



Friday
May 7, 1999

Part IV

**Department of
Education**

34 CFR Part 300

**Assistance to States for the Education of
Children With Disabilities; Final Rule**

DEPARTMENT OF EDUCATION

34 CFR Part 300

RIN 1820-AB40

Assistance to States for the Education of Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final regulations; preamble amendment.

SUMMARY: The Department of Education published in the **Federal Register** on March 12, 1999 (64 FR 12406), the final regulations for Assistance to States for the Education of Children with Disabilities and Early Intervention Program for Infants and Toddlers with Disabilities. The preamble to the final regulations did not include information concerning the biennial performance report. This document supplements the preamble of that document by adding the necessary information:

FOR FURTHER INFORMATION CONTACT: Joleta Reynolds, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3090, Mary E. Switzer Building, Washington, DC 20202. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205-5465 or the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday, except Federal holidays.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The following information addresses the biennial performance report:

Paperwork Reduction Act of 1995

Sections 300.137-300.139 and 300.146 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Biennial Performance Report for Part B of the Individuals with Disabilities Education Act, §§ 300.137-300.139 and 300.146.

Each State educational agency is required to establish goals for the performance of children with disabilities in that State, and establish performance indicators the State will use to assess progress toward achieving

those goals. The statute mandates that States report every two years to the Secretary the progress of the State, and of children with disabilities in the State, toward meeting the State's goals.

State educational agencies are required by statute to make reports available to the public regarding the number of children with disabilities who participate in regular assessments, and the number participating in alternate assessments. In the biennial performance report, State educational agencies are asked to provide the U.S. Department of Education with a copy of these reports.

In addition, the statute requires States to examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children. Since this information is relevant to drop-out rates for children with disabilities and graduation rates for children with disabilities, this information is included in the biennial performance report.

The statute also requires States to submit data to the Secretary to determine if a significant disproportionality based on race is occurring in the State with respect to the identification of children with disabilities. To reduce the reporting burden for States, this separate reporting requirement is combined with the biennial performance report.

The annual reporting and recordkeeping burden for this collection of information is estimated to average 20 hours biennially for each response for 58 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Thus, the total annual reporting and recordkeeping burden for this collection is estimated to be 580 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on these proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of

the proposed collections of information, including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Electronic Access to This Document

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<http://gcs.ed.gov/fedreg.htm>

<http://www.ed.gov/news.html>

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) at (202) 512-1530 or, toll free at 1-888-293-6498.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at:

<http://www.access.gpo.gov/nara/index.html>

List of Subjects in 34 CFR Part 300

Administrative practice and procedure, Education of individuals with disabilities, Elementary and secondary education, Equal educational opportunity, Grant programs—education, Privacy, Private Schools, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number: 84.027 Assistance to States for the Education of Children with Disabilities)

Dated: April 30, 1999.

Judith E. Heumann,

*Assistant Secretary for Special Education and
Rehabilitative Services.*

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