



Bureau of Indian Affairs

Bureau of Indian Education Advisory Board for Exceptional Children

2022 Annual Report

November 1, 2022



UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Indian Education
1849 C Street NW, MIB-3610
Washington, DC 20240

Recommendations Letter

September 16, 2022

IN REPLY REFER TO:

The Honorable Deb Haaland

Secretary of the United States Department of the Interior
1849 C Street NW
Washington, DC 20240

REFERENCE: **Dear Secretary Haaland:**

This letter will outline the Bureau of Indian Education (BIE) Advisory Board for Exceptional Children concerns and recommendations regarding the provision of special education and related services to students within BIE funded schools. In doing so, we outline three primary concerns and related recommendations:

1. Develop effective and consistent implementation of BIE system(s) workforce plan to address BIE funded schools (Tribally Controlled Schools (TCS), Bureau Operated Schools (BOS), and Navajo region schools), Tribal Education Departments (TED), and Tribal colleges. This includes Haskell Indian Nations University and Southwestern Indian Polytechnic Institute.
2. Develop and implement service coordination policies, procedures, and activities across the BIA, BIE, tribal, and state systems that support infants and toddlers living on reservations with BIE funded schools and children with disabilities who attend BIE-funded schools.
3. Ensure all students with disabilities, their families and their service providers within the BIE school system are provided with appropriate wellness support to address social, behavioral, and emotional needs.



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The Office of Special Education Programs (OSEP) has determined that the BIE “needs assistance” to be compliant with regulations for implementing the requirements of Part B of the Individuals with Disabilities Education Act (IDEA) for the second consecutive year. The Board has also reviewed the Government Accountability Office (GAO) report 20-358 released in May 2020 “Actions Needed to Ensure Students with Disabilities Receive Special Education Services”, listened to reports from stakeholders to include Tribally Controlled, Navajo region schools, Bureau Operated Schools, and comments from the public to develop our recommendations for the 2022 Annual report.

The Advisory Board exceeded its charge of meeting twice annually by meeting three times this year. The Board continues to meet its obligation to provide an annual report to the Secretary of the Interior. Previous Advisory Board annual reports listed specific recommendations, with timelines and assigned duties, to improve the quality of education services for students with disabilities. The Advisory Board noted the same concerns that have arisen repeatedly. The Board received a response from the Secretary of Interior’s office for the 2018 annual report at the August 2020 board meeting. The BIE Director’s Office sent an acknowledgement letter to the Advisory Board, that the BIE did receive a copy of the 2021 annual report.

The Advisory Board respectfully requests that you acknowledge receipt of this letter in writing and the accompanying report and that you address the following concerns in a timely manner. We welcome the opportunity to meet and discuss with you to address these issues.

I. EFFECTIVE AND CONSISTENT IMPLEMENTATION OF BIE SYSTEM(S) WORKFORCE PLAN

JUSTIFICATION: The BIE continues to make good progress in staffing positions in the Education Resource Centers, Associate Deputy Director, and Central Office levels. The Board continues to have significant and ongoing concerns regarding the need for qualified special educators and related services personnel for Tribally Controlled Schools and Bureau Operated Schools.

Specifically, the board recommends the following:

- A. Provide technical assistance (e.g., resources, examples, policy and procedure ideas) related to the recruitment, employment, and retention of highly qualified personnel to ensure quality and compliant special education service delivery. Identify experts to provide services through virtual delivery strategies to increase access to effective technical assistance and support.



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- B. Initiate effective processes for recruitment, employment, and retention of qualified personnel within BIE funded schools, aligning with the school calendar to ensure positions are filled at the start of the school year, including expanded utilization of virtual delivery systems. Provide a range of options to fill special educator and related service provider positions including virtual delivery systems as deemed appropriate for the individual needs of the students.
- C. Ensure the implementation of effective and efficient recruitment and training of candidates for positions as special educators and related service providers. The BIE is advised to work with Native American-serving special education preparation programs that can be leveraged to increase the number of special education professionals.
- D. Develop additional options for advertising vacancies and recruiting candidates for BIE positions in addition to USAJobs.Gov and empower the local education agencies.
- E. Collect data regarding the adequacy and quality of current housing arrangements for school staff in BIE school communities. Promote strategies for the development of low cost or no cost housing for educators who work at BIE funded schools. The availability of adequate living quarters is an essential component of effective recruitment and retention.
- F. Facilitate partnerships between BIE schools and educator preparation programs at Tribal colleges, Haskell Indian Nations University, Southwestern Indian Polytechnic University, and other institutions of higher education serving significant numbers of Native American college students to develop “grow your own” approaches to educator preparation. The identification of experienced paraprofessionals who are interested in pursuing an educator preparation program to become a licensed educator should be a high priority for support.
- G. Develop BIE and Tribally supported programs of loan forgiveness for educators in the BIE system. Priority is recommended for Native students living in Tribal communities who make a commitment to work in their home communities upon program completion.
- H. Review the current salary and benefits provided through the BIE system to ensure comparability and competitiveness with surrounding public-school compensation models.



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- I. Create a public relations campaign across the BIE system to promote the value of education and educators. The intent of this campaign would be to emphasize the positive aspects of education, particularly special education, and a career as an educator.

The Advisory Board recommends that a plan be developed to address the following priorities to be completed by the end of the 2021-2022 school year. These recommendations are critical to ensure compliance and timely delivery of services to students with special needs.

II. THE DEVELOPMENT AND IMPLEMENTATION OF A VARIETY OF SERVICE COORDINATION POLICIES, PROCEDURES, AND ACTIVITIES ACROSS THE BIA, BIE, TRIBAL, AND STATE SYSTEMS THAT SUPPORT INFANTS AND TODDLERS LIVING ON RESERVATIONS WITH BIE-FUNDED SCHOOLS AND CHILDREN WITH DISABILITIES WHO ATTEND BIE-FUNDED SCHOOLS.

JUSTIFICATION: P.L. 108-446, Individuals with Disabilities Education Act (IDEA) mandates that the Bureau of Indian Affairs (BIA)/Bureau of Indian Education (BIE) develop and implement a plan for the coordination of services, and the Department of Interior enters into a memorandum of agreement with the Department of Health and Human Services (DHHS) for the “coordination of services.” In addition, this public law identifies a critical responsibility of the BIE Advisory Board for Exceptional Children is to “assist in the coordination of services within the BIA, BIE and with other local, State and Federal agencies in the provision of education for infants, toddlers and children with disabilities.”

Specifically, the board recommends the following:

- A. Revise and implement the current BIE Coordination of Services Plan (CSP) and provide dissemination and training at all levels – the Division of Performance and Accountability (DPA), Education Resource Centers (ERCs), BIE-funded schools, and Tribal Education Departments (TEDs).
- B. Prioritize the implementation of activities at both the DPA and ERC levels within the CSP and ensure that there are adequate personnel assigned to this focus area.



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- C. Revise and disseminate the Memorandum of Agreement with Indian Health Service. In addition, provide training related to this memorandum at each level of the BIE and BIE funded schools.
- D. Develop and implement a process for collecting and analyzing data related to the provision of Free Appropriate Public Education (FAPE) for students with disabilities who are incarcerated in juvenile or adult correctional facilities. Based on the data review, develop procedures and policies for ensuring FAPE for these students.
- E. Disseminate current directories related to Tribal and State Vocational Rehabilitation contacts/offices and disability services at Tribal and State Colleges to provide opportunities and improve outcomes in employment, post-secondary education, and independent and/or supported living for students with disabilities. Leverage this recommendation with the BIE Strategic Direction, Goal Four.
- F. Develop and implement disability support services for students in higher education across the BIE system (e.g., accommodations for students and communication with teachers about student needs, Assistive Technology (AT), assessments and training).
- G. Regularly communicate the progress towards meeting these recommendations with the Bureau of Indian Affairs Advisory Board for Exceptional Children.

III. TO ENSURE THAT ALL STUDENTS WITH DISABILITIES, THEIR FAMILIES, AND THEIR SERVICE PROVIDERS WITHIN THE BIE SCHOOL SYSTEM ARE PROVIDED WITH APPROPRIATE WELLNESS SUPPORT TO ADDRESS SOCIAL AND EMOTIONAL NEEDS.

JUSTIFICATION: The ongoing impact of COVID-19 has produced significant stress on students, families, and educators. Children with disabilities may be at increased risk for more severe illness and complications. This includes children with chronic physical, developmental, behavioral, or emotional conditions, disabilities, and those with medically complex conditions. This results in increased need for additional services and supports for students, families, and staff. COVID-19 has resulted in learning loss over the course of the past years and an increase of special education referrals.



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Specifically, the board recommends the following:

- A. Increase supports for families of children with disabilities to reduce the possibilities or the occurrences of neglect, abuse, and truancy (e.g., connecting parents to the state parent centers, encouraging activities with regional parent technical assistance centers, Family Voices and affiliate organizations, connecting parents with school-based resources, sharing national resources such as Center for Disease Control (CDC), American Academy of Pediatrics/healthychildren.org).
- B. Increase supports and services for students with disabilities in the overall wellness and social-emotional arena (e.g., adequate personnel, certified/licensed personnel such as mental health providers, evidence based social-emotional learning curricula, trauma informed care and training for staff (schools, ERCs, ADDs), coordination with Indian Health Services, and partnership with other community resources).
- C. Increase supports and services for special education staff and related services personnel in the overall wellness and social-emotional arena (e.g., peer supported networks, capacity building, promotion of resiliency, and trauma informed care and related training to adequately support students).
- D. Provide training and resources to BIE funded schools on evidenced based behavioral interventions for students with disabilities.

Timely implementation of the recommendations as outlined above are critical as the BIE works to ensure compliance and fidelity to federal regulations regarding the education of Indian students with disabilities. Furthermore, such actions strengthen the federal government's efforts to respect and honor the federal trust responsibility for Indian education.

Thank you for the opportunity to share these recommendations. Please inform the Designated Federal Officer, Jennifer Davis (Jennifer.davis@bie.edu) on behalf of the Advisory Board, if specific content in this letter needs further clarification.

Maec-waewaenen (Thank you),

Norman Shawanokasic, Chairperson



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Dr. Harvey Rude, Ed.D., Vice-Chairperson

Leslie Finnearty, Secretary

Dr. Robin Blitz, M.D., Advisory Board Member

Cynthia Frank, Advisory Board Member

Dr. Perry Graves, Advisory Board Member

Marsha LaFollette, Advisory Board Member

Gretchen Lehmann, Advisory Board Member

Pilar Peltier, Advisory Board Member

Teryl Running Horse, Advisory Board Member

John Struck, Advisory Board Member

Gretchen Wendell, Advisory Board Member

cc: Honorable Patty Murray, Chair, Senate Health, Education, Labor and Pensions Committee
Honorable Robert C. Scott, Chair, House Education and Labor Committee
Dr. Miguel A. Cardona, Secretary of Education
Bryan Newland, Assistant Secretary - Indian Affairs
Tony Dearman, Director, BIE
Margo Delaune, Associate Deputy Director, BIE
Dr. Eugene Thompson, Ed.D., Supervisory Education Specialist (IDEA), BIE



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Advisory Board Introduction and Background

The Individuals with Disabilities Education Improvement Act (IDEA, P.L. 108-446) guarantees free and appropriate public education to all children with disabilities in the United States. To guide states and other agencies that deliver special education and related services to children with disabilities, IDEA requires states to establish advisory boards that represent stakeholders, such as educational and program administrators, teachers, individuals with disabilities, and parents of children with disabilities. These advisory boards offer input on priorities and unmet needs within special education.

The Bureau of Indian Education (BIE), an agency within the Department of the Interior, oversees education for American Indian and Alaska Native students. Just as states must establish advisory boards to offer guidance on special education needs, the BIE is required to establish an advisory board for the same purpose. The BIE Advisory Board for Exceptional Children (Advisory Board), authorized by Part B, Section 611(h)(6) of the IDEA Reauthorization of 2004 (the Act, 200 U.S.C. 1400), represents the special education needs of all students with disabilities served by the BIE education system.

Currently, the BIE oversees a total of 183 elementary, secondary, residential, and peripheral dormitories across 23 states. There are 130 schools that are tribally controlled under P.L. 93-638 Indian Self Determination Contracts or P.L. 100-297 Tribally Controlled Grant Schools Act. The remaining 53 schools are directly administered by the BIE. Currently, the BIE education system serves approximately 49,000 elementary and secondary students; of these students, approximately 6,233 have disabilities.

BOARD RESPONSIBILITIES

The Advisory Board's duties, which are solely advisory, are to:

- assist in the coordination of services within the Bureau of Indian Affairs (BIA) and the BIE with other local, state, and federal agencies in the provision of education for infants, toddlers, and children with disabilities;
- advise and assist the Secretary in the performance of the Secretary's responsibilities as described in Section 611(h)(6) of the Act;
- develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations and the elimination of barriers to inter- and intra-agency programs and activities;



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- provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention services or educational programming for Indian infants, toddlers, and children with disabilities; and
- provide assistance in the preparation of information required to be submitted under Section 611(h)(6) of the Act.

Annual Reporting

The Advisory Board is required by federal regulation (34 C.F.R.: 300.715) to submit an annual report describing its activities during the preceding year. The annual report identifies specific areas of need that the Advisory Board selected as priorities. The report advises BIE staff, the Secretary of the Interior, and Congress regarding programs, regulations, and policy development that will support and improve the education of American Indian and Alaska Native students with disabilities. This report is submitted in fulfillment of the annual reporting requirement for 2019.

BOARD MEMBERSHIP AND STAKEHOLDER GROUP REPRESENTATION

The Advisory Board currently has 11 out of 15 members. The Secretary of the Interior selects and appoints members who represent a wide range of stakeholders involved in or concerned with the education and provision of services to American Indian and Alaska Native children with disabilities. Stakeholder groups include:

- Native American persons with disabilities,
- Native American parents or guardians of children with disabilities,
- Teachers of children with disabilities,
- Service providers to children with disabilities,
- State and local education officials,
- Representatives of tribes or tribal organizations,
- Representatives from state interagency coordinating councils in states that contain reservations,
- Members representing entities of BIE or BIA.

Advisory Board members are appointed to terms of either 2 or 3 years, so that half of the membership terms expire after 2-years and the terms of the remaining members expire after 3-



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years. The Secretary of the Interior selects the Advisory Board chairperson. (Appendix 1: Advisory Board Members lists all members of the 2022 Advisory Board and indicates which stakeholder category each member represents).

FACA REGULATIONS

As an Advisory Board to a federal agency, the Advisory Board falls under the requirements of the Federal Advisory Committee Act (FACA; 5 U.S.C., Appendix 2). FACA aims to ensure that the advice of federal advisory committees is objective and available to the public, and that the committees comply with cost control and recordkeeping requirements. The Advisory Board must comply with FACA regulations by:

- Making Advisory Board meetings open to the public,
- Publishing advance notice of upcoming meetings in the Federal Register,
- Recognizing a Designated Federal Officer (DFO) assigned by the BIE to support the Advisory Board,
- Ensuring that members avoid conflicts of interest, and
- Limiting membership terms.

The current Designated Federal Officer (DFO), Jennifer Davis has assisted the Advisory Board in maintaining compliance with these requirements.



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Advisory Board Meetings

The Advisory Board met three times this year to complete its work for FY 2021-2022 (October 1, 2021 through September 30, 2022). Due to the continuation of the COVID-19 pandemic, the March and June 2022 meetings were conducted online to ensure the safety of all individuals who participated in the meeting. The last meeting that occurred in September 2022, there were no travel restrictions, which provided availability for a hybrid meeting, allowing individuals to attend either in-person or online. The following is a summary about each Advisory Board meeting:

- **March 9-10, 2022 (Advisory Board virtual meeting)**

This was the first meeting for 2021-2022. The Advisory Board received updates from the following entities:

1. BIE Central Office about the status of the schools current reopening plans for SY2021-2022.
2. The BIE Office of Sovereignty in Indian Education provided information about the implementation of the Tribal Education Department (TED) grant project and how the grant benefits the overall system of education for students and families on reservations who received the TED grants, specifically the provision of special education services.
3. The BIE Special Education Program provided an update about the Coordinated Services Plan and presented the preliminary FFY2020-2025 State Performance Plan/Annual Performance Report (SPP/APR) indicator data to the Board as stakeholders and received input from stakeholders.

Expenses to conduct this meeting are: No travel costs were involved for any Board member or federal employee because this was a virtual meeting. The BIE used the required Federal Register Notice (FRN) to advertise this meeting. The FRN cost amounted to \$350.00. A total of \$2,510.00 occurred for costs which represents payments by the federal government to any Federal employee required or requested to attend this board meeting to provide reporting materials to the Advisory Board members. Usually, this will be salary (including benefits) for days a federal employee attended Advisory Board meetings or completed Board work. An approximate hourly pay figure was used to calculate the total hourly pay for federal employees required or were requested to attend this board meeting to provide reporting materials to the Advisory Board members.



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- **June 23-24, 2022 (Advisory Board virtual meeting)**

For the second meeting, the Advisory Board received the following updates:

1. The three BIE's Associate Deputy Director (ADD) Regions - Bureau Operated Schools (BOS), Tribally Controlled Schools (TCS) and the Navajo Region Schools (BOS and TCS) described the challenges and needs for bureau funded schools within their regions regarding the delivering of quality special education services; provided comments about the recommendations within the 2021 Annual Report; reported vacant positions (i.e., related services, special education teachers, special education paraprofessionals) within their region; and the described activities being planned in their region for SY22-23 to ensure special education and related services are being adequately supported.
2. The BIE Office of Sovereignty in Indian Education that provided information about the implementation of the Tribal Education Department (TED) grant project and how the grant benefits the provision of special education services.
3. The next topic involved a live panel discussion with a select group of Special Education Coordinators who work within or closely with various BIE funded schools to discuss special education topics. The three BIE ADD regions were represented: BOS, TCS and Navajo Schools, with various grade levels from K-12, were included.
4. The BIE Special Education Program provided an update about the BIE's Special Education Coordination of Services Plan, the BIE's Special Education SY2021-2022 Monitoring activities, the BIE's Special Education Policy and Procedures Handbook, and the BIE's Special Education Dispute Resolution and Due Process.
5. The BIE Central Office provided a summary for the "State of the BIE", to assist the BIE advisory board with recommendations for the annual report.

Expenses to conduct this meeting are : No travel costs were involved for any Board member or federal employee because this was a virtual meeting. The BIE used the required Federal Register Notice (FRN) to advertise this meeting. The FRN cost amounted to \$350.00. A total of \$3,245.00 occurred for costs which represents payments by the federal government to any Federal employee required or requested to attend this board meeting to provide reporting materials to the Advisory Board members. Usually, this will be salary (including benefits) for days a federal employee attended Advisory Board meetings or completed Board work. An approximate hourly pay figure was used to calculate the total hourly pay for federal employees required or



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were requested to attend this board meeting to provide reporting materials to the Advisory Board members.

- **September 15-16, 2022, (Advisory Board Hybrid meeting, Washington, D.C.)**

This was the last meeting for FY 2021-2022 and the following items occurred:

1. BIE Central Office – provided the “State of the BIE” and information about the preliminary efforts to develop a new strategic direction/plan for the BIE.
2. The Office of Special Education and Rehabilitative Services (OSERS) and the Office of Special Education Programs (OSEP) discussed educational issues for Indian Children with disabilities within the BIE school system.
3. BIE Special Education Program provided an update about the BIE Special Education Policies and Procedures Handbook, BIE Coordinated Services Plan, and provided data for the Dispute Resolution and Due Process.
4. BIE Office of Sovereignty in Indian Education provided updates about the implementation of the Tribal Education Department (TED) grant projects and the benefits for the provision of special education services.
5. Throughout the meeting the Advisory Board worked on the 2022 Annual Report and finalized the report. The Board also worked on future board meeting dates, time, and locations; and worked on the next board meeting agenda and presenter’s questions.

Expenses to conduct this meeting are as follows:

1. This meeting was a hybrid meeting (in-person and online) so travel costs were involved. Since there were no imposed travel restrictions this allowed individuals to attend or participate in the meeting, either in-person or online. The travel cost \$17,124.22 and was for three board members and five federal employees who traveled to the meeting in Washington, D.C.
2. The BIE used the required Federal Register Notice (FRN) to advertise this meeting. The FRN cost amounted to \$350.00.
3. A total of \$6,220.00 occurred for costs which represents payments by the federal government to any Federal employee required or requested to attend this board meeting to provide reporting materials to the Advisory Board members. Usually, this will be salary (including benefits) for days a federal employee attended Advisory Board meetings or completed Board work. An approximate hourly pay figure was used to calculate the total hourly pay for federal employees required or were



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requested to attend this board meeting to provide reporting materials to the Advisory Board members.

4. During the September 15-16, 2022 Advisory Board meeting the BIE used a Contractor to assist with the planning and set up of the board meeting, travel assistance for the board members and completion of reports (minutes and annual report). The name of the Contractor is the Center for Technical Assistance for Excellence in Special Education (TAESE) at Utah State University. The Contractor will continue to assist the BIE with the management, training, and technical assistance of the BIE Advisory Board for Exceptional Children during FFY2023. The Contractor's payment costs are \$44,727.57 and represents payments for management, training, and technical assistance for the Advisory Board. The Contractor is not an appointed member, nor are they Federal employees, and the payments are not reimbursement for travel expenses.



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BIE Advisory Board for Exceptional Children

Current 2022 Membership Roster

1. **Norman Shawanokasic, Chairperson** 3-YearTerm Period: 7/9/2020 - 7/9/2023
Represents Category: Tribes or tribal organizations
2. **Dr. Harvey Rude, Vice-Chairperson** 3-YearTerm Period: 7/9/2020 - 7/9/2023
Represents Category: Service providers to children with disabilities
3. **Leslie Finnearty, Secretary** 3-YearTerm Period: 2/10/2022 - 2/10/2025
Represents Category: Teachers of Children with Disabilities
4. **Dr. Robin Blitz, M.D., Board Member** 3-YearTerm Period: 7/9/2020 - 7/9/2023
Category: State Interagency Coordinating Councils (states having Indian reservations)
5. **Cynthia Frank, Board Member** 3-YearTerm Period: 7/9/2020 - 7/9/2023
Represents Category: Indian parents or guardians of children with disabilities
6. **Dr. Perry Graves, Board Member** 3-YearTerm Period: 1/14/2021 - 1/14/2024
Represents Category: Teachers of Children with Disabilities
7. **Marsha LaFollette, Board Member** 3-YearTerm Period: 1/14/2021 - 1/14/2024
Represents Category: Service providers to children with disabilities
8. **Gretchen Lehmann, Board Member** 3-YearTerm Period: 2/10/2022 - 2/10/2025
Represents Category: Service providers to children with disabilities
9. **Pilar Peltier, Board Member** 3-YearTerm Period: 2/10/2022 - 2/10/2025
Represents Category: Bureau employee concerned with the education of children with disabilities.
10. **Teryl Running Horse, Board Member** 3-YearTerm Period: 1/14/2021 - 1/14/2024
Represents Category: Indian Persons with Disabilities



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11. **John Struck, Board Member** 3-Year Term Period: 7/9/2020 - 7/9/2023
Represents Category: Teachers of Children with Disabilities

12. **Gretchen Wendell, Board Member** 3-Year Term Period: 2/10/2022 - 2/10/2025
Represents Category: Local Education Officials

THREE ADVISORY BOARD MEMBERS SERVED DURING FFY 2022, AND THEIR TERMS EXPIRED IN 2022.

- **Brenda Anderson, Secretary** 3-Year Term Period: 4/1/2019 - 4/1/2022
Represents Category: Tribes or tribal organizations
- **Teresa McMakin, Board Member** 3-Year Term Period: 4/1/2019 - 4/1/2022
Represents Category: Local Education Officials
- **Katinee Shawanokasic, Board Member** 3-Year Term Period: 4/1/2019 - 4/1/2022
Represents Category: Indian persons with disabilities