

**Table B – Bureau of Indian Affairs (BIA) Part B
Previously Identified Issues**

Issue	State Submission	OSEP Analysis	Required Action
<p><u>Indicator 15.</u> OSEP's November 21, 2005 FFY 2003 APR response letter required the BIA to submit data with the SPP, demonstrating that the noncompliance identified in the Continuous Improvement Monitoring Process (CIMP) and second-tier monitoring in school year 2003-2004 was corrected in a timely manner (i.e., within one year of identification), in accordance with section 612(a)(11) of IDEA and 34 CFR §300.600. If the data did not demonstrate compliance with this requirement, the BIA was to submit a plan, including strategies, proposed evidence of change, targets and timelines for ensuring that the requirement is met within a reasonable period of time, not to exceed one year from the date OSEP accepted the plan.</p>	<p>On page 51 of the SPP, the BIA reported for Indicator 15A that 35% of noncompliance citations, for which the one-year timeline ended in 2004-2005, were not corrected within one year of identification. On pages 53-54 and in Appendix C on page 89 of the SPP, the BIA submitted a plan designed to ensure the identification of areas of noncompliance and the correction of all identified issues in a timely manner, including sanctions that can be imposed, if needed. OSEP's January 20, 2006 letter required that the BIA revise its plan to include additional activities specifically designed to address the correction of noncompliance, within one year of identification, in tribally-operated schools.</p>	<p>The BIA provided data that demonstrate continuing noncompliance with the requirements in section 612(a)(11) of IDEA and 34 CFR §300.600. The level of compliance reported was 65%.</p>	<p>The BIA must ensure that this noncompliance is corrected and include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. The BIA must ensure that it is implementing its improvement strategies to enable it to include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p>
<p><u>Indicator 15.</u> OSEP's November 21, 2005 letter required the BIA to submit monitoring data and analysis with the SPP, demonstrating that the following areas of noncompliance (from OSEP's 2000 Monitoring Report) have been corrected: (1) IEPs include required content regarding assessments (34 CFR §300.347(a)(5)); (2) each child's placement decision is determined based on individual need (34 CFR §§300.550-</p>	<p>On page 51 of the SPP, BIA submitted data that noncompliance citations were found in these areas; however, not all noncompliance was corrected. In the area of IEP content regarding assessment, the BIA reported specific information was not available. The overall area of IEP content (34 CFR §300.347) had 28 citations with only 13 corrected in a timely manner. For child placement decisions based on individual needs, ten</p>	<p>The data demonstrate that, while the BIA is identifying noncompliance in these areas, it is unable to ensure correction within one year of identification. The BIA reported that correction of noncompliance in a timely manner continues to be a systemic concern. Actions to be taken in such circumstances will be addressed in the restructuring of monitoring outlined in Appendix C.</p>	<p>The BIA must ensure that this noncompliance is corrected and include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. The BIA must ensure that it is implementing its improvement strategies to enable it to include data in the APR, due February 1, 2007, that demonstrate compliance with this requirement. Failure to demonstrate compliance at that time may affect</p>

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<p>300.556); (3) meeting notices and invitations to required participants meet IDEA requirements (34 CFR §§300.344(b) and 300.345(b)(2)-(3)), and (4) transition statements are included in IEPs (34 CFR §§300.29 and 300.347(b)). BIA could also report a date certain by which this monitoring data will be available.</p> <p>Indicator 4. OSEP's November 21, 2005 letter required the BIA to submit evidence with the SPP, demonstrating that it is meeting the requirements of 34 CFR §300.146 regarding significant discrepancies in the rates of long-term suspensions and expulsions of children with disabilities, or a plan, including strategies, proposed evidence of change, targets and timelines for ensuring correction of the noncompliance with 34 CFR §300.146 as soon as possible, but not later than one year from the date OSEP accepted the plan.</p>	<p>citations were issued and only four were corrected in a timely manner. For meeting notices and invitations to parents, four citations were issued and three were corrected in a timely manner.</p>	<p>The BIA is not currently in compliance with the requirement in 34 CFR §300.146(b) because it did not demonstrate that in those agencies where a significant discrepancy is occurring, it requires the affected agencies to revise, its policies, procedures and practices relating to the development and implementation of IEPs, the use of behavioral interventions and procedural safeguards, to ensure that these policies, procedures and practices comply with IDEA.</p>	<p>OSEP's determination of the State's status under section 616(d) of the IDEA.</p>
<p>Indicator 4. OSEP's November 21, 2005 letter required the BIA to submit evidence with the SPP, demonstrating that it is meeting the requirements of 34 CFR §300.146 regarding significant discrepancies in the rates of long-term suspensions and expulsions of children with disabilities, or a plan, including strategies, proposed evidence of change, targets and timelines for ensuring correction of the noncompliance with 34 CFR §300.146 as soon as possible, but not later than one year from the date OSEP accepted the plan.</p>	<p>On page 22 of the SPP, BIA reported that 18% of the agencies (4 of 22) have been identified as having a significant discrepancy as compared to other Office of Indian Education Programs (OIEP) agencies in the percent of children in the disabilities subgroup who have been suspended or expelled for more than ten days. The BIA defined significant discrepancy as two or more times the OIEP average. However, BIA did not provide evidence that in those agencies where a significant discrepancy is occurring, it revises, and if appropriate, revises (or requires the affected agencies to revise) its policies, procedures and practices relating to the development and implementation of IEPs, the use of behavioral interventions and procedural safeguards, to ensure that these policies, procedures and practices comply with IDEA. On pages 23-24, the BIA provided improvement strategies for ensuring compliance with the requirement in 34 CFR §300.146.</p>	<p>The BIA is not currently in compliance with the requirement in 34 CFR §300.146(b) because it did not demonstrate that in those agencies where a significant discrepancy is occurring, it requires the affected agencies to revise, its policies, procedures and practices relating to the development and implementation of IEPs, the use of behavioral interventions and procedural safeguards, to ensure that these policies, procedures and practices comply with IDEA.</p>	<p>As part of its submission for Indicator 4 in the APR, due February 1, 2007, the BIA must provide documentation of compliance with 34 CFR §300.146(b). The BIA must review and, if necessary revise its improvement strategies to ensure they will enable the BIA to include data in the APR, due February 1, 2007, that demonstrate compliance with the requirement in 34 CFR §300.146(b)). Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.</p>