

October 21, 2025

Ross Santy
Chief Data Officer
Office of Planning, Evaluation and Policy Development
U.S. Department of Education
400 Maryland Ave SW, LBJ, Room 4A119
Washington, DC 20202– 1200

RE: ED– 2025–SCC–0481

Submitted via regulations.gov

Dear Mr. Santy,

The undersigned organizations **recommend that the U.S. Department of Education (The Department) rescind its proposal** to remove the Significant Disproportionality data collection under the Individuals with Disabilities Education Act (IDEA) section 618(d) and 34 CFR 300.646 and 300.647 from Section V of the Annual State Application under Part B of IDEA.

Our organizations have a longstanding commitment to robust enforcement of our nation’s civil and education laws that ensure educational access and opportunity for students with disabilities, students of color, and students from other underserved groups.

Part B of IDEA authorizes grant programs that provide federal funding to states and local educational agencies (LEAs) to provide a free appropriate public education for eligible children with disabilities. A series of conditions attached to receipt of these grant funds aim to provide certain educational and procedural guarantees for children with disabilities and their families. These include safeguards pertaining to the identification, evaluation, and placement of students in special education services that are intended to protect the rights of parents and children with disabilities.

One such safeguard is known as significant disproportionality, which are disparities based on race or ethnicity in the identification of children with disabilities for special education, the placement in particular educational settings (i.e., more restrictive ones), and discipline (including suspension and expulsion). In fact, according to the most recent data provided to Congress, the Department reports that when compared to all students with disabilities, Black students are more likely to be identified with an intellectual disability,¹ that more than 33% of Black students with disabilities spend the majority of their time in a separate class,² and Black students are twice as likely to be expelled and four times more likely

¹ U.S. Department of Education, EDFacts Data Warehouse (EDW): “IDEA Part B Child Count and Educational Environments Collection,” 2021-22, <https://data.ed.gov/dataset/71ca7d0c-a161-4abe-9e2b-4e68ffb1061a/resource/22294e78-ff8b-48cf-8f5e-5a84f183ec22/download/bchildcountandedenvironment2021-22.csv>

² Separate class refers to a special education program in a class that includes less than 50 percent children without disabilities. See: *46th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*, U.S. Department of Education, (2024), 37. <https://sites.ed.gov/idea/2024-annual-report-to-congress-on-the-individuals-with-disabilities-education-act-idea/>

to be suspended.³ When LEAs are identified as having significant disproportionality, they are required to use IDEA funds to remedy their identification, placement, or discipline practices. In 2022, of 15,283 LEAs, 905 were required to use IDEA funds for Comprehensive Coordinated Early Intervening Services⁴ due to disproportionality.⁵

By eliminating Section V, the Department would remove *the only public notice of changes to states' implementation of IDEA's requirements regarding significant disproportionality*. Reporting on how states determine and subsequently collect and analyze significant disproportionality data ensures transparency and promotes fairness in educational opportunity for all students, and we urge the Department to retain the current reporting requirements. Removing them would weaken states' and the Department's own ability to ensure compliance with IDEA and to use reliable information for program oversight, fiscal integrity, and risk management.

To support our recommendation, we offer the following comments:

I. Conflicts with Congressional Intent to Prioritize Addressing Racial Disproportionality in Special Education

When Congress last amended IDEA in 2004, it deliberately prioritized addressing racial disproportionality in special education as one of three priority areas and maintained the requirement for the Secretary to review the data required to be collected under IDEA's section 618(a) to determine if significant disproportionality based on race is occurring.⁶ In fact, when Congress reauthorized IDEA, it expressly addressed the need for the Secretary to help states address significant disproportionality and encouraged the Department to ensure "states take the necessary steps to work with local educational agencies to remedy these problems..." and "[that] the referral and identification processes should be clear, consistent, and not subject to abuse."⁷

IDEA also authorizes the Secretary to reserve one-half of 1% of the amounts appropriated for each fiscal year to provide technical assistance activities authorized under IDEA section 616(i) to support states in addressing racial disproportionality.⁸ These requirements, including the issuance of the *Equity in IDEA* regulations as well as requirements in Section V of the Annual State Application under Part B of IDEA, were instituted due to the unceasing issue of racial disparity and widespread noncompliance with requirements of the law.

It's clear that significant disproportionality and overidentification are issues that Congress sought to address with the reauthorization of IDEA. However, Congress did not specify the method by which states should

³ Table 233.28. Percentage of students receiving selected disciplinary actions in public elementary and secondary schools, by type of disciplinary action, disability status, sex, and race/ethnicity: School year 2020-21, Digest of Education Statistics, U.S. Department of Education, https://nces.ed.gov/programs/digest/d23/tables/dt23_233.28.asp?current=yes

⁴ U.S. Department of Education, EDFacts Metadata and Process System (EMAPS), "IDEA Part B Maintenance of Effort (MOE) Reduction and Coordinated Early Intervening Services (CEIS)," 2021-22. Data extracted as of August 30, 2023.

⁵ 20 U.S.C. § 1413(f) and 34 C.F.R. § 300.226; 20 U.S.C. § 1418(d)(2)(B) and 34 C.F.R. § 300.646(d); Analysis of Comments and Changes Accompanying the Final Regulations on Significant Disproportionality, 81 Federal Register [FR] 92376 [December 19, 2016]; and, Office of Special Education Memorandum 08-09 on CEIS Guidance

⁶ Sec. 616(i). 20 USC 1416

⁷ H. Rept. 108-77, Sec. 208, Overidentification, to accompany P.L. 108-446, (2004), <https://www.congress.gov/committee-report/108th-congress/house-report/77/1>

⁸ 20 USC 1411

review and analyze identification, placement, and discipline data to determine whether disproportionality exists in any LEA. States currently report that information through Section V of the State Application and in the State Performance Plan/Annual Performance Report (SPR/APR) under Indicator 9 Disproportionate Representation and Indicator 10 Disproportionate Representation in Specific Disability Categories. However, Section V of the application is the only place where states are required to explicitly notify the Department of a change in its methodology. Removing Section V from the application means that the Office of Special Education Programs — whose role it is to monitor state compliance with IDEA — will receive information about changes to states' methodologies until that information is reported in the SPR/APR well after IDEA funds have been allocated. Additionally, this proposal, combined with the Secretary's decision to stop funding the Data Center to Address Significant Disproportionality⁹ — whose purpose was to improve the capacity of states to meet IDEA data collection and practices requirements regarding equity in IDEA — creates even further conflict with IDEA's requirement for the Secretary to prioritize state methodology and district practices regarding racial discrimination in special education.

II. Eliminates Transparency and Removes Parents and Key Stakeholders From the Process

Disability rights advocates have consistently advocated for and supported efforts to make sure parents, guardians, school leaders and personnel, and other stakeholders are well informed, can participate in the process to improve state and district decision making in IDEA, and can access transparent and usable data about their school, district, and state. The administration has demonstrated a similar commitment to information transparency for parents and families: Executive Order 14191 was issued "to support parents in choosing and directing the upbringing and education of their children."¹⁰

States are required to make their annual applications for IDEA funds available to the public for at least 60 days and accept comments on their applications for at least 30 days prior to submitting those applications to the Department. This notice and comment period provides an important opportunity for the public to understand states' plans for providing free and appropriate education for students with disabilities. The proposal to eliminate Section V of the application also eliminates parental access to key information about the criteria used by their state to determine whether their child's school district has significant disproportionality, and undermines parents' ability to make informed choices.

Without clear disclosure about changes to the methodology that is provided by Section V, the public loses the ability to understand whether changes in significant disproportionality over time are due to changes in methodology or genuine improved policies and practices to reduce the significance of race as a factor in the identification of children in special education, in their educational placement (inclusion in the regular classroom with their peers or placed in contained classrooms and segregated), or discipline practices such as suspension and expulsion.

In summary, eliminating Section V, the Department would remove *the only public notice of changes to states' implementation of IDEA's requirements regarding significant disproportionality*. Through this action, the Department would conceal critical information about changes to a state's process to identify racial disproportionality in special education, and it would take yet another action that defies Congressional intent in implementing the most critical laws this country has to ensure equal opportunity in education for its students.

⁹ <https://web.archive.org/web/20250117084524/https://dcase.org/>

¹⁰ Executive Order 14191: Expanding Educational Freedom and Opportunity for Families, (2025), <https://www.federalregister.gov/documents/2025/02/03/2025-02233/expanding-educational-freedom-and-opportunity-for-families>

For these valid reasons, we urge the Department to rescind the proposal.

Sincerely,

All4Ed

B-12 Education Program, New America

Council of Parent Attorneys and Advocates (COPAA)

Diverse Charter Schools Coalition

EdTrust

InnovateEDU

League of Education Voters

National Center for Learning Disabilities

National Parents Union

The Center for Learner Equity

UnidosUS