

Elementary and Secondary Education Act (ESEA) of 1965
[As Amended Through P.L. 114–95, Enacted December 10, 2015]

<https://www2.ed.gov/documents/essa-act-of-1965.pdf>

TITLE VIII—GENERAL PROVISIONS

PART F—UNIFORM PROVISIONS

Subpart 2—Other Provisions

SEC. 8538. ø20 U.S.C. 7918¿ CONSULTATION WITH INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

(a) IN GENERAL.—To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, an affected local educational agency shall consult with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area served by the local educational agency prior to the affected local educational agency’s submission of a required plan or application for a covered program under this Act or for a program under title VI of this Act. Such consultation shall be done in a manner and in such time that provides the opportunity for such appropriate officials from Indian tribes or tribal organizations to meaningfully and substantively contribute to such plan.

(b) DOCUMENTATION.—Each affected local educational agency shall maintain in the agency’s records and provide to the State educational agency a written affirmation signed by the appropriate officials of the participating tribes or tribal organizations approved by the tribes that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the affected local educational agency shall forward documentation that such consultation has taken place to the State educational agency.

(c) DEFINITIONS.—In this section:

(1) AFFECTED LOCAL EDUCATIONAL AGENCY.—The term “affected local educational agency” means a local educational agency—

(A) with an enrollment of American Indian or Alaska Native students that is not less than 50 percent of the total enrollment of the local educational agency; or

(B) that—

(i) for fiscal year 2017, received a grant in the previous year under subpart 1 of part A of title VII (as such subpart was in effect on the day before the date of enactment of the Every Student Succeeds Act) that exceeded \$40,000; or

(ii) for any fiscal year following fiscal year 2017, received a grant in the previous fiscal year under subpart 1 of part A of title VI that exceeded \$40,000.

(2) APPROPRIATE OFFICIALS.—The term “appropriate officials” means—

(A) tribal officials who are elected; or

(B) appointed tribal leaders or officials designated in writing by an Indian tribe for the specific consultation purpose under this section.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

Elementary and Secondary Education Act (ESEA) of 1965
[As Amended Through P.L. 114–95, Enacted December 10, 2015]

<https://www2.ed.gov/documents/essa-act-of-1965.pdf>

- (1) to require the local educational agency to determine who are the appropriate officials; or
- (2) to make the local educational agency liable for consultation with appropriate officials that the tribe determines not to be the correct appropriate officials.

(e) LIMITATION.—Consultation required under this section shall not interfere with the timely submission of the plans or applications required under this Act.

February 5, 2016

As Amended Through P.L. 114-95, Enacted December 10, 2015