

(3) Nothing in Part B of the Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part B of the Act.

(Approved by the Office of Management and Budget under control number 1820-0624)

(Authority: 20 U.S.C. 1416(b))

§ 300.602 State use of targets and reporting.

(a) *General.* Each State must use the targets established in the State's performance plan under § 300.601 and the priority areas described in § 300.600(d) to analyze the performance of each LEA.

(b) *Public reporting and privacy—(1) Public report.* (i) Subject to paragraph (b)(1)(ii) of this section, the State must—

(A) Report annually to the public on the performance of each LEA located in the State on the targets in the State's performance plan; and

(B) Make the State's performance plan available through public means, including by posting on the Web site of the SEA, distribution to the media, and distribution through public agencies.

(ii) If the State, in meeting the requirements of paragraph (b)(1)(i) of this section, collects performance data through State monitoring or sampling, the State must include in its report under paragraph (b)(1)(i)(A) of this section the most recently available performance data on each LEA, and the date the data were obtained.

(2) *State performance report.* The State must report annually to the Secretary on the performance of the State under the State's performance plan.

(3) *Privacy.* The State must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.

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(Authority: 20 U.S.C. 1416(b)(2)(C))

§ 300.603 Secretary's review and determination regarding State performance.

(a) *Review.* The Secretary annually reviews the State's performance report submitted pursuant to § 300.602(b)(2).

(b) *Determination—(1) General.* Based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made available, the Secretary determines if the State—

(i) Meets the requirements and purposes of Part B of the Act;

(ii) Needs assistance in implementing the requirements of Part B of the Act;

(iii) Needs intervention in implementing the requirements of Part B of the Act; or

(iv) Needs substantial intervention in implementing the requirements of Part B of the Act.

(2) *Notice and opportunity for a hearing.* (i) For determinations made under paragraphs (b)(1)(iii) and (b)(1)(iv) of this section, the Secretary provides reasonable notice and an opportunity for a hearing on those determinations.

(ii) The hearing described in paragraph (b)(2) of this section consists of an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should not make the determination described in paragraph (b)(1) of this section.

(Authority: 20 U.S.C. 1416(d))

§ 300.604 Enforcement.

(a) *Needs assistance.* If the Secretary determines, for two consecutive years, that a State needs assistance under § 300.603(b)(1)(ii) in implementing the requirements of Part B of the Act, the Secretary takes one or more of the following actions:

(1) Advises the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally