

General

Comment: None.

Discussion: OSEP has revised the general instructions regarding stakeholder involvement for 1820-0578: Part C SPP/APR based on a comment received during the 30-day comment period because the commenter requested clarification of a requirement. Therefore, OSEP has made a conforming revision to the general instructions for 1820-0624: Part B SPP/APR.

Section 2.d.v. states -

2) An introduction, with sufficient detail to ensure that the Secretary and the public are informed of and understand the State's systems designed to drive improved results for children with disabilities and to ensure that the State educational agency (SEA) and local educational agencies (LEA) meet the requirements of IDEA Part B. This introduction must include descriptions of the State's:

d. Stakeholder Involvement: The mechanisms for soliciting broad stakeholder input on the State's targets in the SPP/APR and any subsequent revisions that the State has made to those targets, and the development and implementation of Indicator 17, the State's Systemic Improvement Plan (SSIP). This must include:

v. Detailed information about where OSEP can obtain documentation for completed activities.

The intent of section 2.d.v. was to ensure that a State maintains documentation of the stakeholder involvement that OSEP could review upon request. However, after further reviewing general instructions section 2, we believe it is implicit that the State documents its stakeholder involvement and specifically includes an introduction with sufficient detail to ensure that the Secretary and the public are informed of and understand the State's systems designed to drive improved results for children with disabilities and their families and to ensure that the SEA and LEAs meet the requirements of IDEA Part B.

Changes: OSEP has removed general instructions section 2.d.v.

Indicator 1

Comment: Comments received were mixed with differences of opinion among States and among advocacy organizations. Commenters supporting the proposed revisions appreciated OSEP's discussion in response to the comments received on the 60-day Federal Register notice(FRN). Commenters who continue to oppose the proposed revisions cited concerns regarding the usefulness of measuring the percent of youth with individualized education programs (IEPs) exiting from high school with a regular high school diploma using data collected through the IDEA section 618 exiting data collection, and the loss of context provided when using the 4- or 6-year adjusted cohort graduation rate (ACGR) as the data source. Commenters opposing the revision also noted that using section 618 exiting data as the data source eliminates the ability to compare graduation data between students with disabilities and students without disabilities. One commenter also note that using a "percent of exiters" calculation, instead of ACGR data, for Indicator 1 will be

confusing for stakeholders at all levels and will make the data meaningless for driving improvement.

Discussion: While OSEP agrees about the importance of being able to compare students with disabilities to all students and understands that the ACGR and section 618 exiting data are reported from the same system, OSEP will maintain IDEA section 618 exiting data as the data source for Indicator 1. Under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), States may request waivers related to specific requirements. The IDEA, on the other hand, generally does not authorize waivers of key provisions of the law relating to the rights of children with disabilities. Therefore, the use of IDEA section 618 data, as opposed to ACGR data, as the data source for Indicator 1 will enable the Department to compare the graduation rates of students with disabilities across all States, regardless of whether any State has been granted a waiver under ESSA.

Changes: None.

Comment: One commenter understands and appreciates OSEP's reasoning for using IDEA section 618 exiting data as the data source for this indicator but proposed that OSEP add a sub-indicator to capture the gap between the 4-year ACGR for children with IEPs and that for all students. The commenter stated that adding this element would maintain focus on the ACGR, align with ESSA accountability and report cards, and serve as a companion element to new Indicator 3D, which measures the gap between the proficiency rate for children with IEPs and that for all students against grade level academic achievement standards.

Discussion: OSEP agrees with the commenter that it would be beneficial to measure the gap between the graduation rate of children with disabilities and the graduation rate of all students. However, OSEP will maintain the single indicator for Indicator 1. Under ESSA, States may request waivers related to specific requirements under the law, whereas the IDEA generally does not authorize waivers of key provisions of the law relating to the rights of children with disabilities. Therefore, the use of IDEA section 618 data, as opposed to ACGR data, as the data source for Indicator 1 will enable the Department to compare the graduation rates of students with disabilities across all States, regardless of whether any State has been granted a waiver under ESEA.

Changes: None.

Indicator 2

Comment: Some States continue to oppose using IDEA section 618 exiting data to calculate the percent of youth with IEPs dropping out of high school. Those commenters believe that the power of the existing metric is in the ability to compare a dropout rate for students with disabilities to the dropout rate for other subgroups. The commenters suggested that integrating special education data with data for all students is best done when metrics are the same, *i.e.*, using the same dropout rate that is required in the ESSA report card. Additionally, commenters believe that using section 618 exiting data fails to answer the question “how many students with disabilities who were eligible to drop out actually dropped out?”

Discussion: While OSEP agrees about the importance of being able to compare a dropout rate for students with disabilities to that for other subgroups, OSEP will maintain IDEA section 618 exiting data as the data source for Indicator 2. Under ESSA, States may request waivers related to specific requirements under the law, whereas the IDEA generally does not authorize waivers of key provisions of the IDEA relating to the rights of children with disabilities. Therefore, the use of IDEA section 618 data, as opposed to ACGR data, as the data source for Indicator 2 will enable the Department to compare the dropout rates of students with disabilities across all States, regardless of whether any State has been granted a waiver under ESSA. Additionally, there are other exiting categories in the section 618 exiting data collection not captured in Indicators 1 or 2. The focus on dropout and graduation distinguishes the two exiting categories that have a direct relationship to outcomes later in life.

Changes: None.

Indicators 1 and 2

Comment: Some commenters are concerned that using IDEA section 618 exiting data for Indicators 1 and 2 will create a situation where the two indicators have opposing targets. The commenters state that the closer a State's targets for the two indicators are to 100 percent, the more likely it is that one target would have to go up at the same rate that the other target goes down. The commenters suggest that it would therefore not be necessary to have both indicators.

Discussion: OSEP understands that the use of the IDEA section 618 exiting data for both Indicators 1 and 2 could create a

situation where the indicators have opposing targets. Targets for graduation and dropout, however, should oppose each other. One would expect that as more students graduate in a particular State, the proportion of dropouts in that State would decline. Additionally, the majority of dropouts leave school before grade 12 and the majority of graduates leave school at or after grade 12. Since the section 618 data collection captures exiting data for children ages 14-21, it captures both the ages at which students are likely to drop out and the ages at which students are likely to graduate. It is important that States look at both of these aspects of exiting separately. Setting targets, reporting to stakeholders, and explaining slippage for both dropout and graduation data require States to address any performance gaps for students with disabilities dropping out of school and graduating.

Changes: None.

Indicator 3

Comment: Some commenters representing States continue to oppose limiting reporting to grades 4, 8, and high school for multiple reasons, including the number of targets that must be established and because many districts do not have enough students in the three distinct grade levels for reporting or accountability purposes. Commenters are also concerned that it will be difficult to draw conclusions from trend data as the data are reported for a completely different set of students each year. A commenter states that, although some of these concerns do not apply with State-level data, they apply to LEA-level data and will impact a State's ability to report annually

on the progress of each of its LEAs towards meeting the targets in the SPP/APR.

Discussion: OSEP understands commenters' concern regarding the number of targets that must be established. We believe that allowing States to set their own targets is preferable to comparing each State's assessment performance with that of other States. Some States have already established some of these targets for ESSA accountability and public reporting purposes or have done so for other State-specific purposes. We are receptive to States' use of the same targets established under ESSA or other State-established annual targets. For those States that have not established annual performance targets in some or all areas for each of grades 4, 8, and high school, the States would be required to do so. However, the setting of targets would not be an annual event or otherwise need to be repeated unless a State later sought to revise its targets. In addition, we believe that many States have a long and successful history of target setting and of meaningfully involving their stakeholders in the process, and that States recognize the value in doing so.

Additionally, OSEP understands commenters' concern that some LEAs may not have a sufficient number of children with disabilities in each of grades 4, 8, and high school for public reporting purposes. While we note that only Statewide data is used for accountability purposes, we recognize the importance of privacy protections and methodological considerations implicit in the commenters' stated concerns regarding LEA-level public reporting. States have established different criteria to address these types of concerns. For example, under ESSA, States are responsible for setting the minimum number of students needed to form a subgroup for Federal accountability purposes, commonly referred to as State "n-size." State-established n-sizes under

ESSA used for accountability purposes currently range from 10 (16 States) to 30 (8 States), with the remaining States having adopted n-sizes between 11 and 25. In contrast, thirty-eight States have adopted n-sizes of 10 or less for ESSA State plan public reporting purposes and all but one of the remaining States have n-sizes at or below 20. We recognize that States may need to establish different n-sizes when publicly reporting LEA-level data under IDEA. We do not anticipate that n-sizes established by States for purposes of publicly reporting LEA-level Indicator 3 data would exceed n-sizes set by States for public reporting purposes under ESSA, and we further anticipate that many States may seek to use the same n-sizes for LEA-level public reporting under IDEA as they have established for public reporting purposes under ESSA.

Regarding commenters' concerns about the value of looking at year-to-year changes in proficiency rates (trend data) and differences in student cohorts from year to year, we acknowledge that doing so provides a valid, but only partial, picture of academic achievement gains being made within States. That is, the methodology for calculating Indicator 3 data only accounts for the performance of a subset of children with disabilities (i.e., those who are proficient) and does not take into account performance changes among students who are not yet proficient but who nevertheless are making substantial progress from year to year. We also recognize that student cohorts can change from year to year. Moreover, we are aware that several States are pursuing alternative ways to measure student growth (e.g., movement of students from one proficiency level to the next) and seeking innovative and methodologically sound ways to account for variance in student cohorts from year to year within their State. However, for purposes of making annual determinations

under IDEA, OSEP must apply a common methodology across all States in order to be consistent and transparent.

Changes: None.

Comment: Commenters requested clarification regarding closing the proficiency gap between children with disabilities and children without disabilities. Commenters asked if it is reasonable to expect students with disabilities to increase their proficiency at a rate faster than that for all students.

Discussion: Regarding commenters' request for additional clarification regarding the viability of closing the proficiency gap, we believe that gap reduction is possible. We have analyzed IDEA section 618 data and observed that several States have reduced achievement gaps between all students and children with disabilities during the past six years. We believe that States will establish meaningful and reasonable targets based on available research findings and stakeholder input, and taking into account their State's unique circumstances. We note that research indicates that proficiency by the end of Grade 3 is highly predictive of later academic achievement and graduation rates, particularly for children with disabilities, and that focusing on preschool and early elementary school reading and math proficiency before students leave Grade 3 has been shown to reduce later gaps between children with disabilities and their non-disabled peers. We further note that effective classroom-based practices for improving the math and reading proficiency of children with disabilities includes differentiated instruction, explicit instruction, and one-on-one tutoring. For example, a 2017 synthesis of the research funded by the Institute of Education Sciences (IES) shows that explicit

instruction effectively improves the reading and math achievement of students with disabilities and other struggling learners. While phonics, vocabulary, and fluency instruction are more effective in the early primary grades, classroom-based methods that focus on teaching reading comprehension strategies such as inferencing, questioning, and visualizing, have been shown to be highly effective in reducing the achievement gap for students above Grade 3. Systematic and explicit math instruction that provides students with clear models, time for practice, and extensive feedback is especially beneficial for students with disabilities who struggle with math.¹

Changes: None.

Indicator 4

Comment: Several commenters identified inconsistencies between the definition of long-term suspensions and expulsions in the Explanation and Rationale document and in the Part B SPP/APR measurement table.

Discussion: The commenters are correct. The definition of “long-term suspensions and expulsions” should be consistent with the reporting requirements in *EDFacts* file specification FS006. Under the reporting requirements in the *EdFacts* file specification, students are reported by the cumulative days of removal: 10 days or less during the school year, and more than 10 days during the school year. Therefore, OSEP will revise the Explanation and Rationale document and the Part B SPP/APR measurement table to reflect that “long-term suspensions and

¹ http://www.wasa-oly.org/WASA/images/WASA/1.0%20Who%20We%20Are/1.4.1.6%20SIRS/Download_Files/LI%202017/May-%20School-Based%20Strategies%20for%20Narrowing%20the%20Achievement%20Gap.pdf

expulsions" are based on a removal length of "more than 10 days during the school year."

Changes: OSEP has revised the definition of "long-term suspensions and expulsions" in the Explanation and Rationale document and the Part B SPP/APR measurement table to read "more than 10 days during the school year."

Indicator 6

Comment: Some commenters continue to oppose including the "home" category in the measurement and state that OSEP's discussion response to comments received in response to the 60-day FRN was insufficient. The commenters also ask for clarification on setting targets for the home category. Commenters wonder if the targets should go up or down.

Discussion: OSEP understands that some commenters do not believe that the "home" category should be included in the measurement for Indicator 6. However, OSEP believes that the discussion provided in response to comments received in response to the 60-day FRN provide a sufficient explanation as to why OSEP will not remove the "home" category from this indicator. Regarding target setting for the "home" category, States should set targets based on data analysis and with stakeholder engagement. As with other indicators where baseline data are at a level that the State and its stakeholders deem sufficient, the final target must demonstrate some level of incremental improvement over the baseline. OSEP expects that most children would attend a regular early childhood program and receive the majority of special education and related services in the regular early childhood

program; therefore, the targets for the “home” category in most States should decrease over time.

Changes: None.

Indicators 9 and 10

Comment: Commenters representing States acknowledge that Indicators 9 and 10, regarding disproportionate representation, are statutory requirements and cannot be eliminated. However, the commenters requested that OSEP align the reporting requirements for Indicators 9 and 10 with the significant disproportionality requirements in 34 C.F.R. §§ 300.646 and 300.647. The commenters state that some States must run multiple sets of calculations for Indicators 9 and 10 and significant disproportionality because of differences in calculations of “n” or cell sizes.

Discussion: As the commenter states, “disproportionate representation,” *i.e.*, the data collected in Indicators 9 and 10, and “significant disproportionality,” while similar, are different statutory requirements. IDEA sections 612(a)(24) and 616(a)(3)(C) require States to identify LEAs with disproportionate representation that is the result of inappropriate identification, whereas IDEA section 618(d) requires States to collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LEAs of the State with respect to:

- (A) the identification of children as children with disabilities, including the identification of children

- as children with disabilities in accordance with a particular impairment;
- (B) the placement in particular educational settings of such children; and
- (C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

34 C.F.R. § 300.647(b) defines the standard methodology States must use in determining whether significant disproportionality exists in a State or LEA. In contrast, States have the flexibility to define disproportionate representation under Indicators 9 and 10. A State-established definition must include the calculation method(s) being used (*i.e.*, risk ratio, weighted risk ratio, e-formula, etc.); and the threshold at which disproportionate representation is identified. It must also include, as appropriate, the number of years of data used in the calculation; and any minimum cell and/or n-sizes (*i.e.*, risk numerator and/or risk denominator). There is nothing that would prevent a State from aligning its definition of “disproportionate representation” with the standard methodology used in determining whether significant disproportionality exists, as defined in 34 C.F.R. § 300.647(b), to decrease the number of calculations a State must run.

Changes: None.

Indicator 14

Comment: Comments continue to be mixed. Some commenters representing States appreciate the flexibility offered in reporting competitive employment data under SPP/APR Indicator 14 by using one of two definitions of competitive employment. Commenters representing advocacy organization continue to

request that OSEP require States to report competitive employment data using the definition of “competitive integrated employment” in section 7(5) of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA). The commenters suggest that requiring reporting using “competitive integrated employment” would assist in improving transition from school to adult employment.

Discussion: OSEP appreciates the input from all commenters and believes that it is necessary to provide continued flexibility on reporting competitive employment data under Indicator 14 by allowing States to continue using two options, *i.e.*, using the same definition as used to report in the FFY 2015 SPP/APR, or aligning the definition with the term “competitive integrated employment” as defined in section 7(5) of the Rehabilitation Act, as amended by WIOA . Therefore, OSEP will not require reporting using only the definition of “competitive integrated employment” as defined in section 7(5) of the Rehabilitation Act, as amended by WIOA.

Changes: None.

Indicator 17

Comment: Commenters have different opinions on aligning the due date for Indicator 17 data with the due date for Indicators 1-16 data. Commenters representing advocacy organizations agree with the alignment. Commenters representing States do not agree with the alignment, because they believe that requiring Indicator 17 data to be submitted in February creates a burden for States given that staff who are responsible for completing reporting for Indicators 1-16 are also responsible for completing

reporting for Indicator 17. Commenters representing States also noted that an April 1 due date is beneficial for States that must submit an annual performance report for the State Personnel Development Grant (SPDG) program around the same time. The commenters stated that many SPDGs are aligned with the SSIP so the similar reporting date makes sense. Finally, these commenters are concerned that aligning the due date for Indicator 17 data with the due date for Indicators 1-16 data suggests that OSEP may use its analysis of Indicator 17 in making an annual State determination under IDEA section 616(d).

Discussion: OSEP understands the commenters' concerns but stands by its decision and response to similar comments received in response to the 60-day FRN. OSEP established the April 1st due date originally because the SSIP was at that time a new indicator that was unprecedented in terms of the scope of information to be reported. However, the SSIP will be in year eight for this next SPP/APR package and should not be treated as separate from the remaining indicators in the SPP/APR. OSEP understands that States may have a limited number of staff completing the SPP/APR. However, the SSIP is intended to be a dynamic document that guides improvement, not a static document that is only updated a short time before it is to be submitted to the Secretary. States should be collecting and using data throughout the year to evaluate progress toward State-identified outcomes, allocate resources, and revise strategies based on data and meaningful stakeholder engagement. If States are implementing and evaluating infrastructure improvement efforts and use of evidence-based practices within these frameworks, data and stakeholder input should be readily available to populate a SSIP report throughout the year that includes the information required by the measurement table.

Additionally, the SPP/APR reporting tool is optimized to collect indicator data and analysis through an online form and not through attachments. Optimizing the use of the SPP/APR reporting tool requires a uniform due date for all indicators. OSEP allowed attachments for Indicator 17 during the SPP/APR reporting tool's first year of implementation (i.e., the FFY 2018 SPP/APR due in February 2020) because OSEP had not yet provided a template to the field. OSEP anticipates moving to a mandatory online form for Indicator 17 for several reasons. A uniform timeline will facilitate enhanced data management, access, and use, because data for the indicator would be submitted via the reporting tool rather than provided through attachments. A submission date that is consistent across all indicators of the SPP/APR is necessary to achieve this goal of improved data quality, analysis, and utilization. Therefore, OSEP will align the due date for SPP/APR Indicator 17 data with the February due date for SPP/APR Indicators 1-16 data.

OSEP appreciates that some States are leveraging the SPDG to support their systemic improvement work. However, reporting on Indicator 17 is a part of the SPP/APR and not the SPDG annual performance report. Therefore, OSEP prioritizes aligning the due date for Indicator 17 with that for the rest of the SPP/APR. Finally, OSEP has no current plans to include its analysis of Indicator 17 in making its annual determinations under IDEA section 616(d).

Changes: None.