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DEC 9 2004

Ms. Sharon Wells
Education Program Specialist
U. S. Department of the Interior
Bureau of Indian Affairs
Office of Indian Education Programs
1849 C St., NW, Room 3512, MIB
Washington, DC 20240

Dear Ms. Wells:

This **Final Audit Report** (ED-OIG/A06-E0005) presents the results of our audit of the Individuals with Disabilities Education Act (IDEA), Part B requirements at Eastern Navajo Agency (Eastern Navajo) for the period July 1, 2001, through September 30, 2003. Our objective was to determine whether Eastern Navajo administered IDEA, Part B funds in accordance with requirements, laws and regulations, and provided services to eligible children in accordance with each student's Individualized Education Program (IEP).

We provided a draft of this report to the Bureau of Indian Affairs (BIA), Office of Indian Education Programs. In its response to our draft report, BIA officials generally agreed with our recommendations. We have summarized BIA's comments in the body of the report and have included the response as an Attachment to this report.

BACKGROUND

The Department of Education (Department) provides funding from major program grants to the Bureau of Indian Affairs (BIA), an agency within the Department of the Interior. The BIA allocates these funds to elementary and secondary schools operated or funded by the Secretary of the Interior, including tribally operated schools that are funded by the BIA. These grants support students with disabilities and disadvantaged children. The Department provided \$140 million (22 percent) of BIA's school operating funds in 2002. The program funds from the Department have constituted an increasing share of these schools' operating budgets since fiscal year (FY) 1999 (from 18.2 percent to 22 percent in fiscal year 2002). This is due in part to large increases

since 1999 in two major Department programs under which BIA receives funds, IDEA, Part B, and Elementary and Secondary Education Act, Title I (Title I). At BIA funded schools, funds for students with disabilities under IDEA increased by 50 percent, and Title I funds for disadvantaged students increased by 21 percent for fiscal years 1999 through 2002. As the IDEA, Part B appropriation increased, IDEA, Part B funds provided to the Secretary of the Interior have been capped in the FY 2002, 2003, and 2004 appropriation language at the prior year's funding level, plus inflation.

IDEA, Part B requires the Department to provide funds to the Secretary of the Interior to assist in providing special education and related services to children with disabilities. From the amount appropriated for any fiscal year, the Department shall reserve 1.226 percent to provide assistance to the Secretary of the Interior, of which 80 percent is allotted for serving children ages 5 through 21 with disabilities enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The Secretary of the Interior is required to submit information to the Department that it meets the requirements of IDEA. In addition, the Secretary of the Interior will provide several assurances, including an assurance that the Department of the Interior will cooperate with the Department in its exercise of monitoring and oversight requirements.

BIA funded schools are to use 15 percent of the Indian School Equalization Program (ISEP) formula funds generated by their base instructional administration to fund their special education programs. ISEP funds constitute the largest amount of the Department of Interior funds used for school-level administration, such as principals' salaries and administrative assistance, in addition to salaries for teachers, teacher aides, and the cost of materials. If the 15 percent is not sufficient to fund the services needed by all eligible ISEP students with disabilities, then the school may apply for IDEA, Part B funds. Schools must demonstrate need when applying for these funds.

Eastern Navajo, located in Crownpoint, New Mexico, serves as the education line office and administers funds for 16 BIA controlled and two contract schools on the Eastern Navajo Indian Reservation. During our two-year audit period, the BIA disbursed \$9.5 million of IDEA, Part B funds to Eastern Navajo of which \$1,826,655 was disbursed to the two schools we visited, Wingate Elementary and Bread Springs Day School, as follows:

School Year 2001-2002	\$ 812,455
School Year 2002-2003	<u>\$1,014,200</u>
Total	\$1,826,655

For the 2001-2002 school year, Wingate Elementary and Bread Springs Day School had an enrollment of 807 students with 159 classified as disabled; and in the 2002-2003 school year, enrollment was 816 students with 154 classified as disabled. The average amount of IDEA, Part B funds per pupil was \$6,379 in the 2001-2002 school year and \$5,276 in the 2002-2003 school year.

AUDIT RESULTS

Eastern Navajo was unable to demonstrate that these two schools provided the planned special education and related services to 55 percent of the students in our sample in accordance with their IEP.

According to 34 C.F.R. § 300.341(a)(1)(2), The [Secretary of the Interior]¹ shall ensure that each public agency develops and implements an IEP for each eligible child with a disability served by that agency. The IEP must contain certain elements according to 34 C.F.R. § 300.347, including—

(a)(3) A statement of the special education and related services and supplementary aids and services to be provided to the child, . . .

(a)(7)(ii)(A) A statement of how the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress of, . . . Their child's progress toward the annual goals.

Further, 34 C.F.R. § 300.350(a)(1) requires that each public agency must provide special education and related services to a child with a disability in accordance with the child's IEP.

An IEP has several elements, including the child's present level of educational performance, the annual goals and objectives, as well as the direct special education and related services that will be provided to help meet those goals and objectives. The IEP must include a statement of how the parents will be informed of the child's progress, including the extent to which the progress is sufficient to enable the child to achieve the annual goals. However, the progress reports provided to parents do not address the frequency and duration of the services being provided. The frequency and duration of actual services provided should be documented in teachers' attendance records.

Concerning the need to document special education services provided, OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments, Attachment A, Paragraph C.1(a)(b)(j)* (1997) provides that—

To be allowable under Federal awards, costs must . . . Be necessary and reasonable for proper and efficient performance and administration of Federal awards . . . Be allocable to Federal awards . . . Be adequately documented.

To determine whether Wingate Elementary and Bread Springs Day School were providing the required services and documenting those services, we selected a random sample of 25 of 159 students with disabilities in school year 2001-2002 and 28 of 154 students in school year 2002-2003. We found that all of the files contained an IEP, and 52 of the 53 files contained the

¹ The regulations specifically refer to the SEA (State Educational Agency). However, 34 C.F.R. § 300.267 requires the Secretary of the Interior to comply with specific sections of 34 C.F.R. Part 300, including 34 C.F.R. § 300.341.

required progress reports. However, Eastern Navajo could not provide documentation to support that it provided the required special education services to 29 of the 53 students.

We concluded this condition occurred because school officials did not have procedures in place to (1) ensure special education and related services were provided in accordance with each student's IEP, and (2) document that special education and related services were provided to all students with disabilities in accordance with their IEPs.

Based on the high error rate in our sample at Wingate Elementary and Bread Springs Day School, we believe Eastern Navajo may not be able to document that it provided the required special education services to a significant percentage of the students with disabilities during our two-year audit period. The high error rate and lack of documentation indicates that Eastern Navajo has a management system that does not meet the management standards set forth in the regulations. The regulations at 34 C.F.R. § 80.12(a) states that a grantee may be considered "high risk" if an awarding agency determines that a grantee—

- (1) Has a history of unsatisfactory performance, or
- (2) Is not financially stable, or
- (3) Has a management system that does not meet the management standards set forth in this part, or
- (4) Has not conformed to terms and conditions of previous awards, or
- (5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.

RECOMMENDATIONS

We recommend that the Assistant Secretary for Special Education and Rehabilitative Services instruct the Bureau of Indian Affairs to—

1. Obtain assurance from Eastern Navajo officials that the \$9.5 million of IDEA, Part B funds were used to deliver the educational assistance proposed in each of the IEPs for all children with disabilities throughout all 18 schools.
2. Instruct Eastern Navajo to document all special education and related services provided to each current student with disabilities.
3. Submit a corrective action plan, which includes strategies, benchmarks, proposed evidence of change, targets and timelines, to ensure the noncompliance identified in this audit is corrected.

We also recommend that the Assistant Secretary for Special Education and Rehabilitative Services—

4. Evaluate the corrective action plan submitted and determine whether the action proposed will correct the noncompliance identified in this audit.
5. Monitor the corrective action taken and determine if the corrective action was effective. If the corrective action was not effective, determine whether Eastern Navajo should be designated as a high-risk grantee.

BIA'S COMMENTS TO THE DRAFT REPORT

BIA agreed to implement our recommendations. BIA stated, “We believe this response to the Draft Audit Report will prove to be a reasonable and effective set of actions. Documentation is much improved relative to the audited fiscal years. We are fully committed to having complete and accurate documentation for all Part B funded services.” BIA also proposed a corrective action plan that included strategies, benchmarks, targets and timelines to ensure the noncompliance(s) identified in the draft report was corrected.

OIG'S RESPONSE

We reviewed the BIA response to the draft report and the corrective action plan. We believe the proposed corrective actions will address the issue of documenting services provided to children with disabilities.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to determine whether Eastern Navajo administered IDEA, Part B funds in accordance with requirements, laws and regulations,² and provided services to eligible children in accordance with each student's IEP.

To accomplish our objective, we—

- Reviewed Eastern Navajo's Special Education application and budget;
- Reviewed detailed expense reports and payroll information regarding IDEA, Part B expenditures. We compared the information to budget information and performed reasonableness tests on the information provided;
- Reviewed Eastern Navajo's Organizational Chart;

² Code of Federal Regulations 34 Part 300 to 399 revised as of July 1, 2002.

- Interviewed various Eastern Navajo employees and Department of Interior/ BIA officials;
- Selected two schools for a site visit. Wingate was selected because it has the largest student enrollment, and Bread Springs has the highest expenditure per student;
- Reviewed the student rosters of both schools for the 2001-2002 and 2002-2003 school years; and
- Randomly selected and reviewed files for 53 disabled students—25 students in school year 2001-2002, and 28 students in school year 2002-2003. We reviewed 10% of the student files at Wingate and 100% of the student files at Bread Springs due to the small number of students requiring special education services. We reviewed IEPs, progress reports, and a list of services to be provided. We then compared the list of services to supporting documentation (i.e. teacher attendance books, special education providers attendance books, and other relevant documentation).

We relied upon the computerized student roster lists provided by Eastern Navajo officials to select our sample. We tested the student roster lists for accuracy and completeness by comparing selected source records to the roster list. Based on this test, we concluded the student roster list was sufficiently reliable to be used for the sample population.

We conducted our fieldwork at Eastern Navajo Agency in Crownpoint, New Mexico, and at Bread Springs Day School and Wingate Elementary both near Gallup, New Mexico, on January 27 through February 3, 2004. We discussed the results of our audit with Eastern Navajo officials on February 3, 2004. An exit conference was held with BIA officials on April 27, 2004.

Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of audit described above.

STATEMENT ON INTERNAL CONTROLS

As part of our review, we assessed Eastern Navajo's system of internal controls, policies, and procedures applicable to providing special education services to children with disabilities. Because of inherent limitations, a study and evaluation made for the limited purposes described above would not necessarily disclose all material weaknesses in the internal controls. However, our review identified that Eastern Navajo needs to improve its internal controls related to documenting special education and related services provided to children with disabilities in accordance with each child's IEP. Those weaknesses and their effects are discussed in the AUDIT RESULTS section of this report.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department officials, who will consider them before taking final Departmental action on the audit:

Troy Justesen, Ed.D.
Acting Assistant Secretary
Office of Special Education and Rehabilitative Services
U.S. Department of Education
Federal Building No. 6, Room 3W315
400 Maryland Avenue, SW
Washington, DC 20202

It is the policy of the U.S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

In accordance with Freedom of Information Act (5 U.S.C §552), reports issued by the Office of Inspector General are available, if requested; to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

Jon E. Kucholtz /s/ (for)
Sherri L. Demmel
Regional Inspector General
for Audit

Attachment



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

OCT 20 2004

Sherri L. Demmel
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
1999 Bryan Street, Suite 2630
Dallas, Texas 75201-6817

Dear Ms. Demmel:

This letter is written in response to the results of the Office of Inspector General Audit of the Individuals with Disabilities Education Act (IDEA), Part B requirements at Eastern Navajo Agency (Eastern Navajo) for the period July 1, 2001 through September 30, 2003. As stated in your letter, the objective was to determine whether Eastern Navajo administered IDEA, Part B funds in accordance with requirements, laws and regulations, and whether they provided services to eligible children in accordance with the student's Individualized Education Program (IEP).

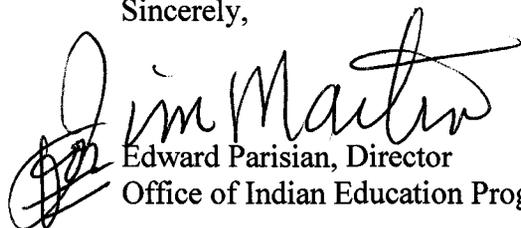
The audit report suggests that the schools (Wingate Elementary and Bread Springs Day School) were not providing the required services and documenting those services. A random sample of 25 of 159 students with disabilities in school year 2001-2002 and 28 of 154 students in school year 2002-2003 were audited. It was found that all files contained an IEP, and 52 of the 53 files contained the required progress reports. However, Eastern Navajo could not provide documentation to support that it provided the required special education services to 29 of the 53 students.

The Office of Indian Education Program's (OIEP) response is as follows: The system Eastern Navajo Agency has in place for monitoring the documentation of obligated services rendered have proven to be inadequate. The system collects service log data from all ancillary service providers (e.g., school psychologists, speech pathologists, occupational therapists, and etc.). This system was in place during the IG audit but did not have data for the fiscal years in question. The data is collected on a database on a monthly basis and is supported by a written service provider log.

Enclosed is a corrective action plan that includes strategies, benchmarks, targets and timelines to ensure the noncompliance(s) identified in this audit is corrected.

We believe this response to the Draft Audit Report will prove to be a reasonable and effective set of actions. Documentation is already much improved relative to the audited fiscal years. We are fully committed to having complete and accurate documentation for all Part B funded services.

Sincerely,


Edward Parisian, Director
Office of Indian Education Programs

Enclosures

Action Plan

Finding 1: *Obtain assurance from Eastern Navajo officials that the \$9.5 million of IDEA, Part B funds were used to deliver the educational assistance proposed in each of the IEPs for all children with disabilities throughout all 18 schools.*

Improvement Strategy	Benchmarks	Timelines	Resources	Validation
<p>A written assurance will be obtained through the Center for School Improvement, indicating that the \$9.5 million of IDEA, Part B funds were used to deliver the educational assistance proposed in each of the IEPs for all children with disabilities throughout all 18 schools.</p> <p>1. The Center for School Improvement will request:</p> <ul style="list-style-type: none"> a) IDEA Part B budget spreadsheets from Eastern Navajo Agency and all 18 schools for SY 01-02 and SY 02-02; AND b) Attendance records of related service provider, inclusion teachers, resource room teachers, and pull-out providers. 	<p>2004 IG Audit</p>	<p>a) November 15, 04</p>	<p>Eastern Navajo Agency Staff</p>	<p>Written Assurance</p>

