

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

**Report of the Participation and Performance of Students with Disabilities on State Assessments
By Content Area, Grade, and Type of Assessment**

A. JUSTIFICATION

1. Circumstances necessitating information collection.

Section 612(a)(16)(A) of the Individuals with Disabilities Education Act (P.L. 108-446) requires that “All children with disabilities are included in all general State and districtwide assessment programs...with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs.” Further, Section 612(a)(16)(D) requires that:

“The State educational agency (or, in the case of a districtwide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

- (i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.
- (ii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(I).
- (iii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(II).
- (iv) The performance of children with disabilities on regular assessments and on alternate assessments...”

The Elementary and Secondary Education Act (ESEA) of 2001 requires States to implement yearly assessments in mathematics, reading or language arts and, beginning with the 2007-08 school year, science (P.L. 107-110 Section 1111(b)(3)). Under Section 1111(h)(1)(C), as part of their Annual State Report Card, States are required to include:

“(i) information, in the aggregate, on student achievement at each proficiency level on the State academic assessments described in subsection (b)(3) (disaggregated by ... disability status...);

and

(iii) the percentage of students not tested (disaggregated by the same categories...”

The regulations governing ESEA further require states to:

“Report separately, under section 1111(h)(4) of the ESEA, the number and percentage of students with disabilities taking—

- (1) Alternate assessments based on the alternate academic achievement standards defined under §200.1(d);
- (2) Alternate assessments based on the academic achievement standards defined under §200.1(c); and
- (3) Regular assessments, including those administered with appropriate accommodations.” CFR 34, 200.6(a)(1).

In addition, States are permitted to develop modified academic achievement standards and use alternate assessments based on those standards for students with persistent academic disabilities (CFR 34, 200.6(a)(3)). States may include proficient scores from such assessments in making adequate yearly progress (AYP) decisions, but those scores are capped at 2.0% of the total tested population.

P.L. 108-446 allows the Secretary of Education to obtain data on the participation and performance of students with disabilities on state assessments. The specific legislative authority may be found in Section 618(a)(3):

"(a) IN GENERAL- Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year--

- (3) on any other information that may be required by the Secretary."

The purposes of the data collected on this form are to: (1) assess the progress, impact, and effectiveness of State and local efforts to implement the legislation and (2) provide Congress and Federal, State, and local educational agencies with relevant information. These data will be used for monitoring activities, planning purposes, congressional reporting requirements, and dissemination to individuals and groups. The data collection form provides instructions and information for States when submitting their counts of the number of students with disabilities participating in state assessments and their performance on those assessments.

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 Office of Special Education Programs (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-fourth of the states were approved to submit data from this collection through EDEN only.

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.

OSEP will use these assessment data to develop long-term performance targets and as evidence that IDEA funding has improved educational outcomes for students with disabilities. Both of these areas were specifically identified by the Program Assessment Rating Tool (PART) Review¹ of the IDEA Grants to States program as areas OSEP needs to address. These data will also be used to measure progress through the performance indicators established by OSEP under the Government Performance and Results Act (P.L. 103-62) for Part B special education grants to States. Performance objectives and indicators can be found in OSEP's Fiscal Year 2009 Performance Plan, available at <http://www.ed.gov/about/reports/annual/2009plan/g1spcedstates.doc>.

3. Use for improved information technology.

OSEP will provide States with an electronic (Excel spreadsheet) version of the data collection form to use when submitting data. The spreadsheet will include a number of data edits to improve data entry validity. These edits will flag mathematical inconsistencies for the users as they enter data. The inclusion of the final page of Section C and the final page of Section F are specifically for error detection. The spreadsheet version of the data collection form will automatically fill these pages with data reported on previous pages, and flag any discrepancies. 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.

In 2008-09, 16 States submitted the Assessment data through ED's *EDFacts* 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 *EDFacts* system as soon as their data systems will allow.

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

¹ See http://www.whitehouse.gov/omb/budget/fy2005/pdf/ap_cd_rom/part.pdf

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

1. *Commenter notes that references to No Child Left Behind (NCLB) should be changed to Elementary and Secondary Education Act (ESEA).*

This recommendation has been incorporated in Table 6.

2. *Commenter recommends eliminating the IDEA Assessment collection (Table 6), and that OSEP's information needs can be met using the data collected under ESEA Title I. Commenter further recommends that any data required by OSEP should be requested through the Title I office, rather than Special Education representatives, as those are the individuals better informed about data requirements under ESEA.*

Table 6 collects information regarding the participation and performance of students with disabilities in State assessments. The data that are collected under ESEA Title I are not designed for the purpose of monitoring the participation or performance over time of students with disabilities. Although Title I representatives may be well-qualified to report generally on the assessment process, State Special Education offices are held accountable for the implementation of IDEA requirements. OSEP declines to eliminate Table 6 data elements, but continues to work with the ESEA office to refine consistency across the collections.

3. *Commenter notes discrepancies between instructions in the Table 6 and the EDFacts technical file specifications with regards to reporting students that do not participate in assessments due to medical exemptions.*

Discrepancies identified in 2007-08 IDEA Table 6 and the 2007-08 EDFacts technical files specifications were evident. However, the 2008-09 IDEA Table 6 reporting instructions and the 2008-09 EDFacts technical file specifications provide

consistent instructions to States for accounting for students that fail to participate in assessments due to having medical exemptions. There is no discrepancy between the documentation of the program offices in this regard. Note that this data element is not new to the collection for 2009-10.

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 are 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 in the form.

12. Estimate of respondent burden.

The estimate of burden is based on informal feedback received from data managers about their previous experience completing Attachment 3 of the APR. The estimate of total burden is based on 60² 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 the sophistication of their data systems. In making these estimates, we assumed that most states receive their assessment data for all students directly from a contractor or testing service and not from LEAs.

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 60 hours and 15 minutes per State agency, representing a total burden estimate of 3,615 hours. Most States reported that they expect the required number of hours needed to produce these data to decline over time as systems are put in place to automate data cleaning, student matching, and the data aggregation process.

OSEP estimated respondent costs as \$20 per hour. As indicated above, the estimated total number of burden hours is 3,615. Therefore, the total estimated cost to the respondents is \$72,000.

2 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 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>
	\$14,850

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). As noted above, OSEP plans to use these data to measure progress under the performance indicators established by OSEP under GPRA and for the IDEA Grants to States program under PART. Occasionally, the data are summarized and presented at conferences and in ad hoc reports or articles submitted for publication. This information will also be used by OSEP for purposes of monitoring and focusing discretionary activities.

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.