

DRAFT

New Mexico Public Education Department
Tribal Consultation Guidance:

Every Student Succeeds Act
New Mexico Indian Education Act
NM Bilingual Multicultural Education Act
NMPED Communication and Collaboration Policy
New Mexico State-Tribal Collaboration Act

[DRAFT: November 20, 2018]
[UPDATED: February 18, 2019]
[UPDATED: April 10, 2019]
[UPDATED: July 8, 2019]
[UPDATED September 19, 2019]

New Mexico Public Education Department
Indian Education Department

DRAFT

Contents

I.	Background	4
A.	New Mexico School Districts Serving American Indian Students	5
II.	NM Public Education Department: Tribal Consultation.....	6
A.	Timely Tribal Consultation.....	6
B.	Meaningful Tribal Consultation.....	6
C.	Affected Tribes and LEAs for Tribal Consultation	7
D.	Elements for Successful NMPED, State School District, and Tribal Consultation	8
III.	Statutory and Policy Requirements for Tribal Consultation	8
A.	Every Student Succeeds Act	9
B.	Tribal Consultation on State Plan	9
C.	Section. 8538. [20 U.S.C. 7918] Consultation with Indian Tribes and Tribal Organizations.	10
D.	Title VII – Impact Aid	22
E.	Indian Policies and Procedures	23
F.	New Mexico Indian Education Act.....	27
G.	New Mexico State-Tribal Collaboration Act.....	29
H.	New Mexico Public Education Department Tribal Communication and Collaboration Policy	29
I.	Native American Language and Culture.....	31
J.	New Mexico Bilingual Multicultural Education Act.....	32
K.	PED Rulemaking	34
L.	Tribal Education Sovereignty	34
M.	New Mexico Public Education Department Contact Information	36
N.	Conclusion	36
Appendix A	Recommended ongoing Tribal Consultation Timeline	37
Appendix B	Affirmation of Tribal Consultation	39
Appendix C	NMPED Rulemaking Process.....	42
Appendix D	tribal consultation Covered Programs Reference Chart	43
Appendix E	tribal consultation indian policies and procedures Reference Chart	45

I. Background

The State of New Mexico has long been a national leader in state and tribal government and tribal community relations. In 2003, the state passed the Indian Education Act (IEA) creating the Indian Education Division, that establishing an Assistant Secretary of Indian Education and the Indian Education Advisory Committee to meet the unique educational needs of the state's American Indian students. The IEA was followed by the passage of the State-Tribal Collaboration Act (STCA) in 2009, which further supports positive and productive state and tribal government-to-government relations, effective communication and collaboration, and cultural competency. The New Mexico Public of Education Department (NM PED) adopted a Collaboration and Communication Policy that establishes the process for consultation with Tribal governments in the development of programs, policies, and activities that affect New Mexico's American Indian students.

The NM PED, along with the Indian Education Division, is working to implement the amendments to the 1965 Education and Secondary Education Act, known as the 2015 Every Student Succeeds Act (ESSA). Timely and meaningful tribal consultation with the state's 23 federally recognized tribes and approved tribal organizations and their communities is at the core of federal and state laws and policies created to improve education in New Mexico.

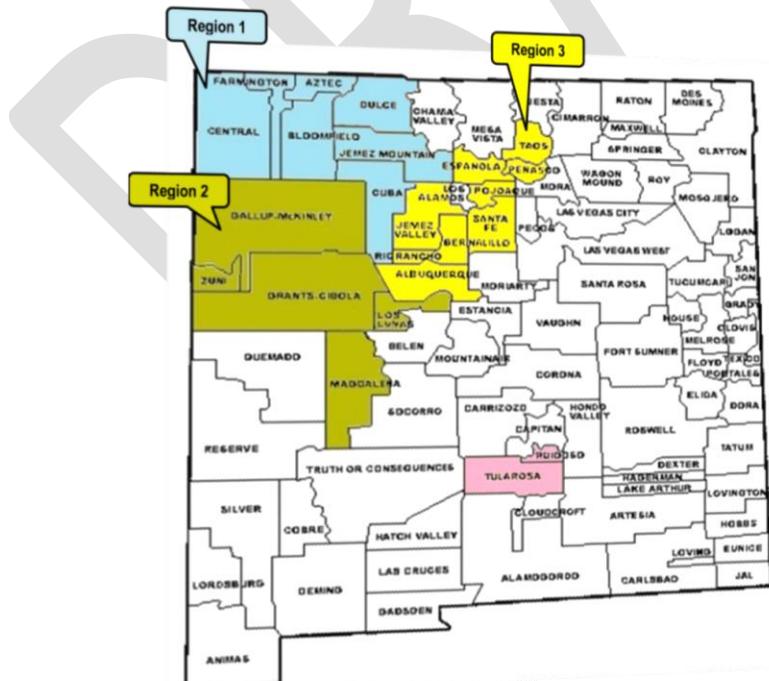
Central to the State of New Mexico's government-to-government relationship is the state's recognition of tribal sovereignty. Tribal sovereignty is defined as the inherent authority of tribal self-governance and self-determination. Tribal sovereignty is recognized by the United States government through treaties, executive orders, legislation, and court decisions. This legal and political recognition establishes the basis for the government-to-government relationship that is exercised through consultation and collaboration. The State of New Mexico recognizes tribal sovereignty within the IEA and the STCA. This recognition is also included in state NMPED's communication and collaboration policies. The combination of federal and state laws and policies support and establish the State of New Mexico's government-to-government relationships with New Mexico's 23 federally recognized Native American Pueblos, Tribes, and Nations.

A. New Mexico School Districts Serving American Indian Students

There are twenty-three (23) school districts and six (6) charter schools in New Mexico that serve students and communities from New Mexico's 23 federally recognized Native American Pueblos, Tribes and Nations. These school districts are located in three state educational regions:

REGION I		REGION II		REGION III	
School District	Pueblo/Tribe/Nation	School District	Pueblo/Tribe/Nation	School District	Pueblo/Tribe/Nation
Bloomfield	Navajo Nation	Zuni	Zuni	Bernalillo	Cochiti, Santo Domingo, San Felipe, Sandia, and Santa Ana
Farmington Central	Urban Navajo Nation	Magdalena Gallup	Navajo Nation Navajo Nation & Zuni	Albuquerque Espanola	Urban Ohkay Owingeh and Santa Clara
Cuba	Navajo Nation	Grants-Cibola	Laguna, Acoma, Navajo Nation	Pojoaque	San Ildefonso, Nambe, Pojoaque, Santa Clara, Ohkay Owingeh, Tesuque
Aztec	Navajo Nation	Los Lunas	Isleta	Peñasco	Picuris
Jemez Valley	Zia and Jemez	Ruidoso	Mescalero Apache	Taos	Taos
Jemez Mountain	Navajo Nation	Tularosa	Mescalero Apache	Rio Rancho	Urban
				Santa Fe	Urban
				Dulce	Jicarilla Apache

[Current Region I, II, and III list with corresponding Native American Pueblo, Tribe, and Nations]



II. NM Public Education Department: Tribal Consultation

Tribal consultation is an integral part of addressing the unique needs of American Indian students through the development of appropriate curricula, with the allocation of resources, and the inter-governmental coordination between NM PED, the state's school districts that serve the state's substantial Native American student populations, including tribal governments and their tribal education departments, and communities.

Tribal consultation is defined as *formal* when required by federal or state law, or mandated by federal or state policy. The ESSA and the State of New Mexico's IEA require tribal consultation for NMPED and for Local Education Agencies (LEAs). The NM PED's Collaboration and Communication Policy establishes agency requirements for government-to-government relations that are designed to achieve educational attainment for the state's American Indian students. All consultation with New Mexico's 22 Pueblos, Tribes, and Nations is formal – as set forth by federal and state laws, and the NM PED's Communication and Collaboration Policy.

Successful tribal consultation includes two critical components: tribal consultation is *timely* and *meaningful*.

A. Timely Tribal Consultation

Timely consultation with tribal governments, tribal education departments, and tribally approved tribal organizations should begin at the earliest possible time prior to the submission of LEA Education Plans or Applications for Covered Programs as it pertains to the ESSA. For the NMPED, the IEA outlined in the Education Department's Tribal Communication and Collaboration Policy consultation should take place prior to an agency activity that impacts tribal interests related to educational resources, curriculum development, or the development, changes, and implementation of educational policies and procedures that address the unique educational needs of New Mexico's American Indian students.

Additionally, as it applies to the ESSA, tribal consultation “shall not interfere with the timely submission of the [LEA’s education] plan.” As such, tribal consultation with tribal governments, tribal education departments, and approved tribal organizations should be initiated at the earliest possible time *prior* to the LEA’s education plan submission deadline.

B. Meaningful Tribal Consultation

Meaningful tribal consultation refers to a government-to-government relationship between NM PED, state school districts and charter schools on the one part, and tribal governments, tribal education departments, and approved tribal organizations on the other part. Meaningful consultation is the result of an inter-governmental relationship that is built upon *mutual respect and trust, continuous and ongoing interactions and communications, and coordination of government resources* to address the unique educational needs of American Indian students within the state's school districts and charter schools with substantial American Indian student populations.

C. Affected Tribes and LEAs for Tribal Consultation

Where there are multiple tribes and a single LEA, the LEA may hold a consultation that includes all affected local tribes. Similarly, where there are multiple LEAs and one tribe, there is no federal prohibition against a joint consultation held by several LEAs. In both cases the LEA must ensure that the tribe or tribes have a meaningful and timely opportunity to give input into an LEA's plans or applications.

The National Indian Education Association (NIEA) provides guidance regarding affected tribes. The area served by school districts has been defined consistent with language in Section 6114 of ESSA. In addition, NIEA has identified *30 students as the appropriate minimum number above which tribes should be consulted because 30 reduces the burdensome rules for districts* with small numbers of students while maintaining local consultation for districts with a large number of Native students. NIEA interprets Section 8538 of ESSA to require local consultation with tribes in the following circumstances:

1. If a tribe's council chambers or reservation is within 50 miles of a school with 30 or more Native American students from a tribe, the school district has a legal obligation under Sections 8538 and 6114 of ESSA to invite tribal leaders to consultation.
2. For school districts that have more than 30 students from a tribe, where the tribe is located more than 50 miles from the school district, the district has an obligation to reach out to the tribes to try to let them know of their right to engage in consultation with the school district.

Tribal consultation, in practice, entails timely notification and information sharing with tribal leadership, tribal education directors, and approved tribal organizations. This may be followed up with government-to-government meetings designed to provide information and to receive tribal feedback, build inter-governmental relationships, and to identify points of contact. Consultation also involves reporting outcomes and developments based on the consultation process.

For additional resources: www.niea.org

D. Elements for Successful NMPED, State School District, and Tribal Consultation

In order to develop timely and meaningful tribal consultation, consider the following:

- 1) *Consult early and often, and prior* to actions or decisions being made that may impact tribal educational interests, conduct outreach to tribal governments, tribal education departments, and approved tribal organizations with the goals of sharing information and receiving feedback on the subject matter requiring consultation, or elements of the activity or decision to be made;
- 2) NMPED, school districts and charters, Tribal governments, tribal education departments, and approved tribal organizations are encouraged to *share information early and often* as it applies to the educational success of American Indian students. Examples of information sharing may include: curriculum development, the implementation of education policies and procedures, or the allocation of resources that may impact the education of American Indian students. Consider the following information below:
 - a. Include dates and location for tribal consultation meetings and public meetings;
 - b. Provide notice for deadlines for LEA education plans and applications;
 - c. Share information and presentations on educational programs and policies;
 - d. Provide notice of proposed program or policy changes, including invitations for tribal input on the proposed program or policy changes; and
 - e. Information on LEA and tribal government, tribal education department, and approved tribal organization points of contact
- 3) Establish/create and agree upon a list that identifies tribal educational priorities, issues, and challenges;
- 4) Provide cultural awareness and diversity training for LEA leadership and administrators to foster, support, and sustain positive and productive government to government relationships;
- 5) Understand tribal sovereignty and tribal governmental authority as it relates to tribal educational priorities, educational issues and challenges; and
- 6) Plan government-to-government consultation and meetings to avoid conflicts with tribal cultural calendars, feast days, and tribal holidays.

III. Statutory and Policy Requirements for Tribal Consultation

The federal ESSA, followed by the State of New Mexico's IEA and STCA establish statutory requirements regarding tribal consultation for the NM PED (also referred to as the State Education Agency or SEA) and New Mexico school districts (also known as Local Education Agencies or LEA). Additionally, the STCA mandates state agencies, including the NM PED, to establish an agency Communication and Collaboration Policy that outlines agency inter-governmental relationship and consultation principles, definitions, and protocols.

Each of the federal and state statutory tribal consultation requirements, including NM PED's Communication and Collaboration Policy will be discussed below.

A. Every Student Succeeds Act

The Every Student Succeeds Act (ESSA) provides amendments to the Elementary and Secondary Education Act (ESEA). Previously known as the No Child Left Behind Act, the 2015 ESSA reauthorizes the ESEA by providing additional autonomy to states to establish and implement educational standards and accountability.

B. Tribal Consultation on State Plan

The ESSA requires SEAs to consult with tribal governments prior to the SEA submitting state plans to the secretary of the U.S. Department of Education. The government-to-government meeting on the State Plan took place on November 14, 2016 in Farmington, NM. The first session was a formal consultation with tribal leaders from New Mexico's 23 federally recognized Tribes, Pueblos, and Nations. The second consultation session included tribal education administrators, teachers, and other tribal education stakeholders. Tribal participants were asked for ideas and suggestions for ESSA implementation to address the unique educational needs of American Indian Students. In both sessions, participants were asked to address the following issues associated with ESSA reform:

- 1) School accountability and report cards;
- 2) Student assessment and coursework requirements;
- 3) Identification and support for English language learners (ELLs);
- 4) Support for low performing schools; and
- 5) Support and evaluation of teachers and school leaders

The result of the two-day government-to-government meeting informed feedback from tribal leaders, education directors and stakeholders on a report that prioritized educational needs for Native American students. This report assisted NM PED with identifying critical needs and to incorporate in the New Mexico Rising: New Mexico's State Plan for the Every Student Succeeds Act.

Below is the statutory language requiring tribal consultation and feedback to be incorporated into state plans.

PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

Subpart 1—Basic Program Requirements SEC. 1111. 20 U.S.C. 6311; STATE PLANS.

(a) FILING FOR GRANTS.—

(1) IN GENERAL.—For any State desiring to receive a grant under this part, the State educational agency shall file with the Secretary a plan that is—

(A) developed by the State educational agency with timely and meaningful consultation with the Governor, members of the State legislature and State board of education (if the State has a State

board of education), local educational agencies (including those located in rural areas), representatives of Indian tribes located in the State, teachers, principals, other school leaders, charter school leaders (if the State has charter schools), specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents; and

- (2) LIMITATION.—Consultation required under paragraph (1)(A) shall not interfere with the timely submission of the plan required under this section.

C. Section. 8538. [20 U.S.C. 7918] Consultation with Indian Tribes and Tribal Organizations.

Section 8538 of the ESSA requires LEAs to consult in a *timely* and *meaningful* manner (as discussed above) with tribal governments, tribal education departments, and approved tribal organizations. Tribal consultation is mandated to occur *prior* to the LEAs submitting Education Plans or Applications for Covered Programs within the ESSA. Below is the statutory language for tribal consultation in the ESSA.

SEC. 8538. [20 U.S.C. 7918] CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

(a) IN GENERAL.—To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, an affected local educational agency shall consult with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area served by the local educational agency prior to the affected local educational agency's submission of a required plan or application for a covered program under this Act or for a program under title VI of this Act. Such consultation shall be done in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or tribal organizations to meaningfully and substantively contribute to such plan.

(b) DOCUMENTATION.—Each affected local educational agency shall maintain in the agency's records and provide to the State educational agency a written affirmation signed by the appropriate officials of the participating tribes or tribal organizations approved by the tribes that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the affected local educational agency shall forward documentation that such consultation has taken place to the State educational agency.

(c) DEFINITIONS.—In this section

(1) AFFECTED LOCAL EDUCATIONAL AGENCY.—The term “affected local educational agency” means a local educational agency—

(A) with an enrollment of American Indian or Alaska Native students that is not less than 50 percent of the total enrollment of the local educational agency; or

(B) that—

- (i) for fiscal year 2017, received a grant in the previous year under subpart 1 of part A of title VII (as such subpart was in effect on the day before the date of enactment of the Every Student Succeeds Act) that exceeded \$40,000; or
- (ii) for any fiscal year following fiscal year 2017, received a grant in the previous fiscal year under subpart 1 of part A of title VI that exceeded \$40,000.

(2) APPROPRIATE OFFICIALS.—The term “appropriate officials” means—

- (A) tribal officials who are elected; or
- (B) appointed tribal leaders or officials designated in writing by an Indian tribe for the specific consultation purpose under this section.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

- (1) to require the local educational agency to determine who are the appropriate officials; or
- (2) to make the local educational agency liable for consultation with appropriate officials that the tribe determines not to be the correct appropriate officials.

(e) LIMITATION.—Consultation required under this section shall not interfere with the timely submission of the plans or applications required under this Act.

In summary, an LEA is required to consult with tribal governments or tribally approved organizations when:

1. An LEA has fifty percent or more of American Indian/Alaska Native student population;
2. Receives subpart 1 of part A of title VII of \$40,000 or more; or
3. Receives a U.S. Department of Education Indian Education Formula Grant subpart 1 of part A of title VI of \$40,000 or more; and
4. Serves a tribal government or tribally approved organization within the LEAs school district or area.

Furthermore, LEAs are required by ESSA to consult with tribal governments or tribally approved organizations on *Education Plans or Applications for Covered Programs* identified by the ESSA as:

1. Title I, Part A (Improving Basic Programs Operated by State and Local Education Agencies)
2. Title I, Part C (Education of Migratory Children)
3. Title I, Part D (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk)
4. Title II, Part A (Supporting Effective Instruction)

5. Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement Act)
6. Title IV, Part A (Student Support and Academic Enrichment Grants)
7. Title IV, Part B (21st Century Community Learning Centers)
8. Title V, Part B, Subpart 2 (Rural and Low-Income School Programs)
9. Title VI, Part A, Subpart 1 (Federal Indian Education Formula Grants to Local Education Agencies)

Under the ESSA, LEAs are also required to *affirm* that consultation has occurred with tribal governments and tribally approved organizations prior to the submission of Education Plans and Applications for Covered Programs. The NMPED Indian Education Division - Affirmation of Tribal Consultation form is to be completed and submitted the same time as the Operating Budget submission no later than due by June 30th (See Appendix B). New Mexico Tribes, Pueblos and Nations may have their own tribal template for the affirmation of tribal consultation - NMPED will accept tribal forms in-leu of the NM PED Affirmation of Tribal Consultation form. Finally, tribal consultation shall not interfere with the submission of the Education Plan or Application for Covered Programs.

The following information provides an overview of the several ESSA Titles related to the Applications for Covered Programs. This information is provided to assist LEAs to determine whether consultation shall be undertaken.

Title I, Part A:
Program Description Improving the Academic Achievement of the Disadvantaged

SEC. 1001. STATEMENT OF PURPOSE.

The purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments. This purpose can be accomplished by —

- (1) ensuring that high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement;
- (2) meeting the educational needs of low-achieving children in our Nation's highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance;
- (3) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;
- (4) holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education;
- (5) distributing and targeting resources sufficiently to make a difference to local educational agencies and schools where needs are greatest;
- (6) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to ensure that students are meeting challenging State academic achievement and content standards and increasing achievement overall, but especially for the disadvantaged;
- (7) providing greater decision making authority and flexibility to schools and teachers in exchange for greater responsibility for student performance;
- (8) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time;

- (9) promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content;
- (10) significantly elevating the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;
- (11) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with other agencies providing services to youth, children, and families; and
- (12) affording parents substantial and meaningful opportunities to participate in the education of their children.

Every Student Succeeds Act, Pub. L. No. 114-95, Title I, § 1001 (2015)
[<https://www2.ed.gov/policy/elsec/leg/esea02/pg1.html>](https://www2.ed.gov/policy/elsec/leg/esea02/pg1.html)

For additional Resources: <https://www2.ed.gov/programs/titleiparta/index.html>

Title I, Part C:
Education of Migratory Children

SEC. 1301. PROGRAM PURPOSE.

It is the purpose of this part to assist States to —

- (1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;
- (2) ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;
- (3) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;
- (4) ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;
- (5) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

(6) ensure that migratory children benefit from State and local systemic reforms

Every Student Succeeds Act, Pub. L. No. 114-95, Title I, § 1301 (2015)
<<https://www2.ed.gov/policy/elsec/leg/esea02/pg8.html>>

Additional Resources: <https://www2.ed.gov/programs/mep/index.html>

**Title I, Part D:
Prevention and Intervention Programs for Children and Youths Who Are Neglected,
Delinquent, or At Risk**

SEC. 1401. PURPOSE AND PROGRAM AUTHORIZATION.

(a) PURPOSE- It is the purpose of this part —

(1) to improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children in the State are expected to meet;

(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

Every Student Succeeds Act, Pub. L. No. 114-95, Title I, § 1401 (2015)
<<https://www2.ed.gov/policy/elsec/leg/esea02/pg9.html>>

Additional Resources: <https://www2.ed.gov/programs/titleipartd/index.html>

**Title II, Part A:
Student Support and Academic Enrichment Program**

SEC. 4101. PURPOSE.

The purpose of this subpart is to improve students' academic achievement by increasing the capacity of States, local educational agencies, schools, and local communities to—

(1) provide all students with access to a well-rounded education;

(2) improve school conditions for student learning; and

(3) improve the use of technology in order to improve the academic achievement and digital literacy of all students.

Every Student Succeeds Act, Pub. L. No. 114-95, Title II, § 1401 (2015)
<<https://www2.ed.gov/programs/ssae/legislation.html>>

Additional Resources: <https://www2.ed.gov/programs/ssae/index.html>

Title II, Part A:
Supporting Effective Instruction

SEC. 2101. §20 U.S.C. 6611 FORMULA GRANTS TO STATES.

(a) RESERVATION OF FUNDS.—From the total amount appropriated under section 2003(a) for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this title; and

(2) one-half of 1 percent for the Secretary of the Interior for programs under this part in schools operated or funded by the Bureau of Indian Education.

(b) STATE ALLOTMENTS.—

(1) HOLD HARMLESS.—

(A) FISCAL YEARS 2017 THROUGH 2022.—For each of fiscal years 2017 through 2022, subject to paragraph (2) and subparagraph (C), from the funds appropriated under section 2003(a) for a fiscal year that remain after the Secretary makes the reservations under subsection (a), the Secretary shall allot to each State an amount equal to the total amount that such State received for fiscal year 2001 under—

(i) section 2202(b) of this Act (as in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and

(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106-554).

Every Student Succeeds Act, Pub. L. No. 114-95, Title II, § 2101 (2015)
<<https://www2.ed.gov/programs/teacherqual/legislation.html>>

Additional Resources: <https://www2.ed.gov/programs/teacherqual/index.html>

Title III, Part A:
English Language Acquisition, Language Enhancement, and Academic Achievement Act

SEC. 3003. ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT.

(a) Purposes.--Section 3102 (20 U.S.C. 6812) is amended to read as follows:

``SEC. 3102. PURPOSES.

The purposes of this part are —

- (1) to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;
- (2) to assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 1111(b)(1);
- (3) to develop high-quality language instruction educational programs designed to assist State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;
- (4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings;
- (5) to assist State educational agencies, local educational agencies, and schools to build their capacity to establish, implement, and sustain language instruction educational programs and programs of English language development for limited English proficient children;
- (6) to promote parental and community participation in language instruction educational programs for the parents and communities of limited English proficient children;
- (7) to streamline language instruction educational programs into a program carried out through formula grants to State educational agencies and local educational agencies to help limited English proficient children, including immigrant children and youth, develop proficiency in English, while meeting challenging State academic content and student academic achievement standards;
- (8) to hold State educational agencies, local educational agencies, and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient children by requiring —

- (A) demonstrated improvements in the English proficiency of limited English proficient children each fiscal year; and
 - (B) adequate yearly progress for limited English proficient children, including immigrant children and youth, as described in section 1111(b)(2)(B); and
- (9) to provide State educational agencies and local educational agencies with the flexibility to implement language instruction educational programs, based on scientifically based research on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

Every Student Succeeds Act, Pub. L. No. 114-95, Title II, § 3003 (2015)
[<https://www2.ed.gov/policy/elsec/leg/esea02/pg40.html>](https://www2.ed.gov/policy/elsec/leg/esea02/pg40.html)

Additional Resources: <https://www2.ed.gov/programs/sfgp/index.html>

Title IV, Part B:
21st Century Community Learning Centers

SEC. 4201. 21ST CENTURY COMMUNITY LEARNING CENTERS.

- (a) PURPOSE- The purpose of this part is to provide opportunities for communities to establish or expand activities in community learning centers that —
- (1) provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet State and local student academic achievement standards in core academic subjects, such as reading and mathematics;
 - (2) offer students a broad array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students; and
 - (3) offer families of students served by community learning centers opportunities for literacy and related educational development.

Every Student Succeeds Act, Pub. L. No. 114-95, Title IV, § 4201 (2015)
[<https://www2.ed.gov/policy/elsec/leg/esea02/pg55.html>](https://www2.ed.gov/policy/elsec/leg/esea02/pg55.html)

Additional Resources: <https://www2.ed.gov/programs/21stcclc/index.html>

**Title V, Part B, Subpart 2:
Rural and Low-Income School Programs**

SEC. 6221. PROGRAM AUTHORIZED.

(a) GRANTS TO STATES-

- (1) **IN GENERAL-** From amounts appropriated under section 6234 for this subpart for a fiscal year that are not reserved under subsection (c), the Secretary shall award grants (from allotments made under paragraph (2)) for the fiscal year to State educational agencies that have applications submitted under section 6223 approved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 6222(a).
- (2) **ALLOTMENT-** From amounts described in paragraph (1) for a fiscal year, the Secretary shall allot to each State educational agency for that fiscal year an amount that bears the same ratio to those amounts as the number of students in average daily attendance served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

(3) SPECIALLY QUALIFIED AGENCIES-

- (A) **ELIGIBILITY AND APPLICATION-** If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 6223 approved, a specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.
- (B) **DIRECT AWARDS-** The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible to receive under paragraph (2) directly to a specially qualified agency in the State that has submitted an application in accordance with subparagraph (A) and obtained approval of the application.
- (C) **SPECIALLY QUALIFIED AGENCY DEFINED-** In this subpart, the term 'specially qualified agency' means an eligible local educational agency served by a State educational agency that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subsection.

(b) LOCAL AWARDS-

- (1) **ELIGIBILITY-** A local educational agency shall be eligible to receive a grant under this subpart if —

- (A) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line; and
 - (B) all of the schools served by the agency are designated with a school locale code of 6, 7, or 8, as determined by the Secretary.
- (2) AWARD BASIS- A State educational agency shall award grants to eligible local educational agencies —
- (A) on a competitive basis;
 - (B) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State; or
 - (C) according to an alternative formula, if, prior to awarding the grants, the State educational agency demonstrates, to the satisfaction of the Secretary, that the alternative formula enables the State educational agency to allot the grant funds in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the State educational agency used the formula described in subparagraph (B).

(c) RESERVATIONS- From amounts appropriated under section 6234 for this subpart for a fiscal year, the Secretary shall reserve—

- (1) one-half of 1 percent to make awards to elementary schools or secondary schools operated or supported by the Bureau of Indian Affairs, to carry out the activities authorized under this subpart; and
- (2) one-half of 1 percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this subpart.

Every Student Succeeds Act, Pub. L. No. 114-95, Title V, § 6221 (2015)
[<https://www2.ed.gov/policy/elsec/leg/esea02/pg95.html>](https://www2.ed.gov/policy/elsec/leg/esea02/pg95.html)

Additional Resources: <https://www2.ed.gov/programs/reaprlisp/index.html>

**Title VI, Part A, Subpart 1:
Federal Indian Education Formula Grants to Local Education Agencies**

SEC. 7111. PURPOSE

It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs —

- (1) are based on challenging State academic content and student academic achievement standards that are used for all students; and
- (2) are designed to assist Indian students in meeting those standards.

SEC. 7112. GRANTS TO LOCAL EDUCATIONAL AGENCIES AND TRIBES

(a) **IN GENERAL-** The Secretary may make grants, from allocations made under section 7113, to local educational agencies and Indian tribes, in accordance with this section and section 7113.

(b) **LOCAL EDUCATIONAL AGENCIES-**

(1) **ENROLLMENT REQUIREMENTS-** A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 7117 who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year —

- (A) was at least 10; or
- (B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

(2) **EXCLUSION-** The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

(c) **INDIAN TRIBES-**

(1) **IN GENERAL-** If a local educational agency that is otherwise eligible for a grant under this subpart does not establish a committee under section 7114(c)(4) for such grant, an Indian tribe that represents not less than 1/2 of the eligible Indian children who are served by such local educational agency may apply for such grant.

(2) SPECIAL RULE- The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart, except that any such tribe is not subject to section 7114(c)(4), section 7118(c), or section 7119.

Every Student Succeedss Act, Pub. L. No. 114-95, Title VI, § 7111 - §7112 (2015)
[<https://www2.ed.gov/policy/elsec/leg/esea02/pg99.html>](https://www2.ed.gov/policy/elsec/leg/esea02/pg99.html)

Additional resources: <https://www2.ed.gov/programs/indianformula/index.html>

D. **Title VII – Impact Aid**

Many local school districts include within their boundaries land under the jurisdiction of the federal government, including federal Indian reservations. These school districts operate with less local revenue because Federal property is exempt from local property taxes, creating a special challenge to provide quality education for children living on federal Indian reservations while also meeting the requirements of the Every Student Succeeds Act.

Since 1950, Congress established Title VII of the Elementary and Secondary Education Act of 1965 and the Impact Aid Program that is designed to assist local school districts that have lost tax revenue due to tax-exempt Federal property, or that have increased expenditures due to the enrollment of federally connected children, including children living on federal Indian reservations. The law refers to local school districts as local educational agencies, or LEAs.

SEC. 7001. PURPOSE. (20 U.S.C. 7701)

In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children in a manner that promotes control by local educational agencies with little or no Federal or State involvement, because certain activities of the Federal Government, such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 511 of the Service members Civil Relief Act, place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet the same challenging State academic standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

- (1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;
- (2) educate children who reside on Federal property and whose parents are employed on Federal property;
- (3) educate children of parents who are in the military services and children who live in low-rent housing;

(4) educate heavy concentrations of children whose parents are civilian employees of the Federal Government and do not reside on Federal property; or

(5) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property.

Every Student Succeeds Act, Pub. L. No. 114-95, Title VII, § 7001 (2015)
[<https://www2.ed.gov/policy/elsec/leg/essa/legislation/title-vii.html>](https://www2.ed.gov/policy/elsec/leg/essa/legislation/title-vii.html)

Additional resources: <https://www2.ed.gov/about/offices/list/oese/impactaid/index.html>

E. Indian Policies and Procedures

Any LEA that claims children residing on federal Indian reservations for the purpose of receiving funds under section 7003 must establish Indian Policies and Procedures (IPPs) that:

1. Give the tribal officials and parents of Indian children an opportunity to comment on whether Indian children participate, and the extent of their participation, on an equal basis with non-Indian children in the educational program and activities provided by the LEA;
2. Modify, if necessary, its educational program to ensure that Indian children participate on an equal basis with non-Indian children served by the LEA;
3. Disseminate relevant applications, evaluations, program plans, and information related to the educational programs of the LEA in sufficient time to allow the tribes and parents of Indian children an opportunity to review the materials and make recommendations on the needs of the Indian children and how the LEA may help those children realize the benefits of the LEA's education programs and activities;
4. Gather information concerning Indian community views on education issues, including the frequency, and notification of location and time of meetings;
5. Consult with tribal officials and parents of Indian children in the planning and development of the LEA's educational programs and activities; and
6. Modify the IPPs, if necessary, based upon an assessment by the tribes and parents of the effectiveness of *their* input regarding the development and implementation of the IPPs.

Waiver Requirements

For any year in which an LEA receives a written statement from the Indian tribe or tribes whose children attend the LEAs schools – that the LEA need not comply with the IPP requirements because the tribe(s) is satisfied with the LEA's provision of educational services to such children, the LEA must include the written statement with its application in lieu of IPPs. This statement constitutes a waiver of the IPP requirements of the LEA for that year.

Compliance

The LEA should review its IPPs annually to ensure compliance with statutory and regulatory requirements. The Impact Aid Program also determines whether the LEA is in compliance by periodically reviewing the LEA's documentation of its IPP compliance activities (the LEA must maintain records documenting such activities). The Impact Aid Program offers technical assistance to LEAs, parents and Indian tribes to enable them to carry out the IPPs.

If an Indian tribe whose children attend school in an LEA believes the LEA is not complying with the required IPPs, the tribe may file a complaint with the Secretary of the U.S. Department of Education against the LEA. Both the LEA and the Indian community will have an opportunity to participate in a hearing. The Secretary will make a final written determination, based on the findings and recommendations of the hearing examiner, describing how the complaint will be resolved.

The Secretary is also charged with enforcing IPP compliance through withholding funds or taking other appropriate actions. The LEA and the Indian community will have an opportunity to express their views prior to any such action.

SEC. 7004. POLICIES AND PROCEDURES RELATING TO CHILDREN RESIDING ON INDIAN LANDS. (20 U.S.C. 7704)

(a) IN GENERAL. A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7003 shall establish policies and procedures to ensure that—

- (1) such children participate in programs and activities supported by such funds on an equal basis with all other children;
- (2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;
- (3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;
- (4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and
- (5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

(b) RECORDS. A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7003 shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a).

(c) WAIVER. A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7003 shall not be required to comply with the requirements of subsections (a) and (b) for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

(d) TECHNICAL ASSISTANCE AND ENFORCEMENT. The Secretary shall—

- (1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and
- (2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

(e) COMPLAINTS.—

(1) IN GENERAL.—

(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

(B) Within ten working days from receipt of a complaint, the Secretary shall—

- (i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;
- (ii) designate a hearing examiner to conduct the hearing; and
- (iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(2) HEARING. The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

(3) EVIDENCE; RECOMMENDATIONS; COST. The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the

appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

(4) FINDINGS AND RECOMMENDATIONS. Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

(5) WRITTEN DETERMINATION. Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

(6) COPIES PROVIDED. Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

(7) CONSOLIDATION. In all actions under this subsection, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

(8) WITHHOLDING. If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency

Every student Succeeds Act, Pub. L. No. 114-95, § 7004 (2915)
<https://www2.ed.gov/policy/elsec/leg/essa/legislation/title-vi.html>

Additional resources: <https://www2.ed.gov/programs/8003/index.html>

F. New Mexico Indian Education Act

New Mexico's Indian Education Act (IEA) of 2003 addresses the unique educational needs of New Mexico's Native American Students in twenty-three school districts throughout the State of New Mexico (See map on p. 5). The IEA establishes an Assistant Secretary of Indian Education as well as the Indian Education Division within the NM PED, among other things. Additionally, the IEA recognize the importance of government-to-government relations, and relationships with Native American urban community members, and community-based organizations.

Below is the statutory language of the IEA:

22-23A-1. Short title.

This act [[22-23A-1](#) to [22-23A-8](#) NMSA 1978] may be cited as the "Indian Education Act".

22-23A-2. Purpose of act.

The purpose of the Indian Education Act [[22-23A-1](#) to [22-23A-8](#) NMSA 1978] is to:

- A. ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for American Indian students enrolled in public schools;
- B. ensure maintenance of native languages;
- C. provide for the study, development and implementation of educational systems that positively affect the educational success of American Indian students;
- D. ensure that the department of education partners with tribes to increase tribal involvement and control over schools and the education of students located in tribal communities;
- E. encourage cooperation among the educational leadership of Arizona, Utah, New Mexico and the Navajo Nation to address the unique issues of educating students in Navajo communities that arise due to the location of the Navajo Nation in those states;
- F. provide the means for a formal government-to-government relationship between the state and New Mexico tribes and the development of relationships with the education division of the bureau of Indian affairs and other entities that serve American Indian students;
- G. provide the means for a relationship between the state and urban American Indian community members to participate in initiatives and educational decisions related to American Indian students residing in urban areas;
- H. ensure that parents; tribal departments of education; community-based organizations; the department of education; universities; and tribal, state and local policymakers work together to find ways to improve educational opportunities for American Indian students;
- I. ensure that tribes are notified of all curricula development for their approval and support;
- J. encourage an agreement regarding the alignment of the bureau of Indian affairs and state assessment programs so that comparable information is provided to parents and tribes; and
- K. encourage and foster parental involvement in the education of Indian students.

The IEA does not define tribal consultation. However, four of the ten purposes of the IEA articulate the State of New Mexico partnering with tribes to increase tribal involvement in education; establishing government to government relationships with New Mexico tribes and the federal Bureau of Indian Education; urban Indian communities; and providing notice and approval for curriculum development.

- A. *formal government-to-government relationship between the state and New Mexico tribes and the development* of relationships with the education division of the bureau of Indian affairs and other entities that serve American Indian students;
- B. provide the means for a *relationship between the state and urban American Indian community* members to participate in initiatives and educational decisions related to American Indian students residing in urban areas;
- C. ensure that parents; tribal departments of education; community-based organizations; the department of education; universities; and tribal, state and local policymakers *work together* to find ways to improve educational opportunities for American Indian students;
- D. ensure that *tribes are notified of all curricula development* for their approval and support;

Additionally, the IEA establishes an Indian Education Advisory Council (IEAC) and directs the secretary of the New Mexico Public Education Department to consult with the IEAC on rule making. The assistance secretary of the Indian Education Division is directed to undertake coordinating and implementing the IEA within the New Mexico Public Education Department, as well as convening semi-annual government to government meetings with New Mexico Indian Tribes, Pueblos, and Nations, and to develop and evaluate curricula that supports native language, history, culture, and government; support the IEAC, and similar to the ESSA Confirmation of Consultation documentation, the assistance secretary of the Indian Education Division is directed to obtain signatures from New Mexico Indian Tribes, Pueblos, and Nations approving education policies and procedures.

Among other legislatively mandated activities, the IEA also directs the Indian Education Division, in collaboration with LEAs, to issue a report on the status of Indian Education. Similarly, LEAs, or school districts within tribal lands are directed to issue a brief report on the status of Indian education and students within the school district. Annually, the New Mexico Public Education Department issues a Tribal Education Status Report that is due on November 15th. The report characterizes the implementation of the ESSA and IEA, as well as the status of educational developments supporting the state's Native American students. Similarly, the NM PED submits an annual STCA report on the department's efforts implementing the STCA and services provided to Native American students.

Indian Education Act, [\[22-23A-1 to 22-23A-8 NMSA 1978\]](#)

Additional resources: <https://webnew.ped.state.nm.us/bureaus/indian-education/>

G. New Mexico State-Tribal Collaboration Act

In 2009, the New Mexico state legislature passed the State-Tribal Collaboration Act (STCA). The STCA's three overarching goals are to establish:

- 1) positive government to government relationships between the state and New Mexico's 23 federally recognized Indian Tribes, Pueblos, and Nations;
- 2) effective communication and collaboration; and
- 3) cultural competency for state personnel with ongoing communication with tribal governments.

The STCA also mandates the state to:

- 1) designate tribal liaisons within each state agency;
- 2) develop and participate in cultural competency training;
- 3) Issue annual reports detailing state agency and tribal collaboration, issues, and services provided;
- 4) host an annual state-tribal government to government summit; and
- 5) develop and implement an agency communication and collaboration policy.

H. New Mexico Public Education Department Tribal Communication and Collaboration Policy

Consistent with the STCA mandates for state agencies, the NM PED in collaboration with tribal governments and educational leadership, developed NMPED's Tribal Communication and Collaboration Policy. The policy seeks to improve and maintain agency and tribal partnerships, as well as to build upon previously agreed to processes when the agency develops, changes, or implements policies, programs or services that impact tribal sovereignty and self-governance.

The policy further establishes communication and collaboration policy principles recognizes and respects tribal sovereignty, values the importance of positive government to government relationships, and intergovernmental collaboration and coordination, among other principles, designed to better collaborate and communicate educational issues of mutual concerns.

For the purposes of guidance on tribal consultation for the NM PED, it is notable that the communication and collaboration policy defines both consultation and collaboration.

The NM PED's Tribal Communication and Collaboration Policy defines and describes consultation as:

Consultation operates as an enhanced form of communication that emphasizes trust and respect. It is a decision-making method for reaching agreement through a particularly process that:

- (i) involves the Agency and Tribes through their official representatives;
- (ii) actively solicits input and participation by the Agency and Tribes; and

(iii) encourages cooperation in reaching agreement on the best possible decision for those affected. It is a shared responsibility that allows an open, timely and free exchange of information and opinion among parties that, in turn, may lead to mutual understanding and comprehension.

Consultation with Tribes is uniquely a government-to-government process with three main goals:

- (i) to reach consensus in decision-making; and
- (ii) whether or not consensus is reached, to have considered each other's perspectives and concerns and honored each other's sovereignty; and
- (iii) more importantly, consultations should result in documentation and shared agreements that seek and find alternatives.

Areas of Consultation. The agency, through reviewing proposed policies, rules, or other pending programmatic actions, recognizes the need to assess whether such actions may impact American Indians/Alaska Native and/or tribes, as well as whether consultation should be implemented prior to making its decision or implement it action. To such ends, the agency strives to notify relevant tribal officials and pursue government-to-government consultation, provided that tribal officials also have the discretion to decide whether to pursue and/or engage in the consultation process.

The term collaboration is used alternately within the IEA and NMPED's Tribal Communication and Collaboration Policy. Collaboration is defined as:

Collaboration is a recursive process in which two or more parties *work together* to achieve a common set of goals. Collaboration may occur between the Agency and Tribes, their respective agencies or departments, and may involve Indian organizations, if needed. Collaboration is the timely communication and joint effort that lays the groundwork for mutually beneficial relations, including identifying issues and problems, generating improvements and solutions, and providing follow-up as needed.

The distinguishing, but not exclusive, element between consultation and collaboration is the process for information sharing, input and mutual agreement, and working together to achieve common goals. Consulting and collaborating parties include NMPED, tribal governments and organizations, and the IEAC. Central to the consultation and collaboration process within NMPED is the assistant secretary for the Indian Education Division, the Indian Education Advisory Commission, and Tribal leadership and tribal education directors.

The consultation process within the NMPED Tribal Communication and Collaboration Policy begins with identifying the consultation's applicability and focus, as well as areas of consultation. Consultation is initiated through written notification of consultation by either NMPED or tribal governments.

In addition to federal and a state education laws and policies that establish tribal consultation, it is advisable for the NM PED and LEAs to become familiar with the Pueblo, Tribe, or Nation's internal tribal consultation laws, policies, or protocols, and together conduct tribal consultation that meets the requirements of federal, state, and tribal laws and policies as they related to consultation and American Indian student education.

I. Native American Language and Culture

The purpose of the Certification in Native American Language and Culture K-12, is to provide a certification system, whereby any public school district and charter, may employ non-degreed individuals to teach in the native language and culture of specific Pueblo, Tribe, or Nation in any grade K through 12. Each New Mexico Pueblo, Tribe, or Nation shall collaborate with the Public Education Department (PED) to develop a Memorandum of Agreement (MOA) for the certification process. The MOA shall be negotiated every four years for a constant update and verification of any addendums to certification of Native language and culture educators.

Each New Mexico Pueblos, Tribes, or Nations in collaboration with PED shall develop standards and criteria for determining competency for initial certification and renewal of certification, and shall verify in writing to PED that these standards and criteria have been developed and that they are maintained on file with the certifying Pueblo, Tribe, or Nation.

Each New Mexico Pueblo, Tribe, or Nation in collaboration with PED shall develop and consistently use a process for determining if candidates for the initial or continuing certification for Native American language and culture have met the standards of competence and language proficiency required for certification. The Pueblo, Tribe, or Nation shall verify in writing to PED that the process has been developed and is the sole basis for determining language and culture competence, and that a description of the process is maintained on file with the certifying Pueblo, Tribe, or Nation. *NMPED shall not review or approve the standards and criteria developed and approved by each of the New Mexico Pueblos, Tribes, or Nations.*

School Personnel Act, 22-10A-1 through 22-10A-39.

Section 22-10A-13. Native American language and culture certificates.

The state board [department] may issue a Native American language and culture certificate to a person proficient in a Native American language and culture of a New Mexico tribe or pueblo who meets criteria established by the state board. A baccalaureate degree is not required for the person applying for this certificate. The Native American language and culture certificate shall be issued and renewable in accordance with procedures established by the state board.

Additional resources: <https://webnew.ped.state.nm.us/bureaus/licensure/how-to-apply/native-american-language-and-culture-certificate-prek-12/>

J. New Mexico Bilingual Multicultural Education Act

As part of the implementation of the ESSA and the NM Bilingual Multicultural Education Act, the Language and Culture Bureau will take a broader role within the NMPED, and serve as the lead for language, culture, and equity.

22-23-1. Short title. (2004)

Chapter 22, Article 23 NMSA 1978 may be cited as the "Bilingual Multicultural Education Act".

22-23-1.1. Legislative findings. (2004) The legislature finds that:

- A. while state and federal combined funding for New Mexico's bilingual multicultural education programs was forty-one million dollars (\$41,000,000) in 2003, the funds do not directly support bilingual multicultural education program instruction;
- B. the state's bilingual multicultural education program goals are for all students, including English language learners, to:
 - (1) become bilingual and biliterate in English and a second language, including Spanish, a Native American language, where a written form exists and there is tribal approval, or another language; and
 - (2) meet state academic content standards and benchmarks in all subject areas;
- C. districts do not fully understand how to properly assess, place and monitor students in bilingual multicultural education programs so that the students may become academically successful;
- D. because inaccurate reporting on student participation in bilingual multicultural education programs has a direct impact on state and federal funding, accountability measures are necessary to track bilingual multicultural education program funds;
- E. the federal Elementary Secondary Education Act Act of 2001 does not preclude using state funds for bilingual multicultural education programs
- F. Article 12, Section 8 of the constitution of New Mexico recognizes the value of bilingualism as an educational tool;
- G. professional development is needed for district employees, including teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents and financial officers in the areas of:
 - (1) research-based bilingual multicultural education programs and implications for instruction;
 - (2) best practices of English as a second language, English language development and bilingual multicultural education programs; and
 - (3) classroom assessments that support academic and language development;
- H. parents in conjunction with teachers and other district employees shall be empowered to decide what type of bilingual multicultural education program works best for their children and their community. Districts shall also provide parents with appropriate training in English or in the home or heritage language to help their children succeed in school;
- I. because research has shown that it takes five to seven years to acquire academic proficiency in a second language, priority should be given to programs that adequately support a child's linguistic development. The state shall, therefore, fund bilingual multicultural education programs for students in grades kindergarten through three before funding bilingual multicultural education programs at higher grade levels;

- J. a standardized curriculum, including instructional materials with scope and sequence, is necessary to ensure that the bilingual multicultural education program is consistent and building on the language skills the students have previously learned. The instructional materials for Native American bilingual multicultural education programs shall be written, when permitted by the Indian nation, tribe or pueblo, and if written materials are not available, an oral standardized curriculum shall be implemented;
- K. equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for all students participating in the program. For Native American students enrolled in public schools, equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials are required to satisfy a goal of the Indian Education Act [22-23A-1 NMSA 1978]; and
- L. the Bilingual Multicultural Education Act [22-23-1 NMSA 1978] will ensure equal education opportunities for students in New Mexico. Cognitive and affective development of the students is encouraged by:
 - (1) using the cultural and linguistic backgrounds of the students in a bilingual multicultural education program;
 - (2) providing students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner; and
 - (3) teaching students to appreciate the value and beauty of different languages and cultures.

The Bilingual Multicultural Education Act of 2004 provides funds for districts to implement programs. Bilingual Multicultural Education Programs (BMEP) refers to a program using two languages, including English and the home, heritage or target language, as a medium of instruction in the teaching and learning process.

The State of New Mexico currently funds language programs in American Sign Language, Jicarilla Apache, Keres, Navajo, Spanish, Tewa, Tiwa, Towa and Zuni. State-funded BMEPs must use one of the home/heritage or target languages as well as English as a medium of instruction in the teaching and learning process. In the case of Native American language programs, per the State Tribal Collaboration Act of 2009, *all proposed program require approval from tribal councils or from other appropriate tribal entities with authority to make educational decisions on behalf of Native American children.*

Bilingual Multicultural Education Act, [22-23A-1 NMSA 1978]
<https://webnew.ped.state.nm.us/wp-content/uploads/2018/04/ADA-BMEP_PD_Guidance_Memo_09.28.2016-1.pdf>

Additional Resources: <https://webnew.ped.state.nm.us/bureaus/>

K. PED Rulemaking

NMPED engages in tribal consultation with rule making cited in the Indian Education Act (22-23A-4 NMSA 19780) and NMPED Collaboration and Communication Policy per the State-Tribal Collaboration Act (STCA). The State Rules Act (Chapter 14 Article 4 NMSA) lays out guidelines for rulemaking for all state agencies. The Statutory Authority (22-2-2 NMSA, Department, General Duties) gives the Secretary of Education the right to promulgate rule (See Appendix C).

22-23A-4. Rulemaking.

The secretary shall ensure that the duties prescribed in the Indian Education Act [22-23A-1 NMSA 1978] are carried out and that each division within the department is collaborating to fulfill its responsibilities to tribal students. The secretary *shall consult on proposed rules implementing the Indian Education Act with the Indian education advisory council and shall present rules for review and comment at the next semiannual government-to-government meeting pursuant to Section 22-23A-5 NMSA 1978.*

Additional resources: <https://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/>

L. Tribal Education Sovereignty

New Mexico Tribes, Pueblos and Nations exercise tribal sovereignty over education by developing their own tribal education priorities, policies, and processes for tribal consultation. In developing a relationship with the New Mexico's 23 federally recognized Native American Tribes, Pueblos and Nations it is important to become knowledgeable about the unique tribal governmental processes for *meaningful* and *timely* tribal consultation. New Mexico Tribes, Pueblos and Nations may have their own tribal template for the affirmation of tribal consultation - NMPED will accept tribal forms in-leu of the NM PED Affirmation of Tribal Consultation form.

Tribal Education Departments

Tribal Education Departments (TED) are tribal government departments responsible for educating their tribal members, youth and adults, as directed by tribal governments and based on tribal education priorities, needs and resources.

Contact Information

The NM Department of Indian Affairs maintains updated contact information for Tribal Leadership
www.iad.state.nm.us.

Tribes, Pueblos and Nations	Tribal Leaders	Address	Phone
Pueblo of Acoma	Governor	P.O. Box 309 Acoma , NM 87034	(505) 552-6604
Pueblo of Cochiti	Governor	P.O. Box 70 Cochiti Pueblo, NM 87072	(505) 465-2244
Pueblo of Isleta	Governor	P.O. Box 1270 Isleta Pueblo, NM 87022	(505) 869-3111
Pueblo of Jemez	Governor	P.O. Box 100 Jemez Pueblo, NM 87024	(575) 834-7359
Pueblo of Laguna	Governor	P.O. Box 194 Laguna Pueblo, NM 87026	(505) 552-6654
Pueblo of Nambe	Governor	Route 1, Box 117-BB Santa Fe, NM 87506	(505) 455-2036
Ohkay Owingeh	Governor	P.O. Box 1099, Ohkay Owingeh, NM 87566	(505) 852-4400
Pueblo of Picuris	Governor	P.O. Box 127 Penasco, NM 87553	(575) 587-2519
Pueblo of Pojoaque	Governor	78 Cities of Gold Road Santa Fe, NM 87506	(505) 455-4500
Pueblo of Sandia	Governor	481 Sandia Loop, Bernalillo, NM 87004	(505) 867-3317
Pueblo of San Ildefonso	Governor	Route 5, Box 315-A Santa Fe, NM 87506	(505) 455-2273
Pueblo of San Felipe	Governor	P.O. Box 4339, San Felipe Pueblo, NM 87001	(505) 867-3381
Pueblo of Santa Ana	Governor	2 Dove Road Santa Ana Pueblo, NM 87004	(505) 771-6701
Pueblo of Santa Clara	Governor	P.O. Box 580 Espanola, NM 87532	(505) 753-7330
Pueblo of San Domingo	Governor	P.O. Box 99 Santo Domingo Pueblo, NM 87052	(505) 465-2214
Pueblo of Taos	Governor	P.O. Box 1846 Taos, NM 87571	(575) 758-9593
Pueblo of Tesuque	Governor	Route 42, Box 360-T Santa Fe, NM 87506	(505) 955-7732
Pueblo of Zia	Governor	135 Capitol Square Dr Zia Pueblo, NM 87053-6013	(505) 867-3304
Pueblo of Zuni	Governor	P.O. Box 339 Zuni, NM 87327	(505) 782-7022
Jicarilla Apache Nation	President	P.O. Box 507 Dulce, NM 87327	(575) 759-3242
Mescalero Apache Nation	President	P.O. Box 227 Mescalero, NM 88340	(575) 464-4494
Navajo Nation	President	P.O. Box 9000 Window Rock, AZ 86515	(928) 871-6352/6357

Tribal Organizations	Website	Address	Phone
All Pueblo Council of Governors	www.apcg.org	2401 12 th Street NM Suite 203 N Albuquerque, NM 87104	(505) 724-3589
Eight Northern Indian Pueblos Council, Inc.	www.enipc.org	P.O. Box 969 Ohkay Owingeh, NM 87566	(505) 747-1593
Department of Diné Education	www.navajonationndode.org	P.O Box 670 Window Rock, AZ 86515	(928) 871-7445

M. New Mexico Public Education Department Contact Information

Santa Fe PED Office	Regional Offices
<p>Kara Bobroff, Deputy Secretary of Identity, Equity, Transformation Acting Assistant Secretary of Indian Education (505) 795-1768 Kara.Bobroff@state.nm.us</p> <p>Judith Harmon, Data Analyst (505) 827-6129 Judith.Harmon@state.nm.us</p> <p>Daphne Littlebear, Education Administrator (505) 827-5871 Daphne.Littlebear2@state.nm.us</p> <p>Cassandra Garcia, Program Specialist (505) 476-0545 Cassandra.Garcia@state.nm.us</p>	<p>Shiprock Office Vacant</p> <p>Gallup Office Vacant</p>

N. Conclusion

The New Mexico Public Education Department's Tribal Consultation Guidance was created to serve as a resource for both administrators and educators in New Mexico School Districts and for tribal leaders and education departments for New Mexico Native American Tribes, Pueblos, and Nations. Whether tribal consultation is required by federal or state law, or mandated by federal or state policy, the goal of consultation is to proactively address the unique educational needs of New Mexico's Native American students, their families and communities. By working together in a spirit of cooperation and collaboration, the State of New Mexico, the New Mexico Public Education Department, and New Mexico's 23 federally recognized Native American Tribes, Pueblos, and Nations will ensure that Native American Students receive the highest quality education needed to be successful in tribal communities and in the communities of New Mexico.

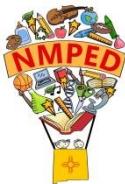
Appendix A RECOMMENDED ONGOING TRIBAL CONSULTATION TIMELINE

This chart is a quick reference guide to assist in developing an ongoing tribal consultation calendar.

June/July	Collect data and complete Tribal Education Status Report (TESR) Submit TESR to IED no later than July 30 th	Conduct a Student Needs Analysis with Tribes and Stakeholders to address the unique educational needs and improve framework and strategies				
August/September	Share TESR with local Tribal leaders and stakeholders. Hold meeting to discuss data in report	Student Needs Analysis	Quarterly meeting to discuss student programs including objectives and budget for Covered Programs and Title VI	Covered Programs LEA applications developed for Title I, Part A3; Title I, Part C; Title I, Part D; Title II, Part A; Title III, Part A; Title IV, Part A; Title IV, Part B; Title V, Part B, subpart 2; Title VI, Part A, subpart 1.	Development of Title VI comprehensive program, including program objectives and budget.	The IPPs2 and the LEA's general educational program and activities
October/ November			Quarterly meeting to discuss progress of improvement strategies for Student Needs Analysis, Impact Aid and Covered Programs			
December						

	January	Quarterly meeting to discuss progress of improvement strategies for Student Needs Analysis, Impact Aid and Covered Programs	Submission of Impact Aid Application and Indian Policies and Procedure to US Department of Education
	February		
	March	Quarterly meeting to discuss progress of improvement strategies for Student Needs Analysis, Impact Aid and Covered Programs	Submission of Affirmation of Tribal Consultation document to NMPED Indian Education Division concurrently with School Budget Application.
	April	Submission of Affirmation of Tribal Consultation document to NMPED Indian Education Division concurrently with School Budget Application.	
	May	Quarterly meeting to discuss successes and challenge regarding Student Needs Analysis, Impact Aid and Covered Programs	Submission of Affirmation of Tribal Consultation document to NMPED Indian Education Division concurrently with School Budget Application.
	June	Quarterly meeting to discuss successes and challenge regarding Student Needs Analysis, Impact Aid and Covered Programs	Submission of Affirmation of Tribal Consultation document to NMPED Indian Education Division concurrently with School Budget Application, no later than June 30 th Repeat process and planning for upcoming school year

Appendix B AFFIRMATION OF TRIBAL CONSULTATION



Affirmation of Tribal Consultation For Local Educational Agencies

This Affirmation of Tribal Consultation document must be submitted to the School Budget and Finance Analysis Bureau on an annual basis as part the Local Educational Agency's (LEA's) budget submission.

The purpose of the Tribal consultation process is to create opportunities for LEAs and Tribal Leaders to work together to improve positive outcomes for Native American students.

Name of LEA:
Superintendent:
Contact Phone:
District Coordinator of Tribal Consultation (Federal Programs Director, Indian Education Director; Tribal Liaison, etc):
Contact Phone:
Contact Email:
Tribal Leader or Designee:
Contact Phone:
Contact Email:

- Check here if the Tribe or Tribal organizations did not respond to the LEA's repeated good-faith efforts for tribal consultation. Please describe the consultation efforts below and attach any accompanying documentation to this form.

If consultation occurred, check the boxes and comment on topics discussed during the consultation process:

<input type="checkbox"/> How students' academic, cultural and linguistic needs will be identified and supported	<input type="checkbox"/> Parental Engagement
<input type="checkbox"/> Services that will be offered to support students' academic, cultural and linguistic needs	<input type="checkbox"/> Federal Title Programs
<input type="checkbox"/> Plan for delivery of services	<input type="checkbox"/> State grants opportunities
<input type="checkbox"/> Timeline of when services will be assessed and evaluated and communicated to Tribal partners	<input type="checkbox"/> Funding and equitable allocation of resources
<input type="checkbox"/> Other topics?	

Affirmation and Signatures

We agree that timely and meaningful consultation occurred prior to the submission of this Affirmation of Tribal Consultation document. We agree that we have participated in timely and meaningful discussion on the programs, budget and available resources below, but not limited to:

<input type="checkbox"/> Understanding Title I: Parts A, C and D	A. Improving Basic Programs Operated by State and Local Educational Agency B. Education of Migratory Children C. Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk
<input type="checkbox"/> Understanding Title II, Part A	Supporting Effective Instruction
<input type="checkbox"/> Understanding Title III, Part A	English Language Acquisition, Language Enhancement, and Academic Achievement
<input type="checkbox"/> Understanding Title IV, Parts A & B	A: Student Support and Academic Enrichment Grants B: 21 st Century Community Learning Centers
<input type="checkbox"/> Understanding Title V, Part B Subpart 2	Rural and Low Income School Program

<input type="checkbox"/> Title VI, Part A, Subpart 1	Indian Education Formula Grants to Local Educational Agencies
<input type="checkbox"/> State grant opportunities	<ul style="list-style-type: none"> • Indian Education Act School District Grant • State Bilingual Multicultural Education Program • Principals Pursuing Excellence • Reads to Lead – Literacy Initiative • K-3 Plus – Extended Learning Time • After School and Summer Enrichment • Truancy and Drop Out Prevention Coaches • Dual Credit • Pay for Performance – Educator Incentives • Others
<input type="checkbox"/> Others(?):	
Signature of Superintendent or Designee:	Date:
Signature of Superintendent or Designee:	Date:

Each LEA must maintain this document in the agency's records and forward to the School Budget and Finance Analysis Bureau to be kept on file with the district's budget submission. For questions or more information, please contact the Indian Education Office at (505) 827-6679.

Appendix C NMPED RULEMAKING PROCESS

1. Change to federal law, state statute (NMSA), or policy priority as determined by the Secretary

2. PED identifies an opportunity to add clarity around implementation or accountability to rule (NMAC)

3. PED chooses to: (1) adopt a new rule (2) amend an existing rule (3) repeal a rule or (4) repeal and replace a rule

4. PED holds Tribal Consultation

5. PED holds stakeholder engagement and develops proposed draft

6. Public notice and draft are released

7. Minimum 30 day comment period held on rule

8. Public Hearing is held a minimum of 31 days from the notice

9. PED considers public comment

10. PED adopts rule

11. PED files rule

Rule.notification@state.nm.us (rule proposals)

Rule.feedback@state.nm.us (written comment)

<https://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>
(proposed rule)

<http://164.64.110.134/nmac/title06> (New Mexico Administrative Code)

<http://public.nmcompcomm.us/nmnxtadmin/nmpublic.aspx> (New Mexico statute)

Appendix D TRIBAL CONSULTATION COVERED PROGRAMS REFERENCE CHART

This chart is a quick reference guide for covered programs to be discussed in tribal consultation and potential discussion topics concerning American Indian students, Native serving school districts and tribes and potential next steps in the collaboration process.

Title Descriptions	Covered Programs	Possible Topics
Title I Improving the Academic Achievement of the Disadvantaged	<ul style="list-style-type: none"> ▪ Part A-Improving Basic Programs Operated by State and Local Education Agencies ▪ Part C-Education of Migratory Children ▪ Part D - Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk. 	<ul style="list-style-type: none"> ▪ State standards ▪ Academic assessments ▪ State accountability system ▪ Health and social services programs
Title II Preparing, Training, and Recruiting High-Quality Teachers, Principals, and Other School Leaders	<ul style="list-style-type: none"> ▪ Part A – Supporting Effective Instruction 	<ul style="list-style-type: none"> ▪ Recruit and retain effective teachers ▪ Teacher preparation, support mentorship or induction programs for new teachers ▪ Provide evidence-based professional development for teachers on engaging parents and the community and coordinating services ▪ Indian Education at the state level ▪ Effective educator professional development on culturally responsive pedagogy and instructional practices
Title III Language Instruction for English Learners and Immigrant Students	<ul style="list-style-type: none"> ▪ Part A – English Language Acquisition, Language Enhancement, and Academic Achievement 	<ul style="list-style-type: none"> ▪ Native language assessments
Title IV 21 st Century Schools	<ul style="list-style-type: none"> ▪ Part A-Student Support and Academic Enrichment Grants ▪ Part B-21st Century Community Learning Centers 	<ul style="list-style-type: none"> ▪ Before- and after-school academic enrichment ▪ Courses and curriculum on tribal histories to provide access to a well-round education ▪ Program partnerships with tribes, higher education institutions, businesses, nonprofits and community based organizations.
Title V Flexibility and Accountability	<ul style="list-style-type: none"> ▪ Part B; Subpart 2 – Rural and Low-Income School Program 	
Title VI American Indian, Native Hawaiian, and Alaskan Native Education	<ul style="list-style-type: none"> ▪ Part A: Subpart I – American Indian Education Formal Grants to LEAs 	<ul style="list-style-type: none"> ▪ Native language revitalization programs ▪ Culturally related activities in support of Title VI grant programs ▪ Childhood and family programs that support school readiness ▪ Enrichment program focused on problem solving and cognitive skill development ▪ Integration of education services, including programs that promote parental involvement ▪ Career preparation activities ▪ Supports for cultural responsive teaching and learning Family Literacy services ▪ Dropout prevention ▪ Violence, suicide, and substance-abuse prevention ▪ Meeting the needs of incarcerated youth, including transition supports.

Covered Programs	Program Data	Funding	Formal Tribal Recommendations	Next Steps
<ul style="list-style-type: none"> ▪ Part A- Improving Basic Programs Operated by State and Local Education Agencies ▪ Part C-Education of Migratory Children ▪ Part D - Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk. 				
<ul style="list-style-type: none"> ▪ Part A – Supporting Effective Instruction 				
<ul style="list-style-type: none"> ▪ Part A – English Language Acquisition, Language Enhancement, and Academic Achievement 				
<ul style="list-style-type: none"> ▪ Part A-Student Support and Academic Enrichment Grants ▪ Part B-21st Century Community Learning Centers 				
<ul style="list-style-type: none"> ▪ Part B; Subpart 2 – Rural and Low-Income School Program 				
<ul style="list-style-type: none"> ▪ Part A: Subpart I – American Indian Education Formal Grants to LEAs 				

Appendix E TRIBAL CONSULTATION INDIAN POLICIES AND PROCEDURES REFERENCE CHART

This chart is a quick reference guide for Indian Policies and Procedures to be discussed in tribal consultation and potential discussion topics concerning American Indian students, Native serving school districts and tribes and potential next steps in the collaboration process.

LEA Responsibilities	Possible Topics	Data	Program Funding	Formal Tribal Recommendations	Parent/Guidance Recommendations	Next Steps
Assess and provide input on the extent to which Indian children participate on an equal basis with non-Indian children served by the LEA;						
Disseminate relevant applications, evaluations, program plans, and information related to the educational programs of the LEA in sufficient time to allow the tribes and parents of Indian children an opportunity to review the materials and make recommendations.						
Gather information concerning the Indian community views education issues, including the frequency, location and time of meetings;						
Notify the Indian parents and tribes of the locations and times of meetings;						
Consult and involve tribal officials and parents of Indian children in the planning and development of the LEA's educational programs and activities; and						
Modify the IPPs, if necessary, based upon an assessment by the tribes and parents of the effectiveness of their input regarding the development and implementation of the IPPs.						

