

Tribal Consultation – Federal Impact Aid Indian Policies and Procedures

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Arizona Department of Education

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Active in Federal Impact Aid since September 2001

Federal Impact Aid

The program was established to help make up the lost local tax base and/or additional students imposed upon local education agencies by the federal government.

- Federal Government **acquires** land in a local community taking it off the tax rolls
- People **living** on Federal property do not pay local property tax
- People **working** on Federal property work for companies that do not pay local property tax
- Indian tribal trust and treaty land has **no** tax base

Impact Aid has always been flexible, with local control

- Funds are “used” for the benefit of all students in the district
- Most Impact Aid goes into the General Fund
 - May be used as the local school district decides
 - May be used for any legal purpose under state law
 - SUPPLANT, SUPPLANT, SUPPLANT

Section 7003 – Identifying Eligible Students ... Categories

- To be eligible, an LEA must have at least **400** **federally connected students in ADA**, *OR* they must make up **3% of ADA ...** children whose parents **live on AND/OR work**
- Federally connected students are defined in law as those who...
- Category A) Live and work on Federal Property
- Category B) Live with parents on active duty in a uniformed service that live on federal property

Categories of Eligibility

Category (C) – Indian lands: Student resided on:

- a. land held in trust by the United States;
- b. land held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;
- c. land conveyed at any time under the Alaska Native Claims Act;
- d. public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes;
- e. property located in the State of Oklahoma owned by an Indian Housing Authority for Low-Income Housing and such property at any time was designated by treaty as tribal land

Categories of Eligibility, cont.

(C) – Indian lands: Student resided on:

Example:

– Student whose parents reside on the Navajo Reservation

(do not have to be Native)

– Student who resides on non-Trust land, but the land is not taxable (restricted) by federal definition (non-taxable status *must be certified by the local tax assessor*)

Category C students **w/ active IEP on file as of survey date** count in the children with disabilities category as well!

Total number of (C) students **FY22 – 112,928 / FY23 – 113,229 / FY24 – 104,445**

Indian Policies and Procedures (IPPs) Regulatory Compliance - Requirements

222.91 What requirements must a local education agency meet in order to receive a payment under Section 7003 of the act for children residing on Indian Lands:

(a)(2) Develop and implement policies and procedures in accordance with 222.94

There is a provision in section (b) that allows for the waiver process

Consultation Requirements in Federal Grants to School Districts

Johnson O'Malley Supplemental Indian Education Grants

- Provide funds to meet the specialized needs of Indian children to include culturally relevant learning programs
- Require an **Indian Education Committee** to approve the educational plan

Title VI Formula Grants

- Provide funds to meet the unique cultural, language and educational needs of Indian students
- Require an **Indian Parent Committee** to approve the application prior to submission

Impact Aid Formula Grants

- Provide general aid that can be used like local tax revenue
- Require an **annual consultation process** with **tribes and parents of Indian children** to ensure Indian children “participate in programs and activities...on an equal basis with all other children”

Indian Policies and Procedures (IPPs) Regulatory Compliance*

In Place Since 1978 to ensure:

- Equal participation of Indian children in LEA's educational programs and activities
- Improve communication and cooperation between LEA and Indian community
- Involve parents and tribal officials in planning and developing educational programs and activities

Indian Policies and Procedures (IPPs) Regulatory Compliance*

Everything you will need to assist in tribal consultation including specific instructions and template to be found at:

<https://impactaid.ed.gov/resources/>

PowerPoint on IPP and related templates can be found at:

https://impactaid.ed.gov/wp-content/uploads/2019/11/FY21_IPP_Regulatory_Compliance.pdf

Indian Policies and Procedures (IPPs) Regulatory Compliance*

From the Departments Web Page ...

- IPP Regulations ([PDF](#))
- Sample Indian Policies and Procedures Template ([MS Word](#))
- Sample IPP Waiver Letter ([MS Word](#))
- IPP Screening Checklist ([PDF](#))
- Waiver Screening Checklist ([PDF](#))

Department Sample Indian Policies and Procedures Template ... Cover Page

***All text in bold can be edited to meet the needs of the Tribe(s) or LEA.**

- **Indian Policies and Procedures**
 - _____ **School District**
 - _____ **School Year**
- These policies and procedures will be reviewed annually, and revisions will be made within 90 days of the determination that requirements are not being adequately met. [34 CFR 222.94(c)2-3]
- *All changes become effective **upon board approval.***
- Tribe's preferred method(s) of communication: **LIST HERE (email, Facebook post, school newsletter, etc.)**

Department Sample Indian Policies and Procedures Template

Policy 1: The LEA will disseminate relevant applications, evaluations, program plans and information related to the LEA's education program and activities with sufficient advance notice to allow tribes and parents of Indian children the opportunity to review and make recommendations. [34 CFR 222.94(b)(1)]

•Procedure 1: The school district will disseminate the following documents to the parents of Indian children and the tribe at least **one week in advance** of any meeting to discuss these documents. The documents will be disseminated using the **tribe's preferred method of communication**. The documents to be disseminated include:

- Current year Impact Aid application
- Assessment/Evaluation of Equal Participation
- Indian Policies Procedures (IPPs)
- Any Plans for District education programs
- Written responses to feedback from the consultation process

Department Sample Indian Policies and Procedures Template ... Page 1, cont.

Policy 2: The LEA will provide **an opportunity** for the tribe and parents of Indian children to provide their views on the LEA's educational program and activities, including recommendations on the needs of their children and how the LEA may help those children realize the benefits of the LEA's education programs and activities. [34 CFR 222.94(b)(2)]

- As a part of this requirement, the LEA will-
 - (i) Notify tribes and the parents of Indian children of the opportunity to submit comments and recommendations, considering the tribe's preference for method of communication, and
 - (ii) Modify the method of and time for soliciting Indian views, if necessary, to ensure the maximum participation of tribes and parents of Indian children.

Department Sample Indian Policies and Procedures Template ... Page 1, cont.

Procedure 2:

- 2.1 The School District **will hold one annual board meeting** to allow the parents of Indian children and the tribe(s) to provide input on the educational program and activities. The School District will give parents of Indian children, tribes, and the public notice of any meeting at least **one week in advance via the tribe's preferred method of communication.**
- 2.2 *If the consultation participation by parents of Indian children and tribes is low, the School District will re-evaluate its consultation process. Specifically, the School District will take the following measures to improve or enhance participation:*
 - **Consult with parents of Indian children and tribes**
 - **Change communication method**
 - **Change time of meeting**

Department Sample Indian Policies and Procedures Template ... Page 1, cont.

Policy 3: The LEA will, at least annually, assess the extent to which Indian children participate on an equal basis with non-Indian children in the LEA's education program and activities. [34 CFR 222.94(b)(3)]

- As part of this requirement, the LEA will:
 - (i) Share relevant information related to Indian children's participation in the LEA's education program and activities with tribes and parents of Indian children; and
 - (ii) Allow tribes and parents of Indian children the opportunity and time to review and comment on whether Indian children participate on an equal basis with non-Indian children.

Department Sample Indian Policies and Procedures Template ... Page 1, cont.

Procedure 3:

- 3.1 The School District shall **annually calculate from its records the ratio of Indian children compared to non-Indian children participating in all academic and co-curricular programs.**
- 3.2 Parents of Indian children, tribes and other interested parties may express their views on participation at **the annual school board meeting on Impact Aid.**
- 3.3 If it is determined that **there are gaps** in Indian participation in the educational program or activities, the School Board in consultation with the tribes and the parents of Indian children, **will modify** its education program in such a way as to improve Indian participation.

Department Sample Indian Policies and Procedures Template ... Page 1, cont.

Policy 4: The LEA will **modify** the IPPs if necessary, based upon the results of any assessment or input described in paragraph (b) of this section (*this document*).

[34CFR222.94(b)(4)]

Procedure 4:

- 4.1 The School Board will schedule a school board meeting at least **once annually** to consult with the tribe and parents of Indian children on the content of the IPPs, equal participation, and educational program and activities. Parents of Indian children and tribes will be notified **via the tribe's preferred method of communication** regarding this meeting and their ability to submit comment.
- 4.2 **The School Board** will evaluate all recommendations and recommend revisions for changes to these IPPs.
- 4.3 Any changes by the School Board will become effective **immediately upon formal adoption**.
- 4.5 The School District will disseminate copies of the revised IPPs to the tribe and parents of Indian children **via the tribe's preferred method of communication** within 30 days of adoption by the School Board.

Department Sample Indian Policies and Procedures Template ... Page 1, cont.

Policy 5: The LEA will **respond at least annually in writing** to comments and recommendations made by tribes or parents of Indian children and disseminate the responses to the tribe and parents of Indian children prior to the submission of the IPPs by the LEA.
[34CFR222.94(b)(5)]

Procedure 5:

- 5.1 The School District will annually keep track of and assemble all comments and suggestions received through the consultation processes by **keeping minutes at the school board meeting to discuss Impact Aid.**
- 5.2 The School District will **at least annually** respond in writing to comments and recommendations made by tribes, or parents of Indian children, and disseminate the responses to all parties **via the tribe's preferred method of communication** prior to the submission of the IPPs by the District.

Department Sample Indian Policies and Procedures Template ... Page 1, cont.

Policy 6: The LEA will provide a copy of the IPPs annually to the affected tribe or tribes. [34 CFR 222.94 (b)(6)]

Procedure 6:

- The School District will annually provide a copy of the current Indian Policies and Procedures to the tribe using the tribe's preferred method of communication prior to submitting the Impact Aid Application.

LEA Board Approval Date: Month Date, Year

Indian Policies and Procedures (IPPs) Regulatory Compliance – Sample Waiver Letter

Tribal Letterhead
(Date)

Superintendent _____:

ABC School District

City, State Zip Code

Dear Superintendent, _____,

The _____ (name of tribe) **has a positive working relationship with the public schools in our area.** The _____ (name of tribe) **is satisfied with the educational services and programs provided by the _____ (name of the school district).** The _____ (name of school district) has provided the tribe with a copy of the regulations 34 CFR 222.91-94 pertaining to our rights under the Indian consultation process. We understand our rights and offer this letter as a waiver of the Impact Aid Indian Policies and Procedures requirements for the FY _____ Impact Aid application year.

If you have any questions or concerns relating to this waiver, please contact _____ (name of contact) at _____ (phone number) or _____ (email address).

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Sincerely,

Tribal Leader Name and Title

Indian Policies and Procedures (IPPs) Regulatory Compliance*

PowerPoint on IPP and associated templates can be found at:

https://impactaid.ed.gov/wp-content/uploads/2019/11/FY21_IPP_Regulatory_Compliance.pdf

IPPs Sample Policy 3, Procedure 3: Example

(cont.)

- *C. Parents of Indian children, tribes and other interested parties may express their views on participation through the following ways:*

(Describe in detail how this will be achieved, direct communication, board meetings, etc.,).

Indian Policies and Procedures (IPPs) Regulatory Compliance

- **Question: What Tribes (parents) does a district consult with when there are enrolled students from multiple tribes?**
- **Answer:** If students from over 30 different tribes are enrolled in the district, under Impact Aid regulations, the LEA must consult with and involve "**local tribal officials**" as well as parents of Indian children. *The district does not identify children residing on tribal or trust land by tribal affiliation, only by land description of residence.* Thus, IPP consultation is required only from those **land-based tribes** within jurisdiction of school district's attendance area. (Department uses a 50-mile radius – Title VI Indian Ed. Act)

Indian Policies and Procedures (IPPs) Regulatory Compliance*

Once Indian Lands districts have their IPPs approved, their responsibility is to **implement** the IPPs

Upcoming FISEF Technical Assistance Workshops

If you want to take a deeper dive into
Impact Aid there is an option:

December 8, 2024 – Las Vegas Nevada
(at the NIISA Conference)

Information to be found at – nafisdc.org

Contact Information –

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