

**Bureau of Indian Education (BIE) Part B FFY 2009 SPP/APR Response Table**

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
<p><b>Status of Public Reporting on LEA Performance:</b> OSEP’s FFY 2008 SPP/APR response table, dated June 3, 2010, noted that, while the BIE had publicly reported on the FFY 2006 (July 1, 2006-June 30, 2007) and FFY 2007 (July 1, 2007-June 30, 2008) performance of each elementary and secondary school for Indian children operated or funded by the Secretary of the Interior on the targets in the BIE’s State Performance Plan (SPP) as required by section 616(b)(2)(C)(ii)(I) of IDEA and 34 CFR §300.708(d), those reports did not contain the required information. In addition, OSEP’s May 26, 2010 verification letter required the BIE to provide documentation that the BIE is reporting to the public on the performance of each BIE-funded school in FFY 2008 within 120 days of the submission of the FFY 2008 APR, due on February 1, 2010, and in accordance with 34 CFR §300.602(b)(1)(A). In a letter and documentation received by OSEP on July 26, 2010, the BIE provided the required information documenting that, although the local performance reports were not posted within the required 120 days, they were posted and include the content required in 34 CFR §300.602(b)(1)(A). No further action is required, although the BIE must post the local performance reports for FFY 2009 within 120 days of the submission of the FFY 2009 APR.</p>		
<p><b>SPP Revisions:</b> OSEP’s FFY 2008 SPP/APR response table, dated June 3, 2010, required the BIE to provide a revised SPP that includes targets and improvement activities that cover the full six years of the SPP with its FFY 2009 APR, due February 1, 2011. In addition, OSEP’s May 26, 2010 verification letter required the BIE to provide documentation that the BIE is making a current SPP available through public means. The BIE was also required, in the instructions to the FFY 2009 APR, to extend the targets and improvement activities through FFY 2012. The BIE submitted a revised SPP that includes the required information. No further action is required.</p>		
<p>1. Percent of youth with IEPs graduating from high school with a regular diploma. [Results Indicator]</p>	<p>The BIE submitted targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions.</p> <p>The BIE’s FFY 2009 reported data for this indicator are 52.44% of students with disabilities graduated compared to 57.73% of all youth, representing a gap of 5.29% between students with disabilities and all youth. These data represent progress from the FFY 2008 data of 47.08% for students with disabilities compared with 52.45% of all youth, representing a gap of 5.37% between students with disabilities and all youth. The BIE did not meet its FFY 2009 target of reducing the gap in the graduation rate between students with disabilities and all students by .5% over the previous year.</p> <p>The BIE used the same graduation rate calculation for APR reporting as it uses for reporting to the Department of Education under the Elementary and Secondary Education Act (ESEA). The BIE is located in 23 States and uses the calculations and formulas of the States in which a school is located for ESEA reporting.</p> <p>OSEP’s FFY 2008 SPP/APR response table, dated June 3, 2010, required the BIE to revise its FFY 2010 target for this indicator in the SPP to compare the percent of youth with IEPs graduating from high school with a regular diploma to the percent of all youth in the BIE graduating with a regular diploma. The BIE made the required revision in the SPP that it submitted with its FFY 2009 APR.</p>	<p>OSEP looks forward to the BIE’s data demonstrating improvement in performance in the FFY 2010 APR, due February 1, 2012.</p>

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<p>2. Percent of youth with IEPs dropping out of high school.</p> <p>[Results Indicator]</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions. The BIE indicated that stakeholders were provided an opportunity to comment on the targets for FFY 2011 and FFY 2012.</p> <p>The BIE's FFY 2009 reported data for this indicator are 8.12%. These data represent progress from the FFY 2008 data of 9.87%. The BIE met its FFY 2009 target of 9.3%.</p>	<p>OSEP appreciates the BIE's efforts to improve performance.</p>
<p>3. Participation and performance of children with IEPs on statewide assessments:</p> <p>A. Percent of the districts with a disability subgroup that meets the State's minimum "n" size that meet the State's AYP targets for the disability subgroup.</p> <p>[Results Indicator]</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions. The BIE indicated that stakeholders were provided an opportunity to comment on the targets for FFY 2011 and FFY 2012.</p> <p>The BIE's FFY 2009 reported data for this indicator are two out of 22 (9.09%) schools with sufficient "n" size to calculate AYP for students with disabilities who met AYP objectives for the disability subgroup. These data represent slippage from the FFY 2008 data of 13 out of 53 (24.53%) schools. The BIE did not meet its FFY 2009 target of 11 schools with sufficient "n" size achieving AYP objectives for the disability subgroup.</p>	<p>OSEP looks forward to the BIE's data demonstrating improvement in performance in the FFY 2010 APR, due February 1, 2012.</p>
<p>3. Participation and performance of children with IEPs on statewide assessments:</p> <p>B. Participation rate for children with IEPs.</p> <p>[Results Indicator]</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions. The BIE indicated that stakeholders were provided an opportunity to comment on the targets for FFY 2011 and FFY 2012.</p> <p>The BIE's FFY 2009 reported data for this indicator are 97.42% for reading and 96.93% for math. These data represent progress from the FFY 2008 data of 96.95% for reading and slippage from the FFY 2008 data of 97.43% for math. The BIE met its FFY 2009 targets of 96% for reading and 96% for math.</p> <p>OSEP's verification letter, dated May 26, 2010, required the BIE to provide with its FFY 2009 APR, documentation that demonstrates the BIE has reported to the public on the participation of students with disabilities in statewide assessments in accordance with 34 CFR §300.160. In its FFY 2009 APR, submitted on February 1, 2011, the BIE provided the following Web link for the required information:  <a href="http://www.bie.edu/HowAreWeDoing/SpecialEdReports/index.htm">http://www.bie.edu/HowAreWeDoing/SpecialEdReports/index.htm</a>. No further action is required.</p>	<p>OSEP appreciates the BIE's efforts to improve performance.</p>
<p>3. Participation and performance of children with disabilities on</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions. The BIE indicated that stakeholders were provided an</p>	<p>The BIE did not provide valid and reliable data. The BIE must</p>

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<p>statewide assessments:</p> <p>C. Proficiency rate for children with IEPs against grade level, modified and alternate academic achievement standards.</p> <p>[Results Indicator]</p>	<p>opportunity to comment on the targets for FFY 2011 and FFY 2012.</p> <p>The BIE’s FFY 2009 reported data for this indicator are 16.82% of students with IEPs scored at the proficient/advanced level for reading and 16.61% of students with IEPs scored at the proficient/advanced level for math. This represents a 22.63% gap for reading and a 13.87% gap for math between all students who scored at the proficient/advanced level and students with IEPs who scored at the proficient/advanced level. However, the BIE did not provide valid and reliable data for this indicator. OSEP could not determine how the BIE calculated this percentage, or recalculate the data in a manner consistent with the indicator. Therefore, OSEP could not determine whether there was progress or slippage or whether the BIE met its target.</p> <p>OSEP’s verification letter, dated May 26, 2010, required the BIE to provide with its FFY 2009 APR, documentation that demonstrates the BIE has reported to the public on the performance of students with disabilities in statewide assessments in accordance with 34 CFR §300.160.</p> <p>In its FFY 2009 APR, submitted on February 1, 2011, the BIE reported the required information, including a link to the State’s Web site where the BIE reports to the public on the performance of students with disabilities in statewide assessments: <a href="http://www.bie.edu/HowAreWeDoing/Scorecards/index.htm">http://www.bie.edu/HowAreWeDoing/Scorecards/index.htm</a>. No further action is required.</p>	<p>provide the required data, for FFY 2009 in the FFY 2010 APR, due February 1, 2012.</p>
<p>4. Rates of suspension and expulsion:</p> <p>A. Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and</p> <p>[Results Indicator]</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions. The BIE indicated that stakeholders were provided an opportunity to comment on the targets for FFY 2011 and FFY 2012.</p> <p>The BIE’s reported FFY 2009 data for this indicator are 11 of 60 high schools (18.33%) having a significant discrepancy and eight of 113 elementary schools (7.1%) having a significant discrepancy. However, OSEP notes that the BIE included Shoshone-Bannock high school as having a significant discrepancy, although its reported rate of 6.90% does not meet the BIE definition of significant discrepancy of two times the BIE average for high schools of 6.31%. Therefore, OSEP recalculated the data for this indicator to be ten of 60 high schools (16.6%) having a significant discrepancy. These data represent slippage for high schools from the FFY 2008 BIE reported data of five of 61 high schools (8.2%) and remained the same for elementary schools from the FFY 2008 BIE reported data of nine of 113 elementary schools (7.9%). The BIE did not meet its FFY 2009 target of no more than three of the BIE high schools or six BIE elementary schools will report suspension and expulsion rates greater than two times the</p>	<p>OSEP looks forward to the BIE’s data demonstrating improvement in performance in the FFY 2010 APR, due February 1, 2012. The BIE must report, in its FFY 2010 APR, on the correction of noncompliance that the BIE identified in FFY 2009 based on FFY 2008 data as a result of the review it conducted pursuant to 34 CFR §300.170(b).</p> <p>When reporting on the correction of this noncompliance, the BIE must report that it has verified that each school with</p>

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	<p>BIE average for that group of schools. The BIE compared its FFY 2009 (using 2008-2009) data to its FFY 2008 target. The BIE must compare its FFY 2009 (using 2008-2009) data to its FFY 2009 target.</p> <p>The BIE reported its definition of “significant discrepancy.”</p> <p>The BIE reported that nine of 113 elementary schools did not meet the BIE-established minimum “n” size requirement of two or more incidents of suspension/expulsion and were excluded from the calculation.</p> <p>The BIE reported that it reviewed the schools’ policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA, as required by 34 CFR §300.170(b) for the schools identified with significant discrepancies based on FFY 2008 data. The State identified noncompliance through this review.</p> <p>The BIE reported that it revised (or required the affected schools to revise), the schools’ policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA, pursuant to 34 CFR §300.170(b) for the schools identified with significant discrepancies based on FFY 2008 data.</p> <p>The BIE reported that noncompliance identified based on FFY 2007 data through the review of policies, procedures, and practices, pursuant to 34 CFR §300.170(b), was corrected.</p>	<p>noncompliance identified by the BIE: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a BIE data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the school, consistent with OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02). In the FFY 2010 APR, the BIE must describe the specific actions that were taken to verify the correction.</p> <p>In its FFY 2010 APR, the BIE must compare its FFY 2010 (using 2009-2010) data to its FFY 2010 target.</p>
<p>4. Rates of suspension and expulsion:</p> <p>B. Percent of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures or practices that contribute to the significant discrepancy and do not comply with</p>	<p>Not applicable.</p>	<p>Not applicable.</p>

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<p>requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.</p> <p>[Compliance Indicator]</p>																						
<p>5. Percent of children with IEPs aged 6 through 21 served:</p> <p>A. Inside the regular class 80% or more of the day;</p> <p>B. Inside the regular class less than 40% of the day; or</p> <p>C. In separate schools, residential facilities, or homebound/hospital placements.</p> <p>[Results Indicator]</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions. The BIE indicated that stakeholders were provided an opportunity to comment on the targets for FFY 2011 and FFY 2012.</p> <p>The BIE's FFY 2009 reported data for this indicator are:</p> <table border="1" data-bbox="548 678 1583 1154"> <thead> <tr> <th></th> <th><u>FFY 2008</u> <u>Data</u></th> <th><u>FFY 2009</u> <u>Data</u></th> <th><u>FFY 2009</u> <u>Target</u></th> <th><u>Progress</u></th> </tr> </thead> <tbody> <tr> <td>A. % Inside the regular class 80% or more of the day</td> <td align="center">69.48</td> <td align="center">71.16</td> <td align="center">70.17</td> <td align="center">1.68%</td> </tr> <tr> <td>B. % Inside the regular class less than 40% of the day</td> <td align="center">7.41</td> <td align="center">7.32</td> <td align="center">7.37</td> <td align="center">0.09%</td> </tr> <tr> <td>C. % In separate schools, residential facilities, or homebound/hospital placements</td> <td align="center">.81</td> <td align="center">.98</td> <td align="center">.45</td> <td align="center">-0.17%</td> </tr> </tbody> </table> <p>These data represent progress for 5A and 5B and slippage for 5C from the FFY 2008 data. The BIE met its FFY 2009 targets for 5A and 5B, but did not meet its FFY 2009 target for 5C.</p>		<u>FFY 2008</u> <u>Data</u>	<u>FFY 2009</u> <u>Data</u>	<u>FFY 2009</u> <u>Target</u>	<u>Progress</u>	A. % Inside the regular class 80% or more of the day	69.48	71.16	70.17	1.68%	B. % Inside the regular class less than 40% of the day	7.41	7.32	7.37	0.09%	C. % In separate schools, residential facilities, or homebound/hospital placements	.81	.98	.45	-0.17%	<p>OSEP appreciates the BIE's efforts to improve performance and looks forward to the BIE's data demonstrating improvement in performance in the FFY 2010 APR, due February 1, 2012.</p>
	<u>FFY 2008</u> <u>Data</u>	<u>FFY 2009</u> <u>Data</u>	<u>FFY 2009</u> <u>Target</u>	<u>Progress</u>																		
A. % Inside the regular class 80% or more of the day	69.48	71.16	70.17	1.68%																		
B. % Inside the regular class less than 40% of the day	7.41	7.32	7.37	0.09%																		
C. % In separate schools, residential facilities, or homebound/hospital placements	.81	.98	.45	-0.17%																		
<p>6. Percent of children aged 3 through 5 with IEPs attending a:</p> <p>A. Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program;</p>	<p>Not applicable.</p>	<p>Not applicable.</p>																				

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<p>and B. Separate special education class, separate school or residential facility. [Results Indicator; New]</p>		
<p>7. Percent of preschool children age 3 through 5 with IEPs who demonstrate improved: A. Positive social-emotional skills (including social relationships); B. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and C. Use of appropriate behaviors to meet their needs. [Results Indicator]</p>	<p>Not applicable.</p>	<p>Not applicable.</p>
<p>8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities. [Results Indicator]</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions. The BIE indicated that stakeholders were provided an opportunity to comment on the targets for FFY 2011 and FFY 2012.  The BIE's FFY 2009 reported data for this indicator are 37.77%. These data represent progress from the FFY 2008 data of 34%. The BIE met its FFY 2009 target of 33.98%.  In its description of its FFY 2009 data, the BIE addressed whether the response group was representative of the population.</p>	<p>OSEP appreciates the BIE's efforts to improve performance.</p>
<p>9. Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification. [Compliance Indicator]</p>	<p>Not applicable.</p>	<p>Not applicable.</p>

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<p>10. Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.</p> <p>[Compliance Indicator]</p>	<p>Not applicable.</p>	<p>Not applicable.</p>
<p>11. Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.</p> <p>[Compliance Indicator]</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions.</p> <p>The BIE’s reported data for FFY 2009 are 98.93%. The BIE explained that “[t]he accurate percentage in compliance is 62.6% for FFY 2008 and not the 92.89% that was reported on the 2008-2009 APR.” The FFY 2009 reported data represent progress from the corrected FFY 2008 data of 62.6%. The BIE did not meet its FFY 2009 target of 100%.</p> <p>The BIE reported that 146 of 180 findings of noncompliance identified in FFY 2008 were corrected in a timely manner, and that the remaining findings were subsequently corrected by December 1, 2010. OSEP notes that the BIE reported on page 51 of the APR that “correction of the FFY 2008 non-compliance (20 schools and 146 children) was verified and validated through NASIS and Individual Student Detail Data Report.” However, the BIE reported on page 77 of the APR, in a note after the Indicator B-15 Worksheet, that, “146 individual items of noncompliance were verified corrected within one year of notification from 61 schools.”</p>	<p>OSEP appreciates the BIE’s efforts and looks forward to reviewing in the FFY 2010 APR, due February 1, 2012, the BIE’s data demonstrating that it is in compliance with the timely initial evaluation requirements in 34 CFR §300.301(c)(1). Because the BIE reported less than 100% compliance for FFY 2009, the BIE must report on the status of correction of noncompliance reflected in the data the BIE reported for this indicator.</p> <p>When reporting on the correction of noncompliance, the BIE must report, in its FFY 2010 APR, that it has verified that each school with noncompliance reflected in the FFY 2009 data the BIE reported for this indicator: (1) is correctly implementing 34 CFR §300.301(c)(1) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a BIE data system; and (2) has completed the evaluation,</p>

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		<p>although late, for any child whose initial evaluation was not timely, unless the child is no longer within the jurisdiction of the school, consistent with OSEP Memo 09-02. In the FFY 2010 APR, the BIE must describe the specific actions that were taken to verify the correction.</p> <p>In addition, the BIE must include an explanation, in its FFY 2010 APR, of the discrepancy in the FFY 2009 APR regarding the number of schools that were issued findings of noncompliance in FFY 2008 based on the 146 children that did not receive timely initial evaluations.</p> <p>If the BIE does not report 100% compliance in the FFY 2010 APR, the BIE must review its improvement activities and revise them, if necessary.</p>
<p>12. Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.</p> <p>[Compliance Indicator]</p>	<p>Not applicable.</p>	<p>Not applicable.</p>
<p>13. Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are</p>	<p>The BIE provided FFY 2009 baseline data, targets and improvement activities for FFY 2010, FFY 2011, and FFY 2012 for this indicator, and OSEP accepts the BIE's submission for this indicator.</p>	<p>Although OSEP did not consider data for Indicator 13 in its determinations for FFY 2009, OSEP is concerned about the</p>

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<p>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. There also must be evidence that the student was invited to the IEP Team meeting where transition services are 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.</p> <p>[Compliance Indicator]</p>	<p>The BIE’s FFY 2009 reported baseline data for this indicator are 59.14%.</p> <p>OSEP’s FFY 2008 SPP/APR response table, dated June 3, 2010, required the BIE to demonstrate in the FFY 2009 APR that the one remaining uncorrected noncompliance finding identified in FFY 2006 and the one remaining uncorrected noncompliance finding identified in FFY 2007 were corrected. The BIE reported that the one remaining uncorrected noncompliance finding identified in FFY 2006 was corrected, and the one remaining noncompliance finding identified in FFY 2007 was corrected.</p>	<p>BIE’s very low FFY 2009 data (below 75%) for this indicator. In 2012, OSEP will consider the BIE’s FFY 2010 data for Indicator 13 in determinations.</p> <p>The BIE must demonstrate, in the FFY 2010 APR, due February 1, 2012, that the BIE is in compliance with the secondary transition requirements in 34 CFR §§300.320(b) and 300.321(b). Because the BIE reported less than 100% compliance for FFY 2009, the BIE must report on the status of correction of noncompliance reflected in the data the BIE reported for this indicator.</p> <p>When reporting on the correction of noncompliance, the BIE must report, in its FFY 2010 APR, that it has verified that each school with noncompliance reflected in the FFY 2009 data the BIE reported for this indicator: (1) is correctly implementing 34 CFR §§300.320(b) and 300.321(b) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a BIE data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the</p>

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		<p>school, consistent with OSEP Memo 09-02. In the FFY 2010 APR, the BIE must describe the specific actions that were taken to verify the correction.</p> <p>If the BIE does not report 100% compliance in the FFY 2010 APR, the BIE must review its improvement activities and revise them, if necessary.</p>
<p>14. Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and were:</p> <p>A. Enrolled in higher education within one year of leaving high school;</p> <p>B. Enrolled in higher education or competitively employed within one year of leaving high school.</p> <p>C. Enrolled in higher education or in some other postsecondary education or training program; or competitively employed or in some other employment within one year of leaving high school.</p> <p>[Results Indicator]</p>	<p>The BIE provided FFY 2009 baseline data, targets for FFY 2010, FFY 2011, and FFY 2012 and improvement activities through FFY 2012 for this indicator, and OSEP accepts the BIE’s submission for this indicator. The BIE indicated that stakeholders were provided an opportunity to comment on the targets for FFY 2010, FFY 2011, and FFY 2012.</p> <p>The BIE’s reported FFY 2009 baseline data for this indicator are:</p> <p>A. 25.2% enrolled in higher education within one year of leaving high school;</p> <p>B. 46.8% enrolled in higher education or competitively employed within one year of leaving high school; and</p> <p>C. 72.6% enrolled in higher education or in some other postsecondary education or training program; or competitively employed or in some other employment within one year of leaving high school.</p> <p>Although the BIE provided actual numbers used in the calculation for this indicator (as required by the instructions in the SPP/APR Measurement Table), the categories used are not consistent with the instructions in the SPP/APR Measurement Table. States are required to report separate numbers for leavers who were enrolled in some other postsecondary education or training program within one year of leaving high school (but not enrolled in higher education or competitively employed) and for leavers who were in some other employment within one year of leaving high school (but not enrolled in higher education, some other postsecondary education or training program, or competitively employed). On page 56 of the SPP, BIE included both in one number reported in Category 3.</p>	<p>The BIE must report actual target data for FFY 2010 with the FFY 2010 APR, due February 1, 2012.</p> <p>The BIE did not provide data based on the required measurement and the BIE must provide the required data based on the required measurement, for FFY 2009 in the FFY 2010 APR.</p>
<p>15. General supervision system</p>	<p>The BIE provided targets and improvement activities for FFY 2010 and FFY 2012, and</p>	<p>The BIE must demonstrate, in the</p>

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<p>(including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification.</p> <p>[Compliance Indicator]</p>	<p>OSEP accepts those revisions.</p> <p>The BIE’s reported data for FFY 2009 are 58.01%. These data represent slippage from the FFY 2008 data of 93.49%. The BIE did not meet its FFY 2009 target of 100%.</p> <p>The BIE reported that 134 of 231 findings of noncompliance identified in FFY 2008 were corrected in a timely manner and that 67 findings were subsequently corrected by December 1, 2010. The BIE reported on the actions it took to address the uncorrected noncompliance. The BIE reported that it verified correction of findings consistent with OSEP Memo 09-02 after the conclusion of the one-year timeline.</p> <p>In addition, OSEP notes that in the Indicator B-15 Worksheet on page 77 of the APR, the BIE reported that of the 231 findings of noncompliance identified in FFY 2008, 143 findings were verified as corrected no later than one year from identification. However, OSEP recalculated the number to be 134 based on the number of findings the BIE provided in the B-15 worksheet and as reported on pages 64, 65 and 67 of the APR.</p> <p>OSEP’s FFY 2008 SPP/APR response table, dated June 3, 2010, required the BIE to include in the FFY 2009 APR, due February 1, 2011, data demonstrating that the remaining 13 findings of noncompliance identified in FFY 2007 and the remaining eight findings of noncompliance identified in FFY 2006 were corrected. The BIE provided all of the required information.</p> <p>OSEP’s verification letter, dated May 26, 2010, required that the BIE submit documentation that demonstrates that:</p> <ul style="list-style-type: none"> <li>• The BIE has clarified which document constitutes the written notification from BIE to the school of the noncompliance so it is clear when the one-year timeline for correction begins.</li> <li>• The BIE uses data it receives through the Special Education Self Assessment (SESS), the Indian School Equalization Program (ISEP) verification process, its database, and due process decisions to identify findings of noncompliance.</li> <li>• The BIE explicitly informs a school that noncompliance with any requirement of Part B of the IDEA, including a requirement not related to FAPE, must be corrected as soon as possible, and in no case later than one year from the BIE’s identification of the noncompliance.</li> <li>• The BIE has revised its written policies and procedures for verifying that previously identified noncompliance has been corrected to include procedures for: (a) reviewing updated data such as data from subsequent on-site</li> </ul>	<p>FFY 2010 APR, due February 1, 2012, that the remaining 30 findings of noncompliance identified in FFY 2008 that were not reported as corrected in the FFY 2009 APR were corrected.</p> <p>The BIE must review its improvement activities and revise them, if appropriate, to ensure they will enable the BIE to provide data in the FFY 2010 APR, demonstrating that the BIE timely corrected noncompliance identified by the BIE in FFY 2009 in accordance with 20 U.S.C. 1232d(b)(3)(E), 34 CFR §§300.149 and 300.600(e), and OSEP Memo 09-02.</p> <p>In reporting on correction of findings of noncompliance in the FFY 2010 APR, the BIE must report that it verified that each school with noncompliance identified in FFY 2009: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a BIE data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the school, consistent with OSEP</p>

**Bureau of Indian Education (BIE) Part B FFY 2009 SPP/APR Response Table**

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
	<p>monitoring or data collected through the data system to ensure the school is correctly implementing the specific regulatory requirements; (b) determining the root cause of the noncompliance; and (c) if needed, changing, or requiring a school to change its policies, procedures, and/or practices that contributed to or resulted in the noncompliance.</p> <ul style="list-style-type: none"> <li>The BIE ensures that findings of noncompliance identified through the self-assessment, ISEP verification process, database, and due process decisions are corrected in a manner consistent with OSEP’s September 3, 2008 FAQs and OSEP Memo 09-02.</li> </ul> <p>The BIE provided the required information. No further action is required.</p>	<p>Memo 09-02. In the FFY 2010 APR, the BIE must describe the specific actions that were taken to verify the correction. In reporting on Indicator 15 in the FFY 2010 APR, the BIE must use the Indicator 15 Worksheet.</p> <p>In addition, in responding to Indicators 4A, 11 and 13 in the FFY 2010 APR, the BIE must report on correction of the noncompliance described in this table under those indicators.</p>
<p>16. Percent of signed written complaints with reports issued that were resolved within 60-day timeline or a timeline extended for exceptional circumstances with respect to a 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.</p> <p>[Compliance Indicator]</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions.</p> <p>The BIE’s FFY 2009 reported data for this indicator are 0%. These data are based on one complaint. The BIE’s data reported in this indicator are not the same as the BIE’s IDEA section 618 data. The BIE provided an explanation. The BIE did not meet its FFY 2009 target of 100%.</p>	<p>The BIE must review its improvement activities and revise them, if necessary, to ensure they will enable the BIE to provide data in the FFY 2010 APR, due February 1, 2012, demonstrating that the BIE is in compliance with the timely complaint resolution requirements in 34 CFR §300.152.</p>
<p>17. Percent of adjudicated due process hearing requests that were adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party or in the case of an expedited hearing, within the required</p>	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions.</p> <p>The BIE reported that it did not receive any requests for due process hearings during the reporting period.</p>	<p>OSEP looks forward to reviewing the BIE’s data in the FFY 2010 APR, due February 1, 2012.</p>

**Bureau of Indian Education (BIE) Part B FFY 2009 SPP/APR Response Table**

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
timelines. [Compliance Indicator]		
18. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements. [Results Indicator]	<p>The BIE’s FFY 2009 data reported under IDEA section 618 indicate no resolution sessions were held during the reporting period.</p> <p>The BIE is not required to provide targets or improvement activities until any fiscal year in which ten or more resolution sessions were held.</p>	<p>OSEP looks forward to reviewing the BIE’s data in the FFY 2010 APR, due February 1, 2012.</p>
19. Percent of mediations held that resulted in mediation agreements. [Results Indicator]	<p>The BIE provided targets and improvement activities for FFY 2011 and FFY 2012, and OSEP accepts those revisions. The BIE indicated that stakeholders were provided an opportunity to comment on the targets for FFY 2011 and FFY 2012.</p> <p>The BIE reported that no mediations were held during the reporting period.</p> <p>The BIE is not required to provide targets or improvement activities until any fiscal year in which ten or more mediation sessions were held.</p>	<p>OSEP looks forward to reviewing the BIE’s data in the FFY 2010 APR, due February 1, 2012.</p>
20. State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. [Compliance Indicator]	<p>The BIE provided FFY 2011 and FFY 2012 targets for this indicator, and OSEP accepts those revisions. The State did not provide improvement activities through FFY 2012. The BIE must revise its SPP to make clear that improvement activities will be conducted through FFY 2012. In addition the SPP does not include targets and improvement activities for FFYs 2005-2009, or improvement activities for FFY 2010. The BIE must revise its SPP to include targets and improvement activities for the entire life of the SPP.</p> <p>The BIE’s FFY 2009 reported data for this indicator are 100%. However, OSEP’s calculation of the data for this indicator is 89.65%. These data represent slippage from the FFY 2008 data of 92.04%.</p> <p>OSEP’s verification letter, dated May 26, 2010 required the BIE to:</p> <ul style="list-style-type: none"> <li>• Provide updated information on the steps the BIE has taken to ensure valid and reliable data are submitted to the Department and the public in a timely manner.</li> <li>• Report on the progress the BIE is making in integrating data and using it to focus on improvement activities.</li> </ul> <p>The BIE provided the required information. No further action is required.</p>	<p>With the FFY 2010 APR, due February 1, 2012, the BIE must submit a revised SPP that includes improvement activities through FFY 2012, targets and improvement activities for FFY 2005-FFY 2009, and improvement activities for FFY 2010.</p> <p>The BIE must review its improvement activities and revise them, if necessary, to ensure they will enable the BIE to provide data in the FFY 2010 APR demonstrating that it is in compliance with the timely and accurate data reporting requirements in IDEA sections 616 and 618 and 34 CFR</p>

**Bureau of Indian Education (BIE) Part B FFY 2009 SPP/APR Response Table**

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
		§§76.720 and 300.601(b). In reporting on Indicator 20 in the FFY 2010 APR, the BIE must use the Indicator 20 Data Rubric.
Additional Verification Issues		
GS-3 Dispute Resolution	<p>OSEP’s verification letter, dated May 26, 2010, required the BIE to:</p> <ul style="list-style-type: none"> <li>• Provide documentation that the BIE has developed and made publicly available model forms for due process complaints in accordance with 34 CFR §§300.507(a) and 300.508(a) through (c) and for State complaints under 34 CFR §§300.151 through 300.153 (34 CFR §300.509(a)).</li> <li>• Provide documentation that neither parents nor schools are required to use the model form to file a due process complaint or State complaint.</li> <li>• Provide a written assurance that the BIE has established procedures to transmit the findings and decisions to the State advisory panel and to make the findings and decisions available to the public, as required by 34 CFR §300.513(d).</li> <li>• Submit documentation demonstrating that its manuals for dispute resolution (State complaints, due process hearings, and mediation) and its procedural safeguards notice are all consistent with IDEA section 615 and the Part B regulations at 34 CFR §§300.151 through 300.153 and 300.500 through 300.536.</li> </ul> <p>The BIE submitted the required information. No further action is required.</p>	
GS-5 Grant Assurances- Coordinated Early Intervening Services (CEIS) and National Instructional Materials Accessibility Standard (NIMAS)	<p>OSEP’s verification letter, dated May 26, 2010, required the BIE to:</p> <ul style="list-style-type: none"> <li>• Provide an assurance that BIE is: (a) requiring schools voluntarily reserving funds for CEIS to report on the number of children served who received CEIS and the number of children who received CEIS and subsequently receive special education and related services under Part B of IDEA in the preceding two years, as required by 34 CFR §§300.226(d) and 300.711(b); and (b) providing instructional materials to blind persons or other persons with print disabilities in a timely manner, as required by 34 CFR §300.172(b)(2).</li> <li>• Provide documentation that the BIE has informed schools that it does not</li> </ul>	

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Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
	<p>consider any student identified with disabilities to be eligible for CEIS funds. The BIE submitted the required information. No further action is required.</p>	
<p align="center">GS-5 Grant Assurances- Determinations and Enforcement</p>	<p>OSEP’s verification letter, dated May 26, 2010, required the BIE to:</p> <ul style="list-style-type: none"> <li>• Provide documentation that the BIE’s determination criteria include consideration of school-specific audit findings in its annual local determination process.</li> <li>• Provide documentation that the BIE’s rubric of enforcement action based on determination level conforms with the requirements of 34 CFR §§300.600(a)(3) and 300.604.</li> </ul> <p>The BIE has submitted the required information. No further action is required.</p>	
<p align="center">FS-1 Timely Obligation and Liquidation of Funds</p>	<p>OSEP’s verification letter, dated May 26, 2010, required the BIE to:</p> <ul style="list-style-type: none"> <li>• Develop written distribution procedures for all of its IDEA funds to ensure that all BIE/BIA staff and all recipients of IDEA funds from the BIE are informed in writing of the specific time periods by which the recipient must complete all actions in order to ensure the timely obligation and liquidation of IDEA funds.</li> <li>• Provide to OSEP a copy of its distribution procedures for IDEA funds (including any model grant or contract documents for IDEA funds) to ensure that all BIE/BIA staff and all recipients of IDEA funds from the BIE are informed in writing of the specific time periods by which the recipient must complete all actions in order to ensure the timely obligation and liquidation of IDEA funds.</li> </ul> <p>The BIE has submitted the required information. No further action is required.</p>	
<p align="center">FS-3 Appropriate Use of IDEA Funds</p>	<p>OSEP’s verification letter dated May 26, 2010, required the BIE to submit documentation that demonstrates it has developed and implemented 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). In addition, in reference to Final Audit Report (ED-OIG A06-F0019), OSEP’s June 30, 2010 letter informed the BIE that it must submit documentation that demonstrates it has implemented procedures to monitor BIE-funded schools’ use of IDEA Part B funds, including a copy of the monitoring protocols and data collection</p>	

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<b>Monitoring Priorities and Indicators</b>	<b>Status of APR Data/SPP Revision Issues</b>	<b>OSEP Analysis/Next Steps</b>
	<p>tools and written monitoring report(s).</p> <p>The BIE has submitted the required information. OSEP will continue to monitor the BIE's progress in implementing its fiscal monitoring system.</p>	