ELC EDUCATION LAW CENTER

October 21, 2025

Submitted via *regulations.gov*

Ross Santy
Chief Data Officer
Office of Planning, Evaluation and Policy Development
U.S. Department of Education
400 Maryland Ave SW, LBJ, Room 4A119
Washington, DC 20202–1200

RE: Annual State Application Under Part B of the Individuals with Disabilities Education Act, ED–2025–SCC–0481, OMB Control No. 1820–0030

Dear Mr. Santy:

Founded in 1973, Education Law Center (ELC) is a non-profit legal defense fund that pursues justice and equity for public school students by enforcing their right to a high-quality education in safe, equitable, non-discriminatory, integrated, and well-funded learning environments. ELC has served as counsel in special education cases in the Third Circuit Court of Appeals, the District of New Jersey and Eastern District of Michigan, and has participated as *amicus curiae* in special education cases before the United States Supreme Court and the Third and Sixth Circuit Courts of Appeals. Over the past twenty-five years, ELC has developed substantial interest and expertise in the legal rights of students with disabilities and ensuring that those rights are protected under IDEA and other applicable civil rights and non-discrimination laws. With this background and in service of the students whose rights we seek to defend, ELC registers its strong opposition to the U.S. Department of Education's proposal to remove the Significant Disproportionality data collection from Section V of the Annual State

60 PARK PLACE • SUITE 300 • NEWARK, NEW JERSEY • 07102
PHONE: 973.624.1815 • FAX: 973.624.7339 • TTY: 973.624.4618 • WWW.EDLAWCENTER.ORG

Application under Part B of Individuals with Disabilities Education Act (IDEA). *See* 90 Fed. Reg. 41,063 (Aug. 22, 2025).

The basis for our opposition has already been set forth eloquently by the Council of Parent Attorneys and Advocates, Inc. (COPAA) in their October 6, 2025 submission. We therefore append COPAA's comments to this letter and endorse and incorporate them in their entirety. For all the reasons expressed by COPAA -- including the adverse effect that removal of the requirement would have on the Department's oversight function and the minimal burden the requirement imposes on states -- we urge 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.

Thank you for your consideration of these comments.

Sincerely,

Elizabeth Athos, Esq.

Encls.

The Council of Parent Attorneys and Advocates, Inc.
Protecting the Legal and Civil Rights of Students with Disabilities and Their Families

October 6, 2025

Ross Santy
Chief Data Officer
Office of Planning, Evaluation and Policy Development
U.S. Department of Education
400 Maryland Ave SW, LBJ, Room 4A119
Washington, DC 20202–1200

RE: Annual State Application Under Part B of the Individuals with Disabilities Education Act, ED–2025–SCC–0481, OMB Control No. 1820–0030

Submitted via *regulations.gov*

Dear Mr. Santy,

As a leading voice for our nation's children with disabilities and their families, the Council of Parent Attorneys and Advocates (COPAA) is writing 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).[1]

Decades worth of data and research show that a consistent problem under IDEA has been the treatment of students of color. Since our founding, COPAA has vigorously advocated[2] and successfully litigated[3] to ensure that all students with disabilities, without regard to race, are correctly identified, placed in appropriate educational settings, and not subject to inappropriate student discipline.

Background

Congress intended the significant disproportionality provision, Section 618(d) of IDEA, to serve as an early-warning system for possible problems of racial discrimination, analogous to a "check engine" light.[4] Congress noted in 2004 its "desire to see the problems of overidentification of minority children strongly addressed" and stated that its amendment to Section 618(d) "is clearly aimed at addressing the problem" of "[c]hildren, particularly minority children" being "referred, or determined to be eligible for special education, due to their race."[5] Section 618(d) requires States to "collect and examin[e]" data in order to determine whether "significant disproportionality based on race and ethnicity" is occurring in a school district with respect to the identification of children with disabilities; the placement of children with disabilities in particular educational settings; the

[1] 90 Fed. Reg. 41,063 (Aug. 22, 2025).
[2] See: COPAA letters to U.S. Department of Education, (2014-2023)
[3] *Council of Parent Attorneys and Advocates v. DeVos*, 365 F. Supp. 3d 28 (D.D.C. 2019) at: https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2018cv1636-31.
[4] 81 Fed. Reg. 92,376, 92,390 (Dec. 19, 2016) ("An LEA found to have significant disproportionality is not necessarily out of compliance with IDEA; rather, as the commenter indicated, the significant disproportionality is, among other things, an indication that the policies, practices, and procedures in the LEA may warrant further attention.").
[5] H. Rept. 108-77, Sec. 208, Overidentification, to accompany P.L. 108-446, (2004), at: https://www.congress.gov/committee-report/108th-congress/house-report/77/1

incidence, duration, and type of disciplinary actions taken.[6] If so, the State must ensure that the school district take certain steps, including (1) reviewing and, if appropriate, revising its policies, procedures, and practices to ensure they comply with IDEA;[7] (2) publicly reporting on such revisions;[8] and (3) using 15 percent of IDEA Part B funds for Comprehensive Coordinated Early Intervening Services (CCEIS).[9] From its initial passage in 1997, and then as amended in 2004, the significant disproportionality provision was honored in the breach. Many States adopted methodologies for measuring significant disproportionality that resulted in no school districts ever being so identified.[10]

In response, the Department adopted the *Equity in IDEA* regulations in 2016. Those regulations imposed a standard methodology on computing significant disproportionality that required the use of risk ratios, even while allowing States substantial discretion in determining various aspects of the methodology.[11] One concern raised at the time was that States would adopt extremely high risk ratios in order to avoid identifying any school districts as significantly disproportionate.[12] Another concern raised was that if States adopted particularly low risk ratios, they might incentivize school districts to adopt de facto racial quotas in identification, placement, or discipline decisions.[13]

One of the safeguards the Department adopted to address both concerns was that the Department would review each State's methodology, including risk ratios, for "reasonableness."[14] In order to allow the Department to do so, the Department included the regulatory requirement that States disclose their methodology and rationales to the Department.[15] This is a continuing obligation, as the regulations permit States to change their methodology after its initial adoption.[16]

---

[6] 20 U.S.C. § 1418(d)(1).
[7] 20 U.S.C. § 1418(d)(2)(A).
[8] 20 U.S.C. § 1418(d)(2)(C).
[9] 20 U.S.C. § 1418(d)(2)(B). Regulations issued by the Department also require school districts to engage in an analysis that identifies the factors contributing to the significant disproportionality, i.e., a root–cause analysis. 34 C.F.R. § 300.646(d)(1)(ii).
[10] *See* U.S. Gov't Accountability Off., GAO-13-137, *Individuals with Disabilities Education Act: Standards Needed to Improve Identification of Racial and Ethnic Overrepresentation in Special Education*, at 7 (2013) (in school year 2010-11, 21 states did not identify any districts with significant disproportionality, and only 356 school districts (2.4 percent) were identified as significantly disproportionate nationwide), available at https://www.gao.gov/products/GAO-13-137; 81 Fed. Reg. at 92,380 (in school year 2012-13, 22 States did not identify any districts with significant disproportionality, and only 491 school districts were identified as significantly disproportionate nationwide).
[11] 34 C.F.R. §§ 300.646(b), 300.647(b)-(d).
[12] 81 Fed. Reg. at 92,423.
[13] 81 Fed. Reg. at 92,385 ("[T]he Department recognizes the possibility that, in cases where States select particularly low risk ratio thresholds, LEAs may have an incentive to avoid identifying children from particular racial or ethnic groups in order to avoid a determination of significant disproportionality."); *id.* at 92,394 ("When risk ratio thresholds are set too low, we believe there is some risk that LEAs may face pressure to inappropriately limit or reduce the identification of children with disabilities to avoid a determination of significant disproportionality.").
[14] 34 C.F.R. § 300.647(b)(1)(iii)(B).
[15] 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 92,422 ("the principal purpose of the requirement is to enable the Department's uniform monitoring of risk ratio thresholds"); *id.* at 92,423 ("the Department intends to review risk ratio thresholds, and, in cases where a risk ratio threshold may not appear reasonable on its face, request that a State justify how the risk ratio threshold is reasonable. If, upon review of a State's explanation, the Department determines that the threshold is not reasonable, the Department may notify the State that it is not in compliance with the requirement in these regulations to set a reasonable risk ratio threshold."); *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.").
[16] 81 Fed. Reg. at 92,395 ("Nothing in the regulations prohibits States from changing their risk ratio thresholds, population requirements, or flexibilities in accordance with § 300.647 if, after implementation of the regulations, they determine that reasonable adjustments are needed.").

In 2018, the Trump Administration sought to delay the compliance date for the *Equity in IDEA* regulations for two years so that it could propose and adopt different regulations.[17] COPAA challenged the Department's arbitrary and capricious delay and won in court.[18] After COPAA's successful lawsuit, States started complying with the regulations for the 2018-19 school year, and no changes to the regulations have been proposed in the last 8 years.

In 2019, the Trump Administration required States to report data regarding the standard methodology as part the Annual State Application in order "to ensure that they are properly implementing the flexibility provided in" the *Equity in IDEA* regulations.[19] The Biden Administration offered the same reason when it renewed the requirement in 2022.[20] But the Department made clear during both the first Trump and the Biden Administrations that after a State first reported its methodology, it was not required to report on the methodology again unless the State made changes to the methodology.[21] According to the Department's website, no State has reported any changes to its standard methodology since 2022.[22]

Discussion

Removing the reporting requirement will severely hamper the Department's ability to perform its oversight function over States' standard methodology

The Department's current proposal to stop requiring States to report any changes to their standard methodologies would vitiate the oversight and monitoring role envisioned by the Department under the *Equity in IDEA* regulations. If States are no longer required to report changes, the Department will no longer know if changes are occurring. The Department would then no longer be able to serve its oversight and monitoring functions to ensure that any changes to the State's methodology are reasonable. This is an unexplained reversal of the determination of the first Trump and the Biden Administrations which established that collecting this information was necessary to ensure that States are properly implementing the *Equity in IDEA* regulations.[23] Eliminating the requirement to notify would remove one of the safeguards the Department thought critical to avoiding incentivizing race discrimination and avoiding efforts to circumvent the significant disproportionality requirement. In addition, the proposal to stop collecting any changes to a State's standard methodologies would deprive the Department of information that will help the Department analyze the ongoing impact of the regulations.[24]

---

[17] 83 Fed. Reg. 31,306 (July 3, 2018).
[18] *See Council of Parent Attorneys and Advocates v. DeVos*, 365 F. Supp. 3d 28 (D.D.C. 2019).
[19] 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, Supporting Statement A, at 2 (Nov. 2019), https://www.reginfo.gov/public/do/DownloadDocument?objectID=94258701.
[20] Paperwork Reduction Act Submission, Annual State Application under Part B of the Individuals with Disabilities Education Act, OMB No. 1820-0030, ED–2022–SCC–0125, ICR Reference No. 02210-1820-001, Supporting Statement A, at 2 (Dec. 2022) ("The Department requires States to report this data to ensure that they are properly implementing the flexibility provided in §300.647(d)(1) … ."), https://www.reginfo.gov/public/do/DownloadDocument?objectID=125620801.
[21] 2019 Paperwork Reduction Act Submission, *supra*, 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 Paperwork Reduction Act Submission, *supra*, 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.").
[22] https://www.ed.gov/laws-and-policy/students-disabilities-laws-and-policy/osep-monitoring--significant-disproportionality-reporting-under-idea-part-b. COPAA has submitted FOIA request to confirm the information on the website.
[23] 2019 Paperwork Reduction Act Submission, *supra*, at 2; 2022 Paperwork Reduction Act Submission, *supra*, at 2.
[24] 81 Fed. Reg. at 92,389 ("We also believe that this information will help the Department analyze the impact of this regulation.").

Removing the reporting requirement will not reduce the reporting burden for States

The Department's only explanation for no longer collecting the standard methodology is to "reduce burden" on States.[25] But the initial reporting burden for the standard methodology was described by the Department as "minimal."[26] And because the current reporting obligation is only triggered *if* a State changes its standard methodology, a State that makes no changes experiences no burden.[27] Thus, removing the reporting requirement will not provide any burden reduction for a State that is maintaining the same methodology, which at this point appears to be every State. Maintaining the collection of the standard methodology will only impose a minimal reporting burden if a State changes its methodology –which is precisely when the Department's need for that information is at its apogee.

Removing the reporting requirement will result in a reduction of transparency and public participation

Currently, States are required by IDEA to make the standard methodologies they use to determine significant disproportionality available to the public both because it is information required by the Secretary to be reported under Section 618(a)(3)[28] and because it is part of the Annual State Application.[29] If the Department no longer requires States to report changes to the standard methodology as part of the Annual State Application or otherwise, it is unclear whether States will continue to have an obligation to report to the public any changes it makes to its standard methodology.

The absence of public reporting would defeat one of the benefits of the *Equity in IDEA* regulation, which was to promote transparency and allow parents and stakeholders, including COPAA, the ability to compare the methodologies used by various States.[30] It also would be in tension with Executive Order 14191, which was issued "to support parents in choosing and directing the upbringing and education of their children."[31] By eliminating parental access to key information about the criteria used by their State to determine whether their child's school district has significant disproportionality, the Department would undermine parents' ability to make informed choices.

---

[25] 90 Fed. Reg. 41,063 (Aug. 22, 2025).

[26] 81 Fed. Reg. at 92,389 ("The Department is sensitive to the reporting burdens upon States but believes that the additional reporting requirements created by this regulation will be minimal …").

[27] 2019 Paperwork Reduction Act Submission, *supra*, 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 Paperwork Reduction Act Submission, *supra*, at 8 ("This additional cost of reporting is only necessary in any year in which a State or entity changes its significant disproportionality definition.").

[28] 20 U.S.C. § 1418(a)(3) (each State shall provide "to the Secretary of Education *and the public*," any "information that may be required by the Secretary" to be reported (emphasis added)); *see also* 34 C.F.R. § 300.647(b)(7) (states must report methodology and rationales "to the Department at a time and in a manner determined by the Secretary").

[29] 34 C.F.R. § 300.165(b) (incorporating 20 U.S.C. 1232d(b)(7)(B) (requiring State to "publish each proposed plan in a manner that will ensure circulation throughout the State")).

[30] 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.")

[31] Executive Order 14191: *Expanding Educational Freedom and Opportunity for Families*, (2025), at: https://www.federalregister.gov/documents/2025/02/03/2025-02233/expanding-educational-freedom-and-opportunity-for-families

Further, removing the requirement to report changes to the standard methodology as part of the Annual State Application would also untether such changes from certain requirements related to public participation, including consultation with "interest groups, and experienced professionals" and a public comment period of at least 30 days.[32] Even if a State's changes to the standard methodology would constitute an amendment to a policy or procedure needed to comply with Part B of IDEA,[33] that would mean the changes would be subject to requirements less protective of public participation – for example, unlike the regulation governing the Annual State Application, the general regulation does not impose any consultation requirement or minimum time requirement for commenting.[34] This would leave parents with reduced opportunities for public input and engagement in the States' process for establishing their standard methodology.

Therefore, we urge 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,

Denise S. Marshall
CEO

COPAA is an unparalleled peer-to-peer network that enables parents, family members, attorneys, special education advocates, and related professionals to engage in protecting the legal and civil rights of students with disabilities and their families. As the nation's leading authority on special education law, we support parents and mentor those who defend students' educational rights. Our members are also a proud part of the disability community. We provide knowledge exchange, research, training, mentoring, community building; elevate all voices to ensure equitable access to an education; help parents participate as meaningful partners in their child's education, and ensure the laws are implemented; provide legal opinions that open doors for students and shape laws; and, we influence policies that support children and their families.

www.copaa.org

[32] 34 C.F.R. § 300.165(b) (incorporating 20 U.S.C. 1232d(b)(7)(A), (C)).
[33] 81 Fed. Reg. at 92,389 ("In addition, we note that *to the extent* that implementation of these regulations, including establishing reasonable risk ratio thresholds, cell sizes, n-sizes and a measure for reasonable progress, would require changes to a State's policies and procedures, under § 300.165, States must conduct public hearings, ensure adequate notice of those hearings, and provide an opportunity for public comment." (emphasis added)).
[34] 34 C.F.R. § 300.165(a).