



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

July 1, 2019

Honorable Tony L. Dearman  
Director  
Bureau of Indian Education  
1849 C Street, NW  
MS-3609-MIB  
Washington, DC 20240

Dear Director Dearman:

I am writing to advise you of the U. S. Department of Education's (Department) 2019 determination under section 616 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that the Bureau of Indian Education (the BIE) needs intervention in implementing the requirements of Part B of the IDEA. This determination is based on the totality of the BIE's data and information, including the Federal fiscal year (FFY) 2017 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

I also want to make you aware that, absent significant progress in implementing the requirements of the IDEA, as detailed below, the BIE is at risk of being determined to be in need of substantial intervention pursuant to section 616(e)(3) of the IDEA in 2020, a designation reserved for States and entities with the most significant performance and compliance issues.

Protecting the rights of children with disabilities and their families is a key responsibility of States, but it is not sufficient if children are not attaining the knowledge and skills necessary to achieve the goals of the IDEA as reflected in Congressional findings in section 601(c)(1) of the IDEA: equality of opportunity, full participation, independent living, and economic self-sufficiency. To address this concern, the Office of Special Education Programs (OSEP) has been using results data when making annual determinations for States under section 616(d) of the IDEA since 2014. OSEP is continuing to use both results and compliance data in making determinations for outlying areas, freely associated States, and the BIE (the Entities) in 2019, as it did for determinations in 2018.

The BIE's 2019 determination is based on the data reflected in the BIE's "2019 Part B Results-Driven Accountability Matrix" (RDA Matrix). The RDA Matrix is individualized for each State and consists of:

- (1) a Compliance Matrix that includes scoring on Compliance Indicators and other compliance factors;
- (2) a Results Matrix that includes scoring on Results Elements;
- (3) a Compliance Score and a Results Score;

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- (4) an RDA Percentage based on both the Compliance Score and the Results Score; and
- (5) the BIE's Determination.

The RDA Matrix is further explained in a document, entitled "How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2019: Freely Associated States, Outlying Areas, and the Bureau of Indian Education-Part B" (HTDMD).

The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for the BIE. In making Part B determinations in 2019, OSEP continued to use results data related to:

- (1) the participation of children with disabilities (CWD) on regular Statewide assessments;
- (2) the percentage of CWD who graduated with a regular high school diploma; and
- (3) the percentage of CWD who dropped out.

The Secretary is considering modifying the factors the Department will use in making its determinations in June 2020 as part of its continuing emphasis on results for children with disabilities. Section 616(a)(2) of the IDEA requires that the primary focus of the IDEA monitoring must be on improving educational results and functional outcomes for all children with disabilities, and ensuring that States meet the IDEA program requirements, with an emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

The proposed Part B determinations process will include the same compliance factors as in past years, with one addition. For the 2020 determinations, rather than weighting each compliance factor equally, OSEP is considering assigning greater weight to those compliance factors most directly related to improving results for children with disabilities. For the 2020 determinations process we are also considering, as two additional results factors, State-reported data on: preschool child outcomes and the State Systemic Improvement Plan (SSIP). Using preschool outcomes for Part B determinations is consistent with the use of the early childhood outcomes factor that has been used for Part C determinations since 2015. Use of this factor emphasizes the importance of preschool outcomes in promoting later school success for students with disabilities. The inclusion of the SSIP as a results factor in making determinations would continue OSEP's emphasis on incorporating a results-driven approach as States identify evidence-based practices that lead to improved outcomes for children and youth with disabilities. In addition, we are considering several changes to the results factors related to the participation and performance of children with disabilities on assessments, including: (1) using Statewide assessment results, rather than the National Assessment of Educational Progress performance data; (2) looking at year-to-year improvements in Statewide assessment results and taking into account the full Statewide assessment system, including alternate assessments; and (3) no longer comparing each State's assessment performance with that of other States. Finally, OSEP will be revisiting ways of measuring improvement in the graduation rate of students with disabilities. As we consider changes to how we use the data under these factors in making the Department's 2020 determinations, OSEP will provide parents, States, entities, LEAs, and other stakeholders with an opportunity to comment and provide input through OSEP's Leadership Conference in July 2019 and other meetings.

You may access the results of OSEP’s review of the BIE’s SPP/APR and other relevant data by accessing the SPP/APR module using your Entity-specific log-on information at <https://osep.grads360.org>. When you access your Entity’s SPP/APR on the site, you will find, in applicable Indicators 1 through 16, the OSEP Response to the indicator and any actions that the Entity is required to take. The actions that the Entity is required to take are in two places:

- (1) actions related to the correction of findings of noncompliance are in the “OSEP Response” section of the indicator; and
- (2) any other actions that the Entity is required to take are in the “Required Actions” section of the indicator.

It is important for you to review the Introduction to the SPP/APR, which may also include language in the “OSEP Response” and/or “Required Actions” sections.

You will also find all of the following important documents saved as attachments to the Progress Page:

- (1) the BIE’s RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled “2019 Data Rubric Part B,” which shows how OSEP calculated the BIE’s “Timely and Accurate State-Reported Data” score in the Compliance Matrix; and
- (4) a document entitled “Dispute Resolution 2017-18,” which includes the IDEA section 618 data that OSEP used to calculate the BIE’s “Timely State Complaint Decisions” and “Timely Due Process Hearing Decisions” scores in the Compliance Matrix.

As noted above, the Department has determined that the BIE needs intervention in implementing the requirements of Part B of the IDEA. The Department identifies a State or Entity as needing intervention under the IDEA Part B if its RDA Percentage is less than 60 percent. The BIE’s RDA Percentage is 22.5 percent. The major factors contributing to the BIE’s 2019 Needs Intervention determination are: (1) the BIE’s low performance under Indicator 13 (secondary transition requirements); (2) the BIE’s RDA score of zero for the exiting data elements and certain reading and math assessment results elements; (3) the BIE’s longstanding noncompliance; and (4) the BIE’s failure to submit required information in a timely manner.

## **I. Major Factors Contributing to the BIE’s 2019 RDA Needs Intervention Determination**

### **A. Low Performance under Indicator 13**

The data that the BIE provided in its FFY 2017 SPP/APR demonstrate continued noncompliance with the secondary transition requirements in section 614(d)(1)(A)(i)(VIII) of the IDEA and 34 C.F.R. §§ 300.320(b) and 300.321(b). Under Indicator 13, the BIE was required to provide data on the percent of youth with individualized education programs (IEPs) aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student’s transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services were to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP

Team meeting with the prior consent of the parent or student who has reached the age of majority. In its FFY 2017 SPP/APR, the BIE's reported FFY 2017 data for Indicator 13 were 8.39 percent. These data reflect continued slippage from the FFY 2016 data of 14.98 percent the BIE reported for Indicator 13 in its FFY 2016 SPP/APR.

The BIE's low level of compliance with the secondary transition requirements has been a needs intervention factor and a Special or Specific Condition<sup>1</sup> since June 2016. Because the BIE did not ensure compliance with the secondary transition requirements, the Department continued to impose Special or Specific Conditions on the BIE's FFY 2017 and FFY 2018 IDEA Part B grant awards in this area. In OSEP's June 30, 2017, and July 18, 2018, determination letters, pursuant to section 616(e)(2)(B)(i) of the IDEA, the Secretary required the BIE to submit a corrective action plan (CAP) that addressed the actions the BIE would take to demonstrate compliance with the secondary transition requirements. Further, in OSEP's July 18, 2018, determination letter, pursuant to section 616(e)(1)(B) and (e)(2)(A) of the IDEA, the Department directed the BIE to use \$300,000 of its FFY 2018 administrative funds under section 611(h)(1)(A) of the IDEA and 34 C.F.R. § 300.710(a) to address its continued low level of compliance with the requirements for secondary transition and to improve the accuracy of its secondary transition data.

### **B. RDA Score of Zero for Certain Results Elements**

The BIE's 2019 RDA Percentage is 22.5 percent, which consists of 60 percent of the BIE's Compliance Score and 40 percent of the BIE's Results Score. In the 2019 Part B Results Matrix, the BIE received a score of zero on both exiting data elements (i.e., the percentage of children with disabilities who dropped out over the previous three reporting years, and the percentage of children with disabilities who graduated with a regular high school diploma over the previous three reporting years). As demonstrated by the section 618 exiting data reported by the BIE, a high percentage of students with disabilities drop out of BIE-funded schools and a low percentage of students with disabilities graduate with a regular high school diploma (See Results Matrix). This means that many of the BIE's students with disabilities leaving school are not adequately prepared for further education, employment, and independent living.

In addition, the BIE submitted School Year (SY) 2017-2018 math assessment data to EDFacts on April 18, 2019 and SY 2017-2018 reading assessment data to EDFacts on April 17, 2019, past the March 27, 2019, deadline for both sets of data. Therefore, the BIE received a score of zero on the average percentage of third through eighth grade children with disabilities participating in regular Statewide assessments for reading and math, because its data for those Results Elements were not reported in a timely fashion.<sup>2</sup>

### **C. Longstanding Noncompliance**

The Department has imposed Special or Specific Conditions on the BIE's last 12 (FFY 2007-FFY 2018) IDEA Part B grant awards, and the BIE has failed to meet the Specific Conditions imposed on its FFY 2018 IDEA Part B grant award. OSEP determined that the BIE failed to

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<sup>1</sup> Pursuant to the requirements in 2 C.F.R. § 200.207, the term "Specific Condition" is used, rather than "Special Condition," beginning with FFY 2018 IDEA Part B grant awards that are issued subject to additional requirements. In this letter, the term "Special Conditions" is used when referencing the BIE's IDEA Part B grant awards and required reporting associated with the receipt of those funds for years prior to FFY 2018.

<sup>2</sup> OSEP notes that even if the untimely submitted assessment data were to be accepted, the BIE's RDA percentage would be 42.5 percent, which would still result in a determination of needs intervention.

complete the corrective actions contained in Section C of its 2018-2019 CAP. Those corrective actions, which the BIE was required to complete under the Specific Conditions imposed on its FFY 2018 IDEA Part B grant award, related to: (1) the BIE's implementation of fiscal monitoring procedures to ensure that BIE-operated schools and tribally-operated schools are ensuring the appropriate use of Part B funds allocated under section 611(h)(1)(A) of the IDEA; (2) the BIE's compliance with the timeline requirements for resolving State complaints under 34 C.F.R. § 300.152(a); (3) the BIE's compliance with the data reporting requirements under sections 612(a)(16)(D), 616(b)(2)(B) and 618 of the IDEA and 34 C.F.R. § 300.160(f); (4) the BIE's compliance with the secondary transition requirements under section 614(d)(1)(A)(i)(VIII) of the IDEA and 34 C.F.R. §§ 300.320(b) and 300.321(b); and (5) improving its exiting data required under section 618(a)(1)(A)(iv) of the IDEA by utilizing available technical assistance resources.

#### **D. Failure to Submit Required Information in a Timely Manner**

As part of the Specific Conditions imposed on its FFY 2018 IDEA Part B grant award, the BIE was required to meet the timeline requirements for reporting the information required in the 2018-2019 CAP and the quarterly progress reports, the report on and analysis of disaggregated secondary transition data, and the spending plan for use of the directed FFY 2018 IDEA Part B administrative funds to address noncompliance with secondary transition requirements and to improve accuracy of secondary transition data. The BIE has failed to meet all of the timelines indicated below:

- Report on and Analysis of Disaggregated Secondary Transition Data: Due October 1, 2018, and submitted late on March 27, 2019
- Proposed spending plan for use of directed FFY 2018 IDEA Part B administrative funds: Due October 1, 2018, and submitted late on March 27, 2019
- Q1 CAP progress report: Due October 31, 2018, and submitted late on March 27, 2019
- Q2 CAP progress report: Due January 31, 2019, and submitted late on April 8, 2019
- Q3 CAP progress report: Due April 30, 2019, and submitted late on June 18, 2019

In addition to the information required under the CAP, on August 8, 2018, OSEP issued a letter to the BIE regarding its failure to resolve the systemic problems underlying the disruption of required related services in several BIE-funded schools, including San Felipe Pueblo Elementary School. A series of corrective actions were due to OSEP starting on September 8, 2018; to date, the BIE has provided none of the required submissions.

## **II. 2019 RDA Determination and Enforcement Action**

The BIE also received a determination of needs intervention in 2012, 2013, 2014, 2015, 2016, 2017, and 2018 for its FFYs 2010, 2011, 2012, 2013, 2014, 2015, and 2016 SPP/APRs, and this is the eighth consecutive year that the BIE is receiving a determination of needs intervention. Under section 616(e)(2) of the IDEA, if the Secretary determines a State to need intervention for three or more consecutive years, the Secretary may take, under section 616(e)(2)(A) of the IDEA, one of the three enforcement actions identified in the IDEA section 616(e)(1) and must take one or more of the six enforcement actions identified in the IDEA section 616(e)(2)(B).

Pursuant to section 616(d)(2)(B) of the IDEA and 34 C.F.R. § 300.603(b)(2), a State or Entity that is determined to be “needs intervention” or “needs 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 Johnny W. Collett, Assistant Secretary for Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202 within 15 calendar days of the date of this letter. The letter must include the basis for your request for a change in your Entity’s determination.

#### **A. Withholding of Funds**

Given the nature of the noncompliance noted in this letter and that the BIE has had Special or Specific Conditions placed on its grant award under Part B of the IDEA since 2007 and has been in the category of needs intervention for eight consecutive years, the Department has concluded that a more serious enforcement action is warranted for 2019. The Department has significant concerns about the BIE’s longstanding noncompliance with the requirements of the IDEA that directly affect the appropriate provision of special education and related services to children with disabilities attending BIE-funded schools, and its failure to provide required information in a timely manner. As a result, pursuant to sections 616(e)(2)(B)(iii) and 611(h)(3) of the IDEA and 34 C.F.R. §§ 300.604(b)(2)(iii), 300.708(d), and 300.716, the Department intends to withhold 20 percent of the BIE’s FFY 2019 funds reserved for administrative costs under section 611(h)(1)(A) of the IDEA and 34 C.F.R. § 300.710 until the BIE has sufficiently addressed the areas which were the basis for the determination of needs intervention.

In accordance with section 616(e)(4)(A) of the IDEA and 34 C.F.R. §§ 300.605(a), 300.708(d) and 300.716, the BIE may request a hearing pursuant to the procedures in 34 C.F.R. §§ 300.180 through 300.183 to appeal the Department’s decision to withhold these funds. To request a hearing, the BIE must submit a letter to Johnny W. Collett, Assistant Secretary, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW, Washington, D.C. 20202-2600 (facsimile number 202-245-7638) within 30 calendar days of the date of this letter. The filing date for any written submission by a party under 34 C.F.R. §§ 300.179 through 300.184 is the date the document is hand-delivered, mailed, or sent by facsimile transmission. 34 C.F.R. § 300.183(a)-(b).

Pursuant to section 616(e)(4)(B) of the IDEA and 34 C.F.R. §§.300.605(b), 300.708(d) and 300.716, pending the outcome of any hearing to withhold payments, the Secretary intends to suspend the BIE’s authority to obligate 20 percent of the FFY 2019 funds it reserves for administration under 34 C.F.R. § 300.710. The BIE has the opportunity to show cause in writing why its authority to obligate those funds should not be suspended. To show cause, the BIE must submit a letter explaining why its authority to obligate those funds should not be suspended to Johnny W. Collett, Assistant Secretary, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW, Washington, D.C. 20202-2600 (facsimile number 202-245-7638). Assistant Secretary Collett must receive the letter within 15 calendar days of the date of this letter. If the Department determines that the BIE has failed to show cause why its authority to obligate those funds should not be suspended, the Department will suspend the BIE’s authority to obligate 20 percent of the FFY 2019 funds it reserves for administration under 34 C.F.R. § 300.710.

If the BIE believes that full compliance with the applicable requirements of IDEA is not feasible within a year, under section 457 of the General Education Provisions Act (GEPA) (at 20 U.S.C. 1234(f)), the BIE has the option of requesting to enter into a compliance agreement between the Department and the BIE. The purpose of a compliance agreement is to bring a grant recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements. Under section 457(b)(1) of GEPA, “[b]efore entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.” A compliance agreement allows for the recipient to continue to receive its full grant award while it works toward achieving full compliance under the terms and conditions of the agreement. If the BIE were to successfully enter into a compliance agreement, it would be eligible to receive the full amount of its IDEA Part B grant award, including the 20% of the administrative funds that the Department is proposing to withhold, while the BIE is meeting the terms and conditions of the compliance agreement.

### **B. Directed Use of Funds**

In OSEP’s July 18, 2018, determination letter, pursuant to section 616(e)(1)(B) and (e)(2)(A) of the IDEA, the Department directed the BIE to use \$300,000 of its FFY 2018 administrative funds under section 611(h)(1)(A) of the IDEA and 34 C.F.R. § 300.710(a) to address its continued low level of compliance with the requirements for secondary transition and to improve the accuracy of its secondary transition data. Further, the Department required the BIE to develop, implement, and report progress on, a spending plan to expend directed funds by July 1, 2019, that demonstrates how the directed funds will be used to pay for strategies and activities that address the suspected or known reasons for the noncompliance with the secondary transition requirements in section 614(d)(1)(A)(i)(VIII) of the IDEA and 34 C.F.R. §§ 300.320(b) and 300.321(b) and that are reasonably designed to correct that noncompliance and improve the accuracy of the data.

However, after the late submission of its proposed spending plan, the BIE indicated it would be unable to expend any of the directed FFY 2018 funds by the July 1, 2019, deadline. On June 3, 2019, the BIE verbally requested a six-month extension to expend the directed FFY 2018 funds in accordance with the FFY 2018 spending plan approved by OSEP. The Department has granted the BIE’s request and extends the deadline for the BIE’s expenditure of the directed FFY 2018 funds to December 31, 2019.

In addition, pursuant to section 616(e)(1)(B) and (e)(2)(A) of the IDEA, the Department is directing the BIE to use \$300,000 of its FFY 2019 administrative funds under section 611(h)(1)(A) of the IDEA and 34 C.F.R. § 300.710(a) to address its continued low level of compliance with the requirements for secondary transition and to improve the accuracy of its secondary transition data. Directing the use of funds is an appropriate enforcement action because it supports the ability of the BIE and BIE-funded schools to meet secondary transition requirements, which are critical IDEA requirements that directly impact a child’s right to receive a free appropriate public education. The failure of a State to comply with secondary transition requirements impacts a student’s ability to make a successful transition from school to post-school activities, including postsecondary education, vocational education, integrated

employment, and independent living. The amount of \$300,000 represents a significant commitment of resources that will be targeted to ensure that the BIE and BIE-funded schools take the necessary action to increase compliance with the secondary transition requirements.

The BIE must develop, implement, and report progress on, a spending plan to expend directed FFY 2019 funds by July 1, 2020 that demonstrates how the directed funds will be used to pay for strategies and activities that address the suspected or known reasons for the noncompliance with the secondary transition requirements in section 614(d)(1)(A)(i)(VIII) of the IDEA and 34 C.F.R. §§ 300.320(b) and 300.321(b) that are reasonably designed to correct that noncompliance and improve the accuracy of the data. The BIE must submit, along with its proposed FFY 2019 spending plan, a report of the BIE's FFY 2018 secondary transition compliance data disaggregated by compliance item and BIE-funded school, and the BIE's analysis of the disaggregated data, including suspected or known reasons for any noncompliance. The BIE's proposed FFY 2019 spending plan must include: (1) the activities that will be carried out with those funds; (2) the costs associated with each of the activities; (3) a projected timeline for using the funds to pay the costs associated with each of the activities that demonstrates that the FFY 2019 funds will be used by July 1, 2020; and (4) an explanation of how the activities will result in improved compliance with secondary transition requirements and improved data accuracy. The BIE must also describe the documentation it will provide to demonstrate the FFY 2019 funds were used in accordance with the FFY 2019 spending plan. In addition, to ensure that the BIE can increase compliance with the secondary transition requirements within one year, the BIE must expedite the use of the directed FFY 2019 IDEA Part B administrative funds and target the use of those funds for activities that are based on a careful review of the BIE's FFY 2018 secondary transition data.

### **C. Technical Assistance**

Pursuant to section 616(e)(1)(A) and (e)(2)(A) of the IDEA, the Department is advising the BIE of available sources of technical assistance, including OSEP-funded technical assistance centers and resources at <https://osep.grads360.org/#program/highlighted-resources> and requiring the BIE to work with appropriate entities. In addition, the BIE should consider accessing technical assistance from other Department-funded centers such as the Comprehensive Centers with resources at the following link: <https://www2.ed.gov/programs/newccp/index.html>. The Department directs the BIE to access technical assistance related to those exiting data elements for which the BIE received a score of zero (i.e., those exiting data elements identified on the Part B Results Matrix and described in section I.B of this letter).

The BIE must report, in the quarterly progress reports it submits for the 2019-2020 CAP, on: (1) the sources from which it received technical assistance related to those exiting data elements for which the BIE received a score of zero on the Part B Results Matrix; and (2) the actions the BIE took as a result of that technical assistance.

### **D. Corrective Action Plan**

In addition, pursuant to section 616(e)(2)(B)(i) of the IDEA, the Secretary is requiring the BIE to submit a CAP, because the Secretary has determined that, in combination with directing the use of funds as described above, the BIE should be able to correct the major areas of noncompliance that contributed to its determination of needs intervention within one year from the date of this



determination letter, and other enforcement remedies under section 616(e)(2)(B) of the IDEA are not appropriate at this time.

Therefore, the BIE must submit a CAP that ensures that it can meet, by the end of the fourth quarterly reporting period for the 2019-2020 school year under Section C of the CAP, all of the Specific Conditions that will be imposed on its FFY 2019 IDEA Part B grant award. For the reasons explained in the BIE's FFY 2019 Specific Conditions, the corrective action plan must address the steps the BIE will take to: (1) implement fiscal monitoring procedures to ensure that BIE-operated schools and tribally-operated schools are ensuring the appropriate use of Part B funds allocated under section 611(h)(1)(A) of the IDEA; (2) demonstrate compliance with the timeline requirements for resolving State complaints under 34 C.F.R. § 300.152(a); (3) demonstrate compliance with the data reporting requirements under sections 612(a)(16)(D), 616(b)(2)(B) and 618 of the IDEA and 34 C.F.R. § 300.160(f); and (4) demonstrate compliance with the secondary transition requirements in section 614(d)(1)(A)(i)(VIII) of the IDEA and 34 C.F.R. §§ 300.320(b) and 300.321(b) and improve the accuracy of the secondary transition data.

In addition, as required above, the BIE must provide a report and analysis of the disaggregated FFY 2018 secondary transition compliance data, and must develop, implement, and report progress on a spending plan to expend directed FFY 2019 funds by July 1, 2020, that demonstrates how the directed funds will be used to pay for strategies and activities that address the suspected or known reasons for the noncompliance with the secondary transition requirements in section 614(d)(1)(A)(i)(VIII) of the IDEA and 34 C.F.R. §§ 300.320(b) and 300.321(b) and that are reasonably designed to correct that noncompliance and improve the accuracy of the data.

The BIE must also report on: (1) the sources from which it received technical assistance related to those exiting data elements for which the BIE received a score of zero on the Part B Results Matrix; and (2) the actions it took as a result of that technical assistance.

The BIE must submit its corrective action plan with its final quarterly progress report on Section C of the CAP for the 2018-2019 school year, due on July 31, 2019, as well as quarterly progress reports in accordance with the reporting and timeline requirements specified in the Specific Conditions that OSEP will impose on the BIE's FFY 2019 Part B grant award.

As required by section 616(e)(7) of the IDEA and 34 C.F.R. § 300.606, the BIE must notify the public that the Secretary of Education has taken the above enforcement actions, including, at a minimum, by posting a public notice on its website and distributing the notice to the media and through public agencies.

States and Entities were required to submit Phase III Year Three of the SSIP by April 1, 2019. We have carefully reviewed your submission and will provide feedback in the upcoming weeks. Additionally, OSEP will continue to work with the BIE as it implements the fourth year of Phase III of the SSIP, which is due on April 1, 2020.

As a reminder, the BIE must report annually to the public, by posting on the BIE's website, the performance of each school funded by the BIE on the targets in the SPP/APR as soon as practicable, but no later than 120 days after the BIE's submission of its FFY 2017 SPP/APR. In addition, the BIE must:

- (1) review school performance against targets in the BIE's SPP/APR;

- (2) determine if each school “meets the requirements” of Part B, or “needs assistance,” “needs intervention,” or “needs substantial intervention” in implementing Part B of IDEA;
- (3) take appropriate enforcement action; and
- (4) inform each school of its determination.

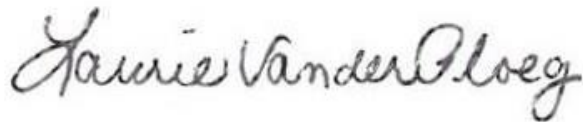
Further, the BIE must make its SPP/APR available to the public by posting it on its agency’s website. Within the next several days, OSEP will be finalizing an Entity Profile that:

- (1) will be accessible to the public;
- (2) includes the Entity’s determination letter and SPP/APR, and all related State and OSEP attachments; and
- (3) can be accessed via a URL unique to your Entity, which you can use to make your SPP/APR available to the public. We will provide you with the unique URL when it is live.

Finally, OSEP conducted a monitoring visit in March and April of 2019 and will issue a separate letter summarizing the results of that visit.

OSEP is committed to working with the BIE to improve educational results for children and youth with disabilities. Please contact your OSEP State Lead if you have any questions, would like to discuss this further, or want to request technical assistance.

Sincerely,



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Laurie VanderPloeg  
Director  
Office of Special Education Programs

cc: Bureau of Indian Education Director of Special Education