

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

Report of Children with Disabilities Subject to Disciplinary Removal

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 number and percentage of children with disabilities removed to interim alternative educational settings (IAES), the acts precipitating those removals, the number and percentage of children with disabilities subject to long-term suspension or expulsion, and the incidence and duration of disciplinary actions, including suspensions of 1 day or more in each State. Each of these data elements must be reported by disability, race/ethnicity, gender, and Limited English Proficiency (LEP) status.

The Secretary must also collect data on the number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled. These data are not required by disability, race/ethnicity, gender, and LEP status.

The purposes of such data are: (1) to assess the progress, impact, and effectiveness of State and local efforts to implement the legislation and (2) to provide Congress and Federal, State, and local educational agencies with relevant information. These data are used for monitoring activities, planning purposes, congressional reporting requirements, and dissemination to individuals and groups.

Section 618(a) 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)(A) The number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following separate categories: --

(v)(I) Removed to an interim alternative educational setting under section 615(k)(1).

(II) The acts or items precipitating those removals.

(III) The number of children with disabilities who are subject to long-term suspensions or expulsions. --

(D) The incidence and duration of disciplinary actions by race, ethnicity, limited

English proficiency status, gender, and disability category, of children with disabilities, including suspensions of 1 day or more.

(E) The number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled.

As indicated above, Section 618(a)(1)(A)(v)(II) requires data on the acts precipitating the removal of a child to an IAES. P.L. 108-446 Section 615(k)(1)(G) identifies three acts that can precipitate the removal a child to an IAES: drug offenses, weapon offenses, and inflicting serious bodily injury on another person. Section 615(k)(1)(G) states:

(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING-

(1) AUTHORITY OF SCHOOL PERSONNEL-

(G) SPECIAL CIRCUMSTANCES- School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child—

(i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency;

(ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or

(iii) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

A child may also be removed to an IAES by a hearing officer who determines that the child is likely to injury him/herself or others. Section 615(k)(3)(B) states that:

(B) AUTHORITY OF HEARING OFFICER—

(ii) CHANGE OF PLACEMENT ORDER- In making the determination under clause (i), the hearing officer may order a change in placement of a child with a disability. In such situations, the hearing officer may--

(I) return a child with a disability to the placement from which the child was removed; or

(II) order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that

maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

The reporting form consists of five sections. The first section collects data on the number of children removed to an IAES, the number of children subject to long-term suspensions or expulsions, and the incidence and duration of disciplinary actions. These data are collected by disability. The second section collects the same data by race/ethnicity, the third section collects the data by gender, and the fourth section collects the data by LEP status. The fifth section collects data on the number of children with and without disabilities expelled and sent to alternative educational settings.

The disability categories used on the form are identified in Section 602(3)(A). The LEP status categories used on the form are based on the definition of limited English proficient in the Elementary and Secondary Education Act, 20 USC Section 7801(A) (25). This form is presented in two versions to facilitate the transition of States' reporting of race/ethnicity data according to the Department of Education's Final Guidance on Maintaining, Collecting and Reporting Racial and Ethnic Data to the U.S. Department of Education, published October 2007. States must implement the procedures for collecting, reporting, and aggregating race and ethnicity data as describe in the new guidance no later than the report of the SY 2010-11 data. States that are not yet prepared to implement those guidelines may continue to report using the five categories defined by OMB in 1997. However, children can only be reported in a single racial/ethnic category.

As indicated in the preceding paragraphs, IDEA 2004 requires each State to report the "percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in" each of the reporting categories. The data collection grid includes cells for the required percentages; however, to assure cross-State comparability and minimize State burden, these percentages will be calculated by the data collection software.

Congruence analyses have been conducted over the past several years, as a means of confirming accuracy of state data submitted through EDEN with reference to the data submitted through the OSEP data collection system, DANS. Once sufficient congruence of the data is ensured, the Department approves a state's submission of the data through EDEN only. When the state data for this collection are submitted through EDEN only, the respective data then are extracted from the EDEN database for purposes of required annual reporting. For school year 2008-09, about one-half of the states were approved to submit data from this collection through EDEN only.

2. Use for which the information is gathered.

OSEP uses 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. In addition, these data are provided annually to Congress in the Annual Report to Congress on the implementation of IDEA. States are also required, under Section 618(d)(1)(C) of IDEA, to determine if significant disproportionality based on race/ethnicity is occurring with regard to the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

The Discipline data are also used extensively by OSEP, State agencies, university researchers, and advocates to examine patterns over time with regards to disciplinary removals of children with disabilities who are served under IDEA.

3. Use of 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 the State enters 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 submission. The spreadsheet also provides space for States to comment on their data, such as changes in the way the State reports the data, changes in policy or legislation that may affect the data, or other issues the State believes are applicable to the data collection.

In 2008-09, 21 States submitted the Discipline data through ED's ED*Facts* system. OSEP is currently working with other ED personnel to analyze data submissions for the remaining States and approve them for submission through this system, as well. OSEP is working closely with the States and ED personnel to ensure that all States are transitioned to the ED*Facts* system as soon as their data systems will allow.

4. Efforts to identify duplication.

The information collected on the form does not represent any duplication of paperwork, content, reporting, or performance requirement beyond that imposed under the statute. This information is available only from State educational agencies (SEA) that collect it from local educational agencies (LEA).

5. Small businesses.

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

6. Consequences 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 of Education..."

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 2 comments pertaining to this form. The issues raised in these comments are described below and followed by the Department's response.

1. *Commenter recommends eliminating the report of students removed from placement to in-school suspension, as these students may still be receiving educational services. Furthermore, the collection does not provide for a comparison between students with and without disabilities on this data element.*

In Table 5, in-school suspensions represent removals from a student's IEP placement (the least restrictive environment for that child), regardless of whether a student has access to the regular curriculum during the in-school suspension. OSEP is interested in collecting data on the extent to which students are removed from their IEP placements for disciplinary reasons. The comparison between students with and without disabilities on this data element is not specified in statute and is not under consideration for inclusion in this collection at this time.

2. *Commenter asks for clarification of the definition of in-school suspension.*

OSEP provides a definition of "in-school suspension" in Table 5 and declines to provide additional clarification.

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

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

No assurance of confidentiality is provided to respondents.

11. Questions of a sensitive nature.

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

12. Estimate of respondent burden.

The estimate of burden is based on previous experience with the data collection, feedback from States during their annual meeting, the available information about State data collection systems, and consultation with representatives of several SEAs. The estimate of total respondent burden is based on 60 reporting entities¹. Note that it is not possible to estimate an exact burden amount for each State because a variety of factors influence the collection, such as the variation in the number of LEAs in each State, the number of children served in each LEA, and the sophistication of the data system. In making the following estimates, we used different burdens based on whether SEAs use a database with individual student records at the State level to collect these data.

In order to calculate burden, OSEP first estimated the number of hours required per State and per LEA for States with and without individual student records at the State level. An average was calculated for States and LEAs. OSEP then calculated the total burden for all States by multiplying the average number of hours by 60 (60*average State burden). Next, OSEP estimated average LEA burden. For each State, an average of 260 LEAs per State was used. OSEP calculated total LEA burden per State by multiplying 260 by the average LEA burden. They calculated total LEA burden by multiplying 60*260*average LEA burden.

For SEAs, the estimated average burden is 56.8 hours per State agency or 3,408 hours total. The estimated average LEA burden is 14.4 hours or 3,744 hours of LEA burden per State. The total burden per State is 3,744 hours. The total burden estimate is 228,048 hours.

Number of Respondents	SEA Burden Hours	LEA Burden Hours	Total Burden²
48 States with Individual Student Records at the State Level	31	9.75	123,168
12 States without Individual Student Records at the State Level	160	33	104,880
60 States ³	56.8 (Avg.)	14.4 (Avg.)	228,048

OSEP estimated respondent costs as \$20 per hour. As indicated above, the estimated total number of burden hours is 228,048. Therefore, the estimated cost to respondents is \$4,560,960.

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

² Total burden is based on averages rounded to the nearest hour.

³ 60 States and Outlying Areas refers to: 50 States, District of Columbia, Puerto Rico, Virgin Islands, American Samoa, Guam, Marshall Islands, Micronesia, Northern Marianas, Palau, and the Bureau of Indian Affairs.

13. Estimate of cost to respondents.

There are no costs in addition to those 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>\$9,275</u>
	\$12,125

Contractor data services include costs for updating the database and processing, verifying, and analyzing the data.

15. Reasons for program changes or adjustments.

There is a 49,392 hour decrease to the annual reporting and record keeping burden from the currently approved 1820-0621 form. This decrease is due to a projected increase in the number of States that are now using individual level student record keeping data systems.

16. Plans for tabulation and publication.

OSEP will tabulate and display the information submitted by States in a variety of ways. The primary vehicles of distribution are through the Secretary's Annual Report to Congress (P.L. 108-446, 664(d)(2)) and through publication of these data on the Internet (IDEAdata.org). OSEP will also use this information for purposes of monitoring, focusing discretionary activities, and suggesting topics for model demonstration projects. Occasionally, the data are summarized and presented at conferences and in ad hoc reports or articles submitted for publication.

17. Display of OMB expiration date.

The agency will display the expiration date on the information collection.

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.