



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

July 1, 2020

Honorable Tony Dearman
Director, Bureau of Indian Education
U.S. Department of Interior
1849 C Street Northwest,
MS-3609 MIB
Washington, District of Columbia 20240

Dear Director Dearman:

We have approved the Bureau of Indian Education's (the BIE) application for Federal fiscal year (FFY) 2020 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our approval is based on our review of the IDEA Part B application submitted by the BIE to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on May 15, 2020, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A. Our approval is also based on the BIE's certification in Section II.D of its FFY 2020 application (Enclosure B), signed by you on May 15, 2020, that the BIE's provisions meet the requirements of IDEA Part B as found in Public Law 108-446, and that the BIE will operate its Part B program in accordance with all of the required assurances and certifications, consistent with 34 C.F.R. § 76.104.

In addition, consistent with section 611(h)(2) of the IDEA, the BIE provided specific assurances with the May 15, 2020 submission, of its FFY 2020 IDEA Part B grant application, that:

1. the Secretary of the Interior will coordinate the provision of services under Part B of IDEA with LEA's, tribes and other tribal organizations, and other private and Federal service providers;
2. the BIE will conduct public hearings and provide adequate notice of such hearings, and afford an opportunity for comment to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures related to the requirements described in 20 U.S.C. § 1411(h)(2)(A);
3. the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with 20 U.S.C. § 1418;
4. the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations [such agreement shall provide for the apportionment of responsibilities and costs, including child find, evaluation, diagnosis, remediation or

therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in a school or a program]; and

5. the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under Part B of the IDEA, and will fulfil its duties under Part B of the IDEA.

Please note that OSEP Memorandum 20-01, dated January 23, 2020, explained the impact of recent amendments to the Copyright Act, 17 U.S.C. § 121, on certain terms relevant to Assurance 23a or 23b related to accessible instructional materials as reflected in the BIE's FFY 2020 application for funds under IDEA Part B. As a result, the term "blind and other persons with print disabilities" has been removed from the Copyright Act and replaced with "eligible person," and the term "specialized format" has been removed and replaced with the term "accessible format." Although at this time Congress has not made conforming amendments to section 612(a)(23) of IDEA, the Department construes Assurances 23a and 23b as incorporating the terms "eligible person" and "accessible format."

The BIE's FFY 2020 IDEA Part B grant award is being released subject to FFY 2020 Specific Conditions, as set forth in Enclosure C. Specifically, OSEP determined that the BIE failed 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. The objective of Section C of the CAP is to ensure the BIE provides a free appropriate public education to all eligible students with disabilities in the BIE-funded schools. In addition, this is the ninth consecutive year that the BIE has received a determination of needs intervention under Part B of the IDEA. Therefore, OSEP is imposing Specific Conditions on the BIE's FFY 2020 grant award under Part B of the IDEA. The reasons for doing so and the Specific Conditions are detailed in Enclosure C. The BIE must administer this award in keeping with both the applicable provisions of Federal law and regulations and the Specific Conditions attached to the grant award document. Acceptance by the BIE of this grant award constitutes an agreement by the BIE to comply with these Specific Conditions.

In addition, OSEP is designating the BIE's FFY 2020 Specific Conditions as "high-risk conditions," in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, at 2 C.F.R. § 3474.10.

On June 25, 2020, the BIE was notified that, under IDEA section 616(d), the Department determined that the BIE needs intervention in implementing the requirements of the IDEA Part B for the ninth consecutive year. In accordance with IDEA section 616(e)(2)(B)(i) and 34 C.F.R. § 300.606(b)(2)(i), the Department required the BIE to submit a CAP that ensures that it can meet, by the end of the fourth quarterly reporting period for the 2020-2021 school year under Section C of the CAP, all of the Specific Conditions that are being imposed on its FFY 2020 IDEA Part B grant award. The BIE must submit its CAP and quarterly progress reports in accordance with the reporting and timeline requirements specified in the Specific Conditions that OSEP is imposing on the BIE's FFY 2020 IDEA Part B grant award. In addition, pursuant to IDEA section 616(e)(1)(B) and (e)(2)(A), the Department is directing \$600,000 of the BIE's FFY 2020 administrative funds under IDEA section 611(h)(1)(A) and 34 C.F.R. § 300.710(a) for the BIE to use at the school level, not Bureau level, to improve compliance with the requirements for secondary transition and the accuracy of secondary transition data, pursuant to IDEA section

616(e)(1)(B) and (e)(2)(A). OSEP is specifically requiring the BIE to expend these FFY 2020 directed funds on secondary transition programs in BIE-funded schools with high school programs. In addition, pursuant to IDEA section 616(e)(1)(A) and (2)(A), the Department advised the BIE of available sources of technical assistance and directed the BIE to access technical assistance related to those exiting data elements for which the BIE received a score of zero on the Part B Results Matrix issued with the Department's June 25, 2020 determination letter. The reporting requirements related to the CAP and the directed use of FFY 2020 IDEA Part B administrative funds outlined in the Department's June 25, 2020 letter are incorporated into the Specific Conditions in Enclosure C.

Please note that as part of your application for FFY 2020, the BIE has provided a certification, pursuant to 34 C.F.R. § 76.104, that its application meets the requirements of IDEA Part B and that the BIE will operate its Part B program in accordance with all of the required assurances and certifications. Any changes made by the BIE, after OSEP approval, to information that is a part of the BIE's Part B application, must meet the public participation requirements in 34 C.F.R. § 300.165.

Enclosed is the BIE's FFY 2020 grant award of \$99,028,205 for funds currently available under Title III of Division A of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94) for the IDEA Part B Section 611 (Grants to States) program. These funds are available for obligation by the BIE from July 1, 2020, through September 30, 2022, in accordance with 34 C.F.R. § 76.709.

Under IDEA section 611(h)(4)(A), the BIE's FFY 2020 grant award includes \$19,805,641, twenty percent of the amount allotted under IDEA section 611(b)(2), to be distributed by the Secretary of the Interior to tribes or tribal organizations or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. The funds received by a tribe or tribal organization must be used to assist in child find, screening and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. None of the funds provided under IDEA section 611(h)(4)(A) can be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

Under IDEA section 611(h)(1)(A), \$79,222,564, eighty percent of the amount allotted under IDEA section 611(b)(2), is provided to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. Under IDEA section 611(h)(1)(A) and 34 C.F.R. § 300.707(b), with the exception of five percent of these funds, which may be reserved for administrative costs (and \$600,000 of which the Department is directing the BIE to use in BIE-funded schools with high school programs to address noncompliance with secondary transition requirements and to improve the accuracy of secondary transition data, as noted above), 80 percent of the funds must be allocated to such schools by July 1, 2020, and 20 percent must be allocated to such schools by September 30, 2020.

Section 606 of the IDEA provides that each recipient of assistance under the IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in

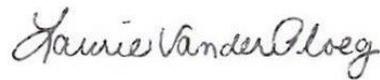
programs assisted under the IDEA. Therefore, by accepting this grant, the BIE is expressly agreeing as a condition of IDEA funding to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

The enclosed grant award of FFY 2020 funds is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part B.

As a reminder, all prime recipients of IDEA Part B funds must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <https://www.fsrs.gov/>. Please contact the BIE's Fiscal Accountability Facilitator if you have further questions.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,



Laurie VanderPloeg
Director
Office of Special Education Programs

Enclosures

Enclosure A (Sections II.A-C. of the BIE's application)

Enclosure B (Section II.D. of the BIE's application)

Enclosure C (Programmatic Specific Conditions)

cc: BIE Director of Special Education

State Name: Bureau of Indian Education

Enclosure A

Section II

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<p>Yes <i>(Assurance is given.)</i></p>	<p>No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i></p>	<p>Assurances Related to Policies and Procedures</p>
<p>X</p>		<p>1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.</p>
<p>X</p>		<p>2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)</p>
<p>X</p>		<p>3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.</p>
<p>X</p>		<p>4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)</p>
<p>X</p>		<p>5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes,</p>

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
NA	NA	9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
NA	NA	10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
NA	NA	13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
X		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C); 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
NA	NA	18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. <i>(Note: Check either "23b.1" or "23b.2" whichever applies.</i>
		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: <ul style="list-style-type: none"> • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
NA		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State is providing the following certifications:

Yes	
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i>, the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
NA	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

Enclosure C
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 high-risk Specific Conditions¹ on the Bureau of Indian Education's (BIE) Federal fiscal year (FFY) 2020 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 the IDEA Part B State Performance Plan/Annual Performance Report (SPP/APR) Compliance Indicator 13 (related to secondary transition requirements); (3) the BIE's 2020 IDEA 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; and (4) the BIE's failure to comply with 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 objective of Section C of the CAP is to ensure the BIE provides a free appropriate public education (FAPE) to all eligible students with disabilities 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 the Elementary and Secondary Education Act (ESEA) and the 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 the ESEA and the IDEA for properly managing Federal funds, improving the achievement levels of Indian students, and meeting the responsibilities for accountability that the ESEA and the 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.

Due to 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 the ESEA and the IDEA. In FFYs 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019, OSEP imposed program-specific Special or Specific

¹ 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 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. In addition, OSEP is designating the BIE's FFY 2020 Specific Conditions as "high-risk conditions," in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, at 2 C.F.R. § 3474.10.

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 2019-2020 CAP.

Fiscal Monitoring:

Although the BIE has made significant progress in fiscal monitoring, the BIE has not fully implemented fiscal monitoring procedures. Specifically, the BIE submitted 45 copies of fiscal monitoring letters for School Year (SY) 2016-2017, SY 2017-2018, and SY 2018-2019; however, the BIE has not demonstrated that it can issue monitoring reports in a timely manner 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 C.F.R. §§ 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. However, the BIE has continued to demonstrate that it can implement adequate fiscal monitoring procedures (in accordance with Milestone C.4.2.1). As a result, OSEP is removing the Specific Condition requiring that the BIE implement adequate fiscal monitoring procedures (Milestone C.4.2.1 and the corresponding performance metrics), but is maintaining the remaining Specific Conditions requiring the BIE to implement a fiscal monitoring system to ensure that BIE-operated and tribally-controlled schools are ensuring the appropriate use of the IDEA Part B funds.

Dispute Resolution (State Complaints) Timelines: The BIE has continued to report data showing significant progress in the implementation of State complaint procedures requirements contained in 34 C.F.R. § 300.152(a) and (b). The data the BIE provided in its quarterly reports for the 2019-2020 CAP demonstrated compliance in meeting the requirement that State complaints are resolved within the 60-day timeline (or an appropriately extended timeline under 34 C.F.R. § 300.152(b)(1)). As a result, OSEP has determined that the BIE has satisfied the Specific Condition requiring that the BIE report on State complaint timelines, and is removing this Specific Condition. OSEP appreciates the steps the BIE has taken to correct noncompliance related to this IDEA requirement, and expects that the BIE will continue to monitor this area to ensure it sustains a high degree of compliance.

Data Procedures and Processes: First, pursuant to section 616(b)(2)(B) of the IDEA, the BIE collected 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). As a result, OSEP has determined that the BIE has satisfied the Specific Condition requiring the BIE to 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. Further, OSEP has determined that the BIE has satisfied the Specific Condition requiring the BIE to 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. Therefore, the Department is removing the Specific Condition related to its data submissions under both sections 616 and 618 of the IDEA (Subtask C.6.1 and C.6.2 and the corresponding milestones and performance metrics). OSEP appreciates the steps the BIE has taken to collect and report valid and reliable data required under sections 616 and 618 of the IDEA in a timely fashion, and expects that the BIE will continue to monitor this area to ensure it sustains a high degree of compliance.

However, 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 C.F.R. § 300.160(f) in FFY 2018, as noted in OSEP's Response to the BIE's FFY 2018 SPP/APR². As a result of the BIE's failure to comply with the public reporting requirement under IDEA, OSEP is maintaining the Specific Condition requiring the BIE to develop and implement procedures to ensure public reporting of assessment data in accordance with the IDEA requirements in a timely fashion.

Secondary Transition: In its FFY 2018 SPP/APR, the BIE continued to report a very low level of compliance under IDEA 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 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, as required by IDEA section 614(d)(1)(A)(i)(VIII) and 34 C.F.R. § 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 C.F.R. § 300.321(b). The BIE reported 16.67% compliance under Indicator 13 in its FFY 2018 SPP/APR.

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

² OSEP previously required the BIE to demonstrate that it met the requirements for public reporting pursuant to 34 C.F.R. § 300.160(f) for FFY 2015, FFY 2016, and FFY 2017, in addition to FFY 2018. However, as noted in OSEP's response to the BIE's FFY 2018 SPP/APR, and in OSEP's January 30, 2020, email to the BIE, according to the Department's Office of Elementary and Secondary Education (OESE), the assessment data that the BIE reported under ESEA for School Year (SY) 2015-2016 was incomplete, and OESE is no longer requiring the BIE to report the missing data for that year. In addition, the BIE has submitted incomplete assessment data to the Department for SY 2016-2017 and SY 2017-2018, and has not published report cards for those years; and OESE is no longer requiring the BIE to report the missing data or publish report cards for those years. Therefore, OSEP will no longer require the BIE to submit a Web link demonstrating that it has publicly reported assessment data for children with disabilities for FFY 2015, FFY 2016, and FFY 2017, consistent with 34 C.F.R. § 300.160(f).

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 2020 IDEA Part B grant award.

In addition to the Specific Conditions on the BIE's FFY 2018 and FFY 2019 IDEA Part B grant awards, OSEP directed the BIE to use \$300,000 of its FFY 2018 administrative funds and \$300,000 of its FFY 2019 administrative funds under IDEA section 611(h)(1)(A) and 34 C.F.R. § 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). Further, for both the FFY 2018 and FFY 2019 directed funds, the Department required the BIE to develop, implement, and report progress on, a spending plan to expend the directed funds, 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 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 was required to expend the full \$300,000 of the FFY 2018 directed funds pursuant to the spending plan by June 30, 2019, but the BIE requested, and OSEP granted, two extensions, with the second and final extension allowing the BIE to expend the FFY 2018 directed funds by April 30, 2020. As noted in OSEP's letter, dated May 26, 2020, responding to the BIE's Third Quarter progress report for the CAP, the BIE must: (1) provide documentation to OSEP that \$125,000 of the FFY 2018 IDEA Part B administrative funds were expended, by April 30, 2020, for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements; and (2) provide an assurance that the remaining balance of \$175,000, or \$300,000 if the documentation described in (1) is not provided, of directed FFY 2018 IDEA Part B administrative funds will not be expended. With respect to the FFY 2019 directed funds, which the BIE was required to expend by June 30, 2020, the BIE notified OSEP on April 7, 2020, of its inability to expend the full \$300,000 of the FFY 2019 directed funds by the deadline and requested an extension. In OSEP's letter dated May 26, 2020, OSEP granted a one-year extension of the deadline, giving the BIE until June 30, 2021, to spend the \$300,000 of the FFY 2019 directed funds in accordance with a revised spending plan approved by OSEP. As a result, the BIE must: (1) provide documentation to OSEP that \$125,000 of the FFY 2019 IDEA Part B administrative funds have been expended for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements; (2) provide a revised spending plan for the remaining \$175,000 of directed FFY 2019 funds; and (3) provide updates in the quarterly CAP reports on the expenditure of the remaining balance of directed FFY 2019 funds.

Furthermore, because the BIE's continued very low level of compliance under SPP/APR Indicator 13 (16.67%) contributed to the BIE's 2020 Needs Intervention determination under section 616 of the IDEA (see section 2 below), OSEP is directing \$600,000 of the BIE's FFY 2020 administrative funds under IDEA section 611(h)(1)(A) and 34 C.F.R. § 300.710(a) for the BIE to use at the school level, not Bureau level, to improve compliance with the requirements for secondary transition and the accuracy of secondary transition data, pursuant to IDEA section 616(e)(1)(B) and (e)(2)(A). OSEP is specifically requiring the BIE to expend these FFY 2020 directed funds on secondary transition programs in BIE-funded

schools with high school programs. Please note that the use of the directed FFY 2019 funds must be tracked separately from the use of the directed FFY 2020 funds, as the spending plan and deadlines for the use of the directed FFY 2019 funds are distinct and separate from the spending plan and deadlines for the use of the directed FFY 2020 funds.

Provision of related services and timely initial evaluations: The BIE has demonstrated that all students with disabilities enrolled in San Felipe Pueblo Elementary School are currently receiving related services in accordance with their IEPs, as required by IDEA section 612(a)(1) and 34 C.F.R. §§ 300.320 and 300.323(c)(2), and has provided an assurance that the expired contracts for related service providers have been renewed. The BIE has also indicated that no other BIE-funded schools fall under the same expired contracts. However, the BIE has not demonstrated that it has met the following required actions to: (1) ensure that initial evaluations at San Felipe Pueblo Elementary School are conducted within 60 days of receiving parental consent for the evaluation in accordance with 34 C.F.R. § 300.301(c)(1); (2) ensure that all students with disabilities enrolled in San Felipe Pueblo Elementary School received any compensatory services as determined necessary by the IEP Teams; (3) determine if any other BIE-funded schools are unable to provide related services or conduct timely initial evaluations due to contracting delays; and (4) submit a plan to prevent contractual problems that could result in a similar disruption of services in the future. As a result, OSEP is removing the requirement under Milestone C.9.2.1 that the BIE report on the number of students with disabilities at San Felipe Pueblo Elementary School who are still not receiving related services in accordance with their IEPs, but is maintaining the remaining Specific Conditions related to ensuring the provision of related services and timely initial evaluations in accordance with the requirements of IDEA in all BIE-funded schools, both tribally-controlled and BIE-operated.

2. BIE's 2020 IDEA Part B Results Driven Accountability (RDA) Needs Intervention Determination:

As a result of the BIE's 2020 IDEA Part B RDA Percentage of 32.5 percent, the BIE received a "needs intervention" determination in 2020 for the ninth 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 results elements in the Part B Results Matrix issued with the Department's June 25, 2020 determination letter (Part B Results Matrix) that reflect the low percentages of children with disabilities who exited an educational program through receipt of a regular high school diploma or by dropping out of school; and (3) the BIE's longstanding noncompliance with IDEA requirements (i.e., the Department has imposed Special or Specific Conditions on the BIE's last three (FFYs 2017, 2018, and 2019) IDEA Part B grant awards, and those Special or Specific Conditions are in effect at the time of the 2020 determination).

2020 Enforcement Action:

The Department's June 25, 2020 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 \$600,000 of its FFY 2020 Part B administrative funds under IDEA section 611(h)(1)(A) and 34 C.F.R. § 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 June 30, 2021 that demonstrates how the directed funds will be expended at BIE-funded schools with high school programs 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 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. No later than October 31, 2020, the BIE must submit, along with its proposed spending plan, a report of the BIE's FFY 2019 secondary transition compliance data (disaggregated by compliance item, type of school (i.e., tribally-controlled or BIE-operated), and each individual 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 CAP that ensures that it can meet, by the end of the fourth quarterly reporting period for the 2020-2021 school year under Section C of the CAP, all of the Specific Conditions that are being imposed on its FFY 2020 IDEA Part B grant award. The CAP must address the steps the BIE will take to: (1) implement fiscal monitoring procedures to ensure that BIE-operated schools and tribally-controlled schools are ensuring the appropriate use of Part B funds allocated under IDEA section 611(h)(1)(A); (2) demonstrate compliance with the public reporting requirements for assessment data under 34 C.F.R. § 300.160(f); (3) demonstrate compliance with the secondary transition requirements in IDEA section 614(d)(1)(A)(i)(VIII) and 34 C.F.R. §§ 300.320(b) and 300.321(b); (4) demonstrate how the directed FFY 2020 IDEA Part B administrative funds will be used in BIE-funded schools with high school programs to address noncompliance with the secondary transition requirements and improve the accuracy of the secondary transition data, and provide evidence of the use of those directed funds; and (5) demonstrate completion of all of the required actions described in the CAP and in OSEP's August 8, 2018 letter regarding the systemic problems underlying the disruption of related services and timely initial evaluations in San Felipe Pueblo Elementary School and other BIE-funded schools.

In addition, with its FFY 2019 SPP/APR, due on February 1, 2021, 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 2020-2021 and its final quarterly progress report on Section C of the 2019-2020 CAP, both due on July 31, 2020, and quarterly progress reports on the 2020-2021 CAP in accordance with the reporting and timeline requirements specified in the Specific Conditions that OSEP is imposing on the BIE's FFY 2020 IDEA Part B grant award.

3. Nature of the Specific Conditions

Based on the enforcement actions resulting from the BIE's 2020 Needs Intervention determination, and on OSEP's review of the BIE's first through third quarterly reports on Section C of the 2019-2020 CAP, ending with the quarter ending March 31, 2020, OSEP has determined that it is necessary to impose the following Specific Conditions.

- A. Final Report on Section C of the 2019-2020 CAP:** The BIE must submit to the Department, by July 31, 2020, its final report on Section C of the CAP for the 2019-2020 school year. This report covers April 1, 2020 through June 30, 2020. 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 2020-2021 CAP:** The BIE must submit the 2020-2021 CAP by July 31, 2020. The 2020-2021 CAP must include the tasks, subtasks, milestones, and performance metrics described in subparagraph 3.E below.
- C. Required Report on Disaggregated FFY 2019 Secondary Transition Data (Indicator 13):** No later than October 31, 2020, the BIE must provide the following:
- (a) A report of the BIE's secondary transition compliance data for the period July 1, 2019 through June 30, 2020, 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);
 - (ii) Type of BIE-funded school i.e., tribally-controlled or BIE-operated; and
 - (iii) Each individual BIE-funded school; and
 - (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 2020 IDEA 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 FFY 2020 Funds:** The BIE must submit, by October 31, 2020, a proposed spending plan that demonstrates how it will use \$600,000 of its FFY 2020 IDEA Part B administrative funds in BIE-funded schools with high school programs 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 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's proposed FFY 2020 spending plan must target the use of the FFY 2020 directed funds on secondary transition programs in BIE-funded schools with high school programs, based on a careful review of the BIE's FFY 2019 secondary transition data,

and must include: (1) the activities that will be carried out with those FFY 2020 directed funds; (2) the costs associated with each of the activities; (3) a projected timeline for using the FFY 2020 directed funds to pay the costs associated with each of the activities that demonstrates that the funds will be used by June 30, 2021; and (4) an explanation of how the activities will result in improved compliance with secondary transition requirements and improved accuracy of secondary transition data. The BIE must also describe the documentation it will provide to demonstrate the FFY 2020 directed funds were used in accordance with its FFY 2020 spending plan. In addition, to ensure that the BIE can increase compliance with the secondary transition requirements and improve the accuracy of its secondary transition data within one year, the BIE must expedite the use of the directed FFY 2020 IDEA Part B administrative funds so that the funds are expended by the June 30, 2021, deadline.

Please note that the use of the directed FFY 2019 funds must be tracked separately from the use of the directed FFY 2020 funds, as the spending plan and deadlines for the use of the directed FFY 2019 funds are distinct and separate from the spending plan and deadlines for the use of the directed FFY 2020 funds.

E. Implementation of Section C of the 2020-2021 CAP and Reporting Requirements:

The BIE must implement Section C of the 2020-2021 CAP, which covers the period between July 1, 2020, and June 30, 2021, 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 2020-2021 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 must include data and other required information for the reporting periods reflected below, unless otherwise specified:

Requirement	Due Date	Reporting Period
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Final Quarterly Progress Report for Section C of 2019-2020 CAP	July 31, 2020	April 1, 2020 – June 30, 2020
Documentation that the \$125,000 of the directed FFY 2018 IDEA Part B administrative funds were expended by April 30, 2020, for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements	July 31, 2020	July 1, 2018 – April 30, 2020
Revised spending plan for the remaining \$175,000 of directed FFY 2019 IDEA Part B administrative funds , which must be expended by June 30, 2021 (the other \$125,000 of the directed FFY 2019 funds, to be used for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements, must also be expended by June 30, 2021)	July 31, 2020	April 1, 2020 – June 30, 2021
Section C of the 2020-2021 CAP	July 31, 2020	July 1, 2020 – June 30, 2021
Report on and Analysis of Disaggregated FFY 2019 Secondary Transition Data	October 31, 2020	July 1, 2019 – June 30, 2020
Proposed spending plan that demonstrates how the BIE will use \$600,000 of its directed FFY 2020 IDEA Part B administrative funds to directly fund BIE-funded schools with high school programs to address noncompliance with the secondary transition requirements and to improve accuracy of secondary transition data	October 31, 2020	July 1, 2020 – June 30, 2021

First Quarterly Progress Report for Section C of 2020-2021 CAP and a report on the BIE's directed FFY 2019 IDEA Part B administrative funds used from July 1, 2020 through September 30, 2020, to carry out the activities in the BIE's spending plan	October 31, 2020	July 1, 2020 – September 30, 2020
Second Quarterly Progress Report for Section C of 2020-2021 CAP and a report on the BIE's directed FFY 2019 and FFY 2020 IDEA Part B administrative funds used from October 1, 2020 through December 31, 2020, to carry out the activities in the BIE's spending plans for the FFY 2019 and FFY 2020 funds	January 31, 2021	October 1, 2020 – December 31, 2020
FFY 2019 SPP/APR	February 1, 2021	July 1, 2019 – June 30, 2020
Third Quarterly Progress Report for Section C of 2020-2021 CAP and a report on the BIE's directed FFY 2019 and FFY 2020 IDEA Part B administrative funds used from January 1, 2021 through March 31, 2021, to carry out the activities in the BIE's corresponding spending plans	April 30, 2021	January 1, 2021 – March 31, 2021
Final Quarterly Progress Report for Section C of 2020-2021 CAP and a report on the BIE's directed FFY 2019 and FFY 2020 IDEA Part B administrative funds used from April 1, 2021 through June 30, 2021, to carry out the activities in the BIE's corresponding spending plans	July 31, 2021	April 1, 2021 – June 30, 2021

Section C of the 2020-2021 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-controlled schools are ensuring the appropriate use of IDEA Part B funds.

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

Milestone C.6.3.1: 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 C.F.R. § 300.160(f).

Performance Metric:

Within 90 days of the receipt of the BIE's 2020 determination letter, the BIE must provide to OSEP a Web link that demonstrates that it has reported, for FFY 2018, to the public, on the Statewide assessments of children with disabilities in accordance with 34 C.F.R. § 300.160(f). In addition, OSEP reminds the BIE that, in the FFY 2019 SPP/APR, the BIE must include a Web link that demonstrates compliance with 34 C.F.R. § 300.160(f) for FFY 2019.

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

Subtask C.7.1 (Update and Implementation of Corrective Action Plan):

Update, as appropriate, and implement the corrective action plan submitted in the 2019-2020 CAP to demonstrate compliance with secondary transition requirements and improve the accuracy of the secondary transition data.

Milestone C.7.1.1: Update 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 C.F.R. §§ 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 FFY 2020 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 2019 secondary transition compliance data, disaggregated by compliance item, type of BIE-funded school (i.e., tribally-controlled or BIE-operated), and each individual BIE-funded school.

Performance Metric:

No later than October 31, 2020, provide the following:

- (a) A report of the BIE’s secondary transition compliance data for the period July 1, 2019 through June 30, 2020, 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);
 - (ii) Type of BIE-funded school (i.e., BIE-operated or tribally-controlled); and
 - (iii) Each individual BIE-funded school; and
- (b) The BIE’s analysis of the disaggregated data, including suspected or known reasons for any noncompliance.

Milestone C.7.2.2: In addition to providing documentation of the expenditure, by April 30, 2020, of \$125,000 of the directed FFY 2018 funds for salary costs and developing and implementing a revised spending plan for the use of the directed FFY 2019 funds (for which the

Department granted a one-year extension to June 30, 2021), the BIE must develop and implement a spending plan to expend the directed FFY 2020 funds by June 30, 2021 that demonstrates how it will use \$600,000 of its FFY 2020 IDEA Part B administrative funds in BIE-funded schools with high school programs 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 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's proposed FFY 2020 spending plan must target the use of the FFY 2020 directed funds on secondary transition programs in BIE-funded schools with high school programs, based on a careful review of the BIE's FFY 2019 secondary transition data, and must include: (1) the activities that will be carried out with those FFY 2020 directed funds; (2) the costs associated with each of the activities; (3) a projected timeline for using the FFY 2020 directed funds to pay the costs associated with each of the activities that demonstrates that the funds will be used by June 30, 2021; and (4) an explanation of how the activities will result in improved compliance with secondary transition requirements and improved accuracy of secondary transition data. The BIE must also describe the documentation it will provide to demonstrate the FFY 2020 directed funds were used in accordance with its FFY 2020 spending plan. In addition, to ensure that the BIE can increase compliance with the secondary transition requirements and improve the accuracy of its secondary transition data within one year, the BIE must expedite the use of the directed FFY 2020 IDEA Part B administrative funds so that the funds are expended by the June 30, 2021, deadline.

Performance Metric:

- (a) By July 31, 2020, provide: (1) documentation that \$125,000 of the BIE's directed FFY 2018 IDEA Part B administrative funds were expended, by April 30, 2020, for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements; and (2) an assurance that the remaining balance of \$175,000, or \$300,000 if the documentation described in (1) is not provided, of the directed FFY 2018 funds will not be expended.
- (b) By July 31, 2020, submit, for OSEP's approval, a revised spending plan for the remaining \$175,000 of the BIE's directed FFY 2019 IDEA Part B administrative funds. (The other \$125,000 of the directed FFY 2019 funds must be used by June 30, 2021, for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements.)

- (c) By October 31, 2020, submit, for OSEP’s approval, the proposed spending plan for the \$600,000 of the BIE’s directed FFY 2020 IDEA Part B administrative funds.
- (d) With each quarterly report for the 2020-2021 CAP, provide evidence that the BIE has directed the use of funds, as appropriate, during the reporting period.
- (e) With each quarterly report for the 2020-2021 CAP, provide: (1) the amount of the \$125,000 of the BIE’s directed FFY 2019 IDEA Part B administrative funds that was used during the reporting period for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements; and (2) the amount of the remaining \$175,000 of the BIE’s directed FFY 2019 funds that were used during the reporting period to carry out the activities described in the BIE’s revised spending plan for the directed FFY 2019 funds to address the suspected or known reasons for the noncompliance with secondary transition requirements and to improve the accuracy of the secondary transition data.
- (f) With the second, third, and fourth quarterly reports for the 2020-2021 CAP, provide the amount of the \$600,000 of the BIE’s directed FFY 2020 IDEA Part B administrative funds that were used during the reporting period in BIE-funded schools with high school programs to address noncompliance with the secondary transition requirements and to improve the accuracy of the secondary transition data.
- (g) With each quarterly report for the 2020-2021 CAP, provide documentation that the BIE used those FFY 2019 and/or FFY 2020 directed IDEA Part B administrative funds during the reporting period in a manner consistent with the BIE’s respective 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 2020 Part B Results Matrix; and (2) the actions it took as a result of that technical assistance.

Performance Metric:

With the FFY 2019 SPP/APR, due on February 1, 2021, 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

2020 Part B Results Matrix and subsequent actions the BIE took as a result of that technical assistance.

Task C.9.0: Ensure the provision of related services and timely initial evaluations in accordance with the requirements of IDEA.

Subtask C.9.1: Ensure correction of noncompliance previously identified by OSEP in San Felipe Pueblo Elementary School arising from the disruption of related services and timely initial evaluations.

Milestone C.9.1.1: The BIE must report on any compensatory services that have been provided as a remedy for the related services that students with disabilities at San Felipe Pueblo Elementary School did not receive in accordance with their IEPs.

Performance Metric:

With the first quarterly report for the 2020-2021 CAP due on October 31, 2020, the BIE must provide an assurance that: (1) IEP Teams considered, on an individual basis, whether compensatory services were needed as a remedy for the services previously not provided at San Felipe Pueblo Elementary School; and (2) any compensatory services determined necessary by the IEP Teams have been, or are being, provided.

Subtask C.9.2: Implement procedures to ensure compliance with requirements to conduct timely initial evaluations at San Felipe Pueblo Elementary School.

Milestone C.9.2.1: Ensure that all initial evaluations at San Felipe Pueblo Elementary School are conducted within 60 days of receiving parental consent for the evaluation in accordance with 34 C.F.R. § 300.301(c)(1).

Performance Metric:

With each quarterly report for the 2020-2021 CAP, report on: (a) the number of requested initial evaluations that have not been conducted or have been delayed at San Felipe Pueblo Elementary School; and (b) the steps that the BIE is taking to ensure that those evaluations are conducted as soon as possible.

Subtask C.9.3: Implement procedures to ensure compliance in all BIE-funded schools, both tribally-controlled and BIE-operated, with the requirements to provide related services in accordance with students' IEPs and to conduct timely initial evaluations.

Milestone C.9.3.1: Determine if any other BIE-funded school, whether tribally-controlled or BIE-operated, is unable to provide services or conduct timely initial evaluations due to contracting delays. The BIE may develop a reasonable monitoring plan that examines a sample of BIE-funded schools, both tribally-controlled and BIE-operated, per year, in lieu of examining all BIE-funded schools at the same time. If the BIE selects this option, it must submit the monitoring plan to OSEP for approval.

Performance Metric:

- (a) If the BIE opts to develop a monitoring plan, it must submit the plan to OSEP for approval with the first quarterly report for the 2020-2021 CAP due on October 31, 2020.
- (b) With each quarterly report for the 2020-2021 CAP, report on:
 - (i) the number of students with disabilities who are not receiving related services in accordance with their IEPs; (ii) the steps that the BIE is taking to ensure that these students receive the required services in accordance with their IEPs and any compensatory services determined necessary by the IEP Teams; (iii) the number of requested initial evaluations that have not been conducted or have been delayed; and (iv) the steps that the BIE is taking to ensure that those evaluations are conducted as soon as possible.

Subtask C.9.4: Implement procedures to prevent contractual problems that could result in a similar disruption of services in the future.

Milestone C.9.4.1: Submit a plan to prevent contractual problems that could result in a similar disruption of services in the future.

Performance Metric:

With the first quarterly report for the 2020-2021 CAP, the BIE must provide a plan to prevent contractual problems in all BIE-funded schools, both tribally-controlled and BIE-operated, that could disrupt services, by identifying specific policies, procedures, processes and staff positions that are responsible for implementation and oversight of compliance with this requirement.

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

- (a) For the fourth quarterly report for the 2019-2020 CAP and the first, second, and third quarterly reports for the 2020-2021 CAP, the BIE must provide copies of fiscal monitoring reports issued to schools during the reporting period.
- (b) For the fourth quarterly report for the 2019-2020 CAP and the first, second, and third quarterly reports for the 2020-2021 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.

- (c) For the fourth quarterly report for the 2019-2020 CAP and the first, second, and third quarterly reports for the 2020-2021 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.6.3.1:

- (a) For the fourth quarterly report for the 2019-2020 CAP and the first, second, and third quarterly reports for the 2020-2021 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 C.F.R. § 300.160(f), and that it has implemented those procedures by providing a Web link demonstrating compliance with 34 C.F.R. § 300.160(f) for FFY 2018.
- (b) For the third quarterly report for the 2020-2021 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 C.F.R. § 300.160(f), by providing a Web link, in its FFY 2019 SPP/APR, demonstrating compliance with 34 C.F.R. § 300.160(f) for FFY 2019.

Milestone C.7.1.1:

For the fourth quarterly report for the 2019-2020 CAP and the first, second, and third quarterly reports for the 2020-2021 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:

No later than October 31, 2020, the BIE must submit a report of its FFY 2019 secondary transition compliance data (disaggregated by compliance item, type of BIE-funded school (i.e., tribally-controlled or BIE-operated), and each individual 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 July 31, 2020, provide: (1) documentation that \$125,000 of the BIE's directed FFY 2018 IDEA Part B administrative funds were expended, by April 30, 2020, for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements; and (2) an assurance that the remaining balance of \$175,000, or \$300,000 if the documentation described in (1) is not provided, of the directed FFY 2018 funds will not be expended.

- (b) By July 31, 2020, submit, for OSEP's approval, a revised spending plan for the remaining \$175,000 of the BIE's directed FFY 2019 IDEA Part B administrative funds. (The other \$125,000 of the directed FFY 2019 funds must be used by June 30, 2021, for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements.)
- (c) By October 31, 2020, the BIE must submit, for OSEP approval, a spending plan that demonstrates how it will use the \$600,000 of its directed FFY 2020 Part B administrative funds in BIE-funded schools with high school programs 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 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's proposed spending plan must include: (1) the activities that will be carried out with those directed FFY 2020 funds; (2) the costs associated with each of the activities; (3) a projected timeline for using the directed FFY 2020 funds to pay the costs associated with each of the activities that demonstrates that the funds will be used by June 30, 2021; and (4) an explanation of how the activities will result in improved compliance with secondary transition requirements and improved accuracy of secondary transition data. The BIE must also describe the documentation it will provide to demonstrate the directed FFY 2020 funds were used in accordance with its FFY 2020 spending plan.
- (d) With the first quarterly report for the 2020-2021 CAP, the BIE must provide evidence that it has directed the use of funds, as appropriate, and provide: (1) the amount of the \$125,000 of the BIE's directed FFY 2019 IDEA Part B administrative funds that was used during the reporting period for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements; and (2) the amount of the remaining \$175,000 of the BIE's directed FFY 2019 funds that were used during the reporting period to carry out the activities described in the BIE's revised spending plan for the directed FFY 2019 funds to address the suspected or known reasons for the noncompliance with secondary transition requirements and to improve the accuracy of the secondary transition data.
- (e) With the second, third, and fourth quarterly reports for the 2020-2021 CAP, the BIE must provide evidence that it has directed the use of funds, as appropriate, and provide: (1) the amount of the \$125,000 of the BIE's directed FFY 2019 IDEA Part B administrative funds that was used during the reporting period for the salary of the staff member whose duties consist exclusively of supporting BIE-funded schools in compliance with secondary transition requirements; (2) the amount of the remaining \$175,000 of the BIE's directed FFY 2019 funds that were used during the reporting period to carry out the activities described in the BIE's revised spending plan for the directed FFY 2019 funds to address the suspected or known reasons for the

noncompliance with secondary transition requirements and to improve the accuracy of the secondary transition data; and (3) the amount of the \$600,000 of the BIE's directed FFY 2020 IDEA Part B administrative funds that were used during the reporting period in BIE-funded schools with high school programs to address noncompliance with the secondary transition requirements and to improve the accuracy of the secondary transition data.

Milestone C.8.1.1:

With the FFY 2019 SPP/APR, due on February 1, 2021, 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.

Milestone C.9.1.1:

With the first quarterly report for the 2020-2021 CAP due on October 31, 2020, the BIE must provide an assurance that: (1) IEP Teams considered, on an individual basis, whether compensatory services were needed as a remedy for the services previously not provided at San Felipe Pueblo Elementary School; and (2) any compensatory services determined necessary by the IEP Teams have been, or are being, provided.

Milestone C.9.2.1:

With each quarterly report for the 2020-2021 CAP, report on: (a) the number of requested initial evaluations that have not been conducted or have been delayed at San Felipe Pueblo Elementary School; and (b) the steps that the BIE is taking to ensure that those evaluations are conducted as soon as possible.

Milestone C.9.3.1:

- (a) If the BIE opts to develop a monitoring plan to determine if any other BIE-funded schools are unable to provide related services in accordance with students' IEPs or conduct timely initial evaluations due to contracting delays, it must submit the plan to OSEP for approval with the first quarterly report for the 2020-2021 CAP due on October 31, 2020.
- (b) With each quarterly report for the 2020-2021 CAP, report on: (i) the number of students with disabilities who are not receiving related services in accordance with their IEPs; (ii) the steps that the BIE is taking to ensure that these students receive the required services in accordance with their IEPs and any compensatory services determined necessary by the IEP Teams; (iii) the number of requested initial evaluations that have not been conducted or have been delayed; and (iv) the steps that the BIE is taking to ensure that those evaluations are conducted as soon as possible.

Milestone C.9.4.1:

With the first quarterly report for the 2020-2021 CAP, the BIE must provide a plan to prevent contractual problems that could disrupt services in all BIE-

funded schools, both tribally-controlled and BIE-operated, by identifying specific policies, procedures, processes and staff positions that are responsible for implementation and oversight of compliance with this requirement.

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 Director, Laurie VanderPloeg, 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: Laurie VanderPloeg
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:

Jennifer Wolfsheimer
U.S. Department of Education
Office of Special Education Programs
550 12th Street, SW, Room 5033
Washington, DC 20202

And

Susan Benbow
U.S. Department of Education
Risk Management Services Division
Office of Finance and Operations
550 12th Street, SW, Room 6050