



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

January 21, 2020

Tony Dearman
Director
Bureau of Indian Education
United States Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Director Dearman:

I am writing regarding the Bureau of Indian Education's (BIE) implementation of the Title I, Part A (Title I) requirements under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), and BIE's existing Corrective Action Plan (CAP), which has been in place since 2005 to address areas of non-compliance with ESEA requirements.

I am pleased to acknowledge that BIE has made progress over the past year in addressing some of its implementation challenges related to Title I as identified in our letter to you on November 28, 2018. BIE demonstrated through submission of its quarterly reports and supporting evidence that it sufficiently addressed several of the items in that letter and included in the CAP. BIE administered reading/language arts and mathematics assessments in the 2018-2019 school year. BIE identified schools for comprehensive support and improvement using proficiency and graduation rates in the 2019-2020 school year and developed an ESEA section 1003 application for school improvement funds. BIE also developed a plan and timeline describing how it will allocate fiscal year (FY) 2018 funds under ESEA section 1003 for its identified schools and developed a plan and timeline for use of its remaining School Improvement Grant (SIG) funds. Finally, BIE completed its 2017-2018 school year report to the U.S. Department of Education (Department) via *EDFacts*.

While we appreciate the strides BIE has made, the Department is concerned about several aspects that BIE has not yet completed. As required under ESEA section 8204(c)(1), BIE has not published final regulations for its standards, assessments, and accountability systems. Once the regulations are finalized, BIE must consult and seek approval from the Department on how it will implement the regulations to adopt standards, develop aligned assessments, and an accountability system to identify schools in need of comprehensive and targeted support and improvement.

It is imperative that BIE complete key milestones in the 2019-2020 school year so that it is prepared to implement its new regulations under the ESEA and ensure it has challenging academic standards, aligned assessments and key components of your accountability system in place by the start of the 2020-2021 school year. Therefore, the Department has identified the following specific actions outlined

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below that BIE must take in order to implement the amended ESEA. This letter amends the CAP and supersedes previous guidance and communications about required actions.

Corrective Actions Regarding Challenging Academic Standards and Aligned Assessments and an Accountability System

In discussions with BIE staff, the Department recently learned that BIE will describe how it will meet the Title I requirements in an “Agency Plan,” that details the proposed accountability indicators and system of annual meaningful differentiation among all public schools, on which it will seek Tribal consultation and input. BIE must submit its Agency Plan to the Department for review and approval. BIE also plans to implement new standards and assessments beginning in the 2020-2021 school year. Given these changes, and the extent of other data limitations, BIE will not have the data required to implement a full accountability system by the beginning of the 2020-2021 school year. Therefore, the Department expects BIE to implement a transition accountability system in the beginning of the 2020-2021 school year (based on data from the 2019-2020 school year) that contains, at a minimum, graduation rate, academic achievement based on the assessments administered to BIE schools in the State in which the school is located, and one or more school quality or student success indicators. In the beginning of the 2021-2022 school year (i.e., making accountability determinations in the beginning of the 2021-2022 school year based on data from the 2020-2021 school year), the Department expects that BIE will implement an accountability system that is consistent with the requirements in ESEA section 1111(c) and (d). The dates outlined below are aligned with BIE’s workplan that was previously submitted to the Department and ensures there is sufficient time for the two agencies to collaborate and for the Department to provide feedback to BIE on the contents of BIE’s proposed Agency Plan with regard to Title I.

Actions Required:

- Submit to the Department within 30 days of the receipt of this letter:
 - A draft of BIE’s accountability system that BIE will use for consultation in spring 2020 in BIE’s preferred format (e.g., white paper, detailed outline, or BIE’s Agency Plan using the applicable sections of the Department’s consolidated State plan template). The draft must include:
 - A description of the accountability system that will be used to provide accountability determinations for BIE schools in the beginning of the 2020-2021 school year (using data from 2019-2020 school year), including academic achievement (based on BIE’s current 23-State based assessment), graduation rate, and one or more school quality and student success indicators.
 - A draft of the accountability system that includes all indicators required under the ESEA, as amended by ESSA, that BIE proposes to use for accountability determinations made in the beginning of the 2021-2022 school year (using data from the 2020-2021 school year).
- After BIE completes its consultation activities in spring 2020, submit to the Department by May 15, 2020, for review and approval, BIE’s Agency Plan that contains the accountability system that BIE will implement in the 2021-2022 school year (using data from the 2020-2021 school year) and beyond.
- Continue working with the Department’s Comprehensive Centers program to:
 - Design BIE’s new standards, assessments, and accountability system; and
 - Improve BIE’s capacity to collect and use data to develop valid and reliable indicators and performance measures for the transition accountability system in school year 2020-2021 and the new, ESSA-compliant accountability system beginning in the 2021-2022 school year.

Prior & Ongoing Title I Corrective Actions for the 2019-2020 School Year and Beyond

A. Assessment Requirements

As noted in the letter on November 28, 2018, the Department remains concerned that BIE did not administer all of the required Title I assessments to all students, including science and English language proficiency (ELP) assessments, as required in ESEA section 1111(b)(2). We know that for school year 2019-2020, BIE will continue its past practice of administering to each school the assessment system for the State in which the school is located and that you will transition to a new operational assessment in school year 2020-2021 for reading/language arts, mathematics, science, and ELP assessments.

Action Required:

- In the 2019-2020 school year, BIE must administer reading/language arts, mathematics, science as well as the required alternate assessments in these subjects, and, ELP assessments in all schools.
- By the third quarter CAP submission deadline of April 30, 2020, provide evidence BIE is taking steps, as planned, to implement a new assessment system covering all required assessments, including science and ELP (e.g., documentation of issuing a request for proposal or other acquisitions related documentation).

B. Data Reporting

The Department continues to have significant concerns with the completeness, reliability, and accuracy of the data BIE has provided to the Department and to the public. Therefore, the Department is maintaining BIE's CAP action steps in the areas of data reporting.

Actions Required:

- BIE must submit and certify all available data from the 2018-2019 school year to the Department via *EDFacts* and the Consolidated State Performance Report in accordance with established timelines by the Department; where data are missing, BIE must provide documentation of its efforts to secure data from external parties.
- As necessary, BIE must show evidence of corrective actions it has taken against schools which fail to comply with the requirements in the law to provide data to BIE so that it may report on its performance.
- By the third quarter CAP submission deadline of April 30, 2020, publicly post SEA and LEA report cards for SY 2018-2019 which include all required elements such as assessment results, information on schools identified for support and improvement, and other pertinent information on school performance.
- By the third quarter CAP submission deadline of April 30, 2020, provide documentation to the Department that BIE has:
 - Continued working with the Comprehensive Center to build its capacity to collect, analyze, and clean data in a timely manner.
 - Designed an ESEA compliant report card template for the 2018-2019 school year (and for use in future years) with support from the State Support Network.

C. School Improvement/Supports for Low Performing Schools

The Department will continue to monitor BIE’s compliance with school improvement. While BIE has identified schools for comprehensive support and improvement (CSI) low-graduation rate and CSI-lowest performing in the 2019-2020 school year, BIE has not provided evidence that it is providing supports and interventions to these schools as required by the ESEA.

Actions Required:

- By the second quarter CAP submission deadline of January 31, 2020, and quarterly thereafter, BIE must report how BIE is providing supports and interventions to the schools on its list of identified schools, including schools identified for CSI in the 2019-2020 school year.
- By the beginning of the 2020-2021 school year, BIE must approve school-level applications for 1003(a) funds and subsequently award funds as appropriate and, continue to provide supports and improvement for its identified schools.
- In the beginning of the 2021-2022 school year (using data from the 2020-2021 school year), identify schools for CSI and targeted support and improvement using its new accountability system.
 - Based on this identification, by March 1, 2022, BIE must approve school-level applications for 1003(a) funds and subsequently award funds, as appropriate, and continue providing support and improvement activities.

D. Subrecipient Monitoring

As required in previous CAPs, the Department will continue to monitor BIE’s compliance with sub-recipient monitoring, including ensuring that all fiscal requirements are being met. BIE has not demonstrated sufficient internal controls and a fully implemented fiscal monitoring system to ensure the appropriate use of Title I funds by its schools. Therefore, BIE must continue to report on its performance to the Department through quarterly CAP progress reports until such time that BIE is notified in writing this is no longer required.

Actions Required:

- BIE must annually implement a fiscal monitoring and oversight system for all of its schools (including BIE-operated and tribally controlled) that includes: (1) making annual risk determinations; (2) determining its cycle of monitoring; and (3) annually overseeing its schools to ensure the proper use of funds and, as necessary, to take enforcement actions against schools which fail to appropriately use federal funds.

In conclusion, while we appreciate and acknowledge the progress you have made over the past year, the Department also recognizes that considerable work remains to implement a system that meets the new ESSA requirements and that provides supports and interventions for low-performing BIE schools. The actions detailed in this letter are those the Department believe are crucial to putting in place standards, assessments, and accountability systems to support schools and students. BIE must report on its progress on all required actions outlined in this letter through its continued CAP quarterly reports. The Department may take further action against BIE, including withholding of funds, if BIE fails to meet the milestones outlined in this letter.

Lastly, as you are aware, ESEA section 8204(a)(2) requires the Department and BIE to enter into a memorandum of agreement (MOA) regarding the applicable ESEA programs. In order to finalize a

MOA in time to transfer FY 2021 funds to BIE (for the 2020-2021 school year), the two agencies must agree on the content, consult with Tribes, and then finalize the agreement between our agencies.

I appreciate our continued relationship and remain committed to working with you to improve outcomes for Native youth. I hope our ongoing collaboration will support a successful transition as you prepare to implement your new system. If you have any questions, please contact Robert Salley of my staff at: OESE.TitleI-a@ed.gov. Thank you for your continued commitment to ensuring that all students have access to a high-quality education.

Sincerely,

/s/

Frank T. Brogan
Assistant Secretary of Elementary and
Secondary Education

Enclosure

cc: James Cason, Associate Deputy Secretary
Tara Sweeney, Assistant Secretary, Indian Affairs
Mark Cruz, Deputy Assistant Secretary, Indian Affairs

Corrective Actions Summary

Corrective Actions Regarding Challenging Academic Standards and Aligned Assessments and an Accountability System

Indicator	Tasks	Deliverable Deadlines
ESEA	<ul style="list-style-type: none"> A description of the accountability system that will be used to provide accountability determinations for BIE schools in the beginning of school year 2020-2021. 	Within 30 days of the receipt of this letter
	<ul style="list-style-type: none"> A draft of the accountability system that includes all indicators required under the ESEA, as amended by ESSA, that BIE proposes to use for accountability determinations made in the beginning of school year 2021-2022 	
ESEA	<ul style="list-style-type: none"> BIE’s Agency Plan that contains the accountability system that BIE will implement in school year 2021-2022. 	May 15, 2020

Prior & Ongoing Title I Corrective Actions for SY 2019-2020

Indicator	Tasks	Deliverable/Reporting Deadlines
Assessments	<ul style="list-style-type: none"> Administer reading/language arts, mathematics, science as well as the required alternate assessments in these subjects, and, ELP assessments to all schools. 	Spring 2020
	<ul style="list-style-type: none"> Submit evidence BIE is taking steps, as planned, to implement a new assessment system covering all required assessments. 	April 30, 2020
Data Reporting	<ul style="list-style-type: none"> Submit and certify all available school year 2018-2019 data to the Department via <i>EDFacts</i> and the Consolidated State Performance Report 	Per the Department’s published deadlines
	<ul style="list-style-type: none"> Submit evidence of corrective actions BIE has taken against schools which fail to comply with the requirements in the law to provide data to BIE. 	As necessary
	<ul style="list-style-type: none"> Publicly post SEA and LEA report cards for school year 2018-2019. 	April 30, 2020
School Improvement	<ul style="list-style-type: none"> Report how BIE is providing supports and interventions to the schools on its list of identified schools, including schools identified for CSI in school year 2019-2020. 	January 31, 2020

	<ul style="list-style-type: none"> • Approve applications for 1003(a) funds, award funds, and continue to provide supports and improvement for its identified schools. 	By the beginning of school year 2020-2021
	<ul style="list-style-type: none"> • Using data from the 2020-2021 school year, identify schools for CSI and targeted support and improvement using its new accountability system. 	In the beginning of school year 2021-2022
	<ul style="list-style-type: none"> • Approve applications for 1003(a) funds and subsequently award funds as appropriate and continue to provide supports and improvement. 	By March 1, 2022
Subrecipient Monitoring	<ul style="list-style-type: none"> • Continue implementing joint fiscal monitoring system (<i>Found in Section C of the CAP</i>). 	Ongoing/reporting quarterly