

May 15, 2019

Johnny Collett  
Assistant Secretary  
Office of Special Education and Rehabilitative Services  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, DC 20202

RE: Proposed Priority and Requirements—Technical Assistance on State Data Collection on  
IDEA Part B Data (Docket ID ED-2019-OSERS-0001)

Dear Assistant Secretary Collett:

On behalf of the American Speech-Language-Hearing Association, I write to offer comments on the March 6, 2019, *Federal Register* notice of proposed rulemaking (NPRM) from the Office of Special Education and Rehabilitative Services (OSERS) that proposes priorities and requirements related to the Technical Assistance on State Data Collection program for IDEA Part B data.

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 and speech-language pathologists (SLPs) who work in educational settings provide valuable services that help students access the general curriculum and collaboratively develop learning systems for students. ASHA members support students, families, and staff from early education through graduation in both general and special education.

***Proposed Priority: National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B Data***

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**Recommendation:** ASHA supports the establishment of a National Technical Assistance (TA) Center to improve the capacity of states to meet the data collection requirements under Part B of the Individuals with Disabilities Education Act (IDEA).

**Rationale:**

- National TA Centers are a cornerstone for several states and for improved outcomes for students with special needs.
- National TA Centers are instrumental in providing high-quality assistance and much needed infrastructure and services to state education agencies (SEAs) and lead agencies (LAs) to comply with the IDEA data collection requirement of the law.
- States rely on the data to determine significant disproportionality status under IDEA. In addition, data on the prevalence of students with hearing, speech, and language impairments provide national trends information that are used by various stakeholders, including professional associations such as ASHA.

- It is imperative that the Department continue to fund National TA Centers so states can provide adequate services and resources to improve outcomes for infants, toddlers, children, and youth with disabilities.

**Proposed Priority:** *Funding A Cooperative Agreement to Establish and Operate the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B Data (Data Center).*

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**Recommendation:** This section indicates that portions of Part B data applicable to ages 3-5 will not be the focus of the Part B National Data Center, but instead Part C and related data will be captured in the Part C National Data Center. ASHA recommends an integrated database for Part B and Part C, including interoperability with state longitudinal data systems.

**Rationale:**

Having separate data collection TA centers for Part B and Part C is logical; however, there needs to be an intuitive and easily accessible system for providers to access data on children in either system to facilitate transition from system to system and to track longer-term trends.

**Comments:** Increasingly, multi-tiered systems of support (MTSS), like response to intervention (RTI), are being used in the special education determination process. Please clarify if MTSS data (e.g., RTI, positive behavioral information and supports [PBIS]) will be captured in the Part B data collected.

**Proposed Requirements**

*(b) Demonstrate, in the narrative section of the application under “Quality of project services,” how the proposed project will—*

*(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—*

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**Recommendations:** ASHA recommends modification to the categories listed in (b)(1) to include the following text in bold, so that it reads:

(b) Demonstrate, in the narrative section of the application under “Quality of project services,” how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender **(including a gender-neutral category)**, age, **language/communication system used and language of treatment**, or disability. To meet this requirement, the applicant must describe how it will—

**Rationale:**

States have gender-neutral enrollment options, so the data collected needs to accurately include this information. Also, nearly 20% of all students speak a language other than English in their home. Disproportionality of over- and under-representation occurs across several racial/ethnic groups. Data collection would be critical to minimizing this disproportionality. Individuals who are born in the U.S. citizens may not have English as their first language, and data collected on this is needed. In addition, inclusion of

“language/communication system used” will ensure that data is collected for those who do not use a spoken language (e.g., signed language) as well.

**Comments:** ASHA fully supports the assurance of equal access to services.

#### **Footnote on evidence-based practices (FR page 8056)**

**Comments:**

ASHA defines evidence-based practice (EBP) as the integration of current, high-quality evidence, clinical expertise, and client preferences and values.<sup>i</sup> Similar to the EBP definition in 34 CFR 77.1, ASHA acknowledges the need for high-quality evidence but offers the consideration that providers be subject to the highest level of available evidence. In this case, careful consideration of available evidence and monitoring of outcomes is required. ASHA considers EBP to be a dynamic process and requires ongoing evaluation.

#### **Supplementary Information Section**

**Invitation to Comment:** *“We are particularly interested in comments about whether the proposed priority or any of the proposed requirements would be challenging for new applicants to meet and, if so, how the proposed priority or requirements could be revised to address potential challenges.”*

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**Comments:**

- The proposed requirements provide a detailed overview of expectations for planning, maintaining, and reporting on activities related to the funds allocated. They also align with data-driven decision-making. The level of work needed to undertake the proposed requirements will necessitate steady and stable funding; hence, the breadth and level of funding should be considered while determining the formula for indirect costs.
- The demographic categories by which the data is collected need to be more comprehensive and include other terms such as socioeconomic (income) status, parent’s fluency of English, parent’s highest educational level.

**Directed Question:** *For the proposed priority, the Department is also considering a specific requirement that would limit the reimbursement of indirect costs under this grant competition in order to maximize the funding available to provide TA to States to meet data collection and reporting requirements and improve data collection, coordination, quality, and use under Part B of IDEA.*

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**Comments:**

The *Directed Question* indicates that the Department is considering limiting “the reimbursement of indirect costs under this grant competition [to a reasonable cap in an amount, for example, between 25 percent to 40 percent for those administrative costs that are indirect costs for grantees, including sub-recipients, or potentially implementing an approach to allow programs to seek and justify deviations from negotiated rates] in order to maximize the funding available to provide TA to States to help them meet data collection and reporting requirements and improve data collection, coordination, quality, and use under Part B of IDEA.”

Since states are already charged to provide special education services without full federal funding, and resources covered with indirect costs (e.g., heat, light, accounting, personnel) are

necessary to carrying out the tasks funded by the grant, limiting reimbursement of indirect funds could stifle states' efforts to collect data under Part B. The level of work needed to undertake the proposed requirements will necessitate steady and stable funding. The formula for indirect costs (breadth and level of funding) must consider the importance these "indirect resources" play in ensuring actual service delivery.

**Recommendations:**

1. Provide clarification/examples of what constitutes indirect vs. direct costs to clarify to states what must be funded from each category. For example, it would be helpful to identify whether the cost of materials or payment of interpreter/translator services would be considered indirect or direct costs. ASHA recommends that interpreters and translators be considered direct costs.
2. Allow states the flexibility to determine and justify their allocation of indirect and direct funds based on their unique circumstances/needs.
3. Consider developing an equation or method for determining an appropriate indirect cost rate based on each state's unique needs and funding sources. Such an approach is more appropriate than "limiting" indirect cost reimbursement with a standardized maximum limitation across all states. One size does not fit all when it comes to states.

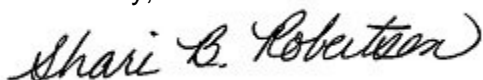
**Rationale:** ASHA recommends that interpreters and translators be considered direct costs because they typically interact directly with the students and providers of services. Providing guidance on what constitutes indirect vs. direct costs will assist in providing some basic level of consistency among states, which should not prohibit states from going above this minimum depending on each state's unique needs.

Also, some states may require extra funding for services based on socioeconomic factors that vary from state-to-state. In order to adequately prepare for access to services, there may be variability in the funding required.

**Comments:** ASHA agrees that special indirect cost rates may be required when a regular indirect cost rate for all activities of a grantee, or for each major function of an agency, may not be appropriate. Regular indirect cost rates may not consider different factors, which substantially affect the indirect costs applicable to a particular program or group of programs within a state.

Thank you for the opportunity to provide comments on the March 6, 2019, *Federal Register* notice on the proposed priorities and requirements on State Data Collections for IDEA Part B. If you or your staff have any questions, please contact Catherine D. Clarke, ASHA's director of education policy, [cclarke@asha.org](mailto:cclarke@asha.org).

Sincerely,



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

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<sup>i</sup> The American Speech-Language-Hearing Association. (n.d.). *Evidence-Based Practice*. Retrieved from <https://www.asha.org/Research/EBP/Evidence-Based-Practice>.