



**The Council of Parent Attorneys and Advocates, Inc.**  
*Protecting Rights. Creating Opportunities. Changing Lives*

May 18, 2026

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

RE: ED-2026-SCC-0661-0001 - *Submitted via regulations.gov*

Dear Mr. Santy,

As a leading authority on special education and a preeminent voice for our nation’s children with disabilities and their families, the Council of Parent Attorneys and Advocates (COPAA) is to writing to provide recommendations to the Office of Special Education (the Department) regarding proposed changes to the Individuals with Disabilities Education Act (IDEA) Part B State Performance Plan (SPP) and Annual Performance Report (APR). For more than ten years, COPAA has consistently commented when the Department proposed changes to the SPP/APR<sup>1</sup> to encourage the federal government to fulfill its obligations under IDEA. COPAA has successfully litigated<sup>2</sup> to ensure that all students with disabilities, without regard to race, are correctly identified, placed in appropriate educational settings, not subjected to inappropriate student discipline, and have their civil and educational rights upheld.

In summary, we oppose any effort to reduce the amount of information available to parents and decision makers. We are particularly concerned about proposals that would conceal the adverse racial impact of special education decisions at the State and local level. Making more detailed information available to all stakeholders about how students with disabilities are treated and relevant trends is critically important. Thus, we support the Department’s proposal to the extent that it would provide the public with *more* information.

COPAA opposes proposals that reduce the amount of information State education agencies (SEAs) provide in the SPP/APR, including by removing disaggregation based on race/national origin and disability category and the related removal of state-set targets related to these indicators. This information - as required to be provided under the current SPP/APR and as required by Congress - helps ensure the Department effectively monitors State compliance with IDEA. It also allows parents, advocates, researchers, educators, and other stakeholders to assess whether all students, regardless of race/national origin and disability classification, are equally benefiting from IDEA’s promise of a free appropriate public education (FAPE) for each child with a disability. In addition, by requiring SEAs to “show their work” – reporting on the interim calculations used to reach their

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<sup>1</sup> See: COPAA letters to the Office of Special Education and Rehabilitative Services and the Office of Special Education, 2014, 2017, 2018, 2020, 2023, respectively.

<sup>2</sup> *Council of Parent Attorneys and Advocates v. DeVos*, 365 F. Supp. 3d 28 (D.D.C. 2019) at: [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2018cv1636-31](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2018cv1636-31).

conclusions – the current SPP/APR promotes confidence in the accuracy of the information supplied and allows deeper dives into responses that could be tainted by bad data or erroneous computations.

## **Background**

For more than twenty years IDEA has specified three required monitoring priorities in the SPP/APR: 1) provision of FAPE in the least restrictive environment, 2) state exercise of general supervisory authority which includes Child Find, monitoring, use of resolution session, mediation, voluntary binding arbitration, and a system of transition services; and, 3) disproportionate representation of racial and ethnic groups in special education, to the extent the representation is the result of inappropriate identification.<sup>3</sup> The statute, as written by Congress, makes clear that the Secretary is required to “*monitor states and require states to monitor local education agencies (LEA)...*using quantifiable indicators...to adequately measure these priorities.”<sup>4</sup> This instruction from Congress to the Secretary of Education includes two parts: the requirement for the Secretary to monitor states and to ensure states monitor LEAs with indicators that measure the priority. The Department has done so through the development of the SPP whereby each state must establish measurable and rigorous targets for the compliance indicators.<sup>5</sup> The annual state reporting of performance is undertaken through submission of the APR to the Department via the Results Driven Accountability (RDA) system.<sup>6</sup> While changes and adjustments can be made to the SPP/APR, it is incumbent that the Department also ensure that every proposed change meets all of IDEA’s requirements.

## **Recommendations**

### **Indicator 1- Percent of youth with Individualized Education Programs (IEPs) exiting special education due to graduating with a regular high school diploma.**

The Department proposes updates to Indicator 1 that will improve State reporting on and adds new required communication about accessing a regular diploma.

**Response:** COPAA supports the revisions that will improve State reporting on and communication about accessing a regular diploma. The additions will bring transparency to the graduation process for youth with disabilities. By detailing these requirements, the Department can ensure students and parents are not caught off guard by diplomas that lack the same weight as a regular diploma awarded to students without disabilities. This information will help parents advocate in IEP meetings so that students are not cut off from important coursework and the support needed to meet the State’s diploma requirements. It also helps ensure students do not exit school with a substandard diploma that is not recognized by employers, colleges, the military, Pell grants, or career training programs.

We also recommend that the Department add a new Indicator regarding graduation as follows:

### **1B- The Gap in the 4-year adjusted cohort graduation rate (ACGR) for children with IEPs and all students.**

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<sup>3</sup> 20 U.S.C. §1416(a)(3), IDEA §616(a)(3). Each state must have in effect policies and procedures designed to prevent the inappropriate over-identification or disproportionate representation by race and ethnicity of children as children with disabilities (20 U.S.C. §1412(a)(24), IDEA §612(a)(24)).

<sup>4</sup> §1416(a)(3)(A), §1416(a)(3)(C)

<sup>5</sup> See: COPAA letters to the Office of Special Education and Rehabilitative Services and the Office of Special Education, 2014, 2017, 2018, 2020, 2023, respectively.

<sup>6</sup> The Individuals with Disabilities Education Act, Part B: Key Statutory and Regulatory Provisions, Congressional Research Service, (August 2024), [https://www.congress.gov/crs\\_external\\_products/R/PDF/R41833/R41833.21.pdf](https://www.congress.gov/crs_external_products/R/PDF/R41833/R41833.21.pdf)

**Rationale:** This addition would provide additional details for stakeholders on how students with disabilities are performing *compared to all students* – a critical piece of information currently not available in the SPP/APR that would complement the gap data provided in Indicator 3D (Gap in proficiency rates for children with IEPs and all students against grade level academic achievement standards). States may draw data for reporting from the data reported to EDFacts.

### **Indicators 4A and 4B- Suspension/Expulsion of All Children with IEPs, Suspension/Expulsion Race/Ethnicity**

The Department is proposing to eliminate Indicators 4A and 4B.

**Response:** COPAA opposes the elimination of Indicators 4A and 4B. Removing these reporting requirements will vitiate the Department’s ability to perform its oversight function as required by IDEA and keep important data out of the SPP/APR.

**Rationale:** The Department’s proposal to stop requiring States to include Indicators 4A and 4B in the SPP/APR would sabotage the oversight and monitoring role required in IDEA including the States’ requirement to “examine whether there are significant discrepancies among LEAs in the State or compare the rates of long-term suspensions and expulsions of children with disabilities to those rates for non-disabled children within the LEAs.”<sup>7</sup> More specifically, with the removal of these indicators, States would no longer be required to set targets for compliance which conflicts with IDEA’s requirements and makes children with disabilities -whose ethnicity or race is other than White- invisible in the data.

IDEA is explicit that the Secretary of Education is required to both “monitor states and require states to monitor LEAs, using quantifiable indicators with adequate measurement”<sup>8</sup> of the priorities, removing the indicators and eliminating state targets contradicts both the letter and spirit of IDEA. Additionally, the Department argues that access to data under the Civil Rights Data Collection (CRDC) provides an adequate proxy for this data.<sup>9</sup> CRDC data is not collected annually, not all schools submit data to the CRDC<sup>10</sup>, there is no requirement for schools to submit and disaggregate data [for IDEA-eligible children] by disability category, IDEA’s monitoring requirements do not include or require the use of the CRDC, and, the Department currently has closed the CRDC collection system with a note that pending collection is “tentative”.<sup>11</sup>

Given the specificity of the statute and the longstanding recognition that States must support LEAs in identifying and addressing the disproportionate representation of students with disabilities, it is unconscionable that the Department is now proposing to eliminate these critical indicators.

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<sup>7</sup> 20 U.S.C §1416(a)(3), and §616(a)(3), §612(a)(22), and 81 FR 92376

<sup>8</sup> 20 U.S.C §1416(a)(3), and §616(a)(3)

<sup>9</sup> See: Docket No.: ED-2026-SCC-0661, Proposed Revisions to FFY 2026-FFY 2031 Part B SPP/APR: Explanation and Rationale (revised March 2026), Indicator 4B: Suspension/Expulsion Race/Ethnicity, <https://www.federalregister.gov/documents/2026/03/23/2026-05617/agency-information-collection-activities-comment-request-idea-part-b-state-performance-plan-spp-and>

<sup>10</sup> In 2020-21, the U.S. Department of Education reported that some data was “suppressed or missing” due to certain schools, and that “Tribal schools operated by the Bureau of Indian Education (BIE) and schools in U.S. territories (except Puerto Rico) are generally not required to participate”. These schools are required to participate in the SPP/APR process as recipients of IDEA funds. See: <https://www.bie.edu/DPA/SpecialEducation> and <https://sites.ed.gov/idea/spp-apr-letters>

<sup>11</sup> See: <https://crdc.communities.ed.gov/>

## **Indicator 5 – Percent of children with IEPs aged 5 who are enrolled in kindergarten and aged 6 through 21 served**

The Department proposes to “change aggregation [of LEA data] by settings to obtain more information and ensure that data element is not driving student placement” and offers a series of directed questions.

COPAA is responding to the directed question where the Department asks: How would the data collection and reporting processes need to change to report the count of school-aged children receiving special education and related services in the regular class using an expanded breakdown of time spent in the regular class (e.g., 40% through 49% of the day, 50% through 59% of the day, 60% through 69% of the day)?

**Response:** It is unclear what process the Department may undertake in an effort to “expand the breakdown of time spent in the regular class” and whether such process will be consistent with the requirements of the law, how it will communicate any change to States and LEAs in a way that will achieve the stated goal to “ensure that data [LRE] element is not driving student placement” and, how the Department will clarify the setting and which students the [proposed new] 40-49% would include?

As COPAA commented in 2019 - when the Department considered the release of guidance to regarding Least Restrictive Environment (LRE)- [any guidance or policy change must not] “conflict with existing Department guidance, IDEA’s regulations, [or] potentially IDEA’s statutory mandates...any guidance that would weaken existing LRE policies would expose the Department to potential legal challenges pursuant to the Administrative Procedures Act (APA).”<sup>12</sup> We expect the Department to carefully consider any changes to Indicator 5 to ensure such proposals stay within the scope of the law.

## **Indicators 8- Parent Involvement and Indicator 14- Post-School Outcomes**

The Department proposes to improve how data on parent involvement are collected, share the survey tool, and describe how parent data are used to improve services and outcomes for children with disabilities. The Department also proposes to remove the requirement that States include an analysis of the extent to which the demographics of the children for whom parents responded are representative of the demographics of children receiving special education services.

**Response:** COPAA supports the proposal to require States to (1) describe how the data on parent involvement are collected; (2) provide a link to the survey, if a survey is used to collect the data for this indicator, and (3) describe how parent involvement data are utilized to improve services and outcomes for children with disabilities.

COPAA opposes the removal of the requirement [in Indicators 8 and 14] that States must include an analysis of the extent to which the demographics of the children for whom parents responded are representative of the demographics of children receiving special education services.

**Rationale:** COPAA supported the Department’s proposal in 2017 *to add the requirement to Indicators 8 and 14 that States must include an analysis of the extent to which the demographics of the children for whom parents responded are representative of the demographics of children*

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<sup>12</sup> See: COPAA Letter to Devos, July 18, 2019, [https://cdn.ymaws.com/www.copaa.org/resource/dynamic/blogs/20200131\\_130244\\_28668.pdf](https://cdn.ymaws.com/www.copaa.org/resource/dynamic/blogs/20200131_130244_28668.pdf)

*receiving special education services* because it supports the inherent right of parents to be equal partners with the school.<sup>13</sup> As we noted then and because all families matter, “Vulnerable populations of students with disabilities [and their families] who may also be poor, or an English Learner, from a minority community or a combination thereof must be adequately represented in the data collected.”<sup>14</sup> As noted by Congress, “the education of children with disabilities can be made more effective by . . . strengthening the role and responsibility of parents and ensuring that families . . . have meaningful opportunities to participate in the education of their children at school and at home.”<sup>15</sup> By eliminating this requirement, the Department effectively permits States to marginalize and ignore the very parents whose perspectives are essential to the process. Consequently, States will lack the data necessary to develop and provide targeted technical assistance, training, and support.

**Indicator 9- Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.**

The Department proposes to remove the requirements that: (1) States include the definition of “disproportionate representation”; and, (2) provide the number of districts that met the State-established n and/or cell size (if applicable) for one or more racial/ethnic groups identified with disproportionate representation of racial and ethnic groups in special education and related services. States will still be required to report the number of districts identified with disproportionate representation of racial and ethnic groups in special education that is the result of inappropriate identification. The Department also proposes to remove the requirement that States provide detailed information about the correction of noncompliance and only provide that information in Indicator 18 (General Supervision).

**Response:** COPAA supported the Department’s proposal in 2017 to require States to use a minimum N/cell size for this indicator<sup>16</sup> and opposes the reversal of this requirement as well as the removal of the State’s reporting its definition for disproportionate representation and the number of districts that met the state-set N/cell size for one or more racial/ethnic groups in special education.

**Rationale:** Making these alterations to Indicator 9 will hamper the Department’s ability to perform its oversight function as required by IDEA and will also keep important data out of the SPP/APR. As noted in the discussion of Indicators 4A and 4B, IDEA requires States to identify LEAs with “disproportionate representation” of racial and ethnic groups in special education and related services “that is the result of inappropriate identification” and also requires the Secretary to monitor states. Removing these requirements will result in increased inequity and in certain groups of students not receiving the services they are entitled to based on their race or ethnicity.

Regarding the recommendation to remove the information about the correction of noncompliance from Indicators 9, 11, 12, 13 and include that information ONLY in Indicator 18 (General Supervision), COPAA recommends leaving that information with the relevant indicator. Advocates, researchers, and policymakers prefer to know how issues of noncompliance are being addressed according to and included with the indicator in which noncompliance was reported. Burying the

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<sup>13</sup> *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 438 U.S. 176, 208 (1982)

<sup>14</sup> See: COPAA Letter to Washington, (May 18, 2017) re: Part B- ED-2017-ICCD-0010

<sup>15</sup> §1400(c)(5). *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 535 (2007)

<sup>16</sup> See: COPAA Letter to Washington, (May 18, 2017) re: Part B- ED-2017-ICCD-0010

follow-up information provided in a subsequent reporting year on the SPP/APR makes it more difficult to track progress by indicator.

**Indicator 10- Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.**

The Department proposes to eliminate Indicator 10.

**Response:** COPAA opposes the elimination of Indicator 10.

**Rationale:** Removing these reporting requirements will hamper the Department’s ability to perform its oversight function as required by IDEA and keep important data out of the SPP/APR. See our comments regarding the elimination of Indicators 4A and 4B as the basis for our recommendation to also maintain Indicator 10. Additionally, the proposal to eliminate reporting of Disproportionate Representation also stands in direct conflict with the requirements of IDEA as well as more than 20 years of practice in the SPP/APR. Copious research as well as most recent data (see table below showing IDEA 2024 child count) make clear that *there is disproportionate representation* by race/ethnicity in special education identification. Indicator 9 does not provide sufficient detail to address this issue; thus Indicator 10 must not be eliminated.

<b>Race/ethnicity</b>	<b>Percent IDEA School Age</b>	<b>Percent Nation*</b>
White	42.9	44.6
Hispanic	30.4	29.0
Black	16.9	14.9
Asian	2.9	5.4
Two or more races	5.4	5.0
American Indian/Alaska Native	1.2	0.9
Native Hawaiian/Pacific Islander	0.3	0.4

\*Source: <https://nces.ed.gov/programs/coe/indicator/cge/racial-ethnic-enrollment>

**Indicators 11, 12, 13-** See response regarding reporting issues of noncompliance under Indicator 9.

**Indicator 14- Post School Outcomes**

The Department proposes to remove the requirement that States must include an analysis of the extent to which the response data are representative of the demographics of youth who are no longer in secondary school and had IEPs in effect at the time they left school.

**Response:** COPAA opposes the elimination of this requirement with regard to understanding who transition-age youth are.

**Rationale:** While we agree on the importance of reporting on how post-school outcome data is used to improve educational results and functional outcomes for all youth with disabilities, we believe the rationale used here is flawed. If demographic analysis is eliminated, States will not have a clear picture of who their youth with disabilities are, consistent with demographic data for post-school youth and young adults that are or are not having positive post-school outcomes. States and districts work with a range of stakeholders and partners to set state targets in the SPP and to also survey

transition-age youth<sup>17</sup> and they use these data to improve services to transition-age youth, identify and provide training and technical assistance to IEP teams, and more.<sup>18</sup> As noted by the Massachusetts Department of Education, Indicator 14B “is one way to help us understand whether students' education prepared them for adult life.”<sup>19</sup> New York State Education Department reports that these data “help [the State and districts] gain a deeper understanding of current information and trend data.”<sup>20</sup> Given the need to ensure that State and district transition programs are designed to support all students in their goal(s) related to post-secondary education, career training or other post-school endeavors COPAA encourages OSEP to maintain all requirements under Indicator 14B.

In conclusion, the Department’s proposed changes threaten to restrict data accessibility. COPAA stands in firm, uncompromising opposition to any effort that reduces the volume, detail, or frequency of information available to parents and decision-makers.

Sincerely,



Denise Marshall  
CEO

COPAA is an unparalleled peer-to-peer network that enables parents, family members, attorneys, special education advocates, and related professionals to engage in protecting the legal and civil rights of students with disabilities and their families. As the nation's leading authority on special education law, we support parents and mentor those who defend students’ educational rights. Our members are also a proud part of the disability community. We provide knowledge exchange, research, training, mentoring, community building; elevate all voices to ensure equitable access to an education; help parents participate as meaningful partners in their child’s education, and ensure the laws are implemented; provide legal opinions that open doors for students and shape laws; and, we influence policies that support children and their families.

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<sup>17</sup> See list of stakeholders and partners, Montana State Education Agency, State Performance Plan, FFY 23, (pg. 49), <https://opi.mt.gov/Portals/182/Page%20Files/Special%20Education/Annual%20Performance%20Report/SPP.APR/SPPPART%20B%20FFY%202023-24.pdf?ver=2025-02-19-100045-573>

<sup>18</sup> See examples provided by the National Technical Assistance Center on Transition: The Collaborative (NTACT:C) at: <https://transitionta.org/>, and the IDEA State Performance Plan Stakeholder Engagement at:

<https://www.nysed.gov/sites/default/files/programs/special-education/state-performance-plan-indicator-14-presentation-slides.pdf>

<sup>19</sup> <https://www.doe.mass.edu/specialeducation/reporting/spp-apr/indicators/indicator14/>

<sup>20</sup> <https://www.nysed.gov/sites/default/files/programs/special-education/state-performance-plan-indicator-14-presentation-slides.pdf>