

The Honorable Tara Sweeney
Assistant Secretary – Indian Affairs
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Dear Assistant Secretary Sweeney:

I am writing to request waivers, pursuant to section 1.2 of Title 25 of the U.S. Code of Federal Regulations (C.F.R.), of the 25 C.F.R. subchapter E regulatory requirements enumerated below on behalf of _____ for fall of School Year 2020-2021 as part of our efforts to ensure that a quality education will be provided for the students served at our school(s) during the COVID-19 pandemic.

Please check all that apply:

Indian Student Equalization Program Regulations:

All

Transportation

Calculation of annual bus transportation miles for day students, including transportation count week and transportation days (25 C.F.R. § 39.710)

Calculation of annual bus transportation miles for residential students (25 C.F.R. § 39.711)

Calculation of annual commercial transportation costs for residential students (25 C.F.R. § 39.702 - 704)

Residential

ISEF funding of residential programs (25 C.F.R. § 39.216)

Student counts for purposes of funding residential services (25 C.F.R. § 39.217)

Residential services funding formula (25 C.F.R. § 39.218) **Sec. 39.218(d) permits a school to obtain waivers from the requirements of Sec. 39.218 if there are health or safety justification.

What happens if a residential program does not maintain required residency levels? (25 C.F.R. § 39.219)

Requirement for a student to have been in residence at least 10 nights during each full school month in order to be counted (25 C.F.R. § 39.220)

Full school month (25 C.F.R § 39.221)

Instructional Hours

__ Minimum number of instructional hours required in order to be considered a full-time educational program (25 C.F.R. § 39.214)

Instructional Program

__ Required field trip (25 C.F.R § 36.20(b)(4))

__ Intraschool programs (25 C.F.R § 36.20(c)) **List the programs to be curtailed because of the school's alternate learning plan: _____

__ Kindergarten instructional program (25 C.F.R. §36.21): **In a separate attachment, list instructional program content areas to be curtailed because of the school's alternate learning plan.

__ Elementary instructional program (25 C.F.R. § 36.22): **In a separate attachment, list instructional program content areas to be curtailed because of the school's alternate learning plan.

__ Junior high/middle school instructional program (25 C.F.R. § 36.23): **In a separate attachment, list instructional program content areas to be curtailed because of the school's alternate learning plan.

__ Secondary instructional program (25 C.F.R. §36.24): **In a separate attachment, list instructional program content areas to be curtailed because of the school's alternate learning plan.

Student Activities

__ Requirement to provide and maintain a well-balanced student activities program based on assessment of both student and program needs. (25 C.F.R. § 36.43) **List which activities the school will not be able to provide because of its alternate learning plan:

Graduation Requirements

__ Graduation requirements for a high school diploma/minimum number of units required (25 C.F.R. §§ 36.32(a) and (b))

Promotion

__ Instructional days required for promotion (25 C.F.R. § 36.31(c))

Accreditation

__ Requirement for formal, formative evaluation at least once every seven years. (25 C.F.R. § 36.50)

Other (Please describe below or attach a separate document explaining for what other 25 C.F.R. subchapter E regulatory requirements you are seeking a waiver and why):

I am requesting these waiver(s) because the ongoing COVID-19 pandemic has rendered traditional educational methods impracticable or potentially injurious to the health and safety of students, families, and educators.

Special Education and Related Aids and Services Requirements

Special Education and related aids and services requirements may not be waived. Please describe in an attached document how your alternate/distance learning plan will comply with Section 504 of the Rehabilitation Act of 1973, as amended (Sec 504), 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, Pub. L. 108-446 as amended, 20 U.S.C. §§ 1400 et seq. (IDEA).

Please also describe how the regulatory requirements that you are seeking to be waived will not affect the provision of a free appropriate public education under IDEA and necessary accommodations under Section 504 to students with disabilities.

Alternate/Distance Learning Plans

Please describe in an attached document your plan for providing an alternative to full-time in-school instruction to students. For example, a school may decide to rotate cohorts of students between physical in-school learning and virtual learning; provide full-time virtual instruction; or provide full-time in-school instruction with appropriate social-distancing modifications. In the absence of a full-time in-school education program, schools must have regularly scheduled live teacher led instruction in class curriculum through video-conference, where available, and/or teleconference, along with regular student assessments and the availability of individualized student support. Dissemination of learning packets to students will be insufficient without the addition of live teacher led instruction.

Your school's written description of its alternative learning plan must detail how any included virtual learning component will incorporate interactive instruction, assessments to measure mastery of instruction, and individualized student support.

In seeking these waiver(s), I assure that (all boxes must be checked in order for a waiver request to be considered):

All funds will otherwise be used in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waiver(s).

The school will work to mitigate any negative effects, if any, that may occur as a result of the requested waiver(s).

I have consulted with the school board and the school board has approved of this waiver request.

___ As applicable, Tribal governing bodies, parents, and other stakeholders have been notified of this waiver request. (Please attach tribal resolutions, etc.)

___ The school will comply with the requirements of IDEA and section 504 as described in the attached document.

___ The school will provide interactive teacher led instruction as described in the attached document.

Thank you for your consideration.

Signed

(on behalf of school)

Signed

(on behalf of school board)

Paperwork Reduction Act: The collection of information using this waiver request form must be conducted before the beginning of the 2020-2021 school year to ensure that a quality education will be provided for the students served at BIE-funded schools during the COVID-19 pandemic. Response to this request is required to obtain a benefit in accordance with Public Law 104-13. The data collected is not confidential in nature and is not covered by the FOIA/Privacy Act. Public reporting burden for this collection is estimated to average one hour per response, including the time for reviewing instructions, gathering data, completing, and reviewing the information. An agency may not collect or sponsor and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number. You may send comments concerning this information collection to Attn: Information Collection Clearance Officer – Indian Affairs, 1849 C Street, NW, MS-4660, Washington, DC 20240.