

General

Comment: Several commenters representing the advocacy community, national membership organizations, and parents provided feedback on OSEP's revisions to Results Driven Accountability (RDA) undertaken as a part of the Department's Rethink initiative. The commenters noted that OSEP is revising several components of RDA including the SPP/APR, the factors that the Department uses to make annual determinations under IDEA section 616(d), and OSEP's system of differentiated monitoring and support (DMS). The commenters noted that this Federal Register notice only relates to the SPP/APR and that it is difficult to comment on one component of the system without knowing the details of the revisions to the other components.

Discussion: As part of the Department's Rethink initiative, OSEP is undertaking revisions to several components of RDA as the commenters noted. Since 2017, OSEP has conducted listening sessions with stakeholders and accepted public comment through blog posts to solicit the public's feedback on the current state of RDA and ideas for revisions. OSEP has discussed elements of proposed RDA revisions including the focus of DMS monitoring on outcomes, in multiple settings, including stakeholder calls, national technical assistance calls and an announcement in OSEP's monthly newsletter.¹ The SPP/APR is subject to the requirements

¹ <https://content.govdelivery.com/accounts/USED/bulletins/288a719>

of the Paperwork Reduction Act and is due for its third six-year cycle.² OSEP has not proposed major revisions to this information collection. OSEP is still considering comments received will continue to make available additional information about RDA revisions as they become available.

Changes: None.

Comment: One commenter representing a national membership organization requested that the Department align this data collection with data collections administered by the Centers for Medicare and Medicaid Services (CMS). As examples, the commenter recommends that, to the greatest extent possible and practicable under the law, the Department and CMS align those data elements that are required for both IDEA Part C and Medicaid reimbursement. The commenter also recommends that the Department and CMS collaborate to provide technical assistance on like data elements.

Discussion: The purpose of the Part C SPP/APR is for States to collect and report performance data on compliance and results indicators. The purpose of the CMS data elements are to enable

² Each State submitted its initial six-year SPP in December 2005 for FFYs 2005 through FFY 2010 with targets and improvement activities. In 2011, to meet the requirement set forth in IDEA sections 616(b)(1)(C) and 642 to review the SPP every six years, OSEP proposed no major changes to the SPP and allowed States to extend their targets and improvement activities through FFY 2012. States submitted a second six-year SPP in 2015, covering FFY 2013 through FFY 2018. Similar to FFY 2012, OSEP is permitting States to extend their SPP targets and improvement activities for one additional through FFY 2019. The Department's proposed information collection would apply for the next and third SPP six-year cycle for FFY 2020 through FFY 2025.

reimbursement under Medicaid. The Part C SPP/APR requires each State to report annually on the targets in the State performance plan. While there is overlap in IDEA Part C early intervention and Medicaid services such as service coordination that may be billed as case management under Medicaid, the IDEA Part C SPP/APR indicators do not include Medicaid billing data. Specifically, the SPP/APR compliance indicators measure timely service provision, early childhood transition, and the 45-day timeline under IDEA Part C, none of which are requirements under Medicaid. Thus, no data used in the Part C SPP/APR are data collected by CMS for the purposes of Medicaid reimbursement.

Changes: None.

Comment: Commenters representing parent organizations and advocacy organizations support the proposed changes to enhance stakeholder involvement in setting targets and in the development and implementation of Indicator 11 – State Systemic Improvement Plan (SSIP). Commenters representing State lead agencies believe that the existing language is adequate to ensure meaningful stakeholder involvement.

Discussion: OSEP appreciates the commenters support regarding proposed changes to increase stakeholder involvement for the SSIP. Stakeholder involvement, especially parent involvement, in the Part C program, including establishing SPP/APR SSIP targets and Indicator 11 SSIP development, is critical to improved

outcomes for infants and toddlers with disabilities and their parents. While stakeholders, including parents, are meaningfully included in setting targets and in developing Indicator 11, OSEP believes that the revisions are necessary to define a common understanding of how State lead agencies must demonstrate stakeholder involvement.

Changes: None.

Indicators 2, 5, 6, 9, and 10

Comment: Commenters representing State lead agencies for Part C requested that the Department eliminate Indicator 2 regarding natural environments, Indicators 5 and 6 regarding child find, Indicator 9 regarding resolution sessions, and Indicator 10 regarding mediations because the data are already submitted under IDEA section 618 through the ED*Facts* Metadata and Process System (EMAPS).

Discussion: IDEA sections 616(a)(3)(A) and (B) and 642³ require that the Secretary shall monitor the States, using quantifiable indicators, and such qualitative indicators as are necessary to adequately measure performance in the provision of appropriate early intervention services in natural environments, child find, resolution sessions, and mediations. Indicators 2, 5, 6, 9, and

³ Pursuant to IDEA section 642(3) any reference in IDEA sections 616, 617, and 618 to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

10 were established in response to these requirements. Indicator 2 measures the percent of infants and toddlers who primarily receive early intervention services in the home or community-based settings. Indicators 5 and 6 measure the percent of infants and toddlers with IFSPs from birth to 1 and birth to 3, respectively. Indicator 9 measures the percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements (applicable if Part B due process procedures under IDEA section 615 are adopted for Part C due process hearings). Indicator 10 measures the percent of mediations held that resulted in mediation agreement.

While the data sources for Indicators 2, 5, 6, 9, and 10 are already reported by States under IDEA section 618, the SPP/APR requires a State to do more than submit data. The SPP/APR provides a system through which a State analyzes its data and explains the State's performance related to the priority areas outlined in IDEA sections 616(a)(3)(A) and (B) and 642. Data that may have been submitted through another source, *e.g.*, EMAPS, must be further analyzed in the SPP/APR so that the State may report on its progress or slippage toward meeting its measurable and rigorous targets in its SPP, and provide improvement activities to assist the State in meeting, or continuing to meet, those targets.

Changes: None.

Indicator 4

Comment: Comments on the proposed revisions regarding analysis by specific demographic categories were mixed. Commenters representing parents supported the inclusion of race and ethnicity in the list of demographic categories that a State must consider when determining the representativeness of the survey responses received and the inclusion of at least one other demographic category approved through stakeholder input. These commenters believe that the proposed revisions would provide a more comprehensive view of family outcomes. A commenter representing a membership organization also supported analysis by race and ethnicity but suggested that States include all the other recommended demographic categories in its analysis instead of being permitted to select at least one. The commenter noted that reporting on all of the suggested demographic categories might impose additional data collection burden on States, but commented that the additional analysis will inform a realistic picture of the services provided throughout the States and will provide more robust information to enhance the quality of early intervention services.

Commenters representing Part C lead agencies recognized the importance of having representative response data on the family survey to ensure continuous improvement to early intervention services and supports to families. However, these commenters

expressed multiple concerns with the proposed revisions. The commenters noted that not all Part C programs have the resources available to revise data collection systems. The commenters are also concerned with the requirements to compare response rates year-over-year and describe strategies for increasing the response rates from year to year. The commenters are concerned that there will come a point where it would not be expected that the State would be able to raise the response rate. The commenters noted that some States already report response rates at a level that is consistent with the survey literature.

Discussion: OSEP appreciates support for including race and ethnicity and at least one other category when analyzing the representativeness of the parent survey response and understands State lead agencies' concerns about a potential increase in burden. As OSEP stated in the Part C explanation and rationale document published with the proposed information collection, high quality data is necessary for States to improve family outcomes. High quality data means data that accurately reflect the infants and toddlers served. Therefore, OSEP believes that it is necessary to include race and ethnicity and at least one other category at the State's discretion, with stakeholder approval. OSEP acknowledges that some States may have to update surveys and data collection tools to include the required data elements; therefore, OSEP is delaying the requirement to report the

specific demographic categories by one year so States will have time to make any necessary adjustments. Additionally, OSEP believes that any increase in associated burden is time-limited and is outweighed by the benefit of program improvement that will positively impact early intervention service delivery to infants and toddlers with disabilities and their families.

Changes: The indicator has been revised to delay the requirement to report on demographic categories by one year.

Comment: No commenters supported the proposed revision that States analyze the extent to which the demographics of the families responding are representative of infants, toddlers, and families enrolled in the Part C program. The commenters are also concerned that the required analysis may compromise confidentiality. The commenter also expressed that survey responses are confidential in most States. To analyze confidential responses by the additional demographic variables, completed surveys must either be linked to child-specific data in the data system or collected in the survey tool itself.

Discussion: We agree with the commenters that comparing the demographics of the parent, particularly race and ethnicity, to the demographics of the infant or toddler receiving services is not the appropriate level of analysis as the demographics of the family may not match those of the infant or toddler with disabilities. Therefore, OSEP has revised the indicator to

require that a State analyzes the extent to which the demographics of the infants or toddlers for whom families responded are representative of the infants and toddlers receiving in the Part C program. Revising the point of analysis also addresses the commenters' privacy concerns.

Changes: The indicator has been revised to require that a State analyzes the extent to which the demographics of the infants or toddlers for whom families responded are representative of the infants and toddlers receiving services in the Part C program.

Comment: Commenters representing Part C lead agencies expressed concern regarding the requirement that States compare response rates year-over-year. The commenter believes that the proposed requirement implies an expected increase in the response rate every year going forward. The commenter notes that some States have already achieved a response rates that are adequate and consistent with the survey literature. The commenter also noted that some States with low response rates may already have plans in place to address the low response rate.

Discussion: As stated in the Part C explanation and rationale document that was published with the proposed information collection, response rates are important in determining the quality and significance of the family outcomes data. The State response rates for Indicator 4 varied from 9 percent to 100 percent in the FFY 2016 SPP/APR, with a median response rate of

34.07 percent. OSEP understands that not all States will be able to demonstrate a 100 percent response rate; nor would it be appropriate. However, the proposed revisions will ensure that all States are performing the same types and levels of response rate analysis. While a State may demonstrate that its overall response rate improves year-over-year, it is more critical that comparison and analysis lead to improvement in rates for those groups that are underrepresented.

Changes: None.

Indicator 8

Comment: Commenters representing State lead agencies for Part C requested that OSEP remove the timeline variable from Indicator 8A regarding transition steps and services since the time factor is also reported in Indicator 8C regarding transition conferences. The commenters are concerned that collecting the same information in two parts of the indicator is confusing and redundant.

Discussion: OSEP acknowledges that two components of Indicator 8 include the timeline "at least 90 days, and at the discretion of all parties not more than nine months, prior to their third birthday." However, the timeline in Indicator 8A applies to establishing a transition plan in the IFSP for all toddlers receiving IDEA Part C services and not just those toddlers receiving IDEA Part C services and potentially eligible for Part

B preschool services. Indicator 8C measures the percentage of toddlers for whom the transition conference was “held with the approval of the family at least 90 days, and at the discretion of all parties, not more than nine months, prior to the toddler’s third birthday for toddlers potentially eligible for Part B preschool services.” Indicator 8C data is also closely linked to the IDEA Part B SPP/APR Indicator 12 which measures the timeliness of toddlers transitioning successfully from IDEA Part C to Part B. Therefore, OSEP does not believe that the information is redundant.

Changes: None.

Indicator 11

Comment: Comments regarding establishing a new due date for Indicator 11 – State Systemic Improvement Plan (SSIP) were mixed. Comments from parent and advocacy organizations supported aligning the SSIP due date with the rest of the SPP/APR. Commenters representing State lead agencies for Part C did not support the new due date. Commenters opposing the revision stated that, in many states, the lead agency staff that develop the SPP/APR submission for Indicators 1 through 10 and submitting data required under IDEA section 618 also have responsibilities for development of the SSIP. Having the additional 60 days to prepare the comprehensive annual report for the SSIP is necessary to ensure adequate time and resources are available to prepare a

high-quality report reflective of all the comprehensive activities, evaluation data and upcoming plans within the state. Requiring submission of the SSIP with Indicators 1-10 on February 1 creates an unnecessary burden on state lead agency staff as well as on the stakeholders whose time and expertise are essential for the development of both reports.

Discussion: OSEP believes it is important to have one due date for the SPP/APR. The SSIP, is one indicator in the SPP/APR and was always intended to be included in the annual state submission due on February 1st. OSEP established the April 1st due date because the SSIP was new indicator that was unprecedented in terms of the scope of information to be reported. However, the SSIP will be in year 8 for the next SPP/APR package and should not be treated as separate from the remaining indicators in the SPP/APR. OSEP has responded to state concerns about a potential writing burden by providing a SSIP report template with bullet points that serve as a checklist for the required information and suggested page limits. This template, if updated throughout the year as states implement and evaluate their activities, minimizes the report writing time commitment. The SSIP is rooted in principles of implementation science and a plan-do-study-act cycle. States should be collecting and using data throughout the year to evaluate progress toward state-identified outcomes, allocate resources and revise strategies based on data and

meaningful stakeholder engagement. If States are implementing and evaluating infrastructure improvement efforts and use of evidence-based practices within these frameworks, data and stakeholder input should be readily available to populate a SSIP report that includes the required information per the measurement language.

Changes: None.