



P.O. Box 7222, Madison, Wisconsin 53707

May 14, 2018

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

Re: Opposition to the Proposed Delay of Significant Disproportionality Regulations ([34 CFR §300.646](#) and [34 CFR § 300.647](#))

Dear Assistant Secretary Collett:

The Survival Coalition of Wisconsin Disability Organizations writes today to express our **strong opposition** to the Notice of Proposed Rulemaking (NPRM), [Docket ID ED-2017-OSERS-0128](#), which seeks to delay the required compliance date for the Individuals with Disabilities Education Act's disproportionality regulations (codified at 34 CFR 300.646- 300.647) from July 1, 2018 to July 1, 2020 and for children ages three to five from July 1, 2020 to July 1, 2022.

The Survival Coalition of Wisconsin Disability Organizations consists of over thirty disability organizations in Wisconsin. Our coalition members support over 118,000 children of families whose children receive special education services in Wisconsin schools. Survival Coalition supports the appropriate identification of all students, placement in the least restrictive setting and the decrease in the overuse of discipline on students with disabilities. The Wisconsin Department of Instruction engaged a wide variety of stakeholders to weigh in on racial disproportionality in special education identification, discipline and placement. This input included several of our Coalition partners with expertise in special education. Wisconsin continues to move their plan forward including rule making within our legislative process. The Survival Coalition of Wisconsin does not support the delay in implementation of the disproportionality regulations for two years and asks that the Department of Education continue with implementation.

We ask you to consider the following concerns when making your decision:

Delayed Compliance Will Harm Students. Research shows that students of color are treated unfairly in terms of over identification with certain types of disabilities, placement in segregated classes, and suspension and expulsion from school. While the Wisconsin Department of Public Instruction is currently planning to move forward on implementation, it is possible they may decide to focus their work on other areas if this is delayed. The delay of compliance with regulations will increase the likelihood that students of color will be subjected to inappropriate educational segregation and harmful disciplinary practices, with potentially lifelong negative consequences.

The Financial Cost of Delayed Compliance is Too High. Wisconsin schools are already struggling to meet the increasing needs of students receiving special education. While we have reduced the number of suspensions in our state, our largest school districts in our urban areas use disciplinary measures disproportionately with children of color and at the same time schools have struggled to increase academic success for students of color with disabilities. While there may be initial savings by delaying implementation, these savings pale in comparison to the exorbitant financial costs of increased school failure and involvement in the criminal justice system associated with significant racial/ethnic disproportionality in identification, placement, and discipline.

Current Regulations Grant Sufficient Flexibility to States. The regulations require states to report all statistics and standards for measuring reasonable progress for each indicator and provide rationales for each. Wisconsin worked with stakeholders to set standards for measuring reasonable progress for each indicator and detailed their rationale. Wisconsin has used this flexibility to set rigorous standards for our Wisconsin public schools.

The Remedy in Cases of Significant Disproportionality is Reasonable. The Wisconsin Department of Public Instruction and local school districts must act when significant disproportionality is found and reserve fifteen percent of their IDEA funds to address the disproportionality. These Coordinated Early Intervention Services (CEIS) must include addressing any policy, practice, or procedure identified as contributing to the significant disproportionality. The services can include professional development, educational and behavioral evaluations, services, and supports. The new regulations will allow this funding to be used not only for students at risk but for students who are already identified and being served under IDEA. The change is important to stop the shifting of funding away from services and supports for special education students. Wisconsin also has the flexibility to use a multi-year analysis to determine whether a school district meets the criteria as a school identified with significant disproportionality in the three areas.

Many States are Already Moving Forward with Implementing the Regulations. Wisconsin has been working over the last year to meet the July 1, 2018 deadline. As noted above, Stakeholder input has included feedback from different councils and an online public comment form. The Department has published the new rule and will be holding a public hearing. Wisconsin continues to work toward implementation as they are committed to reduce disproportionality in the three areas across the state.

Thank you.

Sincerely, Survival Co-Chairs:

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Survival Coalition is comprised of more than 30 statewide disability organizations that advocate and support policies and practices that lead to the full inclusion, participation, and contribution of people living with disability.

Real Lives, Real Work, Real Smart, Wisconsin
Investing in People with Disabilities