

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.

The U.S. Department of Education is committed to ensuring that all children with disabilities are appropriately identified, placed, and disciplined, and that all children with disabilities receive the services to which they are entitled under the Individuals with Disabilities Education Act. No child should be inappropriately identified as a child with a disability, placed in a more restrictive setting, or improperly disciplined because of his or her skin color or ethnic background.

Section 618(d)(1) of IDEA (20 U.S.C. 1418(d)(1)) requires States to collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the State and LEAs of the State with respect to: (a) the identification of children as children with disabilities in accordance with a particular impairment; (b) the placement in particular educational settings of such children; and (c) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

On December 19, 2016, the Department published the Equity in IDEA (significant disproportionality) regulation in the Federal Register, 81 FR 92376. The 2016 regulation established a standard methodology States must use to determine whether significant disproportionality based on race and ethnicity is occurring in the State and in its local educational agencies. States are required to address significant disproportionality in the incidence, duration, and type of disciplinary actions, including suspensions and expulsions, using the same statutory remedies required to address significant disproportionality in the identification and placement of children with disabilities. The standard methodology uses risk ratios to analyze disparities. States must use the standard methodology, including the State identified risk ratios, to comply with the regulations and determine if significant disproportionality exists under IDEA. (34 C.F.R. §300.647(b)). States were required to comply with the significant disproportionality regulations by July 1, 2018.

The Department was concerned that the 2016 regulation may not have appropriately addressed the issue of significant disproportionality. As a result, the Department published a rule in July 2018 delaying the compliance date of the December 2016 regulation for two years.

¹ Please limit pasted text to no longer than three paragraphs.

On March 7, 2019, a U.S. District Court vacated the delay. As a result, the 2016 regulation is currently in effect, and the Department has advised the States accordingly. The Survey is intended to identify necessary Federal resources to support States' implementation of the 2016 regulation and to enable the Department to develop appropriate technical assistance.

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.

This new Survey will collect detailed information on the States' need for assistance in implementing the standard methodology for measuring significant disproportionality in States and LEAs pursuant to the 2016 regulation. The Department will use this information to support States and LEAs in their efforts to comply with the statutory requirement at section 618(d) of IDEA.

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.

Respondents must submit comments electronically to: EquityinIDEAStateSurvey@ed.gov

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.

Information requested in the Survey is not available from any other source. Respondents must provide information that is uniquely responsive to their efforts to implement requirements of the standard methodology under 34 C.F.R. §§300.646 and 300.647.

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 collection of information is addressed to State educational agencies (SEAs), which are not small businesses or entities.

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.

This information collection is planned as a reoccurring Survey, based upon the needs of SEAs, LEAs, and other stakeholders. If the collection were not conducted, the Department would be unable to fulfill its responsibilities under 34 C.F.R. § 300.647(b)(7) and 34 C.F.R. § 300.647(b)(1)(iii). If these data were not collected, it would hamper the Department's ability to assess what determination metrics, monitoring, and technical assistance will be most meaningful and appropriate to help States implement the requirements at 34 C.F.R. §§300.646 and 300.647.

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.

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 three 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.

OSERS consults with internal Departmental agents through internal and budgetary review protocols for submission of information collections. In May 2019, a 60-day notice was published in the Federal Register to solicit public comments (84 FR 20867). The Department received 79 comments, of which 72 were substantive. OSERS organized these comments into eight categories, and provided a response to each category. OSERS made no changes in response to comments in five categories. It made changes to the supporting statement based on comments in one category, and changes to the instrument based on comments in two categories. There is no change in burden as a result of the changes to the instrument. For further details, please see the Response to Comments document.

A 30-day notice will be published in the Federal Register to solicit additional public comments. OSERS will respond to comments received for this notice, as well.

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.

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 confidentiality of the data.

No assurance of confidentiality is provided to respondents. Respondent participation is voluntary.

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).

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.

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.

Under 618(d) (20 U.S.C. 1418(d)) and §§300. 646 and 300.647, States are required annually to collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the State and the LEAs of the State.

Annual Hour Burden: There are 50 States. The annual reporting burden is 2.0 hours per respondent. Once per year. Therefore, the total overall annual burden is 100 hours. (2.0 hours per respondent X 50 respondents).

Annual Cost: The estimated cost of responding to the Survey is \$3,000.00. The annual cost per respondent (estimated 2 hours) is multiplied by the number of respondents (50) multiplied by the average hourly salary (estimated \$30.00).

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:	None.
Total Annual Costs (O&M) :	None.
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Total Annualized Costs Requested :	None.

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: \$5,612.00

There are 50 States. It is estimated that receiving, reviewing, and responding to comments will take 100 hours. The average OSERS 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).

This is a new collection.

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.

None.

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.

Expiration date will be displayed.

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

No exceptions requested.