



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

November 21, 2008

Re: Comments on Proposed Collection of Information
OMB #1820-0624 IDEA Part B Annual Performance Report (APR)

Office of Information and Regulatory Affairs, OMB,
Attention: Desk Officer for U.S. Department of Education

OIRA_submission@OMB.EOP.gov

Dear Sir or Madam,

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. DEC appreciates this opportunity to provide comments on the Notice of Proposed Information Collection on the Part B State Performance Plan (SPP) as published in the Federal Register on October 22, 2008.

The continued changes being made to the SPP/APR, particularly changes to the measurement requirements have a significant impact on state agencies and local agencies and programs providing services to children and families. Such changes require State Educational Agencies (SEAs) to make significant amendments to their data collection systems. This requires diverting resources and personnel to make the changes. Changing a state-level data collection system results in multiple impacts that include: changing data system structures, amending data collection and training documents, amending other training and technical assistance documents specific to individual indicators, amending policies and procedures for various indicators, ensuring that school districts and programs who report data understand the data changes and report accurate information.

State agencies must ensure the accuracy and validity of the data and further requires due diligence by state agency personnel through the provision of technical assistance and guidance to school districts and programs. The comprehensiveness of these data changes results in significant impacts on the fiscal resources of state agencies including the expenditure of monies necessary to change each indicator's data collection procedure and process and subsequently the larger State and local monitoring system. It is extremely difficult for state agencies with very limited fiscal and personnel resources to keep pace with all of these changes.

The estimated numbers of state personnel and the expenditure of time need for these personnel to complete the SPP and APR, as stated in the Federal register announcement are inaccurate. States cannot submit reliable and meaningful documents without the local agencies and programs committing time and resources to provide the information. The hours put into continuous monitoring, development and revisions of the SPP and APR are immeasurable, well in excess of 325 hours as stated in the announcement. This requires daily collaboration, investigation, and inquiry, as well as dissemination at the state and local level to provide the necessary guidance and direction. It also requires an exorbitant amount of training and information sharing to ensure that everyone understands the expectations placed upon them and the implications of those expectations around data collection, monitoring, local improvement, including correction, reporting, determinations, and enforcement actions.

These continual data collection changes divert scarce resources, both fiscal and human, from services to children and families. In addition, these changes result in constantly shifting baselines making it difficult to accurately measure progress from year to year and to develop meaningful strategies for improvement. Overtime this could have the effect of jeopardizing the achievement of the overall purpose of the SPP process– to improve results for children and their families.

With regard to the specific indicators DEC has the following comments:

Indicator 6 – Preschool Settings

DEC’s notes that the version of this indicator proposed in the fall of 2007 has not been adopted. DEC appreciates the Department’s decision in this regard. DEC, along with others, expressed concerns that the indicator proposed last year was inconsistent with the statute 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.

However, DEC must continue to express our concerns with the version of the indicator proposed in this package. This proposed indicator will result in data from states on the decrease in the number of students, ages 3-5, attending a separate special education class, separate school or residential facility. It does not appear that the proposed change would allow nor assist States in moving forward towards a performance goal for all of its children ages 3 through 5 with an IEP to ensure that a child’s special education and related services are provided 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 and to ensure these decisions are consistent with the least restrictive environment requirements. However, focusing on data collected on children attending a separate special education class, separate school or residential facility will result in data collected on the smallest number

of children, ages 3-5, receiving special education. Children in these data reporting categories are typically 1%-3%.

In addition, target setting and public reporting of state and local progress in this indicator is better expressed as an increasing positive measure. DEC continues to be concerned that this newly proposed indicator speaks to “children attending” instead of “where children are receiving FAPE.” Therefore, **DEC continues to recommend that the current language in Indicator #6 (as stated below) be maintained. We do not support the proposed change.**

Indicator 6 - Percent of preschool children with IEPs who received special education and related services in settings with typically developing peers (i.e., early childhood settings, home, and part-time early childhood/part-time early childhood special education settings).

Accurate reporting of this statutory monitoring priority is critical to the ongoing efforts across the country to strengthen quality inclusive opportunities for preschoolers with disabilities. Directly related to this conversation is the 618 data collection process that provides the data to report on this indicator. As we have stated in previous responses, DEC is strongly opposed to the existing data collection process related to Indicator #6. DEC intends to comment on the expected Proposed Information Collection Request addressing the data collection requirements for reporting on preschool settings. DEC continues to hear from our members including parents, providers and administrators at the state and local level on this matter.

Indicator #7 – Child Outcomes

DEC is in agreement with limiting the number of data points to be reported annually. Reducing the number of data points from the original 15 will provide for a better analysis of data. Reducing data points also helps with the problem of cell size numbers for smaller LEAs.

However, DEC does not agree with both of the Summary Statement processes for the three outcomes. Summary Statement 1 reflects an appropriate measurement of early intervention services. The statement and accompanying algorithm more appropriately reflect the USDE’s growth modeling process in use in states examining their AYP.

The wording for Summary Statement 2 and the accompanying algorithm does not reflect the intent of special education practice. The wording in Summary Statement 2 clearly reflects an intention on the part of the USDE/OSEP to suggest that special education results in children with disabilities no longer needing special education after receiving such services as 3-5 years olds. While this would be a laudable expectation for working with children with early achievement issues such as children in Title I programs, Head Start or other state prekindergarten programs, we do not believe that the intent of special education was to result in all children functioning like their same age peers.

Summary Statement 2 will ultimately result in states having to set performance targets that focus on an ever larger population of children that function like same age peers. It is

not clear that Congress ever intended special education and related services to “cure” children with disabilities. The intent was to ensure that children with disabilities had available a free and appropriate education to support their development. There are some children with severe and profound disabilities that will never function like their same age peers and to set up a national expectation for such a target is unfair, inappropriate and instructionally inaccurate.

We believe that the intent of IDEA is to use special education services and effective and appropriate instructional practices to best support children’s growth and development. Using an appropriate growth model algorithm similar to Summary Statement 1 is a more appropriate method and practice to measuring the effectiveness of early childhood special education.

Indicator #12 – FAPE at Age Three Years

DEC agrees with the changes proposed for Indicator #12. Addressing the inclusion of data that reflects children who were referred from the Part C system less than 90-days before their third birthday would add clarification and assist in fairly representing both state and school district/program efforts.

Please contact us if we can be of any assistance as this package moves forward.

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