

Enclosure B
Special Conditions

1. Basis for Requiring Special Conditions

The Office of Special Education Programs (OSEP) is imposing Special Conditions on BIE's Federal Fiscal Year (FFY) 2008 grant award under Part B of the Individuals with Disabilities Education Act (Part B), related to BIE's failure to meet the public participation requirements set forth in the Part B regulations at 34 CFR §300.709. That regulation provides "in fulfilling the requirements of §300.708, the Secretary of Interior must provide for public participation consistent with §300.165". In addition, 34 CFR §300.716, which sets forth the Part B regulations applicable to BIE, includes §300.165. The public participation requirements at 34 CFR §300.165(b), made applicable to BIE through 34 CFR §§300.709 and 300.716, require that before submitting a State plan under Part B, a State must comply with the public participation requirements in §300.165(a) and those in 20 U.S.C. 1232d(b)(7). Part B applications are considered State plans. Under section 441(b)(7) of the General Education Provisions Act (GEPA) (20 U.S.C. 1232d(b)(7)(B)), each proposed plan must be published, in a manner that will ensure circulation throughout the State, at least 60 days prior to the date on which the plan is submitted to the Secretary or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least 30 days. BIE can meet this requirement by posting its FFY 2008 application on its website for 60 days and accepting public comment for at least 30 days.

2. Nature of the Special Conditions

BIE must provide documentation that it has posted its FFY 2008 Part B application on its website for 60 days and accepted public comment for at least 30 days.

3. Evidence Necessary for the Special Conditions To Be Removed

When BIE provides documentation, satisfactory to the Department, that it has fully complied with the public participation requirements of 34 CFR §300.709 by posting its FFY 2008 Part B application on its website for 60 days and accepting public comment for at least 30 days, the Department will issue a Supplemental grant that includes \$ 3,550,686 (the 5% of the 80% that may be used by BIE for administration) and \$ 13,492,607 (the 20% of the 80% that must be allocated to elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior by September 30th).

4. Method of Requesting Reconsideration

BIE can write to the Office of Special Education Programs Acting Director, William W. Knudsen, at the address below, if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to the Special Conditions sought by BIE and the reasons for those requested changes.

5. Submission of Reports

The documentation required above under the Special Conditions should be submitted to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Tony Williams
400 Maryland Ave., SW
Washington, DC 20202-2550