



September 17, 2007

U.S. Department of Education
400 Maryland Avenue, SW.
Potomac Center
9th Floor
Washington, DC 20202-4700

Dear Sir(s):

The Council for Exceptional Children (CEC) is the largest professional organization of teachers, administrators, parents, and others concerned with the education of children with disabilities, gifted and talents, or both. CEC, in collaboration with its Division on Early Childhood (DEC), the largest professional organization committed to improving educational outcomes for individuals with exceptionalities, is writing in response to the July 17, 2007 *Federal Register* announcement requesting public comment on the IDEA Part B State Performance Plan (SPP) and Annual Performance Report (APR).

CEC's comments here specifically address the proposed change to indicator #6 in the SPP related to the settings in which preschool children receive their special education and related services. **CEC recommends that the current language in Indicator #6 (indicator and measurement) be maintained. We do not support the proposed change. It is the position that language in Indicator #6 should reflect the intent of the requirement that involves SEAs reporting where children are when they receive FAPE.**

This position is based on IDEA statutory language at 616(a)(3) that 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. CEC notes that language in the current version of Indicator #6 (provided below) is consistent with this statutory provision.

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).

CEC does not believe the proposed change to Indicator #6 is consistent with the statutory language. The proposed indicator does not reflect in any way the settings in which special education and related services are provided. Instead, it describes the settings preschoolers spend their day “unrelated to the provision of FAPE by the public agency.” The proposed indicator is provided below:

Percent of children ages 3-5 with IEPs:

A. Attending a regular early childhood program.

B. Not attending a regular early childhood program or kindergarten and attending a special education program.

C. Not attending a regular early childhood program or kindergarten and not attending a special education program. (20 U.S.C. 1416(a)(3)(A))

CEC notes that the language in the proposed Indicator #6 is not reflected in the statutory citation provided.

CEC would also like to note that the proposed “Data Source and Measurement” and “Instructions” sections for proposed Indicator #6 are inconsistent with the statute as well. The proposal requires data on the settings in which preschoolers spend their day “unrelated to the provision of FAPE by the public agency,” whereas, the statute clearly speaks to the settings in which special education and related service are provided to the preschooler.

CEC would like to note the burden the proposed change in the reporting process would place on states. This represents yet another change in how data are to be collected and reported and will require significant additional expense both in time and money to revise state data systems once again.

The proposed changes in settings choices for the proposed indicator seems to reflect a philosophical preference that the “classroom” is a natural setting and the home is not. Home may indeed be a natural setting for many 3- and 4-year-olds. While the settings are not organized in a hierarchical format, the ultimate data collection and reporting process may result in a philosophical presentation that only a “regular early childhood program” is an appropriate setting for 3-5 years olds.

CEC is gravely concerned that proposed language in Indicator #6 will not accurately reflect the provision of special education and related services for preschool children in settings with their peers. 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 request for comment is the Proposed Information Collection Request as published in the *Federal Register* on August 16, 2007 addressing the data collection requirements for reporting on preschool settings. CEC intends to provide comments addressing this proposed data collection package. Across the country, parents, providers, LEA administrators, and other providers of early childhood community programs are expressing increasing concern about the current and proposed data requirements related to preschool settings. CEC continues to hear from our members, including parents, providers, and administrators at the state and local levels on this matter.

For example, there are major privacy concerns about the role parents are being asked to play in reporting whether the children in their child's private early childhood settings have disabilities. In addition, 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.

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. CEC remains committed to the provision of comprehensive quality services for preschoolers with disabilities and their families in the least restrictive environment.

Thank you for allowing the public to provide comments on IDEA Part B SPP and for considering CEC's recommendations. If you need additional information please contact Deborah Ziegler, Associate Executive Director for Policy and Advocacy Services at debz@cec.sped.org or 703-264-9406, or Dan Blair, Senior Director for Policy and Advocacy Services at danb@cec.sped.org or 703-264-9403.

Sincerely,



Deborah A. Ziegler
Associate Executive Director
Policy and Advocacy Services

cc: Patty Guard, OSEP
Ruth Ryder, OSEP
Lou Danielson, OSEP