

1 UNITED STATES DEPARTMENT OF THE INTERIOR
2 OFFICE OF THE SECRETARY

3
4 TRIBAL CONSULTATION

5 PART 30

6 BUREAU OF INDIAN EDUCATION
7 STANDARDS, ASSESSMENTS, AND ACCOUNTABILITY SYSTEM
8 NEGOTIATED RULEMAKING COMMITTEE MEETING

9 TRANSCRIPT OF MEETING

10
11 BE IT REMEMBERED THAT THE ABOVE ENTITLED MEETING
12 WAS HELD ON TUESDAY, JULY 30, 2019,
13 at 8:30 A.M.,
14 at 11110 CONINE AVENUE SOUTHEAST,
15 OLYMPIA, WASHINGTON, 98513.

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18 APPEARANCES:

19 TRAVIS CLARK, DEPARTMENT OF THE INTERIOR,
20 MODERATOR; DR. JEFFREY HAMLEY; DR. TAMARAH PFEIFFER;
21 MR. BRYAN HEMBERG; BRIAN QUINT

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23 WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HAD:
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25

1 (Meeting begins at 8:30 a.m.)

2 MR. CLARK: Thank you, everybody, for being
3 here this morning. My name is Travis Clark. I work
4 for Director Dearman in the BIE central office in
5 Washington, DC. Thank you for coming.

6 We've been going through negotiated
7 rulemaking with the committee, and now we're out for
8 our tribal consultations. And just kind of to set the
9 tone for today, you know, we are very much in
10 listening mode today.

11 We're going to have two presentations here at
12 the beginning: One given by Mr. Bryan Hemberg, which
13 is setting the context for the rule. So he's just
14 going to do a broad overview of the Every Student
15 Succeeds Act, kind of, laying some of that contextual
16 groundwork for the actual rule itself.

17 And then Dr. Tamarah Pfeiffer will be giving
18 a presentation over the activities of the rulemaking
19 committee, over their meetings this past year, the
20 proposed rule that is in the Federal register.

21 And then, really, we're here today to do two
22 things: We're going to answer questions that we can
23 answer. I will say some questions that we receive are
24 highly complex, and they -- it's just difficult to
25 give an off-the-cuff answer, but we will get you an

1 answer to every question. If they're simple, pretty
2 straightforward, you know, they're within the
3 wheelhouse of the expertise here at the table, we'll
4 give you a verbal answer right here.

5 For those that are really complex or just
6 need to research a little bit to make sure that the
7 answer that we're giving is accurate, we'll have to
8 provide that in a written format, you know, that's
9 researched, then that way we have 100 percent
10 assurances and accurate response to a question that we
11 receive.

12 But more importantly, we are here to present
13 the proposed rule. It is a proposed rule. And we're
14 seeking comment and input and feedback from Indian
15 Country how you want that rule changed, things that
16 you like about it, things that you don't like about
17 it, ways that you think that it can be improved.
18 We're seeking those comments so that we can make those
19 changes, make those substantive changes, to make it a
20 strong rule.

21 With that, I'd like to briefly go through the
22 table here and introduce you to the individuals here
23 from BIE and our colleagues with WestEd to give you a
24 little introduction to who they are.

25 MR. HAMLEY: Good morning, everyone.

1 Jeff Hamley, Associate Deputy Director, division of
2 performance accountability in the BIE. I also lead
3 the negotiator on behalf of the government on the
4 committee.

5 DR. PFEIFFER: Tamarah Pfeiffer, (Words
6 spoken in a tribal language.) I'm coming from the
7 acting chief academic office with Bureau of Indian
8 Education.

9 MR. HEMBERG: Good morning, everyone. My
10 name is Bryan Hemberg. I'm with a company called
11 WestEd based out of San Francisco, California. And
12 I've been supporting the BIE Negotiated Rulemaking
13 Committee with content and information about
14 Standards, Assessment, and Accountability under the
15 Every Student Succeeds Act.

16 MR. QUINT: Good morning. My name is
17 Brian Quint. I'm an attorney advisor with the Office
18 of the Solicitor with the Department of the Interior.
19 I've been providing support to both the Bureau of
20 Indian Education and the Negotiated Rulemaking
21 Committee throughout this process.

22 MR. CLARK: Thank you. Just a real quick
23 reminder. So as a public hearing, as a formal tribal
24 consultation, everything that's going to be spoken
25 today is on the record.

1 And just to give you an idea of why we're
2 doing that. So, again, we're here today to hear the
3 feedback and input that you want, the changes that you
4 want to make, the things that you like, that you don't
5 like.

6 Part of this process is gathering all of this
7 feedback and comments and then doing an analysis, a
8 very intensive analysis after that and saying, hey, we
9 received 20 comments on this section and so we need to
10 change this section, we received comments on that
11 section.

12 In order to do that, we need to have an
13 accurate record of who made which comments when. So
14 when we get to the question and answer section, and
15 when we're having that dialogue with you, I'm going to
16 float around, feed the mic to whomever wants to make a
17 statement for the record or has a question.

18 However, in order to make sure that it's an
19 accurate record, we have the court reporter here
20 today, she's taking down everything that's said
21 verbatim. And it's going to seem really redundant,
22 but every time you speak, even if you speak 20
23 different times, for the sake of the record we need
24 you to state your name, your title, and whom you're
25 representing here today, so that we know whether

1 you're a tribal leader, a parent, a student, whomever.
2 Whomever you're representing, we just need to have
3 that recorded in the record so that, you know, a few
4 weeks from now when we're doing that analysis, we know
5 when we're going through the record, okay, so and so
6 made this statement, so and so didn't make that
7 statement. So it's just very important.

8 And I might remind folks later. Apologies in
9 advance. I'm not meaning to be rude at all. We just
10 need to make sure that we have that accurate record so
11 that when they're doing that first consultation
12 analysis they know who made which statements.

13 So again, just those three things: Your name
14 for the record each time before you speak, your title,
15 and who you're here representing. Okay.

16 So with that, I'm going to give it over to
17 Mr. Brian Quint. He's just going to give a quick
18 overview of the rulemaking process and do some of the,
19 I guess, the logistical -- the last of the logistical
20 things with regard to the negotiated rulemaking.

21 MR. QUINT: Thank you. Good morning. Once
22 again, my name is Brian Quint.

23 So as you're aware, the Elementary and
24 Secondary Education Act in 1965 was reauthorized and
25 amended in December of 2015. Section 8204 of the

1 Every Student Succeeds Act, which we authorized and
2 amended the ESEA, required the Department of the
3 Interior to undergo and negotiate a rulemaking
4 process, develop the rules for how the department
5 would be establishing requirements for Standards,
6 Assessments, and Accountability System at BIE funded
7 schools.

8 We began that process -- well, we'll see the
9 timeline, but I believe it was 2017 when we finally
10 officially started the committee. The committee met
11 four times in person. The committee members divided
12 themselves up in the task areas, the Standards,
13 Assessments, and Accountability System, Tribal
14 Waivers.

15 In addition to the in-person meetings, they
16 also met several times by teleconference in
17 subcommittee to discuss different aspects of what the
18 Elementary and Secondary Education Act requires. And
19 our colleague, Mr. Hemberg, is going to talk a little
20 bit more about that in a moment.

21 And so, as Travis mentioned, we are out here
22 to hear from all of you now. You can also provide
23 comments online after you've had a chance to go home
24 and think about everything you've heard here.

25 And so, the next step is -- the comments are

1 due by August 9th. And the next step is that, as
2 Travis said, we're going to go back and we're going to
3 look at all the comments. We're going to think about
4 how to change this proposed rule in response to things
5 that you're saying and comments that we've received
6 online.

7 And when we publish the final rule, there
8 will be an explanation of, as Travis mentioned, we
9 received this many comments on this topic, and we'll
10 say we've decided to change the proposed rule for this
11 reason or we tried to not change the rule in response
12 to these comments for this reason. So we're going to
13 explain. There will be a response to the things that
14 we've heard in the final rule and an explanation of
15 what we've done and why.

16 MR. CLARK: Okay. Thank you, Brian.

17 With that, again, thank you for coming. And
18 I'm going to hand it over to my colleague,
19 Mr. Bryan Hemberg, to give his presentation over the
20 Every Student Succeeds Act.

21 Oh, I'm sorry. And just one more comment.
22 If you don't mind, we're going to hold questions and
23 comments until after the presentations. And then
24 really the rest of the day is going to be dedicated
25 to -- it's really just going to be an open dialogue.

1 So Mr. Hemberg.

2 MR. HEMBERG: Thanks. So, as was mentioned,
3 I'm going to go over the Every Student Succeeds Act
4 and the requirements within the law about Standards,
5 Assessments, and Accountability Systems, because these
6 are the rules that all states and the BIE must follow
7 for the most part.

8 And so, it was important, especially for the
9 Negotiated Rulemaking Committee, to understand all the
10 rules and regulations and requirements of the law as
11 they started to think about, well, what standards,
12 what assessments, and what accountability system do we
13 want to use for our students who are being taught
14 within the BIE.

15 So just a little background around the law.
16 So, the law started out -- the law which is the
17 Elementary and Secondary Education Act was first
18 passed in 1965. And it's the largest law -- education
19 law in the U.S. So as of today it's providing around
20 \$14 billion in funding to public schools. And there
21 have been many iterations, many reauthorizations of
22 the law. And the latest authorization is the Every
23 Student Succeeds Act, which was passed in December of
24 2015.

25 You may remember the previous iteration,

1 which was No child Left Behind. No Child Left Behind
2 was a reauthorization of the Elementary and Secondary
3 Education Act in 2002, and it really set the
4 expectation that we need to make sure that we are
5 teaching all students. And it specifically pointed to
6 subgroups of students who had historically not been
7 receiving the same services as some students.

8 We have four pillars within the law:
9 Standards, what students are expected to know and can
10 do when they're receiving education. Assessment,
11 making sure that they are learning as we expect them
12 to. The segregation of students, can we look at
13 groups of students and make sure they're receiving
14 services. Transparency, are our institutions
15 providing and sharing information with parents and
16 communities so they know that their students are
17 learning. And school support and interventions, what
18 are our institutions doing, how are they providing
19 those supports after they identified poorer students.

20 So Section 8204 of ESEA requires the
21 Secretary of the Interior to set the Standards,
22 Assessment, and Accountability System for the BIE.
23 And this needs to be set at a national level, a
24 regional level, or a tribal level. And the -- one of
25 the tasks of the Negotiated Rulemaking Committee was

1 to think about this in the context of the unique
2 circumstances of the students within the BIE schools
3 and the specific needs of those schools.

4 The caveat there is that needs to follow the
5 regulations within ESEA, specifically Section 1111,
6 which covers Standards, Assessment, and
7 Accountability. And so, the Negotiated Rulemaking
8 Committee was developing a rule and was developing
9 considerations for the Secretary as they developed the
10 proposed rule.

11 So when we think about these three
12 components, Standards, and Assessment, and
13 Accountability, they are always spoken of together
14 because they were meant to be together. They are part
15 of a system that connects to one another.

16 The standards, we are setting as a community
17 what we want our students to know at each grade level,
18 what we want them to walk away with from their
19 education.

20 The assessments that we give are intended to
21 be designed to measure if a student is learning those
22 standards. If they are learning year to year what we
23 expect them to.

24 And our accountability systems are intended
25 to be set up so that we know how students are doing as

1 a community. So parents, teachers, community members
2 understand how students are doing year to year and
3 what is being done based on the results.

4 If we're seeing that there's issues in
5 certain subjects of students or certain areas, what
6 are we doing to remedy that?

7 So when the Negotiated Rulemaking Committee
8 was talking about standards, we're talking about what
9 do we want our students to know and to do at each
10 year. And setting expectations is setting
11 expectations of what teachers are going to teach in
12 the classroom, what students are going to learn in the
13 classroom, what the scope and sequence of that
14 learning is going to look like at each grade level.

15 States and the BIE -- and I'm going to say
16 "states." When I say "states," I'm also including the
17 BIE schools as a state.

18 They're required to adopt challenging
19 academic standards. So we want to make sure that
20 students, as they graduate high school, they are ready
21 for careers, they are ready for college. And so, the
22 minimum adoption requirements are in reading or
23 language arts, science, and math. So those are the
24 standards that every state is going to need to
25 identify for it to be in compliance with the law, at

1 the minimum.

2 You have to set three -- at least three
3 levels of achievement, and so, that means being able
4 to identify students who, according to your own
5 definition are, for example, advanced, basic, or
6 proficient. And so, some states may set more than
7 three levels, they may set three exactly. But it
8 needs to be -- you need to have those different
9 demarcations of performance.

10 And here is a new requirement under ESSA,
11 which is making sure that the standards you have are
12 aligned to the requirements for higher education so
13 that there is a natural progression after high school
14 graduation that they -- you know they've met, they've
15 learned what they need to learn to take that next
16 step, if they choose to.

17 And so, that's why we talk about alignment of
18 credit-bearing coursework in the public higher
19 education system, and with career and technical
20 education standards. So if the students do not want
21 to go into college, and they want to pursue technical
22 education or career, they can do so. They're prepared
23 for that when they graduate.

24 So all students, no matter who they are, have
25 the same standards. The same standards need to apply

1 to every student. The one exception is that if a
2 student has a severe cognitive disability, a state can
3 create alternate achievement standards that are
4 aligned to the academic standards.

5 And so, typically, those will be called
6 alternate standards or alternative achievement
7 standards. And these are math or science or reading
8 standards for severely disabled students.

9 Every state also must adopt standards for
10 English learners. Students that are identified as
11 English learners. And so, these are English-language
12 proficiency standards, and they cover speaking,
13 listening, reading, writing. And these standards are
14 also aligned to the academic standards.

15 So you have this further -- these further
16 sets of standards; one for students that are severely
17 disabled, and one for students that are learning
18 English. English is not their primary language, and
19 they have been designated as an English learner.

20 To ensure that students are being provided
21 services and being taught the standards, we have
22 assessments. Having an assessment at least once a
23 year ensures that we are monitoring how classrooms are
24 doing, how schools are doing, how school districts are
25 doing, how states are doing as far as service to their

1 students.

2 The law asks that states have high quality
3 assessments. And these high quality assessments are
4 intended to -- (technical difficulty discussion held
5 off the record) -- so, the reason that we have these
6 assessments is to monitor progress and specifically to
7 make sure that there aren't any gaps between student
8 groups.

9 So, if we are able to assess students and
10 look at the performance of the different groups, we're
11 not just making sure to see how the whole student body
12 is doing but each group of students within that, how
13 they're being served, if they're achieving
14 proficiency.

15 It also provides an opportunity to give
16 information back to schools and districts that they
17 can use for programatic decisions, for the purposes of
18 improvement year over year. And in some instances,
19 the results from these annual assessments can be used
20 to improve teaching and learning.

21 Under the law, there are quite a few
22 requirements around assessments. And so, this is
23 something that every state has to be compliant with
24 the law. You have to administer assessments in math,
25 in reading or language arts to every student in grade

1 3 through 8 each year. You also have to administer an
2 assessment once in high school. Science needs to be
3 administered once in every grade band. So, once in 3
4 through 5, once in 6 through 8, and once in high
5 school.

6 So that's the requirement of the law for
7 every state. The law also says that students with
8 severe cognitive disabilities must also be included in
9 assessment. You have to test every student. It can
10 be on the regular test, if that is accessible to them,
11 or you can have an alternate test for those severely
12 disabled students. Every student must be provided
13 with either the alternative assessment, if they are
14 severely disabled, or accommodations on the test so
15 they have access to it.

16 So the accommodations is referring to
17 students that who would take the regular general
18 education assessment but they have support on the
19 test. The assessments that are administered have to
20 be aligned to the standards. That's why they're
21 there. We're making sure the students are learning
22 the standards. The results of those assessments must
23 be able to tell if the student's at grade level or
24 not.

25 And then finally, at least 95 percent of all

1 students in the state must test every year. That's
2 the threshold that has been set.

3 I said there is a lot of requirements.

4 English learners. If a student is identified
5 by the state as an English learner, they must be
6 tested on a separate English language proficiency test
7 every year from kindergarten to twelfth grade until
8 they are no longer identified as an English learner.
9 So no matter what grade a student is, if they are
10 identified as an English learner, they need to take
11 this English learner proficiency test every year. And
12 that's to determine their progress for mastering the
13 English language.

14 English learners also have to take that
15 academic assessment in reading or math or science.
16 ESSA says that Assessments -- and this is referring to
17 all the assessments that it talked about -- can be
18 delivered in part, so not the whole thing, but in
19 part, as projects or portfolios or performance tests.
20 So it doesn't need to all be multiple choice. It
21 doesn't need to necessarily all be written.

22 States have the option of giving a single
23 test towards the end of the year or trying to break it
24 up into multiple interim tests throughout the year
25 that produce that final score. That's the key,

1 though. No matter what option the state chooses, it
2 has to result in that one final score.

3 And then that 1 percent cap means that only
4 1 percent of the students who test can take the
5 alternate assessment, making sure that not too many
6 students are taking that test for severely cognitively
7 disabled students. And so, that's put in so the
8 states can look at over-identification,
9 under-identification, making sure that you don't have
10 too many students inappropriately taking this
11 alternate assessment.

12 So now that we have those assessment results,
13 that feeds into accountability, the system that's
14 watching everything that's going on and deciding what
15 supports are needed.

16 So, accountability systems are supposed to
17 set clear expectations for everybody about student
18 performance. Schools are expected to raise the
19 achievement of students. And this is watching to make
20 sure that's happening, that students are meeting those
21 goals. And I want to point out it says specifically
22 all students. So we want to make sure that all
23 students are getting this.

24 These accountability systems are able to
25 focus attention and resources on the students that

1 need the most help. The accountability system, which
2 was proposed by the Negotiated Rulemaking Committee,
3 is also supposed to talk about what's important.
4 Whatever you include in that accountability system is
5 what is of value and what you want to make sure is
6 happening.

7 It also allows for interventions from the
8 state, from the schools, when you see
9 underperformance. And so, sometimes when you're able
10 to dig into the information and see, oh, these
11 students are -- this group of students is not
12 performing as well as the others. What's happening
13 here? Let's take a closer look and figure out what we
14 can do. That's the intent of the accountability
15 system.

16 One requirement of law is that accountability
17 systems can't just be one thing. They have to include
18 multiple measures of student performance. And there
19 are some required measurements in the law.

20 The one requirement is that you have to
21 measure academic achievement as it's measured by your
22 annual assessment. So how students do on the tests in
23 EL or reading and mathematics.

24 For high schools, you can also not just
25 include proficiency, how they did, but you can also

1 include growth. How they've grown over the past
2 rather than just that one point in time for
3 proficiency.

4 So the other required indicators, and this is
5 just for elementary. It's different for high school.
6 For elementary you can include a growth measure. So
7 if you want to meet the requirement for proficiency
8 and you're saying, hey, we're really growing here, we
9 want to highlight that, you can include a growth
10 measure. Or you can include a different valid
11 academic indicator, like performance on science.
12 Something that's talking about student academic
13 performance.

14 For high school, you include graduation
15 rates. That's a requirement under law, to include the
16 graduation rate for the high school. You also have to
17 include English language proficiency. So how are
18 identified English learners doing on the English
19 language proficiency test every year?

20 And then finally, an additional factor of
21 school quality or student success. This -- the only
22 requirement for this indicator is that it can
23 differentiate for subgroups of students. And so, you
24 see a lot different options there depending on what's
25 valued by the community.

1 Are teachers engaged? Do students have
2 access to higher education coursework? Are they
3 college and career ready? Is the school climate
4 performing as expected?

5 So this is a flexible indicator that's chosen
6 by each state based on what they want to see included
7 as a priority.

8 So, the requirements under the law are that
9 this accountability system that's created by every
10 state can meaningfully differentiate every year all
11 schools. And so, what it wants to produce is how is
12 each school doing based on these indicators every year
13 so that the community can see what's happening based
14 on the indicators that are chosen.

15 Every state has to set goals based on those
16 indicators so that we know how performance is going.
17 How are we doing based on our goals? Are we reaching
18 them? Are we making progress?

19 And you set long-term goals based on the
20 assessments, performance, and the graduation rates.
21 And you set these goals for all students. And you'll
22 see that the goals are set not just we want all of our
23 students to get here, but you look at the data, you
24 set meaningful goals. Because not all groups of
25 students are at the same level.

1 And so, how much growth do we want to see for
2 this group? How much growth do we want to see for
3 that group? And you set your goals that way.

4 So this accountability system, then, will
5 generate results. So we've included the components
6 that are required. We've included the components that
7 we'd like to see included. And now we set our goals.
8 And now we are identifying the schools. So what are
9 the results?

10 And you'll see you have lowest performing
11 5 percent of Title 1 schools, those schools receive
12 comprehensive support. So whatever schools fall into
13 that bucket are going to receive comprehensive support
14 from the state. Low graduation in high schools also
15 get comprehensive support. And then schools that are
16 receiving targeted support that are still not exiting
17 are also going to receive comprehensive support.

18 And so, you see the differentiation.
19 Comprehensive, meaning that the state's going to
20 provide a robust amount of support for the schools to
21 get where they need to go.

22 Targeted support is referring to the school
23 doesn't necessarily need all that many services. They
24 have specific needs, and the state can target those
25 needs with their services. So you see schools that

1 have subgroups that are certain subgroups that are
2 consistently underperforming. And so, they are going
3 to need those services.

4 And so, all of these different groups are
5 going to be the result of the accountability. So each
6 year the assessment will provide data. They'll feed
7 into the designed accountability system, and you'll
8 get identification of schools that need support. And
9 those schools receive support that is outlined in the
10 state's plan.

11 So here we talked about the one group,
12 comprehensive support and improvement. Comprehensive
13 support and improvement, the lowest performing 5
14 percent of Title 1 schools. And schools, high schools
15 that fail to graduate more than two-thirds of their
16 students will receive comprehensive support. And
17 these are identified at least once every three years.

18 You also have, states must identify schools
19 that receive targeted support and improvement. Yeah,
20 additional targeted support and improvement. And so,
21 you use the same methodology, the same mechanism. And
22 it is based on subgroup performance. So not just
23 school performance, a subgroup of students. And you
24 can pick from either a cross-section of all the
25 schools or those schools that are identified as

1 targeted support.

2 And you'll note here that it's the
3 precomprehensive support that was talking about
4 Title 1 schools, and this not. This is all schools.

5 And then finally, the targeted support and
6 improvement is based on the performance of student
7 subgroups. Where are these students groups
8 underperforming? Where is the accountability shining a
9 light? And the schools are going to be responsible to
10 implement the interventions that are needed to support
11 these students. And these schools are identified
12 annually.

13 So how are our results on the accountability
14 system? Who is -- what groups of students need our
15 support? What supports are we going to be providing
16 them? And that's going to happen every year.

17 So it's a very systematic way to make sure
18 that all students are getting the services they need.
19 And each state needs to set this up underneath the
20 law. And they've done so in different ways. It's all
21 driving toward making sure that all students receive
22 excellent education, that they're receiving the
23 services they need to be college and career ready.

24 So we have -- you know, a lot of people spent
25 a lot of time teaching and learning under No Child

1 Left Behind, and so sort of demonstrating the shift
2 what's changed from that era to Every Student Succeeds
3 Act has been a helpful exercise.

4 And so, we have this comparison of No Child
5 Left Behind to the Every Student Succeeds Act. For
6 example -- and is this in their packet?

7 MR. CLARK: Yes.

8 MR. HEMBERG: So this is in your packet, as
9 well, so I won't necessarily read through it. But,
10 for example, under No Child Left Behind there are
11 required state standards in reading, math, and science
12 at all grade levels. That hasn't really changed,
13 except now we need to make sure our standards are
14 challenging, that they're aligned to college and
15 career requirements. And in this instance,
16 specifically prohibits the Secretary of Education from
17 having any authority over the state standards.

18 Another big difference is in the state testing. There
19 wasn't a lot of flexibility in the state tests that
20 were given under No Child Left Behind. And under the
21 Every Student Succeeds Act, states have given a lot
22 more flexibility as to what those tests look like, the
23 content of those tests, the format of those tests, and
24 how the results are reported back to the public.

25 So as we said, there will be questions at the

1 end. But I just wanted to make sure that you had sort
2 of a brief overview of what's required in the Every
3 Student Succeeds Act or Standards, Assessment, and
4 Accountability. The Negotiated Rulemaking Committee
5 needed to work within those rules as they came up with
6 their proposals. And the draft rule needs to reflect
7 those requirements, as well.

8 So thank you very much for having me.

9 MR. CLARK: Okay. Thank you, Mr. Hemberg.

10 Next we're going to have Dr. Tamarah
11 Pfeiffer. She's just going to provide a real brief
12 presentation over the working -- negotiated rulemaking
13 committee's work itself.

14 DR. PFEIFFER: Again, good morning. Thank
15 you for the hospitality here in Washington State.
16 We're here to kind of give an overview of the
17 Standards, Assessment, and Accountability. You'll see
18 that in Section 1, it's written out in two different
19 ways. One is the very fine print of the federal
20 register, and then it's been done a second time so
21 that you can see it in bigger print. And we'll be
22 asking some questions along the way, hopefully kind of
23 helping you to formulate some comments and some
24 suggestions around the rule.

25 I also will give a preface. I kind of

1 consider myself a little smart, you know, up there
2 maybe, I don't know, above 50 percent. And it took me
3 awhile to understand that when we are requesting and
4 going through this negotiated rulemaking that this is
5 the regulation that will drive the secretary when it's
6 published. So this could be our regulation for quite
7 a while. And so, it's really important to get that
8 specific feedback around the rule.

9 Travis, I'm already stuck.

10 So the first section here is the -- this is
11 the requirement for Standards, Assessment, and
12 Accountability. It's to serve all schools. And
13 again, kind of repetitious. But it's under
14 Section 1111. And such requirements must be
15 implemented pursuant to the regulations developed in
16 this negotiated rulemaking.

17 There was a timeline. It was an extended
18 timeline. As you know, we had a change in
19 administration, so as the committee started to get
20 formed under the new administration, they have
21 that preference to reestablish a rulemaking.

22 We had a couple members from this area that
23 were represented. I want to say it was Amy from Chief
24 Leschi. And we had Laura Brockner (as heard) from
25 Chemawa Indian School that were also on the committee.

1 And they completed the report on June 10th. And
2 you'll see those recommendations, as well, in your
3 section, I believe it's Section 4.

4 The rulemaking committee was made up of
5 17 members, 12 were nonfederal and 2 primary. It's
6 important to also acknowledge that they came from a
7 vast variety from across the nation of administrators,
8 teachers, parents, school board members. So that was
9 also very helpful because you want to see that breadth
10 to the discussion.

11 The key recommendations here, it's important
12 that they honored tribal sovereignty in education.
13 Being a past tribally-controlled school leader, I have
14 to say that that's, you know, really key there.
15 They're looking for a unified system of requirements
16 parallel to states so one unified system. They want
17 to look at consistency. They hope BIE, not has the
18 same requirements but consistent requirements as
19 states, and that there's ongoing stakeholder
20 engagement.

21 And we will keep the last light up because
22 written comments are going to be important.

23 Standards -- let's see, where am I going to
24 have to stand?

25 Standards and assessments in tribal civics

1 was -- a recommendation was to have it phased in and
2 that science as an academic indicator.

3 So the proposed rule, the committee
4 recommended that the rule include the requirements
5 that BIE has Standards, Assessment, and
6 Accountability. This would ensure transparency,
7 consistency with stakeholders, similar to the state's
8 plan when required by the states.

9 So our question to you is should such a plan
10 be specified in a rule?

11 The second recommendation for the proposed
12 rule was around stakeholder engagement. The committee
13 recommended that the rule required an ongoing and
14 meaningful engagement with stakeholders with
15 requirements. Is stakeholder engagement a requirement
16 beyond existing tribal consultation?

17 What effect should a requirement have on
18 BIE's ability to make changes to requirements when
19 necessary? And what form should that engagement take?
20 Those are some questions that we have around
21 stakeholder engagement.

22 Proposed Rule -- Tribal Civics. The
23 committee recommended that the rule require
24 implementation of standards and assessments in a
25 subject to be called Tribal Civics. That would

1 include topics related to tribal sovereignty,
2 self-determination, treaty law.

3 How might such a requirement be implemented
4 nationally across BIE funded schools? Might such a
5 requirement conflict with curricula work tribes have
6 developed in their own communities?

7 So those are a couple of questions that we
8 have around Tribal Civics as part of the proposed
9 rule.

10 Proposed Rule -- Science. The committee
11 recommended that the rule required the incorporation
12 of science in the accountability system. And as you
13 remember from Brian's presentation, science was not
14 part of that. It was ELA, math, and reading. Thank
15 you.

16 So in the proposed rule should such a
17 requirement apply nationally to all BIE funded
18 schools? What might be the effect of this
19 requirement?

20 Proposed Rule -- Tribal Civics and Sciences,
21 SQSS. The committee recommended that the rule require
22 Tribal Civics, phased in, and Science as School
23 Quality of Student Success indicators, with a possible
24 later incorporation of Tribal Civics as an academic
25 achievement indicator at a later date.

1 What might that effect have? What might be
2 the effect of such requirements?

3 Proposed Rule -- Native American Language.
4 The committee recommended that the rule include an
5 affirmation of the right to develop and implement
6 academic standards and academic assessments in
7 Native American language.

8 Does a statement regarding what a tribal
9 governing body or school board might implement belong
10 in a federal rule governing? What must be implemented
11 in BIE funded school -- schools? I wish we had only
12 one school.

13 Proposed Rule -- State requirements Opt-In.
14 During transition the committee recommended the rules
15 allow Tribal Governing Boards and School Boards the
16 option to continue to use state requirements for
17 standards and assessments where a state agrees that
18 TGBSB has notified the secretary of the intention.

19 How might this affect the goal of the unified
20 system of requirements agreed upon by the committee?
21 Does this conflict with the statutory waiver and the
22 alternative proposals process?

23 Waivers and Alternative Proposals. The
24 committee recommended that the rule include timelines
25 for responses to proposals for alternative

1 requirements to ensure timeliness and transparency in
2 review process, including updates every 30 days.

3 Would such requirements be overly burdensome?

4 These were not part of the negotiated
5 rulemaking, but we do want your feedback.

6 The following section of proposal rules
7 speaks to parts that the committee did not have time
8 to negotiate on.

9 The Proposed Rule -- Support and Improvement.
10 The proposed rule describes requirements for support
11 and improvement. Do such requirements belong in the
12 rule? How much autonomy should BIE funded schools
13 have with regard to school improvement?

14 Here is the Consultation Schedule. This
15 being our last tribal consultation, but not the last
16 time individuals can give feedback. And this is where
17 you can find the actual additional information around
18 the negotiated rulemaking documentation that you see
19 in your booklet.

20 And finally, most importantly, if you do not
21 get your comments, would like more time to review the
22 documents and give more substantive feedback, it is
23 open until August 9th, Eastern.

24 Thank you.

25 MR. CLARK: Okay. Thank you, Dr. Pfeiffer.

1 So, I would propose that is it for the
2 presentations. Really, the forum for the rest of the
3 day is going to just be open statement, open
4 opportunity to make statements for the record. And
5 then a little Q and A.

6 If you have questions, we'll do our best to
7 answer those questions that we have 100 percent
8 confidence that we can answer accurately right now.
9 Let me just reiterate, for some of the questions that
10 we've received, and they're very complex questions
11 that we've received, and we want to make sure we're
12 giving a 100 percent accurate response to those. So
13 for those, you can state those questions and then
14 we'll get you a response in a written format.

15 Importantly, you know, once -- as you can see
16 in your packets, it's a pretty complex rule. It's a
17 pretty meaty rule. So just to reiterate, today is not
18 your only opportunity to make a comment on the rule or
19 to suggest changes or to propose alternative language.
20 You have until August 9 at 12 p.m., Eastern time, to
21 submit such comments or statements contributing to the
22 record at those two websites, at either
23 regulations.gov or the consultation website with the
24 BIA.

25 With that, I propose a quick 10-minute break

1 and then we can start. And we'll just start with an
2 open forum and take your questions and list any
3 statements that you have for the record.

4 So by my watch I have 9:35. So we'll
5 reconvene 9:45. Thanks.

6 (Recess taken.)

7 MR. CLARK: Okay. The court reporter
8 is ready to go, so we'll open it back up again, just
9 real quickly, before each and every time that you make
10 a statement, speak, please give us your name, your
11 title, and who you're representing again. That's
12 really critical to make sure that we have a clean
13 record, and we know who made which statements when we
14 go back and do the post-consultation analysis of the
15 feedback and to let that -- let that form the changes
16 that are made to the rule.

17 We've got a person floating, so all
18 you need to do is raise your hand. We'll get you a
19 microphone, and then you can make your statement for
20 the record, ask questions. Again, we want to
21 encourage more or less just an open dialogue with you
22 today regarding the proposed rule.

23 So with that, I'll open it to the
24 floor. If you've got a statement or a question or
25 anything, just raise your hand, and we'll get you a

1 microphone.

2 (Discussion held off the record.)

3 MR. THOMAS: We've all been waiting
4 for this anyway. I'm Bernie Thomas, Pahalucktun
5 (Tribal language spoken.)

6 THE COURT REPORTER: Can you spell
7 that, please?

8 BERNIE THOMAS: I'll give it to you.
9 Pahalucktun, P-A-H-A-L-U-C-K-T-U-N. I'm the education
10 director for the Lummi Nation. And I'm an enrolled
11 Lummi tribal member. And there are 5,500 of us in the
12 Lummi Nation, 344 attending Lummi Nation school, the
13 K-12 program. We also have a Headstart program, early
14 Headstart ECAP, which is a state funded early learning
15 program. Teen/parent child development center.
16 Johnson Lummi Program, and Northwest Indian College.

17 And so, we want to thank our Trustee, the
18 Bureau of Indian Education, for being here to have
19 this dialogue. Always a little fearful of these
20 rules. As you point out, we're going to be stuck with
21 them a long time before they ever have a chance to get
22 changed. That's why we don't change our codes all
23 that much at the Lummi Nation. Once you initiate a
24 code, it's so hard to change it.

25 You know, but to everything that was

1 mentioned in the discussion of the work of the
2 committee, I will just add "culturally appropriate" to
3 the front of every standard. And, you know, that's
4 going to be different for every tribal school, you
5 know.

6 But the bureau, tragically, has had a
7 sorrowful history with Indian Nations and robbed us of
8 our culture and our identity. And so, we want to be
9 able as the Indian Nations be able to be free to be
10 who we are. And, you know, we've been, you know,
11 relegated to a number of different laws, which are old
12 politics of hatreds towards the Indian people. And
13 most of these laws revolve around killing the Indian
14 in order to save the man.

15 And some of these laws related to these
16 standards, for example, about being proficient in
17 English, being proficient in math, are remnant parts
18 of these policies. They don't have anything to do
19 with our culture or our identity. Culture and
20 identity are very closely linked with education. In
21 my view, they're everything.

22 You know, when we impose standards, you know,
23 borroughed of anything that is of cultural value to the
24 Indian people, you know, we end up with the United
25 States' mantra of the name of the game is win as much

1 as you can. And in the tribal mantra, the name of the
2 game means win as much as you can involves the plural
3 usage of the word "you," meaning all of us.

4 And we're a "we" people. And we can all be
5 better people. You know, you listen to any of the
6 ancient stories, you know, the songs, the dance
7 performances, all the different things associated with
8 our culture, all revolves around the notion of a
9 single idea that we can be a better person.

10 When you're participating and, you know,
11 attention around public schools has to do with an
12 inherent sublimated question of, you know, can you be
13 number one? And the competition that exists in the
14 school then becomes alienated to our students, to our
15 family members.

16 You know, we don't want to compete in that
17 exact way. We want to be able to work together and we
18 want to cooperate, we want to support one another. We
19 want to do all the different things that are of value
20 to our community, to our family. And, you know, it's
21 not good for us to try to be better than our own
22 family members. You know, so we -- except in the
23 service to our family.

24 And so, you know, some of these attributes
25 of standardized testing and these different things

1 have robbed us of some of these fundamental values of
2 our culture and our people. And, you know, not
3 everybody believes as I do, because as I said, there
4 has been so much intervention by the society at large
5 to rob us of our culture and our identity.

6 And so, you know, but there is a very
7 powerful movement -- or revolution, if you will -- not
8 a movement -- a revolution towards revitalizing tribal
9 culture and revitalizing tribal languages. And so,
10 the bureau, as our trustee, need to help us to be able
11 to do that, to knuckle up to these policies and impose
12 those things that are the wish of the Indian Nations,
13 the Tribal Government, her people, to be free to be
14 who they are.

15 And how can they be possibly without a
16 restoration of our language, which in the Lummi
17 language doesn't have any swear words in it. There
18 are no curse words in the Lummi language. All of the
19 terminologies about the earth, all of the moving
20 things and all things are living, relationships with
21 each other, all speak to a fundamental human respect
22 that we have to one another as human beings, as
23 members of the great family. And whenever we see our
24 family members, we just want to reach out to them like
25 rock stars. You know, you're a member of my family.

1 It's a very important thing.

2 That isn't in any of these standards. And,
3 if anything, those standards alienate that exact
4 fundamental principle of who we are. And so, I want
5 that standard to, you know, be added, you know, to be
6 able to be free to be who we are. We need culturally
7 appropriate standards to each tribe, to each tribal
8 school. No tribal school is the same.

9 And, you know, the federal government and the
10 Indian Relocation Vocational Education Program in the
11 1950s just sort of dropped our family members wherever
12 they happened to be. I have family members in
13 Missouri, Florida, New York City, San Francisco,
14 California, Southern California. Why are they there?
15 The program ended and so they just ended up staying
16 and working wherever they were at by the government
17 then at that time to assimilate our -- to culturize
18 and assimilate our family members into the mainstream.

19 And was pointed out, if you're out of the
20 jurisdiction of your particular tribe, then you're out
21 of luck in terms of anything related to being who you
22 are culturally or within your identity.

23 But as our trustee, the bureau needs to help
24 us to be able to find our family members wherever
25 they're at. There need be consistent data collection

1 regarding the educational civil rights of our family
2 members to be able to have a free and appropriate
3 education that relates to the culture and identity of
4 our family.

5 And, you know, without the consistency of
6 being able to positively identify our family members,
7 wherever they may happen to be, you have no idea, you
8 know, if you're implementing policies that are
9 impacting them or not. You know, who they are. You
10 know, where they are. You don't. You have no idea
11 because that isn't part of what your goal is. That
12 needs to be a goal.

13 You know, the State of Washington, the same
14 thing. We need to be able to identify our family
15 members. Where are they? Who are they? Are they
16 attaining any kind of academic proficiency or
17 anything? Are they afforded the opportunities to know
18 and understand their culture and identity, if they so
19 choose? And so, these are the different questions
20 among the Indian Nations that we want to be able to
21 ask and have answered.

22 We also need to be able to -- in this same
23 line, need to be able to develop curriculum,
24 culturally appropriate curriculum, to be consistent
25 with and what could be developed towards trying to

1 develop a curriculum at the Lummi Nation from birth to
2 three, and three to five, and through the K-12 system,
3 that aligns with the common core state standard
4 curriculum, you know, that starts out with who am I?
5 Who is my family? What are the things around me? All
6 the different pieces of what you would see in a common
7 core state standard curriculum. And then just to
8 making it like Lummi.

9 And so, you know -- but these kind of
10 efforts, you know, require that our teachers be quick
11 on their feet to think, well, what is my lesson plan
12 today? A common core state standard curriculum
13 teacher can go to the shelf and say, oh, I'm going to
14 be teaching about, you know, the trees outside the
15 building today. So they can go to the shelf and pull
16 that off the internet or some other thing. But we
17 don't have that for our own cultural curriculum or our
18 language curriculum.

19 I need the bureau to support us in the
20 development of positive attributes of our own culture
21 and the development of culturally appropriate
22 curriculum. Beyond that, we need researchers to, you
23 know, facilitate this work.

24 And we also need teachers. I think, you
25 know, it's been empirically demonstrated that, you

1 know, students that are bilingual are smarter. So we
2 want to be able to promote students that are
3 proficient in our own language as well as in English.
4 So we have ESL. We have other things, you know, that
5 kind of dance all around our needs, but they don't
6 actually deal with our needs from the standpoint that,
7 you know, we want our students to be able to be fluent
8 in our own language.

9 In order to do that, we need to increase the
10 overall number of -- in our particular case, and I
11 can't speak for the other tribal schools -- but in our
12 particular case we want to be able to increase the
13 overall number of teachers who can speak the language
14 and who also can become -- who can be taught to become
15 good teachers.

16 And so, this is a -- you know, take a look
17 at the work that was done in Hawaii, for example, the
18 Hawaiian language, with in excess of 90 percent
19 graduation rate and 90 percent graduation rate from
20 college four years later. Those kids are bilingual.
21 Those family members from over there are bilingual.
22 So we want to be able to do these things. Empirically
23 we know it's the smart thing to do.

24 There's a lot of evidence to back up
25 everything that I'm saying. But, you know, this is

1 our -- my passion as the education director at Lummi.
2 And, you know, I've been saying these things across
3 the state and across the country.

4 And in the immortal words of Moses, you know,
5 "Let my people go." You know, we need to be able to
6 be free to be who we are. And it's part of our civil
7 rights that have been denied us.

8 Number one, we don't know who we are or where
9 we are. Number two, we need transparency of the
10 bureau's budget so we can, in effect, you know, build
11 a bureau for funding for curriculum development,
12 design and development, for our teacher development.
13 And, you know, and then, you know, positive, you know,
14 shadow management of their on-the-job training to
15 become teachers. Because this is going to take us a
16 little while, with focused effort, to be able to
17 institute a different form of educational system that
18 hasn't existed on the face of the North American
19 continent for 160 years.

20 So we need to be able to do things in an
21 effort to save the generation that's right here right
22 now. Because at least at the Lummi Nation in 2018, we
23 had about 3200 adults that are over the age of 18,
24 1,000 of whom are addicted to heroin.

25 In response to that, the Lummi Indian

1 Business Council in February of 2018 declared a public
2 health emergency within the opioid epidemic. And so,
3 think about those kids that are prenatally exposed to
4 heroin or other drugs, methamphetamine, alcohol.
5 Alcohol being the worst.

6 But all the human developmental delays that
7 come from our not knowing what the overall impacts of
8 these kinds of things are, being addicted to Suboxone
9 at birth. All the different other things that go on
10 within the drug culture now that is supplanting our
11 own cultures.

12 And so, this is a public health emergency
13 that the bureau or trustee needs to join in in helping
14 us. You know, I've made some appeals to the
15 president. And so, the president is going to send out
16 the Office of Management and Budget to, in effect,
17 help us to look at this issue and how it intersects --
18 transcends health. And healthcare mixes with
19 education, and some of the different things that we're
20 trying to do within the Lummi Nation school to promote
21 the development of comprehensive school-based health
22 services facility in the school itself.

23 And moreover, then, to shift from high
24 academic standards towards -- I have a lot of friends
25 that have bachelor's degrees, and doctoral degrees,

1 and they don't have a career. They just have these
2 degrees. So I want to be able to develop an
3 institutionalized way of assisting our family members
4 to have careers at the time that they transition out
5 of high school.

6 So it doesn't mean that I want to completely
7 escape standards. The kids -- the students themselves
8 need proper academic advisement that include what is
9 your status, what is your level of academic attainment
10 and, you know, to help them to overcome their social
11 circumstances of maybe being born in an addict family
12 or maybe being born in an alcoholic family or being
13 born among poverty or first generation college or
14 first generation high school family, through no fault
15 of their own.

16 We have to impose a humane and educational
17 system that takes into account the fact that at Lummi
18 we have at least three familial deaths per week.
19 You've got to know that that impacts a kid at seven
20 years old, to know that their aunt or their uncle has
21 just passed away from heroin overdose that week.

22 And so, you have to have, certainty as a
23 tribal school, to know that your students are
24 psychologically, medically, and academically prepared
25 to be in the building that day. So those are the

1 things that, you know, we hold ourselves accountable
2 to as a Lummi Nation school.

3 And so, you know, the standards are good as
4 far as they go, but they don't really go that far. In
5 fact, they go the opposite direction, in my way of
6 thinking, in terms of making sure that the students
7 are welcomed there. That everybody is acknowledged as
8 a student that can succeed, instead of I'm going to be
9 smarter than Tony. "I'm going to be smarter than
10 everybody here in the room, and I'm going to
11 demonstrate that to you. And, you know, everybody's
12 going to hold me up and then hold everybody else down
13 because nobody got as high a score as I did.

14 And so, you know, this doesn't really have
15 any intent for portrayal. But I'm telling you, that's
16 how the kids portray it to themselves.

17 So, you know, you need to have more students
18 here maybe to explain to you some of the challenges
19 that they have to face, and what's a good day, what's
20 a bad week, what's a bad month, what's been a bad
21 school year. All of these different sociological
22 factors than can get in the way of all of these
23 standards that are part of everyday life at Lummi, and
24 part of everyday life on every reservation in
25 Washington state.

1 I didn't mean to say that. I don't want to
2 speak for the other Indian Nations.

3 But the point is is that the standards need
4 to include the social and emotional learning patterns
5 of our family members and, you know, the culturally
6 appropriate social and emotional learning patterns
7 that can be positive and that can be effective to make
8 sure that our students have an adequacy of regular
9 nutritious feedings both during the school day, as
10 well as, you know, when they go home at night.

11 And so, these are the kind of things that
12 part of the conversation that I want to continuously
13 be able to hold with the bureau and our partners at
14 the Washington State Office of the Superintendent of
15 the Public Instruction.

16 But, again, we want to be able to be free to
17 be who we are. We want to hold ourselves to our own
18 cultural standards, much more strict than any of these
19 standards. But the care and being able to work with
20 one another is something that's held in very high
21 regard.

22 Our council member, Henry Cagey, is just
23 arriving from the recent paddle of the Lummi, where
24 just about everybody in our family was there to help
25 facilitate the arrival of, what would you say, 100,000

1 people that came to visit Lummi just this last week
2 for the paddle of Lummi canoes, as well as just
3 visitors that wanted to be there.

4 So I want to thank Henry for doing all that
5 and kind of demonstrate to our own family members,
6 (Native language words spoken) You know, we're all
7 survivors of the flood, and we stand together. And
8 especially during the periods of the paddle journey is
9 a really spectacular event there. And it's kind of
10 symbolic, if you will, of the very goals that I'm
11 speaking of that we all have to kick in and all have
12 to ante up.

13 But that's the nature of being in a tribe.
14 It isn't like being in the rest of the society, but
15 it's a higher standard, it's a different standard.
16 You know, it's harder to capitulate it into particular
17 standards, but I'm sure every tribe has their own
18 version of the things that I'm saying.

19 But we have to be given the opportunity, and
20 we need to be able to develop at the very beginning of
21 all of these different regulations and everything an
22 understanding that we are in a partnership. You are
23 not our government. You are not our dictators.
24 You're not anything except, you know, part of the
25 government that is there to facilitate helping us to

1 reach our own community goal, our own tribal goal, our
2 self-determination of our own idea of who we are,
3 through education and all the different other
4 socially-related services that we need to get our
5 students to a state where they become semi-autonomous
6 or autonomous in transitioning to the next part of
7 their life after high school.

8 So a lot of different things to kind of
9 factor into everything that I just said. We want
10 greater transparency. We want more funding for
11 teacher development. We want curriculum designed
12 development. We want increases in the ICEP (as heard)
13 funding formula to be able to offer a competitive wage
14 to the local public schools in such a way that we can
15 also devise medical and retirement benefits to our
16 teachers and our administration.

17 We want to devise systems of schooling so
18 that our own family members see that getting an
19 education is a positive career path for them to become
20 teachers, to become school administrators or school
21 counselors or speech pathologists or, you know,
22 physical therapists and all the different little
23 things that are there. We need to stair step them
24 through the process, through apprenticeships, through
25 journey, and other different kinds of measures that

1 you can think of.

2 But we need to do this as a partnership with
3 the bureau. And, you know, the bureau and our Treaty
4 promised us that we would have a trade school, but we
5 instead shifted to all these standards and shifted
6 away from trade schools and some of the other things
7 that make a material difference. So we need to
8 adhere -- look at the Treaty again, and then be able
9 to adhere to the Treaty, right promises.

10 And so, Henry is here. He's going to hold us
11 all accountable to looking at the Treaty. You know,
12 have you ever read the Lummi Treaty? Do you know
13 what's in there? And, you know, so what I would ask
14 is then to adhere to some of the underlying
15 particulars of, you know, self-determination,
16 self-governance, and some of the treaty rights and
17 expectations of the Lummi Nation, especially of the
18 Lummi Nation in my thoughts but -- so those are just,
19 you know, a sampling of the things I want us to be
20 able to accomplish. I want to minimize and have a
21 transparent waiver process for alternative testing to
22 minimize -- what were we saying, there's 80 days a
23 year that we test out of 180 days of school? And as a
24 group minimize that down to, you know, a week or so
25 out of the whole school year and spend the rest of the

1 time trying to go out and capture and find our family
2 and get them into the school and try to engender a
3 positive form of education that is constructed to
4 reach out to them with understanding, not with
5 punishments.

6 And so, you know, through the third grade I
7 know that about 72 percent of our students will miss,
8 on average, 130 days of school. 72 percent miss 130
9 days of school. Our collective North Star needs to be
10 at birth to third or fourth grade.

11 And so, there needs to be greater funding --
12 greater levels of funding that supports features in
13 those grade levels and age groups. Because we know
14 sociologically, statistically, that students that are
15 not meeting that grade level of that original grade
16 level, at end of third grade are statistically more
17 than likely to end up in prison.

18 So we want to be able to counteract that
19 fate. We got to use our heads. We got to think and
20 to act in concert with each other to do the things
21 that we know that require them to do. And, you know,
22 that emphasis on requiring transparency, cooperation,
23 communication and, you know, a level of commitment
24 towards making a material difference in each of the
25 Indian Nations, because they've been so negatively

1 impacted by the education policies of the United
2 States of our history.

3 And so, we are here to make an appeal to
4 plant a pivot foot to start making a change for the
5 positive. And, you know, place our trust in the
6 Indian Nations to be self-determined to be
7 self-governing and to, as we always have, be able to
8 educate our own children, for tens of thousands of
9 years.

10 I forgot what I was going to say. Thank you.
11 I have prepared some written comments, as well, but
12 they sort of go along with the idea of the things that
13 I've already said today.

14 Thank you.

15 MARK JACOBSON: Thank you. I'm Mark
16 Jacobson, Superintendent for the Quileute Tribal
17 School located in La Push, Washington. I have a few
18 questions.

19 I thank Bernie for several things he touched
20 upon. I do have a few questions. Previously on our
21 state assessment, the goal was 95 percent. I believe
22 that's the goal again. But if a student refused to
23 take the test, that school got zero for that student's
24 scores. That shouldn't be that way. And I want know
25 if that's still the plan?

1 MR. HAMLEY: So 95 percent, you're saying the
2 participation rate, right, not the proficiency?

3 MARK JACOBSON: That's the state goal is, I
4 think, 95 percent. But our state said if you had
5 students that refused to test, and we had two of them
6 this last go around, you get zeros for their scores.
7 That counts against the school where there's mega
8 decisions made, just like you get poor performance
9 schools and you get assistance.

10 Well, if that student decides he doesn't want
11 to take that test, we shouldn't be stuck in a plan for
12 improvement when you've got students who refuse to
13 test.

14 So what's the plan for -- how does that
15 impact the school when a student refuses to take the
16 assessments?

17 MR. HAMLEY: Right. So the bureau will have
18 a transparent, readily accessible plan for that under
19 ESSA. So what -- let me explain the process here.

20 So today we're getting comments on the
21 proposed rule. Those comments will be incorporated
22 into a final rule, and then the secretary will state
23 what his Standards, Assessment, and Accountability
24 System will be.

25 And as Tamarah explained in her presentation,

1 we're going to create a state plan -- so-called state
2 plan. It's called something else in the rule -- the
3 regs. It's called the Standards and Assessment
4 Accountability Plan, I think. The SAAP. But that's
5 where what you're talking about will be laid out --
6 will be specified. And it will be consistent with
7 Section 1111.

8 So we can't answer right now because we
9 haven't written that section on, you know, exactly
10 what the rule would be on, you know, if students don't
11 take the test. But we will state what the
12 participation rate should be, and also, you know, what
13 would happen if students don't take the test.

14 But one thing I'll just note here is that we
15 can't -- we can't -- without a test score, you know,
16 we can't -- you know, that counts against the school.
17 I mean, there's just -- you need the test scores in
18 order to make the accountability determination. But
19 anyway, that will be specified at a later time as to
20 that.

21 I'm sorry, I forgot to say my name.

22 Jeffrey Hamley. I'm sorry about that.

23 So I don't know if that answers the question.

24 MR. CLARK: Bryan, did you want to speak
25 generally about the rules on participation rate and if

1 the student doesn't take the test and how that figures
2 into the accountability system?

3 MR. HEMBERG: Sure. So, the federal law
4 doesn't -- sorry, Brian Hemberg from WestEd.

5 The federal law does doesn't say what the
6 consequences are. They just simply lay out that the
7 state must pass at least 95 percent of their students.
8 And then on a state-by-state basis, the state decides
9 how they're going to incentivize the schools to make
10 sure 95 percent of the students test. Some states
11 have opt-out policies at the state level that sort of
12 outline what those requirements are.

13 And so, within the plan that Dr. Hamley
14 mentioned, there's an opportunity to outline what the
15 incentive or what the consequences are going to be if
16 the school doesn't test.

17 But just to be clear, this isn't 95 percent
18 of the school. It's 95 percent of the state, of the
19 students that test in the state.

20 MARK JACOBSON: I'll take that up with our
21 state, then, to make sure that they try to address
22 that. Because if I've only got four students in a
23 class and one refuses or two refuses, I'm dead in the
24 water if they count those students against us can you
25 tell us how the BIE or the feds will compare state to

1 state since we all have different tests? The test
2 that our state had, I remember reading the research a
3 few years back, was one of the top five hardest in the
4 state. And they suggest if you want the easiest ones
5 you go to Texas and one of the other states that was
6 really easy.

7 Can you say how you're going to compare to
8 determine that at a federal level?

9 MR. HAMLEY: Good question. Jeff Hamley
10 again.

11 That question has come up at the other
12 consultations. So it's true, yeah. I mean, for
13 states in, you know, congress where the expectation is
14 that they apply the standard assessment to all
15 schools, all students, that's what it says in the
16 ESSA.

17 There's no problem comparing the assessment
18 data, you know, ELA or math or science. There's no
19 problem. You have the same assessments and you could
20 compare the scores. It's completely different than
21 the bureau. And it's been that way under the whole
22 history of No Child Left Behind.

23 So we're very transparent about that issue.
24 We have discussed it with the Department of Education.
25 We've talked to them about their ideas so that they

1 may help with that.

2 So we can't -- we don't have a valid and
3 reliable methodology to rank schools based on the
4 common assessment. But we have had to come up with a
5 methodology, so we do have one. And it's based on the
6 proficiency of each state's assessment towards their
7 goal. So that's the best we can come up with.

8 So, you know, do we truly have a ranking of
9 from 1 to 174? No, because every one -- when a new
10 state comes in, it's questionable. But that's the
11 best we can do. And that's why -- and we discussed
12 this at length in the rulemaking committee, why the
13 rulemaking committee decided that the bureau needs a
14 uniform assessment. Because of the problem that
15 you're mentioning is that there's no comparison from
16 school to school, from a school from Maine to a school
17 from Washington or Montana or Mississippi. It's, you
18 know, when the assessments are all different, you
19 don't have true comparison.

20 So that's the reason that the committee
21 decided that there would be uniform Standards,
22 Assessments, and Accountability System in the bureau
23 moving forward.

24 MARK JACOBSON: I personally liked the NWEA
25 assessment. And I wished they'd stick with that. I

1 wish that that might be a national standard to compare
2 us from school to school. It's immediate. Students
3 can see the score right away. I can get kids fired up
4 about that test. I can't get them fired up about the
5 state assessment.

6 And the kids that refused this time, even if
7 I'd have talked them into taking the test, the results
8 wouldn't have valid or reliable.

9 How will an ESSA account for small schools
10 with class sizes, say, less than 10? Because with
11 less than 10, those results are so unreliable. You
12 know, if I have a kid that -- like Bernie talked
13 about, that maybe there is a death in the family or
14 other issues going on, that's the last thing on that
15 kid's mind is taking that assessment.

16 I had one student ask me to come in and watch
17 him take the test once because he thought it would
18 inspire him. And he kind of lost track that I was in
19 the room because I wasn't sitting right next to him.

20 And I watched him. He was taking the reading
21 assessment, and there was a caption probably five
22 inches long that he was supposed to read. And I saw
23 him kind of look around the room like this
24 (indicating) and just click an answer and go to the
25 next one. Kind of looked around again like, oh, good,

1 nobody's watching me. He didn't want to have to read
2 it to take the test.

3 Some of our students are very capable of
4 passing that test, I think. It's the willingness to
5 take the test seriously, and an interest in taking
6 that test. So we're dealing more with some of our
7 kids with emotional and social issues that they face
8 day to day, and it's hard to get them excited about,
9 oh, you get to take a reading test again today.

10 Like Bernie said, we were testing 80 days
11 out of the year, one group of students or another when
12 we were doing the fall, winter and spring end of the
13 day (as heard), and also the smarter balanced in all
14 the state testing.

15 And people said, "Mark, that's not possible."
16 We sent them all the dates and stuff with the testing
17 stuff we had to do. And they were going, oh, my God,
18 I didn't realize you had to test so much.

19 I eliminated all the testing this year that
20 wasn't required, except for whatever we didn't test
21 that the state required that we test the NWEA in the
22 fall and then again in the spring. I'm going to go
23 back to the NWEA this next year because I missed the
24 results for all those other kids. I want to see that
25 data. And again, we'll work hard to get those kids

1 fired up to take that test.

2 In respect to the comment section, I want to
3 suggest that you look at the limitations on the
4 1 percent for the IEP identified students. When we
5 have a higher percentage of students that are special
6 ed qualified in our schools, I think that 1 percent
7 limitation is unrealistic.

8 We definitely would not give kids an easier
9 test, in fact, if they didn't have to have that
10 different assessment. So I think that needs to be
11 evaluated. We're over 30 percent special ed in our
12 school. And I think most of the other schools here
13 would say they're probably about the same.

14 So that standard that has typically gone to
15 public schools, I think you need to study that a
16 little bit further.

17 There's another issue that Bernie had touched
18 on, and I want to say it's called equity. Our
19 students in grades K, 1, and 2 this spring, over 61
20 percent of them were proficient in math and reading.
21 61 percent. And I was so pleased to see that.

22 And I've been in education, I think this is
23 my 39th or 40th year, and I figured out the reason
24 that our students were successful. And I've had other
25 schools come and say "What did you do? How have you

1 done that?" Because every school where I've worked,
2 our test scores went up significantly in, like, 40
3 some years.

4 And I've figured out the answer. It's not
5 what I have done as a superintendent, other than one
6 thing. I hire the best teachers I can get. And I
7 provide support for them. And that's why our test
8 scores have gone up.

9 So when I mention equity, there is a school
10 on the I-5 corridor that just announced starting
11 teacher salaries, starting salary, \$64,000 a year.
12 The top salary, \$124,000 a year. I've got to have
13 some equity in our school to compete with those
14 teachers.

15 One area where I disagree with our tribal
16 counsel, and I'm more than proud to announce that, is
17 they believe I'm only competing for teachers locally
18 against the schools 15, 20 miles away.

19 I'm not competing for teachers from them.
20 I'm competing with teachers on the I-5 corridor. I'm
21 competing with teachers in Spokane and other areas.
22 And if I can't meet or beat those salaries, I've got a
23 problem. They're going to suck the best teachers away
24 from my school because it not only impacts them every
25 month when they get their paycheck, it impacts their

1 retirement for the rest of their life.

2 So while I'm paying a teacher at the top of
3 our salary paying \$80,000 a year, and they can go five
4 hours away and work for that other school where they
5 can go to a baseball game an hour away rather than a
6 five-hour drive, and they don't have to put up with a
7 hundred inches of rain a year, and they can rent a
8 house or buy a house that isn't half fallen down
9 because our area is so impoverished, guess where
10 they're going to go to work?

11 So the BIE to help us, and looking at this,
12 there needs to be some way of compensating teachers
13 that work in remote and necessary or remote and
14 isolated schools and tribal schools to help us
15 compete, because that's the answer for our kids.

16 I've got to have a teacher that will stay
17 three, four and five years in that job so they can
18 develop that relationship with their students. A
19 teacher that only stays one or two years doesn't help
20 us, because the primary thing is getting that
21 relationship they built with their kids.

22 So that's where I need the help. If I can
23 get that, where I can get those teachers to stay three
24 years or longer, I'm going to compete with all the
25 public schools across the state, across the nation.

1 Our test scores will go up.

2 And the teachers that I've got right now, I
3 lost one teacher this year off our staff. And the
4 reason I lost him, his wife is our first grade teacher
5 who had a baby. He's going to stay home and take care
6 of the baby. After two weeks of that I'd be saying,
7 honey, you stay home, I want back in the classroom. I
8 don't want to change diapers.

9 But I lost one because we're trying to be
10 competitive in our staff. We're finally getting that
11 relationship built up where they want to stay. So
12 help us compete with those other schools.

13 Thank you.

14 LYNN PALMANTEER-HOLDER: (Native language
15 spoken.) Hello. Good morning. My name is Lynn
16 Palmanteer-Holder. I'm a member of the Confederated
17 Tribes of the Colville Indian Reservation in North
18 Central Washington. It's a confederated plateau
19 tribe. Our confederation consists of 12 tribes, and I
20 am a member of 7 of the 12 tribes, which meant I
21 couldn't marry anybody there. We're all related. I
22 am the superintendent of Pascal Sherman Indian School.

23 And I want to first say thank you -- (Native
24 American language spoken.) -- to the Nisqually people
25 for hosting, hosting this wonderful meeting today and

1 this gathering.

2 Then I'm going to now get into my
3 professional speaking regarding this tribal
4 consultation.

5 And my question to all of my peers out here
6 that are worker bees day-to-day in our tribal schools,
7 whether you're BIE or tribally controlled, how is it
8 working for you? How is this tribal consultation
9 working for you?

10 I say that from a point of Bernie and I
11 myself were also former tribal leaders. We've been
12 connected with our tribal governments for many years.
13 We've been advocates on tribal policy, federal Indian
14 policies, especially relating to educational policy.

15 I've been a part of tribal consultations for
16 many, many years at the federal level and at the state
17 level. And I continue to see these meetings that we
18 all come together, we spend hours, we spend resources,
19 we come together, we testify, we write our positions
20 and then what happens?

21 So the reason I'm here today, my tribal
22 leaders are not here, I was delegated to be here on
23 behalf of our school, our tribal administration, and
24 our tribal leaders.

25 We want to be heard. Tribal sovereignty, the

1 advocates, the leaders before us who fought and stood
2 up to the federal government for years so that we
3 would have a voice, so that we could say that U.S.
4 Government has a responsibility to educate our
5 children. And that doesn't mean to continue the same
6 old practices.

7 So today, I guess I want to make sure that I
8 clearly state that we have some good news, we have
9 some bad news, and we have some old news. Right?

10 So the good news is that we have -- the
11 U.S. Department of Education has actually taken upon
12 themselves to identify representatives from multiple
13 stakeholders, as Dr. Pfeiffer has mentioned, school
14 board members, parents, teachers, administrators that
15 represent us. That's important, because we've been at
16 tribal consultations.

17 My father was a tribal leader for 46 years,
18 Henry knew him. It was those leaders who made sure
19 that we started getting to the table. They also were
20 the ones who made sure that tribes, when they decided
21 to create business and economic development ventures,
22 that they prioritized education so that they could
23 educate our own people.

24 I have a Bachelor's Degree in Education from
25 Eastern Washington University, a Master's Degree from

1 WSU in education. Educational Psyche, by the way. We
2 were talking about assessments. And then my PHC is
3 from the University of Washington in Social Policy,
4 actually, Indigenous Social Policy.

5 My point in sharing that is that the people
6 that are in this room, we struggled and made it
7 through to get a western education so that we could be
8 here, because we have been raised with a collective
9 consciousness that our education has to have some
10 impact on not only today but our future generations.

11 So I'm asking, how is the tribal
12 consultations working for you? For me, being a
13 superintendent at Pascal Sherman Indian School, a
14 school -- a tribal school, tribally-controlled school
15 that used to be a Catholic mission boarding school,
16 where my mother was raised from the age of four to
17 grade eight, then off to Chemawa where she went to
18 high school and got pregnant with me at 15, where my
19 grandmother went to school.

20 And she remembers the day that she was forced
21 to leave her home to be put in the boarding school,
22 and remembers the day, the stories, that she was
23 punished because her primary language was nselxcin, an
24 interior sailor's language. We have three distinct
25 languages on our reservation.

1 Her stories are long, and they're traumatic,
2 from being placed in a boarding school for three years
3 at a time, moved to Oregon where she never saw her
4 family for up to four years. Her mother was the
5 first, so it would be my great-grandmother was the
6 first to be placed in a boarding school up at the Old
7 Kettle Falls Mission.

8 So I'm the first of four generations on my
9 maternal side to be raised in the same home as my
10 mother, who did not speak our language. My
11 grandmother did, but she would never teach her
12 children.

13 My mother was 16 when she gave birth to me.
14 She was married and divorced at 17 with two children.
15 There is no way, statistically, that I should be here
16 speaking to you right now. Because we look at kids
17 when they enter our classroom like (indicating), or
18 our schools, hum, that family is not educated or that
19 family has that social problem.

20 We already begin to categorize kids and start
21 putting them in little boxes right when they enter our
22 school based on what we know of their past. But
23 social, cultural, maybe even stigma that may be on
24 that family. Instead we should be looking at every
25 child when they enter our school as my future doctor,

1 my future lawyer, my future bus driver, caretaker.

2 So, the reason I say this is because we, as
3 tribal schools, have a huge responsibility. And I'm
4 old. That's what I tell everybody at school. I'm
5 old. I don't have a lot of time left. I've been in
6 the public sector my whole life. I've been back to my
7 tribe for a short period of time.

8 Like I said, I was a former tribal leader,
9 realized that wasn't moving at the pace that I wanted
10 to be as a tribal leader. So I thought my influence
11 as a tribal educator would probably have a larger
12 impact. So that's what I did, I went back to
13 education. Why? Because school reform is not just in
14 the public sector, it's not just at the K-12, the
15 early childhood, the birth to three programs. School
16 reform has to begin also in our small, small tribal
17 communities. And it has to begin with comprehensive
18 partnerships.

19 Comprehensive assessment. We're talking
20 about assessments -- standards, assessments, and
21 accountability? What we're doing right now is called
22 school reform from a tribal context, doesn't mean that
23 we just come in and start writing up policies and
24 procedures and school plans, short- and long-term
25 plans, on our own. We have to do that in a collective

1 approach. In order for those plans to not sit on the
2 shelf somewhere, but to be active and alive and
3 implemented so that we can monitor and measure the
4 performance, we have to do it with our tribal leaders.
5 We have to do it with our parents. We have to involve
6 our agencies. Those interventions we don't do on our
7 own. We have to have -- in our rural communities, in
8 tribal communities, we have to partner with everyone
9 because everyone is related. And everybody loves
10 children, and it's just important for us to be on the
11 same team because we are a collective group. That
12 collective consciousness has to be a part of our
13 standards.

14 But that's not a part of the federal
15 government's values of understanding collective
16 consciousness, but it is in our tribal communities.
17 So coming up with standards -- I guess, today what I
18 want to say is I would love to make a point about
19 whose standards we are acknowledging and validating as
20 real. Because right now school reform in Indian
21 country has to do with identifying our local values,
22 integrating those local values into our standards.

23 I heard Bernie say "culturally appropriate."
24 I use the term "culturally responsive." And the
25 reason I use culturally responsive is because

1 culturally appropriate for all of our communities,
2 like he said, is that we're very diverse. I want
3 standards that are going to be responsive to each of
4 our cultures. Culturally responsive.

5 I also want to point out that Bernie
6 mentioned a couple things about our language, our
7 revitalization of our language and culture in our
8 communities. He mentions that -- I mean, I continue
9 to hear English proficiency, English proficiency.

10 Well, if you hear me very long talk to you,
11 you're going to hear my rez dialect. Because guess
12 what, my English ain't that great. But I can write,
13 and I've make it through state universities just fine.

14 My point is I realized when my grandmother,
15 when I told her "Granny, guess what, I got accepted to
16 Eastern Washington University. I'm going to college
17 to be a teacher." And she says, "Don't you forget
18 where you come from."

19 And I was like, "Wow, of course I'm not going
20 to forget where I come from. I come from Ford, which
21 is on the Spokane Indian reservation where I was
22 raised. I had no idea at that time what she was
23 saying because my mother, who didn't understand why I
24 was going to college never asked me about college.

25 She was actually forced to when I was a

1 junior in college. "You need to ask Lynn about her
2 school. You need to find out what's going on."

3 So what she did was she came back --
4 (interruption).

5 So what happened was my mother finally said,
6 "Lynn, how's school going?" And I was like, "Oh, my
7 God, my mother."

8 She thought you graduated from high school.
9 That's all she wanted. Get married and have babies.
10 That's what you do.

11 I'm like, "Oh, my God, mother. Mom, I'm in
12 an interpersonal communication class. And I'm
13 learning all this" -- she says, "Stop. Don't you use
14 those big words with me."

15 That's what we mean when we're talking about
16 our kids in our communities and the challenges that
17 they have. Even when they strive, strive to do -- get
18 an education, strive to have outside experiences, we
19 have culture conflicts within our own tribes, and
20 sometimes it has to do with maybe even being labeled
21 and identified as apples because you're getting that
22 education. Red on the outside and white on the
23 inside. Most of us know what that means.

24 Some of the experiences I've had at Pascal
25 Sherman Indian School is -- and I'm going to go back

1 to some of those topics. And I do not want to offend
2 anybody in this room, but our Quileute superintendent
3 touched on it. And that is we -- the government, the
4 U.S. Department of Education has failed BIE schools.
5 They have failed BIE funding formulas to our schools
6 because they have not paid attention to the reality of
7 the inequities.

8 And I use inequities, meaning when we are
9 looking for administration and teacher recruitment, we
10 do not get the cream of the crop, and it's because of
11 the lack of incentives. The ability to recruit to a
12 rural remote area is tough, so we end up not only
13 having teachers that we are putting on plans to get
14 their teaching certification, individuals who may have
15 bachelor's degrees.

16 And we talk about accountability? How
17 responsible are we to place people in classrooms with
18 students who have to teach high level math concepts in
19 7th and 8th grade. We want a transition for those
20 students to move from a middle school to high school
21 mathematics, when we cannot get a qualified middle
22 school teacher who has the skillset.

23 Not only do they not have the content
24 background, but the ability to utilize and implement
25 teaching methodologies, multiple -- understanding the

1 different pedagogues of responsive approaches to
2 motivating students, measuring their growth,
3 monitoring their growth.

4 So I had to get really creative where I am,
5 because I decided this year, as the new superintendent
6 at my school, because it's my community, and these are
7 my future leaders that we're promoting -- I decided
8 I'm not going to sit back and allow teachers to teach
9 our students who didn't really want to be there, who
10 were not -- who were not there on behalf of the
11 student. So accountability, I had to be accountable
12 to our students; that should be what we should all be
13 doing. When I'm accountable to my staff over my
14 students just because they've been there for so long
15 20, 30 years, that wasn't good enough.

16 So I bring up the point of we should be able
17 to find incentives, identify those students, those
18 future teachers in our colleges and universities and
19 recruit them right from there and bring them out,
20 because those are the ones who, in my opinion, are
21 energetic, creative, excited, like kids, and went into
22 teaching for a good reason. So incentives for our
23 teachers.

24 Today my staff, my principal, and a team are
25 interviewing teachers, new teachers for my school.

1 And one of them happens to be any granddaughter, who
2 just graduated from Central Washington University.
3 Now, they might not hire her. It's up to them. But
4 the truth is, we're excited to be recruiting from the
5 young -- young people.

6 Back to looking at alternative assessments.
7 Yes, I was shocked to find out -- I've been a school
8 counselor for 15 years, been in public education for
9 36 years -- to find out our tribal school was testing
10 kids 80 plus days out of the year.

11 What we did is we are using tests that are
12 culturally biased. There's a lot of literature out
13 there about culturally biased standardized testing.
14 We should be looking at that when we're reviewing our
15 waivers.

16 The other is we are creating a population of
17 children who are desensitized to testing. So when
18 you're talking about validity or reliability, like I
19 have ten students or I have four students, that is out
20 the door. When they are showing up at that computer
21 to do their test, and they're closing their eyes,
22 clicking away to get through. Because, you know what,
23 I got to go to PE. I want to go to recess. I want to
24 do these other things. That is what we are creating.

25 So let us create our own standards. Trust

1 the tribes and tribal schools. We will set our
2 standards, because our expectations are high. We
3 don't want low expectations. We want high
4 expectations. Students are going to grow because of
5 the expectations that we set as a tribe, as a school,
6 as a community.

7 Also, the assessments, we need to determine
8 how we measure student performance, academic
9 performance. We -- this summer, I had a Title 1
10 summer school. Those students were targeted. We had
11 60 students that were targeted. And I brought the
12 teachers in. And I promoted project-based learning.
13 It's an esteem approach, an alternative approach to
14 teaching, as we all know.

15 These are children who would crawl under the
16 tables in the classroom, who were not performing, who
17 would not sit in a small reading group, who were
18 showing behavior problems. They were in project-based
19 learning this summer.

20 They went huckleberry picking. They learned
21 concepts about traditional practices. And they were
22 also -- had their language -- dual languages taught
23 this year, as well. And so, everything was about
24 their traditional language. They also brought elders
25 with them. So we did some cross-generational modeling

1 and teaching.

2 So these are children who also did research.
3 They went to the libraries. They interviewed people.
4 They created their own end-of-the-quarter project. So
5 vocabulary, reading, research, getting up and doing a
6 public presentation, speaking out in front of
7 everybody, doing a big poster. It was a very
8 beautiful project, and there was growth, huge growth,
9 in those students this year.

10 But it's because of the alternative approach
11 to teaching. They are excited. They clap for each
12 other. They were critical thinkers. They were
13 sitting in the audience asking the presenters of their
14 peers questions, going through all of the different
15 levels of knowledge.

16 We can do this. We set our own standards.
17 We have alternative assessments. We look at growth.
18 We have to be more creative of what we're doing.

19 Accountability. Again, I hate that.
20 Accountability, I notice that when we are -- when I
21 was reading the documents that it appeared that BIE
22 was -- doesn't have the capacity to get out into our
23 communities and provide every little need that we
24 have.

25 Our own schools don't have the capacity to

1 cover every area. Because I don't know a
2 superintendent at a tribal school who isn't in a
3 principal, superintendent, school counselor, a
4 classroom teacher, a bus monitor. We do it all.
5 There's no such thing.

6 I come from a school where I've had about 900
7 students as a school counselor for 15 years. You know
8 what, everybody kind of had their role. But we had
9 our little leadership teams. We had our level group
10 meetings. We had our school improvement plans. We
11 have everything going that was pretty nice. But when
12 I went to my tribal school, and I realized the hats
13 that we wear.

14 Then I look at all the dang paperwork. Holy
15 moley. That might be something that gets changed.
16 I've never seen so much reporting in my life.

17 The last thing I wanted to say was about
18 Tribal Civics. I think Washington state probably
19 needs to be really -- or the U.S. Department of Ed and
20 the BIE take a look at, as well as Montana. There are
21 some states that are doing some really awesome things.

22 And one thing about Washington state with
23 Senate Bill 5433 where all schools are mandated to
24 teach tribal history, language, and culture. We also
25 have another policy where tribes certify our own

1 language teachers.

2 Let us do that within our own schools. Don't
3 make it a standard. In my opinion, tribes should have
4 the autonomy to create their own standards, run their
5 own tribal history, government, culture, civics,
6 language.

7 Let me give you an example. My school has a
8 vision statement that we prepared with future language
9 speakers. When I arrived, I had a teacher who was
10 a -- basically it was -- she's an Nselxcin elder, who
11 had a classroom that she used as a prep time for
12 teachers once a week. So every class from
13 kindergarten to grade eight -- grade nine, moved back
14 down to eight this year -- went to her classroom once
15 a week so the teacher could have prep time.

16 When I came in and reviewed the vision
17 statement -- and I've been a part of language
18 revitalization across the country. I've been to
19 native Hawaii. I've been to the emerging schools.
20 I've seen the colleges. I've seen the transition.
21 I've seen the success. I went to New Zealand and
22 worked with the Maori. I've seen the language
23 revitalization. I've seen the success.

24 No, in my school, every teacher now has -- we
25 increased our language -- certified language teachers

1 into our school. We brought them in from the tribe.
2 So we have two certified language teachers, two
3 language interns from the tribe that come into our
4 school four days a week. Every classroom has them for
5 one hour every day, four days a week.

6 Every teacher must be a learner of our
7 language. And when this is presented to the teachers
8 of our school, they were like, yes, thank goodness,
9 I've been waiting for this, an opportunity to learn
10 the culture and the language.

11 And I'm just going to say in six months we
12 attended a Pacific Education Institute, who had been
13 being working on an indigenous climate science
14 curriculum that I sent a team of teachers to. And I
15 was the keynote speaker. And there were 50 schools
16 that were there. And I had two of my teachers there,
17 a second grade teacher and a fourth grade teacher,
18 both non-native.

19 When it came around to them to introduce
20 themselves and they were, like, (Native American
21 language spoken) my name is Badger. My name is -- so
22 they introduced themselves. They said what school
23 they came from, and they said my students named to me,
24 right, they knew this name. And so, they explained,
25 well, then when I was leaving, some of my good friends

1 out in the Spokane area were like, "Hey, Lynn, all
2 right, your teachers are Indian." No, they're not,
3 but they have Indian names that were given to them by
4 their students. It was awesome.

5 So let us do -- message. Let tribes --
6 have faith in the tribes that today tribes can create
7 their own standards. They can come up with their own
8 alternative assessments to measure student growth.
9 Because we have a workforce that likely 89, 90 percent
10 will go back to our community. Maybe 10 percent of
11 that will go on to college. Unfortunately, when they
12 go to college they don't always come home.

13 But the point is is that we have a huge
14 workforce in our community that we are supposed to
15 --(unintelligible word spoken)-- piece that I am also
16 supporting in my community.

17 So accountability. Accountability has to be
18 done in partnership -- just like what Bernie mentioned
19 earlier, the federal government is not a dictator to
20 us -- and allow us to create this comprehensive plans
21 locally. We have a lot of really good power, a lot of
22 really good people, and a lot of vision.

23 Because that collective consciousness goes
24 back to it's our responsibility to prepare our future
25 leaders. And we know that there are social --

1 emotional, social ills in our communities that we have
2 to also work with.

3 Help us by making sure that we have the right
4 resources and support.

5 (Native American language spoken.) Thank you
6 for listening.

7 MR. CLARK: Thank you, ma'am.

8 We have a scheduled break. I know lunch is
9 going to be ready at noon. It's almost 11:00 now, so
10 I propose a short 10-minute break, then we can
11 reconvene. And then we'll to until noon when lunch is
12 ready. So with that, we can reconvene at six after,
13 six after the hour.

14 (Recess taken.)

15 MR. CLARK: Okay. So we're going to be back
16 on the record again. Just quickly, we'll stop at
17 noon. So that gives us 50 minutes for additional
18 statements for the record, questions, any feedback my
19 group may have on the rule.

20 And again, it's going to be open forum. Just
21 another quick friendly reminder each time you make a
22 statement, we need your name, position, and who you're
23 representing so that the court reporter is able to get
24 that recorded into the record.

25 So with that, open it up again. Just raise

1 your hand, sir. I'll get you next, sir.

2 TAMMY HICKLE: Sorry. My name Tammy Hickle.

3 I'm at Duckwater Shoshone Elementary School. And

4 we're in Duckwater, Nevada. We're extremely isolated.

5 I drive 70 miles to get my groceries. Took me awhile

6 when I got there I had to remember to get a week or

7 two worth of groceries every time I went to the store.

8 It's five hours to Las Vegas, five hours to Salt

9 Lake City, five hours to anywhere.

10 So I just want to underscore what the others

11 have said. When you're that isolated, you need to be

12 able to compete financially to attract teachers. I

13 want to underscore that.

14 Also, my tribe, the Duckwater Shoshone, they

15 help us help teachers to become teachers. And I think

16 that's so important that we have native teachers. But

17 I think the BIE should assist us with that financial

18 burden.

19 I also think that, like Mark from the

20 Quileute, I sometimes have one student per class,

21 sometimes two. It's very difficult to extrapolate

22 information from a subject group that small. And I

23 want that to be taken into the thought processes when

24 you're working on this rule.

25 We also test our kids too much. I believe

1 whoever said they become desensitized, they're
2 absolutely right. I believe what Lynn said, I can't
3 wait to get out of here to get to PE or outside or
4 something else. Kids also click through.

5 I also want to underscore what Mark said
6 about special ed. Not at this particular school, but
7 another school I was in, we were so good at special ed
8 we became a special ed magnet. It's not difficult at
9 all to get past the 1 percent mark, especially if
10 you're really small. And that needs to be taken into
11 consideration.

12 I think that's the four points I wanted to
13 underscore. I also believe that our work at language
14 acquisition and culturally appropriate activities and
15 teachings should be also financially supported.

16 Thank you.

17 MR. CLARK: Thank you.

18 HENRY CAGEY: I'm Henry Cagey with the Lummi
19 Nation. I'm on the council. I've been on the council
20 for close to 29 years. I apologize for getting here
21 late, but I want to see who I'm talking to on the
22 committee. So let's agree to reintroduce yourselves.
23 I have a few questions of committee. And who's in
24 charge?

25 MR. CLARK: So my name is Travis Clark. I

1 work in Director Dearman's office in Washington, DC,
2 for the BIE.

3 HENRY CAGEY: Where?

4 MR. CLARK: For Director Dearman's office in
5 Washington, DC, the office of the director for BIE.

6 MR. HAMLEY: Jeffrey Hamley. I'm Associate
7 Deputy of the BIE.

8 DR. PFEIFFER: Dr. Tamarah Pfeiffer, Active
9 Chief Academic Officer for the BIE.

10 MR. HEMBERG: My name is Bryan Hemberg. I'm
11 with a company called WestEd based in San Francisco.
12 Just kind of advising the BIE and the Negotiated
13 Rulemaking Committee.

14 MR. QUINT: I'm Brian Quint. I'm with the
15 Office of the Secretary at the Department of the
16 Interior. I've been the BIE and the Negotiated
17 Rulemaking Committee dealing with this rulemaking. I
18 should just clarify this is not the committee, it's
19 not who was on the committee.

20 HENRY CAGEY: That's why I'm here, though.
21 Where is the committee?

22 MR. CLARK: So the committee itself was
23 comprised of 17 members, 12 of whom were not federal
24 employees. They were stakeholders.

25 HENRY CAGEY: (Unintelligible words spoken.)

1 (Interruption by the reporter to have the
2 comments repeated.)

3 HENRY CAGEY: It's not in the packet. I
4 didn't see the names in the packet.

5 MR. CLARK: Hold on one second. We can get a
6 page number.

7 HENRY CAGEY: All right.

8 DR. PFEIFFER: I think it was page 19.

9 MR. CLARK: Page 19.

10 HENRY CAGEY: You got anyone from Washington
11 state in there?

12 MR. CLARK: Yeah, there were two --

13 DR. PFEIFFER: Under tab four.

14 MR. CLARK: Under tab four.

15 DR. PFEIFFER: Page 19 of Appendix A.

16 MR. CLARK: Yeah, page 19 of 60.

17 MR. CAGEY: I got here kind of late listening
18 some of the comments. I didn't hear much comment on
19 the regulations in regard to my folks. I want to hear
20 about the regulations a little bit, but I really have
21 some questions on how you guys are looking at these
22 new rulemaking regulations.

23 And I want to start at the top where I made
24 some notes. Okay.

25 So it looks to me like what the assessments

1 and standards you guys are proposing, what are we
2 coming from? Because I don't -- I don't completely
3 understand a whole lot of what's happening on the
4 teachers that are testing our kids. What are we -- is
5 this a new thing that we're starting or is this an old
6 thing that we're building on?

7 These assessments seem like it's a new thing
8 or is it an old thing old with regard to our kids?

9 MR. HAMLEY: Well, what's been -- Jeff Hamley
10 with the BIE.

11 What's being proposed is different than
12 what's under the old regulation. Under No Child Left
13 Behind, that authorization of ESEA, of the Elementary
14 and Secondary Education Act, rulemaking was also
15 required.

16 So in 2001 they started that, and they
17 finished up in 2002 or '03. The rule that they came
18 up with, 25 C.F.R., 30, is that the BIE funded schools
19 would use the standards and assessments of the state
20 in which they're located. So we're still operating
21 under that one.

22 Now, ESSA, a reauthorization happened in
23 December of 2015. That also required rulemaking,
24 which is, you know, what this committee -- this
25 report, this draft rule is about. And what they're

1 proposing -- this time the committee made a decision
2 that the bureau, instead of using the 23 -- the
3 assessments of the state in which the school is
4 located, 23 assessments -- we have schools in 23
5 states -- that they would use a uniform accountability
6 system.

7 So in other words, same standards, same
8 assessments, same accountability structure. So that's
9 the difference between then and now.

10 Does that explain your -- answer your
11 question?

12 HENRY CAGEY: When do we expect to see
13 different process that you're developing? What are we
14 going to see you do for our kids?

15 MR. HAMLEY: In the committee we have papers
16 on our website that discuss -- especially the last
17 paper -- that outlines, and we discuss this in the
18 committee -- All the problems that the old rule
19 created of trying to have 23 different assessments
20 that aren't comparable across the system, one of the
21 issues came up earlier is that when we want to rank
22 the schools from 1 to 174, we can't do that in a valid
23 and reliable way because the assessments are not
24 comparable.

25 So what we hope to have is a system where --

1 that operates more like states have, because no state
2 has a multi-part system. They all have uniform
3 accountability systems, so that the bureau can make
4 determination on which schools need most assistance
5 and provide assistance to those lowest performing
6 schools in a more uniform manner.

7 HENRY CAGEY: And in that regard, you're
8 missing the mark. I think what's happening is you
9 guys keep boxing us into the state, and we're not a
10 part of the state. We're part of the United States.

11 So again, I think you guys need to go back
12 and learn more on how this thing is supposed to apply
13 to our kids. What we know and I know about these
14 testing things are just a tool to measure whether or
15 not they're passing their grades. So we're not doing
16 them a whole lot of good in looking at all the things
17 that they have to go through just to graduate. And
18 the testing is just one part. But again, if you don't
19 do a thorough assessment of what's going on with the
20 individual child, you're not covering the whole --
21 places you're looking at to help those children.

22 This testing is just one part. You're not
23 funding us. The funding that you're giving us is not
24 enough. You know that. There has to be kind of a
25 total assessment of where each tribe is at on where we

1 need to look at with our funding needs or our capital
2 needs, with the teachers that we have; or we can't pay
3 them enough to stay with us. You know, you're
4 expecting things to happen with the funding you're
5 giving us is not enough.

6 Take Headstart, for example. We have to
7 take that Headstart teacher, I know that's HHS. I
8 know that had happened. But Headstart has to be
9 included somehow with what you're doing. That's the
10 beginning of that child's life. And you're not
11 including it. There's tunnel vision on your ground
12 procedure stovepipe, where you're not addressing the
13 whole child.

14 You're not addressing the whole child from
15 the beginning. And that Headstart, HHS hands those
16 kids over to you. You're not doing that very well.
17 It's HHS that is in charge of Headstart. And that
18 program is a good program. And it gets our kids on a
19 good start in a good way.

20 But that has to be included when that begins,
21 because you're not doing that. You're not looking at
22 the government as a family. I think you guys
23 understand that you're all part of the government
24 family; that's all connected. Education is not part
25 of just one entity. It's not the means to an end.

1 It's all connected economically, health-wise,
2 courtwide, your restrictions. Everything that's
3 included in this family of governance. So you guys
4 have to balance. I think you guys need to understand
5 that. But I think you guys got to look at more
6 holistically what you're trying to do with theses
7 tests and how -- what do we expect to see. Just a
8 thought.

9 I don't know who's in charge, but you guys
10 need to do that. Okay. So I'm taking the regulations
11 and go through them. Highlighted some of the concerns
12 I have.

13 So it looks to me like you guys have had four
14 years to figure this out. And are we going to have
15 four more years before you guys come up with a final
16 decision?

17 It looks like you started in 2015. And we're
18 in 2019. It took you four years to get this far? Is
19 that a problem?

20 MR. HAMLEY: The establishing of the
21 rulemaking committee was a lengthy process. You know,
22 we had to -- as a federal agency, we also had to work
23 with the administration, the White House, to get that
24 through.

25 So there was a restart on it. We did have --

1 we were on schedule, but there was a restart on that.
2 So there was a delay, admittedly, to that.

3 HENRY CAGEY: What are you going to do next
4 when we have a new president?

5 MR. HAMLEY: Well, it's not -- well, the
6 rulemaking will be complete by then, so that shouldn't
7 affect.

8 I mean, one challenge for the federal
9 government is that the states don't have to go through
10 rulemaking, federal negotiated rulemaking, but we as a
11 federal agency do. So that is an added step. But you
12 also asked when will we get this going -- or I don't
13 know the exact term? But, you know, we hope to have a
14 rule by the end of the year or early next year, and
15 then we'll implement for the school year 2021.

16 HENRY CAGEY: So I'm on section -- I got a
17 question on this section. We propose to add a
18 definition alternative proposal, foster care.... I'm
19 not sure what that means.

20 MR. HAMLEY: Well, that was a difference in
21 ESSA where the ESSA had two indicators -- or two
22 identifications that they wanted all the schools
23 receiving public funds. And that was foster parents
24 of foster care and parents in the armed forces. So
25 those are just identifications. So in our student

1 information system and all of the school people that
2 are aware of that basis. When that -- when the ESSA
3 passed December of 2015, we began immediately to add
4 those indicators.

5 So the government just wants to be able to
6 track, you know, services that are being provided on
7 to foster care children and also to children of
8 parents in the armed services. So it's just an
9 indicator. It's just a marker. We've included that
10 in our student information system mesa (as heard). So
11 we're good on that one.

12 HENRY CAGEY: Is there funding for that?

13 MR. HAMLEY: Not to us or the states. It's
14 just something congress required us to do.

15 HENRY CAGEY: Why are you putting it in there
16 if you're not going to fund it?

17 MR. HAMLEY: Because it's a requirement of
18 Section 1111.

19 HENRY CAGEY: Then you guys need to fund this
20 the words in here because you're going to hold us
21 accountable to foster care. If you're not going to
22 put it in there, then provide the assistance, provide
23 the resources for the foster kids. You understand?
24 Because you're developing standards. You've got
25 foster care in here. And the government, as we know

1 it, is going to hold us accountable. If you've got
2 foster care in here, you're going to hold us
3 accountable. You're not doing this for foster
4 children. So give us the funding for that, make that
5 happen. Okay?

6 MR. CLARK: All right. We will include that
7 in the record. That's why we're here is to get the
8 comments.

9 HENRY CAGEY: I'm getting there.

10 Okay. And it looks to me like the committee
11 didn't reach a whole lot of things on your work.
12 Because it said, "The committee did not reach a
13 consensus on the recommendations in regards to
14 assessments." What does that mean?

15 MR. HAMLEY: What page is that on?

16 HENRY CAGEY: I've got your report right
17 here. It's on 26788, third paragraph on the right, in
18 the middle.

19 I hope you guys read your own report.

20 MR. QUINT: My name is Brian Quint. So what
21 that is discussing is just citing some of the work
22 with the committee. Now, the committee members did
23 talk a lot about the assessment section of the
24 proposed rule.

25 MR. CAGEY: Did you reach consensus or not?

1 MR. QUINT: So what happened there was at the
2 very last minute the committee members wanted to spend
3 a little more time looking at the Department of
4 Education's regulations concerning assessments as
5 opposed to just Section 1111 of ESEA.

6 And so, when the committee was unable to --
7 there wasn't enough time for them to do that. Most of
8 the committee members were -- they did not want to
9 reach consensus on that particular section of the
10 proposed rule, so that's why it says that the
11 committee did not come to a consensus on that.

12 And as by way of background, the committee
13 reached agreement early on as to the rules and how
14 they would proceed. And one of the rules they had is
15 that they would try to reach consensus on as many
16 parts of the proposed rule as possible.

17 Consensus meant either or absent or not
18 active proposition. And so, when they were unable to
19 complete that work, the committee as a whole was
20 unable to reach a consensus on that.

21 And so, in lieu of having reached consensus,
22 we needed to propose something for assessment. So
23 what we did was we actually went through the
24 Department of Education's regulations and plugged
25 those into the proposed sections.

1 So even though the committe was unable to
2 come to a consensus, we did try to follow the
3 recommendation as far as including portions of the
4 Department of Education's regulations in that section
5 of the proposed rule.

6 MR. CAGEY: Okay. Then jump over on the next
7 page here. It says, "As proposed, the section also
8 clarifies that all required BIE assessments must
9 undergo a peer review."

10 Who's the peer review with and from where?

11 MR. HAMLEY: The peer review is a section of
12 ESSA, Every Student Succeeds Act, and that applies to
13 all states and all the BIEs. So there are rules on,
14 that are described in part in the ESSA, but then the
15 Department of Education has further guidance an that.

16 So it's through the Department of Education,
17 not through the Department of Interior. And
18 there's -- they have a process of setting up a peer
19 review committee and to review those. And those are
20 experts on the assessments, because the assessments
21 are quite complicated.

22 And there's a regular -- it's all on their
23 web page. There's a regular process with forms and
24 procedures about how that proceeds to get the
25 assessments through peer review.

1 HENRY CAGEY: What I think you should think
2 about the tribes, think about the BIE, think about is
3 that -- (Technical difficulty with the sound system.)

4 HENRY CAGEY: Are we back on? I think what
5 we should think about is -- I know you don't want me
6 to talk, do you --

7 And I think what we should think about is a
8 tribal peer review committee, not a nonIndian review
9 that is nontribal. We should have our own peer
10 committee. We should think about designing something
11 that allows us to live by ourselves and find out what
12 better we can do as tribes in the schools, not these
13 white people that don't know nothing about any of
14 this.

15 I think that we should look real hard in
16 developing that committee that allows the tribes to
17 support ourselves, like the MOA. That would work for
18 us. And we can set up our own peer review committee
19 and assess ourselves and assess you. One of things
20 that we need to understand is that you're not only
21 measuring us, but we need to measure you. And what
22 you're doing to oversee the education. Because
23 education is something that the tribes really should
24 think strongly to regulate ourselves. Each tribe has
25 different way that our kids learn. And you can't

1 bunch us all in to one standard that the state or
2 United States' standards. We all have to be
3 individual because we are all unique. And we're
4 different from each other culturally and -- I don't
5 know, just culturally, I guess. Okay.

6 And then with the secretary includes
7 statements (sic) with disabilities and assessments.

8 I think one of the things you're missing in
9 here is mental health. Besides disability, there's
10 mental health issues. And a lot of our kids are
11 traumatized with the things that happen on the
12 reservations. A lot of our kids have trauma and
13 families have trauma that need to be included in these
14 types of things when you're assessing our kids.

15 It's the historical trauma is something that
16 we all have to live with. Historical trauma is
17 something that you guys have to understand that it
18 causes things within the family where kids to learn
19 and families to learn and tribes to learn. So I think
20 that the historical things that you have to understand
21 besides the disability is beyond that.

22 And it's in the mental stages of what needs
23 to happen with our tribe. You got tribal trauma,
24 family trauma, individual trauma, that we all have to
25 deal with. Okay?

1 And then this English learners stuff, what is
2 that?

3 MR. CLARK: Can you explain that?

4 MR. HEMBERG: Sure. Under the federal law
5 they decided to separate out students that are
6 identified as English learners that includes a
7 requirement that every student has standards to learn
8 English language proficiency and have an assessment
9 every year of how those students are doing against
10 other students.

11 HENRY CAGEY: Why aren't you guys holding us
12 accountable for teaching our native languages?

13 MR. HEMBERG: Holding them accountable.

14 HENRY CAGEY: If you're going to hold us
15 accountable for the English language, you better hold
16 us accountable for teaching our native language.

17 MR. HAMLEY: Well, some tribes have proposed
18 the idea of adding native language to the
19 accountability system. But that be would up to each
20 tribe.

21 HENRY CAGEY: No, it isn't. You're holding
22 us to the English standards. We want our own native
23 language standards. We've been asking that for a long
24 time.

25 You guys need to figure out a way to support

1 the tribes that want to bring their languages back.
2 And you've been holding us back for a long time. A
3 lot of these tribes have lost their language. A lot
4 of these tribes are struggling to bring it back. And
5 you want to hold us accountable for learning English?
6 That's bullshit. I'm really upset about that.
7 Because again I really object to what you guys are
8 reporting as English standards; that's not what we're
9 about. We're about trying to bring the elevation of
10 our native culture and native language back, not
11 English. That's not who we are.

12 So if you guys understand that this native
13 language is more important than the English language.
14 Okay.

15 We'll move on. Okay.

16 Now, we're moving on here. It says, "As
17 proposed, the section would gradually incorporate
18 tribal civics into the BIE funded school
19 accountability system as a school quality and student
20 success indicator." What does gradually mean?

21 MR. HAMLEY: Any timelines on that?

22 HENRY CAGEY: The timeline of gradually. You
23 got it in there.

24 MR. HAMLEY: This is Jeff Hamley again. For
25 the Tribal Civics, the committee was interested in

1 having a Tribal Civics standard and assessment
2 developed for approximately --

3 HENRY CAGEY: Gradually could be what four
4 years? Looks like we have a good committee.

5 MR. HAMLEY: The committee did not specify
6 how long it could take to develop.

7 HENRY CAGEY: That's not a good way to put
8 gradually in a regulation. Because you guys are very
9 held together with these words. And gradually is a
10 very flexible word. You guys could hide behind it.

11 Words are very important. I've learned this
12 over the years. It's shall or may. Now, you guys are
13 using "gradually." That's a word that the government
14 uses to hide behind and hold on. Okay.

15 MR. QUINT: This is Brian Quint again. So
16 that's not the actual text of the proposed rule;
17 that's just the script --

18 HENRY CAGEY: I know you're going to edit.
19 Anything put in you just have to live with. I know
20 that.

21 "This section provides that the secretary
22 will work with the Secretary of Education to develop
23 templates to assist in the development of alternative
24 requirements." That's the next page from where we
25 were at. What is the template that you guys are

1 thinking about?

2 MR. CLARK: It's in the middle column?

3 HENRY CAGEY: Page 26790, the next page over,
4 first paragraph.

5 MR. HAMLEY: This is Jeff Hamley. Okay.
6 Under no child left behind, two tribes make new tribe
7 of Florida and Navajo Nation proposed the alternative
8 definition. So we worked with those tribes. And they
9 were approved by both the Secretary of Education and
10 the Secretary of the Interior. So we had a format, a
11 template based on No Child Left Behind. What this
12 section is talking to you about is that for tribes
13 that want a waiver, and then tribes are talking to us
14 about it under ESSA, that we've stated that there
15 would have to be a new template because the
16 template --

17 HENRY CAGEY: Who developed the new template?

18 MR. HAMLEY: Pardon?

19 HENRY CAGEY: Who's going to develop the new
20 template?

21 MR. HAMLEY: We will do it with a joint
22 committee with the Department of Education and the
23 Department of the Interior.

24 HENRY CAGEY: Where are the tribes? How come
25 the tribes aren't included?

1 MR. HAMLEY: Well, the tribes can give
2 feedback on the template, whether they like it, don't
3 like it, or whatever --

4 HENRY CAGEY: Why don't you do it with us?

5 MR. HAMLEY: I'm not part of this --

6 HENRY CAGEY: Well, if we're going to have
7 our own template -- what was your name again?

8 MR. HAMLEY: Jeff Hamley.

9 HENRY CAGEY: If we're going to do this,
10 government-to-government basis, you have to include
11 the tribes in this what you're doing. Because you're
12 not right now. If you're going to develop these
13 templates for the tribes, you put the tribes at the
14 table. Okay. Because, again, we don't need the extra
15 things to happen with consultation or getting angry.
16 If you have us helping work on the templates that are
17 needed, sections, not sitting in a room thinking about
18 what the tribes are doing wrong. You need to bring us
19 to the table on these templates, what we can and
20 cannot do. Okay.

21 I'm going to move on. I'm going to go back
22 to home. I had a long week.

23 Okay. I object -- I don't object I guess.
24 Again, I have a problem with the committee that you
25 guys are doing is still pitching us all with a state

1 standards. You still need tribal input and guidelines
2 to work with a tribe and set up they're own standards
3 and remedies, following along with the state.

4 It is part of the rule but you need to work
5 with us and as a partner not as a big brother or
6 whatever you guys think the government is, but as a
7 partner with the tribes. And there has to be a better
8 relationship developed in opening up those
9 communication lines. I'm talking about the councils,
10 the school boards, and the people that we have in
11 charge of education. There has to be a better line on
12 how we're doing. I don't know if you know, but I
13 think we really think about these things that you're
14 trying to develop and just wash your hands when you're
15 done with this regulation. It's beyond that. If
16 you're going to work with the government, you work for
17 us. You're not working for the administration. You
18 guys work for us. Those tax dollars you're working
19 on, those all come from us, as well. So again we paid
20 our taxes, but you guys work for us. Okay.

21 HENRY CAGEY: I'm almost done -- no, I'm not.
22 Okay.

23 Again, "The active part requires the
24 secretary to define a standards, assessment, and
25 accountability system, consistent with Section 1111 of

1 the Act, for schools of a national, regional, and
2 tribal basis, as appropriate, taking into account the
3 unique circumstances and needs of the schools and the
4 students served, using regulations developed through a
5 rulemaking process." What does that mean?

6 I'm on page 26795, Subpart A.

7 Does that mean that you're going to be in
8 charge of the rulemaking or what?

9 MR. HAMLEY: Can you repeat the last part of
10 your question?

11 HENRY CAGEY: Does that mean that this
12 negotiated rulemaking process, what does that section
13 mean, the paragraph mean?

14 MR. QUINT: This is Brian Quint again.

15 So the Elementary and Secondary Education Act
16 from 1965 has amended to reauthorize the Every Student
17 Succeeds Act of December 16th required the department
18 to undergo a negotiated ruling process to develop
19 regulations and rules on how the Office of the
20 Secretary was going to implement requirements for how
21 Standards, Assessments, and Accountability System work
22 for BIE funded schools. So the department did put
23 together negotiated rulemaking.

24 Negotiated Rulemaking in general is the
25 process whereby federal officials and the state

1 representatives, and groups stakeholders to work out
2 rules that both parties can live with. So we went
3 through that process and then we proposed a rule based
4 upon recommendations that the committee made. And so,
5 that's what we're doing here today is we're collecting
6 comments on that proposed rule that was published
7 based upon the committee's recommendations.

8 HENRY CAGEY: I'm going to have our tribe
9 object to this English learner, English language put
10 in here. Right now we're on the record. I disagree
11 with what you're doing.

12 Then I'm down to the waiver section on page
13 26800. And what it looks like is that if we decide to
14 submit a waiver, you have 60 days for the decision.
15 What happens if you don't make a decision?

16 MR. QUINT: So this is Brian Quint. The
17 Section 8204(c)(2), which talks about the Elementary
18 and Second Education Act, it describes this process
19 whereby the tribal government body of school boards
20 did not like the requirements that the Department of
21 the interior has implemented BIE funded schools. They
22 can submit an alternative proposal which will be
23 approved --

24 HENRY CAGEY: I understand that. What if you
25 don't respond in 60 days?

1 MR. QUINT: So the 60 days is built into the
2 statute. But that's just for submission of an
3 alternative proposal within 60 days of tribal
4 waiver.

5 HENRY CAGEY: I think -- I recommend we think
6 about this is that if you guys don't respond in 60
7 days, it's granted.

8 MR. QUINT: So what we've written in the
9 proposed rule is that a tribe can request an extension
10 of time.

11 HENRY CAGEY: No. It's on us, it's on you.
12 It's not on us. You're not listening. If you don't
13 respond in 60 days, you guys have to grant it.

14 MR. QUINT: I think, I take your point
15 well.

16 HENRY CAGEY: Again, is that your -- you must
17 be the lawyer for the education department or
18 something. But you guys have to be held accountable
19 just like you're holding us accountable. If you don't
20 respond in 60 days, you grant that request. Don't be
21 making excuses, well, we need another 30 days, another
22 30 days. Give it to us. If the tribe is asking for a
23 waiver, give it to them. Don't second guess of what
24 they're trying to do. Don't sit back and relax and
25 say I'm out of time, I don't have time, we'll extend

1 another 30 days. You guys have to act just like we
2 do. You need to hold yourselves just as accountable
3 as you do to us on waivers. Don't waste our time and
4 don't waste your time on these decisions. Just make
5 them. Okay.

6 And then I'm on the last section of this, The
7 bureau annual report card will be made available on
8 the Internet..." This report card where do we find
9 that?

10 MR. HAMLEY: Jeff Hamley again. The report
11 cards are published to the BIE website on an annual
12 basis. One for each school. And then also one for
13 the BIE overall.

14 HENRY CAGEY: Do we have a report card on
15 you, too, just as much; or can we do that?

16 MR. HAMLEY: Pardon?

17 HENRY CAGEY: You develop a report cards so
18 we can give you a report card back? I think the
19 government should be allowed to have their own report
20 on how you guys are performing and whether responding
21 to what the tribes are trying to do with education and
22 where the needs are, and where you're falling short on
23 supporting our children. So the report card goes both
24 ways. And it needs to be included because each tribe
25 can have its own report card on how you're performing

1 for our school system. What you're doing to support
2 our school system, and what you're not doing. Okay.

3 So, again, I am here on behalf of our
4 council. I was asked by our superintendent to be
5 here. I apologize. I didn't go through them all. I
6 went through just what I read. I'm trying to
7 understand what's going on with this whole part.
8 Education is important to me. I sit on the board. I
9 sit on the council.

10 But, again, is that we tend to take education
11 as it's not a means to an end. Education is something
12 that a child needs a good education and a good job.
13 And that's how I see it. Because again without a good
14 education, they can't get a good job; that's how I see
15 it. Because again without an education, they can't get
16 a good job. But somehow you're not linking the
17 employment to the children after they leave school.

18 I've seen a 20-year-old boy graduated
19 yesterday, graduated at 20 years old, went through
20 school. He had no plans. You know, and there is no
21 funding for them to pick them up for them to get done
22 with it. We're doing the best we can. But if they
23 keep going further than just a high school, the
24 department has to look at higher education, or
25 vocational education differently than what you're

1 doing there, as well. Because our tribal colleges
2 need help just as much as the school. You have to
3 look at that more often because the colleges are under
4 funded just as much as our schools are. If you look
5 at education as a whole, our colleges are struggling.
6 Our enrollment is down. We're having a hard time with
7 the getting teachers and professors in our colleges.
8 And that's a big problem, as well. We're not getting
9 the support from the Department of Education for
10 higher ed; that's just as important as Head Start and
11 higher ed. It all connects. And these populations
12 are growing, growing, growing. We seem to be going
13 backwards. What's happening? And we're losing the
14 battle with the community at opioids. We're losing
15 the battle with the thing that our economy is still
16 crashing. The gaming has been a good lesson for us,
17 has brought a lot of relief to our people. But it's
18 still not enough. And again is that we're backfilling
19 where you guys failed. So the tribes are backfilling
20 the education needs ourselves. This is okay. But you
21 have to understand that we have a lot more flexibility
22 where the dollars are needed. We're having to
23 backflow from where you guys are at.

24 So, again, I thank you guys for coming. I
25 want to see more about the report. I hope this

1 committee, the work that you're doing -- I thank you
2 for all your work; but, again, it's something that I
3 think we all need. I don't know if the community work
4 is done after this is over. But I think you need to
5 reconsider overall and continue this committee work
6 and really look at a whole on the education where we
7 are at. What is the role of the bureau? What is the
8 role of the BIA, and what they're supposed to be
9 doing? And what is the role of the government within
10 the family. As I said, if you're part of the family
11 of government, what is your role? Where do you sit as
12 far as the relationship for the tribe? And where do
13 you sit between working with us and the government?

14 So again if you can really think hard of
15 where that begins and what's happening.

16 I come from a poor gaming era and again it's
17 changed a little bit more for us since the 1900s than
18 the 2000s. It's a lot more positive. But education
19 is still simply, kind of, lacking. And why are we
20 lacking? And we are trying to hold accountable
21 something that we have, something that we have no
22 control over. You guys control the whole education
23 funding. You control everything. We report to you
24 directly on our funding.

25 You're not coming in and looking at what do

1 we need to do to get better in what we're going and to
2 put our kids through school. We're doing the best we
3 can. We hired truant officers. So we're going do the
4 best we can to try to keep that part of our keeping
5 our kids in school.

6 But again the unemployment rate, the
7 historical trauma, the drug abuse is all there.
8 There's still heroin. We average about one to two
9 overdoses a month right now. And it's having a big
10 effect on the kids; that's the part that I think we
11 missed. We are testing in that day that the mother
12 may have -- something may have happened to the family
13 to the mother or the father, and they end up failing
14 because of what's happening inside their home.

15 So, again, as you look at these classes and
16 things that are happening for you to understand that
17 there's a lot more that you can do to do a better job
18 in looking at the tribes and the families and the
19 school as a whole, not just throwing the state
20 standards at us where they don't fit. So, again, we
21 have some Lummi made stuff. I don't want to take up
22 more of your time. I've got a couple gifts for you
23 folks. I got some jam from the tribe. I got some
24 TruGrass from that. And I got a bracelet for you.
25 Okay. So again Henry Cagey of the Lummi Nation.

1 Thank you.

2 MR. CLARK: Okay. Thank you so much.

3 Any other?

4 ADAM STROM: Adam Strom, Yakama Nation Tribal
5 School. Enrolled member of the Yakama Nation. Serve
6 as the principal. And I think it's important that I
7 give you guys a background of my mindset. So then
8 that way as you listen to me as an aspiring leader,
9 I'm young in leadership, not young in age, But "I
10 would say that I would rather be built on criticism
11 than ruined by praise." And, again, I'll say that
12 again because I think too many of us in here might
13 have an ego, might have something. But "I'd rather be
14 built on criticism than ruined by praise."

15 It's important. I serve important people,
16 and those people are youth. And the other quote I
17 live by is "Every system is perfectly designed to get
18 the results it gets." So we, collectively, here are
19 perfectly designed to get the results we're going to
20 get at the end of the year. And I'm going to pose a
21 question to my colleagues, my mentors, to my people in
22 here that serve their respective reservation, because
23 I heard a leader from Pascal Sherman talk about her
24 education, her bachelor's, her master's, her PHC. But
25 I wonder where that high school diploma came from.

1 And this is the reason why I'm going to state this is
2 because I feel everybody's mission or vision in being
3 here probably has the words "quality education." If
4 we're going to serve our people, we probably have
5 somewhere in our mission or vision, we're going to
6 provide a quality education. And somewhere in our
7 mission or vision it probably says that our students
8 are going to be out and be able to compete in a
9 workforce, somewhere in there, in some way it's going
10 to be interpreted that way. So as a vested
11 stakeholder, not only do I serve as principal, but I
12 serve as a father of students in my school.

13 And the sad reality is is that when I drove
14 my eldest to Stanford University, because of that
15 shortness or providing my own child with a quality
16 education within a bureau school or within a tribal
17 school, you know, we drove 24 hours. I had to say
18 there's got to be an ultimate path to Stanford
19 University because of state assessments or because of
20 assessments, probably not going to land you at
21 Stanford University out of high school.

22 And because I think when we talk about
23 assessments, I respect cultural relevancy, cultural
24 relations, cultural sensitivity, cultural awareness.
25 But at the same time I realize assessments provide

1 college readiness. Assessments are based on college
2 readiness. And Stanford University might look at my
3 child and say, you know, you're cultural relevant, but
4 academically you're performing below.

5 So my idea to speak is -- to my colleagues
6 is, again, I'll touch upon how I need assessments as a
7 first year administrator. What I hear in here is a
8 lot of outspoken words. But I'm in dire need of how
9 to better serve our Native American youth, on a daily
10 basis. So when I hear these words, I've grown to
11 understand that you guys provide quality education on
12 a daily basis. How do we get it done? I respect Mark
13 Jacobson for saying -- he proudly says he gets it done
14 by offering or -- providing the best teachers.

15 Teachers are our level of education. And I have to
16 get my own people the outreach to try to realize that.
17 Value these teachers. Treat them well. Pay them
18 well. Respect them. Because those are the ones that
19 are in the classroom everyday with our students.

20 And complaining of wages. Yeah, there's
21 competitive wages, but trust me in the central
22 Washington area, there's people that teach from the
23 heart. And that may be \$10,000 less, but, you know,
24 they teach from the heart. And know that in our
25 school they're teaching 12 students in a class versus

1 35 in the public school. Because I try to teach our
2 recruitment and retention, I try to share that. I
3 realize six miles from here you might get \$15,000
4 more, but, hey, man, you're teaching 12 students. So
5 I do my best for recruitment and retention purposes.
6 But the reason I say it is I need my colleagues' help
7 to how me provide a quality education so that we could
8 live up to our mission and vision to our students.
9 That they could survive in the workforce. That they
10 could compete at Stanford University. That they could
11 compete at the University of Washington because it
12 requires something. As the other profession I pose as
13 a basketball coach, it requires self-reflection. I
14 can't blame my losses on the guys in stripes or the
15 whistle. Because then my 12 athletes that are sitting
16 on the bench next to me are going to learn to point to
17 the officials every time they lose. So I'm asking you
18 guys next to me how do we do self-reflection? How do
19 I know that every dollar I receive, whether it's state
20 or bureau, that every dollar I receive is going
21 towards betterment of that child's education? If you
22 guys know, teach me. How do I know that every day,
23 when we're in the classroom that seat time is
24 important when there's other things that -- our grants
25 through our tribe, we're a hundred percent Native

1 American. So a lot of times we are a -- we are a
2 go-to for grant purposes for that university that
3 served, it's 5 miles down the road, or for that doctor
4 school that's in the city of Yakima, that could say we
5 assisted a school that was a hundred percent Native
6 American.

7 And so, we take our kids there. And then
8 they get us out on a Tuesday lecture of math and then
9 Wednesday is half day, and then Thursday is berry
10 picking. And then, as you all know, math is
11 sequential. So, again, I urge us to take
12 accountability and to do a self-reflection on
13 ourselves as administrators and as school leaders.
14 Because it's something that I've learned in my first
15 calendar year that I got to look at myself, as a
16 leader. Because, again, I'll go back to not only do I
17 have an invested interest of one child that went to
18 community help throughout, now I have two more that
19 are twins this year that are seniors that come to me
20 and say I got an 18 on an ACT; that's not going to get
21 you into the university, son, you know. And -- but,
22 yet, I was the building principal. Did I give him the
23 best education for four years? Do you realize that
24 they weren't offered biology? They said science
25 kicked my butt. We don't even have a lab at our

1 school. How can we offer chemistry and some of these
2 science clubs? We don't -- and we're quick to point
3 but again it's self-reflection. What do we do on a
4 day-to-day basis that is providing? Because as
5 everybody knows nationwide, there's the achievement
6 gap. And I figure there's some school nationwide that
7 serves Native American students to the best of their
8 ability. And I want to know that school. And I want
9 to visit that school. And I want to study that
10 school. And I want to do everything that school does.
11 Because they're a model school. If that school is in
12 the state of Washington, the state of Oregon, state of
13 Idaho, please let me know. Because right now what I'm
14 doing as the building principal is not working. Match
15 could prove it. Smart phones could prove it. I don't
16 have to be told I'm a failure. In the public school,
17 let's be honest, Mark, you can mark my words -- no pun
18 intended -- in the public school, I wouldn't last as a
19 principal with subline scores, flatline scores. But
20 yet I find my comfort in the BIE school that they'll
21 take care of me. I think we've got in step outside of
22 of that as we come to these group meetings. We've got
23 to move forward together and that happens with quality
24 education.

25 Thank you.

1 MR. CLARK: Okay. Thank you. So it is noon.
2 So we'll go ahead and break for lunch. I don't want
3 to short change anybody time this afternoon making
4 statements for the record or asking questions, giving
5 us feedback. So originally on the agenda, we had
6 breaking for lunch at 12:15 and then resuming at 1:30.
7 Since we're starting 15 minutes early, I would propose
8 that we reconvene at 1:15 rather than 1:30, that way
9 we have the same amount of time available to provide
10 statement for the record, questions, and all that good
11 stuff.

12 UNIDENTIFIED PERSON: How about less time for
13 lunch?

14 MR. CLARK: Less time for lunch? Sure. We
15 can certainly do 30 minutes if that's adequate for
16 everybody else. Okay. We can certainly do a 30
17 minutes.

18 (Lunch recess taken from 12:03 p.m.
19 until 12:40 p.m.)

20 MR. CLARK: We can go back on the record
21 again. The rest of the day we're going to continue
22 until we exhaust our opportunities to make statements
23 for the record and questions.

24 So, sir, Nannette, we got one right here.

25 FRANK MESPLIE: Good afternoon. My name is

1 Frank Mesplie. I'm superintendent of Yakama Nations
2 Tribal School. There's some important things in a
3 very complex system of rulemaking. And we are BIE,
4 and now we're this year a sovereign state compactor,
5 state of Washington. Grateful for all the information
6 and all the resources they provided.

7 My question is that we -- our school is a
8 Catholic school, built in 1965, our agency burned
9 down, tribal council became their offices and then
10 until 1979. Then it became an alternative school. I
11 was there 260 to 11. I got accredited. Now, I'm back
12 there but our schools, probably, we got this program
13 where we submit and get the fix, as it were. We got
14 probably a million dollars worth of stuff. We can't
15 even get water for our lot. But my question is I read
16 in a native thing about the Department of the
17 Interior, I think, it's the secretary. They have a
18 leasing program with the Gila River Community School.
19 You guys don't know it? That's pretty innovative.
20 We'd like to get on that pipeline, too, if we can.

21 If the BIE can give us half of one-third. We
22 can get the rest. Hopefully in my lifetime. It's my
23 40th year of education. But Chairman Soliscin (as
24 heard) is in Alaska right now; that's his vision, too,
25 the goal is maybe to have the school feedback and

1 solo. So we didn't do anything to do this. We have a
2 casino, but it doesn't make enough money to support a
3 school. But that is my cry. If you guys know of
4 anybody or contact, like idea about writing letters --
5 we submitted the letters. I submitted the letters to
6 people in Washington, DC. And we went to meetings in
7 Albuquerque last. And we're No. 63 on the list. And
8 they only do seven or eight schools every 20 years.
9 So hopefully that happens to us.

10 It's my grandma had spoke English, but her
11 mom is -- they donated a school, the land for an
12 elementary school. We just need a new school. We
13 have a young leader here. We don't have a science lab
14 or locker rooms. It's just limited space. We just
15 had a personal consultant come in do a space analysis.
16 Yeah. We need a new school. He's been around all the
17 tribes in the United States. He says we're over the
18 top 15 probably. But we're patient.

19 In our treaty in 1855, the government was
20 going to give us a hospital and a school -- let us buy
21 a school. But that's never happened so -- trustees
22 over us have not fulfilled what they said they were
23 going to do. With that hopefully if you guys got
24 contacts in the Yakama Nation,
25 FrankMesplie@yakama.com. Do you know of anything?

1 MR. CLARK: So I guess I'm based out of the
2 director's office in DC. I'll give you my contact
3 information. I can help you track down some of that
4 information because obviously we have been working
5 with that.

6 FRANK MESPLIE: Yeah, so have all them, the
7 lobbyists, and George Waters and he's been doing his
8 best to upgrade and find out what we are. We just got
9 on the list, but we assumed it was on there since 60's
10 but nobody ever reported it that we need a new school.

11 Thank you. Have a good afternoon.

12 TAMMY HICKLE: Tammy Hickie, again from
13 Duckwater Shoshone Elementary, Nevada for new schools
14 and method of getting in schools where you're not 63rd
15 on the list. Mine is holding up, but I can't say that
16 it's going to continue. Because it's starting to
17 deteriorate. And it's very difficult to get new
18 funding for new buildings. So I've underscored that.

19 While I'm at it, Lynn, my colleague from
20 Pascal Sherman says -- she mentioned the paperwork. I
21 was teaching and trying to do the administration. And
22 I can't keep up with the paperwork. I'm always behind
23 in my work. I work 10 hours a day at least. And I
24 work weekends, and I still can't keep up with it. So
25 behind on the paperwork and --

1 But what I want to put in a plug for because
2 I'm all alone, I've spent hours on the phone with the
3 UFC, with whoever is helping in the BIE organization.
4 We're like best friends. I really appreciate the
5 technical assistance I get. So I want to make sure
6 that I say that the technical assistance is very
7 important, as well as with the paperwork. And I
8 consider this what we're talking about today is just
9 added paperwork, more details that I have to attend to
10 to make sure I'm doing. I need technical assistance
11 for that because so many of us are out there in a very
12 small school.

13 MARK JACOBSON: Mark Jacobson again for the
14 Quileute Tribal School. I thank you for taking input
15 today on this other issue. So there's a couple things
16 I'd like you to take back to DC or to the DOI for us.
17 On the facilities, we're in the top three of the
18 nation. So we get a new facility. We've been there
19 now for three years and I still don't see anything
20 coming up out the ground. It's the process that needs
21 to be addressed. Also the rules need to be rewritten
22 and updated. The last book that was out is 1995.
23 Things have changed a lot since '95. And according
24 the BIA, they have done some updating, but they didn't
25 publish it. So we don't have what that update is or

1 what's changed. But some of the rules or some of the
2 guidelines in there are totally ridiculous. They
3 provide 120 square feet for an administrative office.
4 I dare you to put a desk with two monitors in there
5 for your computer and a printer and still be able to
6 meet with parents in your office. You couldn't.
7 There was no room. If you don't have the facility
8 now, they won't build it for you. So if you don't
9 have assigned slab, they won't build it for you. If
10 you don't have family consumer science program, they
11 won't provide that for you. So they gave us --
12 they provided us a couple portables a couple of years
13 ago that you could buy one built to custom built for
14 you in Oregon and have it delivered for less than it
15 cost to have them shipped from the BIA when they buy
16 them. Something is wrong with that system. It needs
17 to be reviewed and updated.

18 And the process, once you do get funded needs
19 to be streamlined so you don't wait three or four
20 years.

21 I look out my office window at the Pacific
22 Ocean, beautiful view. I've got probably the
23 prettiest office view of any place in the country.
24 But when I look out there, also I worry about that
25 tsunami that I know that's coming one of these days.

1 And in three years, I'm worried if it's not built in
2 two years, will we still have that building, will that
3 view still be there, or will we lose the next
4 generation because of a tsunami?

5 So please take the message back there. That
6 process is still far too slow. ESSA, do away with
7 that, that mandatory test, our -- trying the staff has
8 to go through online. It doesn't apply to schools.
9 They talk about you've got to have the security card
10 to put in the door that gets you in your office. You
11 put the card in your computer. And then don't forget
12 to take that card out when you leave. Our teachers
13 don't have security things on their doors or cards in
14 their computers. It takes almost two hours for every
15 one of our teachers and administrators. I need that
16 time for other purposes. Time is the one thing that I
17 can't create. I can write grants for money. I'm good
18 at that. We get all sorts of money for things. But I
19 can't buy time. I've got to have some relief to some
20 of that and tending to write on the paperwork.

21 The superintendent over in Coeur d'Alene
22 wrote -- probably wrote his name. I always forget,
23 but he wrote one of those paperwork reports, third
24 page, if it's an emergency call me, here's my cell
25 phone number, my office number, here's my email, call

1 me when you get to this point. It's been four years.
2 Nobody's called him. Who is reading the reports we
3 have to submit? If they don't read them, don't make
4 us do them. I understand the need to be responsible.
5 Never walk away from being responsible. But don't
6 have us doing paperwork that just sits on some shelf
7 when it's done.

8 Maximo, I've had it with that, folks. I'm
9 going to rally some troops. And you're going to see
10 some action if I can push forward. It doesn't work.
11 I brought the report. We've complained about this.
12 I've been here six years. It's never worked for us.
13 The Maximo is a system we put in to assist with
14 what repairs or stuff we need or we've done. Somebody
15 changed all ours. Now, it calls for a six foot
16 chain-link fence and three rows of barbed wire across
17 the top. I'm not building a penitentiary or a site to
18 hold people in a compound. I want a school. Okay. I
19 don't need chain-link fence with barbed wire around
20 the top of it. Maximo needs to work for our schools.
21 It doesn't work for any private school I've ever
22 talked to.

23 I think it works fine for BIA controlled
24 schools, but it's not working for us.

25 So we've given you six, seven years to fix

1 this. Still hasn't been fixed.

2 We would accept -- they say you buy a
3 computer that's dedicated to Maximo. We'll put
4 everything on it and make it work. We did that. It
5 came back to us. Still doesn't work, guys. I've had
6 it with Maximo. That has to change.

7 So thank you. Please take those messages
8 back, and you'll hear me on Maximo later.

9 Thank you.

10 BERNIE THOMAS: Bernie Thomas, what Tony (as
11 heard) just said I totally agree with. It would be
12 great if our entire system is predicated on the idea
13 that all of our students after fleeing appropriately
14 chose to go onto college. The reality of it is that,
15 you know, I think Washington state -- I don't know
16 that it's incorrectly quoted but 15 percent of our
17 students in the population of our students in
18 Washington goes on to college after high school.

19 And publicly, you know, a lot fewer by half
20 or more or fewer than, go on to college directly out
21 of high school from the Lummi Nation School for sure.

22 You know the hard, cruel reality we're trying
23 to keep our students alive. We're in survival mode.
24 You know, many of us come across as maybe it doesn't
25 come across as, you know, eloquently as hearing from

1 kids that are 6 or 7 or 11 or 12 years of age, saying
2 will my mom hit me after heroin. You know, my dad is
3 in prison because the heroin. You know, my dad died
4 because of heroin. My mom burned in a fire because
5 she was too stoned to get out of the building that
6 caught on fire because she cooking her drugs and
7 couldn't get out because she was stoned.

8 We're trying to keep our kids alive. And
9 there are a lot of different pathways to go on to
10 college, not necessarily right out of college. Those
11 of any of us that did go on to college right out of
12 high school really struggled. And, you know, there
13 are a lot of different life triggers that -- you lose
14 a job, lose a spouse, you know, employment somewhere
15 or different opportunity comes your way that you
16 didn't have when you were 18; got a little bit more
17 mature, decided that, hey, you know, you need to do
18 something with my life. I'm going to go out into the
19 community college and affect my education plans in
20 that way.

21 I was a community college trustee for 10
22 years for the state of Washington. You know, we -- I
23 remember when I was a trustee member of students that
24 circled the building 10 or 15 times a day for weeks on
25 end trying to conjure up enough courage to come in and

1 make an application to come to college.

2 So we created different messages for us to
3 deal with the students so they didn't have to do a
4 lazy circle and trying to figure out how do I get in
5 there? What do I have to do? You know, what are the
6 procedures for you to apply? What about financial
7 aid? I mean, what about when I realize I did so
8 poorly in high school; there's no way I can make it in
9 college? And just answer all the different questions
10 that were obstacles for them to get in the door and
11 get them through school. But most of those students
12 were on average 38 years of age by the time they
13 circle back to the idea that they need to go on to
14 college. I think, the average in Washington state is
15 a lot lower than that because of the union precedent
16 that Washington state has imposed really to the
17 community college and technical college system that
18 it's really running under a different principle than,
19 you know, they would have learned and 1970's by making
20 community colleges accessible and forthright and a
21 model of articulation to research for institutions
22 public and otherwise in Washington state.

23 So, you know, it's one thing if you're a
24 middle class, you know, average American with a lot of
25 income and pay at your disposal, a lot of freedom and

1 flexibility to do the things that you know allows you
2 to do what you want to do.

3 But when you're poor, and you come from a
4 home that, you know, without being too disparaging, is
5 filled with mental health and drug addiction issues
6 and other things, you don't have these choices. You
7 don't have those choices. You just don't have those
8 choices.

9 And, you know, begs the question that, you
10 know, when I look at these regulations that are being
11 proposed, that there isn't some semblance of
12 articulation between the bureau and the tribal
13 government. That should be the Rule No. 1 in this
14 rulemaking process that you can't make a rule and say
15 that that rule is what stands for all time. Stuff
16 changes. Times change. People change. People get a
17 different education. They get a different look. They
18 get a different opportunity. And, you know, we can't
19 get wise to the things that are going wrong and try to
20 figure out, you know, smarter ways to do things
21 differently when that kid is circling the building 15
22 times a day while getting up enough courage to talk to
23 somebody. So that needs to be Rule No. 1 to
24 supplement what Henry was saying about if you're
25 going to make a rule, make a rule that we're going to

1 have a solid relationship with the Indian Nations.
2 And that relationship is going to be predicated on the
3 memorandums of understanding. Memorandums of
4 believing in which we set forth lessons based on local
5 understanding of the present circumstances of our
6 population, and those obstacles and things that get in
7 the way of kids being able to not have a choice. They
8 do not have a choice. They don't have a choice. They
9 don't have a choice. How are you going to get a
10 choice if you don't partner with us at the Indian
11 Nations? So I'm going to say that again Rule No. 1
12 needs to be that whatever these rules are and any
13 future rules are going to be predicated on the basis
14 of local understanding of local tribal government or
15 school board that they agree with, and that they are
16 going to be able to proffer their own set of solutions
17 to the obstacles that they know be part and parcel of
18 their family. They call us tribes, but we're just
19 extended families. In fact, all of the Indian Nations
20 in the Puget Sound are my blood relatives. I'll say
21 that again: All the Indian Nations in the Puget Sound
22 are my blood relatives. We all are descendant of each
23 other.

24 So, you know, we have different perspectives
25 about, you know, how we want to bring up our children.

1 But you got to involve this. I mean, that's one of
2 the three cornerstones of any educational plan.
3 Involve your parents and, you know, in loco parentis.
4 We are the local parents, the tribal governments are.
5 So include us. Your plan will include us. Let us
6 evaluate what our schools need.

7 We are going to be going through a population
8 growth. We know it already. We have spoken to the
9 demographers. We've spoken to the census people.
10 We've spoken to the research institutions. We know
11 that our current under age -- under age 18 population
12 is right now forming about 1800 people. By 2035,
13 which sounds like a long ways away -- by 2035 will be
14 8900 of us but that's majority of them will be under
15 the age of 18, the school age people. They aren't
16 going to fit in our current school. How long does it
17 take for you to build a school building when you're at
18 the top of a list? We don't know. Well, we don't
19 know.

20 So I'm saying that we got some improvements
21 that we got to be able to do to know and understand
22 the population.

23 We need career technology education. I can't
24 tell you how many of my parents went to Stanford, went
25 to UCLA, went to UCLA School of Medicine, went to the

1 University of Washington, came out with magnificent
2 degrees, PhD's, medical degrees, 180,000 student loan
3 debt, a couple hundred thousand dollars of student
4 loan debt, no career. No career. No career.
5 Unforgivable student loan debt. So, you know, saying
6 to people that college is the answer. College is the
7 answer. You got to have standards that equals, you
8 know, go to college; so that's the answer. Not
9 always. And more and more statistically you look
10 around at some of the numbers and the politics around
11 making sure that higher education becomes free of
12 tuition, you know, because of the impending political
13 situation and climate around unforgivable student loan
14 debt. It doesn't matter what happens in your life,
15 that debt is with you. You can't file bankruptcy.
16 You can't do anything. I mean, just something that is
17 always going to be there.

18 So we need to, you know, develop facilities
19 and educational programs that help our family members
20 learn how to enter into careers. I mean, is it one
21 thing throughout your whole life, or is it 15 things
22 throughout your whole life? These kinds of things
23 still end up becoming a trigger going on. And there
24 are a lot of different pathways to higher education as
25 I said. It doesn't necessarily have to start right

1 out of high school. We know it would be absolutely
2 ideal if you go right out of high school to college.
3 Again, my own story is to go along with you know what
4 Lynn was saying that I was a horrible student in high
5 school. And that continued when I was in college.
6 And it wasn't until I earned my master's degree that I
7 actually figured out how to be a student. I actually
8 produced, you know, complicated documents overnight,
9 24-page documents in the formal APA format. And you
10 know, but that isn't something that, you know, you
11 learn how to be able to do right out of high school.
12 It takes some life skills and life context to be able
13 to fill in the blanks as to the value in doing some of
14 the things that we do in earning a master's degree.

15 So, you know, I just think that hanging our
16 hats on test scores, you know, not having a plan in
17 place just make sure that students remain alive.
18 Because they don't have any other choice. They don't
19 have any other choice. They don't have any other
20 choice. They have no choices. You know, is that --
21 that comes straight from the social and emotional
22 learning needs of our students. We need to make sure
23 that the system inculcates their medical,
24 psychological, and academic needs, not just the
25 academic needs based solely on test scores.

1 When you think about it, the system is
2 abreast of the other two things and only focuses on
3 the academic test score results. How cruel that is
4 when, you know, you think about a 10-year-old kid, who
5 has lost both parents due to drugs or alcohol, whose
6 uncles have burned up in fire because they were, you
7 know, too drunk to get out of a building or something
8 or too high on heroin to get out of the building or
9 got crash car because, you know, uncle was driving too
10 fast, you know, took the corner too fast and got
11 flipped out of the car or truck and -- you know, these
12 are every day instances, every week during the school
13 year.

14 And so, you want to bring a kid in and say,
15 well, we're going to do pre-algebra today. It's
16 really super important because you've got to be ready
17 for the test. You've got to be ready for the test. I
18 know your uncle is dead. I know that your parents
19 died earlier. I know that your mom in prison. But
20 forget about all that stuff. You got to deal with
21 this test.

22 And as an educator, how does that sound to
23 you? I mean, does that, you know, resonate to you
24 guys to being anything close to the reality that you
25 experience in your every day thinking about the

1 importance of these regulations?

2 Once these regulations go into effect, we're
3 stuck with them. So let's make these regulations
4 about our relationship, not about standard things that
5 are never going to change. When's the next time these
6 regulations are going to change? Can you predict
7 that? I don't think you can. So if they're going to
8 be regulations that we're going to be stuck with,
9 let's be stuck with each other.

10 You know, I can pick up the phone and I can
11 call you. I can call Dr. Hamley. I can call Tony.
12 Tony actually answers the phone, you know, to his
13 credit. Tony will call me and say, "BernDuck (as
14 heard) you know, what's up?" You know, "I'm not
15 really liking all the stuff you're saying." You know,
16 we have a conversation about it. You know,
17 that's what I want to get stuck with. I don't want to
18 get a stuck with a bunch of standard regulations that
19 say the world is made like this. It's completely
20 flat. And this is the only thing that, you know,
21 you're ever going to see out of the world is -- you
22 know, if you want the money, we got the money. So
23 here are the strings with it. But the world is
24 completely flat. Don't worry about the other people
25 think that it's round and really complicated and, you

1 know, there are drugs in it, and, you know, there are
2 kids that have social and emotional needs. Don't
3 worry about all that stuff. Just worry about the test
4 scores. Just worry about the test scores. Just worry
5 about the test scores. Because that's where your
6 money is tied to. That isn't the world that I want to
7 be.

8 And so, I don't think it is that we -- I
9 think I know you guys. Let's join the world together
10 and just make sure that, you know, we're looking ahead
11 to the cap of the construction needs, to the social,
12 emotional needs of the students. You know, they all
13 fit hand-and-glove together. Just get them to become
14 semi-autonomous by the time they're 18 or autonomous
15 by the time they're 18 and transition them into
16 career. And each stage that child might have a life
17 trigger down the road, but they get nothing out of it
18 if they're dead or if they're already so ingrained in
19 the drug culture that, you know, you just have no
20 opportunity, except to hope that 10 or 15 visits to
21 the rehabilitation center are going to be enough to
22 keep them sober enough to even think about providing a
23 meal for themselves or their own family.

24 I mean drugs are really insidious. Nobody
25 knows why somebody had been sober for 15 years and all

1 of a sudden starts using it again. It's just
2 insidious but we've seen it at the moment quite a bit.
3 And that's always been repeated over and over.

4 So we got a population boom on the way, our
5 facilities are undersized. Curriculum doesn't match
6 the absolute needs of the students that are there.
7 The culture and identity which is specifically
8 important to self-gain, self-confidence is not there
9 because we don't have tribal trained teachers or
10 administrators. And so, we need help on curriculum
11 and design and development. And we also need teachers
12 built from the ground up that are from among our own
13 population.

14 Why doesn't that make sense as a goal? I
15 mean, you're going to learn -- I mean, the kids learn
16 more in five minutes with me than they will from any
17 white teacher that we have in the building, just five
18 minutes with me. But I'm spread too thin to sit in
19 the classroom and do those things.

20 So we need our own family members to become
21 teachers and school administrators. Plans that will
22 help us with building those employment opportunities
23 so that requires an increase in the overall amount of
24 ISIP funding and special education funding; that's a
25 50 percent rate of population of special education

1 students in the high school; 25 percent in the
2 elementary school and then middle school. And then we
3 know all these like 80 percent of the kids at the
4 Tribal Health Center have been born and neonatally or
5 prenataally exposed to drugs and-or alcohol. So we got
6 issues. And they aren't going to be demonstrated
7 by -- I mean, solutions aren't going to be necessarily
8 demonstrated by test scores alone. You've got to rely
9 upon us as the topic subject expert at the local
10 limit, and, you know, we are your partner. And, you
11 know, we're there. We're working. We know what to
12 do. We have some plans and ideas. And but, you know,
13 we need these rules to reflect the dynamic
14 relationship between us, not as the bureau being a
15 paternalistic, you know, good father of the Indian
16 Nations but as a significant partner in a relationship
17 that is designed to educate the Congress and the
18 President as to the needs of our population that we're
19 designated here to be serving, the students of the
20 Indian Nations.

21 So anyway that's -- thank you for your time
22 and attention.

23 Thank you all for being here.

24 HARVEY WHITFORD: Harvey Whitford,
25 administrator at the Wa He Lut School. I'm going to

1 go ahead and quote Mr. Claymore.

2 Mr. Jon Claymore, who has been around BIE
3 Schools for -- I don't know -- 25, 30 years. He
4 couldn't be here today. But he asked me to share his
5 thoughts on this text message that he sent. So I'm
6 going to read it just like he wrote it. So that's Jon
7 Claymore, J-O-N.

8 He says, "Hey folks hope the tribal
9 consultation meeting is going well.

10 "This is my two cents: The BIE has an
11 opportunity to move to a common assessment as the
12 state of Washington is allowing BIE Schools to opt out
13 of taking the Smarter Balance State Assessment. They
14 are doing this for a reason when only 24 percent of
15 native kids are passing the Smarter Balance Assessment
16 in Washington. More importantly 76 percent of the
17 native kids are failing. Right around 50-to-60
18 percent of all kids, public, are passing this test.
19 In my mind this is a torture test that has one of the
20 highest bars to pass according to the different
21 states. OSPI," which is Washington, "opened the door
22 for the bureau to pounce on and do away with having
23 BIE schools take the state assessment and go to a
24 common assessment that has been discussed for years
25 for a reason, because it needs to happen if they

1 really want to know how the schools within the BIE are
2 doing. One of the problems is that BIE went away from
3 NWEA contract that could have been an option to
4 collect common data from all schools. The BIE needs
5 to report some type of data to the Department of
6 Education," in Washington, DC. "to justify funding and
7 that's why they are requiring schools to report state
8 test data. The data they are receiving is flawed in
9 my mind due to the benchmarks from state to state.
10 Ask them to sit in our kids' moccasins while taking
11 that state assessment as it means nothing to our kids
12 and gives little to no valid support of information as
13 it's a form of classification.

14 "No one can tell me that our kids are dumb
15 but if you look at the data, we are the lowest on the
16 totem pole according to the different nationalities
17 represented. Why is this okay as we are protectors of
18 the generations to come?

19 "If I had things my way, all BIE Schools
20 would be taking the same assessment and then the real
21 work can take place as we will have common data."

22 Okay. That was a message sent from Jon
23 Claymore. And I read it just like he sent it. If you
24 look at BIE schools across the country, and what was
25 shared earlier, we're generations from the trauma that

1 was instituted on our ancestors.

2 It was brought up in here about the boarding
3 schools and how we moved forward from the boarding
4 school era and the missionary schools. And when
5 people talk about boarding school, they think it was a
6 long time ago. People that are not associated with
7 that. But to some it's not that long ago. I share
8 this when I get a chance with different forums that I
9 sit on.

10 My mother had to go to a boarding school in
11 Blackfeet country when she was five years old. She
12 had'nt talked much but it. But she shared some of it.
13 She said the boarding school some of our families were
14 camped out on the prairie where they can see the
15 boarding school but they couldn't go and visit their
16 children.

17 If you didn't send your child to the boarding
18 school, then all the benefits on the reservation were
19 cut off, the fee allotments, the tools, and other
20 forms of benefit that would help the family live will
21 be cut off if your child is not sent to the boarding
22 school so they could learn English. My mother's first
23 language was Blackfeet Indian language; that's all she
24 knew, because my grandparents didn't know English.
25 They just spoke Blackfeet. So in order for my mom to

1 learn English and be assimilated on the reservation,
2 she had to go to the boarding school, as many other
3 children did. She really didn't talk about the abuse
4 that went on in the boarding in school that was there
5 because I think she subconsciously cut that part out
6 of her mind. So she only shared some parts of the
7 boarding school with us when we were children. And
8 so, we moved a long ways from the time when my mother
9 had to go to a boarding school to learn English to
10 where we are now at Wa He Lut Indian School and all
11 the native schools across the country.

12 When I first came in to BIE schools in 1996
13 as a teacher before moving into the administration,
14 the BIE, I believe, was funding schools way below
15 their state counterparts.

16 When I came to Wa He Lut after being
17 administrator at Muckleshoot and Chief Leschi and in a
18 public school, I came to Wa He Lut and I knew that the
19 school that -- I knew that the school had to have more
20 resources, had to have more money because the BIE
21 funding was not enough to facilitate a high quality
22 education for our Native American children. So we
23 look forward to seek out a better local agreement with
24 North Thurston Public Schools.

25 It took about a year of negotiating with

1 North Thurston Public Schools, and with the Wa He Lut
2 School Board before we were able to sign an agreement
3 with North Thurston and get some state funding into
4 Wa He Lut.

5 And the state contact legislation that was
6 passed about five years ago, we even helped -- even
7 helped our schools even more to generate funding and
8 facilitate a better quality of education for our
9 children.

10 And this all leads us around to the
11 assessment of standards. This discussion first came
12 about in my memory around 2002. So it's been talked
13 about a long time about having common assessments in
14 Indian country for BIE schools.

15 When I think back in 2001 or 2002 when the
16 discussion first started, I believe the BIE had
17 funding to generate resource, conduct consultations,
18 discussions, and forum committees on how to get it
19 done. And I think the money ran out or the money was
20 cut off. And the discussion about a kind of
21 assessment for BIE kind of ended and stopped. I
22 didn't hear anything about it for a while, I think 15
23 years back then when they had that. And so, the
24 common assessment across the BIE schools is they've
25 been around for a lot of years, but nothing has ever

1 happened, the same meetings, the discussions, their
2 comments and records and everything else. But then
3 nothing flourishes. There's no fruition to it,
4 nothing happens.

5 What Jon said in his text message is pretty
6 much true. I remember the days when they had national
7 conferences, BIE National Conferences. And they would
8 recognize the schools that did well in their state
9 tests and get a plaque, trophies. And they'd be at
10 the table, please stand up, whatever state you're
11 from. Here is your trophy. Here is your plaque. And
12 at that time we were taking the WASL test, Washington
13 Assessment of Student Learning, which was like the top
14 fifth hardest test in the country. And we just soared
15 as high as the other schools, some of the schools Back
16 East or in the Mid West. And we were watching them
17 getting their trophies and their plaques. And we
18 wouldn't get one because we had a harder task. I
19 don't think they do that anymore. But it's just a
20 sign of how a common task as far as BIE would give us
21 common standards and equity from state to state,
22 school to school, and give us benchmark of how we can
23 improve the education for our children, for all BIE
24 schools to take separate tests in the state that they
25 reside in, just doesn't fit on Indian ways. Doesn't

1 fit the place where our children come from.

2 And now I'll ask the question why are Native
3 American schools so challenged with needing the state
4 test for the state they reside in? It's not only BIE
5 schools, I read the newspaper from that back home last
6 night in the Blackfeet country where I'm from. So in
7 the newspaper, you've got a new principal in Browning,
8 Montana on my reservation; two new assistant
9 principals in the high school. And the new principal
10 had a statement in the paper, the Blackfeet paper, of
11 what she wanted to do. And there it was. "Our test
12 scores are so low," she said. "Our graduation rates
13 are so low. And these are the things that I want to
14 do." And that's not a BIE school; that's a public
15 school in Browning, Montana, but it's all Blackfeet
16 children that attend the school on the reservation.

17 So why is it that our Native American
18 children in whatever school that we attend are
19 struggling with the state tests of the state that they
20 reside in?

21 Now, I pass that question over to you. We
22 struggle right here in Wa He Lut every year, year to
23 year, with the state tests, and trying that all of our
24 schools exceed the standards, meet the standards. Is
25 it because our children come from one demographic on

1 the different reservations that surround our school?
2 Is it because they have grandparents raising them,
3 uncles and aunts, single parent families? Is it
4 because they're not a higher vocabulary used in the
5 home? Is it because they're not being mentored and
6 fruited at home to help do better in their school? Is
7 it parent involvement? Is it drugs? Is it early
8 pregnancies? Alcoholism? It's probably all of that,
9 all of that and more. Just think, our children come
10 from one demographic, Native American families. I
11 raise three grandkids because their mom was on drugs.
12 And there's no father in the family. And I assisted
13 them -- third or fourth. I raised two boys. And my
14 wife raised two boys. They're in their forties and on
15 their own. And now for the last five years, we
16 started over again. Elly is eight. Alenia is 11.
17 Christopher is 17. So we're raising children. My
18 children go to school here at Wa He Lut. I put them
19 in the school because I believe that we hire the very
20 best teachers at our school.

21 Elly, who is in third grade, took her first
22 state test this past year. She exceeded the standard
23 in language arts. And met the standard in math. And
24 she told me she was going to go score high on the
25 test.

1 And Alenia came that close in fifth grade to
2 doing the same.

3 And Christopher is the 17-year-old. He's
4 entering college in the fall. He's going to practice.
5 He's going to be scheduled. He's got a basketball
6 scholarship. And he passed the SODA on the 24th of
7 September.

8 We can do it. But it's all of those things
9 that we just talked about all day long. A common
10 assessment for all BIE schools is going to help us
11 with some of that, help our children feel better about
12 themselves. A child does not feel good about
13 theirselves when someone tells them you failed a test.
14 They feel like they're not smarter than everybody
15 else. And some of them will say maybe I'm just dumb.
16 If I ever hear that from a child, "No. You are not.
17 You are one of the smartest children that walked the
18 earth that creator has granted you with, the creator
19 has blessed you with a beautiful personality and a
20 beautiful life. No matter what kind of home
21 environment you come from. You are not dumb. You are
22 very smart. And you have a lot to contribute in this
23 word." That's what we tell our children because when
24 they take that test, that's what some of them might
25 think when you tell them they failed the test. You

1 failed; that's all they hear. So we come a long way,
2 but we've got a long ways to go.

3 Culture and language. We do our very best at
4 Wa He Lut to keep the language and the culture in our
5 schools, being a compact school, help us out with
6 that, too. Because we are fighting for a language
7 plan. But if it wasn't for culture and language being
8 taught in the schools or being taught to us, it would
9 go away. And it would disappear forever.

10 It would be like the sundances. Back home
11 the Blackfeet people used to do a sundance, because of
12 our highest religious ceremony of the year. And then
13 the federal government outlawed sundances in the late
14 1800s. So we can't go to church anymore. We can't
15 have the sundance anymore. It is now illegal to do a
16 sundance because the government was afraid that it
17 would lead to more conflict with the Indian people.
18 And so, as our people got older, passed away, they
19 didn't know how to do a sundance anymore. And then
20 when the -- when the Civil Rights Act was passed with
21 the Freedom Act, well, some people began performing
22 sundances again. Our people had to go to Canada to
23 learn how to do the sundance again, because all of our
24 elders had passed away. But they're still performing
25 them with their bothers and sisters in Alberta. So

1 some of the people had to go to Canada to learn how to
2 do sundances again the right way, the traditional way,
3 the way our ancestors performed sundances.

4 And if we don't do that in our schools, our
5 culture and our traditional way and our language, it
6 will go the same way. It will be forgotten. It will
7 be gone.

8 Bernie talks a lot about the controlled
9 service, traditional, the language of the Lummi
10 people. How important it is to their spirit to keep
11 the Lummi ways. He stressed the importance of it. It
12 is for all of us. All of us need to inculcate that to
13 have to feel the same way as Bernie, same way as
14 Shoshone to keep those Indian ways in our schools.

15 If it wasn't taught to me, I wouldn't know
16 some of the language I know now with my own people.
17 They want to talk to me, how do you do this snowdance?
18 I wouldn't know how to do my dances right now. But my
19 mother taught me. My mother made it important to me
20 that I know how to be a traditional dancer, how to
21 make -- (Native American word.) How to play with
22 eagle feathers. How to carry myself in the Pow Wow
23 gown, how to speak to people at ceremony. If my
24 mother didn't teach me these things, I wouldn't know.
25 It would be gone in my spirit. And I wouldn't be able

1 to pass down to my own children. Same in our schools,
2 we carry the burden of carrying on the traditional
3 ways, the language of passing it on to our children.
4 But it's very difficult to lend a different reason. A
5 lot of our kids have to walk that two roads: One, is
6 the road with common society that all of the other
7 young people grow up and live in. The other one they
8 have to walk the road, what we call the red road, the
9 Native American road.

10 Some of our families are strong in their
11 ways, and some of our families have gone off the path.
12 And they lost their way. And at one or at all of our
13 BIE tribal schools, we have to reinstitute that. We
14 have to help the parents that went off the way and
15 don't walk the red road anymore or traditional path,
16 and lost that. We all have to reinforce the families
17 that are traditional, that understand the way of their
18 tribe and lives that way, and to help them raise their
19 children so that when they leave our schools, No. 1,
20 go on success story of life based on what the
21 consultation meeting is about, standards, assessment,
22 teaching academics, learning, being successful.
23 No. 2, they have to know their Indian ways,
24 traditional ways and how to carry themselves. So
25 we've had a lot to talk about today. And we shared a

1 lot of comments on the consultation meeting. But we
2 have to have some action. We have to have something
3 happen. This has been going on since 2002 when I
4 first went to school administration, in BIE schools.
5 We have to see that culmination, the fruition of
6 what we're talking about.

7 So if they have to get an academic
8 assessment, I think, it is a good thing for our kids.

9 So I want to thank all of you for listening.

10 Thank you very much.

11 LYNN PALMANTEER-HOLDER: My name is Lynn
12 Palmanteer-Holder. And I wanted to make a comment, a
13 follow-up on the facilities priority list. And those
14 of you who've been around with Henry this year, he
15 would agree with this, as well. Those of you who have
16 been around tribal government and looking at tribal
17 need such as the education facilities, you understand
18 that you can put on a list. You can be a part of
19 reports. And we can communicate by phone calls. And
20 now in the new digital era, we can have documents of
21 texts, emails, all of these wonderful things besides
22 hardcore memos.

23 Historically tribes have been responded to
24 based on political action. The squeaky wheel really
25 does get the grease. So Pascal Sherman Indian School

1 was on a list in the top five priority to get a new
2 school because we had a mission boarding school for so
3 many years. We moved up the ranks into the top five,
4 and we sat there for about 15 years.

5 The only way that there was action from the
6 federal side was when we had leadership that got
7 together, our tribal leaders, and they went to DC and
8 started banging on doors of congressmen. Mel Tonasket
9 will tell you the story of how hard that was to be
10 heard. But once a number of individuals from Colville
11 tribe started banging on doors, they started
12 recognizing and listening. And all of a sudden that
13 little list of five that was so quiet -- (interruption
14 by buzzer) Anyway that is the way things happen in
15 Indian country. We all know that. It happens
16 everywhere we go. The squeaky wheel gets the grease.

17 If anybody knew me when I was a kid, they
18 would say Lynn will never been a teacher because she's
19 too shy. She's too quiet. Really. Seriously. I
20 failed my English, that first year of English because
21 I wouldn't speak in front of everybody because my
22 people were very quiet. And we learned that silence
23 and being a listener was the respectful thing to do
24 within our community. It wasn't until coach -- I was
25 the only girl on the boys basketball team back in the

1 day, said if you want to be a leader some day, Lynn,
2 you want to coach, you need to speak up. And so, I
3 had to start doing that. And I realize now that my
4 voice really did mean something. And I tell everybody
5 they have a voice. It doesn't matter who you are. It
6 doesn't matter if you're custodian. It doesn't matter
7 if you are a chair of a board, sometimes your voice is
8 more important because of the content and the way it's
9 delivered. But I encourage those of you who have
10 facility needs, who need, and you're already on the
11 priority list to get your tribal leaders to prioritize
12 this and get them to DC and start knocking on our
13 regional, congressional doors. So that's my only
14 recommendation. And I'm telling you that all of us
15 know this, we have a state representative here, not
16 any of us have talked too much about the state.

17 Well, when things happened at the state, it's
18 because we have vocalized, because we get our voices
19 in on common ground. And then we'll get action. So
20 let's continue that kind of good work.

21 I also am going to ask all of you today that
22 this is great that Washington State Tribal Schools
23 come together like this. We all have a commonality in
24 your values and in our vision and our mission for our
25 students. We need to get together more often as

1 administrators, as leaders, because that collective
2 voice will be heard.

3 So I appreciate everybody's good words today.
4 And (Native American words spoken.) Thank you for
5 listening.

6 DR. KATHY ALBERT: Good afternoon, my name is
7 Dr. Kathy Albert. I'm the assistant tribal
8 administration officer for the Muckleshoot Indian
9 Tribe. I'm an enrolled tribal member of Muckleshoot.
10 And I just appreciate the comments that have been made
11 by the colleagues so far. And I got to tell you, I
12 spent some time thinking about whether or not coming
13 today because we're busy at Muckleshoot. We got a lot
14 of programs going on. I oversee programs from birth
15 to higher education. And 10 days ago I was at an
16 early childhood conference with the state. And we had
17 a number of state agencies lined up to want to consult
18 with us and spend time with us and supposedly listen
19 to us. But sometimes you wonder if you're really
20 being listened to. And today I had to really look at
21 is this going to be a valuable use of my time to come
22 and to offer words that may or may not be heard. And
23 I know everybody here that is represented has a job.
24 And I really do appreciate that. And I know we all
25 have jobs. But in the bureaucracy of the government

1 will we be heard and will there be any action taken?
2 Because I know at home when I'm working, I can make
3 things happen. And so, not knowing if that will
4 actually happen here today. But I want to believe
5 that. And that's why I'm here.

6 So I also want to take a minute to just state
7 that we at Muckleshoot, when we speak to facilities,
8 we are now going to celebrate in September 10 years of
9 our new tribal school. So it's going to be 10 years
10 old. It's hard to believe. And in speaking to the
11 relationships with the BIE and as has been said
12 before, you have been to fight for what you believe
13 in. Because we were going to be funded for a school
14 that was going to be I think 168 students. And we
15 said, no, we need a school for 500. And in less than
16 10 years, we've outgrown our school of 500. We're at
17 I think 548 is where we're at right now.

18 And so, you know, knowing what's in your
19 heart, knowing what you need to do for the people and
20 for your people and to help with education. And so,
21 we're currently working with facilities in getting
22 modulars and continuing to grow.

23 I appreciate some of the comments of the
24 gentleman here made regarding looking at the whole
25 child. And I really feel like in testing we have to

1 look at the whole child. And I know we, as tribal
2 entities, we look at the whole child. We're
3 developing programs from birth to higher ed. We're
4 constantly thinking about how does this interact, you
5 know, from birth to Head Start to K-12 higher ed? So
6 I think there were some great statements made about
7 collaborating with Head Start and in working with
8 higher ed because that is the goal. It's really birth
9 through 14 at the minimum, right? And looking at how
10 to helps support our students.

11 Also, I want to speak to in testing an
12 extended testing window and timeline. So that if
13 there are cultural events that are going to on, or if
14 there is a significant death in the community, that
15 may take significant time, we -- to be able to have an
16 extended testing window would be very helpful to allow
17 for those kinds of events that may come up. Also, I,
18 too, am concerned about the 1 percent cap on the
19 number of students who can take an alternative test.
20 As has been stated, when you do become a school that
21 does well with students that have special need, you
22 get more and more of them.

23 And so, then to have a cap could become
24 problematic in terms of serving those students well.
25 And so, I know that early on, when I was working in

1 education, I was proctoring a child with special needs
2 and in a test, a BIE reading test. And that child
3 began to cry, and she crawled under the table because
4 of the testing and was trying to ask me questions.
5 When I was new in education, and I was given ways to
6 only these things, I could say to her as a proctor.
7 And ultimately she just crawled under that table and
8 cried.

9 Testing isn't important. It impacts a child.
10 You know, when you go into educational research, we're
11 told to do no harm in research. I would say the same
12 thing for testing. We need to do no harm. And we
13 need to look at the kinds of tests that we use. We
14 need to look at the especially alternative testing for
15 those children with special needs. And we need to
16 make sure that we have accommodations in place for
17 those students. I feel traumatized as the proctor, as
18 I know that child did, too, that day.

19 And then I do want to just state, I heard
20 today that there would be ways that you would support
21 those schools that may need additional help. But I
22 haven't heard specifically in what ways you do plan on
23 supporting them.

24 I just want to thank you for your time.

25 TAMMY HICKLE: My name is Tammy Hickle. I'm

1 from Duckwater Shoshone Elementary, Nevada. I forgot
2 in the last 20 years that there was a time when I
3 actually fought against the test. I became complacent
4 that the best I could do was figure out how to deal
5 with the test. And I remember standing in front of
6 Kim Perry in this state, who wrote the WASL
7 legislation and said many things to try to desist the
8 test. Later on when I was telling that story, I said
9 in the legislation hearing was written by Kim Perry,
10 and I bet you can't guess what he did for a living and
11 the first one, well, he was an insurance actuary.
12 Well, this is 25, 30 whatever years ago. And I said,
13 you knew Kim Perry? And the person said, oh, no, this
14 has got to be written by an insurance actuary,
15 obviously, tests for legislations were written by
16 people who only know numbers. And I've never
17 forgotten that. The legislation we're dealing with is
18 legislation written by people who only know numbers
19 and not children. And you touched my heart, and you
20 made me cry about when you talked about the child
21 hiding under the table because I've seen that over and
22 over. And I remember I wrote Kim a poem. And I
23 didn't work in BIE schools at the time. I worked in
24 Grays Harbor County in this state. I wrote a poem to
25 Kim Perry. I never heard back from him. I can

1 remember these lines: "I'll worry about my percentile
2 after a while when mom gets out of jail. I'll worry
3 about my floor tile after a while when I've had
4 something to eat and somewhere to sleep." And I have
5 forgotten that the test is not something that was
6 always there. I've accepted it as reality. And you
7 guys today reminded me that that's not necessarily a
8 fact. We can fight against the test. We don't have
9 to just sit around and accept the test and figure out
10 how we can best deal with it. Testing is inhumane in
11 so many ways. And it's not one child fits all kind of
12 testing.

13 One more story and I will leave you alone. I
14 use this one person as a point when I was arguing
15 against the test as my example, but I never used his
16 name. And I said, I had this student who was never
17 going to finish high school. His mom came to me and
18 said, "X" will never finish high school. What am I
19 going to do?" I said, "What does he like to do?" And
20 I built his high school program around it. And he was
21 one of the guys that went back to Washington, DC and
22 doing presentations, et cetera, for FFA. But he never
23 in this world would ever pass the test. Written work
24 was beyond him. Tests reward people who are verbal
25 and people who have access to middle class situations.

1 I didn't have either of that, although I was very
2 verbal and helped. So I'm sitting in my office one
3 day and in comes this man that I've used for example,
4 who is the best EMT in the state. And he said,
5 "Ms. Hickle, can I ask you a question? I keep hearing
6 a lot about this testing. Would I have ever passed?"
7 And I started to stumble around my words, and I looked
8 at him and I said, "Chip, no, you wouldn't have." And
9 I said, "I've been using you for an example with
10 disguising who you are because you are the best EMT I
11 know. And, no, you never would have passed the test."
12 At that time he wouldn't have gotten out of the high
13 school in the state. He said, "Use my name. Chip
14 Farrar." And there's a million Chip Farrars that we
15 all know.

16 And so, instead of sitting here and trying to
17 figure out what the best way to utilize the tests, to
18 prepare the kids for the test, or how to handle the
19 test, I've forgotten that those tests are not a given.
20 We should be talking about why we're testing not how
21 to deal with the testing.

22 MR. CLARK: Thank you. Any other statement
23 for the record, questions, comments?

24 BERNIE THOMAS: Once all of the comments and
25 everything are received, will there be an added

1 comment period to comment on the comments or in
2 response to the comments before they go into effect?

3 MR. QUINT: As soon as we published the final
4 rule that takes into account the comments that we
5 received. And the final rule as published will
6 mention things like we just received this many
7 comments about this topic. We decided to change the
8 rule in this way for this reason; or we decided not to
9 change the rule because of this reason. So we'll
10 provide an explanation. But at the end of this, when
11 we publish the final rule, it would be final within 30
12 days.

13 BERNIE THOMAS: It is our experience with
14 consultations with the bureau in the past are whatever
15 rules they need published have already ended up being
16 the rule regardless of anything that we end up
17 saying.

18 MR. CLARK: Yeah, so part of that process
19 that Brian was talking about, so I see what you're
20 saying, like, are our comments just going into a black
21 hole, a void and not actually having impact on the
22 rule? We can say, absolutely, you will be able to see
23 how your comments today and how those written
24 comments, if you submit those by the August 9th
25 deadline, how they went in to the final rule. Because

1 that's why we're saying in the preamble of the final
2 rule, when it's published, you're going to see that
3 entire consultation analysis. So get into details of
4 we received five comments from tribal leaders
5 pertaining to this section of the proposed rule, and
6 therefore we made this change in light of the comments
7 that were received. So you'll have that transparency.
8 You'll be able to see, okay, they received these
9 comments on that section. And they made this change
10 as a response to those comments that were received.
11 So, no, the rule that you have today, it really, truly
12 is just a proposed rule. This is your opportunity to
13 make changes to that rule that you want. I will say
14 and I strongly encourage, because we have that written
15 deadline of August 9th, if there's language that you'd
16 rather see in there, please provide alternative
17 language. You can feel free to write the rule as you
18 want to see it and have that provided within those
19 comments. And frankly that helps us with that post
20 consultation analysis rather than trying to guess what
21 language you would want to see based on a comment. If
22 you provided that language, say, you know what, I
23 don't like that subsection here. I would rewrite it
24 this way. I think the last consultation session we
25 had, if memory serves, somebody was unhappy with the

1 way -- it wasn't clear to them our obligation for
2 continuing stakeholder engagement. They didn't like
3 the language that was in there. We told them, okay,
4 to make it clearer, give us that language if you'd
5 like to see that look a different way. If you want
6 different language in there, feel free to provide us
7 that alternative language. And that really does help
8 us with that post consultation analysis.

9 But to answer your question, yes, you will be
10 able to see what comments were made, how it changed
11 the rule, all of that stuff. It will be a transparent
12 process. Like Brian said, once that final rule is
13 published, that is part of that. So you will be able
14 to see how those comments went in.

15 As Jeff was saying, this is just for the
16 regulation. We will have ongoing -- so this isn't the
17 only time we're going to meet. We're going to have
18 ongoing stakeholder engagement, especially when it
19 comes to the ESAP, essentially our equivalent of the
20 state plan. We're going to have to go out and have
21 this continuing dialogue with you as we shape those
22 sorts of pieces, as well.

23 Another piece that we haven't really talked
24 about today is we're going to have to have an MOU
25 order that; that's again something else that we're

1 going to have to have your continuing input and
2 feedback in this dialogue as those additional pieces
3 take shape.

4 But, yeah, as far as the final rule, you'll
5 have that transparency. You'll be able to see
6 precisely what comments were received, what sections
7 they impacted, and then finally an explanation of why
8 we made the changes and why the comments will be --
9 that we received.

10 TIFFANY JOHNSON: I just have an
11 observation -- oh, sorry.

12 (Simultaneous speaking.)

13 BERNIE THOMAS: Bernie Thomas, for the record
14 that, you know, related to this rulemaking procedure,
15 and how immutable they become once they're instituted,
16 I was explaining to Tony that going into this here, as
17 an IVA, a number of people had contacted me and say,
18 you know, they have concerns about the process and any
19 triggers or hopes for changing the rules in the future
20 to affect a greater, you know, trouble over government
21 control over education policy at the local level, and
22 particularly the waiver procedure from the federally
23 mandated state testing, for example. I mean, there
24 are other concerns that they have but I'm just going
25 to focus on that for the time being. But the point is

1 is that their opinion about the earlier sessions
2 didn't seem to be all that great. I mean, so I know
3 there is going to be a caucus to discuss this, and
4 what our next moves are going to be. I'm not sure if
5 I'm part of that group. Or why they reached out to
6 me, I'm not sure. Anyway I just think that it's going
7 to bear some further discussion either way. Because I
8 know that people that phoned were, I think, a little
9 incensed at the way that it had gone. I'm not sure if
10 you got that message earlier, what exactly their
11 concerns were. I was having a hard time listening on
12 a conference call to try to discern what exactly were
13 their objections. The only thing I kind of got out of
14 it was the waiver thing and you know -- well, it's the
15 only thing I can remember right off the top of my head
16 right now.

17 So if there can be built into this regulation
18 opportunity for trigger to be devised in such a way
19 that we can change the rule, in effect to be
20 responsive to cultural or other concerns, that might
21 work better.

22 And then just, you know, be able to
23 continuously, as I said, have this relationship where
24 we can feel like we're self-determining,
25 self-governing all the different things that are in

1 law. It seems like whenever it comes time for us to
2 be recognized as part of that lawmaking procedure all
3 of a sudden somebody else is deciding for us instead
4 of with us.

5 MR. CLARK: Thank you.

6 TIFFANY JOHNSON: Sorry for jumping in so
7 quickly before. When Tammy from Duckwater was
8 talking, it occurred to me -- I started teaching
9 Native American children in the 60's. And the way
10 that we decided proficient or not proficient for
11 Title 1 funding was we had portfolios that we had kept
12 through the year. And then a committee of teachers,
13 which could be a committee of tribal members or a
14 committee of community members or whatever, sat around
15 the table, looked at the children's portfolios, and
16 went, wow, this child is doing pretty well, that's
17 proficient. We need to work a little bit more with
18 that child. They have these specific needs and Tammy
19 is right, I mean, there were. We had assessments that
20 were not these tests for many, many, many years. And
21 they came here in Washington, I think it was about
22 whatever -- it was about 2002. So the history of all
23 these state tests is really not very long. There are
24 other ways of doing it.

25 MR. CLARK: And your name, title, and who

1 you're representing for the record. I don't think the
2 court reporter got it.

3 TIFFANY JOHNSON: I'm Tiffany Johnson. I
4 work here at Wa He Lut.

5 MR. CLARK: Thank you. We've got another
6 one.

7 ADAM STROM: I think it's important that I
8 introduce myself as Adam Strom from the Yakama Nation
9 Tribal School. And that I reference to a friend, and
10 it was read via text, it alarmed me. And I know
11 Mr. Jon Claymore is not here. But I think he, via
12 text, said something about the state assessments
13 making Native American students feel dumb or something
14 of that sort. In referencing that, I guess beginning
15 with the end in mind, I'm not sure what we,
16 collectively, want. Because we got to be careful what
17 we want. Because in Toppenish, we have a number of
18 surrounding schools. And as we move away from
19 possibly state assessment or making our own
20 assessments, there is one thing that we hope for each
21 12th grade or each 18-year-old senior, or each senior
22 and that's a high school diploma.

23 And as we go back to Mr. Claymore's words, he
24 was using the word "dumb" as we hand out that diploma,
25 is that diploma comparable to that next school

1 district, that public school district down the road?
2 Because if not, as we formulate these tests, that
3 hopefully are uniformed, are uniform throughout BIE,
4 or whatever the case may be, there's one thing that
5 that test has to constitute, and that's the aptitude
6 or the knowledge or the skill of each child that goes
7 through our school. And so, if we make the test fit
8 us; is that appropriate? Because in the longrun are
9 we setting up our own students for failure, saying
10 here is that diploma. Here is that test you passed.
11 Now, here is vocational world. Here is the college
12 world. Here is this world, and it's going to hit
13 them, and it's going to hit them hard. Because if we
14 don't, as we formulate this, if we don't take in
15 account to the word "rigor," or the word
16 "challenging," then in the longrun, we could only pat
17 our students on the back so many times and pick them
18 up. And it sounds bad because realities hit me
19 because I was a professional student. It took me 20
20 years to finish after high school. I realize that
21 until I failed and until I flunked, until that
22 professor said, no, there's a deadline, you meet it.
23 You didn't meet it, you know, thanks for your money
24 but good luck with your next calling. It was reality.
25 So we talk about the holistic child. And we

1 talk about cultural and academics and social,
2 emotional there's one part of holistic that we got to
3 face, and that's reality. So as we do this, I hope
4 that assessment doesn't lose its rigor or challenge
5 that's there to prepare students for life after high
6 school.

7 Thank you.

8 BERNIE THOMAS: Bernie Thomas, for the
9 record, Lummi Nation School. When I was seven years
10 old, my uncle took me fishing in the river. And he
11 said, "Let the net go." And so, he just pulled over
12 the horns to the stern. And when the net got end, we
13 forgot to attach it to the boat. So the net just
14 spooled all the way out and ended up in the river. My
15 uncle shouted from the bow, "You'll never make that
16 mistake again." I thought it was because he meant he
17 was going to kill us for losing the net over the side.
18 When what he really meant was it was a real important
19 mistake to be able to make. And no harm was done. We
20 went over and captured the net, pulled it back in, and
21 had about 27 pink salmon in the net at the same time.

22 So when I was 13, a few years later, my uncle
23 was -- had been participating in the Indian
24 Relocation, vocation education program as a welder but
25 hated it, and so, decided to go long lining and

1 halibut fishing in British Columbia and then up in
2 Alaska. Ended up sick doing salmon fishing off the
3 Copper River. But he had left his purse seine boat at
4 Port Angeles-- or they were going to be -- they were
5 coming back and were going to be landing in Port
6 Angeles on their way back from Alaska; that's where he
7 was going to be left. And so, call came to a little
8 grocery store nearby, the little reservation store
9 that we had there. So the word came that I was
10 supposed to go to Port Angeles, take his purse seine
11 boat, and at the age of 13, and skipper it all the way
12 down to Port Angeles. So my aunt, you know, filled
13 the purse seine boat up with diesel fuel. And then he
14 and his son and myself got the pilot house. And we
15 piloted the boat down to Port Angeles from Bellingham,
16 Washington. And at 13 years of age, I think, CPS
17 would be called today because of the stuff like this.
18 But, you know, in the early 1960s and stuff like that,
19 it was -- I mean, we spent our hole lives at that
20 point on the water. So it just didn't seem like that
21 big of a deal. I'm not sure I would trust my own kids
22 with that kind of proposition today. But the hardest
23 part of the whole thing was learning how to park. I
24 mean, you know, we came in pretty hot. And my uncle
25 was standing at the dock waving at us. And I thought

1 wow, he's really super excited to see us. But he was
2 more worried about the fact that we were carrying so
3 much speed and coming right at the dock that, you
4 know, I think, my -- it was my cousin that said, "I
5 think you're supposed to put the thing in reverse
6 before we crash." So I put it in reverse. And, you
7 know, it was reverse of a sloppy park job, but we
8 ended up not needing new equipment or the boat. But,
9 you know, that's, you know, cultural life here in the
10 northwest. You know, it has kind of a practical
11 application. You know, if you have purse seined a net
12 that's 300 yards long, and make this properly; that's
13 a form of math. You know it's a cultural way of
14 living.

15 Have you ever produced a drum, you know, hand
16 drum? That's a form of mathematics. Have you ever
17 knitted a wool blanket, you know, that's, you know,
18 two yards by three yards; that's a form of math. And,
19 you know, make a pattern, intricate pattern, looking
20 like animals or looking like, you know, mountains or
21 any inanimate object you can think of. So these are
22 all cultural things. They have kind of a practical
23 application. I'm just saying that there's a similar
24 scope and sequence that you can develop cultural ways
25 of knowing things and be able to validate tribal ways

1 of knowing that in effect cause you do realize that as
2 a human being that that is part of your culture, and
3 it is part of your identity. When you're taking the
4 WASL or the ESAP test, that has no basis of reality of
5 anything that you've ever experienced. It doesn't
6 have to do with anything about navigating, you know,
7 risky reefs on the shore that, you know, a lot of
8 people crash into and sink, you know, that -- and then
9 drown because, you know, they've never seen eddies in
10 the water, had no idea that that was something
11 dangerous that they had to avoid, and things like
12 that. I mean, these are all just things that we
13 learned out of being around, being around my uncle.

14 It didn't occur to me that that was something
15 that I couldn't do because it would be deemed too
16 dangerous otherwise. It was just something that, oh,
17 we used to go to Port Angeles, we'll go to Port
18 Angeles.

19 You know, and so, in any event, I'm just
20 saying that being a part of a tribe and raised by our
21 ancestors were incredibly smart people. And, you
22 know, when you look at the long houses that were 1500
23 feet, 2000 feet long, they were called long houses.
24 And but where were the some notes? There weren't any.
25 So what they had to do is they would take a notch at

1 the breast of the tree and at the base of the tree.
2 And then they would pull planks off from living trees.
3 so you have two things, you have the plank that you
4 can make the house out of, and you still have the
5 tree. And, you know, Vancouver, those people, came in
6 through the shoulders around here they said, wow,
7 there are more trees around here than the Village of
8 the Porcupine. And part of the reason was the
9 interesting way that our family solved the need for
10 shelter and the overabundance of food. Our family and
11 ancestors at the time, a man by the Henry Dobbin, who
12 is a social anthropologist, did a study about the
13 villages, the village sites around this area, and made
14 some predictions that based on the overall amount of
15 labor and work that they would have to do to sustain
16 themselves in the advanced measures at the time for
17 preservations of food and that kind of thing, that our
18 ancestors normally had to work two or three months out
19 of the year. The rest of the time was spent you know
20 spiritual contemplation and ceremony and ritual. And
21 so, you know we're talking about wanting to validate
22 tribal cultural ways known, it's not like, oh, you're
23 an Indian; that's the end of the deal. So what, you
24 know, it's more complicated than that, Tony. I'm just
25 trying to educate you here to the idea that our

1 ancestral ways of knowing have validity even now. And
2 that they didn't end up in a sense translating toward
3 a sense of confidence in yourself; that typically
4 absolutely does not do for our kids as Claymore was
5 saying that it teaches our kids that they're stupid.
6 They know that they're not. But, you know, a lot of
7 them, you know, were smarter than I was at the same
8 age. You know, so I have a lot of confidence they're
9 going to be okay at some point in their career, if
10 they live long enough. And, you know, I just think
11 that you know by being able to inculcate our culture
12 and identity within the curriculum, validating tribal
13 ways of knowing tribal math, you know, relationships
14 with each other, these family members are not like --
15 we're just going to go grow up. I mean, you're not
16 living in your home tribe or you guys are different.
17 Most of the rest of us, I want to say 90 percent of
18 the Lummis are going to stay there our entire life
19 after reservation, our entire life.

20 So what's the No. 1 problem that we have in
21 any organization? It's getting along with each other.
22 I mean, you know, familiarity can breed, you know,
23 contempt. And it can also breed wholesomeness, you
24 know, desire to help out, desire to be of service. A
25 relationship -- positive relationship with elders,

1 positive relationship with the community around you.
2 You know, care and being of the knowledge about the
3 environment, you know. So there are a positive
4 benefits of being a tribal member. It doesn't only
5 have to do with money. But the negative things about
6 it are those things that I had already illucidated
7 that we need to, as a group, through our professional
8 knowledge word working on our solutions. You guys
9 have any solutions? I don't think you have as many
10 solutions as I do. I'm from there. I'm from there.
11 I've got solutions. I've got ideas. That's what you
12 all need to lean on. You need to build that into the
13 system.

14 You can't just build a system that's so stark
15 that just says, well, we're going to get you ready for
16 the challenge by looking at these test scores. And
17 our work here is done. So just take a look at that in
18 the future and see what you've done. What were the
19 weaknesses? Because I can already tell you what those
20 are. We need to build a dynamic system that
21 systematically looks at the whole kid in such a way
22 that allows us to be able to validate tribal ways of
23 knowing. And at the same time prepare the student to
24 transition on to the next stage of their life, whether
25 that be college or whether that be a career or to know

1 the elements of their preparedness for a career or in
2 the case of a lack of autonomy, back to the special
3 education students to know the system, that their
4 family be able to know the system and be able to
5 navigate it. So those are, you know, just a short
6 summary of, you know, trying to validate tribal ways
7 of knowing, as well as, you know, the needs for
8 instilling and distilling a sense of confidence that
9 not knowing who you are doesn't do it. I mean, and
10 then further alienating students from who they are
11 through these tests. And if you don't know these
12 tests, and then you don't know who you're going to
13 become. You have no possibility of becoming anything
14 positive in the future because you're in the bottom 5
15 percentile of the academic performing students based
16 on that test, as this sole measure of their predicted
17 the value of them as a human being now and in the
18 future. That just doesn't work. As an educator, you
19 got to know that that doesn't work. And so, you know,
20 you got to rely on us as partners, BernDuck, then what
21 is going to work? And I will say I'm really glad that
22 you asked. Now, let's get to work. But I'm not going
23 to sit here and say that the standard of measures that
24 you're supplying to us today are the sole answer
25 because they aren't. A number of people have already

1 spoken to this as a topic and subject of concern.

2 Other people have been calling me, saying let's be
3 ready for a 98 (as heard) as we have to mount up a
4 charge on the hill to say we got to change some basic
5 fundamental rules to affect the kinds of changes that
6 are going to be necessary to affect the brotherhood of
7 the Indian Nation policy. But I want you to be there
8 with us as our partner. I don't want to be against
9 you. I don't want to be against anybody. I want to
10 be for our students. But here it comes. So, you
11 know, I don't think when we're looking at this, I
12 don't think we're ready. So let's get ready. I mean,
13 you know, so anyway, that's my challenge for each of
14 us to stick together. But, you know, let's make these
15 things that are going to become the rule of the law,
16 you know, regarding the education policy, let's make
17 it work for the country. Let's make it administrative
18 sensitive. We told them to take the test. And our
19 work here is done. It can't work like that. You all
20 know that. But, you know, let's work together, you
21 know, what will work. And that has to be our
22 fundamental question: What will work? I don't think
23 anybody has asked that question, or we wouldn't be
24 stuck with the static rule like these. I hope I
25 didn't offend anybody. I'm just trying to illustrate

1 some ideas that you maybe hadn't considered before.
2 And I don't mean to talk down to anybody or anything
3 like that.

4 (Native American word spoken.)

5 BRENDA LOVEN: Brenda Loven, Wa He Lut Indian
6 School. Earlier I didn't introduce myself, but I am a
7 member of the Kiowa Tribe from Oklahoma. You probably
8 figured out I'm from the south; that's something I
9 haven't been able to lose my accent. I really
10 appreciate everything everybody has said and every
11 time I hear somebody speak, it's like, wow, I wish I
12 was that articulate. I wish you know -- I really like
13 everything that everyone has said. Everybody brought
14 up some really good points. But, you know, I was
15 sitting back here thinking, man, you know, we as
16 Indian people, we're still here. And there's probably
17 not one of us that had to do these assessments that
18 our children are having to do today. But we made it.
19 We didn't have that define who we are. And we
20 shouldn't let that define who our students are today.
21 You know, getting along with each other, knowing your
22 culture, knowing our history, why we are the way that
23 we are. You know, I'm going to be 66 years old in
24 October. I'm just understanding the trauma my family
25 went through. My mother's mother never wore -- and if

1 I -- I don't mean to offend anybody but she never wore
2 white man clothes. She wore her native dress. She
3 promised her dad. That's not that many generations
4 ago. But, you know, there's just something in us that
5 we know how do improvise. You know, we just learn how
6 to do things. People were so nervous about a
7 recession. We live that way. It didn't bother Indian
8 people. We know how to improvise. We know how to
9 make do. We share. It's not what we have in life
10 that defines us. It's what we can share and give
11 away. And it's our kinship, how close we are. And
12 that's why our children miss a lot of school, you
13 know, because our first cousins, our brothers, and our
14 sisters and just pulls the family in close together.
15 But, you know, I have every faith that we're going to
16 keep surviving. And we're resilient. And we're here
17 today. And I can't think of the year that when I was
18 in Washington, DC. We were talking about this test.
19 And I was told that, you know, people gossip. And I
20 don't -- you know, I'm not saying this is the word.
21 But they said that the bureau will turn back the money
22 to design a test for the schools to take. I don't
23 know whether that's true or not. But we've been
24 talking about this I know at least 20 years; that's
25 how long I've been up here. And nothing's really

1 changed. So I think we just need to do the
2 assessment; do the best we can, you know; and keep
3 plugging away at what we're doing. We are getting our
4 native language classes back in our curriculum. I
5 mean, it's part of our school. We can be creative.
6 Tiffany Johnson, she did something wonderful this year
7 for us because sometimes I feel like we're losing
8 that. But after that horrible couple of weeks of
9 state testing our kids got to make drums, they got to
10 make things that were relevant to them. And they
11 loved it. They were successful. So after taking a
12 beating from taking that test, they were doing things
13 that made them feel good. And they're going to use
14 that. They'll go home and share those things. And
15 they might not have been given an opportunity to do
16 that in their home but our school is able to provide
17 them with the things that meant something to them.
18 And what a wonderful way to learn something, you know.
19 I don't know how to make a drum. It's hard. It was
20 hard for me to pull that hide and stuff. But, you
21 know we could be creative. And that's what we need to
22 do.

23 We're resilient. And we can do it. But
24 hearing Bernie talk in that wonderful council, oh, my
25 gosh, I just get so rigged up. I feel like my aim is

1 coming out. I want to throw my fist in the air. Big
2 Allen Jack (as heard), I believe. You know, I know we
3 have to rub elbows with everybody but Bernie will like
4 that. I'm one school that's probably saying, you know
5 what, that's not culturally relevant, you know. And I
6 get cold hearted and I know they want me to go away
7 but I'm not. I'm not going away for a while.

8 I appreciate everybody. You just give me a
9 lot of hope that you know we're going to keep making
10 it because, you know, you're dedicated, and you have a
11 heart.

12 LYNN PALMANTEER-HOLDER: Lynn
13 Palmanteer-Holder, Pascal Sherman Indian School. I
14 just wanted to make a couple comments, again, to
15 finalize, at least, my -- our position regarding the
16 assessments and looking at standards that were
17 measuring performance. And especially when we were
18 here discussing the idea of a notion of, you know,
19 comparing our students with others who will be
20 entering, rather than go to community college, are we
21 preparing them with a set of skills that will allow
22 them to fit in? Will -- we want to avoid setting our
23 students up for failure. We want them to be
24 successful. So, you know, are we giving them the
25 toolbox that they're going to need to transition

1 whether to a career, a JC college, four year college,
2 military, whatever choice they go into? Well, my
3 question will always go back to kind of what Bernie
4 was talking about but a little bit more in-depth on
5 the indigenous knowledge. Whose knowledge are we
6 measuring as valid? And I bring this out because my
7 doctoral work has been indigenous knowledge,
8 indigenous knowledge systems. We talked about
9 historically how our people have been here for
10 thousands of years. Well, one of my tribes that I
11 come from are the Methow people, up in the eastside of
12 the lower Cascades. And it's a valley that during the
13 winter months are horrific. And the Methow Valley is
14 well known for their beautiful, tall peaked Cascade
15 mountains and the rivers. It's a -- the winters are
16 very tough up in those areas. Well, my
17 great-great-grandfather was one of the last
18 traditional leaders from the Thchilowaw Skukeekin (as
19 heard) his stories and his father's stories and his
20 great-grandfather's stories have been handed down in
21 my family, have been amazing. How was it they lived
22 to be in their 90 years old? But when we start
23 looking at the life, the age, the mortality rates back
24 in the days before hospitals and medicines and all of
25 that; also before furnaces and homes that have

1 electricity and running water, how did they survive
2 the elements back then?

3 Well, thinking back about their pit houses
4 that we had. And actually we have a couple of them up
5 in the Methow right now that have been redeveloped but
6 from a model of the old ways.

7 So we know that we had architects. Our
8 people were architects. We know that they were
9 engineers. We know that they had to understand the
10 water flow. We know that they had to understand all
11 of the elements from air, water, the seasons. We know
12 that. I was up in -- I was blessed to be a person who
13 got to visit the Alaska -- it was Alaska Schools
14 Summer Teaching Institute Project for Teachers and
15 attend the social science program out on the Chiback
16 Village (as heard) on the tundra. And that was every
17 teacher who wanted to be certified in the State of
18 Alaska had to attend one of these summer institutes.
19 And the summer institute that I attended was nine
20 days. And we had to live on the tundra. And our
21 teachers were Yupik elders. And they spoke only in
22 their traditional language. And what we got degree in
23 was a -- we brought a tiny little bag like this that
24 had your tent, your sleeping bag. And, I mean, just
25 basic stuff. We had to learn to live. I had -- thank

1 God I had a giant Snickers bar that I had hid away.
2 Because otherwise I could not eat the duck, the wild
3 duck that the young children showed us, how they
4 would -- when they went hunting by hand, they would go
5 across the tundra and grab these ducks like you would
6 see in our farms where we would grab a chicken and
7 break its neck and take care of it that way, right?
8 So we learned all of these things from indigenous
9 people on how they survived, and the reason we're here
10 today, right?

11 So whose skills and knowledge are valid when
12 we're measuring for competency? And I bring -- I'll
13 give another example; back up in the Methow, the
14 elders, an elder was my relation, was seeking a number
15 of scholars who have been working up in the Methow for
16 five years along the river, salmon recovery,
17 conservation, just really good work up there. My
18 elder was speaking and sharing. Right up there, my
19 grandma, when I was a little girl, took me up there.
20 And there's a big patch of elderberries, beautiful.
21 We go up there, and we pick, and we pick. And we
22 dried some, and we canned some. As she was talking,
23 the ethnobotanist scholar standing next to me was
24 going, Lynn, I don't know how much longer a lady's
25 going to be able to take people out on these kind of

1 tours because where she's pointing to is -- the
2 elevation is too high. There's no elderberries up
3 there. You know, it can't be.

4 So here's this western scientist, who has
5 been benefiting from all these relationships to learn
6 about her traditional territory, and learn traditional
7 knowledge from our elders that have been handed down
8 and experienced in life and has stories that are
9 valid. This happened a year ago in 2018, summer of
10 2018. Summer of 2019, hey, Lynn, guess what? What,
11 Rob? Remember when I told you that Elaine is losing
12 it because the elderberries grow up there on that path
13 up there? She said that there was -- "I told you the
14 elevation is too high? No elderberries could grow up
15 there?" I go, "Yeah, I remember you said that she's
16 going to have to stop giving these tours because she
17 is giving misinformation. Yeah, I remember."

18 "Well, I was wrong. I ended up crawling up
19 there because they were taking another group of
20 visitors on this big hike up there. And at that
21 point, that's right, there was supposed to be some
22 elderberries up here." He said, "I walked over to
23 that area. And, damn, there was a great big patch of
24 elderberries up there." So whose knowledge is valid?

25 And I bring this up because when I was a

1 young lady, getting my Master's in Education and
2 Psychology as WSU, and I was giving the so-called
3 WISCAR (as heard) tests that children's intellectual
4 test with young people. And it was asking children to
5 identify what does this sign mean? What does that
6 sign mean? Well, this sign actually is from New York
7 City. And it is a sign of a subway, which nobody on
8 my reservation is going to understand what this sign
9 means. Nobody's going to know that what the word
10 "subway" means. Nobody's going to understand that
11 that would relate to transportation. So I always
12 thought back then, and that was just one concept that
13 was a measure for intelligence, that type of
14 vocabulary for them to identify with under
15 transportation. My goal was always, gosh, I want to
16 create a Res Intellectual Test. And this Res
17 Intellectual Test I would want every teacher, every
18 business person, every doctor, nurse that comes into
19 our community to take that test to understand a little
20 bit about our communities. Up where I'm from, on the
21 Colville Reservation, most of our towns and cities are
22 and rivers are all traditional names. And those names
23 have meaning. And I did a speech with central
24 Washington's 40-some superintendents a year ago. And
25 I asked them how many tribes are in north central

1 Washington? How many tribes are there in Washington
2 state? How many tribes are here in Wenatchee? I had
3 one superintendent that actually could respond that
4 knew the answer to any of those. And that
5 superintendent came from Omak because he lives on the
6 reservation. So it's just to me, whose knowledge is
7 valid? And why it is that we continue to put so much
8 weight on a child's intelligence based on a knowledge
9 system that does not relate to their world view? It's
10 invalid from that point forward. So I bring that up.

11 So when we bring -- when our kids graduate
12 from our schools, when our kids leave my school, 8th
13 grade, on transitioning to 9th grade, whatever
14 knowledge they take is going to be unique to who they
15 are and unique. And one thing that I've learned. And
16 I've always been a big advocate about making sure
17 representation is happening, and that is that it's
18 people like us who were in classrooms in universities
19 and colleges, that when it came down to talking about
20 Native Americans or American Indians, which I call
21 American Indians, less the natives, we were the token
22 always. Hey, Lynn, how do you Indians think about
23 this? What do Indians think about that? Because, you
24 know, there's only one or two natives in the class or
25 tribal people in the class. And I had to learn young

1 from my grandmother you don't speak on behalf of all
2 natives. You don't speak on behalf of our whole
3 tribe. We have so many tribes and so many cultures
4 and languages and -- no, you speak for our family.
5 You can speak for how we practice. But you can't
6 speak for everybody. And so, that was a really good
7 point, as well. So localizing knowledge is really
8 key, and being respectful to that, I think, is also
9 key. And which goes back to sovereignty tribal
10 self-determination and allowing tribes the autonomy to
11 create rigorous, culturally responsive standards that
12 are also trauma informed. Because our children are
13 still a reflection of the intergenerational historical
14 trauma that we continue to live today.

15 So thank you. (Native American language
16 spoken.)

17 MR. CLARK: Okay. Additional statements,
18 questions? We are willing to stay until 5:00, which
19 is our prescribed time to close down if anybody does
20 have any comments or desire to make additional
21 statements for the record.

22 But if not we're more than happy to close
23 early since really this is your time.

24 I'll suggest this we've been going at it for
25 two hours, let's take at least a 10 minute break. So

1 we'll reconvene at 2:44 for anybody who does want
2 another opportunity to make a statement but I'm going
3 to take a break for at least 10 minutes. So we'll
4 reconvene at 2:45.

5 (Recess taken.)

6 MR. CLARK: All right. We are back on the
7 record. Is there anybody else who wants to take an
8 opportunity to make a statement for the record or ask
9 a question or otherwise provide us input? The record
10 is open now.

11 So just shoot your hand up, and we'll come to
12 you with a microphone.

13 (No response.)

14 MR. CLARK: Okay. Hearing nothing, going
15 once, twice? Okay.

16 With that, I guess, we can go ahead and just
17 adjourn for the day and close the record.

18 So hearing no objections, the record is
19 closed.

20 Thank you all so very much for coming out and
21 providing this critical information.

22 (Proceedings concluded at 2:50 p.m.)
23
24
25

C E R T I F I C A T E

I, KANDI CLARK, a duly authorized Court Reporter in and for the State of Washington, residing at Olympia, do hereby certify:

That the foregoing proceeding transcribed by me by means of computer-aided transcription is a full, true, and complete transcript consisting of pages 1 through 190;

That as a CCR in this state, I am bound by the Rules of Conduct as Codified in WAC 308-14-130; that court reporting arrangements and fees in this case are offered to all parties on equal terms;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That upon completion of signature, if required, I shall herewith securely seal the original transcript and serve same upon appropriate party.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of August, 2019.



Kandi Kathryn Clark

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