

## Appendix F. Public Comments and the Department Responses

**Recommendation 1:** The Department should increase the number of school districts to be used as case studies to ensure that a meaningful sample of policies and student populations is studied. The Department could conduct an abridged version of its study in additional districts by sending the Administrator and Service Provider interviews by mail to adjust the costs. The Department must also take affirmative steps to ensure that it chooses a diverse group of schools.

**Department Response:** This current study is exploratory in nature and is not intended to support inferences about the full population. Because the sample will be purposively selected and the sample will not be representative, the site visits will not yield any generalizable outcomes. As indicated in Section A.2 of the Supporting Statement, the purpose of the study is to help the Department better understand the issues to plan for a national, in-depth study of these issues.

The original sampling plan for the study included nine school districts, but we have reduced that number to six school districts based on input from the study's technical working group (consisting of nationally recognized experts), which noted that practice can vary significantly across schools within districts, particularly medium and large school districts. As a result, we have adjusted the sampling plan to select six districts with three schools each, instead of nine districts with two schools each, to allow more variation within a district. That said, we agree that it is important for this study to select as diverse a group of districts as is possible with this small sample. Section B.1 of the Supporting Statement describes the characteristics for which we will try to diversify the sample to the extent feasible.

Available resources for this small exploratory study do not allow the expansion of the data collection to a larger set of districts, and we believe it would be more appropriate to do that in a larger, future study that is designed to be nationally representative. In addition, the protocols to be used for the case studies are designed to be conducted through semi-structured interviews on site and not as self-report questionnaires.

**Recommendation 2:** The Department should be sure to choose districts whose patterns of disproportional representation of ELs with disabilities fall on both ends of the spectrum. By choosing at least one district with relatively extreme, persistent *under*-representation; at least one district with significant, prolonged *over*-representation; and at least one district with a history of *delayed* identification, the Department may be able to shed light on the comparative practices and circumstances that lead to the wide range of disproportionality.

**Department Response:** As discussed above, this exploratory study will not be able to draw causal conclusions or generalizable findings about practices and circumstances that lead to disproportionality. However, we agree that it is important for this study to include districts with both underrepresentation and overrepresentation of ELS with disabilities - see sampling criterion #4 in Section B.1 of the Supporting Statement.

**Recommendation 3:** Given the current racial, ethnic, and linguistic diversity reflected within the total ELL category, the Department should ensure the case study school districts and schools within that reflect a large percentage of minority and EL students. We also recommend that the Department choose a geographically diverse cross-section of school districts for the case studies. The districts chosen should not only span multiple states, but also be located in a mix of urban, suburban, and rural areas. Moreover, the school districts selected for the case study should reflect current immigration settlement patterns across the U.S.

**Department Response:** It is important to note that a small sample of six school districts is limited in its ability to include districts with diverse characteristics on a large set of criteria and that the sample will not be representative of districts and schools with these characteristics. Nonetheless, the sampling plan does seek to include districts that vary by EL concentration (criterion #1), recent growth in EL population (criterion #3), urbanicity (criterion #9), and state.

**Recommendation 4:** To study the effects of educational reform resulting from legal action under IDEA and similar disability rights laws, the Department should choose districts in which IDEA class action litigation on behalf of ELs with disabilities – either in whole or in part – has led to the implementation of remedial policies and district-wide reform. It is also recommended that the Department choose to study districts in which the Office of Civil Rights (OCR) and/or the Office of Special Education and Rehabilitative Services (OSERS) have previously investigated including those related to ELs with disabilities.

**Department Response:** It is beyond the scope of this study to determine the effects of legal action on the implementation of remedial policies and district-wide reform. The purpose of this study is to explore the processes and personnel involved with identifying ELs for special education services in order to plan for a national, in-depth study of these issues. Therefore, we do not consider it relevant to include districts involved in past legal actions under IDEA and similar disability rights laws as a sampling criterion.

**Recommendation 5:** To gauge how the development of state-led assessment consortia are affecting school practices with respect to ELs with special needs, the Department should choose to study districts that are members of the Partnership for Assessment of Readiness for College and Careers (PARCC) and the Smarter Balanced Assessment Consortium, as well as a state that is a member of neither organization.

**Department Response:** It is beyond the scope of this study to gauge the impact of the development of state-led assessment consortia on school practices with respect to ELs with special needs, so we do not think it is relevant to add membership in these consortia as a sampling criterion.

**Recommendation 6:** Review recent ELL with disabilities research for and conduct the case study collection (and future information collections) at the most disaggregated level possible. Data for this project should be disaggregated by:

1. small units of geography within a local education agency (LEA), to the greatest extent possible;
2. disability category;
3. ELL “sub-subgroup” category, such as:
  - a. recently-arrived ELLs (ELLs who have been in the U.S. school system for less than twelve months);
  - b. late-arrive ELLs (ELLs who enter the U.S. school system at 9th grade or above);
  - c. interrupted ELLs (ELLs who have left the U.S. school system and then re-entered);
  - d. long-term ELLs, former ELLs (ELLs who have been identified as such for at least five years);
  - e. former ELLs (ELLs who have exited the category within the last three years);
4. ELL’s native language(s) and home language(s); and
5. type of program and instruction implemented for an ELL.

**Department Response:** An early component of this study was a review of recent research on the identification of ELs with special needs. This review focused on research published from 2001 to the present, but also included some earlier studies that were particularly relevant to the topics for this current study. This review provides a theoretical and empirical foundation for the case study component, especially for the development of case study interview protocols.

We do intend to collect and examine information from the case study sites across a number of disaggregated levels, including, but not limited to, student grade level (or grade-level groupings), disability category, level of English language proficiency, and the language instruction education program model used in the district. However, it is important to note that the study will not provide generalizable findings about these groups and categories, but rather is intended to inform the design of a future, larger-scale study. Please see Section B.1, Appendixes B-1 and B-2 of this package for details.

**Recommendation 7:** To enhance the utility of the information to be collected, it is recommended the proposed case studies of school districts include the following data:

- Number of specialists with credentialing and/or teaching degrees in both English-as-a-second-language (ESL) or English for speakers of other languages (ESOL), or bilingual education *and* special education
- Current practices used to diagnose and refer ELLs with disabilities
- Current practices used to identify and refer ELLs who are gifted and talented
- Professional development or resources available to educators that address language acquisition and special needs

**Department Response:** We will include current practices used to diagnose and refer ELs with disabilities and the professional development provided to staff involved in identifying English learners with disabilities in the collection and analysis of data. Service providers’ credentials will be part of the professional development. Questions about identification and assessment for gifted and talented programs are beyond the scope of the study. Please review

Appendices B-1 and B-2 of this package for further details on the data to be collected during case study interviews.