

MINUTES

BIE Advisory Board for Exceptional Children
U. S. Department of Interior, Washington, DC
Fish and Wildlife Conference Room
September 2-4, 2010

Members present:

Dr. Eugene Thompson, Meeting Chairperson	Dianne T. Owens
Josephine Brewer	Dr. Jonathan Stout
Arlene Davis	Valann Valdason
Dr. Susan Faircloth	Brian Wagner
Betty Groos	Judy Wiley
Dr. Marilyn Johnson	

Members absent:

Dr. Billie Jo Kipp	Matthew Franklin
Sharon Belanger	Tom Albano – resigned.

Guests:

Gloria Yepa, DPA	Jonathan Fetzer (White Earth Reservation, MN), ND Senator Conrad's office
Sally Hollow Horn, DPA	Juanita Keesing, Department of Interior
Narcy Kawon, DPA	Dr. Jeffrey Hamley, Associate Deputy Director DPA
Laura Tsosie, DPA	
Don Griffin, DPA	
Julianne Sher	

The meeting was called to order by Dr. Eugene Thompson at 8:15 a.m., EDST. Dr. Thompson chaired the meeting in the absence of Dr. Billie Jo Kipp, Chair, and Vice-President Tom Albano who resigned from his position. Judy Willey opened the meeting with prayer. A welcome was made to members, guests, and introductions followed. The Designated Federal Official (DFO) for this meeting was Sue Bement.

Approval of Agenda

The agenda was approved (motion: Dianne T. Owens; second: Dr. Jonathan Stout; motion passed).

Old Business

1. Minutes—A review of the minutes from the May 17-18, 2010 from Indian Island, Maine was approved on July 15, 2010.
2. Follow-Up Items--questions, concerns and comments
 - a. Submittal of funding applications for unmet needs.
 - b. The presence of the BIE Director at the Advisory Board Meetings is essential. Recommendations are forwarded to the BIE Director's office and there is no evidence that the Advisory Board recommendations are being received by the BIE Director.
 - c. There is extreme concern from the schools about delays in receipt of orders and contracts being voided without notice or reason. Contracting for human services (e.g., physical therapy, occupational therapy, etc.) should not be about going with the lower bid. It would be helpful to have a contract staff person assigned to education issues.

Principals should address the instructional needs of children and not spend time ensuring that orders are placed.

- d. Requisitions for educational services are not a priority. BIA contract specialists are not familiar with education and human services. The BIE Director needs to be aware of the impact on services, cancellation of the Special Education Academy, and the fact that the Advisory Board meeting was in jeopardy of being cancelled. There is a relatively small pool of service providers. As a result, some service contracts can be very costly. Contract officers training (COTR) is needed appropriate to education and human services.
- e. What is the flow of information between special education and the BIE Director?
- f. Board vacancies—Are there enough nominations to make selections?
- g. Service provision.—Some children do not have Medicare and don't get services. It is a violation of IDEA if services are not provided.

3. Priorities to be forwarded to BIE Director:

- a. Contracting for services and goods at the schools and at DPA is a major concern.
- b. Recruitment and retention of teachers and related services staff.
- c. Director's presence at the advisory board meetings is essential.

BIE Special Education Director Report—Gloria Yepa

1. Annual Performance Report—The Annual Performance Report is due February 1, 2011. The BIE moved from Needs Intervention to Needs Assistance.
2. Special Education Policies & Procedures—There is still no response from the Solicitor's office regarding the Special Education Policies and Procedures. The Board requested that Director Keith Moore move the issue to a level of high priority.
3. Effective Dispute Resolution—The BIE cannot contract for dispute resolution services. Currently the BIE has three complaints which has to be responded to within required timelines. However, since contracts have been suspended, the DPA must resort to other means. The Special Education Director is required to report to the Advisory Board, the adjudication of the complaints. None of them went forward and all were settled. The complaint procedures are being revised to align with IDEA and forms have been revised and posted on the BIE website.
4. Data on processes and results—New information that will be collected is Early Intervening Services (Table 8). The BIE is scheduling a NASIS Interchange in the spring of 2011. A process guide is being revised, which provides guidance on entering data. Schools were notified on June 1, 2010 of their special education level of determination.
5. Monitoring Process—The compliance monitoring for SY 2009-2010 was completed at all schools with academic programs. The next step is to complete the two-prong verification of correction. Next year's monitoring plans include onsite visits to eight schools—those with Needs Substantial Intervention determinations and those with a history of not correcting noncompliance. All schools with academic programs will be monitored through desk audits.
6. Fiscal Accountability—The Fiscal Accountability process is in development. Support is needed from the Associate Deputy Directors. The BIE received \$92M for this year (1.266% of the total appropriation of funds from IDEA). With regards to whether the application timeframe can be adjusted from January to April so that there would be a better idea of the number of students that schools expect to receive in a new year, the BIE will request schools to submit an actual spending plan by 10/29/10. A webinar on developing a spending plan will be scheduled.
7. Targeted Technical Assistance—The BIE is having difficulty delivering technical assistance to schools. There is a need to develop contracts on autism and IEP facilitation. A schedule of

webinar topics has been completed for SY 2010-2011. The BIE Special Education Academy was cancelled due to contracting issues. Two presentations were made by the DPA staff at the BIE Summer Institute: (1) collaboration between Special Education and General Education, and (2) English Language Learners.

8. Improvement, Correction, Incentives & Sanctions—There is a need to do more work in developing the mechanism for addressing sanctions.

Certificates to Outgoing Members

Certificates were presented to the following Advisory Board members whose current terms expire on November 4, 2010—Arlene Davis, Dr. Susan Faircloth, Betty Groos, Valann Valdason, and Brian Wagner.

A Discussion with the BIE Director—Keith Moore

Director Keith Moore and Dr. Jeffrey Hamley, Associate Deputy Director responded to questions posed by Advisory Board members prior to the meeting.

1. *Director's presence and participation at meetings.*
Mr. Moore wants to work with the Advisory in ensuring that general and special education works together. He will re-advertise the partnership position. Director Moore acknowledged his understanding of collaboration between agencies and will promote it. Mr. Moore responded that a Chief of Staff is being hired who will most likely attend the meetings.
2. *Contracts and Acquisitions—Schools are frustrated with the BIE's contracts and acquisitions office; is it an issue across the BIE?*
Dr. Hamley responded that the BIE is on the threshold of resolving the issue by working with the Contracting office. To have a contract person located at the ELO office seems to be a major issue. The BIE needs to fix the problem and ensure that the contracting and acquisitions process is seamless. The Advisory Board expressed concerns about services not being addressed. Contracts are unilaterally suspended. It is unlikely that the BIE can achieve a Meets Requirement determination from OSEP if the BIE continues to be stifled with contract issues. There is concern about the disconnection between OSEP rules and the problem at contracts office. The problem with educational bids within contracts is hard to understand. The perception is that services are not being provided. However, it is beyond the control of schools and DPA. This confirms the need to have a presence from the BIE Director's office at the Advisory Board meetings. Director Keith Moore recognized the importance of the Advisory Board's recommendations and responded that a major issue is service suspension. According to Mr. Moore, if dollars are not spent, the BIE may lose dollars in the process.
3. *Fifteen percent of ISEP funds to be used for Special Education need to be increased. Is this possible?*
It is unlikely that the fifteen percent amount will increase. The BIE will have to adjust for some as part of the negotiated rulemaking. The Advisory Board commented that the percentage given to schools may need to be adjusted. Some schools may need more. Others may need more services in general education, thereby decreasing the 15% for early intervening services.
4. *Growing Your Own*
Dr. Hamley commented that the BIE no longer has "grow your own" programs. He suggested that the BIE could partner with a university for a program that is on-site and part-time online for

working professionals. Perhaps there is a need to rewrite the law. There has been a decrease in the number of students with disabilities. All funds are disbursed to the schools.

5. *How is the BIE addressing the increased number of children diagnosed with Autism?*
Several resources were identified including www.Autismpro.com and the University of New Mexico/Center for Development and Disabilities Autism Project. The BIE will look to other resources including training (e.g., BIE Special Education Academy).
6. *Is the Residential Education Placement Program (REPP) being pulled back to Albuquerque?*
REPP staff is more effective in the field. Gloria Yepa responded that the REPP will move under Special Education with existing staff. The data and dollars need to be sorted out. Approximately ten percent of the students served through REPP do not have disabilities.
7. *Recruitment of teachers and related services providers.*
More online recruiting needs to be conducted to recruit new teachers into rural areas.
8. *What are the barriers to creating a Coordinated Agreement Unit (CAU)?*
Ms. Gloria Yepa is not aware of barriers. A CAU at New Mexico Navajo Central schools and North Dakota schools pool their funds to support a coordinator or professional staff.
9. *Concern about the lack of staffing and its effect on special education.*
Dr. Jeffrey Hamley commented that more staff needs to be hired for the DPA special education and data unit offices. The Advisory Board commented that individuals with no training in special education should not conduct monitoring relative to correcting noncompliance issues. With regards to field-based positions, Ms. Yepa commented that schools need someone who can ensure day-to-day issues are addressed. Likewise, the state agency monitoring staff must ensure that IDEA is correctly implemented. The monitors at the state level must help in responding to systemic issues. She suggested that schools work with the ELO office, information technology, human resources, and other programs to respond to their issues.

In conclusion, Mr. Keith Moore said he is assessing the BIE. He wants to base his leadership on the pillars of learning, leadership, and service with a focus on students and communities. He is committed to making a difference. The Advisory Board extended their thanks to Mr. Moore for attending the meeting.

Public Comment Session

The Tiospa Zina Tribal School provided some positive comments:

1. After school and reading programs has resulted in 7 students exiting from special education.
2. Maximized the use of the 15% early intervening service funds.
3. Recommended all schools use 15% fund through services.
4. Use Part B and 15% funds for support of services.

Ms. Gloria Yepa commented that the purpose of 15% is to get services to students as soon as possible before they may be referred to special education services. Many schools choose not to do that and not all schools have funds to do that.

The school provided other comments as follows:

1. The BIE is not as aggressive as it should be to help school maximize use of the 15% funds. The DPA responded that funds need to get to schools per the IDEA requirements. Schools can also submit an application for unmet needs.
2. Schools receive funds based on student labels. The BIE responded school can submit an application for unmet needs. Costs can be more expensive in some areas.
3. How do formulas get developed? The BIE responded that letters were sent to tribal leaders. The formula was based on the cost to educate a child with a disability.
4. The student count has increased with more involved students (e.g., blind, multiple disabilities, etc.). Contracting and getting requisitions processed for related services is difficult. Cheyenne—Eagle Butte is one of a few schools who is monitored by the BIE and State.
5. The area is seeing an 18-22% increase in special education. Public schools are nudging out students with disabilities (about 26 students with IEPs). How can BIE schools make efforts to get public schools to not transfer students because of their special educational needs?

Kevin Jennings from Safe and Drug Free Schools

Mr. Donald Yu, Senior Counselor to the General Counsel for Arne Duncan, attended the meeting on behalf of Mr. Kevin Jennings. He was accompanied by Nancy Deutsch. He provided the following comments:

1. The Department of Education has been addressing H1N1 issues.
2. President Barack Obama had a tribal nations meeting in February, 2009. A memorandum was signed and tribal consultations were held in Cook Inlet, Pine Ridge, Oklahoma, Santa Clara, Puyallup, and Navajo. The President and others were reminded that tribes are unique. The Department recognizes tribal sovereignty and that Native languages and cultures need to be preserved which is a major concern. Tribal departments of education need to be empowered.
3. No specific special education recommendations are being made. It will be an undetermined length of time before IDEA is reauthorized. The Department wants to turn around low achieving schools through focus on effective team management, effective assessment aligned with standards, quality data, and restructuring options.
4. More interagency collaboration across agencies and departments is needed. Twenty-five tribes applied for promised neighborhoods grant initiatives funding.

Mr. Yu responded to other Advisory Board questions and comments. With regards to 24-hour facilities on reservations for students with immense behavioral issues, this is a huge funding issue if construction is to take place. With regards to setting aside funds to study special education and long-term data, Dr. Hamley responded that the BIE was not included as a specific program or set aside for funding. With regards to funding for safe and drug-free schools, Mr. Yu commented that Secretary Arne Duncan has fought for the funding unsuccessfully. With regards to vocational rehabilitation funding that has been eliminated for individuals who want to go to college, Mr. Yu responded that the Department of Education has adult and vocational education program. With regards to funding cuts and its impact on Native Americans, Mr. Yu commented that Secretary Duncan has been very supportive of keeping educational funding. The Department of Education is still getting better funded than most departments. Federal agencies need to work together in order to better leverage funding.

National Secondary Transition Technical Assistance Center Meeting

Ms. Sally Hollow Horn reported that transition team members attended the National Secondary Transition Technical Assistance Center (NSTTAC) Institute in Charlotte, North Carolina. There is a great need to disseminate information to the schools through SharePoint—a place where information can be

stored and retrieved electronically. However, it seems that firewalls impede this process. An option is to establish a 'wiki' site on the BIE website where information can be shared (e.g., transition, autism, etc.). There will be a transition training via WebEx training. Ms. Hollow Horn is responsible for data collection on Indicator 13 (secondary transition) and 14 (secondary transition/post-school outcomes). A survey monkey is being developed to collect the data. Ms. Hollow Horn is also responsible for monitoring the development of Summary of Performance (SOP) which must be provided to students upon their exit from high school. The SOP contains information relative to employment and education preparedness, accommodations that may be needed and other relevant information that is needed for the transition to adult life.

September 3, 2010

Department of the Interior, Bureau of Indian Education conference room

Dr. Eugene Thompson reconvened the Advisory Board meeting at 8:15 a.m., EST. Sue Bement served as the DFO.

BIE Advisory Board Annual Report: A review of the draft Annual Report was made by the Advisory Board members along with recommendations. Several comments were made by the Board:

1. If teachers are certified in dual areas (general/special education), the trend is for teachers to teach in general education.
2. Human resources does not permit teaching differential for teachers of special education.
3. A recommendation was made to have special education training available for school principals.

The emerging Issues for next year include:

1. Human resources—hiring.
2. School Principal training on special education.
3. Contracting and acquisitions.
4. Fiscal accountability.
5. Reauthorization of IDEA.
6. Level of determination from Needs Assistance to Meets Requirements.
7. Review of the current ISEP formula and increase in ISEP overall .
8. Raise the priority for review and approval of Policies and procedures for Special Education by the Solicitor's office.

The anticipated membership vacancies for next year are seven. The annual report will be posted on the BIEs website at www.bie.edu. Ms. Sue Bement, DFO, will submit the annual report to the Secretary of the Interior, Assistant Secretary for Indian Affairs, Director of Bureau of Indian Education, Secretary of Education, and U. S. Congress. Dr. Susan Faircloth moved to recess from review of the annual report to allow Suzanne Ripley, NICHCY to present. Motion passed. Ms. Ripley provided information on resources and materials available through the National Dissemination Center for Children with Disabilities which operates under the Academy for Educational Development (AED).

Presentation by Dr. Jeff Hamley, Associate Deputy Director, DPA:

Dr. Hamley provided the following information:

1. Casey Sovo, ELO, New Mexico South; and Zonnie Sombrero (acting ELO), Arizona Navajo Central.

2. Native Star—a grant for monitoring school reform through a web-based monitoring system that will guide improvement teams through a continuous cycle of assessment, planning, implementation, and progress tracking.
3. School Improvement Grants – funded five tier 1 schools and two tier 2 schools. Each school is receiving \$900,000 for a 3-year period. Twenty percent of funds are held back in the event that more schools might be added.
4. DPA staff meetings. Staff want to be briefed on DPA programs.
5. DPA data unit—Schools or tribes can request an alternative definition of AYP. South Dakota, Navajo, and Miccosukee schools have made requests to include language and culture.
6. Data will not appear on National Center for Education Statistics (NCES) data set.

Discussion with Assistant Secretary-Indian Affairs—Larry Echo Hawk

Mr. Larry Echohawk, J.D. (Pawnee of Oklahoma) briefly met with the Advisory Board. The Board provided him a brief explanation of the Board activities including the five priority areas and the annual report that will be submitted. In January of 2009, he was named Assistant Secretary of Indian Affairs and confirmed on June 1, 2010. He expressed his commitment to respond to the issues facing children with disabilities.

Review of charter. The DFO (Sue Bement) has final review and approval.

BIE Announcements and Updates

1. NIEA, October 2010—Presentation on collaboration between General and Special Education.
2. Navajo North Central Association Fall Conference in Flagstaff, Arizona, October 4-5, 2010—four presentation proposals submitted.
3. One special education staff will attend Due Process training in Yakima, Washington.

Advisory Board Advice and Recommendations:

1. Conduct one Advisory Board meeting in Washington. DC per year.
2. Invite Assistant Secretary for Indian Affairs, Larry Echo Hawk, to be keynote speaker at the next BIE Special Education Academy.

Next Steps

The dates and location for the next Advisory Board meeting was scheduled for January 14-15, 2011 in Albuquerque, New Mexico. The meeting recessed at 2:30 p.m. until Saturday morning (motion: Marilyn Johnson, second: Dianne T. Owens; motion passed).

Saturday, September 4, 2010

J.W. Marriott Hotel

School Wide Positive Behavior Supports

Ms. Gaye Leia King, Supervisory Education Specialist, BIE, presented on the need for collaboration between ESEA and IDEA programs. Title I funds are used for all students. With the passage of NCLB in 2001, the focus is to a 'back to basics' approach. The BIE Reads focuses on grades K-3—provided through tiered instruction and constant review of data (e.g., Dibels). There is a two-hour block of time for reading to focus on reading comprehension, fluency, and phonemic awareness. AYP determinations

provide good information about schools, however are not always reliable due to many of the BIE schools having small numbers.

Math coaches are used in System of Support (SOS)—a mechanism for helping schools. A strength of the SOS is meeting with the Associate Deputy Directors. The principals must spend at least 80% of time focused on instruction. ELOs provide support to schools. Seven schools have been identified as low achieving schools. The Title 1 program partners with the Center on Innovation and Improvement for the use of an online tool for 82 items for Native Star. The website is www.Centerii.org.

Best Behavior—Building Positive Behavior Supports in Schools

Mr. Jack Edmo provided information on the BIE Safe and Drug-free schools. The BIE definition of incident (negative behavior) is being clarified. Schools can enter data using 11 descriptors—size, type, residential stature, grades, attendance, disruption, DAT, intimidation, property, insubordination, bodily harm, non compliance, dishonest, language, and sex (bodily contact – touching,). The BIE is asking schools to reduce incidents by two percent.

Ms. Heather Robbins presented a PowerPoint presentation on exhibiting positive behaviors. She conducted an activity to teach students about behavior. There is no evidence that suspension changes behavior. Suspension is not an intervention. As for in-school suspension, schools need to restore and teach behavior. The challenge is discrepancy between the behavior and the behavior plan.

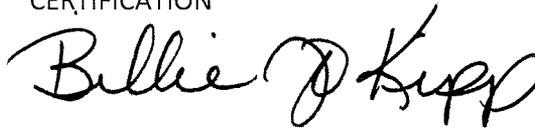
With no additional business items, the meeting was adjourned at 12:07 p.m. (motion—Marilyn Johnson; second—Brian Wagner; motion passed).

Respectfully Submitted,



Eugene R. Thompson, Ed.D.
Advisory Board Secretary

CERTIFICATION



Billie Jo Kipp, Ph.D.
Advisory Board Chair