

**SUPPORTING STATEMENT FOR REQUEST FOR OMB APPROVAL UNDER THE
PAPERWORK REDUCTION ACT**

Report of Dispute Resolution Under Part B of the Individuals with Disabilities Education Act
Complaints, Mediations, and Due Process Hearings

A. JUSTIFICATION

1. Circumstances necessitating information collection.

The Individuals with Disabilities Education Act (P.L. 108-446) directs the Secretary of Education to obtain data on the dispute resolution process described in Section 615 of the law. Specific legislative authority in Section 618 requires that:

“(a) IN GENERAL- Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on the following:

(1)(F) The number of due process complaints filed under section 615 and the number of hearings conducted.

(G) The number of hearings requested under section 615(k) and the number of changes in placements ordered as a result of those hearings.

(H) The number of mediations held and the number of settlement agreements reached through such mediations”.

In addition to the specific data requirements described in Section 618, Section 616(a)(3) (B) identifies the dispute resolution process as a monitoring priority. The law states specifically that:

“(3) MONITORING PRIORITIES- The Secretary shall monitor the States, and shall require each State to monitor the local educational agencies located in the State (except the State exercise of general supervisory responsibility), using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in the following priority areas:

(B) State exercise of general supervisory authority, including child find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services as defined in sections 602(34) and 637(a)(9)” (P.L. 108-446, Section 616).

The data collection form provides instructions and information for States when submitting their dispute resolution data. The form collects data on the number of written, signed complaints; mediation requests; due process complaints; and expedited due process complaints and the status of these actions with regards to children served under Part B of IDEA initiated during the reporting year.

At this time, the ED Facts team has identified this data collection as ‘unEDENable.’

Consequently, this collection has not been a focus in the recent rounds of EDEN transition activities and is likely to continue as a collection through the Office of Special Education Programs (OSEP) data collection system, DANS, in the near future.

2. Use for which the information is gathered.

OSEP will use the information collected on this form to assist in establishing programmatic priorities, to monitor States to ensure compliance with Federal statute and regulations, and to disseminate data to Congress and the public.

The Dispute Resolution data are also used extensively by OSEP, State agencies, university researchers, and advocates to examine patterns over time with regards to the provision of services for children with disabilities under IDEA.

3. Use for improved information technology.

OSEP provides States with an electronic (Excel spreadsheet) version of the data collection form to use when submitting data. The spreadsheet includes a number of data edits to improve data entry validity. For example, as States enter their data, the edits flag totals that do not equal the sum of the disaggregated counts. The use of the spreadsheet with built-in edits reduces the number of follow-up contacts with the States after the data reach OSEP. The spreadsheet also provides space for States to comment on their data, for example providing additional information about how the data were aggregated, what changes were made to these procedures since the last data report, how changes in state policy or legislation affect the data, or other issues the State believes are applicable to the data collection.

4. Efforts to identify duplication.

The information requested does not represent any duplication in content, reporting, or performance requirements beyond those imposed under the statute. This information is available only from State educational agencies (SEAs).

5. Small businesses.

The information requested does not involve the collection of information from entities classified as small organizations.

6. Consequence of less frequent collection.

P.L. 108-446, Section 618(a) requires: "Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary..."

7. Special circumstances.

There are no special circumstances associated with this data collection.

8. Federal Register notice/consultation outside the agency.

Interested persons were invited to comment on this proposed information collection request in a notice published in the Federal Register, Volume 74, No. 109 on June 9, 2009. The Department of Education expressed interest in public comment addressing five specific issues including: whether the collection is necessary to the proper functions of the Department; whether the information will be processed and used in a timely manner; the accuracy of the burden estimate; how the Department might enhance the quality, utility and clarity of the collected information; and how the Department might minimize the burden on respondents. The Parties were informed that their comments would be accepted on or before August 10, 2009.

In response to this request, the Department of Education received 1 comment pertaining to this form. The issue raised in this comment is described below and followed by the Department's response.

1. *Commenter notes that the new data elements will result in duplicate counts between cells in Table 7. For example, the total reported in newly proposed cell 3.4 (Due process complaints withdrawn or dismissed) will also be reported in 2.1(a)(i) Mediation agreements related to due process complaints.*

The commenter is correct. Section 618 (a)(1) requires states to report the number of due process complaints filed, the number of hearings conducted, the number of IDEA discipline hearings requested, the number of those hearings that resulted in a change of placement, the number of mediations held, and the number of settlement agreements reached through mediation. OSEP believes it is necessary to fully specify these data elements in order to conduct appropriate data quality checks and effectively monitor the implementation of the dispute resolution provisions in IDEA.

Additional comments will be solicited through the IDEA NPRM at the same time this collection is pending at OMB.

Additionally, OSEP developed this form in consultation with the Consortium for Appropriate Dispute Resolution in Special Education (CADRE). OSEP receives continuous feedback on data issues through an annual meeting of state Part B data managers--a meeting also attended by ED staff and staff from the Federal and Regional Resource Centers and National Association of State Directors of Special Education--and through the Special Education Subcommittee of the Education Information Management Advisory Consortium (EIMAC) of the Chief State School Officers. Where practical and consistent with programmatic needs, OSEP incorporates their suggestions for modifications to the data collection form.

9. Payments or gifts to respondents.

No payments or gifts are provided to respondents for completing this information request.

10. Assurance of confidentiality.

No assurance of confidentiality is provided to respondents. However, no individually identifiable information is requested.

11. Questions of a sensitive nature.

There are no questions or requirements of a sensitive nature contained in the form.

12. Estimate of respondent burden.

The estimate of burden is based on informal feedback received from data managers about their experience with Attachment 1 of the APR. The estimate of total respondent burden is based on 60¹ reporting entities. Note that it is not possible to estimate an exact burden amount for each State because States vary in their methods for collecting and aggregating these data, in the number of students they serve (and, consequently, the number of complaints received), and the sophistication of their data systems. In making these estimates, we assumed that most states directly collect all dispute resolution data and already have systems in place for reporting these data.

In order to calculate burden, OSEP estimated the average number of hours required per State. The total burden for all States was calculated by multiplying the average number of hours by 60 (60*average State burden). For SEAs, the estimated average burden is 70 hours per State agency, representing a total burden estimate of 4,200 hours. Most States reported that they expect the required number of hours needed to produce these data to decline as systems are expanded to collect all required data elements, personnel are trained on reporting these data, and edits are implemented to automate data cleaning. Although the number of data elements was expanded to accommodate the reporting of complaints pending and complaints withdrawn or dismissed in Sections B, C, and D, these changes are not expected to impact the average state burden. OSEP expects the increased burden of the additional data on the states to be offset by the reduced burden for many states that now have in place the systems needed to report these data.

OSEP estimated respondent costs as \$20 per hour. As indicated above, the estimated total number of burden hours is 4,200. Therefore, the total estimated cost to the respondents is \$84,000.

13. Estimate of costs to respondent.

There are no additional costs other than the cost burden identified in 12.

14. Estimate of costs to the Federal Government.

The following table represents the estimated costs to the Federal Government associated with the form.

| | |
|---------------------------|-----------------|
| Copying: | \$50 |
| Mailing: | \$300 |
| Staff: | \$2,500 |
| Contractor Data Services: | <u>\$12,000</u> |

¹ 60 includes 50 States, District of Columbia, Puerto Rico, Virgin Islands, American Samoa, Guam, Marshall Islands, Micronesia, Northern Marianas, Palau, and the Bureau of Indian Affairs.

| | |
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| | \$14,850 |
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Contractor data services include costs for updating the database and processing, verifying, and analyzing the data.

15. Reasons for program changes or adjustments.

No change.

16. Plans for tabulation and publication.

OSEP will tabulate and display the information submitted by States in a variety of ways. The primary vehicles for distribution are the Secretary's Annual Report to Congress (P.L. 108-446, Section 664(d)(2)) and through publication of these data on the Internet (IDEAdata.org). OSEP also plans to use these data for state monitoring. Occasionally, the data may be summarized and presented at conferences and in ad hoc reports or articles submitted for publication. The data will also be used by CADRE in their work, under contract with OSEP, to develop a national dispute resolution database.

17. Display of OMB expiration date.

The OMB expiration date will be displayed on the form.

18. Exceptions to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not permit the use of statistical methods.