



**NATIONAL CENTER**

30 Mansell Court, Suite 108  
Roswell, GA 30076

phone: 770-604-9500

fax: 770-604-9898

email: [info@ndsccenter.org](mailto:info@ndsccenter.org)

[www.ndsccenter.org](http://www.ndsccenter.org)

November 14, 2018

Assistant Secretary Johnny Collett  
Office of Special Education and Rehabilitative Services  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, DC 20202-7100

Dear Assistant Secretary Collett,

Thank you for the opportunity to submit input on the process of rethinking Results Driven Accountability (RDA) and other related issues.

**The most critical changes we recommend are below**

- **Least Restrictive Environment (LRE) data for all students with disabilities should play a significant role in RDA.**
- **LRE data by disability category should be added to RDA in a meaningful way.**
- **Failure to meet LRE targets should impact annual determinations regarding whether a state has met IDEA requirements.**
- **Greater oversight should be provided to ensure that states do not continue to exceed the 1% cap on alternate assessment participation under ESSA.**

The National Down Syndrome Congress (NDSC) is the country's oldest national organization for people with Down syndrome, their families, and the professionals who work with them. We provide information, advocacy and support concerning all aspects of life for individuals with Down syndrome, and work to create a national climate in which all people will recognize and embrace the value and dignity of people with Down syndrome.

As part of that mission we support the inclusion of individuals with Down syndrome in all aspects of the community, including an education in the general education classroom pursuant to the LRE provisions of the Individuals with Disabilities Education Act (IDEA). As the Office of Special Education and Rehabilitative Services goes through the process of rethinking RDA, NDSC urges greater focus on inclusion data, especially by disability category. While the percentages of students with disabilities who are educated in the general education classroom 80% or more of the day is approximately 63% across the

nation (2016-17 data collection), the percentage for students in the Intellectual Disability category is only 17%. When you look at research on educational environment for students who take alternate assessments the data is even more dismal. Only 7% are educated either in general education classes or resource rooms.<sup>1</sup>

Federally funded projects like the National Center and State Collaborative and the new Center on Inclusive Policies and Practices (the TIES Center focused on students with the most significant cognitive disabilities) have shown that inclusive education for these students maximizes their access to and progress in the general education curriculum in their enrolled grade. This work, which is funded by the U.S. Department of Education, is critically important and much appreciated by NDSC and our families. However, this technical assistance will not create systems change if the message sent by RDA and IDEA determinations does not focus on the disparity between the opportunities for an education in the general education classroom for students with disabilities in general, and the struggle for inclusion faced by students with Down syndrome and others with intellectual disabilities or significant cognitive disabilities.

During the original development of the RDA process we were told that inclusion is not a “result” and therefore LRE data is not given the same focus as other data. Even if students are doing well academically, the fact that they are not being educated with their nondisabled peers is still an issue of serious concern. In the recent case *L.H. v Hamilton County Department of Education*, the Sixth Circuit Court of Appeals said: “[i]n some cases, a placement which may be considered better for academic reasons may not be appropriate because of the failure to provide for mainstreaming.” While inclusion is a best practice that leads to other positive school results, we urge you to consider that inclusion in all aspects of community life—including the opportunity to be educated alongside typical peers—is also a “result” we should strive to achieve. It communicates to the individual child and the school community that students with disabilities are a valued part of the whole. Therefore, annual state determinations regarding whether IDEA requirements are met should include elements related to LRE, which is not currently the case.

In fact, the RDA results matrix does not sufficiently focus on students who take alternate assessments in any respect because of the high degree of focus on the National Assessment of Educational Progress (NAEP). Students who take an alternate assessment do not participate in the NAEP, in spite of advocacy efforts to encourage

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<sup>1</sup> Kleinert, H., Towles-Reeves, E., Quenemoen, R., Thurlow, M., Fluegge, L., Weseman, L., & Kerbel, A. (2015). Where Students With the Most Significant Cognitive Disabilities Are Taught: Implications for General Curriculum Access. *Exceptional Children*, 81(3), 312–328.

NAEP to develop an alternate assessment. Therefore, it is all the more important that there be a focus on LRE, which is a critical element for these students.

An additional way to help students with Down syndrome and other cognitive disabilities is to ensure that states understand that every student with a cognitive disability should NOT participate in an alternate assessment. These assessments are designed and field tested for students with the MOST significant cognitive disabilities. Until states develop and properly use guidelines for alternate assessment participation they will continue to violate the 1% participation cap under ESSA.

The NDSC appreciates the opportunity to provide this input. Please contact Ricki Sabia with any questions at [ricki@ndscenter.org](mailto:ricki@ndscenter.org).

Very truly yours,

A handwritten signature in black ink that reads "David Tolleson". The signature is stylized with a large, sweeping flourish at the end.

David Tolleson  
Executive Director

A handwritten signature in black ink that reads "Ricki Sabia". The signature is written in a cursive, flowing style.

Ricki Sabia  
Senior Education Policy Advisor