



December 4, 2019

Mark Allan Schultz
Acting Assistant Secretary
Office of Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

RE: Department of Education: Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State and Local Educational Agency Record and Reporting Requirements Under Part B of the Individuals with Disabilities Education Act (Docket No. ED-2019-ICCD-0102)

Dear Acting Assistant Secretary Schultz:

On behalf of the American Speech-Language-Hearing Association, I write to comment on the November 15, 2019, *Federal Register* notice on State and Local Educational Agency Record and Reporting Requirements under Part B of the Individuals with Disabilities Education Act (IDEA).

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 204,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

Audiologists specialize in preventing and assessing hearing and balance disorders as well as providing audiologic treatment, including hearing aids. Speech-language pathologists (SLPs) identify, assess, and treat speech and language problems, including swallowing disorders. More than half of ASHA members are employed in educational settings. The services provided by ASHA members help ensure students receive a free appropriate public education (FAPE).

States and local educational agencies (LEAs) are required to collect data under Part B of IDEA. This data informs decision-making in many areas, including the determination of significant disproportionality status.

Disproportionality in special education is an area of concern, particularly in the areas of identification, discipline, and placement. Inappropriate identification often results in disproportionate representation of culturally diverse populations in special education.¹ While race and ethnicity represent important factors for consideration, other demographic factors play a role in influencing educational outcomes. Additional influential factors include socioeconomic status and low incidence disabilities, such as hearing impairments.

ASHA recommends that the U.S. Department of Education (ED) review data on both underrepresentation and overrepresentation of populations in special education—including racial/ethnic groups, English Language Learners, and students with disabilities—to determine best strategies to remediate the issue of overidentification and subsequent disproportionality. Such review and feedback would help states to provide equitable opportunities, services, and

adequate resources and services to improve outcomes for children and youth with disabilities and others at risk for overidentification.

Increasing implementation of multi-tiered systems of support (MTSS), such as response to intervention (RTI), as part of the special education determination process, requires ED to capture MTSS data (e.g., RTI, positive behavioral information and supports [PBIS]) as part of the Part B data collected from states and LEAs.

ASHA provides the following responses to the questions posed in ED's comment request.

(1) Is this collection necessary to the proper functions of the Department?

Yes. The continued collection of data required under Part B of IDEA is of utmost importance. This data collection helps states to provide equitable opportunities, services, and adequate resources to improve outcomes for children and youth with disabilities. Also, it provides national trend information that are used by various stakeholders, including professional associations such as ASHA.

(2) Will this information be processed and used in a timely manner?

Yes.

(4) How might the Department enhance the quality, utility, and clarity of the information to be collected?

Recommendations:

The collection of accurate data is important to properly inform states and LEAs in their decision-making to improve education outcomes for all children. ASHA recommends that ED:

- Provide coordinated early intervening services (CEIS) training for teachers, SLPs, and other specialized instructional support personnel on appropriately identifying and distinguishing when children need different levels of support (i.e., special education; 504 plan; or MTSS) that do not result in special education placement or a 504 plan. Appropriate training would help reduce inappropriate assignment to special education and significant disproportionality in special education programs, which will provide more accurate data collection.
- Provide additional training to states and LEAs on cultural awareness, culturally sensitive assessment strategies, and typical second language acquisition, as well as strategies for successful instruction for all general education instructors.

Rationale:

Practitioners require data to inform practice as census numbers and projections indicate an increase in the number of students enrolled who speak a language other than English in the home. Traditionally, these children are at higher risk for inappropriate referrals to special education or a "wait and see approach" that delays services to children in need to allow for time to learn English. Accurate data will help support the case for professional development in this area for general education teachers; may assist in successful early identification of students with disabilities; and increase success of students who are English Language Learners in the classroom.

Some indicators and features for disorders across IDEA disability categories—including learning disabilities, emotional disabilities, autism, and speech-language impairments—may be due to variances in cultural norms. Standardized assessments may not be useful in determining the absence or presence of a disorder. General and special educators should be familiar with cultural variances and how they may influence the perception of a disorder. In addition, they should be familiar with alternative and informal assessment measures, such as ethnographic interviewing and/or dynamic assessment, which can assist in evaluating students for differences versus disorders.

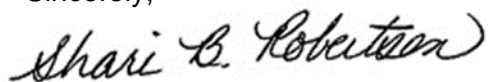
(5) How might the Department minimize the burden of this collection on the respondents, including through the use of information technology?

ASHA recommends aligning data collection and reporting requirements under Part B of IDEA with reporting requirements mandated by the Centers for Medicare & Medicaid Services (CMS) for reimbursement of medically necessary and educationally relevant services provided in schools to Medicaid eligible children. Alignment would reduce reporting burden for teachers and specialized instructional support personnel, such as audiologists and SLPs, and increase the ability of school-based practitioners to provide direct services to students rather than completing duplicative paperwork. This would also offer practitioners time to collect other needed data to aid states and LEAs in their decision making.

ED should seek, to the greatest extent possible and practical under the law, to align data collection and reporting under Part B of IDEA for services provided with data collection and reporting requirements for Medicaid reimbursement. Additionally, ED should coordinate with CMS to develop trainings and provide technical assistance with reporting aligned data elements.

Thank you for the opportunity to share ASHA's comments and recommendations on the importance of data collection in partnership with states and LEAs. If you or your staff have any questions, please contact Catherine D. Clarke, ASHA's director of education policy, at cclarke@asha.org.

Sincerely,



Shari B. Robertson, PhD, CCC-SLP
2019 ASHA President

¹ National Education Association of the United States. (2007). *Truth in Labeling: Disproportionality in Special Education*. Retrieved from <http://www.nea.org/assets/docs/HE/EW-TruthInLabeling.pdf>.