United States Department of the Interior
Bureau of Indian Education
National Board for Exceptional Children

Annual Report 2017
October 1, 2016–September 30, 2017
# Table of Contents

- **Recommendations Letter** ................................................................. 1
- **Advisory Board Introduction and Background** ................................. 3
  - Board Responsibilities ....................................................................... 3
- **Annual Reporting** ............................................................................ 4
  - Board Membership and Stakeholder Group Representation ............. 4
  - FACA Regulations ........................................................................... 5
- **2017 Advisory Board Meetings** ....................................................... 6
- **Appendix 1: Advisory Board Members** ......................................... 8
Recommendations Letter

September 22, 2017

The Honorable Ryan Zinke
Secretary of the United States Department of the Interior
1849 C Street NW • Washington, DC 20240

Dear Secretary Zinke:

This letter will outline the Bureau of Indian Education Advisory Board for Exceptional Children’s concerns regarding the Bureau of Indian Education (BIE) Reorganization and its devastating impact on students with disabilities within the service of the BIE. For the sixth consecutive year, the Office of Special Education Programs has determined that the Bureau of Indian Education “needs intervention” to comply with regulations for implementing the requirements of Part B of the Individuals with Disabilities Education Act (IDEA).

The Advisory Board recently met to fulfill its charge 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. During this meeting, the Advisory Board noted the same concerns that have arisen repeatedly with no response from the Secretary of Interior’s office or the BIE Administration, and the resulting failure to appropriately address the content of the reports. In response, the Advisory Board has altered the content of this annual report to better highlight specific areas of concern.

The Advisory Board respectfully requests that you address the following concerns.

BIE Reorganization

Justification: The Advisory Board is concerned that the new Administration has not approved or confirmed the BIE Reorganization plan. This lack of an approved organizational plan has resulted in inadequate services for students with disabilities due to unfilled positions.

A. We recommend a decision be made immediately regarding the Reorganization of the Bureau of Indian Education.

B. We recommend expediting the hiring process for positions identified through the Reorganization where tentative selections have been made.

C. We recommend that clear roles and expectations for personnel (e.g., DPA, ERC, local schools, etc.) be communicated throughout the Reorganization.

Sovereignty

Justification: The Advisory Board is unclear on the purpose for the BIE Office of Sovereignty in Indian Education.

A. We recommend that the BIE identify and clarify the purpose and scope of the Office for Sovereignty in Indian Education to all departments in the BIE system (i.e., human resources, Secretary of the Interior, DPA, ERCs, schools, etc.).
B. We recommend that the BIE ensure that the Office for Sovereignty in Indian Education builds tribally controlled schools’ capacities to provide special education services by appropriately qualified staff members to effectively manage and support tribes (e.g., teachers, para-professionals, specialized instructional service providers, etc.).

**Staffing and Support**

**Justification:** The BIE currently has an increased number of mediations and number of schools needing substantial improvement. Without appropriate staffing to assist schools in providing services for students with disabilities, the BIE is at risk of being out of compliance with federal requirements regarding the provision of special education services and coordination of related services. This is a violation of the federal trust responsibility for Indian Education.

A. We recommend that the BIE identify a network through which schools can seek daily support services for students with disabilities (e.g., school-level special education coordinator, program improvement specialist for special education, or education specialist at the ADD and SEA levels).

B. We recommend that the BIE work to ensure adequate recruitment and training of special educators and related service providers. To assist in this effort, the BIE is asked to work with existing Native American administrator preparation programs that can be leveraged to increase the number of special education professionals. We also recommend that school personnel have opportunities to participate in regional and professional development programming.

Thank you for the opportunity to share these concerns. Please inform the Advisory Board if specific content in this letter needs further clarification.

Respectfully yours,

Dolores Childs-Fullen, Board Secretary
Dr. Harvey Rude, Board Member
Norman Shawanokasic, Board Member
Dr. Jonathan Stout, Board Member
Dr. Susan C. Faircloth, Board Member

cc: Betsy DeVos, Secretary of Education
Tony Dearman, Director, BIE
Dr. Jeffrey Hamley, Associate Director, BIE Division of Performance and Accountability
Advisory Board Introduction and Background

The Individuals with Disabilities Education Improvement Act (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, 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), which is authorized by the Individuals with Disabilities Education Improvement Act of 2004, Part B, Section 611(h)(6), (20 U.S.C. 1400 et seq.), represents the special education needs of all students with disabilities served by the BIE education system.

Across the United States, there are 184 elementary and secondary BIE schools in 23 states, located on 63 reservations. Tribes and tribal boards under contract or grant with the BIE administer 122 of these schools, and the BIE directly administers the remainder. Currently, the BIE education system serves approximately 49,000 elementary and secondary students; of these students, approximately 6,400 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, as described in Section 611(h)(6)(A) of the Act;

- advise and assist the Secretary in the performance of the Secretary’s responsibilities as described in Section 611(h)(6)(B) 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, as described in Section 611(h)(6)(C) of the Act;

- 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, as described in Section 611(h)(6)(D) of the Act; and

- provide assistance in the preparation of information required to be submitted under Section 611(h)(6)(E) 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 2017.

Board Membership and Stakeholder Group Representation

The Advisory Board has 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 or local education officials,
- representatives of tribes or tribal organizations,
- representatives from state interagency coordinating councils in states that contain reservations, and
- members representing other divisions and entities of the BIA or the BIE.

Advisory Board members are appointed staggered terms of 1 to 3 years. The Secretary of the Interior selects the Advisory Board chairperson. Appendix 1: Advisory Board Members lists all members of the 2017 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 DFO, Jennifer Davis, has assisted the Advisory Board in maintaining compliance with these requirements.
2017 Advisory Board Meetings

The Advisory Board generally meets two to three times per year, as is necessary to complete its work. The Advisory Board met once in 2017:

- **September 21–22, 2017, Albuquerque, NM**
  The Advisory Board received an update on the BIE’s special education programs, the Supplemental Education Program, and the Division of Performance and Accountability.

The DFO, Jennifer Davis, attempted three times to conduct additional Advisory Board meetings, but faced obstacles each time. Explanations are provided below.

- The first Advisory Board meeting was scheduled for March 28–30, 2017, in Washington, D.C. The board members wanted direct access to Department of the Interior (DOI) and BIE senior leadership to discuss priority issues to improve the education of American Indian students with disabilities. Due to the meeting costs exceeding the $40,000 limit for the BIE Director’s Office, the request was denied. Another site was recommended to lower the costs. A memorandum dated January 20, 2017, regarding all DOI Federal Register notices (FRNs) changed the process for reviewing all FRNs, and they became backlogged within the DOI. The Advisory Board’s FRN was not able to meet publishing deadlines. The memorandum is summarized below.

- The second meeting date was set for April 19–21, 2017, in Albuquerque, NM. The meeting costs were not an issue; however, the review process of FRNs continued to be backlogged and the Advisory Board’s FRN did not meet publishing deadlines.

- The third meeting attempt was scheduled for June 28–30, 2017, in Albuquerque, NM. Again, the FRN was caught in the backlog. In addition, a DOI memorandum dated May 5, 2017, stopped the FRN from being published, and the BIE Advisory Board was not able to meet until September 2017. The memorandum is summarized below.

**Memorandum – January 20, 2017**

A DOI memorandum titled, “Federal Register Documents and Correspondence Clearance Procedures,” dated January 20, 2017, was disseminated to all chiefs of staff, bureaus, and offices within the DOI. The memorandum, from the director of the Office of the Executive Secretariat and Regulatory Affairs (OES), stated that all Federal Register documents, notices, and correspondence to or from the Secretary of the Interior must be reviewed by the OES for review and clearance. The memorandum states, “As we begin a new administration, it is important that the incoming policy team has an opportunity to review documents. Effective immediately, and in addition to your internal clearance processes, all Federal Register documents, including all notices, and all correspondence to or from the Secretary must be forwarded to the Office of the Executive Secretariat and Regulatory Affairs (OES) for review and Departmental clearance. The incoming leadership team will decide whether to continue or modify these instructions.”

**Memorandum – May 5, 2017**

A DOI memorandum titled, “Boards and Commissions”, dated May 5, 2017, was disseminated to all assistant secretaries within the DOI. The memorandum, from the director of the OES, postponed all committee meetings until September 2017 or later. The memorandum states, “The Department
currently includes more than 200 boards, committees, subcommittees, commissions, and other internal and external advisory bodies (committees) that are authorized to meet periodically and solicit input. To maximize feedback from these committees and ensure their compliance with the Federal Advisory Committee Act, the President's recent executive orders, and the Secretary's recent secretary's orders, the DOI is currently reviewing the charter and charge of each committee. This review necessitates the postponement of all meetings, which will be rescheduled for September 2017 or later.”
Appendix 1: Advisory Board Members

Table 1 lists current Advisory Board members.

**Table 1. Advisory Board Members**

<table>
<thead>
<tr>
<th>Member</th>
<th>Representative Category</th>
<th>Term</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dolores Childs-Fullen, Secretary</strong>&lt;br&gt;Chandler, AZ&lt;br&gt;<a href="mailto:dgifullen@aol.com">dgifullen@aol.com</a></td>
<td>Parents/Guardians of Children with Disabilities and Teachers of Children with Disabilities</td>
<td>3 years</td>
<td>9/2018</td>
</tr>
<tr>
<td><strong>Dr. Jonathan Stout</strong>&lt;br&gt;Lemont, PA&lt;br&gt;<a href="mailto:Woodman340@gmail.com">Woodman340@gmail.com</a></td>
<td>Indian Persons with Disabilities, Teachers of Children with Disabilities, and Service Providers</td>
<td>3 years</td>
<td>9/2018</td>
</tr>
<tr>
<td><strong>Dr. Susan C. Faircloth</strong>&lt;br&gt;Wilmington, NC&lt;br&gt;<a href="mailto:susanfaircloth@gmail.com">susanfaircloth@gmail.com</a></td>
<td>Parents/Guardians of Children with Disabilities</td>
<td>3 years</td>
<td>5/2019</td>
</tr>
<tr>
<td><strong>Norman Shawanokasic</strong>&lt;br&gt;Keshena, WI&lt;br&gt;<a href="mailto:mte_chairman@yahoo.com">mte_chairman@yahoo.com</a></td>
<td>Parents/Guardians of Children with Disabilities</td>
<td>3 years</td>
<td>5/2019</td>
</tr>
<tr>
<td><strong>Adrienne Benally</strong>&lt;br&gt;Fort Defiance, AZ&lt;br&gt;<a href="mailto:Adrienne_benally@nnosers.org">Adrienne_benally@nnosers.org</a></td>
<td>Indian Persons with Disabilities, Parents/Guardians of Children with Disabilities, and Teachers and Local Education Officials</td>
<td>3 years</td>
<td>12/2019</td>
</tr>
<tr>
<td><strong>Dr. Harvey Rude</strong>&lt;br&gt;Loveland, CO&lt;br&gt;<a href="mailto:Harvey.Rude@unco.edu">Harvey.Rude@unco.edu</a></td>
<td>Parents/Guardians of Children with Disabilities</td>
<td>2 years</td>
<td>12/2019</td>
</tr>
<tr>
<td><strong>Ronald Worst</strong>&lt;br&gt;Aumsville, OR&lt;br&gt;<a href="mailto:rworst@cascade.k12.or.us">rworst@cascade.k12.or.us</a></td>
<td>Parents/Guardians of Children with Disabilities</td>
<td>3 years</td>
<td>12/2019</td>
</tr>
<tr>
<td><strong>Eight vacant member slots</strong></td>
<td>Vacant</td>
<td>Vacant</td>
<td>Vacant</td>
</tr>
</tbody>
</table>