



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 on behalf of the Council for Exceptional Children (CEC), the largest professional organization committed to improving educational outcomes for individuals with exceptionalities. CEC recognizes and supports the importance of the SPP/APR process in ongoing accountability efforts under IDEA. However, CEC has significant concerns about the balance between these increased data collection and reporting requirements and the emphasis IDEA 2004 has placed on increased positive results for children, youth and families.

When IDEA 2004 was enacted, Congress was clear regarding the primary focus of federal and state monitoring is on improving educational results and functional outcomes for all children and youth with disabilities. In the last several years, CEC notes that the careful balance created in IDEA 2004 on results and accountability has shifted leaving efforts toward increased results greatly compromised. State and local resources are being diverted from services to children and youth to the increasing data collection requirements.

Data collected for the APR is collected at the state, district, local program and building levels and thus involves personnel at all levels. Therefore when proposing new data collection requirements, impact at all levels both fiscally and in terms of personnel resources must be considered. CEC notes there have been annual increases in federal data collection requirements since IDEA 2004 was enacted.

Any changes in data collection require at least a year after data system revisions are implemented to ensure accurate data from the local level. The proposed collection calls for changes in data to be available for submission in the February 2010 APR. The time period for this data collection is July 1, 2008 through June 30, 2009. We are almost halfway through that year now. It is unreasonable to expect a state to revise its data collection processes midway through the year in order to meet this proposed change. In fact, for most states, this would be impossible.

The constant changes are costly, both in terms of fiscal resources and personnel at the state and local level, and these result in a constantly shifting baseline, which means that the data cannot be meaningfully compared from year to year. CEC recommends that the Department develop a plan for changes in data collection requirements that takes into account the reality of costs and resources and timelines necessary to ensure data are valid and reliable

As you are well aware, there is no mandatory full funding of IDEA programs including Part B (State Grant and Preschool Special Education), Part C and Part D. In fact, the federal share is far from the original promises the Congress made leaving states and local communities to bear the additional costs of implementing IDEA.

CEC does offer comment on two specific indicators as follows:

Indicator 6 – Preschool Settings

CEC's notes that the version of this indicator proposed in the fall of 2007 has not been adopted. CEC appreciates the Department's decision in this regard. CEC, 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, CEC 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. CEC continues to be concerned that this newly proposed indicator speaks to "children attending" instead of "where children are receiving FAPE." Therefore, **CEC 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, CEC is strongly opposed to the existing data collection process related to Indicator #6. CEC intends to comment on the expected Proposed Information Collection Request addressing the data collection requirements for reporting on preschool settings. CEC continues to hear from our members including parents, providers and administrators at the state and local level on this matter.

Indicator #7 – Child Outcomes

CEC 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, CEC 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.

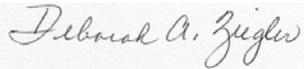
We believe that the intent of IDEA is to use special education services and effective and appropriate instructional practices to best support children's growth and development. Using an appropriate growth model algorithm similar to Summary Statement 1 is a more appropriate method and practice to measuring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

In summary, CEC notes that increased monitoring and data collection is not the only way to enhance positive outcomes for children and youth with disabilities. For example, there is a proposed change in B-13 that requires monitoring data to be collected on whether or not the student was invited to their IEP meeting for transition purposes. The collection of this data does not ensure that any meaningful participation of a student in their IEP process. Instead, CEC strongly recommends that scarce resources be directed at positive change be focused on professional development, technology enhancements and research. For this reason and those stated above, our organizations strongly urge that the Office of Management and Budget not

move forward with these proposed changes or any other changes to the indicators until the full cycle of the current SPP is up for renewal in 2011.

Thank you 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.

Sincerely,

A handwritten signature in cursive script that reads "Deborah A. Ziegler". The signature is written in black ink on a light-colored background.

Deborah A. Ziegler, Ed.D
Associate Executive Director
Policy and Advocacy Services

cc: William Knudsen, OSEP
Ruth Ryder, OSEP
Larry Wexler, OSEP