OVERVIEW OF THE NEGOTIATED RULEMAKING PROCESS
Bureau of Indian Education Negotiated Rulemaking on
Standards, Assessments, and Accountability

The National Indian Education Association (NIEA) is the nation's largest and most inclusive organization advocating for comprehensive culture-based educational opportunities for American Indians, Alaska Natives, and Native Hawaiians.

BACKGROUND
In December 2015, Congress reauthorized the nation's most comprehensive education legislation through the Every Student Succeeds Act (ESSA) to "provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps." Under this law, the Bureau of Indian Education (BIE) is required to develop new regulations that define high-quality standards, assessments, and accountability systems for Bureau-funded schools. If a tribe determines that the system set by the BIE inappropriate for students in tribal schools, tribes have the authority to waive all or part of the state-wide system of standards, assessments, and accountability.

OVERVIEW OF NEGOTIATED RULEMAKING
An official government process, negotiated rulemaking requires a federal agency to engage with appointed representatives to create mutually agreeable regulations through a series of public meetings. Once established, the negotiated rulemaking committee creates a system of rules to govern conduct and ensure a successful outcome. Committee members consider the text of regulations proposed by the federal agency in their entirety, negotiating a consensus on critical concepts until all members are comfortable with the final proposed regulations. Throughout the process, negotiators have the authority to express concerns or disagreements and to provide recommendations regarding the proposed regulations.

On August 2, 2018, the BIE finalized the list of members and meeting dates for the Negotiated Rulemaking Committee that will consider critical questions to develop regulations for Bureau-funded schools under ESSA. The Committee is scheduled to meet on the following dates:
- September 25–September 27, 2018, Billings, MT
- October 30–November 1, 2018, Albuquerque, NM
- December 4–December 6, 2018, Arlington, VA
- Spring 2019, Teleconference

CRITICAL QUESTIONS FOR CONSIDERATION
As negotiators consider new ESSA regulations, NIEA seeks to provide critical information and insight into the following questions through a series of issue briefs:

1. What standards, assessment(s), and accountability system will be used to ensure that all Native children meet the ESSA requirement that "all students graduate high school ready for college or a career?"
2. How will the BIE align the system of standards, assessment(s), and accountability with the new Strategic Direction and the Blueprint for Reform?
3. How will the regulations address ongoing Congressional concerns and recommendations from the GAO?
4. Should the BIE seek waivers from the Department of Education on behalf of all Bureau-funded schools?
5. How will the regulations developed through negotiated rulemaking expand opportunities for tribes to exercise education sovereignty?
6. How will the BIE integrate Native pedagogy and thought philosophy to create education systems tailored to the cultural and academic needs of students served in Bureau-funded schools?

CONCLUSION
Culturally responsive education systems that integrate Native cultures, languages, and histories support Native students in reaching their full potential. Negotiated rulemaking provides tribes the opportunity to shape education systems that serve Native students in schools across the country. Throughout the negotiation process, tribal voices are critical to ensuring that Native students have access to the culturally responsive instruction, tools and resources necessary to succeed in the classroom and beyond.

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