

Enclosure B

Specific Conditions

1. Basis for Requiring Specific Conditions

Pursuant to section 611(h)(2)(F) of Part B of the Individuals with Disabilities Education Act (IDEA), the Office of Special Education Programs (OSEP) is imposing Specific Conditions¹ on the Bureau of Indian Education's (BIE) Federal fiscal year (FFY) 2018 grant award under Part B of the IDEA. OSEP is imposing these Specific Conditions because of: (1) the BIE's failure to complete all of the corrective actions contained in Section C of the Corrective Action Plan (CAP), formerly known as the Program Improvement and Accountability Plan (PIAP); (2) the BIE's continued low level of compliance under IDEA Part B Compliance Indicator 13 (related to secondary transition requirements); and (3) the BIE's 2018 Part B Results Driven Accountability (RDA) score of '0' for its data on the percentage of children with disabilities exiting school by dropping out and the percentage of children with disabilities exiting school by graduating with a regular high school diploma. The objective of Section C of the CAP is to ensure the BIE provides a free appropriate public education (FAPE) to all eligible students in all BIE-funded schools.

In response to serious concerns raised in 2005 by the U.S. Department of Education (Department) concerning the BIE's administration of Elementary and Secondary Education Act (ESEA) and IDEA programs, the Department of the Interior (Interior) developed the PIAP. The PIAP was Interior's plan for meeting the statutory requirements set forth in ESEA and IDEA for properly managing Federal funds, improving the achievement levels of Indian students, and meeting the responsibilities for accountability that ESEA and IDEA have established. The BIE has been submitting quarterly reports to the Department on its progress in implementing the PIAP, and the BIE and the Department have been meeting quarterly to discuss the BIE's progress in implementing the PIAP's corrective actions.

Because of the lack of satisfactory progress in implementing the PIAP, the Department placed Special Conditions on Interior's receipt of all FFY 2007 and FFY 2008 ESEA and IDEA funds the Department provided to Interior. As part of the Special Conditions, the Department imposed requirements regarding further PIAP reporting and submission of supporting documentation that would enable Interior to demonstrate full compliance with the requirements of ESEA and IDEA. In FFYs 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017, OSEP imposed program-specific Special Conditions on the grant award under Part B of the IDEA, because the BIE had not completed all of the corrective actions contained in Section C of the PIAP. At Interior's request, the PIAP's name was formally changed to the CAP during the 2013-2014 school year.

At this time, the BIE has not documented completion of all of the corrective actions contained in Section C of the 2017-2018 CAP.

¹ Pursuant to the requirements in 2 CFR §200.207, the term "Specific Condition" is used, rather than "Special Condition," for FFY 2018 IDEA Part B grant awards that are issued subject to additional requirements. In this letter, the term "Special Condition" 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.

Fiscal Monitoring: The BIE has not demonstrated sufficient progress in fiscal monitoring. Specifically, the BIE has not submitted copies of fiscal monitoring reports issued to schools (in accordance with Milestone C.4.2.2); the BIE has not submitted evidence of correction of findings of noncompliance related to fiscal requirements that are timely corrected, and the number of findings of noncompliance related to fiscal requirements that are corrected more than one year after the BIE’s identification of noncompliance (in accordance with Milestone C.4.2.3); and the BIE has not submitted evidence that it has verified that schools are correcting fiscal noncompliance when identified through self-assessments and document reviews (in accordance with Milestone C.4.2.4). Therefore, the BIE has not ensured the appropriate use of Part B funds allocated under IDEA section 611(h)(1)(A), as required by IDEA sections 611(h)(2)(A) and (F), 612(a)(11), 613(a)(2)(A)(i), and 616; 34 CFR §§300.149, 300.600, 300.708, and 300.716; 20 U.S.C. §1232d(b)(3)(E); and in OSEP’s verification letter dated May 26, 2010. As a result, OSEP is maintaining the Specific Condition requiring the BIE to implement a fiscal monitoring system to ensure that BIE-operated and tribally-operated schools are ensuring the appropriate use of IDEA Part B funds.

Dispute Resolution Timelines: The documentation the BIE has submitted does not sufficiently demonstrate that the BIE’s procedures ensure that State complaints are resolved consistent with IDEA requirements and timelines (in accordance with Milestone C.5.1.1). This milestone was added to the BIE’s 2013-2014 Special Conditions as a result of OSEP’s finding, as identified in OSEP’s September 7, 2012 and February 19, 2013 letters, that the BIE was not in compliance with the State complaint requirements contained in 34 CFR §300.152. The data the BIE provided in its quarterly reports for the 2017-2018 CAP demonstrated continued noncompliance in meeting the State complaint requirements in 34 CFR §300.152. Specifically, the BIE has not ensured that State complaints are resolved within the 60-day timeline (or an appropriately extended timeline under 34 CFR §300.152(b)(1)), consistent with 34 CFR §300.152. For example, in the BIE’s third quarterly progress report for the 2017-2018 CAP, submitted on June 19, 2018, the BIE reported that one State complaint filed on January 16, 2018 was settled in resolution and pending withdrawal, and three State complaints filed on February 20, February 22, and March 21, 2018, were still pending. As a result, OSEP is maintaining the Specific Condition requiring that the BIE report on State complaint timelines.

Data Procedures and Processes: Although the BIE has demonstrated improvement in its data submissions under both sections 616 and 618 of the IDEA, OSEP continues to have concerns regarding data quality.

First, pursuant to section 616(b)(2)(B) of the IDEA, the BIE is required to collect valid and reliable information as needed to report annually to the Secretary of Education (Secretary) on the priority areas described in section 616(a)(3). Beginning with its FFY 2011 State Performance Plan (SPP)/Annual Performance Report (APR) submitted on February 1, 2013, the BIE has either failed to submit data or submitted incomplete data for Indicator 3A, the percent of districts with a disability subgroup that meets the BIE’s minimum “n” size that meet the BIE’s Adequate Yearly Progress (AYP)/Annual Measurable Objectives (AMO) targets for the disability subgroup. In addition, in its FFY 2013 and FFY 2014 SPP/APRs, the BIE failed to submit data for Indicators 3B (the participation rate for children with individualized education programs (IEPs) on Statewide assessments) and 3C (the proficiency rate for children with IEPs against grade level, modified, and alternate academic achievement

standards) for FFY 2013 and FFY 2014, respectively; and although the BIE provided FFY 2016 data for Indicators 3B and 3C in its FFY 2016 SPP/APR, those data constitute only partial data from 10 of 23 States and therefore are not valid and reliable. However, the Department is no longer requiring the BIE to submit the missing AYP data and assessment data for reporting under Title I of the ESEA for FFYs prior to FFY 2016. As a result, although OSEP's responses to the BIE's prior SPP/APRs required the submission of all of the missing data for Indicators 3A, 3B, and 3C, OSEP's response to the BIE's FFY 2016 SPP/APR is not requiring the submission of the missing data for Indicators 3A, 3B, and 3C, for FFYs prior to FFY 2016, because the data source for Indicator 3A is AYP data used for reporting under Title I of the ESEA, and for Indicators 3B and 3C is assessment data used for reporting under Title I of the ESEA. However, the BIE is required to submit the missing data for Indicators 3B and 3C for FFY 2016, along with the required data for FFY 2017, in its FFY 2017 SPP/APR, due February 1, 2019.

Second, under section 618 of the IDEA, each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public, on information specified in the statute and any other information that may be required by the Secretary. There are eight section 618 data collections under Part B: (1) Child Count; (2) Educational Environment; (3) Personnel; (4) Exiting; (5) Discipline; (6) Assessment; (7) Dispute Resolution; and (8) Local Educational Agency Maintenance of Effort Reduction and Coordinated Early Intervening Services (LEA MOE Reduction and CEIS).

The BIE was on time and mostly complete with its submission of the School Year (SY) 2016-17 Personnel, Exiting, Discipline, and Dispute Resolution data, but there were errors that have not yet been verified as corrected. Additionally, although the BIE's FFY 2016 LEA MOE Reduction and CEIS submission was timely and complete, it must be resubmitted due to data quality concerns. The resubmission period for that data submission will be open from July 23, 2018 to August 22, 2018. The BIE's SY 2017-18 Child Count and Educational Environment data submissions were on time and accurate, but were marked as "not complete"; the resubmission period for those data submissions was open until July 11, 2018, so the BIE had the option to resubmit those data to address the data quality inquiry. Without appropriate corrections or explanations, the data will not meet the data quality standards for publication and will be excluded from the publicly released IDEA section 618 data files.

Further, the BIE failed to publicly report on the assessment of students with disabilities in the same manner and frequency as it reports on the assessment of students without disabilities, as required under 34 CFR §300.160(f), for six years in a row – 2013, 2014, 2015, 2016, 2017 and 2018– as noted in OSEP's Responses to the BIE's FFYs 2011, 2012, 2013, 2014, 2015, and 2016 SPP/APRs, respectively. As a result of the BIE's repeated failures to comply with all of the above IDEA data submission requirements, OSEP is maintaining the Specific Condition related to data procedures and processes on the BIE's FFY 2018 Part B grant award.

Secondary Transition: Finally, in its FFY 2016 SPP/APR, the BIE continued to report a very low level of compliance under Part B Compliance Indicator 13, which is related to secondary transition requirements. Under Indicator 13, the BIE was required to provide data on the percent of youth with 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, as required by IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §300.320(b). 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, consistent with 34 CFR §300.321(b). The BIE reported 14.98% compliance under Indicator 13 in its FFY 2016 SPP/APR, which represents a significant decline from the 80.40% compliance the BIE reported in its FFY 2015 SPP/APR. In its FFY 2016 SPP/APR, the BIE attributed this slippage to the increased "rigor of the data collection system for Part B Indicator 13...and more explicit guidance regarding compliance for individual components" of the indicator.

Indicator 13 is integral to the BIE's State Systemic Improvement Plan (SSIP), which has been a positive project for the BIE and the students it serves and also represents a significant financial investment by the BIE. While OSEP recognizes the BIE's efforts to increase the validity and reliability of data it reports under Indicator 13, the data itself is extremely low and raises serious concerns about the BIE's compliance with secondary transition requirements. Therefore, due to the continued low level of compliance for this Indicator, OSEP is maintaining the Specific Condition related to secondary transition on the BIE's FFY 2018 Part B grant award. In addition, as directed in OSEP's June 28, 2018² determination letter, because the BIE's very low performance under Indicator 13 contributed to the BIE's 2018 Needs Intervention determination under section 616 of the IDEA (see section 2 below), OSEP is directing the use of \$300,000 of the BIE's administrative funds under IDEA section 611(h)(1)(A) and 34 CFR §300.710(a) for use in improving the BIE's collection of secondary transition data and compliance with the requirements for secondary transition, pursuant to IDEA section 616(e)(1)(B) and (e)(2)(A).

2. BIE's 2018 Part B Results Driven Accountability (RDA) Needs Intervention Determination:

As a result of the BIE's 2018 Part B RDA Percentage of 15 percent, the BIE received a "needs intervention" determination in 2018 for the seventh consecutive year. Major factors that contributed to this determination include: (1) the BIE's very low compliance data reported for Indicator 13 (secondary transition); (2) scores of zero on the following results elements in the Part B Results Matrix issued with the Department's June 28, 2018 determination letter (Part B Results Matrix) that reflect: (a) not valid and reliable data on the participation of the BIE's third through eighth grade children with disabilities on regular Statewide assessments for reading; (b) the percentage of children with disabilities who exited an educational program through receipt of a regular high school diploma; and (c) the percentage of children with disabilities who exited an educational program by dropping out of school; and (3) the BIE's longstanding noncompliance (i.e., the Department has imposed Special Conditions on the BIE's last three (FFYs 2015, 2016, and 2017) IDEA Part B grant awards, and those Special Conditions are in effect at the time of the 2018 determination).

² A revised determination letter, reflecting the correct RDA Percentage of 15 percent, was issued on July 18, 2018 date.

2018 Enforcement Action:

The Department's June 28, 2018 determination letter requires the BIE, pursuant to IDEA section 616(e)(2)(B)(i), to submit a corrective action plan (CAP) that is reasonably designed to correct the major areas of noncompliance that contributed to the BIE's Needs Intervention determination. In addition to submitting a CAP, pursuant to IDEA section 616(e)(1)(B) and (e)(2)(A), the Department has directed the BIE to use \$300,000 of its FFY 2018 Part B administrative funds under IDEA section 611(h)(1)(A) and 34 CFR §300.710(a) to address noncompliance with secondary transition requirements and to improve the accuracy of its secondary transition data. The BIE must develop, implement, and report progress on, a spending plan to expend the 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 IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b) and that are reasonably designed to correct that noncompliance and improve the accuracy of the data. No later than September 1, 2018, the BIE must submit, along with its proposed spending plan, a report of the BIE's FFY 2017 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. (See subparagraphs 3.C and 3.D below for detailed requirements.) In addition to the directed use of funds, pursuant to IDEA section 616(e)(1)(A) and (e)(2)(A), the Department has advised the BIE of available sources of technical assistance and directed the BIE to access technical assistance related to the exiting data elements for which the BIE received a score of zero on the Part B Results Matrix.

In addition, the BIE must submit a corrective action plan that ensures that it can meet, by the end of the fourth quarterly reporting period for the 2018-2019 school year under Section C of the CAP, all of the Specific Conditions that are being imposed on its FFY 2018 IDEA Part B grant award. 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 IDEA section 611(h)(1)(A); (2) demonstrate compliance with the timeline requirements for resolving State complaints under 34 CFR §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 CFR §300.160(f); (4) demonstrate compliance with the secondary transition requirements in IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b); and (5) demonstrate how the directed FFY 2018 Part B administrative funds will be used to address noncompliance with the secondary transition requirements and improve the accuracy of the data, and provide evidence of the use of those directed funds.

In addition, with its FFY 2017 SPP/APR, due on February 1, 2019, the BIE must report on the sources from which it received technical assistance on the exiting data elements for which the BIE received a score of zero on the Part B Results Matrix and the actions the BIE will take as a result of that technical assistance.

The BIE must submit its corrective action plan for 2018-2019 and its final quarterly progress report on Section C of the 2017-2018 CAP, both due on July 31, 2018, and quarterly progress reports on the 2018-2019 CAP in accordance with the reporting and timeline requirements

specified in the Specific Conditions that OSEP is imposing on the BIE's FFY 2018 IDEA Part B grant award.

3. Nature of the Specific Conditions

Based on the enforcement actions resulting from the BIE's 2018 Needs Intervention determination, and on OSEP's review of the BIE's first through third quarterly reports on Section C of the 2017-2018 CAP, ending with the quarter ending March 31, 2018, OSEP has determined that it is necessary to impose the following Specific Conditions.

A. Final Report on Section C of the 2017-2018 CAP: The BIE must submit to the Department by July 31, 2018, its final report on Section C of the CAP for the 2017-2018 school year. This report covers April 1, 2018 through June 30, 2018. The report must contain: (a) the status of each task, subtask, and milestone scheduled to be completed; (b) the BIE's supporting documentation regarding completion of these tasks, subtasks, and milestones, including an explanation of any delays and expected completion dates for all unimplemented actions; and (c) other data or documentation as the Department may request in order to verify the completion of tasks, subtasks and milestones.

B. Submission of Section C of the 2018-2019 CAP: The BIE must submit the 2018-2019 CAP by July 31, 2018. The 2018-2019 CAP must include the tasks, subtasks, milestones, and performance metrics described in subparagraph 3.E below.

C. Required Report on Disaggregated FFY 2017 Secondary Transition Data (Indicator 13): No later than October 1, 2018, the BIE must provide the following:

(a) A report of the BIE's secondary transition compliance data for the period July 1, 2017 through June 30, 2018, disaggregated by:

(i) compliance item (i.e., each particular component of the secondary transition requirements associated with SPP/APR Indicator 13 – for example, whether there is evidence that the student was invited to the IEP Team meeting where transition services are to be discussed); and

(ii) BIE-funded school.

(b) The BIE's analysis of the disaggregated data, including suspected or known reasons for any noncompliance.

NOTE: The BIE must ensure that its proposed spending plan for the use of the directed FFY 2018 Part B administrative funds includes strategies and activities that are specifically designed to address the suspected or known reasons for any noncompliance and to focus on the specific BIE-funded schools that continue to report low performance on particular compliance items or secondary transition requirements in general.

D. Submission of Spending Plan for Use of Directed Funds: The BIE must submit, by October 1, 2018, a proposed spending plan that demonstrates how it will use \$300,000 of its FFY 2018 Part B administrative funds to pay for strategies and activities that address the suspected or known reasons for the noncompliance with secondary transition requirements and that are reasonably designed to correct that noncompliance and improve the accuracy of the data. The BIE's proposed 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 funds will be used by July 1, 2019; and (4) an explanation of how the activities will result in improved compliance with secondary transition requirements and improved accuracy of data. The BIE must also describe the documentation it will provide to demonstrate funds were used in accordance with its FFY 2018 spending plan. In addition, to ensure that the BIE can increase compliance with the secondary transition requirements and improve data accuracy within one year, the BIE must expedite the use of the directed FFY 2018 *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 2017 secondary transition data.

E. Implementation of Section C of the 2018-2019 CAP and Reporting Requirements:

The BIE must implement Section C of the 2018-2019 CAP, which covers the period between July 1, 2018, and June 30, 2019, until all corrective actions have been implemented. To ensure progress, the BIE must provide the Department with quarterly progress reports, which will be due to the Department 30 days after the end of each quarter. Each quarterly report will contain:

- (a) a description of activities and progress for each milestone, as described in the performance metric, during the reporting period;
- (b) the status of each milestone scheduled to be completed during the reporting period along with specific completion dates for all tasks, subtasks, and key milestones;
- (c) supporting documentation regarding completion of the milestones, including explanation of any delays and expected completion dates for all unimplemented actions;
- (d) updates to ensure that progress for previously completed tasks, subtasks and milestones is sustained; and
- (e) other data or documentation as the Department may request in order to verify the completion of tasks, subtasks and milestones.

When 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 directed funds, the BIE shall include data and other required information for the reporting periods reflected below, unless otherwise specified:

	Due Date	Reporting Period
Final Quarterly Progress Report for Section C of 2017-2018 CAP	July 31, 2018	April 1, 2018– June 30, 2018
Section C of the 2018-2019 CAP	July 31, 2018	July 1, 2018–June 30, 2019
Report on and Analysis of Disaggregated FFY 2017 Secondary Transition Data	October 1, 2018	July 1, 2017–June 30, 2018

	Due Date	Reporting Period
Proposed spending plan that demonstrates how the BIE will use \$300,000 of its FFY 2018 Part B administrative funds to address noncompliance with the secondary transition requirements and to improve accuracy of data	October 1, 2018	July 1, 2018–June 30, 2019
First Quarterly Progress Report for Section C of 2018-2019 CAP and a report on the BIE's FFY 2018 Part B administrative funds used from July 1, 2018 through September 30, 2018, to carry out the activities in the BIE's spending plan	October 31, 2018	July 1, 2018–September 30, 2018
Second Quarterly Progress Report for Section C of 2018-2019 CAP and a report on the BIE's FFY 2018 Part B administrative funds used from October 1, 2018 through December 31, 2018, to carry out the activities in the BIE's spending plan	January 31, 2019	October 1, 2018–December 31, 2018
FFY 2017 SPP/APR	February 1, 2019	July 1, 2017–June 30, 2018
Third Quarterly Progress Report for Section C of 2018-2019 CAP and a report on the BIE's FFY 2018 Part B administrative funds used from January 1, 2019 through March 31, 2019, to carry out the activities in the BIE's spending plan	April 30, 2019	January 1, 2019–March 31, 2019
Final Quarterly Progress Report for Section C of 2018-2019 CAP and a report on the BIE's FFY 2018 Part B administrative funds used from April 1, 2019 through June 30, 2019, to carry out the activities in the BIE's spending plan	July 31, 2019	April 1, 2019–June 30, 2019

Section C of the 2018-2019 CAP must include the tasks, subtasks, milestones, and performance metrics described below.

Task C.4.0: Conduct School Monitoring.

Subtask C.4.2 (Fiscal Monitoring): Implement fiscal monitoring system to ensure that BIE-operated schools and tribally-operated schools are ensuring the appropriate use of IDEA Part B funds.

Milestone C.4.2.1: Implement adequate fiscal monitoring procedures.

Performance Metric:

- (a) Report on the implementation of fiscal monitoring procedures, including communications with schools, both before and after monitoring visits, technical assistance provided to the schools, and any barriers to effective fiscal monitoring of and support to the schools.
- (b) Provide updated fiscal monitoring procedures, if changes are made.

Milestone C.4.2.2: Issue fiscal monitoring reports.

Performance Metric:

Provide copies of fiscal monitoring reports issued to schools.

Milestone C.4.2.3: Ensure timely correction of findings of noncompliance identified in fiscal monitoring reports.

Performance Metric:

Report the number of findings of noncompliance related to fiscal requirements that are timely corrected, and the number of findings of noncompliance related to fiscal requirements that are corrected more than one year after the State's identification of noncompliance; and provide evidence of correction.

Milestone C.4.2.4: Ensure verification of correction of noncompliance related to fiscal requirements for which no written findings are issued.

Performance Metric:

Report instances of noncompliance related to fiscal requirements, identified through self-assessments and document reviews, for which the BIE does not issue a written finding; and evidence that the BIE has verified the school corrected the noncompliance.

Task C.5.0: Conduct Dispute Resolution Processes in Accordance With IDEA Requirements and Timelines.

Subtask C.5.1 (State Complaints): Implement procedures to ensure compliance with State complaint requirements contained in 34 CFR §300.152(a) and (b).

Milestone C.5.1.1: Ensure that State complaints are resolved within the 60-day timeline or an appropriately extended timeline due to the exceptional circumstances with respect to the particular complaint or because the parent (or individual or organization) and the public agency

agree to extend the time to engage in mediation or other alternative means of dispute resolution, if available in the State, consistent with 34 CFR §300.152(a) and (b).

Performance Metric:

Provide a listing of State complaints, including the date the complaint was filed and the date the written decision was issued.

Task C.6.0: Collect and Report Data to the Secretary and the Public in Accordance With the Requirements of Sections 612, 616, and 618 of the IDEA.

Subtask C.6.1 (Data Procedures and Processes): Develop and implement procedures to collect and report valid and reliable data required under sections 616 and 618 of the IDEA in a timely fashion.

Milestone C.6.1.1: Follow guidance of the Partner Support Center (PSC) and seek its assistance as needed.

Performance Metric:

Submit evidence of any contacts with PSC.

Milestone C.6.1.2: Develop protocols, procedures and governance to ensure the collection and reporting of valid and reliable data required under sections 616 and 618 of the IDEA in a timely fashion.

Performance Metric:

Provide protocols, procedures and governance for the collection and reporting of data required under sections 616 and 618 of the IDEA.

Subtask C.6.2 (Section 616 Data): Develop and implement procedures to ensure that all section 616 data required in the SPP/APR are valid and reliable and reported in a timely fashion.

Milestone C.6.2.1: Report valid and reliable data for Indicators 3B and 3C for FFY 2016 in the FFY 2017 SPP/APR, due on February 1, 2019.

Milestone C.6.2.2: Report valid and reliable data for all Indicators for FFY 2017 in the FFY 2017 SPP/APR, due on February 1, 2019.

Performance Metric:

Provide the required data for all SPP/APR indicators in the FFY 2017 SPP/APR.

Subtask C.6.3 (Section 618 Data): Develop and implement procedures to ensure that all section 618 data required are valid and reliable, and reported in a timely fashion.

Milestone C.6.3.1: Report valid and reliable data for the IDEA Section 618 data collections to ED Facts Submission System (ESS) for SY 2017-18 Personnel, SY 2017-18 Exiting, and SY 2017-18 Discipline; and to

EDFacts Metadata and Process System (EMAPS) for SY 2017-18 Dispute Resolution.

Performance Metric:

- (a) Submit preliminary data by October 19, 2018.
- (b) Resubmit data resolving data quality issues identified by the ESS reports and OSEP Pre-fill reports, as well as the HTML report and edit check warnings in EMAPS, by November 1, 2018.
- (c) Submit final data, addressing all data quality issues identified by OSEP, if any, by May 30, 2019, in order to ensure inclusion in publicly reported data.

Milestone C.6.3.2: Report valid and reliable data to ESS for the IDEA Section 618 data collection for SY 2018-19 Child Count and SY 2018-19 Educational Environment.

Performance Metric:

- (a) Submit preliminary data by March 14, 2019.
- (b) Resubmit data resolving data quality issues identified by the ESS reports and OSEP Pre-fill reports by April 4, 2019.
- (c) Submit final data, addressing all data quality issues identified by OSEP, if any, by the deadline designated by OSEP, in order to ensure inclusion in publicly reported data.

Milestone C.6.3.3: Report valid and reliable data to EMAPS for the IDEA Section 618 data collection for FFY 2017/SY 2017-18 LEA MOE Reduction and CEIS.

Performance Metric:

- (a) Submit preliminary data by April 11, 2019.
- (b) Resubmit data resolving data quality issues identified by the EMAPS reports by May 2, 2019.
- (c) Submit final data, addressing all data quality issues identified by OSEP, if any, by the deadline designated by OSEP, in order to ensure inclusion in publicly reported data.

Subtask C.6.4 (Public Reporting of Assessment Data): Develop and implement procedures to ensure public reporting of assessment data in accordance with IDEA requirements in a timely fashion.

Milestone C.6.4.1: Develop and implement procedures to ensure that the BIE will publicly report on the assessment of children with disabilities in the same manner and frequency as it reports on the assessment of children without disabilities, as required under 34 CFR §300.160(f).

Performance Metric:

Within 90 days of receipt of the BIE's determination letter, submit a Web link demonstrating that the BIE has reported, for FFYs 2015 and 2016, to the public on the participation and performance of children with disabilities in accordance with the requirements of 34 CFR §300.160(f). In addition, submit a Web link in the FFY 2017 SPP/APR that demonstrates compliance with 34 CFR §300.160(f) for FFY 2017.

Task C.7.0: Demonstrate Compliance with Secondary Transition Requirements.

Subtask C.7.1 (Submission of Corrective Action Plan): Develop and implement a corrective action plan to demonstrate compliance with secondary transition requirements and improve the accuracy of the secondary transition data.

Milestone C.7.1.1: Develop and implement a corrective action plan that addresses the actions the BIE will take to demonstrate compliance with the secondary transition requirements in IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b) and improve the accuracy of the secondary transition data.

Performance Metric:

Submit a report on the status of implementation of the actions the BIE is taking to demonstrate compliance with secondary transition requirements and improve the accuracy of the secondary transition data.

Subtask C.7.2 (Use of Directed Administrative Funds): Develop and implement a spending plan demonstrating that the directed funds will be used to address the noncompliance with secondary transition requirements and to improve the accuracy of the secondary transition data.

Milestone C.7.2.1: Submit a report on and analysis of FFY 2017 secondary transition compliance data, disaggregated by compliance item and BIE-funded school.

Performance Metric:

No later than October 1, 2018, provide the following:

- (a) A report of the BIE's secondary transition compliance data for the period July 1, 2017 through June 30, 2018, disaggregated by:
 - (i) compliance item (i.e., each particular component of the secondary transition requirements associated with SPP/APR Indicator 13 – for example, whether there is evidence that the student was invited to the IEP Team meeting where transition services are to be discussed); and
 - (ii) BIE-funded school.

- (b) The BIE's analysis of the disaggregated data, including suspected or known reasons for any noncompliance.

Milestone C.7.2.2: Develop and implement 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 IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§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's proposed 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 funds will be used by July 1, 2019; and (4) an explanation of how the activities will result in improved compliance with secondary transition requirements and improved accuracy of the data. The BIE must also describe the documentation it will provide to demonstrate funds were used in accordance with the FFY 2018 spending plan. In addition, to ensure that the BIE can increase compliance with the secondary transition requirements and improve data accuracy within one year, the BIE must expedite the use of the directed FFY 2018 *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 2017 secondary transition data.

Performance Metric:

- (a) By October 1, 2018, submit the proposed spending plan for OSEP approval.
- (b) With each quarterly report for the 2018-2019 CAP, provide evidence that the BIE has directed the use of funds, as appropriate, during the reporting period.
- (c) With each quarterly report for the 2018-2019 CAP, provide the amount of the \$300,000 of the BIE's IDEA Part B administrative funds that were used during the reporting period to carry out the activities described in the BIE's spending plan to address the suspected or known reasons for the noncompliance with secondary transition requirements and to improve the accuracy of the data.
- (d) With each quarterly report for the 2018-2019 CAP, provide documentation that the BIE used those FFY 2018 IDEA Part B administrative funds during the reporting period in a manner consistent with the BIE's spending plan.

Task C.8.0: Improve Exiting Data In Accordance With IDEA Requirements.

Subtask C.8.1 (Improving Exiting Data): Improve exiting data by utilizing available technical assistance resources.

Milestone C.8.1.1: The BIE must 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 2018 Part B Results Matrix; and (2) the actions it took as a result of that technical assistance.

Performance Metric:

With the FFY 2017 SPP/APR, due on February 1, 2019, provide agendas, schedules, and/or other documentation that demonstrates evidence of receipt of technical assistance related to those exiting data elements for which the BIE received a score of zero on the 2018 Part B Results Matrix and subsequent actions the BIE took as a result of that technical assistance.

Required Documentation to Verify Completion of Certain Milestones: In order to demonstrate completion of Milestones in Section C of the CAP, the BIE must include the following information:

Milestones C.4.2.1, C.4.2.2, C.4.2.3, and C.4.2.4:

- (a) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must report on the implementation of fiscal monitoring procedures and any changes to those procedures.
- (b) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must provide copies of fiscal monitoring reports issued to schools during the reporting period.
- (c) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must provide: (i) the number of findings of noncompliance related to fiscal requirements that are corrected during the reporting period; (ii) the date those findings were identified; (iii) the number of those findings timely corrected; (iv) the number of those findings corrected more than one year after the BIE's identification of noncompliance; and (v) a description of the evidence used by the BIE to verify correction of those findings.
- (d) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must provide: (i) the number of instances of noncompliance related to fiscal requirements, identified through self-assessments and documents reviews during the reporting period, for which the BIE did not issue a written finding; (ii) the date those instances of noncompliance were identified; (iii) the date those instances of noncompliance were verified as corrected; and (iv) a description of the evidence used by the BIE to verify correction of those instances of noncompliance.

Milestone C.5.1.1:

- (a) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must provide a listing of State complaints, including the date the complaint was filed and the date the written decision was issued.

Milestones C.6.1.1, 6.1.2, 6.2.1, 6.2.2, , 6.3.1, 6.3.2, 6.3.3, and 6.4.1:

- (a) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must provide evidence of any contact with PSC.
- (b) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must provide protocols, procedures and governance developed to ensure the collection and reporting of valid and reliable data under sections 616 and 618 of the IDEA in a timely fashion.
- (c) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must provide evidence of submission of section 618 data for SY 2017-2018 in accordance with the timelines for submission of preliminary, revised, and final data.
- (d) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must provide documentation that it has developed procedures to publicly report on the assessment of students with disabilities in accordance with 34 CFR §300.160(f), and that it has implemented those procedures by providing a Web link demonstrating compliance with 34 CFR §300.160(f) for FFYs 2015 and 2016.
- (e) For the third quarterly report for the 2018-2019 CAP, the BIE must provide documentation that it has implemented procedures to publicly report on the assessment of students with disabilities in accordance with 34 CFR §300.160(f), by providing a Web link, in its FFY 2017 SPP/APR, demonstrating compliance with 34 CFR §300.160(f) for FFY 2017.

Milestone C.7.1.1:

- (a) For the fourth quarterly report for the 2017-2018 CAP and the first, second, and third quarterly reports for the 2018-2019 CAP, the BIE must report on the status of implementation of the corrective action plan to demonstrate compliance with the secondary transition requirements and to improve the accuracy of the secondary transition data.

Milestone C.7.2.1:

- (a) No later than October 1, 2018, the BIE must submit a report of its FFY 2017 secondary transition compliance data, disaggregated by compliance item and BIE-funded school, and an analysis of the disaggregated data, including suspected or known reasons for any noncompliance.

Milestone C.7.2.2:

- (a) By October 1, 2018, the BIE must submit, for OSEP approval, a proposed spending plan that demonstrates how the directed FFY 2018 Part B administrative 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 and that are reasonably designed to correct that noncompliance and improve the accuracy of the data. The BIE's proposed 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 funds will be used by July 1, 2019; and (4) an explanation of how the activities will result in improved compliance with secondary transition requirements and improved accuracy of the data. The BIE must also describe the documentation it will provide to demonstrate funds were used in accordance with the FFY 2018 spending plan.
- (b) For the first quarterly report for the 2018-2019 CAP, the BIE must provide evidence that the BIE has directed the use of funds, as appropriate, and provide the amount of the \$300,000 of the BIE's FFY 2018 IDEA Part B administrative funds that were used from July 1, 2018 through September 30, 2018, to carry out the activities described in the BIE's spending plan to address the suspected or known reasons for noncompliance with secondary transition requirements and to improve the accuracy of the data, and documentation that the BIE used those FFY 2018 IDEA Part B administrative funds in a manner consistent with the BIE's spending plan.
- (c) For the second quarterly report for the 2018-2019 CAP, the BIE must provide evidence that the BIE has directed the use of funds, as appropriate, and provide the amount of the \$300,000 of the BIE's FFY 2018 IDEA Part B administrative funds that were used from October 1, 2018 through December 31, 2018, to carry out the activities described in the BIE's spending plan to address the suspected or known reasons for noncompliance with secondary transition requirements and to improve the accuracy of the data, and documentation that the BIE used those FFY 2018 IDEA Part B administrative funds in a manner consistent with the BIE's spending plan.
- (d) For the third quarterly report for the 2018-2019 CAP, the BIE must provide evidence that the BIE has directed the use of funds, as appropriate, and provide the amount of the \$300,000 of the BIE's FFY 2018 IDEA Part B administrative funds that were used from January 1, 2019 through March 31, 2019, to carry out the activities described in the BIE's spending plan to address the suspected or known reasons for noncompliance with secondary transition requirements and to improve the accuracy of the data, and documentation that the BIE used those FFY 2018 IDEA Part B administrative funds in a manner consistent with the BIE's spending plan.

Milestone C.8.1.1:

- (a) With the FFY 2017 SPP/APR, due on February 1, 2019, the BIE must provide agendas, schedules, and/or other documentation that demonstrates evidence of receipt of technical assistance related to those exiting data elements for which the BIE received a score of zero on the Part B Results Matrix and subsequent actions the BIE took as a result of that technical assistance.

4. Evidence Necessary for Conditions to Be Removed

The Department will remove the Specific Conditions if, at any time prior to the expiration of the grant year, the BIE provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above.

5. Method of Requesting Reconsideration

The BIE can write to OSEP's Acting Director, Ruth E. Ryder, at the address below, if it wishes the Department to reconsider any aspect of these Specific Conditions. The request must describe in detail the changes to the Specific Conditions sought by the BIE and the reasons for those requested changes.

U.S. Department of Education
Office of Special Education Programs
Attn: Ruth E. Ryder
550 12th Street, SW, Room 4109
Washington, DC 20202

6. Submission of Reports

The BIE must submit all reports required under the Specific Conditions. The quarterly reports for Section C of the CAP should be submitted to:

Dr. Josiah Willey
U.S. Department of Education
Office of Special Education Programs
550 12th Street, SW, Room 5002
Washington, DC 20202

And

Susan Benbow
U.S. Department of Education
Risk Management Service
Office of the Deputy Secretary
550 12th Street, SW, Room 7103
Washington, DC 20202