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Kristen Harper
U.S. Department of Education
550 12th Street, SW, Room 5109A
Potomac Center Plaza
Washington, DC 20202-2600

Docket ID ED-2015-OSERS-0132

Dear Ms. Harper:

The Learning Disabilities Association of America (LDA) is pleased to offer the following comments on the Notice of Proposed Rulemaking (*Fed. Reg.*, March 2, 2016) regarding determinations of significant disproportionality based on race and ethnicity in States and local school districts and the use of comprehensive coordinated early intervening services (CEIS) to address those occurrences.

LDA – a national volunteer organization representing individuals with learning disabilities, their families, and the professionals who serve them – has worked for more than 40 years to ensure children with specific learning disabilities are properly identified and receive appropriate services to enable them to fully benefit from these educational opportunities, graduate from high school, and meet their postsecondary goals.

Comments:

LDA believes the NPRM does not adequately address the deep underlying issues that may result in the disproportionate representation of certain student populations in special education. First and foremost, the special education processes for child find, referral for evaluation, the evaluation itself, and subsequent identification of children as children with disabilities must be strictly followed, in order for children with true disabilities to receive special education services. For students suspected of specific learning disabilities (SLD), the evaluation must be comprehensive and include an assessment of cognitive processing. Such an evaluation, performed by qualified professionals, will distinguish between students who have neurologically-based learning disabilities and students who may require intensive supports in general education to achieve academic success.

Any over-identification of students in particular racial or ethnic groups may be the result of a broad array of factors, such as poverty, environmental toxins, poor pre-natal medical care, and other societal concerns. The education community cannot solely be responsible for addressing these problems. However, when children are evaluated and determined to have disabilities, regardless of their race or ethnicity, those students must be served. Therefore, LDA does not support simply using a mathematical calculation, as the "math" does not account for the other factors

contributing to increased numbers of students in certain racial and ethnic groups receiving special education services.

Two other critical factors are at play. First, the lack of specialized instructional support services in general education may be an impetus for classroom teachers and families to refer students for special education evaluation. Specialized instructional support personnel (SISP) are included in the *Every Student Succeed Act* and were included in earlier versions of the Elementary and Secondary Education Act as "pupil services personnel." However, these highly skilled professionals, with a few exceptions, are utilized in many school districts to provide services only to students with disabilities. Allowing SISP to support struggling students before they are referred for special education evaluations would help ensure only students with disabilities are receiving special education services.

The other critical factor is parent training. The Individuals with Disabilities Education Act (IDEA) is quite explicit about parent involvement. "Parent counseling and training" is one of the related services under the law (34 CFR §300.34(b)(8)). In addition, IDEA funds support Parent Training and Information Centers across the country (20 USC §1471). Each group applying for funds to operate a center is required to show how they will collaborate with other community based organizations that serve low-income parents and parents of English learners. In addition, the IDEA provides for technical assistance for parent centers, including how to reach underserved populations, including low-income families and parents of English learners. LDA maintains if parents receive strong support when their children are young, some children may be able to exit from or avoid special education and those who remain will have better outcomes.

Regarding expanding the use of CEIS funds to pre-K and students with disabilities, LDA believes IDEA funds should be used only for students with disabilities. With federal funding providing only approximately 16 percent of the promised 40 percent of the additional costs of educating students with disabilities, school districts require every IDEA dollar to provide appropriate services to students eligible to receive IDEA services. We realize the current statutory provision cannot be changed through regulations and urge a full reauthorization of the law as soon as possible to address this and other concerns.

In summary, LDA does not support the uniform methodology as proposed in the Notice of Proposed Rulemaking. Any "formula" for calculating significant disproportionality of certain racial and ethnic groups in special education must be flexible and account for the broader variables that may contribute to the overrepresentation.

Thank you for the opportunity to comment on the proposed regulatory changes.

Sincerely,



Patricia M. Lillie
President