



May 27, 2015

The Honorable Colley Billie
Chairman
Miccosukee Corporation Board
P.O. Box 440021
Miami, Florida 33144

Dear Chairman Billie:

We are writing in response to the Miccosukee Corporation Board's (Miccosukee) request that the Secretary of the U.S. Department of the Interior (DOI) and the Secretary of the U.S. Department of Education (ED) approve the Miccosukee Indian School's (MIS) alternative definition of adequate yearly progress (AYP) under section 1116(g)(1)(B) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), and 25 C.F.R. §§ 30.104(b)–30.108. The MIS' proposed alternative definition consists of three phases. We are pleased to grant the MIS approval to implement the first phase of its request.

Under DOI's definition of AYP in 25 C.F.R. § 30.104(a), each school funded by DOI's Bureau of Indian Education (BIE) must use the standards, assessments, and definition of AYP of the State in which the school is located unless the tribal governing body or school board proposes an alternative definition of AYP that is approved by the Secretaries of DOI and ED. The MIS has proposed an alternative definition of AYP under ESEA section 1116(g)(1)(B) and 25 C.F.R. §§ 30.104(b)–30.108, which authorize the tribal governing body or school board of a BIE-funded school to waive, in whole or in part, the DOI's definition of AYP if the tribal governing body or school board determines that definition is inappropriate. If it waives the definition, the tribal governing body or school board must propose an alternative definition of AYP, consistent with ESEA section 1111(b), that takes into account the unique circumstances and needs of the school and the students served. Under 25 C.F.R. § 30.113, the Secretaries of DOI and ED must approve an alternative definition of AYP if it is consistent with the requirements of ESEA section 1111(b), taking into consideration the unique circumstances and needs of the school and the students served.

The MIS proposes a phased approach to its alternative definition of AYP, whereby the MIS will implement a basic definition of AYP immediately and add more complex elements in two subsequent phases. As part of the first phase of its alternative definition of AYP, the MIS proposes several key elements. MIS has adopted and is implementing college- and career-ready standards in reading/language arts and mathematics, including implementing curricula aligned with those standards. For school year (SY) 2014-2015, the MIS commits to administer aligned

assessments in reading/language arts and mathematics and alternate assessments for students with the most significant cognitive disabilities. The MIS also proposes to set new annual measurable objectives (AMOs) in reading/language arts and mathematics by reducing the percentage of students who are not proficient by 50 percent over 6 years – through SY 2018–2019. The MIS will use science achievement as its “other academic indicator” for elementary and middle grades and a 4-year adjusted cohort graduation rate for high school. MIS’ full proposed alternative definition of AYP is set out in its Consolidated State Application Accountability Workbook.

Several aspects of the MIS’ proposal depend on actions by ED or DOI. First, in order for the MIS to implement its proposed method of calculating AMOs, the MIS requests a waiver of the requirements in ESEA section 1111(b)(2)(E)–(H) that prescribe how AMOs must be calculated, including a timeline that ensures all students will be proficient by the 2013–2014 school year. As noted above, an alternative definition of AYP must be “consistent with section 1111(b).” MIS’ proposed definition of AYP is not consistent with the requirements in ESEA section 1111(b)(2)(E)–(H); however, it is consistent with flexibility that ED offered through a waiver of those requirements to States that requested ESEA flexibility. Accordingly, pursuant to the authority in ESEA section 9401, the Secretary of Education hereby grants the MIS a waiver of ESEA section 1111(b)(2)(E)–(H) and the corresponding regulations because he finds that the waiver will enable the MIS to improve instruction and increase the academic achievement of its students by using a more relevant measure of AYP that better meets the unique needs of MIS. The Secretary grants this waiver through the 2018–2019 school year in accordance with ESEA section 9401(d)(1). The MIS may request an extension of this waiver if the MIS demonstrates that the waiver has been effective in enabling it to improve student achievement and is in the interest of the Tribe.

Second, the MIS requests a waiver of DOI’s regulations in 25 C.F.R. §§ 30.106 and 30.107(a) and (b)(7)–(10) because they require that an alternative definition of AYP meet the requirements of ESEA section 1111(b), including the starting point, timeline, and intermediate goals required in section 1111(b)(2)(E)–(H). In accordance with the Secretary of the Interior’s authority to waive regulations in chapter I of title 25 CFR pursuant to 25 C.F.R. § 1.2, and consistent with the Secretary of Education’s action above, the Secretary of the Interior hereby grants the MIS a waiver through SY 2018-2019 of the corresponding requirements in 25 C.F.R. §§ 30.106 and 30.107(a) and (b)(7)–(10). First, the Secretary of Education’s waiver of ESEA sections 1111(b)(2)(E)–(H) makes it legally possible for the Secretary of the Interior to subsequently waive these regulations because they correspond directly to the ESEA sections waived by the Secretary of Education. Second, for the same reasons the Secretary of Education granted a waiver of ESEA sections 1111(b)(2)(E)-(H), the Secretary of the Interior finds that a waiver of the corresponding requirements in 25 C.F.R. §§ 30.106 and 30.107(a) and (b)(7)–(10) is in the best interest of the MIS.

Third, the MIS requests a waiver of DOI’s regulation in 25 C.F.R. § 30.113(f)(2), which requires an approved alternative definition of AYP to become effective at the start of the school year following its approval. MIS needs this waiver in order to begin implementing its alternative definition of AYP during SY 2014–2015. Given that MIS has already adopted and is implementing college- and career-ready standards and that administering assessments aligned to

those standards and determining AYP will occur this spring, the Secretary of the Interior hereby grants the MIS a waiver of 25 C.F.R. § 30.113(f)(2), pursuant to her authority in 25 C.F.R. § 1.2 because she finds that permitting the MIS to implement its alternative definition of AYP during SY 2014–2015 is in the best interest of the school.

We congratulate the MIS on approval of the first phase of its alternative definition of AYP and thank you for the work you and the staff at the MIS have done to secure that approval. We look forward to continuing to support the MIS as it implements its alternative definition of AYP and works to improve academic achievement and the quality of instruction for all of its students.

Sincerely,

/s/

Sally Jewell
Secretary of the Interior
U.S. Department of the Interior

/s/

Arne Duncan
Secretary of Education
U.S. Department of Education

cc: Principal, Miccosukee Indian School