

Bureau of Indian Education Advisory Board for Exceptional Children, Advisory Board meeting September 30, 2020

Name of Committee: Bureau of Indian Education Advisory Board for Exceptional Students

Meeting Location: Due to the COVID-19 pandemic and for the safety of all individuals the entire length of the Advisory Board meeting conducted online.

Meeting Presentation: The entire Board meeting was conducted online using a webinar platform and teleconference for those who were not able to access the meeting by computer.

Advisory Board Chair: Jennifer Davis, Designated Federal Officer (DFO) served as the Chairperson during this Board meeting. Gretchen Wendell assisted with lead duties as well.

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.

Jennifer Davis, DFO was present during all meeting sessions to maintain compliance with the FACA regulations.

Start Time: 8:00 a.m. Pacific Daylight Time

Welcome, Opening Prayer, Call to Order, and Board Roll Call – completed by the DFO

1. Present - Brenda Anderson, Secretary (online attendance)
2. Present - Dr. Eudore Camata, Ed.D., Board Member (online attendance)
3. Present - Cynthia Frank, Board Member (online attendance)
4. Present - Marcy Oliver, Board Member (online attendance)
5. Present - Jennie Platerio, Board Member (online attendance)

6. Present - Dr. Harvey Rude, Ed.D., Board Member (online attendance)
 7. Present - Norman Shawanokasic, Board Member (online attendance)
 8. Present - John Struck, Board Member (online attendance)
 9. Present - Gretchen Wendell, Vice-Chairperson (online attendance)
 10. Present - Rebecca Youngman, Board Member (online attendance)
 11. Absent - Dr. Robin Blitz, M.D., Board Member (online attendance)
 12. Absent - Teresa McMakin, Board Member
 13. Absent - Katinee Shawanokasic, Board Member
- Present – Jennifer Davis, DFO (online attendance)
 - Gallery: In attendance online. Names were obtain from individuals who signed-in online and provided their Name, Position title and School/Organization they represent.
 - Margo DeLaune, Acting Associate Deputy Director, Division of Performance & Accountability (DPA), BIE
 - Dr. Eugene Thompson, Supervisory Education Specialist, BIE/DPA
 - Dr. Cherie Poitra-ADD- Tribally Controlled Schools (TCS), Education Program Specialist (SPED)
 - Connie Albert, Acting Associate Deputy Director for TCS
 - Benita McKerry, Native American Disability Law Center
 - Charles Sherman, Education Program Administrator, Navajo Region
 - Misty Ziegler, ADD-TCS Special Education Program Support Specialist
 - Delphina Shunkamolah, Education Specialist/DPA-Special Education
 - Eleanor Jones, Education Specialist/DPA-Special Education
 - Mary Beardsley, Program Support Specialist/DPA-Special Education
 - Janet Slowman Chee, Education Program Administrator, Navajo Region
 - Sarah Murphy

Slide Presentation - provided by the DFO

- Provided the Purpose of the Advisory Board Meeting
- Provided the Authorizations for the Advisory Board
- Provided Target Audience and Meeting Objectives
- Reviewed meeting agenda

New Business

- The DFO reported the November 12-13, 2020 Board meeting requested by the Board will not be scheduled due to not receiving the agenda items from the Board. Agenda items are needed so an agenda can be placed in the Federal Register for publication.
- The Board will make time during this meeting to provide the DFO with agenda items.
- A Board member requested to spend more time during the meeting to review the BIE's Determination Letter from the Office of Special Education.

Navajo Region Schools (TCS and BOS) Special Education (SPED) Updates

- This presentation started at 8:30 am PDT. Carrie Watahomigie, Education Program Specialist/Special Education for the Navajo Region's ADD Special Education Program wrote the report that was provide during the advisory board meeting. Ms. Watahomigie was not able to attend the Advisory Board meeting therefore Dr. Janet Slowman-Chee presented the special education report for the Navajo region. The report included the following:
- Reported there is one Navajo Region Education Program Specialist for Special Education serving 66 Navajo schools, Bureau Operated and Tribally Controlled Schools. She is very busy and she lives in a remote area and there are times when she faces internet problems to do her work.
- The BIE funded schools located within the Navajo Nation is one of the largest areas devastated by COVID-19 pandemic situation. This report provides Special Education Events, Operations, Concerns and obstacles due to COVID-19 and other milestones of our Navajo Region.
 - We are all teleworking and making herself available to the schools as much as she can.
 - In providing technical support to our schools within the Navajo ADD and ERC, I've learned of the many wonderful learning strategies within our schools and of the recent challenges brought forth by the pandemic.
 - Today, I am bringing forth to you the primary and current pressing special education concerns at our schools, as indicated by teachers, administrators and parents. They are:
 - How are IEPs conducted during COVID-19 since there is no face-to-face meetings? Are there changes to the current Protocols on establishing IEP meetings?
 - Is there a new or different process of creating IEPs?
 - How are IEPS documented?
 - What supporting documents would the teachers need in teaching SWD due to COVID?
 - What is the process in serving the students during the stay home order, if pull-out or is required? It's the same with the one-to-one recommendations?
 - How IEP's are handled on returning or new students?
- Related Services: Changes to the requirements and processes of specialized services to meet student needs, i.e.: speech, physical therapy, OT, PT, Counseling, etc.
- Some contracts ceased/ended (providers ended their contracts) when the Navajo Nation Executive Order imposed a "stay at home order", now compensatory hours are now being challenged by parents. This is a lot of compensatory services.
- Personnel -
 - There is a severe shortage of certified special education teachers. We have schools requesting a SPED on contract at least 2-3 days per week.
 - There is also a severe shortage of certified Speech/Language Specialists.

- Native Star Reporting -
 - The Part B, 2020-21 IDEA 2004 Applications are nearly completed. Most schools are finishing their applications. Also, if there is a new administrator on board there is a learning process for the administrator to catch up learning how to work with the application process. Change in administration at school level contributes to the lateness in submission. Tech support guides schools to completion.
- COVID-19/CDC/BIE/Bureau Operated Schools/Tribally Controlled Schools:
 - The BIE Navajo region, the entities are in collaboration with one another (e.g. BIE's DPA and DOI Solicitors) to provide the safest way in meeting and delivering FAPE to our students. Professional Development, webinars, zoom, google and other modes of communication are utilized in disseminating appropriate guidance to stakeholders.
 - Schools are using guidance from the CDC and the Navajo Nation Executive Orders for the Navajo Nation, and we work with the Navajo Nation Department of Education.
- Carrie Watahomigie is in contact with the BIE's Division of Performance and Accountability and Department of the Interior solicitors in addressing concerns at the lowest levels possible regarding specialized instructions that are brought to our attention.
- Return to School Plans -
 - Are under way at each school, suggested to occur in 3 phases upon CDC Guidance and the Navajo Nation Order,
- All Navajo schools are virtual due to COVID-19. Some schools are looking into a hybrid setting. We hope some parents will be able to allow their child to come to school at least 1-2-3 days. Many of our parents are refusing to allow their child to go to school. They want their children safe at home and they want their child to continue to learn. The BIE schools do not force parents to have their children on campus.
- In addition to the deaths many of our children are dealing with trauma. We need School Psychologists to help children with their social and emotional trauma. We also need to support the staff to support their students and parents through this pandemic crisis.
- Some of our parents are not set up with technology and they do not have the knowledge of navigating through various platforms and software on a laptop or computer.
- Dr. Slowman-Chee encourages BIE funded schools to carry on with the Special Education Child Find. Personnel within her jurisdiction, there is a severe shortage of special education teachers and related service providers. Dr. Chee also informs the schools that the Act (IDEA) is not waived and that federal regulations must be followed.
- Cooperative Agreement Unit (CAU) -
 - The CAU that Dr. Slowman-Chee works with has a contractor LSG who provides speech and language services to the children within the BIE schools within Dr. Slowman Chee's jurisdiction.

- Statement made by Marcy Oliver (Board Member) to Dr. Slowman-Chee - Some of the BIE schools may have lost special education teachers and related service providers due to contacting problems. The proposal submitted to the solicitation office only provided speech and language services not special education teachers or other related services. Dr. Slowman-Chee stated the Solicitation office wrote the proposal. Marc Oliver stated, "When will the contract be written to include special education teachers and other related services besides speech and language teachers? The BIE/Bureau Operated Schools rely on the CAU to assist them with obtaining special education teachers and related services. This will need to be corrected and changed." Ms. Slowman-Chee will speak with the Navajo District Office to address this problem and to make corrections.
- Dr. Rude (Board Member) - Question to Dr. Slowman-Chee about Tribal Sovereignty for Department of Education. Recognizing special education is a major responsibility. DODE is pursuing of transfer of all BIE Navajo District Schools to tribal authority. Have you had communication or coordination with DODE (Pat Ghonnie or Darrick Franklin) about this? What would help to make the transfer successful? And to preserve the quality of SPED services and related services?
 - Dr. Slowman-Chee - My thoughts are, "Yes I believe in tribal sovereignty. At this point I know DODE does not have the capacity in terms of special education expertise. Which is crucial for a quality special education program and services for the Navajo children. Having competent licensed personnel is critical for the Navajo region to be able to position themselves as credible and to have integrity for a special education program. At this point the do not have that. I'm not sure of what their plans are to bring in personnel to deliver quality services.
 - Dr. Rude to Dr. Slowman-Chee - Are you familiar with the material on the DODE website? DinehEducation.com "Yes I am". Dr Rude - There are a lot of details on this website about this transfer. To make the transfer successful it is recommended that a working relationship with DODE needs to take occur; and to identify special education services and related services as a major challenge to identify to make this transfer a successful transfer. "I totally agree with you."
- John Struck (Board member) to Dr. Slowman-Chee - How are the problems you presented from the report are being addressed internally through a planning and problem solving process? Dr. Chee - I believe at this point all the concerns and needs are beginning to be flushed out more realistically as opposed to "It looks like" statements. We are beginning to make statements of "definitely this is a need" statements. Once we begin to see that we will be in a position to say "How do we take care of it?" Definitely we will look at what the needs are and taking care of the needs. The items Marcy Oliver (Board member) mentioned, it is true. We have advertised for the special education teachers and related services providers and we get no response. I don't think it's only limited to the Navajo region, the lack of personnel is all over the place. We will do our best to see what our needs are and to address the needs of our children.
- Charles Sherman, Acting ADD for BIE Navajo Region - In addition to the report that was provided, the Navajo region is working closely to address these concerns. We are doing

everything we can to utilize the internal resources. We are trying creative ways such as special education teachers being shared between schools. We are in a dilemma and we continue to work with the BIE recruitment for credentials special education teachers. A lot of personnel are afraid to go into hotspot COVID-19 areas on the Navajo Nation. We are trying to do everything we can to ensure special education services.

- Dr. Robin Blitz (Board member) - is the recruitment done out of state to provide services such as virtually or telehealth/telemed? Dr. Chee - At this point we have not looked at this option. I'm not sure if this has been done within the Navajo region. We need to look at the pros and cons to see if we can try this option. Dr. Blitz - If offered (telemed) will this be an option to fill some of the vacancies? I know on a personal note this has been done. I just thought this might be another way to try.
- Cynthia Frank - I know of a student who is currently receiving speech and language students virtually within the Navajo region. Dr. Chee - these are options that we can further investigate for possibilities for the Navajo Region schools.

Public Commenting Session

- A 30-minute commenting session was provided for the general public on 9/30/2020 starting 9:15 pm PDT and ending 9:45 pm PDT.
- There were no individuals that provided comments.

Continuation of the Board meeting

- The Board continued to meet starting at 9:45 am and ended at 12:00 pm PDT to break for lunch.
- During this time period the Board continued to work on the draft for the 2020 Annual Report. The following initiatives were reviewed for 2020 Annual Report:
 - a) Effective implementation of BIE system(s) workforce plan
 - 1. Retention and Recruitment on staff;
 - 2. Professional development
 - b) Consistency of implementation
 - 1. Establishment consistent requirements for schools on making up missed special education and related services;
 - 2. Developing a consistent policy for all BIE school - Will assist and annual report from all BIE schools;
 - 3. High risk monitoring
 - c) Coordination of Special Education Services to include effective communication collaboration, and transparency across the BIE system
 - 1. Tribal Sovereignty tribal education initiatives;
 - 2. Development and implementation of the BIE coordinated service plan;
- Dr. Eugene Thompson, Margo Delaune and Dr. Cherie Poitra provided hiring process information to the Board so they can better understand the process. This information is needed to develop the 2020 annual report.

Lunch Break (12:00 pm - 1:00 pm PDT)

Continuation of the Board meeting

- Roll Call taken again.
- This section started at 1:00 pm and ended 3:25 pm PDT.
- During this time period the Board continued to draft the 2020 Annual Report. At 3:15 pm PDT the Board finalized the 2020 Annual Report

- The Board discussed the following agenda topics for the next future meetings:
 - The Board agreed on two time periods for the Advisory Board meetings:
 - January 27-28, 2021; and April 29-30, 2021
 - Meet with a designee from the Assistant Secretary - Indian Affairs (AS-IA) Office to discuss the lack of response and acknowledgment from the BIE and the Department of the Interior regarding the past six years of Annual Reports that had been submitted by the BIE Advisory Board for Exceptional Children.
 - The Board would like the BIE Director's Office to provide:
 - Provide feedback about each recommendation listed in the 2020 Annual Report.
 - Provide feedback about the 2020 Annual Report specifically in relation to the BIE Reorganization; and how effective the BIE has been in completing its staffing plan?
 - Provide a status update in relation to the BIE's Reorganization and the 2020 Annual Report.
 - Provide feedback as to how the Advisory Board can support the BIE's mission?
 - The three ADD's (BOS, TCS and Navajo Region SPED programs) provide feedback about the following:
 - How is each ADD Office building the capacity within each ERC in their region to ensure special educational services are adequately supported?
 - Provide an update about the Return To School plans and how are special education services supported in the plans?
 - Provide feedback about the recommendations as listed in the 2020 Annual Report as it relates to your region, ERC's and schools.
 - BIE's Office of Tribal Sovereignty (Spike Bighorn or Designee) to address the Tribal Education Department grants.
 - Provide an overview about the TED grant program (The history, purpose of the TED grants, how and when did the TED grants get started? etc.).
 - The Board is very interested about this topic and how it relates and supports special education programs within BIE funded schools?
 - What is the status of the participating tribes who have been funded?

- Margo DeLaune, Acting Associate Deputy Director, Division of Performance & Accountability (DPA)
 - To provide feedback about each recommendation listed in the 2020 Annual Report as it related to the DPA Program.
- Dr. Eugene Thompson, Supervisory Education Specialist, BIE/DPA
 - Provide feedback about each recommendation listed in the 2020 Annual Report as it related to the DPA's Special Education Program.
 - Provide an update about the progress regarding OSEP's Determination Letter to the BIE.
 - Provide an update regarding secondary transition as mentioned in the OSEP's Determination Letter. What special activities the BIE is working on? What type of technical assistance is being provided to the schools to improve secondary transition activities?

Board meeting Adjourned

- Jennie Platerio motioned to adjourn the Advisory Board Meeting, Dr. Robin Blitz, second the motion, all unanimously approved by the Board meeting to adjourn. The Board meeting ended at 3:25 pm PDT.

Appendix:

1. BIE Advisory Board Membership Roster
2. Meeting Agenda for September 30, 2020

BIE Advisory Board for Exceptional Children Board Membership Roster

1. **Brenda Anderson, Secretary.** 3-YearTerm Period: 4/1/2019 - 4/1/2022
State Location: AZ. Represents Category: Tribes or tribal organizations
2. **Dr. Robin Blitz, M.D., Board Member.** 3-YearTerm Period: 7/9/2020 - 7/9/2023
State Location: AZ. Represents Category: State Interagency Coordinating Councils (for states having Indian reservations)
3. **Dr. Eudore Camata, Board Member.** 2-YearTerm Period: 4/1/2019 - 4/1/2021
State Location: NM. Represents Category: Local Education Officials
4. **Cynthia Frank, Board Member.** 3-YearTerm Period: 7/9/2020 - 7/9/2023
State Location: NM. Represents Category: Indian parents or guardians of children with disabilities
5. **Teresa McMakin, Board Member.** 3-YearTerm Period: 4/1/2019 - 4/1/2022
State Location: MT. Represents Category: Local Education Officials
6. **Marcy Oliver, Board Member.** 2-YearTerm Period: 4/1/2019 - 4/1/2021
State Location: NM. Represents Category: State Education Officials
7. **Jennie Platerio, Board Member.** 2-YearTerm Period: 4/1/2019 - 4/1/2021
State Location: AZ. Represents Category: BIE employees concerned with the education of children with disabilities
8. **Dr. Harvey Rude, Board Member.** 3-YearTerm Period: 7/9/2020 - 7/9/2023
State Location: CO. Represents Category: Service providers to children with disabilities
9. **Katinee Shawanokasic, Board Member.** 3-YearTerm Period: 4/1/2019 - 4/1/2022. State Location: WI. Represents Category: Indian persons with disabilities
10. **Norman Shawanokasic, Board Member.** 3-YearTerm Period: 7/9/2020 - 7/9/2023
State Location: WI. Represents Category: Tribes or tribal organizations
11. **John Struck, Board Member.** 3-YearTerm Period: 7/9/2020 - 7/9/2023
State Location: MS. Represents Category: Teachers of Children with Disabilities
12. **Gretchen Wendell, Vice-Chairperson.** 2-YearTerm Period: 4/1/2019 - 4/1/2021
State Location: SD. Represents Category: BIE employees concerned with the education of children with disabilities