



December 21, 2018

Johnny Collett  
Assistant Secretary, OSERS  
U.S. Department of Education  
Washington, DC 20202

Submitted via email: RethinkRDA@ed.gov

RE: Results-Driven Accountability & OSERS “Rethinking” Conceptual Framework

Dear Assistant Secretary Collett,

On behalf of the National Center for Learning Disabilities (NCLD), which represents the 1 in 5 public school students with learning and attention issues, we submit these comments in response to the request for input regarding the Office of Special Education’s (OSEP) Results-Driven Accountability framework.

We are pleased that at the core of Office of Special Education and Rehabilitative Services’ (OSERS) recently-announced “Rethink” framework is the desire to “raise expectations and improve outcomes for individuals with disabilities.” For far too long, we have failed to ensure that every child was provided with the opportunity and resources needed to succeed. We urge the OSERS to use this opportunity to thoroughly examine how our current policies and practices can be improved so they truly lead to higher expectations and better outcomes for students with disabilities.

Of all its duties, the most important responsibility of OSEP is to monitor and enforce state implementation of the Individuals with Disabilities Education Act (IDEA). In fact, during the 2004 reauthorization of IDEA, Congress makes clear that *“the statute provides the Secretary with clear authority to take action against a State when there has been a persistent lack of progress in the area of student achievement.”*<sup>1</sup> And yet, despite OSEP’s efforts to design an IDEA accountability system that focuses on student achievement, over the last several years, outcome for students with disabilities have stagnated and the gap between students with disabilities and their peers has not narrowed. Thus, it is incumbent on OSEP to make changes to RDA that will drive us closer to this goal of increased achievement.

**General recommendations:**

First, it is essential that RDA and any monitor and reporting activities are in line with the Every Student Succeeds Act (ESSA). If states are to be collecting and reporting data on student outcomes under two distinct accountability systems, we must ensure as much uniformity between the two as possible, specifically as it relates to definitions and calculation methods. By setting out different definitions or

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<sup>1</sup> Senate report to accompany S. 1248 <https://www.gpo.gov/fdsys/pkg/CRPT-108srpt185/html/CRPT-108srpt185.htm>

reporting methods, we are reducing efficiency and resources at the state level and making it more difficult to compare data and analyze outcomes.

Second, it is critical that RDA be aligned with the 2015 U.S. Department of Education (USED) guidance on a Free Appropriate Public Education. This guidance – one of the most essential pieces of guidance released in recent years – makes clear “that an individualized education program (IEP) for an eligible child with a disability under the Individuals with Disabilities Education Act (IDEA) must be aligned with the State’s academic content standards for the grade in which the child is enrolled.”<sup>2</sup> This premise is essential to the goal set by OSERS of raising expectations and improving outcomes.

Additionally, each of RDA’s three components – IDEA Part B State Performance Plans/Annual Performance Reports (SPP/APRs), Determinations, and Differentiated Monitoring and Support (DMS) – is in need of changes to bring about improvement. Specific recommendations are as follows:

### **Recommendations on State Performance Plans/Annual Performance Reports**

#### Indicator 1: Graduation

- To ensure alignment with ESSA, states should be required to report on performance against the annual targets for the four-year Adjusted Cohort Graduation Rate (ACGR) as well as performance against targets for any extended year ACGR the State may be using in its accountability system. The annual targets must be the same as the annual ACGR targets for the students with disabilities subgroup in the State’s approved ESSA plan.
- States should be required to report on the gap between the ACGR of SWDs and students without disabilities.
- States should be required to disaggregate SWDs receiving a regular high school diploma and those receiving an Alternate Diploma (as authorized by ESSA) if the State is awarding an Alternate Diploma.
- For States that have identified graduation as its State-identified Measurable Result (SIMR) in its State Systemic Improvement Plan (SSIP), OSEP should direct states to ensure that the SIMR target reflects the ACGR targets set for the SWD subgroup in the State approved ESSA plan.

#### Indicator 2: Dropout

- Eliminate Option 2, which allows States to use the annual event school dropout rate and require States to use the same data that is used for reporting under section 618. This is also the dropout calculation used in the Results Matrix.

#### Indicator 3: Statewide Assessments

- Indicator 3A should be reinstated and require States to: (1) report on the achievement of SWDs relative to the long-term goals and measurements of interim progress for proficiency on state assessments established in the State’s approved ESSA plan; and (2) report the gap in proficiency of SWDs and students without disabilities by grade and subject.

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<sup>2</sup> United States Department of Education Office of Special Education and Rehabilitative Services Dear Colleague Letter on Free and Appropriate Public Education (FAPE), November 16, 2015 available at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/guidance-on-fape-11-17-2015.pdf>.

- For States that have identified performance on state academic assessments as its SIMR in its State Systemic Improvement Plan (SSIP), OSEP should direct states to ensure that the SIMR target reflects the proficiency targets set for the SWD subgroup in the State approved ESSA plan.

#### Indicator 17: State Systemic Improvement Plan

- States must be required to declare a SIMR that is ambitious and will impact a substantial portion of the special education population. For example, Indiana’s SIMR is “Increase reading proficiency achievement on Indiana’s IREAD-3 assessment by .5% each year for 3rd grade male students eligible for free/reduced lunch, identified as having specific learning disabilities.” Such narrowly defined SIMRs would not yield improvement for a state’s students with disabilities. Even if the goal were “measurable and rigorous,” there would be little, if any, impact on overall performance of students with disabilities statewide.
- There must be alignment between the state’s SIMR and the state’s ESSA plan. In our recently released report – “Assessing ESSA: Missed Opportunities for Students with Disabilities”<sup>3</sup> – we found that roughly half of states did not provide any description of how the SSIP and state education plan will work in concert to meet the needs of all students in their ESSA state plans.

#### **Recommendations on Determinations**

The results matrix used in the state determinations is disconnected from the other elements of RDA and needs a complete overhaul. Specifically:

- Determinations should not rely on NAEP results. NAEP notoriously excludes students with disabilities, as it does not capture students with disabilities who take a state’s alternate assessment nor does it include those who attend specialty schools or those who cannot participate on NAEP with allowable accommodations.
- Determinations should measure performance on general state assessments. Just as ESSA measures students’ performance on state assessments and requires a 95% participation rate, determinations should consider these assessments as a stronger measure of achievement for students with disabilities than NAEP.
- Determinations should consider the gap between the performance of students with disabilities and those without disabilities on state assessments. If we are to close the gap, states must be evaluated based on their progress in this area.
- Determinations should evaluate the participation of students on the state’s alternate assessment on alternate academic achievement standards (AA-AAAS). ESSA has created a uniform definition and has set a cap on participation in these assessments. Including this factor in determinations will ensure that cap is adhered to.
- Determinations should consider the four-year Adjusted Cohort Graduation Rate (ACGR) for goal setting and accountability, as opposed to the “event rate” used in the RDA matrix. Using ACGR will allow for alignment with ESSA and more comparable data.
- Determinations should not be based on where states fall in a rank order system. Instead, they should be graded on their overall score, regardless of how many other states outperformed or underperformed them. A failing state is a failing state, even among dozens of failing states.

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<sup>3</sup> National Center for Learning Disabilities, *Assessing ESSA: Missed Opportunities for Students with Disabilities*, 2018, available at <https://www.nclد.org/assessing-every-student-succeeds-act-2018>

## Recommendations on Differentiated Monitoring and Support (DMS)

Monitoring and support are some of OSEP's most important responsibilities. As such, it is critical that OSEP ramp up its activities in this area and establish clear and comprehensive processes to gather and analyze data relating to state complaints. Currently, it is unclear how the monitoring support activities are occurring. Only a handful of states have been found to be in need of targeted or intensive support. When that determination is made, there are no clear action steps the states must follow. Instead, OSEP directs the states to seek technical assistance and report back on their progress. There is a severe lack of accountability in this process. We cannot expect states to make changes on their own accord when there are no incentives to seek support and no consequences for failing to do so.

Strong monitoring and support are critically needed right now. In recent years, we have been extremely concerned by the actions of the Texas Education Agency to limit the number of students with disabilities identified and the failure of OSEP to act on the decline in identification rates. Additionally, nationwide, the identification rate of students with specific learning disabilities (SLD) is on the decline and there is a great deal of confusion among states about how the criteria in the law should be applied. These are just a few examples of where monitoring is essential and must be stepped up.

Finally, given that one of the three pillars in OSERS' "Rethink" framework is "Partnership," it is incredibly disheartening to see that parents and communities are left entirely out of the RDA process. Not only can states be measured on a new indicator relating to family and community engagement, but the monitoring and support component offers a great opportunity for OSEP to require meaningful engagement with stakeholders. Communities are full of rich resources that states can tap into in their efforts to improve outcomes. Parents, educators and other community members can offer value in a state's planning and improvement process. It is essential for states to develop partnerships with communities, universities, and other resources that can contribute to the improved outcomes across the state, and OSEP must take this opportunity to require it of them.

As an organization that is committed to raising expectations and improving outcomes for students with disabilities, we encourage OSEP to use this opportunity to refine and strengthen its RDA system by holding states accountable and requiring more rigorous measures aligned with ESSA. OSEP must deliver on its responsibility to monitor and enforce the implementation of IDEA by setting clear expectations and a comprehensive process by which states can truly make a difference for their students. If you have any questions, please contact Meghan Whittaker, NCLD's Director of Policy, at [mwhittaker@nclد.org](mailto:mwhittaker@nclد.org).

Sincerely,



Lindsay E. Jones  
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