

TABLE 1 TO § 100.91—CONTINUED

Event	Location	Date	
(11) Christmas in July ..... Sponsor: Henderson Business and Community Council.	Location: The special local regulation area will cover ALL WATERS WITHIN A MOVING ZONE THAT ENCOMPASSES A 50 yard BUFFER ZONE ahead of the lead vessel, 50 yards astern of the last participating vessel, and 50 yards on each side of the parade vessels as it travels the parade route starting at point 43°51'44" N 76°12'07.3" W and running north adjacent to the shore to point 43°52'12.2" N 76°11'32.7" W, continuing northwest to point 43°53'40.9" N 76°12'40.6" W and running south adjacent to the shore to point 43°51'47.2" N 76°14'08.3" W, ending at the starting position at point 43°51'44.0" N 76°12'07.3" W.	Date: Final weekend of July.	
	Latitude		Longitude
	43°51'44" N .....		076°12'07.3" W, thence to
	43°52'12.2" N .....		076°11'32.7" W, thence to
	43°53'40.9" N .....		076°14'08.3" W, thence
	along the shoreline to end at the starting position.		
Sector Sault Ste. Marie, MI			
(1) Bridgefest Regatta ..... Sponsor: Bridgefest Committee .....	Keweenaw Waterway, from the Houghton Hancock Lift Bridge to 1000 yards west of the bridge, near Houghton, MI.	2nd weekend of June.	
(2) Duluth Fourth Fest Fireworks ... Sponsor: Office of the Mayor, Duluth, MN.	That portion of the Duluth Harbor Basin Northern Section bounded on the south by a line drawn on a bearing of 087° true from the Cargill Pier through Duluth Basin Lighted Buoy #5 (LLNR 15905) to the opposite shore on the north by the Duluth Aerial Bridge. That portion of Duluth Harbor Basin Northern Section within 600 yards of position 46°46'47" N 092°06'10" W.	4th of July weekend.	
(3) July 4th Fireworks ..... Sponsor: City of Sault Ste Marie, MI.	That portion of the St. Mary's River, Sault Ste. Marie, MI within a 1000 foot radius of Brady Park, located on the south shore of the river. These waters are enclosed by the Locks to the west and to the east from a line drawn from the pier light of the east center pier to the U.S. Coast Guard Base to the southeast.	4th of July weekend.	

<sup>1</sup> All coordinates listed in this table 1 reference North American Datum of 1983 (NAD 1983).

<sup>2</sup> As noted in the introductory text of this section, the enforcement dates and times for each of the listed events in this table are subject to change. In the event of a change, or for enforcement periods listed that do not allow a specific date or dates to be determined, the Captain of the Port will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariner.

Dated: July 19, 2023.

**Sean M. Murray,**

*Commander, U.S. Coast Guard, Alternate  
Captain of the Port Buffalo.*

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## DEPARTMENT OF EDUCATION

### 34 CFR Chapter III

[Docket ID ED-2023-OSERS-0057]

#### **Final Priority and Requirements— Technical Assistance on State Data Collection—National Technical Assistance Center To Improve State Capacity To Collect, Report, Analyze, and Use Accurate IDEA Data To Address Significant Disproportionality**

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Final priority and requirements.

**SUMMARY:** The Department of Education (Department) announces a priority and

requirements for the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Data to Address Significant Disproportionality (Center) under the Technical Assistance on State Data Collection program, Assistance Listing Number 84.373E. The Department may use this priority and one or more of these requirements in fiscal year (FY) 2023 and later years. We will use the priority to award a cooperative agreement for a Center to focus attention on an identified national need to provide technical assistance (TA) to improve the capacity of States to meet the data collection and reporting requirements under Part B and Part C of the Individuals with Disabilities Education Act (IDEA). This Center will support States in collecting, reporting, and determining how to best analyze and use their data to address issues of significant disproportionality and will customize its TA to meet each State's specific needs.

**DATES:** The priority and requirements are effective August 25, 2023.

#### **FOR FURTHER INFORMATION CONTACT:**

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If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

#### **SUPPLEMENTARY INFORMATION:**

**Purpose of Program:** The purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet IDEA data collection and reporting requirements. Funding for the program is authorized under section 611(c)(1) of IDEA, which gives the Secretary authority to reserve not more than 1/2 of 1 percent of the amounts appropriated under Part B for each fiscal year to provide TA activities, where needed, to improve the capacity of States to meet the data collection and

reporting requirements under Parts B and C of IDEA. The maximum amount the Secretary may reserve under this set-aside for any fiscal year is \$25,000,000, cumulatively adjusted by the rate of inflation. Section 616(i) of IDEA requires the Secretary to review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of section 616 of IDEA are collected, analyzed, and accurately reported to the Secretary. It also requires the Secretary to provide TA, where needed, to improve the capacity of States to meet the data collection requirements, which include the data collection and reporting requirements in sections 616 and 618 of IDEA. In addition, the Consolidated Appropriations Act, 2023, Public Law 117–328, gives the Secretary authority to use funds reserved under section 611(c) of IDEA to “administer and carry out other services and activities to improve data collection, coordination, quality, and use under Parts B and C of the IDEA.” Consolidated Appropriations Act, 2023, Public Law 117–328, Div. H, Title III, 136 Stat. 4459, 4891 (2022).

*Program Authority:* 20 U.S.C. 1411(c), 1416(i), 1418(c), 1418(d), 1442; Consolidated Appropriations Act, 2023, Public Law 117–328, Div. H, Title III, 136 Stat. 4459, 4891 (2022).

*Applicable Program Regulations:* 34 CFR 300.646–300.647, 300.702; as well as IDEA Part B State Performance Plan (SPP)/Annual Performance Report (APR) Indicators 9 and 10 regarding disproportionate representation resulting from inappropriate identification, under 20 U.S.C. 1416(a)(3)(C) and 34 CFR 300.600(d)(3); and IDEA Part B SPP/APR Indicator 4 regarding significant discrepancy in suspensions and expulsion rates, under 20 U.S.C. 1416(a)(3)(A) and 1412(a)(22) and 34 CFR 300.600(d)(1) and 300.170.

We published a notice of proposed priority and requirements (NPP) for this program in the **Federal Register** on March 28, 2023 (88 FR 18280). That document contained background information and our reasons for proposing the priority and requirements.

There are differences between the NPP and this notice of final priority and requirements (NFP) as discussed in the *Analysis of Comments and Changes* section of this document. The most significant change, as discussed below, is the addition of two expected outcomes for the Center.

*Public Comment:* In response to our invitation in the NPP, 20 parties submitted comments addressing the priority and requirements.

Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority and requirements.

*Analysis of Comments and Changes:* An analysis of the comments and of any changes in the priority and requirements since publication of the NPP follows. We received comments on a number of specific topics, including the topics for TA. Each topic is addressed below.

### General Comments

*Comments:* Several commenters specifically expressed support for the proposed center.

*Discussion:* The Department appreciates the comments and agrees with the commenters that the Center funded under this program will provide necessary and valuable TA to States.

*Changes:* None.

*Comments:* Multiple commenters suggested that the Department revise the Center’s expected outcomes to include outcomes related to the engagement of parents in the use of data to address disparities and the provision of data in accessible and understandable formats.

*Discussion:* The Department agrees with commenters that improving State capacity to engage parents in the use of IDEA data will enhance the State’s ability to address disparities. Additionally, it is vitally important to provide data to stakeholders in accessible and understandable formats to support the use of the data to address disparities revealed in the data collected. For this reason, the Department will include additional expected outcomes to address the commenters’ concerns.

*Changes:* The final priority includes two additional expected outcomes for the Center, expected outcome (h), focused on improved capacity of State educational agencies (SEAs) to assist local educational agencies (LEAs) to engage parents, families, advocates, and other stakeholders to use data to address disparities revealed in the data they collect and (i), related to improved capacity of SEAs, and LEAs through their work with SEAs, to provide data in timely, usable, accessible, and understandable formats for parents, families, advocates, and other stakeholders.

*Comments:* A number of commenters proposed that the Department expand the list of suggested Department-funded TA centers with which the Center may

collaborate. Specifically, the commenters proposed including equity-related centers to the current list of data-related centers.

*Discussion:* The Department agrees with the commenters. The Center should collaborate with both equity- and data-related Department-funded TA centers, as appropriate.

*Changes:* We have revised paragraph (iv)(E) of the final requirements to require applicants to submit the proposed plan for collaborating and coordinating with Department-funded projects, including those providing data-related support to States (e.g., the IDEA Data Center, the Center for IDEA Fiscal Reporting, and the National Center for Systemic Improvement) and equity-related support to States (e.g., Center on Positive Behavioral Interventions and Supports (PBIS), and Regional Equity Assistance Centers), where appropriate, in order to align complementary work and jointly develop and implement products and services to meet the purposes of this priority.

*Comments:* Several commenters expressed interest in ensuring that the Center will assist SEAs to specifically work with both rural districts and charter schools that are considered LEAs for the purposes of the identification of significant disproportionality.

*Discussion:* The Department agrees that SEAs need to support all of their LEAs related to the identification of significant disproportionality. The proposed priority would require the proposed Center to provide TA to SEAs to improve their capacity to support all of their LEAs, which includes rural LEAs and charter schools that are considered LEAs, around issues related to significant disproportionality. Therefore, the priority is consistent with the commenters’ suggestion and no change is necessary.

*Changes:* None.

*Comments:* A number of commenters expressed concerns that the development of an additional data center focused on significant disproportionality would be duplicative of and overlap with the Department’s currently funded centers already providing TA related to significant disproportionality (e.g., the IDEA Data Center, the Center for IDEA Fiscal Reporting, and the National Center for Systemic Improvement). The commenters noted that numerous TA opportunities and products have been developed by those existing centers and are in use by States.

*Discussion:* While we appreciate the commenters’ concerns, the Center will not duplicate efforts of other centers, as

it will focus on improving the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of IDEA section 618(d) are collected, analyzed, and accurately reported to the Department. Additionally, the Center will build TA efforts already undertaken by Office of Special Education Programs (OSEP)-funded centers. Existing centers have been tasked with assisting States in their initial implementation of the significant disproportionality regulations. While there has been progress, States still struggle with implementing a robust methodology and assisting LEAs as they review and, as necessary, revise their policies, practices, and procedures in the area of the identified significant disproportionality. Additionally, a recent Office of the Inspector General report<sup>1</sup> noted concerns with the accuracy and reliability of State-reported data related to significant disproportionality. Therefore, there is a demonstrated need for a center with a singular focus on assisting States to collect, report, analyze, and use significant disproportionality data. The work of this Center is critical to meeting this Administration's priority to ensure States and LEAs address significant disproportionality in the identification, placement, or incidence and duration of disciplinary actions, including suspensions and expulsions of children with disabilities based on race and ethnicity. Consistent with the Administration's priorities, this Center will support SEAs, and LEAs through their work with SEAs, in conducting root cause analyses. With effective supports to identify the potential root causes and contributing factors of the significant disproportionality, LEAs can meaningfully address their identified significant disproportionality and set a path towards more equitable services for all students, regardless of their race and ethnicity. Finally, if there are any areas where there appears to be duplication or overlap, project officers for the currently funded centers will work together with the project officer for the new Center to develop a plan to ensure appropriate collaboration, rather than duplication, occurs across the impacted centers.

*Changes:* None.

*Comments:* One group of commenters provided responses to the Department's directed question about the supports States require in reviewing policies, practices, and procedures and understanding the expenditure

requirements for comprehensive coordinated early intervening services (CCEIS). The commenters suggested that States need TA to better understand the components of policies, practices, and procedures that lead to significant disproportionality, as well as TA on the requirements around the expenditure of funds for CCEIS.

*Discussion:* The Department appreciates and agrees with the commenters' suggestions. Understanding the potential interaction between significant disproportionality and the policies, practices, and procedures of an LEA and understanding the expenditure requirements for CCEIS are both important, as they are fundamental requirements of the significant disproportionality regulation. The Department believes that proposed expected outcome paragraphs (c) and (d) adequately address the commenters' suggestions.

*Changes:* None.

*Comments:* One commenter responded to the first directed question about common challenges or barriers experienced by SEAs and LEAs when using IDEA data to address significant disproportionality and promote equity. The commenter identified the following State needs: addressing critical shortages of specialized instructional support personnel; reviewing and revising policies, practices, and procedures; and providing general guidance on best practices related to the evaluation of students with disabilities, the use of schoolwide approaches such as positive behavioral interventions and supports, and developing and enhancing a multi-tiered system of supports.

*Discussion:* The Department appreciates the commenter's suggestions. In regard to the commenter's first suggestion, while the Department agrees that securing highly skilled instructional staff is a critical need of LEAs, the Center's focus is on improving data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of IDEA are collected, analyzed, and accurately reported to the Department. The Department agrees with the commenter's second suggestion that SEAs require TA on reviewing and, as necessary, revising policies, practices, and procedures identified as contributing to significant disproportionality. The Department believes that proposed expected outcome paragraph (c) adequately addresses the commenter's suggestion. Finally, the Department agrees with the

commenter's third suggestion that States would benefit from general guidance on best practices related to the evaluation of students with disabilities, the use of schoolwide approaches such as positive behavioral interventions and supports, and developing and enhancing a multi-tiered system of supports. To this end, OSEP funds other centers (e.g., National Center on Educational Outcomes, Center on PBIS, and National Center on Intensive Intervention) that provide TA on these topics.

*Changes:* None.

*Comments:* Another group of commenters responded to all of the Department's directed questions by noting that existing OSEP centers have already developed resources to provide TA on the areas addressed in the directed questions. These commenters did, however, note that their biggest challenge was in understanding the differences in requirements between significant disproportionality and the IDEA Part B SPP/APR Indicators 4 (Suspension/Expulsion), and 9 and 10 (Disproportionate Representation).

*Discussion:* The Department appreciates the commenters' support of OSEP's currently funded centers. As stated in a response above, the Center will build upon the work that has already been completed. The Department believes that, through the implementation of proposed expected outcome paragraph (f), the Center will assist States and LEAs to improve capacity to distinguish SPP/APR Indicator 4 (Suspension/Expulsion) and SPP/APR Indicators 9 and 10 (Disproportionate Representation), which are collected under section 616 of IDEA, from significant disproportionality data, which are collected under section 618 of IDEA.

*Changes:* None.

## Final Priority

*National Technical Assistance Center To Improve State Capacity To Collect, Report, Analyze, and Use Accurate IDEA Data To Address Significant Disproportionality*

### Priority:

The purpose of the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Data to Address Significant Disproportionality (Center) is to promote equity by improving State capacity to accurately collect, report, analyze, and use section 618 data to address issues of significant disproportionality. The Center will also work to increase the capacity of SEAs, and LEAs through their work with SEAs, to use their data to conduct

<sup>1</sup> Please see [www.oversight.gov/sites/default/files/oig-reports/ED/equity-idea-final-inspection-report.pdf](https://www.oversight.gov/sites/default/files/oig-reports/ED/equity-idea-final-inspection-report.pdf).

robust root cause analyses and identify evidence-based strategies for effectively using funds reserved for CCEIS.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased capacity of SEAs to analyze and use their data collected and reported under section 618 of IDEA to accurately identify significant disproportionality in the State and the LEAs of the State;

(b) Increased capacity of SEAs, and LEAs through their work with SEAs, to use data collected and reported under section 618 of IDEA, as well as other available data, to conduct root cause analyses in order to identify the potential causes and contributing factors of an LEA's significant disproportionality;

(c) Improved capacity of SEAs, and LEAs through their work with SEAs, to review and, as necessary, revise policies, practices, and procedures identified as contributing to significant disproportionality, and to address any other factors identified as contributing to the significant disproportionality;

(d) Improved capacity of SEAs to assist LEAs, as needed, in using data to drive decisions related to the use of funds reserved for CCEIS;

(e) Increased capacity of SEAs, and LEAs through their work with SEAs, to use data to address disparities revealed in the data they collect;

(f) Improved capacity of SEAs, and LEAs through their work with SEAs, to accurately collect, report, analyze, and use data related to significant disproportionality and apply the state methodology for identifying significant disproportionality, including distinguishing data collected under section 616 of IDEA (specifically, SPP/APR Indicator 4 (Suspension/Expulsion) and SPP/APR Indicators 9 and 10 (Disproportionate Representation));

(g) Increased capacity of SEAs to use data to evaluate their own methodology for identifying significant disproportionality;

(h) Improved capacity of SEAs to assist LEAs to engage parents, families, advocates, and other stakeholders to use data to address disparities revealed in the data they collect; and

(i) Improved capacity of SEAs, and LEAs through their work with SEAs, to provide data in timely, usable, accessible, and understandable formats for parents, families, advocates, and other stakeholders.

**Types of Priorities:** When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a

notice in the **Federal Register**. The effect of each type of priority follows:

**Absolute priority:** Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

**Competitive preference priority:** Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

**Invitational priority:** Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This document does not preclude us from proposing additional priorities or requirements, subject to meeting applicable rulemaking requirements.

**Note:** This document does *not* solicit applications. In any year in which we choose to use this priority and these requirements, we invite applications through a notice in the **Federal Register**.

### Final Requirements

The Assistant Secretary establishes the following requirements for this program. We may apply these requirements in any year in which this program is in effect.

#### Requirements:

Applicants must—

(a) Demonstrate, in the narrative section of the application under “Significance,” how the proposed project will—

(1) Address State challenges in collecting, analyzing, reporting, and using their data collected under section 618 of IDEA to correctly identify and address significant disproportionality. To meet this requirement the applicant must—

(i) Demonstrate knowledge of IDEA data collections, including data required under sections 616 and 618 of IDEA, as well as the requirements related to significant disproportionality in section 618(d) of IDEA;

(ii) Present applicable national, State, and local data to demonstrate the capacity needs of SEAs, and LEAs through their work with SEAs, to analyze and use their data collected under section 618 of IDEA to identify and address significant disproportionality;

(iii) Describe how SEAs, and LEAs through their work with SEAs, are

currently analyzing and using their data collected under section 618 of IDEA to identify and address significant disproportionality; and

(iv) Present information about the difficulties SEAs, and LEAs through their work with SEAs, including a variety of LEAs such as urban and rural LEAs and charter schools that are LEAs, have in collecting, reporting, analyzing, and using their IDEA section 618 data to address significant disproportionality; and

(2) Result in improved IDEA data collection, reporting, analysis, and use in identifying and addressing significant disproportionality.

(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—

(i) Identify the needs of the intended recipients of TA and information; and

(ii) Ensure that products and services meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

**Note:** The following websites provide more information on logic models and conceptual frameworks: [https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework\\_Updated.pdf](https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework_Updated.pdf) and [www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework](https://www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework).

(4) Be based on current research and make use of evidence-based practices

(EBPs).<sup>2</sup> To meet this requirement, the applicant must describe—

(i) The current capacity of SEAs to use IDEA section 618 data to correctly identify significant disproportionality and assist LEAs as they conduct root cause analyses and review LEA policies, practices, and procedures;

(ii) Current research on effective practices to address significant disproportionality, particularly through the provision of CCEIS; and

(iii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on the capacity needs of SEAs, and LEAs through their work with SEAs, to collect, report, analyze, and use IDEA section 618 data in a manner that correctly identifies and addresses significant disproportionality in States and LEAs;

(ii) Its proposed approach to universal, general TA,<sup>3</sup> which must identify the intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,<sup>4</sup> which must identify—

(A) The intended recipients, including the type and number of

recipients, that will receive the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,<sup>5</sup> which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEA personnel to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the SEA level;

(C) Its proposed plan for assisting SEAs to build or enhance training systems related to the use of IDEA section 618 data to correctly identify and address significant

disproportionality that include professional development based on adult learning principles and coaching;

(D) Its proposed plan for working with appropriate levels of the education system (e.g., SEAs, regional TA providers, LEAs, schools, and families) to ensure that there is communication between each level and that there are systems in place to support the capacity needs of SEAs, and LEAs through their work with SEAs, to collect, report, analyze, and use IDEA section 618 data to correctly identify and address significant disproportionality; and

(E) Its proposed plan for collaborating and coordinating with Department-funded projects, including those providing data-related support to States (e.g., the IDEA Data Center, the Center for IDEA Fiscal Reporting, and the National Center for Systemic Improvement) and equity-related support to States (e.g., Center on PBIS, and Regional Equity Assistance Centers), where appropriate, in order to align complementary work and jointly develop and implement products and services to meet the purposes of this priority;

(6) Develop products and implement services that maximize efficiency. To

address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under “Quality of the project evaluation,” include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.<sup>6</sup> The evaluation plan must—

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions should be related to the project’s proposed logic model required in paragraph (b)(2)(ii) of these requirements;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources for data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the APR and at the end of Year 2 for the review process; and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a third-party evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Demonstrate, in the narrative section of the application under “Adequacy of resources,” how—

<sup>2</sup> For purposes of these requirements, “evidence-based practices” (EBPs) means, at a minimum, demonstrating a rationale (as defined in 34 CFR 77.1) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.

<sup>3</sup> “Universal, general TA” means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center’s website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

<sup>4</sup> “Targeted, specialized TA” means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

<sup>5</sup> “Intensive, sustained TA” means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. “TA services” are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

<sup>6</sup> A “third-party” evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, or have any financial interest in the outcome of the evaluation.

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits, and funds will be spent in a way that increases their efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes.

(e) Demonstrate, in the narrative section of the application under "Quality of the management plan," how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements:

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one- and one-half day kick-off meeting in Washington, DC, or virtually, after receipt of the award, and an annual planning meeting in Washington, DC, or virtually, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

*Note:* The project must reallocate unused travel funds no later than the end of the third quarter if the kick-off or planning meetings are conducted virtually.

*Note:* Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two- and one-half day project directors' conference in Washington, DC, or virtually, during each year of the project period; and

*Note:* The project must reallocate unused travel funds no later than the end of the third quarter of each budget period if the conference is conducted virtually.

(iii) Three annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility; and

(5) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

#### **Executive Orders 12866, 13563, and 14094**

#### **Regulatory Impact Analysis**

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the

Administrator of Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles stated in the Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 (as amended by Executive Order 14094). Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a "major rule," as defined by 5 U.S.C. 804(2).

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or

provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing the final priority and requirements only on a reasoned determination that their benefits justify the costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

#### **Discussion of Potential Costs and Benefits**

The Department believes that this regulatory action does not impose significant costs on eligible entities, whose participation in this program is voluntary. While this action does impose some requirements on participating grantees that are cost-bearing, the Department expects that applicants for this program will include in their proposed budgets a request for funds to support compliance with such cost-bearing requirements. Therefore, costs associated with meeting these requirements are, in the Department’s estimation, minimal.

The Department believes that these benefits to the Federal government outweigh the costs associated with this action.

#### **Regulatory Alternatives Considered**

The Department believes that the priority and requirements are needed to administer the program effectively.

#### **Paperwork Reduction Act of 1995**

The final priority, including requirements, contains information collection requirements that are approved by OMB under OMB control number 1820–0028; the final priority, including requirements, does not affect the currently approved data collection.

*Regulatory Flexibility Act Certification:* The Secretary certifies that this final regulatory action will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this final regulatory action will affect are LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on an applicant by this final priority, including requirements, will be limited to paperwork burden related to preparing an application and that the benefits of this final priority will outweigh any costs incurred by the applicant.

Participation in the Technical Assistance on State Data Collection program is voluntary. For this reason, the final priority and requirements, imposes no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for Technical Assistance on State Data Collection program funds, an eligible entity will evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving a Technical Assistance on State Data Collection program grant. An eligible entity will most likely apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the final priority and requirements will not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the

proposed action. That is, the length of the applications those entities would submit in the absence of this final regulatory action and the time needed to prepare an application will likely be the same.

This final regulatory action will not have a significant economic impact on a small entity once it receives a grant because it will be able to meet the costs of compliance using the funds provided under this program.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, Braille, large print, audiotape, or compact disc, or other accessible format.

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**Glenna Wright-Gallo,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

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