



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

June 29, 2020

David Egnor
U.S. Department of Education
400 Maryland Avenue, SW, Room 5163
Washington, DC 20202-5076

Submitted via regulations.gov

Re: Docket [ID ED-2020-OSERS 0014](#)

Dear Mr. Egnor:

The Consortium for Citizens with Disabilities (CCD) Education Task Force appreciates the opportunity to comment on the Proposed Priorities, Requirements, and Selection Criteria—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—The Individuals With Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program, as published in the May 29, 2020, Federal Register. We write to express the following concerns with the proposed priorities, requirements, and selection criteria.

NEED FOR PROGRAM

We first wish to point out several concerns regarding the need for the grant programs proposed in this notice. They are:

As our History of IDEA Paperwork Reduction Pilot (Attachment 1) shows, this pilot has been offered to States twice since the Secretary was given this authority in IDEA 2004 (P.L. 108-446). The first, in **2007**, offered States a small grant to help with the work associated with implementing the pilot. No State submitted a proposal for that grant. In fact, several states wrote letters to OSERS explaining their reasons for not applying for and implementing the Paperwork Waiver Program, noting that the program would require more paperwork and staff, but provide little in the way of additional federal funds. More than a decade passed during which OSERS made no attempt to offer States another opportunity to apply for a Paperwork Reduction Pilot waiver.

In **2019** OSERS offered States the opportunity to apply for “Planning Grants” that could be utilized to assist them in identifying excessive paperwork and noninstructional time burdens on special education teachers, related services providers, and State and local administrators that do not assist in improving educational and functional results for children with disabilities and developing comprehensive plans to reduce them. Award size ranged from \$150,000 to \$250,000, and the estimated number of awards was 6 to 10. Despite the substantial size of the award (compared to 2007) only one state submitted an application. According to OSERS, *“One state applied under this competition; however, based on feedback provided by an external review panel of experts, OSEP determined that the application was not of sufficient quality to receive an award. The application did not address the project purpose and expected outcomes as published in the Notice Inviting Applications. OSERS is in process of exploring further options regarding paperwork burden reduction and anticipates sharing more information with the public later this year.”*

This notice also stated that *“The Department also intends to propose and adopt requirements for waivers and waiver applications under section 609 of IDEA later this year. In fiscal year 2020, the Department intends to solicit applications for multiyear waiver projects that could, but would not be required to, build on the plans developed under the planning grants awarded under this competition.”* However, no proposed waiver requirements or waiver applications were published in 2019.

This history **strongly suggests that there is little if any interest among States to pursue this area.** As the notice points out, *“States have always had the authority, within the constraints of State law, to change or waive State requirements that exceed IDEA statutory and regulatory requirements in order to reduce administrative burden.”* In fact, States may use the funds reserved from their IDEA Part B grant-to-states funds for “paperwork reduction activities, including expanding the use of technology in the IEP process” (P.L. 108-446 §611(e)(2)(C)(ii)).

It is also important to point out that States and local educational agencies (LEAs) received an additional **\$12.2 billion for the Individuals with Disabilities Education Act (IDEA)** via the 2009 American Recovery and Reinvestment Act (ARRA)(P.L. 111-5). At that time, the U.S. Department of Education stated that the IDEA Recovery Act funds *“will provide an unprecedented opportunity for states, LEAs, and EIS programs to implement innovative strategies to improve outcomes for infants, toddlers, children, and youth with disabilities while stimulating the economy... Funds should be used for short-term investments that have the potential for long-term benefits...”* Thus, it is quite possible that LEAs used some of their IDEA ARRA funds for activities that reduced paperwork. One popular use of ARRA funds was the purchasing of IEP software, the use of which greatly reduces the noninstructional burden on school personnel.

Much has changed since 2004 when the Paperwork Reduction Pilot was included in the IDEA 2004 reauthorization. The lack of interest among the States in both 2007 and 2019 suggests that perhaps the need for this pilot has passed. **Our recommendation would be for OSERS to conduct a survey of States to gauge current interest and needs before moving forward with these grant programs.**

The following comments are offered for consideration should the proposed planning and implementation program move forward.

Proposed Priority 1. Planning Grants.

Comments:

1. The group of stakeholders articulated in (a) (i-v) needs to be expanded to include the state's Parent Training and Information Center(s) and Community Parent Resource Centers funded under IDEA Part D, the state's Protection and Advocacy agency, and disability advocacy organizations.
2. Applicants should be required to provide **quantitative data** on the anticipated benefits of any potential reforms. The required programmatic requirements are inadequate as they do not include data that would be used to reflect and plan for improvement in the educational and functional results of children with disabilities. For example, such data could be drawn from the performance of children with disabilities on the annual state assessments required by the Every Student Succeeds Act (ESSA) or the performance of children with disabilities on the National Assessment of Educational Progress, or both. Improvement in performance on state assessments should be linked to the goals for children with disabilities articulated on the State's approved ESSA state plan.

Proposed Priority 2. Implementation Grants.

Comment: Applicants should be required to provide **quantitative data** on how the evaluation plan "improves positive outcomes including educational and functional results, for children with disabilities. For example, such data could be drawn from the performance of children with disabilities on the annual state assessments required by the Every Student Succeeds Act (ESSA), the performance of children with disabilities on the National Assessment of Educational Progress, or both. Improvement in performance on state assessments should be linked to the goals for children with disabilities articulated on the State's approved ESSA state plan and the State Systemic Improvement Plan, if applicable.

Proposed Selection Criteria.

Comment: We strongly recommend that for a State to be eligible to receive either a planning or implementation grant, or both, the State must have received a "Meets Requirements" rating in the latest annual determination regarding its implementation of IDEA as required by 34 CFR §300.603.

Review of Grant Applications

Comment: Since the grant review will include subjective judgments regarding whether the proposed application would negatively impact civil rights and a free appropriate public education (FAPE), we recommend that attorneys representing protection and advocacy organizations and disability organizations, as well as representatives of Parent Training and Information Center(s) and Community Parent Resource Centers be included in the peer review teams to ensure that the rights of children with disabilities are protected.

Thank you for this opportunity to comment.

Sincerely,

American Association on Intellectual and Developmental Disabilities
American Council of the Blind
American Physical Therapy Association
Association of University Centers on Disabilities (AUCD)
Autism Society of America
Children and Adults with Attention-Deficit/Hyperactivity Disorder
Council of Parent Attorneys and Advocates
Council for Learning Disabilities
Learning Disabilities Association of America
National Center for Learning Disabilities
National Center for Parent Leadership, Advocacy, and Community Empowerment
National Center for Special Education in Charter Schools
National Disability Rights Network
National Down Syndrome Congress
RespectAbility
The Advocacy Institute
The Arc of the United States

Education Task Force Co-Chairs:

Annie Acosta, The Arc of the United States
Amanda Lowe, National Disability Rights Network
Kim Musheno, Autism Society of America
Meghan Whittaker, National Center for Learning Disabilities
Laura Kaloi, Council of Parent Attorneys & Advocates and
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The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The Education Task Force monitors federal legislation and regulations that address the educational needs of children with disabilities and their families, including the Individuals with Disabilities Education Act (IDEA) programs.

Attachment 1.

History of IDEA Paperwork Reduction Pilot P.L. 108-446 section 1408	
DATE	ACTION
Dec. 3, 2004	IDEA reauthorization passed P.L. 108-446 including new Section 1408 permitting Sec’y to waive for up to four years for up to 15 states statutory or regulatory requirements (except civil rights requirements) that applying states link to excessive paperwork or other noninstructional burdens (incorporating the provisions in H.R. 464 (108th): IDEA Paperwork Reduction Act of 2003). SEE https://sites.ed.gov/idea/statute-chapter-33/subchapter-i/1408
May 24, 2005	CRS releases “The Individuals with Disabilities Education Act (IDEA): Paperwork Reduction in P.L. 108-446” report.
Dec. 19, 2005	OSERS publishes Notice of proposed requirements and selection criteria for up to 15 grants for States to participate in a pilot program, the Paperwork Waiver Demonstration Program. Federal Register / Vol. 70, No. 242, pg. 75161, RIN 1820-ZA42
July 6, 2007	OSERS publishes Notice of final additional requirements and selection criteria effective August 6, 2007 (includes analysis of comments to Dec. 2005 notice submitted by 22 parties). Federal Register / Vol. 72, No. 129, pg. 36970, RIN 1820-ZA42
Oct. 12, 2007	OSERS publishes Notice announcing application deadline. Up to 15 States to participate in a single, onetime only pilot program. Grantees will receive \$10,000 per year for 48 months. Federal Register / Vol. 72, No. 197, CFDA No. 84.326P, Pg. 58066 OUTCOME: No state applied to participate in either of the pilot programs (referring to Paperwork Reduction Pilot and Multi-Year IEP Pilot). “NASDSE officials told us that the application requirements were much too resource-intensive for the potential value they would bring, and implementation of either pilot program would most likely require additional staff that federal funding would not cover. Several states wrote letters to Education explaining their reasons for not applying for and implementing the Paperwork Waiver Program in particular, noting that the program would require more paperwork and staff, but provide little in the way of additional federal funds.” (GAO-16-25, Pgs. 9-10)
Feb. 8, 2016	GAO releases report “SPECIAL EDUCATION: State and Local-Imposed Requirements Complicate Federal Efforts to Reduce Administrative Burden” GAO-16-25

<p>July 15, 2019 (see correction notice below)</p>	<p>OSERS publishes Applications for New Awards; Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities—Planning Grants for Increasing Instructional Time and Reducing Administrative Burdens. One Absolute Priority. Fund up to 10 grants of up to \$150,000 for a single budget period of 12 months.</p> <p><i>In this notice, ED also stated: “The Department also intends to propose and adopt requirements for waivers and waiver applications under section 609 of IDEA later this year. In fiscal year 2020, the Department intends to solicit applications for multiyear waiver projects that could, but would not be required to, build on the plans developed under the planning grants awarded under this competition.”</i></p> <p>Federal Register / Vol. 84, No. 135, pg. 33762</p>
<p>July 30, 2019</p>	<p>OSERS publishes notice correcting the award size to a range from \$150,000 to \$250,000, and the estimated number of awards from 10 to a range of 6 to 10.</p> <p>Federal Register /Vol. 84, No. 146 /Tuesday, July 30, 2019 /Notices 36907</p> <p>OUTCOME: “One state applied under this competition; however, based on feedback provided by an external review panel of experts, OSEP determined that the application was not of sufficient quality to receive an award. The application did not address the project purpose and expected outcomes as published in the Notice Inviting Applications. OSERS is in process of exploring further options regarding paperwork burden reduction and anticipates sharing more information with the public later this year.” (ED statement to press)</p>
<p>May 29, 2020</p>	<p>OSERS publishes Proposed Priorities, Requirements, and Selection Criteria— Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—The Individuals with Disabilities Education Act (IDEA) Paperwork Reduction Planning and Implementation Program. Comments due June 29, 2020.</p> <p>Federal Register/Vol. 85, No. 104/Friday, May 29, 2020/Proposed Rules/32317, Docket ID ED-2020-OSERS 0014</p>
<p>June 5, 2020</p>	<p>OSERS publishes Proposed Requirements—The Individuals with Disabilities Education Act (IDEA) Paperwork Reduction Waivers Comments due August 19, 2020</p> <p>Federal Register /Vol. 85, No. 109 / Friday, June 5, 2020 / Proposed Rules/ 34555, Docket ID ED–2020–OSERS–0015</p>