



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

Honorable Bartholomew Stevens  
Interim Director  
Bureau of Indian Education  
Albuquerque Service Center  
1011 Indian School Road Bldg. II Suite 352  
Albuquerque, NM 87104

MAY 26 2010

Dear Director Stevens:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) verification visit to the Bureau of Indian Education (BIE) during the week of November 2, 2009. As indicated in OSEP's letter to former Director Skenandore, dated July 2, 2009, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under Parts B and C of the Individuals with Disabilities Education Act (IDEA). CIFMS is designed to ensure compliance and improve performance with Parts B and C of the IDEA in accordance with 20 U.S.C. 1416 and 1442. Sections 616 and 642 of the IDEA require the Department to monitor States with a focus on: (1) improving early intervention and educational results and functional outcomes for infants, toddlers, children, and youth with disabilities; and (2) ensuring that States meet the program requirements, particularly those most closely related to improving early intervention and educational results for children with disabilities.

The purpose of the verification visit is to review the BIE's systems for general supervision, collection of BIE-reported data, and fiscal management, as well as the BIE's systems for improving child and family outcomes and protecting child and family rights. As is the case for all States that OSEP visited, during the verification visit, OSEP staff: (1) analyzed the components of the BIE's general supervision, data and fiscal systems to determine the extent to which they are reasonably designed to ensure compliance and improve performance; and (2) reviewed the accuracy of the data the BIE submitted for selected indicators in the BIE's Federal fiscal year (FFY) 2007 Annual Performance Report (APR)/State Performance Plan (SPP).

However, because the BIE only has responsibility to ensure a free appropriate public education (FAPE) for children with disabilities on reservations ages 5 through 21 enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior, OSEP limited its examination of the BIE's systems for general supervision and the collection of BIE-reported data as those systems relate to the school-aged programs in BIE-funded schools (under IDEA Part B). OSEP also reviewed the BIE's system for ensuring the appropriate use of Part B funds for school-aged children, which are authorized under IDEA section 611(h)(1)(A). Finally, OSEP examined the BIE's systems for ensuring the timely obligation and liquidation, and distribution of all IDEA funds that the BIE receives from the Department (including the IDEA Part B funds for school-aged children, as well as both the IDEA Part C and IDEA Part B funds the Department distributes to the BIE and which the BIE must distribute to tribes and tribal entities for the coordination of assistance in the provision of IDEA services to infants and toddlers with disabilities and their families, and preschool children with

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-2600

[www.ed.gov](http://www.ed.gov)

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

disabilities respectively).<sup>1</sup>

As part of the verification visit to the BIE, OSEP staff met with Gloria Yepa, the BIE Director of Special Education, and BIE and Bureau of Indian Affairs (BIA) personnel responsible for implementing the general supervision, data or fiscal systems. During the visit, OSEP staff also interviewed a panel of five school administrators (four special education coordinators and one principal) and a panel of five line officers. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) the BIE's FFY 2007 APR submitted to OSEP in February 2009; (2) the BIE's SPP submitted to OSEP in December 2005 and updated in 2006; (3) the BIE's eligibility document submissions under Part B of the IDEA for FFY 2009; (4) OSEP's Verification Visit letter to the BIE dated January 20, 2006; (5) the BIE's website; and (6) other pertinent information.<sup>2</sup> OSEP also collected and reviewed stakeholder input from the BIE's Parent Training and Information Center (PTI) and the State Advisory Panel (SAP).

OSEP developed critical elements that were used to guide its evaluation of the BIE's general supervision, data, and fiscal systems. OSEP's analysis of each critical element and any required actions, if noncompliance was identified during the verification visit, are provided in the Enclosure to this letter. If OSEP identified noncompliance during the verification visit, the Enclosure also includes an explanation of the noncompliance with the applicable IDEA Part B or Part C requirements and the required actions OSEP has determined the State must take to address the noncompliance.

As further detailed in the Enclosure to this letter, OSEP found noncompliance with the requirements of Part B of IDEA and has required corrective action in the following areas: (1) Correcting noncompliance in a timely manner; (2) Developing model forms for due process complaints and for State complaints that include the required content; (3) Informing parents and schools that the use of the State's model complaint and due process hearing forms is voluntary; (4) Transmitting findings and decisions to the State advisory panel and making findings and decisions available to the public; (5) Making a current SPP available through public means; (6) Reporting to the public on the performance of each BIE-funded school no later than 120 days after the submission of the APR; (7) Providing all the information required on the performance of each school against the BIE's SPP/APR targets; (8) Complying with the annual determination process in IDEA section 616(a); (9) Informing schools that only students who have not been identified with disabilities are eligible for CEIS funds; (10) Reporting publicly on the participation and performance of children with disabilities on statewide assessments at the Bureau and school level with the same frequency and in the same detail as it reports on the assessments of nondisabled children; and (11) Ensuring appropriate use of Part B IDEA funds

---

<sup>1</sup>Under section 611(h)(1)(A) of IDEA, the Secretary of Education provides funds to the Secretary of the Interior for the education of children with disabilities ages 5 through 21 enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The Secretary of the Interior also receives funds authorized under IDEA sections 611(h)(4) and 643(b) to distribute to tribes or tribal organizations or their consortia to provide for the coordination of assistance in the provision of services by States to infants, toddlers, and preschool children with disabilities respectively on reservations served by elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. Although tribes may choose to provide direct services to infants and toddlers with disabilities and their families and preschool children with disabilities, the funds provided to tribes and tribal entities under IDEA sections 611(h)(4) and 643(b) are primarily for coordination purposes with the States in which these infants, toddlers or preschool children reside.

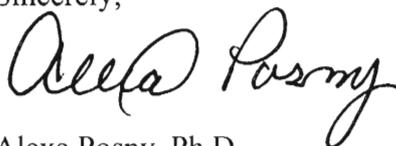
<sup>2</sup> Documents reviewed as part of the verification process were not reviewed for legal sufficiency, but rather to inform OSEP's understanding of the BIE's systems.

allocated under IDEA section 611(h)(1)(A) for the education of children with disabilities enrolled in BIE-funded schools.

Because the BIE is in the process of revising its monitoring procedures, OSEP was unable to determine if the BIE has a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components. OSEP found that the BIE has lapsed some portion of its FFYs 2004, 2005, and 2006 IDEA Part B funds and that it may not have clear written procedures that explain the timelines by which IDEA funds must be obligated and liquidated. OSEP has required the BIE to take action to address these areas, as well as the areas of noncompliance noted above.

We appreciate the cooperation and assistance provided by BIE and BIA staff, SAP members and parents in providing feedback and input on the BIE's systems for special education prior to and during our visit. We look forward to collaborating with all stakeholders and actively working with the BIE to improve results for infants, toddlers, and children with disabilities and their families. If you have any questions or wish to request technical assistance, please do not hesitate to call your OSEP State Contact Matthew Schneer, at 202-245-6755.

Sincerely,

A handwritten signature in black ink that reads "Alexa Posny". The signature is written in a cursive, flowing style.

Alexa Posny, Ph.D.  
Acting Director  
Office of Special Education Programs

Enclosure

cc: Gloria Yepa