

## Bureau of Indian Education Part B FFY 2012 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]
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 2012 SPP/APR Results Data Summary**

<b>INDICATOR</b>	<b>FFY 2011 DATA</b>	<b>FFY 2012 DATA</b>	<b>FFY 2012 TARGET</b>
1. Graduation	53.68%	53.68%	≥ 55.68% <sup>1</sup>
2. Drop Out	10.81%	9.86%	≤ 9% <sup>2</sup>
3. A. Percent of Districts Meeting AYP for Disability Subgroup	No Data	No Data	≥ 3% over FFY 2011 data
B. Statewide Assessment Participation Rate – Reading	98.96%	99.22%	≥ 96%
B. Statewide Assessment Participation Rate – Math	98.96%	99%	≥ 96%
C. Proficiency Rate -Reading	17.43%	14.83%	17.9%
C. Proficiency Rate -Math	17.08%	13.19%	17.5%
4. A. Percent of Districts with Significant Discrepancy in Suspension/Expulsion-High Schools	Ten of 60 schools (16.67%)	Seven of 60 schools (11.66%)	≤ Two high schools
4. A. Percent of Districts with Significant Discrepancy in Suspension/Expulsion-Elementary Schools	Four of 113 schools (3.54%)	Six of 113 schools (5.31%)	≤ Five elementary schools
5. Educational Environment for Children with IEPs 6-21			
A. In Regular Education 80% or More of Day	75.93%	77.21%	≥ 74.08%
B. In Regular Education Less than 40% of Day	6.51%	5.89%	≤ 6.34%
C. In Separate Schools, Residential Facilities, or Homebound/Hospitals	0.98%	0.94%	≤ 0.45%
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	40%	39.01%	≥ 38.34%
14. Percent of Youth No Longer in School, within One Year of Leaving High School:			
A. Enrolled in Higher Education	21.89%	22.25%	≥ 26%
B. Enrolled in Higher Education or Competitively Employed	48.07%	49.74%	≥ 47.50%
C. Enrolled in Higher Education or Other Postsecondary Education or Training or Competitively Employed or in Some Other Employment	65.24%	72.77%	≥ 73.50%

<sup>1</sup> 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.

<sup>2</sup> 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.

<b>INDICATOR</b>	<b>FFY 2011 DATA</b>	<b>FFY 2012 DATA</b>	<b>FFY 2012 TARGET</b>
18. Hearing Requests Resolved through Resolution Session Agreements	None of four resolution sessions resulted in a settlement agreement.	Five of five resolution sessions resulted in a settlement agreement	Not applicable
19. Mediations Held that Resulted in Mediation Agreements	All four mediations resulted in mediation agreements.	All three mediations resulted in mediation agreements.	Not applicable

## Bureau of Indian Education FFY 2012 Results Data Summary Notes

INDICATOR 1: OSEP's FFY 2011 SPP/APR Response Table required the BIE to submit with the FFY 2012 APR a revised SPP that includes an FFY 2012 target reflecting improvement over the BIE's baseline data. The BIE indicated in its FFY 2012 APR that it revised its target for this indicator. Although the BIE directed OSEP to a revised SPP, the targets designated in the revised SPP are not consistent with the targets reported in the FFY 2012 APR. Specifically, the FFY 2012 target reported in the FFY 2012 APR is 0.5% over the school year (SY) 2010-2011 percentage of graduating students with disabilities (SWDs), whereas the FFY 2012 target designated in the revised SPP is 0.5% over the SY 2011-2012 percentage of graduating SWDs.

### **REQUIRED ACTIONS**

The BIE must ensure that the FFY 2013 target reported in the FFY 2013 APR is consistent with the FFY 2013 target designated in the FFY 2013 SPP/APR.

INDICATOR 3A: OSEP's FFY 2011 SPP/APR Response Table required the BIE to include in the FFY 2012 APR FFY 2011 and FFY 2012 data for this indicator. The BIE provided none of the required information. The BIE reported that the FFY 2011 data are still not available because the BIE is awaiting clarification from OSEP and the Office of Elementary and Secondary Education (OESE) whether Northwest Evaluation Association (NWEA) assessment data can be used when calculating AYP for schools in New Mexico for SY 2011-2012. On March 4, 2014, OESE issued a letter to the BIE, instructing the BIE to make AYP determinations based on assessments administered in SY 2011-2012 and SY 2012-2013 that reflect the actual participation and proficiency rates on the required State assessments. OESE further explained that making AYP determinations that reflect actual participation and proficiency rates means that a BIE school in New Mexico that did not administer the New Mexico general Statewide assessment in reading/language arts and mathematics to students in the tested grades would have a participation rate of 0%; therefore, such a school would fail to make AYP, and proficiency would be "N/A" for that year. OESE directed the BIE to provide the required data for FFY 2011 and FFY 2012 in its FFY 2012 APR, immediately upon receipt of the letter. Therefore, consistent with OESE's guidance and with the actions required by OSEP's FFY 2011 SPP/APR Response Table, the BIE must provide the FFY 2011 and FFY 2012 data for this indicator immediately. Because the BIE provided no data for this indicator, OSEP could not determine whether the BIE met its target.

### **REQUIRED ACTIONS**

In accordance with OESE's March 4, 2014, letter to the BIE, the BIE must provide, as soon as possible, but no later than 30 days after the receipt of this Response Table, the required data for FFY 2011 and FFY 2012. Further, the BIE must provide the required data for FFY 2013 in the FFY 2013 APR.

INDICATOR 3B: OSEP's FFY 2011 SPP/APR Response Table required that, within 90 days of the receipt of the Response Table, the BIE 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 required the BIE to continue to include in the FFY 2012 APR a Web link that demonstrates compliance with 34 CFR §300.160(f) for FFY 2012. The BIE provided none of the required information.

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.

OSEP notes that, in OESE's March 4, 2014 letter to the BIE, OESE stated that the proficiency data the BIE previously submitted to *EDFacts* for reading/language arts and mathematics for approximately 4,000 BIE students in New Mexico for SY 2011-2012 reflected a mixture of general statewide assessment and NWEA data. OESE further stated that the Department is not requiring the BIE to correct that proficiency data previously submitted to *EDFacts*, but that the Department will add a note clearly indicating that the data are for an assessment other than the approved general statewide assessment.

#### **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 FFYs 2011 and 2012, to the public on participation in 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 2013 APR, the BIE must continue to include a Web link that demonstrates compliance with 34 CFR §300.160(f) for FFY 2013.

INDICATOR 3C: OSEP's FFY 2011 SPP/APR Response Table stated that 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 seven 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 participation 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. OSEP's FFY 2011 SPP/APR Response Table required the BIE to include in the FFY 2012 APR, FFY 2011 and FFY 2012 data for this indicator. In its FFY 2012 APR, the BIE clarified that both the FFY 2011 and FFY 2012 data included both children with IEPs enrolled for a full academic year and those not enrolled for a full academic year.

The BIE did not provide a Web link to 2012 publicly-reported assessment results, and has not demonstrated compliance with 34 CFR §300.160(f).

OESE notes that, in OESE's March 4, 2014 letter to the BIE, OESE stated that the proficiency data the BIE previously submitted to *EDFacts* for reading/language arts and mathematics for approximately 4,000 BIE students in New Mexico for SY 2011-2012 reflected a mixture of general statewide assessment and NWEA data. OESE further stated that the Department is not requiring the BIE to correct that proficiency data previously submitted to *EDFacts*, but that the Department will add a note clearly indicating that the data are for an assessment other than the approved general statewide assessment.

#### **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 FFYs 2011 and 2012, to the public on proficiency in 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 2013 APR, the BIE must continue to include a Web link that demonstrates compliance with 34 CFR §300.160(f) for FFY 2013.

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

The BIE reported that seven of 60 high schools (11.66%) and six of 113 elementary schools (5.31%) 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 three 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 2012. The BIE identified noncompliance through this review.

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 in FFY 2012.

#### **REQUIRED ACTIONS**

The BIE must report, in its FFY 2013 APR, on the correction of noncompliance that the BIE identified in FFY 2012 as a result of the review it conducted pursuant to 34 CFR §300.170(b). When reporting on the correction of this noncompliance, the BIE must report that it has verified that each LEA with 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 the 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 2013 APR, the BIE must describe the specific actions that were taken to verify the correction.

INDICATOR 18:

The BIE reported fewer than ten resolution sessions held in FFY 2012. The BIE is not required to provide targets or improvement activities until any fiscal year in which ten or more resolution sessions were held.

The BIE stated, in its revised FFY 2012 APR that its FFY 2012 data under IDEA section 618 for Indicator 18 were not correct. The BIE corrected the Indicator 18 data in its revised FFY 2012 APR, and stated that it would correct the section 618 data for Indicator 18 when the *EDFacts* resubmission period begins in May 2014. OSEP notes that the *EDFacts* resubmission period has ended, and that the BIE has not yet corrected the section 618 data for Indicator 18.

INDICATOR 19:

The BIE reported fewer than ten mediations held in FFY 2012. The BIE is not required to provide targets or improvement activities until any fiscal year in which ten or more mediations were held.

The BIE stated, in its revised FFY 2012 APR that its FFY 2012 data under IDEA section 618 for Indicator 19 were not correct. The BIE corrected the Indicator 19 data in its revised FFY 2012 APR, and stated that it would correct the section 618 data for Indicator 19 when the *EDFacts* resubmission period begins in May 2014. OSEP notes that the *EDFacts* resubmission period has ended, and that the BIE has not yet corrected the section 618 data for Indicator 19.

**Bureau of Indian Education Part B FFY 2012 SPP/APR Compliance Summary**

<b>INDICATOR</b>	<b>FFY 2011 DATA</b>	<b>FFY 2012 DATA</b>	<b>FFY 2012 TARGET</b>	<b>CORRECTION OF FINDINGS OF NONCOMPLIANCE IDENTIFIED IN FFY 2011</b>
4B. Significant disproportionality 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	
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	
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	
11. Timely Initial Evaluation	95.66%	97.92%	100%	The BIE reported that all 28 of its findings of noncompliance identified in FFY 2011 were corrected in a timely manner.
12. Early Childhood Transition	Not Applicable	Not Applicable	Not Applicable	
13. Secondary Transition	48.99%	77.61%	100%	The BIE reported that all 152 of its findings of noncompliance identified in FFY 2011 were corrected in a timely manner.
15. Timely Correction	95.09%	99.81%	100%	The BIE reported that 844 out of 851 findings of noncompliance identified in FFY 2011 were corrected in a timely manner and that the seven remaining findings were subsequently corrected by October 31, 2013.

INDICATOR	FFY 2011 DATA	FFY 2012 DATA	FFY 2012 TARGET	CORRECTION OF FINDINGS OF NONCOMPLIANCE IDENTIFIED IN FFY 2011
20. Timely and Accurate Data	83.31%	85.55%	100%	

**Bureau of Indian Education Part B FFY 2012 State Complaint and Hearing Data from IDEA Section 618 Data Reports**

<b>REQUIREMENT</b>	<b>FFY 2011 DATA</b>	<b>FFY 2012 DATA</b>
Timely resolution of complaints	0% (based on one complaint)	0% (based on two complaints)
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.	No fully adjudicated due process hearings during the reporting period.

## Bureau of Indian Education FFY 2012 Compliance Data Summary Notes

INDICATOR 11:

### REQUIRED ACTIONS

Because the BIE reported less than 100% compliance for FFY 2012, the BIE must report on the status of correction of noncompliance identified in FFY 2012 for this indicator. When reporting on the correction of noncompliance, the BIE must report, in its FFY 2013 APR, that it has verified that each school with noncompliance identified in FFY 2012 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 State 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.<sup>3</sup> In the FFY 2013 APR, the BIE must describe the specific actions that were taken to verify the correction.

INDICATOR 13:

### REQUIRED ACTIONS

Because the BIE reported less than 100% compliance for FFY 2012, the BIE must report on the status of correction of noncompliance identified in FFY 2012 for this indicator. When reporting on the correction of noncompliance, the BIE must report, in its FFY 2013 APR, that it has verified that each school with noncompliance identified in FFY 2012 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 State 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 2013 APR, the BIE must describe the specific actions that were taken to verify the correction.

INDICATOR 15:

### REQUIRED ACTIONS

In responding to Indicators 11 and 13 in the FFY 2013 SPP/APR, the State must report on correction of the noncompliance described in this table under those indicators.

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<sup>3</sup> 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.

**OTHER COMPLIANCE ISSUES:**

OSEP's FFY 2011 SPP/APR Response Table required the BIE to include in the 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. The BIE provided all of the required information.

OSEP notes that Special Conditions were imposed on the BIE's FFY 2013 IDEA Part B grant award, because OSEP: (1) determined that the BIE failed to complete all of the corrective actions contained in Section C of the Program Improvement and Accountability Plan; and (2) identified areas of noncompliance related to the BIE's State complaint and mediation procedures. Special Conditions have been imposed on the BIE's IDEA Part B grant award for FFYs 2007 through 2013.