

DRAFT FOR DISCUSSION PURPOSES ONLY

| <p><u>Possible 25 C.F.R. Part 30</u></p> | <p>Waiver Subcmt Notes As of 11/15/18 Subcommittee questions are in red. BIE /Legal advisor questions, comments, suggestions from 11/15/18 in black and bold. <i>Italics</i> from the facilitator. 12/03/18: Edits in track changes are from BIE</p> |
|---|--|
| <p>Title 25 – Indians Chapter I – Bureau of Indian Affairs, Department of the Interior Subchapter E – Education Part 30 – Standards, Assessments, and Accountability System Subpart A – Defining Standards, Assessments, and Accountability System</p> | <p><u>Regarding an opening statement on moral responsibility, to all students in BIE and Tribal schools to support the academic, social, emotional well-being through our standards, assessments, and accotunability system and waiver, note that 25 CFR 32.3 codified through 25 USC 2003, already provides that:</u></p> <p><u>“Recognizing the special rights of Indian Tribes and Alaska Native entities and the unique government-to-government relationship of Indian Tribes and Alaska Native villages with the Federal Government as affirmed by the United States Constitution, U.S. Supreme Court decisions, treaties, Federal statutes, and Executive Orders, and as set out in the Congressional declaration in sections 2 and 3 of the Indian Self–Determination and Education Assistance Act (Pub.L. 93–638; 88 Stat. 2203; 25 U.S.C. 450 and 450a), it is the responsibility and goal of the Federal government to provide comprehensive education programs and services for Indians and Alaska Natives. As acknowledged in section 5 of the Indian Child Welfare Act of 1978 (Pub.L. 95–608; 92 Stat. 3069; 25 U.S.C. 1901), in the Federal Government’s protection and preservation of Indian Tribes and Alaska Native villages and their resources, there is no resource more vital to such Tribes and villages than their young people and the Federal Government has a direct interest, as trustee, in protecting Indian and Alaska Native children, including their education. The mission of the Bureau of Indian Affairs, Office of Indian Education Programs, is to provide quality education opportunities from early childhood through life in accordance with the Tribes’ needs for cultural and economic well-being in keeping with the wide diversity of Indian Tribes and Alaska Native villages as distinct cultural and governmental entities. The Bureau shall manifest consideration of the whole person, taking into account the spiritual, mental, physical and cultural aspects of the person within family and Tribal or Alaska Native village contexts.”</u></p> <p><u>Add to 30.101: "Tribal governing body or school board" means, with respect to waiver and submission of alternative proposals of the Secretary’s</u></p> |

DRAFT FOR DISCUSSION PURPOSES ONLY

| | |
|---|---|
| | definitions of standards, assessments, and accountability system at P.L. 100-297 grant or P.L. 93-638 contract schools, the entity authorized under applicable Tribal or Federal law to waive the Secretary's definitions and negotiate an alternative proposal with the Secretary. |
| <p>§30.102. What does the Act require of the Secretary?</p> <p>The Act requires the Secretary to define standards, assessments, and accountability system consistent with section 1111 of the Act for schools on a national, regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools, using regulations developed through a negotiated rulemaking process.¹</p> <p>A tribal governing body or school board may waive these requirements, in part or in whole, and submit a proposal for alternative definitions within 60 days, which the Secretary and the Secretary of Education will approve unless the Secretary of Education determines that the proposal does not meet the requirements of section 1111, taking into account the unique circumstances and needs of such school or schools and the students served.²</p> <p>The Act further requires the Secretary and the Secretary of Education to provide technical assistance, upon request, either</p> | <p><i>The subcmnt will need to come back to the second paragraph in this section to ensure it is consistent with any revised language developed in Subpart B.</i></p> |

¹ 20 U.S.C. §7824(c)(1). “For the purposes of part A of title I [20 U.S.C. §6311 *et seq.*], the Secretary of [the] Interior, in consultation with the Secretary, if the Secretary of the Interior requests the consultation, using a negotiated rulemaking process to develop regulations for implementation no later than the 2017-2018 academic year, shall define the standards, assessments, and accountability system consistent with section 1111 [20 U.S.C. §6311], for the schools funded by the [BIE] on a national, regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.”

² 20 U.S.C. §7824(c)(2). “The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the requirements established pursuant to paragraph (1) where such requirements are determined by such body or school board to be inappropriate. If such requirements are waived, the tribal governing body or school board shall, within 60 days, submit to the Secretary of [the] Interior a proposal for alternative standards, assessments, and an accountability system, if applicable, consistent with section 1111 [20 U.S.C. §6311], that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior and the Secretary shall approve such standards, assessments, and accountability system unless the Secretary determines that the standards, assessments, and accountability system do not meet the requirements of section 1111 [20 U.S.C. §6311], taking into account the unique circumstances and needs of such school or schools and the students served.”

DRAFT FOR DISCUSSION PURPOSES ONLY

| | |
|---|--|
| directly or through a contract to a tribal governing body or school board that seeks a waiver . ³ | |
| §30.103. How will the Secretary implement the requirements of the Act? (a) The Secretary, through the Director, must define the standards, assessments, and accountability system for use at BIE schools in accordance with this Part. ⁴ (b) The Director will implement an Indian Education Plan ⁵ that will provide Indian tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE Schools. (c) The Director shall review and revise the Indian Education Plan periodically as necessary to reflect changes in the Bureau’s strategies and programs. ⁶ The Secretary shall engage in active | |

³ 20 U.S.C. §7824(c)(3). “Technical assistance. The Secretary of [the] Interior and Secretary shall, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks a waiver under paragraph (2).”

⁴ 20 U.S.C. §7824(c)(1). “For the purposes of part A of title I [20 U.S.C. §6311 *et seq.*], the Secretary of [the] Interior, in consultation with the Secretary, if the Secretary of the Interior requests the consultation, using a negotiated rulemaking process to develop regulations for implementation no later than the 2017-2018 academic year, shall define the standards, assessments, and accountability system consistent with section 1111 [20 U.S.C. §6311], for the schools funded by the [BIE] on a national, regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.”

⁵ BIE is not included within the definition of “State” or “State educational agency” under ESEA. *See* 20 U.S.C. §7801(30)(E), (48). On the other hand, the definition of “local education agency” provides that the term includes BIE-funded schools “except that [such schools] shall not be subject to the jurisdiction of *any State educational agency other than the [BIE].*” 20 U.S.C. §7801(30)(C) (emphasis added). As such it is unclear whether BIE is required to have a State Plan. However BIE/DOI functions as a State for purposes of ESEA. Under a 2012 agreement with the Department of Education (ED) pursuant to 20 U.S.C. §7824(a), ED considered BIE’s responsibilities to be “comparable” to those of a State Education Agency (SEA) and that BIE “assumes the responsibility of an SEA.” The agreement also acknowledged that BIE would have and follow a State plan. Whereas BIE must have regulations that are “consistent” with the requirements of section 1111, and section 1111 requires States to have State plans, it is not inconsistent with section 1111 for BIE to have a similar plan. As reflected in the 2012 agreement, if BIE intends to have a State plan, it is not absolutely necessary for such a plan to be described in this regulation, however if it is not described in regulation it may not be binding on grant and contract schools.

⁶ 20 U.S.C. 6311(a)(6)(A)(i)-(ii). “(6) Duration of the plan. (A) In general. Each State plan shall – (i) remain in effect for the duration of the State’s participation under this part [Section 1111 *et seq.*; 20 U.S.C. §§6311 *et seq.*]; and (ii) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State’s strategies and programs under this part [Section 1111 *et seq.*; 20 U.S.C. §§6311 *et seq.*].”

DRAFT FOR DISCUSSION PURPOSES ONLY

| | |
|---|---|
| <p>consultation with tribes and other interested parties while engaged in review and revision of the Indian Education Plan.⁷</p> <p>(d) The Director may voluntarily partner with States to develop and implement challenging State academic standards and assessments.⁸</p> | |
| <p>Title 25 – Indians Chapter I – Bureau of Indian Affairs, Department of the Interior Subchapter E – Education Part 30 – Standards, Assessments, and Accountability System Subpart B – Waiver of Definitions, Technical Assistance, and Approval of Waivers</p> | |
| <p>§30.107. May a tribal governing body or school board waive the Secretary’s definition of standards, assessments, and accountability system?</p> <p>Yes. A tribal governing body or school board may waive the Secretary’s definition of standards, assessments, and accountability system in part or in whole. However, unless an alternative proposal is approved the Secretary’s definitions apply.⁹</p> | <p>Q: Who gives the authority, is it individual to each tribe?</p> <p>Meaning of ‘tribal governing body or school board’ clarification: Depends on the authority of the school board given by the Tribe. May vary by Tribe. Per legal advisor 10/17/18</p> <p>Related Question: Multiple tribes submit a joint proposal – is it possible? Possible, it would require some formal action from each tribe affirming the joint effort. Per legal advisor 10/17/18</p> <p>11/15/18: Option: include a definition of authority in the regulations?</p> |

⁷ See, e.g., 20 U.S.C. §6311(a)(1)(A)(State plans are “developed by the State educational agency with timely and meaningful consultation with...”); Department of the Interior Tribal Consultation Policy.

⁸ 20 U.S.C. §6311(j). “Voluntary partnerships. A State retains the right to enter into a voluntary partnership with another State to develop and implement the challenging State academic standards and assessments required under this section...” Even if we are unsure as to whether BIE has or will have the resources to develop and implement such standards and assessments, it would be a good idea to codify the ability to enter into such partnerships in case it becomes necessary in the future.

⁹ 20 U.S.C. §7824(c)(2). “The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the requirements established pursuant to paragraph (1) where such requirements are determined by such body or school board to be inappropriate. If such requirements are waived, the tribal governing body or school board shall, within 60 days, submit to the Secretary of [the] Interior a proposal for alternative standards, assessments, and an accountability system, if applicable, consistent with section 1111 [20 U.S.C. §6311], that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior and the Secretary shall approve such standards, assessments, and accountability system unless the Secretary determines that the standards, assessments, and accountability system do not meet the requirements of section 1111 [20 U.S.C. §6311], taking into account the unique circumstances and needs of such school or schools and the students served.”

DRAFT FOR DISCUSSION PURPOSES ONLY

| | |
|---|---|
| <p>§30.108. How does a tribal governing body or school board waive the Secretary’s definitions?</p> <p>(a) If a tribal governing body or school board determines the Secretary’s definition of standards, assessments, or accountability system to be inappropriate¹⁰, it may waive these definitions in part or in whole <u>in a manner consistent with applicable law. How is this done? (11/15/18: ‘in a form appropriate /consistent with tribal law’)</u> (b) <u>The tribal governing body or school board must notify the Secretary and the Secretary of Education of the decision to waive a definition.</u> (c) Within 60 days [of the decision to waive a definition] the tribal governing body or school board must submit to the Secretary a proposal for alternative definitions that are consistent with section 1111 of the Act and that take into account the unique circumstances and needs of such school or schools and the students served. (d) <u>A tribal governing body or school board may request an extension of the 60 day deadline for the provision of technical assistance.</u> (e) <u>The Secretary will work with the Secretary of Education to develop and make available templates for alternative proposals.</u></p> | <p>Include in the regulations a sequence e.g., DOI, then ED, or simultaneous and/or specify a timeframe for: federal receipt, time of review and response. 11/15/18: BIE: Tribal governing body or school board notify Sec of Interior and cc ED of the waiver.</p> <p>Add: US Dept of Ed will provide template to tribal governing bodies or school boards and respond to the request within 30 days of receipt or ... 11/15/18: DOI doesn’t have authority to regulate ED. Replace with language: “DOI will work with ED to provide a template.”</p> <p>Extend the 60-day timeframe so that the tribe has sufficient time to develop its proposal. 11/15/18: 60-days is in statute. Add language that states it is to extend timeline for Technical Assistance</p> <p>Add language on what the Tribe can implement during the review process. 11/15/18: BIE: Concerns about implementation – after DOI/ED review process. Approval explains what is working when and what might take effect later on. Insert the how the waiver is submitted. Via tribal resolution, formal letter, how? 11/15/18: ‘in a form appropriate /consistent with tribal law’</p> |
| <p>§30.109. What should a tribal governing body or school board include in a waiver and alternative proposal?</p> <p>(a) Waivers shouldmust explain how the Secretary’s definition of standards, assessments, or accountability system are inappropriate.</p> <p>(b) Alternative proposals shouldmust include an explanation how the alternative proposal is consistent withmeets the requirements of section 1111 of the Act and meets the unique circumstances and needs of the school(s) and students served.</p> | <p>Should there be language about using the template provided by ED? Current template asks standards, assessments in general. 11/15/18: BQ: Caution think about how might a template work, would it imply only one way to do things?</p> <p>Should there be a checklist for a complete package? 11/15/18: BQ: old regs had such a checklist. BIE: has a template under development now. BIE also developing a checklist to guide BIE thinking. Does it go beyond the law to include the checklist in the regulations (v as a recommendation)</p> <p>Should the regulations include language directing a tribal governing body or</p> |

¹⁰ As we discussed, the statute does not define “inappropriate.” As this is a matter left to Tribal governing bodies and school boards under the statute, it might not be appropriate to try to define the term in these regulations.

DRAFT FOR DISCUSSION PURPOSES ONLY

| | |
|---|--|
| <p><u>(c) Tribal governing bodies or school boards must engage with potentially effected stakeholders when considering a waiver and in the development of proposals for alternative definitions.</u></p> | <p>school board to get community input when the governing body requests a waiver? 11/15/18 BIE: important idea. Alternative language: stakeholder engagement is encouraged.</p> <p>Paragraph 2 is important to ensure consistency with Section 1111.</p> |
| <p>§30.110. May a proposed alternative definition use parts of the Secretary’s definition?</p> <p>Yes, a tribal governing body or school board may waive the Secretary’s definitions in part or in whole. Alternative proposals should, however, clearly incorporate any retained portions of the Secretary’s definitions.</p> | <p>Language is fine.</p> <p>Should the phrase ‘tribal governing body or school board’ be an ‘and/or’ 11/15/18: BIE – recommend original language...</p> |
| | |
| <p>§30.111. Will the Secretary provide technical assistance to tribal governing bodies or school boards seeking a waiver?</p> <p>Yes, the Secretary and the Secretary of Education are required by statute to provide technical assistance, upon request, either directly or through contract, to a tribal governing body or a school board that seeks a waiver.¹¹ A tribal governing body or school board seeking such assistance should submit a request to the Director. <u>The Secretary will provide such technical assistance on an ongoing and timely basis.</u></p> | <p>Note: budget/cost implications for providing TA for assessments. 11/15/18: BIE is required by law to provide TA for waivers.</p> <p>Turn around is not quick. How much TA is provided? 11/15/18: BIE is required to provide TA and does so through its staff. Alt Language: “BIE encouraged to provide TA on a ongoing and timely basis.”</p> |

Formatted: Font: Not Bold

¹¹ 20 U.S.C. §7824(c)(3). “Technical assistance. The Secretary of [the] Interior and Secretary shall, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks a waiver under paragraph (2).”

DRAFT FOR DISCUSSION PURPOSES ONLY

| | |
|--|---|
| <p>§30.112. What is the process for requesting technical assistance?</p> <p>(a) A tribal governing body or school board requesting technical assistance should submit a written request to the Director, specifying the form of assistance that is being sought.</p> <p>(b) The Director will acknowledge receipt <u>within 10 days</u> of a request for technical assistance and.</p> <p><u>(c) No later than 30 days after receiving the original request, the Director will identify a point of contact. This contact will immediately begin working with the tribal governing body or school board to jointly develop the specifics of the technical assistance, including identifying the form, substance, and timeline for the assistance.</u></p> | <p>How to fund TA... should that be in the regulation? 11/15/18 BIE will provide an annual budget allocation for Technical Assistance. How do we get TA for waivers if BIE and ED don't have resources? 11/15/18: BIE must provide TA.</p> <p>How much TA is available when requested? Once a year or more often? If it is limited then the regulations should clarify. 11/15/18: BIE: as needed eg Navajo Nation it was weekly/daily</p> <p>Add language that affirms what TA the entities can provide.</p> <p>Add to b 'and a point of contact and a timeline to work out arrangements and what is needed?' Add time frame for acknowledgement ? Add timeframe for initiating TA Should there be parameters around TA?</p> <p>11/15/18: BQ: Language is missing from subparagraph (b) see below from the current AYP:(a) The tribal governing body or school board requesting technical assistance to develop an alternative definition of AYP must submit a written request to the Director of OIEP, specifying the form of assistance it requires. (b) The Director of OIEP must acknowledge receipt of the request for technical assistance within 10 days of receiving the request. (c) No later than 30 days after receiving the original request, the Director of OIEP will identify a point of contact. This contact will immediately begin working with the tribal governing body or school board to jointly develop the specifics of the technical assistance, including identifying the form, substance, and timeline for the assistance.</p> <p>The template should provide clarity around TA, need guidance around what to ask.</p> |
| <p>§30.113. When should the tribal governing body or school board request technical assistance?</p> <p>A tribal governing body or school board should <u>is encouraged to</u> request technical assistance before formally notifying the Secretary of its intention to issue a waiver in order to maximize the time available for technical assistance.</p> | <p>Requesting TA should not be a requirement to requesting a waiver. TA should be timely, step by step as a trust responsibility to Tribes from BIE.</p> <p>11/15/18: BQ: TA not required before a waiver, consider change to 'encourage' or 'may' GJ: or 'could' BIE: important for TA to begin way before waiver and developing proposal.</p> |

| | |
|---|--|
| | |
| <p>§30.114. How does the Secretary review and approve an alternative definition?</p> <p>(a) The tribal governing body or school board submits a proposed alternative definition to the Director, within 60 days of its waiver.¹² The tribal governing body or school board may request an extension of the 60 day deadline to allow for the provision of technical assistance.</p> <p>(b) The Director will notify the tribal governing body or school board of:</p> <p>(1) Whether the proposed alternative definition is complete; and</p> <p>(2) If the proposed definition is complete, an estimated timetable for the final decision; or</p> <p>(3) Will inform the tribal governing body or school board that more time is required to review the proposed alternative definition.</p> <p>(4) The Director and a tribal governing body or school board are encouraged to communicate on a monthly basis.</p> <p>(c) If the proposed alternative definition is incomplete, the Director will provide the tribal governing body or school board</p> | <p>REVISED LANGUAGE from subcommittee on 10/29/18:</p> <ol style="list-style-type: none"> 1. Tribe governing body or school board shall submit a letter of intent to enter into negotiations with the Director of Bureau of Indian Education and Department of Education Director of Indian Education. 2. The Tribe shall have xx days to complete the waiver application from the time of submitting the letter of intent. 3. Upon receipt of the application to the Director of BIE, the BIE acknowledges the receipt within xx days and shall provide a response in xx days regarding the proposal. 4. BIE offers Technical Assistance. 5. Tribes reserve the right to implement its proposed system if the review timelines are not met. <p>Change b2 to xx calendar days. Delete b3</p> <p>11/15/18: automatic approval, step 5 above—could impact students in schools. BIE proposed language: implement once approved.</p> <p>Add to (c) <i>Within the above specified timeframe (as above).</i> 11/15/18: BIE timelines problematic, make it hard to collaborate, GK: If don't have timelines, lack of communication. GJ: possible language to accommodate/factor in size of tribes. BQ: alt. language: DOI and requesting tribe/school board are encouraged to communicate every 30 days. Question: How many people review tribal /school board requests? A: DOI and ED</p> |

¹² 20 U.S.C. §7824(c)(2). “The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the requirements established pursuant to paragraph (1) where such requirements are determined by such body or school board to be inappropriate. If such requirements are waived, the tribal governing body or school board shall, within 60 days, submit to the Secretary of [the] Interior a proposal for alternative standards, assessments, and an accountability system, if applicable, consistent with section 1111 [20 U.S.C. §6311], that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior and the Secretary shall approve such standards, assessments, and accountability system unless the Secretary determines that the standards, assessments, and accountability system do not meet the requirements of section 1111 [20 U.S.C. §6311], taking into account the unique circumstances and needs of such school or schools and the students served.”

DRAFT FOR DISCUSSION PURPOSES ONLY

with technical assistance to complete the proposed alternative definition, including identifying what additional items are necessary.

(d) If the proposed definition is complete, the Secretary will work with the Secretary of Education to review the proposed alternative definition to determine whether it meets the requirements of section 1111 of the Act, taking into consideration the unique circumstances and needs of the school or schools and the students served.

(f) If the Secretary and Secretary of Education approve the alternative definition:

- (1) The Secretary shall promptly notify the tribal governing body or school board; and
- (2) The ~~alternative definition will become date on which the alternative proposal will be~~ effective ~~at the start of the following school year.~~

(g) An alternative definition will ~~not~~ be ~~disapproved~~ ~~approved~~ if it does not meet the requirements of section 1111, taking into consideration the unique circumstances and needs of the school or schools and the students served. If the alternative definition is disapproved, the tribal governing body or school board will be notified of the following:

- (1) That the alternative definition has been disapproved; and
- (2) The reasons why the alternative definition has been disapproved.

(h) If a proposed alternative definition is ~~disapproved~~ ~~not approved~~ under paragraph (g) of this section, the Secretary shall provide technical assistance to overcome the basis for the disapproval.

– 5ppl. Meet as needed. For new proposals waiting on new regulations.

NEW SECTION for (d)

Once approved by the Secretary what happens next?

Replace (d)

Director recommends final approval by the Department of Education Indian Education. Director and response shall be provided within xx days.

11/15/18: BQ – DOI can't require ED to do something in regulations (could be negotiated apart from the regulations). BIE: DoE Indian Education Dir. Is not involved in this process.

2 Approved applications shall be effective the following school year.

11/15/18: BIE proposed strike section f(2) language should go in the approval letter.

(g) revise to set a different tone--- replace 'disapproved'

If an alternative definition requires further revision based on Department of Education's review, then:

1. Shall notify the Tribe with in xx days 11/15/18: BIE challenge in gov't. First letters from Sec Interior took a long time. Contemplating letters being sent at Asst. Sec level.

2. Provide technical assistance to the tribe to 11/15/18: addressed in h.

11/15/18: BQ: recommend replacing 'disapproved' language with statute: the Secretary of the Interior and the Secretary [of Education] shall approve such standards, assessments, and accountability system unless the Secretary determines that the standards, assessments, and accountability system do not meet the requirements of section 1111 of this title, taking into account the unique circumstances and needs of such school or schools and the students served.

Include in the regulations a sequence e.g., DOI, then ED, or simultaneous and/or specify a timeframe for: federal receipt, time of review and response.

11/15/18: BQ: statute is silent on who the waiver goes to. BIE: Notices go to Sec of Interior. Nothing to stop a notice from going to ED at the same time.

Should there be a provision for a tribe to move forward with its process while the review of the waiver is underway?

11/15/18: BIE must be approved to ensure alignment with S. 1111.

DRAFT FOR DISCUSSION PURPOSES ONLY

Add language: Provisional approvals and phases need to be included.
11/15/18: BIE: can't do a provisional approval – if by DOI b/c statute requires both DOI and ED review and approval. Phases needs to be case by case bc depends on what in the proposal is severable and or what the pace of the tribe or school board may be.

Additional Questions / Ideas from Subcommittee Deliberations on 10/29/18

1. What is an authorized school board? – Needs clarification.
2. Need a template for the waiver – who develops the template.
3. What is the process for filling a waiver?
4. What is a rubric for defining what meets the requirements for alternative definitions of standards, assessments and accountability?
5. What is the timeframe for submitting a waiver and alternative definition from start to finish – what is realistic?
6. Add an opening statement a moral responsibility to all students in BIE and tribal schools to support the academic, social , emotional well-being through our standards, assessments and accountability system and waiver.
7. Add: If an alternative proposal requires a revision, it continues until it is approved.
8. Add to no response; takes effect, without revisions.
9. Add: Tribes are held harmless during this process, funding is not withheld and there are no sanctions to the Tribe.
10. Add: language where there is concurrence on each element of the alt .proposal except for.... Then there is clarity in what needs to be revised without holding the entire proposal up.
11. Note: all schools sign 'assurances' think through how assurances can be part of /included in waiver
12. All tribes should know why their proposal is lacking and there should be a clear, transparent process so that people don't feel ignored.
13. Important to ensure tribes have latitude/flexibility in the waiver process.
14. Unpack what can be waived, e.g. to be clear for tribes where the specific opportunities exist. Add: a clear paragraph under what is waived is it a definition or the regs or all.
15. Technical assistance funding: can't specify a \$\$ amount, need to explore in regs/or recommendation on how funding for TA is equitable; must be timely (add language to the regs) for timely TA. TA must be adequate.

BIE and Legal Advisor Initial Comments and / or Questions Provided 11/01/18

- Jeff: BIE develop guidebook
- Brian: cautions: Regulations are for DOI, not sure that language in DOI regulations can apply to ED

DRAFT FOR DISCUSSION PURPOSES ONLY

- Key concern around Tribes needing approval from both DOI and ED.
- If no compliance issues with Section 1111, then Sec. shall approve
- Is the 30-days for negotiations – is it for the process to begin? A: yes, it is meant to be cyclical.
- At what points in the alt. definition proposal process should there be stakeholder input?

DRAFT