



## ACCOUNTABILITY

Bureau of Indian Education Negotiated Rulemaking on  
Standards, Assessments, and Accountability

*Issue Brief*

*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

When Congress passed the Every Student Succeeds Act (ESSA) in December 2015, legislators directed the Bureau of Indian Education (BIE) to develop an accountability system to hold Bureau-funded schools responsible for student achievement, prompt corrective action, and support improvement activities. While requirements for the new accountability system differ significantly from those under previous law, the major impetus and use of the accountability system remain the same. An accountability system works to ensure that all students — regardless of race, family income, home language, or disability status — receive the education they need and deserve. Congress intended for state accountability systems under ESSA to send a clear signal that schools must focus on raising achievement for all groups of students by identifying and providing prompt action and resources for schools that struggle to support underperforming student subgroups.

The BIE currently operates under 23 independent state-designed accountability systems. A 2013 study from the Government Accountability Office reported ongoing issues providing adequate data and reporting on student achievement across the BIE system under this system. Due to these issues, the current draft of the BIE State Plan under ESSA strongly recommends that the BIE not remain within a multi-state accountability system. Through negotiated rulemaking, the BIE has an opportunity to consider the current 23 state system, as well as develop and implement a unique and comprehensive accountability system that includes policies, best practices, and data to ensure all students thrive and meet academic benchmarks.

### CRITICAL QUESTIONS FOR CONSIDERATION

1. What are the BIE's long-term goals to ensure students make appropriate academic gains?
2. To help identify schools for comprehensive and targeted support, how will the BIE measure interim student progress toward the long-term goals for student subgroup success, as well as rate and measure school progress?
3. What minimum "N" size should be adopted for student subgroup data measurement, disaggregation and reporting?
4. What additional indicator(s) should the BIE include in its accountability system?

### KEY STATUTORY REQUIREMENTS

Through the current rulemaking process, negotiators will advise in the development of a comprehensive accountability system that incorporates ESSA's required measures of student achievement, which include long-term goals and interim student progress on state assessments, graduation rates, and progress in achieving English language proficiency. ESSA also requires the state to define a minimum number of students, known as an N size, to calculate student subgroup performance. The state accountability system must also provide a way to compare and differentiate school performance and identify schools for comprehensive or targeted intervention and support.

Specific statewide indicators of student performance are required [and will be used to measure schools] on:

1. Annual assessments;
2. High school graduation rates;
3. A measure of student growth or other academic indicator for K-8 schools;
4. English language proficiency; and
5. At least one additional measure of school quality/student success.

Negotiators will advise on how these indicators will be weighted, the school rating system, and whether to include one or more indicators of school quality/school success. Through the new accountability system, the BIE will differentiate school performance and provide support to those not meeting or making sufficient progress toward achieving state standards.

### **MINIMUM N-SIZE**

ESSA requires states to adopt a minimum N size of 30 or less. The N size selected must also be valid, reliable, and statistically significant while continuing to protect student privacy and the identification of individual students when data is reported. In practice, a small N size provides additional data for an accountability system to be more responsive to underrepresented students. Currently, the BIE is required to use the N size of the state in which a school is located; therefore, negotiated rulemaking provides an opportunity to determine and set a new N-size for all schools within the BIE system.

### **OPPORTUNITY FOR TRIBAL WAIVERS**

ESSA provides flexibility for tribes to create a unique system of accountability consistent with that required of states. If a tribe or school board determines that the system of accountability established by the BIE is inappropriate for students in tribal schools, Section 8204 authorizes tribes to request a waiver for all or part of the system and to develop a system that better serves the needs of tribal students. This provision replaces the waiver for adequate yearly progress provided to the Navajo Nation and the Miccosukee Tribe of Indians of Florida under No Child Left Behind and expands opportunities for tribes to exercise sovereignty in the education of tribal students and to create education systems that serve the unique needs of Native students.

### **CONCLUSION**

Accountability systems measure the progress of student subgroups, schools/districts, and the state in meeting state standards. They also help identify where additional supports are needed to close achievement gaps. Through negotiated rulemaking, tribes and tribal organizations have the opportunity to ensure BIE includes the right set of policies and practices needed to measure and hold Bureau-funded schools responsible for raising student achievement, and to prompt and support intervention where it is needed.

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