



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

**JUN 25 2020**

Dear School Leaders:

The COVID-19 national emergency has resulted in extraordinary circumstances requiring the closure of all Bureau of Indian Education (BIE) school sites. This in turn has meant that BIE-funded schools will be unable to meet certain Title 25 regulatory requirements applicable to school year 2019-2020. Failure to meet such regulatory requirements would usually reduce Indian School Equalization Program (ISEP) funding provided to the schools for the 2020-2021 school year. Such an outcome could severely impact the quality of educational opportunities provided to students served at BIE-funded schools.

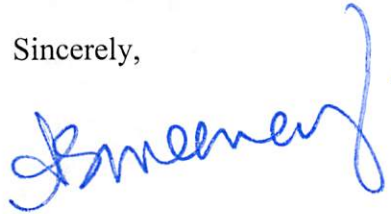
As a matter of law and policy, there is a strong presumption that the Secretary of the Interior's (Secretary) regulations are appropriate to their purpose and require Departmental compliance. To provide the Secretary with sufficient latitude to respond to extraordinary circumstances, however, 25 C.F.R. §1.2 provides that the Secretary has the authority to waive or make exceptions to the regulations in Title 25 of the Code of Federal Regulations in all cases where permitted by law so long as such waiver or exception is in the best interests of the Indians. This authority has been delegated to the Assistant Secretary – Indian Affairs via 209 DM 8.

The circumstances of the COVID-19 national emergency, and the potential negative consequences for BIE-funded schools and the students served at such schools, compel me to waive regulatory requirements applicable to school year 2019-2020. This waiver is applicable to the extent necessary to ensure that all schools receive the level of ISEP funding for school year 2020-2021 that they would have received absent COVID-19 related school facility closures. This waiver shall be considered effective as of March 13, 2020.

For any regulatory requirements applicable to school year 2020-2021 and beyond for which BIE-funded schools are interested in seeking a regulatory waiver as a result of the COVID-19 national emergency, each school will be required to submit a waiver application. Every application must identify each regulatory provision for which a waiver is sought based on a template developed by BIE in consultation with the Department of the Interior (Department) Office of the Solicitor. Acceptance of such waiver applications will be conditioned upon each school's submission of: 1) a distance learning plan; 2) assurance of compliance with Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act in accordance with BIE policy and U.S. Department of Education guidance; and 3) assurance to offer mental health support services to all students. The template and further guidance on these requirements will be issued in advance of the start of school year 2020-2021.

I find that this waiver is permitted by law. In addition, the waiver is in the best interests of the Indians and consistent with the Secretary's obligations to provide for a quality education for students at BIE-funded schools and to ensure the safety of the students and staff at BIE schools. Finally, the Department will revisit the necessity, scope, and duration of this waiver as warranted by ongoing progress in the response to the COVID-19 national emergency.

Sincerely,



Tara Sweeney  
Assistant Secretary – Indian Affairs