

Bureau of Indian Education Part B FFY 2011 SPP/APR Response Table

Part B SPP/APR Indicators

1. Percent of youth with IEPs graduating from high school with a regular diploma. [Results Indicator]
2. Percent of youth with IEPs dropping out of high school. [Results Indicator]
3. Statewide assessments: A. Percent of the districts with a disability subgroup that meets the State’s minimum “n” size that meet the State’s AYP/AMO targets for the disability subgroup. [Results Indicator] B. Participation rate for children with IEPs on statewide assessments. [Results Indicator] C. Proficiency rate for children with IEPs against grade level, modified and alternate academic achievement standards. [Results Indicator]
4. Rates of suspension and expulsion 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; [Results Indicator] 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 requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. [Compliance Indicator]
5. Percent of children with IEPs aged 6 through 21 served: A. Inside the regular class 80% or more of the day; B. Inside the regular class less than 40% of the day; or C. In separate schools, residential facilities, or homebound/hospital placements. [Results Indicator]
6. Percent of children aged 3 through 5 with IEPs attending a: A. Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program; and B. Separate special education class, separate school or residential facility. [Results Indicator; New]
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]
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]
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]

10. Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. [Compliance Indicator]
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. [Compliance Indicator]
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. [Compliance Indicator]
13. Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. 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. [Compliance Indicator]
14. Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and were: A. Enrolled in higher education within one year of leaving high school; B. Enrolled in higher education or competitively employed within one year of leaving high school; 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. [Results Indicator]
15. General supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification. [Compliance Indicator]
18. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements. [Results Indicator]
19. Percent of mediations held that resulted in mediation agreements. [Results Indicator]
20. State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. [Compliance Indicator]

Timeliness of State Complaint and Due Process Hearing Decisions
(Collected as Part of IDEA Section 618 Data rather than through an SPP/APR Indicator)

Timely Resolution of State Complaints: 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.

Timely Adjudication of Due Process Hearing Requests: Percent of adjudicated due process hearing requests that were adjudicated within the 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 timelines.

Bureau of Indian Education Part B FFY 2011 SPP/APR Results Data Summary

INDICATOR	FFY 2010 DATA	FFY 2011 DATA	FFY 2011 TARGET
1. Graduation	55.18%	53.68%	≥ 55.18% ¹
2. Drop Out	12.62%	10.81%	≤ 9.00% ²
3. A. Percent of Districts Meeting AYP for Disability Subgroup	21.21%	No Data	≥ 24.21 %
B. Statewide Assessment Participation Rate – Reading	98.25%	98.96%	≥ 96%
B. Statewide Assessment Participation Rate – Math	93.15%	98.96%	≥ 96%
C. Proficiency Rate -Reading	18.99%	Not Valid and Reliable	≥ 0.5% over the FFY 2010 %
C. Proficiency Rate -Math	16.58%	Not Valid and Reliable	≥ 0.5% over the FFY 2010 %
4. A. Percent of Districts with Significant Discrepancy in Suspension/Expulsion-High Schools	13 of 60 schools (21.66%)	10 of 60 schools (16.67%)	≤ Two high schools
4. A. Percent of Districts with Significant Discrepancy in Suspension/Expulsion-Elementary Schools	Six of 113 schools (11.5%)	Four of 113 schools (3.54%)	≤ Five elementary schools
5. Educational Environment for Children with IEPs 6-21			
A. In Regular Education 80% or More of Day	74.08%	75.93%	≥ 74.83%
B. In Regular Education Less than 40% of Day	6.34%	6.51%	≤ 6.02%
C. In Separate Schools, Residential Facilities, or Homebound/Hospitals	1.12%	0.98%	≤ 0.65%
6. Percent of children aged 3 through 5 with IEPs attending:			
A. Regular early childhood program and receiving majority of special education and related services in regular early childhood program;	Not Applicable	Not Applicable	Not Applicable
B. Separate special education class, separate school or residential facility.	Not Applicable	Not Applicable	Not Applicable
7. Preschool Outcomes	Not Applicable	Not Applicable	Not Applicable
8. Parents Reporting Schools Facilitated Parent Involvement	38.34%	40%	≥ 38.34%

¹ As used in this table, the symbol “≥” means that, to meet the target, the State’s data must be greater than or equal to the established target.

² As used in this table, the symbol “≤” means that, to meet the target, the State’s data must be less than or equal to the established target.

INDICATOR	FFY 2010 DATA	FFY 2011 DATA	FFY 2011 TARGET
14. Percent of Youth No Longer in School, within One Year of Leaving High School: A. Enrolled in Higher Education	27.40%	21.89%	≥ 25.5%
B. Enrolled in Higher Education or Competitively Employed	59.00%	48.07%	≥ 47.10%
C. Enrolled in Higher Education or Other Postsecondary Education or Training or Competitively Employed or in Some Other Employment	68.20%	65.24%	≥ 72.9%
18. Hearing Requests Resolved through Resolution Session Agreements	One of four resolution sessions resulted in settlement agreements.	Zero of four resolution sessions resulted in settlement agreements.	Not Applicable
19. Mediations Held that Resulted in Mediation Agreements	All four mediations resulted in mediation agreements.	All four mediations resulted in mediation agreements.	Not Applicable

Bureau of Indian Education Part B FFY 2011 Results Data Summary Notes

INDICATOR 1: The BIE indicated in its FFY 2011 APR that it revised its FFY 2012 target for this indicator, reflecting improvement over the baseline data. However, the FFY 2012 target reported in the revised SPP is to increase the amount of students with IEPs graduating from high school with a regular diploma by at least .5% over the 2011-2012 SY graduating SWD percentage. OSEP cannot accept this revision because the SY 2011-2012 graduating SWD percentage was 1.5% below the baseline year (SY 2010-2011) graduating SWD percentage and, therefore, the FFY 2012 target does not reflect improvement over the baseline data.

REQUIRED ACTIONS

With the FFY 2012 APR, the BIE must submit a revised SPP that includes an FFY 2012 target reflecting improvement over the BIE's baseline data.

INDICATOR 3A: Because the BIE did not provide any data for FFY 2011, OSEP cannot determine if the BIE's end target for FFY 2012 will reflect improvement over its FFY 2010 baseline data. The BIE must ensure that its FFY 2012 target reflects improvement over its FFY 2010 baseline data.

The BIE did not provide any data for this indicator. The BIE reported that FFY 2011 data is not available until the BIE can get clarification from OSEP and guidance from the Office of Elementary and Secondary Education whether Northwest Evaluation Association (NWEA) assessment data can be used when calculating AYP for schools in New Mexico for SY 2011-2012. Because the BIE provided no data for this indicator, OSEP could not determine whether the BIE met its target.

REQUIRED ACTIONS

The BIE must provide the required data for FFY 2011 and FFY 2012 in the FFY 2012 APR.

INDICATOR 3B:

The BIE provided a Web link to 2011 publicly-reported assessment results.

The BIE did not report publicly on the participation of children with disabilities on statewide assessments with the same frequency and in the same detail as it reports on the assessments of nondisabled children, as required by 34 CFR §300.160(f). Specifically, the BIE has not reported the number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments, or the number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards at the Bureau and school levels. The failure to publicly report as required under 34 CFR §300.160(f) is noncompliance.

REQUIRED ACTIONS

Within 90 days of the receipt of this Response Table, the BIE must provide a Web link that demonstrates it has reported, for FFY 2011, to the public on the statewide assessments of children with disabilities in accordance with 34 CFR §300.160(f). In addition, OSEP reminds the BIE that in the FFY 2012 APR, the BIE must continue to include a Web link that demonstrates compliance with 34 CFR §300.160(f) for FFY 2012.

INDICATOR 3C: The BIE did not provide valid and reliable data for this indicator, because the data are not consistent with the required measurement. The BIE reported for Indicator 3C, on page 7 of the FFY 2011 APR, the proficiency rate only for children with IEPs enrolled for a full academic year, even though the BIE reported for Indicator 3B the proficiency rate for both children with IEPs enrolled for a full academic year and those not enrolled for a full academic year. As required by the Measurement Table, the proficiency rate must include both children with IEPs enrolled for a full academic year and those not enrolled for a full academic year.

The BIE provided a Web link to 2011 publicly-reported assessment results.

REQUIRED ACTIONS

The BIE must provide the required data for FFY 2011 and FFY 2012 in the FFY 2012 APR.

INDICATOR 4A: The BIE reported its definition of “significant discrepancy.”

The BIE reported that ten of 60 high schools (16.67%) and four of 113 elementary schools (3.54%) were identified as having a significant discrepancy in the rate of suspensions and expulsions of greater than ten days in a school year for children with IEPs.

The BIE reported that five high schools and 40 elementary schools did not meet the BIE-established minimum “n” size requirement of 20 students with disabilities. 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 in FFY 2011 based on 2010-2011 data. The BIE did not identify noncompliance through this review.

OSEP’s June 2012 FFY 2010 SPP/APR Response Table required the BIE to include in the FFY 2011 APR, due February 15, 2013, a description of the review, and if appropriate, revision of 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 that these policies, procedures, and practices comply with the IDEA, for schools identified with significant discrepancies in FFY 2010 based on 2009-2010 data as required in 34 CFR §300.170(b). The BIE provided the required information. The BIE provided a description of the required review conducted for schools identified with significant discrepancies in FFY 2010, using 2009-2010 data and reported that it identified noncompliance in this review. The BIE reported that the noncompliance identified in FFY 2010, using 2009-2010 data, through the review of policies, procedures and practices pursuant to 34 CFR §300.170(b) was corrected.

INDICATOR 18: The data that the BIE submitted in its FFY 2011 APR are different from the FFY 2011 data that the BIE reported under IDEA section 618 for this indicator. The BIE explained that the data that the BIE reported in the APR are updated from the data the BIE submitted under section 618, and are the accurate data for this indicator.

The BIE reported fewer than ten resolution sessions held in FFY 2011. The BIE is not required to provide targets or improvement activities until any fiscal year in which ten or more resolution sessions were held.

INDICATOR 19: The data that the BIE submitted in its FFY 2011 APR are different from the FFY 2011 data that the BIE reported under IDEA section 618 for this indicator. The BIE explained that the data that the BIE reported in the APR are updated from the data the BIE submitted under section 618, and are the accurate data for this indicator.

The BIE reported fewer than ten mediations held in FFY 2011. The BIE is not required to provide targets or improvement activities until any fiscal year in which ten or more mediations were held.

Bureau of Indian Education Part B FFY 2011 SPP/APR Compliance Summary

INDICATOR	FFY 2010 DATA	FFY 2011 DATA	FFY 2011 TARGET	CORRECTION OF FINDINGS OF NONCOMPLIANCE IDENTIFIED IN FFY 2010
4B. Significant discrepancy in suspension/expulsion by race/ethnicity, and policies, procedures or practices that contribute to the significant discrepancy and do not comply with specified requirements	Not Applicable	Not Applicable	Not Applicable	Not Applicable
9. Disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.	Not Applicable	Not Applicable	Not Applicable	Not Applicable
10. Disproportionate representation by disability of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.	Not Applicable	Not Applicable	Not Applicable	Not Applicable
11. Timely Initial Evaluation	95%	95.66%	100%	The BIE reported that all 35 of its findings of noncompliance identified in FFY 2010 were corrected in a timely manner.
12. Early Childhood Transition	Not Applicable	Not Applicable	Not Applicable	Not Applicable
13. Secondary Transition	29.25%	48.99%	100%	The BIE reported that 292 of 312 findings of noncompliance identified in FFY 2010 were corrected in a timely manner and that the 20 remaining findings were subsequently corrected by February 15, 2013.

INDICATOR	FFY 2010 DATA	FFY 2011 DATA	FFY 2011 TARGET	CORRECTION OF FINDINGS OF NONCOMPLIANCE IDENTIFIED IN FFY 2010
15. Timely Correction	76%	95.09%	100%	The BIE reported that 813 of 855 findings of noncompliance identified in FFY 2010 were corrected in a timely manner and the 42 remaining findings were subsequently corrected by February 15, 2013.
20. Timely and Accurate Data	93.18%	83.31%	100%	

Bureau of Indian Education Part B FFY 2011 State Complaint and Hearing Data from IDEA Section 618 Data Reports

REQUIREMENT	FFY 2010 DATA	FFY 2011 DATA
Timely resolution of complaints	0% (based on three complaints)	0% (based on one complaint)
Timely adjudication of due process hearing requests	The BIE reported that it did not receive any requests for due process hearings during the reporting period.	The BIE reported that it did not receive any requests for due process hearings during the reporting period.

Bureau of Indian Education Part B FFY 2011 Compliance Data Summary Notes

INDICATOR 11:

REQUIRED ACTIONS

Because the BIE reported less than 100% compliance for FFY 2011, the BIE must report on the status of correction of noncompliance identified in FFY 2011 for this indicator. When reporting on the correction of noncompliance, the BIE must report, in its FFY 2012 APR, that it has verified that each school with noncompliance identified in FFY 2011 for this indicator: (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 Memo 09-02.³ In the FFY 2012 APR, the BIE must describe the specific actions that were taken to verify the correction.

INDICATOR 13: The BIE reported that the two findings of noncompliance identified in FFY 2009 were corrected.

REQUIRED ACTIONS

Because the BIE reported less than 100% compliance for FFY 2011, the BIE must report on the status of correction of noncompliance identified in FFY 2011 for this indicator. When reporting on the correction of noncompliance, the BIE must report, in its FFY 2012 APR, that it has verified that each school with noncompliance identified in FFY 2011 for this indicator: (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 Memo 09-02. In the FFY 2012 APR, the BIE must describe the specific actions that were taken to verify the correction.

³ OSEP Memorandum 09-02 (OSEP Memo 09-02), dated October 17, 2008, requires that the State report that it verified that each LEA with noncompliance: (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 State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA.

INDICATOR 15:

The BIE reported on pages 69-71 of its FFY 2011 APR that the six remaining findings identified in FFY 2008 and the 17 remaining findings of noncompliance identified in FFY 2009 were corrected. This information is consistent with what the BIE reported in its quarterly Program Improvement and Accountability Plan (PIAP) report submitted on April 30, 2013.

REQUIRED ACTIONS

When reporting in the FFY 2012 APR on the correction of findings of noncompliance, the BIE must report that it verified that each school with findings of noncompliance identified in FFY 2011: (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 Memo 09-02. In the FFY 2012 APR, the BIE must describe the specific actions that were taken to verify the correction. In addition, in reporting on Indicator 15 in the FFY 2012 APR, the BIE must use and submit the Indicator 15 Worksheet.

In addition, in responding to Indicators 11 and 13 in the FFY 2012 APR, the BIE must report on correction of the noncompliance described in this table under those indicators.

PUBLIC REPORTING ON LEA PERFORMANCE: While the BIE has publicly reported on the FFY 2010 (July 1, 2010-June 30, 2011) performance of each school funded by the BIE on the targets in the State performance plan (SPP) as required by section 616(b)(2)(C)(ii)(I) of IDEA and 34 CFR §300.708(d), those reports do not contain the required information. Specifically, the data reported on the performance of BIE-funded schools on the targets in the SPP for Indicator 14 are not consistent with the required measurement for this indicator.

REQUIRED ACTION

The BIE must include, in its FFY 2012 APR, confirmation that it has completed public reporting on the FFY 2010 performance of BIE-funded schools for Indicator 14 in a manner consistent with the required measurement for this indicator.