



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

# **INVESTIGATIVE REPORT: BIE OFFICIAL ALLEGEDLY INFLATED GIFTED PROGRAM ENROLLMENT AND STUDENT ATTENDANCE NUMBERS AT FORMER SCHOOL**

**This is a revised version of the report prepared for public release**

## **SYNOPSIS**

We investigated complaints about misconduct allegedly committed by a Bureau of Indian Education (BIE) official when the official was serving as principal of a BIE boarding school from 2006 to 2008 and again from 2010 to 2015. As principal, the official allegedly attempted to increase Federal funding at the school by allowing or directing the enrollment of students in the school's gifted and talented (GT) program without proper assessment, and by submitting inaccurate student attendance records.

We found that the school's GT enrollment increased from 27 students to as many as 140 (out of about 500 students) while the official was its principal, and that it began increasing after he approved the use of after-school student activity clubs as the sole means of delivering GT programming. We also found that enrolling students in the GT program increased the school's Federal funding by more than \$360,000 per school year over its base funding, that the official knew at the time that enrolling more students in the program would have this effect, and that very little of the increased funding was used for the GT program or students. We did not find evidence, however, that the official had directed school staff to identify GT students specifically to increase funding or that the use of GT funds for non-GT-related purposes violated any regulations or policies.

During our investigation, we also found that the school employees who administered the GT program after the official left the school were unfamiliar with GT program requirements and did not consistently comply with applicable regulations.

In addition, we found that most of the school's students were absent as many as 6 days before the end of the school year when they were traveling from the school to their homes, but when the official was the principal he had directed school staff to mark them in the attendance records as present. The official said he viewed these travel days as being similar to the students missing school for a field trip. We did not find that marking absent students as present directly affected the school's funding, but it did reduce overall instructional time available to the students.

The school's GT program management and recording of student attendance at the school are inconsistent with those of other BIE boarding schools. We provided this report to the Principal Deputy Assistant Secretary – Indian Affairs for any action deemed appropriate.

## **BACKGROUND**

The Indian School Equalization Program (ISEP), which is funded through the U.S. Department of the Interior's annual appropriations, provides the primary source of funding for Bureau of Indian Education- (BIE-) and tribally operated boarding schools, day schools, and dormitories (25 C.F.R. part 39). Every year, each BIE school is allocated a portion of the available ISEP funding based on many factors, including the number of students enrolled at the school and the number of students participating in educational programs such as special education, instruction for students with limited proficiency in English, and gifted and talented (GT) programming.

For students to be enrolled in a GT program at any BIE school receiving ISEP funds, they must demonstrate high achievement or capability in areas such as intellectual ability, creativity or

divergent thinking, academic aptitude, a visual or performing art, or leadership. Students must also demonstrate that they need services or activities not ordinarily provided by their school to fully develop those capabilities. Specific criteria, including assessment scores and percentiles of achievement, are used to determine whether a student is qualified to participate in the GT program and whether the school will receive additional GT funds for that student. Schools must keep files on all GT students to show that the students have been properly assessed and found qualified for the program. Each student's GT file is to include an individual education plan, and the student's GT programming is to be provided in accordance with that plan.

Each year the BIE is required to audit its schools' GT files and attendance records in order to review the schools' program compliance and establish their ISEP funding levels. According to a BIE employee, schools receive approximately \$3,000 per GT-enrolled student per year.

### **DETAILS OF INVESTIGATION**

We initiated this investigation on August 11, 2017, after receiving allegations against a BIE official. When the official was the principal of a boarding school funded and operated by the BIE, he allegedly allowed or directed the enrollment of students in the school's GT program without proper GT assessment; he also allegedly submitted incorrect student attendance records to increase the school's ISEP funding.

A 2017 BIE audit of the school's GT program and enrollment records found that school employees were not following Federal regulations for enrollment in and management of the school's GT program, and were marking students as present in the attendance records on days when the students were traveling to their homes at the end of the year. We incorporated these issues into our investigation.

#### **GT Enrollment and Funding Increased Under BIE Official**

We found that while the BIE official was the school's principal, enrollment in the GT program increased from 27 students during the school year ending in 2006 to 140 students in 2012, and that enrollment began to increase after the official approved the use of after-school student activity clubs as the school's sole means of delivering GT programming. Although regulations give schools wide latitude when developing their GT programs, the clubs at the school did not appear to meet the GT programming standards required for the school to receive ISEP funding (based on the findings of the 2017 BIE audit). For example, specific education plans were not developed and tracked for each student, nor were multidisciplinary teams used to determine services for the students.

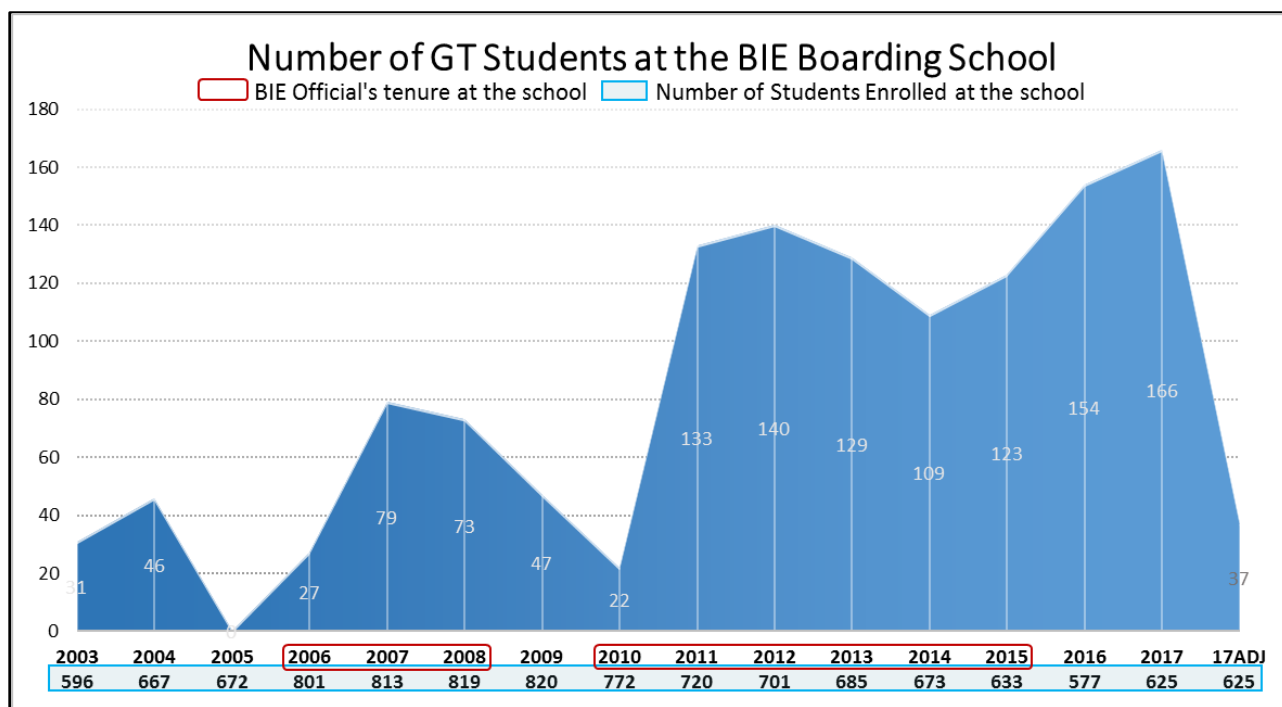
After the official left the school in 2015, GT enrollment continued to rise; at the time of the 2017 audit, the school reported 166 GT-eligible students out of about 500 total students (in grades 4 through 12). According to a BIE employee, GT students at other BIE boarding schools typically made up about 10 percent of the total enrollment, while our review of this school's records showed the percentage of enrollment was more than twice that amount.

According to the reports we reviewed, the GT program at this school received, on average, over \$360,000 in ISEP funding per school year from 2013 to 2017. We also found that the funds were

primarily used for non-GT expenses. Although we learned that the official knew when he was the school principal that enrolling more students in the GT program would increase funding, we did not find evidence that he had directed school staff to identify GT students specifically to increase funding or that using GT funds for non-GT-related purposes violated any regulations or policies.

### *GT Enrollment Increased After Official Implemented After-School GT Clubs*

We reviewed the school’s GT program enrollment numbers from the school years ending in 2003 through 2017 and found that enrollment in the program increased during the BIE official’s two tenures as principal (see Figure 1). From the 2010 school year until his departure from the school in 2015, average annual GT enrollment increased significantly, with a high of 140 students in 2012. The single largest increase in enrollment occurred after his 2010 return as the principal—from 22 GT students in 2010 to 133 by the end of the 2011 school year.



Note: The “17ADJ” column shows the reduction in number of GT students after the 2017 BIE audit reassessed the school’s GT activities, which led to the removal of 129 students from the program.

Figure 1. Number of students enrolled in the GT program for the school years ending in 2003 through 2017.  
Source: School GT records.

We found that these increases were tied to the school’s use of after-school activity clubs to deliver GT programming. In 2017, for example, the school’s GT programming consisted of 13 after-school clubs, including clubs for skateboarding, guitar playing, math, civic engagement, and other activities. According to the sponsors we interviewed, these clubs were open to all students and had no criteria for determining whether they would meet the educational needs of GT students; essentially, if a student joined a club and participated in its activities during the school year, that student would be deemed gifted and talented.

We interviewed a longtime school employee about the history of the GT program at the school. The employee said that the school did not have an active GT program when she began working there, and when the BIE official became principal he recognized that the students were “idle” and “needed something to do” instead of “get[ting] in trouble.” She said he told her about a GT program that the school could use to “get . . . the kids involved and to get some supplemental income” for the school. She could not explain why the school did not simply start general extracurricular clubs, as opposed to using the GT program (and its funding) as a way of engaging students, but she acknowledged that the school probably could have.

The employee said that participation in the school’s GT program increased when the official hired a subordinate who had previously been involved with the GT program at another BIE boarding school.

The official said that when he started as the school’s principal, the GT program “really wasn’t a program” until his subordinate at the school became involved and started maintaining the GT student files. He said this subordinate modeled the program after another BIE school’s program, which also delivered GT programming through after-school activity clubs. He explained that using clubs allowed the school to deliver GT programming in the evenings, when club activities would not compete with the instructional day, and gave the students opportunities to engage in extracurricular activities.

The official’s subordinate, who no longer works at the school, explained that she advocated using clubs to deliver GT programming because this gave the students something to do. She said that the more clubs the school had, the happier the students were and the fewer behavioral problems they had. When asked to explain the addition of more than 100 students to the GT program from 2010 to 2011, when she was involved with the program, the subordinate said that it was likely because more activities had been made available to the students, including cultural activities such as learning to make bows and arrows, clubs for tribes represented at the school, and community outreach activities.

The subordinate described the process she had followed at the school to ensure that eligible students were properly assessed for and supported by the GT program. She said she would ensure that an expert assessed students who were nominated for the visual and performing arts areas, that students being considered for the leadership areas were assigned a written self-assessment, and that she would personally assess students who were being considered for creative thinking. She explained that she kept a GT file for each GT student and that the file would include the student’s individual education plan, placement documents, and documents verifying that the student was following the education plan.

After the BIE official and his subordinate left the school in 2015, two school employees began administering the GT program part time. The school continued to use after-school clubs to deliver GT programming, and GT enrollment increased to 166 students—approximately 27 percent of the total student body—in 2017.

Despite the subordinate’s recollection that the GT files had been carefully assembled and maintained, the 2017 BIE audit revealed significant departures from the GT regulations in

25 C.F.R. part 39. In response to these findings, the BIE dramatically reduced the number of certified GT-enrolled students, from 166 to 37, and directed that a school employee who had led the GT program many years before would begin administering the program again.

### *Increased Enrollment Led to Increased Funding*

We confirmed that the increased GT enrollment at the school significantly increased its ISEP funding and that not all of the funds were spent on the GT program. We found that when the BIE official was the principal he knew that a higher number of GT students would increase the school's funding, but we did not substantiate the allegation that GT enrollment was increased solely for more funding.

We also did not find that including ISEP funding in the general school fund was a misuse of the increased funding because BIE schools are not required to use GT funding specifically for GT programs. The C.F.R. states that ISEP funds "can be" distributed for the provision of services for GT students, but the regulation does not state how the funds must be used (25 C.F.R. § 39.110).

As previously stated, from 2013 to 2017 the school received, on average, over \$360,000 in ISEP funding per school year due to the GT program. We confirmed through interviews with the BIE official and two school employees that these funds were added to the general fund and used primarily for salaries. The school employees stated that GT funds were part of the school's annual ISEP funding and that, unlike special education funds, there were no rules or requirements to set aside the GT funding specifically for use in the GT program.

The official acknowledged that the GT program generated "quite a bit of money for the students." When asked whether the program was used to generate additional funding solely to supplement the school's base funding, he replied, "I never gave instructions to say, 'Get our numbers up extremely high to generate more funding.' I've never done that . . . we understood that GT brought additional money in, but . . . we didn't identify gifted and talented kids to generate funding. We identified gifted and talented kids 'cause we knew we had them."

The official's subordinate at the school had also known that Federal funding was tied to the GT program. She said, however, that she and the official had never discussed strategically placing students in the GT program as a way of increasing funding, nor had she been encouraged or directed to increase the number of GT students. She said she had heard that about \$3,000 was allocated for each GT student, but whenever she asked about funding, she was told that the GT funds were "lumped together" with general ISEP funds and none of it was specifically GT money.

We interviewed eight of the school's GT club sponsors (employees who provided adult supervision and guidance for the clubs). All confirmed that their GT student enrollments stemmed from membership in the clubs, but they said they had not been encouraged, directed, or otherwise compelled to increase GT student enrollment as a way of increasing funding. A longtime employee also said that although the official had told her the GT program would provide the school with supplemental income, she had never been directed to increase GT enrollment to support the budget.

While the school's use of GT funds as general funds did not appear to violate Federal regulations, it was inconsistent with how the principals of two other BIE boarding schools described their use of GT funds. Both told us that their schools used those funds predominately for their GT programs and students.

### **School Did Not Follow Federal GT Regulations in 2017**

The 2017 BIE audit found that the school failed to follow Federal GT regulations during the 2017 school year. The two school employees who administered the program for most of that school year both admitted to us that they were unfamiliar with the regulations. According to the BIE official and others, audits for the school years before 2017 did not identify similar failings in the school's GT program, but because the BIE and the schools are not required to retain audit reports from previous years, we were unable to review past audits of the school and could not determine whether the deficiencies noted in 2017 began when the official was the principal.

We interviewed a BIE employee who questioned whether the school should have received GT funding—which the employee said amounted to over \$1 million in 3 years—because the school had not properly identified or assessed students before enrolling them in the GT program. The employee stated that the school based its GT numbers on “false records mimicking provision of services” and provided no documentation showing “demonstrated enhancement or growth in the students’ knowledge, skills, and abilities.” The employee provided a spreadsheet listing GT files for 105 GT-designated students and indicating whether each student had met each specific Federal regulation to qualify for the GT program. None of the students listed in the spreadsheet had met the placement requirements. In addition, the required educational plans had not been developed for each GT student to ensure they received individualized instruction that specifically responded to their exceptional or specialized education needs. The spreadsheet showed that, in some cases, an individual education plan had been developed, but no date had been entered on any of them to indicate when the plans were implemented, if at all.

The eight GT club sponsors we interviewed said that they were not familiar with the Federal regulations governing the GT program. They said they simply made their clubs available to students—with few conditions, if any—then created GT files for those who remained in the clubs at the end of the year.

The school employee who began administering the GT program as a result of the 2017 BIE audit acknowledged that the program appeared to have no standards defining or guiding it when she started in that role and that the audit uncovered deficiencies that should have been identified sooner. She felt these deficiencies were related to the practice of using after-school clubs to deliver GT programming; according to the employee, “all you had to do to be gifted was to sign up for one of these clubs,” and the only GT services the students received were through club activities. She did not believe that attending a club meeting once a week gave students enough of the individualized study required by Federal regulations.

The employee said that she was working to ensure that the GT program aligned with Federal regulations and best practices for such programs, and that only students who were properly assessed would be entered into the program.

The BIE official and his school subordinate asserted in their interviews that when they worked at the school, the GT program was held to the standards established by Federal regulations. In addition, a school GT club sponsor recalled that the subordinate had led a structured program, but that the two employees who had replaced the subordinate in 2015 had not.

We interviewed these employees about their involvement with the GT program between 2015 and 2017. One said she had never felt comfortable overseeing the program because she never received any guidance about its laws, rules, or regulations. The other stated that they had “mimicked” how the subordinate had run the program.

The BIE official and these two employees all said that before the 2017 audit, the school had passed all of its BIE audits with few to no deficiencies noted. The official said the fact that the audits had reviewed and certified the GT program for compliance over the years was proof that it had been run properly. He said he did not believe there was a problem with how students were identified and qualified for the GT program, except that the audit regulations for certifying GT programs were subjective.

A former BIE employee and the two boarding-school principals we interviewed also said that the ISEP regulations used to certify the GT programs were inconsistent and audit results could vary depending on the auditor. In addition, the former BIE employee stated that the BIE used several checklists for these audits and not every office used the same checklist, so audits of the same school could be different depending on which BIE office performed them.

Moreover, we interviewed two other BIE employees who said there were no requirements for reporting and retaining information from these audits. Consequently, no formal reports were written and no reports or supporting documents were consistently retained.

### **Students Marked as Present When They Were Traveling Home**

We confirmed that many of the school’s students were leaving up to 6 days before the end of the school year to travel back to their homes, and that school employees would mark the children in the attendance records as being present on these days. We did not find evidence that this practice directly affected school funding, but it did reduce the students’ in-class instructional time.

A school employee said that in 2006, when the BIE official was principal, he told her not to count the students as absent when they were being taken home at the end of the year. She said that the employee who served as principal after the official left also approved of this practice.

A BIE employee said that he had asked the new principal about the absences. According to the employee, the principal did not say why they were occurring but explained, “This is the way [the BIE official] did it before I got here, and this is the way we continue to do it.” The BIE employee said the BIE official and others at the school were “shortchanging” the students by not maximizing their instructional time.

The BIE official said he was aware of the practice and understood the reasons for it. He explained that teachers who worked under BIE contracts would act as chaperones for the students and accompany them from the school to their homes, and the end of the school year



coincided with the end of the teachers' contract terms. He said it was important for the teachers to finish their travel and chaperoning responsibilities before their terms ended.

Although no educational activities were associated with chaperoning the students home, the official said he viewed these travel days as being similar to the students' missing school while on a field trip, as they were still under the supervision of a school official. He denied that marking the students present was an effort to generate additional funding or to otherwise benefit the school or himself. We also spoke to a BIE employee who explained that as long as students did not miss more than 10 school days in a row, there would be no direct impact on school funding.

The BIE has no policy covering how to mark student attendance on school days used for transporting students home from a BIE boarding school, but the other two boarding-school principals we interviewed told us that their schools did not mark travel time the way this school did. They said they accounted in their master schedules for students' travel time, that instructional time was not used to transport students, and that any absence during instructional time was marked as an absence.

### **SUBJECT**

A BIE official.

### **DISPOSITION**

We provided this report to the Principal Deputy Assistant Secretary – Indian Affairs for any action deemed appropriate.

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