Mark Paoletta
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
1725 17th Street, NW
Washington, DC 20503

February 9, 2026

RE: **Annual State Application Under Part B of the Individuals with Disabilities Education Act as Amended in 2004, Docket No. ED-2025-SCC-0481**

Submitted via *regulations.gov*

Dear Mr. Paoletta,

I am writing on behalf of the **Education Law Center-PA** ("ELC-PA") to oppose the U.S. Department of Education's (Department) proposal to remove the Significant Disproportionality data collection from Section V of the Annual State Application under Part B of Individuals with Disabilities Education Act (IDEA).

The proposal to stop collecting data regarding changes to a State's methodology in measuring significant disproportionality will severely undermine the Department's ability to perform its essential oversight function over states and will result in a reduction of both transparency and public participation. Most importantly, it will encourage rather than reduce ssignificant disproportionality whereby students are often overrepresented in special education identification, placed in more restrictive settings, and/or disciplined at higher rates than their peers based on race and ethnicity.

The proposed recission undermines the established monitoring and enforcement obligations of the Secretary of Education. Monitoring and enforcement of the IDEA are functions of the Secretary of Education that Congress required when it passed the amended IDEA in 2004. These are explicit in several sections, including 20 U.S.C. §1417(a). Moreover, Congress explicitly made addressing racial disproportionality in special education one of the three priority areas that the Secretary and the Department are required to monitor and enforce. See 20 U.S.C. § 1416. The proposed change to the data submission undermines the intent of Congress when it required monitoring and enforcement prioritization of racial disproportionality in special education. These efforts not only undermine the statutory requirements and regulations of the IDEA, they also advance an agenda of eliminating responsibilities and duties which Congress has expressly delegated to the U.S. Department of Education.

We strongly oppose the proposed removal of this information from the required collection and urge that the proposed change be denied.

Who We Are

ELC-PA is a statewide non-profit legal advocacy organization dedicated to ensuring access to a quality public education for all children in Pennsylvania. We advocate on behalf of the most underserved students, including children living in poverty, children of color, children with disabilities, English learners, those who are in the child welfare and juvenile justice systems, LGBTQI+ youth, and students experiencing homelessness.

We work in three strategic areas: enforcing equal access to a quality education, ensuring adequate and fair funding, and dismantling the school-to-prison pipeline. ELC-PA's work includes individual and impact litigation, statewide, local, and individual advocacy, and providing technical assistance to parents and students. We have a long history of representing students with disabilities and advocating alongside parents and community members. We participate in partnerships with grassroots community organizations, as well as with local and statewide organizations and agencies. Our advocacy seeks to ensure that decisions made by policymakers serve the needs of students who are most marginalized. Over its history, ELC-PA has not only litigated cases on behalf of students and parents but has drafted statewide and federal legislation, regulations, and regulatory guidance regarding children with disabilities. Our comments emanate from ELC-PA's over fifty years of on-the-ground experience working to ensure that children with disabilities -- particularly Black and Brown children who are disproportionately subject to exclusion, misidentification, and discrimination based on race due to systemic and structural racism -- have equal access to the full range of educational opportunities free from discrimination.

Lack of State Monitoring

The Department acknowledges that it has an obligation "to ensure States compliance with all IDEA statutory and regulatory requirements," including the significant disproportionality regulation.[1] Indeed, the significant disproportionality regulation itself provides that the methodologies adopted by States "[a]re subject to monitoring and enforcement for reasonableness by the Secretary."[2] The Department previously stated that this monitoring is crucial to prevent the harms that could occur if a State adopts risk-ratios for its standard methodology that are too high or too low.[3]

The past two Administrations acknowledged that the collection of standard methodologies from states was required "to ensure that they are properly implementing" the regulations.[4] However, the Department now asserts that it "has several robust mechanisms to monitor compliance" other than this collection.[5] But it does not say what

[1] Paperwork Reduction Act Submission, Annual State Application under Part B of the Individuals with Disabilities Education Act, OMB No. 1820-0030, ED-2025-SCC-0481, ICR Reference No. 202508-1820-002, *Responses to Public Comments Received During the 60-Day Notice*, at 3 (Answer 3) (Jan. 2026), https://www.reginfo.gov/public/do/DownloadDocument?objectID=165281900

[2] 34 C.F.R. § 300.647(b)(1)(iii)(B).

[3] 81 Fed. Reg. 92,376, 92,385, 92,423 (Dec. 19, 2016).

[4] Paperwork Reduction Act Submission, Annual State Application under Part B of the IDEA, OMB No. 1820-0030, ED-2019-ICCD-0103, ICR Reference No. 201908-1820-001 *Supporting Statement A*, at 2 (Nov. 2019), https://www.reginfo.gov/public/do/DownloadDocument?objectID=94258701; Paperwork Reduction Act Submission, Annual State Application under Part B of the IDEA, OMB No. 1820-0030, ED–2022–SCC–0125, ICR Reference No. 202210-1820-001, *Supporting Statement A*, at 1 (Dec. 2022), https://www.reginfo.gov/public/do/DownloadDocument?objectID=125620801.

[5] 2026 Responses to Public Comments at 3 (Answer 3).

mechanisms will ensure it learns of a State's change in its methodology. The one public-facing monitoring document it uses to apprise States of what information it may collect during monitoring visits has itself been amended to remove any questions regarding significant disproportionality.[6]

Instead, the Department seems to be suggesting that, even without a formal reporting mechanism or regular inquiries, it will somehow inevitably learn if there's been a change. Further, the Department provides no information about how it will review and evaluate state compliance with applicable regulations pertaining to racial disproportionality in special education. .

The significant disproportionality regulation itself says States "must report" this data "to the Department at a time and in a manner determined by the Secretary."[7] If the Department had intended the regulation to make reporting discretionary, it would have written the regulation to say a State "must report *if* the Secretary requires." The structure of the regulation's text confirms that the reporting obligation is mandatory while the Secretary's authority is confined to determining the time and manner or such reporting. While the phrase "at a time and in a manner determined by the Secretary" does not confer authority to eliminate the underlying reporting obligation.[8] Accordingly, the proposed change not only contradicts the explicit language of the statute, it undermines the stated purpose of the regulatory reporting requirement, which was intended to ensure that the Department "accurately and uniformly" monitor compliance with the significant disproportionality regulation and avert the harm to children and families that could result from a State's adoption of unreasonable risk ratios.[9]

The Department previously explained that it collected this data in the Annual State Application because "using the application package is a timely and efficient vehicle for collecting these data" and "using an existing information collection, rather than creating a new information collection, was less burdensome for States."[10] To the extent, the Department no longer believes that the Annual State Application is not the appropriate collection for reporting this information, it should identify an alternative appropriate collection. Instead, the current proposal ceases the uniform collection of the information in the application and fails to explain how it will learn of the data necessary to perform its oversight function. The suggestion that the required review will be more efficiently accomplished by some unidentified informal learning is insufficient as a matter of law. The proposal is devoid of

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[6] *Compare* Office of Special Education Programs, *DMS 2.0 Document Review & Request Template: Part B* (revised April 21, 2025) (no questions regarding significant disproportionality), https://sites.ed.gov/idea/files/doc-request-template-part-b-v2.docx *with* https://web.archive.org/web/20250118014744mp_/https://sites.ed.gov/idea/files/doc-request-template-part-b.docx at 18-21 (revised April 18, 2024) (prior version including multiple questions about significant disproportionality).

[7] 34 C.F.R. § 300.647(b)(7).

[8] *See MCI Telecommunications Corp. v. American Telephone & Telegraph Co.*, 512 U.S. 218, 225 (1994) (authority to modify requirement to file tariffs doesn't include authority to eliminate filing requirement).

[9] 81 Fed. Reg. at 92,419 ("To ensure that the Department may accurately and uniformly monitor all risk ratio thresholds for reasonableness, we have added a requirement that each State report to the Department all of its risk ratio thresholds and the rationale for each."); *id*. at 92,426 ("To ensure that the Department may accurately and uniformly monitor all cell and n-sizes for reasonableness, and to inform our policy position, we have added a requirement in § 300.647(b)(7) that each State report to the Department all of its cell and n-sizes and the rationale for each."); *see also id*. at 92,422 ("the principal purpose of the requirement is to enable the Department's uniform monitoring of risk ratio thresholds").

[10] 2019 Supporting Statement A at 2; 2022 Supporting Statement A at 2; *see also* Paperwork Reduction Act Submission, Annual State Application under Part B of the Individuals with Disabilities Education Act, OMB No. 1820-0030, ED-2019-ICCD-0103, ICR Reference No. 201908-1820-001, *Responses to Public Comments Received During the 60-Day Notice*, at 8 (Nov. 2019) ("by attaching this data collection to the annual IDEA Part B State application, the Department already is, as suggested, using a regular, recurring collection as the mechanism for collecting States' significant disproportionality data"), https://www.reginfo.gov/public/do/DownloadDocument?objectID=96420401.

any new instructions to states who seek to change their disproportionality formulas and related metrics, which signals that federal oversight has been ended rather than replaced.

Lack of Transparency

One of the benefits of the significant disproportionality regulation was to promote transparency and allow parents and stakeholders the ability to compare the methodologies used by various States.[11]

The Department notes that each State's current methodology is available on its website.[12] But that is true only because of the Department's previous information collection practices. In the absence of the continuing collection, the Department will not be able to update the data on its webpages regarding changes in state methodologies.

The Department also notes that if a State chooses to change its methodology, the regulations require that changes must be based on advice from stakeholders, including State Advisory Panels.[13] But the fact that stakeholders must be consulted prior to any decision does not ensure that the State will report its actual, final decision to the public. Nor does the Department say that the State is obliged to do so under the IDEA. Ultimately, it appears the Department, is equivocating about whether States must make their methodologies public in the absence of this information collection.[14] At best the Department's proposed change burdens the public with uncertainty. Further, by insisting it is staying true to the regulations and statute which requires oversight in this area, the Department burdens State Education Associations with a choice between trying to follow directions that no longer exist, or assuming that the Department's required review is no longer in effect.

Lack of any Other Justification

The Department continues to rely exclusively on "burden" as the reason to stop collecting data about changes to States' methodology in measuring significant disproportionality. The original burden estimate of 1,500 hours was based on the initial reporting process by States, where the decisions on the methodology and the justifications were fresh and required significant work.[15]

But, as the Department has previously explained, States that did not change their methodology did not need to fill out the form again; only States that opt to change their methodology have been required to complete it.[16] The

[11] 81 Fed. Reg. at 92,390 ("This increased transparency allows States, LEAs, and stakeholders alike to monitor significant disproportionality and reinforces the review and revision of risk ratio thresholds, cell sizes, and n-sizes as an iterative public process within each State."); *id*. at 92,394 ("We agree that these regulations will help to improve comparability of significant disproportionality determinations across States, increase transparency in how States make determinations of LEAs with significant disproportionality, improve public comprehension of a finding of significant disproportionality (or lack thereof), and address concerns raised by the GAO."); *id*. at 92,396 ("While States will have flexibility …, we believe the standard methodology provides comparability that is key to promoting transparency in the States' implementation of IDEA section 618(d), and, in turn, meaningful discussion with stakeholders and State Advisory Panels regarding the State's progress in addressing significant disproportionality.")

[12] 2026 Responses to Public Comments at 2 (Answer 3).

[13] 2026 Responses to Public Comments at 2 (Answer 3) (citing 34 C.F.R. § 300.647(b)(1)(iii)(A)).

[14] 2026 Responses to Public Comments at 2 (Answer 2) ("IDEA requires States to collect and maintain information or data and in some cases report information or data to other public agencies or to the public, which includes significant disproportionality and setting standards for significant disproportionality with advice from stakeholders.").

[15] 2019 Supporting Statement A at 8.

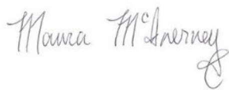
[16] 2019 Supporting Statement A at 2 ("After the States' initial submission of these data, States would only be required to report data if they change the information provided."); 2022 Supporting Statement A at 2 ("Since the initial submission, States are only required to report data if they change the information that was previously provided to the Department.").

Department describes that option as "rarely used," in that only 3 states have changed their methodology since the initial collection in 2020.[17] Thus, for almost all States in almost all years, the annual burden after the initial 2020 reporting has been, and would remain, zero hours.[18]

Conclusion

The Department's proposal to stop collecting data regarding a State's methodology in measuring significant disproportionality is an unlawful abdication of its statutory and regulatory duty to monitor compliance with the IDEA, is a blow to transparency, and is not justified based on burden. Therefore, we urge you to require the Department to continue to collect the Significant Disproportionality data under IDEA section 618(d) and 34 CFR 300.646 and 300.647 through Section V of the Annual State Application under Part B of IDEA.

Sincerely,



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[17] 2026 Responses to Public Comments at 2 (Answer 3).

[18] 2019 Supporting Statement A at 9 ("This additional cost of reporting is only necessary in a State's initial submission and any year in which a State changes its significant disproportionality definition."); 2022 Supporting Statement A at 8 ("This additional cost of reporting is only necessary in any year in which a State or entity changes its significant disproportionality definition.").