U.S. Bureau of Indian Education
National Advisory Board for Exceptional Children

Annual Report 2016

September 14, 2015–September 30, 2016
Dear Colleagues:

As Chairperson, I extend my gratitude to the fourteen members of the Advisory Board for Exceptional Children for volunteering their commitments of time and effort on behalf of students with disabilities within the BIE education system.

The Advisory Board met twice in 2016, our first meeting in February at the BIE offices in Albuquerque, NM, and again in September at Haskell University in Lawrence, KS, to discuss concerns regarding the BIE federal requirements for the provision of special education services. We reviewed data reports and presentations from BIE/DPA staff and management, as well as received comments from the public. The Advisory Board outlined a series of concerns for the Secretary of the Interior. The concerns were listed under the following headings:

- BIE Reorganization
- Sovereignty
- Staffing & Support

The details of these concerns question the separate phases of the BIE Reorganization, lack of staffing and support at both the ERC and DPA levels, and accountability and federal reporting responsibilities within the BIE Reorganization structure.

I appreciate the valued opportunity to serve both Advisory Board and the BIE education system.

Sincerely,

JUAN PORTLEY, PH.D., Education Specialist
Northeast Regional Education Cooperative
Las Vegas, NM
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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, 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 USC 1400), 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 BIE administer 122 of these schools, and 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 duties of the Board are solely advisory, and are stated below:

A.) Assist in the coordination of services within the Bureau of Indian Affairs (BIA) and BIE with other local, state, and federal agencies in the provision of education for infants, toddlers, and children with disabilities;

B.) Advise and assist the Secretary in the performance of the Secretary’s responsibilities described in Section 611(h)(6) of the Act;

C.) 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;

D.) 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

E.) 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 CFR: 300.715) to submit an annual report describing its activities during the preceding year. The 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 2014.

Board Membership and Stakeholder Group Representation

The Advisory Board has 14 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, and
- members representing other divisions and entities of BIA.

Advisory Board members are appointed on staggered 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 years. The Secretary of the Interior selects the Advisory Board chairperson. Dr. Jonathan Stout served as the chairperson until March 2015. Appendix 1: Advisory Board Members lists all members of the 2015 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 USC, 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 BIE to support the Advisory Board;
- ensuring that members avoid conflicts of interest; and
- limiting membership terms.

Current DFO Sue Bement, Acting Director of the BIE Family and Child Education Program and Part B&C Coordinator, has assisted the Advisory Board in maintaining compliance with these requirements.
2016 Advisory Board Meetings

The Advisory Board generally meets 2 to 3 times per year, as is necessary to complete its work. The Board met twice in 2016:

- **March 17–18, 2016, Albuquerque, NM**
  The Advisory Board received an update on BIE’s special education programs, the Supplemental Education Program, and the Division of Performance and Accountability.

- **September 15–16, 2016, Lawrence, KS**
  The Advisory Board received an update on BIE’s special education programs, reorganization of the BIE, memorandums of understanding (MOUs) and The Department of Human and Health Services, Division of Performance and Accountability (DPA) and Office of Special Education Programs (OSEP) Workgroups.
Recommendations Letter

September 21, 2016

The Honorable Sally Jewell
Secretary of the United States Department of the Interior
1849 C Street NW • Washington, D.C. 20240

Dear Madam Secretary:
The Bureau of Indian Education (BIE) Advisory Board for Exceptional Children recently met to fulfill its charge to provide an Annual Report to the Secretary of the Interior. The Office of Special Education Programs has determined that the Bureau of Indian Education “needs intervention” to be in compliance with regulations for implementing the requirements of Part B of the Individuals with Disabilities Education Act (IDEA) for the fifth consecutive year.

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 Board recognized the same concerns repeated from year to year without response from your office to appropriately address the content; therefore, the Advisory Board has altered the content of this Annual Report. This letter will outline the Advisory Board’s concerns regarding the BIE Reorganization and its devastating impact on students with disabilities within the service of the BIE.

The Advisory Board would ask you to address the following concerns.

BIE Reorganization
Justification:

A.) The Advisory Board is unclear about the potential ramifications of the Reorganization on the provision of educational services for students with disabilities.

   o What evidence will be used to determine the positive impact from the Reorganization on the operations at the school level for students with disabilities?

B.) The Advisory Board identifies a concern regarding the potential impact of the Bureau’s inability to fill the existing vacant positions with qualified professionals in a timely manner. Failure to do so continues to compromise the Bureau’s ability to comply with the mandates of the IDEA.

   o Does the current organization chart accurately reflect all the positions within the Reorganization as they relate to the educational services for students with disabilities?

   o Is there funding allocated for positions at all Reorganization levels based on current organization charts?

      • Provide a timeline for the individual phases of the Reorganization, and clarify the objectives for each phase.

   o Is the Reorganization insulated from the new administration change?
Sovereignty

Justification: The Advisory Board is unclear as to the purpose for the Office of Sovereignty within the Bureau of Indian Education.

- Please clarify the purpose and scope of the Office for Sovereignty in Indian Education as it relates to students with disabilities.
- Please clarify BIE’s role in issues related to tribal sovereignty and the provision of educational services for students with disabilities.
  - Who has the SEA federal reporting responsibilities for IDEIA (i.e., Tribes, ERC’s, and/or DPA)?

Staffing & Support

Justification: Without appropriate staffing to assist schools with 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 the federal trust responsibilities. The BIE currently has an increased number of dispute resolutions and mediations.

- Where do schools go for support for daily operations for students with disabilities (i.e., ERC or DPA)?
  - Currently, 12 out of the 20 DPA-funded Education Specialist (Special Education) positions are not filled.
- When will the available or vacant positions be posted without hiring restrictions?
  - USA JOBS has no current Special Education positions posted, as of September 16, 2016.
- BIE school personnel should have opportunity for regional professional development regarding special education best practices.
  - BIE has not held large-scale trainings since receiving the DOI directive prohibiting more than 15 federal employees from attending one event simultaneously.

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,

Juan Portley, Ph.D., Education Specialist
Board Chair

cc: John B. King Jr., Deputy Education Secretary
    Ann Marie Bledsoe Downes, Acting Director of BIE
    Dr. Jeffrey Hamley, Associate Director of BIE
## Appendix 1: Advisory Board Members

Table 1 lists current Advisory Board members.

**Table 1. Advisory Board Members**

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<tr>
<th>Member</th>
<th>Representative Category</th>
<th>Term</th>
<th>End Date</th>
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<tr>
<td>Dr. Jonathan Stout</td>
<td>Teachers of Children with Disabilities and Service Provider</td>
<td>3 Years</td>
<td>3/2018</td>
</tr>
<tr>
<td>Lemont, PA</td>
<td><a href="mailto:jstout1@lhup.edu">jstout1@lhup.edu</a>&lt;br&gt;<a href="mailto:Woodman340@gmail.com">Woodman340@gmail.com</a></td>
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</tr>
<tr>
<td>Dr. Juan Portley, Chair</td>
<td>Service Providers and State Interagency Councils</td>
<td>3 Years</td>
<td>7/2017</td>
</tr>
<tr>
<td>Santa Fe, NM</td>
<td><a href="mailto:j.portley@hotmail.com">j.portley@hotmail.com</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dr. Rosemarie Smith Dugi, Vice Chair</td>
<td>Indian Persons with Disabilities and Indian Parents / Guardians of Children with Disabilities</td>
<td>3 Years</td>
<td>7/2017</td>
</tr>
<tr>
<td>Billings, MT</td>
<td><a href="mailto:rdugi@msubillings.edu">rdugi@msubillings.edu</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carlita Lewis</td>
<td>Teachers of Children with Disabilities and Service Provider</td>
<td>2 years</td>
<td>9/2017</td>
</tr>
<tr>
<td>White River, AZ</td>
<td><a href="mailto:Carlita.lewis@bie.edu">Carlita.lewis@bie.edu</a></td>
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<td></td>
</tr>
<tr>
<td>Dr. Delores Ellen Gokee-Rindall</td>
<td>Tribal Representative</td>
<td>2 Years</td>
<td>7/2016</td>
</tr>
<tr>
<td>Bayfield, WI</td>
<td><a href="mailto:Dee.gokee@redcliff-nsn.gov">Dee.gokee@redcliff-nsn.gov</a></td>
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<tr>
<td>Dr. Judith Hankes</td>
<td>Service Providers</td>
<td>2 Years</td>
<td>7/2016</td>
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<tr>
<td>Oshkosh, WI</td>
<td><a href="mailto:hankes@uwosh.edu">hankes@uwosh.edu</a></td>
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<tr>
<td>Delores Childs-Fullen, Secretary</td>
<td>Indian Parents/Guardians of Children with Disabilities and Teachers of Children with Disabilities</td>
<td>3 years</td>
<td>9/2018</td>
</tr>
<tr>
<td>Chandler, AZ <a href="mailto:dgjfullen@aol.com">dgjfullen@aol.com</a></td>
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</tr>
<tr>
<td>Paula Sorrell Seanez</td>
<td>Teachers of Children with Disabilities and Bureau Employees Concerned with the education of Children with Disabilities</td>
<td>2 years</td>
<td>9/2017</td>
</tr>
<tr>
<td>Window Rock, AZ <a href="mailto:paulaseanez@nndode.org">paulaseanez@nndode.org</a></td>
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<tr>
<td>Dr. Harvey Rude</td>
<td>Indian Parents / Guardians of Children with Disabilities</td>
<td>2 Years</td>
<td>7/2016</td>
</tr>
<tr>
<td>Loveland, CO <a href="mailto:Harvey.Rude@unco.edu">Harvey.Rude@unco.edu</a></td>
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<tr>
<td>Luvette Ann Russell</td>
<td>Indian Parents / Guardians of Children with Disabilities</td>
<td>3 Years</td>
<td>7/2017</td>
</tr>
<tr>
<td>Tucson, AZ <a href="mailto:LAR51046@aol.com">LAR51046@aol.com</a></td>
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<tr>
<td>Craig Euneau</td>
<td>Indian Parents/Guardians of Children with Disabilities and Teachers of Children with Disabilities</td>
<td>2 years</td>
<td>9/2017</td>
</tr>
<tr>
<td>Hayward, WI <a href="mailto:Craig.euneau@bie.edu">Craig.euneau@bie.edu</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Christopher G. Bordeaux</td>
<td>Indian Parents/Guardians of Children with Disabilities, Indian persons with Disabilities, Service Providers, Local Education Officials, and tribal Organizations</td>
<td>2 years</td>
<td>9/2017</td>
</tr>
<tr>
<td>Pine Ridge, SD <a href="mailto:cgbordeaux@hotmail.com">cgbordeaux@hotmail.com</a></td>
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