



## *National Association of State Directors of Special Education, Inc.*

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The National Association of State Directors of Special Education (NASDSE) appreciates having the opportunity to comment on proposed changes to the Table 3 of the reporting tables that states use to report the extent to which children with disabilities served under IDEA Part B receive special education and related services with their nondisabled peers.

NASDSE is the not-for-profit organization that represents the state directors of special education in the 50 states, the District of Columbia, the U.S. territories, the Department of Defense Education Agency, the Bureau of Indian Education and the Freely Associated States. NASDSE's Board of Directors, at the direction of the NASDSE membership, has spent time over the course of the past year analyzing and discussing a variety of data collection issues as required by the U.S. Department of Education's Office of Special Education Programs (OSEP). At its most recent meeting in August 2007, the Board of Directors discussed these proposed changes and these comments reflect both that review as well as a recent discussion with NASDSE members.

Our major concern is with the proposed change requiring states to report new data on the percent of children "attending a regular early childhood program including at least 70% nondisabled children."

We have several reasons for our concerns:

- (1) In the past, state education agencies (SEAs) have always used 50% as the standard definition of an inclusionary preschool program. We surmise, although it is not explicitly stated here (It is stated in the proposed changes to the State Performance Plan (SPP) and Annual Performance Report (APR); NASDSE commented on those proposed changes in response to an earlier notice in the Federal Register. ) that OSEP is changing the standard definition of an inclusionary program. This proposed change has huge implications for the implementation of the Part B 619 program. For purposes of the SPP and APR, SEAs must set targets for inclusion. To meet a new requirement would require SEAs and local education agencies (LEAs) to go back and review data on each and every child in a preschool program. It would require moving children from one program to another, even if the children were doing well in order to meet different targets. It may require not using some programs that have had very effective outcomes for young children because they cannot meet this new standard.
- (2) There is no requirement in either in P.L. 108-446 (the Individuals with Disabilities Education Act of 2004) or its implementing regulations that require making the change in the definition of an inclusionary classroom. Furthermore, OSEP has not offered any justification for proposing a change in the definition.
- (3) Further, because pre-school programs are a mix of public and private programs, Part B agencies have no control over how children are enrolled in private programs. Each time a private program accepts a new child without a disability, it would have the potential to throw an SEA's targets off. This is not the same situation as in a public school setting, where school personnel have the ability to determine how children are assigned to specific classrooms.

- (4) Requiring states to collect data on both 50% and 70% inclusion programs is a huge fiscal burden on states. It would require SEAs and LEAs to change their information systems in order to collect the new data. In addition to the time involved in making such a change, there are financial costs associated with making the change.
- (5) If the definition is changed, it will be impossible to make comparisons between newly collected data and previous data. This will make it difficult for SEAs to determine if they are in fact making progress toward providing FAPE in the least restrictive environment.
- (6) Finally, we are concerned that LEAs rely on parents to report the information regarding the inclusiveness of a program that a child is enrolled in. This is not necessarily information that parents would have. We therefore recommend that OSEP work with SEAs on better ways of gathering the data required for this table.

We urge OSEP to meet with *all* stakeholders before implementing any proposed change to the definition of an inclusionary preschool program. The implementation issues are significant and we are concerned that should OSEP move ahead with this proposal, that at a minimum, it give SEAs and LEAs at least three years to phase in this new definition so that children currently enrolled in the program will not be affected.

Please feel free to contact Nancy Reder, NASDSE's director of government relations at [nancy.reder@nasdse.org](mailto:nancy.reder@nasdse.org) or (703) 519-3800, ext. 334 if you have any questions regarding our comments.

Sincerely,



Bill East, Ed.D.  
Executive Director