



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

August 10, 2020

Kate Mullan  
PRA Coordinator  
Clearance, Governance and Strategy Division, Office of Chief Data Officer  
Office of Planning, Evaluation and Policy Development  
U.S. Department of Education  
400 Maryland Ave. SW, LBJ, Room 6W-208D  
Washington, DC 20202-4537

RE: ED-2020-0030, ED-2020-0028

Dear Director,

The Consortium for Citizens with Disabilities (CCD) Education Task Force is providing comments on the proposed changes to the Department of Education's (ED) Office of Special Education and Rehabilitative Services (OSERS) information collection on Proposed Revisions to the Individuals with Disabilities Education Act (IDEA) Part B and Part C State Performance Plans (SPP) and Annual Performance Report (APR).

As previously communicated to OSERS, CCD has partnered with OSERS in the development and implementation of Results Driven Accountability (RDA) since its launch in 2012 and has provided regular input to proposed refinements to the SPP/APR. CCD last commented in April 2020 and in December 2018 as part of OSERS RethinkRDA initiative. In both communications and again today, we continue to urge OSERS to: "design a system, consistent with IDEA and the intent of Congress as well as [provide for] optimal alignment with ESSA, that assures state accountability for the achievement and outcomes of students with disabilities" (See: Letter to OSERS 2020 and Letter to Collett, 2018).

CCD appreciates the feedback and decisions put forward by OSERS as a result of the April proposed changes to the SPP/APR (See: [Part B Information Collection Comments and Discussion](#)).

In response, we offer the following recommendations:

- I. Connect the Proposed Changes to the SPP/APR Directly to Annual Determinations for Part B and Part C**

CCD remains concerned that OSERS continues to propose changes to the SPP/APR without providing any information about how the changes will relate to RDA or specifically to how these changes and proposed

indicators will impact the Annual State Determinations that are made by the Office of Special Education Programs (OSEP) as required by IDEA. OSEP's response to this concern, expressed by several commenters, including CCD, was that the SPP/APR is subject to the requirements of the Paperwork Reduction Act and is due for its third six-year cycle, therefore, it is being put forward for comment as required by the Paperwork Reduction Act. CCD does not consider this a valid justification for making piece-meal changes to something as important as the SPP/APR within the context of the broader RDA plan. Additionally, the statement that "OSEP is still considering comments received and will continue to make available additional information about RDA revisions as they become available" is not responsive to the concerns expressed. It is incumbent upon OSERS to provide strategic, cohesive changes in the system that the law intends to ensure compliance under both Parts B and C of IDEA.

## **II. Assure IDEA-Measured Metrics Align with Other Education Laws**

We remain highly concerned that the proposed changes to key indicators (e.g. graduation, drop-out and assessment) will not be aligned with the data requirements used for accountability under the Every Student Succeeds Act (ESSA). We cannot overstate our years-long advocacy to ensuring that data regarding students with disabilities is easily comparable to their general education peers to ensure advocacy at the local, state and national levels can be informed by the same timely and accurate data. Again, we urge OSERS to make changes to the SPP/APR that will assure IDEA-measured metrics align with ESSA and other education laws as applicable.

## **III. Maintain Focus on Transparency and Accountability for the Achievement of Students**

**Include the adjusted cohort graduation rate (ACGR):** CCD recommends that OSERS reconsider and include the ACGR in the SPP/APR. We agree with The Advocacy Institute who said:

...this is the only graduation rate that provides information on the gap between children with IEPs and all students. While the ACGR has its limitations and flaws (as discussed in our April comments), it is imperative that graduation rate GAPS are considered as part of RDA. Setting targets for an ACGR for students with IEPs would not create an additional burden since States must set these targets as part of their ESSA accountability plan....A state's graduation rate for children with IEPs must be viewed through a GAP lens rather than by pitting states against each other. In order to redirect the focus, a graduation rate that provides GAP information must be included. (See: Advocacy Institute Letter, August 10, 2020)

**Do not apply the use of 'rank order' in the SPP/APR:** CCD and members of the task force have previously advocated to OSERS that use of rank ordering states is not an effective way to measure, score or report out key data (e.g. graduation, drop out, assessments) on the academic progress and related outcomes of students with disabilities. We urge you to move forward with a system for the SPP/APR and RDA that focuses on the gap experienced by students with disabilities when compared to their general education peers.

**Indicator 14: Post School Outcomes:** CCD does not support the flexibility provided by OSERS to states in the definition used for competitive employment. We strongly urge OSEP to require States to use the definition of the term "competitive integrated employment" that appears in section 7(5) of the Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations in 34 CFR §361.5(c)(9). Doing so will ensure alignment for purposes of IDEA and Vocational Rehabilitation funding and improve transition for youth from school to the adult employment system. Inconsistent definitions of CIE will cause confusion. The WIOA CIE definition aligns with the definition of integration in other civil rights laws, including the IDEA, the ADA, the Supreme Court's *Olmstead v LC* decision, and the Medicaid HCBS Settings Rule; with practices in state disability employment systems; and, with the employment priorities of the disability community.

Finally, CCD appreciates changes made by OSERS in response to comments made by advocates including:

- **Removal of Indicator 3D/3E-** Improvement Rate for the Percent of Children With IEPs Proficient Against Grade Level Academic Achievement Standards and Improvement Rate for the Percent Of Children With IEPs Proficient Against Alternate Academic Achievement Standards
- **Revision of Indicator 8:** parent involvement – to now require States to include in the State’s analysis the extent to which the demographics of the children for whom parents responded are representative of the demographics of the children receiving special education services
- **Revision to Indicator 13:** Secondary Transition – to clarify that there must be evidence that, if appropriate, a representative of any participating agency that is likely to be providing or paying for transition services, including, if appropriate, pre-employment transition services, was invited to the IEP team meeting with the prior consent of the parent or student who has reached the age of majority.

Thank you for this opportunity to comment.

Sincerely,

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 Natl. Center for Special Education in Charter Schools

[acosta@thearc.org](mailto:acosta@thearc.org)

[amanda.lowe@ndrn.org](mailto:amanda.lowe@ndrn.org)

[kmusheno@autism-society.org](mailto:kmusheno@autism-society.org)

[mwhittaker@ncl.org](mailto:mwhittaker@ncl.org)

[lkaloi@stridepolicy.com](mailto:lkaloi@stridepolicy.com)

*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.*