

MEMORANDUM

TO: Superintendents, Charter School Leaders, Indian Education Directors, Tribal Leadership, Tribal Education Directors, and IEAC members

FROM: Lashawna Tso, Assistant Secretary

RE: **ESSA Tribal Consultation Requirements during COVID-19**

Per section 8538 of the new federal ESSA requirements, affected local educational agencies (LEAs) must consult with Indian tribes, or those tribal organizations approved by the tribes located in the area served by the LEA, prior to submitting a plan or application for covered programs. Under section 8538, an affected LEA is one that either: 1) has 50 percent or more of its student enrollment made up of American Indian/Alaskan Native (AI/AN) students; or 2) received an Indian education formula grant under Title VI of the ESEA, as amended by the ESSA, in the previous fiscal year that exceeds \$40,000.

In order to determine whether an LEA has 50 percent or more of its enrollment made up of AI/AN students, an LEA should use the prior school year enrollment data from the district to determine whether it is an affected LEA. The total AI/AN enrollment data would include those students who self-identify as AI/AN alone and AI/AN in combination with one or more races, regardless of Hispanic ethnicity. An LEA that receives an Indian education formula grant award greater than \$40,000 in FY 2020 is an affected LEA for consultation purposes in FY 2022.

The NMPED's Indian Education Division (IED) will assist school districts and charter schools in providing additional technical assistance regarding the ESSA Tribal Consultation Requirements, upon request. IED is asking that you please coordinate with your Indian education coordinator, federal programs or other appropriate staff to consult, complete, and submit the Affirmation of Tribal Consultation form. Submit the form to the IED at the same time as your Operating Budget submission due date. The IED will review your affirmation as part of their review of the Operating Budget within OBMS. It is preferred that this is submitted electronically and directly to the email address listed below.

Indian Education Division: Indian.Education@state.nm.us

Any questions you may have regarding the form and the ESSA tribal consultation requirements may be directed to Gloria Hale Gloria.Hale@state.nm.us. Thank you for working with your school district and charter school program staff in these areas and your continued partnership in meeting these new federal mandates of tribal consultation.

[IED Tribal Consultation Resources](#)

Districts/Charters required/not required to complete Tribal Consultation

ALBUQUERQUE	LOS ALAMOS- not mandated
AZTEC	LOS LUNAS
BERNALILLO	MAGDALENA- not mandated
BLOOMFIELD	MIDDLE COLLEGE HIGH SCHOOL- not mandated
CENTRAL CONS.	NACA
CUBA	PENASCO- not mandated
DEAP	POJOAQUE
DREAM DINE	RIO RANCHO
DULCE	RUIDOSO
ESPANOLA	SAN DIEGO RIVERSIDE
FARMINGTON	SANTA FE
GALLUP	SIX DIRECTIONS INDIGENOUS SCHOOL
GORDON BERNELL CHARTER – not mandated	TAOS
GRANTS- not mandated	TULAROSA
HOZHO – not mandated	VISTA GRANDE HIGH SCHOOL – not mandated
JEMEZ MOUNTAIN- not mandated	WALATOWA CHARTER HIGH
JEMEZ VALLEY	ZUNI
LAS CRUCES- not mandated	