

**Standards, Assessments, and Accountability System Negotiated Rulemaking Committee  
Consensus Agreements to Include in the Draft Assessments Regulations  
As of December 6, 2018**

Committee questions are in italics. Section numbers reference the language in the document: “Assess. Subcmt Task 2 Sec. 1111 Assessments-redlines -112018\_181127 draft 120418” provided to the Committee on December 4, 2018. **The Committee reviewed and discussed items 1-2 below on 120618. Consensus agreements of the Committee are reflected below.**

1. Section 2A. Ensure “State” (BIE) consults with tribally controlled schools as LEAs. *Possible guidance from BIE? Is this addressed in revised Section 30.103?* **[Consensus agreement that this is addressed in revised section 30.103, 120618]**
2. Section 2B. Requirements. *In relation to Tribal civics, do we need to outline when the courses will be taught from K-12 / as is done example with Math and Science? Would this be in the standard section and in section 2(B)?*
  - 2(B)(v)(I) in the case of mathematics and reading or language arts, be administered—
    - (aa) in each of grades 3 through 8; and
    - (bb) at least once in grades 9 through 12;
  - (II) in the case of science, be administered not less than one time during—
    - (aa) grades 3 through 5;
    - (bb) grades 6 through 9; and
    - (cc) grades 10 through 12; and
  - (III) in the case of any other subject chosen by the BIE, be administered at the discretion of the BIE;
  - **Add to 2(B)(III) in assessments regulations: “Tribal Civics assessments and assessment schedule will be developed at the conclusion of the processes described in Section 30.103.” [consensus 120618]**

3. *What is the timeline for creating assessments?* SP: Was this question addressed in Tuesday’s presentation from Bryan and Deb?
4. Section 2B(vi) “...may be partially delivered in the form of portfolios, projects, or extended performance tasks” The term ‘partially delivered’ is not defined in ESSA. *Should there be a committee recommendation that BIE define ‘partially delivered’ in the regulations?*
5. Section 2B (xiv) proposed language: *Needs committee discussion and input: “(xiv) (I) except as provided in paragraph (xiv)(II) of this section, the BIE is not required to assess, using an assessment written in English, student achievement in meeting the challenging State academic standards in reading/language arts, mathematics, or science for a student who is enrolled in a school or program that provides instruction primarily in a Native American language if – (aa) the BIE provides such an assessment in the Native American language to all students in the school or program, consistent with the requirements of 34 CFR 200.2; (bb) for an English learner, as defined in section 8101(20)(C)(ii) of the Act, the BIE continues to assess the English language proficiency assessment, and provides appropriate services to enable him or her to attain proficiency in English. (II) the BIE must assess using assessments written in English, the achievement of each student enrolled in such school or program in meeting the challenging State*

*academic standards in reading/language arts, at a minimum, at least once in grades 9 through 12.”*

6. Section 2C Exception for Advance Mathematics in Middle School - The BIE may exempt any 8th grade student from the assessment in mathematics – *Should the committee recommend changing the ‘may’ to ‘shall’?*
  - a. How is Exception for Advance Mathematics in Middle School reflected in the accountability system regulations?
7. Section 2(D)(ii)(I) Prohibition on Local Cap. *What would the LEA need to present to BIE if it exceeded the 1% cap. Put in BIE plan or in regulation?*
  - a. In ABQ had indicated the BIE has exceeded the 1% cap. Recall: The LEA might exceed the 1% cap, but the BIE cannot.
  - b. Discuss how it will work with Dept of Ed. There is language is with the Dept of Ed regulations...see final Dept Ed regulations.
8. Section 2(F) Language Assessments.
  - a. *Should ‘present to a significant extent’ be defined in the regulations?*
  - b. *Committee to define -- what does this mean in a Bureau school around Native languages?*
9. Section 2(G) Assessments of English Language Proficiency.
  - a. *Should there be explicit language in this section or in waivers section that tribes or governing school boards can waive EL assessments?*
10. Section 2(H) Locally Selected Assessments.
  - a. *Per BIE: This section on locally-selected assessments might be redundant and possibly in conflict with the statutory provisions on the waiver/alternative proposal process in section 8204(c)(2). Recommend deletion.*
  - b. *Committee needs to discuss further – useful tool, option for LEAs. May be redundant but provides useful process guidance. Consider moving to waivers? Or reference here and link to the waivers.*
11. Section 2(L). Limitation on Assessment Time.
  - a. *See 25 CFR on instructional hours. Include reference in these regulations?*
  - b. *Clarify if this part of the regulation is specific to assessments in HS, required assessments or all assessments of the school*
  - c. *Need to define if summative or formulate assessments.*
12. Section 3. Exception for English Learners. *How many ELs are in the BIE student population?*
13. Overarching comment/proposal: *Retain placeholders for sections such as 2E State Authority, 2I Deferral, and 3 Exception for Recently Arrived English Learners. Include a statement under each retained heading to note that the section does not currently apply to BIE but could be reviewed and revised if necessary in the future.*
  - a. *Further discussion on a civil rights law as to why it doesn’t apply to the Bureau and if it does apply down the road, what will the recourse be for the Bureau. See section (3) Exception for recently arrived EL.*