

Archived Information

Enclosure A

SPECIAL CONDITIONS

1. Basis for Requiring Special Conditions

The requirements that States ensure that children with disabilities participate in State and district-wide assessment systems; develop and administer alternate assessments, if necessary; and report publicly on the participation and performance of children with disabilities in State and district-wide assessments are crucial to ensuring that children with disabilities are provided access to high-quality instruction in the general curriculum, and that States and districts are held accountable for the progress of these children. 20 U.S.C. 1412(a)(16)-(17); 34 CFR §§300.137-300.139. The requirements regarding performance goals and indicators and the participation of children with disabilities in, and reporting on participation and performance of children with disabilities in regular assessments have been in effect since July 1, 1998; the requirements regarding reporting on alternate assessments have been in effect since July 1, 2000. According to the information reported to the Department in the BIA's Biennial Performance Report for the 2000-2001 school year, the BIA was not reporting publicly on the participation and performance of children with disabilities in State and district-wide alternate assessments as required by Part B of the Individuals with Disabilities Education Act (IDEA).

Therefore, the Department determined that the Bureau of Indian Affairs had not complied with all the terms and conditions of the Federal Fiscal Year 2001 awards under Part B of IDEA, and, under the authority of the Education Department General Administrative Regulations, 34 CFR §80.12, the Department imposed Special Conditions on BIA's Federal Fiscal Year 2003 awards under Part B. Those Special Conditions required that BIA demonstrate, by May 30, 2004, that it was reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a). The BIA did not meet that timeline and has not yet met the requirements of 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a). Specifically, OSEP determined that the BIA is not reporting publicly on the participation and performance of children with disabilities in State and district-wide alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139. In addition, it has come to our attention that the BIA is not reporting publicly on the number of children with disabilities participating in regular assessments. Although the BIA reported by grade level and content area (math and reading) in its FFY 2002 Annual Performance Report (APR), submitted to OSEP on March 31, 2004, on the participation and performance of children with disabilities on the regular assessment and the alternate assessment, the BIA has not reported publicly on its website on the participation and performance of children with disabilities on the alternate assessment and on the number of children with disabilities participating in the regular assessment. The website does include the performance results of children with disabilities who participated in the regular assessment.

In the Annual Report posted on BIA's website, the BIA did not include the number of children with disabilities who took the regular assessment and the number of children with disabilities who took the alternate assessment. Second, the BIA did not report the performance results of children with disabilities who took the alternate assessment. When this information is added to the website, the BIA must ensure that it reports to the public with the same frequency and in the same detail as it reports on the assessment for nondisabled children.

2. Nature of the Special Conditions

By May 31, 2005, the BIA must demonstrate that it is reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments and on the participation of children with disabilities in regular assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a). The BIA must submit information on reporting publicly on the participation and performance of children with disabilities in alternate assessments and the participation of children with disabilities in regular assessments. This information is to be submitted on the Annual Performance Report format provided by OSEP. (This format is available at [http://www.ed.gov/offices/OSERS/OSEP/Monitoring/.](http://www.ed.gov/offices/OSERS/OSEP/Monitoring/))

- a. Submit to OSEP by October 1, 2004, a written plan detailing the steps and timelines for reporting publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments and the participation of children with disabilities on regular assessments by May 31, 2005. The plan must ensure that students with disabilities, including students who take the alternate assessment, are assessed in the same grades as nondisabled students and that their participation in such assessments and the results of their assessments are reported in the same frequency and detail as nondisabled students.
- b. Submit progress reports on January 7, 2005, March 31, 2005, and the final submission due on May 31, 2005. The final submission that includes information on reporting publicly on the participation and performance of children with disabilities in alternate assessments and on the participation of children with disabilities in regular assessments is to be submitted on the Annual Performance Report format provided by OSEP. (This format is available at [http://www.ed.gov/offices/OSERS/OSEP/Monitoring/.](http://www.ed.gov/offices/OSERS/OSEP/Monitoring/))

3. Evidence Necessary for Conditions To Be Removed

The Department will remove the special conditions if, at any time prior to the expiration of the grant year, the BIA provides documentation, satisfactory to the Department, that it has fully met the requirements to report publicly on the participation and performance of children with disabilities in alternate assessments and the participation of children with disabilities in regular assessments. This information is to be submitted on the Annual

Performance Report format provided by OSEP. (This format is available at [http://www.ed.gov/offices/OSERS/SEP/Monitoring/.](http://www.ed.gov/offices/OSERS/SEP/Monitoring/))

4. Method of Requesting Reconsideration

The BIA can write to Assistant Deputy Secretary Troy Justesen if it wishes the Department to reconsider any aspect of these Special Conditions. Any request of this sort should describe in detail the changes to the Special Conditions sought by the State and the reasons for those requested changes.

5. Submission of Reports

All reports that are required to be submitted by the BIA to the Department under the Special Conditions should be submitted to:

Tony G. Williams
Office of Special Education Programs
U.S. Department of Education
550 12th Street, SW 4-027
Washington, DC 20204