

# **The No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee Charter**

## **1. Committee's Official Designation.**

The No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee (Committee).

## **2. Authority.**

Title 25, Section 2005(a)(5) of the United States Code directs the Secretary to establish a negotiated rulemaking committee for purposes of preparing a catalog and reports regarding the physical conditions of Bureau-funded schools. A negotiated rulemaking committee is a permissible means of revising home living (dormitory) standards, as mandated at 25 USCS § 2002(a)(1), and authorized by 5 U.S.C. § 563.

## **3. Objectives and Scope of Activities.**

The Committee is to serve as an advisory committee subject to the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2, and will take no action unless in compliance with this Charter, filed in conformance with the requirements of Section 9 of FACA.

The objective of the Committee is to prepare and submit to the Secretary of the Interior:

- A.** A catalog of school facilities ((25 U.S.C. § 2005(a)(5)(A)(i));
- B.** A report on the school replacement and new construction needs of the interested parties, and a formula for the equitable distribution of funds to address those needs (25 U.S.C. § 2005(a)(5)(A)(ii));
- C.** A report on the major and minor renovation needs of the interested parties, and a formula for the equitable distribution of funds to address such needs (25 U.S.C. § 2005(a)(5)(A)(iii)); and
- D.** Revised national standards for heating, lighting, and cooling in home-living (dormitory) situations (25 U.S.C. 2002(a))

The scope of the Committee's activity shall be:

- A.** To meet in full committee approximately five times over a period not exceeding two years, to carry on negotiations in pursuit of its objective;
- B.** To take into consideration comments submitted to the Committee by the public or by any subcommittees established by the Designated Federal Officer (DFO).

**4. Description of Duties.**

The duties of the Committee are to negotiate in good faith with the goal of drafting the catalog, reports, and standards described in the “Objectives” section, above, such that the Committee can approve by consensus the submission of said documents to the Secretary. The duties of this Committee are solely advisory.

**5. Agency or Official to Whom the Committee Reports.**

The Committee reports to the Secretary of the Interior through the Assistant Secretary – Indian Affairs (AS-IA).

**6. Support.**

The Bureau of Indian Affairs shall be responsible for providing the necessary support for the Committee’s activities

**7. Estimated Annual Operating Costs and Staff Years.**

The annual operating costs associated with supporting the committee’s functions are estimated to be \$800,000 per year, including all direct and indirect expenses. It is estimated that 2.5 FTEs will be required to support the Committee.

**8. Designated Federal Officer (DFO).**

The full-time or permanent part-time employee appointed in accordance with agency procedures to serve as the DFO is the Director of the Office of Regulatory Management, to serve as the Designated Federal Officer (or designated alternate DFO). The DFO (or alternate DFO) will approve or call all of the advisory committee’s and subcommittees’ meetings, prepare and approve all meeting agendas, attend all committee and subcommittee meetings, adjourn any meeting when the DFO determines adjournment to be in the public interest, and chair meetings when directed to do so by the official to whom the advisory committee reports. The DFO may propound or approve guidelines providing details for the administration of the Committee’s operations.

**9. Estimated Number and Frequency of Meetings.**

The Committee will meet approximately two to four times a year. All meetings of the Committee are subject to the provisions of FACA.

**10. Duration.**

The Committee is expected to exist for approximately 24 months. The Committee will terminate upon submitting its report to the Secretary, or two years after the Committee is established, whichever comes first.

**11. Termination.**

The Committee will terminate two years from the date the charter is filed unless, prior to that date, it is renewed in accordance with FACA.

**12. Membership and Designation.**

The Committee will not exceed 30 members and will be appointed by the Secretary of the Interior as follows:

- a. Members will be representatives only of the Federal Government, tribes whose students attend Bureau of Indian Affairs (BIA) funded schools either operated by the bureau or by the tribe through contract or grant, and, if the Secretary so chooses, of other interests that will be significantly affected by the regulations, such as Indian education organizations.
- b. Members serve without compensation. However, while away from their homes or regular places of business, members engaged in Committee business approved by the Designated Federal Officer may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under 5 U.S.C. § 5703.

**13. Subcommittees.**

In carrying out its duties, the Committee, in consultation with the DFO may form subcommittees to compile and conduct research for consideration by the full Committee. Membership on subcommittees and meetings of subcommittees are subject to approval by the DFO.

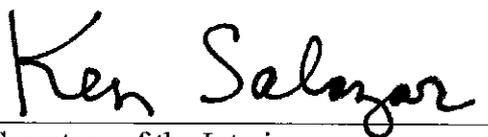
**14. Ethics Responsibilities of Members**

No Committee or subcommittee member will participate in any specific party matter including a lease, license, permit, contract, claim, agreement, or related litigation with the Department in which the member has a direct financial interest.

**15. Recordkeeping.**

The records of the Committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with General Records Schedule 26, Item 2, or other approved agency records disposition schedule. These records shall be available for public inspection and copying subject to the Freedom of Information Act, 5 U.S.C. 552.

DEC 08 2009



Secretary of the Interior

Date Signed

Date Charter Filed