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TRIBAL CONSULTATION

Part 30 - Standards, Assessments

and Accountability System

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Taken at

Oglala Lakota College

490 Piya Wiconi Road

Kyle, South Dakota

July 18, 2019

1 P R O C E E D I N G S

2 * * * * *

3 MR. TRAVIS CLARK: Thank you, everybody. Thank
4 you. Thank you. Thank you.

5 First, a million apologies for getting a late
6 start. We were having some audio/visual technical
7 assistance issues so thank you very much for being
8 patient with us. We've got everything hooked up.

9 So just really quickly, my name is Travis
10 Clark. I work for Director Dearman in central
11 office.

12 We're going to quickly go through and do some
13 introductions of our federal staff. And then really
14 I'll kind of lay out the groundwork for today,
15 essentially just kind of do a real quick high level
16 review of the agenda and then kind of talk about the
17 process, next steps. And then we'll go ahead and
18 get started with two presentations and then open the
19 floor up really for the rest of the day for the
20 heart of the consultation which is being in
21 listening mode, listening to your feedback, your
22 critical review, your comments, and your suggestions
23 to the proposed standards, assessment and
24 accountability system that we have going through the
25 rule-making process.

1 So with that, again my name is Travis Clark. I
2 work in BIA central office in Washington D.C. for
3 Tony Dearman.

4 DR. TAMARAH PFEIFFER: Good morning. I'm
5 Tamarah Pfeiffer. I'm the Acting Chief Academic
6 Officer for the BIE.

7 MR. ERIC CRANE: I'm Eric Crane. I'm with the
8 Center on Standards and Assessment Implementation
9 WestEd and we provide technical support to this
10 process.

11 DR. JEFFREY HAMLEY: Good morning. I'm Jeff
12 Hamley. I'm the Associate Deputy Director for the
13 Bureau of Indian Education, and I'm in the central
14 office and negotiator for the government on the
15 (unintelligible).

16 MR. BRIAN QUINT: And I'm Brian Quint. I'm
17 with the Office of the Solicitor in the Department
18 of Interior in Washington, D.C., and I've been
19 providing legal support to both the BIE and the
20 negotiating rule-making committee throughout this
21 process.

22 MR. KYLE SCHERER: I'm Kyle Scherer, Deputy
23 Solicitor for the Department of Interior.

24 MR. TRAVIS CLARK: So with that, we're just
25 going to do a real quick review of the agenda. So

1 within your packets, really this is almost all of
2 the materials you would ever need to know about for
3 the negotiated rule making. The first half we've
4 got the Federal Register Notice that has the actual
5 proposed new regulation for the standards,
6 assessment and accountability system.

7 The second tab you're going to see the
8 PowerPoint presentation that we're going about to go
9 through that Mr. Crane from WestEd will present,
10 really just kind of giving a high level review of
11 the Every Student Succeeds Act.

12 The third tab is our PowerPoint presentation
13 that we'll be providing regarding the rule-making
14 committee, the work of the committee, as well as the
15 proposed rule itself that Dr. Hamley will be
16 providing.

17 And then the last tab is I think just a copy of
18 the, what is that, yeah, Elementary and Secondary
19 Education Act. So that's really -- that's the
20 packet.

21 A real overview of the agenda, like I said,
22 we're going to have two presentations. We're about
23 to hear a presentation from Mr. Crane. We can take
24 a small break after that. It'll probably run around
25 40 minutes or so kind of giving that overview of

1 Every Student Succeeds Act; take a break. And then
2 Dr. Hamley will provide his presentation. I think
3 that is generally going to take about 35, 40 minutes
4 as well. We'll take another break if we feel we
5 need one.

6 And then after really is the heart of the
7 consultation which is listening to you all,
8 listening to what you've decided that you think is a
9 weakness in the rule, your suggestions, all of that
10 good stuff. We do ask that -- we'll pass the
11 microphone around when we come to the comments
12 section. We're going to be in listening mode.
13 We're going to answer whatever questions we can
14 here. You know, if they're simple, straightforward,
15 clarifying questions that we feel are within our
16 wheelhouse to be able to provide an answer right
17 now, definitively we'll do that.

18 For some of the really complex questions that
19 we've been receiving, we are going to get you an
20 answer. It may just be too complex for us to try to
21 untangle everything right here right now on the
22 spot, so we'll provide that in a written answer
23 format following the rule-making procedure.

24 When we do open the floor up for comments, we
25 just ask -- we do have a court reporter here. This

1 is all going to be on the record. And we are using
2 the record for our post consultation analysis. So I
3 know some folks have been involved with the
4 strategic directional (unintelligible), it will
5 follow a very similar track where we're able to go
6 back, do a real precise deep dive into the comments
7 that were received and let that really truly inform
8 the final rule. But part of that is we need to
9 know -- you know, when we go back in a month,
10 however long it is, to read this transcript, by then
11 we're not going to remember who said what and who
12 they were representing. So when you come to make
13 your comment, just three things: Please state your
14 name for the record so that the court reporter knows
15 who made the comment, your title, your position and
16 then who you're representing, if you're from a
17 school, if you're from the tribe itself, if you're
18 from an educational organization, whatever it is.
19 That helps inform our post-consultation analysis so
20 we know who made what comments on the record when we
21 go back in a month or so to really review this
22 record. So that's basically how it's going to go.

23 Really quickly I'm going to turn it over to my
24 colleague Brian Quint to talk about the 8204
25 negotiated rule making and just set some context for

1 this process.

2 MR. BRIAN QUINT: So as you are likely aware,
3 the Elementary and Secondary Education Act of 1965
4 was reauthorized and amended in December of 2015.
5 And as amended ESEA required the Department to
6 undergo -- to use a negotiated rule-making process
7 to develop regulations that would be used for the
8 implementation of a requirement for the Secretary to
9 have standards, assessments and accountability
10 system for BIE funded schools.

11 The Department formed a negotiated rule-making
12 committee, and the committee met four times in
13 person between August of 2017 and -- 2018 and March
14 of 2019. They also met many times via telephone as
15 subcommittees that focused on different parts of
16 standards, assessments, accountability and also
17 (unintelligible) proposals that individual tribal
18 governing bodies or school boards could implement
19 with the approval of the Department of Interior and
20 the Department of Education.

21 And so the committee came out with a
22 recommendation on a rule, and then the Department
23 then took that recommendation and published a
24 proposed rule based on that recommendation in the
25 Federal Register, and that is really the purpose for

1 us meeting here today.

2 So the negotiated rule-making committee was
3 composed of a representative group of stakeholders.
4 But now we're, the Department is looking for input
5 from the public broadly. And as Travis mentioned,
6 this is an opportunity to hear from all of you, but
7 this is not the only opportunity. We're going to
8 hear -- we're going to see a place where you can
9 send comments online or by mail as well. And so if
10 you don't have anything to say today, you can go
11 home and think about this for a little while. The
12 deadline for comments is August 9th, I believe. But
13 that's why we're here. We're here to talk about
14 this proposed rule and what you think in there might
15 work and what might not work. And BIE has
16 highlighted certain areas, specific areas where
17 they're looking for input. Feel free to comment on
18 any aspect of the proposed rule.

19 MR. TRAVIS CLARK: Thanks.

20 So with that, for those that just joined, we'll
21 just do a real quick what we just talked about.
22 We're going to have two presentations this morning,
23 one pretty high level going over the
24 (unintelligible). The second provided by Dr. Hamley
25 regarding the proposed rule. And then after that

1 we're just going to open it up and the rest of the
2 day is just here listening to you all and any
3 comments, questions, concerns that you might have.

4 Yes, ma'am.

5 MS. CECELIA FIRETHUNDER: We do have two
6 members of our tribe who sat the on the negotiated
7 rule-making committee and they do have some
8 recommendations. And Charles just walked in.

9 MR. TRAVIS CLARK: Fantastic.

10 MS. CECELIA FIRETHUNDER: And Dr. Gloria is on
11 her way. And we've had some meetings on some of the
12 recommendations, and we're ready to give you some
13 direction here today.

14 MR. TRAVIS CLARK: Fantastic.

15 With that, Mr. Crane.

16 MR. ERIC CRANE: Did you get her name and
17 affiliation?

18 MR. TRAVIS CLARK: Cecelia Firethunder.

19 MS. CECELIA FIRETHUNDER: Oh, I'm sorry. I
20 thought everybody knew me.

21 (Laughter)

22 MR. ERIC CRANE: Good morning. So I'm Eric
23 Crane. I'm a Senior Research Associate with the
24 Center for Standards and Assessment Implementation
25 at WestEd.

1 As Travis and Brian said, I'm going to give a
2 high level view of the Every Student Succeeds Act.

3 Knowing what states are required to do and in
4 some cases knowing what they've done I think is more
5 than just helpful, it's essential so that we can
6 know how we want to move forward. And I'll get into
7 some of the detail of what the law requires.

8 UNIDENTIFIED SPEAKER: Can you hold off a
9 minute? We're putting up more chairs.

10 DR. TAMARAH PFEIFFER: And please join us at
11 the table as well.

12 (Brief pause)

13 MR. ERIC CRANE: So let me start with some
14 background about the -- there we go. So the
15 Elementary and Secondary Education Act will be
16 celebrating its 55th birthday next year. It is the
17 biggest federal education law. Importantly it sets
18 up the Title 1 Program and Title 1 provides more
19 than \$14 billion to support the education of
20 disadvantaged students. If you've been doing this
21 work for a while, you'll remember 1994 is Improving
22 America's Schools Act. 2002 is the No Child Left
23 Behind Act, and now ESSA, what I'll be speaking
24 about today, is the latest iteration.

25 So ESEA has gone through these various changes

1 over time.

2 In 2002 No Child Left Behind did many things,
3 but critical to our discussion today was that it set
4 an expectation that performance not only at a school
5 level but of student groups would be looked at and
6 this would be important to highlighting any key
7 differences in performance, struggling groups.

8 Prior to that requirement it was possible for a
9 struggling student group to have their performance
10 hidden by the overall school reporting. So breaking
11 out the student groups, this disaggregation, is a
12 critical feature that No Child Left Behind required
13 for the first time. And the targets would be set
14 for all student groups. So December 2015 ESSA was
15 signed into law and, again, this represents the
16 latest iteration of ESSA.

17 So ESSA continues the key points and the key
18 pillars of the federal law, promoting educational
19 excellence and equity via standards, assessment,
20 disaggregation and transparency and accountability
21 and when needed school support and interventions.

22 So ESEA interacts with the Bureau of Indian
23 Education via Section 8204 which requires the
24 Secretary of the Interior to have requirements for
25 standards, assessment and accountability systems

1 that apply to schools that are funded by the BIE.
2 This is on a national, regional or tribal basis, and
3 it should be tailored taking into account the
4 students that are actually served.

5 These requirements need to align with
6 Section 1111 of ESEA, and that's a lot of what I'll
7 be speaking with you about today and in particular
8 this negotiated rule-making process has called for.
9 And I would just say that this is a critical step in
10 the process. It is an important milestone in the
11 work. However, for true success in the
12 implementation of the law, this won't be a one-time
13 event. Ongoing stakeholder input is critical to the
14 system working well and getting better over time,
15 continuously improving. So while this is an
16 important milestone, I think it's helpful to think
17 of it as part of a process. So active stakeholder
18 feedback has been key in states that have had an
19 easier time with the transition to ESSA.

20 Let's talk a little bit about the system.
21 Standards are at the start, and I'll say a little
22 bit more in the next slide. Assessments that are
23 linked to and tied to those standards come next.
24 And that the results of all of the teaching and
25 assessing is information that can be used in an

1 accountability system.

2 So what are and why standards. Standards are
3 statements of what students should know and be able
4 to do at each grade level. And having standards
5 that are consistent and set high for all students is
6 critical and guards against differences, students
7 being taught unevenly and making sure that all
8 students receive rigorous content.

9 So ESSA requires the adoption of challenging
10 statewide academic content and achievement standards
11 in at least math, reading/language arts and science.
12 The standards must establish at least three levels
13 of achievement. One example would be advanced,
14 proficient and basic. And importantly the standards
15 need to be tied to, build up to an end of secondary
16 requirement that students who are achieving those
17 standards would be prepared for credit bearing
18 coursework in the higher ed system in the state, as
19 well as related career and technical standards.

20 They are standards so they apply across the
21 board. They apply to all students. The exception
22 being that alternate achievement standards are an
23 option for students with the most significant
24 cognitive disabilities and we'll talk a little bit
25 more about that later.

1 Standards must also be adopted for English
2 language proficiency, and they have to address
3 speaking, listening, reading and writing. And these
4 standards for English language proficiency need to
5 be aligned with the state's academic standards.

6 So moving to assessment. With standards as a
7 foundation, we can assess and get objective data on
8 student progress across classrooms, schools and
9 districts. Assessments that are of high quality
10 help to shine light on gaps in performance between
11 different student groups. They give schools and
12 systems information needed for decision making so
13 that these systems can get better at educating all
14 students. And bottom line is they help to inform
15 and improve teaching and learning.

16 So assessments must be given annually in
17 reading, language arts and mathematics to every
18 student in Grades 3 through 8 and once in high
19 school.

20 Science is a little different. Science needs
21 to be assessed once per grade span, so elementary,
22 middle and high.

23 Students with disabilities are included in the
24 assessment. And if they're able to take the regular
25 assessment, then they would be included there. If

1 they're individualized education program plans call
2 for an alternate assessment, then they would
3 participate there.

4 Accommodations, as well as alternate
5 assessments, must be provided for students with
6 disabilities. These assessments tie directly to the
7 academic standards and they need to provide
8 information on whether students are achieving at
9 grade level.

10 And then as a performance requirement the
11 assessments are intended to be universal and near
12 universal with a 95 percent requirement for students
13 to meet success.

14 So just like students with disabilities are
15 included in the assessment system, so too are
16 English learners. English learners, they are
17 assessed in the academic assessments. That's
18 actually the second bullet here. They're assessed
19 in the academic assessments. But they also receive,
20 in this first bullet here they also receive
21 assessment in language acquisition.

22 Now there's some latitude for the assessments
23 that they may include projects, portfolios, other
24 performance tasks in part. They cannot be made up
25 solely of those alternate modes but they can be

1 included.

2 Also there's flexibility to administer a single
3 summative assessment or multiple statewide interim
4 assessments so long as they result in a single
5 summative score about student achievement and
6 growth.

7 Earlier I mentioned students who have
8 significant cognitive disabilities, there is a cap
9 or a limit of 1 percent of students that can
10 participate in the assessments for students with
11 significant cognitive disabilities. And again with
12 many other things that relate to students with
13 disabilities, the IEP should govern what the student
14 receives in terms of assessments or accommodations.

15 And that brings us to accountability. When
16 accountability is designed well, it can set clear
17 expectations for schools in terms of raising
18 achievement of all students and not only some. It
19 can help focus attention and resources on the full
20 range of student groups, including those who have a
21 history of being underserved. It can highlight and
22 signal priorities for BIE and stakeholders, and it
23 can prompt intervention when students are not
24 meeting expectations for a group of students.

25 So in accountability we can drill down and talk

1 about the indicators that are mandated under ESSA.
2 Systems have to have multiple measures, so right off
3 the top we're talking about including academic
4 achievement as measured by the assessments in
5 English, language, arts, reading, mathematics. In
6 high school this may include a measure of growth.
7 Another academic indicator for elementary and
8 secondary schools may include growth or another
9 valid reliable academic indicator. For high schools
10 an indicator of graduation rate must be included.
11 English language proficiency must be included.

12 And an interesting one I have a feeling we'll
13 be talking about later is an additional measure of
14 school quality for success. This measure has to
15 allow for meaningful differentiation among student
16 groups, and some examples include student
17 engagement, teacher engagement, access to and
18 completion of advanced course work, school climate
19 or safety and college and career readiness.

20 So what are we talking about with meaningful
21 differentiation? The system has to meaningfully
22 differentiate between different schools, and we're
23 talking about weighting of the different indicators
24 in a way that gives more weight to the academic
25 indicators. In the aggregate they must have much

1 greater weight than the additional indicator of
2 school quality and success.

3 Long-term goals must be set on the assessments
4 and graduation rates, and the goals must be set for
5 all groups of students in a way that expects more
6 progress from those that begin farther behind.

7 So identifying schools needing intervention, so
8 these six boxes are intended to show the system of
9 intervention, of support intervention. So the top
10 row represents comprehensive support and improvement
11 in schools. And it's got three parts. This first
12 box, the blue box at the top left, the lowest
13 performing 5 percent of schools that receive Title 1
14 funding are identified for comprehensive support and
15 improvement.

16 I'm going to jump to the other blue box at the
17 top right corner there and that's for additional
18 targeted support for schools that are not exiting,
19 they're not getting better, they also go into
20 comprehensive support and improvement.

21 The middle box in the top row, the low
22 graduation for high schools, this applies whether
23 the high school receives Title 1 funding or not.
24 Any high school that's failing to graduate at least
25 67 percent of its students is identified for

1 comprehensive support and improvement, so that's the
2 top row of this figure.

3 The bottom row includes different support,
4 targeted support and improvement, as well as
5 optional additional support. So let's have a look
6 here. This box in the lower left, if a school has
7 student groups that are consistently
8 underperforming, that school would qualify for
9 targeted support and improvement.

10 In the middle are additional targeted support
11 and improvement schools. And let me just -- let me
12 say one thing about the, about this difference is
13 that the comprehensive support and improvement,
14 those schools are identified at least every three
15 years. The bottom row, the targeted support
16 improvement is an annual determination. And the
17 bottom right box, additional statewide categories of
18 schools, this is something that can be established
19 out of all schools or schools that have a
20 consistently underperforming student group.

21 Travis, are we taking questions at the end?

22 MR. TRAVIS CLARK: Last time we decided that
23 taking questions during is okay because it'll help
24 the process. Do we have a question?

25 MR. ERIC CRANE: Yeah.

1 MR. CHARLES CUNY: So when you talk about the
2 lowest performing 5 percent Title 1 schools, are
3 your numbers based on BIE operated schools or is it
4 based on the national average of all 50 states? So
5 that would be the first part of the question.

6 And then the second part of the question is:
7 If you were measuring BIE tribal grant schools
8 across the nation, what percentage of those schools
9 fall into the lowest performing 5 percent?

10 MR. TRAVIS CLARK: Your name and who you are
11 representing for the record, please.

12 MR. CHARLES CUNY: I'm Charles Cuny, Little
13 Wound School, Oglala Sioux Tribe.

14 MR. ERIC CRANE: Thank you for your question.

15 So I'm stepping through the requirements of
16 ESSA as applies to states, so typically like the
17 5 percent rule would be 5 percent of schools in the
18 state. Because the system is being developed for
19 BIE, I think some of these things are going to need
20 to be clarified. But that's how it works for a
21 state. They would look only within the state and
22 look at the lowest 5 percent of schools in the
23 state. And in terms of where BIE schools would
24 fall, I'm pretty sure to say that the analysis has
25 not been done, but I'm going to turn it over to

1 Dr. Hamley.

2 DR. JEFFREY HAMLEY: So the first question was
3 does it apply to BIE operated or all schools. It
4 applies to Title 1 schools. And in the BIE system
5 all of our schools are Title 1, so it applies to all
6 BIE funded schools, so it would be 5 percent of
7 those, which comes out to, I don't know, about eight
8 schools or so. And that's the answer to that
9 question.

10 MR. CHARLES CUNY: So I guess the other side of
11 the question, just my thought is: So any state
12 you're going to say the lowest performing 5 percent
13 Title 1 schools? So not all schools are technically
14 Title 1 schools but in BIE all of them are Title 1
15 schools.

16 MR. ERIC CRANE: That's right.

17 MR. CHARLES CUNY: But currently under our
18 accountability system every BIE school falls under a
19 different state's gauging of that, correct? So I
20 guess I just have questions with the rationale, the
21 statistics behind it. And I think it's hard to -- I
22 guess what I would say is the lowest 5 percent in
23 South Dakota is one thing. The lowest 5 percent of
24 a tribal grant school in Minnesota is one thing.
25 The lowest percent in Washington state is one thing,

1 in Arizona and New Mexico is one thing, but they're
2 not the same thing at this point, correct?

3 DR. JEFFREY HAMLEY: So we do have schools in
4 23 states, but those states don't count the bureau
5 schools, or at least they shouldn't, as part of
6 their lowest performing schools 5 percent because
7 they don't provide services. They're not funded by
8 the Department of Education to serve those schools,
9 so the bureau schools are not included in the state
10 mix. So the BIE does it completely separately.
11 We're responsible for the BIE schools to do that
12 5 percent. So it comes out to 8.7 schools, so nine
13 schools will be in that category. And we have a
14 list. I don't know if we've published it to our
15 website but we will of those nine schools.

16 MR. CHARLES CUNY: But I guess, Jeff, my
17 question is, and this is probably just for my own,
18 you know, understanding of it, is that percentage is
19 based on a standard based assessment, what we're
20 talking about here, right? It's not based on NEWA
21 math scores? It's based on the individual state
22 tests, which all of these 22 states don't
23 necessarily have the same standard base test. So
24 can a Department of Ed validate that all of these
25 different states, 5 percent is the same 5 percent in

1 that testing mechanism?

2 MS. KIT VEIT: What he's asking is that
3 9 percent, they don't have the same criteria in
4 reference test, the same assessment to base that
5 9 percent that they are that low performing school.

6 MR. TRAVIS CLARK: And what is your name?

7 MS. KIT VEIT: I'm Kit Veit. I'm the
8 superintendent for Takini School.

9 MR. BRIAN QUINT: One thing that might help to
10 clarify what might happen going forward is our
11 committee's recommendations were to create a unified
12 set of standards, assessments and accountability for
13 BIE funded schools, so going forward I think this
14 will be more (unintelligible) to BIE, that BIE would
15 have its accountability system as opposed to 23
16 different states.

17 UNIDENTIFIED SPEAKER: I'd like to respond to
18 the "uniform". You're looking at 23 states, 130,
19 129 schools. Our history with this government is
20 anywhere from a hundred to 200 years. You cannot
21 create a uniform. Each tribal community should be
22 able to create their assessment methodology. Let me
23 just -- this is the year 2015. In this room are
24 educated Indians. They have master's degrees,
25 bachelor's degrees. We know what we need and we

1 know what we want and we want to be given the
2 opportunity based on what we learn.

3 And I'm just looking at data here in the last
4 15, 20 years what we have learned and what we've
5 embraced is our assessment system has to be in line
6 with who we are, our culture, our heritage and our
7 history, and so we cannot create a uniform system.
8 I'm sorry.

9 MS. KIT VEIT: There was a uniformed assessment
10 with NWEA map. It showed growth for three times
11 assessed a year for your three main subjects of
12 reading, math and science. And now with the bureau
13 not renewing that contract there is no assessment,
14 so how can we have accountability when the bureau
15 has not come up with a different assessment to show
16 that on a unified basis? That would be my question.

17 DR. JEFFREY HAMLEY: Well, once the rule is
18 published, and the committee did agree upon a
19 unified system, but once the rule is published, we
20 will go out and through a solicitation process adopt
21 uniform standards and the assessments. So that --
22 just -- and similar to what the states do.

23 As far as NWEA, that was a five-year contract
24 and that ended. But NWEA is not a pure-reviewed
25 assessment. So, you know, it has a lot of positive

1 things that schools have used in the past, but in
2 terms of an accountability system, it won't suffice
3 for that.

4 So now I think schools were sent a letter in
5 May explaining: You know, we've been with NWEA ten
6 years, I believe, over ten years, and initially it
7 was set up that the schools would have the
8 individual contracts. And so it's going to go back
9 to that now. If a school wants to continue with
10 NWEA or any other assessment that they like, you
11 know, for non-accountability purposes they're free
12 to do that.

13 MR. BRIAN QUINT: And to your point about
14 developing local solutions, the statute, as well as
15 the proposed rule provides for alternative
16 proposals.

17 MS. DEBORAH BORDEAUX: Good morning.

18 MR. TRAVIS CLARK: Name, title and who you're
19 representing for the court reporter.

20 MS. DEBORAH BORDEAUX: My name is Deborah
21 Bordeaux. I have several titles. I'm mom; I'm
22 (Native language), but I work for the Rosebud Sioux
23 Tribe Education Department and I'm a TED grants
24 manager.

25 And my question is based on this, Dr. Hamley's

1 response is: How do you determine that 5 percent
2 for the bureau-funded schools based on what we know
3 from before that everybody was in 23 different
4 assessments and that the decisions that are being
5 made for this current accountability system will be,
6 I'm assuming, and I use that word purposely, that
7 it's going to be based on those, that 5 percent of
8 that 23 different assessments. And you're talking
9 about putting in a uniform one, you're setting these
10 schools up for failure right away. And so I just
11 worry about that setup for those schools and those
12 students, you immediately put them in a negative
13 place and don't give them the opportunity for
14 success. So I think that that 5 percent shouldn't
15 be determined until after a uniform assessment has
16 been put in place or a determination about the
17 alternative assessment for some of the nations,
18 tribal nations. That's my concern.

19 MR. TRAVIS CLARK: Okay, we're going to move on
20 with the presentation.

21 MS. SHILO KROAKOWSKI: Good morning. I'm Shilo
22 Kroakowski from American Horse School, the
23 principal.

24 So in response on one thing about the
25 uniformed, and I agree with the lady from Takini,

1 you cannot compare apples and oranges. You start
2 comparing apples and oranges, you're going to end up
3 in a heck of a wreck.

4 As for your uniform tests for your grant
5 schools, your bureau schools, all of those, we still
6 live in the State of South Dakota. If my students,
7 we're a K-8 school, if they choose to go to Bennett
8 County, they have to apply to the standards of the
9 State of South Dakota. So if we go completely off
10 from the State of South Dakota's standards and use
11 an assessment that they are going over there, we are
12 setting them up for failure. If I'm educating
13 towards those standards, towards that assessment
14 because I'm a tribal grant school, I have set that
15 child failure to go to Rapid; I've set that child
16 failure to go to Martin. The only place they can go
17 to, which is a fine establishment, is Little Wound
18 or Pine Ridge. Pine Ridge for my children is a
19 50-minute drive every morning. They cannot do
20 sports; they cannot do any after-school curricular
21 activities or they're never home.

22 I mean, we've got to look at what is best for
23 the kids. We are all educators in here and our main
24 purpose, what signs our check is children, period,
25 not bureaucracy, children. So what is the best

1 solution that we can come up for a whole for all
2 children?

3 Also on another note is that ESSA removes the
4 requirement of a peer-reviewed process. And as she
5 stated back here, NWEA is peer reviewed. It has a
6 factual base. Yes, I understand it's a summative
7 versus a formative or a formative versus a summative
8 and I understand that, but you have 14 years worth
9 of the data that you guys are going to toss out that
10 compare all of our schools across the nation the
11 same way on the same information that are standard
12 and content skill based. Thank you.

13 MR. ERIC CRANE: Thank you. So on behalf of
14 the team, this is exactly setting the tone as to
15 what we need to hear from you today, so wonderful
16 all of your questions and comments and keep them
17 coming through the day. Thank you.

18 So continuing with the ESSA requirements, the
19 identification for comprehensive support and
20 improvement, again, we're talking about the lowest
21 5 percent of Title 1 schools and any schools that,
22 high schools that fail to graduate at least
23 67 percent of their students. And the CSI
24 identification happens once every three years.

25 For targeted support and improvement or TSI

1 we're focusing on the performance of student groups
2 and where the student groups are underperforming and
3 schools are responsible for putting in place
4 interventions within a set time period. So the
5 schools would set a timetable for interventions.
6 And unlike CSI, TSI (unintelligible) happen
7 annually.

8 And then the additional targeted support and
9 improvement or ATSI, again based on the performance
10 of student groups, it uses the same methodology as
11 CSI for one or more student groups and may identify
12 from either all schools or those identified as TSI,
13 and this applies both to Title 1 and non-Title 1
14 schools.

15 So at this point that's the overview that I
16 have. There is a lot of information not only at the
17 Department of Education website about ESSA but at
18 our website at the Center for Standards and
19 Assessment Implementation. All of the state plans
20 are posted I believe in both places.

21 The remaining slides have a side-by-side
22 No Child Left behind to ESSA comparison on
23 standards, assessment and accountability with credit
24 to some work that was done from the ASCD. I
25 typically don't like to read through the slides, but

1 they're there just left to right, the two columns,
2 NCLB versus ESSA, so if you're deeply familiar with
3 NCLB, this two-column table will highlight the
4 changes.

5 And that does it for my presentation today.
6 Thank you again for your questions and comments.

7 MR. TRAVIS CLARK: Thank you.

8 Bear with me for a second and we'll transition
9 and we'll get the other presentation up.

10 DR. JEFFREY HAMLEY: Again, I'm Jeff Hamley.
11 I'm Associate Deputy Director, Bureau of Indian
12 Education, and I served as a federal representative
13 on the rule-making committee.

14 So here we're going to present an overview of
15 what the committee agreed upon, and then we'll open
16 it up for questions and statements afterwards.

17 Section 8204 of ESSA requires the Secretary of
18 Interior to have requirements for standards,
19 assessments and accountability system that apply to
20 the Bureau of Indian Education on a national,
21 regional or tribal basis, taking into account the
22 unique circumstances and needs of such schools and
23 the students served by such schools.

24 Also the requirements for the bureau must be
25 consistent with ESSA or ESEA as reauthorized ESSA

1 Section 1111. Such requirements must be implemented
2 pursuant to a negotiated rule-making committee.

3 So the Department of Interior did form a
4 rule-making committee. Here is the timeline. We
5 began the process in 2017 to establish the
6 committee. In July 2018 the administration directed
7 the BIE to restart the process. We had already been
8 partway through the process and had committee
9 members identified, but it's the prerogative of
10 Interior to restart that if they want, and they
11 chose to do that. That did set us behind a bit.

12 So August 2018 the bureau formed a committee,
13 established the committee, and the committee met
14 four times between September 2018 and March 2019.
15 In April 2019 the committee report was submitted to
16 the BIE director. And June 10th, 2019 the proposed
17 rule was published in the Federal Register Notice.

18 So the committee was comprised of 17 members.
19 There were 12 primary nonfederal and two alternative
20 nonfederal members, and there were two primary
21 federal members and one alternate member. So the
22 members reflected a wide variety of stakeholders and
23 geographic regions and included administrators,
24 teachers, parents and school board members.

25 So here are the key recommendations of the

1 committee. That the committee honor tribal
2 sovereignty in education, that they create a unified
3 system of requirements similar to what states have;
4 however that the committee, that those requirements
5 of Interior for standards, assessments and
6 accountability can be waived by a tribal governing
7 body or school board and that the bureau be held to
8 similar -- or requirements consistent with
9 Section 1111.

10 The committee also asked that the bureau create
11 a standards, assessments and accountability plan,
12 and that's similar to the state's state plan. And
13 that there would be ongoing stakeholder engagement
14 and periodic review of requirements of the SAAP.
15 It's called the SAAP.

16 And the two additional things they asked is
17 that, that we agreed upon, is that there be standard
18 assessments in a tribal civics course that would be
19 phased in over time and that science be elevated as
20 an academic indicator.

21 So on the standards, assessments and
22 accountability plan, the committee wanted to ensure
23 transparency and consistency to stakeholders similar
24 to what states have done with their state plans. So
25 in other words, this would be a document. It would

1 be generally available to be published on the BIE
2 Website and it will available to every one, all of
3 the stakeholders, the tribal councils, tribal
4 members, school administrators, parents, teachers,
5 even students so that what the bureau's standards,
6 assessments and accountability system consists of
7 would be written in plain language and transparent
8 to everyone.

9 So the bureau previously however had agreed to
10 do a state plan and publish it even though
11 technically by ESSA we are not a state; the bureau
12 is not a state, but we saw the value of having a
13 state plan, so the director had decided to do one
14 and the committee is basically codifying that in
15 here.

16 So there's some questions that that raises
17 though. Since the bureau is doing it anyway, would
18 it have to be in the proposed rule. And another
19 avenue to put for it would be in the agreement
20 between the Department of Interior/BIE and the
21 Department of Education and that's in the law ESSA
22 that there be an agreement. And there's been three
23 assessments under No Child Left Behind. So there
24 will be a new agreement and that will also be going
25 out for consultation, so you'll be hearing more

1 about that. But that would be another place for it
2 rather than a rule. But the bureau, in any case,
3 intends to do a so-called state plan.

4 Stakeholder, ongoing stakeholder engagement:
5 The committee was interested with that state plan
6 that the bureau engage in meaningful and ongoing
7 stakeholder engagement when changes were made to the
8 plan. So the states when they did their state plans
9 they, to a different extent had stakeholder
10 engagement. There were criticisms that some states
11 hadn't engaged tribes sufficiently, but since tribes
12 are our main stakeholders we will engage tribes very
13 much so. But -- so we are doing a state plan. So
14 the question here is to what level of engagement.
15 And how does -- it raises questions how does -- if
16 we're already doing consultation, how does this
17 engagement process reconcile or align with the
18 consultation that is already required --

19 MR. TRAVIS CLARK: I think the mic is turned
20 off.

21 DR. JEFFREY HAMLEY: Yeah, I think the battery
22 is dead, so I'll just have to talk louder.

23 And then also what form should the engagement
24 take? So those are questions that the committee
25 didn't address specifically but they're just

1 unanswered at this point.

2 Now in terms of the rule-making committee, if
3 that were going to be part of the process, the
4 committee was operated under the Federal Advisory
5 Committee Act and that act restricts the committee
6 to two years unless there's a statutory
7 authorization. So that committee, it would be
8 difficult to use that committee for that process.

9 The committee was very interested in developing
10 a course in tribal civics. The committee
11 recommended that there be standards and assessments
12 in a subject to be called tribal civics that would
13 include topics related to tribal sovereignty,
14 self-determination, treaty law. Now, this course,
15 once it's in the rule, published in the rule, would
16 apply to all schools. It wasn't defined whether it
17 would be, you know, in grade bands or every grade
18 kindergarten through 12. That was left unaddressed,
19 but there was interest in having a tribal civics
20 course.

21 Also some of the discussion, however, was:
22 Well, many tribes have already built curricula
23 regarding the tribal civics of their own tribe, so,
24 you know, how would this fit into that. So there
25 was other questions, but they were interested in a

1 universal tribal civics course.

2 There was also interest in elevating science.
3 Now, science, Congress has already required that all
4 schools administer science. It's done in grade
5 bands but not in every grade however. So our
6 schools, bureau-funded schools already administer
7 science, but what this does is it elevates science
8 into the accountability system, so it would be
9 weighted for all schools.

10 So there was discussion on that where science
11 requires a certain level of proficiency in reading
12 and numeracy or quantitative, so if a school is
13 struggling with those two proficiencies it's going
14 to be difficult for their students to achieve well
15 high in science, so -- and that's going to count
16 against them in the accountability system. So
17 everybody agreed science is very important for
18 bureau-funded schools to have a standard curricula
19 and to have funds to pursue that, but there were
20 just questions left unanswered about how that would
21 exactly fit into an accountability system.

22 So taking another look at tribal civics and
23 science as school quality student success
24 indicators, so ESSA requires that all states,
25 including the BIE, have school quality to success

1 indicators. Now, most states have chosen
2 attendance, absenteeism, chronic absenteeism, school
3 safety, you know, AP courses, et cetera. There's a
4 list of about a dozen common ones that states have
5 done. So this would make, require the bureau to use
6 these two topics as school qualities, student
7 success indicators. So the question there: Well,
8 if we already have two that are required, what room
9 is there for the bureau to adopt additional ones as
10 the states have done. So that's a question. And do
11 you really want four or five indicators.

12 The other questions unanswered by the committee
13 was: So they would also be weighted. So what
14 weight would these carry. So that would be -- that
15 would have to be a question that would be in the
16 state plan and would go out for consultation.

17 Native American languages, the committee
18 recommended that the rule include in an affirmation
19 of the right to develop and implement academic
20 standards and academic assessments in Native
21 American languages. So there was universal
22 agreement that Native languages are critical to the
23 tribes and also to the schools, so there was
24 consensus on that, but it was pointed out that
25 there's already a federal law, the Native American

1 Language Act that encourages and supports the use of
2 Native American languages. So the questions were
3 how does this requirement in the rule fit with that
4 other rule that's already in existence, and so an
5 unanswered question.

6 The committee was interested in an opt-in
7 requirement. So during the transition to ESSA from
8 No Child Left Behind, the committee recommended that
9 the rule allow the tribal governing body school
10 board to adopt -- the option to continue to use
11 state assessments for standards and assessments --
12 state requirements for standards and assessments
13 where a state agrees and the tribal governing body
14 has notified the Secretary of such an intention. So
15 this one raised questions because this goes against
16 the agreed-upon concept by the committee to have a
17 unified system. If different tribal governing
18 bodies are going to continue with the state
19 standards and assessments, how does that work with
20 the unified system. And then also how does that
21 affect the statutory requirement that tribal
22 governing bodies can already waive? This seems to
23 be another waiver process to the one that already
24 exists. So those were open questions that weren't
25 resolved as part of the committee.

1 On the issue of proposed on waivers and
2 alternative proposals, ESSA and No Child Left Behind
3 has a provision in 25 CFR, Interior's own regulation
4 has a provision for tribal governing bodies and
5 school boards to waive, in whole or part, the
6 Secretary's accountability system, so that's already
7 in existence. What this discussed is that putting
8 into place administrative timelines for feedback
9 between the tribe and the committee that's
10 established. So this was proposed that it be every
11 30 days. So I guess the question there: Is this
12 overly burdensome administratively and does it take
13 the focus off the tribe and the committee from the
14 work they're doing to focus on filing 30-day
15 reports. Because with the two waivers that we've
16 gone through, towards the end especially or the last
17 half of the work, it becomes very intense and the
18 committee is talking on a weekly, daily basis, but
19 that work would have to stop to file this paperwork.
20 So that's the question there: Is 30 days a good
21 requirement? But that's what the committee has
22 suggested.

23 Additional proposed section, well, in
24 Section 11 is, as we've discussed earlier today, is
25 the comprehensive support and improvement section.

1 So the committee didn't really go into this one.
2 However, it's already explained, described the
3 requirements. The roles and responsibilities in the
4 law perhaps is why they didn't. They didn't really
5 say why they didn't, but in any case the committee
6 did not get into defining regulations for support
7 and improvement.

8 Consultation schedule, so here's the schedule.
9 And it's so small I can't read it. But anyway,
10 we're --

11 MR. ERIC CRANE: The third one.

12 DR. JEFFREY HAMLEY: So we're at Oglala today.
13 We've already been to Southwestern Indian Poly Tech
14 Institute and to Navajo Nation Window Rock. Oglala
15 today.

16 Next week is the ERC in Bloomington, Minnesota.
17 And then on July 26th we have a webinar, a national
18 webinar. And we have the final one on July 30th in
19 Olympia, Washington.

20 So here's where additional information can be
21 found. It's posted at our BIE website, both sets of
22 information, the Federal Register Notice, and so
23 it's all on our website essentially.

24 This is probably the most important slide and
25 we'll just leave this one up. Comments -- this has

1 already been discussed, but comments are due
2 August 9th. So there's various ways to submit your
3 proposals. I mean, you can make a statement here
4 today, but you can also submit testimony in writing
5 if you wish. We have an e-mail account, and we also
6 have an online process. So they're both here, the
7 e-mail and then how to access the Regulations.gov.
8 So you can take your time, go back, consider and
9 then submit written comments. And then after the
10 August 9th all of those materials will be reviewed.

11 MR. TRAVIS CLARK: Okay, thank you, Dr. Hamley.

12 We'll go ahead and take a short break, and then
13 when we reconvene we'll open it up for comments,
14 questions, and the rest of the day is just sitting
15 here listening to you all and getting your feedback.
16 So we'll take, by my watch it's -- let's come back
17 at 25 after and we'll reconvene then.

18 (Recess taken from 10:07 a.m. to 10:25 a.m.)

19 MR. TRAVIS CLARK: So we're going to go ahead
20 and get going. Again, I'm just going to quickly
21 kind of review some of the parameters here with the
22 questions and comments section. First, it's very
23 important, again we're on the record; we have the
24 court reporter here and really this is important for
25 us on our end because to be substantive and

1 meaningful conversation we need to be able to go
2 back and do a real substantive and deep analysis of
3 the comments that we receive from you all today.
4 And in order to do that to facilitate that we need
5 to know who said what, all of that good stuff, who
6 they were representing, were they a tribal official,
7 an elected tribal official, was it a principal, a
8 superintendent? We need to know all of that stuff.
9 And I know in this format it's really easy, and we
10 want to have a conversation and that back and forth,
11 but it just can get real easy to do that and forget
12 to state your name, your title if you have one and
13 who you're representing, who your constituency is.
14 And honestly not just the first time either, every
15 time you speak to say at least those three things
16 because again the court reporter is trying to record
17 the conversation so that when we go back and do that
18 post-consultation analysis we can know who made what
19 comment when. So that's very important.

20 The court reporter has asked, it would be
21 easier for her if when you come to make your comment
22 or question to do it here from the podium so she can
23 see you speak. If you don't want to do that, that's
24 okay. Just let me know and I'll bring you the mic,
25 but we would still ask for those three things, your

1 name, your title and who you're representing for the
2 record each time you make a statement so that the
3 court reporter is keeping an accurate reflection of
4 who is saying what comment.

5 And so with that, really to go over this again,
6 you know, for that post-consultation analysis,
7 there's really two ways that you can provide a
8 comment or provide suggestions or tell us what you
9 want to see in this regulation and that's by making
10 statements here today on the record for the court
11 reporter but also providing a written essentially
12 testimony or written comment or written suggestion.
13 Honestly, you know, this is a pretty complicated
14 system, a complicated rule and I know that that can
15 be pretty useful if you want to provide something
16 formal written. Again, the deadline is August 9th
17 at midnight eastern time to have that submitted to
18 us. And we're going to keep this up the rest of the
19 day. So either one of those two places, either
20 through e-mail or through Regulations.gov you can
21 provide those written comments. And again you can
22 do that, you can both make an oral statement here
23 and provide a written statement or one or the other.
24 It doesn't matter.

25 So with that, really that's the rest of the day

1 for us is we're here in listening mode to hear what
2 you have to say and listen to what you want to see
3 done with this proposed rule.

4 So with that, we'll open it up. Please, if
5 you'd like, please come to the podium and make your
6 statement. If not, just give me an indication and
7 I'll bring the microphone to you.

8 With that I'll open it up. Feel free to walk
9 forward or raise your hand if you want me to bring
10 you the mic.

11 MS. BEVERLY TUTTLE: Thank you. My name is
12 Beverly Tuttle. I'm on the Porcupine (Native
13 language) school board. I'm the chair representing
14 local control school board.

15 I just want to have -- I'm going to make my
16 points really clear because I think I heard what I
17 needed to hear and from our local school board
18 organizations that we have called (Native language).

19 I just really first of all want to stress that,
20 going back a little bit that all of these, the
21 system change that you're talking about,
22 accountability, assessment and standards, I believe
23 historically we've been doing that because we've
24 always been having to jump through hoops to change
25 from No Child Left behind and now we're in ESSA and

1 now we're looking at another system change.

2 I think when we were working under ESSA it gave
3 us some real true flexibility. I look at American
4 Horse School who is highly accredited recently about
5 a year ago with the highest standards and methods
6 they used to get where they were even. You know,
7 not even any of the public school systems in the
8 state met their measurements. I just think that we
9 have been implementing science but we've never been
10 able to measure it. We've been stressing our
11 (unintelligible) with the language.

12 And I think right now my school is going
13 through an accreditation process, and it's kind of
14 letting us put in -- they're following what we say
15 we're going to do, and I think it's right now we're
16 doing to customize what we know what our children --
17 our teachers know what our children need. Our
18 principal is very involved.

19 I believe that we do need to -- as a school
20 board member, we need to have our tribal support to
21 do an alternative proposal to this process change.
22 I don't agree with it totally. I believe that it's,
23 if it's going to happen, the summative piece, that
24 we have the true flexibility if that was to happen.
25 Because like it was mentioned here before, there are

1 many tribal schools, tribal entities that are so
2 different from each other, although they always put
3 us in the same basket saying we're all the same but
4 we're not.

5 So I just think a waiver to meet this change is
6 so important from our tribes because we are a strong
7 voice as a school board member representing local
8 control sovereignty. So I just want to stress that
9 very strongly the negotiated rule making. I was
10 looking it over and there's some considerations to
11 doing alternative measures to it, too. So I just
12 want to express that from our school board.

13 Thank you.

14 MR. TRAVIS CLARK: Thank you, ma'am.

15 Any other comments, questions, please feel free
16 to come to the podium or raise your hand and I'll
17 bring you the mic.

18 MS. VALENTINO VERDANYAN: (Native language). I
19 want to say good morning to all of my relatives and
20 I'm thankful for BIE coming to the table and
21 listening to us, but I hope this isn't just, you
22 know, going through the motions and false promises
23 as, you know, that generosity really needs to be
24 genuine.

25 So when we look at this process and the

1 importance of the regulations of the BIE system, you
2 know, this process of implementation, evaluation,
3 standards, assessments, accountability systems in
4 this whole -- it began with the focus study and
5 listening to our people back in 2014. From the Pine
6 Ridge Reservation it was at that time President
7 Mr. Brian Brewer who was a part of that focus group
8 in 2014. They listened to the people. They took
9 their concerns. They did a study. They looked at a
10 handful of our students in regards to how they were
11 coming from a BIE school to a public school and they
12 looked at their test scores and they did a
13 comparison. So all of this stemmed from that
14 beginning of that study. From there states and the
15 government had time, years to plan with ESSA,
16 whereas tribal nations and the negotiated rule
17 making, we were only given five months to plan. And
18 so how is that fair?

19 Again, you know, this is going to impact our
20 youth from, anywhere from ten to 15 years. That's a
21 generation of our future leaders. So it's important
22 we do it right the first time and not this rushed
23 process, which I feel that is being, you know,
24 pushed upon us to figure out. And these waiver
25 processes and so forth, again, it's a quick fix.

1 It's a Band-Aid on a festering wound that has never
2 been addressed. And so again we're just going to
3 put another Band-Aid on it.

4 So in regards to that concerns -- and excuse me
5 for not introducing myself. My name is
6 Dr. Valentino Verdanyan, Oglala District
7 representative, Oglala Sioux tribe, also chair of
8 education committee.

9 And so when reading all of this information and
10 looking at the appendixes of the negotiated rule
11 making and doing my own research, what I found is
12 there's concerns regarding this process and that the
13 committee did not have sufficient -- the negotiated
14 rule making, they invited people to be a part of
15 this negotiated rule-making process, and two of our
16 representatives from the Pine Ridge Reservation was
17 Dr. Gloria Coates Gostopolas and of course
18 Mr. Richard Cuny -- Charles Cuny. Sorry. I went to
19 school with his brother, so a little confusion. So
20 with that, Charles and Gloria had worked on this
21 process and I'll let them talk about that.

22 But right now I want to talk about the bigger
23 picture and those particular points. And so they
24 were invited as part of the negotiated rule making.
25 The committee did not have sufficient time,

1 technical support and resources from the BIE and the
2 Department of Education to adequately complete the
3 work within that short amount of time. The states,
4 as I mentioned, have been given years to plan and
5 yet we were only given five months. The fast track
6 process fails to address our students and our
7 schools' interests because of these issues that fail
8 and continue to fall through the cracks when we look
9 at their needs here on the Pine Ridge Reservation.

10 And so with that, you know, I just feel that,
11 again, the tribes were an afterthought and not
12 necessarily a part of the process. So -- and true
13 consultation, and you gotta remember those trust
14 responsibilities and having true consultation with
15 tribal nations, and so, you know, really coming to
16 the table and saying: Okay, we're going to go
17 through the motions. We're going to have this
18 negotiated rule-making team but yet we already have
19 a plan and this is our plan and we're going to tweak
20 that plan based upon their recommendations. But the
21 reality is how is that going to impact our children?
22 How is it going to impact our assessments? How is
23 it going to impact our resources? And I'm sure my
24 good friend to me is going to give some examples of
25 those as well.

1 So with that, you know, just looking at the
2 bigger picture. And that is our primary concern as
3 a tribal nation. An example of the development of
4 the process of rules, you know, Section 30.105 on
5 how will the Secretary implement requirements for
6 assessments, and then who's responsible for that?
7 How is that communication going to happen? When I
8 reviewed the restructuring of all of this, it
9 alarmed me because, again, here in South Dakota
10 we're only going to have two resource centers, one
11 on the eastern and one towards the middle of the
12 state -- Rapid City, western and eastern, and yet
13 how many tribal controlled schools and how many BIE
14 schools but yet we're only getting two and looking
15 at that restructuring.

16 So this process, again, had no true
17 consultation from the tribes because, believe me, if
18 it did I would be the first one standing up and
19 hollering: Where is this coming from? Who's
20 implementing it? What I see is basically this
21 restructuring is impacting the Federal Government,
22 not necessarily tribal schools and tribal nations.

23 So with that, we believe assessments are
24 critical. We're always looking at our scores. And
25 I saw this over and over again when we look at

1 education meetings and so forth is our students are
2 not test scores and we need alternative measuring
3 instruments because we are comparing apples and
4 oranges here. In regards to our students'
5 education, the type of curriculum, a lack of
6 incorporating culture within the curriculum, our
7 language, those are our rights but yet they are
8 pushed aside.

9 And so with that being said, those assessments
10 are a critical part of our education system,
11 requirements in which BIE assigned all tribally
12 chartered schools and BIE controlled schools to use
13 NWEA, assessment instrument; however, with these
14 changes they went ahead and discontinued the
15 contract with NWEA, that assessment tool, but yet
16 has nothing to replace it. So again, an
17 afterthought.

18 So with that, requirements for assessments and
19 student participants in the assessment process must
20 be appropriately tailored to the schools served in
21 order to properly evaluate and measure academic
22 readiness, skills and student needs. And that's
23 where we are. And we have a lot of experts that can
24 help and assist in developing those assessments and
25 developing what we need as tribal nations. Because

1 we're the ones on the ground and really working in
2 the field in education but we're not given that
3 freedom or that opportunity to develop those
4 assessments.

5 So with that I can continue, but I feel that I
6 need to share the mic at this time, so I'll come
7 back around when we address some of the other issues
8 regarding these examples that will be given as part
9 of the negotiated rule-making process. (Native
10 language).

11 MS. CECELIA FIRETHUNDER: (Native language).
12 Good morning, Cecelia Firethunder, my English name.
13 My Lakota name is, I'll tell you later. And I am 72
14 years old, so I'm beyond an elder. I'm a (Native
15 language).

16 I appreciate this opportunity. I am the
17 president of the Oglala Lakota Nation Indian
18 Education Coalition. I serve on the Little Wound
19 School Board. We have six tribal schools here on
20 the Pine Ridge Reservation, estimated 516 staff that
21 work within our six tribal schools.

22 Today I'm going to talk about something that we
23 have ignored in our testing methods. I was going
24 back six years in Oglala Sioux Tribe public safety
25 data. The incidents of child abuse and neglect, the

1 incidents of domestic violence and all of the
2 alcoholic-related incidents is that our children are
3 exposed to. I totaled up the numbers for six years.
4 Child abuse and neglect, 38,000. I'm sorry, 7,600
5 times five. There's an average of five children in
6 each household, so it's not just one incident but
7 the number of children who witnessed it that totaled
8 up to 38,000.

9 Domestic violence, 2,286 reports in six years
10 times five, 11,430 incidents. Alcohol-related
11 calls, 32,494 times five, 165,000 children were
12 exposed to some bad behavior.

13 Childhood trauma can have a direct, immediate
14 and potentially overwhelming impact on the ability
15 of a child to learn. So the Bureau of Indian
16 Education has been trying to assess us and measure
17 us using western standards. We now know the impact,
18 the trauma can affect a child's ability to learn, so
19 now we are addressing that. Three of our schools
20 got a grant from SAMHSA to start (unintelligible)
21 trauma informed schools to get our teachers to see
22 that the impact that that child's family can
23 attribute to his success in the classroom, how they
24 see, how they hear, how they feel. We are now
25 moving towards this, and we want all of the schools

1 to be trained to respond to that.

2 This issue has largely been ignored by our
3 education system. Like the Bureau of Indian
4 Education historically have always put western
5 thoughts and thinking in how we should respond to
6 those ways. So today we want to also affirm our
7 ability to create a way of measuring our people on
8 what we know.

9 The issue educators can begin to understand the
10 role of trauma, it affects children and learning and
11 how educating can change methods of interacting and
12 responding to children impacted by trauma. By
13 adapting the trauma-informed approach, schools
14 undertake a paradigm shift at the staff and
15 organizational level to recognize, understand and
16 address the learning needs of children impacted by
17 trauma. This requires a commitment to shaping
18 school culture, practices and policy to be
19 sensitive.

20 Two, the needs of traumatized learners: This
21 effort positively impacts school and changes the
22 trajectory of volatile students. It is well
23 documented that a child's reaction to trauma can
24 commonly interfere with brain development, learning
25 and behavior, all of which have a potential impact

1 on a child's academic success, as well as overall
2 school environment. By understanding and responding
3 to trauma, school administrators, teachers and staff
4 can also reduce this negative impact, support
5 critical learning and create a more positive school
6 environment. And I will stop at that.

7 So here is my thing: Arizona has passed trauma
8 as being identifiable as a special education need.
9 With the research that I've done across the whole
10 United States, inner city, Los Angeles, San
11 Francisco are addressing this trauma as a deterrent
12 to a child's ability to learn. The Bureau of Indian
13 Affairs has been assessing us for years without
14 taking that into consideration. So today, starting
15 today using my six years' data, even one-year data
16 to show how much trauma our children face -- now a
17 lot of people don't want to talk about this, but
18 it's a reality and it's true, and so some of our
19 schools are addressing it.

20 And the other -- the final thing I want to say
21 is this: Please give us the opportunity to do what
22 we know we can do. We know the culture of our
23 community. We know what's going on. And most
24 importantly we have solutions and we have people who
25 are willing to continue to create those solutions.

1 And one of the things in doing this research for
2 years and years, the first time I heard Dr. Palletti
3 who was one of the authors of "Every Child's
4 Experience is" (unintelligible), the first time I
5 heard him present years ago I looked at all of the
6 every child it affected, I'm saying: Hey, you're
7 talking about my reservation and that impact.

8 So the conclusion is this: Please recognize
9 the past assessments are flawed because they do not
10 take into consideration what the children would
11 bring into the classroom. Do not use past data to
12 measure us because we are not failing. And as a
13 former tribal leader I used to hear that. I go:
14 Wait a minute. Every time you put a label where
15 we're failing using western methods of measurements,
16 that's not true and that's not right. But I will
17 give you a more comprehensive written, but this is
18 my big thing is trauma.

19 Thank you.

20 MR. CHARLES CUNY: Good morning. My name is
21 Charles Cuny. I'm the superintendent at Little
22 Wound School who was nominated by our school board
23 originally in 2017. I think went through that
24 nomination, and then we got a new president and that
25 nomination changed.

1 But I also would kind of commend the
2 (unintelligible) schools, Cecelia. I know C.J.
3 Clifford passed away this year. I know he was
4 involved in this process. But I really think, you
5 know, our question: Indian Affairs and the
6 Department of Education is when this committee would
7 actually take place. You know, our elected tribal
8 leaders, you guys really made a difference in terms
9 of pushing BIE and the U.S. Department of Education
10 to actually have this committee happen, so I think
11 that's something to commend you guys and your
12 efforts and work because it does take, you know, the
13 whole tribe to really move our children, our
14 education in a different direction.

15 So what I gave is just a written response to
16 the introduction to this report, so it's basically
17 introduction and context, and it's found I think in
18 Section 4 of your manual there. And all I did is
19 respond to the overview of the ramifications of the
20 report. So the first paragraph, the introduction
21 and context, overview, so the bureau kind of gives
22 the overview there, and my response to that is the
23 key points is that the BIE has not been able to
24 provide TA to tribal grant schools and in addition
25 in the State of South Dakota we don't get specific

1 TA from the state because they say we fall under the
2 BIE. In recent years with the ongoing restructure
3 of the BIE our region of the country has been left
4 behind in gaining access to TA from BIE. This new
5 structural plan seems to leave tribal grant school
6 out of receiving quality TA.

7 So I think for me on the bigger picture, I
8 remember when I was principal at Loneman. Six years
9 ago Loneman hosted a tribal consultation on the
10 restructure of the BIE, and the predominant concern
11 of this region of the country is that we didn't want
12 to restructure the BIE in our region of the country.
13 So my ongoing joke with BIE here at the last couple
14 of years is when they figure out where the ERC in
15 Kyle is, if they could let me know because I'd like
16 to go over and visit them. So that hasn't happened
17 yet, and so it kind of makes me question tribal
18 consultation and what's said today and if it has any
19 real effect.

20 So my second response here is the second
21 paragraph, the 2015 Every Student Succeeds
22 reauthorization. So for me a key point to ESSA is
23 that there is an MOU between Indian Affairs and the
24 U.S. Department of Education that defines how BIE
25 schools will use title funding from the U.S.

1 Department of Education to BIE funded schools. It
2 is important to note there are millions of dollars
3 that BIE gets in administrative costs to fund
4 BIE/DPA and that the tribes have not had adequate
5 consultation on this MOU. Dr. Hamley mentioned it,
6 there's some key things in that MOU, in that
7 agreement, so I'd encourage you tribal
8 representatives to be involved in that consultation
9 process with that MOU because we at Little Wound
10 School, I think we get close to \$2 million a year in
11 title funding and if we didn't receive that title
12 funding we really wouldn't be able to operate as a
13 school. So I think that's critical relationship in
14 this process.

15 My next response to the next section is the
16 regulations along with any necessary revisions to 25
17 CFR Part 30. A key point the committee affirmed
18 that we could not accomplish this task over the
19 course of four meetings. As a BIE negotiated
20 rule-making member I don't think we had time needed
21 or the TA to develop these regulations for
22 implementation by the school year 2019, '20. Also,
23 BIE or the U.S. Department of Ed could not confirm a
24 budget amount that would be provided to the
25 individual tribe or school as it relates to

1 developing their own unique accountability system
2 specific to their tribe. I think that's a critical
3 point right now is that when you talk about
4 technical assistance from the Federal Government,
5 you know, one part of it is, is there a dollar
6 amount attached to that or is it just going to be a
7 webinar that comes every 30 days? And there's some
8 ramifications of how our individual schools, how our
9 tribe, how tribes in this region of the country will
10 adopt these new regulations. And the question of
11 technical assistance and the actual resources behind
12 that are unanswered.

13 The next section is ESEA Section 8204, my
14 comments to that are: I believe they will use a
15 majority of the resources of ESSA BIE negotiated
16 rule making to develop an assessment for BIE
17 operated schools; a critical factor is that there
18 will be tribes that cannot afford to develop their
19 own individual accountability system. BIE will give
20 them the alternative to utilize the BIE system or
21 apply for a waiver to go back to the state of
22 accountability system their school or tribe resides
23 in. The key factor is, at this point, BIE nor the
24 U.S. Department of Education is willing to commit 1
25 to \$3 million for the Oglala Sioux Tribe to develop

1 their own individual standard based test. It is my
2 understanding BIE is willing to commit these
3 resources to a BIE standard base test for BIE
4 operated and tribal grant schools that choose to
5 utilize it. That's my understanding of this
6 process.

7 The second section here is to fulfill the
8 requirements for the negotiated rule making, BIE
9 convened a negotiated rule-making committee
10 comprised of stakeholders, et cetera. So my
11 comments there are: Meeting ESEA Section 1111
12 requirements are simple. Number one, BIE or the
13 U.S. Department of Ed don't seem willing to commit
14 resources for the Oglala Sioux Tribe tribal grant
15 schools to create a specific standard based test for
16 our tribe, plus there are some specific number of
17 students that need to be tested to create this type
18 of test. So basically our argument there is that we
19 don't have enough students to create a standardized
20 test. Not only that, we don't have the resources to
21 go to a company and put it out to bid and develop a
22 test specifically for the Oglala Sioux Tribe.

23 The second point here is OST tribal grant
24 schools can apply for a waiver and adopt specific
25 standards, but they must have the BIE and U.S.

1 Department of Ed approval. So what I'm trying to
2 say there is we can put standards, accountability in
3 place, but we need an assessment test that meets the
4 requirements of the law to obtain title funding.
5 That's my understanding of it.

6 Number three, in order to be eligible for U.S.
7 Department of Education Title Funding, a tribe or
8 schools waiver must meet BIE and U.S. Department of
9 Education elements of ESEA Section 1111. So we
10 gotta have those elements in place to receive that
11 funding.

12 Finally my overall reflection of four meetings
13 and four weeks of my school year last year is: In
14 the big picture, education is a trust responsibility
15 of the Federal Government to the Oglala Sioux Tribe
16 defined in the 1868 treaty. The Federal Government
17 should give all the available resources for our
18 tribe and tribal grant schools to teach and test our
19 students the way we want. It also should give us
20 the authority to create our own standards, teacher
21 certifications without holding funding from the U.S.
22 Department of Education. If I gave a
23 recommendation, my recommendations to tribal leaders
24 in regards to education would be to call for tribal
25 consultation on the following items: Number one,

1 that they relate to BIE, BIA is transportation.
2 That's a huge issue across the board in Indian
3 country.

4 Number two would be ISEP funding. That's the
5 individual allotted funding for Native American
6 students, to really look at those regulations and
7 let's see how we're getting funded across the board.

8 Facilities, operations and maintenance funding
9 is another huge issue that could use a level of
10 negotiated rule making and tribal consultation.

11 Tribal grant support has improved in the last
12 few years, but I think there could still be a debate
13 on that issue.

14 Special education is another primary issue
15 that, you know, federal law applies in a tribal
16 setting and there's a lot of missing pieces there
17 that could use a level of consultation and
18 negotiated rule making.

19 The current BIE restructure and strategic plan,
20 I don't think there's been true consultation with
21 the tribes on that process.

22 I anticipate and I hope there is a new level of
23 new school construction, but I also think that those
24 regulations for new school construction were based
25 on No Child Left Behind and that those regulations

1 should be renegotiated and the funding formula and
2 the rubric for selection should be looked at.

3 And then the other item would be school safety,
4 mental health resources, to really look at what
5 level of third-party federal funding could
6 supplement tribal schools. So that is my
7 written/oral testimony.

8 Thank you.

9 (Applause)

10 MS. GLORIA COATES GOSTOPOLES: It's good to see
11 the people I spent about two months of my life with
12 and my school board wanted to know if I still worked
13 for them or was I working for BIE, but I did get to
14 come back. Still haven't been paid for D.C. though.

15 I'm Dr. Gloria Coates Gostopoles. I'm the
16 superintendent of American Horse School in Allen,
17 South Dakota. I've been here about 18 years.
18 Served 30 years in the army to my country. I
19 returned here for three years and I'm still here.
20 Something that people need to know about our
21 enrolled tribal members, we go out; we're
22 successful. We come home to help other people be
23 successful, our children. And that's what this is
24 all about.

25 I'm going to start off a little bit

1 differently. I was with Charles as a negotiated
2 rule making. I was nominated by my tribe and as him
3 I went through two vetting processes.

4 I want to first thank the BIE.

5 Dr. Hamley, I want to thank you because under
6 638 and self-determination, we are in charge of our
7 own schools. It's called local control. Our school
8 board members are elected just like our tribal
9 council members are elected. So under a 638 school
10 we had to learn how to run our schools, how to
11 manage our money, how to define curriculums for our
12 children.

13 And I would ask educators how many of you here
14 are educators? When was the last time you were in
15 the classroom? I mean, that's a big question: How
16 are you going to determine an assessment for our
17 students if you're not in education, if you haven't
18 been in the classroom? And I'm not knocking BIE,
19 but several of their employees don't even have
20 educational degrees. They're telling us what
21 curriculums to use. They're telling us what
22 assessments to use. We're 638. We have the right
23 to determine what we want to use for our students.
24 Under trust responsibility it's the BIE's
25 responsibility to fund those needs.

1 I get so tired when I go to Washington and they
2 say, "Well, you're coming here asking for money."
3 I've never begged for money, never had to. All we
4 asked for is what was promised to us. It was
5 promised in the treaty trust responsibility. It's
6 also promised in the BIE through ISEP, but slowly
7 and slowly before I got here if you used ISEP for
8 anything but your students you'd go to jail. Then
9 BIE gave a law out that now you use ISEP for
10 transportation, for fuel, for food. So that cuts
11 back your teachers. I don't know -- you won't
12 remember but everybody here who's been snowed in all
13 winter remembers how cold it was. By January I had
14 \$5,000 from BIA for fuel, \$5,000. My kids don't
15 even have heat in their homes. The elevator was
16 washed out for a whole month where I couldn't even
17 get to my kids. So the point is we have to take
18 from ISEP to supplement what we're not getting, not
19 what we're begging for but what we were promised a
20 hundred percent, we're getting less than 40 percent.

21 So my point is: Here we are again and it's not
22 a consultation. You've arrived here to tell us what
23 you're going to do for us. And we don't need you to
24 tell us what you're going to do for us. We're going
25 to tell you what we want to do for our students and

1 our schools. And we're educated people. The
2 president of our education committee has a
3 doctorate. Most of us here have been teaching. I
4 sat on the Red Cloud school board, Board of
5 Trustees, which is a private school which the
6 Secretary of Education deemed as the charter school
7 on the reservation. I sat on the college board of
8 trustees for four years representing the AG
9 committee and representing the tribal president's
10 office.

11 We understand what we need. We don't need you
12 to come tell us. You should be proud of us. We did
13 what you wanted. We've become educated. We're
14 self-determination, and we're running our schools.
15 So we don't need all of those people in Albuquerque
16 and Minneapolis. We can do this. We can do this.

17 There was an (unintelligible) when it started,
18 yes. There was big BIA, big BIE. I understand all
19 of that. The army was like that. Well, maybe
20 during my time we had a lot of horses, they were
21 called coward horses, but we went mechanized
22 infantry and guess what happened to all of them
23 horses? Unfortunately they become horse meat. None
24 of it was planned. I don't want that to happen to
25 the BIE people, but my point is this: Time changes.

1 Time changes. People are educated. We have
2 computers. We can do this. We're learning by
3 ourselves.

4 Mr. Cuny out there all the time trying to help
5 us get more money because we can't depend on
6 anything coming from you. The promises have been
7 broken too many times. Wrote a grant, five years
8 we're getting social work into our classrooms,
9 Little Wound, Crazy Horse and American Horse, we're
10 working with the trauma. You know, I don't have a
11 school nurse. I don't even have a counselor. They
12 were the first people to go when I had to start
13 using ISEP to buy propane and pay for custodial.

14 So these are the things that you need to know:
15 You've done a good job. And I want to really
16 applaud the NWEA. I know it's not a summative test.
17 We get that. We understand that. It's a formative.
18 And like many things that you push down on us, I
19 wasn't happy about it, but we used it. We used it
20 for 15 years.

21 I got more data. These schools have more data
22 on this reservation than BIA has ever had on Native
23 students, so we're ready. We are ready. Our tribe
24 has already developed our standards. Here's our
25 Lakota standards. They've been developed two years

1 ago. The letter was sent to BIE and said, "Okay,
2 we're ready." Because according to the law Title 25
3 Indians, Chapter 1, Subchapter E, education
4 standards, assessments and accountability, defining
5 standards: A tribal governing body or school board
6 may waive these requirements in part or in whole,
7 submit a proposal for alternative definitions within
8 60 days which the Secretary of Interior and the
9 Secretary of Education will approve unless the
10 Secretary of Education determines that the proposal
11 does not meet the requirements of Section 1111
12 taking into account the new circumstances and needs
13 of such school or schools and the students served.
14 Big news.

15 The act further requires the Secretary of
16 Interior and the Secretary of Education to provide
17 technical assistance upon request either directly or
18 through a contract to a tribal governing body or
19 school board that seeks to notify the Secretary of a
20 waiver. I mean, I talked about horses, but the Pony
21 Express is over. We've been waiting for two years.
22 I go to the Secretary of Education, they tell me,
23 "Well, it's with the Secretary of Interior." We
24 asked Senator Thune. Adam has even gotten involved
25 from Senator Thune's office. "What's the status?"

1 "We don't know." We just get bounced around.

2 We had a meeting with the Secretary of
3 Education. Dr. Hamley was there. It was brought
4 up. He turned to my principal's assessment data
5 Shilo and he said, "Well, get with Maria and we'll
6 see if we can get this going." Then the next time I
7 asked nobody knows who Maria is. It's like we -- Go
8 away. Go away. We're going to do this the way we
9 want. This isn't consultation. And big news is
10 yeah, the Kyle position was announced yesterday just
11 before. Good timing. But why would I use a Kyle
12 position for TA? Are you going to use it for TA
13 when you get your summative test? Oh, that's right,
14 you can use a contractor, too. I think her name is
15 a Deb out of California, which we've also talked to.
16 But because we have no money and our school boards
17 are like: We do this at night and weekends. We've
18 been doing this for two years at night and weekends
19 the people in this room, the school boards, the
20 governing bodies. We know our kids. We know our
21 data. We know where we want to go. We know NWEA is
22 not a summative test. We know there's one out
23 there. There's some that are being developed.

24 Advanced accreditation, oh, that's right,
25 somebody was telling me that we're in the 5 percent

1 of failure. I got that phone call on the way here.
2 This is not 5 percent failure. This is an award for
3 advanced accreditation which does all accreditation
4 in the United States and countries abroad. This
5 award is given to one school in the state, in the
6 State of South Dakota. This award was given to
7 American Horse School, 2008, Values Driven Award,
8 Excellence, Advanced Education, one school in the
9 whole state, a treaty tribal school run by a local
10 school board. The people that work there,
11 86 percent of the certified staff are enrolled
12 tribal members. 98 percent of the sports staff are
13 enrolled tribal members.

14 Our schools are our community. They're our
15 families. They're our jobs. We're the ones that
16 are growing our own. This year our board made a new
17 law that you have to have passed the
18 paraprofessional test. You just can't walk into the
19 classroom. We're doing all the things the right
20 way.

21 We don't need you to hold our hand. We need
22 you to give us what you were told to give us. What
23 we want to know is what's the status. Do -- I'm
24 sure we're going to have to reapply. So we'll
25 reapply. I'll hand carry it. What do I need to do

1 next?

2 Robert Sally who works for the Department of
3 Education who is the BIE contact, he is giving me
4 more help than anything, but he has no money because
5 it sets with BIE. I even told Dr. Hamley I would
6 retire, I would go away and get out of his sight if
7 he would just pass the money so we could get the
8 summative test developed. Because I think one of
9 the reasons you don't want a summative test and
10 you've just now canceled NWEA because it shows we're
11 educated. We can learn. We can do this. And if we
12 do this, what is BIE's role? The money can come
13 right from the Secretary of Education. It's time we
14 got to be in charge of us.

15 Somebody asked me once: How are these schools
16 put out here in Shannon County? Well that's when
17 they took the second bunch of land away from us and
18 homesteaded it. So homesteaders come out. They
19 couldn't go to the BIE schools, so they started the
20 public schools. Public schools, they get money from
21 the state and they get money from the BIE. Well,
22 there's no homesteads anymore, so these schools are
23 setting out there and guess what, they're running
24 themselves, just like we can. Of course they get
25 more money, but it's interesting -- it is very

1 interesting because they can go work at the public
2 schools some of my teachers and make maybe 20- or
3 \$30,000 more, and they don't. Do you know why they
4 don't? Because they stay in the communities. They
5 want to be with the communities, their families and
6 their children. You've done a good job of kicking
7 us out of the nest, and I applaud you for that.

8 I think you should continue with NWEA. I think
9 it's a great tool. You should be proud of that and
10 advertise it. It's the most research on Native
11 education ever. I should know, I wrote part of my
12 dissertation for my doctorate on it.

13 But the point being is if you think it's going
14 to show too much, that we can do too much and you're
15 going to lose your jobs, that's not what this is
16 about.

17 You know, the first thing is, and I know this
18 is going to come up: Well, the reason we were late
19 in getting this position in Kyle and we're late in
20 getting you funded is because you filed a lawsuit.
21 Yeah, look where that got us. That was the first
22 consultation I went to and you said you were going
23 to set up tribal ed departments and you were going
24 to set up all of this stuff. And we said, "No, we
25 don't want to do that. We want to do this, this and

1 this." You went ahead and did what you wanted to
2 anyway. We filed a lawsuit. We don't want this,
3 none of us. It didn't matter; you did it anyway.

4 So this is now the time. It's not about
5 consultation. It's about us telling you in
6 consultation we're going to run our own schools.
7 We've got our standards. We're willing to work with
8 all the rest of the schools in the great plains.
9 We're all Lakota. The numbers are relevant.
10 Mississippi did their own and they only had 49
11 students. So the number game doesn't play in it.

12 But the most important thing from this is that
13 the BIE has done such an awesome job, well they did,
14 of educating us, but why is BIE on corrective action
15 from the Department of Education? And if their
16 things aren't corrected -- and that's why this is
17 being pushed so quickly. If it's not done by
18 September 2019 ISEP funding will be taken or not
19 sent to the BIE which impacts us. And when did we
20 find this out? It was the last night of our meeting
21 in December, the representative of the Navajo
22 brought the letter to the meeting and it says:
23 Corrective action summary for BIE and January 7th
24 they would have had the plan and timeline to
25 implement standards. July 1st was the MOA. I don't

1 know if you met that timeline. Statement of
2 assurance, annually. Annual reporting, assessments.
3 This is what your report card is to get to the
4 Department of Ed, and I don't know where you are. I
5 guess we could call the Department of Ed. But the
6 whole thing I'm saying is: You without sin cast the
7 first stone. You have not done a good job. You
8 haven't been perfect, so how dare you tell us that
9 we're failures.

10 The other thing: How can you say we've failed
11 when we were told in Washington you haven't looked
12 at our data for seven years? For seven years. The
13 State of South Dakota doesn't look at our data.
14 They don't even want our data. So who's looking at
15 the data? We are. We are, our education
16 department, from our tribe, our school boards. We
17 have to. We have to tell them. And what does NWEA
18 tell us? NWEA tells us where our children should be
19 in reading and math. It's a growth model. It's
20 irrelevant the scores. It's just about: What did
21 Gloria score in the fall in math and reading? Is
22 she improving by winter? Where is she in the
23 spring?

24 The summative test and the Smarter Balance that
25 the State of South Dakota uses is a shot in time:

1 On the 27th of April this is where you were in
2 third grade. And that's all it says. And I compare
3 you to all the third graders in the State of South
4 Dakota, Sioux Falls and Rapid City. But what does
5 that tell about me? What do I need next year?
6 Nobody knows anything. It doesn't tell you
7 anything. And as I understand and the rumor
8 control, that is the test that BIE is looking to
9 drop on us.

10 And I say this in honesty, I was here in 2005
11 when the BIE was given \$10 million to develop their
12 own assessment and standards. They said it was too
13 hard and they sent the money back. I'm sure it's
14 still sitting there and it's got interest. But the
15 point being if it was too hard then for the people
16 that set at BIE who are still sitting there now, how
17 are they going to be able to do it 14 years later?

18 And Mr. Cuny is right, they don't want to give
19 us the money that we're supposed to get to develop
20 our own because they're going to use that money to
21 do a summative and get it from the contractor. Once
22 again the contractors get the money.

23 But my question is: How are they going to even
24 know what to pick? They haven't looked at the data
25 for seven years. How are they going to know what

1 tests? And if you look at what Smarter Balance and
2 we have to do in the State of South Dakota, and my
3 next person is going to tell you about this, is that
4 that's that one shot. We have a window. You're
5 either in that window or you don't count. Well, we
6 were snowed in in Yellow Bear the whole day in
7 Winner so we couldn't get kids to test.

8 NWEA allows us to use the test when we want to
9 use it. We don't use it at the beginning of the
10 month. We don't use it at the end of the month. We
11 don't use it Monday. We tried in the middle of the
12 week. But the point is this: This test, which is
13 formative, which they haven't looked at for seven
14 years, tells me in the spring if I will go to fourth
15 grade, what level I'll be put in reading and math.
16 It'll tell me at mid year am I progressing. Boy,
17 those math scores are low but it's the whole class
18 and they were so good last year. Is it my math
19 curriculum? Do my teachers need more professional
20 development? And then at the end of the year, do we
21 renew that teacher? Her scores were low all year
22 and she had a top class. Those are the things that
23 this test that BIE mandated we use has provided us
24 for 15 years and now we're throwing it out the
25 window. We're not going to fund it. If we want to

1 use it, we have to pay for it.

2 We know we have to get a summative test. And
3 it's interesting because both the Navajos and the
4 (unintelligible) who already had their waivers did
5 continue to use the NWEA as a formative and did go
6 to Smarter Balance as the summative. But there's
7 other summatives out there.

8 And the next person I want to make comments,
9 because this is what this is about, this is about
10 ESSA. This is about us getting a summative test,
11 getting the funding to move forward. So you need to
12 know the data. You need to know what we know
13 because I know you don't have the data because you
14 haven't looked at it for seven years.

15 But the most important thing from this is it's
16 our time and we will continue to fight to get what
17 little funding that has been, that's supposed to
18 come to us comes to us so that we can continue to
19 manage our own schools and educate our own children.
20 Because we're not failures. We're not.

21 You want to use Smarter Balance, State of South
22 Dakota, please do. But you know they didn't compile
23 it at one treaty tribal school, not one. I went to
24 the bureau and told them I wanted it. So we did
25 American Horse. And that's the system we've been

1 under, that this regime threw us under in 2005:
2 Follow the state.

3 But the beauty of all of this, and I share this
4 with everybody here, is -- is there someone here
5 from the Pine Ridge BIE school? What they're
6 consulting on you today will be mandated for the BIE
7 school in Pine Ridge. It's not mandated for any of
8 the rest of us. I read you the law. We have the
9 right. And it was interesting at a negotiated rule
10 making, there were two BIE schools and all the rest
11 of us were treaty tribal and we all argued and I
12 know Brian got tired of it, day out and day in,
13 about we wanted to be sitting with BIE when they
14 moved forward to evaluate standards and assessment
15 and it kind of got ugly.

16 But I'm an honest broker, so that's what I
17 feel. That's my comments. I'll write them all up
18 for you.

19 But I'd like Shilo, if you would just give us
20 some data.

21 This is the bigger thing, because when we go to
22 Congress now and to the Senate, we give them data.
23 Nobody has ever done that before. The BIA doesn't
24 even give them data. So we give them data. We have
25 fought for FHEB, our tribe, and Cecelia who just

1 testified yesterday. We have fought for everything
2 that we were promised to have.

3 So thank you for making us stand up. Thank you
4 for making us walk. And now we're ready to run.

5 (Applause)

6 MS. SHILO KROAKOWSKI: Good morning. Once
7 again, I'm Shilo Kroakowski. I grew up in Hisle.
8 How many people remember where Hisle and the old
9 (unintelligible) County is? So I'm proud to say
10 that I am a local. I know my last name kind of
11 throws you off. I had to marry a pollock so I made
12 sure I wasn't related to him. That is a joke
13 because I am related to everybody.

14 I know Gloria said that's going to have a lot
15 of data in there. It's not. But I'm going to jump
16 off on a few things. I'm not going to read this to
17 you. What she talked about is our summative versus
18 our formative.

19 Summative assessments, and I did a nice
20 definition. I'm used to speaking to several
21 different types of people, people that are educators
22 that know those terminologies, people that are
23 non-educators that don't know those terminologies.
24 And so when you speak, you need to speak to both.
25 I'm sitting in front of a lot of educators so I'm

1 going to run across that as fast as we are because
2 you know this stuff.

3 So let's just define summative real quick.
4 Summative is a yearly test. It's like that family
5 photo that you dress up and everybody smiles and
6 acts like life is great and we take the shot. And
7 we do it again next year to see how everybody has
8 grown.

9 How many of you guys take selfies? I have not
10 mastered the art yet. Those are formative tests.
11 They inform me whether my hair needs to be colored
12 again. They inform me whether I've got more
13 wrinkles. So I'm trying to make this in layman
14 terms. When I did a family picture, we dress it all
15 up; we get all the snacks; we do all of the
16 situations and everything else and we take a photo.
17 That's a summative. A formative is a constant
18 taking of the shot.

19 So my family wedding, my Goddaughter and my
20 niece got married this weekend. It was 104 degrees.
21 We all dressed up and we took a family photo. By
22 the end of the day all of us were mosquito bitten
23 and carried away and quite the makeup had ran. Did
24 we look as good because of that weather and that
25 heat and the mosquitoes? No. We looked good at the

1 beginning but we didn't at the end. And the point
2 of that is is we take one shot. Here's your
3 summative. April -- we actually took ours
4 April 18th this year. April 18th we took that
5 family photo of our students, and we decided whether
6 they were perfect or not, whether they fit the
7 standards, whether they understood what we had
8 taught all year.

9 And I know I'm looking at few people in here,
10 probably 30 percent do not understand the winter we
11 went through this year. It was unbelievable. I was
12 begging to get the kids. We are still fighting
13 roads. I actually took pictures to our council reps
14 in (unintelligible) because I have a person who had
15 to put a bed spring over an auto gate so they didn't
16 cut the tires of their vehicle so they could get
17 their kids to summer school. This is the stuff we
18 fight every day. We are the trenches. We are the
19 people that know and deal with these children. I
20 can look at every child in my classrooms and walk in
21 and say, "Hey, how are you doing today? Did you get
22 enough to eat this morning?" "Well you know I don't
23 like blueberries." "Well, you know what, let me see
24 if I can find you an apple." Because I know that
25 child needs that extra nutrition to be able to

1 concentrate.

2 Trauma is real, guys. Trauma is real and it
3 affects everything in here. And when you take that
4 family photo, whether it was before the wedding or
5 after the wedding, it might be after that wedding
6 when that child is hot and sweaty and carried away
7 by mosquitoes. You're taking one shot. You're
8 looking at the kid one time and you're saying: Are
9 you successful?

10 Where if I do formative assessments or
11 benchmarking assessments, I get three collections of
12 data and I can compare that. I can look at that.

13 I understand through ESSA we have to do a
14 summative. I understand that. But let's do
15 something different. Why do we have to follow
16 everybody else? Why do we have to do that? We've
17 got intelligent people in here. Ms. Jodi was
18 actually my first principal, 21 years ago. 2001, so
19 18 years ago.

20 Ms. Lana back there, I've known her since she
21 married a very sweet friend of mine. And that's
22 something that we know about around here, we all
23 know -- I know Lana is going to always check me,
24 like, "No, Shilo, get down out of those clouds.
25 Quit dreaming; quit dreaming; quit dreaming." And

1 I'm like, "But let's dream; let's dream; let's
2 dream." And Lana is like, "No, no, no, reality
3 check, Shilo, reality check, this has to be peer
4 reviewed."

5 These consultations you guys need to listen to
6 us. We are in the trenches. We are working with
7 these kids.

8 So let's get back to this. I want you guys to
9 go to about the third page where you see an actual
10 summative report that's sent out to teachers, or to
11 parents and to us. It's blue. What does it say
12 that student scored? 2562. Somebody raise their
13 hand and tell me what that means. Do you know if
14 that kid knows how to multiply? Do you know if that
15 kid knows how to cite actual evidence? Do you know
16 if that child ate last night? Do you know if that
17 child is being abused? That number does not define
18 our children. That number does not define our
19 schools. That number does not define whether we
20 fall in the 5 percent or if we're successful. What
21 defines that is I have a child come out and say,
22 "Ms. Shilo, I beat my previous score." "Way to go
23 Well, what did you do?" "I did like you told me, I
24 took my time." "Good." "I stopped and thought,
25 Ms. Shilo." "Good." We created that ownership.

1 We have to quit letting numbers define us. A
2 summative test is literally a family photo with a
3 number that doesn't tell us crap about that kid.

4 I was reviewing the stats this year as I was
5 heading out to my parents, a parent report that are
6 required by the state through the Smarter Balance to
7 send out to our students, and I'm reading and I
8 never noticed it before and I'm reading the comments
9 over here where you see on the scale score, it says,
10 "This child needs to work on," and I know it's
11 small. I apologize, but if you want to, you can
12 just actually Google it and you can find Smarter
13 Balance reports. And I know Smarter is not the only
14 one but Park is a lot like that. And it says, "This
15 child needs to work on mathematical concepts and
16 algebraic equations."

17 Turn to the next third grader over, the
18 Level 2, "This child needs to work on algebraic
19 equations." Turn the next one over, "This child
20 needs to work on algebraic equations." Turn the
21 next one over, "This child needs to work on
22 algebraic equations." What's that telling me for my
23 teachers and my students? It's telling us nothing.

24 So if you turn the page over, Smarter Balance
25 also has an (unintelligible) assessment where it

1 goes a little bit more deep in content and tells
2 those goal strands areas. So that's a good
3 reference again. It tells us, okay, that child
4 needs to work on measurement data. This child needs
5 to work on algebraic equations. This child needs to
6 work on, I can't remember if I put them down for
7 reading in there. But you can see that it breaks it
8 down the goal content areas. So that turns into
9 somewhat of a formative assessment. I can work with
10 those kids.

11 We need to find something that tells me that
12 Jodi needs to know this as a teacher. If you keep
13 going through my PowerPoint presentation you'll see
14 some differing examples as we go. I'm sorry, not a
15 PowerPoint. I'm used to a PowerPoint, too.

16 But I want to talk a little bit about benefits
17 of forward assessment. The problem with a lot of
18 our benefits of (unintelligible), but if we got
19 technical assistance, because like Gloria said, we
20 do this on our weekends. I did this at 5:40 with my
21 baby on my lap. I don't get paid to do that. I do
22 that because these are my kids. People wouldn't
23 understand that.

24 When I went to Red Cloud and worked with
25 Ms. Jodi for two years, those became my kids. Two

1 of my boys were here for Mr. Charlie Cuny and I'm so
2 proud of him. He was this tall but now he's like
3 this tall (indicating). That was 17 years ago.
4 He's got a little girl. He's so proud. He brings
5 her up and introduces her to me.

6 We build communities with our kids. We keep
7 track of them. They never disappear. They're ours.
8 That student had a little trouble focusing. So I
9 talked to Dad, talked to Ms. Jodi. I said, "What
10 would happen if I gave you some coffee with this
11 test?" So every day after lunch him and I would go
12 in the teacher lounge and we'd have a cup of coffee.
13 That coffee decreased him enough just to focus a
14 little bit. But that's the point, I knew what that
15 kid needed. I spent the time. I went through the
16 trenches with him and I knew what he needed. And
17 now he is a successful person in our society
18 returning the favor to our kids again. We're moving
19 it back.

20 And that's what we gotta look at. They're not
21 numbers, guys. They're not numbers. We're not
22 failures.

23 If you go over there on the formative
24 assessments, it tells us many things. And I had
25 mentioned this to Dr. Hamley when I was in

1 Washington on Monday when NWEA was first kind of
2 shoved down on our plates, I was not the happiest
3 camper. And I felt like it was shoved down my
4 throat. It wasn't given technical assistance enough
5 for us to understand how to use it. So many of our
6 schools, which I'm sure Takini is probably the same
7 way, Lana, you know, we emailed back and forth
8 together. All of us work together. I've been
9 working with Jodi on our new program that the bureau
10 has done from the (unintelligible) office,
11 Minnesota, (unintelligible), and we work together
12 and we learn how to work with these systems the best
13 we can for the benefit of our students. So we all
14 work together. We figured out how to make this
15 work.

16 And if you would turn to after the benefits,
17 you can read those. I'm not going to read to you.
18 You guys are all grown-ups.

19 The example of the formative assessment where
20 the learning continuum is, and yes, I used Smarter
21 Balance and yes, I used NWEA, but there are several
22 other summative tests out there; there's several
23 other formative tests out there. And if you look on
24 that learning continuum, does it now tell me what
25 Tina needs? Does it tell me the skills? Is she a

1 number anymore or do I know what Tina needs?

2 Quit making our kids numbers. You know,
3 (Native language) one thing that irritates me, and I
4 stand in front of you with my red hair, one thing
5 that irritates me is, for example, I went out to use
6 the tribal dump the other day with my trees. And in
7 pulls Mr. Ready, "Do you have your tribal enrollment
8 proof?" And I wanted to say to him: Really? Many
9 years ago you used to (unintelligible). I know you.
10 You know, I know you. But he wanted my tribal
11 enrollment.

12 Years and years and years ago when they were
13 stuck on reservations, my grandmother and my
14 grandfather were given numbers. They were
15 identified by a number. We took identity away from
16 them and gave them a number, and still today we are
17 still identified by that stinkin' number. We're not
18 identified by what we do for our kids. We're not
19 identified by how successful our kids are, how far
20 they've gone. We're not identified by how much we
21 support them. We're identified by a stinkin'
22 number. We gotta quit, guys. I'm not a number.
23 I'm not U1238. I'm not that. I'm Shilo. I'm
24 (unintelligible); I'm German; I'm French; I'm Irish,
25 I'm Danish. Heck, throw some Scottish in there. I

1 don't know what else I have, but I'm Lakota. And it
2 might be a very little bit but I am.

3 But most of all I'm an educator, and most of
4 all I give a dang about these kids and the future of
5 them. Come spend a day with me. I keep saying
6 this: Come spend a day with me. Take off the coat.
7 Put on your tennis shoes. Trust me. Put on your
8 dang tennis shoes because high heels aren't going to
9 work in my hallway. Come see what these kids really
10 need, please. Quit identifying by a number.

11 Do we need the numbers? Yes, I agree we need
12 them, but we need something that's going to tell us
13 exactly what Lana and Chris and Faith and Justin and
14 everybody in this room needs individually, not as a
15 whole group. Give us the tools to educate our kids,
16 that I know what they specifically need. Give us
17 technical assistance. Don't give us laws. Don't
18 shove numbers down our throat. Help us help our
19 children. These are our future. When I'm old I
20 want them to be able to read my prescriptions,
21 please. I don't want to be given more morphine
22 than, well, maybe I would be -- but anyway, maybe I
23 would like more morphine.

24 But there's a few other things in here I wanted
25 to just note towards the end. Many other states

1 have chosen their own assessments. We can do that
2 as a bureau. We can do that as a tribe. We don't
3 want expectations to be lowered. That is not what
4 we're asking. When we first started going out to
5 the waiver and everything else, it was like: Oh,
6 you just want to get it easier. No, that's not what
7 we want. We want to meet the needs of our kids. We
8 want them to become leaders not only in our tribe
9 but in our country.

10 Our kids have triple citizenship. They're a
11 part of the tribe; they're a part of the State of
12 South Dakota and they're a part of the United
13 States. We want them to go succeed anywhere and
14 everywhere that they want to go. And I'm going to
15 be proud of them even if they become the cook.

16 Everybody calls you career readiness. You know
17 what? I am so proud of Todd, he's cooking and I'm
18 proud of him. Guess what, he's not sitting on the
19 street. He took his education and he used it.

20 You've got (unintelligible) at USD going for a
21 doctor. I'm just as proud of Todd as I am that
22 other student because I didn't identify them by a
23 number. I identify them by their faces and their
24 abilities. So quit identifying our schools by
25 numbers or where we're located. Come in, put your

1 tennis shoes on, get rid of the jackets and run with
2 us and see what it's like down here in the trenches.
3 Thank you.

4 (Applause)

5 MS. SHILO KROAKOWSKI: And just a note, I love
6 this; this is one of my favorite ones when we're
7 thinking about growth mindset: A child is like a
8 butterfly in the wings. Some fly higher than others
9 but others fly the best they can. Why do we compare
10 them against each other? Each one is different.
11 Each one is special and each one is beautiful.

12 MR. TRAVIS CLARK: Thank you very much.

13 Okay, we've still got 20 minutes. We're going
14 to break for lunch at noon but we welcome more
15 comments or statements for the record. Again, you
16 can either come up to the podium or if you want to
17 speak where you're at, just raise your hand and I'll
18 bring the microphone to you.

19 MS. DEBORAH BORDEAUX: Good morning again. My
20 name is Deborah Bordeaux.

21 I want to talk a little bit about the waivers
22 or the alternative accountability. Based on past
23 experience since 2005 of working with Dr. Hamley and
24 the DPA, I recommend that there be a more general
25 format for the waiver process so all will know what

1 is supposed to happen. It was a hit-and-miss
2 process from 2007 forward. We're still waiting to
3 hear what kind of decision is going to be made. So
4 Dr. Gloria talked about waiting two years. We've
5 been waiting since 2005. And some of us have
6 retired and they still haven't made a decision.

7 I think that there needs to be a clearer
8 definition of what technical assistance is, who is
9 to provide that technical assistance and what does
10 that technical assistance consist of? Is it money
11 or is it people? What is it supposed to be?

12 I also think that there should be some type of
13 way to address the issue of cooperative agreements
14 between school boards and/or tribal governing
15 bodies. In order to be able to have validity and
16 reliability, there needs to be certain numbers. And
17 so say the school at Crow Creek wanted to do this or
18 Lower Brule, they're only one school at one tribal
19 nation and they may choose to go into a cooperative
20 agreement with another tribal nation or other
21 schools. So there needs to be -- that needs to be
22 addressed because our experience has been that the
23 people who make these decisions at the DPA level
24 don't know how to decide that.

25 The other thing is that a timeline be

1 established and followed closely. If the BIE does
2 not follow their timelines, then the BIE will accept
3 the proposed alternative waiver of the school board
4 or tribal governing body and allow it to move
5 forward for use and that it be acknowledged in a
6 letter of some sort so that there's something
7 written to support the tribal governing bodies or
8 school board that chooses to do a waiver or an
9 alternative assessment. The bureau has been so
10 ambiguous about this and not been able to give good
11 guidance or direction to the schools.

12 Thank you.

13 MR. TRAVIS CLARK: Any other comments or
14 statements for the record, please feel free to come
15 to the podium and make those or raise your hand and
16 I'll bring you the mic.

17 MS. BEVERLY TUTTLE: My name is Bev Tuttle.
18 I'm representing my tribal grant school Porcupine
19 School (Native language) as a school board member.

20 I am really supporting what I heard today from
21 our tribal grant schools' voices. I believe that we
22 are truly intelligent. We've got the
23 professionalism; we've got the commitment, and
24 you're sitting in this room of a big tribal entity
25 that was one of the biggest developments for our

1 tribes is to have our own college center, so we've
2 got resources here. I believe that we've already
3 started working with our college here to recruit
4 more Native American teachers to really put that
5 focus out there. That the more Native American
6 teachers we have, the better we'll have a future of
7 recognizing the culture and what they lived in the
8 community. They know the trauma that Cecelia is
9 talking about. The trauma truly is not just words.
10 It truly does impact our students. I see it from
11 our school where we've had to have the bus driver
12 tell us one of the children didn't want to get out
13 of the school bus because they didn't want to go
14 home. You know, there's many stories like that.

15 So we're lucky enough for our school, we've got
16 it as a priority to get some counselors, so we have
17 two counselors. But it's like taking from one
18 department of -- What are we going to use to pay for
19 these two counselors because they're needed?

20 So I also believe that NWEA, we've adjusted.
21 We're learning from how to make a commitment. We
22 all have this working product going together with
23 our other tribal grant schools. I think it's very
24 imperative that this be taken seriously.

25 You know, I've been on the school board going

1 on 15 years on the school board elected to my
2 position. And you know what? I've not heard
3 anything different and we're still striving and
4 striving to really look at and listen to us while we
5 have these professionals who care. I believe that
6 we can do it and I support 100 percent of what was
7 being said here from our tribal leaders and from our
8 tribal professionals. I believe that we can do it
9 and we can strive to -- you know, it doesn't have to
10 always be a fight with the BIE. It shouldn't be.
11 It should always be negotiable.

12 I know years back they used to do this to us.
13 I think I can even remember four years ago we were
14 saying, our late tribal chairman of the tribe, he
15 was a committee member, C.J. Clifford, "Why do they
16 call this consultation when they come to tell us
17 what they're going to do?" We don't recognize this
18 as consultation. We only recognize this as sharing
19 information because you didn't get the right
20 information from what was being said this morning as
21 to what our administrators have to say. You know,
22 there's a process. If there's total respect, then
23 those are the ethics of our schools.

24 We are trying to implement to our children to
25 be good leaders. We develop our own ways of how to

1 get to our little children from kindergarten to 8th
2 grade. And I think it has to do with a lot of our
3 values, our Lakota values, and it starts with
4 respect.

5 And I'm an elder, too. I believe that we work
6 together and we be negotiable. So I'm going to
7 support what's being said here. And as a president
8 of our local school board tribally controlled
9 school, I'm going to really share information with
10 my other school board members so that we can be
11 informed and they can work together with our tribe.
12 But we need our own, develop our own assessment tool
13 and in there should be strongly trauma.

14 I think that this was a good meeting. I don't
15 recognize it as consultation, but it's a good
16 sharing of information. (Native language)

17 MS. NAKINA MILLS: Good morning, before it
18 turns into good afternoon. My name is Nakina Mills,
19 and I'm an elected official with the Oglala Sioux
20 Tribe, Pine Ridge District rep.

21 Prior to coming into this administration I was
22 a director of student advancement and alumni support
23 at Red Cloud High School. And in that work I was
24 there working in the trenches with the students and
25 the alumni. And part of the focus at Red Cloud, and

1 they invested in this position eight years ago, I
2 believe, where it was important to, you know, track,
3 you know, make sure these students are getting ready
4 for this transition into adulthood, whether it be
5 they go to college, technical school, working,
6 whatever it was so that they were -- whatever their
7 passion was, that's what we wanted to do for the
8 students. And that was my role for seven years
9 prior to me coming in this role.

10 So to hear from the schools, the BIE schools
11 and to hear their passion and their beliefs and even
12 how they use their words of calling the students
13 their kids, that was the same exact language that I
14 used when I was in the school. And right now in my
15 role all the kids on the reservation are my kids.
16 And so being able to have that, um, to be able to
17 create our own assessments, our own curriculum for
18 our schools is huge. And even with us being the
19 chair and me the vice chair on the education
20 committee, we want to be able to support our schools
21 and that they decide to do because they're there in
22 the school. They know what's best for their
23 students, so we want to be able to advocate and
24 support their needs. And that's why we're here
25 today, too, to show that support.

1 One comment that I wanted to make that kind
2 of -- whenever you guys -- I'm looking at the report
3 and see that your guys' goal is wanting to create a
4 unified system for all of the schools. To me that
5 just doesn't sit well because that's an impossible
6 task when you're dealing with so many different
7 tribes and cultures and their background, their
8 history. They've all been through -- you know, most
9 of the tribes have been through the historical
10 trauma that they've been through all different ways
11 and here you are going to try and create a system, a
12 unified system for all. And the waiver, the waiver
13 plan, too, that's going to be huge because we're
14 trying -- the Federal Government is trying to have
15 tribes do sovereignty and self-determination and
16 those kind of things but yet you're coming at them
17 with this kind of recommendation and that doesn't
18 sit well with me. We should be able to determine
19 our own what we feel is best for our students. So
20 that's what I wanted to say here.

21 Some of the other things, too, like tribal
22 civics, what we have for our tribe is going to be
23 different with other tribes, so we should be able to
24 determine what -- and currently in our code just
25 last administration we had passed in our educational

1 code that all schools will teach the treaties and
2 the, our current constitution, so that's something
3 that was implemented last administration. So I
4 think that's huge because the students, in order to
5 know who they are and where they come from, that's a
6 huge piece to it, that knowledge.

7 And I think back to when I was in high school
8 and I know I was only able to learn about treaties
9 and things through outside opportunities that I was
10 sent to, that my parents had sent me to. Or I
11 should say they forced me, but I'm kind of glad they
12 forced me because now I have that knowledge and
13 stuff regarding treaties. But at the time it wasn't
14 taught. So how our students are going to be able to
15 learn our true identity and stuff if we don't know
16 that background. So I think that's really huge and
17 that's what kind of stuck out for me.

18 I totally agree about the numbers, that our
19 students aren't numbers. They're all individuals.
20 We try and -- and I think -- at least I think on
21 education we really believe that we try and teach
22 and based off the student's background. The things
23 they're going through, some student may not be able
24 to catch on due to some of the things going on at
25 home. I think most of our schools really, at least

1 I feel like they try and, try and look at that as
2 being an important piece to focus on with all of the
3 students being individuals. And I think that's huge
4 when we're talking about BIE, BIA, they kind of just
5 use one -- and I see it here "unified," so that just
6 really, really got to me.

7 So with that I thank you for (Native language).
8 Thank you for listening to me today and taking the
9 time. And I'm pretty sure on behalf of our tribe
10 we'll also be submitting further comments before the
11 deadline.

12 MS. CECELIA FIRETHUNDER: (Native language).
13 Thank you for our tribal members.

14 You know, I'm an adjunct instructor here at the
15 college, and one of the things we do in our
16 classrooms is we address each other in our Lakota,
17 (Native language), and we identify each other
18 through those kind of relationship name.

19 You know, the Oglala Lakota College has a
20 really great, strong education component. This
21 college is really historical. We have a nursing
22 program at Little Wound School. We have a health
23 career program where we're taking our kids into
24 Rapid City, taking them through Regional Hospital to
25 look at all the opportunities that they could invest

1 in a health education, phlebotomy, you know, X-ray,
2 MRI, exposing them to other careers. All of our
3 schools are going out of our way, like Nakina said,
4 to get our kids interested in careers early on and
5 giving them the encouragement and support.

6 One of the things I want to also talk about,
7 and this is something that, you know, when I first
8 became aware of it, this really absolutely made me
9 see the system. In 1819 the Civilization Act was
10 passed, the first legislation passed by Congress to
11 educate Indians. And the words they used was to
12 civilize Indians, to make us Christians and speak
13 English. That concept has been enmeshed in every
14 legislation since then. So we're trying to shake
15 that off a little bit more here. And it's really
16 interesting to me, sometimes -- and I know Senator
17 (unintelligible) never heard of the 1819
18 Civilization Act. He was pretty appalled by it, you
19 know.

20 What I wanted to convey is that we are meeting.
21 We've had one meeting with the college here in terms
22 of how we can get them direction in the teaching
23 program, the teacher shortage area that we're
24 addressing and how we can get our young people to
25 look at teaching as a career, and most importantly

1 that, again, like it was cited earlier, the
2 statistics that a large number of our teachers are
3 tribal citizens. And I'm really proud to say Little
4 Wound School, our school, a hundred percent of our
5 administrators are tribal members; superintendent,
6 Oglala; our principals, middle school, high school,
7 elementary.

8 I want to say that it's so cool, a hundred
9 percent of our business managers who manage our
10 money are women and they're tribal leaders, tribal
11 members, you know. And when you got a lady managing
12 your money, you can't do wrong, okay? When she
13 says, "No," it means no, right?

14 Anyway, so I just want this group to know that
15 we as a community, as a tribe, as a nation have come
16 a long way, and that within the boundaries of the
17 Pine Ridge Reservation we have a large pool of our
18 own tribal citizens who have gone above and beyond
19 to get the training and the education to come back
20 and contribute. And we're excited about it, and
21 we're excited about all the things, the partnership
22 that we have. Our six tribal grant schools, all of
23 our school board members, we meet once a month. We
24 talk about sharing resources.

25 Little Wound School has been the physical agent

1 for a (unintelligible) grant. Little Wound School
2 is a physical agent for other programs that as
3 tribal schools we could reach out and pull in
4 additional federal dollars to enhance what we're
5 doing or strengthen what we're doing. We're getting
6 total control. Self-determination, that's the key
7 word, isn't it? Self-determination. So not only
8 the dollars from the Bureau of Indian Education for
9 our schools but to reach out to other federal
10 agencies to pull in those resources to strengthen
11 what we're trying to do.

12 One of the other things that I'm really proud
13 of is that our college here has been really
14 producing some teachers. But we can fix that, too,
15 so that's what we're leaning on. (Unintelligible)
16 legislation here last month to also provide
17 additional resources to strengthen the teacher
18 shortage area, so we're talking to President
19 (unintelligible) about that as well.

20 I think for me living and working here in my
21 homeland has been a fantastic experience. Because
22 we can -- and there is no -- what do we say? There
23 are no problems on Pine Ridge, right? There are no
24 problems. Solutions are all over the place. It's
25 about creating relationship, working with the tribal

1 council, working with the school board that we can
2 come up with what we call solutions. And we're just
3 excited about all of the solutions that we've
4 created within our six schools, yes, yes, American
5 Horse, Little Wound, Loneman, Crazy Horse, Porcupine
6 and Wounded Knee. So all of those schools are here
7 today in this room, and we need to share information
8 and continue to take a look at the challenges.

9 That's the word I wanted to use. There are no
10 problems on Pine Ridge, right? Just challenges.
11 And challenges have solutions. And we've come this
12 far coming up with solutions, and we can go further.

13 I personally would like to respect serious
14 consideration in keeping NWEA. We had invited our
15 public school partners to come here today. We have
16 a public school system with four schools and they're
17 part of our team. They use NWEA and they like NWEA.
18 It helped them develop changes in their school
19 system using NWEA. And so we asked them to come
20 today to also say the public schools on the
21 reservation are using this assessment tool as well
22 that has been beneficial and useful for their school
23 as well.

24 There's a lot of things I want to say, but I'm
25 really happy you're here. Thank you for coming to

1 Pine Ridge. Thank you to our tribal council and to
2 our negotiated rule-making committee and all of you
3 smart Lakotas in this room.

4 Thank you.

5 (Applause).

6 MR. TRAVIS CLARK: Well, thank you so much. We
7 are going to break for lunch now. So we'll
8 reconvene here at 1:15.

9 And, again, we're going to leave the rest of
10 the day open for additional statements for the
11 record, comments, questions, all of that good stuff.

12 So we'll reconvene at 1:15.

13 Thanks.

14 (Lunch recess 12:03 p.m. to 1:15 p.m.)

15 MR. TRAVIS CLARK: It's 1:15 so we'll go ahead
16 and reopen the record for statements for the record,
17 comments, questions.

18 And again, this is really -- the rest of the
19 day is structured. It's open forum for statements
20 for the record. I'm beating a dead horse a little
21 bit, but again, if you want to make a comment, each
22 time you speak on the record, please state your
23 name, your title and who you're representing so the
24 court reporter can keep straight who made which
25 comments.

1 So with that, I will open it back up. Are
2 there any requests for statements on the record,
3 questions, comments?

4 MR. EARL TALL: My name is Earl Tall. I'm
5 president of the Wounded Knee District School,
6 school board.

7 And I guess pretty much we heard some real good
8 speakers this morning, and I hope you listened to
9 what they had to say. There was a lot of good
10 points that they made.

11 And I would like to mention a little about this
12 tribal money that they talked about. As Lakota
13 people we went through a lot of trauma since meeting
14 the white people. We've been through massacres.
15 We've been through forced assimilations. Our
16 grandfathers, grandmothers were, their hair was
17 chopped off and sent to school in Carlisle or
18 someplace, Pennsylvania. And through all of these
19 years that we survived all of this. We're survivors
20 of everything that have been put to us.

21 And this trauma happens in our school to this
22 day, not just then but to this day from our
23 families. And I think it was probably already
24 mentioned our home styles and all of that, the
25 causes of our traumas here. She (indicating)

1 probably already mentioned about the trauma.

2 That's some of the things I wanted to bring up.
3 And as Lakota people we have virtues, seven virtues
4 that we live by. One of the main ones is
5 compassion, we have compassion for our people, our
6 kids. So you hear a lot of our educators here that
7 were talking, they were saying "our kids, my kids,"
8 because they are, and that's part of our culture.

9 I've been on the school board 200 previous
10 times, back in '84 when we came out from being a BIE
11 school to a 638 contract local control, and I was
12 part of that process at that time. And I was a
13 school board member from '92 to '96. And we were
14 called a credit school. Somewhere along the lines
15 there were public law 100297 I think changed us into
16 grant schools.

17 And previous consultations I've been to, and it
18 still happens today, is that it's you guys that are
19 coming from Washington, or wherever you come from,
20 telling us what's good for us or that this is what
21 we should do. There's never any -- our feedback, I
22 don't know where it all goes. But this last
23 six-week contracting -- our first school Loneman, I
24 don't know what year that was, '74, so probably 45
25 years from that time until all the other grant

1 schools. And we saw improvements that we made for
2 our own students. We had staff, our own community
3 members that were part of the school system and made
4 our own kids feel more comfortable, and you saw some
5 of the results when they brought a trophy for you
6 guys to look at. They're one of our best schools in
7 the State of South Dakota. And those were done by
8 our educators, our Lakota educators, our local
9 school boards. When we say consultation, I think it
10 should be consultation. Listen to us.

11 I remember this guy from 20 years ago, Hamley.
12 And I don't know why we weren't listened to then.
13 We're back here again.

14 Those are just some of the things I wanted to
15 bring up. When I started school here, as the BIE
16 school system, we learned about dating Jane and
17 Sally, and I was wondering whatever happened to
18 them.

19 (Laughter)

20 UNIDENTIFIED SPEAKER: Spot. You forgot the
21 dog, Spot.

22 MR. EARL TALL: Yeah, Spot and Paul.

23 That's all I wanted to say.

24 MS. DEBORAH BORDEAUX: My name is Deborah
25 Bordeaux. And I wrote that down.

1 (Laughter)

2 MS. DEBORAH BORDEAUX: I just wanted to talk a
3 little bit about consultation. I'm one of those
4 people that was part of the lawsuit against the
5 bureau, and it was about not having consultation.
6 And so, you know, we didn't get our point across
7 well enough for it to be accepted that what we say
8 is consultation or isn't consultation between the
9 bureau and the schools, the stakeholders of the
10 schools. So it's really -- I thought from that
11 there would be a change in that process about how
12 that would happen, that the consultation would be
13 more of a give and take. I always believed that it
14 should be a conversation between: Here's what we
15 want to do and we're saying: Well, no, let's try it
16 this way, and then maybe: No, that might not work.
17 Let's try it this way; so that there's somewhat of a
18 compromise in there.

19 And clearly the stakeholders and the
20 representatives who have come this morning have
21 clearly stated the reasons why they're here, the
22 effect that it has on their children and all of us
23 feel very strongly about wanting our children to be
24 successful. We want our children to be seen as
25 successful.

1 The only knowledge that is out there in the
2 world, in the public world is the negativity about
3 our children; our students have the lowest test
4 scores, the lowest attendance rates, the lowest
5 graduation rates, the highest suicide rates, and
6 that's not the knowledge that should be out there.
7 We should be knowing more about the ones that Shilo
8 had talked about, the student who is being
9 successful in school.

10 I was a principal at a school here on the
11 reservation, and I recently had a student who
12 graduated from Oglala Lakota College to become a
13 teacher. And she tells her students, "Everything I
14 learned I learned from Loneman. This is what helped
15 me to be successful in school." And I don't know if
16 it was good or bad but she spent a lot of time in my
17 office, so we talked a lot. But I just was so proud
18 of her. And it speaks so well for the school.

19 And over the years the knowledge that is out
20 there is that our school was failing because we
21 couldn't make AYP under No Child Left Behind. And
22 the officials that were there under the Bureau of
23 Indian Affairs to make those decisions from DPA,
24 this is pre reorganization, remodeling, re whatever
25 you're doing, that they said we couldn't make AYP

1 because they wouldn't let us use safe harbor. There
2 were so many barriers set up that it just made it
3 really difficult for our students to be successful.

4 So whatever it is that the bureau is choosing
5 to do right now is really important. And having the
6 stakeholders be part of making that decision is
7 really important. We have good children. We have
8 good staff members. We have people who are wanting
9 and willing and work very hard to help our students
10 be successful. And so when we talk about
11 consultation, it's really important that there be a
12 give and take.

13 The first consultation I ever went to when I
14 was working for a bureau-funded school back in 1990,
15 the bureau officials all sat in a line at the front
16 of the room, and at the time those bureau officials
17 were called line officers. So I asked them, "Are
18 you called line officers because you sit in a line?"
19 They wouldn't even laugh. And so we're in that same
20 situation here. This was 1990 when I was asking
21 that question, and there was no give and take.

22 Another time I was at a consultation it was on
23 a phone, and the bureau official, when somebody
24 would make a remark, he'd say, "Thank you for your
25 comments. They were well received." But that was

1 all.

2 You know, the question that this gentleman
3 asked, the one that talked before me, he said: What
4 -- How do we get feedback? What do we know? What's
5 going on? We sit here and say all of these things
6 to you but we're not hearing anything back, not even
7 a: Thank you for your comments. They've been well
8 received. So there's no conversation. And we can't
9 even tell if you're listening. So I just really
10 think that there's -- when consultation is
11 happening, there needs to be some type of feedback,
12 some conversation to know that what's being said by
13 the stakeholders is being taken into consideration
14 and used.

15 So one of the things that I wanted to talk
16 about is my concern about our language for the Oceti
17 Sakowin. Language, culture and history is very
18 important to our people and especially for our
19 children to be able to carry that on. And the Oceti
20 Sakowin encompasses all of the tribes, all of the
21 nine tribes here in South Dakota, and they taught
22 Dakota and Nakota and Lakota, and that should be
23 part of whatever assessment is happening.

24 For our 2005 group that had worked on an
25 alternative assessment, we developed an oral

1 proficiency assessment. And of course we were never
2 able to fully implement it. We wanted our students
3 to speak our language, our Native language. And it
4 was our local language instructors who developed the
5 standards and the assessment. And we really -- you
6 know, it was about speaking our language. And we
7 still really struggle at that. And this we thought
8 was a way to get started, but we never had the -- we
9 were never approved for an alternative assessment so
10 we were never able to move forward with that.

11 But having a good sense of who you are, a good
12 self-identity is really important to academic
13 success. Cecelia talked to that this morning. And
14 I just really think that when considering what type
15 of an assessment is to be used, that language,
16 Lakota or Native language needs to be part of that
17 assessment.

18 And, you know, I had a conversation with my
19 husband about English language learners. We're all
20 English language learners. When we go into school
21 we're taught how to read, read English. We're
22 taught how to speak English. We're taught how to
23 write English. So everybody is an English language
24 learner. So I think that that term needs to be
25 defined a little bit differently if they're talking

1 about somebody speaking English as their second
2 language.

3 So the other place that I wanted to talk a
4 little bit about is tribal education departments.
5 I've always been a supporter and believe that tribal
6 education departments are really important to tribal
7 nation sovereignty. I want to know, because the
8 bureau has reconstructed themselves, rebottled
9 themselves, whatever they did to themselves, they
10 have made a sovereignty and education office and in
11 that they have supported tribal education
12 departments. So how does that fit in this process?

13 Part of my job at the Rosebud Sioux Tribe
14 Education Department is to write a Statement of
15 Education Report, and I cannot access any place
16 within the bureau to get the data that is needed to
17 give this report. And so, you know, that puts an
18 extra burden on the schools to have to go to them
19 and ask them for this data. I can go to the South
20 Dakota Department of Ed public website and I can get
21 all kinds of data on all the public schools, but I
22 should be able to do the same for the bureau-funded
23 schools, and the Bureau of Indian Affairs doesn't --
24 Education -- the Bureau of Indian Education does not
25 provide that data like they're supposed to. The law

1 says that they're supposed to if they're going to
2 act as the SEA and they do not make that data
3 public. So tribal education departments are there
4 to support education and to help and then the bureau
5 does not provide the opportunity for that to happen.

6 The tribal education departments work with
7 their schools on the reservations and they can
8 contribute to this, being a supporting process to
9 this. I work with a group of South Dakota -- I work
10 with a group of directors here in the State of South
11 Dakota and they're very willing to do whatever they
12 can to help in this process and they should be
13 included.

14 One of the things that they have told me or
15 that has been discussed is that their schools are
16 really in support of the NWEA. And this appears to
17 be a very valuable assessment and the schools want
18 to be able to use this. This should be considered
19 and taken into and be used for the majority of
20 schools that they support this. The NWEA provides
21 data to the schools and has been doing that for a
22 while.

23 To me NWEA is one of the contributing factors
24 to all the negative data that is out there. When I
25 had a conversation with them, they were the -- the

1 first thing they said was that their data shows that
2 our students start school three years behind and
3 that stays with them through the rest of their life
4 in the school system and the schools need to be able
5 to use that data to help themselves to get out of
6 that. So somehow I think that it's important to
7 have a conversation with the schools about this NWEA
8 assessment.

9 So again in my research the one goal that seems
10 to appear to stay steady through the bureau is,
11 comes from Henry Pratt that says: To kill the
12 Indian and save the man. But in reality what we
13 want: We want to save the Indian and not just the
14 man. So I really think that the bureau needs to
15 have a candid conversation with all of these
16 stakeholders and come to a group decision to the
17 benefit of our students.

18 Thank you.

19 MR. TRAVIS CLARK: A quick word on the process
20 for the consultation and the post consultation
21 analysis and then the rapport, that's governed
22 through the Assistant Secretary's Office, Office of
23 Regulatory Affairs & Collaborative Action. What
24 they'll do is --

25 And correct me if I'm wrong, Brian, but I want

1 to make sure I'm being honest here and accurate.

2 -- they will compile all of the comments that
3 were received and part of the final published rule,
4 it's essentially a matrixing that they'll report out
5 on: You know, we received 50 comments on this, 30
6 comments on that and compile all of that and then
7 illustrate within the rule how those comments shaped
8 and changed the ultimate rule. So that's just kind
9 of the process so that you can be aware that when
10 the final rule comes out you'll be able to go in
11 there and look and see where those comments made
12 changes to the final rule, just a process,
13 clarification.

14 Do you want to add anything?

15 MR. BRIAN QUINT: Yeah.

16 That is correct. So the final -- so when we
17 publish the final rule in the Federal Register
18 Notice there will be a, they call it a preamble,
19 which will describe, as Travis pointed out: We
20 received this many comments on this issue. In
21 response we've made this change to the proposed
22 rule. Or: We did not change the proposed rule for
23 this reason.

24 So there will be an explanation.

25 MS. CECELIA FIRETHUNDER: And is that based on

1 all the comments received?

2 MR. BRIAN QUINT: Yes.

3 MS. CECELIA FIRETHUNDER: You have to remember
4 we have a trust issue here that's been there for a
5 long, long time. And in our conversations,
6 communication has been very poor from the bureau
7 down to us. Unless your job requires you to go
8 online to the BIE website, the BIA website and start
9 reading page after page of information, there's a
10 lot of information on there, so to me for some of us
11 we do that because that's what we're supposed to do
12 to help our schools. It's really hard. Your system
13 is very convoluted. Then you have a trust issue.

14 So our concern is: Are our comments seriously
15 considered? Are they seriously considered? And if
16 there's enough comments to -- this is what the
17 recommendation is but all of these comments overrule
18 that, are you going to take the comments? So our
19 concern is trust and are you going to seriously hear
20 the recommendations and make the changes, or are we
21 just here talking? That's our big concern.

22 Thank you.

23 MS. VALENTINO VERDANYAN: Thank you.

24 Again, this is Dr. Valentino Verdanyan.

25 You know, going back and doing research of

1 where all of this stemmed and looking at the
2 GOA report, looking at the Bromar study and where it
3 all stemmed from and then, you know, what also ties
4 into this is facilities, it's kind of like a board
5 that has many pegs and they all connect; they all
6 work together, but when you focus on one individual
7 peg and exclude the rest, that again is doing
8 injustice to trying to change the systemic issues
9 that exist within our educational processes.

10 We talked about education -- or communication.
11 We talked about reporting. But when you look at the
12 CFR and you try to interpret it, it becomes very
13 vague and who's responsible for what. And all of
14 these reports stipulate and point out all of the
15 issues that exist within BIA's mission, BIE's
16 mission in looking at education, and the two
17 missions don't match up. They conflict. And
18 therefore when the right hand doesn't know what the
19 left hand is doing, then how are you providing
20 adequate services to the children? And ultimately
21 that's who gets the short end of the stick.

22 And so in regards to communication, in regards
23 to funding, in regards to facilities, reporting, you
24 know, we were never given the opportunity in the
25 technical assistance, in the funding to do our own

1 research in looking at assessments. We were never
2 given that opportunity as a part of this process.
3 Well I think this is in the 21st Century. I think
4 we are very capable of having our own research to be
5 able to implement our own assessment processes,
6 especially when we're looking at culture. Because
7 how are you going to tell us to assess our culture
8 within our schools?

9 So in regards to all of what I just said, you
10 know, as a tribal government representative, this is
11 what we are requesting as action follow-up from this
12 so-called tribal consultation. With that is we
13 request that BIE seriously considers reconvening the
14 committee with increased funding and staff hiring so
15 the committee can continue to develop a proposed
16 rule as required by the statute in the best interest
17 of our students and schools. Extend the projected
18 time frame to implement final regulations to the
19 2020/2021 school year to enable the committee and
20 the federal agencies to have adequate time to
21 complete the important work.

22 The final regulations are currently slated for
23 implementation in 2019/2020 school year, which is
24 less than two months away. I mean, that's -- that's
25 expecting miracles. How can the BIE develop an

1 implementation plan for the 2019/2020 school year
2 when the regulations are still being developed. How
3 can the agency adequately consider and respond to
4 the comments received during this tribal
5 consultation process given such intense time
6 constraints?

7 And furthermore, clarify where the funding is
8 going to come from to carry out the requirements set
9 forth in these proposed regulations. Outline how
10 the BIE and the Department of Education will educate
11 BIE and tribally operated schools on new
12 expectations and compliance requirements in a timely
13 manner.

14 Identify what additional resources and
15 technical assistance will be available for this
16 transition process. Because I never heard anything
17 in this process: Where the transition process?
18 Again, it's something that's going to be shoved down
19 our throats. So where is the transition process?
20 What is it? Where is that timeline? And where is
21 the funding tied to that transition process?

22 Identify how BIE and tribally operated schools
23 will be made aware and access of all of the
24 resources. So how is that going to be done? Again
25 that communication gap.

1 And with that, I believe those are the five
2 components that as a legislator we are concerned
3 with at this time.

4 And I feel that it's important that we go back
5 to those five pillars that has stemmed this whole
6 process. However, they're just empty words again
7 with nothing to solidify or validate its necessity.
8 Because at this point, again this process of lack of
9 consultation, if BIE truly followed the OST
10 consultation code and ordinance, it would be a
11 two-year process for you to go through. That's a
12 true consultation process.

13 So this meeting is just a meeting. It's not
14 true consultation because you already have your
15 proposed changes and implementation time that's
16 going to be enforced upon our people but never with
17 true consultation from legislators or from the
18 experts in the field.

19 So with that, I want to say pilamaya for all of
20 the people who have come here, who are here, who are
21 concerned, who want to move forward. And there are
22 so many questions. And the reality is that that
23 Bromar report outlines so much of these deficiencies
24 then in 2014 that we're just now again talking about
25 in 2019. So, you know, how many more reports has to

1 be done before we really have an opportunity to make
2 the changes?

3 Because we are the ones who have the solutions.
4 We are the ones that know what needs to be changed
5 within our school systems that will impact our
6 students in a successful manner. Right now we keep
7 getting handed down cookie-cutter curriculum,
8 cookie-cutter assessments, one size fits all but yet
9 we're going to continue to assess you based upon
10 state recommendations.

11 And we all know that education in itself is a
12 unique business. It's a business. When it comes to
13 textbooks, to testing, to assessment, it's a
14 business. Well, we need to stop looking at the
15 economics of it and truly look at the needs of our
16 students on these reservations.

17 Because when we look at the poverty, we look at
18 the disparity, what has changed? What has changed?
19 I mean, you visit each of these reservations that
20 you're focusing on within these changes and
21 restructuring but all it is is realigning the same
22 old issues. That's all that's happening. And then
23 again our students get the short end of the stick.

24 Our schools are falling apart. Our facilities
25 need to be updated. We have schools. They are so

1 substandard, they're in violation of DOI but yet
2 it's okay. This is an outcry and I plead and I beg
3 you to take action and really look at this. Because
4 what we're giving you and what these studies have
5 presented, are we going to allow it to continue and
6 just go with some cookie-cutter process that was
7 developed, not by our people, not through
8 consultation. By a consulting group? Are we just
9 going to accept it?

10 If it was any other nationality in this country
11 when we look at those scores, when we look at the
12 realities, would it be acceptable? Would it be
13 acceptable then? So why is it acceptable now?

14 So with that I know I get a little bit
15 passionate about this, but, you know, as my
16 colleague said here, all of these children here and
17 across this nation are our children, Native or
18 non-Native, who live in rural poverty stricken areas
19 because they go through the same issues as we have.
20 And it's time to stop dividing us and start working
21 with us. Because, you know, as experts in the field
22 we can really help you develop a plan that will work
23 and not something that's coming from the top down.

24 So with that I want to say (Native language) to
25 all of my relatives.

1 (Applause.)

2 MS. TAMMY LAFFERTY: Thank you.

3 My name is Tammy Lafferty. I'm the physical
4 liaison with the Oglala Sioux Tribe's Education
5 Agency. And there's been a lot of conversation
6 about communication and consultation, which to me
7 basically boils down to the same thing here, and
8 there is a big breakdown of communication between
9 the schools and the tribe with the BIE people.

10 For example, with you gentlemen that are here,
11 have you guys ever worked for a tribe or on a
12 reservation in the field of education? So -- well,
13 then you that did, you probably understand that
14 there's some days we operate in a crisis situation
15 and we need to get hold of the BIE officials
16 immediately. While when we call, even if we call
17 for the test scores that haven't been on your
18 website for seven years and we've needed them,
19 believe me, our office has been chewed out because
20 we cannot get those test scores, okay, one day I
21 called every single phone number in the BIE
22 directory in Albuquerque and I got a voicemail for
23 every single one. And I got that documented in my
24 office. I've left messages after messages, "Please
25 call me back as soon as possible." And we don't get

1 anybody to call us back. There's lack of
2 communication.

3 Now, if you guys don't want to answer my phone
4 calls, then put the data on your website. If you
5 don't want to talk to the tribes, put the
6 information on the website and then you won't have
7 to talk to us. But until then when we need the
8 data, when we need information immediately, then
9 somebody should be picking up those phones.

10 When we get calls from the tribal president,
11 from our council reps: Can you find out this and
12 this and this, we don't have that information
13 because the bureau rarely talks to us. So when we
14 have to pick up the phone and try and get that
15 information from you guys, we get a voicemail. And
16 like I always say, I don't even know why we have the
17 people sitting in offices, they don't know how to
18 pick up the phone. And that is -- I mean, I might
19 sound angry but I do get frustrated because I get
20 chewed out from people because I can't get
21 information from you guys. And it's a running joke
22 in our office, "Oh, they see area code (605) and
23 they don't want to answer because of the lawsuit."

24 So we just need to communicate better. And I
25 also believe we need to stop calling this

1 consultation, okay? Because you guys don't consult
2 with us. What should have happened at least six
3 months ago, you guys should have picked up the
4 phone, contacted the schools, contacted the tribes:
5 We're coming out in July. This is what we want to
6 talk about. How about if we have a pre meeting?
7 That's called consultation. But rushing up here
8 sitting here listening to you guys read to us a plan
9 that's already been put in place, that's
10 unacceptable.

11 Like what was stated earlier, there's educated
12 people here. I bet most of the people in this room
13 could move out to Washington now and do a better job
14 than what's been going on now. Because we're in the
15 trenches. We see the children that have the biggest
16 needs. We see the schools that need to hire more
17 teachers and they can't because they don't get the
18 funding. We see it every day. If we go to
19 Washington we know what the needs are back home on
20 the reservations.

21 So I would like to invite you guys to make a
22 point to come out to every single reservation at
23 least four times per school year and spend three to
24 five days doing field visits with the schools, see
25 what our children have to go through, see what they

1 need, and then you guys will be able to go back and
2 say: Hey, Crazy Horse School needs \$2 million more
3 to get their facilities up to par. They need 1.5
4 more to get teachers hired, to get upgraded
5 software, to get a new server. Those are the issues
6 that our schools go through.

7 We have schools coming to the tribe and the
8 tribe has bought servers for schools because they
9 don't have the money. Now, how are the kids
10 supposed to learn technology when they have an old
11 server who can't even get on the Internet? They
12 don't have the money to buy a new server so the
13 tribe bought one. Now, isn't the bureau under the
14 treaties supposed to be providing that? No, you
15 guys are not doing it.

16 If you guys want to know all of the lack of
17 resources our schools have, you can call me and I
18 will spend two hours on the phone telling you what
19 these little bitty issues are that are affecting our
20 children. And then you want to judge our schools on
21 they're not teaching our children right? Well, you
22 guys need to help us.

23 Thank you.

24 MS. CECELIA FIRETHUNDER: This is Cecelia
25 Firethunder.

1 I would be remiss if I didn't talk about the
2 shortfalls. You know, ISEP is supposed to be
3 providing the educational components within our
4 tribal schools. However, we have been analyzing
5 where the ISEP dollars are going. ISEP is going for
6 Little Wound School. We're spending \$755,000 out of
7 ISEP to make up for shortfalls in operation and
8 maintenance. We are spending \$250,000 out of ISEP
9 to make up for shortfalls in the kitchen that is to
10 pay the employees and buy food. I can't remember
11 the exact number for the contract support costs that
12 were made up out of ISEP. In fact, a fourth of our
13 ISEP dollars are going to make up for shortfalls
14 that the Bureau of Indian Affairs has not asked for
15 in our budget request for the United States
16 Congress.

17 A hundred percent of ISEP dollars should be
18 going into the classroom for teachers, supplies, et
19 cetera, et cetera, and yet we're using those monies
20 that are to educate our children to make up for the
21 shortfalls that the BIE is not getting the money
22 for.

23 Back to facilities, you know, Wounded Knee
24 School needs a new school. All of our schools need
25 some more upgrades. We keep asking and asking and

1 asking. So here we are again talking about
2 shortfalls. You know, I just want you to know we
3 analyze everything anymore to understand where and
4 why and how come.

5 And so the Bureau of Indian Affairs, I know
6 they get their money through Congress. And I know
7 we have to lobby Congress. The BIE is just a cog in
8 the wheel, and they only jump two, what the White
9 House said, and we understand that, so we're
10 learning to talk to Congress to go to the
11 Appropriations Committee. We're analyzing our
12 numbers so we can clearly state why, how come.

13 So we're making some headway, bypassing the BIE
14 and going to Congress because they're the ones to
15 allocate the dollars. We just want the bureau to
16 support our request. That's all we're asking is for
17 the bureau to support our request.

18 ISEP is to educate children and yet we're using
19 one fourth of our ISEP dollars to make up for the
20 shortfall the Bureau of Indian Affairs is not
21 advocating for.

22 So I just want you to know we're analyzing our
23 numbers going back 25 years at some places just to
24 understand. Our responsibility in 638, as tribal
25 control school boards, it's our responsibility to

1 advocate for our resources. That means we have
2 every right to go to Congress and get on the
3 Appropriation Committee meetings, put our written
4 requests in and lobby our Congress to give us more
5 money.

6 So I just want you to know that we're not
7 sitting back and blaming and pointing fingers.
8 We're taking active -- we're actively involved in
9 understanding this process so we can contribute to
10 leveraging more resources into our community.

11 Thank you.

12 MR. TRAVIS CLARK: Again, the floor is open for
13 any statements for the record, questions, comments.

14 MR. CHRISTOPHER BORDEAUX: I'm Christopher
15 Bordeaux, Executive Director of the Oceti Sakowin
16 Education Consortium.

17 Just looking at the proposed rule, it looks
18 like No Child Left Behind is still around. No Child
19 Left Behind is based on a deficit model, and that's
20 what we've learned from the BIE, and we look at the
21 BIE as a deficit. We've learned how to not to try
22 to be successful because success is the doom of the
23 BIE.

24 And the ESSA, there are no mandates. There are
25 no waivers, if you read through it. AYP is gone.

1 There's no AYP. But yet we still hear those terms.
2 ESSA is based on flexibility. It's what the schools
3 want to do, public schools, anybody that gets title
4 money. ESSA is title, all title.

5 And what everybody was saying today, it's -- I
6 heard this comment once when the astronauts, when
7 they picked the first seven astronauts to go into
8 space and all the astronauts were talking and one of
9 them got up and said: We're not seeing anything
10 different here. We're saying things that need to be
11 said over and over again with fierce conviction. And
12 that's what we're doing. If we were going to give
13 up, we would have gave up a long time ago.

14 This consultation here is, I've heard this 20
15 years ago, same exact words, same pleading, same
16 demands. But we must want to do something for our
17 children if we keep coming and saying all of this
18 stuff.

19 I think Dr. Roger Bordeaux said it the best
20 some years ago. He said, "Just give us the money
21 and get the hell out of the way."

22 Thank you.

23 (Applause)

24 MR. TRAVIS CLARK: Thank you, sir.

25 Any others?

1 MS. TAMMY LAFFERTY: I have a question. What
2 is the transition process of the facility portion
3 from BIA to BIE?

4 (No response.)

5 MS. TAMMY LAFFERTY: That's a question, not a
6 comment.

7 MR. TRAVIS CLARK: Are you talking about with
8 the reorganization, the transfer from BIA to BIE,
9 some of those facilities, responsibilities, stuff
10 like that?

11 MS. TAMMY LAFFERTY: Yeah. Because we know
12 it's happening, but we have not been given the
13 details. We heard it's going to take effect
14 October 1. We're sitting at the end of July, and as
15 tribal schools and the tribe, I think we should have
16 been made aware of the transition process and how
17 things are going to work, et cetera, before it takes
18 place.

19 MR. TRAVIS CLARK: So to give a broad overview
20 of what's happened: So certain functions, you're
21 right, during the reorganization they decided to
22 transfer them from BIA to BIE.

23 The first function -- the first two functions
24 that transferred to BIE from BIA was Human
25 Resources, which we didn't control our own Human

1 Resources. That has now been fully transferred.

2 The other function that has completed transfer
3 mostly is school safety inspections. That used to
4 be a function from BIA. We've actually decided to
5 staff that office up because this is actually the
6 first year that we took BIE 100 percent
7 responsibility for all of the school safety
8 inspections, so over the last two years --
9 essentially, you know, you can't just stand that
10 office up, you know, automatically. There's
11 experience and training that those folks need. So
12 the last two years we've staffed that office up but
13 we've been going out with BIA so that those folks
14 could get that practical training of actually
15 conducting on-site safety inspections. This year
16 was the first year where we took that over
17 100 percent BIE. And what we found was we were
18 short staffed. We didn't have enough staff members
19 to actually be able to go out and complete those
20 100 percent. So that's really the only thing that's
21 left. We've expanded that office by four positions
22 so that we would have an adequate number of folks to
23 be able to do those inspections.

24 The other two pieces that are coming from BIA
25 to BIE this coming year is acquisitions. You'll

1 hear -- if you've been to anything with Director
2 Dearman he talks about, you know, if anything is
3 over \$2,500, we have never been able to control our
4 own destiny as far as acquisitions. That's food,
5 bread for those schools that are directly operated.
6 That was all completely handled by BIA. This next
7 year -- this year we've actually been able to
8 transition partially some of that internally to BIE
9 and we've seen a huge improvement because now we
10 directly control those folks. They answer to us.

11 This next year we're going to completely staff
12 that office 100 percent is the goal, this next year.
13 So hopefully by September of next year we will have
14 a fully staffed acquisitions office.

15 The last piece that we're working on this year
16 is the facilities office. So I think -- this is an
17 estimation, so don't hold me to it. I think about
18 two or three months ago we hired the school safety
19 facilities manager position so that manager position
20 that's going to oversee the facilities office for
21 BIE. They have within their hiring plan to go out
22 and start hiring up the staff for that office within
23 BIE this year. My gut instinct is it will likely be
24 something very similar to what happened with safety.
25 Just because you have bodies in a position doesn't

1 mean that you're actually equipped to be able to
2 take over all of that. So as we bring on staff,
3 it'll likely be a lot like it was with the safety
4 office where we have a transition where we're doing
5 operations, we're sending those folks to get
6 training that they need with BIA and then going out
7 and doing a lot of those duties with BIA so that
8 they have that practical knowledge and experience to
9 be able to actually carry out those functions, with
10 the goal of getting that office staffed up and then
11 at a point once we feel that they are sufficiently
12 trained and have sufficient actual practical
13 experience, fully taking on that responsibility from
14 BIA.

15 MS. TAMMY LAFFERTY: Okay, which leads me to my
16 next question. I know there's constraint of
17 about 52, 54 percent. Okay, you talked about the
18 safety office is going to be hiring four more
19 people. And when the facilities portion starts
20 transitioning they're going to be hiring more
21 people. Where is the money coming from that's going
22 to pay all of these additional people? You guys are
23 not going to take more constraint, right?
24 Because right now as it is, our schools need
25 100 percent facility funding. You know, like

1 Ms. Firethunder said, Wounded Knee School is in dire
2 need of a new school but because of all of this
3 government red tape and stuff, we have the children
4 there that are sitting in classrooms with no heat.
5 The teachers have space heaters plugged in. Their
6 light bill goes up. But like I said, we got people
7 sitting in Washington that are not even coming to
8 the field that do not see that. And that's why I
9 extended the invitation: Come out every month or
10 every three months. Because our children have to
11 learn in an environment like that because the
12 schools don't get the facility money they should.
13 But now we got central office, Albuquerque, whoever.
14 You just said: We're hiring more people; we're
15 hiring more people. Is Congress giving you guys
16 specific money to hire all of those people, or where
17 the money coming from? Well, put it this way: Will
18 it be taken from our schools?

19 MR. TRAVIS CLARK: I'm not going to give you a
20 fake answer. I don't know. I just don't have those
21 specifics. I haven't actually been involved with
22 the facilities portion. I'm just giving you what I
23 know from just generally within BIE central office.
24 But where those specific dollars are coming from,
25 I --

1 DR. JEFFREY HAMLEY: I don't know either, but
2 we'll get you an answer. We'll talk to Tony
3 tonight.

4 MS. TAMMY LAFFERTY: Please do because --

5 DR. JEFFREY HAMLEY: Give us your number and
6 we'll get an answer.

7 MR. TRAVIS CLARK: He beat me to the punch.
8 I'm going to give you my business card. I'll be
9 your contact, and I'm going to track that answer
10 down for you.

11 MS. TAMMY LAFFERTY: Yeah, if you could let us
12 know, we can inform the schools and we'll darn sure
13 let the other tribes know, as well as their tribal
14 councils. Because if they're planning on skimming
15 money off the top of our school's facility again,
16 that should never have happened years back. And
17 since they're creating all of these positions, that
18 I hope to God it's not coming from our schools,
19 because they don't even get the funding they should
20 be getting now.

21 Okay, thank you. My name is Tammy. I'm with
22 the Oglala Sioux Tribal Education Agency, and my
23 information is on that sign-in sheet.

24 MR. TRAVIS CLARK: Yes, ma'am.

25 MS. TAMMY LAFFERTY: Thank you.

1 MR. TRAVIS CLARK: Yes, ma'am.

2 Any other statements for the record, comments?

3 MS. SHILO KROAKOWSKI: See, Travis, you should
4 have worn your running shoes today.

5 As Tammy said -- I just want to finish off.

6 Once again, I'm Shilo Kroakowski, the principal at
7 American Horse School for the record.

8 Come out to our schools. We had a good rapport
9 with Dr. Longi (phonetic). Dr. Longi came and
10 visited us. After we moved him out of the
11 Albuquerque office and moved him to Minnesota, the
12 only time I saw him was any time we had to go to
13 Minnesota. He built a good respect.

14 Our culture and any culture is about respect.
15 Why the anger, and fortunately we try to keep that
16 out of consultation, is because there is no
17 communication and without any communication there's
18 not respect.

19 The reason why I chose to become a teacher was
20 because of Stanley Peterson, better known by his
21 family by Dean. And when I was 5 years old he asked
22 me questions that challenged my brain. He would
23 say, "Write a 400-word essay." I never wrote one.
24 But what he did is he challenged me. But one of the
25 questions he asked me when he found out I was going

1 into that field, and I asked you guys: What is the
2 difference in the definition of empathy, pity and
3 sympathy? And which one is more important? We
4 don't want your pity. We know what our children go
5 through. Our children don't want your pity. We
6 don't want your sympathy. We don't want you to say:
7 Oh, well, that's your problem. I'm so sorry for
8 you. We want your empathy. We want you to listen
9 to us. We want you to take it home, process it and
10 say: What can we do to help these schools? What
11 resources can we help provide to help?

12 The summer school was phenomenal. That kept
13 many of my kids off the street and in safe
14 environments and fed and still learning. Those are
15 the kind of things that we want to see. We want to
16 see action. We don't want to have to put our high
17 heels on and our nylons that we put on once a year
18 when we go to Washington. We want you to come see
19 us. Put your tennis shoes on and come see us, and
20 the communication and respect will start to develop
21 and a consultation will start to develop. That
22 interaction will start to develop and there won't be
23 such negativity.

24 So we invite you with open hearts to come spend
25 time with us.

1 Thank you.

2 MS. VALENTINO VERDANYAN: Thank you.

3 At the request of Ms. Cecelia, she asked me to
4 give some closing remarks.

5 Again, this is Dr. Valentino Verdanyan for the
6 record. And I just want to thank everybody for
7 coming and sharing your experiences, your feelings
8 and your frustrations, because as humans, we all
9 need to co-exist together and as humans we need to
10 prioritize what those needs are. And it doesn't
11 matter, when you strip away everything behind it, it
12 comes down to those values. And with that in our
13 culture, we remain grounded in who we are and where
14 we come from.

15 And like Ms. Shilo said, we don't want the
16 pity. We want to be able to say to our youth that
17 they are our future leader and that they can grow
18 and be strong and proud of where they come from and
19 who they are and not to be Native shamed like we
20 have been in the past, to hold their heads up and to
21 be proud and to speak up and to ask those important
22 questions and not be afraid to ask those questions.

23 So with that, I want us to go away with hearts
24 that are full of what is possible for the future.
25 As Ms. Cecelia said, there's a lot of solutions

1 here. We offer solutions. If you invite us to the
2 table, we'll bring those solutions.

3 And with that, I hope that this isn't just the
4 beginning of this first meeting but let's truly have
5 continuous meetings and have to the point of
6 consultation. Please look at that and fight for it,
7 because you're the messengers. You're the
8 in-betweens that are going to go back. So I truly
9 ask you to go back and communicate this and fight
10 for those meetings to continue, those conversations
11 to continue.

12 Because this document should be a working
13 document. It's not the final end-all cure-all but
14 that it is a working document and it can stand a lot
15 of improvement, especially coming from tribal
16 nations.

17 So with that, I want to thank you for coming
18 and listening. When you are in this type of
19 business you gotta get thick skin. There was
20 nothing personal directed at any one of you and we
21 hope and we invite you to always come and visit us.
22 That door is always open to come visit us and
23 continue these conversations.

24 We're going to ask one of our tribal members to
25 end the day with a prayer.

1 MS. CECELIA FIRETHUNDER: We've had sun dances
2 for the last three weeks. Every year we celebrate
3 and practice one of the gifts of our ancestors. So
4 today there's somebody somewhere on this reservation
5 praying for us, and so we want to continue that
6 prayer and send you home in a good way and then ask
7 our ancestors to influence you on the airplane going
8 back to D.C.

9 (Laughter)

10 (Native prayer)

11 * * * * *

12 (The proceedings concluded at 2:20 p.m.,
13 July 18, 2019.)
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1 STATE OF SOUTH DAKOTA)
) ss.

2 COUNTY OF PENNINGTON)
3
4

5 I, CINDY K. PFINGSTON, hereby certify that
6 the foregoing pages numbered from 1 to 144, inclusive,
7 constitute a full, true and accurate record of the
8 proceedings had in the above matter, all done to the best
9 of my skill and ability.

10 DATED this 29th day of July, 2019.
11

12 

13 s/s CINDY K. PFINGSTON

14 Registered Professional Reporter
15
16

17 My commission expires:

18 February 4, 2022
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