



For Immediate Release

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NDRN Opposes Delay for Disproportionality Regulations

The U.S. Department of Education intends to seek comment on whether it should delay regulations on racial disproportionality in special education that school districts are currently in the process of implementing. The delay would move the implementation date by two years from 2018 to 2020. An [updated version](#) of the Trump administration's Unified Agenda indicates that a Federal Register posting on this delay is imminent. NDRN understands this delay to be for the purpose of considering rescission of these regulations, which have already completed the formal promulgation process and are in the process of being implemented by school districts around the country to meet the original July 2018 deadline.

Under the IDEA (20 USC 1418(d)) states are required to report certain data to the U. S. Department of Education. The reason for this collection was a concern, based on reported data that students with disabilities from certain groups are treated unfairly in terms of: 1) identification for special education services; 2) placement in segregated classes, and 3) suspension and expulsion from school. If the data collected and reported under this section shows that there is "significant disproportionality" in any of these critical areas, the state and school district involved must address the problem.

Regulations helping states and school districts implement the law consistently , which went through the full notice and comment process only last year, was a direct response to the February 2013 U.S. Government Accountability Office (GAO) studyⁱ showing widespread noncompliance by states with these provisions. Most states had set thresholds for identifying disproportionate districts so high that no districts ever exceeded them, and, therefore, none were ever identified or resolved. Meanwhile states permitted districts to suspend students of color with disabilities at much higher levels than their White peers. The GAO recommended that, "To promote consistency in determining which districts need to provide early intervening services, Education should develop a standard approach for defining significant disproportionality to be used by all states."

The regulations the Department are considering for a delay are the ones recommended by GAO in that report. A delay is harmful to children currently in school who are impacted by the current failure to provide services and who are unfairly suspended and expelled. If the regulations are rescinded, the law will remain but the useful guidance that assists school districts in implementing the law will be unavailable. Additional children will be hurt. In addition, all of the government resources that went into the regulations' approval process will be wasted.

In response, NDRN Executive Director Curt Decker stated: "NDRN strongly supports these regulations and the IDEA's significant disproportionality requirements they implement. Protections are needed now to ensure that every child has the same chance to receive a quality education. We strongly oppose any effort to delay implementation. We know there is a problem that needs to be fixed --delaying implementation will only hurt children who are already in school and send a message to them that they are not important as other children are."

ⁱ See: <http://www.gao.gov/products/GAO-13-137>