



## **The Division for Early Childhood of the Council for Exceptional Children (DEC)**

April 23, 2009

Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17<sup>th</sup> Street, N.W. Room 10222  
New Executive Office Building  
Washington DC 20503

Attention: Education Desk Officer

These comments are provided on behalf of the Division for Early Childhood of the Council for Exceptional Children (DEC). DEC is a professional membership organization whose mission is to promote policies and advance evidence-based practices that support families and enhance the optimal development of young children who have or are at risk for developmental delays and disabilities. These comments are in response to the Public Comment request published in the March 24, 2009 Federal Register.

**DEC Comments on the Timing of the Implementation of New Data Collection.** DEC must first express our significant concern about the timing proposed for this new collection. DEC, along with others, provided comment on proposed changes to the Preschool Settings data collection included in Table 3 on October 15, 2007. These proposed changes were included in the Notice of Proposed Information Collection Requests as published in the Federal Register on August 16, 2007. More than eighteen months have passed since the close of this last comment period. Major changes are again proposed in this announcement, and the Department plans to require the use of this new version of the data collection form in the fall of 2009, a few short months away. **Therefore DEC requests that any changes to this data collection be implemented no sooner than the fall of 2010.**

There are a number of reasons that it is virtually impossible to ensure the collection of valid and reliable data in this short period of time. The final table and instructions have not been released and once these are released, clarification will be necessary on the new collection. In addition, decisions related to service settings for school year 2009-10 are made through discussions at the IEP meeting and for most children these meetings have already occurred or will be occurring in the next few weeks. Therefore, the major opportunity for data collection, especially the need to ask parents to report on the new settings definitions in Column 1, has already occurred.

Implementation of new data collection requirements take at least one full year and in many states more than a year. Such changes are costly both in human and fiscal terms

and given the reality of state resources at this time, it is difficult to see how the Department can expect such changes to occur in a few months.

States responsible for this data collection must change data systems; arrange for paper/pencil collection in the interim; inform LEAs of the changes, train IEP teams and other data collectors; collect new data; and verify and aggregate these new data before required submission on February 1, 2010. Given these realities, it is unlikely that these data will be of sufficient quality to be used as new baseline data in the APR and to generate rigorous state targets.

**DEC Comments on the Substance of this New Data Collection.** DEC notes that a number of elements included in this data collection were also contained in the previous proposal in 2007. DEC cannot support this proposed change to the data collection and continues to be concerned about the current data collection form.

DEC again offers its recommendation as submitted in 2007. We recommend that the data categories for reporting be revised to reflect data categories originally established in 1998-1999 that OSEP adopted for reporting preschool LRE settings, with modifications suggested in 2003 to enhance the strength of the data to be reported by states (see below). This recommendation document has three components.

The first section examines the historical and supportive data restructuring process related to Preschool LRE data. Revisiting the history of the revisions to the data categories and the old categories themselves is a critical element of DEC's proposed recommendation. The second section provides a rationale for DEC's recommendation. The third section provides the DEC recommended data table.

### **Historical Context**

The framework for collecting Preschool LRE data has been in place since 1976. There have been several iterations and modifications in the structure of the data and the categorical criteria used. With each iteration there has been a "fine tuning" to the data collection process. The changes for the most part have resulted in providing states with the ability to collect strong data. The 618 reporting requirements historically have provided states with supportive data they have been able to use with their LEAs and state plans around enhancing inclusive opportunities for young children with disabilities. However, changes made in 2005 created an entirely new direction for states that made it difficult for them to track their programmatic activities, to examine their progress and to set programmatic priorities. The proposed changes in 2007 and now in 2009 do not solve that problem and in fact only add to it.

DEC remains very supportive to the collection of data around Preschool LRE and would like to contribute to making adjustments to the reporting requirements that help states meet OSEP directives so that 1) information can be used to assist in establishing programmatic priorities, and 2) data can be used to measure state and local progress toward meeting state established SPP targets. The current and proposed OSEP data

collection frameworks move states substantially away from this process and make it very difficult for them to track the impact of their programmatic activities related to enhancing opportunities for preschoolers to receive special education and related services in inclusive settings . They also do not adequately address OSEP regulations related to LRE. This next section examines these issues more closely in providing a rationale for the DEC recommendation

### **Rationale for Recommendation**

DEC’s recommendation is strongly rooted in a statutory and regulatory perspective. IDEA language at 616(a)(3) requires states to report on quantifiable indicators in the monitoring priorities specified in the statute. One of these priority areas included in the statute and its implementing regulations is provided at 616(a)(3)(A) - “Provision of a free appropriate public education in the least restrictive environment.” Clearly, the intent of the statute is to monitor the settings in which special education and related services are provided to children eligible under IDEA to ensure these decisions are consistent with the least restrictive environment requirements.

DEC does not believe the OSEP proposed changes to the 618 data reporting requirements will enable states to collect data they can use for setting state-level priorities. It is critical that states be able to set priorities based upon data as required by regulation. DEC notes that in the 2009 proposal, the Department has acknowledged this concern and added the elements in Col 2 looking at where a child receives their special education and related services. However, proposed changes to reporting requirements continue to reflect data on the settings in which children spend their day unrelated to the provision of a FAPE supported by the public agency.

DEC notes since parents remain the “reporter” for Col 1 in this new proposed data collection, there are major concerns about the role parents are being asked to play in reporting what percent of children in their child’s private early childhood settings have disabilities. There are concerns related to the accuracy and reliability of this parent reported data. In many situations, parents will not know which children are or are not disabled for these reporting purposes. It is difficult to see how states and local school districts will be able to develop procedures to verify these data to ensure accuracy. These concerns about parent report relate to both the current and proposed changes.

### ***DEC Recommended Data Table***

DEC has developed a data table that we feel addresses the above concerns and one that enables states to provide data that is usable and supportive of providing enhanced opportunities for receiving services in LRE preschool settings. The DEC-proposed data table, which draws heavily from the Table used during 2004-06 data collection, is provided below.

**Early childhood setting.** Unduplicated total who received all of their special education and related services in educational programs designed primarily for children without disabilities. This may include, but is not limited to:

- regular kindergarten classes;
- public or private preschools;
- Head Start Centers;
- child care facilities;
- preschool classes offered to an eligible pre-kindergarten population by the public school system;
- home/early childhood;
- home/Head Start combinations; and
- other combinations of early childhood settings.

**Early childhood special education setting.** Unduplicated total who received all of their special education and related services in educational programs designed primarily for and serving children with disabilities housed in regular school buildings or other community settings. This may include, but is not limited to:

- special education classrooms in regular school buildings or trailers;
- special education classrooms in child care facilities, or other community based settings;
- residential facility; and
- separate schools

**Home.** Unduplicated total who received all their special education and related services in the principal residence of the child's family or caregivers.

**Single Provider Setting .** Unduplicated total who received all of their special education and related services at a clinic, hospital facility on an outpatient basis, or other specialized location for a short period of time (i.e., no more than 3 hours per week). These services may be provided individually or to a small group of children.

**Part-Time early childhood/Part-Time early childhood special education.** Unduplicated total who received special education and related services in multiple settings such that: (1) special education and related services are provided at home or in educational programs designed primarily for children without disabilities, and (2) special education and related services are provided in programs designed primarily for children with disabilities. Please check the appropriate box:

- Home and early childhood special education setting
- Early childhood setting and early childhood special education setting
- Home and single provider setting
- Early childhood setting and single provider setting

In summary, DEC must continue to express our concern about the approach the Department continues to take in data collection related to preschool settings. DEC

continues to hear from our members including parents, providers and administrators at the state and local level on this matter.

Establishing data collection and measurement requirements to reliably and accurately portray the provision of special education and related services to preschoolers in the least restrictive setting is very difficult due in large part to the varying opportunities for early care and education in communities across the country and the role families play in securing and paying for these opportunities. DEC realizes that the 618 reporting requirements are only one tool for promoting the availability of high quality preschool inclusive options for young children with disabilities and their families. However, we believe that this 618 tool is a critical one and has been effective in the past in helping states monitor their progress and set priorities for change. DEC is committed to making the tool as meaningful and effective as possible now and in the future.

DEC remains committed to the provision of comprehensive quality services for preschoolers with disabilities and their families in the least restrictive environment. We strongly believe that valid and reliable data can help guide continuous improvement efforts by states and local communities. We appreciate this opportunity to comment.

**DEC recommends that no changes be made in the settings table until at least school year 2010-11. We recommend the settings tables be revised in accordance with these recommendations but we would also be in support of OSEP convening a stakeholder group to finalize these settings tables to ensure the tables will not need revision again at least during this SPP cycle.** Please contact us if we can be of any assistance on this important matter.

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