SUPPORTING STATEMENT

FOR PAPERWORK REDUCTION ACT SUBMISSION

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a hard copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information, or you may provide a valid URL link or paste the applicable section[1]. Specify the review type of the collection (new, revision, extension, reinstatement with change, reinstatement without change). If revised, briefly specify the changes. If a rulemaking is involved, make note of the sections or changed sections, if applicable.

This is a request for full clearance of the *Annual State Application under Part B of the Individuals with Disabilities Education Act as Amended in 2004 for Federal fiscal year 2018* (Part B application). The Individuals with Disabilities Education Act, when signed on December 3, 2004, became PL 108-446. In accordance with 20 U.S.C. 1412(a) a State is eligible for assistance under Part B for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the conditions found in 20 U.S.C. 1412. Information Collection 1820-0030 allows a State to provide the required assurances indicating that it either has or does not have in effect policies and procedures to meet the eligibility requirements of Part B of the Act as found in PL 108-446.

On December 10, 2015, the Every Student Succeeds Act (ESSA) was signed into law. ESSA reauthorized the Elementary and Secondary Education Act (ESEA), which provides Federal funds to improve elementary and secondary education in the Nation's public schools. Through the reauthorization, the ESSA made significant changes to the ESEA for the first time since the ESEA was reauthorized through the No Child Left Behind Act of 2001. The ESSA also made certain conforming amendments to the eligibility requirements in section 612(a)(14) through (16) of the IDEA, concerning qualifications of special education teachers, performance goals and indicators, and participation in assessments. These changes affect assurances 14, 15 and 16 in Section II.A. of the FFY 2018 IDEA Part B State Application. Therefore, the relevant statutory citations must be updated to reflect that these provisions have been amended by ESSA.

The proposed Part B application published in the 60-day Federal Register notice for this collection on July 11, 2017 included a section intended to collect information required by the Assistance to States for the Education of Children with Disabilities; Preschool Grants for Children with Disabilities regulations (known as the "Equity in IDEA" or "significant disproportionality" regulations) (81 FR 92376). In response to Executive Order 13777: Enforcing the Regulatory Reform Agenda and input received through comment on Evaluation of Existing Regulations published in the Federal Register on June 22, 2017 (82 FR 28431), the

[1]

Department continues to analyze the significant disproportionality regulations to further examine issues such as fiscal impact on SEAs and LEAs and unintended consequences of the regulations, particularly on the identification of children with disabilities. As a result, the Part B application no longer includes the requirement to collect and report the significant disproportionality data required by those regulations. The public will be informed of the Department's decision through a separate regulatory action. Until then, the current regulations and compliance dates remain in effect.

IDEA section 612(a)(18)(A), regarding maintenance of State financial support, requires that the State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year (maintenance of State financial support or MFS). Currently, pursuant to section 612(a), each State provides an assurance in Section II (Assurance 18) of its annual State application for funds under IDEA Part B that it will meet its MFS obligations under section 612(a)(18), unless an MFS waiver is granted under section 612(a)(18)(C). The Office of Special Education Programs (OSEP) relies on this assurance to determine that a State is eligible for a grant under IDEA Part B.

Since FFY 2013, in addition to the assurance provided by the State in its Application that it has policies and procedures in place to comply with section 612(a)(18)(A), States have been required to report the actual whole dollar amounts in order to meet our obligation under IDEA section 616(a) to monitor and enforce the implementation of IDEA, specifically the MFS requirement in section 612(a)(18).

While section 612(a)(18)(A) establishes an eligibility requirement for IDEA Part B, section 612(a)(18)(B) imposes on the Secretary an affirmative obligation to reduce a State's allocation of funds under section 611 of the IDEA for any fiscal year following the fiscal year in which the State fails to comply with the requirement in section 612(a)(18)(A) to maintain financial support, by the same amount by which the State fails to meet the MFS requirement (unless the State receives a waiver under section 612(a)(18)(C)). Collecting this data enables OSEP to enforce section 612(a)(18)(B) in a more consistent manner. Section 618(a)(3) provides the Secretary with the authority to collect annual data on any information that may be required by the Secretary. By accepting IDEA Part B funds, a State assures, in accordance with 2 CFR §200.208 and 34 CFR §76.104, that it will comply with all applicable Federal statutes and regulations in effect during the applicable grant period.

The data required in this collection are data that States should already be collecting in order to ensure compliance with section 612(a)(18)(A). Moreover, we believe that any burden associated with annually reporting the actual whole dollar amount of State financial support made available for special education and related services is far outweighed by: 1) the increased public transparency associated with the data's collection, and 2) the necessity to collect the data to monitor and enforce the requirement to maintain effort.

It should be noted that the requirements for the Annual State Application, as outlined in this request, are adequate to meet the requirements for eligibility under section 619. States do not submit a separate application for section 619; rather, a State is eligible for a grant under section 619 if the State is eligible under section 612 to receive a grant under Part B (and meets the

definition of a State in section 619(i)). Therefore, it is the Department's intent by this submission to cover under the Paperwork Reduction Act the relevant State eligibility provisions for both sections 612 and 619. Information Collection 1820-0030 corresponds with 34 CFR §§ 300.100-176; 300.199; 300.640-645; and 300.705. These sections include the requirement that the Secretary and local educational agencies located in the State be notified of any State-imposed rule, regulation, or policy that is not required by this title and Federal regulation.

This collection is conducted in a manner that is consistent with the guidelines in 5 CFR §1320.5.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information gathered through Information Collection 1820-0030 is used by the Monitoring and State Improvement Planning Division, OSEP, to assist in determining: grant eligibility for each State. The information will be evaluated by Education Program Specialists to identify State and national needs for services required to meet the FAPE requirement for children with disabilities (Part B, 20 U.S.C. 1412) and to provide to Congress and to the general public programmatic information, as appropriate. Information related to IDEA section 612(a)(18)(A) regarding maintenance of State financial support has been used to monitor and enforce the maintenance of State financial support requirements.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration given to using technology to reduce burden.

States continue to use computerized data bases to reduce the burden. States may electronically submit any information or revisions to the State application that does not require an original signature.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The Annual State Application was reviewed by the EDFacts team in the National Center for Education Statistics in the Institute for Education Sciences at the U.S. Department of Education. This application has been determined to be "unEDENable" and not to duplicate any other collection.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden. A small entity may be (1) a small business which is deemed to be one that is independently owned and operated and that is not dominant in its field of operation; (2) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; or (3) a small government jurisdiction, which is a government of a city, county, town, township, school district, or special district with a population of less than 50,000.

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

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Items 1, 2, and 4 would not be accomplished unless directed by Federal statute.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or that unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances that would cause an information collection to be conducted as described in the bulleted items. This collection is conducted in a manner that is consistent with the guidelines in 5 CFR 1320.5.

8. As applicable, state that the Department has published the 60 and 30 Federal Register notices as required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

OSEP consults with representatives outside the agency as well as internal Departmental internal and budgetary review protocols prior to each 3-year extension period.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees with meaningful justification.

There are no payments or gifts to respondents other than the funds they receive under the formula mandated for this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If personally identifiable information (PII) is being collected, a Privacy Act statement should be included on the instrument. Please provide a citation for the Systems of Record Notice and the date a Privacy Impact Assessment was completed as indicated on the IC Data Form. A confidentiality statement with a legal citation that authorizes the pledge of confidentiality should be provided.[2] If the collection is subject to the Privacy Act, the Privacy Act statement is deemed sufficient with respect to confidentiality. If there is no expectation of confidentiality, simply state that the Department makes no pledge about the confidentially of the data.

The Department makes no assurances of confidentiality in the Annual State Application under Part B of the Individuals with Disabilities Education Act as Amended in 2004 for Federal fiscal year 2017.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. The justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

[2] Requests for this information are in accordance with the following ED and OMB policies: Privacy Act of 1974, OMB Circular A-108 – Privacy Act Implementation – Guidelines and Responsibilities, OMB Circular A-130 Appendix I – Federal Agency Responsibilities for Maintaining Records About Individuals, OMB M-03-22 – OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002, OMB M-06-15 – Safeguarding Personally Identifiable Information, OM:6-104 – Privacy Act of 1974 (Collection, Use and Protection of Personally Identifiable Information)

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents by affected public type (federal government, individuals or households, private sector – businesses or other for-profit, private sector – not-for-profit institutions, farms, state, local or tribal governments), frequency of response, annual hour burden, and an explanation of how the burden was estimated, including identification of burden type: recordkeeping, reporting or third party disclosure. All narrative should be included in item 12. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in the ROCIS IC Burden Analysis Table. (The table should at minimum include Respondent types, IC activity, Respondent and Responses, Hours/Response, and Total Hours)

- Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

There are 60 respondents who, under PL 108-446, are required to submit the IDEA Part B Annual State Application in order to receive a grant award under Part B of the IDEA. The data burden is expected to require an average of 14 hours per respondent. The burden estimate is: 60 respondents times 14 hours to submit the Annual State Application that equals an estimated 840 hours.

The estimated cost of preparing the State application is $24,780. The response time per response (estimated at 14 hours) is multiplied by the number of respondents (60) multiplied by the average hourly salary (estimated at $29.50).

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment,

the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and acquiring and maintaining record storage facilities.

- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices. Also, these estimates should not include the hourly costs (i.e., the monetization of the hours) captured above in Item 12

Total Annualized Capital/Startup Cost	:	0
Total Annual Costs (O&M)	:	0
Total Annualized Costs Requested	:	0

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Estimated Annualized Cost to the Federal Government: $10,101.60

OSEP receives 60 applications. It is estimated that receiving, processing, reviewing, and responding to a grantees application takes three hours. The average hourly OSEP State Contact salary is $56.12/hour.

15. Explain the reasons for any program changes or adjustments. Generally, adjustments in burden result from re-estimating burden and/or from economic phenomenon outside of an agency's control (e.g., correcting a burden estimate or an organic increase in the size of the reporting universe). Program changes result from a deliberate action that materially changes a collection of information and generally are result of new statute or an agency action (e.g., changing a form, revising regulations, redefining the respondent universe, etc.). Burden changes should be disaggregated by type of change (i.e., adjustment, program change due to new statute, and/or program change due to agency discretion), type of collection (new, revision, extension,

reinstatement with change, reinstatement without change) and include totals for changes in burden hours, responses and costs (if applicable).

The ESSA also made certain conforming amendments to the eligibility requirements in section 612(a)(14) through (16) of the IDEA, concerning qualifications of special education teachers, performance goals and indicators, and participation in assessments. These changes affect assurances 14, 15 and 16 in Section II.A. of the FFY 2018 IDEA Part B State Application. Therefore, the relevant statutory citations were updated to reflect that these provisions have been amended by ESSA.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The information in the State application is not published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There is no request to ask for an approval not to display the expiration date.

18. Explain each exception to the certification statement identified in the Certification of Paperwork Reduction Act.

There are no proposed exceptions to the certifications.

B. This collection does not employ statistical methods.