

1 **Title 25 – Indians**
2 **Chapter I – Bureau of Indian Affairs, Department of the Interior**
3 **Subchapter E – Education**
4 **Part 30 – Standards, Assessments, and Accountability System**
5 **Subpart A – Defining Standards, Assessments, and Accountability System**
6 **§30.102. What does the Act require of the Secretary?**

7 The Act requires the Secretary to define standards, assessments, and accountability system
8 consistent with section 1111 of the Act for schools on a national, regional, or tribal basis, as
9 appropriate, taking into account the unique circumstances and needs of such schools and the
10 students served by such schools, using regulations developed through a negotiated rulemaking
11 process.¹

12 A tribal governing body or school board may waive these requirements, in part or in whole, and
13 submit a proposal for alternative definitions within 60 days, which the Secretary and the
14 Secretary of Education will approve unless the Secretary of Education determines that the
15 proposal does not meet the requirements of section 1111, taking into account the unique
16 circumstances and needs of such school or schools and the students served.²

17 The Act further requires the Secretary and the Secretary of Education to provide technical
18 assistance, upon request, either directly or through a contract, to a tribal governing body or
19 school board that seeks to notify the Secretary of a waiver.³

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.”

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).”

20 **§30.103. How will the Secretary implement the requirements of the Act? See ‘state plan’**
 21 **ad hoc proposal on Wednesday morning. The Standards Subcommittee proposes the**
 22 **addition of the following concept in this section for Committee discussion.**

23 **Proposed language from Standards Subcommittee:**

24 *(x)The Secretary will convene a committee of tribally selected representatives, including (INSERT*
 25 *LANGUAGE FROM NRMC-re qualifications of cmt members) to define the standards to apply to all BIE-*
 26 *funded schools. These standards will apply to all schools in the BIE, except those who have notified the*
 27 *Secretary of a waiver.*

28 *The term consultation should be defined here to include stakeholders (parents, teachers etc).*

29 Options offered by BIE to ensure compliance with Federal laws (FACA):

30 – Such a committee of tribally-selected representatives would have to be *advisory* only. Such a
 31 committee of tribally-selected representatives could make recommendations on definitions, but
 32 their recommendations could not automatically apply to BIE-funded schools without approved
 33 alternative definitions. The public may act in an advisory capacity in a number of ways. Among
 34 them are through FACA committees, government-to-government consultations, and responding
 35 to Federal Register notices. Requiring such a committee might tend to delay the preparation of
 36 draft definitions. That said:

37 (1) This Committee might consider recommending in its report that the Secretary convene a
 38 panel of technical experts who could advise on definitions and incorporate consultation with
 39 stakeholders.

40 (2) If this Committee sought to include this in the recommendation on a rule, this Committee
 41 might consider the language in the draft at left; or this Committee might consider language such
 42 as: *“Prior to adopting or revising definitions for SAA, the Secretary will convene a panel*
 43 *consisting of X,Y, and Z persons, to advise on definitions for SAA. The Secretary will consult*
 44 *with potential effected stakeholders prior to implementing such definitions;”* or

45 (3) This Committee might also recommend that meaningful consultation with stakeholders occur
 46 prior to implementing new definitions, e.g.: *“Prior to implementing any changes to the definitions*
 47 *adopted through this Part, the Secretary will engage in consultation with effected stakeholders.”*

48 Or with more detail:

49 *(x) The Secretary, through the Director, must periodically, but no less often than every*
 50 *five years, review the state of education at BIE Schools.*

51 *(x) Based upon such review, and if appropriate, the Director will develop*
 52 *recommendations for revisions to the definitions of standards, assessments, and accountability*
 53 *system consistent with Section 1111, to reflect changes in the Bureau’s strategies and*
 54 *programs. Such recommendations shall be accompanied by a plan to meet the requirements of*
 55 *this Part, a statement explaining why any changes are being recommended, and how the*
 56 *recommendations are consistent with Section 1111.*

57 (x) *The Director must engage in meaningful and timely consultation with tribes and other*
 58 *interested parties any time the Director contemplates revisions to the definitions of standards,*
 59 *assessments, and accountability system after the review.*

60 (x) *The Director shall develop and make available a report on the outcome of*
 61 *consultation as well as any revisions to the definitions of standards, assessments, and*
 62 *accountability system that will be made as a result of the review and the consultation*
 63 *process. Such report shall include an assurance that the revisions are consistent with Section*
 64 *1111, comply with the requirements of this Part, and a description of the timeline for*
 65 *implementation.*

66

67 **§30.104. How will the Secretary define standards?**

68 (a) The Secretary will define academic standards for Bureau-funded schools on a national,
 69 regional, or tribal basis, as appropriate, taking into account the unique circumstances and needs
 70 of such schools and the students served by such schools by:

- 71 • adopting challenging academic content standards and
- 72 • aligned academic achievement standards (standards) consistent with section 1111(b)(1)
- 73 of the Act.⁴

74 Described collectively in the Act as “challenging State academic standards.”

75 (b) The academic standards will include:

- 76 • mathematics
- 77 • reading or language arts, and
- 78 • science
- 79 • Tribal government/civics*
- 80 • And may have such standards for any other subject determined by the Secretary.⁵

⁴ The requirements for challenging State academic standards are located at 20 U.S.C. §6311(b)(1)(A)-(G). “(A) In general. Each State, in the plan it files under subsection (a), shall provide an assurance that the State has adopted challenging academic content standards and aligned academic achievement standards (referred to in [20 U.S.C. §§6311 *et seq.*] as “challenging State academic standards”), which achievement standards shall include not less than 3 levels of achievement, that will be used by the State, its local educational agencies, and its schools to carry out this part. (B) Same standards. Except as provided in subparagraph (E), the standards required by subparagraph (A) shall - (i) apply to all public schools and public school students in the State; and (ii) with respect to academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State... (F) English language proficiency standards. Each State plan shall demonstrate that the State has adopted English language proficiency standards that - (i) are derived from the 4 recognized domains of speaking, listening, reading, and writing; (ii) address the different proficiency levels of English learners; and (iii) are aligned with the challenging State academic standards.”

⁵ Are there any other academic standards that might be useful or appropriate? 20 U.S.C. §6311(b)(1)(C). “Subjects. The State shall have such academic standards for mathematics, reading or language arts, and science, and may have such standards for any other subject determined by the State”.

81 Such standards must be aligned to entrance requirements for credit-bearing coursework in higher
82 education and relevant career and technical education standards. These standards shall apply to
83 all Bureau-funded schools and students at those schools, unless the standards have been waived
84 by a tribal governing body or school board and an alternative proposal approved.

85 (c) Academic achievement standards

86 Academic achievement standards shall include the same types of knowledge, skills, and levels of
87 achievement expected of all students at Bureau-funded schools.

88 The Secretary must adopt alternate academic achievement standards for students with the most
89 significant cognitive disabilities.⁶

90 (f) The Secretary must adopt English language proficiency standards that (i) are derived from the
91 four recognized domains of speaking, listening, reading, and writing; (ii) address the different
92 proficiency levels of English learners; and (iii) are aligned with the challenging State academic
93 standards.**

94 [\(g\) insert language here to acknowledge the unique standards/assessments in immersion schools.](#)

95

96 **DISCUSSION WITH THE COMMITTEE**

97 * What broad concepts might a tribal civics course encompass?

98 e.g., legal standings

99

100 ** Is there leeway for immersion schools to exclude standards on ELP? What language is the
101 assessments subcommittee contemplating?

102

⁶ Should such alternate standards be adopted? 20 U.S.C. §6311(b)(1)(E). “Alternate academic achievement standards for students with the most significant cognitive disabilities. (i) In general. The State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards- (I) are aligned with the challenging State academic content standards under subparagraph (A); (II) promote access to the general education curriculum, consistent with [IDEA]; (III) reflect professional judgment as to the highest possible standards achievable by such students; (IV) are designated in the individualized education program developed under section 614(d)(3) of [IDEA] for each such student as the academic achievement standards that will be used for the student; and (V) are aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of [29 U.S.C. §§701 *et seq.*]. (ii) Prohibition on any other alternate or modified academic achievement standards. A State shall not develop, or implement for use under [ESEA title I], any alternate academic achievement standards for children with disabilities that are not alternate academic achievement standards that meet the requirements of clause (i).”