



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



MAR 21 2006

Dear Tribal Leader:

The purpose of this letter is to provide you with information about the amended language of the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA); the impact this language has on how the Office of Indian Education Programs (OIEP) disburses special education dollars to school programs; and to provide you with an opportunity to comment on OIEP's proposed method for disbursing Part B dollars to schools.

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA) (P.L. 108-446) allocates to the Secretary of the Department of the Interior dollars to meet the need for assistance for the education of children with disabilities on reservations aged 5 – 21, in bureau-funded schools. 20 U.S.C. 1411(h). These funds are commonly referred to as Part B funds. Part B funds are used to supplement the special education dollars a state, in this case the OIEP, puts towards their special education programs. In order to ensure each bureau-funded school allocates a base amount toward their special education students, as well as to promote students being placed in the least restrictive environment, all bureau-funded schools must use 15% of their total Indian Student Equalization Program (ISEP) funds for special education. 25 C.F.R. 39.105. If a school has additional need beyond the 15% ISEP allocation they are eligible to receive Part B dollars.

IDEIA amended the language pertaining to the Part B dollars received by the Department of the Interior. The statute now mandates OIEP distribute 80% of the Part B funds to schools by July 1 and the remaining 20% by September 30. Prior to IDEIA, OIEP had distributed Part B funds on a documented need basis. IDEIA's new distribution timeframes require OIEP to establish a new method of disbursing Part B funds, while basing the distribution on need. Therefore, OIEP undertook the process of establishing a proposed distribution formula. The following proposal was established after reviewing states' methods of distributing funding, national average costs to educate special education students, and bureau-funded schools' past needs.

Attached is the draft proposal for the distribution of Part B funds utilizing two pupil weighting formulas: one formula would be applied to all students with disabilities in the OIEP system based upon the category level of disability, and the second formula would be applied only to schools with small populations of students with disabilities (50 and less). The final distribution of dollars will occur prior to the September 30 date. The intent of this proposed funding formula is to ensure that schools receive their Part B funds in an expeditious and equitable manner so that students with disabilities receive the services to which they are entitled.

I want to be clear that no definitive decision has been made regarding this funding formula. I value your views and welcome your comments and recommendations. Please send any specific comments or recommendations on the proposed Part B formula to the Division of Compliance, Monitoring and Accountability (DCMA), BIA Building 2, 1011 Indian School Road NW 3rd Floor, Albuquerque, NM 87104 Attention Lynann Barbero, Acting Supervisory Education Specialist for Special Education, or by email at lbarbero@bia.edu or by fax at (505) 563-5281. Please submit your comments by April 14, 2006. In addition to the above avenues for providing input, OIEP would like to engage in a government-to-government dialogue with Indian tribes during three (3) regional telephone call-in sessions scheduled for the following dates and times:

REGION	DATE	TIME (MST)	TOLL FREE NUMBER	BRIDGE/ACCESS NUMBER
*Eastern US	April 6, 2006	8:30 – 10:30 a.m.	1-800-857-9037	52625
*Western US	April 6, 2006	1:00 – 3:00 p.m.	1-888-398-1687	62801
*Navajo	April 7, 2006	9:30 – 11:30 a.m.	1-888-455-3614	27615

***Eastern US**

Tribes currently served by the following Education Line Offices: Cheyenne River, Crow Creek Lower Brule, Midwest Regional, Oklahoma, Pine Ridge, Rosebud, South and Eastern States, Standing Rock, and Turtle Mountain

***Western US**

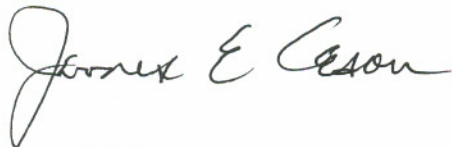
Tribes currently served by the following Education Line Offices: Billings, Fort Apache, Hopi, Papago/Pima, Portland, Northern Pueblos, Sacramento, and Southern Pueblos

***Navajo US**

Central Navajo, Eastern Navajo, Fort Defiance, Northern Navajo, and Western Navajo

We have allocated 60 lines for each session and staff from DCMA will be available to take comments during each two-hour time block. If you have questions regarding your specific assigned region, please contact Louie Magdalena at (505) 563-5257.

Sincerely,



James E. Cason
Associate Deputy Secretary

Proposal

Part B Funding Distribution

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA) (P. L. 108-446) allocates to the Secretary of the Department of the Interior, dollars to meet the need for assistance for the education of children with disabilities on reservations aged 5-21, in bureau-funded schools. 20 U.S.C. 1411(h). These funds are commonly referred to as Part B funds. Part B funds are used to supplement the special education dollars a state, in this case OIEP, puts towards their special education programs. In order to ensure each bureau-funded school allocates a base amount toward their special education students, as well as to promote students being placed in the least restrictive environment, all bureau-funded schools must use 15% of their total ISEP (Indian Student Equalization Program) funds for special education. 25 C.F.R. 39.105. If the school has additional need beyond the 15% ISEP allocation they are eligible to receive Part B dollars.

IDEIA amended the language pertaining to the Part B funds received by the Department of the Interior. The statute now mandates OIEP distribute 80% of the Part B funds to schools by July 1 and the remaining 20% by September 30. However, the Department of Education is clarifying in their special education regulations that the Department of the Interior may reserve 5% of these funds to fulfill the SEA responsibilities for general supervision.

Prior to IDEIA, OIEP had distributed Part B funds based on a documented need. IDEIA's new distribution timeframes require OIEP to establish a new method of disbursing Part B funds, while basing the distribution on need. Therefore, OIEP undertook the process of establishing a proposed distribution formula. The following proposal was established after reviewing states' methods of distributing funding, national average costs to educate special education students, and bureau-funded schools' past needs.

Background

States use a variety of complex formulas to determine how to distribute Part B special education dollars to their local education agencies (LEA's i.e., school districts). In a presentation to the Governor's Task Force on Educational Excellence, November 6, 2003, 5 basic types of funding formulas were identified: pupil weights, census-based/flat grant funding, resource-based funding, percent reimbursement, and variable block grant allocations. The two most common funding formula types utilized by states at the time of this report (2003) were pupil weights (utilized by 20 states) and census-based (utilized by 12 states). The four states with the largest number of bureau-funded schools are Arizona, New Mexico, North Dakota and South Dakota. New Mexico and South Dakota use a combination of pupil weights and census based data to distribute funds; Arizona uses pupil weights, and North Dakota uses a census-based formula.

When States receive their grant award for a given fiscal year, they apply the adopted funding formula to all of the eligible respective LEAs in the state and then formally notify each LEA of their estimated allocation for that year. LEAs are then responsible for development of the plans for the use of funds as required in IDEIA. 20 U.S.C. 1413. The States' LEAs do not disburse Part B dollars to individual schools within the LEA as the provision of special education and related services is an LEA responsibility, not an individual school responsibility.

The Special Education Expenditure Project (SEEP), 1999 -2000, was a national study conducted by the American Institutes for Research (AIR) for the U.S. Department of Education, Office of Special Education Programs that examined the nation's spending on special education and related services. OIEP was not included in the data set analyzed. The data presented for the SEEP report suggest that the expenditure used to educate the average special education student is 1.9 times that expended to educate a student with no special needs.

OIEP faces some unique challenges in developing a special education funding formula that mirrors or that in some way aligns with how other states distribute funds. IDEIA does not specifically provide direction for the basis of the distribution of Part B funds to bureau-funded schools as it does for the states. Another factor is that OIEP does not have an LEA level in its education system; therefore, the distribution takes place between the "State" (OIEP) and the individual bureau-funded schools.

Overview of the Proposal:

When reviewing the formulas used by states the census based and pupil weights formulas were considered as the two most feasible for OIEP because the states where the majority of schools are located use these types of formulas. The census based formula would allow for a straight forward distribution of dollars, giving a base amount for every student in our system with a disability. However, this formula would not take into account the additional costs of educating students with different levels of disabilities. The pupil weighted system allows for the dollars to be distributed directly based on the needs of the students in OIEP's student populations. The possible problem with this type of distribution could be the schools' perception that over identifying children would increase the amount of dollars the school would receive.

Of the two formulas, the pupil weighted formula is more closely aligned with students' needs and ultimately the better formula for distributing these funds. Therefore the first funding distribution would incorporate a pupil weighting based on five very distinct disability categories. The weights assigned to the disability categories directly correlate with the cost of educating students in those categories as identified in the SEEP report. When the dollars are distributed based on these weights and using the special education child count date of October 28, 2005 approximately 52 million dollars of SY 2006-2007 Part B funds will be distributed.

The second distribution of the dollars would be based on the population of students receiving services in a school. The state of New Mexico uses this method to distribute additional Part B funds and it allows for the economy of scales and recognizes the need to have a critical mass of students in order to develop comprehensive services. If a school services 50 or less special education students, they would receive additional funding similar to the small school adjustment allowed for in the ISEP formula. The adjustment on the size of the school is based on the number of students with disabilities. The breakdown of the number of students and the weights assigned are taken directly from the state of New Mexico. This second distribution of SY 2006-2007 Part B funds would amount to approximately \$8 million.

In these first two funding distributions, BIA-funded schools could receive about 94% of the total Part B distribution on July 1, leaving 6% (roughly 3 million dollars) for any unmet or unanticipated needs. To address unmet needs, schools may submit a supplemental application for additional Special Education funding by September 1, 2006.

Finally, if there are any remaining funds after the two formula distributions and the supplemental application process for unmet/unanticipated needs, the remaining funds will be distributed to the schools on a percentage pro-rata basis by September 30.

IDEIA – PART B DISTRIBUTION FORMULAS

SY 2006/07 PART B TOTAL ALLOCATION	PART B 3 – 5 YEAR OLDS	OIEP 5% ADMINISTRATION	ALLOCATIONS TO SCHOOLS BY FORMULAS
\$83,545,766	\$16,709,153	\$3,341,782	\$63,494,782

Note 1: Part B 3-5 year olds \$16,709,153

These funds are distributed to tribes or tribal organizations or consortia of tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged three through five on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of Interior. 20 U.S.C. 1411 (b)(4)

Note 2; OIEP 5% Administration: 5% administrative costs for implementing requirements of IDEIA as outlined in the proposed regulations at 34 C.F.R. 300.7160

Assistance to states for the education of children with disabilities; preschool grants for children with disabilities; and service obligations under Special Education – Personnel Development to improve services and results for children with disabilities; Proposed Rule; 70 Federal Register 35782 (proposed June 21, 2005)(to be codified at 34 CFR Parts 300, 301 and 304.)

PART B FUNDING ALLOCATION TO SCHOOLS

STEP ONE – Calculate Part B Weighted Student Unit Base Amount

*** * Schools must allocate 15% of the total ISEP dollars received to provide special education and related services to students. 25 C.F.R. 39.104.**

In order to reflect OIEP’s required maintenance of effort, the 15% was subtracted from the base amount of \$3,974.00 which equals \$3,378.00.

STEP TWO – Calculate Funding Distribution Based on Pupil Weights

The formula below outlines how OIEP proposes to distribute Part B dollars based on needs of each student.

Formula:

Part B base of \$3,378.00 x weighted factor based on disability level = Total Part B for 1 student

Explanation of Formula:

Part B base of \$3,378.00 is then multiplied by a weighted factor based on the most recent national Special Education Expenditure Project (SEEP) which identifies the relative cost or spending ratio for a given disability category.

The levels used for each disability category are:

Level 1 Disability = Mild Disability (specific learning disabilities, speech-language impairment, other health impairment, and development delay)

Level 2 Disability = Mental retardation, emotional disturbance/behavior disorder

Level 3 Disability = Hearing Impairment, visual impairment, orthopedic impairment

Level 4 Disability = Autism

Level 5 Disability = Multiple disabilities (must be a combination of level 2 – 4 disabilities), traumatic brain injury, deaf-blindness

Distribution Formula Based on Disability Level

Table 1

Disability Level	Base Dollar Amount	Weighted Factor	Total Per Student	# of Students Identified (BIA ADM) Within OIEP	Total Distributed
Level 1	\$3,378.00	1.9	\$6,418.00	6,593	\$42,313,874
Level 2	\$3,378.00	2.3	\$7,769.00	920	\$7,147,480
Level 3	\$3,378.00	2.5	\$8,445.00	76	\$641,820
Level 4	\$3,378.00	3.0	\$10,134.00	35	\$354,690
Level 5	\$3,378.00	3.1	\$10,472.00	175	\$1,832,600
Totals				7,799	\$52,290,464

Note: These numbers are from the October 28, 2005 Special Education Child Count and will be used to determine each school's allocation.

Results: BIA-funded schools would be provided with approximately \$52,590,464 of SY 2006/07 Part B Special Education funding by July 1, 2006.

STEP THREE – Calculate Small Special Education Population Adjustment

It is recognized that a funding distribution based on a census count alone may unfairly penalize schools with small numbers of students for whom those dollars are generated. The state of New Mexico uses a similar formula for distributing additional funds to schools serving a smaller special education population. It is more difficult to develop comprehensive services in schools with small numbers of students than it is for schools with larger numbers. Therefore, an additional \$7,852,600 will be distributed to schools that have populations of students with disabilities of 50 or less. The formula for determining the amount each school will receive is as follows:

Child Count Weight Table

Disability Child Count	Weight
1 – 10	3.2
11 – 20	3.0
21 – 30	2.8
31 – 40	2.6
41 – 50	2.4

**Distribution Formula - Small Special Education Population
Table 2**

Disability Child Count	# of Schools	Total # Students	Base Dollar x Weight	Total Allocation
1 – 10	20	134	\$1,000 x 3.2	\$428,800
11 – 20	35	540	\$1,000 x 3.0	\$1,620,000
21 – 30	21	533	\$1,000 x 2.8	\$1,492,400
31 – 40	26	869	\$1,000 x 2.6	\$2,259,400
41 – 50	19	855	\$1,000 x 2.4	\$2,052,000
Totals	121	2,931		\$7,852,600

* The numbers included in this table are from the October 28, 2005 count and were used to determine an estimated allocation for formula purposes. These numbers are subject to change in final allocations to schools.

Results: BIA-funded schools would be provided with approximately \$7,852,600 of SY 2006/07 Part B Special Education funding by July 1, 2006.

STEP FOUR – Determine Unmet / Unanticipated Needs

Distributions 1 and 2 will distribute \$60,143,064 of the \$63,494,782 leaving a balance of \$3,351,718 for any unmet or unanticipated need that may arise between the July 1 distribution and the required September 30 final distribution of funds. OIEP proposes to hold these dollars until September 1 to ensure funds are available for any unmet or unanticipated need a school may be faced with after schools start. Schools with unmet Special Education needs may submit a supplemental application by September 1 requesting additional funds. The supplemental application must clearly document that these additional funds are needed to pay for unanticipated excess costs of providing Special Education and related services to children with disabilities.

Results: BIA-funded schools would be provided with an amount based on the unmet/unanticipated needs after the school year has begun. A portion of the approximate set aside (\$3,351,718) of SY 2006/07 Part B Special Education will be provided as documented.

STEP FIVE – Determine Pro-rata Distribution of any Remaining Funds, if any

If the above distributions do not distribute 100% of the Part B funds by September 30, the remaining balance will be disbursed on a pro-rata basis, based on the percentage of the funds that each school received from the total of funds available to be disbursed to all schools.

Results: BIA-funded schools would receive the remaining balance on a pro-rata basis by September 30.