cost of living. They were

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1 normally very small and had little impact on the program.

2 --o0o--

3 DR. HERRIN: In the House report, Congress
4 directed us to go out and do a new count. Which we are
5 seeking advice on how to do this new count, who we count.
6 Congress did give us a 180-day time period to do this
7 count and report back to Congress. So we do have a
8 limited amount of time to do this.

9 --o0o--

10 DR. HERRIN: We were to do consultation with both
11 the indian community and with the Department of Ed.

12 --o0o--

13 DR. HERRIN: And then we were directed to
14 establish a permanent Johnson-O'Malley position in our
15 office. We have started to process and develop in a
16 position description for a Johnson-O'Malley person.
17 However, as we've gone back through the years and looked
18 at the people that were involved with the Johnson-O'Malley
19 program, Johnson-O'Malley was not listed in their position
20 description. It was a collateral duty, meaning that they
21 had other functions that they performed in addition to
22 then the Johnson-O'Malley person that schools, tribes and
23 other individuals would call if they had a question
24 pertaining to the Johnson-O'Malley program.

25 --o0o--

1 DR. HERRIN: This gives you a brief description
2 of the Johnson-O'Malley program. It's a supplemental
3 funding to the unique needs of indian children ages 3
4 through grade 12.

5 You have a parent committee -- parent education
6 committee that is in charge of developing the budget,
7 overseeing the program.

8 Still losing me?

9 --o0o--

10 DR. HERRIN: As I said, it's ages 3 through grade
11 12 enrolled in public schools. In '95 we had 35
12 previously private schools that had come into the Bureau
13 of Indian Affairs system. Previously private schools were
14 eligible to count their students for Johnson-O'Malley,
15 whereas Bureau funded or Bureau operated schools were not
16 eligible to count their students for Johnson-O'Malley
17 funding. It goes back to the concept of double funding
18 students for particular programs.

19 --o0o--

20 DR. HERRIN: In our regulations it indicates that
21 minimum requirement is one-fourth degree. In 638 their
22 requirements are member of a tribe or one-fourth degree.

23 --o0o--

24 DR. HERRIN: Now, with regards to how the funding
25 was determined, up until '95, when we did our last count

1 previous to that, individual tribes and schools and some
2 states would take and report their Johnson-O'Malley count
3 for the students they were serving. That would go to our
4 educational line officers. The line officers then would
5 compile that information for their particular line office
6 and then submit that to central office. In central
7 office, we generated four tables then from that count. We
8 identified the number of students by line office. We also
9 identified the number of students by state. And then we
10 ran a table with self-governance, a second table without
11 self-governance -- the self-governance count. And then we
12 submitted to Congress annually.

13 To determine the dollar amount for a given
14 student, we used a formula that was based on the dollar
15 amount -- or the public school expenditure for that state
16 divided by the national average expenditure for public
17 schools for that particular year, with a minimum weight of
18 one. And then the maximum weight was determined by the
19 dollar amount spent by that particular state.

20 We had a lot of states that when we ran the
21 formula, their value came out to be less than one. We had
22 several states, such as Alaska, New York, Connecticut, in
23 which the value would come out -- at one time Alaska was
24 2.58. They had a weight of 2.58. So when they divided
25 the national average - say, it was \$5,000 - Alaska would

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1 be \$12,000 per student, something like that. So when you
2 divide 5 into the 12, you would come up with a value that
3 you would multiply times the number of students for that
4 particular state.

5 In the mid-'80s Congress directed us to change
6 our formula. So starting in 1989 we established a minimum
7 weight of 1.1. And that went up to 1.3 in 1991. And that
8 is the current -- or those are the current weights we use
9 for our Johnson-O'Malley count.

10 Now, the only time we do a calculation for the
11 Johnson-O'Malley program is if they are public school
12 students. We still run a formula every year. And the
13 dollar value per student would change every year based on
14 the appropriation by use of this formula. Where it comes
15 into play for 638 and self-governance is when we move
16 students from public schools to 638 or to self-governance.
17 Then we to have take and calculate the dollar amount that
18 would have gone to a public school that year and transfer
19 those dollars over to TPA or self-governance.

20 And TPA and self-governance, your dollar amount
21 is fixed once it is transferred into your base, unless
22 there's a change in the appropriation. You reprogram
23 dollars or you get a cost-of-living increase.

24 --o0o--

25 DR. HERRIN: And currently the maximum is 1.58

1 for Alaska.

2 --o0o--

3 DR. HERRIN: I've already covered this. In '95
4 we transferred the Johnson-O'Malley monies based on the
5 number of students served to tribes, either as part of
6 their Tribal Priority Allocations, TPA, program or part of
7 their self-governance.

8 We still have about -- for TPA, Tribal Priority
9 Allocation, the appropriation is a little over 13 million.
10 A little over 2 million of that still goes to public
11 schools.

12 --o0o--

13 DR. HERRIN: At '95 both the House and the Senate
14 directed us to move the monies directly to BIA, determine
15 how much each tribe was eligible to receive if a tribe was
16 operating a program. And then we transferred those funds
17 over to the tribal base.

18 --o0o--

19 DR. HERRIN: These are the legislation. Both the
20 House and the Senate directed us to take and move those
21 monies. And these are the various reports in which they
22 directed us to take and transfer the funds from education
23 over to Tribal Priority Allocation or to self-governance.

24 --o0o--

25 DR. HERRIN: And in '95 we counted -- we did our

1 last national count. At that time we counted 271,884
2 students. Actually in '95 it was 27 less than this. And
3 then we made an adjustment in '96. So this is the number
4 that we report as their last Johnson-O'Malley count.

5 --o0o--

6 DR. HERRIN: This gives you a feel for the
7 increase in the Johnson-O'Malley population. Between 1990
8 and 1991, the count went up 3.89 percent. There was a
9 growth of 3.89 percent. Between '91 and '92 is 1.35
10 percent, '92-'93 is 7.06 percent, '93-'94 was 5.87
11 percent, and '94-'95 was 4.76 percent. For a five-year
12 average it was 4.59 percent.

13 It's been 17 years since we've done a count. If
14 you multiply the 4.59 times 17, that will give you a feel
15 for possible increase in our Johnson-O'Malley count.

16 If we had continued to count with that increase,
17 we would have counted this past school year approximately
18 500,000 students. At this point we have no idea of what
19 our count is going to be when we do conduct a count this
20 year.

21 --o0o--

22 DR. HERRIN: Current -- for 2013 the projected
23 funding is roughly 21 million for education and TPA for
24 self-governance and consolidated tribal grant program.
25 There's still a small number of students counted for that

1 particular program.

2 --o0o--

3 DR. HERRIN: So we have the question, How should
4 we do the count? There's several options out there. One
5 way is for the eligible recipients of Johnson-O'Malley
6 funding -- yes?

7 MR. DRAPEAUX: Whenever there's a question, we'd
8 ask that all participants use the microphone. State your
9 name, your position and your tribal affiliation.

10 Thank you.

11 MS. ALLEN: Okay. I apologize.

12 Jacqueline Allen, council member of Fallon Paiute
13 Shoshone Tribe.

14 You had just gone too fast with the slide. I
15 didn't have time to write it all down.

16 Thank you.

17 MR. STEVENS: Bart Stevens, Associate Deputy
18 Director West.

19 We had handouts yesterday. I don't know if the
20 secretary's out there again today. I haven't been out
21 there. But all of our handouts, so you don't have to get
22 a cramp from writing, are posted on the website, BIE dot
23 EDU website.

24 MS. ALLEN: Okay.

25 MR. STEVENS: And also at the Assistant

1 Secretary's website under "Consultation Documents."

2 MS. ALLEN: All right. Thank you.

3 MR. STEVENS: You're welcome.

4 DR. HERRIN: Okay. Does that answer your
5 question?

6 MS. ALLEN: Yes.

7 DR. HERRIN: So we have the issue, how do we do a
8 count?

9 The other issue is, who do we count?

10 In '95 we counted students in 33 states.

11 However, I happen to know that there were some states that
12 have large indian populations that were not reflected in
13 the '95 count. An example is Missouri. In Kansas, you
14 have four tribes. The Iowa and Sac and Fox are along the
15 Kansas-Nebraska-Missouri border. There were no students
16 counted for Missouri. I think they rolled those students
17 into the Kansas count. But there were no students counted
18 in '95 for that particular state.

19 Working with the agency I had to do a school-age
20 population count in the '70s, which was a lot of fun. You
21 do smoke and mirrors because we had to count the
22 population nationwide and, in my particular case, were the
23 four tribes that were served by the agency that I was
24 working at.

25 And I know there were a large number of students

1 in Hawaii.

2 And in Oklahoma and Texas there were a large
3 number of eligible students or tribal members that live in
4 Texas where the tribes are located in Oklahoma. But we
5 only counted three tribes in Oklahoma -- excuse me --
6 three tribes in Texas in '95, and none of those were for
7 the Oklahoma tribes.

8 So there were several states that had large
9 indian populations in '95 that did not count students for
10 Johnson-O'Malley funding.

11 The other is the Department of Education for
12 Indian Education has over 1300 grants for indian ed.
13 That's conservatively larger than the number of grants
14 that we have -- or had in '95 for Johnson-O'Malley
15 program.

16 So we have the question of, how do we do a count
17 and who do we count?

18 Now, an option is -- and this is easiest of the
19 various options -- is to have schools, tribes and
20 states -- we still take and fund some states. Those
21 states then allocate the monies down to various public
22 schools that are serving Johnson-O'Malley students.

23 Have the eligible participants -- they can submit
24 a count at this time, since we have to report to Congress
25 by June 20th of this year our Johnson-O'Malley count.

1 Then if Congress asks for an actual count and when we do
2 take count which is supported -- just a count that is
3 reported, with no names behind it, we will take and
4 identified it as self-reported unverified.

5 And then if Congress asks for possible funding
6 needs for that or when we take and -- if we get an
7 appropriation to cover the new count, we would have to go
8 out and verify.

9 That is one option, ask for a count at this time,
10 just a head count by the eligible participants.

11 The other is to ask for a head count and then
12 come back and ask for a list of student names. So that
13 would be taken to verify the eligibility of those
14 students.

15 Now in '95 we did have a situation in which one
16 particular state had an over-count of 700 students. When
17 we went back to verify, they had no way to verify that
18 those 700 students existed.

19 So we would need to be able to -- if funding
20 becomes an issue with this, we would need to be able to
21 verify that student count.

22 --o0o--

23 DR. HERRIN: So we ask for feedback on how do we
24 count and who do we count?

25 Again?

1 Oh, okay.

2 MR. DRAPEAUX: We lose you. You get going and
3 then it drops down here and we can't hear you.

4 DR. HERRIN: Okay.

5 Yes.

6 MS. HOAGLEN-CARD: Zerlinda Hoaglen-Card, Round
7 Valley Tribal Council secretary.

8 I just text my vice president and asked him a
9 question on your question about this. And what we gave
10 back to me was - and I don't know, maybe you already do
11 it - but would it be possible to base it on enrollment?
12 Because like, for instance, the smaller tribes, you know,
13 they get the same count, which they get the same amount of
14 money. Which sometimes it's money, but sometimes it's not
15 enough for the smaller tribes. So that was just a thought
16 of a new formula to be able to base it on tribal
17 enrollment for K through 12.

18 DR. HERRIN: That would be a possibility. And
19 since many tribes have an electronic enrollment system
20 now, it would be a manner of downloading those tribal
21 members -- a list of those tribal members that fall in the
22 age group of 3 through whatever a 12th grade student would
23 be - 18, 19, that age group - and submit that count. For
24 the initial count that would be acceptable.

25 Should Congress -- and you need to recognize,

1 Congress did not say anything about additional funding.
2 They just asked us to do a count. And that's this
3 exercise.

4 The second step is translating that count into
5 funding. We would need to make sure that the tribal
6 enrollment count was not a duplicate of other counts, such
7 as those submitted by public schools. And that's where
8 the list of names would come in so that there would be
9 some effort to verify that there were no duplicates.

10 --o0o--

11 DR. HERRIN: We have states, we have public
12 schools, we have some private schools. We have tribal
13 groups, both in TPA, self-governance-and CTGP, that we
14 would need to notify.

15 There is a draft memo that is in central office.
16 It will be finalized after the last consultation session.
17 And then that will be sent out to respective parties
18 involved with a JOM count, to the tribes -- the various
19 tribes, and then the public schools, in which we have
20 counts in '95. And then if a decision is made to expand
21 that to other eligible recipients -- since '95 the Bureau
22 has added several new tribes. So we would have to notify
23 them of the count.

24 So we would need to come up with who we counted.
25 As I indicated, in '95 there were 33 states at that time

1 that we counted students in.

2 --o0o--

3 DR. HERRIN: The last is if and when that JOM
4 position is developed and someone is employed for that --
5 and Bryan probably went through the funding issue and were
6 faced in central office. It would be probably a position
7 that has collateral duties. But where would that position
8 be located in central office - at the line office level,
9 at the associate deputy director level, or do we position
10 it in one of the field units if we only go with one
11 person?

12 --o0o--

13 DR. HERRIN: And then Brian was selected to
14 collect information. So if you have other information
15 that you want to provide, you can send that to Brian.

16 So with that, that is a quick overview. We were
17 asked to do a count through consultation with tribes and
18 Department of Ed. So now the issue is, how do we do the
19 count, who do we count?

20 And I open it up to the floor for comments then.

21 MR. KING: Good morning. Tracy "Ching" King from
22 Fort Belknap, president.

23 I know that a lot of us gave up thousands of
24 acres on our reservations as far as what they call a -- I
25 think it's section 16 or 36, or both, of each township,

1 that we gave those up -- some of us gave up lands for the
2 missions or, you know, Catholic schools, parochial schools
3 and to those -- to the states. And when they sent us off
4 to boarding schools wherever, somehow when you're out of
5 state, it doesn't benefit you. But at the same time we
6 get a failing grade -- the public school system fails us.
7 And so, you know, those are the concerns I have, is we
8 have head counts on here, but at least -- I mean that
9 factor has to be figured in there too. Because if the
10 public school system is failing our indian students, then
11 there's something wrong, you know, the schools that are
12 border-town schools, whatnot, or even on your own
13 reservations.

14 So historically and today, the system continues
15 to fail our students. And I'll say, in my lifetime I have
16 never, ever seen any child fail. But the systems failed
17 them.

18 And so that's the big problem I have, is when you
19 have a head count and the school systems benefit but our
20 students continue to be failed.

21 And so, I think -- you take a farmer that farms
22 on the Fort Belknap Indian Reservation on trust land, he
23 puts his farm into a crop reserve, CRP, and I believe they
24 could individually maximize that program by 40,000 per
25 individual. And then him and his wife and son could get

1 40,000 apiece per year to just let it in grass. Then at
2 the same time have a few companies. So they could get
3 200- to 300,000 a year on trust land.

4 And so the reason I want to bring that up is
5 because the -- we don't know if this program is being cut
6 or even that position will be filled.

7 So that those are some of the things that I have
8 a concern about, is the disparity. Seems like in the real
9 world you'd rather be a farmer than put in for
10 Johnson-O'Malley. You're better off. But those are the
11 problems I have. When they continue to fail our kids, I
12 have a hard time with that.

13 Thank you.

14 DR. HERRIN: One of the problems -- I'm aware of
15 the problem you're referring to -- is some of our programs
16 are so small, the Johnson-O'Malley programs are so small.
17 And in recent years we've had the appropriation problem.

18 In the '90s we would take and put out 75 percent
19 of the estimated amount for the Johnson-O'Malley program
20 on October 1 to public schools and to tribes. Well,
21 tribes, you have the TPA, so you're continuing operation
22 unless Congress doesn't appropriate monies for a
23 particular program. With public schools they have to wait
24 until we allocate monies to them. And because of the size
25 and the fact of the uncertainty of the JOM monies,

1 particularly in the appropriation process, we have several
2 public schools that are backing out of JOM program. They
3 don't want to be involved with it. Particularly here in
4 California, we have a small number in Oklahoma, where the
5 public schools had deemed this not worth the effort to do
6 the paperwork to get the program.

7 Tribes have first priority on the JOM program.
8 You can ask to take over the JOM program for your
9 community and have the monies go through the tribe and the
10 tribes sponsor the program.

11 It does not have to be a public school. You can
12 work with a public school, but you can have the monies in
13 your 638 or self-governance compact.

14 MS. MARTINE-ALONZO: Good morning. I'm Nancy
15 Martine-Alonzo from Ramah Band.

16 In terms of who do we count, how do we count, I
17 know that the BIE when they count the ISEP population,
18 they have been using like an average of I think it's the
19 three -- I think it's an average of three years. You
20 know, the three -- the couple years prior and then the
21 current year. And I know that in our school we've had
22 declining enrollment. But when the BIE used that
23 three-year average, and they counted the previous couple
24 years and the current year, that somehow seemed fair than,
25 you know, really taking a count at a given point and

1 place.

2 But that consistency of what the enrollment was
3 the previous three years and the average of that, I
4 thought that worked okay for our school. I don't know if
5 that's a possibility in determining, you know, a single
6 count that you're talking about.

7 DR. HERRIN: Okay. What the lady is referring
8 to, back in 2005 -- prior to 2005 we did an annual count
9 for the students enrolled in the Bureau-funded schools.
10 And we based the funding for that school based on that
11 annual count.

12 That is good if you have a school that has an
13 increased enrollment every year. Our population in our
14 schools fluctuated every year. It was bad for a school
15 that is on a decline enrollment, in which their enrollment
16 drops every year, because you got funded based on the
17 students that were present that year that we did the
18 count.

19 In 2005 we changed the funding formula to do an
20 average of the previous three years. That meant that a
21 school with declining enrollment would get additional
22 dollars because it factored in two years in which they had
23 a higher enrollment than the last year, and higher than
24 possibly this year.

25 It was a disadvantage for those schools that had

1 an increase in enrollment, because you were always running
2 behind. So if your count went up every year, with a
3 three-year average you would get funding for a smaller
4 count than you possibly would have in the school for that
5 year. That is a possibility of doing a three-year
6 average.

7 The question is, will Congress -- if Congress
8 provides additional funds for this, will they take and
9 build in an annual count or a count every 3 years or every
10 5 years or every 10 years or 17 years from now, as with
11 the last count. That will be something that will have to
12 be determined by Congress.

13 Okay. There was somebody else that had a
14 question.

15 MR. DIXON: Good morning. My name is Aaron
16 Dixon, Susanville Indian Rancheria.

17 When you talk about student count for JOM, have
18 the tribes received notification that a count has to be
19 done by June of this year?

20 DR. HERRIN: In the CFR notice, Federal Register
21 notice --

22 MR. DIXON: When did that go out?

23 DR. HERRIN: -- announced the consultation
24 sessions, that we were directed to do a count. We had --
25 I don't know if it went into specifics, but we had 180

1 days from December 23rd, thereabouts, to report back to
2 Congress.

3 So information is out there. Whether particular
4 tribes got it, I don't know.

5 MR. DIXON: Because I just got done texting our
6 tribal administrator and I asked him if we received
7 notification from the federal government that they're
8 going to be conducting a count on JOM. And it's kind of
9 surprising that the last count was done in 1995. And of
10 course who's going to have to absorb that cost is going to
11 be the tribes, because there's going to be increases in
12 those -- in that population count for the JOM.

13 In our area, we don't have the BIE schools or
14 any -- all of our kids go to public schools or go to -- if
15 they get kicked out of school, they go to charter schools
16 or home study.

17 So regardless of the -- we get to the point of
18 lack of funding. And I believe that Congress should give
19 us an increase in the JOM funds, because it's a need, it's
20 a need for our kids. Because right now some of the tribes
21 are absorbing those costs and they're not getting
22 reimbursements for those funds.

23 So it's important that when -- I'm going back to
24 my tribe today to submit a written report in regards to
25 everything that happened yesterday and today. So it's

1 important that we submit a written document to the federal
2 government to make them aware that it is a need and it is
3 a crisis.

4 Thank you.

5 MR. STEVENS: Joe, can I interject?

6 MR. HERRIN: Yes.

7 MR. STEVENS: Bart Stevens, ADD West.

8 Can't get close enough to this mic.

9 For those tribes here in California that receive
10 services of any time from the Sacramento line office here
11 in Sacramento, we're faced with a situation that we've
12 been unable to resolve legally with JOM dollars, because
13 those -- based on the previous count, and the amount of
14 money that's put into JOM, results in very small amounts
15 coming down to the Sacramento line office.

16 What we see on our reports -- on our accounting
17 reports is that this money continues to sit at the line
18 office. And it continues to sit at the line office, one,
19 because it's so small; but because it's so small, tribes
20 don't accept it. Because it's so small, they can't hire
21 somebody with that money to manage that money, to get it
22 out to schools to provide the services.

23 And when I said we haven't resolved it legally,
24 because legally what it should do is we should identify a
25 commercial contract contractor, put that money into that

1 contract, and let that commercial contractor provide that
2 service, whatever it may be, textbooks, caps and gowns,
3 school supplies, whatever that may be, to dole out to the
4 kids served by this line office. No one's come forward
5 with a proposal of a commercial contract, and we can't go
6 out and identify somebody to do that. So the money sits
7 at the line office.

8 What someone line offices do, and it's not
9 necessarily aligned with regulation, is that the line
10 office manages the program, goes out and uses that pot of
11 money to buy cases and cases of school supplies, and then
12 will manually go out and dole them out to those tribes
13 under that line office. That's not the correct way to do
14 things.

15 So the issue that we have here, one, in
16 Sacramento is those monies are so small that tribes refuse
17 them. And because they're so small, they can't hire the
18 staff to manage the program. And so it ends up sitting at
19 the line office. And that's where it's currently sitting
20 now.

21 And legally I can't direct the line office to,
22 say, "Well, go out and buy all those school supplies." It
23 makes sense to do it that way, but it's not something
24 that's supported by regulation.

25 So that's kind of the dilemma that we're in with

1 this region - and there's others that are like that -
2 because JOM is so small.

3 I just wanted to share that with you all.

4 DR. HERRIN: Adding to what Bart indicated, you
5 know, in 638 there's a provision that if the tribe
6 rescinds or returns those services to the Bureau, the
7 Bureau is to provide those services. We have that
8 situation in Oklahoma where, through problems within the
9 tribe, the Bureau assumed the operation of the financials
10 for that tribe. And in that process, they also assumed
11 the responsibilities for adult ed and scholarships and JOM
12 for that particular tribe. But in our regulations it says
13 the Bureau does not operate Johnson-O'Malley programs.
14 Those are to be done at the public school or the tribal
15 level.

16 Currently I'd received calls -- there's a small
17 tribe in Arizona. In '95 they counted 13 students. They
18 want to take over the operation of their program. And
19 they've had their lawyer from DC -- and if you know what a
20 lawyer in DC is going to cost -- that lawyer has called me
21 two or three times asking about how they take over the
22 operation of the JOM program. All they need is a tribal
23 resolution saying that "we want to take over the JOM
24 program for" this particular school. And for other tribes
25 where the monies go to public schools, that's all that

1 would be needed.

2 MR. KING: Tracy King. You know, I truly believe
3 that no matter how small or how large a JOM program, that
4 one student is -- I think it's very important that they
5 receive a service, you know. And that's one of the
6 things.

7 Then you look at the one-fourth blood, you have
8 students -- we all have members that are -- probably have
9 that blood but they're not enrolled. There could be a
10 number of tribes, kind of like my grandchildren,
11 inter-tribal. They're either Lakota, they're -- Lakota,
12 they're Cree, they're Assiniboine, Gros Ventre, Blackfeet,
13 even the Assiniboine Canada, hey.

14 And so I never had any choice of who my folks
15 were going to be, you know. I really didn't, you know.
16 They're probably sorry they had me. But at the same time
17 I'm thankful they brought me into this world.

18 And so, you know, the ones that are -- I know
19 that's always a big question that I've -- I've asked the
20 BIA in, I believe it was, January of 2004 about
21 eligibility for JOM, quarter blood, because I do know some
22 got services. But they weren't enrolled. I mean that's
23 always been an issue. And I believe that, you know,
24 they're over a quarter, you know, some of them are over
25 half or even full.

1 I believe some young lady had 16 tribes in her
2 back in -- when Bill Clinton was running for President,
3 this young lady had 18 different tribes in her -- or 16,
4 and she wasn't enrolled any place. And she asked Bill
5 Clinton, "What are you going to do for me? Because I'm a
6 full blood but I have all these tribes in me."

7 So that's always something that needs to be --
8 like I said, you know, you ask a solicitor's opinion. And
9 it's been eight years and I still haven't got an answer
10 from them. Maybe I'll never -- maybe they don't give a
11 damn. I don't know.

12 Most solicitors I have a problem with anyway
13 because they -- you know, someone running a program should
14 be able to tell me and not a damn solicitor, you know. I
15 mean that's what people are hired for.

16 But, you know, again, I want to express that, you
17 know, we have -- we run our own JOM. But when I was
18 talking earlier about the ones that don't have, you know,
19 there needs to be something done to help all of our indian
20 students, no matter -- because, you know, some of us step
21 up as tribal leaders, not only through our budget but
22 through our own pockets that we help young folks get
23 through school, especially if they're struggling with a
24 lot of death in their family or if they come from a broken
25 home.

1 I've seen young folks in boarding schools that
2 ask the tribe for money because they couldn't afford
3 anything. So rather than argue with whoever has custody
4 of them -- it's not going to do me any good to go cuss the
5 grandparent or a parent or foster parent out. I'm just
6 wasting my time. So rather than that, we just reach in
7 our pockets and send them money, you know, to help them
8 out. And I think that's the most important thing is --
9 you know, bitchin' don't help me. But, you know, when
10 someone needs something, I just figure it's best just to
11 go help them out. Because it's not their fault if they're
12 not going to be helped by whoever.

13 So we have to step up, but also need to change
14 some regulations, some laws that address a lot of the
15 issues that come to the table.

16 And I believe again it's the -- it's the students
17 that we have to believe in, you know, and not tell them a
18 bunch of regulations that, you know -- it's their life.
19 You know, we have to step up for them and make sure they
20 get a good education.

21 And I remember back in '76 when I was graduating
22 that I didn't know where to turn to. We were in a
23 boarding school and didn't have anybody to turn to. So I
24 kind of held up my sign, "will work for clothes," you
25 know. But if it wasn't for some of the folks that were

1 working there, I would have never made it through school.
2 That helped me with clothes and whatnot. It helped me
3 with announcements, all that. I mean I could imagine how
4 a student -- if their folks are failing them and then we
5 fail them, how they would feel of nobody cares, you know.
6 And I see so many of them students like that. And I don't
7 like it myself, because I give my own council hell when
8 I help -- when they -- or they complain about me helping
9 people. But they never come to me.

10 So I just want to make sure that we do it for the
11 kids and not for our self-interest, you know. It's them,
12 not me, you know.

13 Thank you.

14 MR. STEVENS: Appreciate those comments.

15 MS. MARTINE-ALONZO: Nancy from Ramah Band of
16 Navajo.

17 I have a couple of jobs. Being president of the
18 Ramah School Board is my night job. My day job is being
19 executive director of the Albuquerque Area Indian Health
20 Board. And we sort of have a situation similar to what
21 you're describing. AAIHB is a consortium of seven tribes.
22 And we contract for ideology and HIV education and
23 prevention monies, because the seven tribes receive small
24 amount of monies, but not enough to really hire their own
25 ideologist and all the services that go with it. Because

1 they may -- one may get like 37,000, another may get like
2 53. The going minimum cost for ideologist is about 75,000
3 on up plus fringe.

4 And so all of these tribes put their money
5 together, and out of that we create a core program for
6 ideology services. So I'm wondering if there are some
7 funds that are very small amount that you cannot hire an
8 FTE to coordinate or use the funds -- could an
9 organization, a nonprofit corporation or a tribal
10 organization, could they contract for those dollars on
11 behalf of several tribes or consortiums of tribes and do a
12 similar process like that where they would be the -- they
13 would be the institute that would be accountable and
14 responsible for the accounting of the funds and using the
15 funds appropriately and prudently. But they would then
16 administer the services for those member students.

17 That's one.

18 The other comment is, if some tribes do not want
19 to take the money, can they sign a document saying, "We
20 don't want the money," and could that money go back into
21 that fund, so that it gets redistributed to those that
22 want it? Is that a possibility? Is that legally
23 possible?

24 You know, those are two comments I would have
25 regarding this.

1 MR. STEVENS: Bart Stevens.

2 You're absolutely right. A group can come
3 together - and one has in Albuquerque - to manage these
4 funds on behalf of tribes. And they need tribal
5 resolutions on the tribes they're representing that grant
6 them that authority to represent them and to manage these
7 funds.

8 So that is definitely doable. That's the
9 commercial contract piece that I talked about.

10 The redistribution, I'll let Joe talk about that.
11 But what we'd like to see happen, if the tribes -- and,
12 again, what I instructed the line officer here to do was
13 to get letters from tribal leaders that explicitly state
14 that they don't want to manage these funds. I would
15 hate -- and I agreed with Mr. King's comments about, you
16 know, students deserving the services whether the tribes
17 accept the JOM dollars or not. So what I'd rather see
18 happen is the money stay in Sacramento and we do something
19 different creatively, so that we can provide that service
20 to those students here in this area rather than it go out
21 to be redistributed.

22 MR. DIXON: Aaron Dixon, Susanville Rancheria.

23 I have to disagree with your request to have the
24 tribes send letters in regards to that, because at some
25 point in time Congress is going to construe that that you

1 don't need any money from the United States government.
2 So I would kind of deter that request. Because once you
3 start refusing money from the federal government, then
4 they're going to in turn say, "Well, you wrote a letter
5 indicating you didn't want education funds." But at the
6 same time, the tribes are suffering because there's very
7 little money in there, because the federal government
8 doesn't have the support for our indian kids. The only
9 ones that are supporting our indian kids is us. We're the
10 ones that are here supporting our kids, getting our kids
11 through school, because they have large needs also. But
12 we want to make sure that our kids are successful.

13 MR. STEVENS: Sure.

14 MR. DIXON: And so I would have to say myself,
15 for my tribe, I'm not going to send a letter saying that
16 we don't want those funds, because we use those funds. We
17 use those funds to the fullest extent and then some. And
18 if we have shortfalls, then the tribe has to kick in
19 additional money for our kids, unfortunately.

20 Thank you.

21 MR. STEVENS: Well, I appreciate those comments.
22 And that's absolutely right. It's the wording of the
23 letter. The wording of the letter, in my opinion -- the
24 suggested wording would be that the funds are too small
25 for us to manage. And if the reverse is opposite, then

1 write the letter requesting the funds and manage them.

2 Are the two alternatives.

3 But it's the language of the letter, not refusing
4 that we don't have a need; but that we're refusing because
5 they're so small, that we can't afford to manage them
6 ourselves with an FTE or what have you.

7 So it's the language of the letter, not just
8 refusing money, because we all need the money. The indian
9 country needs the money, these indian kids need the money,
10 I agree with that. So it's the verbiage of the letter.

11 Because legally we need that for us then to take
12 control over those funds. Without documentation, we, as
13 Feds, can't manage that money.

14 DR. HERRIN: We also have the issue of public
15 schools; because of the size, they're unable to -- unable
16 or unwilling to operate the program. Those I would
17 recommend that the tribes look at. And if they have
18 tribal members there, ask to assume the operation of that
19 program. And you can do that through a tribal resolution
20 request and to take over a particular program.

21 The public school count has decreased
22 considerably since 1995 because tribes have assumed the
23 operation of the Johnson-O'Malley program.

24 MS. ALLEN: Jacqueline Allen, Councilwoman,
25 Fallon Paiute Shoshone Tribe in Nevada.

1 Talking about the public school. That's a
2 concern of mine, because there -- when our children go
3 to -- start school, there's this yellow form that they
4 have to fill out if you're a federally recognized tribal
5 member. And they're really nice to us until they get that
6 form back. And then the whole attitude changes towards
7 our children. And that needs to be accountable to them in
8 the public schools. They need to watch that attitude,
9 because it's not right.

10 MR. STEVENS: We understand that and -- Bart,
11 Stevens ADD. Tracy brought that up yesterday about
12 being -- again, your being nice or treated well up until
13 that count date. And what that form is is the state form
14 to generate impact aid dollars, which you all know about.
15 And we talked a little bit about that yesterday.

16 And we talked about what technical assistance the
17 BIE -- although we have no oversight over public schools,
18 but we can definitely -- and what I've committed to in my
19 region is advocating on behalf of indian students in
20 general. And sometimes that includes public schools. And
21 I offered my assistance to some of the people that were
22 here yesterday that brought up concerns with impact aid in
23 Title 7 and things that we can do for tribes and indian
24 students in general in advocating for those processes to
25 be in place.

1 But I understand that's exactly what does happen
2 when our native students are the minority in some of those
3 public schools and they see dollar signs. On my
4 reservation alone we have -- last count there were six or
5 seven different school buses patrolling our res looking
6 for those indian kids to come to their school, having
7 options like that because they want that impact aid money,
8 which is sizeable to some extent.

9 But absolutely. I empathize with that. And if
10 there's anything that I can do as the associate deputy
11 director within the BIE, along with the line officer here
12 in Sacramento that I supervise, in providing whatever
13 technical assistance or guidance that we can, by all
14 means, call upon us.

15 MS. ALLEN: Thank you.

16 MS. MARTINE-ALONZO: Nancy Martine-Alonzo.

17 I've thought of another comment as you were
18 talking about it, and also with IHS. There are some
19 tribes that elect to leave their IHS dollars with the area
20 IHS and then they provide the services. Is that a
21 possibility? Like you were talking about that the money
22 has to flow through to the tribes or to the schools. But
23 could there be created an option for if the amount is
24 small, could that then be just administered by wherever
25 the funds are going to come from, from BIE or from the

1 tribe? Could they leave that there and someone else
2 administer it?

3 MR. STEVENS: Yeah, in a commerce contract.
4 Another entity can solicit for that commercial contract.

5 What we had in Albuquerque was Heather Townsend
6 had a firm and solicited for that commercial contract out
7 of the New Mexico South line office in Albuquerque, and
8 for the Albuquerque public schools.

9 So something similar to that can happen. And
10 that's that commercial contract piece.

11 DR. HERRIN: In your case where the monies go to
12 the tribe, the tribe could contract with IHS if they
13 wanted to.

14 The Bureau doesn't have a mechanism to contract
15 with IHS. Well, we have mechanisms to transfer funds.
16 But the monies have already gone to the Navajo tribe for
17 your school. If they wanted to work with IHS as a service
18 provider, that is a tribal decision.

19 MR. KING: Tracy "Ching" King, Fort Belknap
20 President.

21 In regards to the October deadline that we talked
22 about when these white teachers play good to our indian
23 students and then after Columbus Day they kick them out,
24 remind us of Columbus Day.

25 And then from there -- and I forgot to mention,

1 yesterday is -- in Montana there's the Two Eagle River BIE
2 school. And northern Cheyenne has one. So once our
3 students are kicked out of the public school system, they
4 also attend those schools as well. And so that's a
5 funding concern to these schools, because Harlem
6 schools -- I call it prostitution. They prostitute our
7 kids and then they get all the money and they say, "The
8 hell with your students. We already used you."

9 And I really have a hard time with that, you
10 know, because we're always having to fight for the
11 education of our students. And they -- you know, a lot
12 of -- there is a great school in Pierre, South Dakota, and
13 a lot of our students go there, because again they're
14 kicked out. And so we have some students that are
15 graduating from Chemawa as well as Flandreau. But those
16 are some of the -- I mean there's no budget formulation
17 for those students that seem to be kicked around by the
18 schools. You know, I just had a young student that -- I
19 mean she's now in college where she attended Harlem
20 School. And she was telling me how prejudice some of
21 those teachers are and what they say to them.

22 You know, if I have a disallowed cost from the
23 BIA or IHS, they will -- they'll stop the funding or
24 piecemeal to me until I'm in compliance, you know. So
25 that's another problem I have, is these schools, they

1 could tell me to go to hell, you know, "get the hell out
2 of my school board" and have a white sheriff either arrest
3 me or send me back to the res, you know. And I used to
4 fight for these students. And so when I would advocate
5 for students that were going to get kicked out, then the
6 school board would stop me -- or the school would stop me
7 from working with students.

8 And I just told them, "You're not hurting me."
9 And "you're hurting the students. I really don't give a
10 damn if you like me or not. I really don't care" is what
11 I'd tell them, you know. "All you are is pissing me off,
12 you know. And so when I challenge these folks, you know,
13 they don't like me to go to the school board because I
14 guess I'm nothing but trouble. But that's all right.
15 They don't have to like me and I really don't care. But
16 they don't look out for the future of our kids once they
17 get that money - just for August, September and part of
18 October, it's the only time they really care for them.

19 And like I said, you lack -- we have to fight the
20 BIA for disallowed costs for two years. It was like \$11
21 million dollars. And so it took me six months to work
22 with them to clear that up, and then the funding came.
23 And to me that's what needs to happen, is there needs to
24 be laws and regulations. If an indian student is failing
25 because of JOM or BIE funding or impact aid, then there

1 should be consequences, because they need to be written up
2 or pay back the money like what we have to do. And that's
3 what really gets to me is I have to pay back and they
4 don't. They don't give a damn, you know. And so
5 that's -- I have a hard time with that.

6 Plus our council wants a -- you know, on a
7 national level they want a \$22 million increase in
8 Johnson-O'Malley funds, you know, because they know how
9 important those funds are to our students. It gets them
10 field trips. They get to be exposed to various colleges.
11 They get incentives for being on an honor roll.

12 Then on the tribal side, we have a -- when folks
13 want a pay advance, we charge them \$50. And 30 of that
14 goes to our students in a scholarship. So we have an
15 incentive program that's sponsored by the people who get
16 pay advances, and we help kids that have no income or
17 anything. And so we have an incentive program.

18 But I believe that Johnson-O'Malley is a good
19 program. But Congress or anybody shouldn't be cutting
20 that, you know. Again, you know, I just have a hard time
21 with these teachers that like us till October and hate us
22 the rest of the year. And they just don't give a damn,
23 and I -- we're trying to fight the school boards and the
24 school system. And they don't like me but, like I said, I
25 don't care.

1 Thank you.

2 MR. STEVENS: Appreciate those comments. And
3 commend your tribe's effort with the payroll advances. I
4 think that's commendable.

5 Well, if there are no further questions, we'll
6 take a quick ten-minute break, and then we'll get into
7 grant assurances. Go grab a cup of coffee and take care
8 of what you have to, and we'll be back here in 10.

9 (Off record: 9:28 a.m.)

10 (Thereupon a recess was taken.)

11 (On record: 9:43 a.m.)

12 MR. STEVENS: Okay. We're going to go ahead and
13 get started. If you see somebody out in the foyer, if you
14 would direct them in.

15 This next piece speaks specifically to the grant
16 assurance statements that the BIE requires our tribally
17 controlled grant schools to sign annually. And the
18 document is in consultation for the revisions that are
19 being applied to this document.

20 Again, these the grant assurance statements that
21 are tribally controlled BIE-funded programs, our schools,
22 are required to sign annually. And out in the audience I
23 only know of one tribally controlled grant school, two,
24 Pine Hill, that are present to hear this piece.

25 So although it applies directly to them, we'd

1 love comment from all of you pertaining to this document.

2 (Thereupon an overhead presentation was

3 Presented as follows.)

4 MR. STEVENS: And I am sure that both Pine Hill
5 and Blackwater are well aware of this document and the
6 purpose and so forth.

7 --o0o--

8 MR. STEVENS: So we're going to go through --
9 and, again, handouts are out on the table. If you missed
10 them yesterday, they're back out there again today. And
11 this document, this draft document is a part of that
12 packet that's outside.

13 So the assurance statement, as indicated in the
14 PowerPoint and on document itself, is a non-construction
15 programs document as far as grant assurances go.

16 And so we're seeking input on this form that
17 deals specifically with 100-297 schools, which are our
18 tribally controlled grant schools.

19 So assurance statement is the document that's put
20 in place to allow for the transfer of funds from the BIE
21 to the grant school to complete specific tasks to be in
22 compliance with specific statutes and laws, understanding
23 that the Bureau of Indian Education cannot and will not
24 impose Interior policies or government policies from the
25 Bureau to grant schools. We can't do that. We can only

1 put upon grant schools federal statutes. So keep that in
2 the back of your mind.

3 So we're particularly interested in your
4 perspective on adding the following statements: The
5 environmental requirements and ESEA and IDEA. ESEA is "No
6 Child Left Behind," the requirements of that law; and IDEA
7 is students with disabilities special education
8 regulations. And again reemphasizing the imposing of
9 statutes as a proposed to policies on our tribally
10 controlled grant schools.

11 Environmental requirements are those of EPA, that
12 frequent our schools quite regularly, especially recently,
13 and identify noncompliances. Because although you are a
14 tribally controlled grant school, you are still bound and
15 still a part of the Bureau of Indian Education. When the
16 EPA goes out and has findings and finds there are put
17 forth, it still falls back on the BIE as being responsible
18 for those noncompliances with EPA regulations.

19 So we're just going to go item by item. I think
20 there's 12 of these regarding this document.

21 So the Assurance Statement No. 1 deals with the
22 legal authority to apply for federal assistance and to
23 ensure proper planning, management and completion of the
24 program activities for which the funding is being provided
25 is being met.

1 And by signing the grant assurance statements,
2 the school boards or the grantee - in some cases it's the
3 school board, in some cases it's the tribe - have signed
4 these assurances statements indicating that they'll comply
5 with these assurances.

6 --o0o--

7 MR. STEVENS: Assurance Statement No. 2 gives the
8 awarding agency, which is the Comptroller General of the
9 United States and, if appropriate, the tribal governing
10 body if it then goes from the council to the school board,
11 access to the right to examine all records, books, papers,
12 or documents related to the award for oversight and
13 monitoring of compliance purposes.

14 --o0o--

15 MR. STEVENS: Assurance Statement No. 3 will
16 establish a proper accounting system in accordance with
17 general accepted accounting standards. For those of you
18 that don't know, our tribally controlled grant schools are
19 held responsible for an annual audit. And this is just an
20 assurance statement addressing that, that they will hire
21 or contract out an accounting -- or put in place an
22 accounting system that's in accordance with accounting
23 standards.

24 --o0o--

25 MR. STEVENS: Assurance Statement No. 4 will

1 establish safeguards to prohibit employees, appointed or
2 elected officials from using their positions for the
3 purpose that constitutes personal or organizational
4 conflict of interest or personal gain.

5 This statement is pretty self-explanatory. It
6 talks more in-depth to the abuse of authority or the
7 exceptional treatment based on positions and status within
8 the school, the school board, or the tribal organization.

9 --o0o--

10 MR. STEVENS: Assurance Statement No. 5 will
11 comply, as applicable, with provisions of the Hatch Act,
12 which limits the political activities of employees whose
13 principal employment activities are funded in whole or in
14 part with federal funds.

15 Being an election year, we have been constantly
16 reminded of the Hatch Act as federal employees what we can
17 and what we cannot do. And it's mostly cannot. Even to
18 the point of removing President Obama's picture from the
19 walls in our office because it's an election year. That's
20 how stringent the Hatch Act is.

21 --o0o--

22 MR. STEVENS: Assurance Statement No. 6 will
23 comply with any applicable tribal, state and federal
24 environmental laws and safety standards which may be
25 prescribed pursuant to the following: The National

1 Environmental Policy Act of 1969 and Executive Order
2 11514, which speak to environmental issues.

3 MS. GARCIA: I have a question --

4 MR. STEVENS: Yes.

5 MS. GARCIA: -- in regards to --

6 MR. STEVENS: Please say your name.

7 MS. GARCIA: Okay.

8 MR. STEVENS: And use a mike.

9 Whoa, that cord's stretched pretty tight.

10 MS. GARCIA: My name is Martha Garcia, Ramah Band
11 of Navajo.

12 In regards to Assurance Statement No. 5, we're
13 talking about a compliance with the Hatch Act regarding
14 political activities of employees. These are just
15 employees that are working under this particular grant, or
16 does it cover all employees within your organization? And
17 if you are a tribal organization, sometimes you can't help
18 but, you know, get involved in some of these activities
19 during political year.

20 How far does this compliance -- where does it
21 stop and where does it -- well, what are the limits, I
22 guess?

23 MR. STEVENS: Okay. First of all, I would
24 reference the Hatch Act. And it's available on line. And
25 it's obviously going to be a little different for federal

1 employees. It's very stringent with due process, with
2 employee rights and responsibilities on how we enforce
3 this. And we go through a due-process procedure with --
4 one example, four years ago we had an employee email on a
5 federal email account. She forwarded political
6 statements. So we start the due process; you know, letter
7 of warning, letter of -- verbal warning, letter of
8 warning, reprimand, suspension, dismissal. We start that
9 process.

10 Where, as this is federal dollars going to a
11 tribe, and the employees are tribal employees, it's still
12 tied back. If your employment activities are funded in
13 whole or in part with these federal dollars, then this
14 applies to you.

15 So when the grantee, the tribe or the board, is
16 signing this assurance statement, you're saying by your
17 signature that you're going to hold your employees to the
18 same standard that we as federal employees are held to.

19 So what that looks like, where it begins, where
20 it ends, what you do, is entirely up to you. But the
21 people who sign the document and are accepting this grant
22 are saying that you're going to be as stringent on this as
23 we are. And when you're not, then we could have some
24 issues.

25 But what that looks like would be stated probably

1 in your faculty handbook, your employee handbook, or your
2 tribal personnel policies, which I'm sure it is to some
3 extent. But what that due process looks like is your
4 call. But keep in mind, that when you're assigning the
5 assurance statement, you're saying that you will impose
6 what you need to to make sure that your employees that are
7 funded by federal dollars are compliant with this
8 assurance statement.

9 --o0o--

10 MR. STEVENS: Did that answer your question?

11 MS. GARCIA: Yeah.

12 MR. STEVENS: Okay.

13 MS. GARCIA: Does it cover tribal politics?

14 MR. STEVENS: Joe, are you aware of that answer?

15 Does the Hatch Act assurance statement cover tribal
16 politics -- tribal elections?

17 My first answer would be no.

18 DR. HERRIN: I would think so. It deals with use
19 of federal funds --

20 MR. STEVENS: Oh, we need a mike, Joe. Sorry.

21 DR. HERRIN: I'm sorry.

22 MR. STEVENS: Joe Herrin -- Dr. Joe Herrin.

23 DR. HERRIN: I go by Joe. It's a lot easier when
24 compared to some of the name I've been called.

25 (Laughter.)

1 DR. HERRIN: I don't think it does. But I would
2 defer to counsel. I know with other elections it would
3 not because you would be using federal funds for political
4 benefit. If the tribe is not using monies for the
5 election, you know, your candidates shouldn't have access
6 to the dollars. But, again, I would defer to legal
7 counsel on that.

8 MR. STEVENS: Thank you.

9 Assurance Statement No. 6 we covered, about
10 following EPA compliance.

11 Hold on.

12 Okay. Let me come to you.

13 MS. ANTONE: Audra Antone, Gila River Indian
14 Community and Blackwater Community School.

15 I just had a question about the Hatch Act in
16 like -- the sense of like lobbying and things like that.
17 Would that still -- you know, would we still be in
18 compliance? Or how would that --

19 MR. STEVENS: Okay. As non-federal employees,
20 you can lobby to your heart's content and this does not
21 apply at all. I'd encourage you to lobby, off the record.

22 Oh, sorry.

23 (Laughter.)

24 MR. STEVENS: You already got it down.

25 We covered the environmental policy. Just as an

1 example, some of the things that when EPA goes out to our
2 schools and visits as they do other programs, some of the
3 findings that we wouldn't think would be findings are --
4 one, we found old paint sitting along the shed -- along
5 side a shed. Fluorescent bulbs accumulating in the back
6 of the building. Old computers, monitors that have
7 chemicals in them, things that we wouldn't think
8 necessarily. And in any country -- you know, my grandpa
9 would always throw stuff out the window and so forth. We
10 don't do that anymore. And that's what we get dinged on
11 by the EPA when they come visit.

12 Fuel storage is another biggie, leakage. And
13 sometimes it's not even leakage, just documentation of
14 inspections is something that we can be dinged forward.

15 --oOo--

16 MR. STEVENS: Okay. This is continuing with
17 Assurance Statement No. 6. Violating facilities, we've
18 talked about that.

19 Protection of wetlands. And they're all tied to
20 executive orders. And like I said, if you didn't get a
21 handout out here, these are also posted on Indian Affairs
22 website under the "Consultation" documents. And then if
23 you have need for further clarity on any one of these
24 executive orders, I would encourage you to Google it or
25 look at it on any of their forms and documents.

1 D talks about evaluation of flood hazards and
2 floodplains.

3 E is assurance of project consistency with
4 approved State management program development under the
5 Coastal Zone Management.

6 All of these executive orders, statutes, and
7 regulations are put in this document, not only to be in
8 compliance, but also ensuring that our schools are in
9 compliance with what the expectation is so that we prevent
10 some of those fines from happening.

11 --o0o--

12 MR. STEVENS: Conformity to federal actions to
13 State, the Clean Air Act. So yet that plan's in place.

14 Protection of underground sources of drinking
15 water. Again, just dealing with public safety and safety
16 of the community. And you're by signing the assurance
17 statement saying that you will be in compliance with these
18 regulations.

19 Endangered species, lead-based paint are some
20 others that are added to this document.

21 --o0o--

22 MR. STEVENS: Assurance Statement No. 7 will
23 allow an inspection for environmental and safety
24 compliance. Because you're a grantee accepting federal
25 funds, when the EPA shows up you have to let them inspect,

1 as we all do. And by putting this in the assurance
2 statements, you're signing saying that that's something
3 you'll allow.

4 --o0o--

5 MR. STEVENS: Number 8. Again, just some more
6 things that are put in here to further ensure compliance
7 of the grantee or the grantor. National Historic
8 Preservation Act, Archaeological and Historic Preservation
9 Act. And, again, I'd encourage you to Google these and
10 get the exact language.

11 --o0o--

12 MR. STEVENS: Assurance statement No. 9 talks
13 about compliance with existing federal laws, which include
14 background investigations, the Indian Child Protection and
15 Family Violence Act, and implementing procedures
16 identified in 25 CFR part 63 and Public Law 101-647, as
17 well as the Crime Control Act of 1990. This all deals
18 with ensuring that our students are safe within our
19 schools, that everybody was properly adjudicated with a
20 thorough background investigation.

21 And the Grant Assurance Statement further states
22 that the background clearance process that you have in
23 place for your tribal employees is as stringent as that of
24 the Bureau of Indian Education, which is very stringent.

25 We recently met with -- I recently met with IHS

1 officials that want to provide service to one of our
2 schools. And they said, "Well, this is our background
3 clearance process, IHS employees." University employees
4 that were going to be a part of that provide us their
5 process. We send it through our channels to verify that
6 it's as stringent as our own, and it wasn't. That's how
7 stringent ours is, because we're dealing with student
8 safety.

9 And this is just saying that as a grantee you
10 will comply with those rules and regulations dealing with
11 background investigations of all employees. And if you
12 don't, it can cause some problems.

13 --o0o--

14 MR. STEVENS: Assurance Statement No. 10, will
15 comply with the requirement -- the required financial and
16 compliance audits in accordance with the Single Audit Act
17 Amendments and OMB Circular A-133.

18 We talked about that before, about the annual
19 audits that grant schools. Have to complete within 90
20 days of the end of the school year annually. This just
21 ties to that and references the statutes that require
22 that.

23 --o0o--

24 MR. STEVENS: Recently we established a focus
25 group that met in Albuquerque recently to revise these

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1 assurance statements, and they were representatives. And
2 I think one of these slides has the list of those members
3 that gathered in Albuquerque that represented grant
4 schools. Pierre Indian Learning Center was mentioned
5 earlier. We had representatives from them, from the
6 Navajo Nation. We had other people that were present.

7 Next slide I think identifies those people by
8 group. But they came together and had two days of
9 meetings to discuss what these amendments to the grant
10 assurance statements would look like.

11 So they met in Albuquerque the week of -- well,
12 the days of March 7th and 8th, just this last year.
13 Unfortunately I was only able to attend the second half of
14 the second day due to other commitments.

15 Oh, here they are.

16 --o0o--

17 MR. STEVENS: Shirley Gross from Pierre Indian
18 Learning Center. Greg Anderson from Eufaula Dormitory.
19 Ray Lorton from Chief Leschi. I should have remembered
20 his name.

21 Matthew Tso from the Navajo Nation. Patty
22 Leblanc, Peggy Gaddy, Sherry Johnson -- Dr. Sherry
23 Johnson, who's our honored distinguished school leader out
24 in Enemy Swim Day School in South Dakota. Robert White
25 Eyes, federal employee from Pine Ridge. BIE

1 Administration where David Teliempo was shot.
2 Representatives from the BIE DPA were also present at that
3 meeting. And that's what brought about what we're
4 reviewing today as far as those amendments to the Grant
5 Assurance Statements.

6 --o0o--

7 MR. STEVENS: So the focus group on grant
8 assurances comply with all applicable requirements of
9 federal laws and regulations governing this program.

10 --o0o--

11 MR. STEVENS: The Department of Education insert:
12 Will comply -- this a Grant Assurance Statement No. 12.

13 Will comply with all applicable requirements of
14 federal laws and regulations, including what we mentioned
15 already: ESEA -- ESEA - sometimes I talk too fast for my
16 own good - and IDEA, special education and reauthorization
17 of "No Child Left Behind"; and if applicable, tribal laws
18 and regulations governing this program.

19 --o0o--

20 MR. STEVENS: As promised, that's my contact
21 info. If you get my office line and it goes to voice
22 mail, you'll get my cell phone number and my email
23 address. As anybody in the BIE, first name dot last name
24 BIE dot EDU.

25 And now we open it up for any questions or

1 comments. Just remember to speak clearly, state your
2 name, tribal affiliation, school represented, so forth.

3 Okay.

4 MR. KING: Tracy "Ching" King, President of the
5 Fort Belknap Council.

6 Looking at this PowerPoint and knowing what the
7 dos and don'ts are of what we can't do, I guess, as
8 tribes, as nations, then I was wondering why can't -- your
9 schools that are off the reservation and -- I mean they
10 have all these regulations -- I mean we have all these
11 regulations. But then again, somehow, somewhere all of
12 our indian students are impacted, probably mostly
13 negatively. But I hope that somewhere along the line that
14 there's rules that the non-indian superintendents and the
15 school boards that educate our kids will have more strict
16 regulations and laws upon them to make sure that our
17 indian children are succeeding. And that's where again, I
18 see all these regulations that -- what we can't do. But
19 then tribal leaders and school board members should be
20 sitting together with impact aid and going over the same
21 thing, the can and can't's. It just really irks me when I
22 see them, they could just do what the hell they want.

23 MR. STEVENS: Absolutely. I couldn't agree with
24 you more.

25 How that process works -- and, again, whatever we

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1 can offer as Feds as far as technical assistance with that
2 process. I'm sure my counterparts, the other two
3 associate deputy directors, would be just as eager to help
4 where we can or provide some information for you all.

5 I wanted to remind everybody that the window for
6 comments, both electronically or however else you want to
7 get it to the BIE - can email them to me, however you want
8 to do that - is open till June 1st. So if you don't
9 necessarily have comments now or want to take it back to
10 your councils, your school boards or what have you to
11 share comment, please, if not taking extra copies that are
12 out here available for you all, to download them and then
13 present to your boards and -- as long as you get some
14 feedback by June 1st.

15 MS. ANTONE: Audra Antone, Hill River Indian
16 Community and Blackwater Community School.

17 With all the assurances that have been made and
18 have said here, all the fields in the office, the line
19 officers would be affected with the budget cuts. Then if
20 all these assurances are made that we have to -- you know,
21 we're putting everything up to par here. And with some of
22 the things that are happening at Blackwater with the
23 facilities issues, a lot of those environmental things
24 weren't, you know, being affected until recently. And now
25 with all this assurance coming up, is that going to affect

1 the cut that you had stated yesterday with the O -- with
2 the line officers.

3 MR. STEVENS: Good question. With yesterday's
4 discussion you remember me saying several times EPM,
5 Education Program Management, where that 3 million
6 reduction would come from? So although it will impact the
7 line office, the technical assistance that comes from line
8 office dealing with some of these issues - EPA and some of
9 the guidance that can be provided to ensure compliance
10 from the grantees - yeah, it will, but we in my mind am
11 thinking -- I am thinking in my mind of ways to take up
12 that slack. What is my office going to do then to
13 absorb -- to make sure that Blackwater doesn't get
14 abandoned, Pine hill or any other, for that matter, as far
15 as what needs to happen or what's been happening at the
16 line office and now will be moved if the line office
17 doesn't -- is no longer there.

18 And I have thoughts in my mind and even -- I hate
19 to say the P word, but I kind of do have that planned out
20 in my mind of what that would look like.

21 So I'm hoping, once we finish these
22 consultations, that we'll be able to come and with
23 little-to-no interruption from what's occurring at the
24 school level as far as those services.

25 So facilities -- the site of facilities, O&M --

1 operation and maintenance that goes to dealing with some
2 of those facility issues that you mentioned, and we did
3 talk a little bit about that yesterday morning when we
4 were talking about BIA and the DAS-M and that Bronner
5 study that talked about DAS-M that oversees facilities;
6 and if that should come back to our Bureau, what we would
7 do with it and how we would manage it.

8 It ties to their piece more so than ours. But
9 for right now it wouldn't impact facilities under our
10 Bureau because ours is only Education Program Management,
11 which deals with those line offices on up to the director.

12 Okay. Well, again, my name is Bart Stevens. I'm
13 Northern Ute, Shoshone, Bannock, San Carlos Apache, and
14 Maricopa on my father's side. I was raised in Fort
15 Duchesne, Utah, just to give you a little bit of
16 background on me. And I'm here to help. If there's
17 anything that I can do for any one of you, that's my
18 contact info. I'm available 24-7, as was indicated
19 yesterday or -- yeah, yesterday. And my email address.

20 And we have one more comment.

21 MS. McQUILLEN: Thank you. Chris McQuillen. I
22 work with the Yurok Tribe.

23 My question is, what information can you offer in
24 the progress of trying to get accessibility of student
25 information for the tribes when they're working with

1 students through the public schools? At this point it
2 takes months to have -- when you have a list of students
3 and you're trying to locate them, what school are they at,
4 how are they doing academically, who are their teachers?
5 And usually it's a matter of going to a school secretary
6 or a principal and requesting that information. And by
7 the time you get all of those things straightened out, the
8 school year has progressed so far and students may have
9 already declined academically and...

10 Is there any progress in that where tribes could
11 have -- through and MOU have direct access rather than
12 having to beg for a printout of information about the
13 students?

14 MR. STEVENS: That's a good question.

15 As you may or may not know, there's FERPA. And
16 FERPA stands for Family Education Right to Privacy -- I
17 had to think about that for a minute -- Family Education
18 Right to Privacy Act, which protects parents' and
19 students' right to privacy.

20 Now, FERPA identifies that the parents or legal
21 guardians have that open-door access to their student
22 records, period. And, as you know, that's law.

23 How we within the Bureau of Indian Education
24 handle that, because there are tribes -- we have the
25 Navajo Nation coming to us wanting access to their student

1 information. And within our system we have NASIS, which
2 is the Native American Student Information System, all in
3 electronic system that tracks probably the information
4 that you're talking about.

5 We too are held to FERPA regulation. So when we
6 have the Navajo Nation, who's one of our largest -- we
7 have the largest amount of schools within the Navajo
8 Nation -- comes to us wanting access to their student
9 records to bypass the family and come to us directly, we
10 have to refer back to FERPA.

11 So what we do is we direct them to the parents.
12 And the parents have to grant that permission.

13 Now, as grantees, where they have many different
14 grant schools on the Navajo Nation, we also encourage them
15 to -- they're the keepers of that information that they
16 want access to. So it kind of is a different situation
17 that not everybody's in.

18 Now, public schools is the same. They're bound
19 by FERPA as well. And as a former school principal in
20 public schools in Utah, we were faced with that many
21 times. And as much as we're eager to share that
22 information, because -- don't get me wrong. Public
23 schools -- educators in general have that same interest in
24 mind of doing what's best for kids. And if doing what's
25 best for kids means giving their information to somebody

1 who's there to help them, we want to do that. But if I
2 did as a public school administrator, I'd be looking at
3 you behind bars, because it's against the law. The
4 parents could sue me like crazy if I release that
5 information.

6 So, again, tribes, JOM programs -- that's where I
7 started my career in education when I was 19. I was a JOM
8 tutor, worked for the tribe, stationed in public schools
9 to help kids succeed.

10 As much as we're willing and able to provide that
11 information, we cannot without going through the legal
12 guardians, by gaining their permission. And that's
13 identified in law. If there's a way that we can work out
14 an agreement with the tribe, including the parents, on
15 streamlining that process to make it easier for that
16 approval to be given and then the information to be
17 shared, more power to you. But it's a process. And,
18 again, it's those parents that are protected by FERPA.

19 Early lunch.

20 No, I'm just kidding.

21 MS. MARTINE-ALONZO: Early dismissal.

22 (Laughter.)

23 MR. STEVENS: I'm hopping on a plane this
24 afternoon. Again, available 24-7, I think kind of went to
25 my head. But I'm going down to Phoenix to meet with the

1 with the Gila River School Board tomorrow morning, 6 a.m.
2 So I'm excited about that. So if we get out of here
3 early, I can maybe catch an earlier flight and have a good
4 dinner in Phoenix.

5 MS. GARCIA: What do we have left right now?

6 Martha Garcia from Ramah Band.

7 I would like to know what we still have on the
8 agenda.

9 MR. STEVENS: This is it as far as the BIE
10 consultation of the streamlining process. We did the
11 streamlining yesterday afternoon. And then we got in --
12 we added JOM this morning as well as these grant
13 assurances. And then after this, that piece is done with
14 the BIE consultation on streamlining.

15 What's this afternoon is - and Brian Drapeaux
16 alluded to it a little yesterday, was the BIE -- the
17 Bureau of Indian Education in Washington DC is meeting
18 with the U.S. Department of Education. And they want to
19 enter into an agreement on how they can collaborate to
20 doing again what's best for kids in our schools.

21 That consultation is this afternoon. We'll have
22 representatives from the Department of Education here.
23 We'll have Dr. Jeff Hamley and Brian Bough from our
24 Division of Performance and Accountability in Albuquerque
25 that will be leading that consultation this afternoon.

1 And that's specifically to discuss that agreement between
2 the BIE and the U.S. Department of Education on what
3 that's going to look like. And they need your input for
4 that. That's this afternoon.

5 And it was kind of scheduled late in the game, if
6 you will. So they've actually scheduled other
7 consultations, including another one here that gives you
8 more notice. We talked about that notice going into
9 Federal Register. So we have to meet those deadlines as
10 federal agencies. And we don't think we -- we may have
11 barely met it. So we want to give tribes more time to
12 plan. So there'll be other consultations dealing again
13 with that agreement. But that's this afternoon.

14 MS. GARCIA: Martha Garcia again from Ramah Band.

15 Since we were not aware that that was going to be
16 added to this consultation session here, we had made
17 arrangements, looking at the time that this was going to
18 end at noon. We will not be here this afternoon. But are
19 you going to be -- do you have a schedule of where you're
20 going to be hosting these consultation sessions?

21 MR. STEVENS: I don't know if we have the
22 schedule with us.

23 Jeff, I'll defer to you for that.

24 Dr. Jeff Hamley.

25 DR. HAMLEY: Let me check. Let me go into the

1 hallway. And right now we may have the schedule here.

2 Okay?

3 Let's see. Is that laptop connected to the
4 website?

5 MR. STEVENS: It is not. It's a BIA computer,
6 and they don't have wireless access.

7 It's not like we at the BIE. We have a wireless.

8 (Laughter.)

9 MR. STEVENS: We're hooked up.

10 Sorry. No offense intended.

11 (Laughter.)

12 MR. STEVENS: I know there are other sessions
13 scheduled. But email me, and I can get you that schedule
14 if you want to attend the future consultation meeting
15 regarding that MOA with the Department of Education.

16 DR. HAMLEY: Yvonne Davis is getting that. This
17 is Jack Hamley.

18 If you go to indian education dot org, the
19 Department of Ed has listed them there.

20 MR. STEVENS: Great.

21 MS. McQUILLEN: I have another Johnson-O'Malley
22 question. Chris McQuillen, Yurok Tribe.

23 I just want to clarify. What Congress wants is a
24 recount and it will lead to a redistribution of funds.

25 Is there any hint at all as to what further

1 actions they may take? You did mention that there was no
2 discussion as yet of increased funding. But do you see
3 that as a possibility? Has there been any clues of -- or
4 any indications at all what they plan to do with that
5 information?

6 MR. STEVENS: There has been no indication of
7 what they're going to do with the count. Common sense
8 would tell me that if we see an increase in numbers, we
9 would expect maybe an increase in funding. But nothing
10 definitive has even been said. They just asked for the
11 count.

12 So we're going to complete the account, get it
13 back to Congress. And then they'll be the decision makers
14 of what they then do with that data.

15 Do you have anything else to add, Joe?

16 DR. HERRIN: No.

17 MR. STEVENS: Yeah. So they'd requested the
18 count. We're consulting with you all on what, where, and
19 how we complete the count. We'll provide the information
20 and we'll sit and wait for their decision.

21 DR. HAMLEY: Jeff Hamley. I have the schedule
22 here. It's May 24th, Northern Arizona University,
23 Flagstaff. So that's the next one.

24 And then following that is May 31st. It's at
25 the -- in Bloomington, Minnesota.

1 And then June 5th it's Nashville, Tennessee.

2 MR. STEVENS: Thank you, Jeff.

3 So book your flights, pack your bags.

4 Or if you're like me, stay packed.

5 Okay. I guess we'll reconvene -- what time do

6 you start this afternoon?

7 DR. HAMLEY: One o'clock, I believe.

8 MR. STEVENS: One o'clock. You get a long lunch.

9 And thanks again for coming.

10 And, again, if you haven't jotted down my contact

11 info, it's available on BIE dot EDU website as well.

12 And thanks again.

13 (Off record: 10:27 a.m.)

14 (Thereupon a lunch break was taken.)

15

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1 AFTERNOON SESSION

2 (On record: 1:13 p.m.)

3 MR. MacALLISTER: Good afternoon, everyone. My
4 name's Bruce MacAllister. I'm going to be the meeting
5 facilitator. And we'll move through the meeting on the
6 agenda. And of course depending on how many people have
7 comments and suggestions, the agenda may move forward. If
8 we look like we're running out of time, then I'll work
9 with that and we'll see what we'll do. Our goal of course
10 is to make sure that everybody has an opportunity to give
11 feedback.

12 And before we even get started, we'd like to have
13 the invocation. And if we can do that for starting, that
14 would be excellent.

15 Sir.

16 (Invocation presentation.)

17 MR. MacALLISTER: Thank you very much, sir.

18 You'll see on the agenda that we've got -- after
19 the opening ceremony we've got a series of presentations
20 that we'll be going through, starting with Brian Drapeaux,
21 and including Joyce Silverthorne and Jeff Hamley, who will
22 be presenting information.

23 Then we'll move into a window where the elected
24 tribal officials can provide official input. And at that
25 time -- after that time we'll accept public comments.

1 Everything is being recorded and transcribed. So
2 as we move through and take comments, I'll be reminding
3 folks to please give their names so that we can keep those
4 comments -- track the comments to the tribe and to the
5 organization and to the person giving the comments for us.
6 That's not to make any records, you know, about who said
7 what as far as, you know, keeping track of -- or in any
8 way trying to stifle input. But it's just so that the
9 record is clear as far as who has provided us comments so
10 that we make sure that that's attributed to the right
11 tribe and things like that.

12 If there's any questions or problems, please feel
13 very free to approach me, ask me, you know, or just make a
14 comment at the point in time that -- if you can't hear
15 something or you can't see something, anything like that,
16 please let me know. It's my job to make sure that this
17 moves smoothly and comfortably for everybody.

18 I've also got my colleague, Monique McKay, here
19 to help facilitate the meeting.

20 And I'll let you, Monique, if you will, just
21 introduce yourself and tell people a little bit about you,
22 and then we'll move forward.

23 MS. MCKAY: Hi. I'm Monique McKay. I'm
24 originally from around the Winnipeg area. I now live in
25 Williamsburg, Virginia. I just want to thank you for

1 having us here and helping you with this meeting.

2 MR. MacALLISTER: Thank you.

3 All right. At this point I'll turn the meeting
4 over.

5 Brian, if you'd like to start the meeting with
6 your presentation.

7 MR. DRAPEAUX: Good afternoon, everybody. My
8 name is Brian Drapeaux. I'm the Chief of Staff for the
9 Bureau of Indian Education. Director Moore was not able
10 to make it today, and so I'm here on his behalf. And I
11 want to thank you all for coming today and joining us.

12 We're excited from the Bureau of Indian Education
13 to have a dialogue today about the MOU between the U.S.
14 Department of Education, our colleagues here, and the
15 Department of Interior Bureau of Indian Education.

16 The MOU background memo is really a great place
17 for you to understand how the document was created
18 originally; and from the Department of Interior
19 perspective, what we hope to accomplish with a redraft and
20 the current draft of the MOU in our relationship with the
21 U.S. Department of Education.

22 As you know from the background information, we
23 are here as a result of President Barack Obama's Executive
24 Order. And you have a copy of that order as well.

25 And we're excited and pleased that the President

1 has allowed us to -- has focused our work on different
2 aspects within the Bureau of Indian Education. And one of
3 these things he's asked us to do in addition to the task
4 laid out is to find a way to strengthen our relationship
5 with the U.S. Department of Education. And so these
6 consultations that we'll be holding over the next several
7 weeks will be with tribal leaders and education folks in
8 order to get your input about what that relationship
9 should look like, have a better understanding of that
10 relationship and some of the aspects that are being
11 proposed and how they could or might impact the work that
12 you do and the structures that you govern.

13 We will -- in addition to the MOU discussion
14 today, also towards the end Dr. Hamley -- Jeff Hamley will
15 walk through the waiver process that has an impact on the
16 BIE as well as the rest of the United States. And Dr.
17 Hamley will outline the issues and challenges of the
18 waiver proposal by the Bureau of Indian Education in
19 regard to the waiver, and perhaps talk about some of the
20 impacts that you may have here in California and elsewhere
21 in terms of your state's waiver and what it may mean to
22 the education of your children.

23 So we're excited to be here. We welcome you.
24 And we look forward to having this dialogue.

25 And now I will turn it over to my colleague,

1 Joyce Silverthorne.

2 MS. SILVERTHORNE: Good afternoon.

3 I'm a recent person coming to the Department of
4 Education. I've been there for eight months. I come from
5 the Confederated Salish and Kootenai Tribes in Montana,
6 and have been involved in education for some 30 some
7 years. I actually haven't sat down and subtracted that.
8 I probably should.

9 And I began education at a school that was an
10 alternative program funded under -- at that point it was
11 Title 4 ESEA. And that school became a Bureau contract
12 school. I have been involved with the tribal colleges. I
13 have been involved in State Board of Public Education.
14 And then most recently worked with Denise Juneau's
15 administration at the Office of Public Instruction.

16 I'm enrolled Salish. I'm also -- my mother was
17 full blood from Kansas. My parents met in Washington DC
18 when the Bureau of Indian Affairs was first established in
19 1934.

20 So the history of going back and working through
21 education processes and activities is a long one in my
22 family, and it's also a very complex one. My mother is a
23 boarding school success story, my father is a boarding
24 school runaway, and with all of the legacy that comes from
25 both of those directions.

1 The Department of Education is an education
2 system in its own. The world of acronyms, the process for
3 clearance reviews, the difficulty in interagency working
4 is one that I was always aware of but never fully
5 understood. And I think as we're working through this
6 process of the Memorandum of Understanding, we're
7 beginning to have a better knowledge that we are trying to
8 share with the public as we are learning. And as this
9 process develops and continues, hopefully we will be able
10 to be sharing some of the knowledge that we're gaining in
11 interagency work. And it's not as simple as it sounds.

12 Each of us have bureaucracies that are fully
13 intact. There are good reasons why there are systems of
14 clearance established for protection, for the best
15 possible purpose and use of education systems for our
16 children. And in the process of all of these coming
17 together, we need to remember that our children move
18 through the system but once. As the child goes through,
19 it doesn't make any difference whether they began in a
20 public school or a Bureau school or if they are back and
21 forth between schools. What their experience will come
22 out of that is what they learn as education, the same as
23 we did.

24 And so what we have to keep in mind is how we can
25 keep that as barrier free as possible. College and career

1 ready is a goal. It is a destination. And so as we work
2 through this, we hope that we'll be able to find those
3 paths for our children.

4 When we look at the background paper, you'll see
5 that there is a bit of an explanation that tells you about
6 where the -- what departments are coming together.
7 Department of Interior Bureau Indian Education, formerly
8 the Office of Indian Education Programs. And the process
9 that we see in those Bureau-operated schools is probably
10 serving somewhere in the neighborhood of 6 to 7 percent of
11 the tribal students across the country. The other 93, 94
12 percent, depending on which set of figures you use, are
13 coming through public school systems.

14 With the Title 7 programs out of the Department
15 of Education, we work primarily with the K-12 system. We
16 have Title 7 formula programs that are available in over
17 1300 local districts across the country.

18 We have demonstration programs - that's the kind
19 of grant that established the school that I first worked
20 at - demonstration programs. And they are two priorities:
21 One for early childhood education, the other for
22 transition into college.

23 We have another discretionary program and that is
24 for professional development. And those are earmarked for
25 professional development for teachers and for

1 administrators.

2 So as we bring all of these systems together,
3 hopefully we are creating a seamless process that takes
4 children from early childhood through college and career.
5 And that's the goal of bringing this memorandum up and
6 being able to produce interagency cooperation.

7 So we're interested in the perspective of the
8 people from the field, because every place that has an
9 education system is a little different from the next. And
10 so how all of these regulations out of Washington affect
11 your schools are critically important for us to hear back
12 and understand the complexity of the programs that we
13 serve.

14 So with that, we're looking forward to a dialogue
15 today. Thank you for coming.

16 MR. MacALLISTER: And, folks, just as a reminder,
17 there's an extensive set of information packets available
18 if you didn't get one. They're available as you check in,
19 just in case somebody happened to get by that.

20 And at this point I'll turn it over to --

21 DR. HAMLEY: I have to borrow your mic. This is
22 wireless.

23 MR. MacALLISTER: Absolutely.

24 I'll turn it over to Dr. Jeff Hamley.

25 (Thereupon an overhead presentation was

1 Presented as follows.)

2 DR. HAMLEY: Thank you.

3 Jeff Hamley, Associate Deputy Director - it's a
4 long title - Division of Performance and Accountability.

5 What the DPA does, we call it, is it handles
6 primarily the Department of Ed funds. We get Title 1 and
7 IDEA funds.

8 We're here today to talk to you about a reform
9 initiative we have within the Department of Education.
10 Coinciding with this reform effort that we have within the
11 Department of Education is a specific vehicle that states
12 have taken. And you probably have heard about it. It's
13 called the "No Child Left Behind" flexibility request or
14 waiver request. All the states primarily - I think about
15 46 of them of the 50 so far - are requesting waivers to
16 "No Child Left Behind." So we are exploring this
17 opportunity. And I'm going to talk to you about our
18 flexibility request today.

19 So I have a PowerPoint that we can walk through.

20 And also there's -- in your packet there's a
21 document entitled "Summary of Bureau of Indian Education
22 ESEA Flexibility Request." So you can take that with you.

23 We'll also have this on our website. And we'll
24 have the -- this is just a 12-pager. We will have the 150
25 page full document up there hopefully by the end of next

1 So let's start with "No child left behind."

2 As you know, most of you, it's been around for

3 over a dozen -- about a dozen years. It's the

4 reauthorization of ESEA. It basically established strict

5 school accountability systems based primarily on state

6 standard assessments. And the assessments are in reading

7 language arts, math. There are also others. But reading

8 language arts, math were emphasized.

9 --o0o--

10 DR. HAMLEY: And it required all students to meet

11 rigorous testing targets in these subjects. And therein

12 basically lies the problem with "No Child Left Behind," is

13 that the targets and the increases for each year were so

14 rigorous that states had been unable to make them, which

15 is why the Secretary of Education has begun granting

16 waivers to the requirements of the law.

17 One big problem is that, usually major public

18 policy of this is authorized every five years, and ESEA is

19 now five years overdue and the reform efforts -- the

20 problems where it failed are not being corrected. And so

21 we're badly in need as a country of reauthorization. In

22 the interim we have the waiver process that Secretary

23 Duncan of the Department of Education has offered.

24 As I mentioned -- as I alluded to earlier, the

25 targets for math and reading are unattainable. They were

1 supposed to achieve 100 percent in 2014. The states are
2 no where near that 100 percent.

3 So there's a penalty on "No Child Left Behind."
4 It's either -- it's cut and dry. Either you make it or
5 you fail. So every year more and more and more schools,
6 and therefore teachers, students, parents, are, you know,
7 with a broad brush, are judged to be failing. So there's
8 really a basic unfairness about the law and the standards
9 it's set.

10 One state, Montana, I believe it is, has just
11 sent -- just refused, and they sent a letter to the
12 Department of Education and said, "We're not implementing
13 this anymore." And so that's where the waivers have come
14 in.

15 --oOo--

16 DR. HAMLEY: We have specific challenges under
17 "No Child Left Behind," which it was difficult for the
18 country, but it was more difficult for us. In a "No Child
19 Left Behind" there's a provision for negotiated
20 rule-making to decide how the Bureau would implement "No
21 Child Left Behind." And that committee, although well
22 intended, found that the BIE should use the academic
23 standards -- or the accountability system of the state
24 where the school is located. Well, we have schools in 23
25 states. So basically rather, California has one

1 accountability system, New Mexico has another, Arizona;
2 whereas the Bureau has a 23-part accountability system.
3 So just the management of the system has been impossible.

4 The biggest problem is is that we can't really
5 compare how our students are doing across the entire
6 system because we're trying to implement 23 systems.

7 The flexibility offers us opportunities to
8 correct this.

9 --o0o--

10 DR. HAMLEY: So the intent of the -- let me
11 collect my thoughts here.

12 The intent of the waiver is to implement a reform
13 effort nationwide that improves educational outcomes,
14 narrows achievement gaps, and increases the quality of
15 instruction. These outcomes are based on the research.
16 And largely the research on "No Child Left Behind" is what
17 has been failing and what needs to be put in place.

18 So it's a very progressive movement. It started
19 with another Department of Ed initiative which you may be
20 familiar with - "Raise to the Top." That's where some of
21 these ideas were articulated. And then the waivers, they
22 followed that same blueprint.

23 And under reauthorization basically you're going
24 to see -- these will also be the provisions of
25 reauthorization if it's reauthorized next year, which may

1 be as soon as next year.

2 --o0o--

3 DR. HAMLEY: So again, the principles of the
4 waiver are essentially this:

5 Principle 1, college- and career-ready
6 expectations for all students;

7 Principle 2, state-developed differentiated
8 recognition, accountability and support;

9 Principle 3, support for effective instruction
10 and leadership; and

11 Principle 4, reduced duplication and unnecessary
12 burden.

13 Well, principle 4, I mean that's just a general
14 government -- they would allow -- they want to allow
15 educators to have more time to focus on education rather
16 than reporting, compliance, accountability, filling out
17 forms, submitting, you know, blah, blah, blah. It takes
18 away from the time that we can spend on the important
19 thing, which are kids learning.

20 But principle 1, 2, and 3, this is where the
21 research has focused on, that -- you know, some of the
22 problems with "No Child Left Behind," the students are
23 being educated, but they're not ready for college.
24 They're not ready to go out and become a technician in a
25 hospital or, you know, many other career-oriented jobs.

1 So this new system links directly the learning
2 that's going on in the school to preparing them for
3 college. So that's a major milestone, and it's very
4 futuristic. And the whole country is going to try and
5 meet this expectation.

6 --o0o--

7 DR. HAMLEY: The next one -- another issue with
8 "No Child Left Behind," it didn't really differentiate
9 between schools and students. There was just a broad
10 brush. Either you're making it or you're not.

11 This new approach differentiates students,
12 schools, their learning needs. And it asks that the
13 schools provide appropriate support based upon those
14 differentiated categories.

15 And then the whole accountability system has
16 changed - and we'll get into that a little bit - from
17 what's been introduced as a growth model. So that schools
18 are actually receiving some recognition for the
19 improvements they made, which was a major problem with "No
20 Child Left Behind." Either you were successful or you
21 weren't. But, for example, if you had great success
22 during the year, the mechanism for measuring that didn't
23 give you credit for it in "No Child Left Behind."

24 MR. DRAPEAUX: Jeff, before you go on. As you go
25 through your presentation -- this is Brian Drapeaux -- I

1 would appreciate if you could, you know, relate it to
2 tribal leaders and education departments that are in
3 attendance and to -- if you can, to link their
4 responsibilities and what the law means in regard to, you
5 know, their own operations, if you could.

6 DR. HAMLEY: Okay. I'm going to give get my
7 larynx some rest.

8 MR. BOUGH: Hi, everybody. I'm Brian Bough -
9 that's Bough B-o-u-g-h - and I'm a member of the
10 Sauk-Suiattle Indian Tribe of Washington State. And it is
11 a tremendous honor for me to be talking with you today. I
12 always appreciate the chance to talk with tribal leaders,
13 particularly about "No Child Left Behind."

14 I'm in charge of accountability for the BIE. And
15 any time I get to talk to tribal leaders and I get to talk
16 to school boards, they like to hear about "No Child Left
17 Behind because it's a very complicated and confusing
18 matter.

19 And so what Dr. Hamley has just talked about has
20 really come to a crisis for the Bureau because we have to
21 use the 23-state system by which we determine whether a
22 school's academically successful. What this means for
23 your tribe is very important, because the current system
24 has become very punitive towards our schools. You have to
25 remember - and this is something that I don't think the

1 negotiated rule-making committee could have anticipated
2 back when they adopted this 23-states policy - if you
3 remember when the states put their AYP definitions into
4 effect, you know, what definitions they used to determine
5 if a school is making adequate yearly progress, they did
6 this based on state public schools, what does a state
7 public school look like? And in any given state.

8 And so we see some widely variant definitions of
9 what "adequate yearly progress" means. So, for example,
10 in North Dakota the minimum number of students that are
11 required to do an academic calculation as to whether a
12 school's making AYP is ten students in the entire school.

13 In Arizona, the number is 40 students per grade.
14 Only about three or four of our schools in Arizona have
15 that number of students in their school to do that AYP
16 calculation. And so we have to go through a bunch of
17 different statistical calculations to make an AYP
18 determination that involved rolling together three-years
19 worth of data to do an AYP determination for our schools
20 in Arizona.

21 And the result of that was incredibly unfair to
22 our schools there, because this definition of adequate
23 yearly progress is crafted for Arizona public schools, not
24 for BIE's typical schools.

25 And so for us to come and look at this

1 opportunity, we have to take it and we have to seize it,
2 we have to craft our own way to move forward. And we want
3 your ideas as to how we can go about doing that. In
4 particular --

5 MR. DRAPEAUX: Brian, can I interrupt you for a
6 second.

7 Would you mind -- in your discussion around AYP,
8 would you talk a little bit about California and how the
9 standards in California relate to the folks in the
10 audience.

11 MR. BOUGH: Oh, the California standards -- this
12 is an interesting topic here.

13 In the State of California we don't have access
14 to the California assessment. The State of California was
15 going to require the Bureau of Indian Education to post a
16 one million dollar bond so that our schools could get
17 access to this assessment. So our two schools, Sherman
18 Indian High School in Riverside and Noli Indian School not
19 too far away in -- I can't think of the city they're in.
20 It's just down the road from Sherman. They used the
21 standards that they have for California, but they used the
22 Sat 10 assessment to measure their students' abilities on
23 just education.

24 So they can't use an assessment that's aligned
25 through the California standards. And so this is not a

1 particularly fair system here in California.

2 MR. DRAPEAUX: Right. And so I think the idea
3 that we want to get across here is that the challenges and
4 the complexity of recognizing tribal sovereignty in regard
5 to the issue of education is a complicated endeavor, to
6 say the least.

7 What we want to attempt to do today is to relate
8 what it is that we're proposing and the impacts that it
9 has on you, whether you're education directors or tribal
10 leaders. And the concerns that we've heard around the
11 country in regard to, you know, how our kids are doing - I
12 mean that's really the bottom line - how our kids are
13 doing. Brian and Jeff are both experts in the field on
14 the topic that we're going to talk about a little more in
15 depth on the waiver and the AYP and all those different
16 components.

17 But at the heart of the matter is really at the
18 bottom line, how are our kids doing and what can we do to,
19 from a leadership perspective and from a tribal government
20 perspective, impact at the school level, at the local
21 education agency level, at the state education agency
22 level, at the national level that you all are working on,
23 what we can do to really bring one common theme to the
24 table, which is a accountability, right? How do we ensure
25 that there's accountability in the systems that our kids

1 are being educated in.

2 And there are really three different areas of
3 policy development that have to be talked about from the
4 BIE perspective, probably less so from here:

5 We have federal schools, like we do at Riverside,
6 where they are federal enclaves run by federal officials.
7 We have about 60 of those schools across the United
8 States.

9 We have 125 tribal grant schools where the tribes
10 take the money and they run their schools on their own.

11 And then we have public school children.

12 And what is in relation to this and what we're
13 excited about in the presence of new MOU is that the
14 Director of the Bureau of Indian Education has a new
15 guidance from the President; and that is to start engaging
16 in the dialogue of public educated students -- indian
17 students in our systems across the United States.

18 It's an area that we believe in the BIE that we
19 should be involved in. It's an area that no matter where
20 we go in the country tribal leaders have students, as
21 Joyce talked about. We serve about 10 percent of the
22 native population in the United States. The rest are in
23 public schools. You know, how do we ensure that the funds
24 and the systems that are receiving funding on behalf of
25 these students are being used with fidelity and that our

1 kids are getting the full benefit of those dollars and
2 that they're focused on their outcomes.

3 So we've been tasked with new responsibilities
4 that we're looking forward to. We want to try to relate
5 what it is that we're talking about here to your
6 situation. At any point if you have any particular
7 questions about what it is we're presenting, feel free to
8 ask those questions. And we want to make sure that we're
9 talking at a level because -- that we're not too technical
10 and that you can understand what it is, because we can get
11 deep into the woods with statistics and determining AYP
12 and different things like that, that, you know, it blows
13 over my head.

14 But we're prepared to talk about from policy
15 development to funding to particulars of AYP and how this
16 all relates to your schools.

17 So I wanted to just kind of lay some context for
18 you as these guys go through the flexibility waiver. And
19 California is unique, and so we wanted to make sure that
20 you all can relate to what it is that's happening in your
21 own community to what it is that we're talking about here
22 today.

23 MR. BOUGH: Okay. I'll try to speed things up.
24 I haven't had my fourth cup of coffee today.

25 I tend to go very fast. This is an issue that

1 gets me very excited, because I see the opportunity in
2 front of us. And so I go too fast sometimes. I get a
3 little out of control. So I'm going to try to calm it
4 down here and try to bring it back down to earth.

5 Brian's right. This is an area where we have a
6 lot of technical jargon that we can throw around, because
7 how we measure school progress is a very delicate and
8 subjective issue. And this is something that all the
9 states are right now grappling with. Every state that's
10 engaged in this waiver application has had large scale
11 discussions with their educators, with communities, with
12 tribes, with business leaders about what it actually means
13 to be making educational progress.

14 One area in which there is a considerable amount
15 of consensus is around Principle 1. And, that is,
16 developing a common core set of academic standards. And
17 right now they're still having to take the basis out into
18 the "No Child Left Behind" of using mathematics and
19 reading language arts. That's what's currently existing
20 under the law. So they're kind of moving forward from
21 there tentatively. The idea is that they'll bring on
22 science and other academic areas over time.

23 So one of the first directives that we have from
24 the waiver application is to adopt a common core set of
25 standards or a set of standards that will lead to college

1 and career preparedness upon exiting secondary education.
2 That is, they leave high school. They're either ready to
3 go out and take a job or go into college and perform,
4 without having to go back through remedial work.

5 And so our application will include an alignment
6 with the common core set of standards.

7 The purpose behind the common core set of
8 standards is that the states looked at each other coming
9 out of "No Child Left Behind" and they said, you know
10 what, math doesn't seem to vary much by state. You know,
11 2 plus 2 is going to be 4 in Nevada just like it is in
12 California. Same thing with reading language arts. The
13 principles are mostly all still there. So they decided to
14 coalesce around a common core set of standards.

15 The natural progression of that is to move
16 towards a common core assessment. That is, you have a
17 single assessment that measures student progress or
18 achievement on these standards across all the states. And
19 that's something that we're going to see come out in the
20 2014-2015 school year. Right now these assessment
21 consortia are being funded to develop the assessment
22 that's based on their standards.

23 Now, the thing that's not included here is that
24 these standards are very deep, and they start asking
25 questions about how it is a student knows what they know.

1 Can they demonstrate? Do they actually master the
2 concepts that compose the standards? And so we're going
3 to see that these assessments when they're aligned for the
4 common core standards are going to be much more in depth
5 than the current assessment system that we have right now,
6 and that there's going to be a lot higher level of
7 expectation of our schools to implement these standards
8 fully over the long term.

9 MR. DRAPEAUX: Would you mind expounding a little
10 bit. You know, you have the common core. And then the
11 issue that the chairman brought up today, and a piece that
12 they're very proud of, and that we get asked all the time,
13 Brian, as you know, is about culture and language and
14 history and those types of items that are important to our
15 communities. Would you talk about where -- if those types
16 of standards could fit in the common core and how leaders
17 can engage with their states or with their jurisdictions
18 about, you know, having a discussion about that.

19 DR. HAMLEY: I'm Jeff.

20 The common core, the way it was envisioned is --
21 the common core standards which we're adopting, which was
22 developed by the National -- the Governance Association
23 and then picked up by CCS, which is the state
24 superintendents, they started -- they've carried that
25 initiative forward. It's been adopted by almost all the

1 states. I forget the number, but it's close to 50.

2 But in that overall scheme they always had
3 planned that 15 percent of the standards -- because what
4 they're trying to do is implement a national standard, but
5 they -- you know, education in the U.S. is locally
6 controlled. So they reserved 15 percent of the standards
7 for local creation.

8 So we are taking that 15 percent in our plan and
9 we're stating it right up front, it's in our summary, that
10 we would -- that will be an area where tribes can take
11 local control over that.

12 And we have tribes around the country in school
13 boards that we work with that are interested in developing
14 standards in tribal government, tribal history, tribal
15 culture, tribal language. So that's where we would
16 encourage tribes to make the standards their own. And
17 then, in turn, we would work with you to develop
18 assessments on that.

19 But as I said, we are actively -- currently "No
20 Child Left Behind" - and I see this continued in the
21 reauthorization - allows tribes to, you know, create an
22 alternative definition of AYP. And I don't know if we'll
23 need an alternative definition. But the tribes should be
24 able to create the 15 percent that relates to them.

25 So we are working -- actively working with tribes

1 on standards and assessments in various areas - tribal
2 government, tribal history, tribal culture, tribal
3 language.

4 The language is a tough one, because, while they
5 may have the standards written, it's the assessments we're
6 finding they don't have written. And so that's been a
7 very interesting challenge for us. It's also been a very
8 interesting project. And we tend to -- we intend to take
9 what we've learned from working with these groups of
10 tribes around the country and actually expound that
11 information out and begin sharing that with all the
12 tribes, so that -- and, you know, you had talked about
13 your language program. So, you know, you may be
14 interested in the work we did on that. We'll be doing
15 some workshops on that in the future.

16 So that's the 15 percent that Brian mentioned.

17 --o0o--

18 DR. HAMLEY: Principle 2, to move on. This is
19 accountability. And by 2012-13 implement a statewide
20 system of differentiated accountability that includes new
21 goals for student performance on college- and career-rated
22 standards for all districts, schools, and groups. And
23 options include: Cut in half the difference between
24 current proficiency rates and a hundred percent in six
25 years overall and for each group, a hundred percent

1 proficiency by 2020 or other similarly ambitious goals
2 looking for innovative models.

3 But I mean this addresses a fundamental problem
4 with American education, and especially the students that
5 we work with, indian students, is that they're just not
6 prepared. In fact, they're so unprepared that the dropout
7 rate is extremely. So this is getting to the dropout and
8 to make sure that all of the students are ready for
9 college and ready -- are ready to go out and, you know,
10 start a career right away.

11 Question?

12 DR. WYNN: What is that dropout rate?

13 MR. DRAPEAUX: We ask that you everybody who
14 speaks give your name -- this is a public record -- give
15 your name, your title, and your tribal affiliation please.

16 Thanks.

17 Just pull the mic toward you.

18 DR. WYNN: I'm Dr. Karen Wynn. I'm from the
19 Picayune Rancheria, the Chukchansi Indians, which is -- is
20 that picking up now?

21 Okay. I'm Dr. Karen Wynn. I'm a tribal council
22 member from the Picayune Rancheria of Chukchansi Indians.
23 We're located about 42 miles north of Fresno, California.

24 My question was, what is that dropout rate? And
25 are you looking at it as a national collective rate at

1 this point or --

2 DR. HAMLEY: Well, the data we collect is on for
3 our system. But it varies quite a bit regionally. And,
4 you know, whether -- and also with different groups. So,
5 you know, like in California, you know, you may have, you
6 know, a high dropout for Hispanics and indians but not for
7 Asians. And it really varies by region.

8 So for us, that's actually been a figure that we
9 have struggled with to quantify. So we're working on
10 that. But Brian tells me it's about 15 percent, which
11 seems low to me. So this is something that we'll be
12 working on to quantify better as we look at preparing.

13 The Department of Ed has a certain methodology
14 that you apply to graduation. And the dropout too?

15 Not so much. Just graduation. So they don't
16 really look at the dropout issue. They look at your --
17 they're more interested in graduation.

18 But we know that there's a study by Faircloth and
19 Tippeconnic, which outlines some of the major dropout
20 problems. And we know we have a dropout problem in the
21 Bureau. So we have currently one initiative in place with
22 Clemson University, and we're about to launch another one,
23 it looks like, this next fall with another group that has
24 about a 93 percent success rate with dropout students in
25 various states. And not just the indians. They work with

1 all populations.

2 So we understand it's a very significant problem
3 and so we're going to address that.

4 MS. SILVERTHORNE: This is Joyce Silverthorne
5 with the Office of Indian Education.

6 We've also sponsored a series of studies since
7 2004 that, through the National Indian Education Study,
8 and those -- that data is also trying to attempt to
9 document what those statistics are. And it is ongoing.
10 We will have a release this summer of 2011 data. And
11 those are available through our website. They're volumes.

12 The difficulty in establishing a dropout rate, a
13 graduation rate is in definition; that we all need to be
14 using the same definition for who it is we're looking at
15 and how we're figuring the statistic.

16 If you look at the number of students that begin
17 in their freshman year and follow them through until their
18 senior year and who graduates, then you wind up with a
19 more cumulative number that documents the graduation and
20 dropout rates.

21 If you do that, what we're seeing is a higher
22 rate -- the 15 percent does sound low to me too. But it
23 all depends on how it's developed. If you look at an
24 annual dropout rate, those students who enter the school
25 in the fall system and who graduate or completed the end,

1 a dropout rate can be very different than when you look at
2 a cumulative over time. So there's a lot of variation.

3 Unfortunately this country doesn't use a single
4 definition.

5 DR. HAMLEY: I wanted to Talk a little bit about
6 the idea of college and career ready. I mean this is an
7 interesting area. This is something that's new that's
8 being thrown at us. So the question is, how do you
9 measure that?

10 And so -- I mean and that's an issue for us too.
11 A lot of states are -- I think there's an acknowledgement
12 that this is something where there -- it's a new concept
13 that we're being asked to quantify. So, you know, the --
14 some states as an interim solution have decided to use the
15 ACT to basically -- as a rough measure. But I think that
16 there's consensus around the country that the whole area
17 needs to be looked at more in depth, does that really
18 relate to, you know, being ready for college or a career?

19 So in the interim the Bureau is going to use the
20 tests that we use and we're going to set a score that sort
21 of corresponds to the ACT. But then -- and then the
22 second year we're going to actually implement the ACT
23 system-wide. So we'll have some good data anyway.

24 But then with the rest of the country, we are
25 going to study this issue and see if there's a better way

1 to measure whether a student is ready for college or not.
2 I mean we're not just talking about ready for college.
3 What we're really talking about are tangible skills,
4 mathematical, literary and critical thinking. That's what
5 we're talking about. So it's not just grades, you know,
6 or your score on a test. You know, we want students to
7 know -- we want to know if students can think critically
8 and have been trained to do that.

9 So moving on a little bit. I see people looking
10 at their watches.

11 --o0o--

12 DR. HAMLEY: Teachers evaluations. The research
13 has shown that this is a key part of running -- having a
14 successful learning experience for students, is that you
15 have to have teachers who are well prepared. If you have
16 teachers who are not prepared, you have to have
17 interventions and supports to prepare them. And in some
18 cases, like some states are doing, they're just
19 terminating the teachers and saying that "we can't train
20 them. We're going to get new teachers."

21 The same with the principals. You know, the
22 research has shown that a principal can turn around a poor
23 school and a poor principal can very quickly run a good
24 school into the ground. So we want to have evaluation
25 systems to determine each year are they doing their job.

1 And if they're not, provide supports. And if that doesn't
2 work, to terminate them and to move on, to get some people
3 in there. Because it's the students who pay the price for
4 adults not doing their jobs.

5 So I'm sort of varying from the PowerPoint.

6 --o0o--

7 DR. HAMLEY: And Principle 4 I talked about
8 already.

9 I mean this is a big complaint in the Bureau, is
10 that -- you know, the schools say, you know, we're killing
11 them with the burdens of reporting and accountability
12 issues. And so we recognize that, and we are going to try
13 and back off on that to the extent that we can. I mean
14 one challenge we have is that we do accept almost a
15 quarter billion dollars in Department of Ed funds, and
16 there's a lot of strings attached to that money.

17 But we -- this is a major issue for us and we're
18 going to look at this as well.

19 --o0o--

20 DR. HAMLEY: So this is Part 3. This is where
21 we're going to talk about what we're doing. And I think
22 I'll let Brian go, and even though I'm tempted to charge
23 into it.

24 MR. BOUGH: For us in the Bureau changing the
25 policy, applying for a waiver is not as simple as simply

1 filing out the application and sending it in. Because we
2 take and we go through negotiated rule-making, we engage
3 in consultation, we develop federal regulations that are
4 based on the results of that negotiated rule-making. And
5 so we've essentially codified the 23-state system in 25
6 CFR section 30-104 A. That's as specific as I can
7 possibly get.

8 For us to move forward with our waiver
9 application, we need to amend this to allow us to move to
10 a unitary system of accountability. A unitary system of
11 accountability would consist of those common core
12 standards that we talked about being applied to all of our
13 schools. It would be a single assessment that would
14 measure whether our students are performing against those
15 standards.

16 And then, finally, it would be an accountability
17 system based on the test results that come off of that
18 assessment. And we'd have the same accountability
19 criteria for our schools no matter which state they are
20 in.

21 And so what we are looking for today in part is
22 some feedback on what you think about our proposal to move
23 away from the 23-states model and move to a single
24 accountability system. And that would pave the way for us
25 to do our waiver application with the U.S. Department of

1 Education.

2 Now, what we're going to talk about is what we
3 are proposing so far, you know, before we -- you know,
4 this is our very first consultation on this matter right
5 here where we're putting this opinion -- this application
6 out before the public. This is what we want to get some
7 information on. We wanted to see what you guys think
8 about it.

9 So our new accountability system -- let's go on
10 the next slide --

11 DR. HAMLEY: Oh.

12 (Laughter.)

13 --o0o--

14 MR. BOUGH: -- is that we are going to align
15 ourselves to those common course standards, that we have
16 our students prepared for college or career upon
17 graduation from a BIE-funded school. We will use a single
18 assessment. We have an assessment in mind, but we're
19 still going through the contracting process. We can't
20 really discuss it until we get that cleared.

21 Oh, I'm sorry.

22 Most people complain that I'm way too loud. So
23 my apologies.

24 So we want to move to the common core standards.
25 We want to have a single assessment to measure those

1 standards.

2 And then, finally, we're going to have an
3 accountability system change that is in the spirit of the
4 flexibility reforms that Secretary Duncan has made
5 available to the states. In particular, we're still going
6 to be looking at proficiency on academic standards, the
7 same measure that we have under "No Child Left Behind."
8 But we're going to be combining a new area of measurement
9 into the system, specifically --

10 MR. DRAPEAUX: Brian, at some point in here as
11 you talk about this, will you talk about how closely our
12 efforts are to what other states are doing, perhaps.

13 MR. BOUGH: Our efforts are -- you know, this is
14 easy to generalize. Our efforts are pretty much in the
15 mainstream of what the states have been proposing so far.

16 So, for example, we know that 11 states have
17 already proposed and received flexibility under "No Child
18 Left Behind" from the U.S. Department of Education. Two
19 of those states are Minneapolis and New Mexico.

20 We've gotten some commonality with New Mexico.
21 But our accountability system that we're proposing is very
22 much in line with what they're doing in Minneapolis -- or
23 up in Minnesota.

24 Minnesota, however, isn't aligning to the common
25 core standards. They've adopted their own set of

1 standards which were certified by the state's institutions
2 of higher education as ones that are likely to lead to
3 success in college upon completion of high school in
4 Minnesota. So in that sense we're more aligned with
5 what's going on in New Mexico by having the common core
6 standards adopted.

7 So we are really looking at the mainstream. The
8 more applications that have come on line -- if you go to
9 the U.S. Department of Education website and you look up
10 ESEA flexibility, you can read every state's application
11 and whether it's been accepted and what the U.S.
12 Department of Education peer reviewers have thought about
13 the application and what the negotiating points were and
14 what the final application proposal that got approved
15 looked like.

16 Since the original 11, there have been 28
17 additional states that have applied. And 18 of those
18 states are ones where BIE schools are located.

19 And something that we neglected to put on the
20 slide there. Each of these new applications that come in
21 is so much more complex than "No Child Left Behind" that
22 we're not going to be able to go out and replicate the
23 accountability systems of each of the states where our
24 schools are located.

25 So whenever we talk about proficiency or we talk

1 about graduation rate or attendance, these are very easy
2 for the Bureau of Indian Education to go out and replicate
3 what the states are doing under adequate yearly progress,
4 the old "No Child Left Behind" system. That's fairly
5 easy.

6 But when we start talking about new things, such
7 as the measurement of student growth across the academic
8 year, that means we have to use the state's assessment and
9 we have to measure growth the same way the states measure
10 growth. And sometimes these aren't always clear to the
11 public, because the states have their own statisticians
12 and they do things their own way. And so the BIE's not
13 really in a good position to replicate what the states are
14 doing. So we have a barrier to implementing "No Child
15 Left Behind" as mandated by the 25 CFR that came out in
16 negotiated rule-making.

17 --oOo--

18 MR. BOUGH: Okay. I'm being pushed forward.

19 One of the things I wanted to wrap up on the last
20 slide is that we are going to be using the new assessment
21 to measure student progress. And that's going to be a
22 major change from "No Child Left Behind." Many of our
23 schools complained that they were doing a very good job
24 educating their students but because "No Child Left
25 Behind" looked only at that final score during the year

1 and made a determination as to the school's ability to
2 educated that student based on a one score period in time,
3 they felt like it wasn't fair.

4 And to give you one specific example, we have
5 Theodore Jamerson Elementary School, it's up in North
6 Dakota. They service children that are the children of
7 students that go to a local technical college -- or local
8 community college there that's sponsored -- one of the
9 tribally controlled schools -- tribally controlled
10 colleges, yes. It's the United Tribes College.

11 I'll get my mouth back here in a second.

12 The student population was such that -- the
13 students were coming and going throughout the year. And
14 because of the rules of AYP in North Dakota, we weren't
15 able to count the majority of those students for AYP
16 purposes. And we looked at their scores. And they had
17 measures of student growth for multiple points throughout
18 the year. Theodore Jamerson was doing a phenomenal job
19 educating their students, but they weren't able to keep
20 them in the system long enough to have them count for AYP
21 purposes.

22 So this was really unfair to Theodore Jamerson to
23 make an AYP determination based on a single point in time
24 as the rules of North Dakota mandated -- as "No Child Left
25 Behind" mandated. And so if we were able to count growth

1 scores, the ability to look at student performance from
2 the beginning of the time that they started the school to
3 the end of that school year, then we would have seen that
4 they were doing a very good job educating their students.
5 Instead we were giving them a "not made AYP" determination
6 year after year.

7 --o0o--

8 DR. HAMLEY: So we're going to incorporate this
9 concept of student growth on academic standards into our
10 accountability system. And we're going to add in --
11 that's going to be our primary change that we have going
12 forward in our flexibility application.

13 So that's going to comprise 40 percent of our
14 overall calculation, whether the students making progress
15 in math and in reading standards across the academic year.
16 And the way in which we will measure that is by having the
17 students assessed three times per year. And we're going
18 to compare the beginning of the year assessment with the
19 end of the year assessment to see how much growth those
20 students are making. And if they don't make an acceptable
21 amount of growth, then the school won't get credit for
22 them.

23 But if those students are making growth, even if
24 they aren't hitting the proficiency point, even if we say
25 the student's still not proficient in math or proficient

1 in reading but the school did a great job in getting them
2 closer to proficiency, then we're going to give the school
3 credit for that. And that's going to be a major change
4 from the system under "No child Left Behind."

5 And this is what all the states are going to as
6 well. They're not necessarily going to have an
7 accountability index like ours, but they're going to have
8 something similar that allows them to account for student
9 growth across the academic year.

10 We're going to have the test participation rate
11 maintained. That's also from "No Child Left Behind." The
12 schools are required to test at least 95 percent of their
13 students. That will be maintained, and it will be 10
14 percent of our new accountability system.

15 Student proficiency on the academic standards,
16 that will be equally weighted with the student growth or
17 the progress indicator. So we're going to still have that
18 left over from "No Child Left Behind." It's still
19 important to us that our students are performing at level
20 on math and reading. But we're going to -- in addition to
21 the proficiency, we're going to include student growth.

22 MR. DRAPEAUX: Brian, would you mind talking a
23 little bit about testing in regard to how tests a little
24 bit are developed. I don't want to get deeply into it.
25 But I know that in other discussions that we've had around

1 the country, there's been a lot of complaint and concern
2 among tribal leadership and educators in indian country
3 concerning the tests themselves, how they're developed,
4 the fairness of the tests, and so on.

5 I mean how would educators in the audience or
6 tribal leaders in the audience engage in the dialogue
7 around testing fairness and in their own jurisdictions?

8 MR. BOUGH: One of the major problems that we see
9 in testing is bias in the test questions themselves. What
10 we find is that our student population tends not to be
11 anywhere close to a majority of the students in any given
12 state. There are some exceptions. But what that means is
13 that whenever the people who make the assessment develop
14 questions, they may be questions that are not relevant to
15 our culture. And so our students may not grow up knowing
16 what a skyscraper looks like. The classic one that comes
17 out of New Mexico is the question as to, what does a
18 skyscraper look like from above?

19 Well, if you're out on the Navajo reservation and
20 maybe you haven't been in to Albuquerque where we have an
21 eight-story building --

22 (Laughter.)

23 MR. BOUGH: We have one skyscraper. Which I
24 think technically at the elevation of 5500 feet,
25 everything scrapes the sky.

1 But our students really don't know how to answer
2 that question. And so there's a testing bias that's part
3 of the questioning that goes on some of the assessments.
4 And states may not have an emphasis or an awareness, or
5 even if they're aware of it, they may not particularly
6 care to change the assessment to add new questions that
7 are more culturally sensitive to the needs of our student.

8 The nice thing about the assessment that we're
9 going to move to is that we're going to be a major
10 constituency for this assessment company. And so they
11 will take our concerns seriously. They will have our
12 educators involved in the standards-setting process. That
13 is, our teachers, our principles, our line officers are
14 going to have a say in what those assessments look like
15 and how proficiency is judged. They will go in and they
16 will be able to review the questions to look for these
17 biases.

18 And so because we're moving to a single
19 assessment, if we can get to that point that we have a
20 single assessment and we're working with the assessment
21 vendor directly, they will take us seriously. They will
22 make sure that the questions are culturally sensitive and
23 culturally relevant to our students. And this is
24 extremely important in terms of developing an assessment
25 that is an accurate and valid measure of what our students

1 know.

2 DR. HAMLEY: I would just like to say about that
3 too, I mean the basic question, as Brian has highlighted,
4 is, in the test development was there a sufficient native
5 population that was developed? So with the intermediate
6 tests that we're doing, which we're not naming because of
7 contracting issues -- but if you know anything about us,
8 you can guess what it is. But that's a question I think
9 that tribal educators and tribal leaders should ask the
10 two consortia out there that are developing these national
11 tests, Park and Smarter Balance, is to what -- and I guess
12 we should ask them too, so we better do that on Monday,
13 Brian -- but to what extent are you including a native
14 population? And if they didn't, that's where the bias
15 comes in.

16 And so we want to make sure -- see, we have an
17 intermediate assessment. But when the major assessments
18 are developed in two years, we actually will consider
19 going to one of those. And so we should really ask this
20 question now, to what extent were native people included
21 in the test development?

22 And, Joyce, it would be great if you supported us
23 in that question. So we'll --

24 (Laughter.)

25 DR. HAMLEY: Not to put here on the spot or

1 anything.

2 MR. BOUGH: Okay. The other thing that we have
3 to really emphasize, the U.S. Department of Education's
4 requiring us to include graduation rates. That's
5 extremely important. It will be included in the new
6 accountability system. We will use the adjusted cohort
7 rate, which is required by the Department of Education.
8 Joyce highlighted that a little bit earlier. It tracks
9 students from their freshman year all the way through
10 their senior year.

11 We have some unique eccentricities. And this
12 highlights the dropout problem a little bit. Many of our
13 students graduate in five or six years. And unfortunately
14 we don't have the ability to give our schools credit for
15 those students that graduate on a nontraditional scale.

16 So whenever we talk about the adjusted cohort
17 calculation rate, when you hear these big public media
18 spectacles talking about how graduation rates have fallen,
19 just bear in mind that's only the students being counted
20 that graduate in four years or less. These are only the
21 on-time graduates. This doesn't count students that have
22 graduated in five or six or more years.

23 So if you've got students in special education
24 and it takes them a little longer to graduate from the
25 system, they're not counted as a graduate under this

1 graduation rate calculation. So that's very important to
2 realize.

3 MR. DRAPEAUX: Brian, if you would, would you
4 talk a little bit about -- I know that in previous
5 discussions, and particular with the Hoopa education
6 director, one of the challenges that they have is to -- as
7 tribes develop their tribal education agencies, and as
8 they look to really supplement public education, as they
9 do in California here, with different programs and items,
10 can you talk a little bit about -- you know, you were
11 describing the scenarios earlier and the data. I know
12 that tribal -- that tribes and tribal education
13 departments are like, "Well, you know, these are our kids.
14 They're going to public school." How do we access data so
15 we can focus our programs and our funding at a level that
16 makes the most sense for tribal leaders and tribal
17 education agencies in terms of their doing their jobs and
18 supporting their own community members in these vast
19 public school systems in certain circumstances?

20 MR. BOUGH: Well, you didn't have to save the
21 easy questions for me.

22 (Laughter.)

23 MR. BOUGH: This is about the most complicated
24 question we have.

25 Bart Stevens mentioned earlier that as educators

1 we really want to share as much information as we can with
2 other educators to improve the quality of our students'
3 education. And he talked about the Family Education
4 Rights and Privacy Act being a barrier to us sharing that
5 information. That is, we could all end up in, you know,
6 busting rocks in Leavenworth if we're exchanging data
7 inappropriately.

8 The problem that we have with FERPA is that it
9 doesn't prohibit us from giving data to tribes or to other
10 state education agencies explicitly. But we have to
11 really develop what goes on to make that happen.

12 Unfortunately with tribes, tribes aren't explicitly called
13 out in FERPA as one of the agencies that we can give that
14 data to.

15 So even though it doesn't say we can give it to
16 them, it doesn't give us the support we need in order to
17 make that happen.

18 And so if you're familiar with Dr. Calvin White,
19 he talked about that in particular. He wants to see some
20 clarification. And I think we need to see some
21 clarification on FERPA. But the more data that we can
22 have, the better off we're going to be.

23 MS. SILVERTHORNE: Last year there were
24 amendments to FERPA. And the attorneys are assuring us
25 they will get a workshop soon to help us understand what

1 those changes mean. But what they actually imply is that
2 a tribe can become as responsible as a state agency would
3 be in handling data, and they do then have access. But
4 there's some technicalities in how that process works.
5 And you will see workshops coming.

6 DR. HAMLEY: So we're moving in that direction on
7 the FERPA but -- I mean another route to answer that
8 question so that the parent in the home can know what
9 their student is doing is what some states have done is
10 that they've developed dashboards where the data is
11 presented on to the public on a district -- a state level,
12 district level, school level, classroom level, and then to
13 the parents and individual student level.

14 So I mean I think that's something we are working
15 on right now is to make better use of data, to make it
16 available. And we would want to include on the tribal
17 level. We would want the tribal council and the tribal
18 community be able to go to our webpage and compare the
19 data of their school.

20 And for individual students, however, it has to
21 be on a parent to student basis. I mean we're not going
22 to make that publicly available.

23 But that's one approach proactive. And then we
24 have the FERPA front where the tribe itself is trying to
25 get access to all the data.

1 MR. BOUGH: Yeah, the tribes are one thing.

2 And Jeff's right. We are working on a
3 longitudinal data system that will give this level of
4 access to the various people that might be accessing it.

5 The importance of uniting our accountability
6 system around a single set of standards, assessments and
7 accountability criteria is driven home here. Because if
8 you go to the BIE website and you look up "reporting" and
9 you see every school's AYP determination, if you don't
10 know what that AYP determination means under our current
11 system, you're going to compare our schools in South
12 Dakota with our schools in Mississippi.

13 In the last five years there's only been two
14 instances of our schools in South Dakota, about what, 25,
15 26 of them, making AYP. But all 8 schools in Mississippi
16 have made AYP in every year during that same period of
17 time. And, you know, just from random chance, you would
18 think, gee, that shouldn't be possible.

19 But we see, you know, something that's kind of
20 insidious, that has a way of working itself around our
21 minds and thinking, gee, this should be equivocal but it's
22 not.

23 And the solution that I'm going to hint at, the
24 solution that I know is out there, is that maybe, just
25 maybe the standards and assessments are easier in

1 Mississippi than they are in South Dakota. And I say that
2 with all due respect for our schools in our Choctaw Nation
3 down there in Mississippi, because they're tremendous
4 schools. But if you ask Superman to crush an aluminum can
5 and then come back at him by saying, "Well, anyone can do
6 that," you know that that's not really a test for
7 Superman.

8 Our schools down -- our students at Choctaw are
9 phenomenal, they're great students. But the Mississippi
10 standards aren't such that we actually know how good they
11 are.

12 But we do know that in South Dakota the standards
13 are so much higher, that none of our schools are making
14 AYP. So our schools aren't really receiving credit there.

15 And so if you look at the current data reporting
16 system that we have where you go and you look at AYP and
17 say, "Hey, these are all equivocal," that's not really
18 fair to any of our schools, because we can't compare AYP
19 across state lines.

20 So that's -- the most simple way in which we
21 start looking at data is that we have a school report
22 card. And then when you have the same standards and the
23 same assessments for all our schools, then you can compare
24 our schools across state lines and you can compare them
25 with one another.

1 And the nice thing about the longitudinal data
2 system is that we will have them broken up by their tribal
3 region as well. So you can look at how all the schools on
4 Navajo are doing, all the Choctaw schools are doing, how
5 all the schools in North and South Dakota are doing. And
6 you'll be able to group things logically in these ways
7 that allow you to have better information about how the
8 data really work.

9 DR. HAMLEY: And other point, I mean we'll also
10 be able to compare to the national norm, which is what a
11 lot of states do. They want to know where they stand in
12 relation to the national norm, which for us is important,
13 because, frankly - and I'll be just frank - the national
14 norm is here, the Bureau schools are down here. And
15 that's a significant problem. We need to bring them up.

16 MR. BOUGH: Okay. I'm going to try and move
17 through these couple slides real fast. As you could tell,
18 I'm excited. I get a lot of information out, and I just
19 don't know when to stop.

20 We'll have a new system of measuring our annual
21 measurable objectives.

22 Right now under "No Child Left Behind" annual
23 measurable objectives are the targets that the schools
24 have to hit in math and reading, attendance rates and
25 graduation rates in order for the school to be judged to

1 be making AYP. We're going to change it. Our AMO is
2 going to look a little bit different. It's going to be
3 the combined score of math and reading and graduation and
4 attendance rates, participation rate. We're just going to
5 combine it into a single score that the school has to hit
6 in order to be judged as being successful. That will be
7 the new accountability determination.

8 We're going to normalize the scale such that 50
9 is going to represent about a low school, 90's going to
10 represent a high performing school, and 70's going to be
11 right in the middle. And that scale's going to run from a
12 0 to 100. But that gives you a sense of what the range is
13 going to be; 50 to 90 is generally where the schools are
14 going to fall. Most of them are going to be isolated
15 right around 70.

16 And the goal will be for all the schools to
17 either reach 90 or 85 or 80, depending on their initial
18 identification. So after we do this baseline year, which
19 will be the upcoming year, the school will have a target
20 to reach in a five-year period of time. Generally
21 speaking, we want all of our schools to go from whatever
22 AMO they're currently performing at all the way up to 90
23 in that five-year period.

24 So that will be a progression. They'll have a
25 certain level of progression that they need to hit in

1 order to make their accountability index score, where it
2 actually hits and we judge them to be successful.

3 --o0o--

4 MR. BOUGH: We will identify schools into a
5 series of categories. And these categories will range
6 from high performing, which is a reward school to those
7 that are performing; those schools that are satisfactory;
8 ones that are progressing, transitioning; and then at the
9 very bottom we'll have what we call focus and priority
10 schools.

11 The schools at the top are the reward schools.
12 The schools down at the bottom are the focus and priority
13 schools. This is language given to us from the waiver
14 application itself.

15 And so roughly there'll be about 20 percent of
16 the schools identified into each of these categories. So
17 that -- you know, I know the numbers up there don't quite
18 add up. There's one other category that we throw in
19 there, which is for high progress schools. Schools that
20 are identified into any of the categories but show
21 tremendous amounts of student growth across the year,
22 they'll be recognized for having that high level of
23 achievement. And so we want to make sure that they're
24 called out and recognized for their good work.

25 Now, the importance of identifying schools for

1 comment from indian country, is that student achievement
2 will become the focus.

3 Now, for the Bureau, the focus has been trying to
4 jump through smaller and smaller hoops to meet the
5 requirements of "No Child Left Behind." It's pulled us
6 away from focusing on children, which I think is reflected
7 in our low performance compared to the national norms. So
8 we want to move it to about kids again, what they're
9 learning, and not about governmental regulations.

10 A big complaint of schools is that they're not
11 being credited for the work they're doing. The
12 accountability determinations will be more reflective of
13 their performance. And that specifically means a growth
14 indicator will be included. So that's the major
15 breakthrough forward. It will start to give credit to
16 schools that are actually doing some important work but
17 they're being -- they're not making the arbitrary AYP
18 cutoff.

19 For us, the hugest one is that we will have a
20 single accountability system. Instead of trying to chase,
21 you know -- the analogy is, you know, you're going to buy
22 a loaf of bread. So when you go buy a loaf of bread, you
23 go and buy to one store one loaf. The Bureau buys a loaf
24 of bread, we go to 23 stores. You know, it's just -- it's
25 a waste of time, frankly.

1 So this is a huge breakthrough for us. I think
2 it will allow the Bureau to move forward as a school
3 system, which is what we are.

4 The accountability system will be less punitive.
5 I mean right now the AYP system is just punishing for
6 small schools. And we're going to back off from that and
7 we're going to start giving schools credit for what
8 they're doing.

9 And then I think the biggest part is that having
10 a 23-state system that's not coherent, we're not able to
11 focus our resources on supporting standards assessments,
12 curriculum, teacher development, professional development.
13 We just -- it's very difficult to run a coherent system.
14 So having a unitary accountability system will allow us to
15 do that.

16 Final thoughts I guess are, this is -- for the
17 Bureau, this waiver, this is very significant. I can't
18 emphasize how significant this reform effort will be for
19 the Bureau. It's going to change our school systems.
20 It's going to allow us to join the national reform effort
21 and be a part of that with other school systems around the
22 country, other states.

23 So for us this is a biggie. And I think that
24 will translate into growth for students.

25 The second thing is that the - as we've already

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1 said I guess ad nauseam, a hundred times, is the idea of a
2 unitary accountability system. We're backing away from a
3 disjointed 23-state system. So we'll have common
4 standards, common assessments and a common accountability.

5 --o0o--

6 DR. HAMLEY: So we invite your input into this.
7 We have -- here's some information. We'll be sending
8 letters out. We'll be publicizing this more and more in
9 the next several weeks. But if you have questions, you
10 can contact me. We'll have information at our websites.
11 And then we also have a special email set up to solicit
12 input.

13 So as you think about this, read the materials,
14 if you want to submit a comment, you can do that in
15 writing or else you can just email us.

16 So with that, I thank you for your attention. We
17 got kind of passionate and made it longer than intended,
18 but thank you.

19 MR. MacALLISTER: Thank you.

20 And just as a reminder, in the package you have
21 the email and websites as well.

22 At this point, since we're running over, why
23 don't we -- yes.

24 MS. SILVERTHORNE: If I could just ask for just a
25 moment of closing as well.

1 The Department of Education has been in a
2 three-round process of these flexibility reviews. In the
3 first round 11 states were approved. And you've heard
4 that a couple of those are states with high populations of
5 both Bureau schools and populations of American indian
6 students.

7 In the second round of the 28 states that have
8 been submitted, another huge proportion of our highly
9 populated Native American states are going to be in for a
10 round of flexibility approvals.

11 What I can tell you is that in all of these
12 applications, none of the applications were accepted as
13 they were submitted. Every one of them required a peer
14 review process. Each of those with the peer review
15 process came out with recommendations, negotiation back
16 and forth between the Department and the states in trying
17 to establish the final document that would be approved.

18 And the fact that there are approximately 12
19 weeks between the submission of an application and the
20 approval. And that's been through both of the two rounds
21 so far.

22 So we're hoping that what we will be able to
23 do -- and I do recognize that the Bureau of Indian
24 Education is up against an incredible process, incredible
25 problem with 23 states and each of those states now

1 changing their game play. And so as they attempt to keep
2 up with all of those changes, it is a very complex, very
3 difficult process. And I commend the effort that's going
4 into this.

5 But I would like to caution that this is a draft
6 yet. The input from the community is incredibly
7 important. And that is, if anything, one of the weak
8 areas that we see, is that we have not been able to have
9 these applications go out and get the kind of review
10 process in most instances that we would like to see them
11 have. And so community input is incredibly important.

12 And, please, take a look at this, think it
13 through. If you want to take a look at what other states
14 are doing, it is at [www dot ED dot GOV](http://www.ed.gov). In the search
15 window type in "flexibility" and it will take you to more
16 information than you're ever going to want to know about
17 flexibility. But it takes the application process, what
18 all of the other states are doing.

19 I had recently needed to take a look at
20 Oklahoma's application the other day. The end document
21 was 365 pages.

22 So this is not an easy task. This is a very
23 complex task, even when you're working with a homogeneous
24 set of schools. With the Bureau, they're working with
25 schools across 23 states and it is going to be a

1 considerable process.

2 Thank you.

3 MR. MacALLISTER: Other comments before we move
4 to their input?

5 MR. DRAPEAUX: Right. What I'd like to say is
6 this discussion and Joyce's comments are actually really a
7 nice entree into the MOU and what its -- what its purpose
8 and what it is that we hope to also talk about today in
9 addition to the flexibility waiver.

10 In the one package document where it has News
11 Release on it, on the second page on the fourth paragraph
12 down, it really talks about the strategies that are being
13 proposed between the U.S. Department of Education and the
14 Bureau of Indian Education, Department of Interior. We
15 think it's important to highlight what it is that we want
16 to do as it relates to you in indian country here.

17 Some of the highlights are:

18 You know, we want to help build capacity for
19 tribal education agencies. It's an important aspect that
20 you're fully engaged in and that we want to with our
21 partners, U.S. Department of Ed, be involved in, help
22 frame.

23 Enhanced teacher training and recruitment.
24 Whether it's a public school, high needs or in our own
25 school system area, it's an area that we know is of

1 concern.

2 Effective reforms. What does that look like?

3 The issues of dropout, graduation rates, those types of
4 things, are areas that I know that you face every day and
5 try to deal with.

6 Improved accountability. I mean that's a bottom
7 line. You know, there's money that comes to public
8 schools on behalf of native students that you're dealing
9 with. There's also money that you as tribal leaders are
10 dedicating to public school children through your own
11 tribal education departments or in some other sort of
12 supplement way. And you know that those programs are
13 being used with fidelity.

14 You may be developing your own curriculum to be
15 introduced into the school system, how -- that's an effort
16 of reform at the local level. We'd like to, if we can,
17 assist you in that.

18 Trying to bring other interested parties -- you
19 know, the issue of indian education is a national thing.
20 There's a ton of interest that we at the BIE get questions
21 all the time of: How can we help? What can we do? Can
22 we be your partner? And it's almost overwhelming, those
23 types of requests, because the answers should be yes, yes,
24 yes, and yet we can barely manage the relationships that
25 we already have in place. And how do we then, you know,

1 encourage those relationships so you can access them at
2 the local level? It's an important piece.

3 The best practices with national and regional
4 groups. You know, as we all do, we get involved with our
5 own work day to day, and it's hard to sometimes lift our
6 heads up to get a perspective of what else is working out
7 there. We hope that the BIE and our partnership with the
8 U.S. Department of Ed will help highlight that and move
9 resources towards opening the door for those opportunities
10 for you.

11 And then, finally, you know, the bottom line is:
12 How do we improve educational outcomes for our students,
13 and opportunities? And how do we help you in partnership?
14 We have a responsibility at the BIE, as framed in this
15 Executive Order of the President, you have a day-to-day
16 responsibility as tribal leaders and educators, as does
17 the U.S. Department of Ed. And how do we better, you
18 know, collaborate our efforts so it's easier for you to do
19 your jobs?

20 So this was a technical component that we hope
21 you enjoyed. And it was -- actually you're the first to
22 see it in the United States. And so we're excited that
23 you're here and that you have a chance to see it. In
24 fact, our friends at the U.S. Department of Education
25 haven't seen it yet. So we welcome their input of course.

1 And so this is really our trial run to this
2 document in terms of allowing others to see it. And we're
3 looking forward to public comment and hearing your
4 thoughts about what it is that we presented today.

5 So we look forward to your comments.

6 MR. MacALLISTER: Excellent.

7 Are there quick questions about the presentation
8 before we move into the public comment section?

9 Sir, you had a question?

10 Just a reminder. Give your name, your tribal
11 affiliation, your position if you have one. That will be
12 helpful for our records.

13 MR. McQUILLEN: All right. Can you hear me?

14 Mine is not necessarily a question.

15 My name is Jim McQuillen. I'm the Tribal
16 Education Director for the Yurok Tribe of northern
17 California. We're the largest tribe in the State of
18 California. Which sometimes in comparison to some of the
19 larger tribes doesn't say a lot. But we are large. Of
20 the 110 plus tribes in California, we're the largest.

21 Thank you for allowing us to be the first or I
22 guess the guinea pig of the presentation.

23 It's a lot to digest and interpret. And I've
24 been a Title 7 director for ten years, I've been a tribal
25 education director for eight years. We've gotten a

1 demonstration project from the U.S. Department of Ed. So
2 I'm familiar with a lot of the acronyms and educate --
3 I've been a principal of a reservation-based school. But
4 it's a lot to digest.

5 And on top of that it's like a double
6 interpretation going on, because so many of our children
7 are in public schools. So trying to take what you just
8 shared and interpret and apply that to public school
9 children. So any comments or help and assistance in
10 making that leap from the Bureau schools and how to
11 interpret the information for our kids who are -- I heard
12 the figure, 90 percent of American indian kids are in
13 public schools. That's a big percent. For us in
14 California it's 99.9 percent of the children are in public
15 schools. So trying to make that leap. And any assistance
16 you can give in your presentation to help those of us who
17 are trying to manage and assist our tribal kids who are in
18 public school, that would be very helpful.

19 So that's just a comment I wanted to make and not
20 interrupt the presentation earlier. But that
21 interpretation is going on for us on a double level there.

22 So thank you.

23 MR. MacALLISTER: Thank you, sir.

24 Any comments on that question -- or the input
25 there?

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1 MS. SILVERTHORNE: Thank you, Jim. And you bring
2 up an important item that we haven't yet spoken about.
3 And that is the fact that the appropriations this year
4 have granted to the Department of Education \$2 million to
5 create a pilot project that will be a state tribal
6 education partnership pilot. That is far too little money
7 to go as far as we need it to go, but it is at least the
8 beginning of a process that has not been attempted until
9 now. And that will be to contract with tribes and their
10 tribal education agency to become a partner with state
11 education agencies, not to handle the formula directly,
12 but to handle the SEA functions that have to do with
13 public schools on reservations.

14 And that should be coming out in the Federal
15 Register as soon as May 25th. We are still hoping that we
16 will meet the May 25th deadline. Until that comes out
17 officially, I can't give you as many details. But it will
18 be coming very soon. And that will be a pilot project.
19 We anticipate it will be for three years. And it is the
20 first of the Department of Education's ability to contract
21 directly with tribes.

22 So thank you.

23 DR. HAMLEY: Jeff Hamley. I'll make a comment
24 too.

25 While the footprint of the Bureau is small in

1 California, we do have two schools here. And so to the
2 extent that you have students there and want to, you know,
3 give input, we welcome that. And I think the invitation,
4 isn't it right, Brian, it's for tribal leaders generally,
5 not a qualification that tribal leaders have to a student
6 in a particular school. So your comments on our proposals
7 are welcome in that sense.

8 But beyond that, I think that -- you know, I
9 think we do have some areas of collaboration. Like if we
10 are developing successful initiatives, we're willing to
11 talk to you and share that information. The dropout
12 initiatives were very excited about that we're
13 implementing. The language -- native language.

14 So there are opportunities to dialogue even
15 though it may not be around a particular school where you
16 have students. So we just leave that invitation open.

17 MR. MacALLISTER: All right. Sir.

18 Again, your name and --

19 MR. ATTEBERY: Russell Attebery, Chairman for the
20 Karuk Tribe.

21 And in Karuk, that means "upriver." So we're the
22 second largest tribe in California, and we're just upriver
23 from you are.

24 (Laughter.)

25 MR. ATTEBERY: All of our students go to public

1 schools. And my question was, in the application process,
2 do you just submit them to school districts? And these
3 are just to BIE-funded schools, is that correct, the
4 application for the waiver?

5 DR. HAMLEY: Yes. It will just affect
6 Bureau-funded schools - 173 academic programs and 183 with
7 the dorms. And that's both Bureau operated and tribally
8 controlled schools it will affect. That's our proposal at
9 this point.

10 MR. ATTEBERY: Okay. Yeah, we're -- but we're
11 not of reservation status. But we face many of the
12 problems. I think the "No Child Left Behind" Act, I was
13 a -- before I became a chairman I was an educator, a
14 teacher and a coach for 20 years. And that was one of my
15 passions. And I think it was good intentions. "No Child
16 Left Behind" to me left out a little bit of the
17 individualism, where, you know, every child has individual
18 needs. And sometimes we get away from those.

19 I do have some comments about our specific needs
20 and what we face in indian country up there. But I'll
21 save those for the comment period though.

22 So the funding for these programs, is there --
23 would there ever be an opportunity for schools -- I know
24 they're public schools. But our enrollment is probably
25 right around 50 percent Native American students. I

1 talking in Happy Camp, California. We're broke up into
2 three different communities - Yreka, California; Happy
3 Camp; and Orleans, California.

4 Happy Camp's a small community, and about between
5 75, 80 kids in the school. And so, as I said, they're
6 probably about half of them are Native American students.

7 We do face the same problems. Again, we're not
8 reservation status, but we would like the opportunity to
9 give our kids every chance also.

10 MR. DRAPEAUX: It's our hope that even in the
11 scenario that we have here in California in certain
12 circumstances that the process that we're working through
13 that we can help create a -- you know, to help you
14 understand where you can plug in at from a leadership
15 perspective about, you know, as the -- I mean right now
16 we're in the midst of complete change in the United States
17 in terms of our educational programs. And this waiver
18 process that states are going through is going to change
19 the playing field for all the schools in each
20 jurisdiction.

21 And as chairmen and council people in your own
22 communities, the concern about what's happening with your
23 children and what do these changes mean in regard to your
24 local school district or school districts that are
25 educating your children. And then how do you as

1 leadership plug into that national debate, right? How do
2 you do that? How do you get your voice heard?

3 And so that's really -- in addition to this
4 waiver process, it's really opening the door with the
5 dialogue. With the MOU and this new relationship with our
6 partners in the U.S. Department of Ed, we want to create
7 forums like this where tribal leaders can come and talk to
8 the U.S. Department of Ed and the Bureau of Indian
9 education about your concerns.

10 And as we develop these plans for a particular
11 school district, we hope that some of the footprint that
12 we create can be expanded to include some of the concerns
13 that you have in the leadership areas. No matter what
14 your jurisdiction is, no matter what your status is, no
15 matter what your land situation is, we want to make sure
16 that we're providing a voice for you in the education
17 debate. And that's the scenario that you find yourself in
18 is that you have a partner with us and the U.S. Department
19 of Ed to weigh in on the national debate in terms of
20 education.

21 MR. MacALLISTER: Other comments or questions
22 from the elected officials?

23 DR. WYNN: I have a series of questions.

24 MR. MacALLISTER: Yes, ma'am.

25 Let's get the mike and -- you remember the drill

1 with names and --

2 DR. WYNN: Yeah, I remember the drill. But I
3 don't like the drill.

4 You broke it.

5 That wasn't me.

6 I just need some clarity. My name's Karen Wynn.
7 I with Picayune Rancheria.

8 So early on there was a statement made that
9 there's like about 94 to maybe perhaps 97 percent of the
10 students that are attending public schools; is that
11 correct? I just want to make sure I was right on that.

12 MS. SILVERTHORNE: (Nods head.)

13 DR. WYNN: So when I read this document that
14 refers to the background and history of the draft MOU,
15 under number 2 it says that this is going to make
16 provisions to transfer funds to BIE. Where are those
17 dollars coming from?

18 MS. SILVERTHORNE: There has been in place a
19 Memorandum of Understanding between the Department of
20 Education and the Bureau of Indian Education since -- in a
21 moment -- and that he'll give you a little bit more detail
22 and a little bit more history. But the source of those
23 funds are from the "No Child Left Behind." They are the
24 dollars that our children generate through account -- when
25 you look for how do we figure out how many dollars go to

1 different states, it's based on account of the students
2 that are eligible in those states. The same for the
3 agreement with the Bureau of Indian Education.

4 DR. WYNN: So there's not a specific set-aside
5 then that's being looked at, or is this actually creating
6 a set-aside?

7 MR. DRAPEAUX: Yeah.

8 DR. HAMLEY: Well, okay. Just to follow on what
9 Joyce said. This is just a renewal of the existing
10 agreement. But the funding itself -- I mean every year
11 the Department of Ed publishes on its website the funding
12 that's going to all the states. And then there's a
13 category for indian set-aside. So it already exists, the
14 money's already there. It's not affected by the MOU.
15 That will just continued. And as Joyce said, it's the
16 ESEA, you know, which a lot of people call Title funds,
17 and Title 1 being the biggest.

18 And then -- but for us, on that set-aside sheet
19 with the Department of Ed, which is not covered in the
20 MOU, it's also IDEA funds, special education funds. So
21 that's not part of the MOU.

22 We don't have an MOU with Department of Ed on the
23 special ed funds. One, it's not really needed because the
24 legislation for IDEA really addresses all the issues
25 pretty much in a straightforward way. So this one is just

1 for ESEA.

2 But nothing's changing with the funding. The
3 funding structure is there. It's published every year.
4 It will continue to be. It's a set-aside for BIE
5 essentially.

6 DR. WYNN: So the funds from -- is there any
7 impact at all on the indian education dollar?

8 MS. SILVERTHORNE: Under the Title 7 programming,
9 is that --

10 DR. WYNN: Under -- is that what -- well, yeah.
11 Is that -- well, yeah, Title 4, Title 9, Title -- it
12 changes every couple of years. That one.

13 MS. SILVERTHORNE: Yes. Title 4, Title 5, Title
14 7, yes.

15 DR. WYNN: Yes.

16 MS. SILVERTHORNE: And, no, those dollars are not
17 impacted by this discussion.

18 MR. DRAPEAUX: Yeah, great questions.

19 One of the -- the Bureau of Indian Education and
20 the U.S. Department of Ed, the budget breakout for that is
21 really kind of a unique thing as you start looking at the
22 budgets within the Department of Interior and U.S.
23 Department of Education and how they're dedicated to
24 indian country.

25 So the Bureau of Indian Education, we fund really

1 two activities. One are BIE operated or funded schools.
2 And then we also do certain activities that support public
3 schools.

4 So we have Johnson-O'Malley is a program that we
5 manage. And funds basically are passed through to schools
6 for public school children.

7 And then we also have scholarships and adult ed
8 monies that go through the Tribal Priority Allocation
9 Program directly to tribes for distribution.

10 And then we also on the public school side have a
11 number of dorms, 16 peripheral dorms that we fund that
12 house native students, that those students then go to a
13 public school.

14 Okay. So we have this kind of unique funding
15 cycle.

16 In addition to that, we also manage about \$250
17 million from the U.S. Department of Education, Title funds
18 as Jeff talked about, that are really the dollars that are
19 set aside in this MOU.

20 We're not privy to all the funds that normal SEAs
21 receive on behalf of students. We're only allowed certain
22 amounts based on where we were mentioned within ESEA. And
23 so the MOU outlines those programs and then what portions
24 go out into the field and then what portions we can hold
25 in terms of administration.

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1 The U.S. Department of Ed as well has the Title 7
2 funds that are dedicated to that. And then there's
3 another interesting pool called impact aid dollars. And
4 what are those, Title 9?

5 MS. SILVERTHORNE: 8.

6 MR. DRAPEAUX: Title 8 funds.

7 And those funds are for public schools that are
8 on or near federal lands, as you know, for --

9 MS. SILVERTHORNE: Title 8 is land-based funding.
10 And so it is for any school district that has federally
11 impacted children. And that's a little bit different than
12 on or near.

13 And so it is generated for military basis. The
14 8003 is actually for indian lands. Under indian lands,
15 then you're looking at reservation lands.

16 MR. DRAPEAUX: Right. My point is is that you
17 have these -- you have these interesting budgets sitting
18 out there that impact indian student education. And it's
19 a -- from an administrative perspective it seems a little
20 complicated, maybe a little convoluted. But they're out
21 there.

22 DR. WYNN: Is that still out of the Department of
23 Defense, the impact aid?

24 MS. SILVERTHORNE: No, it's out of Department of
25 Education. But it funds two Department of Defense

1 schools.

2 DR. WYNN: I just wanted to go back to your
3 comment on -- when you were talking about the waiver
4 application.

5 To me -- I always like to take and find the
6 easiest solution. It seems like instead of making people
7 jump through hoops to try to get waivers, wouldn't it be
8 easier to let them self-determine their own goals and
9 objectives as opposed to trying to go through this
10 flexibility process?

11 I hate the language. I have to be honest with
12 you. I just really hate all this language, because I
13 think it really muddies up the whole water all the way
14 across the board.

15 And so it just seems that if there was a process,
16 that would be a lot easier for people just to say,
17 "Listen, these are the goals that we have determined that
18 are going to be best suited for our student population.
19 We just want to do this." And I think in the old days we
20 used to be able to do that.

21 And so what's the possibility of going back to
22 self-determined goals?

23 DR. HAMLEY: Interesting philosophical question.

24 Well, I think -- I mean to answer your question
25 very directly, reauthorization's coming up. So I mean

1 there's the opportunity. And you as a constituent
2 could -- we can't, but you can give -- tribes can, the
3 public can give input if they would like to see
4 reauthorization look a certain way. I think probably the
5 framers of the flexibility are allowing enough -- if you
6 look at the comparison chart, that -- Joyce has one and we
7 have a separate one prepared by CCSSO -- that the states
8 have a lot of leeway to define what their goals are in
9 that.

10 And so none of them -- none of the states have
11 chosen an exact way to differentiate their schools, a way
12 to look to create an AMO model, an accountability index.
13 And, you know, there's quite a bit of variation. So I
14 think for public policy, that's as close as it gets.

15 But I think on the horizon is reauthorization.
16 And, you know, if you -- so as a constituent you can give
17 that feedback about that topic.

18 DR. WYNN: I just wanted to comment then on what
19 you were addressing as the common core and that you wanted
20 to devise your own assessment instrument. As different as
21 we are - even just in California, you know, my tribe with
22 your tribe, they're so different - how do you -- what's
23 your thinking on trying to develop an instrument that
24 would be equitable perhaps to -- I think my kids in my
25 tribe would recognize a teepee if that was a question.

1 Maybe even a hogan.

2 But anything past that, I don't think -- I think
3 our tribes are so different in a lot of reflects, that
4 trying to create an instrument, whether you use -- I won't
5 say their name either -- but that might be creating more
6 of a problem if we're just going to look at the outcomes
7 in terms of scores and data than just trying to prepare
8 kids to pass whatever -- I mean you had mentioned that you
9 wanted to use ACT. I'm not sure that's the best tool on
10 the planet either. But trying to accommodate, in some
11 respects, might cause more complication to the process
12 than it would if you just had something that was just sort
13 of standard.

14 DR. HAMLEY: Well --

15 DR. WYNN: What do you think? That's more
16 permanent in a question.

17 DR. HAMLEY: Right. Jeff Hamley again.

18 To clarify, I mean we're not going to -- the BIE
19 is not going to develop assessment. That's beyond our
20 capacity. So we use vendors, you know. And right now,
21 under the new model that the Department of Ed's moving
22 towards, they're going to leave it to the vendors.

23 Now, in the past under "No Child Left Behind,"
24 states did develop their own assessments. It's a very
25 expensive operation. But we've never been given enough

1 money and we don't have the capacity to do that. So we
2 rely on vendors.

3 But I think that the issue that you're talking
4 about about the biases that we -- I mean I think indian --
5 well, indian country would probably be unhappy if there
6 weren't some percentage of indian students who were
7 considered in the development of the instrument, you know.
8 And, you know, so -- or our term, they have an extreme
9 example if, you know -- if they only had kids from New
10 England and they were trying to implement it in
11 California, you know, it would just create a lot of
12 problems.

13 So the best way to address the bias is to
14 actually include a sample. And that's what we're -- with
15 our current -- I almost said the name, my gosh -- with our
16 current intermediate assessment, like Brian explained
17 earlier, that's not a problem, because we are an active
18 partner with that assessment company. You know, we have
19 widespread use in our system. So we actually have good
20 representation in that assessment development.

21 Whereas the two consortia, we're not so sure at
22 this point. But I think we're going to address that with
23 them. We want to see at least a sample in there. And,
24 you're right, it's not going to address -- I mean how do
25 address the differences of 550 tribes? You can't. And so

1 by just hope that some of that will be addressed to some
2 extent.

3 MR. BOUGH: Yes, I think the one area where we
4 did talk about tribally controlled standards would be in
5 the development of the 15 percent of the common core
6 standards for local purposes. States see this as a way to
7 incorporate things like -- you know, your questions about
8 the state government, state constitution, these kinds of
9 things, maybe literature or things that are relevant to
10 the states. For us, we look at that as a way to craft
11 alternate definition of AYP using standards that the
12 tribes find to be socially relevant as well.

13 You know, I know that our friends over at Navajo
14 have developed an alternate definition of AYP that
15 incorporates things such as Navajo government, Navajo
16 culture, Navajo language. There's all different range of
17 areas where they can work with this.

18 And the BIE's willing to help tribes to develop
19 standards that they want to implement to address this 15
20 percent of locally controlled standards as part of the
21 common core.

22 So the BIE's not undertaking a mission to make
23 the assessment culturally relevant to all of our tribes.
24 That's going to be something that's very difficult for us
25 to address.

1 But for tribes that express an interest, we will
2 be able to work with them to develop those standards and
3 to incorporate them into our accountability system.

4 DR. WYNN: But this process that we're here right
5 now, this isn't generalized over all of indian education.
6 It's just primarily targeting Bureau schools?

7 DR. HAMLEY: Well, there's two parts. I think
8 the part that Joyce is representing is all indian
9 education. The part that we're doing with the flexibility
10 waiver request is just the Bureau-funded schools. So 173.

11 MS. SILVERTHORNE: When we look at the Executive
12 Order, it applies to all tribes. It isn't either of the
13 departments.

14 When we look at the flexibility draft, all states
15 are looking at whether they want to consider a flexibility
16 application. Some have already. Others are just looking
17 at it. And there are a few who have decided not to choose
18 that route at all.

19 There is -- when we look at the common core
20 standards, the majority of states have said, yes, that
21 they will be following the common core standards.

22 However, there are some that have chosen not to.
23 Montana, one of those, is where I'm from. So this isn't
24 the Department of Education's statement. It's a statement
25 from my experience with Montana.

1 And what they have done is to incorporate within
2 their 85 percent the culture and at least a minimum level
3 of knowledge and academic curriculum and the instruments
4 to reach those standards that are culturally sensitive.
5 And so they're looking at that 85 percent as part of
6 including those.

7 So then that still leaves the 15 percent that we
8 all still have open to whatever additional things that we
9 need to incorporate into education.

10 So then when we start looking at the process of
11 the memorandum and how we work together, what you're
12 seeing today is a cross-section of two departments of the
13 government. And that is not all of the departments of the
14 government that play a role in the education of our indian
15 children out across the country.

16 Health & Human Services. The ANA administers the
17 language -- native language programming. There are --
18 Head Start under Department of Labor. So there
19 are -- Agriculture. There are other entities out there.
20 And we're seeing a development of an interagency work
21 group that is still trying to get its feet on the ground
22 and trying to move forward. This is probably the most
23 progressive part of it between our two directly
24 educational funded departments within government.

25 And so with that 90-10 split, you see the

1 greatest proportion of our youth impacted. If we can come
2 together in agreements and if we can come together in
3 process, you begin to see a seamless process of education
4 that takes children from early childhood through the
5 tribal colleges, through the -- into career development.
6 And so we're hoping that this will have the greatest
7 impact on the greatest majority of our indian children.

8 That's not -- when you asked about funding a
9 moment ago, in my 40 years in education, I have a number
10 of little charts that I have at different -- depending on
11 where I was working at the time, what my interest and
12 ability was and knowledge of the systems, I've tried to
13 develop a chart that tells you where funding comes from.
14 It is an incredibly complex spider web that interacts and
15 crosses back over itself in so many different unintended
16 ways. But it's our system. And trying to unravel some of
17 that complexity is part of what I hope this agreement
18 begins to do, begins to have us with some common language,
19 terminology, definitions that will impact our children.

20 I struggle, as I'm listening to this for the
21 first time, for the flexibility application. Of my four
22 children, they were in public schools, they were in a
23 Bureau-operated school, they were in a demonstration Title
24 7 school. All four of them were in Head Start. Three of
25 them were tribal college students.

1 How does that affect -- how does this one change
2 affect each of those children as they went through those
3 systems?

4 And I think it's very difficult for us to come
5 together with a solid presentation that we can say, this
6 will happen for all of our children as they go through
7 education.

8 Unfortunately, what it is is that each child
9 experiences it at their own -- whatever entity they're in,
10 whatever support that we're able to give them. And so
11 they each come out with their own experience.

12 I don't think that's probably going to change.
13 We're just trying to make it a more cohesive system that
14 they are faced with.

15 MR. DRAPEAUX: Can I -- in addition to that, what
16 I'd like to say is I'm a former vice chairman of the
17 Yankton Sioux Tribe. And the idea of governance has
18 always been an issue for me. And one of the frustrations
19 that I've always had on the other -- sitting on your side
20 is, you know, where do I go to get answers and who's
21 listening? Right?

22 And that's always the struggle of tribal
23 leadership, is who's going to answer my question and who's
24 going to find solutions.

25 And so as I sit here in the 18 months on the

1 federal side as an employee, it's our hope to start
2 providing that for you - right? - start providing that
3 forum for discussion, for dialogue. Because as I was
4 stating earlier - and I like to say all the time - I
5 always saw, and more so, indian education has been this
6 whisper, you know, in the wind. And it's like, well, how
7 do we amplify the issues, how do we amplify the
8 challenges, how do we amplify what's going on? And then,
9 how do we engage tribal leadership in the discussion of
10 indian education that gets you more involved day-to-day on
11 the national policy debate of what's going on? How do we
12 impact the funding that sits out there? Whether it's
13 Title 7, Johnson-O'Malley, or Department of Interior
14 funds, because all of our students are funded in some way,
15 shape, or form under one of those scenarios and are
16 represented in that.

17 And so it's my hope from a -- from the Bureau of
18 Indian Education is that this MOU, the Executive Order,
19 and these marching orders, and then the development of a
20 waiver, is that we start to create a platform of
21 discussion. People are going to disagree. They're not
22 going to like it, you know. They're going to have new
23 ideas. They're going to have different ideas. They're
24 going to ask questions that you're asking.

25 We want to create a forum for the questions to be

1 asked and for solutions to be proposed. Otherwise what we
2 end up with is a group of people talking amongst
3 themselves with a higher level of frustration and no place
4 to go.

5 And so we want to create a forum where you come,
6 we may propose things, you may propose things. But at
7 least we have a partnership sitting here saying, "We're
8 willing to ask the questions internally when we go back to
9 Washington DC of Secretary Duncan, of Secretary Salazar
10 within the organizational structure. 'This is what we're
11 hearing. Here's what we're proposing. Here's what
12 they're proposing.' You know, let's move forward in some
13 sort of fashion that has the most meaning." Rather than
14 continually in my mind have this whisper campaign and this
15 whisper issue of indian education that, as the tribal
16 leaders, I -- there's no other political structure in the
17 United States of America like tribal government. There's
18 none. Right? When a student from your tribe fails or the
19 system fails them, as President King was saying earlier
20 today, where do those students go? Right? Do they go to
21 the teacher? Do they go to the principal? Do they go to
22 the superintendent? Do they go to the school board? No,
23 they come to you. Right?

24 Here they come with all of their problems. Here
25 they come with their lack of education, their lack of

1 training, their lack of discipline. Here they come. And
2 they come to you and they say, "We need help. I need
3 help." I may have a child, I'm part of a family. "I need
4 a job now. I need something from you, tribal government.
5 You, tribal council member; you, president. I need
6 something." And if your programs can't provide that
7 solution for them, then where I'm from people expect you
8 to reach in your pocket and pull your cash out and help
9 them right there.

10 No other political structure in the United States
11 works like that. Right? Nobody expects the President of
12 the United States to reach in and give them a \$20 bill for
13 gas or to buy food, right? Or a senator or a congressman
14 or a mayor or a governor. Nobody except you.

15 And so at the heart of the issue of indian
16 education really is, when our kids fail, the burden fall
17 on tribal government to solve their problems, as no other
18 political structure in the United States. And so we ask a
19 very basic question of ourselves, of our staff, of our
20 structure and our organization: We should do more to keep
21 kids in school. We should do more to answer the questions
22 of dropout and graduation and suicide and all the ills
23 that our kids face on a day-to-day basis. We should do
24 more. And if we're not, then we need to find other
25 solutions, we need to find other partners.

1 So we're excited from the BIE to have this
2 dialogue with the U.S. Department of Ed. We need to work
3 better together, I mean, because the burden's on you
4 ultimately to solve these problems, not on us. Right?

5 But we should be promoting better budgets. We
6 should be developing better programs. We should be asking
7 the hard questions of ourselves. That's our
8 responsibility, as I see it, as federal employees and as
9 the Bureau of Indian Education. And that's what we're
10 doing right now. So we are excited about this opportunity
11 and this forum for dialogue.

12 MS. SILVERTHORNE: Within this forum for
13 dialogue, it is not just the ills of education that we are
14 attempting to talk about as well; that we really need to
15 look at those exceptional students that are out there.
16 And we see kids who have done phenomenal things in spite
17 of many different barriers that they are faced with. And
18 we need to look at how can we replicate that.

19 MR. MacALLISTER: Okay. Any other questions
20 or --

21 DR. WYNN: Oh, just a last question.
22 Have you looked at any other forms of data
23 analysis other than just report the numbers?

24 DR. HAMLEY: The number of what?

25 DR. WYNN: Well, you know, you're counting

1 numbers and then generating statistics based on the
2 numbers that you collect. Have you looked at any other
3 forms of data analysis or -- that would let you -- it
4 might err in your favor, say, for example, if you wanted
5 to use a chi square that's going to let you use unmatching
6 or unrelated types of data and be able to come out with a
7 common piece of information?

8 MR. BOUGH: It's difficult for us -- this is
9 Brian again -- Brian Boo.

10 It's difficult for us to actually compare data
11 across the Bureau because a) our test results are based on
12 assessments that are different by every state.

13 DR. WYNN: Right.

14 MR. BOUGH: So that undermines our ability to
15 compare those assessments across all the Bureau. Still,
16 when we report it, we have to roll it all together as if
17 they were the same assessment results. That's a very
18 difficult common starting place.

19 Where we've found other instances of data
20 collection, we've identified data collection issues. The
21 quality of the data is not good. In some cases we know
22 that schools may be -- well, I won't say manipulating, but
23 I'll say something like giving it a good color whenever
24 they report their data. One of the areas in particular
25 where we're seeing that is in the tracking of dropouts.

1 There is a very high mobility issue problem that
2 we have in the Bureau where our students transfer among
3 Bureau schools, tribal schools, public schools, private
4 schools. Finding out where these students are going is a
5 very difficult task, it's so -- sometimes our schools will
6 say, "Oh, we know this student transferred to another
7 school, but he didn't actually drop out." Well, you know,
8 whenever we collect the data, I'm not really in a
9 position -- and I'm the person that oversees this process.
10 I'm not necessarily in a position to question what they've
11 reported. So we may see that the dropout rates are not as
12 large as what they should be based on that.

13 Same thing is also true with the cohort
14 graduation rate. If the student's classified as
15 transferred to a different school as opposed to drop out,
16 that makes the graduation rate look better for that
17 school. Again, I'm not really in a question -- a position
18 to question what the school is reporting because we may be
19 looking at a single school, such as -- you know, I'll just
20 bring up Sherman as an example down here in California.
21 We may be evaluating about 1200 student enrollments in
22 order to get that cohort graduation rate calculation in
23 place. And so I can't question every time a student is
24 listed as having transferred out whether that student
25 actually transferred out to a different school or if they

1 dropped out or what the case may be.

2 But then there's the more important problem
3 still, which is that the Office of Management and Budget
4 requires us to go through an extensive ability to -- we
5 have to propose to them what data we wish to collect that
6 goes beyond the statutory requirements. So some of the
7 more interesting data that you might be asking about where
8 you might know of certain patterns at schools, we may not
9 be necessarily in a statutory position to just go out and
10 start collecting that data. We have to get clearance from
11 O&B first before we collect any data that's in excess of
12 what we already do for the required reporting for the U.S.
13 Department of Education or the own internal reporting for
14 the Department of Interior.

15 So that answer's probably way longer than you
16 thought. But it's occurred to us to look at other things.
17 But it's awfully difficult for us to get there.

18 MS. SILVERTHORNE: One of the possibilities that
19 does exist out there is that there is a bank of
20 information under the NAPE data. And they are inviting
21 tribal researchers to come in and learn how to work within
22 that system and to generate their own queries of it, to
23 look at what they're finding. But we haven't had a lot of
24 people who have gone through the training yet. We're
25 still -- we need to expand that. There's still a lot of

1 work to be done there.

2 DR. WYNN: What did you call that?

3 MS. SILVERTHORNE: National Association -- NAEP
4 N-a-e-p.

5 MR. BOUGH: N-A-E-P. It's the National
6 Assessment of Education Progress. It's given once every
7 year in every state. But they have it on a rotating
8 schedule so that every year a different set of states get
9 it.

10 Our schools in the BIE, the ones that we fund,
11 test right alongside their public school counterparts.
12 Your students probably test at the same time all the other
13 schools do too.

14 The nice thing about having the NAEP is that you
15 have a consistent set of data on a single assessment
16 across the entire United States. And so getting that NAEP
17 data, it's hard to use but it's extremely informative.

18 MS. SILVERTHORNE: It's very complex to learn how
19 to work within that data set. But it would be -- that's
20 where it does -- that opportunity does exist right now.

21 And so that is a possibility. But it is that
22 learning -- the skill to get through and waived with their
23 complex system. And the training that -- there will be
24 one in June. I don't know if they have any slots that are
25 open. At the first week of May they asked us if we knew

1 of anybody that would be interested. If you know of
2 anyone that would like to do that and could do that at the
3 end of June, let us know. We'll try to see if we can get
4 them in.

5 That opportunity is funded also to over-sample
6 among the public schools across the nation, the schools
7 that have high populations of Native American students.
8 And our office has contracted with the National Center for
9 Education Statistics to over-sample those schools.

10 MR. MacALLISTER: Okay. Just a little point of
11 progress here. We will be taking a break in about 15
12 minutes. That's what's on our agenda.

13 And I do want to make sure that everybody who
14 came has an opportunity to give their comments on the MOU.
15 So I may start getting a little more angstful as far as
16 moving us forward to make sure that everybody has their
17 chance. Okay?

18 So we have a continued window of time for tribal
19 input from the official -- elected officials and there
20 staff. And so I'd like to continue that, sir, if we can
21 now. And that would be great.

22 MR. ARWOOD: My name's Ducayne Arwood.

23 Can you hear me?

24 My name's Ducayne Arwood. I'm the Education
25 Director for the Karuk Tribe.

1 And when I looked at the students that I support
2 working through the education system, a huge red flag
3 comes up when we start talking about waivers. Because now
4 we're allowing the education system to fail our students.
5 I look at the amount of graduates I have every year on a
6 yearly basis. And when over half of them are forced to go
7 to junior colleges and take remedial classes in math and
8 reading, the education system has failed our failed our
9 students.

10 Their desire is there. Their intent for higher
11 education is there. The education system failed them.
12 When we started talking about waivers, huge red flag.

13 We need to start talking about educating our
14 students that want to learn so that when they go on to
15 higher education, they have the skills and their needs met
16 to be able to succeed in the higher education realm.

17 MR. ATTEBERY: This is just a couple quick
18 comments just about -- I'm Russell Attebery, the Karuk
19 Tribe Chairman. Sorry.

20 You know, with that in mind, what Duke had said
21 was our higher education priorities for our students. We
22 have a lot of our Native American students who leave high
23 school, and we're probably not the only ones, and go for
24 sometimes a semester, sometimes a year, and they end up
25 coming back. We don't mind them coming back. We'd much

1 rather have them have an education background.

2 We were an 80 percent depended on forest industry
3 in northern California. And in the late eighties and
4 nineties they -- the mills started going away and the
5 forest industry left. So education is way more important
6 than it was then. You can take a Native American student
7 that went away, and for whatever reason came back, they
8 could go to work in the mill.

9 They don't have that now. So when they come
10 back, they -- you know, they're looking for jobs. They
11 don't have a job. So you know what happens when people
12 have too much time on their hands.

13 What we'd like to do eventually I think is -- we
14 struggle with law enforcement, especially in Happy Camp.
15 From I-5 you wind 75 miles down the Klamath River and you
16 end up in Happy Camp.

17 We have one resident, a police officer. And the
18 other one lives out in -- out by Yreka. So they're quite
19 a ways away.

20 We would like to see our students -- Native
21 American students get the opportunity to go and study and
22 get a higher education in this area in the areas that our
23 environment provides, Forest Service, Fish and Game. We
24 have no tribal members that are involved.

25 And it's a huge plus too to get them involved

1 because they know indian country. And I notice back to a
2 conference where President Keel, President of the National
3 Congress for American Indians. And he's made the
4 statement that nobody knows indian country like the people
5 who live there. And that's very true. And so when we get
6 outside help, they often don't understand the needs, the
7 culture, and the traditions that go with living there.

8 It's not their fault. It's just they're not
9 educated in that area.

10 Right now, and we're working on it for our
11 children up there, we struggle with a facilities forum.
12 We have one gymnasium for all our schools. Like I said, I
13 was the basketball coach up there. But sometimes it's
14 hard to juggle five teams trying to practice in one gym.
15 And you get about 45 minutes, so they get home in time to
16 do their homework.

17 Social activities. They had none. In the late
18 '70s their theater -- they have a theater and a social
19 hall there that burnt down and it was never replaced.

20 One of the things that I did growing up there
21 when I was there was we had an opportunity for the
22 resources around there. It was a great feeling to go out
23 and catch some trout or catch a Steelhead and come home
24 and, you know, your mom cooks it and they put it on the
25 table, and your dad's giving you the thanks for bringing

1 that meal in. That doesn't happen anymore because of the
2 regulations. You can't keep a Steelhead unless it has a
3 clipped fin. I could go on and on about that.

4 But those are not available for our kids, and
5 that's huge. You know, to think I can't take my grandson
6 up there and go fish where I did when I was a kid, those
7 are social activities, those are family activities that
8 they don't have.

9 Sports facilities, we have no lights for any
10 fields up there. And with the demise of the forest
11 industry was also the demise of the work ethic. Again, I
12 grew up watching my mom and dad get up and go to work
13 every day. Those kids don't see that. And they struggle
14 with -- and if you're an educator, you know the value of a
15 proper environment to get your work done in. Many of them
16 don't have that.

17 They don't see their parents get up and go to
18 work. So therefore they don't -- that's the lifestyle
19 they integrate into and it's difficult.

20 So, you know, we are working hard on alleviating
21 those things. But, you know, financially it's difficult.
22 We're working -- our education department is a big plus
23 since Duke's taken it over. And we work well with the
24 high school and the school district itself.

25 So, you know, we're hoping with the tribe's input

1 and now being more collaborative with the school system
2 that we are, that we're going to be able to get some of
3 these things done. But I really would like to see our
4 students have the opportunity when they come out of high
5 school, if they want to pursue a career and come back to
6 the indian country and pursue that career there, that
7 would be wonderful. But right now we have no programs
8 that allow them to go out.

9 And it is still difficult. It's just not as
10 difficult, but it's still difficult for them to go out and
11 face that culture shock. Mentioned the high rise
12 buildings. Yeah, we don't have too many two-story houses.
13 So, we see none of that. And that in itself is culture
14 shock. And as everybody knows that's lived in indian
15 country, we've gone through that for years.

16 People making great strides, but we need to
17 educate the students that are going out there in the world
18 what's out there and the work ethic they need to succeed.

19 Thank you.

20 Sorry to take so long.

21 MR. MacALLISTER: That's what we're here for.
22 That's great. Thank you.

23 Perfect timing actually. Why don't we take a
24 ten-minute break. And as soon as we come back, we'll open
25 the floor for public input and we'll scurry to get mikes

1 to you and get as much input as we can in the time we
2 have.

3 So thank you very much. See you in ten minutes.

4 (Off record: 3:20 p.m.)

5 (Thereupon a recess was taken.)

6 (On record: 3:30 p.m.)

7 MR. MacALLISTER: Okay. We'll be regrouping just
8 as soon as our players resurface here and we get going.

9 I want to make sure that the people who need to
10 hear the questions and input are here. So as soon as
11 Joyce get back, we'll get going.

12 And I guess now I've lost Brian. So as soon as
13 our key listeners are back, we'll -- meanwhile I'll sing
14 for you if you want.

15 Yeah, right.

16 Anybody who has a comment, all you have to do is
17 just raise your hand.

18 We'll get the mike to you so that everybody has a
19 chance -- and we'll try to make sure that we kind of cycle
20 through and make sure everybody gets a chance to say
21 anything they want to say, all their input.

22 All right. Once again, anybody who'd like to
23 come up to the table, you're more than welcome. It's not
24 like there's a big structure. But I know, I was always
25 the one in the back.

1 All right. So as soon as we can get seated,
2 we'll get started with our public comment.

3 At this time what I'd like to do is just -- the
4 drill on this, if you just show me your hands with a
5 question, I'll get the mike to you.

6 Just remember to give your name, tribal
7 affiliation, title if it's relevant. But it doesn't have
8 to be. I mean this is open to non-indian input as well.
9 But let's just make sure that everybody is identified for
10 the record for the transcriber.

11 And if you'd try to speak into the mike so that
12 that gets picked up as well.

13 And remember that it is being recorded. So
14 nodding doesn't get picked up and things like that.

15 All right. Who's got a question, a comment?
16 Who'd like to have input?

17 Don't everybody speak at once.

18 (Laughter.)

19 MS. ANTONE: Hi. I'm Audra Antone, Hill River
20 Indian Community, Blackwater Community School.

21 We would just -- do I have to repeat my name?

22 MR. MacALLISTER: He got it.

23 MS. ANTONE: We would just like to submit on
24 behalf of Blackwater Community School a resolution of the
25 governing board of Blackwater Community School requesting

1 the Congress of the United States of America to
2 reauthorize and restore funding for the Impact Aid
3 Program.

4 MR. MacALLISTER: And just for the record, my
5 understanding is you're going to be submitting the formal
6 resolution. And we'll be getting you an email contact.
7 Yvonne will be giving you an email contact, and we'll get
8 that to you and -- because that is your working copy,
9 correct.

10 Okay. So there will be a formal resolution
11 coming in.

12 Thank you.

13 Other comments, questions, feedback?

14 Sir, yes.

15 Thank you.

16 MR. McQUILLEN: Since you're asking.

17 Jim McQuillen again, the Yurok Tribe of northern
18 California.

19 Again, if when we get into the MOU part, again
20 many of our children -- our tribal children in California,
21 99.9 percent of them are in public schools. This whole
22 issue of FERPA and trying to get access to student data in
23 the tribe, we believe that education is
24 self-determination. It's a way to lift ourselves out of
25 poverty and away from, you know, the government welfare

1 programs into self-sufficiency. And we in the tribe, we
2 want to know as early as possible we have tutoring
3 services, intervention services, support services for
4 children. But we spend an awful amount of time -- awful
5 great amount of time in trying to locate where our kids
6 are at and which kids are not working at grade level and
7 which kids need intervention.

8 As a tribal government, if we are truly going to
9 have a government-to-government relationship and we're
10 seen as a government, we should have access to the student
11 data, the names, where they're at, test scores, so that we
12 can do the intervention on our own children.

13 I really hope the MOU, if it's worth -- that
14 anything it can help in that area to help us in
15 the -- where our kids are in these public schools, it
16 would really tremendously help.

17 I have more, but that's it for now.

18 MR. MacALLISTER: Thank you.

19 So I'll cycle back in a minute then. Great.

20 Other input, questions?

21 Comments?

22 Sir.

23 MR. BENGOCCHIA: Shawn Bengochia, Bishop Paiute
24 Tribe, Bishop, California.

25 It's a pleasure to be here and good to be here.

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1 You know, kind of an learning opportunity. You know, this
2 is probably my third BIA meeting or consultant meeting in
3 20 years, you know. And I guess in a certain way I'm kind
4 of amazed how slow the wheels turn -- the wheels turn in
5 terms of maybe trust, you know. I think I noticed that
6 more yesterday. And, you know, as a tribal representative
7 sent by Bishop Tribal Council, you know, to express, I
8 guess, maybe to add input, you know, from our tribe, but
9 also from our people, you know, from our children, you
10 know, maybe to speak on their behalf.

11 And I think that, you know, if I were to keep it
12 short, you know, from our kid's perspective, is to provide
13 opportunities for our youth. So that as I was talking
14 about that our tribe would, you know, gain that
15 self-sufficiency, that self-determination which is, you
16 know -- on certain documents at certain times in history
17 here. But ultimately, you know, that's our choice as a
18 people and as a tribe. And we see education, you know, as
19 that tool, you know, to get that, to be there, to be
20 providing -- for our people to be providing for
21 themselves, you know.

22 Then that's, you know -- again, that tool is
23 through education. And, you know, having the opportunity,
24 you know, to work with a public school, because our kids
25 go to public schools. But also we have some students that

1 go so Sherman Indian High School. And we're thankful for
2 that because they've done really well there. And some of
3 them have attended Haskell. Got my Haskell hat here
4 somewhere. And SIPI, you know. And we hope they get
5 things back on track, you know. Joe Carpio, you'll -- met
6 with that gentleman. And, you know, we want to see some
7 of our students, you know, go to those schools because
8 that's -- those are the only places that they can afford,
9 you know, to go.

10 But, you know, as far as, you know, the standards
11 and, you know, maybe making that alteration -- or
12 flexibility, I think that was the term there, you know,
13 I'm all for flexibility. I think we're all for that, you
14 know, adjusting, you know. So I would just share that,
15 you know. None of our kids are the same, you know. But
16 to a certain degree kids are kids, you know. And we have
17 that responsibility, you know, in any community, whether
18 it's a black community, white community, to look out for
19 the welfare of our children and to see that they have the
20 opportunities, you know, available to them, you know.

21 But, again, as well, that accountability falls on
22 to not just educators but parents. Even the children once
23 they reach a certain age, you know, to do that.

24 But what I think that -- you know, I guess coming
25 together, you know, in a meeting like this, you know,

1 where you're taking input, you know -- you know, we want
2 the best for our children, you know. I don't think
3 anybody here has the right answer, you know. I sure
4 don't. And, you know, I've been in education for about 15
5 years. And, you know, there's still many challenges. And
6 we've progressed in our community, you know, but we're
7 still wanting our kids to do better with the reading
8 scores, you know, the math scores, all of those things so
9 that they -- they can choose what they want to do, whether
10 it's to go to a college or a trade school or military.
11 But that they have those opportunities.

12 You know, that's our -- you know, our hope in our
13 community, that -- and even from our parents, that -- you
14 know, they want their kids to read, they want their kids
15 to do good in school.

16 And some of the folks don't have the
17 understanding of what it will take to be successful. And
18 that's maybe we come in to a certain degree to help in
19 that area and provide those support services, whether it's
20 tutoring or whatever, you know.

21 But we also need the support of, you know, the
22 tribal agencies, the state agencies, you know, the federal
23 agencies, you know, to make these things happen, you know.

24 And as far as the MOU, I haven't read it or, you
25 know, different things like that. And maybe to a certain

1 degree doesn't necessarily -- some of it doesn't pertain
2 to our children. But we've got to try new things. You
3 know, things have got to be tried differently. If
4 something's not working, we move in another direction, you
5 know. And, you know, we've always got to be flexible.

6 And, again, as I stated yesterday, I, you know,
7 commend the folks that take that challenge and the folks
8 that work in those areas, you know, and appreciate. And
9 thank you for that hard work, you know, because that's
10 what it will take, you know, to make those changes, to
11 give our kids -- all kids those opportunities to be
12 successful in this life.

13 Thank you.

14 MR. MacALLISTER: Thank you.

15 Other questions, comments?

16 All right. Cycling back. I promised.

17 (Laughter.)

18 MR. McQUILLEN: Amazing how fast you got through
19 everybody.

20 Jim McGuillen still, Yurok Tribe Education
21 Director. A couple of quick comments.

22 Earlier in the presentation we heard about common
23 core standards and this flexibility of 15 percent. That
24 would be a great workshop to have for tribal leaders to
25 try to get out in front of that to see where we can --

1 whether that's at the state level or local level or both,
2 where we can add our material or our wishes for those
3 standards, to get our voice heard in those standards,
4 whether it be language or other curriculum, history, our
5 own culture being presented there. That would be a
6 wonderful opportunity I think to give us some help there.

7 One other area are the Title 7 programs that --
8 how it works in our area with all the budget reductions
9 and budget crunches. The Title 7 programs that I'm
10 seeing, the management of those programs is now being
11 given to a site administrator or an administrator who
12 already has a full-time job. And the management of Title
13 7 is becoming sort of secondary. And this may be
14 happening everywhere, but I know it's happening in
15 northern California.

16 And that's a resources that we see amongst very
17 few resources for tribes and to help our students. We
18 believe we can do a better job in managing those resources
19 as a tribe because we care, because we know who the
20 students are, because we can join resources with like JOM
21 and other resources to help those students.

22 And it's naturally happening in some areas where
23 we're able to -- Title 7s often times hire part-time
24 folks. And we hire part-time folks. In some areas --
25 some of our districts we're hiring the same person. They

1 cover half and we cover half. And some of that's already
2 happening.

3 So there's an opportunity I think for the two
4 halves to -- the right hand to actually work with the left
5 hand. And I think that's what MOUs try to do is get one
6 side of the brain to work with the other side of brain and
7 make some sense of something. And I see that as an
8 opportunity. It's happening on the ground level. Some of
9 the managers in districts -- public school districts who
10 are managing Title 7 programs, they could care less about
11 it. They already have a full-time job. And it's just an
12 add-on for them. But I think we can set some examples for
13 them at the top level where it trickles down and use those
14 resources more effectively, more efficiently, and see the
15 tribal resources come together with those Title 7
16 resources.

17 Thank you.

18 MR. MacALLISTER: Thank you, sir.

19 Are there any other questions?

20 Yes, sir.

21 MR. ATTEBERY: Yeah, just -- Russell Attebery,
22 Karuk Tribe. Just real quick.

23 Speaking about post-secondary education, going to
24 school, utilizing our resources that we have out there.
25 Like I said, we'd love to see the kids go get educated and

1 come back and give back to the community.

2 We have a very comprehensive extensive fisheries
3 program along the Klamath River down Somas Bar, Orleans.

4 Do you know of any or is there any opportunities
5 to put in a post-secondary school, a college, if you will,
6 that specializes? Could we get funding to do something
7 like that? Or is it out there?

8 MR. DRAPEAUX: I could speak from the -- Brian
9 Drapeaux from the U.S. Department of interior.

10 Through us, probably not. Probably the best
11 opportunity for that type of development would be through
12 the most recent or local tribal college that may be in
13 your region and to talk to them about developing a program
14 that addresses, you know, the establishment or the
15 expansion of the natural resources management component.

16 The two universities that we manage, Haskell and
17 SIPI -- and I appreciate the shout out for SIPI and
18 Haskell. Both universities under Director Moore and under
19 Chris Redman, the President at Haskell -- new president,
20 and Sherry Allison down at SIPI, one of the tasks that
21 we've given them is to do a program review offering --
22 what educational programs are they offering. And that we
23 believe that we should start aligning those programs
24 with -- more so with the U.S. Department of Interior, in
25 addition to perhaps some current program that they'd love

1 to have, because what we do know from the U.S. Department
2 of Interior -- and it's interesting, now you brought up
3 the natural resource development piece -- is that the
4 Department of Interior right now is undertaking a massive
5 effort across the country to find young people to engage
6 in an internship program that encourages them to consider
7 federal service through the Department of Interior. And,
8 as you know, there are 13 bureaus in the Department of
9 Interior. And those bureaus are
10 national-parks-or-fisheries types activities in addition
11 to Indian Affairs.

12 We think it's a good endeavor, because we know
13 that natural resource development at home is one of the
14 major issues that tribal leaders face in terms of managing
15 their own communities and the resources associated with
16 them.

17 So we would encourage you to take a look at the
18 website at the Department of Interior to see what they're
19 doing. You may have youngsters in college or folks that
20 are looking at these types of opportunities for
21 themselves. And they may find a program that could align
22 themselves with an internship there. And I don't know
23 what beyond that the Department is offering, but I know
24 that they are looking -- the Department of Interior,
25 including Indian Affairs, are looking at over the next

1 five years anywhere between 20 to 35 percent retirement
2 rates. We have a huge number of people coming into --
3 the baby boomers are at the end of their careers. And
4 with that comes the opportunity for these folks to retire.

5 And the real opportunity is to the young folks
6 that are looking to start careers in areas of natural
7 resource development, park service, the Bureau of Indian
8 Affairs as well as the Bureau of Indian Education. So
9 there's going to be some new opportunities that we think
10 are important for Indian country to be aware of through
11 the Department of Interior.

12 Getting to your specific question, will there be
13 funding to start a new university? Probably not. We are
14 basically frozen from expansion of any of our school
15 systems, whether it's a K-12 or post-secondary. And so we
16 have a number of -- we fund 26 tribal colleges and
17 universities. We run two. But there are something like
18 37 tribal colleges in existence that are being funded
19 through different mechanisms, whether it's through the
20 U.S. Department of Agriculture, land-based -- land grant
21 institutions, through their own resource development,
22 through casino operations or other natural resource
23 development that they're putting into universities. We
24 had one leave our system and become a community college up
25 in Michigan.

1 So we have a number of different scenarios where
2 folks are trying to start tribal colleges. In fact, we
3 had two groups from California come in and meet with us
4 about wanting to establish tribal colleges within or near
5 the reservation lands.

6 There's a process for us to consider those
7 universities in our system. And so they started that
8 process with us.

9 And so there is some, you know, kind of long-term
10 planning that needs to be involved from the bureaucratic
11 perspective, I suppose.

12 But in the short-term, I would take a look at
13 maybe collaborating with the local university, seeing what
14 they offer, perhaps a tribal college to see if -- you
15 know.

16 And all these our programs quite frankly, have to
17 be able to pay for themselves. I mean that's the bottom
18 line. You can't continue to offer courses and not have a
19 sustainable cohort of students coming through them that
20 aren't paying for the program.

21 So, you know, these types of collaborations and
22 discussions are, you know, not only between you and us and
23 the Bureau, but should also be tribally as well because
24 there may be other -- other tribes in your region may have
25 similar interests or concerns and may be asking the same

1 question. But there's just not a lot of dialogue
2 intertribally about education. I mean that's one of the
3 interesting things. We'll talk about a lot of different
4 things intertribally, but we won't talk about education,
5 or they haven't. And so we think we're probably missing
6 the boat in terms of opportunity.

7 So I don't know if that answered your question,
8 but I sure talked a long time.

9 MR. MacALLISTER: Follow-up or other questions,
10 comments?

11 Yes, ma'am.

12 MS. LaMAR: I figure I would get up and say a few
13 words.

14 My name is Cindy LaMar. I am Pit River and
15 Paiute. I'm a member of the Susanville Indian Rancheria.

16 But I am the director of an education program
17 here in Sacramento. So it didn't take me too much effort
18 to come out.

19 But I also wanted to comment on the tribal
20 college. With your isolation and with computer
21 availability now, I think that a good idea is to develop
22 some on-line courses. That would be great. Because with
23 the resurgence of your traditions in some of the areas of
24 California, I've really seen the languages. The old ways
25 are being taught again. And that's what's most important

1 about indian education and being in these roles. Because
2 it's certainly not about the money, right?

3 I had the opportunity to work at the -- not work
4 but be on a board at the national level. President
5 Clinton signed an Executive Order way back that started
6 the collaboration. I was the president of NIA when
7 President Bush signed another Executive Order. And that
8 established a national study on indian education. Now,
9 that took a long time, but it was an important part of
10 that Executive Order.

11 Also, it established an interagency agreement
12 that -- it was never formally processed. And because it's
13 so important -- one of you mentioned that we can't serve
14 our kids well without thinking about all of the other
15 departments and agencies that need to work together in
16 social services, education, all the others, tribal
17 leadership, you know, and how that comes together.

18 It also -- that Executive Order also
19 reinvigorated NACIE, the National Advisory Committee on
20 Indian Education -- is that right?

21 So those are some of the important parts of those
22 executive orders.

23 Now with Obama's new Executive Order, there's
24 little bits and pieces. And it's coming along as we go
25 through presidents. But we need to make sure we are

1 knowledgeable about what opportunities these present.

2 I think -- one of the things that I see as an
3 American Indian person, who grew up in California, is that
4 the curriculum in California has not changed since I was a
5 child.

6 We're still -- our kids are still being required
7 to make missions and they're still learning about, you
8 know, very racist ideals -- I guess it's not an ideal --
9 very racist concepts when they go into third grade and
10 fourth grade. This is where we start to lose our
11 children.

12 And I think as we look at the common core
13 standards, and California is looking at those, tribal
14 leadership needs to be involved in having a voice in the
15 common core standards and also each state's standards.
16 It's very important that we take a look at the effects of
17 our -- that it has on our children, because, you know,
18 they're the ones we're here for.

19 And it starts in third grade, gets worse in
20 fourth grade and from then on. You know, we start seeing
21 dropouts by sixth, seventh, eighth grade. And we say, you
22 know, it's the mobility. Well, these kids are dropping
23 out and nobody cares.

24 And we are there as indian educators to help them
25 and keep track of them and bring them back. We

1 actually -- with my program we have several funding
2 sources. But we also have a high school for students,
3 indian kids who have dropped out, who have been expelled.
4 And we take them from several counties as long as they
5 come to our program.

6 And those are the ones. We probably graduated
7 about 500 students who would not have -- would have just
8 dropped out and disappeared in the past maybe ten years.

9 A lot of the boys that come to our school have
10 long hair, you know, it's acceptable. They may be in
11 gangs. But when they walk in the door, they're
12 respectful.

13 So there are ways to deal with this -- these
14 issues.

15 One of the things that I really have expressed
16 over and over is looking at best practices. It's so
17 important. Maybe getting a group together of, you know,
18 people who have been successful. Because sometimes we
19 know that a program is great, and that director or
20 administrator leaves and the program falls.

21 You know, what do we do to take steps to ensure
22 that there's continuity in these programs and, most of
23 all, making sure that culture is at the forefront of what
24 these programs are about? It's the most important part of
25 what we do.

1 And to also have a voice in California, because
2 it's such a complicated state. Like I said, I'm Pit River
3 and Paiute, but I belong to a rancheria. The only gaming
4 tribe -- my daughter did an analysis. The only gaming
5 tribe that actually has a profit that doesn't give out per
6 capita. But they do pay for education of its tribal
7 members. So that's a great thing, except for my per
8 capita. But -- I might join another tribe.

9 (Laughter.)

10 MS. LaMAR: Yeah, maybe this one.

11 So I think it's very important that you come out
12 to communities. I apologize for the lack of attendance,
13 but this is a bad time of the year. Schools are
14 graduating. You know, it's difficult to get away. You
15 know, some programs are ending and there's other
16 priorities.

17 Of course tribal chairs are pulled in so many
18 different directions. You know, we really need to make
19 sure we talk at a level that they understand the
20 importance of what they're doing. Because it is for the
21 children, but all these other things get in the way -
22 economic development, roads and, you know, all the other
23 infrastructure needs. Even, you know, feeding families.

24 So those were my comments. Thank you.

25 MR. MacALLISTER: Yes, ma'am.

1 MS. DELGADO: Hi. I'm Marilyn Delgado. I'm the
2 Cultural Resources Director and the Tribal College Project
3 Coordinator for the Yocha Dehe Wintun Nation. And I'd
4 like to follow up with a couple of things that the
5 chairman from Karuk and Cindy had to say too.

6 One of the areas that we're looking into, we're
7 working with 27 partner tribes right now in California to
8 try to develop a California tribal college. Currently we
9 do not have an operating or functioning tribal college in
10 California. We're working on one that would be tribally
11 run, tribally controlled.

12 But one of the stumbling blocks that we've hit is
13 curriculum. And, that is, working with, looking at
14 community colleges, looking at the UC systems, we would be
15 bound to their curriculum standards and the state
16 curriculum standards and not something that would be
17 specific to tribes. And so we would have a problem
18 telling the tribes California indian history, for
19 instance, and not just whatever the state's idea of
20 history is.

21 So it would go back to -- like Cindy said, we'd
22 have to -- you know, they'd want the mission or whatever,
23 and it wouldn't be necessarily exactly what the true
24 indian history of California is. That's a problem for us.

25 We're also looking at on-line courses, as Cindy

1 had mentioned too, because we know that that's a way to
2 get it to some of our remote tribes. Karuk is one of our
3 partner tribes that we're working with in this project.

4 So I just want to thank you too for coming out.
5 And we came to listen -- really just to listen to some of
6 the needs, because we really want to get kids educated so
7 they can go to college.

8 MR. MacALLISTER: Well, we may be few, but the
9 comments have been great. So appreciate it.

10 Other comments?

11 One more comment, great, or question.

12 MR. ATTEBERY: Just to comment about, you know,
13 our education goes deeper than the classroom. And I was
14 talking to Duke about our enrollment at Yreka High School.
15 We probably have -- did you say 40? -- 40 Native American
16 students that go to Yreka high school. That's up from 9.
17 When Duke started the program there was 9 Native American
18 students that came forward.

19 And we don't see it a lot at Happy Camp High
20 School where I was a teacher. And, again, half of the
21 enrollment is Native American students. It's not that way
22 at Yreka High School, being just 40 students. And their
23 enrollment has to be 7, 800 I'd presume.

24 And so we have issues within the community. And
25 some of you heard about the Klamath River Dam removal

1 project. And the history between the county and the
2 tribe, there's been opposition about different things -
3 managing the forests. And one of the things that -- you
4 know, sometimes the tribe is the bad guy, and the parents
5 relay this message without the children -- I guess
6 realizing that they're listening to this. So some of the
7 other kids will take this to school. And I know it's a
8 problem.

9 And, again, I was a coach, so I -- I know that
10 there's a lot of Native American students that went
11 through Yreka High School, and when I was in school, that
12 were very good athletes. Very few of them made grades or
13 even wanted to play.

14 So, that's changing a little bit. But that is an
15 underlying, you know, factor with education also. You
16 know, we go back to a bit of oppression. You know, you
17 want to feel good about who you are and what you do and
18 your culture. And this was an important thing about the
19 language that -- the program that Duke is getting going.
20 You can actually see the children come in -- out of the 40
21 students that we had the first day that we offered the
22 language class, 22 of them showed up to take the class.
23 And this -- we offer one hour a week right now.

24 We're working to get accreditation for the class,
25 so hopefully it will be -- can be used as a second

1 language for college credits. And also get our elders who
2 teach the language credentialed so they can receive pay
3 for it. There is a program in place and we're working on
4 that right now.

5 But it is -- they need to feel good about
6 themselves. They need to feel good about their culture
7 and feel very proud of it. And I think we're -- we are
8 getting there, especially in Happy Camp. Sometimes we
9 have to educate the parents more than the students. I
10 think we all know that. And that becomes very difficult.

11 So, you know, in indian country up there, that is
12 a difficult situation. And we want to work hard to make
13 them proud of who they are and what they believe in, and
14 their ceremonies and stuff like that.

15 MR. MacALLISTER: Any other questions or
16 comments?

17 Would our panel like to give some closing
18 comments.

19 MR. DRAPEAUX: Yes. First of all, thank you very
20 much for putting the time in with us today. We've been
21 here since yesterday from 8 to 5 each day, and on a number
22 of different topics.

23 We appreciate the participation of the tribal
24 leaders that have been here over the last couple of days.

25 One of the glaring things that you see when

1 you're in Washington DC is that when tribal leaders come
2 to town, the doors open up and when they're there to talk,
3 as in December 2nd, the President of the United States
4 showed up and they had a dialogue with him, which is
5 something that he's done over the last three years.

6 On December 1st, we had a small meeting between
7 Secretary Duncan and Secretary Salazar and about 12 tribal
8 leaders to talk about education and putting forth a path
9 forward. As much as we appreciate the work that
10 superintendents and tribal education agency directors do
11 and teachers and all the folks that are on the ground
12 doing that work, when tribal leaders are involved, there's
13 a whole different level of attention paid to these issues.

14 And so we're more than pleased that you're here,
15 and wanted to thank you very much you for coming and
16 spending this time with us. Because we know that you're
17 pulled in a hundred different ways every given day with
18 numerous issues that you have to face and help resolve and
19 work with and work on.

20 So we're grateful for that.

21 On behalf of my colleagues, Dr. Jeff Hamley and
22 Brian Bough, we appreciate the opportunity to show you our
23 waiver. We look forward to continuing to do dialogue on
24 the MOU with our colleagues from the U.S. Department of
25 Education and hopefully start to frame out what that means

1 for all of us in terms of indian education and the
2 positive things that should come of it and we hope that
3 will come of it.

4 So I just wanted to, more importantly, thank our
5 staff member, Yvonne Davis. Yvonne has been working as
6 the point person on all of the logistics for the
7 activities with the U.S. Department of Ed as well as
8 setting up these site visits, getting the word out and
9 really day-to-day doing the hard work that needs to be
10 done behind the scenes. That's usually not very well
11 recognized about the amount of work that needs to happen
12 in order for you guys to show up and make it feel like,
13 "Hey, we just showed up and it's good," as well as us too.
14 So I would like to thank Yvonne for that.

15 And our moderators. We have our facilitators.
16 We'll be spending some time with them over the next few
17 weeks. And as you go through your intertribal groups or
18 your own tribal councils, you know, these roundtables are
19 open to the country in any location. And so if folks
20 didn't make this one but they're interested, we have three
21 others out are scheduled. And it's in the documentation
22 what the dates are for those. And we would encourage you
23 to encourage them to come and to make comment - other
24 educators, informed people that want to make comment - we
25 would ask that you strongly encourage them to come and let

1 them know that it's worth their while and we really need
2 your input, your comments.

3 So thank you for coming. We appreciate greatly
4 for everybody who's done the work, and we look forward to
5 seeing you sometime in the near future.

6 Joyce.

7 MS. SILVERTHORNE: Do you think it's still on?

8 Okay. And I would like to echo Brian's comments
9 about the hard work it takes to be able to put these
10 together. And we never know how many people might be
11 here. We've seen times where this room would have been
12 filled. But it's hard to predict and certainly it's hard
13 to match the date with the right activities that are going
14 on in each of those communities.

15 So we appreciate your being here.

16 The Department of Education is seeing probably
17 some of the greatest change that we have seen for indian
18 education in quite a long time. And the opportunity to
19 work with the Bureau of Indian Education is one that we
20 value and are really trying to look at how we can take
21 this as far as it will go and make sure that those folks
22 that are out there in the field have an opportunity to see
23 some success with it.

24 The opportunity with the STEP pilot project,
25 please keep watching the Federal Register. It is a rare

1 opportunity. I don't know how many of your programs might
2 be interested or willing to -- and I don't know how many
3 of your states. It does require that the states are
4 willing to open that door as well.

5 And so we're putting some fairly high stakes into
6 that activity, hoping that it begins to inform us about
7 where we can take it further and where we need to expand
8 it.

9 So thank you for being here today. And we look
10 forward to continued conversation.

11 And there is an opportunity for written input.
12 And I -- and it's on which one?

13 MR. MacALLISTER: It's on the slides package. On
14 the last slide it's got the email address, it's got a
15 website, additional information.

16 MS. SILVERTHORNE: To continue for input. So,
17 please, if you know people who would like to have had more
18 to say here, and if you have other things you'd like to
19 cover, please do submit.

20 So thank you.

21 MR. MacALLISTER: All right. If there's no
22 further business, then thank you very much for the time
23 and energy that you showed and the commitment. And we
24 really appreciate your input and your involvement.

25 And we look forward to making sure that this gets

1 folded into the information package.

2 Monique and I will be presenting to the
3 Department a rolled-up package session by session and then
4 a complete package of all the key points that were made,
5 input and comments. So we really appreciate it and look
6 forward to having more sessions like that.

7 Thanks so much.

8 (Thereupon the meeting adjourned at 4:38 p.m.)

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5 That I am a disinterested person herein; that the
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10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 29th day of May, 2012.

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