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The National Down Syndrome Congress (NDSC) submits the following comments in response to the Department of Education's Office of Special Education and Rehabilitative Services (OSERS) information collection Docket No. ED-2020-SCC-0030 on Proposed Revisions Part B SPP/APR IDEA Part B State Performance Plan (SPP) and Annual Performance Report (APR).

**General Comments**

NDSC has commented previously on the "Rethinking Results Driven Accountability (RDA) Initiative." We have emphasized the importance of looking at the State Performance Plan (SPP)/ Annual Performance Report (APR) indicators in the context of how they are used as part of the "annual determination" process with respect to whether states have met the requirements of the Individuals with Disabilities Education Act (IDEA). The components of RDA are intended to "work together to improve student achievement." Rather than requesting comments on the SPP/APR indicators without the context of how they fit into the rest of the RDA process, we urge the Office of Special Education Programs (OSEP) in the next request for comments to provide a comprehensive RDA plan. The relationship between the SPP/APR and the annual determinations is especially important. Currently, data for students who take alternate assessments from the SPP/APR indicators does not impact the annual determinations of whether states have met the requirements of IDEA, and that needs to change. Because we have not yet been provided this contextual information regarding how the proposed changes to the SPP/APR indicators will impact the rest of the RDA process and because of NDSC's current focus on the implications of the COVID-19 crisis for individuals with disabilities, we will offer only a few key comments at this time.

In addition to offering the specific points below, NDSC supports additional comments that have been submitted by the Consortium for Citizens with Disabilities Education (CCD) Task Force and by The Advocacy Institute. The CCD letter can be viewed at <http://www.c-c-d.org/fichiers/CCD-Cochairs-on-SPP-APR-4-2020.pdf>. The Advocacy Institute letter can be downloaded at <https://www.regulations.gov/contentStreamer?documentId=ED-2020-SCC-0030-0025&attachmentNumber=1&contentType=pdf>.

**Key Points Regarding Least Restrictive Environment and Competitive Integrated Employment**

Least Restrictive Environment

As we have recommended many times in past comments, NDSC urges OSEP to add a requirement that states' least restrictive environment data by disability category be included in the targets to be set under Indicator 5. This is necessary to increase the inclusion of students in the general education classroom for disability categories that fall far below the average for all students with disabilities, including the intellectual disability category. NDSC greatly appreciates the opportunity to participate in the work of the OSEP-funded TIES Center on inclusive practices and policies for students with significant cognitive disabilities. However, until annual determinations on state IDEA implementation are impacted by the poor LRE data for this population, we remain concerned that the percentages of students with intellectual and developmental disabilities who are educated in the general education classroom will continue to remain dismally low.

### Competitive Integrated Employment

The proposed changes to the SPP/APR indicator 14 on post-school outcomes revise this indicator to provide flexibility on the definition used for competitive employment. NDSC opposes providing flexibility on the definition of competitive employment and instead urges OSEP to require states to solely use the definition of the term "competitive integrated employment" (CIE) that appears in section 7(5) of the Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act (WIOA) and its implementing regulations in 34 CFR §361.5(c)(9). This will ensure alignment for purposes of IDEA and Vocational Rehabilitation funding and improve transition for youth from school to the adult employment system. Inconsistent definitions of CIE will cause confusion. In addition, the WIOA CIE definition aligns with the definition of integration in other civil rights laws, including the IDEA, Americans with Disabilities Act, as well as the Supreme Court's decision in *Olmstead v LC*, the Medicaid Home and Community Based Services (HCBS) Settings Rule, with practice in states' disability employment systems, and with the employment priorities of the disability community.

In order to have meaningful accountability for students with intellectual disabilities, it is essential that annual determinations take into account data for students who take an alternate assessment, LRE data by disability category, and post-school outcomes that include competitive integrated employment as defined in WIOA.

Thank you for this opportunity to provide feedback.