

MINUTES

BIE Advisory Board for Exceptional Children Meeting

April 30-May 2, 2009

National Indian Programs Training Center

1011 Indian School Rd. NW—Albuquerque, New Mexico 87104

Albuquerque Marriott Hotel

2101 Louisiana Blvd. NE—Albuquerque, New Mexico 87110

May 1, 2009

Attendees

Advisory Board

Tom Albano (excused 4/30-5/2)
Sharon Belanger
Josephine Brewer
Arlene Davis (excused 5/2 at noon)
Dr. Susan Faircloth (excused 4/30-5/2)
Matthew Franklin (excused 4/30-5/2)
Betty Groos
Dr. Marilyn Johnson
Dr. Billie Jo Kipp (excused 4/30-5/2)
Dianne T. Owens
Dr. Eugene R. Thompson
Dr. Valann Valdason
Brian Wagner

DPA Staff

Sue Bement
Dr. Fern Diamond
Dr. Jeffrey Hamley
Sally Hollow Horn
Laura Tsosie
Gloria Yepa

Guests

Wayne Ball
John Copenhaver
Sherry Wilson (5/1)

Thursday, April 30, 2009

The Advisory Board meeting was called to order at 8:30 a.m. by Dr. Marilyn Johnson. The full board participated in the third day of the BIE Special Education Data Summit. The first two days of the data summit were attended by the five members of the Data Workgroup—Dianne T. Owens, Dr. Valann S. Valdason, Tom Albano, Jody Brewer, and Brian Wagner. The following Advisory Board members were excused from today's meeting: Dr. Susan Faircloth, Tom Albano, Matthew Franklin, and Dr. Billie Jo Kipp.

Friday, May 1, 2009

The meeting reconvened at 8:42 a.m. The following Advisory Board members were excused: Tom Albano, Dr. Billie Jo Kipp, Dr. Susan Faircloth, and Matthew Franklin. DPA Staff in attendance included Gloria Yepa, Wayne Ball, Dr. Fern Diamond, Dr. Jeffrey Hamley, Sally Hollow Horn, and Sue Bement. Sally Hollow Horn served as the Designated Federal Official (DFO).

Old Business

- a) *Minutes*. The minutes from the January 2009 were reviewed and approved with minor edits needed—finish incomplete sentence in no. five and add Dr. Fern Diamond as DPA staff in attendance.
- b) *Follow-up*. Sue Bement reported that according to Sharon Norman, the Advisory Board doesn't need to worry about the lack of an annual report for 2008. Although the Advisory Board was not seated, the DPA complied with stakeholder involvement. The BIE will document the conversation with Ms. Norman and have it available for the OSEP verification visit.

Organization Issues of Advisory Board

- a) Nominations—Sue Bement reported that the notice to advertise two vacant Advisory Board positions went to the federal register two weeks ago. The notice was also posted on the enan website. The BIE will make recommendation from the pool of applicants to central office.
- b) Review of Charter—a review of the Charter was made.
- c) Officers—The officers will remain in the interim until the DOI Secretary appoints a president.
- d) By-Laws—The by-laws will be presented at next meeting as an *action item*. Mr. John Copenhaver will review by-laws with the Advisory Board.

Mr. Wayne Ball reviewed the contents of the Advisory Board packet. The public comment will be held from 11:30-12:00 noon. In the next Advisory Board packet, the following should be included if available: (a) approval of agenda with amendments, (b) new business section after Director's report;;(c) appointment of chair from DOI secretary, and (d) letter sent to Sharon Norman. *Motion: Brian Wagner; second: Sharon Belanger; motion passed.*

Review of IDEA Supplemental Regulations

Mr. Wayne Ball presented information on the IDEA supplemental regulations, some of which will require follow-up with the Solicitor. The Technical Assistance for Excellence in Special Education (TAESE) can help draft a letter citing the regulations that can be sent to tribes, contract/grant schools relative to positive efforts, data in human resources, and building compliance agreements into levels of determination (SPP Indicator 15). By June 1, the BIE should have posted on the enan website the performance of every BIE-funded school with an academic program. There is no requirement as to when the levels of determination should be done, but generally, it should be completed as soon as possible.

Public comment session

A public comment session was conducted from 11:30-12:00 noon with the purpose of providing advice and suggestions to the BIE relative to special education in all BIE-schools. The following comments were received via telephone:

1. Students at the Circle of Nations School (Wahpeton, ND) volunteered to sand bag during the recent flooding in their state. This effort promoted community service and resulted in the school receiving a community service award.
2. The Santa Fe Indian School commented on the alternate assessment—if all students with disabilities can take an alternate assessment for Adequate Yearly Progress (AYP). The BIE commented that schools should follow state criteria for assessment. When the NCLB is up for reauthorization, it will be a good time for schools to provide comment on any proposed changes.

3. The Shoshone-Bannock Senior High School (Idaho) commented that they started using the BIE forms for exiting student from the special education program when a parent requested it. The BIE commented that the parent has to provide written notice. Schools will be trained when the NASIS special education forms are rolled out during July and August 2009.
4. The Shoshone-Bannock School (Idaho) asked for clarification on eligibility forms to be used for FAPE noncompliance items identified. The BIE provided guidance that parents need to be notified and the multidisciplinary team should provide a decision on eligibility determination for the student. The evaluation results have to be reviewed for parent relative to eligibility determination. Schools should use state guidelines to determine eligibility. All FAPE noncompliance issues have to be corrected within 45-days of identification. The school also provided community awareness on safe and drug-free schools which resulted in an excellent turnout.
5. The Santa Fe Indian School had an annual senior honors symposium which was presented to community members. The symposium involved 18 seniors including students with disabilities. The school's efforts for parental involvement will also include a spring parent night and the Educating Parents of Indian Children (EPICs) organization has been invited to provide information and training for parents.

Priority Areas—Committee Reports

Committees reviewed and reported on their priority plans including justification, activities, evaluation, and advice.

- a. Priority Area 1—Data, staffing, correcting noncompliance, monitoring process
 - The committee reported on streamlining the process. The committee members also participated in 2009 data summit and met during the Advisory Board meeting.
- b. Priority Area 2—Achievement gap, professional development, FAPE, staffing
 - The committee used the APR data to develop this priority. The committee identified a need to involve more general education teachers, provide more professional development, target social services within tribal communities, provide a summit on special education/social services, and have a New Mexico Public Education Department (NMPED) representative present on homelessness.
- c. Priority Area 3—communication, system
 - The committee suggested that the public comment sessions can be used to determine what could be FAQs. Follow-up on public comment session questions is recommended.
- d. Priority Area 4—Transition (secondary/post-secondary), homelessness, coordination of services
 - The committee reported that the BIE already has a plan that will be renewed during the National Secondary Transition conference in Charlotte, NC. Unfortunately, most vocational classes and electives have been cut to focus on making AYP. Some of the local resources include partnering with local entrepreneurs, setting up virtual classrooms, and use of stimulus monies.

Each committee will conduct additional information of their priority areas. With no further discussion, the meeting recessed.

Saturday, May 2, 2009

The meeting reconvened at 8:35 a.m. with Dr. Marilyn Johnson presiding. Excused absences included: Dr. Billie Jo Kipp, Tom Albano, Dr. Susan Faircloth, and Matthew Franklin. Arlene Davis left at noon.

Director's Update—Gloria Yepa

1. **State Performance Plan (SPP)**—There are three years left in the State Performance Plan (SPP). Since it was developed, the indicator targets have not been updated to reflect changes. It is anticipated that OSEP will require the BIE redo the SPP targets with an emphasis on the performance indicators for the levels of determination. Stakeholders can assist with the redeveloped SPP targets so targets can be achieved more realistically.
2. **Policy and Procedures**—Ms. Sally Hollow Horn has taken the lead in working with the Solicitors to finalize the revisions in the special education policies and procedures that will be more specific. The BIE policy and procedures will be school's policy and procedures so a separate one won't have to be done. A clarification is needed, however, on whether schools are LEAs or not. The BIE will submit its Part B application assurance on May 11 and must assure that policy and procedures are in place. Once finalized, the policy and procedures will undergo tribal consultation which requires a 30-day notice in the federal register before tribal consultation. The consultation will be provided at NISBA (June), BIE Summer Institute (June), and the BIE Special Education Academy (September).
3. **NASIS special education forms**—The roll-out of the special education forms for schools will be during July 14-August 14, 2009, with training scheduled for Tuba City, AZ; Pierre, SD; Cherokee, NC; Albuquerque, NM; and Standing Rock, ND. Schools will be attending the training at one of these sites. Although there have been some concerns (e.g., policy changes, privacy issues, security, confidentiality, etc.) raised by schools and tribes, the protection of records, training, and communication will be emphasized by the BIE during the roll-out trainings.
4. **September Academy**—Secondary transition will be one of the breakout topic sessions at the upcoming BIE Special Education Academy in San Diego, California, September 2009.
5. **Dispute Resolution**—Two disputes were resolved at resolution session. A fourth dispute, involving prior written notice, is currently going through the full process scheduled for August. Noncompliance is an area that has been neglected the most, and should be corrected. An IEP facilitator training was conducted by NMPED and the BIE should have people in this area to help schools work out the issues. The BIE has not trained in this area.
6. **Data and Processes**—The BIE is responsible to report 618 data for the Annual Performance Report (APR) that's submitted to the Office of Special Education Programs (OSEP). The data is collected through NASIS (except personnel). Indicator 14 is collected through a survey. The analysis of data is being conducted to help schools.
7. **Integrated Monitoring Activities**—The SEIMP Manual is a work in progress. Once developed, the manual will provide guidance for the schools and their special education committees.
8. **BIE Summer Institute**—Dr. Jeffrey Hamley reported that the BIE Summer Institute is scheduled for June 23-26, 2009 in Phoenix, Arizona. Approximately 950 participants are expected to sign up for strands including math, reading, and system of support. A brief presentation on special education will be done by the special education unit.

9. **Targeted Technical Assistance**—This is the most important piece in the general supervision. Sources of technical assistance will include professional development activities including webinars scheduled throughout the upcoming school year as a result of the levels of determination and compliance monitoring.
10. **Improvement, correction, sanctions**—The levels of determination are working well. Schools have developed Local School Performance Plans (LSPPs) and the BIE has provided written analysis. Some schools are having difficulty developing improvement activities and this will be part of the webinars.
11. **Fiscal Accountability**—The Critical Elements Analysis Guide (OSEP) developed by OSEP will make states and the BIE to monitor for fiscal accountability. This will be included in the OSEP verification visit.
12. **Advisory Board**—there are two vacancies on the Advisory Board that will be filled in the near future.
13. **Coordinated Services Plan (CSP)**—Training on the CSP will be conducted at the upcoming BIE Special Education Academy. The document has been finalized and given Solicitor endorsement. A teleconference with the IHS, BIE, and Solicitors to discuss the IHS MOU is tentatively scheduled for May 11 at 1:00 p.m. The document will be reviewed annually.
14. **Other**—First, there is no stimulus money for the BIE for IDEA. This was a congressional decision. Second, what is the process for the BIE in following up on Advisory Board advice?

OSEP Verification Visit and Preparation Plans

The BIE will become familiar with the CrEAG document in anticipation for the OSEP verification visit. Currently, the fiscal management component of the CrEAG is incomplete and work is in progress to address that since the BIE receives its funds differently from the states. The purpose of the verification visit is for OSEP to evaluate how the BIE uses its general supervision, data collection, and fiscal management systems to assess and improve performance, student outcomes, and the protection of child and family rights.

APR and Data Exceptions for the BIE

Discussion is continuing with OSEP relative to challenges in SPP Indicator reporting: (a) how graduation rates will be reported when we don't have many high school students, (how it's related to drop out rates), (b) the small schools meeting the "n" number for achievement, (c) variation of proficiency rates across the states, (d) how this parent involvement indicator will be measured, (e) due process reporting for small numbers, and (f) timely submission;

Last year, there were 13 noncompliance items for Indicator 11 (child find), eight of which were corrected. Overall, the correction of noncompliance was 51 percent. With new monitoring system being developed, data is collected by schools. As a result, we will be able to track what has been corrected. It will take another year to correct all noncompliance and the BIE can move forward to a meets requirements determination in the near future.

Announcements

- a) **Preschool Guidance Paper**—A guidance document is being put together that will address responsibility and roles for the BIE and the state of New Mexico in providing special education to 3-5 year olds on reservations. A meeting with 11 states will be held at the end of May to share the guidance and develop MOUs. OSEP will not give written approval until the State of New Mexico approves it. It is anticipated that further guidance will be provided by OSEP.
- b) **BIE Special Education Academy**—The Academy will include special education excellence awards and training on the Levels of Determination.
- c) **BIE Summer Institute**—The BIE Summer Institute is scheduled for June 23-26, 2009 in Phoenix, Arizona.

Advice and Recommendations:

- a) **Priorities**—workgroups are to complete priorities by June 1 and submit them to Sue Bement, Advisory Board contact, who will forward to Dr. Kipp. The priorities can be incorporated into the annual report.

Advisory Board

Nominations are needed to fill the two vacant Advisory Board positions.

Next Steps

- a) **Action Items**
- b) **Next Advisory meeting**—the next Advisory Board meeting will be held in conjunction with the BIE Special Education Academy, September 15-17, 2009 in San Diego, California. The agenda will be limited to public comment on Wednesday from 4:00 – 5:30 pm, Thursday luncheon meeting on the annual report, and Thursday evening (*motioned: Dr. Valann Valdason; second: Dianne T. Owens; motion passed*).

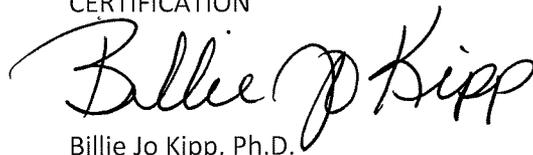
With no additional discussion items, the meeting adjourned at 1:20 pm (*motion: Dianne Owens; second: Sharon Belanger; motion passed*).

Respectfully submitted,



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

CERTIFICATION



Billie Jo Kipp, Ph.D.
Advisory Board Interim President