

February 9, 2026

Secretary Linda McMahon
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Submitted via: www.reginfo.gov

Re: [FR Doc. 2026-00286](#)

Dear Secretary McMahon,

The Center for American Progress (CAP) appreciates the opportunity to comment on the Department of Education's (the Department) Notice on Agency Information Collection Activities regarding the Annual State Application Under Part B of the Individuals With Disabilities Education Act (IDEA) (Docket ID number ED-2025-SCC-0481), which was released on January 9, 2026. The proposed revision to remove the requirement that states report data related to significant disproportionality is inconsistent with the statutory purpose of IDEA and will undermine federal civil rights enforcement for disabled students, students of color, and [English as a second language \(ESL\)](#) students.

As an independent, nonpartisan policy institute, CAP is dedicated to improving the lives of all Americans through bold ideas, strong leadership, and concerted action. CAP has long conducted research and analysis on disability policy, racial equity in education, and IDEA implementation. Due to our leadership on disability policy analysis and special education oversight, CAP is uniquely qualified to comment on the Department's proposal.

The Importance of Significant Disproportionality Data

[Racial disparities in American special education](#) have been documented for decades. Students of color, particularly Black and Indigenous students, continue to face disproportionate identification in certain disability categories, as well as [disproportionate levels of discipline](#). For example, national data shows that American Indian and Alaska Native children are placed in special education at approximately [double the rate](#) of other students, and Black students are [40 percent](#) more likely to be identified with a disability compared to their peers. Black students are [twice as likely](#) as white students to be labeled with an intellectual or emotional disorder—classifications that can increase stigma and can shape a child's educational trajectory for years. According to the 2020-2021 Civil Rights Data Collection, Black disabled students comprised 16 percent of all students, but accounted for [25 percent](#) of students with one or more out-of-school suspensions. These disparities can carry lifelong consequences, including [increased dropout rates](#) and contact with the [juvenile justice system](#).

Research on the [School-to-Prison Pipeline](#) indicates that special education placements can funnel students into incarceration.

At the same time, [other findings](#) have shown that students of color are less likely to be identified for and receive special education than white students. This suggests inconsistent and inequitable implementation of special education identification and placement across states and districts. [Underidentification](#) can deny students the services and accommodations to which they are legally entitled.

Significant disproportionality reporting ensures that these patterns are visible and actionable. It allows advocates, families, researchers, and policymakers to understand how states are defining, identifying, and addressing educational disparities. Eliminating this requirement weakens IDEA's enforcement infrastructure and signals a retreat from the federal government's commitment to educational equity.

Opposing the Proposed Revision

CAP firmly opposes this proposed revision because it weakens transparency, undermines accountability, and diminishes the federal government's ability to enforce IDEA's equity provisions.

Significant disproportionality data is required under [Section 618\(d\)](#) of IDEA and [34 CFR 300.646](#) and [300.647](#). It ensures that states identify and address racial and ethnic disparities in 1) identification of children with disabilities (and specific disability types); 2) placement in particular educational settings; and 3) incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

The significant disproportionality requirement was strengthened in 2017 via the [Equity in IDEA final regulation](#) precisely because [racial disparities](#) in special education identification and discipline [persisted nationwide](#). The 2017 regulation established a [standardized methodology](#) for states to identify significant disproportionality, increasing transparency in how states define and measure it and strengthening oversight of the identification, placement, and discipline of disabled students. Removing the reporting requirement would make it substantially more difficult to monitor whether states are fulfilling their statutory obligations under IDEA to monitor and address inequities. The federal government cannot meaningfully oversee compliance without consistent, comparable data.

Significant disproportionality data does not merely document disparities, it triggers mandatory corrective action. When a state [identifies local educational agencies \(LEA\) with significant disproportionality](#) through data, states must 1) provide for the review and/or revision of the LEA's policies, procedures, and practices for compliance with IDEA; (2) require the LEA to reserve the maximum amount (15 percent) of its IDEA Part B funds to be used for comprehensive coordinated early intervening services; and 3) require the LEA to publicly report on the revision of its policies, procedures, and practices. As stated in the [final regulation](#), each state has discretion in how it defines significant disproportionality. Without centralized reporting and oversight, disparities are more likely to persist and students risk losing essential protections.

The Department's argument that this change will [reduce the burden](#) on respondents when completing the Annual State Application under Part B of IDEA is insufficient to

outweigh the civil rights implications. This concern was discussed in the 2017 [final regulation](#), and the regulation did not require states to expand the scope of their data collection with respect to students' placement. Any perceived administrative burden is minimal compared to the importance of maintaining a transparent, nationwide accountability system. The Department has not demonstrated that eliminating this requirement is necessary, nor has it proposed alternative mechanisms to ensure continued oversight.

Finally, the proposed revision is inconsistent with IDEA's purpose. IDEA was enacted to ensure that all children with disabilities have access to a [free appropriate public education](#) and that the [rights of children and families](#) are protected. [Data collection is critical](#)—it is the mechanism by which discrimination is identified and remedied. [Section 618\(d\)](#) of IDEA reflects Congress's clear intent that data collection serve as a mechanism for identifying discrimination and ensuring compliance.

Conclusion

CAP strongly opposes the proposed revision in FR Doc. 2026-00286 to remove significant disproportionality data collection from the Annual State Application under IDEA Part B. This proposal contradicts the intent of IDEA, diminishes transparency, and threatens critical civil rights protections for students with disabilities—particularly students of color.

CAP urges the Department to withdraw this proposed revision and maintain robust federal oversight of significant disproportionality data to ensure that IDEA's promise of a free appropriate public education is realized for all students.

For any questions regarding this comment letter, please contact CAP's Disability Justice Initiative Policy Analyst Casey Doherty at cdoherty@americanprogress.org. CAP appreciates the opportunity to provide a comment on this proposal and thanks the Department for considering our recommendations.

Sincerely,

Casey Doherty
Policy Analyst, Disability Justice Initiative