



[4337-15]

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**25 CFR 30**

[178A2100DD/AAKC001030/A0A501010.999900 253G]

**Proposed Membership of the Bureau of Indian Education Accountability Negotiated Rulemaking Committee**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed membership of negotiated rulemaking committee; request for nominations; and request for comments.

---

**SUMMARY:** The Secretary of the Interior has selected proposed members to form the Bureau of Indian Education (BIE) Accountability Negotiated Rulemaking Committee (Committee) which will recommend revisions to the existing regulations to implement the Secretary's responsibility to define the standards, assessments, and accountability system for Bureau-funded schools, as required by the Every Student Succeeds Act (ESSA). Representatives were nominated by Tribes whose students attend Bureau-funded schools. After considering nominations, the Secretary proposes to appoint the persons named in this notice as Tribal Committee members. Tribes, Tribal organizations, and individual Tribal members may submit comments on the proposed Tribal Committee membership, apply for Tribal membership on the Committee, or submit other nominations for Tribal membership on the Committee. The Secretary also proposes to appoint Federal representatives to the Committee as listed.

**DATE:** Comments on the proposed Tribal members of this Committee must be submitted no later than [Insert date 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** Send comments and nominations to the Designated Federal Official: Sue Bement, Education Program Specialist, Bureau of Indian Education, C/O Office of Regulatory Affairs and Collaborative Action, 1001 Indian School Road NW, Suite 312, Albuquerque, NM 87104. Or email at: BIEcomments@bia.gov.

**FOR FURTHER INFORMATION CONTACT:** Sue Bement, Designated Federal Official; email BIEcomments@bia.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

The purpose of the BIE Committee is to serve as an advisory committee under the Federal Advisory Committee Act (FACA) and the Negotiated Rulemaking Act (NRA) in a manner that:

- (1) Reflects the unique government-to-government relationship between American Indian Tribes and the United States;
- (2) Ensures that the membership of the Committee includes only representatives of the Federal Government and Tribes; and
- (3) To the extent possible, allots Tribal representation based upon the Tribes' proportionate share of the total enrollment in Bureau-funded schools.

The Secretary has determined that the proper functioning of the Committee requires that the Committee be limited to no more than the 25 members recommended by

the NRA (5 U.S.C. 565). The Secretary has selected 19 Tribal representatives and 6 Federal representatives for the Committee, for a proposed total of 25 members.

The Secretary finds that the proposed Tribal representatives for the Committee:

(1) Represent a balance of interests that will be significantly affected by the final rules (i.e., parents; teachers; school board members; and administrators of Tribal and Tribally operated contract day schools, grant day schools, grant boarding schools, and peripheral dormitories);

(2) Proportionately represent students from Tribes served by Bureau-funded schools;

(3) Reflect the different varieties of school size, type of school and facility, and geographical location; and

(4) Have been selected using a process that considers the nominees' experience and expertise in Indian education.

### **Every Student Succeeds Act (ESSA)**

The ESSA reauthorizes and amends the Elementary and Secondary Education Act of 1965 (ESEA). ESSA Section 8007(2) directs the Secretary of the Interior, in consultation with the Secretary of Education, if so requested, to use a negotiated rulemaking process to develop regulations for implementation of the Secretary of the Interior's defined standards, assessments, and accountability system for Bureau-funded schools no later than the 2017-2018 academic year. The Committee will recommend revisions to the existing regulations (25 CFR Part 30) to replace Adequate Yearly Progress (AYP) regulatory language and implement the Secretary's statutory responsibilities. The regulations will define the standards, assessments, and

accountability system, consistent with Section 1111 of the ESEA, for Bureau-funded schools on a national, regional, or Tribal basis.

ESSA Section 8007(2) also provides that if a Tribal governing body or school board of a Bureau-funded school determines the requirements established by the Secretary of the Interior are inappropriate, they may waive, in part or in whole, such requirements. Where such requirements are waived, the Tribal governing body or school board must, within 60 days, submit to the Secretary of the Interior a proposal for alternative standards, assessments, and an accountability system, if applicable, consistent with ESEA Section 1111. The proposal must take into account the unique circumstances and needs of the school or schools and the students served. The proposal will be approved by the Secretary of the Interior and the Secretary of Education, unless the proposed standards, assessments, and accountability system do not meet the requirements of ESEA Section 1111. Additionally, a Tribal governing body or school board of a Bureau-funded school seeking a waiver may request, and the Secretary of the Interior and the Secretary of Education will provide, technical assistance.

### **Proposed Work of the Committee**

The Committee will attempt to reach consensus on draft regulatory language for implementation by the 2017-2018 academic year. The objectives of the Committee are to represent the interests that will be significantly affected by the final regulations, negotiate in good faith, and reach consensus, where possible, on recommendations to the Secretary for the proposed regulations.

The Committee will be charged, consistent with ESSA Section 8007, with developing draft regulations to implement the Secretary's responsibility to define the

standards, assessments, and an accountability system, consistent with ESEA Section 1111, for Bureau-funded schools. The draft regulations will be considered by the Secretary and subject to government-to-government consultation. The Department must have final regulations for implementation by the 2017-2018 academic year. As a part of its deliberations, the Committee will consider the appropriate scope of the draft regulations, e.g., 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, and how BIE will implement such regulations.

The BIE encourages Tribal self-determination in Native education, by encouraging governing Tribes or school boards to develop alternative standards, assessments, and accountability systems, and by providing technical assistance. Therefore, the Committee will also be asked to provide recommendations on how BIE could best provide technical assistance under ESSA Section 8007(2) to Tribes who opt to exercise their authority to adopt their own standards, assessments, and an accountability system).

Since the Department must have final regulations in place by the 2017-2018 academic year, the Committee will be expected to meet frequently within a short time frame, i.e., from the time of establishment through summer 2017. BIE currently anticipates up to six meetings, with each meeting lasting three days in length. The BIE has dedicated resources required to: ensure the Committee is able to conduct meetings, provide technical assistance, and provide any additional support required to fulfill the Committee's responsibilities.

### **Proposed Tribal Committee Members**

On November 9, 2015, the BIE published a notice of intent (80 FR 69161) requesting comments and nominations for Tribal representatives for the Committee. The comment period for that notice of intent closed December 24, 2015. On April 14, 2016, the BIE reopened the comment and nomination period with a new deadline of May 31, 2016 (81 FR 22039). The BIE further extended the comment period for Tribes to nominate individuals for membership on the Committee on August 17, 2016 (81 FR 54768) with a closing date of October 3, 2016.

Within each of those notices, the BIE solicited comments on the proposal to establish the Committee, including comments on any additional interests not identified. Within each of those notices, the BIE solicited nominations from Tribes whose students attended Bureau-funded schools operated either by BIE or by a Tribe or tribal organization through a contract or grant, to nominate Tribal representatives to serve on the Committee and Tribal alternates to serve when the representative is unavailable. Based upon the proportionate share of students, some Tribes similar in affiliation or geography were grouped together for one seat. BIE asked those Tribes to either co-nominate a single Tribal representative to represent the multi-tribal jurisdiction or for each Tribe in the multi-Tribal jurisdiction to nominate a representative with the knowledge that the Secretary will be able to appoint only one of the nominees who will be responsible for representing the entire multi-Tribal jurisdiction on the Committee. A chart demonstrating the proportionate share of students attending Bureau-funded schools can be found in the **Federal Register** at 80 FR 69161, dated November 9, 2015.

The Secretary of the Interior proposes the following Tribal representatives for the BIE Committee, who:

- Have knowledge of school assessments and accountability systems;
- Have relevant experiences as past or present superintendents, principals, teachers, or school board members, or possess direct experience with AYP;
- Are able to coordinate, to the extent possible, with other Tribes and schools who may not be represented on the Committee;
- Are able to present the Tribe(s) with the authority to embody Tribal views, communicate with Tribal constituents, and have a clear means to reach agreement on behalf of the Tribe(s);
- Are able to negotiate effectively on behalf of the Tribe(s) represented;
- Are able to commit the time and effort required to attend and prepare for meetings; and
- Are able to collaborate among diverse parties in a consensus-seeking process.

The proposed Committee was selected based upon nominations submitted through the process identified in each of the Federal Register notices under the “Nominations” or “Submitting Nominations” section. The BIE did not consider nominations that were received in any other manner or were received after the close of each comment period.

The Secretary proposes the following Tribal representatives for the Committee:

<b>Tribe(s) Represented</b>	<b>Proposed Committee Members</b>	<b>Nominated by</b>
Navajo Nation (Total seats = 5)	Dr. Tommy Lewis, Superintendent of Schools Department of Diné Education	Navajo Nation
	Dr. Kalvin White Office of Diné School Improvement	
	Dr. Florinda Jackson Office of Diné Accountability and Compliance	
	Lemual Adson, Superintendent	

<b>Tribe(s) Represented</b>	<b>Proposed Committee Members</b>	<b>Nominated by</b>
	Shonto Preparatory School	
Sioux Tribes (Total seats = 2)	Charles Cuny, Jr., Superintendent Little Wound School	Oglala Sioux Tribe
	Dr. Gloria Coats-Kitsopoulos, Superintendent American Horse School	
Hopi and Pueblo Tribes (Total seats = 1)	E. David Atencio, Superintendent Laguna Department of Education	Pueblo of Laguna
Chippewa Tribes (Total seats = 2)	Leslie Harper, Executive Assistant Leech Lake Band of Ojibwe Tribal Council	Leech Lake Band of Ojibwe
Gila River, Apache, Etc. (Total seats = 1)	Isaac Salcido, Director of Tribal Education Gila River Indian Community	Gila River Indian Community
Choctaw (MS) & Cherokee (NC) (Total seats = 1)	Sherry Tubby Exceptional Education Coordinator	Mississippi Band of Choctaw Indians
Other Tribes (Total seats = 4)	Quinton Roman Nose, Executive Director Tribal Education Departments National Assembly	Cheyenne Arapaho Tribes
	Ron Etheridge Deputy Executive Director for the Education Services at Cherokee Nation	Cherokee Nation of Oklahoma
	Alban Naha, Interim Superintendent Hopi Junior-Senior High School	Hopi Tribe
	Michael Dabrieo, Principal Kha'p'o Community School	Santa Clara Pueblo

The Secretary proposes the following alternate Tribal representatives for the BIE

Committee:

<b>Tribe(s) Represented</b>	<b>Proposed Alternate Committee Members</b>	<b>Nominated by</b>
Chippewa Tribes	Jason Schlender Tribal Governing Board Representative and Education Liaison	Lac Courte Oreilles Band of Lake Superior Chippewa

<b>Tribe(s) Represented</b>	<b>Proposed Alternate Committee Members</b>	<b>Nominated by</b>
		Indians
Choctaw (MS) & Cherokee (NC)	Lucretia Williams, Project Coordinator Tribal Education Department	Mississippi Band of Choctaw Indians
Other Tribes	Chuck Hoskin, Chief of Staff Cherokee Nation of Oklahoma	Cherokee Nation of Oklahoma
	Rebecca Fred, Instructional Coach Moencopi Day School	Hopi Tribe
	Paula Gutierrez, Board President Kha'p'o Community School	Santa Clara Pueblo

### **Proposed Federal Committee Members**

The Secretary proposes the following Federal representatives for the BIE

Committee:

<b>Name</b>	<b>Affiliation</b>
Sue Bement	Designated Federal Officer, Bureau of Indian Education
Dr. Jeffrey Hamley	Associate Deputy Director, Division of Performance and Accountability, Bureau of Indian Education
Brian Quint	Attorney-Advisor, Office of the Solicitor

The Secretary proposes the following alternate Federal representatives for the BIE

Committee:

<b>Name</b>	<b>Affiliation</b>
Regina Gilbert	Regulatory Policy Specialist, Office of Regulatory Affairs and Collaborative Action
Jim Hastings	Acting Associate Deputy Director and Education Program Administrator, Bureau of Indian Education
Brenda Riel	Attorney-Advisor, Office of the Solicitor

If you are a Tribe with Bureau-funded schools, an Indian education organization, or an interested individual, we invite you to comment on the nominations in this notice or to nominate other persons for membership on the Committee. The Committee

membership should reflect the diversity of Tribal interests, and Tribes should nominate representatives and alternates who will:

- Have knowledge of school assessments and accountability systems;
- Have relevant experiences as past or present superintendents, principals, teachers, or school board members, or possess direct experience with AYP;
- Be able to coordinate, to the extent possible, with other Tribes and schools who may not be represented on the Committee;
- Be able to present the Tribe(s) with the authority to embody Tribal views, communicate with Tribal constituents, and have a clear means to reach agreement on behalf of the Tribe(s);
- Be able to negotiate effectively on behalf of the Tribe(s) represented;
- Be able to commit the time and effort required to attend and prepare for meetings; and
- Be able to collaborate among diverse parties in a consensus-seeking process.

We will consider nominations for Tribal committee representatives only if they are nominated through the process identified in this notice of intent and in the **Federal Register** notice of intent at 80 FR 69161. We will not consider any nominations that we receive in any other manner. We will also not consider nominations for Federal representatives. Only the Secretary may nominate Federal employees to the Committee.

Nominations must include the following information about each nominee:

- (1) A letter from the Tribe supporting the nomination of the individual to serve as a Tribal representative for the Committee and a statement on whether the nominee is only representing one Tribe's views, or whether the expectation is that the

nominee represents a specific group of Tribes. Also include the Tribal interest(s) to be represented by the nominee (see Section IV, Part F of **Federal Register** notice of intent at 80 FR 69161);

(2) A resume reflecting the nominee's qualifications and experience in Indian education; resume to include the nominee's name, Tribal affiliation, job title, major job duties, employer, business address, business telephone, and fax numbers (and business email address, if applicable); and

(3) A brief description of how the nominee will represent Tribal views, communicate with Tribal constituents, and have a clear means to reach agreement on behalf of the Tribe(s) they are representing.

We will consider only comments and nominations that we receive by the close of business Eastern Standard Time on the date listed in the **DATES** section, at the location indicated in the **ADDRESSES** section. Comments received will be available for inspection at the address listed above from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays. Before including your address, phone number, e-mail address or other personal identifying information in your comment, please note that your entire comment - including your personal identifying information - may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 11, 2017

Lawrence S. Roberts,

*Principal Deputy Assistant Secretary – Indian Affairs.*  
[FR Doc. 2017-01061 Filed: 1/17/2017 8:45 am; Publication Date: 1/18/2017]