



National Association of State Directors of Special Education, Inc.

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Melody Musgrove
Director
Office of Special Education Programs
U.S. Department of Education
550 12th Street, SW
Washington, DC 20202

RE: Pending Collection No. 4736; IDEA State Performance Plan/Annual Performance Report (SPP/APR) Performance Indicators

Dear Melody:

The National Association of State Directors of Special Education (NASDSE) appreciates the opportunity to provide comments on the above-referenced proposed data collection changes that were published in the Federal Register on October 17, 2011.

NASDSE represents the state directors of special education – those individuals who are charged with the responsibility for gathering the data, preparing and submitting their state's Annual Performance Report (APR) – appreciates this opportunity to comment on proposed changes to the indicators for Part B of the Individuals with Disabilities Education Act (IDEA).

As you are well aware, our members have been deeply concerned about the time, staff and costs that are associated with collecting data for the 20 Part B indicators. NASDSE has expressed these concerns on behalf of our members numerous times, including every opportunity that has been presented for official written comment as well as through meetings between OSEP staff and the NASDSE Board of Directors. These concerns have only heightened with the onset of the recession in 2008, which has resulted many staff layoffs across the country in both state and local school personnel, leaving a heavy burden on the remaining staff to shoulder both the data collection reporting requirements as well as to continue work to improve outcomes for students with disabilities. NASDSE believes that the focus of IDEA should be on the individual student as the primary goal of IDEA. With the end of the American and Reinvestment Act of 2009 funds and potential large reductions across-the-board in federal funding to states and local communities; we anticipate that the cutbacks will only worsen in the foreseeable future.

For these reasons, NASDSE welcomed the opportunity to collaborate with OSEP through our Project Forum to host a stakeholder meeting in May, 2011 to discuss the indicators and potential changes. Perhaps unanticipated, there was a considerable amount of agreement among all of the participants at the forum around which indicators should be changed. A summary of the forum, including the participants' recommendations, is attached to these comments.

Overall, there was general agreement at the forum that the SPP/APR process should focus on

outcomes. The Part B state-level participants stated that “The process is time intensive and pulls resources from other functions at school, local and state levels, which impacts activities that could improve outcomes.” Another comment was: “There is too much duplication of data collection within the Department of Education.” NASDSE was optimistic that following the forum, OSEP would consider comments such as these and revamp the SPP/APR accordingly.

It is important for us to state upfront that NASDSE and our members are not opposed to data collection. However, we believe that the intent of the SPP/APR process was to focus on outcomes and to provide data to shine a bright light on those areas where improvements are needed and to outline the critical steps needed to make those improvements.

Unfortunately, NASDSE believes that OSEP has fallen short of the goal to significantly simplify the process while maintaining transparency and placing a greater emphasis on outcomes with these proposed changes. NASDSE understands that OSEP maintains that some of the indicators cannot be changed because they are mandated by IDEA. We would take issue with some of the restrictions that OSEP believes hinder its ability to take bolder action. As a result, the changes that OSEP has proposed are extremely limited in scope. Not only are the proposed changes limited, NASDSE believes that many of the proposed changes, e.g., combining indicators gives only the appearance of reducing the burden on states and local districts, while the reality is that the proposed combining of indicators does little to reduce the workload. That is because the data must still be collected.

For example, OSEP estimates that state entities will spend 4,440 hours per state for completing the APR and considers that to be a total reduction of 45,600 burden hours for all states combined. For small states that must complete the same detailed document that larger states complete, that would mean that a state staff of five individuals must work approximately 900 hours each to complete the APR. That equates to 2.5 staff members working approximately full time for an extended period of time to complete the document. This would leave virtually no time left to do the ‘real work’ of providing leadership to improve outcomes.

In sum, while NASDSE welcomes this effort to attempt to streamline the SPP/APR process, we believe that the recommended changes are extremely limited in scope and do not accomplish what we believe to be the overall goals of this initiative: (1) to relieve some of the paperwork burden on states and local school districts; and (2) to redirect the SPP/APR process to focus more on improving outcomes for children and youth with disabilities.

Our comments on the individual indicators and the proposed changes follow.

Indicator 3: While discussions in Congress to reauthorize the Elementary and Secondary Education Act (ESEA) have been underway for some time and the process is not moving forward in a timely manner, it is clear from the proposals that have been put forward – both by the Department of Education and the relevant Congressional committees – that Adequate Yearly Progress or AYP will not be a part of the new legislation. Indicator 3 is not written into the IDEA; therefore leaving this indicator based on an outdated model only means that OSEP will have to revise this indicator in the near future. NASDSE has consistently maintained that OSEP has already changed the indicators (and therefore the data collection and reporting requirements) on a regular basis (almost annually). Even if OSEP does not want to address the impending reauthorization of ESEA by modifying this indicator, the data for Indicator 3 are a part of the current ESEA reporting requirements and does not need to be repeated here. **Therefore, NASDSE recommends that Indicator 3 be removed.** Please note that NASDSE has repeatedly made this recommendation.

Indicator 5: The information for this indicator is also submitted through Table 3. We see no need to resubmit this data here. Therefore, **NASDSE recommends eliminating this indicator.**

Indicator 6: Placement data is also reported in Table 3 and we do not see the value of submitting the same data in two separate places. OSEP should determine its preference for where it would like to have this data reported (in the APR OR in Table 3), but not require states to submit the same data twice. Also, as we have indicated in previous comments, this indicator does not clarify how children who are five years of age and who attend a public kindergarten are to be included in this calculation. Typically, children who attend public kindergartens are not considered to be 'preschoolers.' Given this opportunity to make changes to the indicators, **NASDSE recommends that this indicator be clarified as to whether these children are to be counted in these calculations or not.**

Furthermore, we note that young children participate in pre-school programs at the discretion of their parents. Parents who make these decisions have no knowledge of whether there are other young children with an IFSP or IEP in the same program that their child(ren) is attending. Therefore, it is extremely difficult for states or school districts to set targets for participation in certain settings, when it is the parents and not the school district making the decision about placement and where other factors, such as proximity to the parents' home, religious affiliation or choice of a private home care setting over a school setting may be more important factors for the family to consider.

Indicator 8: This is an indicator that NASDSE and our members have repeatedly expressed concern about to OSEP. Most states do not find the indicator as it is written useful in obtaining valid and reliable input from parents or providing feedback on how the process of ensuring meaningful parent involvement can be strengthened. The biggest complaint by far is that the cost of mailing out parent surveys far outweighs the return. Most surveys are not completed and returned and many, unfortunately, are returned by the postal service because they did not reach the intended individual who was not at the reported address. Furthermore, there is no structure in place to utilize the data effectively. The proposed change – to work with the parent information centers on collecting this data and designing improvement activities – is, in our opinion, not helpful. State education agencies are already involving stakeholders in the APR process. NASDSE and the state directors fully support the need for parent involvement and feedback. Indeed, this is one of the foundational components of IDEA. However, **NASDSE highly recommends that OSEP rework this indicator and we propose the following:**

States will submit information regarding how they address/measure parent involvement in their state and that parents be involved in determining the state's process for gathering this data.

Additionally, states should have the option of working either with their advisory committees or another group of stakeholders to evaluate the data and make recommendations for improving parental involvement if or where the data indicates that improvements are needed. We believe that this change will address both the expressed parent concerns about the need to collect this data and the states' concerns about the current overwhelming cost of collecting this data along with the very limited feedback that is received.

Indicators 9 and 10: NASDSE does not agree at all with OSEP's contention that combining Indicators 9 and 10 into Indicator 9 (a) and 9 (b) reduces the workload on states or local school districts. In fact, it may initially result in more work as states and local school districts will need

to retool their IT systems to reformat this data.

We believe that the proposed Indicator 9 (a) is virtually subsumed into Indicator 9 (b) and therefore **NASDSE strongly proposes the complete elimination of 9 (a)**. The data from 9 (b) will address the factors in the proposed Indicator 9 (a). NASDSE first recommended this change in 2008 when the indicators were undergoing rewriting.

We are very pleased that OSEP has proposed eliminating the requirement of addressing underrepresentation. This is a considerable change that is long overdue. It has never made sense that state and local agencies were put in a position of having to justify the underrepresentation of minorities in low-incidence disability categories, where the disability is clearly due to factors that school personnel cannot alter (e.g., deafness; blindness/low vision, etc.).

Indicator 13: We continue to take issue with the requirements under this indicator that are 'process heavy' and require continuing monitoring by states of all IEPs for students who are preparing for postsecondary transition. The importance of preparing for transition at an early age cannot be overstated. At the same time, this indicator is process-laden and puts the emphasis on repeated review of documents as opposed to ensuring that the actual transition services are delivered in a timely, appropriate manner and that the student and his/her parent(s) are involved in the planning process. **We urge OSEP to take another look at this indicator to pare down the paperwork and focus this indicator on ensuring that a transition plan is in place in a timely manner, that the student is involved and the documentation is appropriate for the student.**

Indicator 14: Student outcomes are what IDEA is all about. Collecting information about post-school outcomes is critical to understanding if all of the educational supports and services provided to a student were helpful. Nevertheless, the inability to compare post-school outcomes for students with disabilities to students without disabilities dilutes the usefulness of this indicator in determining success.

Furthermore, OSEP recently changed this indicator and in the process made it cumbersome, unrealistic and establishes a rank order of outcomes that may or may not be appropriate for the individual student. In doing so, the federal government imposes a value system for students, without taking into account the student's needs and wants. For example, Indicator 13 tells states that it must review annual transition goals for students. Yet in Indicator 14, it tells the states to rank the student's outcomes according to what the federal government deems to be acceptable outcomes. This indicator implies that it is 'better' for a student be enrolled in higher education than to be employed full-time, regardless as to which is more appropriate for the individual student. 'Some other post-secondary education or training program' is deemed less desirable than the other two options. NASDSE believes that since the intent of IDEA is to focus on the INDIVIDUAL student that any one of these outcomes might be of equal value, depending on the student's needs AND the transition plan that the student helped to develop under Indicator 13. **We therefore urge OSEP to eliminate the three-step calculation required for this indicator and allow states and local school districts to count as equal success that the student has achieved the outcome that is most appropriate for the individual student.**

Indicator 15: We are disappointed that OSEP has not proposed reducing the documentation for this indicator, which in many ways is duplicative of the other indicators. For example, the chart that states are required to complete asks for such things as "number of LEAs issued findings." This information must be reported for the individual indicators so why must a state spend time

resubmitting the same data? We struggle to understand how re-stating the same data will help OSEP in its analysis of the APR. What is important is that noncompliance is identified and corrected and these issues are to be addressed within the body of each individual indicator.

NASDSE strongly recommends that OSEP review this indicator, especially the Worksheet, for duplication and for means of reducing the paperwork burden as part of this review process.

Indicators 16 and 17: NASDSE agrees with OSEP's recommendation to eliminate these two indicators since the information is being collected elsewhere.

Indicators 18 and 19: NASDSE's comment here is similar to the comment above for Indicators 9 and 10 (e.g., combining the current Indicators 9 and 10 into a single indicator with two parts). Simply combining two indicators into a single indicator with two parts does not reduce the workload or paperwork burden. In addition, as we have noted in previous comments to OSEP, there is no evidence-based research indicating what acceptable targets for these two indicators might be. IDEA requires state education agencies to have mediation and resolution processes in place, but their viability is wholly dependent on **ALL** of the parties involved. While it is the responsibility of the SEA to ensure that both SEA and LEA staff are appropriately trained to participate in these sessions, the SEA has absolutely no control over the other potential parties to mediation or alternate dispute resolution. Both mediation and resolution sessions are completely voluntary on the part of parents. We do believe that it is a compliance issue to ensure that the SEA has appropriate processes in place, but that the SEA should not be required to set targets for successful completion of mediation or resolution sessions.

NASDSE therefore recommends that while states can collect these data, that the requirement to set targets for successful completion of either mediation or resolution sessions be eliminated.

Indicator 20: NASDSE agrees with the proposed change for this indicator.

Again, NASDSE thanks you for this opportunity to comment on proposed changes to the SPP/APR indicators. We believe that these recommended changes will reduce duplication of data collection, put a focus on outcomes while providing more time and resources for improving services for children and youth with disabilities.

Please feel free to contact me if you have any questions about our comments at bill.east@nasdse.org.

Sincerely,



Bill East, Ed.D.
Executive Director