



## United States Department of the Interior

BUREAU OF INDIAN EDUCATION  
Washington, D.C. 20240

Dear Tribal Leader:

The Bureau of Indian Education (BIE) welcomes Tribal leadership and stakeholders to attend planned listening sessions scheduled for 3:00 pm to 5:00 pm Eastern Standard Time (EST) on Wednesday February 24, and Thursday February 25, 2021.

The purpose of the listening sessions is to: 1) Provide an overview of the distribution and allowable uses of funds transferred from the U.S. Department of Education (ED) to BIE pursuant to the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA); 2) Receive input regarding funding considerations for BIE's CRRSA emergency and administrative costs 10 percent set-aside; and 3) Provide an overview of the U.S. Department of the Interior's (Department) issuance of a blanket waiver of certain 25 CFR subchapter E regulatory requirements to address COVID-19 related funding concerns and the general status of requests received from BIE schools<sup>1</sup> to waive additional 25 CFR subchapter E regulatory requirements.

### **CRRSA Funding**

On December 27, 2020, the President signed into law P. L. 116-260, Consolidated Appropriations Act, 2021, providing CRRSA transfer funds to BIE in the amount of \$409.4 million from ED. The \$409.4 million transfer from ED to BIE is governed by an agreement between the two agencies. The agreement provides that BIE must disburse no less than 90 percent of the \$409.4 million to BIE-funded schools, as defined in 25 U.S.C. 202, and to Tribal Colleges and Universities (TCU). The funding to schools and TCUs will be distributed using existing formulas based upon K-12 school and TCU student counts to ensure parity to the extent practicable. BIE may use the remaining funds, up to 10 percent (10 percent set-aside), for emergency needs, as determined by BIE, to address issues responding to COVID-19. Additionally, from the 10 percent set-aside, BIE may reserve up to 0.5 percent for administrative cost. One focus of the listening sessions is to hear from Tribal leaders and stakeholders regarding funding considerations for the 10 percent set-aside targeting mental health services and trauma training, facility safety needs, communications outreach, distance learning investments, emergency planning and coordination activities, administrative needs, or other COVID-19 impact considerations.

### **25 CFR Subchapter E Waivers**

The listening sessions will also provide an overview of: A) the issuance of a blanket waiver of certain 25 CFR subchapter E regulatory requirements to the extent necessary to ensure that BIE schools receive the level of Indian School Equalization Program (ISEP) and transportation funding for school year 2021-2022 that they would have received absent COVID-19 related

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<sup>1</sup> Unless otherwise noted, for purposes of this letter, the terms "BIE schools" and "BIE-funded schools" include BIE-operated schools and dormitories, schools and dormitories operated pursuant to a grant under the Tribally Controlled Schools Act of 1988 (25 U.S.C. § 2501 et seq.), and schools and dormitories operated pursuant to a contract under the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5301 et seq.).

school facility closures; and B) the general status of requests received to waive additional 25 CFR subchapter E regulatory requirements.

In a letter on June 25, 2020 (June letter), the Department established a process through which it would waive certain regulations otherwise applicable to BIE-funded schools in response to the pandemic. The waiver request process outlined in the June Letter reflected the Department's hope and expectation that to the greatest extent possible, BIE students would attend school in-person for the 2020-21 school year and that regulatory waivers would only be sparingly necessary.

While in-person instruction remains the Department's goal, the ongoing COVID-19 pandemic has necessitated ongoing closures of more than ninety-five percent of BIE school sites into 2020-21 in order to protect the safety of BIE students and their parents, as well as BIE faculty and staff. These site closures will result in significant decreases in ISEP and transportation funding levels for nearly all BIE schools pursuant to the BIE funding mechanisms established in Title 25 part 39 of the Code of Federal Regulations. These mechanisms base funding for the 2021-2022 school year on factors including instructional hours, student nights in residence, and school and commercial bus mileage during the current school year, all of which are severely impacted by the site closures. The resulting funding decreases would significantly affect the quality and availability of educational opportunities that BIE schools can offer its students during the 2021-2022 school year and potentially beyond.

The circumstances of the COVID-19 national emergency, and the potential consequences for BIE-funded schools and the students served at such schools in light of the ongoing school site closures extending into the 2020-2021 school year, have required the Department to reconsider the efficacy of the waiver request process established in the June Letter. It is particularly evident that a new approach is needed given that COVID-related school closures are so widespread that more than ninety-five percent remain closed. To ensure adequate ISEP and transportation funding for these schools in the 2021-22 school year, the Department issued a blanket waiver of the following regulatory requirements applicable to school year 2020-2021 for all BIE schools: 25 C.F.R. §§ 39.710-.711 (bus transportation), 39.702-.704 (commercial transportation), 39.216-.221 (residential), 39.214 (instructional hours).

To the extent that a BIE school has already submitted a waiver request, which includes a request to waive regulations outside of those referenced above, the Department will continue to review those requests, but will limit the review only to those additional provisions.

Efforts are well underway by Indian Affairs and the BIE to expedite the distribution of COVID-19 funds and provide your schools with the flexibility needed to support recovery and the reopening needs of each school for a safe and responsive return to operations.

Please use the following links to register for the listening sessions. After registering at the links below, you will receive a confirmation email.

- February 24: Register in advance for this meeting at:  
<https://us02web.zoom.us/j/82157693441?pwd=Z3A3YVhpV085WDRobHZZcFFOLlZTZz09>
- February 25: Register in advance for this meeting at:  
<https://us02web.zoom.us/meeting/register/tZEIcqqqTspGdCg30tBN08mNR-dxmcohevn>

We look forward to meeting with you and receiving your valuable input.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tony L. Dearman", with a long horizontal flourish extending to the right.

Tony L. Dearman  
Director