



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 13, 2018

Ms. Tara Sweeney
Assistant Secretary – Indian Affairs
U.S. Department of the Interior
1849 C Street, NW
MS-4660-MIB
Washington, DC 20240

Dear Assistant Secretary Sweeney:

This letter is being sent on behalf of the U. S. Department of Education's (Department) Office of Elementary and Secondary Education (OESE), the Office of Special Education and Rehabilitative Services (OSERS), and Risk Management Services (RMS). We want to congratulate you on your new position and look forward to working with you and your staff. OESE and OSERS administer, respectively, the Department's two main formula grants for States, Title I, under the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act, and the Individuals with Disabilities Education Act (IDEA). The Bureau of Indian Education (BIE) receives these grants for the Department of the Interior, and functions as the State Educational Agency in administering the grants. As you are aware, the Department has a fiduciary responsibility to ensure the programs we administer and the funds we entrust to our grantees are utilized in a manner that is consistent with the requirements of each program. The BIE's timely performance has been the subject of numerous conversations between BIE staff and Department staff.

ESEA section 8204(c) required the BIE to have regulations to govern standards, assessments, and accountability by school year (SY) 2017-2018; the BIE did not do so and was given an extension until SY 2018-2019 to meet these requirements. The Department took action against BIE on December 11, 2017, to withhold the administrative portion of the Title I, Part A funds in response to the BIE's lack of progress in complying with the statutory requirement. Although the BIE has made some progress, and the Department has restored these funds, the Department remains concerned with the BIE's timeline. It is our expectation that the BIE not only establish regulations by the start of SY 2019-2020, but that it fully implements the new standards, assessments, and an accountability system.

In addition, under IDEA, grantees must submit an approvable annual application before the funds can be released. The Federal fiscal year 2018 IDEA Part B Grant application was due on May 18, 2018 to allow the funds to be obligated and available to the grantees on July 1, 2018. The BIE did not submit its application until July 13, 2018 resulting in a delay in the release of the \$96 million allocated to the BIE, its schools and students.

The issues with BIE's performance are not isolated concerns: the Department has worked closely with the BIE since at least 2005, when the Program Improvement and Accountability Plan (now known as the Corrective Action Plan or CAP), was first developed to address concerns with

compliance with both ESEA and IDEA and the performance of Indian students attending BIE funded schools. Addressing these concerns in an effective manner relies upon receiving timely submissions of complete quarterly CAP reports.

As we enter a new school year, the Department is growing increasingly concerned with the receipt of complete and timely CAP submissions. In SY 2017-18, the first and second quarter CAP reports were submitted concurrently on January 12, 2018 (due on October 31), the third quarter report was submitted on June 20, 2018 (due on April 30), and the fourth quarter report, due on July 31, was submitted on August 31, 2018. The Department is interested in working with you to ensure timely submissions of these CAP reports, and as a reminder, CAP submissions are due on October 31, January 31, April 30 and July 31, every year. For IDEA, the timely submission of quarterly CAP reports is required by the Specific Conditions that are attached to the IDEA Part B Grant Award.

Please note, the BIE remains on corrective action for certain Title I program requirements because it has not completed all corrective actions. The BIE must continue to submit the quarterly CAP detailing its progress in rectifying programmatic deficiencies.

We are hopeful that, under your leadership, the BIE will be able to submit all required documentation, reports and applications in a timely fashion in the coming year. The Department may take action against the BIE if it fails to comply with the requirements. We are happy to meet with you to discuss any questions or concerns that you may have. Specific questions regarding ESEA may be addressed to Robert Salley at Robert.salley@ed.gov, and regarding IDEA to Dr. Josiah Willey at Josiah.Willey@ed.gov. Once again, thank you for your support and cooperation.

Sincerely,

/s/

Frank T. Brogan,
Assistant Secretary
Office of Elementary and Secondary Education

/s/

Johnny W. Collett
Assistant Secretary
Office of Special Education and Rehabilitative Services

/s/

Margo K. Anderson
Director
Risk Management Service
Office of the Deputy Secretary

cc: Tony Dearman, Director of the BIE
Jeffrey Hamley, Associate Deputy Director of the BIE