

General

Comment: Commenters from State educational agencies (SEAs) and local educational agencies (LEAs) do not agree with the proposed burden estimate for the collection. The commenters believe it is unrealistic to maintain the currently approved burden estimate, even with efficiencies gained in other areas of the collection, because States must set several additional targets to meet the revised reporting requirements. The commenters note that target setting requires meaningful stakeholder involvement which takes time and engagement and that States must report annually against those additional targets, thereby increasing the annual reporting time.

Discussion: OSEP agrees that it must revise the burden estimate to reflect the time needed for meaningful stakeholder involvement to set the new targets and to annually report on the new targets. As discussed later in this document, OSEP has revised the proposal to eliminate multiple proposed indicators based on comments. The final proposed collection includes up to seven indicators that require States to engage with stakeholders to set targets based on either a new measurement or data point for the first time. Some States may have to set a new target for Indicator 2 and new targets by grade level for Indicators 3A, 3B, and 3C. All States must set new targets for Indicators 1, 3D, and 6. States will set one target for Indicator 1, three targets for

Indicator 3D, and either one or three targets for Indicator 6. This represents a net gain of up to 15 additional targets (one for Indicator 2, up to 12 targets for Indicator 3 and up to two for Indicator 6) for some States. It is estimated that it will take an average of 4 hours, *i.e.*, the equivalent of a half-day meeting, of collaboration with stakeholders per indicator to establish the new targets, for a total of 60 hours. Additionally, as commenters noted, States are required to annually report against the established targets. It is estimated that States will spend, on average, 2 hours per the net gained 15 targets, for a total of 30 hours. Therefore, OSEP is revising the burden estimate to reflect an additional 90 hours in burden per response. The Department believes that any burden associated with this increase is outweighed by the transparency and efforts to improve outcomes for children with disabilities gained by the additional analysis.

Changes: OSEP revised the burden estimate by adding 90 hours in burden per response. Total burden hours for the combined SPP/APR (submitted annually) will be 60 respondents times 1,786 hours (or an average of 105 hours per indicator), which equals 107,160 hours. Of the total 1,786 hours, it is estimated that 1,706 hours will be spent planning the report, 40 hours will be spent writing the report, and 40 hours will be spent typing and compiling the report.

Comment: Several commenters representing advocacy organizations and membership organizations requested that OSEP postpone making changes to the SPP/APR because of the challenges caused by the COVID-19 national emergency. The commenters requested that OSEP instead provide States with technical assistance and support to ensure that children with disabilities are provided a free appropriate public education.

Discussion: OSEP agrees that the COVID-19 national emergency has presented challenges, including in determining how to provide a free appropriate public education to children with disabilities during a national emergency. OSEP has provided States with technical assistance and support on this issue throughout the national emergency through national technical assistance calls, broadly disseminating relevant resources, webinars with key OSEP-funded technical assistance centers, and individual meetings with States. OSEP will continue to support States throughout the summer months and as States make decisions for the next school year.

The current approval for the SPP/APR expires in August 2020. Therefore, OSEP must seek OMB approval now to extend this collection. To that end, OSEP believes that the proposed revisions are necessary at this time for the very reason the commenters state - to ensure that children with disabilities receive a free appropriate public education. The proposed

revisions provide the opportunity for a more thorough analysis in those areas we know lead to improved outcomes for children with disabilities, like outcomes on State and district-wide assessments and increased parent involvement. Therefore, OSEP will move forward with the proposed revisions to the SPP/ARP.

Changes: None.

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. 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 of the Paperwork Reduction Act and is due for its third six-year cycle.² OSEP is still considering comments received and will continue to make available additional information about RDA revisions as they become available.

Changes: None.

Indicator 1

Comment: One commenter questioned whether the proposed data source cited to the correct ED*Facts* file specification number.

Discussion: The file specification number cited in the proposed SPP/APR was subsequently updated. Therefore, OSEP will update the file specification number for this indicator.

Changes: The ED*Facts* file specification number has been changed from C009 to FS009.

Comment: Comments on the proposed revisions to Indicator 1 were mixed. Commenters representing SEAs and LEAs requested that the

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

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 section 616(b)(1)(C) 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.

indicator continue to use the same data submitted under the Elementary and Secondary Education Act of 1965 (ESEA), *i.e.*, the adjusted cohort graduation rate (ACGR). The commenters are concerned that it will be difficult to explain to stakeholders why States report two distinct rates for graduation under ESEA and IDEA. They are also concerned that changing the data source from the ACGR to IDEA section 618 exiting data will create an unnecessary data silo for children with disabilities. One commenter representing an advocacy organization believes that continuing to use the same data as reported under ESEA will require States to do more to assist districts in improving the ACGR. The commenter expresses concern that using IDEA section 618 data will put the focus on a exiting rate that promotes a variety of diplomas that are not standards-based and that by their design limit access to both the regular classroom and the general curriculum. Commenters representing States expressed concern that States, and more importantly LEAs, will lose the ability to compare graduation rates of children with disabilities to those of children without disabilities, and children in other subgroups.

Other commenters, some representing SEAs and LEAs, believe that calculating the percent of youth with individualized education programs (IEPs) graduating from high school with a regular high school diploma is both more precise than the ACGR

reported under ESEA and more comparable across States since determining which students will be counted in the ACGR calculation varies by State. Additionally, the commenters noted that aligning the Indicator 1 data source with the Indicator 2 (dropout) data source makes the data more accessible to the field, including parents, by providing a complete picture of children with disabilities exiting special education and related services for a given year.

Discussion: The use of the IDEA Section 618 Exiting Collection (FS009) as the data source for Indicator 1 would provide the Department with the most consistent and accurate count of students with disabilities exiting school with a regular high school diploma. Indicator 1 measures the percent of youth with IEPs exiting from high school with a regular high school diploma in a single year. Exiting data provides an accurate reflection of how students with disabilities, who received special education and related services at the time of exit, are leaving high school based on the same standards and criteria that apply to students without disabilities. Though the Part B Exiting data does not offer a direct comparison between the percent of students with disabilities who are graduating with a regular high school diploma and the percent of all students graduating with a high school diploma, as the ACGR data provides, OSEP agrees with the commenters that it allows for a complete picture of the outcomes

of students with disabilities, particularly when read together with Indicator 2. Further, though OSEP reviews the ACGR data with the Department's Office of Elementary and Secondary Education (OESE), OESE is the steward of the data and makes the ultimate decision related to reporting changes and technical assistance associated with the data reported under ESEA. OSEP, as the steward of the IDEA section 618 data, has the authority to provide guidance and technical assistance on Part B Exiting data. Finally, the Exiting data benefits from a long and consistent data collection history. These data have been collected since the 1984-1985 school year, with minimal changes to the collection. The historical consistency, OSEP's ability to provide guidance and technical assistance on the collection, as well as the laser focus on students with disabilities make the Exiting data collection the most consistent accounting of students with disabilities leaving high school.

Any revisions to SPP/APR reporting requirements will not impact what a State is required to submit under ESEA, including reporting on ACGR. States will continue to make available ACGR data, including the required disaggregation by subgroups such as children with disabilities, through the ESEA report card. There is nothing to prevent a State from making available these data and comparisons in tandem with the Indicator 1 data and analysis from the SPP/APR.

Changes: None.

Comment: One commenter requested that the indicator be revised to replace the word "exiting" with "graduation" to clearly distinguish graduating from other ways students might leave high school.

Discussion: The indicator language is correct and aligns with the reporting instructions for ED $Facts$ file specification FS 009, which use "exiting" in the definition of "graduated with regular high school diploma." Therefore, the indicator will not be revised to replace "exiting" with "graduating."

Changes: None.

Comment: Multiple commenters recommended removing the category "died" from the denominator of the measurement for Indicator 1, which is all youth with IEPs who left high school (ages 14-21). One commenter believed it is insensitive to include students who have died in the denominator. Another commenter suggested making the denominator consistent with the methodology used for Indicator 14 (Postschool Outcomes), which does not include students who died, since students who die before exiting school should be considered ineligible to graduate from high school and therefore not counted in the denominator.

Discussion: OSEP agrees that the category "died" should not be included in the denominator. The denominator for this measurement has historically included all categories included in ED $Facts$ file

specification FS009, which includes the category "died." However, we agree with the commenters that the category "died" should no longer be included for the reasons stated by the commenters. Additionally, the number of students included in that category per State is generally low and removing it from the denominator will not impact the validity and reliability of the Indicator 1 data.

Changes: The instructions have been revised to remove "died" from the list of categories that must be included in the denominator of the measurement for Indicator 1.

Comment: One commenter recommended using the most current year's data for this indicator instead of the data from the year before the reporting year.

Discussion: We agree that using the most current year's data would be optimal. However, it is not possible given ED Facts data submission and data validation timelines. Data for ED Facts file specification FS009 (Part B Exiting) is initially submitted by States in November of a given year, with resubmission completed in late May of the subsequent year. The data then go through an extensive validation process that extends beyond the due date for that year's SPP/APR. As an example, the SPP/APR submitted by States in February 2020 is based on Federal fiscal year (FFY) 2018 (covering school year (SY) 2018-2019) data, except for those indicators, such as Indicator 1, that are based on lag data. FFY

2018 (SY 2018-2019) Part B exiting data is reported by States to *EDFacts* in February 2018 and is not final until May 2019. The data validation process begins in May 2019 and continues past the October 1, 2019 date when the data are pulled from *EDFacts* to populate the FFY 2018 SPP/APR, due in February 2020. Therefore, because Indicator 1 data is based on the most current year's data that are validated and available for use in a given year's SPP/APR, OSEP will not make the change that the commenter requested.

Changes: None.

Indicator 2

Comment: One commenter questioned whether the proposed data source cited to the correct *EDFacts* file specification number.

Discussion: The file specification number cited in the proposed SPP/APR was subsequently updated. Therefore, OSEP will update the file specification number for this indicator.

Changes: The *EDFacts* file specification number has been changed from C009 to FS009.

Comment: Comments on this indicator were mixed. Some commenters representing SEAs and LEAs, and all commenters representing advocacy organizations, supported the revisions and were appreciative of the one-year phase-in of the revision. Some commenters representing SEAs and LEAs do not support the revision because they believe States will lose the ability to compare the

dropout rate for children with disabilities to the drop out rate of children without disabilities, and children in other subgroups.

Discussion: As with Indicator 1, the use of the IDEA Section 618 Exiting Collection (FS009) for Indicator 2 provides the Department with the most consistent count of students with disabilities exiting school by dropping out. It also provides consistency between Indicators 1 and 2 to allow for a more complete account of exiting in a State. States retain the flexibility to continue to make available the dropout data collected in the Common Core of data to allow for comparisons between groups.

Changes: None.

Comment: Multiple commenters recommended removing the category "died" from the denominator of the measurement for Indicator 2, which is all youth with IEPs who left high school (ages 14-21) in Option 1. One commenter believes that is insensitive to include students who have died in the denominator. Another commenter suggested making the denominator consistent with the methodology used for Indicator 14 (Postschool Outcomes), which does not include students who died, since students who die before exiting school would not drop out of high school and therefore not counted in the denominator.

Discussion: OSEP agrees that the category “died” should not be included in the denominator. The denominator for this measurement has historically included all categories included in ED*Facts* file specification FS009, which includes the category “died.” However, we agree with the commenters that the category “died” should no longer be included for the reasons stated by the commenters. Additionally, the number of students included in that category per State is generally low and removing it from the denominator will not impact the validity and reliability of the Indicator 2 data.

Changes: The instructions have been revised to remove “died” from the list of categories that must be included in the denominator of the measurement for Indicator 2.

Comment: Several commenters are concerned that Option 1 does not present a true dropout rate.

Discussion: The indicator is not intended to provide a dropout rate. Rather, it captures the percent of youth with IEPs dropping out of high school. The term “rate” is only used in Option 2. Option 2 will be phased out beginning with the FFY 2021 SPP/APR, due February 1, 2023.

Changes: None.

Comment: One commenter recommended using the most current year’s data for this indicator instead of the data from the year before the reporting year.

Discussion: We agree that using the most current year's data would be optimal. However, it is not possible given ED*Facts* data submission and data validation timelines. Data for ED*Facts* file specification FS009 (Part B Exiting) is initially submitted by States in November of a given year, with resubmission completed in late May of the subsequent year. The data then go through an extensive validation process that extends beyond the due date for that year's SPP/APR. As an example, the SPP/APR submitted by States in February 2020 is based on FFY 2018 (covering SY 2018-2019) data, except for those indicators, such as Indicator 2, that are based on lag data. FFY 2018 (SY 2018-2019) Part B exiting data is reported by States to ED*Facts* in February 2018 and is not final until May 2019. The data validation process begins in May 2019 and continues past the October 1, 2019 date when the data are pulled from ED*Facts* to populate the FFY 2018 SPP/APR, due in February 2020. Therefore, because Indicator 2 data is based on the most current year's data that are validated and available for use in a given year's SPP/APR, OSEP will not make the change that the commenter requested.

Changes: None.

Indicator 3

Comment: Some commenters supported only reporting data for grades 4, 8, and high school. Other commenters did not support the revisions because they were concerned that they create the

perception that the other grades do not matter. The commenters also wondered which grades would be included in high school.

Discussion: OSEP appreciates the comments supporting the reporting of data for grades 4, 8, and high school. OSEP believes that this focus is necessary to drive further improvement for children with disabilities. As OSEP previously stated, focusing on these three grade levels mitigates or prevents the masking of high performance/low performance or improvement/no improvement that would occur if all grades are combined to generate an "average." It also captures the impact of evidence-based interventions that many LEAs implement in certain grades. As examples, reporting on grade 4 focuses on the effectiveness of early elementary instruction (e.g., K-3 literacy programs), which is a critical time in literacy development. Reporting on grade 8 focuses on the successful transition of students with disabilities from middle/junior high school to high school. Finally, reporting high school data focuses on a critical time for students with disabilities transitioning to adult life. Moreover, technical assistance for those States requiring assistance could be more directly targeted towards early literacy development, ensuring children with disabilities successful transition to high school, and graduation and dropout rates, as well as transition planning for children with disabilities to adult life.

Regarding which grades would be included in reporting of data for high school, the data for Indicator 3 are the same data as used for reporting to the Department under Title I of the ESEA. Information about permitted values used for reporting assessment data, including grade levels, can be found in the *EDFacts* file specifications C185, 188, 175, and 178.

Changes: None.

Comment: While a few commenters supported each proposed sub-indicator for Indicator 3, most commenters recommended that OSEP remove proposed Indicator 3D (improvement rate for children with IEPs proficient against grade level academic achievement standards) and proposed Indicator 3E (improvement rate for children with IEPs proficient against alternate academic achievement standards). A few commenters noted that the proposed indicators would examine a proficiency percentage from one year to the next and would essentially be duplicative of Indicator 3B if comparing the Indicator 3B data from one year to the next. Similarly, some commenters believe that measuring the performance of one year's students in grades 4, 8, and high school against the following year's students in the same grades is not a measure of improvement since the students are different. Other commenters noted that proposed Indicators 3D and 3E have no equivalency in ESEA State plans because ESEA State plans measure proficiency against targets or goals and growth if the State includes growth.

Finally, some commenters expressed concern regarding measuring “improvement” of children with disabilities, which the commenters contend was a criticized element of No Child Left Behind.

Discussion: The commenters raise valid concerns with proposed Indicators 3D and 3E. After considering comments and reviewing the proposed indicators as written, OSEP agrees with the rationales provided by the commenters. OSEP will remove proposed Indicators 3D and 3E. As a result, proposed Indicator 3F will be renumbered Indicator 3D.

Changes: Proposed Indicators 3D and 3E have been removed. As a result, proposed Indicator 3F will be renumbered Indicator 3D.

Comment: Many commenters representing SEAs and LEAs raised concerns about the burden associated with setting the targets for the newly proposed sub-indicators for Indicator 3, as well as setting targets by individual grade instead of setting targets by grade group as is currently the practice.

Discussion: IDEA section 616(b)(1)(A) requires each State to have in place a State performance plan that evaluates the State’s efforts to implement the requirements and purposes of IDEA and describes how the State will improve such implementation. The SPP is comprised of quantifiable indicators, and qualitative indicators, as necessary, in the priority areas outlined in IDEA section 616(a)(3). IDEA section 612(a)(16)(D) requires each State to report to the public on the participation and proficiency of

children with disabilities in regular assessments and alternate assessments based on alternate achievement standards. These data are also reported in each State's SPP/APR. IDEA section 616(b) (2)(A) requires each State to establish, as a part of the SPP, measurable and rigorous targets for each SPP indicator.

Consistent with the requirements established in the OMB-approved SPP/APR information collection, States must solicit broad stakeholder input on the State's targets in the SPP/APR and any subsequent revisions that the State has made to those targets.

While OSEP understands the concerns about increased burden, OSEP believes that it is necessary to establish proposed Indicator 3D (gap in proficiency rates for children with IEPs and all students against grade level academic achievement standards) to adequately measure proficiency rates of children with disabilities on regular assessments to improve outcomes for children with disabilities. Likewise, setting targets for each specified grade level provides a discrete metric that States can use to identify and implement strategies to improve outcomes for children with disabilities.

A broad representation of stakeholders must provide input into establishing targets, and any subsequent revisions. However, States are only required to review the SPP and its targets every six years. Therefore, OSEP believes that any burden associated with the initial investment to solicit broad stakeholder input on

the targets is outweighed by the impact that new Indicator 3D and setting targets by grades 4, 8, and high school will have on improving outcomes for children with disabilities.

Changes: None.

Comment: A few commenters did not support separating reporting on the proficiency rate for children with IEPs against grade level academic achievement standards and the proficiency rate for children with IEPs against alternate academic achievement standards into two sub-indicators, Indicators 3B and 3C. The commenters were concerned that the number of children included in these sub-indicators could be small at the LEA level, or even the State level, particularly when reported at the grade 4, 8, and high school levels. These commenters noted that the ESEA limits the number of children taking the alternate assessment based on alternate achievement standards for each subject tested to 1 percent. Commenters supporting the proposed sub-indicators appreciated the increased attention on the proficiency rates for a group of children with disabilities who the commenters believed generally receive little attention from schools and districts.

Discussion: OSEP understands the commenters' concerns regarding reporting on the small numbers of children with disabilities who will be included in Indicator 3C. However, combining the proficiency rates for children with IEPs against alternate academic achievement standards with the proficiency rates for

children with IEPs against grade level academic achievement standards, as it was previously reported, essentially masks the performance of students with the most significant cognitive disabilities. Due to the distribution of the percentage of children with disabilities who take the grade level assessment versus the percentage of children with disabilities who take the alternate assessment, combining the two percentages would result in a percentage that is heavily skewed by the number of children with disabilities who take the grade level assessment. OSEP takes seriously the performance and outcomes of students with the most significant cognitive disabilities. Establishing proficiency sub-indicators and targets against which the SEA and LEAs must report will assist in ensuring that SEAs and LEAs focus on improved outcomes for our most vulnerable population.

Changes: None.

Indicator 4

Comment: Several commenters noted that there is a discrepancy between the language in the indicator measurement and the language in the explanation and rationale document for this indicator. The commenters requested that OSEP clarify which language is correct.

Discussion: OSEP clarified the instructions to the indicator and measurement by defining the term "long-term suspensions and expulsions." There is no conflict between the term and the

definition provided in the explanation and rationale document for this indicator. As stated on page 7 of the explanation and rationale document, OSEP revised the instructions for the indicator/measurement to define "long-term suspensions and expulsions" consistent with how discipline data are collected in the IDEA section 618 data collection.

Changes: None.

Comment: Several commenters requested that OSEP remove Indicator 4 because it is duplicative of the information collected regarding significant disproportionality.

Discussion: OSEP does not agree with the commenters that Indicator 4 duplicates any other information collection administered by the Department. Indicator 4 requires States to report on: A. the percentage of LEAs that have a significant discrepancy, as defined by the State, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs, and B. the percentage of LEAs that have: (a) a significant discrepancy, as defined by the State, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures or practices that contribute to the significant discrepancy, as defined by the State, and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral

interventions and supports, and procedural safeguards. The indicator also requires the State to report against the State-established targets for the rates of suspension and expulsion at the LEA level.

While the commenter does not name a specific significant disproportionality information collection administered by the Department that includes discipline data, the Department collects significant disproportionality data that includes information on discipline in two OMB-approved information collections. Section V.B. of the Annual Application Under Part B of the Individuals with Disabilities Education Act as Amended in 2004 (1820-0030) collects the information required under 34 C.F.R. § 300.647(b) (7). This regulation requires a State to submit all risk ratio thresholds, minimum cell sizes, minimum n-sizes, and standards for measuring reasonable progress selected under 34 C.F.R. § 300.647(b)(1)(i)(A) through (D), and the rationales for each, to the Department at a time and in a manner determined by the Secretary. Rationales for minimum cell sizes and minimum n-sizes not presumptively reasonable under 34 C.F.R. § 300.647(b)(1)(iv) must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disparities, based on race and ethnicity, in the identification, placement, or discipline of children with disabilities. The Department also

collects information on significant disproportionality that includes discipline data in the IDEA Part B Maintenance of Effort (MOE) Reduction and Coordinated Early Intervening Services (CEIS) information collection (1850-0925). While the data collected under these collections (1820-0030 and 1850-0925) may include similar concepts or source data as those applicable to the data collected under Indicator 4, the purpose and type of analysis required by each collection are different and necessary to meet specific and distinct IDEA reporting requirements for significant disproportionality and significant discrepancy. IDEA section 618(d) requires States to collect and examine data to determine if significant disproportionality, based on race or ethnicity, is occurring in the State with respect to the identification, placement, or discipline of children with disabilities; whereas IDEA section 612(a)(22) requires States to identify LEAs that have a significant discrepancy in the rate of long-term suspensions and expulsions. While the Department acknowledges that these provisions may require States to use similar data (*i.e.*, identification and discipline data disaggregated by race and ethnicity), the data analysis required to identify LEAs with a significant discrepancy and significant disproportionality is different. As States have an obligation under IDEA to comply with each of these provisions, we believe it is appropriate for the Department to monitor their implementation separately.

Changes: None.

Indicator 5

Comment: One commenter requested that States be required to set targets for this indicator by disability category. The commenter suggested that taking this action will assist in increasing the number of students in the general education classroom for disability categories (including students with intellectual disabilities) that fall far below the average for all students with disabilities.

Discussion: The IDEA provision on least restrictive environment (LRE) requires that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, be educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 20 U.S.C. § 1412(a)(5)(A). Indicator 5 collects data related to States' compliance with this provision by measuring the percent of children with IEPs aged 5 who are enrolled in kindergarten and aged 6 through 21 served inside the regular class 80 percent or more of the day; inside the regular class less than 40 percent of the day; and in

separate schools, residential facilities, or homebound/hospital placements. It is not intended or appropriate for a data collection to drive placement decisions. Further, the disaggregation that the commenter requests is publicly available in the IDEA section 618 educational settings data collection.

Changes: None.

Indicator 6

Comment: Commenters representing parents and some advocacy organizations supported the proposed revisions to Indicator 6. Commenters representing SEAs and LEAs and some other organizations expressed various concerns about the proposed revisions. Commenters noted that States would have to set multiple targets that would have little practical use. Commenters were also concerned about including the category "home" in the calculation, noting that these decisions are made by families and are not in control of the LEA. Other commenters were concerned that reporting by discrete age, particularly in the "home" category, may lead to the disclosure of personally identifiable information because the number may be small.

Discussion: OSEP understands and is sensitive to the commenters' concerns. Setting targets by discrete age provides important information that can be used to drive decision-making in some LEAs. However, OSEP is aware that this level of analysis may not be beneficial to all SEAs and LEAs. Therefore, OSEP will provide

flexibility to States to set targets by age or set one target in the aggregate. Regarding reporting on children receiving special education and related services in the home, OSEP does not agree with removing the category from the measurement. The data are reported in the IDEA section 618 data collection. Using the data in the indicator provides a comprehensive look at preschool LRE. OSEP will address privacy issues as they arise by applying the same rules as with other collections.

Changes: OSEP will revise the instructions to allow States to choose to set one target that is inclusive of children ages 3, 4, and 5, or set individual targets for each age.

Indicator 8

Comment: All commenters recognized the importance and critical nature of parent involvement in ensuring improved outcomes for children with disabilities. However, all commenters expressed concern with analyzing the extent to which the demographics of the parents responding are representative of the demographics of the children receiving special education services. The commenters noted that the demographics of parents, particularly race and ethnicity, are not always the same as their children.

Discussion: OSEP agrees with the commenters and will revise the instructions for the indicator.

Changes: OSEP will revise the instructions for the indicator to require States to include in the State's analysis the extent to

which the demographics of the children for whom parents responded are representative of the demographics of the children receiving special education services.

Indicator 13

Comment: Commenters representing parents and advocacy organizations support the proposed changes to the indicator. Commenters representing SEAs, LEAs, and an OSEP-funded technical assistance center expressed concern with specifying an agency that is likely to provide or pay for pre-employment transition services as an example of the types of participating agencies that should be included in IEP meetings where transition services are to be discussed. One commenter said it could limit what a LEA may consider as the other services that could or should be included in the IEP. Additionally, commenters were concerned that documentation of an invitation does not indicate participation and that participation would be a better measure.

Discussion: Indicator 13 tracks the regulatory requirements in 34 C.F.R. §§ 300.43 and 300.320(b) regarding transition services and 34 C.F.R. § 300.321(b) regarding transition services participants. Pre-employment transition services is one example of a transition service that could be provided to an eligible child and is not intended to represent an exhaustive list.

Changes: None.

Indicator 14

Comment: Comments regarding the flexibility to use two options to define competitive employment were mixed. Many commenters supported the flexibility while other commenters requested that the indicator require States to use the definition of competitive integrated employment as used in the Workforce Innovation and Opportunity Act (WIOA). Commenters requesting a change suggested removing Option 2 for defining competitive employment due to the difference in how these data can be obtained and who has the knowledge necessary to answer the questions associated with Option 2. As one example, the commenter states that competitive employment data are generally obtained through educators and contractors while competitive integrated employment data, including data on benefits, equal pay, and integrated worksite, are collected through Department of Labor administrative data. The commenter notes that LEAs and SEAs may not have access to those databases to obtain the information.

Discussion: OSEP understands the concern regarding the data source(s) required for Option 1 versus Option 2. Some SEAs and LEAs have developed the necessary data collection protocol and/or database for collecting data necessary for reporting under Option 2 and have reported this data, or are preparing to report this data, in the FFY 2019 SPP/APR submission. Allowing both options provides flexibility to States that wish to report data aligned with the term "competitive integrated employment" and its

definition, in section 7(5) of the Rehabilitation Act of 1973, as amended by WIOA, and that have the necessary databases and/or data collection protocols to collect and report this information.

Changes: None.

Comment: One commenter recommended including a fifth category of leavers who are not engaged due to not meeting the criteria under categories one through four. The commenter recommends including this fifth category because it represents the difference between the percent of youth engaged, i.e., Measure C, and 100 percent of the respondents. The commenter believes that including this category would allow States to directly focus on interventions to reduce the percent of youth not engaged. The commenter requested that, if OSEP adds the fifth category, OSEP also require the State to compare the percentage of students not engaged year over year and describe strategies that will be implemented which are expected to decrease the rate of students not engaged year over year.

Discussion: OSEP appreciates the recommendations provided by the commenter. However, OSEP recognizes the challenges States continue to experience in collecting, analyzing, and reporting post-school outcomes data, and the work States are doing towards addressing these challenges to collect valid and reliable data. Adding another category of leavers, while potentially beneficial, would cause an extra burden on States that have limited

resources, e.g., time, staff, and databases to collect and report on the existing data points. As more States strive to use their post-school outcomes data to drive decisions at State and local levels, it is imperative that States continue to focus efforts on improving their systems to collect data on the existing categories of leavers required for Indicator 14 reporting.

Changes: None.

Comment: A commenter supported requiring States to analyze the demographics of respondents by race and ethnicity and acknowledged the other categories that are optional. The commenter requested that States also be required to include disability and gender in their analysis. The commenter also requested that States be required to provide gender categories, such as female, male, nonbinary/prefer not to answer, and other, to recognize the spectrum of gender identity and promote inclusivity.

Discussion: OSEP acknowledges the importance of analyzing the extent to which the data are representative of the demographics of youth who had IEPs and are no longer in secondary school by using multiple categories that capture the target population, including disability, gender, or other optional categories in a State's analysis. Additionally, OSEP appreciates the request to include multiple categories of gender identity. However, OSEP believes that States should have the flexibility to include those

categories if the State and the State's stakeholders believe those categories should be analyzed in their State.

Changes: None.

Comment: A commenter requested that OSEP move the paragraph in the instructions under "Section III. Reporting on the Measures/Indicators" regarding the metric used to determine representativeness, to the beginning of "Section II. Data Reporting" so that all references to reported numbers are in one place.

Discussion: OSEP agrees with the commenter that "Section II. Data Reporting" should include all instructions for the indicator/measurement related to data. OSEP has revised the instructions for the indicator/measurement.

Changes: The instructions for the indicator have been revised so that instructions regarding the metric used to determine representativeness are included in "Section II. Data Reporting."

Indicators 15 and 16

Comments: Commenters representing SEAs and LEAs requested that OSEP remove Indicator 15 regarding resolution sessions and Indicator 16 regarding mediations. The commenters note that the data are available through an IDEA section 618 data collection and that both processes are voluntary and outside the control of SEAs and LEAs.

Discussion: IDEA section 616(a)(3)(B) requires that the Secretary monitor the States using quantifiable indicators, and such qualitative indicators as are necessary to adequately measure performance, in the use of resolution sessions and mediations. Indicators 15 and 16 are responsive to these requirements. Indicator 15 measures the percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements. Indicator 16 measures the percent of mediations held that resulted in mediation agreements. While the data sources for Indicators 15 and 16 are IDEA section 618 data, the SPP/APR requires a State to do more than submit data. The SPP/APR provides a system through which a State analyzes data related to the priority areas outlined in IDEA section 616(a)(3). Data that may have been submitted through another source, e.g., *EDFacts*, 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 17

Comment: Comments regarding establishing a new due date for Indicator 17 (State Systemic Improvement Plan (SSIP)) were mixed. Comments from parent and advocacy organizations supported

aligning the SSIP due date with the due date for the rest of the SPP/APR. Commenters representing SEAs and LEAs did not support the new due date. Commenters opposing the revision stated that in many States, the SEA staff that develop the SPP/APR submission for Indicators 1 through 16 and submit data required under IDEA section 618 also have responsibilities for development of the SSIP. Commenters stated that 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. Commenters stated that requiring submission of the SSIP with Indicators 1-16 on February 1 creates an unnecessary burden on SEA 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 SPP/APR submission due on February 1. When the SSIP was first added to the SPP/APR, OSEP established the April 1 due date because the SSIP was a 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 FFY 2020 SPP/APR 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.