

Federal/Local Revenue & Tribal Consultation (Impact Aid)

Which Local Educational Agencies (LEAs) must consult with tribes in accordance with section 8538 of Elementary and Secondary Education Act (ESEA)?

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 and Alaskan Natives(AI/AN) students; or 2) received an Indian education formula grant under Title VII of the ESEA in the previous fiscal year that exceeds \$40,000.



What programs require consultation?

Beginning in FY 2017, affected LEAs must consult with Indian tribes before submitting plans or applications for the following programs under ESEA:

- State Grants
- Title I, Part A (Improving Basic Programs Operated by State and Local Educational Agencies)
- Title I, Part C (Education of Migratory Children)
- Title I, Part D (Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk)
- Title II, Part A (Supporting Effective Instruction)
- Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement Act)
- Title IV, Part A (Student Support and Academic Enrichment Grants)
- Title IV, Part B (21st Century Community Learning Centers)
- Title V, Part B, subpart 2 (Rural and Low-Income School Program)
- Title VI, Part A, subpart 1 (Indian Education Formula Grants to Local Educational Agencies)
- Title VII Impact Aid, Indian Policies and Procedures

Impact Aid Background



Since 1950, Congress has provided financial assistance to local school districts through the Impact Aid Program. Impact Aid provides assistance to school districts with concentrations of children residing on Indian lands, military bases, or other Federal properties and, to a lesser extent, concentrations of children who have parents in the uniformed services or employed on eligible Federal properties who do not live on Federal property.

Most Impact Aid funds, are considered general aid to the recipient school districts; these districts may use the funds in whatever manner they choose in accordance with their local and State requirements.

School districts may use Impact Aid for a wide variety of expenses, including the salaries of teachers, teacher aides; purchasing textbooks, computers, and other equipment; after-school programs and remedial tutoring; advanced placement classes; and special enrichment programs. Payments for Children with Disabilities must be used for the extra costs of educating these children.

Impact Aid Overview

LEA/Charter submits application for Impact Aid to the Office of elementary & Secondary Education US Department of Education
US Dept. of education Approves Impact Aid to include Indian Land
The LEA must consultate with tribes, and parents of the children residing on Indian Land in the development of the Indian Policies and Procedures to include how they will disseminate relevant applications, evaluations, program plans and information related to the LEA's education program and activities with sufficient advance notice to allow tribes and parents of Indian children the opportunity to review and make recommendations
LEAs must also provide tribes, and parents of the children residing on Indian Land an opportunity to provide their views on the LEA's educational program and activities, including recommendations on the needs of their children and on how the LEA may help those children realize the benefits of the LEA's education programs and activities
Each LEA that has developed Indian Policy and Procedures (IPPs) shall review those IPPs annually to ensure that they comply with provisions 222.94
If the following steps above are not done a complaint may be filed as per section 222.102 Who may file a complaint about a local educational agency's Indian policies and procedures? (a) Only a tribal chairman or an authorized designee for a tribe that has students attending an LEA's schools may file a written complaint with the Assistant Secretary for

Historical Legislation Signed By NM

In 2021 Governor Michelle Lujan Grisham signed HB6 State Equalization Guarantee Distributions -This new law improved the historical inequities involved with the taking of Impact Aid credits from primarily Native American school districts. It also provided a recurring \$67 million each year so that no school district is harmed. The new law also included important transparency measures for districts and charter schools to report how they spent the federal funding to improve student outcomes and school infrastructure.

No later than October 1 of each year, a school district or charter school that received federal or local revenue in the prior fiscal year shall report to the department on the actual uses of that revenue, including a comprehensive evaluation of how the programs and services provided with that revenue improved outcomes for students or how capital projects undertaken improved the condition of a school building.

A school district or charter school that is required under federal law to consult with tribal entities as a condition of receiving Impact Aid funds shall include in its educational plan a detailed narrative of its consultations with tribal entities and the results of those consultations.

The school district or charter school shall transmit the October 1 spending and outcomes report to the appropriate tribal authorities.

No later than November 15 of each year, the department shall compile the federal and local revenue outcomes reports into a statewide report to the legislative education study committee and the legislative finance committee that includes an analysis and identification of effective programs and strategies that improve outcomes for students.

