



October 21, 2025

Ross Santy
Chief Data Officer, Office of Planning, Evaluation and Policy Development
U.S. Department of Education
400 Maryland Ave SW, LBJ, Room 4A119
Washington, DC 20202– 1200

RE: ED– 2025–SCC–0481

Submitted via regulations.gov

Dear Mr. Santy,

The Consortium for Constituents with Disabilities (CCD) Education Task Force is writing to provide comments and recommend that the U.S. Department of Education (Department) rescind its proposal to remove the Significant Disproportionality data collection under the Individuals with Disabilities Education Act (IDEA) section 618(d) and 34 CFR 300.646 and 300.647 from Section V of the Annual State Application under Part B of IDEA.

As the nation’s premier coalition that advocates for federal policies that support infants, toddlers, children, and youth with disabilities, their families, and the educators and other service providers who serve them, CCD has consistently provided input to the Department regarding the need to require States to improve both policies and practices to identify significant disproportionality. Indeed, CCD formally supported additions to IDEA in 2004 that required states to address racial disproportionality in special education and has contributed significantly to the formal process to promulgate and ensure implementation of the *Equity in IDEA regulations* since their inception.¹ Therefore, consistent with our longstanding commitment to ensuring that every requirement of IDEA is carried out to its fullest extent, and to ensure full transparency exists so that families and schools can work as meaningful partners, CCD recommends that the Department rescind this proposal.

To support our recommendation, we offer the following comments:

I. Conflicts with Congressional Intent to Prioritize Addressing Racial Disproportionality in Special Education

Congress intentionally made addressing racial disproportionality in special education one of three priority areas when it last amended IDEA and encouraged the Secretary to review the data required to be collected under IDEA’s section 618(a).² IDEA also authorizes the Secretary to reserve one-half of 1 percent of the amounts appropriated for each fiscal year to provide technical assistance activities authorized under IDEA section 616(i) to support states in addressing racial disproportionality.³ These requirements, including the issuance of the *Equity in IDEA* regulations as well as requirements in Section V of the Annual State Application under Part B of

¹ See: CCD Letter to Harper, July 2014 and May 2016; CCD Letter to Collett, July 2018; CCD Statement to the Press, May 2019; CCD Letter to Director, July 2019; CCD Letter to Young, July 2021; CCD Letter to Neas, June 2023, https://c-c-d.org/rubriques.php?rub=taskforce.php&id_task=2

² Sec. 616(i). 20 USC 1416

³ 20 USC 1411

IDEA, were instituted due to the unceasing issue of racial disparity and widespread noncompliance with requirements of the law.

As the Department knows, the problem was well documented prior to updates made to IDEA in 2004⁴ and has continued to persist.⁵ In fact, according to the most recent data provided to Congress, the Department reports that when compared to all students with disabilities, Black or African American students are more likely to be identified with an intellectual disability,⁶ that more than 33 percent of Black or African American students with disabilities spend the majority of their time in a separate class,⁷ and Black students are two times more likely to be expelled and four times more likely to be suspended.⁸ In 2022, of 15,283 local education agencies, 905 were required to use IDEA funds for Comprehensive Coordinated Early Intervening Services⁹, due to disproportionality.¹⁰ Furthermore, Congress has expressly addressed the need for the Secretary to help states address significant disproportionality and also encouraged the Department to ensure “States take the necessary steps to work with local educational agencies to remedy these problems...” and, [that] [T]he referral and identification processes should be clear, consistent, and not subject to abuse.”¹¹

By proposing to eliminate Section V of the State Application, the Department is doing precisely what Congress cautioned against, which is to create conditions whereby a key provision of IDEA may be subjected to abuse. While states will continue to report data on significant disproportionality in the State Performance Plan/Annual Performance Report under Indicator 9 Disproportionate Representation and Indicator 10 Disproportionate Representation in Specific Disability Categories, without notification, the Office of Special Education (OSEP) - whose role it is to monitor State compliance with IDEA- will no longer know if changes are proposed to a State’s methodology because OSEP relies on the required reporting of a change under Section V. Additionally, this proposal, combined with the Secretary’s decision to stop funding the Technical Assistance Center on State Data Collection -whose purpose was to improve the capacity of States to meet IDEA data collection and practices requirements regarding equity in IDEA- creates even further conflict with IDEA’s requirement for the Secretary to prioritize State methodology and district practices regarding racial discrimination in special education.

II. Eliminates Transparency and Removes Parents and Key Stakeholders From the Process

CCD has consistently advocated for and supported efforts to make sure parents, guardians, school leaders and personnel, and other stakeholders are well informed, can participate in the process to improve state and district decision making in IDEA, and can access transparent and usable data about their school, district and State. Currently, as part of the IDEA State Application process, States are required to ensure that districts “publicly report on the revision of policies, practices and procedures”¹² with regard to significant disproportionality. Most importantly, the process for that is directly linked to reporting in Section V of the State Application as States are

⁴ See: H. Rept. 108-77, Sec. 208, Overidentification, to accompany P.L. 108-446, (2004) <https://www.congress.gov/committee-report/108th-congress/house-report/77/1>

⁵ See: February 2013 U.S. Government Accountability Office (GAO) study, which indicated that there was widespread noncompliance by states with 20 U.S.C. Section 1418(d) of the IDEA.

⁶ U.S. Department of Education, EDFacts Data Warehouse (EDW): “IDEA Part B Child Count and Educational Environments Collection,” 2021-22, <https://data.ed.gov/dataset/71ca7d0c-a161-4abe-9e2b-4e68ffb1061a/resource/22294e78-ff8b-48cf-8f5e-5a84f183ec22/download/bchildcountandedenvironment2021-22.csv>

⁷ Separate class refers to a special education program in a class that includes less than 50% children without disabilities. See: *46th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*, U.S. Department of Education, (2024), 37. <https://sites.ed.gov/idea/2024-annual-report-to-congress-on-the-individuals-with-disabilities-education-act-idea/>

⁸ Table 233.28. Percentage of students receiving selected disciplinary actions in public elementary and secondary schools, by type of disciplinary action, disability status, sex, and race/ethnicity: School year 2020-21, Digest of Education Statistics, U.S. Department of Education, https://nces.ed.gov/programs/digest/d23/tables/dt23_233.28.asp?current=yes

⁹ U.S. Department of Education, EDFacts Metadata and Process System (EMAPS), “IDEA Part B Maintenance of Effort (MOE) Reduction and Coordinated Early Intervening Services (CEIS),” 2021-22. Data extracted as of August 30, 2023.

¹⁰ 20 U.S.C. § 1413(f) and 34 C.F.R. § 300.226; 20 U.S.C. § 1418(d)(2)(B) and 34 C.F.R. § 300.646(d); Analysis of Comments and Changes Accompanying the Final Regulations on Significant Disproportionality, 81 Federal Register [FR] 92376 [December 19, 2016]; and, Office of Special Education Memorandum 08-09 on CEIS Guidance

¹¹ H. Rept. 108-77, Sec. 208, Overidentification, to accompany P.L. 108-446, (2004), <https://www.congress.gov/committee-report/108th-congress/house-report/77/1>

¹² 20 U.S.C. § 1418(d)(2)

required to provide *a public comment period -of at least 30 days*, so that stakeholders are aware of any changes a State is making to its IDEA Part B reporting form. Additionally, Executive Order 14191 was issued “to support parents in choosing and directing the upbringing and education of their children.”¹³ By eliminating the step for public input and engagement from the States’ process, the Department subverts parental access to key information about the child’s school/district.

By proposing to eliminate Section V, the Department is removing the only public notice of changes to States’ implementation of IDEA’s requirements regarding significant disproportionality, thus eliminating every parent’s right to know if race is a significant factor in the identification of children in special education, in their educational placement (inclusion in the regular classroom with their peers or placed in contained classrooms and segregated); and/or in discipline practices such as suspension and expulsion. Without the required process to engage and inform stakeholders under Section V -which includes parents of children with disabilities who cannot make good choices without understanding the status of all children in each school in their community- the Department is incorrectly deciding to conceal critical information from families when a state determines to change its process to identify racial disproportionality in special education.

For these valid reasons, we urge the Department to rescind the proposal. Please reach out to a CCD education task force co-chair with any questions.

Sincerely,

Access Ready, Inc.
American Academy of Pediatrics
American Association on Health and Disability
American Music Therapy Association
Autism Society of America
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Bazelon Center for Mental Health Law
CommunicationFIRST
Community Inclusion & Development Alliance
Council for Exceptional Children
Council for Learning Disabilities
Council of Parent Attorneys and Advocates
Deaf Equality
Disability Belongs
Disability Rights Education & Defense Fund
Family Voices of California
FIRSTwnc

Lakeshore Foundation
Learning Disabilities Association of America
National Association of Councils on Developmental Disabilities
National Association of School Psychologists
National Association of the Deaf
National Center for Learning Disabilities
National Down Syndrome Congress
National PLACE
Parent to Parent of Georgia Inc.
Parent to Parent of Miami
Parents Reaching Out
SPAN Parent Advocacy Network (SPAN)
TASH
The Advocacy Institute
The Arc of the United States
The Center for Learner Equity
The National School Boards Association

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¹³ Executive Order 14191: *Expanding Educational Freedom and Opportunity for Families*, (2025), <https://www.federalregister.gov/documents/2025/02/03/2025-02233/expanding-educational-freedom-and-opportunity-for-families>