



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Kevin Skenandore
Director
Office of Indian Education Programs
Bureau of Indian Education
MS-3512, MIB
Washington, DC 20240

JUN 6 2008

Dear Director Skenandore:

Thank you for the timely submission of the Bureau of Indian Education's (BIE's) FFY 2006 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA), as amended in 2004. We also acknowledge the revisions to BIE's APR received on April 14, 2008. We appreciate BIE's efforts in preparing this document.

The Department has determined that, under IDEA section 616(d), BIE needs intervention in meeting the requirements of Part B of the IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2006 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2008" for further details.

The specific factor affecting OSEP's determination of needs intervention for BIE was the failure of BIE to report valid and reliable data for Indicator 11.

With respect to Indicator 11, BIE was required to report the percent of children with parental consent to evaluate, who were evaluated within 60 days (or a State established timeline). BIE has adopted the Federal timeline of 60 days. BIE did not provide valid and reliable baseline data for Indicator 11 in its FFY 2005 APR. OSEP's June 15, 2007 SPP/APR response table required BIE to provide the required data in its FFY 2006 APR. BIE acknowledged that it continued to provide data that was not valid and reliable in its FFY 2006 APR. BIE reported the data collection process was not consistent with the required measurement and data were not maintained for "students who have been referred yet not determined to need special education service." Without these data, OSEP and the public cannot determine whether children with parental consent to evaluate are being evaluated within the required timeline. This is a critical indicator since children cannot begin to receive needed special education and related services until an initial evaluation is completed.

We also note that because of lack of satisfactory progress in implementing its Program Improvement and Accountability Plan (PIAP), which was developed in response to serious concerns raised in 2005 by the Department regarding BIE's administration of Elementary and Secondary Education Act (ESEA) and IDEA programs, the Department imposed Special Conditions on all of its grants to BIE in FFY 2007. The Special Conditions require further PIAP reporting and submission of supporting documentation that would enable Interior to demonstrate full compliance with the requirements of ESEA

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and IDEA. BIE continues to work on the Department's fiscal and programmatic concerns and its FFY 2008 grant will again be subject to Department-wide Special Conditions. We hope that BIE will be able to demonstrate that it meets requirements in the next APR.

The enclosed table provides OSEP's analysis of BIE's FFY 2006 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by BIE to its targets, improvement activities (timelines and resources) and baseline data in BIE's SPP. It also identifies, by indicator, BIE's status in meeting its targets, whether BIE's data reflect progress or slippage, and whether BIE corrected noncompliance and provided valid and reliable data.

BIE may want to consider taking advantage of available sources of technical assistance. A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the "Technical Assistance Related to Determinations" box on the opening page of the SPP/APR Planning Calendar website at <http://spp-apr-calendar.rrfcnetwork.org/>. You will be directed to a list of indicators. Click on specific indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator.

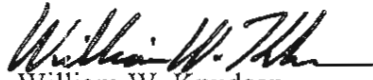
As you know, BIE must report annually to the public on the performance of each local educational agency (LEA) located in BIE on the targets in the SPP under IDEA section 616(b)(2)(C)(ii)(1). In addition, BIE must review LEA performance against targets in BIE's SPP, determine if each LEA meets the requirements of the IDEA and inform each LEA of its determination. For further information regarding these requirements, see the SPP/APR Calendar at <http://spp-apr-calendar.rrfcnetwork.org/>. Finally, if you included revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that you update your SPP accordingly and that the updated SPP is made available to the public.

Pursuant to section 616(d)(2)(B) of the IDEA and 34 CFR §300.603(b)(2), a State that is determined to need intervention or need substantial intervention, and does not agree with this determination, may request an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should change its determination. To request a hearing, submit a letter to Tracy R. Justesen, Assistant Secretary, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW, Room 5107, Potomac Center Plaza, Washington, DC 20202-2600 within 30 days of the date of this letter and provide in the letter the basis for your request.

OSEP is committed to supporting BIE's efforts to improve results for children with disabilities and looks forward to working with BIE over the next year. If you have any

questions, would like to discuss this further, or want to request technical assistance, please do not hesitate to call Tony G. Williams, your OSEP State Contact, at 202-245-7577.

Sincerely,



William W. Knudsen

Acting Director

Office of Special Education Programs

Enclosures

cc: State Director of Special Education