

November 13, 2018

Johnny Collett
Assistant Secretary
Office of Special Education and Rehabilitative Services
400 Maryland Ave., SW
Washington, DC 20202-7100

RE: Results Driven Accountability. Submitted via email to: RethinkRDA@ed.gov

Dear Assistant Secretary Collett:

The Council of Parent Attorneys and Advocates (COPAA) is writing today on behalf of the 6.8 million students with disabilities under the Individuals with Disabilities Education Act (IDEA) and over 700,000 students with 504 plans under Section 504 of the Rehabilitation Act of 1973 and their families. COPAA appreciates the opportunity to provide recommendations to the Office of Special Education and Rehabilitative Services (OSERS) on Results Driven Accountability (RDA) and its related Results Matrix.

Over the past several years, OSERS and its Office of Special Education (OSEP) has spent valuable time and resources to revise and refine implementation of the compliance and monitoring system required by the IDEA including the Act's purpose(s) – that federal and state monitoring activities shall be on “improving educational results and functional outcomes for all children with disabilities.”¹ Additionally, COPAA has provided significant input as to how State determinations are made under IDEA's monitoring and compliance system and how OSEP could seek to balance both a focus on compliance with performance.

COPAA has consistently encouraged OSEP to ensure that state monitoring is rigorous, meaningful and effective in moving state planning and implementation to close gaps in student achievement and performance results. However, OSERS has not implemented RDA in an effective manner and disturbingly, the monitoring and compliance system continues to lack a rigorous focus on both the progress and academic achievement of students with disabilities.

This letter intends to respond to three distinct areas of inquiry by OSERS:

- **State Performance Plans/Annual Performance Reports (SPP/APRs);**
- **Determinations; and**
- **Differentiated Monitoring and Support.**

State Performance Plans/Annual Performance Reports (SPP/APRs)

When OSEP added the State Systemic Improvement Plan (SSIP) as a new indicator under the SPP and asked States to implement their SSIP in 2015, OSERS indicated it was intended to provide “detailed data and infrastructure analysis that will guide the development of strategies to increase the state’s capacity to structure and lead meaningful change in LEAs.” As part of the public input process to developing criteria for the SSIP, COPAA had urged OSEP to:

...reinforce to states] that the SSIP should first focus and invest resources on the SPP/APR indicators (whether they are compliance or results focused or both) where data show that students are not making measurable gains and that state-identified targets are not being met. If, after fully demonstrating how the SSIP will implement strategies – to improve outcomes on the current indicators – the state chooses to include an outcome that is not an indicator, the state must clarify how it will scale up evidence-based interventions to improve outcomes on a large scale for all IDEA students... State investments in the implementation of the SSIP must first intend to create and generate better outcomes for IDEA students as required under the law and should not detract from this goal.ⁱⁱ

Fast forward to 2018, the same recommendations still ring true, especially given the inadequate impact both the SSIP and the Results Matrix have on impacting academic outcomes for students with disabilities. OSEP must assure States focus directly on ways to improve student outcomes and performance via the SSIP. Any other emphasis under RDA is inconsistent with the intent of monitoring under IDEA and is a waste of precious time and resources.

Determinations

In past communications with OSEP regarding the design and implementation of RDA, COPAA has recommended the following:

...In making determinations, the [RDA] Results Matrix...must weigh *both* progress made *and* achievement toward meeting the State’s target. Progress alone is insufficient as a measure of performance... States with very poor performance will need to show how they intend to help students make *more progress* to achieve targets.ⁱⁱⁱ

COPAA also said:

OSEP *must* consider participation *and* proficiency on both statewide assessments (Indicator 3) *and* National Assessment of Educational Progress (NAEP) in reading/language arts and math. Including only one of these performance measures (state assessments or NAEP) would present only a partial picture of how students with disabilities are performing within the state. This is consistent with the seven framing considerations developed by the [NCEO workgroup](#) and funded by OSEP. COPAA encourages OSEP to use the considerations in formulating the Results Matrix.

And finally, “... COPAA sees the potential for OSEP to help states find meaningful ways to document progress of student groups in [at least] reading and math and to help reinforce more intensive provision of appropriate instructional supports and services to students and training to teachers.”^{iv}

To date and to COPAA's disappointment, the SSIP, the Results Matrix and RDA overall have not adequately required states to weigh both *progress and achievement of students* with disabilities in state planning and monitoring. In fact, the Results Matrix falls incredibly short because of defects in: how it measures performance; the inability of a state to get credit for student growth; the students it excludes; and, the over-reliance on state rankings for more than one element. Specifically, the Results Matrix is flawed because it:

- **Does not measure performance on general state assessments.** Since 2015, no element is included to address the performance of students with disabilities on the state's general assessment although the Every Student Succeeds Act (ESSA) requires states to establish ambitious long-term goals and measurements of interim progress for the performance of students with disabilities on state assessments in reading and math. The Results Matrix falls short by not requiring a mirror focus of student performance on state assessments which then allows states to ignore the performance of students with disabilities on reading and math assessments.
- **Does not measure either *performance or participation* of students with the most significant cognitive disabilities who are assessed via a state's alternate assessment on alternate academic achievement standards.** These students – approximately 10 percent of students with disabilities – are completely ignored in RDA.
- **Does not provide recognition of growth (i.e., improvement, gap closing) within each state from year-to-year in performance on state assessments.** ESSA provided states the opportunity to use growth as an indicator in state accountability systems. RDA should do the same.
- **Does not measure the performance gap between students with disabilities and students without disabilities.** Closing the performance gaps between students with disabilities and those without disabilities, as well as other historically poor performing subgroups, is the primary purpose of ESSA and is a shared goal of IDEA.^v Failing to include the performance gap in RDA determinations does nothing to assist in gap-closing.
- **Relies too heavily on the National Assessment of Educational Progress (NAEP).** The NAEP has limitations in how it should be used because:
 - It is given bi-annually;
 - The cohort of students does not include students taking the alternate assessment on alternate achievement standards;
 - It is only reported at the state level;
 - It relies on a State ranking system which plays no role in State ESSA accountability systems or in IDEA determinations.

In 2015, the elimination of elements measuring the proficiency gap in reading and math within each state increased the relative weight given to NAEP within the Results Matrix. It also eliminated the only element that measured within state performance of students with disabilities compared to all students.

- **Uses a different metric for graduation.** ESSA requires states to use the Four-Year Adjusted Cohort Graduation Rate (ACGR) for goal setting and accountability purposes (identifying schools in need of improvement). States must use the ACGR and the graduation goals in the state ESSA plan for their State Performance Plan and Annual Performance Report. The RDA Matrix uses an event rate for measuring graduation. COPAA has previously recommended that RDA measurement should be consistent with ESSA and specifically mentioned: “Post-school outcome data alone is not an adequate measure because states use sampling methodology that is inconsistent and may not yield valid and reliable student outcome data.”^{vi}
- **Relies too heavily on scoring based upon rank ordering of states.** Half of the possible points in the matrix are based on how a state ranks among all states on one element. This approach results in one-third of states always *failing to earn any points* regardless of how students with disabilities perform compared to students without disabilities or how much improvement and/or gap closing has occurred.

While 22 States were identified in 2018 under the ‘meets requirements’ designation for IDEA Part B determinations, it is clear that this is largely due to the Results Matrix’ lack of focus on the performance and outcomes of students with disabilities as compared to their same age peers.^{vii} In Connecticut for example, students with disabilities scored below 20% on the Smarter Balanced Assessment in reading while students without disabilities scored above 60%. The fact that OSEP is sending a signal to Connecticut that a 40-point gap in student performance ‘meets requirements’ is an affront to every child with a disability and their tax paying families.^{viii} It is imperative that OSEP address these egregious flaws in RDA methodology.

Differentiated Monitoring and Support

As indicated, the Results Matrix is not designed nor is it used adequately to help states identify LEAs that need intervention as well as technical assistance and support. COPAA encourages OSEP to improve RDA in ways that will require, promote and incentivize states to more accurately measure, report and seek help to assure students with disabilities meet the meaningful academic outcomes expected under both ESSA and IDEA. OSEP should also continue to fund and require States to work with the National Center for Systemic Improvement (NCSI) whose purpose is help States to “accurately assess needs, priorities, and capacities of program infrastructures; engage in strategic, collaborative, and integrated improvement planning; and implement carefully selected evidence-based practices.”^{ix}

Finally, stakeholders, including parents, continue to have too little information about the process to evaluate both LEA and state performance under IDEA. As reported and recommended by the National Council on Disability, OSERS must:

- Provide clear instructions that enable stakeholders to locate OSEP’s response to each state’s SPP/APR and any actions required by the states; and,
- Provide links to the information each state is required to make available in OSEP’s SPP/APR online portal to improve the public’s access to LEA determinations.^x

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Too many generations of students with disabilities continue to languish while OSEP fails in its duty to monitor and enforce federal law. COPAA appreciates your attention to this issue and your consideration of our recommendations.

Sincerely,



Denise Marshall
Executive Director

COPAA is an independent, nonprofit organization of parents, attorneys, advocates, and related professionals. COPAA members nationwide work to protect the civil rights and secure excellence in education on behalf of children with disabilities. COPAA's mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment, higher education and lifelong learning, as well as full participation in his or her community.

ⁱ See: 20 USC 1416 (a) (2) (A); 34 CFR §§300.600-300.604

ⁱⁱ See: COPAA Letter to Washington, April 24, 2014

ⁱⁱⁱ See: Letter to Ringer, April 24, 2014):

^{iv} Ibid.

^v See: 20 USC 1416 (a) (2) (A); 34 CFR §§300.600-300.604

^{vi} See: Letter to Ringer, April 24, 2014

^{vii} See: U.S. Department of Education IDEA Part B and Part C ratings summary, 2018 at <https://www2.ed.gov/fund/data/report/idea/ideafactsheet-determinations-2018.pdf>

^{viii} See: The CT Mirror: The State of CT Public Schools in Charts, 2017 at: <https://ctmirror.org/2017/09/28/the-state-of-cts-public-schools-in-charts/>

^{ix} See: U.S. Department of Education funded National Center for Systemic Improvement at: <https://ncsi.wested.org/>

^x See: Federal Monitoring and Enforcement of IDEA Compliance, 2018, National Council on Disability at: https://ncd.gov/sites/default/files/NCD_Monitoring-Enforcement_Accessible.pdf