



ARKANSAS DEPARTMENT OF EDUCATION

Dr. T. Kenneth James
Commissioner

August 3, 2009

State Board
Of Education

Diane Tatum
Pine Bluff
Chair

Randy Lawson
Bentonville
Vice Chair

Sherry Burrow
Jonesboro

Jim Cooper
Melbourne

Brenda Gullett
Fayetteville

Dr. Tim Knight
Arkadelphia

Dr. Ben Mays
Clinton

MaryJane Rebick
Little Rock

Dr. Naccaman Williams
Springdale

Office of Information and Regulatory Affairs
Attention: Education Desk Officer
e-mail: oir_submission@omb.eop.gov

RE: Notice of Proposed Information Collection Request entitled *Report on IDEA Part B Maintenance of Effort Reduction and Coordinated Early Intervening Services*

The Arkansas Department of Education (ADE) appreciates the opportunity to provide comments on the above-referenced proposed data collection. Those comments follow.

1. Requiring another annual data collection requirement is inconsistent with the Paperwork Reduction Act and presents an unreasonable burden on local education agency (LEA) capacity. The OSEP estimates the nationwide burden hours as over one million hours annually (1,032,480). We questions whether another data collection that will create this type of burden is reasonable at a time when state and local education agencies are experiencing severe financial cutbacks resulting in personnel layoffs. This is not paperwork reduction, nor a good use of human and fiscal resources.
2. An annual collection is not necessary. The influx of funding under the American Recovery and Reinvestment Act (ARRA) is a temporary anomaly at best. Indeed, at the Senate Appropriations Subcommittee markup on the FY 10 Labor/HHS/Education appropriations bill, Senator Harkin indicated that IDEA was to receive a nominal increase precisely because of the ARRA funding for IDEA. It is not likely that we will see any large increases for IDEA in the next few years; thus, the MOE will not surface again as an issue. While we recognize the OSEP has responsibilities to review states' fiscal accountability procedures and data, ADE staff believes that an annual data collection such as is proposed is unnecessary and an unreasonable data burden for states. The OSEP can meet its fiduciary responsibilities by incorporating periodic review of such procedures and data as part of its regular schedule for monitoring states instead of as an annual collection.
3. The OSEP already receives fiscal audit information. The Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156, require that any organization which expends \$500,000 or more annually in federal funds from all sources must have an audit conducted in accordance with the statute. Additionally, OMB Circular A-133 requires a copy of the audit to be sent to each agency that is provided federal funds. The federal government through OMB and the GAO has already put an extensive audit process in place for the ARRA funds. If the use of these funds needs closer scrutiny, then it should be done through the ARRA accounting process and not through an add-on to the IDEA 618 reporting process.

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

An Equal Opportunity
Employer

4. The ARRA reporting requirements are extensive. This new IDEA data collection seeks emergency authority to initiate this data collection by early August 2009 because of the infusion of funds from the ARRA. However, this is an unreasonable request, as information such as this data collection represents is not managed or maintained the same from district to district in many states. Therefore, the state's burden of initiating this data collection, training the districts, providing technical assistance, and setting up state and local procedures for consistent access to these data will take up to three years for the data to be accurate and reliable. In addition, this request fails to take into account the timelines that states and local school districts currently have in place for gathering the data that goes into making determinations and the collection of data regarding CEIS. Thus, it fails to take into account any measures that states and local districts will have to put into place to revamp their systems and train personnel for a new data collection.
5. State procedures in making determinations and using MOE flexibility are not consistent with the proposed data set. ADE staff notes that proposed Table 8, Section B reads that districts with a state-determined status as any other than "meets requirements" may not use the maintenance of effort (MOE) reduction allowed under the federal regulations. However, as noted, states determine the criteria for what will constitute "meeting requirements" relative to MOE reduction possibilities. This results in differing criteria with potentially inequitable application across states. As OSEP is well aware, the question as to what will, in fact, constitute a satisfactory interpretation of "meets requirements" is a question that has been posed to the U.S. Secretary by NASDSE and others. The Secretary has yet to address the concerns of the groups and state agencies that brought this issue forward. If this emergency data collection goes into effect prior to the Secretary's decision and his decision affects this data collection, OSEP may be in a situation of having to revamp the requirements of this data collection.
6. No requirement for public reporting of LEA determinations. While currently states are not required to make public the annual status of LEA determinations, the proposed addition to data collection and reporting will effectively take away the states' right to not report this information publicly. In the Notice of Proposed Information Collection Request package, specifically the Supporting Statement for Request for OMB Approval under the Paperwork Reduction Act, Section A. Justification, #16, Plans for tabulation and publication, it states, "OSEP will tabulate and display the information submitted by States in a variety of ways. The primary vehicles of distribution are through the Secretary's Annual Report to Congress. . . and through publication of these data on the Internet. . . "This strongly suggests that LEA determinations status information will be made available to the public as a function of the OSEP reporting.
7. CEIS reporting is not a current requirement. The regulations implementing the IDEA require that LEAs provide the State educational agency with data on the children receiving services under Coordinated Early Intervening Services. These regulations do not, however, authorize nor require the reporting of these data to the OSEP. The proposed data collection and reporting would in fact create such a requirement where none currently exists in the law or regulations. Further, it

August 3, 2009

is not reasonable to expect the SEAs to have collected these data in a time frame consistent with the proposed reporting period. States' systems for such data collection vary, given that this has not been a federal reporting requirement in the past and would, therefore, take time to revamp.

In closing, the ADE staff believes that the OSEP has not made a sufficient case that this data collection is necessary. It will result in an increased burden on local and state education agencies. We believe that the OSEP could achieve its goals with the sampling data, periodic reviews and information culled from the Single Audits conducted annually, as well as from reporting generated in response to the ARRA requirements. Therefore, we urge OMB to deny the OSEP's request for this emergency data collection now or in the foreseeable future.

Respectfully,



Marcia Harding
Associate Director
Special Education

Cc: Dr. Diana Julian, ADE Interim Commissioner