

Note from SP: Standards Assessments and Accountability System Negotiated Rulemaking Committee Summary of consensus language for sections 30.102-104 as of December 6, 2018. Items in red require further Committee deliberation in January.

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 consistent
8 with section 1111 of the Act for schools on a national, regional, or tribal basis, as appropriate, taking
9 into account the unique circumstances and needs of such schools and the students served by such
10 schools, using regulations developed through a negotiated rulemaking process.¹

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

16 The Act further requires the Secretary and the Secretary of Education to provide technical assistance,
17 upon request, either directly or through a contract, to a tribal governing body or school board. ~~that~~
18 seeks a waiver. **[Committee consensus 120418]**

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.”

19 **§30.103. How will the Secretary implement the Standards Assessments and Accountability System?**
 20 **requirements of the Act? [consensus 120518]**

21 (a) The Secretary, through the Director, must define the standards, assessments, and accountability
 22 system for use at BIE schools in accordance with this Part.³ **[no dissent 120518]**

23 (b) The Secretary, or his/her designee will provide Indian tribes, parents and other stakeholders with
 24 quality, transparent information about how the Act will be implemented for BIE schools. Information, at
 25 a minimum, to include the standards, assessments and accountability system consistent with Section
 26 1111. **[no dissent 120518]**

27 The Director will implement a Standards Assessments and Accountability Plan that will provide Indian
 28 tribes, parents, and other stakeholders with quality, transparent information about how the Act will be
 29 implemented at BIE Schools. ~~The Plan must be reviewed [by whom] and revised as necessary to reflect~~
 30 ~~changes in BIE's standards, assessments, accountability system plan strategies and programs [level~~
 31 ~~detail, what entails] under this section.~~ **[no dissent on revisions to lines 30-31 on 120518, consensus to**
 32 **strike 29-31 120618]**

33 The Secretary will ensure meaningful, ongoing consultation with a diverse group of stakeholders
 34 inclusive of parents, educators (such as administrators and educators from BIE operated schools and
 35 tribally controlled grant schools), tribal governments, students and community members. Such
 36 consultations will ensure input is considered in the creation, implementation, review and revision of
 37 standards, assessments, and accountability system. These stakeholder consultations will include
 38 transparent reporting, recording and responding to input obtained therein. **[consensus lines 33-38**
 39 **120518]**

40 (c) The Secretary shall engage in active consultation with tribes and other potentially affected
 41 stakeholders when defining or revising definitions of standards, assessments, and accountability system.
 42 **[no dissent 120518]**

43 (d) The Director may voluntarily partner with States, or Federal agency, to develop and implement
 44 challenging academic standards and assessments.⁴ **[consensus 120518]**

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³ 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.”

⁴ 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.

46 **§30.104. How will the Secretary define standards?**

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

- 50 • adopting challenging academic content standards and
 51 • aligned academic achievement standards (standards) consistent with section 1111(b)(1) of the
 52 Act.⁵

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

54 (b) The academic standards will include:

- 55 • mathematics
 56 • reading or language arts
 57 • science, and
 58 • Tribal civics **[committee consensus 12/5/18]**

59 Phase in tribal civics assessment and accountability system starting as a school quality
 60 indicator and revisit as implemented. **[consensus 120618 exact placement of this text in**
 61 **the regulations is to be determined.]** Assessments and assessment schedule will be
 62 developed for Tribal Civics at the conclusion of the processes described in Section 30.103.
 63 **[consensus 120618 exact placement of this text in the regulations is to be determined.]**

- 64 • And may have such standards for any other subject determined by the Secretary.⁶

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

⁵ 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.”

⁶ 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”.

69 (c) Academic achievement standards

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

72 The Secretary must adopt alternate academic achievement standards for students with the most
73 significant cognitive disabilities.⁷

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

77 (g) insert language here to acknowledge the unique standards/assessments in immersion schools. Add
78 language in either standards or assessments for an exception that students in immersion schools in
79 grade xx-yy, shall not be held accountable for instructing in English.

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⁷ 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).”