

Arizona Tribal Consultation Guide



Arizona Superintendent of Public Instruction Diane M. Douglas

Table of Contents

Page

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Letter from State Superintendent of Public Instruction, Diane M. Douglas	2
Letter from State Director of Indian Education, Nadine Groenig	3
Dear Colleague Letter from the U.S. Department of Education with FAQs	4
What is Tribal Consultation?	8
Affirmation of Consultation with Tribal Representatives	9
LEAs Required to Consult with Tribes or Tribal Organizations	10
LEA Directory	11
Arizona Indian Tribes Directory	15
Tribal Jurisdictions in Arizona	16
Consultation Q & A	17
Meaningful Consultation Questions	18
Appendix A—"Building Relationships with Tribes: A Native Process for Local Consultation under ESSA"	21
Appendix B—"Tribal Consultation Under the Every Student Succeeds Act: A Guide for Affected Districts"	35
Appendix C—"Tribal Consultation Under the Every Student Succeeds Act: A Guide for Tribal Leaders and Communities:	53



Navajo Language Class, Winslow Unified District



State of Arizona Department of Education



Dear Tribal Leaders and Superintendents:

Arizona is home to twenty-two federally recognized tribes and two of the three largest reservations in the United States. One quarter of our beautiful state is reservation land, one in twenty Arizonans is Native American, and approximately 90,000 Native Americans in Arizona are students. While few states have the privilege of counting so many tribes or Native Americans among their population, many of the challenges we face here in Arizona are shared by other states across the country.

The Every Student Succeeds Act, P.L. 114-95 has broken ground by requiring eligible local educational agencies (LEAs) to consult with officials from Indian tribes or tribal organizations approved by the tribes located in the area served by the LEA (Section 8538). The Arizona Department of Education's goal of improving academic achievement among our Native American students will benefit greatly from collaborative efforts to design and implement programs supported by the Every Student Succeeds Act.

We share your passion for improving the academic achievement of our Native American students. However, we share far more than that: we share pride in the accomplishments of our Native American students and a great optimism for their future. We share an understanding that Native American culture, language, and people are not just part of American history, but part of our American future.

We know that the committed individuals participating in consultation will benefit from the shared expertise and collaborative efforts made throughout this process. Thank you all for your passion and dedication. I look forward to the positive outcomes resulting from consultation between Arizona's LEAs and tribes.

Sincerely,

Alian In Danglas

Diane M. Douglas Arizona Superintendent of Public Instruction



Dear Tribal Leaders and Superintendents:

For the first time in the history of the Elementary and Secondary Education Act, which goes back to 1965, formal consultation between affected local educational agencies (LEAs) and tribal representatives has been incorporated into the law, which was reauthorized as the Every Student Succeeds Act (ESSA) in December 2015.

Pursuant to Section 8538 of ESSA, we are happy to provide this **Arizona Tribal Consultation Guide**. The Guide includes information that will assist you in facilitating consultation, the results of which will inform the development of district plans and applications for funding under ESSA as they pertain to serving Native American students in the LEA.

In Arizona, there are currently fifty LEAs that meet the requirements to consult with tribal representatives approved by the tribes in the area served by the LEA. A list of these LEAs is included in the Guide. You will also find a list of Arizona's twenty-two tribes with addresses and phone numbers to make outreach efforts a little easier.

Many of you have already been conducting consultation with the tribes in your area in relation to other funding sources designed to meet the educational and unique needs of your Native American students. For others, this may be your first experience working with tribes through meaningful consultation efforts. In either case, we have provided materials that will prepare you for successful interaction that will produce positive results—always keeping in mind the children we all serve.

Our thanks go out to the National Indian Education Association, the Midwest Comprehensive Center at American Institutes for Research, and the SEA (State Educational Agency) Indian Education Directors Community of Practice whose collaborative efforts have resulted in many of the materials you will find here. Special acknowledgement goes to the Oklahoma Department of Education; it was their Tribal Consultation Guide that served as a model for ours.

It is my hope that tribal consultation efforts will be the beginning of great things for our Native American students—educationally, culturally, and spiritually. Please do not hesitate to contact me with any questions you may have.

Sincerely,

Tradine Bring

Nadine Groenig Director of Indian Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 26, 2016

Dear Colleague:

Thank you for your hard work and commitment in implementing the new requirements of the Every Student Succeeds Act (ESSA), the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA). The ESSA represents a unique opportunity to increase equity and access for all children. I write today to offer guidance on a provision in the law that is of particular importance to our Nation's tribal communities: the new requirement under section 8538 of the ESEA, as amended by the ESSA,¹ for affected local educational agencies (LEAs) to consult with Indian tribes and tribal organizations on issues affecting Native students.²

Consultation will create opportunities for LEAs and tribal leaders to work together on behalf of American Indian and Alaska Native students. The consultation process will allow affected LEAs to gather input from Indian tribes and tribal organizations, fostering the collaboration that is a critical part of improving academic outcomes for Native students.³

The enclosed Frequently Asked Questions provide basic information to assist LEAs in ensuring that this process drives positive outcomes for administrators, Indian tribes and tribal representatives, and, most importantly, Native students.

I look forward to continuing to work with you and your staff to address the needs of our Native students.

Sincerely,

/s/

Ann Whalen Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education

Enclosure

¹ Throughout this document, unless otherwise indicated, citations to the ESEA refer to the ESEA, as amended by the ESSA. ² Under Title I, State educational agencies (SEAs) are also required to conduct timely and meaningful consultation with Indian

tribes, among other entities, prior to submitting their State plan to the Secretary (ESEA section 1111(a)(1)(A)).

³ The U.S. Department of Education conducted tribal consultations on the changes to the ESEA generally, which included the SEA and LEA consultation requirements, with four meetings which took place on April 24, April 28, May 12, and June 27, 2016. www.ed.gov

Frequently Asked Questions ESEA, Section 8538, CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS

1. What are the consultation requirements under section 8538 of the ESEA¹?

In general, section 8538 requires affected local educational agencies (LEAs) (see Question 3 for definition of "affected LEA") to consult with Indian tribes, or those tribal organizations approved by the tribes located in the area served by the LEA, prior to submitting a plan or application for covered programs (see Question 5 for more information on the programs covered by section 8538). This requirement is designed "to ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students." The consultation must be done "in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or tribal organizations to meaningfully and substantively contribute" to plans under covered programs.

2. When do the consultation requirements under section 8538 of the ESEA begin?

Consultation requirements under section 8538 of the ESEA begin with the plans or applications for fiscal year (FY) 2017 formula grant funding, or for the 2017-2018 school year. Affected LEAs (see Question 3) that educate American Indian/Alaska Native (AI/AN) students will be required to consult with local Indian tribes prior to submitting a plan or application under covered ESEA formula grant programs (see Question 5).

3. Which LEAs must consult with Indian tribes in accordance with section 8538 of the ESEA?

Under section 8538, an affected LEA is one that either: 1) has 50 percent or more of its student enrollment made up of AI/AN students; *or* 2) received an Indian education formula grant under Title VI of the ESEA, as amended by the ESSA¹, in the previous fiscal year that exceeds \$40,000. In order to determine whether an LEA has 50 percent or more of its enrollment made up of AI/AN students, an LEA should use the enrollment data from the 2016-2017 school year to determine whether it is an affected LEA in FY 2017. The total AI/AN enrollment data would include those students who self-identify as AI/AN alone and AI/AN in combination with one or more races, regardless of Hispanic ethnicity. An LEA that receives an Indian education formula grant award greater than \$40,000 in FY 2016 is an affected LEA for consultation purposes in FY 2017. Please contact Bernard Garcia, at <u>bernard.garcia@ed.gov</u>, Group Lead for Title VI Indian Education Formula Program, Office of Indian Education, OESE, for assistance in determining whether an LEA is an affected LEA under section 8538 of the ESEA.

4. How can an LEA find information about tribes?

The Bureau of Indian Affairs (BIA) publishes an official list of federally recognized tribes each year. This list is available at the Title VI community of practice website under "Additional Resources": <u>https://easie.grads360.org/#communities/pdc/documents/9980</u>. To find tribal addresses, see the list at the National Congress of American Indians (NCAI) website: <u>http://www.ncai.org/tribal-directory</u>. If you need information about the tribes in your service area, contact your respective state office for assistance.

¹ Throughout this document, unless otherwise indicated, citations to the ESEA refer to the ESEA, as amended by the ESSA.

5. On which programs must an affected LEA consult with Indian tribes?

Beginning with FY 2017, affected LEAs must consult with Indian tribes before submitting plans or applications for the following programs under ESEA:

- Title I, Part A (Improving Basic Programs Operated by State and Local Educational Agencies)
- Title I, Part C (Education of Migratory Children)
- Title I, Part D (Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk)
- Title II, Part A (Supporting Effective Instruction)
- Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement Act)
- Title IV, Part A (Student Support and Academic Enrichment Grants)
- Title IV, Part B (21st Century Community Learning Centers)
- Title V, Part B, subpart 2 (Rural and Low-Income School Program)
- Title VI, Part A, subpart 1 (Indian Education Formula Grants to Local Educational Agencies)

6. When should affected LEAs conduct the consultation required under section 8538 of the ESEA?

LEAs should conduct their consultation in advance of making significant decisions regarding plans or applications for covered programs, to ensure an "opportunity for . . . appropriate officials from Indian tribes or tribal organizations to meaningfully and substantively contribute" to an LEA's plan (section 8538(a)). The timeline for each consultation is dictated by requirements of the relevant formula grant program, which have different application deadlines. For example, a State may have a deadline for LEAs to submit a consolidated local plan to the State by a certain date in 2017, so for those programs the consultation must be completed before that date. Given that tribes may receive multiple requests for consultation, LEAs should consider arranging for informational meetings prior to consultation.

7. What should an LEA do to ensure "meaningful consultation"?

In order to ensure that consultation is meaningful, LEAs should provide Indian tribes, or those tribal organizations approved by the tribes located in the area served by the LEA, an opportunity to provide input and feedback to the LEA on plans for any covered program. An LEA should consider providing a list of issues or questions on which the LEA seeks input, or provide draft plans for this purpose, in advance of the consultation. An LEA should consult before it makes a final decision on significant and substantive issues related to the content of the plans. In addition, an LEA should consider providing written responses to tribal input received during consultation to explain how input was considered.

8. What documentation is required for consultation with Indian tribes under section 8538 of the ESEA?

Each LEA must maintain in the agency's records and, for State-administered ESEA programs, provide to the SEA, a written affirmation signed by the appropriate officials of the participating tribes (or tribal organizations approved by the tribes) that the required consultation occurred. If tribal officials do not provide such affirmation within a reasonable period of time, the LEA must forward to the SEA documentation that consultation has taken place.

9. May an LEA combine this consultation with other requirements regarding tribal or parent involvement?

Yes, an LEA may coordinate or consolidate the required ESEA consultation with the parent activities required under the Indian Education formula grant program, the Impact Aid program, and the Johnson O'Malley program. An LEA may only do so, however, if the activity in question – *i.e.*, the consultation – meets all of the requirements of each program. For example, an LEA may plan a public hearing or meeting with its local tribe regarding its education program generally in order to meet the Impact Aid requirements for Indian Policies and Procedures; that hearing with the tribe could incorporate the elements of the LEA's proposed plans under the covered programs, rather than hold a separate consultation event. The LEA should involve the local tribe or tribes in planning the best approach that satisfies the needs of the tribe(s) and the LEA in a time-effective manner, and that meets the requirements of the various programs.

10. If an LEA has multiple tribes in the geographic area it serves, or if there is one tribe and multiple LEAs, must there be separate consultations with each tribe or LEA?

Where there are multiple tribes and a single LEA, the LEA may hold a consultation that includes all affected local tribes. Similarly, where there are multiple LEAs and one tribe, there is no federal prohibition against a joint consultation held by several LEAs. In both cases the LEA must ensure that the tribe or tribes have a meaningful and timely opportunity to give input into an LEA's plans or applications.

11. Can the Department provide additional information?

Yes, the Department may offer assistance or provide other information upon request. Please contact the Office of Indian Education (OIE) at <u>IndianEducation@ed.gov</u>.

Every Student Succeeds Act (ESSA) - P.L. 114 –95 SECTION 8538 – Consultation with Indian Tribes and Tribal Organizations

Per *ESSA*, Section 8535 – Consultation with Indian Tribes and Tribal Organizations, local districts and charter schools must also consult with appropriate officials from tribes or local tribal organizations before the local educational agency (LEA) submits an application for a covered program under ESSA. In addition, consultation shall take place prior to approval of LEA applications for use of funds under ESSA as administered by ADE.

WHAT IS TRIBAL CONSULTATION?

Tribal consultation under ESSA is a formal process between tribal representatives and LEAs that serve an American Indian/Alaska Native (AI/AN) population. This consultation is for the LEAs' benefit, not the Arizona Department of Education's ESSA State Plan. The consultation process is essential to meeting the needs of Arizona's Native American students. **NOTE:** LEAs include school districts and charter holders (charter schools).

The intent of the consultation process is to open the door to more conversation and collaboration between LEAs and tribes. Ideally, this work will be ongoing, timely, and meaningful for all parties concerned, especially Arizona's indigenous students.

WHO IS REQUIRED TO CONSULT WITH TRIBAL REPRESENTATIVES?

Any LEA that has an AI/AN enrollment of 50% or more or receives more than \$40,000 in funding under Title VI — Indian, Native Hawaiian, and Alaska Native Education is required to consult with tribal representatives.

In Arizona, LEAs that serve American Indian students within 50 miles of a tribe's council chambers or reservation are required to consult with one or more tribal representatives from that community. Evidence of consultation efforts must be collected and expressed via the *Affirmation of Consultation with Tribal Representatives* form (see next page). LEAs that are located more than 50 miles from the tribe's council chambers or reservation and have more than 30 Native students from one or more Arizona tribes are obligated to invite tribal leaders from the tribes represented by those students to participate in consultation meetings. If the result of this communication is a request for consultation from a tribe, the LEA will consult with that tribe and submit the *Affirmation of Consultation with Tribal Representatives* form.

RECOMMENDED LEA CONSULTATION CHECKLIST

- District/Charter Holder has arranged for consultation with relevant tribal nation(s), including time, place, and length of meeting(s).
- Tribal leader(s) has agreed upon the time, place, and length of meeting(s).
- District/Charter Holder has provided a copy of all awarded grants under ESSA before the meeting(s).
- District/Charter Holder has posted a public notice of the meeting(s).
- District/Charter Holder has prepared an agenda for the meeting(s).
- District/Charter Holder has provided a sign-in sheet for the meeting(s).
- District/Charter Holder has completed and uploaded the Affirmation of Consultation with Tribal Representatives.

AFFIRMATION OF CONSULTATION WITH TRIBAL REPRESENTATIVES

The form shown below will be provided under Related Documents in the FY2018 Title I-A application in the Grants Management Enterprise system. Based on the information provided on page 8, download and complete the form for each tribe you have consulted with or made attempts to consult with, including signatures from officials representing both the LEA and Tribe. Upload the completed form(s) in the Title I-A application as a related document.

If efforts to conduct tribal consultation are met with no response from the tribe, check the box indicating at least three good-faith attempts have been made. The form must still be signed by an LEA official and uploaded in GME in order to receive funds under ESSA. It is extremely important to document all tribal consultation efforts. Contact an Education Program Specialist in the Title I office for any questions you may have: TitleI-Inbox@azed.gov.

AFFIRMATION OF CONSULTATION WITH TRIBAL REPRESENTATIVES Every Student Succeeds Act - P.L. 114 - 95 SECTION 8538 - Consultation with Indian Tribes and Tribal Organizations For School Year Ending June 30, 2018			
Name of LEA-			
LEA Superintendent:	Phone:		
LEA ESSA Coordinator	Phone:		
Email:			
Name of Tribe/Organization: Address:			
Tribal Representative:	Phone:		
Email:			
Tribal Representative:	Phone:		
Email:	- none.		
Tribal Representative:	Phone		
Email:	rnone:		
Affected LEAs are required to consult with local trib program under ESSA, to include: Titles I-A, I-C, I-D, II-A, III-A, IV-A, IV-B, V-B Sub Section 8538 of P.S. 114-95 states:		ations for a covered	
students, an affected local educational agency shall consult w organizations approved by the tribes located in the area ser educational agency's submission of a required plan or app under title VI of this Act. Such consultation shall be done in such appropriate officials from Indian tribes or tribal organiza	rved by the local educational agence plication for a covered program un a manner and in such time that p	y prior to the affected local der this Act or for a program provides the opportunity for	
Section 8538 of P.S. 114-95 states: (b) DOCUMENTATION—Each affected local educational ag educational agency a written affirmation signed by the app organizations approved by the tribes that the consultation provide such affirmation within a reasonable period of time, t that such consultation has taken place to the State educational	propriate officials of the participa a required by this section has occ the affected local educational agenc	ting tribes or tribal urred. If such officials do not	
SIGNATURES:			
WE AGREE that timely and meaningful consultation occurre tribal members of the above-listed tribe in any programs the l			
WE AGREE that we have participated in meaningful and tim submission of a required plan or application for a covered pro			
WE AGREE that timely and meaningful consultation shall co			
the second se	ontinue throughout implementation	and assessment of services	
provided under this section on the following dates: Signature of Public School Superintendent or designee (require requests for consultation).		and assessment of services	
provided under this section on the following dates:			
provided under this section on the following dates:	ed even if no response to	Date	
provided under this section on the following dates: Signature of Public School Superintendent or designee (require requests for consultation). Tribal Official or Tribal Organization Official Signature	ed even if no response to	Date	



Every Student Succeeds Act (ESSA) - P.L. 114 –95 SECTION 8538 – Consultation with Indian Tribes and Tribal Organizations

Affected LEAs

LEAs required to consult with tribes include those with:

- An enrollment of 50 percent or greater American Indian or Alaska Native students.
- A Title VII Indian Education grant of more than \$40,000 prior to 2016.
- A Title VI Indian Education grant of more than \$40,000 after 2016.

Arizona LEAs Required to Consult with Tribes or Tribal Organizations

Akimel O'Otham Pee Posh Charter School, Inc. (K - 2) Akimel O'Otham Pee Posh Charter School, Inc. (3 - 5) Alhambra Elementary District Baboquivari Unified School District #40 Casa Grande Union High School District Cedar Unified District Chandler Unified District Chinle Unified District Coconino County Accommodation School District **Coolidge Unified District** CPLC Community Schools dba Hiaki High School Flagstaff Unified School District #1 Fountain Hills Unified School District Fort Thomas Unified District Ganado Unified School District Gila County Regional School District Ha:san Educational Services Holbrook Unified District Kayenta Unified School District #27 Kyrene Elementary School District Laveen Elementary School District Madison Elementary District Maricopa Unified School District **McNary Elementary District** Mesa Unified School District

Page Unified School District Painted Desert Demonstration Projects, Inc. Paradise Valley Unified District Parker Unified District Peach Springs Unified District Phoenix Union High School District Pinon Unified District Red Mesa Unified District Sacaton Elementary District Salt River Pima-Maricopa Community Schools San Carlos Unified District Sanders Unified District Scottsdale Unified School District #48 Shonto Governing Board of Education, Inc. Skyline Gila River Schools, Inc. Sunnyside Unified School District Tempe School District #3 **Tempe Union High School District** Tuba City Unified School District #15 **Tucson Unified School District** Valentine Elementary District Washington Elementary District Whiteriver Unified District Window Rock Unified District Winslow Unified School District



Akimel O'Otham Pee Posh Charter School, Inc. K-2 and 3-5

3652 E. Blackwater School Road Coolidge, AZ 85128 Principal: Jagdish Sharma Phone: 520-215-5859 Email: jagdish.sharma@bwcs.k12.az.us Website: www.bwcs.k12.az.us

Alhambra Elementary District

4510 N. 37th Avenue Phoenix, AZ 85019 Assistant Superintendent: Mara Wayland Phone: 602-336-2925 Email: marawayland@alhambraesd.org Website: www.alhambraesd.org

Baboquivari Unified School District #40

P.O. Box 248 Sells, AZ 85634 Superintendent: Dr. Edna Morris Phone: 520-383-6746 Email: emorris@busd40.org Website: www.iobusd40.org

Casa Grande Union High School District

1362 N. Casa Grande Avenue Casa Grande, AZ 85122 Superintendent: Shannon Goodsell Phone: 520-316-3360 Email: sgoodsell@cguhsd.org Website: www.cguhsd.org

Cedar Unified District

P.O. Box 367 Keams Canyon, AZ 86034 Superintendent: Duane Noggle Phone: 928-738-2334 Email: dnoggle@cusd25.k12.az.us Website: www.cedarusd.org

Chandler Unified District

555 S. Pennington Chandler, AZ 85224 Superintendent: Camille Casteel Phone: 480-812-7000 Email: casteel.camille@cusd80.com Website: www.cusd80.com

Chinle Unified District

P.O. Box 587 Chinle, AZ 86503 Superintendent: Quincy Natay Phone: 928-674-9632 Email: quincy@chinleusd.k12.az.us Website: www.chinleusd.k12.az.us

Coconino County Accommodation School District

110 E. Cherry Avenue Flagstaff, AZ 86001 Superintendent: David Roth Phone: 928-527-2702 Email: droth@ccrasd.org Website: www.ccasdaz.org

Coolidge Unified District

450 N. Arizona Blvd. Coolidge, AZ 85128 Superintendent: Charie Wallace Phone: 520-773-2221 Email: charie.wallace@coolidgeschools.org Website: www.coolidgeschools.org

CPLC Community Schools dba Hiaki High School

251 W. Irvington Road Tucson, AZ 85714 Principal: Joseph Hines Phone: 520-807-7923 Email: joseph.hines@cplc.org Website: www.cplc.org

Flagstaff Unified School District #1

3285 E. Sparrow Flagstaff, AZ 86004 Superintendent: David Dirksen Phone: 928-527-6002 Email: ddirksen@fusd1.org Website: www.fusd1.org

Fountain Hills Unified School District

16000 E. Palisades Blvd. Fountain Hills, AZ 85268 Superintendent: Patrick Sweeney Phone: 480-664-5010 Email: Patrick.sweeney@fhusd.org Website: www.fhusd.org



Fort Thomas Unified District

P.O. Box 300 Fort Thomas, AZ 85536 Superintendent: Shane Hawkins Phone: 928-485-2427 Email: shawkins@ftusd.org Website: www.ftusd.org

Ganado Unified School District

P.O. Box 1757 Ganado, AZ 86505 Superintendent: James Phillips Phone: 928-755-1018 Email: james.phillips@ganado.k12.az.us Website: www.ganado.k12.az.us

Gila County Regional School District

P.O. Box 2750 Globe, AZ 85502 Superintendent: Roy A. Sandoval Phone: 928-970-1760 Email: rsandoval@gilacountyaz.gov Website: www.gilacountyaz.gov

Ha:san Educational Services

1333 E. 10th Street Tucson, AZ 85719 Director of Finance & Operations: Frank Prezelski Phone: 520-303-9701 Email: fprezelski@hasanprep.org Website: www.hasanprep.org

Holbrook Unified District

P.O. Box 640 Holbrook, AZ 86025 Superintendent: Dr. Robbie Koerperich Phone: 928-524-6144 Email: koerp@holbrook.k12.az.us Website: www.holbrook.k12.az.us

Kayenta Unified School District #27

P.O. Box 337 Kayenta, AZ 86033 Superintendent: Dr. Bryce Anderson Phone: 928-697-3251 Email: bryce.anderson@kayenta.k12.az.us Website: www.kayenta.k12.az.us

Kyrene Elementary School District

8700 S. Kyrene Road Tempe, AZ 85284 Superintendent: Dr. Jan Vesely Phone: 480-541-1100 Email: jvesely@kyrene.org Website: www.kyrene.org

Laveen Elementary School District

4141 W. McNeil Street Laveen, AZ 85339 Superintendent: Bill Johnson Phone: 602-237-9100 Email: bjohnson@laveeneld.org Website: www.laveenesd.org

Madison Elementary District

5601 N. 16th Street Phoenix, AZ 85016 Superintendent: Quinn Kellis Phone: 602-664-7900 Email: qkellis@madisoned.org Website: www.msd38.org

Maricopa Unified School District

44150 W. Maricopa-Casa Grande Hwy. Maricopa, AZ 85138 Superintendent: Steve Chestnut Phone: 520-568-5100 Email: schestnut@musd20.org Website: www.musd20.org

McNary Elementary District

P.O. Box 598 McNary, AZ 85930 Superintendent: Dr. Mary Ann Wade Phone: 928-334-2293 Email: mwade@apachecounty.net Website: www.mcnary.k12.az.us

Mesa Unified School District

63 E. Main Street, #101 Mesa, AZ 85201 Superintendent: Michael Cowan Phone: 480-472-0200 Email: mbcowan@mpsaz.org Website: www.mpsaz.org



Page Unified District

P.O. Box 1927 Page, AZ 86040 Superintendent: Rob Varner Phone: 928-608-4100 Email: rvarner@pageud.k12.az.us Website: www.pageschools.org

Painted Desert Demonstration Projects, Inc.

145 Leupp Road Flagstaff, AZ 86004 Director: Mark Sorensen Phone: 602-412-3533 Email: mark@ttn.org Website: www.starschool.org

Paradise Valley Unified District

15002 N. 32nd Street Phoenix, AZ 85032 Superintendent: James Lee Phone: 602-449-2298 Email: jimlee@pvschools.net Website: www.pvschools.net

Parker Unified School District

P.O. Box 1090 Parker, AZ 85344 Superintendent: James Lotts Phone: 928-669-9244 Email: jlotts@parkerusd.org Website: www.parkerusd.org

Peach Springs Unified District

P.O. Box 360 Peach Springs, AZ 86434 Superintendent: Jaime Cole Phone: 928-864-7100 Email: colej@psusd8.org Website: www.psusd8.org

Phoenix Union High School District

4502 N. Central Avenue Phoenix, AZ 85012 Superintendent: Chad Gestson Phone: 602-764-1551 Emali: gestson@phoenixunion.org Website: www.phoenixunion.org

Pinon Unified District

P.O. Box 839 Pinon, AZ 86510 Superintendent: Jasvir Sethi Phone: 928-725-2301 Email: jsethi@pusdatsa.org Website: www.pusdatsa.org

Red Mesa Unified District

HC 61, Box 40 Teec Nos Pos, AZ 86514 Superintendent: Mr. Kim Pearce Phone: 928-656-4101 Email: kpearce@rmusd.net Website: www.rmusd.net

Sacaton Elementary District

P.O. Box 98 Sacaton, AZ 85247 Superintendent: Cherryl Paul Phone: 520-562-8600, ext. 1020 Email: cpaul@sacatonschools.org Website: www.sacatonschools.org

Salt River Pima-Maricopa Community Schools

10005 E. Osborn Road Scottsdale, AZ 85256 Principal: Victoria Corlett Phone: 480-362-2061 Emali: victoria.corlett@srpmic-ed.org Website: www.srpmic-ed.org

San Carlos Unified District

P.O. Box 207 San Carlos, AZ 85550 Superintendent: Deborah Dennison Phone: 928-475-2315 Email: d.dennison@sancarlos.k12.az.us Website: www.sancarlosbraves.org

Sanders Unified District

P.O. Box 250 Sanders, AZ 86512 Superintendent: Dan Hute Phone: 928-688-4747 Email: danhute@sandersusd.net Website: www.susd.k12.az.us

LEA Directory

Scottsdale Unified District 7575 E. Main Street

Scottsdale, AZ 85251 Superintendent: Denise Birdwell Phone: 480-484-6120 Email: dbirdwell@susd.org Website: www.susd.org

Shonto Governing Board of Education, Inc.

P.O. Box 7900 Shonto, AZ 86054 Superintendent: Lemual Adson Phone: 928-672-2652 Email: leadson@shontoprep.org

Skyline Gila River Schools, Inc.

17667 N. 91st Avenue Peoria, AZ 85382 Principal: Ronda Owens Phone: 623-385-3580 Email: rowens@skylineschools.com

Sunnyside Unified School District

2238 E. Ginter Road Tucson, AZ 85706 Superintendent: Steve Holmes Phone: 520-545-2025 Email steveh@susd12.org Website: www.sunnysideud.k12.az.us

Tempe School District

P.O. Box 27708 Tempe, AZ 85285 Superintendent: Christine Busch Phone: 480-730-7305 Email: cbusch@tempeschools.org Website: www.tempeschools.org

Tempe Union High School District

500 W. Guadalupe Road Tempe, AZ 85283 Superintendent: Kenneth Baca Phone: 480-839-0292 Email: kbaca@tuhsd.k12.az.us Website: www.tuhsd.k12.az.us

Tuba City Unified School District #15

P.O. Box 67 Tuba City, AZ 86045 Superintendent: Harold Begay Phone: 928-283-1027 Email: hgbegay@tcusd.org Website: www.tcusd.org

Tucson Unified School District

1010 E. 10th Street Tucson, AZ 85719 Superintendent: H.T. Sanchez Phone: 520-225-6060 Email: helidoro.sanchez@tusd1.org Website: www.tusd.k12.az.us

Valentine Elementary District HC 35 Box 50

Peach Springs, AZ 86434 Superintendent: Cliff Angle Phone: 928-769-2310 Email: cliff.angle@mohavecounty.us Website: www.valentineaz.net

Washington Elementary District

4650 W. Sweetwater Glendale, AZ 85304 Superintendent: Paul Stanton Phone: 602-347-2602 Email: paul.stanton@wesdschools.org Website: www.wesdschools.org

Whiteriver Unified District

P.O. Box 190 Whiteriver, AZ 85941 Superintendent: Rea Goklish Phone: 928-358-5702 Email: rgoklish@wusd.us Website: www.wusd.us

Window Rock Unified District

P.O. Box 559 Fort Defiance, AZ 86504 Superintendent: Lynnette Michalski Phone: 928-729-6706 Email: Imichalski@wrschool.net Website: www.wrschool.net

Winslow Unified District

P.O. Box 580 Winslow, AZ 86047 Superintendent: Cyndie Mattox Phone: 928-288-8101 Email: cmattox@wusd1.org Website: www.winslowsd.k12.az.us



Ak-Chin Indian Community 42507 W. Peters & Nall Road Maricopa, AZ 85238 Phone: 520-568-2227 Website: www.ak-chin-nsn.us

Cocopah Indian Tribe 14515 S. Veterans Dr. Somerton, AZ 85350 Phone: 928-627-2101 Website: www.cocopah.com

Colorado River Indian Tribes 26600 Mohave Road Parker, AZ 85344 Phone: 928-669-9211 Website: www.crit-nsn.gov

Fort McDowell Yavapai Nation P.O. Box 17779 Fountain Hills, AZ 85269 Phone: 480-837-5121 Website: www.fmyn.org

Fort Mojave Indian Tribe 500 Merriman Avenue Needles, CA 92363 Phone: 760-629-4591 Website: www.mojaveindiantribe.com

Gila River Indian Community P.O. Box 97 Sacaton, AZ 85147 Phone: 520-562-9841 Website: www.gilariver.org

Havasupai Tribe P.O. Box 10 Supai, AZ 86435 Phone: 928-448-2731 Website: www.havasupaitribe.com

Hopi Tribe

P.O. Box 123 Kykotsmovi, AZ 86039 Phone: 928-734-2441 Website: www.hopi-nsn.gov Hualapai Tribe P.O. Box 179 Peach Springs, AZ 86434 Phone: 928-769-2216 Website: www.hualapai-nsn.gov

Kaibab Band of Paiute Indians HC 65 Box 2 Fredonia, AZ 86022 Phone: 928-643-8301 Website: www.kaibabpaiute-nsn.gov

Navajo Nation P.O. Box 7440 Window Rock, AZ 86515 Phone: 928-871-7915 Website: www.navajo-nsn.gov

Pascua Yaqui Tribe 7474 S. Camino de Oeste Tucson, AZ 85757 Phone: 520-883-5000 Website: www.pascuayaqui-nsn.gov

Pueblo of Zuni P.O. Box 339 Zuni, NM 87327 Phone: 505-782-7022 Website: www.ashiwi.org

Quechan Tribe P.O. Box 1899 Yuma, AZ 85366-1899 Phone: 760-572-0213 Website: www.quechantribe.com

Salt River Pima-Maricopa Indian Community

10005 E. Osborn Road Scottsdale, AZ 85256 Phone: 480-362-7400 Website: www.srpmic-nsn.gov

San Carlos Apache Tribe

P.O. Box "O" San Carlos, AZ 85550 Phone: 928-475-2361 Website: www.sancarlosapache.com San Juan Southern Paiute P.O. Box 1989 Tuba City, AZ 86045 Phone: 928-283-5530 Website: unavailable

Tohono O'odham Nation

P.O. Box 837 Sells, AZ 85634 Phone: 520-383-2028 Website: www.tonation-nsn.gov

Tonto Apache Tribe

Tonto Apache Reservation 30 Payson, AZ 85541 Phone: 928-474-5000 Website: www.tontoapache.nsopw.gov

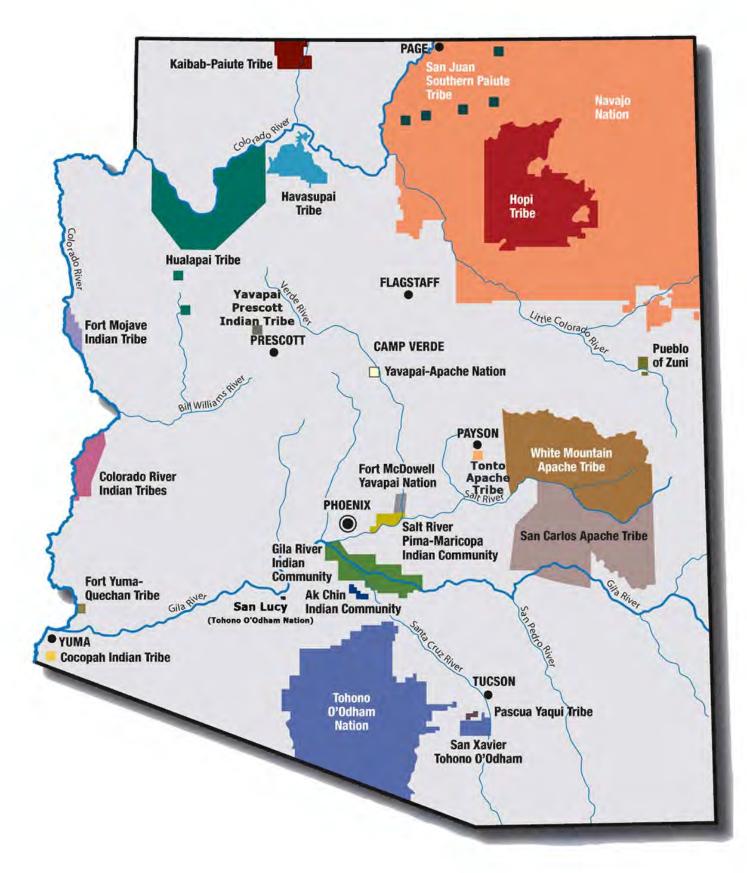
White Mountain Apache Tribe P.O. Box 700 Whiteriver, AZ 85941 Phone: 938-338-4346 Website: www.wmat.nsn.us

Yavapai-Apache Nation

2400 W. Datsi Street Camp Verde, AZ 86322 Phone: 928-567-1021 Website: www.yavapai-apache.org

Yavapai-Prescott Indian Tribe 530 E. Merritt Street Prescott, AZ 86301 Phone: 928-445-8790 Website: www.ypit.com

TRIBAL JURISDICTIONS IN ARIZONA



CONSULTATION Q & A



Who is responsible for initiating ESSA tribal consultation?

The school district superintendent or charter holder is responsible for contacting tribal leaders.

What tribe or tribes should be invited to an LEA ESSA tribal consultation meeting?

LEAs that serve American Indian students within 50 miles of a tribe's council chambers or reservation should invite tribal representatives from that community to participate in consultation meetings. Refer to the Arizona Indian Tribes Directory (page 15) and Tribal Jurisdictions in Arizona (page 16).

What if an LEA is not located in a tribal jurisdiction?

LEAs that are located more than 50 miles from the tribe's council chambers or reservation and have more than 30 Native students from one or more tribes in Arizona are obligated to invite tribal leaders from the tribes represented by those students to participate in consultation meetings. Refer to the Arizona Indian Tribes Directory (page 15) and Tribal Jurisdictions in Arizona (page 16).

When should tribal consultations begin?

The Title VI formula grant tribal consultation process begins now and must be completed by the end of the Part 2 application process, which is due in June 2017.

For Title I-A, Title I-C, Title I-D, Title II-A, Title III-A, Title IV-A, Title IV-B, and Title V-B, subpart 2, the consultation process may begin now and must be completed prior to grant submission.

What are the consequences of not conducting required consultation with tribal representatives?

Beginning with fiscal year 2017-2018, funding for programs under ESSA will not be approved for those funds that are administered through the Arizona Department of Education except when the following applies:

- The LEA has made at least three good-faith efforts to set up consultation meetings with applicable tribes without a response from the tribes in question.
- The LEA has evidence to show that these efforts were made. For example:
 - Written correspondence sent via registered mail.
 - Emails that were sent to tribes (council members, education directors, etc.).
 - Phone calls documented via phone logs.







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MEANINGFUL CONSULTATION QUESTIONS

The following questions are suggestions to create meaningful consultation between LEAs and federally recognized tribes:

QUESTIONS TRIBAL REPRESENTATIVES MAY ASK THE LEA

What technical assistance is needed from the tribe to enhance students' academic and cultural needs?
How many educators on staff are American Indian/Alaska Native (AI/AN)?
What is the level of parent/family involvement among AIs/ANs?
What programs are offered specifically for AI/AN students?
How many AI/AN students speak their tribal language?
Are any tribal languages offered at the school? If so, which ones?
How do you identify your AI/AN students?
How do you identify your at-risk students?
How many of your students are members of our tribe?
Do you teach the History of Native Americans in Arizona per Arizona Senate Bill 1365, approved June 4, 2004?

QUESTIONS THAT THE LEA MAY ASK TRIBAL REPRESENTATIVES

Who is our contact in the tribe?

What mutual benefit do we hope to achieve as a result of the consultation?

What will you do with the information obtained from the consultation?

How do you foresee your tribe working with our school?

How will tribal consultation benefit our schools and our Native American students?

What programs and services does your tribe offer?

What should we know about your tribe and tribal culture?

What can we share about your tribe or tribal culture with non-Native students/educators?

How many LEAs are in your tribal jurisdiction?

How should I address my Native students?

Is the tribe open to site visits for purposes of learning more about your culture and community?

CONSULTATION QUESTIONS

(Continued)

INFORMATION OR DATA A TRIBE MAY REQUEST FROM AN LEA

What Native American student data is available? For example:

- ◊ Population by grade?
 - Elementary
 - Middle School
 - High School
- Assessment scores?
 - Reading
 - Mathematics
 - Test scores disaggregated by grade
 - ACT
 - SAT
- $\diamond \quad \text{Number of } \ldots$
 - Transfer students
 - Students with high mobility
 - At-risk students
 - Dropouts
 - Truants
 - Students with discipline problems
 - Students participating in free and reduced lunch programs
 - Students participating in after-school programs
 - Students on an Individualized Education Program (IEP)
 - Students involved in extracurricular programs (sports, band, choir, FFA, etc.)
 - Students participating in dual enrollment programs (in post secondary institutions)
 - Students enrolled in Career and Technical Education programs

Federal Program Funding:

- ◊ What funding amount do you receive under each ESSA program?
- O How are those funds used to benefit AI/AN students?
- How many AI/AN students are eligible for services under these programs?
- ♦ How many AI/AN students participate in these programs?

Student Data:

As a part of consultation, tribes may request data from LEAs that relate to services/ interventions that tribal members receive from the LEA. This page intentionally left blank.

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APPENDIX A

BUILDING RELATIONSHIPS WITH TRIBES: A Native Process for Local Consultation Under ESSA

© National Indian Education Association

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BUILDING RELATIONSHIPS WITH TRIBES:

A Native Process for Local Consultation Under ESSA



MISSION STATEMENT

The National Indian Education Association advances comprehensive, culture-based educational opportunities for American Indians, Alaska Natives, and Native Hawaiians.

WHO IS NIEA?

NIEA is the nation's most inclusive advocacy organization that advances comprehensive culture-based educational opportunities for American Indians, Alaska Natives, and Native Hawaiians. Formed by Native educators in 1969 to encourage a national discourse on education, NIEA adheres to the organization's founding principles: to convene educators to explore ways to improve schools and the educational systems serving Native children; to promote the maintenance and continued development of language and cultural programs; and to develop and implement strategies for influencing local, state, and federal policy and decision makers.

CONSULTATION: NIEA'S PROCESS

NIEA supports states and districts by first deepening their understanding of Native history, culture, and our sense of being as related to education. We believe that for meaningful consultation to take place, states and districts must understand how Native communities and students view education—both traditional Native education and Western education.

There is no one-size-fits all approach to stakeholder engagement. It must be tailored to the status, capacity, and needs of each community. In Indian Country, this process must be taken one step further – from engagement to consultation—to meet the trust agreement with tribal nations and comply with the requirements of ESSA. In Native Hawaiian communities, consultation and trusting working partnerships provide a platform for continuous improvement and increasing educational opportunities for Native students.

What is Tribal Consultation?

Throughout the history of the U.S., Native ancestral lands were ceded to the federal government under signed treaties or by forcible removal. Since that time, Congress has enacted several laws to protect our lands, culture, natural resources, and hunting, gathering, and fishing rights to support the general well-being of Native people. The federal trust responsibility, upheld by the Supreme Court, places the responsibility for meaningful consultation squarely on federal agencies.

To create and sustain meaningful consultation, NIEA puts forward a process that enables both Native communities and educational agencies and systems to advance the well-being of Native students.



"The Indian way of behaving is: you watch and you observe before you act...and so once you know what is expected of you, then you act, but you never want to show off because it's not good taste to pound your own drum ." ~ L.M Cleary & T.D. Peacock

ESSENTIAL ELEMENTS OF CONSULTATION

Consensus-Based Decision Making

Consensus strives for the full empowerment of the Native community involved by offering the opportunity for all concerns to be shared, stories to be told, time to be invested, and trust to be built.

Act with Respect

Beyond acknowledgement of community issues, school district representatives must sustain relationships with stakeholders that are based on mutual learning, understanding, and desire to identify solutions that benefit both Native communities and state/local agencies. Moreover, acting in a spirit of respect ensures voices are heard, assumptions and misgivings are relinquished, and a more inclusive decision making approach is applied over a long period of time. Respect offers a vehicle to overcome the longstanding mistrust and wariness between stakeholders.

Know Native Communities

As school districts start planning for consultation, it is critical to learn the history of tribal relations within the state and the community. This goes beyond the basics of identifying stake-holders and key issues, but to a deeper understanding of the school community, the Natives in the state,



their story, and the history they have with the state and the education system. In these communities it is critical that a culture broker – someone within the Native community who has knowledge of the issues and trusting relationships within the community—be utilized to enhance general understanding of the history, practices, values, language, as well as critical issues that impact the education of students.

Sustain Progress

School districts who start with a genuine commitment to consensus-based decision making, rooted in respect and knowledge of Native communities, have a real opportunity to change Native education, in partnership with tribes and Native communities. In our experience, perhaps the most important step in local consultation is sustaining the progress gained through an initial meeting. Follow up on the initial local consultations can make the critical difference between a box-checking exercise and the consensus-based decision making that is the goal of local consultation.

Several specific elements of sustaining progress are worth identifying. First, it is critical to follow up to learn the true educational concerns of the Native community that a district is consulting with. As with a District, these concerns may come out after an initial consultation, so the District should seek to follow up to gain the full picture of what concerns a tribe the most. Second, developing a long range vision of Native success is critical. What will the District and the community do together to improve the education Native students receive. Third, participation from the broader Native community is essential. Native educators and school administrators alone, without tribal council, student, and family input is unlikely to lead to the change we need. Setting up a new, broader method for collective decision-making and evaluation is more likely to be effective.

Perhaps the most important means for sustaining progress is to create a short, monitoring and evaluation plan that reflects the needs of both the Native community and state and local education systems. This need not be



"True consensus is built through talking, listening, and considering different ideas until a new understanding takes place, and the decision makers come to 'one mind' about what to do."

~ Norma General, Elder of the Wolf Clan, Cayuga Nation lengthy, but it is critical to set up a system for ongoing input and to see if the plan created by the initial local consultation is working.

The above essential elements are a step toward moving beyond the systems of education that the United States has used over the past two centuries, which have not respected Native ways of knowing and led to historical trauma, distrust, and tension. In many communities, such tension continues. Following the above elements of local consultation presents an opportunity to turn the page.

COMPLETING THE CIRCLE

• The act of consultation should be a cyclical with ongoing inclusion of community perspectives.

SUSTAIN

PROGRESS

- Be timely and clear with follow up, including how and when it will occur as well as who is responsible.
- Share relevant data, information, and feedback with tribal representatives, including how information will be used in any reports, policies or strategies.
- Ensure that feedback is shared and used not only consistently, but also constructively.
- Understand intentional silence during the days following the meeting or consultation is seen as proper protocol; using this time to figure out thoughts and focus on a response.

CONSENSUS-BASED

DECISION MAKING

Native

Students

ACT WITH

KNOW NATIVE

ESSA Section 8538

Important information to know about local consultation under ESSA.

Local consultation requirements didn't exist under NCLB.

Consultation must be "timely and meaningful."

Consultation must "meaningfully and substantively contribute to the district's plan."

What are the requirements of school districts under ESSA?

- School districts are required to consult with Indian tribes or tribal organizations before submitting a plan for a program covered by ESSA.
- Districts that receive more than \$40,000 for Title VI or have over 50 percent American Indian enrollment must hold tribal consultation.

THE NEED FOR LOCAL CONSULTATION

The research in favor of local engagement is clear: parent, family, and community involvement in education correlates with higher academic performance and school improvement. Researchers cite parent, family and community involvement as key to addressing the school dropout crisis and note that strong school-family-community partnerships foster higher educational aspirations and more motivated students.¹² The evidence holds true for students at both the elementary and secondary level, regardless of the parent's education, family income, or background—and shows parent involvement affects minority students' academic achievement across all races.³

Fundamental Change is Necessary

Without genuine community input and support, Native students struggle to see how education is relevant to their lives. The impacts of failing to truly consult Native communities at the local level can be seen in Native graduation rates which remain below the national average at 72%, while the overall U.S. high school graduation rate has reached an all-time high of 83%. Improving Native graduation rates must be a priority; engaging tribal leaders and Native communities is the only way to create the change we need.

ESSA is a Critical Turning Point

The Every Student Succeeds Act (ESSA) is a critical turning point: local consultation must be done at a new and higher level. The law requires local consultation, so the same box-checking that has been done in the past cannot be repeated. ESSA is a basic bargain that provides states and localities more flexibility in exchange for greater responsibility in improving outcomes for students who have traditionally not been served well. The shift in accountability systems from No Child Left Behind, which automatically placed schools into prescribed interventions, to ESSA, where schools are evaluated by states and school districts on additional measures of school quality, is a key part of that change. Along with this increased flexibility comes added responsibility. School districts must step up to this challenge and will need to engage with tribes to fulfill the overall purpose of ESSA for Native students.

Tribal Consultation in Affected School Districts What is an "Affected" School District?

<50 Miles from tribal lands	> 50 miles from tribal lands
 School districts located within 50 miles of a tribe's council chambers or reservation, have an obligation to reach out to the tribe to let them know of their right to engage in consultation with the school district in the following cases: 	 School districts that are located more than 50 miles from the tribe's council chambers or reservation and have more than 30 Native students* have a legal obligation under Sections 8538 and 6114 of ESSA to invite tribal leaders to consultation.
If the school district has an enrollment of American Indian or Alaska Native students not less than 50 percent of the total stu-dent enrollment; or 	
If the school district received \$40,000 or ✓ more in fiscal year 2017 under the Indian Education Formula Grants.	

*The area served by school districts has been defined consistent with language in Section 6114 of ESSA. In addition, NIEA has identified 30 students as the appropriate minimum number above which tribes should be consulted because 30 reduces the burdensome rules for districts with small numbers of students while enforcing local consultation requirements for districts with large numbers of students.

NIEA'S PRACTICAL GUIDE TO LOCAL CONSULTATION

Introductory Hearing

- The School District holds an initial set of hearings to invite tribes and Native community members to learn about local consultation under ESSA.
 - ✓ One hearing should be held during the day so that tribal leaders and District administrators have the opportunity to meet.
 - ✓ One hearing should be held during the evening so that Native families and community members can attend.
- Both initial hearings should be posted in accordance with open meetings requirements that apply to districts in your state.
- Districts should provide tribes with flyers about these meetings so that tribes can also provide Native families with notice.
- School Board Members should attend 1 of the 2 hearings.
- These hearings should only focus on ESSA Implementation. (The meetings could be held during the same time slot as Title VI Parent Advisory Committee (PAC) meetings, but local consultation under ESSA should be the only topic for discussion.)
- Districts should utilize the PAC as a resource to help spread the word about introductory hearings for ESSA.

Tribal Council Meeting

- Districts should offer to go to tribal council meetings for each of the tribes where more than 30 Native students attend schools in the district.
- Tribal Council Meetings represent a time intensive, but critical step in forging consensus.

Discussion Meeting

- Districts should convene meetings to discuss key issues that affect Native children in the school district.
- All the individuals who came to the Hearings and the Tribal Council Meetings should be invited.

Tips for Outreach to Tribes More than 50 Miles from the LEA

- ✓ Send a letter and call the Tribal Council office for the tribe in question.
- Follow up to ensure that the school district has actually spoken to tribal officials.

Implementation Meeting

- The School District should hold one meeting once a draft local plan has been disseminated to let tribal leaders and Native community members know how their feedback was incorporated into the final plan.
- For each year after the local plan is adopted, if the school district would like to make any significant changes, the school districts should hold a meeting to let participants know how feedback was incorporated.
- The initial review of the draft plan and implementation meetings in later years should be separate from the PAC meeting and should include the school board.



CONCLUSION

For several generations, Native education stakeholders have urged policy makers to work collaboratively with them. The Every Student Succeeds Act allows educational stakeholders to enter into a new education era, one that requires timely and meaningful consultation.

Please remember: "Mitakuye Oyasin, we are all related," as the Lakota say. This metaphor personifies the expression of what Native people perceive as community—integrative and inclusive.

NIEA offers this uniquely developed facilitation process as a means of creating collective, powerful allies in the advancement of Native education. For more information on the specific phases and the overall process, please contact Ahniwake Rose, Executive Director of NIEA.

ENDNOTES

2

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- Barton, Paul E. 2003. Parsing the Achievement Gap: Baselines for Tracking Progress. Princeton, NJ: Policy Information Report, Educational Testing Service.
- Jeynes, W.H. 2003. A meta-analysis: The effects of parental involvement on minority children's academic achievement.
 Education & Urban Society 35(2): 202-218.

For more information and resources or to download this publication electronically, visit NIEA's website for

"Building Relationships with Tribes: A Native Process for Local Consultation Under ESSA"

www.NIEA.org

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APPENDIX B

Tribal Consultation Under the Every Student Succeeds Act :

A Guide for Affected Districts

Midwest Comprehensive Center

at

American Institutes for Research

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MIDWEST Comprehensive Center at American Institutes for Research

Tribal Consultation Under the Every Student Succeeds Act: A Guide for Affected Districts

Introduction

The 2015 Every Student Succeeds Act (ESSA), Public Law 114-95, requires "affected" school districts (see text box) to consult with tribal governments on the development of district education plan for programs covered by ESSA.

This practice brief is intended to serve as an overview of ESSA tribal consultation requirements and as guidance for school districts in developing consultation plans. This brief does not discuss how ESSA applies to schools that fall under the jurisdiction of the U.S. Secretary of the Interior and the U.S. Bureau of Indian Education.

A more detailed explanation of the different titles

Affected Districts

Districts required to consult with tribes include districts with:

- An enrollment of 50 percent or greater American Indian or Alaska Native students.
- A Title VII Indian Education grant of more than \$40,000 prior to 2016.
- A Title VI Indian Education grant of more than \$40,000 after 2016.

of ESSA with potential considerations for tribal consultation is included in Appendix B of this document.

ESSA Tribal Consultation Requirements

ESSA requires that state education agencies (SEAs) and affected school districts consult with tribes in the development of their education plans. SEAs are required by ESSA to engage in meaningful consultation with tribes when developing state plans for Title I, Part A funding. Affected districts that educate American Indian or Alaska Native students are also required to consult with tribes prior to submitting plans or applications for covered programs under ESSA or under Title VI. ESSA requires that tribal consultation be both *timely* and *meaningful*.

Appendix A includes resources from the National Indian Education Association and the U.S. Department of Education's Office of Indian Education concerning relevant aspects of ESSA. Appendix B features a summary of the different titles of ESSA and questions that will assist states, districts, and tribal leaders in thinking about considerations that may be important to address during consultation.

This practice brief was created in partnership with the Midwest Comprehensive Center and Drs. Nicole Bowman and Martin Reinhardt of Bowman Performance Consulting. MWCC is directed by American Institutes for Research on behalf of the U.S. Department of Education.



Timely

ESSA states that consultation "shall not interfere with the timely submission of the plan." In a practical sense, this requirement means that the consultation process should begin as early as possible before the submission deadline to ensure that consultation is meaningful and unhurried.

Given that states will be submitting plans to the U.S. Department of Education in May or September 2017, SEAs and districts may confront a time crunch for this first round of planning. Regularly scheduled consultation meetings now and in the future can ensure both that initial feedback can be incorporated into state and district plans and that tribal leaders continue to have a voice in the plan's ongoing implementation and review process.

Meaningful

Districts must work collaboratively with tribes to develop a shared understanding of what entails *meaningful* consultation, which is required—but not defined—by ESSA. A key starting point can be building a greater understanding of the infrastructure, processes, and community contexts of the tribes to be consulted.

District Tribal Consultation Requirements—ESSA Title VI

District consultation requirements apply only to select districts (see "Affected Districts," below). Districts are required to consult with local tribal officials on plans or applications "for a covered program under [ESSA] or for a program under Title VI of [ESSA]." In practice, this requirement means that districts must engage in consultation well before submitting plans or applications to the state education agency or the U.S. Department of Education.

Districts will need to document their consultation activities and provide an affirmation signed by each consulted tribe in order to verify that appropriate consultation took place. In districts with more than one tribe, respect for the sovereignty and individuality of tribal nations dictates that requests for consultation should be handled separately.

Affected Districts

Districts required to consult with tribes include districts with:

- An enrollment of 50 percent or greater American Indian or Alaska Native students¹
- A Title VII Indian Education grant of more than \$40,000 prior to 2016
- A Title VI Indian Education grant of more than \$40,000 after 2016

Covered Programs

38

Affected districts are required by ESSA to consult with tribes on plans or applications for programs covered under the following:

- Title I, Part A (Improving Basic Programs Operated by State and Local Educational Agencies)
- Title I, Part C (Education of Migratory Children)
- Title I, Part D (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk)
- Title II, Part A (Supporting Effective Instruction)
- Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement Act)

According to guidance from the U.S. Department of Education, "In order to determine whether an LEA has 50 percent or more of its enrollment made up of Al/AN students, an LEA should use the enrollment data from the 2016–17 school year to determine whether it is an affected LEA in FY 2017. The total Al/AN enrollment data would include those students who self-identify as Al/AN alone and Al/AN in combination with one or more races, regardless of Hispanic ethnicity." See U.S. Department of Education, Office of Elementary and Secondary Education. (2016, September 26). *Dear colleague letter on tribal consultation FAQs*. Washington, DC: Author. Retrieved from https://www2. ed.gov/policy/elsec/leg/essa/faq/essafaqtribalconsultation.pdf

- Title IV, Part A (Student Support and Academic Enrichment Grants)
- Title IV, Part B (21st Century Community Learning Centers)
- Title V, Part B, Subpart 2 (Rural and Low-Income School Program)
- Title VI, Part A, Subpart 1 (Indian Education Formula Grants to Local Educational Agencies)

A summary of ESSA titles with potential considerations for tribal leaders is available in Appendix B of this document for further reference.

Making Tribal Consultations Meaningful Under ESSA

When approaching tribal leaders for consultation, several practices can enhance meaningful consultation:

- 1. Recognize the sovereign status of tribal nations and the existence of a government-to-government relationship between those nations and the United States federal and state governments.
- Deliver personal invitations to tribal leaders to attend consultations, providing ample time prior to the event to allow for scheduling. Invitations should be from senior district leadership and those leaders should also attend the consultation meetings.
- 3. Show respect for the tribal nation's culture and sovereignty by making a genuine effort to learn about their government, culture, and history with the district prior to consultation.

As part of meaningful consultation, tribal leaders should be:

- Informed of dates for upcoming meetings, including both tribal consultation meetings and information or input meetings that are open to the public.
- Informed of deadlines for plan development and submission.
- Provided with information on proposed programs.
- Provided with formats and submission information for tribal input.
- Notified of significant changes in plans.
- Provided with information on how tribal input was incorporated.
- Given a final copy of plans or applications.

As part of meaningful consultation, tribal leaders should be provided with, or should be able to receive on request:

- Copies of previous education plans.
- Contact information for district personnel or members of committees.
- Presentations from state or local representatives about existing programs so that tribes have clarity regarding how the programs operate in the local, district, or state context.
- Additional meetings to discuss the education plans or programs.
- Information on the evidence on which planned activities are based.
- Previous reports and evaluations on education plan or program outcomes.

Given the number of programs covered by the Act, most affected districts will need to consult regularly with local tribal nations to meet the ESSA requirements. If a district receives Impact Aid or funding under the Johnson-O'Malley Act (48 Stat. 596, 1934, as amended [25 U.S.C. 452 et seq.]), it will likely already have some mechanisms in place for consultation. ESSA provides an opportunity to deepen those relationships and dialogues with tribal communities.

Key Considerations and Questions for Engaging Tribes

In addition to the above criteria for meaningful consultation, there are several essential concepts to bear in mind when working and communicating with tribal nations and communities:

- Shared responsibility for students. The education of American Indian youth is a shared, trilateral responsibility among three sovereign units of government: tribal, federal, and state. Districts should always recognize that all parties are united in their concern and responsibility for students.
- Respect for cultural differences and strengths. Tribal consultation is a small-scale exercise in international relations. Districts should be respectful and mindful that perceptions related to culture and procedure may differ among stakeholders and can easily lead to misunderstandings.
- Tribal concerns. Tribal educational concerns may or may not align with nontribal concerns—or even with the concerns
 of other tribal nations, depending on the context. Tribal leaders may want to prioritize tribe-specific issues such as
 their native linguistic and cultural traditions.
- Tribal administrative capacity. Among tribes that are going through a process of tribal nation rebuilding, administrative capacity and/or infrastructure considerations are key.
- The history of American Indian education. Within living memory, federal and state education policies have caused lasting damage to American Indian families and communities. This reality is part of the historical trauma many American Indians feel and can affect current relationships including the consultation process.

Guiding Questions for Meaningful Consultation

Given the considerations outlined above, districts may use the following questions to shape plans for the tribal consultation process.

How has the district worked with tribal leaders and community members to:

- Identify tribal needs and priorities with regard to the development of programs to support American Indian student success?
- Develop district plans, policies, goals, objectives, and outcomes for programs that affect American Indian students and families?
- Leverage tribal cultural expertise and knowledge to support district programs involving American Indian students?
- Provide tribal leaders and community members with regular opportunities to offer input and feedback on program implementation?
- Determine effective ways to share and use data to support American Indian students?
- Include culturally appropriate and realistic performance measures and data collection methods?
- Regularly inform tribal leaders and community members of program progress and impacts?

Appendix A: Resources (Annotated Bibliography)

National Congress of American Indians. (2017). *Tribal nations and the United States: An introduction.* Washington, DC: Author. Retrieved from http://www.ncai.org/about-tribes

This NCAI document is a brief but effective introduction to tribal governments and their relationship (political, legal, and practical) to other public governments (federal, state, and local). It covers tribal consultation and how it is conducted when multiple tribal and public government agencies work together on common topics.

National Congress of American Indians, & Pyramid Communications. (n.d.). Effective tools for communication and leadership in Indian country. Washington, DC, and Seattle, WA: Authors. Retrieved from http://www.ncai.org/news/tribalcommunicators-resources/ncai_conferencebooklet_final_singlepage.pdf

An excellent guide aimed at tribal leaders that can help districts understand how they may see their role as well as shed light on some of the cultural barriers that can impede cross-cultural communication.

National Indian Education Association. (2016). Building relationships with tribes: A Native process for ESSA consultation. Washington, DC: Author. Retrieved from http://www.niea.org/wp-content/uploads/2016/02/NIEA-BuildingRelationships-FINAL.pdf

The National Indian Education Association sets out a Native process for consultation with tribes in the context of ESSA. Major components include sections of ESSA that address consultation and essential elements of consultation.

U.S. Department of Education, Office of Elementary and Secondary Education. (2016, September 26). Dear colleague letter on tribal consultation FAQs. Washington, DC: Author. Retrieved from https://www2.ed.gov/policy/elsec/leg/ essa/faq/essafaqtribalconsultation.pdf

This letter and its accompanying list of frequently asked questions and answers provides basic information for districts about changes to the Elementary and Secondary Education Act of 1965 under ESSA.

U.S. Department of the Interior. (n.d.). *Tribes: Tribal consultation policy* [Webpage]. Washington, DC: Author. Retrieved from https://www.doi.gov/tribes/Tribal-Consultation-Policy

This website provides the U.S. Department of the Interior's department-wide policy on tribal consultation. It includes links to other sites that pertain to the ongoing development of a department-wide policy process and to public comments.

Appendix B: The Elementary and Secondary Education Act as Amended by the Every Student Succeeds Act of 2015: Title Summaries

This document contains summaries of portions of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act of 2015 (ESSA) that are most relevant to tribal consultation. Each summary is followed by a list of questions that will assist states, districts, and tribal leaders in thinking about considerations that may be important to address during consultation. Considerations specific to state or district consultation have been noted.

The U.S. Department of Education has identified the following titles, parts, and subparts of ESSA as those that require affected districts (as defined by the Act) to engage in consultation with tribal leaders. Other consultation requirements that are not specific to affected districts are also included when they are of particular interest or relevance to tribes.

Contents

Title I—Improving the Academic Achievement of the Disadvantaged	7
Part A—Improving Basic Programs Operated by Local Educational Agencies	7
Part C—Education of Migratory Children	8
Part D—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk	8
Potential Considerations for Tribal Consultation for Title I	8
Title II—Preparing, Training, and Recruiting High-Quality Teachers, Principals, and Other School Leaders	9
Part A—Supporting Effective Instruction	9
Potential Considerations for Tribal Consultation for Title II	9
Title III—Language Instruction for English Learners and Immigrant Students	. 10
Part AEnglish Language Acquisition, Language Enhancement, and Academic Achievement Act	. 10
Potential Considerations for Tribal Consultation for Title III	. 10
Title IV—21st Century Schools	. 10
Part A—Student Support and Academic Enrichment Grants	. 10
Part B—21st Century Community Learning Centers	. 10
Potential Considerations for Tribal Consultation for Title IV	. 11
Title V—Flexibility and Accountability	. 11
Part B, Subpart 2—Rural and Low-Income School Program	. 11
Potential Considerations for Tribal Consultation for Title V	. 11
Title VI—American Indian, Native Hawaiian, and Alaska Native Education	. 12
Part A, Subpart 1—(American Indian Education Formula Grants to Local Educational Agencies)	. 12
Potential Considerations for Tribal Consultation for Title VI	. 13
Title VII—Impact Aid	. 14
Consultation Requirements	. 14
Title VIIIGeneral Provisions	.15

Title I-Improving the Academic Achievement of the Disadvantaged

Part A—Improving Basic Programs Operated by Local Educational Agencies

Title I, Part A outlines the programs that provide states with money to fund districts to support schools with significant populations of disadvantaged students and schools that are otherwise low-performing. This section of the law requires challenging academic standards, aligned statewide testing, accountability, and reporting and school improvement activities at the state and local levels. Accountability by student subgroup such as race or ethnicity is required by this section.

Basic grants fund schoolwide programs for schools that meet a schoolwide poverty threshold. Targeted grants are available to LEAs and schools with higher proportions of disadvantaged students. In addition to identifying schools for basic program supports, states must also identify low-performing schools from among public schools statewide for comprehensive support and improvement or targeted support and achievement based on:

- Academic achievement
- Graduation rates
- English learner progress toward English language proficiency
- At least one additional indicator of school quality or student success as determined by the state

Long-term and interim goals must be set for all students and for specific student subgroups (including American Indian students) for the first three indicators, and states must report performance against these targets. States will identify low-performing schools for two types of support:

- Comprehensive support—Schools must improve overall student performance.
- Targeted support—Schools must improve performance in subgroups for which low performance was identified.

States, districts, and schools must report annually, in a clear public report card format, on performance on each of the required accountability indicators.

A state is required to consult with tribes in the development of its Title I plans and to notify tribes about state standards, academic assessments, and the state accountability system.

SECTION 1111: STATE PLANS.

"(a) FILING FOR GRANTS-

"(1) IN GENERAL. -For any State desiring to receive a grant under this part, the State educational agency shall file with the Secretary a plan that is-

"(A) developed by the State educational agency with timely and meaningful consultation with the Governor, members of the State legislature and State board of education (if the State has a State board of education), local educational agencies (including those located in rural areas), representatives of Indian tribes located in the State, teachers, principals, other school leaders, charter school leaders (if the State has charter schools), specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents....

"(2) LIMITATION—Consultation required under paragraph (1)(A) shall not interfere with the timely submission of the plan required under this section."

SECTION 111 (a)(2):

"(B) the State educational agency will notify local educational agencies, Indian tribes and Tribal organizations, schools, teachers, parents, and the public of the challenging State academic standards, academic assessments, and State accountability system, developed under this section...".

Several other provisions of Title I, Part A contain consultation or cooperation requirements that may be relevant to tribal leaders:

- The state will ensure that districts will, to the extent feasible, work in consultation with outside intermediary
 organizations that have practical expertise in the development or use of evidence-based strategies and programs.
 (Sec. 1111(g)(2))
- District plans for meaningful family engagement should be developed jointly with parents and family members; the district will provide supports to build the capacity of all participating schools to plan and carry out the family engagement policy, which may include meaningful consultation with "individuals with expertise in effectively engaging parents and family members in education." (Sec. 1116(a)(2)(B))
- District plans must address how districts will coordinate and integrate Title I services "with other educational services at the local educational agency or individual school level, such as services for ... American Indian, Alaska Native, and Native Hawaiian children, and homeless children and youths, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program." (Sec. 1112(c)(4))

Part C—Education of Migratory Children

This part provides funding supports for programs and provision to assist migrant children.

Part D—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk

This part provides funding supports for programs that assist children and youth who are neglected, delinquent or at risk. The definition of "at risk" includes students who are a year or more behind their peers academically or who have high rates of absenteeism, as well as those with addictions, histories of abuse, or other major risk factors. Title I, Part D applies to children and youth in local, tribal, and state institutions and provides support for programs that equalize student opportunities for academic achievement, prevent dropouts, and support transitions from correctional facilities to employment or further schooling.

Subgrant funding to districts under this part can also be used to coordinate health and social services for at-risk children and youth, meet the "unique academic needs" of participating children and youth, and provide programs for at-risk American Indian children and youth.

Potential Considerations for Tribal Consultation for Title I

- Tribal representatives. Which tribal representatives will review state and local plans, attend important meetings, and make recommendations on behalf of the tribe about Title I programs?
- · Changes to plan. What do previous plans under this part look like? What has changed and why?
- Assessments used for Title I accountability. Have the assessments used in their students' schools been reviewed for bias against tribal students? What were the results?
- Data use and access. How can tribes help ensure that data about tribal students are included in state and local accountability plans in a meaningful way?
 - n-size. What is the state's *n*-size (i.e., the smallest number of students who will be included in district and school outcome reporting) for subgroup reporting?
 - Tribal access. How can tribes access data about their youth in Title I programs?
 - Local data sharing. Can data sharing agreements be developed between the tribe and the district to provide both entities with more information on tribal youth?
- Supports for tribal youth. Are American Indian students included in any comprehensive support or targeted support schools? How will supports address the needs of those students? What kinds of technical assistance will be provided?

- Exploring best practices. How are best practices in the education of tribal youth specifically being addressed in state and local school improvement efforts? What is the definition of "evidence-based" programs, and how does that definition apply to specific strategies for supporting tribal youth?
- Early Childhood. Are there plans to initiate/implement early childhood (pre-K) programs to increase potential for school readiness?
- Al Youth in Juvenile Justice System. What are the critical partnerships that need to be formed for American Indian students who are involved in the juvenile justice system or are at risk of becoming involved?

Title II—Preparing, Training, and Recruiting High-Quality Teachers, Principals, and Other School Leaders

Part A—Supporting Effective Instruction

Title II is focused on improving educator quality and on increasing the number of teachers, principals, and other school leaders who are effective in improving student academic achievement. It also contains provisions intended to provide low-income and minority students with greater access to effective teachers, principals, and other school leaders.

Grants under this part can cover, among other state initiatives, those that establish or expand alternative certification for subject areas with shortages of teachers, support districts in recruiting or retaining effective minority teachers, or support collaboration on early childhood transitions to elementary school.

Grants for districts under Title II, Part A can include, among many other things, programs intended to:

- Assist schools in recruiting and retaining effective teachers.
- Support mentorship or induction programs for new teachers.
- Provide evidence-based professional development for teachers on engaging parents and the community and coordinating services.
- Conduct in-service trainings on working with students who have experienced trauma or have been exposed to trauma and forming mental health partnerships with community organizations.

Consultation

Section 2012 requires districts submitting applications for subgrants to consult with "...parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet the purpose of this title ... regarding how best to improve the local educational agency's activities."

Potential Considerations for Tribal Consultation for Title II

- Educator preparation to work with tribal youth. What is the state or district doing to prepare, train, and recruit teachers, principals, and other school leaders concerning American Indian education specifically? What are ways tribes can provide input on teacher preparation in the area of cultural foundational principles of educating American Indian students?
- Training to support tribal youth. What skills, competencies, and capacities will be developed in training programs to support American Indian students and their education? Is there evidence that these approaches work specifically with American Indian students? Does the tribe have information it can share with the state or district on educational approaches that are proven to work with American Indian children or youth?
- Identification of essential knowledge and skills. What do new and current educators need to know to work effectively with American Indian students from this tribe?
- High quality instructional standards. What are the standards for recruiting and retaining teachers who provide high quality, culturally appropriate, and relevant instruction? Do these standards include attention both to process (e.g., high quality interactions between teacher and student) and to structural factors (e.g., class size)?
- Professional development. Has the district applied for—or does it intend to apply for—grants for professional development of teachers and education professionals?

Title III—Language Instruction for English Learners and Immigrant Students

Part A—English Language Acquisition, Language Enhancement, and Academic Achievement Act

This title addresses efforts to ensure that students who have limited English proficiency or limited native language proficiency attain high levels of proficiency in these respective languages as well as high levels of achievement in other academic subjects in these respective languages. It describes eligible uses of funds, including specific guidelines for supporting such efforts and guidelines for subgrants to districts and other organizations.

Potential Considerations for Tribal Consultation for Title III

- Native language programs alignment. If the tribe has a native language program, how does it align with programs for English learners (ELs) proposed by the state or district? For example, is the reading/language arts portion of the English language instruction program administered, or offered to be administered, in the EL's native language?
- Data collection on native languages. What data on ELs is collected regarding tribal background and the unique relationship between tribal languages and EL programs? For example, is the native language used at home by parents, elders, or other relatives asked about when students are assessed for EL inclusion? If so, does this qualify an American Indian student to be classified as an EL?
- Language immersion. What Indigenous and culturally responsive language immersion models will be used with American Indian students? Will participation in native language immersion programs be acknowledged as an effort toward becoming biliterate and bilingual?
- Professional development to support tribal youth. What professional development will non-native partners implementing language and English learner programs receive to prepare them to effectively support American Indian students and their education? Can partnerships with tribal colleges be developed to support this professional development?

Title IV—21st Century Schools

Part A—Student Support and Academic Enrichment Grants

Title IV Part A provides funding to improve students' academic achievement by increasing access to a well-rounded education, improving conditions for learning, and leveraging the use of technology to improve the digital literacy and academic achievement of all students.

Activities and programs under this title must be coordinated with other schools and with community-based services and programs and may include partnerships with higher education institutions, businesses, nonprofits, community-based organizations, tribes, and other, similar entities.

Part B—21st Century Community Learning Centers

Title IV Part B funds the establishment and expansion of community learning centers that provide programming and services to meet the academic and nonacademic needs of students and their families including outside of regularly-established school hours. Programs can support a well-rounded education, include counseling programs, programs for students suspended or expelled, credit recovery programs, and programs that collaborate with employer-partners, among others.

Potential Considerations for Tribal Consultation for Title IV

- Culturally-based discipline approaches. Are there discrepancies in school discipline between tribal and nontribal youth in the state or district? How could disparities be addressed through culturally-based programs?
- American Indian studies. Are there opportunities within the state or districts to address native language and cultural immersion needs in the context of a well-rounded education or technology supports? Is there opportunity to provide instruction on the history, government, and culture of the tribal nation(s) to all students?
- Statewide programs. Is there potential for a statewide initiative on American Indian education focused on academic achievement of tribal students?
- Online access. What opportunities exist, or could be developed, to establish or expand educational Internet access for tribal youth?
- Community learning center approaches. What community learning centers exist that currently serve tribal youth, and how do the centers address the culturally related academic needs of American Indian students?
- Tribal community outreach. What comprehensive community programs are currently in existence? How do those programs incorporate tribes?
- Support for nonacademic needs. How can these programs be leveraged to address the nonacademic needs of students; e.g., through content (such as nutrition, physical education) or counseling?
- School reform models. What school reform models will be used with American Indian students under programs funded through Title IV? Do schools have the resources, staff, and infrastructure they need to meet the needs of American Indian students and families?
- Transportation. Will there be opportunities or options for transportation to and from community learning centers for students and/or their families?

Title V—Flexibility and Accountability

Part B, Subpart 2—Rural and Low-Income School Program

Part B, subpart 2 of Title V specifies the criteria for district eligibility for rural and low-income subgrants from the state and the method by which those grant awards should be calculated.

Potential Considerations for Tribal Consultation for Title V

- Supporting innovation and flexibility. What models and strategies have non-native partners used (or propose to use) to support innovation, flexibility, and collaboration with tribal governments for supporting rural native students and their education?
- Activities eligible for funding. What activities that are culturally appropriate for rural American Indian students would be eligible for funding?

Title VI—American Indian, Native Hawaiian, and Alaska Native Education

Part A, Subpart 1—(American Indian Education Formula Grants to Local Educational Agencies)

Districts, tribes, and local consortia are eligible to apply for grants under Part A, subpart 1 if their student enrollment: (a) includes 10 or more American Indian students; or (b) is comprised of 25 percent or more American Indian students.²

Plans are provided first to the state, which may choose to review and comment, and then to the U.S. Department of Education. If a state chooses to comment on one district's application, it must comment on all district applications.

Title VI grants can be used to carry out a number of activities in support of the American Indian students in the district, tribe, or consortium. Such grants can be used to:

- · Meet culturally-related academic needs of American Indian students, including:
 - Native language revitalization programs
 - · Culturally related activities in support of Title VI grant programs
 - · Childhood and family programs that support school readiness
 - · Enrichment programs focused on problem solving and cognitive skill development
 - · Integration of educational services, including programs that promote parental involvement
 - Career preparation activities
 - · Violence, suicide, and substance-abuse prevention
 - · Supports for culturally responsive teaching and learning
 - Family literacy services
 - · Dropout prevention
 - · Meeting the needs of incarcerated youth, including transition supports
- Provide professional development to ensure that new teachers and staff are prepared to work with American Indian students and that teachers involved with the programs covered by the grant have been properly trained. Grantees must evaluate how all American Indian students are doing (including those who do not participate in the program) and provide that information to the community and to tribes.

Activities under these grants may incorporate appropriately qualified tribal elders, including as native language instructors.

Consultation

District applications for subgrant funding must include a description of "the process the [district] used to meaningfully collaborate with [American] Indian tribes located in the community in a timely, active, and ongoing manner."

The district also must report to the U.S. Department of Education on how the funds were used, how they addressed the "unique cultural, language, and educational needs" of the American Indian students, information on how those needs were determined and how the program was staffed to meet them, and how the district "developed [its program plan] in open consultation with [American Indian stakeholders] including through public hearings ... to provide ... a full opportunity to understand the program and to offer recommendations regarding the program."

² Does not apply to tribes in Alaska, California, or Oklahoma or to districts located on or near reservation lands. Tribes or consortia of tribes are eligible to apply to develop elementary and secondary school programs for Indian students if youth from their tribe(s) represent more than 50 percent of the Indian children in an eligible district and the district has not formed a Title VI committee as required in Section 6114(c)(4). Tribes may also apply on behalf of eligible districts or consortia of districts.

The Title VI Committee

Specifically, districts are required to develop their Title VI Part A programs with the participation of a committee (the Title VI committee) that is selected by, and primarily comprised of, the parents and families of American Indian children. Other committee participants should include tribal representatives of tribal nations with lands located within 50 miles of any school that the agency will serve if such tribes have any children in such schools, teachers, and Indian secondary school students.

Districts must have the Title VI committee's written approval of the plan and be able to describe the process by which the Title VI committee reviewed the program and determined that it would support American Indian students and not diminish culturally related program opportunities.

Use of Title VI Funds for Schoolwide Programs

Title VI funding is intended specifically to support American Indian students, and cannot be used for general schoolwide programs unless the Title VI committee approves and the district is able to describe how a schoolwide program "will produce benefits to [American] Indian students that would not be achieved if the funds were not used in a schoolwide program."

Technical Assistance

Specific technical assistance is available on request from the U.S. Department of Education to:

- Conduct local stakeholder outreach
- Develop Title VI program plans
- Improve and evaluate Title VI program plans
- Integrate Title VI programs with other local programs
- Assist rural LEAs in applying for any competitive grants under the Act

Title VI also contains a section (6116) allowing districts, tribes, or consortia to apply to consolidate their federal funding and/or programs that serve American Indian students.

Potential Considerations for Tribal Consultation for Title VI

- Existing Title VI, Part A programs. Does the district currently operate a Title VI, Part A program?
 - · If not, is there a plan to apply for one?
 - · If so, are there any tribal representatives on the Title VI committee?
 - · Is the district's use of Title VI funding communicated adequately to the tribe?
 - · Does the tribe and/or the Title VI committee have access to outcome data or reports on the program?
 - · Does the tribe have access to contact information for all members of the Title VI committee?
- Tribal education needs. Are the needs of the tribe aligned with the programs offered by the district? If not, are there types of programs covered under this Title that tribes would like to see districts offer?
- Tribal partnerships. How can the tribe collaborate with the district to offer programs that better serve its needs?
 - The tribe and district can form a consortium for the purpose of developing Title VI programs.
 - Tribal elders can support the district in providing culturally informed and appropriate services to tribal youth.
 - The tribe and district can form partnerships to increase the capacity of the tribal education agency and coordinate programming.
- Program effectiveness. Has the district applied (or does it have plans to apply) for grants for national research activities?
- Evidence base. What is the indigenous research base and/or culturally responsive models, programming, curriculum, assessment, or professional development the district is using in programs intended to support American Indian students and their education?

Consultation Language in Other Titles

Although affected districts under ESSA are not required to consult on Titles VII or VIII of the legislation, brief summaries of key points are included here. Title VII requires consultation from "federally impacted" districts (different from, but in many cases overlapping with, "affected districts" under ESSA), while Title VIII contains the specific language of the affected district consultation mandate.

Title VII—Impact Aid

Impact Aid affects districts whose boundaries include federal land or land removed from the tax code, including reservation land. Impact Aid funds supplement these districts to compensate for their reduced tax base. ESSA includes new language that should allow for more timely payments of Impact Aid funds, a provision designed to help districts avoid sudden funding shortfalls, changes to the funding formula to increase equity, and increased appropriations authorizations.³

Some of the funding for Impact Aid is directly tied to the number of children residing on federal or nontaxed land, making accurate counts of those populations (which may be done by parent-pupil survey or by a tribal official) essential.

Consultation Requirements

Consultation is required under Title VII for federally impacted districts serving children from Indian lands. These may or may not also be districts that are required to consult with tribes as "affected districts" under section 8538 of ESSA.

Section 7004 of Title VII requires that parents of children on Indian lands must be consulted on school programs and involved in school plans; and plans, evaluations, and applications for these programs must be provided to parents and tribal leaders. Districts are required to develop "Indian policies and procedures" (IPPs) to outline how and when the district will take these actions, and IPPs are evaluated yearly. If a tribe does not feel that a district is following the federal requirements, it may lodge a formal complaint with the U.S. Department of Education. Tribes may also waive their right to Section 7004 activities and policies by sending a letter to the district expressing satisfaction with the educational services provided by the school to students living on Indian lands.

Districts apply annually for funding directly to the U.S. Department of Education, usually in January. Impact Aid does not pass through the state; funding comes directly to districts.⁴

³ National Indian Education Association. (n.d.). Every Student Succeeds Act primer: Impact Aid. Washington, DC: Author. Retrieved from http://www.niea.org.php56-15. dfw3-2.websitetestlink.com/wp-content/uploads/2016/02/Impact-Aid-FINAL-2.pdf

⁴ National Association of Federally Impacted Schools. (2016). The basics of Impact Aid. Retrieved from http://media.wix.com/ ugd/423d5a_58add7d7c31d445ea2ec2ecdb55b7701.pdf

Title VIII—General Provisions

The provisions of ESSA that relate specifically to schools funded through the Bureau of Indian Education are not included in this title summary, but Title VIII does contain some language specifying circumstances in which those schools must be given the same consideration as LEAs.

SEC. 8103. 20 U.S.C. 7803: APPLICABILITY TO BUREAU OF INDIAN EDUCATION OPERATED SCHOOLS.

For the purpose of any competitive program under this Act-

(1) a consortium of schools operated by the Bureau of Indian Education;

(2) a school operated under a contract or grant with the Bureau of Indian Education in consortium with another contract or grant school or a tribal or community organization; or

(3) a Bureau of Indian Education school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization, shall be given the same consideration as a local educational agency.

Title VIII contains specific language requiring "affected districts" to consult with tribes and tribal organizations.

SEC. 8538. CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

"(a) IN GENERAL—To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, an affected local educational agency shall consult with appropriate officials from Indian tribes or Tribal organizations approved by the tribes located in the area served by the local educational agency prior to the affected local educational agency's submission of a required plan or application for a covered program under this Act or for a program under Title VI of this Act.⁵ Such consultation shall be done in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or Tribal organizations to meaningfully and substantively contribute to such plan."

"(b) DOCUMENTATION. —Each affected local educational agency shall maintain in the agency's records and provide to the State educational agency a written affirmation signed by the appropriate officials of the participating tribes or Tribal organizations approved by the tribes that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the affected local educational agency shall forward documentation that such consultation has taken place to the State educational agency."

About AIR

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A brief note on "tribal organizations approved by the tribes located in the area served": Some affected districts, particularly large or urban districts falling under the Title VI funding provision, may not have specific local tribes with lands or seats of government located in the areas they serve. Guidance from the U.S. Department of Education has not yet been issued regarding how such districts should best proceed with consultation, but the districts are still legally obligated to consult and to either provide written affirmation of consultation from tribal leaders or document their efforts toward consultation. Many urban areas will have Indian cultural centers, but these are not generally authorized to represent any specific tribal nation or nations in consultation.

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APPENDIX C

Tribal Consultation Under the Every Student Succeeds Act :

A Guide for Tribal Leaders and Communities

Midwest Comprehensive Center

at

American Institutes for Research

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MIDWEST Comprehensive Center

at American Institutes for Research

Tribal Consultation Under the Every Student Succeeds Act: A Guide for Tribal Leaders and Communities

Introduction

This brief provides an overview of tribal consultation requirements under the Every Student Succeeds Act (ESSA) of 2015, Public Law 114-95, the latest reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965.¹ ESSA replaces the requirements of the No Child Left Behind (NCLB) Act, the previous reauthorization of the United States' national education law.

ESSA requires state education agencies (SEAs)

Affected Districts

Districts required to consult with tribes include districts with:

- An enrollment of 50 percent or greater American Indian or Alaska Native students.
- A Title VII Indian Education grant of more than \$40,000 prior to 2016.
- A Title VI Indian Education grant of more than \$40,000 after 2016.

and "affected" local education agencies (LEAs)—i.e., local school districts—to consult with tribes on various education plans affecting American Indian students.

Appendix A includes resources from the National Indian Education Association and the U.S. Department of Education's Office of Indian Education concerning relevant aspects of ESSA. Appendix B features a summary of the different titles of ESSA and questions that will assist states, districts, and tribal leaders in thinking about considerations that may be important to address during consultation.

Our Stakeholders-Our Children

American Indian children deserve every opportunity to realize their full potential physically, mentally, emotionally, and spiritually. They are the elders of the future, holders of knowledge and wisdom that will be passed down to succeeding generations. American Indian children require support for a quality education so that any opportunity and achievement gaps can be addressed.

Unfortunately, American Indian children today are not reaching the same levels of academic performance as their peers. Consider the following challenges:

 Graduation rate. American Indian students lag behind Asian/Pacific Islander, White, Hispanic, and Black students in graduating from high school within four years of starting the ninth grade.²

This practice brief was created in partnership with the Midwest Comprehensive Center and Drs. Nicole Bowman and Martin Reinhardt of Bowman Performance Consulting. MWCC is directed by American Institutes for Research on behalf of the U.S. Department of Education.



¹ All references to "ESSA" in this document refer to the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015.

² National Center for Education Statistics. (2016). Public high school graduation rates. Retrieved from https://nces. ed.gov/programs/coe/indicator_coi.asp

- Special education. In 2012–13, the percentage of students served under the Individuals with Disabilities Education Act (IDEA) was highest for American Indian/Alaska Native students (16 percent).³
- Academic performance. In 2015, 10 percent of American Indian 12th graders were proficient in mathematics, compared with 25 percent of all 12th graders tested; and 28 percent of American Indian students were proficient in reading, compared with 37 percent of all 12th graders tested on the National Assessment for Educational Progress (NAEP), known as the Nation's Report Card.⁴

Despite these concerning facts, research shows that when culture is integrated into the curriculum, American Indian students have a greater chance of academic success.⁵ Similarly, when tribal communities and families are engaged and when schools and communities work together to increase support for American Indian students, these students have a greater chance of academic success.^{6,7}

ESSA Tribal Consultation Requirements

ESSA requires that SEAs and affected districts consult with tribes in the development of their education plans. State education agencies are required by ESSA to engage in meaningful consultation with tribes when developing state plans for Title I, Part A funding. Affected districts that educate American Indian or Alaska Native students are also required to consult with tribes prior to submitting a plan or application for a covered program under ESSA or under Title VI. ESSA requires that tribal consultation be both *timely* and *meaningful*.

Timely

ESSA mandates that consultation with tribes must be timely and, crucially, that consultation should not delay the submission of education plans. Timelines for submission will vary by state. Initial questions that tribal leaders may want to ask SEAs or districts include:

- When does the state intend to submit its plan to the U.S. Department of Education?
- By what date does the state need input from tribes?
- When are district plans due to the state?
- Is a particular format required for the provision of tribal input and feedback?

ESSA does not specify forms of recourse available to tribal nations in cases of insufficiently meaningful or timely consultation. Tribes may find that there is insufficient time to conduct consultation that they consider meaningful before plans are due. In such cases, tribal leaders may wish to work with SEAs or districts, as appropriate, to agree on ongoing consultation processes that will allow for regular, sustainable tribal input.

Meaningful

The earlier NCLB did not require SEAs or districts to consult with tribes. ESSA, however, mandates timely and meaningful consultation. Consequently, many SEAs and districts will be seeking input and assistance from tribes to develop shared understanding of meaningful consultation, which is required by ESSA but not defined by it. Tribal nations can draw on their experience of consultation to help districts and SEAs construct strong and sustainable consultation processes.

³ National Center for Education Statistics. Children and youth with disabilities. Retrieved from https://nces.ed.gov/programs/coe/indicator_cgg.asp

⁴ U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress. (2016, April). 2015 results: Mathematics and reading, grade 12. Retrieved from https://www.nationsreportcard.gov/reading_math_g12_2015/files/infographic_2015_g12_ math_reading.pdf

⁵ Apthorp, H. (2016). Where American Indian students go to school: Enrollment in seven Central Region states. Washington, D.C.: Institute of Education Sciences. Retrieved from https://ies.ed.gov/ncee/edlabs/regions/central/pdf/REL_2016113.pdf

⁶ Wang, M., & Sheikh-Khalil, S. (2014). Does parental involvement matter for student achievement and mental health in high school? Child Development, 85(2), 610–625.

⁷ Powers, K., Potthoff, S., Bearinger, L., & Resnick, M. (2003). Does cultural programming improve educational outcomes for American Indian youth? *Journal of American Indian Education*, 42(2), 17–49.

As part of meaningful consultation, tribal leaders should be:

- Informed of dates for upcoming meetings, including both tribal consultation meetings and information or input meetings that are open to the public.
- Informed of deadlines for plan development and submission.
- Provided with information on proposed programs.
- Provided with formats and submission information for tribal input.
- Notified of significant changes in plans.
- Provided with information on how input was incorporated.
- Given a final copy of plans or applications.

As part of meaningful consultation, tribal leaders should be provided with, or should be able to receive on request:

- Copies of previous education plans.
- Contact information for district personnel or members of committees.
- Presentations from state or local representatives about existing programs so that tribes have clarity regarding how the programs operate in the local, district, or state context.
- Additional meetings to discuss the education plans or programs.
- Information on the evidence on which planned activities are based.
- Previous reports and evaluations on education plan or program outcomes.

Realistically, tribal leaders may also expect to provide SEAs and districts with relevant historical, cultural, and linguistic information and awareness to help inform the writing of state and district education plans. Tribal nations may choose to invite tribal council members, the Indian Education director, education consultants, parents, teachers, students, and members of the parent council, among others, to participate in these consultations.

State Education Agencies

SEAs must consult with tribes on state plans to meet Title I, Part A of ESSA. This section of the Act provides financial assistance to districts and schools with high numbers or high percentages of children from low-income families to help ensure that all children meet challenging state academic standards. States do not start from scratch on these plans; most draw on their existing plans as a beginning point.

Affirmation of Consultation

Districts are required to consult with tribal leaders on plans or applications for specific title programs, including those programs under Title VI of ESSA, if the districts meet the following criteria:

- Have an enrollment of American Indian or Alaska Native students that is 50 percent or more of the district's total student enrollment.
- Had a Title VII Indian Education grant of more than \$40,000 prior to 2016.
- Had a Title VI Indian Education grant of more than \$40,000 after 2016.

Districts will need to have an affirmation signed by each tribe consulted in order to document that consultation took place. If districts cannot obtain this affirmation, they must document their consultation efforts and activities as part of any plan or application they submit for a program under specified sections of ESSA (see Appendix B).

Appendix A: Resources (Annotated Bibliography)

The resources listed below include guidance from the National Indian Education Association and the U.S. Department of Education's Office of Indian Education concerning relevant aspects of ESSA.

National Congress of American Indians, & Pyramid Communications. (n.d.). Effective tools for communication and leadership in Indian country. Washington, DC, and Seattle, WA: Authors. Retrieved from http://www.ncai.org/news/ tribal-communicators-resources/ncai_conferencebooklet_final_singlepage.pdf

This resource is a communication guide for tribal leaders containing information and tools that may be helpful in working with districts.

National Indian Education Association. (2016). The Every Student Succeeds Act. [Website]. Retrieved from http://www. niea.org/for-advocates/education-priorities/elementary-and-secondary-education-act-esea-and-every-studentssucceeds-act-essa/

This site contains a series of fact sheets that describe ESSA generally, as well as a series of Native education specific fact sheets, which cover topics such as State Tribal Education Partnerships and cooperative agreements, language immersion, Impact Aid, and Native Hawaiian and Alaska Native education.

20 U.S.C. § 6301 (1965), amended Pub. L. 114-95, title I, § 1001 (2015). *Elementary and Secondary Education Act of* 1965. Retrieved from https://www2.ed.gov/documents/essa-act-of-1965.pdf

This is the full text of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015.

U.S. Department of Education, Office of Elementary and Secondary Education. (2016, September 26). Dear colleague letter on tribal consultation FAQs. Washington, DC: Author. Retrieved from https://www2.ed.gov/policy/elsec/leg/ essa/faq/essafaqtribalconsultation.pdf

This letter and its accompanying list of frequently asked questions and answers provides basic information for districts about tribal consultation requirements of Elementary and Secondary Education Act of 1965 as amended by ESSA.

Appendix B: The Elementary and Secondary Education Act as Amended by the Every Student Succeeds Act of 2015: Title Summaries

This document contains summaries of portions of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act of 2015 (ESSA) that are most relevant to tribal consultation. Each summary is followed by a list of questions that will assist states, districts, and tribal leaders in thinking about considerations that may be important to address during consultation. Considerations specific to state or district consultation have been noted.

The U.S. Department of Education has identified the following titles, parts, and subparts of ESSA as those that require affected districts (as defined by the Act) to engage in consultation with tribal leaders. Other consultation requirements that are not specific to affected districts are also included when they are of particular interest or relevance to tribes.

Contents

Title I—Improving the Academic Achievement of the Disadvantaged	6
Part AImproving Basic Programs Operated by Local Educational Agencies	6
Part C—Education of Migratory Children	7
Part D-Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk	7
Potential Considerations for Tribal Consultation for Title I	7
Title II—Preparing, Training, and Recruiting High-Quality Teachers, Principals, and Other School Leaders	8
Part A—Supporting Effective Instruction	8
Potential Considerations for Tribal Consultation for Title II	8
Title III—Language Instruction for English Learners and Immigrant Students	9
Part AEnglish Language Acquisition, Language Enhancement, and Academic Achievement Act	
Potential Considerations for Tribal Consultation for Title III	
Title IV—21st Century Schools	9
Part A—Student Support and Academic Enrichment Grants	9
Part B—21st Century Community Learning Centers	9
Potential Considerations for Tribal Consultation for Title IV1	
Title V—Flexibility and Accountability	0
Part B, Subpart 2Rural and Low-Income School Program	0
Potential Considerations for Tribal Consultation for Title V	
Title VI—American Indian, Native Hawaiian, and Alaska Native Education1	1
Part A, Subpart 1—(American Indian Education Formula Grants to Local Educational Agencies)1	1
Potential Considerations for Tribal Consultation for Title VI1	
Title VII—Impact Aid1	3
Consultation Requirements	
Title VIII—General Provisions1	4

Title I-Improving the Academic Achievement of the Disadvantaged

Part A—Improving Basic Programs Operated by Local Educational Agencies

Title I, Part A outlines the programs that provide states with money to fund districts to support schools with significant populations of disadvantaged students and schools that are otherwise low-performing. This section of the law requires challenging academic standards, aligned statewide testing, accountability, and reporting and school improvement activities at the state and local levels. Accountability by student subgroup such as race or ethnicity is required by this section.

Basic grants fund schoolwide programs for schools that meet a schoolwide poverty threshold. Targeted grants are available to LEAs and schools with higher proportions of disadvantaged students. In addition to identifying schools for basic program supports, states must also identify low-performing schools from among public schools statewide for comprehensive support and improvement or targeted support and achievement based on:

- Academic achievement
- Graduation rates
- English learner progress toward English language proficiency
- At least one additional indicator of school quality or student success as determined by the state

Long-term and interim goals must be set for all students and for specific student subgroups (including American Indian students) for the first three indicators, and states must report performance against these targets. States will identify low-performing schools for two types of support:

- Comprehensive support—Schools must improve overall student performance.
- Targeted support—Schools must improve performance in subgroups for which low performance was identified.

States, districts, and schools must report annually, in a clear public report card format, on performance on each of the required accountability indicators.

A state is required to consult with tribes in the development of its Title I plans and to notify tribes about state standards, academic assessments, and the state accountability system.

SECTION 1111: STATE PLANS.

"(a) FILING FOR GRANTS--

"(1) IN GENERAL. - For any State desiring to receive a grant under this part, the State educational agency shall file with the Secretary a plan that is-

"(A) developed by the State educational agency with timely and meaningful consultation with the Governor, members of the State legislature and State board of education (if the State has a State board of education), local educational agencies (including those located in rural areas), representatives of Indian tribes located in the State, teachers, principals, other school leaders, charter school leaders (if the State has charter schools), specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents....

"(2) LIMITATION—Consultation required under paragraph (1)(A) shall not interfere with the timely submission of the plan required under this section."

SECTION 111 (a)(2):

"(B) the State educational agency will notify local educational agencies, Indian tribes and Tribal organizations, schools, teachers, parents, and the public of the challenging State academic standards, academic assessments, and State accountability system, developed under this section...".

Several other provisions of Title I, Part A contain consultation or cooperation requirements that may be relevant to tribal leaders:

- The state will ensure that districts will, to the extent feasible, work in consultation with outside intermediary
 organizations that have practical expertise in the development or use of evidence-based strategies and programs.
 (Sec. 1111(g)(2))
- District plans for meaningful family engagement should be developed jointly with parents and family members; the district will provide supports to build the capacity of all participating schools to plan and carry out the family engagement policy, which may include meaningful consultation with "individuals with expertise in effectively engaging parents and family members in education." (Sec. 1116(a)(2)(B))
- District plans must address how districts will coordinate and integrate Title I services "with other educational services at the local educational agency or individual school level, such as services for ... American Indian, Alaska Native, and Native Hawaiian children, and homeless children and youths, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program." (Sec. 1112(c)(4))

Part C—Education of Migratory Children

This part provides funding supports for programs and provision to assist migrant children.

Part D—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk

This part provides funding supports for programs that assist children and youth who are neglected, delinquent or at risk. The definition of "at risk" includes students who are a year or more behind their peers academically or who have high rates of absenteeism, as well as those with addictions, histories of abuse, or other major risk factors. Title I, Part D applies to children and youth in local, tribal, and state institutions and provides support for programs that equalize student opportunities for academic achievement, prevent dropouts, and support transitions from correctional facilities to employment or further schooling.

Subgrant funding to districts under this part can also be used to coordinate health and social services for at-risk children and youth, meet the "unique academic needs" of participating children and youth, and provide programs for at-risk American Indian children and youth.

Potential Considerations for Tribal Consultation for Title I

- Tribal representatives. Which tribal representatives will review state and local plans, attend important meetings, and make recommendations on behalf of the tribe about Title I programs?
- Changes to plan. What do previous plans under this part look like? What has changed and why?
- Assessments used for Title I accountability. Have the assessments used in their students' schools been reviewed for bias against tribal students? What were the results?
- Data use and access. How can tribes help ensure that data about tribal students are included in state and local accountability plans in a meaningful way?
 - n-size. What is the state's *n*-size (i.e., the smallest number of students who will be included in district and school outcome reporting) for subgroup reporting?
 - Tribal access. How can tribes access data about their youth in Title I programs?
 - Local data sharing. Can data sharing agreements be developed between the tribe and the district to provide both entities with more information on tribal youth?
- Supports for tribal youth. Are American Indian students included in any comprehensive support or targeted support schools? How will supports address the needs of those students? What kinds of technical assistance will be provided?

- Exploring best practices. How are best practices in the education of tribal youth specifically being addressed in state and local school improvement efforts? What is the definition of "evidence-based" programs, and how does that definition apply to specific strategies for supporting tribal youth?
- Early Childhood. Are there plans to initiate/implement early childhood (pre-K) programs to increase potential for school readiness?
- Al Youth in Juvenile Justice System. What are the critical partnerships that need to be formed for American Indian students who are involved in the juvenile justice system or are at risk of becoming involved?

Title II—Preparing, Training, and Recruiting High-Quality Teachers, Principals, and Other School Leaders

Part A—Supporting Effective Instruction

Title II is focused on improving educator quality and on increasing the number of teachers, principals, and other school leaders who are effective in improving student academic achievement. It also contains provisions intended to provide low-income and minority students with greater access to effective teachers, principals, and other school leaders.

Grants under this part can cover, among other state initiatives, those that establish or expand alternative certification for subject areas with shortages of teachers, support districts in recruiting or retaining effective minority teachers, or support collaboration on early childhood transitions to elementary school.

Grants for districts under Title II, Part A can include, among many other things, programs intended to:

- Assist schools in recruiting and retaining effective teachers.
- Support mentorship or induction programs for new teachers.
- Provide evidence-based professional development for teachers on engaging parents and the community and coordinating services.
- Conduct in-service trainings on working with students who have experienced trauma or have been exposed to trauma and forming mental health partnerships with community organizations.

Consultation

Section 2012 requires districts submitting applications for subgrants to consult with "...parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet the purpose of this title ... regarding how best to improve the local educational agency's activities."

Potential Considerations for Tribal Consultation for Title II

- Educator preparation to work with tribal youth. What is the state or district doing to prepare, train, and recruit teachers, principals, and other school leaders concerning American Indian education specifically? What are ways tribes can provide input on teacher preparation in the area of cultural foundational principles of educating American Indian students?
- Training to support tribal youth. What skills, competencies, and capacities will be developed in training programs to support American Indian students and their education? Is there evidence that these approaches work specifically with American Indian students? Does the tribe have information it can share with the state or district on educational approaches that are proven to work with American Indian children or youth?
- Identification of essential knowledge and skills. What do new and current educators need to know to work effectively with American Indian students from this tribe?
- High quality instructional standards. What are the standards for recruiting and retaining teachers who provide high quality, culturally appropriate, and relevant instruction? Do these standards include attention both to process (e.g., high quality interactions between teacher and student) and to structural factors (e.g., class size)?
- Professional development. Has the district applied for—or does it intend to apply for—grants for professional development of teachers and education professionals?

Title III—Language Instruction for English Learners and Immigrant Students

Part A—English Language Acquisition, Language Enhancement, and Academic Achievement Act

This title addresses efforts to ensure that students who have limited English proficiency or limited native language proficiency attain high levels of proficiency in these respective languages as well as high levels of achievement in other academic subjects in these respective languages. It describes eligible uses of funds, including specific guidelines for supporting such efforts and guidelines for subgrants to districts and other organizations.

Potential Considerations for Tribal Consultation for Title III

- Native language programs alignment. If the tribe has a native language program, how does it align with programs for English learners (ELs) proposed by the state or district? For example, is the reading/language arts portion of the English language instruction program administered, or offered to be administered, in the EL's native language?
- Data collection on native languages. What data on ELs is collected regarding tribal background and the unique relationship between tribal languages and EL programs? For example, is the native language used at home by parents, elders, or other relatives asked about when students are assessed for EL inclusion? If so, does this qualify an American Indian student to be classified as an EL?
- Language immersion. What Indigenous and culturally responsive language immersion models will be used with American Indian students? Will participation in native language immersion programs be acknowledged as an effort toward becoming biliterate and bilingual?
- Professional development to support tribal youth. What professional development will non-native partners implementing language and English learner programs receive to prepare them to effectively support American Indian students and their education? Can partnerships with tribal colleges be developed to support this professional development?

Title IV—21st Century Schools

Part A—Student Support and Academic Enrichment Grants

Title IV Part A provides funding to improve students' academic achievement by increasing access to a well-rounded education, improving conditions for learning, and leveraging the use of technology to improve the digital literacy and academic achievement of all students.

Activities and programs under this title must be coordinated with other schools and with community-based services and programs and may include partnerships with higher education institutions, businesses, nonprofits, community-based organizations, tribes, and other, similar entities.

Part B—21st Century Community Learning Centers

Title IV Part B funds the establishment and expansion of community learning centers that provide programming and services to meet the academic and nonacademic needs of students and their families including outside of regularly-established school hours. Programs can support a well-rounded education, include counseling programs, programs for students suspended or expelled, credit recovery programs, and programs that collaborate with employer-partners, among others.

Potential Considerations for Tribal Consultation for Title IV

- Culturally-based discipline approaches. Are there discrepancies in school discipline between tribal and nontribal youth in the state or district? How could disparities be addressed through culturally-based programs?
- American Indian studies. Are there opportunities within the state or districts to address native language and cultural immersion needs in the context of a well-rounded education or technology supports? Is there opportunity to provide instruction on the history, government, and culture of the tribal nation(s) to all students?
- Statewide programs. Is there potential for a statewide initiative on American Indian education focused on academic achievement of tribal students?
- Online access. What opportunities exist, or could be developed, to establish or expand educational Internet access for tribal youth?
- Community learning center approaches. What community learning centers exist that currently serve tribal youth, and how do the centers address the culturally related academic needs of American Indian students?
- Tribal community outreach. What comprehensive community programs are currently in existence? How do those programs incorporate tribes?
- Support for nonacademic needs. How can these programs be leveraged to address the nonacademic needs of students; e.g., through content (such as nutrition, physical education) or counseling?
- School reform models. What school reform models will be used with American Indian students under programs funded through Title IV? Do schools have the resources, staff, and infrastructure they need to meet the needs of American Indian students and families?
- Transportation. Will there be opportunities or options for transportation to and from community learning centers for students and/or their families?

Title V—Flexibility and Accountability

Part B, Subpart 2—Rural and Low-Income School Program

Part B, subpart 2 of Title V specifies the criteria for district eligibility for rural and low-income subgrants from the state and the method by which those grant awards should be calculated.

Potential Considerations for Tribal Consultation for Title V

- Supporting innovation and flexibility. What models and strategies have non-native partners used (or propose to use) to support innovation, flexibility, and collaboration with tribal governments for supporting rural native students and their education?
- Activities eligible for funding. What activities that are culturally appropriate for rural American Indian students would be eligible for funding?

Title VI—American Indian, Native Hawaiian, and Alaska Native Education

Part A, Subpart 1—(American Indian Education Formula Grants to Local Educational Agencies)

Districts, tribes, and local consortia are eligible to apply for grants under Part A, subpart 1 if their student enrollment: (a) includes 10 or more American Indian students; or (b) is comprised of 25 percent or more American Indian students.⁸

Plans are provided first to the state, which may choose to review and comment, and then to the U.S. Department of Education. If a state chooses to comment on one district's application, it must comment on all district applications.

Title VI grants can be used to carry out a number of activities in support of the American Indian students in the district, tribe, or consortium. Such grants can be used to:

- Meet culturally-related academic needs of American Indian students, including:
 - Native language revitalization programs
 - · Culturally related activities in support of Title VI grant programs
 - · Childhood and family programs that support school readiness
 - · Enrichment programs focused on problem solving and cognitive skill development
 - Integration of educational services, including programs that promote parental involvement
 - Career preparation activities
 - · Violence, suicide, and substance-abuse prevention
 - Supports for culturally responsive teaching and learning
 - Family literacy services
 - Dropout prevention
 - · Meeting the needs of incarcerated youth, including transition supports
- Provide professional development to ensure that new teachers and staff are prepared to work with American Indian students and that teachers involved with the programs covered by the grant have been properly trained. Grantees must evaluate how all American Indian students are doing (including those who do not participate in the program) and provide that information to the community and to tribes.

Activities under these grants may incorporate appropriately qualified tribal elders, including as native language instructors.

Consultation

District applications for subgrant funding must include a description of "the process the [district] used to meaningfully collaborate with [American] Indian tribes located in the community in a timely, active, and ongoing manner."

The district also must report to the U.S. Department of Education on how the funds were used, how they addressed the "unique cultural, language, and educational needs" of the American Indian students, information on how those needs were determined and how the program was staffed to meet them, and how the district "developed [its program plan] in open consultation with [American Indian stakeholders] including through public hearings ... to provide ... a full opportunity to understand the program and to offer recommendations regarding the program."

⁸ Does not apply to tribes in Alaska, California, or Oklahoma or to districts located on or near reservation lands. Tribes or consortia of tribes are eligible to apply to develop elementary and secondary school programs for Indian students if youth from their tribe(s) represent more than 50 percent of the Indian children in an eligible district and the district has not formed a Title VI committee as required in Section 6114(c)(4). Tribes may also apply on behalf of eligible districts or consortia of districts.

The Title VI Committee

Specifically, districts are required to develop their Title VI Part A programs with the participation of a committee (the Title VI committee) that is selected by, and primarily comprised of, the parents and families of American Indian children. Other committee participants should include tribal representatives of tribal nations with lands located within 50 miles of any school that the agency will serve if such tribes have any children in such schools, teachers, and Indian secondary school students.

Districts must have the Title VI committee's written approval of the plan and be able to describe the process by which the Title VI committee reviewed the program and determined that it would support American Indian students and not diminish culturally related program opportunities.

Use of Title VI Funds for Schoolwide Programs

Title VI funding is intended specifically to support American Indian students, and cannot be used for general schoolwide programs unless the Title VI committee approves and the district is able to describe how a schoolwide program "will produce benefits to [American] Indian students that would not be achieved if the funds were not used in a schoolwide program."

Technical Assistance

Specific technical assistance is available on request from the U.S. Department of Education to:

- Conduct local stakeholder outreach
- Develop Title VI program plans
- Improve and evaluate Title VI program plans
- Integrate Title VI programs with other local programs
- Assist rural LEAs in applying for any competitive grants under the Act

Title VI also contains a section (6116) allowing districts, tribes, or consortia to apply to consolidate their federal funding and/or programs that serve American Indian students.

Potential Considerations for Tribal Consultation for Title VI

- Existing Title VI, Part A programs. Does the district currently operate a Title VI, Part A program?
 - · If not, is there a plan to apply for one?
 - · If so, are there any tribal representatives on the Title VI committee?
 - · Is the district's use of Title VI funding communicated adequately to the tribe?
 - · Does the tribe and/or the Title VI committee have access to outcome data or reports on the program?
 - · Does the tribe have access to contact information for all members of the Title VI committee?
- Tribal education needs. Are the needs of the tribe aligned with the programs offered by the district? If not, are there types of programs covered under this Title that tribes would like to see districts offer?
- Tribal partnerships. How can the tribe collaborate with the district to offer programs that better serve its needs?
 - The tribe and district can form a consortium for the purpose of developing Title VI programs.
 - Tribal elders can support the district in providing culturally informed and appropriate services to tribal youth.
 - The tribe and district can form partnerships to increase the capacity of the tribal education agency and coordinate programming.
- Program effectiveness. Has the district applied (or does it have plans to apply) for grants for national research activities?
- Evidence base. What is the indigenous research base and/or culturally responsive models, programming, curriculum, assessment, or professional development the district is using in programs intended to support American Indian students and their education?

Consultation Language in Other Titles

Although affected districts under ESSA are not required to consult on Titles VII or VIII of the legislation, brief summaries of key points are included here. Title VII requires consultation from "federally impacted" districts (different from, but in many cases overlapping with, "affected districts" under ESSA), while Title VIII contains the specific language of the affected district consultation mandate.

Title VII—Impact Aid

Impact Aid affects districts whose boundaries include federal land or land removed from the tax code, including reservation land. Impact Aid funds supplement these districts to compensate for their reduced tax base. ESSA includes new language that should allow for more timely payments of Impact Aid funds, a provision designed to help districts avoid sudden funding shortfalls, changes to the funding formula to increase equity, and increased appropriations authorizations.⁹

Some of the funding for Impact Aid is directly tied to the number of children residing on federal or nontaxed land, making accurate counts of those populations (which may be done by parent-pupil survey or by a tribal official) essential.

Consultation Requirements

Consultation is required under Title VII for federally impacted districts serving children from Indian lands. These may or may not also be districts that are required to consult with tribes as "affected districts" under section 8538 of ESSA.

Section 7004 of Title VII requires that parents of children on Indian lands must be consulted on school programs and involved in school plans; and plans, evaluations, and applications for these programs must be provided to parents and tribal leaders. Districts are required to develop "Indian policies and procedures" (IPPs) to outline how and when the district will take these actions, and IPPs are evaluated yearly. If a tribe does not feel that a district is following the federal requirements, it may lodge a formal complaint with the U.S. Department of Education. Tribes may also waive their right to Section 7004 activities and policies by sending a letter to the district expressing satisfaction with the educational services provided by the school to students living on Indian lands.

Districts apply annually for funding directly to the U.S. Department of Education, usually in January. Impact Aid does not pass through the state; funding comes directly to districts.¹⁰

⁹ National Indian Education Association. (n.d.). Every Student Succeeds Act primer: Impact Aid. Washington, DC: Author. Retrieved from http://www.niea.org.php56-15. dfw3-2.websitetestlink.com/wp-content/uploads/2016/02/Impact-Aid-FINAL-2.pdf

¹⁰ National Association of Federally Impacted Schools. (2016). The basics of Impact Aid. Retrieved from http://media.wix.com/ ugd/423d5a_58add7d7c31d445ea2ec2ecdb55b7701.pdf

Title VIII—General Provisions

The provisions of ESSA that relate specifically to schools funded through the Bureau of Indian Education are not included in this title summary, but Title VIII does contain some language specifying circumstances in which those schools must be given the same consideration as LEAs.

SEC. 8103. 20 U.S.C. 7803: APPLICABILITY TO BUREAU OF INDIAN EDUCATION OPERATED SCHOOLS.

For the purpose of any competitive program under this Act-

(1) a consortium of schools operated by the Bureau of Indian Education;

(2) a school operated under a contract or grant with the Bureau of Indian Education in consortium with another contract or grant school or a tribal or community organization; or

(3) a Bureau of Indian Education school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization, shall be given the same consideration as a local educational agency.

Title VIII contains specific language requiring "affected districts" to consult with tribes and tribal organizations.

SEC. 8538. CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

"(a) IN GENERAL—To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, an affected local educational agency shall consult with appropriate officials from Indian tribes or Tribal organizations approved by the tribes located in the area served by the local educational agency prior to the affected local educational agency's submission of a required plan or application for a covered program under this Act or for a program under Title VI of this Act.¹¹ Such consultation shall be done in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or Tribal organizations to meaningfully and substantively contribute to such plan."

"(b) DOCUMENTATION. —Each affected local educational agency shall maintain in the agency's records and provide to the State educational agency a written affirmation signed by the appropriate officials of the participating tribes or Tribal organizations approved by the tribes that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the affected local educational agency shall forward documentation that such consultation has taken place to the State educational agency."

About AIR

Established in 1946, with headquarters in Washington, D.C., American Institutes for Research (AIR) is an independent, nonpartisan, not-for-profit organization that conducts behavioral and social science research and delivers technical assistance both domestically and internationally. As one of the largest behavioral and social science research organizations in the world, AIR is committed to empowering communities and institutions with innovative solutions to the most critical challenges in education, health, workforce, and international development.



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¹¹ A brief note on "tribal organizations approved by the tribes located in the area served": Some affected districts, particularly large or urban districts falling under the Title VI funding provision, may not have specific local tribes with lands or seats of government located in the areas they serve. Guidance from the U.S. Department of Education has not yet been issued regarding how such districts should best proceed with consultation, but the districts are still legally obligated to consult and to either provide written affirmation of consultation from tribal leaders or document their efforts toward consultation. Many urban areas will have Indian cultural centers, but these are not generally authorized to represent any specific tribal nation or nations in consultation.



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