

Possible 25 C.F.R. Part 30

Accountability Subcommittee as of 11/16/18 with comments from Brian Quint as of 12/02/18

§30.101. What definitions apply to terms in this part?

“Act” means the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, Public Law 114-95, enacted December 10, 2015.

“Bureau” means the Bureau of Indian Education.

“Department” means the Department of the Interior.

“Director” means the Director of the Bureau of Indian Education.

“BIE School(s)” means a school funded by the Bureau of Indian Education.

“Secretary” means the Secretary of the Interior or a designated representative.

“Subgroup of students” means a) economically disadvantaged students; b) students from major racial and ethnic groups; c) children with disabilities; and d) English learners.¹

“Indian Education Plan” means a document that will provide Indian tribes, parents, and other stakeholders with quality, transparent information about how the Act will be implemented at BIE Schools.

“Tribally controlled school” means a school operated under a P.L. 93-638 contract or P.L. 100-297 grant.

“Bureau Operated school” means a school operated by the Bureau of Indian Education.

§30.106. How will the Secretary define accountability system?

(a) The Secretary shall define an accountability system for Bureau-funded schools consistent with section 1111(c)-(d) of the Act, including provisions for a single ~~statewide~~ Bureau-wide accountability system and school support and improvement activities.²

(b) To improve student academic achievement and school success among all elementary and secondary schools within the Bureau-funded school system the Secretary will:

¹ This definition is from 20 U.S.C. §6311(c)(2).

² The requirements for statewide accountability systems and school support and improvement activities are located at 20 U.S.C. §6311(c)-(d). Statewide accountability systems must comply with both subsections (c) (statewide accountability system) and (d) (school support and improvement activities). *See* 20 U.S.C. §6311(c)(1).

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- 27 • Develop and implement a single, Bureau-wide accountability system in consultation with
28 tribes and stakeholders (such as parents, educators etc.)- that:
 - 29 ○ Is based on the Bureau’s challenging academic standards and academic
30 assessments;
 - 31 ○ Is informed by ambitious long-term goals and measurements of interim progress;
 - 32 ○ Includes all section 1111(c)(4)(B)-consistent accountability indicators;
 - 33 ○ Takes into account the achievement of all elementary and secondary school
34 students within the Bureau-funded school system;
 - 35 ○ Is the same accountability system used to annually meaningfully differentiate all
36 schools within the Bureau-funded school system and the same accountability
37 system used to identify schools for comprehensive and targeted support and
38 improvement;³ and
 - 39 ○ Includes the process that the Bureau will use to ensure effective development and
40 implementation of school support and improvement plans, including evidence-
41 based interventions, to hold all schools within the Bureau-funded school system
42 accountable for student academic achievement and school success.
 - 43 ○ Will be reviewed in consultation with tribes and stakeholders for continuous
44 improvements as necessary, but not less often than every four years
45 from beginning on the date the plan is implemented.

47 (c) For all students and separately for each subgroup of students within the Bureau-funded school
48 system the Bureau’s long-term goals and measurements of interim progress will:

49 (1) include, at a minimum, improved academic achievement, as measured by proficiency
50 on the Bureau’s annual assessments in mathematics and reading or language arts under section
51 1111(b)(2)(B)(v)(I), and high school graduation rates, including the four-year adjusted cohort
52 graduation rate and, at the Secretary’s discretion, the extended-year adjusted cohort graduation

³ 20 U.S.C. 6311(c)(4)(C)-(D). “(C) Annual meaningful differentiation. Establish a system of meaningfully differentiating, on an annual basis, all public schools in the State, which shall- (i) be based on all indicators in the State’s accountability system under subparagraph (B), for all students and for each of subgroup of students, consistent with the requirements of such subparagraph; (ii) with respect to the indicators described in clauses (i) through (iv) of subparagraph (B) afford- (I) substantial weight to each such indicator; and (II) in the aggregate, much greater weight than is afforded to the indicator or indicators utilized by the State and described in subparagraph (B)(v), in the aggregate; and (iii) include differentiation of any such school in which any subgroup of students is consistently underperforming, as determined by the State, based on all indicators under subparagraph (B) and the system established under this subparagraph.

(D) Identification of schools. Based on the system of meaningful differentiation described in subparagraph (C), establish a State-determined methodology to identify- (i) beginning with school year 2017-2018, and at least once every three school years thereafter, one statewide category of schools for comprehensive support and improvement, as described in subsection (d)(1), which shall include- (I) not less than the lowest-performing 5 percent of all schools receiving funds under [ESEA] in the State; (II) all public high schools in the State failing to graduate one third or more of their students; and (III) public schools in the State described under subsection (d)(3)(A)(i)(II); and (ii) at the discretion of the State, additional statewide categories of schools.”

Comment [SP1]: Is three years of implementation a long enough timeframe to get usable data to make recommendations?

Comment [SP2]: BQ: 12-02-18 – Does this language mean or limit review to only every four years? Perhaps: “Will be reviewed in consultation with tribes and stakeholders for effectiveness as necessary, but not less than every four years.” I believe that the Department of Education at one point recommended that States review their plans periodically but at least once every five years.

Comment [SP3]: C(1) propose an extended year graduation rate

Comment [SP4]: BQ: 12-02-18 – Eliminating even the option of a four-year adjusted cohort graduation rate would seem to be inadvisable. It also may be inconsistent with section 1111. Is there a rationale based on the unique circumstances and needs of BIE-funded schools and the students served at such schools? Recommend re-inserting this.

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53 rate, except that the Secretary shall set a more rigorous long-term goal for such graduation rate as
54 compared to the long-term goal set for the four-year adjusted cohort graduation rate;⁴

55 (2) have the same multi-year length of time set to meet such goals for all students and for
56 each subgroup of students within the Bureau-funded school system;⁵

57 (3) take into account for subgroups of students who are behind on the measurements of
58 academic achievement and high school graduations rates the improvement necessary on such
59 measures to make significant progress in closing Bureau-wide proficiency and graduation rate
60 gaps;⁶ and

61 (4) will include for English learners a measurement of increases in the percentage of such
62 students making progress in achieving English language proficiency as defined by the Secretary
63 and measured by the assessments under section 1111(b)(2)(G) within a timeline determined by
64 the Secretary.⁷

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66 (d) For all students and separately for each subgroup of students within the Bureau-funded
67 school system, the Bureau's accountability indicators will at a minimum include distinct
68 indicators for each school that, except for the English language proficiency indicator, will:

69 (1) measure performance for all students and separately for each subgroup of students;

70 (2) use the same measures within each indicator for all schools within the Bureau-funded
71 school system except that measures within the Academic Progress and School Quality or Student
72 success indicators may vary by each grade span;⁸ and

Comment [SP5]: C(4) timeline for ELP timeline should align with the timeline for long-term goals so that there is enough time to implement the system and evaluate progress made. Need to know what the timeframe is for long-term goals and how ELP timelines align with them.

Comment [SP6]: BQ: 12-02-18 – The timeline for ELP does not have to be the same as long-term goals. The indicators are important for school identification not the goals. These should be aligned to the graduation rate year for indicators.

Comment [SP7]: From BQ: The language “may vary by each grade span” may not be consistent with section 1111.

⁴ 20 U.S.C. §(c)(4)(A)(i)(I). “(A) Establishment of long-term goals. Establish ambitious State-designed long-term goals, which shall include measurements of interim progress toward meeting such goals- (i) for all students and separately for each subgroup of students in the State- (I) for, at a minimum, improved- (aa) academic achievement, as measured by proficiency on the annual assessments required under subsection (b)(2)(B)(v)(I); and (bb) high school graduation rates, including- (AA) the four-year adjusted cohort graduation rate; and (BB) at the State's discretion, the extended-year adjusted cohort graduation rate, except that the State shall set a more rigorous long-term goal for such graduation rate, as compared to the long-term goal set for the four-year adjusted cohort graduation rate.”

⁵ 20 U.S.C. §(c)(4)(A)(i)(II). “(II) for which the term set by the State for such goals is the same multi-year length of time for all students and for each subgroup of students in the State.”

⁶ 20 U.S.C. §(c)(4)(A)(i)(III). “(III) that, for subgroups of students who are behind on the measures described in items (aa) and (bb) of subclause (I), take into account the improvement necessary on such measures to make significant progress in closing statewide proficiency and graduation rate gaps.”

⁷ 20 U.S.C. §(c)(4)(A)(ii). “(ii) for English learners, for increases in the percentage of such students making progress in achieving English language proficiency, as defined by the State and measured by the assessments described in subsection (b)(2)(G), within a State-determined timeline.”

⁸ 20 U.S.C. §(c)(4)(B). “(B) Indicators. Except for the indicator described in clause (iv), annually measure, for all students and separately for each subgroup of students, the following indicators.”

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73 (3) incorporate an Academic Achievement indicator,⁹ an Academic Progress indicator,¹⁰
74 a Graduation rate indicator,¹¹ a Progress in Achieving English Language Proficiency indicator,¹²
75 and one or more indicators of School Quality or Student Success.¹³

Comment [SP8]: d(3) Ask the committee if want to recommend one or more indicators apart from the regulations?

76 (e) The Bureau's accountability system will annually measure the achievement of at least 95% of
77 all students, and 95 percent of each subgroup of students, who are enrolled in schools within the
78 Bureau-funded school system on the Bureau's assessments.¹⁴ The denominator for the purpose
79 of measuring, calculating, and reporting on each indicator shall be the greater of:

Comment [SP9]: Make a recommendation, separate from the regulation, on how non-participate rate is factored.

80 (1) 95 percent of all students, or 95 percent of each subgroup of students; or

81 (2) the number of students participating in the assessments.¹⁵

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83 (f) The performance of students that have not attended the same Bureau-funded school for at
84 least half of a school year will not be used in the system of meaningful differentiation of school
85 for such school year, but will be used for the purpose of reporting on the Bureau and school

⁹ 20 U.S.C. §(c)(4)(B)(i)(I)-(II). "(i) For all public schools in the State, based on the long-term goals established under subparagraph (A), academic achievement- (I) as measured by proficiency on the annual assessments required under subsection (b)(2)(B)(v)(I); and (II) at the State's discretion, for each public high school in the State, student growth, as measured by such annual assessments.

¹⁰ 20 U.S.C. §(c)(4)(B)(ii)(I)-(II). "(ii) For public elementary schools and secondary schools that are not high schools in the State- (I) a measure of student growth, if determined appropriate by the State; or (II) another valid and reliable statewide academic indicator that allows for meaningful differentiation in school performance."

¹¹ 20 U.S.C. §(c)(4)(B)(iii)(I)-(II). "(iii) For public high schools in the State, and based on State-designed long term goals established under subparagraph (A)- (I) the four-year adjusted cohort graduation rate; and (II) at the State's discretion, the extended-year adjusted cohort graduation rate."

¹² 20 U.S.C. §(c)(4)(B)(iv)(I)-(II). "(iv) For public schools in the State, progress in achieving English language proficiency, as defined by the State and measured by the assessments described in subsection (b)(2)(G), within a State-determined timeline for all English learners- (I) in each of the grades 3 through 8; and (II) in the grade for which such English learners are otherwise assessed under subsection (b)(2)(B)(v)(I) during the grade 9 through grade 12 period, with such progress being measured against the results of the assessments described in subsection (b)(2)(G) taken in the previous grade."

¹³ 20 U.S.C. §(c)(4)(B)(v)(I)-(VIII). "(v) (I) For all public schools in the State, not less than one indicator of school quality or student success that- (aa) allows for meaningful differentiation in school performance; (bb) is valid, reliable, comparable, and statewide (with the same indicator or indicators used for each grade span, as such term is determined by the State); and (cc) may include one or more of the measures described in subclause (II). (II) For purposes of subclause (I), the State may include measures of- (III) student engagement; (IV) educator engagement; (V) student access to and completion of advanced coursework; (VI) postsecondary readiness; (VII) school climate and safety; and (VIII) any other indicator the State chooses that meets the requirements of this clause."

¹⁴ 20 U.S.C. §6311(c)(4)(E)(i). "(E) Annual measurement of achievement. (i) Annually measure the achievement of not less than 95 percent of all students, and 95 percent of all students in each subgroup of students, who are enrolled in public schools on the assessments described under subsection (b)(2)(v)(I)."

¹⁵ 20 U.S.C. §6311(c)(4)(E)(ii). "(ii) For the purpose of measuring, calculating, and reporting on the indicator described in subparagraph (B)(i), include in the denominator the greater of- (I) 95 percent of all such students, or 95 percent of all such students in the subgroup, as the case may be; or (II) the number of students participating in the assessments. (iii) Provide a clear and understandable explanation of how the State will factor the requirement of clause (i) of this subparagraph into the statewide accountability system."

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86 report cards for such school year.¹⁶ In calculating the high school graduation rate, a high school
87 student who has not attended the same school for at least half of a school year and has exited
88 high school without a regular high school diploma and without transferring to another high
89 school that grants a regular high school diploma during such a school year shall be assigned to
90 the high school at which the student was enrolled for the greatest proportion of school days while
91 enrolled in grades 9 through 12, or to the high school in which the student was most recently
92 enrolled.¹⁷

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Proposals for Negotiated Rule Making Committee for concurrence

- Verbiage in regs for “state plan”?
- Consultation of tribes and stakeholders before system/plan implementation
- Cycle for review and stakeholder input of accountability system (review cycle)
 - Should it align with long term goal timeframe?
 - Should it be a 3 (4 years from implementation) or 5 year data collection/review cycle?
- Science as a part of the accountability system
- Utilization of a 5 year adjusted cohort for graduation rates
- Recommendation not to add any additional specific language or indicators in regards to “state plan”

¹⁶ 20 U.S.C. §6311(c)(4)(F)(i)(I)-(II). “(F) Partial attendance. (i) In the case of a student who has not attended the same school within a local educational agency for at least half of a school year, the performance of such student on the indicators described in clauses (i), (ii), (iv), and (v) of subparagraph (B)- (I) may not be used in the system of meaningful differentiation of all public schools as described in subparagraph (C) for such school year; and (II) shall be used for the purpose of reporting on the State and local educational agency report cards under subsection (h) for such school year.”

¹⁷ 20 U.S.C. §6311(c)(4)(F)(ii)(I)-(II). “(ii) In the case of a high school student who has not attended the same school within a local educational agency for at least half of a school year and has exited high school without a regular high school diploma and without transferring to another high school that grants a regular high school diploma during such school year, the local educational agency shall, in order to calculate the graduation rate pursuant to subparagraph (B)(iii), assign such student to the high school- (I) at which such student was enrolled for the greatest proportion of school days while enrolled in grades 9 through 12; or (II) in which the student was most recently enrolled.”