



AMERICAN
SPEECH-LANGUAGE-
HEARING
ASSOCIATION

May 14, 2018

The Honorable Johnny W. Collett
Assistant Secretary
Office of Special Education and Rehabilitation Services
U.S. Department of Education
400 Maryland Avenue, SW, Room 5107
Potomac Center Plaza
Washington, DC 20202-2500

Dear Assistant Secretary:

On behalf of the American Speech-Language-Hearing Association, I write to comment on the February 27, 2018, *Federal Register* notice of proposed rulemaking (NPRM) from the U.S. Department of Education (the Department) concerning significant disproportionality under Part B of the Individuals with Disabilities Education Act (IDEA). ASHA urges the Department to implement the Significant Disproportionality regulations (34 CFR Sec.300.646 and 34 CFR Sec. 300.647) as written in the final rule scheduled for a July 1, 2018, compliance date for states, and July 1, 2020, for the inclusion of children ages three through five years in their analyses.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 198,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students. Audiologists specialize in preventing and assessing hearing and balance disorders as well as providing audiologic treatment, including hearing aids. Speech-language pathologists (SLPs) identify, assess, and treat speech and language problems, including swallowing disorders. The services provided by our members help to ensure all students receive a free appropriate public education (FAPE). The issue of disproportionality of culturally diverse populations in special education needs a greater focus.

Inappropriate identification is a common reason for the disproportionate representation of culturally diverse populations in special education. While race and ethnicity are important factors to consider, other demographic factors influence educational outcomes. These factors may include socioeconomic issues and low incidence disabilities, such as hearing impairments. ASHA encourages coordinated early intervening services (CEIS) training for teachers and specialized instructional support personnel (SISP) to appropriately identify and distinguish when children need to be placed in different levels of support (i.e., special education, 504 plan, multi-tiered system). Such training would reduce inappropriate assignments to special education and significant disproportionality in special education programs.

Disproportionality in special education continues to be an area of concern, particularly in the areas of identification, discipline, and placement. It would be helpful to review data on both underrepresentation and overrepresentation of certain populations, including racial/ethnic groups, English Language Learners, and students with disabilities in order to determine the best strategy

to remediate the issue. For example, within the speech-language impairment category where students who speak a language other than English in the home may both be under- and overrepresented. Training in patterns of second language acquisition and features of disordered second language acquisition may assist in improved identification. Without consideration of the data as a whole, intervention techniques may not be successful.

Please refer to ASHA's original comment letter on the March 2, 2016, *Federal Register* NPRM from the Department on this matter for more details. Some highlights of our recommendations are below:

Recommendations:

- 1) *Provide CEIS training for teachers and specialized instructional support personnel in appropriately identifying and distinguishing when children need to be placed in different levels of support (i.e., special education; 504 plan; or multi-tiered system of support) not resulting in special education placement or on a 504 plan. This is to reduce inappropriate assignment to special education and significant disproportionality in special education programs.*
- 2) *The Department should provide additional training in cultural awareness, culturally sensitive assessment strategies, and typical second language acquisition, as well as strategies for successful instruction for all general education instructors.*

Rationale: *Census numbers and projections indicate an increase in the number of students enrolled who speak a language other than English in the home. Traditionally, these children are at higher risk for inappropriate referrals to special education or a "wait and see approach" that delays services to children in need to allow for time to learn English. Professional development in this area for general education teachers may assist in successful early identification of students with disabilities as well as general increased success of students who are English Language Learners in the classroom.*

A number of indicators and features for disorders across IDEA disability categories, including learning disabilities, emotional disabilities, autism, and speech-language impairments, may be due to variances in cultural norms. Standardized assessments may not be useful in determining the absence or presence of a disorder. General and special educators should be familiar with cultural variances and how they may influence the perception of a disorder. In addition, they should be familiar with alternative and informal assessment measures, such as ethnographic interviewing and/or dynamic assessment, which can assist in evaluating students for differences versus disorders.

ASHA again urges the Department to implement the final regulations regarding significant disproportionality to ensure students receive the most appropriate supports and services they need to receive FAPE in the least restrictive environment. ASHA recognizes the inconsistency and challenges faced by state and local education agencies that have significant disproportionality as well as a failure to ensure FAPE for their special education students. This

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common problem underscores the need for increased federal financial support to assist schools in meeting the needs of all their students.

Thank you for the opportunity to provide comments on this *Federal Register* notice. If you or your staff have any questions, please contact Catherine D. Clarke, ASHA's director of education policy, at cclarke@asha.org.

Sincerely,

A handwritten signature in black ink that reads "Elise Davis-McFarland". The signature is written in a cursive, flowing style.

Elise Davis-McFarland, PhD, CCC-SLP
2018 ASHA President