



April 2019

# SPECIAL EDUCATION

## Varied State Criteria May Contribute to Differences in Percentages of Children Served

Accessible Version

## Why GAO Did This Study

About 13 percent of children aged 3 through 21 enrolled in public schools received special education services in school year 2015-16, and about 3 percent of children from birth through age 2 received special education services. The percentage of the population served under IDEA varies across states. For example, in fall 2016, the percentages of the population aged 6 through 21 served in individual states ranged from 6.4 percent to 15.1 percent. Concerns about the difficulties identifying and evaluating children for special education have been raised by the media, experts, and special education advocates.

GAO was asked to examine how states implement Child Find and how Education monitors it. This report examines (1) factors that may account for differences in the percentage of children receiving special education services across states, and (2) how Education and selected states monitor and support Child Find efforts.

GAO reviewed federal special education data, agency documentation, federal laws and regulations, and selected state laws; and interviewed Education officials, officials from four state agencies and 15 school districts in those states (Colorado, Iowa, Massachusetts, and New York), and representatives of organizations that advocate for families of individuals with disabilities as well as special education subject matter specialists. GAO selected the four states based on a variety of factors, including the percentage of special education students.

View [GAO-19-348](#). For more information, contact Jacqueline M. Nowicki at (617) 788-0580 or [nowickij@gao.gov](mailto:nowickij@gao.gov).

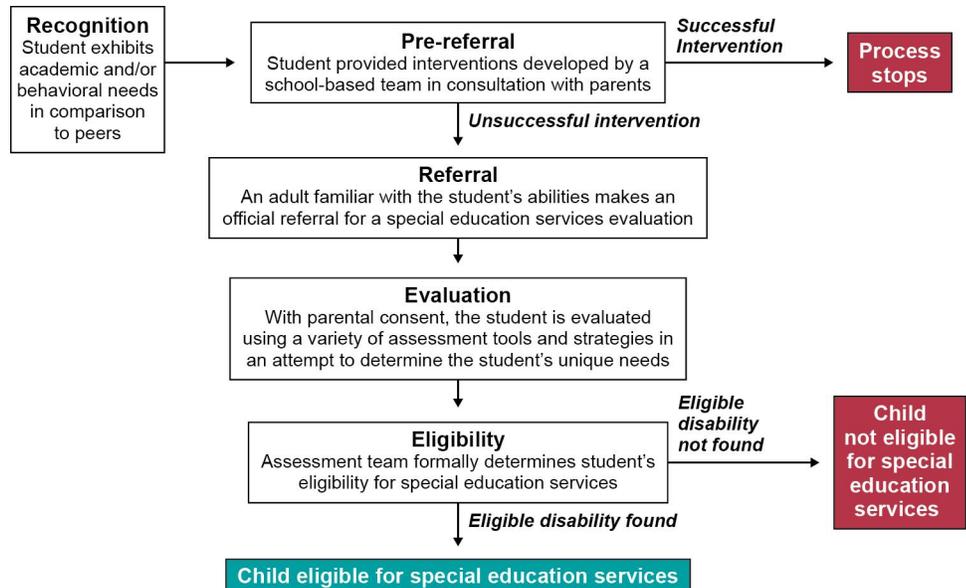
## SPECIAL EDUCATION

### Varied State Criteria May Contribute to Differences in Percentages of Children Served

## What GAO Found

Differences in states' eligibility criteria and the difficulty of identifying and evaluating some children suspected of having disabilities may contribute to differences in the percentages of children receiving special education services across states. The Individuals with Disabilities Education Act (IDEA), the primary federal special education law, requires states to have policies and procedures in place to ensure that all children with disabilities residing in the state who need special education services are identified, located, and evaluated. These policies and procedures—known as “Child Find”—are generally implemented by local school districts (see fig.). IDEA gives states some latitude in setting eligibility criteria and defining disability categories. In addition, states may determine their own processes for identifying and evaluating children. As a result, a child eligible for services in one state might be ineligible in another. According to advocates, special education subject matter specialists, and state and local officials GAO interviewed, a number of challenges related to correctly identifying and evaluating children suspected of having a disability can affect eligibility decisions. For example, school district officials in all four states GAO visited cited challenges in properly identifying and evaluating English Learner students, as districts do not always have staff who are conversant in a child's first language and skilled in distinguishing language proficiency from disabilities.

### Typical Special Education Process for School-Aged Children and Young Adults



Source: GAO analysis of information from selected state agencies and special education advocacy groups. | GAO-19-348

The Department of Education (Education) monitors and supports Child Find efforts primarily by reviewing states' annual performance data and providing professional development and technical assistance. The four states GAO visited reported monitoring and supporting school districts' efforts in a similar manner to Education's.

**United States Government Accountability Office**

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### Abbreviations

CCD	Common Core of Data
Education	U.S. Department of Education
FAPE	free appropriate public education
ICE	Immigration and Customs Enforcement
IDEA	Individuals with Disabilities Education Act
IEP	individualized education program
NCES	National Center for Education Statistics
OSEP	Office of Special Education Programs
RDA	Results Driven Accountability
RTI	response to intervention
SEA	state educational agency
SLD	specific learning disability
TA&D	Technical Assistance and Dissemination
TEA	Texas Education Agency

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April 11, 2019

The Honorable Patty Murray  
Ranking Member  
Committee on Health, Education, Labor, and Pensions  
United States Senate

The Honorable Robert C. “Bobby” Scott  
Chairman  
Committee on Education and Labor  
House of Representatives

Nearly 7 million children between the ages of 3 and 21 (about 13 percent of the total number of students enrolled in public schools) received special education services during school year 2015-16 under the Individuals with Disabilities Education Act (IDEA).<sup>1</sup> However, the percentage of the population served under IDEA varies across states. For example, in fall 2016, the percentages of the population aged 6 through 21 served in individual states ranged from 6.4 percent to 15.1 percent.

IDEA—the primary federal special education law for infants, toddlers, children, and youth with disabilities—is administered at the federal level by the U.S. Department of Education’s (Education) Office of Special Education Programs (OSEP). Under Part B of IDEA states receiving Part B funds are required to make a free appropriate public education available to all eligible children with disabilities.<sup>2</sup> To do so, IDEA requires states to have policies and procedures to ensure that all children with disabilities residing in the state are identified, located, and evaluated.<sup>3</sup> This requirement is known as “Child Find,” and is generally implemented by local school districts.

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<sup>1</sup> U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, *Digest of Education Statistics, 2017*, table 204.30 (July 2017).

<sup>2</sup> 20 U.S.C. § 1412(a)(1).

<sup>3</sup> 20 U.S.C. § 1412(a)(3). The requirement includes children with disabilities who are homeless or wards of the state, and children with disabilities attending private schools, regardless of the severity of their disability. See also 20 U.S.C. § 1435(a)(5)—(a comprehensive child find system for the purposes of identifying infants and toddlers under Part C).

Concerns about the identification and evaluation of children have been raised by the media, experts, and special education advocates. For instance, a 2016 series of investigative reports by the Houston Chronicle alleged the systematic delay or denial of special education services for children with disabilities in Texas. The series alleged that, to reduce costs, the Texas Education Agency (TEA) set an 8.5 percent cap on the percent of students who could receive special education services, and intensified monitoring of school districts that exceeded that level. Education monitored TEA and found, among other things, that some school districts took steps designed to keep the percentage of children receiving special education services at or below the 8.5 percent cap.<sup>4</sup> Education also found that TEA did not ensure that some school districts in the state properly performed their Child Find responsibilities. Similarly, in 2016, the Connecticut State Department of Education found that a local school district was not properly identifying children in need of special education services. In addition, special education experts and advocates have expressed concerns about both over-representation and under-representation of minorities in special education, which could indicate that these students are not appropriately being identified and evaluated for special education.<sup>5</sup>

You asked us to examine how states implement IDEA's Child Find requirements and how Education oversees state implementation of Child Find. This report examines (1) factors that may account for differences in the percentage of children who receive special education services across states, and (2) how Education and selected states monitor and support Child Find requirements.

To obtain information for both objectives we (1) reviewed Education's special education data for school years 2011 through 2016 (the most recent data available at the time of our review); (2) reviewed relevant Department information, such as Dear Colleague Letters (documents through which Education communicates policy information), Frequently Asked Questions, and Questions and Answers; federal laws; federal

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<sup>4</sup> U.S. Department of Education, Office of Special Education Programs, *DMS Letter to the Honorable Mike Morath, Commissioner, Texas Education Agency* (Jan. 11, 2018), and *DMS Texas Part B 2017 Monitoring Visit Letter, Enclosure* (Jan. 11, 2018).

<sup>5</sup> In 2013, we reported on issues related to the identification of racial and ethnic overrepresentation in special education. GAO, *Individuals With Disabilities Education Act: Standards Needed to Improve Identification of Racial and Ethnic Overrepresentation in Special Education*, [GAO-13-137](#) (Washington, D.C.: Feb. 27, 2013).

regulations and policies; and selected state laws and regulations; (3) interviewed Education officials; and (4) interviewed officials from a nongeneralizable selection of four states (Colorado, Iowa, Massachusetts, and New York)<sup>6</sup> from state agencies responsible for special education and from 15 school districts within those states. We selected the four states based on a variety of factors, including the differences in the percentage of special education students served. We also interviewed representatives from eight organizations that advocate for parents and families of individuals with disabilities and four special education subject matter specialists (hereinafter referred to as subject matter specialists) to discuss issues related to Child Find. We determined that the data used were sufficiently reliable for the purposes of the report. See appendix I for detailed information about our methodology.

We conducted this performance audit from August 2017 to April 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

IDEA was enacted to ensure that all children with disabilities have access to a free appropriate public education (FAPE); to protect the rights of those children and their parents; and to assist states, localities, educational service agencies, and federal agencies in educating those children.<sup>7</sup> Part C of IDEA provides grants to states for Early Intervention services for infants and toddlers (birth through 2 years) with developmental delays or diagnosed conditions that have a high likelihood of developmental delay.<sup>8</sup> Part B of IDEA provides grants to states to assist them in providing special education and related services to eligible

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<sup>6</sup> We selected states based on a variety of factors, including the percentage of special education students and geographic considerations. (For more information on our site selection methodology, see app. I.)

<sup>7</sup> 20 U.S.C. § 1400(d)(1).

<sup>8</sup> Under Part C of IDEA states also have the option of providing services to children at risk of developing a delay and to children between the ages of 3 and 5. 20 U.S.C. §§ 1431, 1432.

children with disabilities beginning at age 3 and possibly lasting to the student’s 22nd birthday, depending on state law or practice.<sup>9</sup>

### Special Education Administration and Funding

In fiscal year 2019, the total appropriation for IDEA Parts B and C was approximately \$13.2 billion (\$12.8 billion for Part B and \$470 million for Part C). These funds are awarded through formula grants to state agencies which, in turn, provide these funds to eligible entities (school districts under Part B and early intervention service providers under Part C) to carry out applicable IDEA requirements.<sup>10</sup> (See table 1.)

**Table 1: Key Federal and State Responsibilities under the Individuals with Disabilities Education Act (IDEA)**

Agency	Monitoring	Support
U.S. Department of Education	<ul style="list-style-type: none"> <li>Monitor state implementation of IDEA</li> <li>Require states to monitor implementation by school districts</li> <li>Review State Performance Plans/Annual Performance Reports, information from monitoring visits, and other information, and make determinations regarding state performance using data submitted, information obtained from monitoring visits and other available information</li> </ul>	<ul style="list-style-type: none"> <li>Advise states of available technical assistance</li> </ul>
State Educational Agency (SEA)	<ul style="list-style-type: none"> <li>Collect data from school districts as needed to report annually to the U.S. Department of Education</li> <li>Monitor implementation of Part B and make annual determinations about the performance of each school district</li> <li>Ensure that school districts correct noncompliance identified by the SEA within a year</li> </ul>	<ul style="list-style-type: none"> <li>Advise school districts of available technical assistance</li> </ul>
Part C Lead Agency	<ul style="list-style-type: none"> <li>Monitor implementation of Part C of IDEA</li> <li>Make determinations annually about the performance of each Early Intervention program</li> <li>Ensure that service providers correct noncompliance identified by the Lead Agency within a year</li> </ul>	<ul style="list-style-type: none"> <li>Provide technical assistance to agencies, institutions, organizations, and Early Intervention service providers</li> </ul>

Source: GAO analysis of 20 U.S.C. § 1416. | GAO-19-348

<sup>9</sup> 20 U.S.C. §§ 1411(a)(1), 1412(a)(1), 1419. Part B grants include the Grants to States program, for children ages 3 through 21, and the Preschool Grants program, for children ages 3 through 5. For the remainder of this report we are using the phrase “special education services” to refer to special education and related services.

<sup>10</sup> IDEA requires Education to award Part B funds to state educational agencies; IDEA does not specify which state agency (the “lead agency”) must implement Part C. Lead agencies in states vary, and states assign Part C to state health departments, education departments, or other departments, including combined health and human services departments.



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## Part C (Early Intervention for Infants and Toddlers, Birth to 2 Years)

Each state has a designated lead agency—called a Part C Lead Agency—that is responsible for administering, supervising, and monitoring Part C.<sup>11</sup> Part C requires each state to have a continuous process of public awareness activities and evaluations designed to identify and refer as early as possible all young children with disabilities and their families who are in need of Early Intervention services. By law, public awareness efforts should include disseminating information to parents and those likely to make referrals, especially hospitals and physicians.<sup>12</sup> States have disseminated this information in different ways, including through television ads, pamphlets, and posters describing Part C and how parents can obtain services for their child.

Under Part C of IDEA, states must also provide services to any child under 3 years of age who is developmentally delayed. These delays must be measured by appropriate diagnostic instruments and procedures in one or more areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development, or the child must have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.<sup>13</sup> Once a child who is suspected of having a disability is referred, states must evaluate the child in accordance with applicable IDEA requirements. Figure 1 illustrates the typical process in Early Intervention programs.

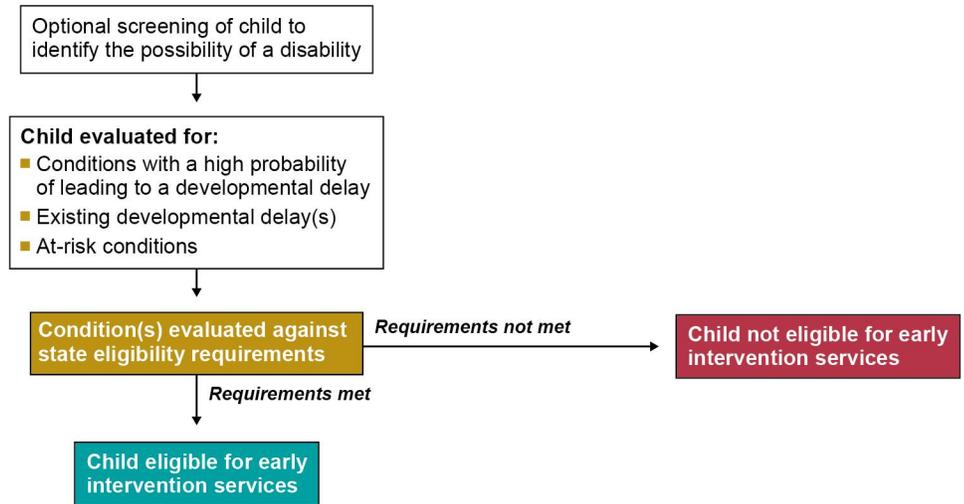
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<sup>11</sup> 20 U.S.C. § 1435(a)(10).

<sup>12</sup> 20 U.S.C. § 1435(a)(6). Under IDEA, primary referral sources include (1) hospitals, including prenatal and postnatal care facilities; (2) physicians; (3) parents, including parents of infants and toddlers; (4) child care programs and early learning programs; (5) local education agencies and schools; (6) public health facilities; (7) other public health or social service agencies; (8) other clinics and health care providers; (9) public agencies and staff in the child welfare system, including child protective service and foster care; (10) homeless family shelters; and (11) domestic violence shelters and agencies. 34 C.F.R. § 303.303(c).

<sup>13</sup> 20 U.S.C. § 1432(5)(A).

**Figure 1: Special Education Process for State Early Intervention (IDEA Part C) Programs**



Source: GAO analysis of Department of Education reports and guidance on the Individuals with Disabilities Education Act. | GAO-19-348  
 Infants and toddlers who are still receiving services by about age 2 and a half are evaluated again to determine if they are eligible for services under Part B.

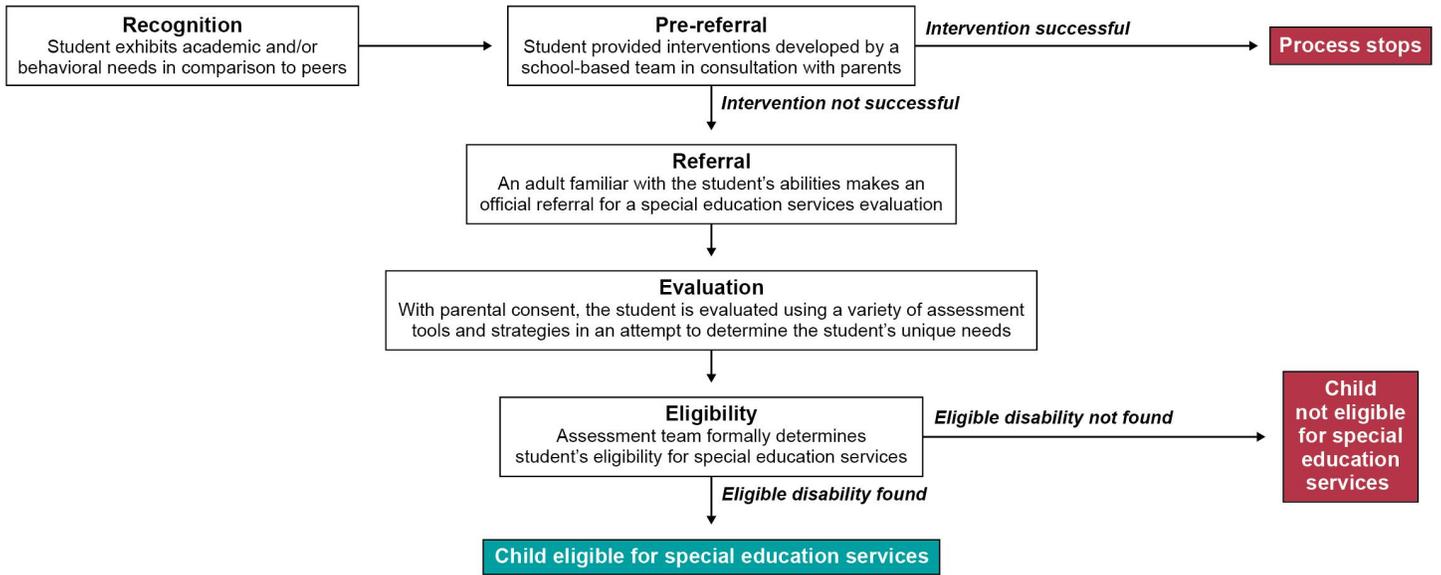
## Part B (Special Education Services for Children and Youth ages 3 through 21)

Under Part B, states and school districts must make FAPE available to all eligible children with disabilities in mandatory age ranges. FAPE includes special education (specially designed instruction) and related services (support services)—such as speech therapy, psychological services, and physical therapy—tailored to their needs based on an individualized education program (IEP).<sup>14</sup> Figure 2 illustrates the typical process for identifying students for special education under Part B. Figure 3 shows the percentage of children served under IDEA by age and state as of fall 2016. Nationally, for each age group, the percentage of children receiving

<sup>14</sup> An IEP is a written statement developed by a team of school officials, parents, the student if appropriate, and at the discretion of the parent or school, other individuals who have knowledge or special expertise regarding the student. The IEP includes, among other information, a statement of the child's present levels of academic achievement and functional performance, annual goals, and a statement of the special education and related services and supplementary aid and services needed to attain those goals. 20 U.S.C. § 1414(d).

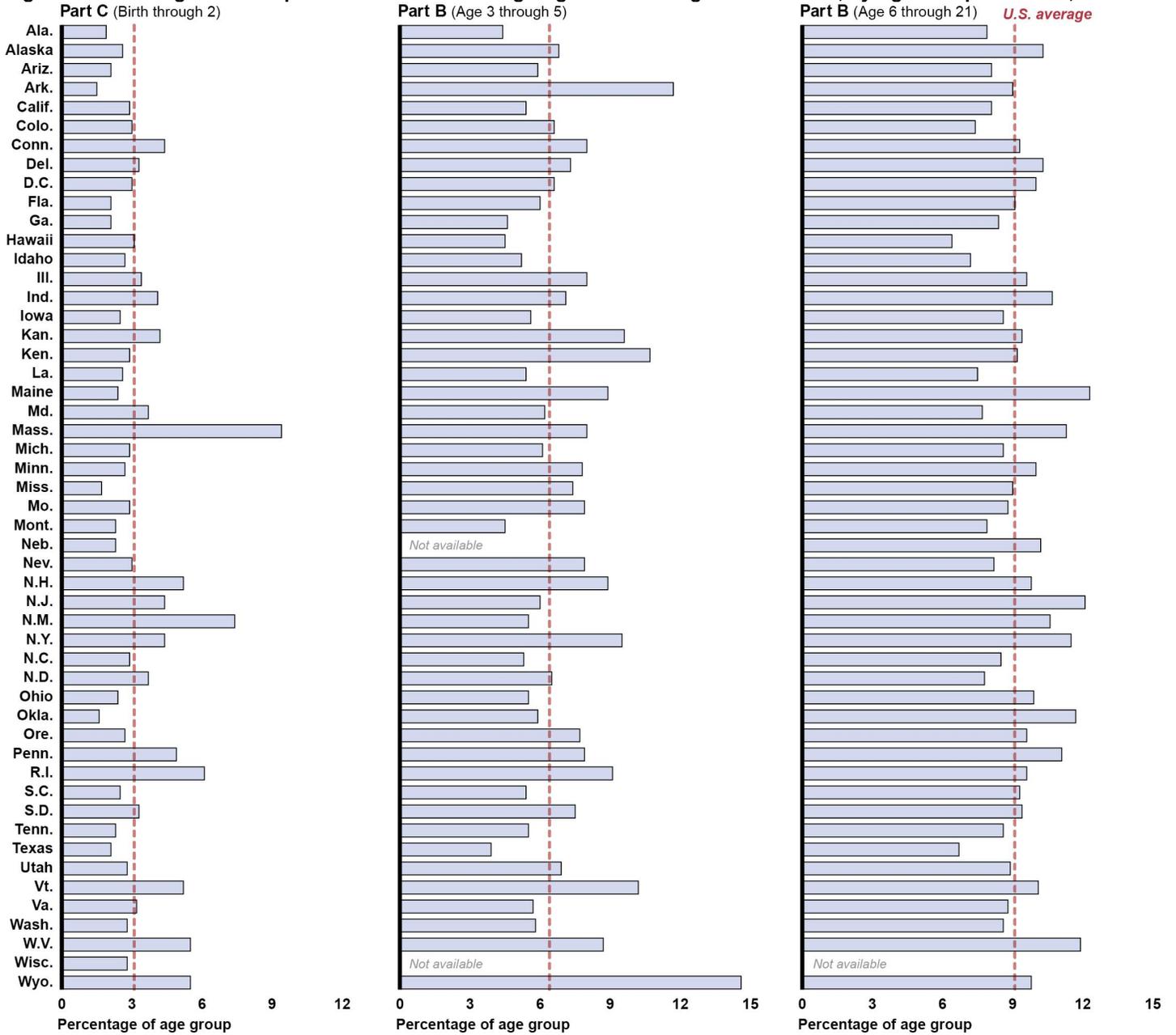
special education services remained relatively stable from 2012 through 2016, changing by less than 1 percentage point.

**Figure 2: Typical Special Education Process for School-Aged Children and Young Adults (IDEA Part B)**



Source: GAO analysis of information from selected state agencies and special education advocacy groups. | GAO-19-348

**Figure 3: Percentage of the Population from Birth through Age 21 Receiving IDEA Services, by Age Group and State, Fall 2016**



Source: GAO analysis of U.S. Department of Education report to Congress. | GAO-19-348

Note: Data for the percentage of the population ages 3 through 5 served under IDEA, Part B in 2016 in Nebraska or Wisconsin were not available. Data for the percentage of the population ages 6 through 21 served under IDEA, Part B in Wisconsin in 2016 were not available.

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## Varied State Eligibility Criteria and Challenges Identifying and Evaluating Children May Help Explain Differences in Percentages Served

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### Eligibility Criteria and Identification Processes Vary Across States

IDEA requires states to have policies and procedures to ensure that school districts identify, locate, and evaluate all children suspected of having a disability who need special education and related services, regardless of the severity of their disability, but also gives states some latitude in establishing eligibility criteria and defining disability categories. In addition, states have some flexibility to determine their own processes for identifying and evaluating children, provided the state's procedures are consistent with IDEA requirements. As a result, a child eligible for IDEA services in one state might be ineligible in another.

#### Early Intervention (IDEA Part C)

- **Eligibility criteria.** IDEA allows states some flexibility to establish their own definitions of developmental delay (when a child does not reach developmental milestones for certain skills, such as motor or language skills, at the expected times), including the level or severity of the delay.<sup>15</sup> For example, in Maryland, a child must have at least a 25 percent delay in one or more developmental areas to be eligible for Early Intervention services, while in Arizona, a child must demonstrate a 50 percent delay in one or more developmental areas to be eligible.

In Massachusetts, Part C lead agency officials we interviewed said that the state had, as IDEA allows, tightened eligibility criteria in 2009 to reduce the number of children eligible for Early Intervention services by narrowing the definition of developmental delay. Officials

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<sup>15</sup> Part C of IDEA requires states to have a "rigorous definition of developmental delay" in their statewide system to provide Early Intervention services. 20 U.S.C. § 1435(a)(1). Under 20 U.S.C. § 1432(5)(A), an infant or toddler with a disability is defined as an individual under 3 years of age who needs Early Intervention services because the individual is experiencing developmental delays, as measured in at least one of the following areas: cognitive development, physical development, communication development, social or emotional development, and adaptive development, or has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

said that there were no current plans to change the eligibility criteria, but that they would consider tightening eligibility criteria again if the number of eligible children outpaces state fiscal resources for these services.

Part C of IDEA also allows but does not require states to provide Part C services to at-risk infants and toddlers.<sup>16</sup> States that choose to provide services to at-risk children may use IDEA risk factors to determine eligibility, such as low birth weight or history of abuse and neglect, or they may develop their own list of risk factors. For example, Massachusetts developed its own at-risk criterion for eligibility, which requires the presence of four or more defined child and family factors, including biological, medical, and trauma-related factors. As of 2018, seven states or territories were serving at-risk infants and toddlers, according to an Education official.

- **Early Intervention process.** The processes states use to deliver Part C Early Intervention programs can vary in a number of ways. First, the types of agencies designated as the Part C Lead Agency vary from state to state; these lead agencies are responsible for administering and monitoring Early Intervention programs in their states. For example, Iowa's State Educational Agency (SEA) administers both its Parts C and B programs; Massachusetts and New York administer their Parts C and B programs through separate agencies; and, Colorado shares these responsibilities between two agencies. Second, the extent to which lead agencies directly provide Early Intervention programs, including locating and evaluating children, or do so through contractors varies.<sup>17</sup> For example, both Colorado and Iowa administer their Early Intervention programs directly, while Massachusetts and New York contract with private entities to do so. In Massachusetts, early childhood officials said that they contract with 31 different vendors that operate 60 Early Intervention programs throughout the state. In addition to providing Early Intervention services, these programs are responsible for locating and evaluating children, according to the early intervention officials. Those officials also said that each of these individual programs have unique relationships with referral sources, which can affect the likelihood that

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<sup>16</sup> 20 U.S.C. § 1432(5)(B). At-risk infant or toddler means an individual less than 3 years of age who would be at risk of experiencing a substantial developmental delay if Early Intervention services were not provided. 20 U.S.C. § 1432(1).

<sup>17</sup> According to the Early Childhood Technical Assistance Center, as of 2016, lead agencies were state Departments of Health, Human Services, Education, and others. (<http://ectacenter.org/partc/ptclead.asp>).

the sources will make referrals to a given program. Regardless of the type of entity responsible for Early Intervention programs, having strong relationships with referral sources is important, according to early childhood officials in all four of the states we visited.<sup>18</sup> Otherwise, according to these officials, some children who are likely to be eligible for Early Intervention services may not be identified or evaluated for needed services.

In Colorado, where Early Intervention responsibilities are shared between the Part C lead agency and the SEA, state officials said that this arrangement can make it difficult to ensure a seamless process and can cause delays between evaluation and services. They said that this can result in incorrect identification or services because they do not have control over the evaluations—responsibility for evaluations is assigned to the Part B agency. Part C officials also said this can cause confusion for families as they are moved between agencies.<sup>19</sup> Relatedly, some infants and toddlers may not be identified for Early Intervention services because of the challenges of sharing data between state agencies when more than one agency is responsible for providing special education to children. In three of the four selected states we visited, responsibility for special education services for children was shared by more than one agency and officials in all three states told us that difficulties in sharing Early Intervention program data could hamper efforts to identify potentially eligible children for special education services. Officials in one of the states said that sharing data could allow them to identify children being provided school-aged special education services that had not received Early Intervention services. The officials said that if commonalities were found among these children, it could help them find similar children and ensure they receive Early Intervention services in the future.

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<sup>18</sup> Primary referral sources include hospitals, physicians, parents, child care programs and early learning programs, local education agencies and schools, public health facilities, public health agencies or social service agencies, clinics and health care providers, public agencies and staff in the child welfare system, homeless family shelters and domestic violence shelters and agencies. 34 C.F.R. § 303.303(c).

<sup>19</sup> Officials said that the state was looking into changing the law so that a single agency would be responsible for all early intervention evaluation responsibilities.

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School-Age (IDEA Part B)

- **Eligibility criteria.** In practice, IDEA Part B’s disability definitions provide minimum standards that all states must meet. According to Education officials, IDEA allows states the flexibility to adopt more expansive definitions of disabilities than those provided in the IDEA statute and regulation, provided that the state definition would not exclude children who would be covered by the IDEA definition.<sup>20</sup> For example, in New York an intellectual disability is defined as “significantly subaverage general intellectual functioning ... that adversely affects a student’s educational performance,”<sup>21</sup> while in Massachusetts an intellectual impairment is defined as occurring when “the permanent capacity for performing cognitive tasks, functions, or problem solving is significantly limited or impaired and is exhibited by...a slower rate of learning [among other things].”<sup>22</sup> Also, states must establish their own eligibility criteria for determining the presence of a Specific Learning Disability (SLD)—a broad category of disorders related to understanding and using language.<sup>23</sup> IDEA also requires that states allow the use of research-based procedures in establishing the presence of an SLD, but does not define the specific procedures to be used.

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<sup>20</sup> Education officials said that this flexibility derives from the general policy that IDEA allows states the flexibility to adopt policies that are more protective of children with disabilities.

<sup>21</sup> N.Y. Comp. Codes R. & Regs. tit. 8, § 200.1(zz)(7).

<sup>22</sup> 603 Mass. Code Regs. § 28.02. GAO did not examine all state laws and regulations that provide definitions for various disabilities. Whether any given state’s definition of a specific disability complies with the requirements of IDEA or with Education’s regulations is beyond the scope of this review. The examples used herein are for illustrative purposes.

<sup>23</sup> Under 34 C.F.R. § 300.8(c)(10), a specific learning disability includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The disability is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. Under 34 C.F.R. § 300.307, a state must adopt, consistent with 34 C.F.R. § 300.309, criteria for determining whether a child has a specific learning disability as defined in 34 C.F.R. § 300.8(c)(10). Criteria adopted by the state: (1) must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has an SLD; (2) must permit the use of a process based on the child’s response to scientific, research-based intervention; and (3) may permit the use of other alternative research-based procedure for determining whether a child has an SLD.

- **Identification process.** IDEA requires all states to have Child Find policies and procedures in place, and requires a practical method for determining which children with disabilities are currently receiving needed special education and related services, but does not specify the exact method to be used.<sup>24</sup> In all four of the states we visited, school district officials we interviewed said that the schools in their respective districts were using the same type of approach as part of the Child Find identification process, but that some school districts were in different stages of implementation or that the approach was being used differently by schools within the same districts. Officials in one school district in New York said that, as part of their approach, there was a concerted effort to use student data to make decisions about intervention levels and special education evaluation decisions, while a school district official in Massachusetts said that the district had placed a greater emphasis on improving classroom instruction as a means to reduce the need for special education services rather than on intervention systems used for identifying and making decisions about potentially eligible children. Officials of school districts in two of the states we visited told us that they are in the midst of revising their identification processes to increase accuracy and consistency across the schools in their districts. Officials in one of those districts said that differences in the processes schools used resulted in variations in how the special education identification process worked in each of the schools.

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### State and Local Officials Said Challenges Identifying and Evaluating Children Who May Be Eligible for Special Education Services May Lead to Differences in Who Is Served

Appropriately identifying and evaluating children who may be eligible for special education services can be difficult, according to advocates, subject matter specialists, and state and local officials we interviewed. Representatives of two national special education advocacy organizations and special education subject matter specialists agreed that it may be difficult to identify disabilities and that differences in school district or in school special education processes can add to this challenge.

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<sup>24</sup> 20 U.S.C. § 1435(a)(5).

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## Challenges to Early Childhood Identification and Evaluation (IDEA Part C)

Early Intervention services are intended to enhance the development of infants and toddlers with disabilities, minimize developmental delay, and reduce the need for special education later in life. However, officials we interviewed at state agencies in the four states we visited—Massachusetts, Colorado, New York, and Iowa—said that because of challenges in identifying and evaluating children, some infants and toddlers who are eligible and would benefit from Early Intervention services do not receive them. These challenges include navigating referral processes, obtaining parental consent, and dealing with staffing limitations.

### **Referrals**

State early childhood officials and subject matter specialists we interviewed said it can be difficult to secure a parental or physician referral,<sup>25</sup> which can cause delays in evaluating children and may lead to some infants and toddlers not being provided Early Intervention services. In all four states we visited, officials noted that some parents or physicians did not make referrals because they did not understand the referral process. State officials in Iowa expressed concern that some doctors may take a “wait-and-see” approach instead of referring an infant or toddler for evaluation when indications first arise. Early childhood officials in Colorado as well as Early Intervention subject matter specialists we spoke to said that physicians may also choose not to refer patients because they (1) cannot guarantee families that their children will ultimately receive services, (2) find the referral process difficult, or (3) receive little feedback about whether their referrals ultimately lead to children getting Early Intervention services.

### **Parental consent**

Before an infant or toddler can be evaluated for Early Intervention services, the parent(s) must give consent.<sup>26</sup> In Massachusetts and Colorado, state early childhood officials said that parents sometimes do not provide consent for an evaluation, which can delay or even prevent

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<sup>25</sup> A referral is a request that a child be evaluated to determine the presence of a disability for special education eligibility.

<sup>26</sup> 34 C.F.R. § 303.420(a).

the delivery of needed services. Officials from these states cited various reasons parents might withhold consent, such as opting to wait and see if the child's problems are resolved over time. State early childhood officials in Massachusetts also said that parents will sometimes refuse to provide consent for evaluation due to a lack of awareness of Early Intervention services or the Early Intervention process. To better address this, officials said that they are working collaboratively with state early education and care providers to inform parents about these issues. Massachusetts officials stated that parents may mistrust government agencies or associate Early Intervention services or providers with child protective services agencies and mistakenly think they are being investigated.<sup>27</sup>

### **Staffing limitations**

Insufficient personnel with the right qualifications to conduct evaluations is another reason infants and toddlers may not be consistently identified and evaluated, particularly in certain types of locations. Officials from lead agencies in Massachusetts, Colorado, New York, and regional education officials in Iowa,<sup>28</sup> noted that it was difficult to find enough Early Intervention personnel with appropriate expertise in low population density areas which can complicate the process of identifying and evaluating children. Officials in Massachusetts noted challenges hiring staff that reflect the communities they serve and in hiring for specific disciplines, such as occupational and physical therapists. In addition, officials in New York said that they sometimes face staffing difficulties when children are located in areas with high crime rates.

### **Challenges to Preschool-Age, School-Age, and Young Adult Identification and Evaluation (IDEA Part B)**

State and local officials as well as special education advocacy organizations said identifying and evaluating students for Part B special education services can be complicated by many factors, which may result

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<sup>27</sup> Child protective services units within state and local child welfare agencies, supported in part by the U.S. Department of Health and Human Services, can be responsible for receiving reports of abuse and neglect; conducting investigations to determine the validity of the reports; and providing services that enhance child safety and prevent further abuse and neglect to families and children. Child protective services may remove children from dangerous abusive environments and place them in protective custody.

<sup>28</sup> In one state, an Area Education Agency (AEA) is a regional education service agency created by State Code to provide special education services to public school districts and accredited nonpublic schools within the AEA's geographic boundaries.

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in some students inappropriately being determined eligible or ineligible for services. These factors include confusion over IDEA requirements, challenges implementing Response to Intervention (RTI), a child's lack of English proficiency, the difficulty of detecting certain types of disabilities, or the Part C to Part B transition.

### Confusion about IDEA requirements

#### Response to Intervention

For those students who may need additional academic and behavioral supports to succeed in a general education environment, schools may choose to implement a multi-tiered system of supports, such as Response to Intervention (RTI). Regulations implementing the 2004 amendments to the IDEA include a provision mandating that states allow, as part of their criteria for determining whether a child has a Specific Learning Disability (SLD), the use of a process based on the child's response to scientific, research-based intervention. See 34 C.F.R. § 300.307(a)(2).

RTI is a school-wide approach that attempts to address the needs of all students, including struggling learners and students with disabilities, and integrates assessments and interventions to maximize student achievement. Key characteristics of RTI are: (1) students receive high-quality research-based instruction in the general education setting; (2) schools continually monitor and document student performance; (3) schools screen all students for academic and behavioral problems; and (4) schools provide multiple levels (tiers) of instruction that are progressively more intense, based on the student's response to instruction. Children who do not respond to interventions are to be referred for evaluation to determine eligibility for special education and related services.

Source: U.S. Department of Education Guidance and National Center on Response to Intervention. | GAO-19-348

School district officials in Massachusetts said that confusion about IDEA requirements is common. For example, a school district official from that state told us that general education staff do not always understand when special education services are appropriate, versus when other options may meet students' needs, such as Response to Intervention (RTI) or other supports.<sup>29</sup> (See sidebar for more information about RTI.) Officials in another school district in the same state said there was confusion over and little consistency in the eligibility decisions made for special education and other supports. Additionally, officials in that district said that the expertise level among the decision makers varies and can affect eligibility decisions.

### RTI implementation challenges

School district officials in all of the states we visited and representatives from various advocacy organizations said that there were challenges related to implementing RTI. Representatives from advocacy organizations in all four states we visited cited concerns with school RTI practices that may delay student evaluations or contribute to incorrect eligibility determinations. Advocates in Massachusetts told us that some school districts are more likely than others to put students suspected of a disability through the RTI process for extended periods of time before evaluating them. Further, advocates said using RTI to delay or deny

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<sup>29</sup> Although regulations implementing the 2004 amendments to the IDEA specifically address using RTI for determining if a child has a Specific Learning Disability, later guidance issued by Education in 2011 states that information obtained through RTI strategies may also be used as a component of evaluations for children suspected of having other disabilities, if appropriate. Education issued this guidance in part due to reports that some school districts were using RTI to delay or deny evaluations for children suspected of having a disability. The guidance states that the use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation and that states and districts have an obligation to ensure that an evaluation is not delayed or denied because of implementation of RTI. U.S. Department of Education, *A Response to Intervention Process Cannot be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act* (January 2011).

evaluations occurs more frequently at the elementary level and for students with specific types of disabilities, such as mental health and social or emotional disabilities.

School district officials in all of the states we visited, and in multiple districts in all four states, acknowledged that the quality of RTI implementation varies within their districts. For example, district officials in New York noted that some of their schools were much better at gathering detailed student data for use in evaluation than other schools. RTI subject matter specialists we spoke to cited various issues with RTI that could affect how students are identified and evaluated for special education services, such as instructional quality, general confusion around RTI implementation, the type of disability a student has, the quality and quantity of data gathered on students, and the amount of support provided for the process.

In all of the states we visited, school district officials cited efforts to address issues with RTI practices. For example, school district officials in all four states noted that training related to RTI was being provided to their schools. In Massachusetts, New York, and Iowa, school district officials cited recent initiatives specifically aimed at strengthening and implementing the RTI process in schools, such as by integrating social-emotional and behavioral components in RTI and better using student-level data to improve eligibility determinations. In one district, officials specifically noted that efforts to improve their schools' RTI processes and core curriculum had reduced the number of special education students in their district.

### **English Learners**

According to Education's 2016-17 school year data, 73 percent of public school districts in the nation had English Learner students; nationwide, English Learner students comprise about 10 percent of public school students, an increase of almost 3 percent since 2010. School district officials we interviewed in all four states we visited described inherent challenges in properly identifying and evaluating English Learner students for special education disabilities. In Massachusetts and New York, school district officials we interviewed explained that they do not always have staff with the necessary expertise to perform evaluations in a child's first language, which makes it more difficult to determine if a child's learning difficulties are caused by a disability or by language proficiency issues. State education officials in New York told us that they are concerned about identification issues related to English Learner students, noting that

over 200 languages are spoken by their students and about 12 percent of their students with disabilities were also English Learners in 2017-18.<sup>30</sup> In the same state, officials in one school district said that over 100 different languages are spoken by their students and that it was a challenge to properly identify and evaluate them.

Representatives of special education advocacy organizations in two states we visited—Massachusetts and New York—made similar observations, noting that English Learner students were at risk of being both over identified and under identified.<sup>31</sup> For example, advocates we interviewed in Massachusetts said that under identification can occur when school districts do not communicate with parents in their home language and, as a result, the parents do not understand how to engage with the special education process. Advocates in both states told us that over and under identification may also occur if the lack of language proficiency is mistaken for a disability or if a disability is mistaken for language learning issues.

Education and the Department of Justice have issued guidance to assist schools in meeting their obligations under federal law to ensure that English Learner students who may be eligible for services under IDEA are located, identified, and evaluated for special education services in a timely manner. This guidance instructs schools to consider the English language proficiency of the students appropriately so that they are not identified as students with disabilities because of their limited English language proficiency.<sup>32</sup>

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<sup>30</sup> According to this state educational agency, in March 2017, the top 20 non-English languages spoken in the state were: Arabic, Bengali, Burmese, Chinese, French, Fulani, Haitian Creole, Japanese, Karen, Khmer, Nepali, Portuguese, Punjabi, Russian, Somali, Spanish, Urdu, Uzbek, Vietnamese, and Wolof.

<sup>31</sup> Protection and advocacy systems are disability rights agencies designated by the governor of each state or territory to provide legal representation and other advocacy services on behalf of qualifying individuals. Protection and advocacy systems were first established in 1975 under the Developmentally Disabled Assistance and Bill of Rights Act.

<sup>32</sup> U.S. Department of Education and U.S. Department of Justice, *Dear Colleague Letter on the English Language Learner Students and Limited English Proficient Parents* (January 2015). The Office for Civil Rights at the Department of Education and the Civil Rights Division at the Department of Justice share authority for enforcing civil rights laws in the education context.

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## Disability types

Local officials we interviewed in four states said that some disabilities, such as those related to mental health or behavioral disorders, can be difficult to identify and may go undiagnosed. These officials noted that behavioral disabilities can be particularly difficult to correctly identify because they sometimes affect academic performance or behavior in more subtle ways.

Some school district officials said they may not have the right tools or staff to identify these students. For example, officials in one school district in Colorado stated that a commonly used disability identification process on its own was not effective for students with mental health and behavioral disabilities. School district officials we spoke to in Massachusetts and Iowa noted that they often struggle to employ staff with the appropriate expertise to address mental health or behavioral issues and that there are fewer resources for schools to use in these areas.

## Part C to Part B transition

Another area of confusion may arise when children transition from Part C services to Part B services, at about age 3. School district officials in the four states we visited said that they identify a significant number of their districts' school-aged special education students through referrals from the state's Early Intervention programs during the transition process.<sup>33</sup> State education officials in Massachusetts indicated that the majority of children referred from the early childhood programs for Part B services are not found eligible for school-aged services, which may indicate a lack of a common understanding of the Part B eligibility criteria as the early childhood programs are required to refer the children they think could be eligible for those services.

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<sup>33</sup> Under Part C of IDEA states must provide in their application for funds a description of the policies and procedures they will use to ensure a smooth transition for infants and toddlers receiving Part C services to other appropriate services, including Part B services. 20 U.S.C. § 1437(a)(9); 34 C.F.R. § 303.209(a).

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## Education and Selected States Reported Monitoring Child Find Implementation through Data Collection and Supporting It through Technical Assistance

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### Education Reported Monitoring State Implementation through Data Reporting and Supporting States with Technical Assistance and Information



Source: GAO. | GAO-19-348

### Education's Monitoring of State Implementation of Child Find

Education's monitoring of state efforts to implement Child Find requirements is part of a broad framework—known as Results Driven Accountability (RDA)—the department uses to monitor certain aspects of IDEA implementation. Education's monitoring activities specific to Child Find are based on data and information that states submit annually, as required by IDEA and as part of the RDA process.<sup>34</sup> Because IDEA gives states some discretion in how to meet Child Find requirements, according to Education officials, it focuses on ensuring states have policies, procedures, and systems in place for monitoring local school districts' special education programs, including their Child Find activities.

To monitor state Child Find activities, Education relies, in part, on four indicators specific to the Child Find requirements and requires states to report data on them annually in the State Performance Plan/Annual

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<sup>34</sup> According to Education, RDA represents a shift from its prior emphasis on compliance to a broader focus on improved results for students with disabilities, while at the same time continuing to assist states in meeting IDEA requirements. Among other things, RDA requires each state to develop a State Systemic Improvement Plan (SSIP) as part of ongoing annual reporting. In developing SSIPs, Education expects states to use data to identify gaps in student performance, analyze state systems, and implement targeted, evidence-based reforms to address any gaps.

Performance Report. Three of the indicators pertain to Part C Early Intervention programs and one pertains to Part B.

- Two Part C Child Find indicators compare the numbers of children served to two data points—the national Part C average (as a percentage) as well as the percentage Education would expect a state to serve based on the state’s population. Education requires states to report these Part C data for two subsets of children—birth to 1 year and birth through 3 years.<sup>35</sup> Education has encouraged states whose Part C enrollment is significantly lower than the national average or below expected levels based on the state’s population, to examine compliance with related Part C requirements.<sup>36</sup> The third Part C Child Find indicator measures state compliance with the 45-day timeline. For this indicator states must report on the number and percentage of children referred to Part C whose evaluations, assessments, and initial individualized family service plan meetings were held within 45 days of referral.
- The Part B indicator measures the percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation.<sup>37</sup> This indicator is a compliance indicator for which states must establish a target of 100 percent.

According to Education officials, the department developed these Parts C and B indicators in response to requirements in the 2004 IDEA reauthorization, which directed the Secretary of Education to monitor the states, and require each state to monitor local educational agencies located in the state or as applicable, the early intervention providers located in the state, using quantifiable indicators in specific priority areas (including Child Find), and using such qualitative indicators as are needed

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<sup>35</sup> According to the most recent data available, in 2016, the percentage of children from birth to 1 year receiving Early Intervention services nationally was 1.24 percent and the percentage of children from birth to 3 years receiving Early Intervention services nationally was 3.12 percent.

<sup>36</sup> See, for example, U.S. Department of Education, *Policy Letter: California Department of Developmental Services Part C Coordinator Rick Ingraham* (July 12, 2004).

<sup>37</sup> Education’s IDEA Part B regulations require that a child suspected of having a disability be evaluated within 60 days of receipt of parental consent for the initial evaluation or within the state-established timeframe. 34 C.F.R. § 300.301(c)(2018).

to adequately measure performance in those areas.<sup>38</sup> In developing the indicators, Education officials told us that the department sought to strike a balance between the statutory requirement that they be quantifiable and the inherent challenges in knowing how many children should be identified, evaluated, and found eligible—at the state level or in individual school districts. Education officials said that states and school districts are in a much better position to estimate how many children who have disabilities and who could potentially be found eligible for special education and related services because of their disability. Education officials told us they consulted internal stakeholders, states, school districts, and other special education experts to develop possible quantifiable measures given the inherent challenges in doing so.

In addition to the Child Find indicator data submitted annually, under Part B, states provide other information related to Child Find as part of their annual data reporting to Education and the public. These data include the number and percentage of children with disabilities by race, ethnicity, English Learners, gender, and disability category that

- receive a free appropriate public education;
- participate in general education;
- are placed in separate classes, schools, or residential facilities;
- receive Early Intervention services; and
- are between birth to 2 years who are no longer receiving Early Intervention services.<sup>39</sup>

States are also required to report the number and percentage of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays and who are receiving Early Intervention services.<sup>40</sup>

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<sup>38</sup> Specifically, the 2004 IDEA amendments required the Secretary of Education to establish quantifiable indicators to measure both state and school district performance in three priority areas: (1) provision of a free appropriate public education in the least restrictive environment; (2) state exercise of general supervisory authority, including Child Find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services; and (3) disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. 20 U.S.C. § 1416(a)(3).

<sup>39</sup> 20 U.S.C. § 1418(a)(1).

<sup>40</sup> 20 U.S.C. § 1418(a)(2).

Additionally, Education may receive information about states' Child Find activities in states' annual reports as part of the description of IDEA oversight policies and procedures; in explanations of any actions taken in response to Education's finding of noncompliance with Child Find indicators in prior years; or in the comprehensive multi-year improvement plan Education requires as part of its RDA framework.

### Education Supports States in Implementing Child Find Requirements

Education supports states' implementation of Child Find in a variety of ways, including a network of technical assistance centers, written guidance, and direct assistance from Education staff.

#### **Technical Assistance**

The Technical Assistance and Dissemination (TA&D) program is the primary way Education provides educators, administrators, service providers, and parents with information regarding IDEA.<sup>41</sup> This program assists state and local administrators on a range of topics including clarifying Child Find obligations, professional development for staff and administrators on various aspects of Child Find, and federal accountability requirements. Technical assistance offerings include training on data collection and Early Intervention issues for various audiences such as teachers, administrators, and special education service providers. Officials in each of the states we visited said they had used Education's technical assistance. In addition to the TA&D program, Education has established six centers that specifically support states in the annual data collection process.<sup>42</sup>

#### **Written guidance**

Education provides written guidance to states through documents such as Dear Colleague Letters, Frequently Asked Questions, and Questions and

<sup>41</sup> The TA&D network includes technical assistance centers to provide assistance to help increase states' capacity to assist school districts and schools in meeting achievement goals for special education students as well as implementing other IDEA requirements.

<sup>42</sup> The State Data Collection program technical assistance centers are the Center for IDEA Early Childhood Data Systems (DaSY), the IDEA Data Center (IDC), the Center for the Integration of IDEA Data (CIID), the Center for IDEA Fiscal Reporting (CIFR), the National Center for Educational Outcomes (NCEO), and the EDFacts Technical Support Services II contract.



Source: GAO. | GAO-19-348

Answers. These documents clarify provisions of Child Find and other IDEA requirements as well as respond to common inquiries from school administrators or the public. The written guidance may also address information gathered during oversight activities and changes in federal law or regulation.

Topics Education has addressed in written guidance on Child Find include school districts' uses of RTI and requirements for subgroups of children who may be difficult to find. For example, Education issued a memorandum in 2016 reminding states and districts that (1) RTI processes cannot be used to delay or deny a timely evaluation of a child suspected of having a disability and (2) implementation or completion of RTI is not required prior to evaluating a student for special education services.<sup>43</sup> Officials in Colorado said they found this guidance helpful and issued guidance to their school districts based on Education's memorandum.<sup>44</sup> Additionally, in 2007 and 2008 Education addressed issues regarding Child Find requirements for certain groups of children, such as those who are homeless or those who are residing in Immigration and Customs Enforcement (ICE) residential facilities.<sup>45</sup> Homeless children, for example, are inherently difficult to identify and evaluate for special education services because they and their families are highly mobile. Education's guidance reminded states and school districts that

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<sup>43</sup> U.S. Department of Education, Office of Special Education and Rehabilitative Services, *A Response to Intervention Process Cannot be Used to Delay-Deny an Evaluation for Preschool Special Education Services under the Individuals with Disabilities Education Act*, OSEP 16-07 (Apr. 29, 2016).

<sup>44</sup> Colorado Department of Education, *Colorado Context and Reminders Regarding OSEP Memorandum on Delays and Denials of Evaluations for Preschool Special Education under IDEA* (Sept. 15, 2016).

<sup>45</sup> Specifically, in 2007 and 2008 the Office of Special Education Programs issued two policy letters to the General Counsel of the Texas Education Agency. These letters address children who are housed at a U.S. Immigration and Customs Enforcement Residential Facility and explained that absent any other provision of applicable law states have no Child Find obligations under IDEA related to children residing in ICE residential facilities, although Education stated that an ICE facility and the state or local school district could enter into a voluntary agreement to provide Child Find or other educational services. U.S. Department of Education, Office of Special Education and Rehabilitative Services, *Letter to David Anderson, General Counsel, Texas Education Agency* (Dec. 21, 2007); U.S. Department of Education, Office of Special Education and Rehabilitative Services, *Letter to David Anderson, General Counsel, Texas Education Agency*, (Apr. 22, 2008). Education officials told us that if these children are released from ICE facilities into the care of a sponsor to await their immigration hearings, they do have a right under federal law to enroll in public elementary and secondary schools and to receive educational services, including special education services, if found eligible.

their Child Find obligations include these hard to find subgroups and directed states to coordinate with emergency shelters and homeless advocacy programs, among others, to help find children suspected of having a disability.<sup>46</sup>

### **Direct assistance**

Education's website notes that each state is assigned a customer service representative, a Part B contact, a Part C contact, and a team leader.<sup>47</sup> Education officials we spoke to told us that staff hold monthly check-in meetings with state officials to provide information and discuss issues of concern. They also said that issues needing clarification sometimes arise during these check-in meetings. For example, they said that in a meeting with state directors they identified a lack of clarity around some English Learner issues. As a result, Education developed guidance to explain Child Find obligations regarding English Learner students as well as other obligations under IDEA. Education also has a customer service unit available to assist states with questions about IDEA, special education, and related services.

State officials in all four states we visited told us they had good relationships with Education IDEA monitoring staff and rely on them to learn about available technical assistance and other resources. Officials we interviewed in one state said their Education contacts were instrumental in helping them improve their programs.

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<sup>46</sup> U.S. Department of Education, Office of Special Education and Rehabilitative Services, *Questions and Answers on Special Education and Homelessness*, (February 2008).

<sup>47</sup> See <https://www2.ed.gov/policy/speced/guid/idea/monitor/state-contact-list.html>, accessed on Feb. 27, 2019.

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## Selected States Reported Monitoring Local Implementation through Audits and Data Reporting and Support Local Districts with Technical Assistance and Professional Development

### Data Collection and Regularly Timed Audits



Source: GAO. | GAO-19-348

States must monitor their local school districts' implementation of IDEA requirements. As part of the State Performance Plan/Annual Performance Report, each state must establish measurable and rigorous targets for the indicators, including Child Find, and must analyze the performance of each local school district in the state in implementing the requirements of Part B or as applicable, each Early Intervention provider located in the state in implementing the requirements of Part C.<sup>48</sup> Data analysis and regular audits are the primary means states use to monitor local school districts, according to officials we interviewed in each of the four states we visited.

The Part C lead agencies in the four states we visited reported monitoring local implementation of Early Intervention programs through indicator data or on-site visits. In their State Performance Plan/Annual Performance Reports for federal fiscal year 2016,<sup>49</sup> the states we visited reported various monitoring activities. For example:

- Colorado gathers data from an online system to monitor local programs and analyze performance. In addition to desk audits of local service providers, Colorado's lead agency does on-site monitoring,

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<sup>48</sup> 20 U.S.C. §§ 1412(a)(11), and 1416(a); 34 C.F.R. §§ 300.149 and 300.600 (Part B); 20 U.S.C. §§ 1435(a)(10), 1416(a), and 1442; 34 C.F.R. § 303.120 (Part C).

<sup>49</sup> Education used each state's federal fiscal year 2016 State Performance Plan/Annual Performance Reports as part of the basis for making its 2018 determinations about each state's implementation of the requirements of Part C and Part B of IDEA.

selecting local agencies for monitoring visits based on its annual priority areas, or focusing on a cross-section of programs based on size, region, and program structure. Colorado’s annual priority areas have included topics such as increasing public awareness regarding Early Intervention services by providing developmental information to parents of newborns in the hospital and ensuring that the transdisciplinary team members who are responsible for evaluating infants and toddlers are effectively communicating.<sup>50</sup>

- Massachusetts’ local Early Intervention programs complete and submit to the state lead agency annual reports and self- assessments based on federal indicators. Additionally, the Part C lead agency conducts on-site monitoring of selected sites on a cyclical basis, and focused monitoring to examine specific aspects of local Early Intervention programs.<sup>51</sup>
- New York conducts comprehensive on-site monitoring of municipalities that administer local Early Intervention programs and approved providers who perform Early Intervention services including reviewing written policies and procedures regarding Early Intervention processes as well as examining a sample of client records at each service location.<sup>52</sup>
- Iowa monitors all regional grantees on an annual basis. The process includes review of parent surveys and review of family outcome data, among other things. When performance or compliance issues are identified, the lead agency conducts desk audits and data verification checks.<sup>53</sup>

Although Part B monitoring activities in the four selected states are similar, they reflect the structure, policies and procedures of individual states. For example, Iowa officials said they monitor both Area Education



Source: GAO. | GAO-19-348

<sup>50</sup> Colorado Department of Human Services, *Part C FFY 2016 State Performance Plan/Annual Performance Report*, accessed August, 30, 2018, <https://osep.grads360.org>.

<sup>51</sup> Massachusetts Department of Public Health, *Part C FFY 2016 State Performance Plan/Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>52</sup> New York State Early Intervention Program, *Part C FFY 2016 State Performance Plan/Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>53</sup> Iowa Department of Education, *Introduction: to the State Performance Plan (SPP)/Annual Performance Report (APR)*, accessed January 28, 2019, <https://osep.grads360.org>.

Agencies and local school districts through desk audits and site visits.<sup>54</sup> Officials told us that the SEA has developed (1) a process to evaluate the performance of the regional agencies regarding the provision of special education services and their oversight responsibilities for the local school districts, and (2) a separate process that examines the performance of school districts with regard to IDEA implementation. The State Performance Plan/Annual Performance Reports for federal fiscal year 2016 for the remaining three states we visited note the following monitoring activities:

- Colorado collects data and reviews the results of school district self-audits from each of its districts.<sup>55</sup>
- Massachusetts reported reviewing indicator data and instituting a new monitoring process called Tiered Focus Monitoring. In the first year of the monitoring cycle, all local school districts are to conduct self-assessments on specific criteria related to the special education identification processes and other topics. The self-assessments inform the SEA's on-site monitoring in the second year. In the third year, school districts are to continue internal monitoring; and in the fourth year, they complete a self-assessment regarding special education and legal requirements.<sup>56</sup>
- New York reported reviewing data and using school district self-assessments, desk audits, and on-site monitoring. According to the annual report the selection of sites for on-site monitoring depends on a variety of information, including performance on indicator targets.<sup>57</sup>

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<sup>54</sup> Area education agencies (AEA) are political subdivisions of the state organized pursuant to state law. An area education agency, depending on context, may be a local educational agency, an educational service agency, or both simultaneously.

<sup>55</sup> Colorado Department of Education, *Part B FFY 2016 State Performance Plan/Annual Performance Report*, accessed August 30, 2018, <https://osep.grads360.org>.

<sup>56</sup> Massachusetts Department of Elementary and Secondary Education, *Part B FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>57</sup> New York State Education Department, *Part B FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

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Professional Development and Technical Assistance for Local



Source: GAO. | GAO-19-348

School Districts

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IDEA requires states and lead agencies to provide professional development and technical assistance to local school districts.

**Professional development**

The State Performance Plan/Annual Performance Reports for federal fiscal year 2016 for each of the four states we visited described professional development activities provided on topics related to Part C Early Intervention and Part B programs.

For Part C, states reported that they provided the following professional development activities among others:

- Colorado provided training on data management to ensure valid and reliable data for monitoring purposes.<sup>58</sup>
- Iowa provided service coordination training which provides knowledge and skills to understand Early Intervention eligibility, the IDEA, and Early Intervention services.<sup>59</sup>
- Massachusetts held training sessions for Early Intervention service providers regarding Early Intervention transitions to support children who are exiting Early Intervention services or are referred for Part B

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<sup>58</sup> Colorado Department of Human Services, *Part C FFY 2016 State Performance Plan/Annual Performance Report*, accessed August 30, 2018, <https://osep.grads360.org>.

<sup>59</sup> Iowa Department of Education, *IDEA Part C FFY 2016 State Performance Plan (SPP)/Annual Performance Report (APR) Introduction*, accessed January 28, 2019, <https://osep.grads360.org>.



Source: GAO. | GAO-19-348

services.<sup>60</sup> Early Intervention service providers were also able to receive training concerning functional assessments.<sup>61</sup>

- New York employed contractors to provide training on best practices for delivering Early Intervention services and training about providing those services in a child's natural environments.<sup>62</sup> Additionally, they provided training to primary referral sources.<sup>63</sup>

For Part B, the states reported that they provided the following professional development activities among others:

- Colorado provided professional development on topics that were identified by teachers. The SEA surveys teachers, providers, and Special Education Directors annually to determine professional development topics.<sup>64</sup> Officials we interviewed in selected school districts told us that they had received training on Child Find obligations and classroom interventions.
- Iowa requires each district to develop professional development plans that support the needs of district staff responsible for instruction. Districts officials said they have provided training concerning intervention strategies and Child Find responsibilities.

<sup>60</sup> Massachusetts Department of Public Health, *Part C FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>61</sup> Functional assessments are the assessment of a young child's skills in the real life context of family culture and community rather than discrete isolated tasks irrelevant to daily life. Massachusetts Early Intervention Training Center, *Functional Assessments* (PowerPoint), 5 (2017).

<sup>62</sup> New York State Early Intervention Program, *Part C FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>63</sup> Primary referral sources include hospitals, physicians, parents, child care programs and early learning programs, LEAs and schools, public health facilities, social services agencies, clinics and health care providers, child welfare agencies, homeless family shelters, and domestic violence shelters and agencies. 34 C.F.R. § 303.302. Primary referral sources are responsible for a significant number of referrals to Early Intervention programs. "Natural environments" means settings that are natural or typical for a same-aged infant or toddler without a disability may include the home or community settings. 34 C.F.R. § 303.26.

<sup>64</sup> Colorado Department of Education, *Part B FFY 2016 State Performance Plan/ Annual Performance Report*, accessed August 30, 2018, <https://osep.grads360.org>.

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- Massachusetts has provided training in social emotional learning and behavioral interventions.<sup>65</sup>
  - New York provides ongoing statewide training regarding classroom and behavioral interventions, as well as a program for school principals regarding special education law and regulations as well as the principal's responsibilities for implementing IDEA.<sup>66</sup>

### Technical assistance

Officials we interviewed in each of the four states we visited told us that they offer a range of technical assistance, including written guidance, webinars, meetings/conferences, telephone assistance, and one-on-one training to support local school districts and schools in implementing Child Find requirements. For example, New York instituted a Blueprint for Improved Results for Students with Disabilities. This Blueprint establishes expectations to improve instruction and results for students with disabilities, which in turn informs the state's technical assistance networks.<sup>67</sup> In each of the four states, officials reported (1) offering targeted assistance where there were concerns related to performance or results of Part B programs and (2) examining results and compliance data to identify areas of concern and potential recipients for targeted assistance. For example, Massachusetts reported in its annual report that it had provided one-on-one technical assistance to local school districts where there were performance concerns,<sup>68</sup> while New York reported that its technical assistance improvement specialists review low-performing schools and help to develop tools for improvement.<sup>69</sup>

Similarly, the Part C lead agency officials in all of the states we visited told us they provided training and technical assistance to Early

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<sup>65</sup> Massachusetts Department of Elementary and Secondary Education, *Part B FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>66</sup> New York State Education Department, *Part B FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>67</sup> New York State Education Department, *Part B FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>68</sup> Massachusetts Department of Elementary and Secondary Education, *Part B FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

<sup>69</sup> New York State Education Department, *Part B FFY 2016 State Performance Plan/ Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

Intervention programs. These states offered assistance in a variety of ways including written guidance, information provided via phone or email, and formal training sessions. Officials from Colorado and Iowa reported holding monthly technical assistance calls,<sup>70</sup> while officials from Massachusetts reported holding monthly webinars for local Early Intervention providers.<sup>71</sup> In its annual report, Iowa reported providing training on using technology to provide Early Intervention services,<sup>72</sup> while New York reported offering training on best practices in identifying and evaluating infants and toddlers.<sup>73</sup> Each of the four states we visited reported offering targeted assistance to schools where monitoring efforts identified concerns or compliance issues. The targeted assistance is intended to improve performance in the areas identified.

We provided a draft of this report to Education for review and comment. Education provided technical comments, which we incorporated as appropriate.

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<sup>70</sup> Colorado Department of Human Services, *Part C FFY 2016 State Performance Plan/Annual Performance Report*, accessed August 30, 2018, <https://osep.grads360.org>, and Iowa Department of Education, *IDEA Part C FFY 2016 State Performance Plan (SPP)/Annual Performance Report (APR) Introduction*, accessed January 28, 2019, <https://osep.grads360.org>.

<sup>71</sup> New York State Early Intervention Program, *Part C FFY 2016 State Performance Plan/Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

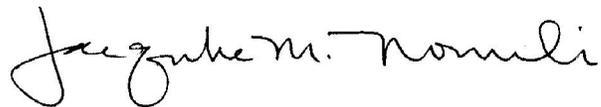
<sup>72</sup> Iowa Department of Education, *IDEA Part C FFY 2016 State Performance Plan (SPP)/Annual Performance Report (APR) Introduction*, accessed January 28, 2019, <https://osep.grads360.org>.

<sup>73</sup> New York State Early Intervention Program, *Part C FFY 2016 State Performance Plan/Annual Performance Report*, accessed January 9, 2019, <https://osep.grads360.org>.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Education, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (617) 788-0580 or [nowickij@gao.gov](mailto:nowickij@gao.gov). Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.



Jacqueline M. Nowicki, Director  
Education, Workforce,  
and Income Security Issues

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# Appendix I: Objectives, Scope, and Methodology

The objectives of this study were to examine (1) factors that may account for differences in the percentage of children receiving special education services, and (2) how the U.S. Department of Education (Education) and selected states monitor and support Child Find requirements.

To conduct this work we (1) reviewed federal special education data from school years 2011 through 2016 (the most recent available at the time of our review); (2) reviewed relevant Department information, such as Dear Colleague Letters, Frequently Asked Questions, and Questions and Answers; federal laws; regulations and policies; and selected state laws; (3) interviewed Education officials; (4) interviewed officials from state agencies responsible for administering Parts C and B of the Individuals with Disabilities Education Act (IDEA) special education programs in four states (Colorado, Iowa, Massachusetts, and New York) and fifteen school districts within those states; and (5) interviewed representatives from special education advocacy organizations that represent parents and families of individuals with disabilities and subject matter specialists to discuss issues related to Child Find. The following sections contain detailed information about the scope and methodology for this report.

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## Review of Federal Special Education Data

To determine the differences in the percentage of children receiving special education services across states we used Education's Annual Reports to Congress on the Implementation of the Individuals with Disabilities Education Act (IDEA) to review national and state level special education data. We used the most recent five reports, 2014 through 2018, which reported on data for school years 2012 through 2016, to review the percentages of children that were receiving special education services under IDEA Part C and Part B during school years 2012 through 2016

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nationally and by state. These data, known as Section 618 data,<sup>1</sup> are self-reported by school districts. We focused our review primarily on data regarding the percentage of children served under IDEA Part C (ages 0-2), Part B (ages 3-5), and Part B (ages 6-21), nationally and by state during school years 2012 through 2016. We determined that the data we used from the Annual Reports to Congress on the Implementation of IDEA were sufficiently reliable for the purposes of the report by reviewing technical documentation and interviewing Education officials to determine what mechanisms are in place to ensure data quality.

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## Review of Agency Documentation, Federal Laws, Regulations, Policies, and Selected State Laws and Regulations and Interviews of Education Officials

To obtain information on the factors that may account for variation in the percentage of children receiving special education services and to examine how Education and selected states support and monitor Child Find requirements, we reviewed Education documents, such as Dear Colleague Letters, Frequently Asked Questions, and Questions and Answers. We also reviewed Education's recent annual reports to Congress and documents containing guidance to states on required annual data submissions. Additionally, we reviewed relevant federal laws, regulations, and policies, and selected state laws and regulations.<sup>2</sup> With both Education and state agencies responsible for supporting and monitoring Child Find requirements, we interviewed officials about the agencies' responsibilities with respect to IDEA, as well as the processes the agencies put in place to monitor implementation of those requirements. We also discussed each agency's guidance and support to

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<sup>1</sup> Section 618 data consist of (1) the number of infants and toddlers served under IDEA, Part C; the settings in which they receive program services; information on the transition at age 3 out of Part C; and dispute resolution information and (2) the number of children and students served under IDEA, Part B; the environments in which they receive education; their participation in and performance on state assessments; information on their exiting special education services; the personnel employed to provide educational services to them; disciplinary actions that affect them; and dispute resolution information.

<sup>2</sup> GAO did not examine all state laws and regulations that provide definitions for various disabilities. Whether any given state's definition of a specific disability complies with the requirements of IDEA or with Education's regulations is beyond the scope of this review. The examples used herein are provided for illustrative purposes.

school districts on these issues. In addition, we collected and reviewed relevant agency procedures and guidance documents.

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## Site Visits and Associated Interviews with Officials at State Agencies and School Districts

To obtain information on the factors that may account for differences among selected states and school districts in the percentage of children receiving special education services and how selected states support and monitor Child Find requirements, we conducted site visits in a non-generalizable sample of four states and 15 school districts. We selected states primarily for diversity in (1) the percentage of special education students; (2) changes in the percentage of special education students over a 5-year period; (3) geography; and (4) the agency responsible for state Early Intervention programs (i.e., the state educational agency or another state agency). We used data from the National Center for Education Statistics (NCES), Common Core of Data (CCD) for the 5-year period, 2011-2015 (the most recent available data at the time of our selection) to identify the percentage of special education students in each state as well as the change in the percentage of special education students in each state over the 5-year period. We determined that the data used were sufficiently reliable for the purposes of the report by reviewing technical documentation and interviewing Education officials to determine what mechanisms are in place to ensure data quality.

In each state, we interviewed officials from the state educational agency, the agency responsible for Part B special education, as well as officials from the state agency responsible for Part C special education. In addition, we also interviewed officials from special education advocacy organizations that represent parents and families of individuals with disabilities.

We selected school districts primarily for diversity of size. We used state department of education enrollment data for 2017-2018 to sort school districts based on the size of the student population. We selected three school districts in Colorado, five in Iowa, three in Massachusetts and four in New York. In each district, we interviewed district-level officials involved in special education and school Child Find processes. These officials included assistant superintendents, administrators, and directors of special education.

While not generalizable, our interviews provided illustrative examples of a range of state and district Child Find processes, and the differences and challenges states and school districts face.

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## Interviews with Special Education Advocates and Special Education Subject Matter Specialists

To obtain information on the factors that may account for differences among states and school districts in the percentage of children receiving special education services and processes that states and school districts may use in implementing their Child Find requirements, we interviewed representatives from eight special education advocacy organizations that represent parents and families of individuals with disabilities and four special education subject matter specialists to discuss issues related to Child Find. Some of the issues we discussed included Early Intervention eligibility, assessment processes of students including Response to Intervention, and other topics to get a better sense of Child Find processes and issues.

We conducted this performance audit from August 2017 to April 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix II: GAO Contact and Staff Acknowledgments

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## GAO Contact

Jacqueline M. Nowicki, (617) 788-0580 or [nowickij@gao.gov](mailto:nowickij@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Bill MacBlane (Assistant Director), Mindy Bowman (Analyst-in-Charge), Aaron Karty, Deborah Signer, Phillip Steinberg, and Shelia Thorpe made key contributions to this report. Also contributing to this report were James Bennett, Deborah Bland, Shilpa Grover, Serena Lo, Art Merriam, Sheila R. McCoy, Corinna Nicolaou, James Rebbe, Brian Schwartz, Daren Sweeney, and Kathleen van Gelder.

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# Appendix III: Accessible Data

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## Data Tables

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### Accessible Data for Typical Special Education Process for School-Aged Children and Young Adults

1. **Recognition:** Student exhibits academic and/or behavioral needs in comparison to peers
2. **Pre-referral:** Student provided interventions developed by a school-based team in consultation with parents
  - a. *If intervention successful, process stops*
3. *If intervention not successful, Referral:* An adult familiar with the student's abilities makes an official referral for a special education services evaluation
4. **Evaluation:** With parental consent, the student is evaluated using a variety of assessment tools and strategies in an attempt to determine the student's unique needs
5. **Eligibility:** Assessment team formally determines student's eligibility for special education services
  - a. *If eligible disability not found, Child not eligible for special education services*
6. *If eligible disability found, Child eligible for special education services*

Source: GAO analysis of information from selected state agencies and special education advocacy groups. | GAO-19-348

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### Accessible Data for Figure 1: Special Education Process for State Early Intervention (IDEA Part C) Programs

1. Optional screening of child to identify the possibility of a disability
2. Child screened for:
  - Conditions with a high probability of leading to a developmental delay
  - Existing developmental delay(s)
  - At-risk conditions
3. Condition(s) screened against state eligibility requirements
4. **If requirements are met:** Child eligible for early intervention services
5. **If requirements are not met:** Child not eligible for early intervention services

Source: GAO analysis of Department of Education reports and guidance on the Individuals with Disabilities Education Act. | GAO-19-348

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### Accessible Data for Figure 2: Typical Special Education Process for School-Aged Children and Young Adults (IDEA Part B)

1. **Recognition:** Student exhibits academic and/or behavioral needs in comparison to peers
2. **Pre-referral:** Student provided interventions developed by a school-based team in consultation with parents

- a. *If intervention successful, process stops*
- 3. *If intervention not successful, Referral:* An adult familiar with the student's abilities makes an official referral for a special education services evaluation
- 4. **Evaluation:** With parental consent, the student is evaluated using a variety of assessment tools and strategies in an attempt to determine the student's unique needs
- 5. **Eligibility:** Assessment team formally determines student's eligibility for special education services
  - a. *If eligible disability not found,* Child not eligible for special education services
- 6. *If eligible disability found, Child eligible for special education services*

Source: GAO analysis of information from selected state agencies and special education advocacy groups. | GAO-19-348

**Accessible Data for Figure 3: Percentage of the Population from Birth through Age 21 Receiving IDEA Services, by Age Group and State, Fall 2016**

State	Part C (Birth through 2)	Part B (Age 3 through 5)	Part B (Age 6 through 21)
U.S. average	3.1	6.4	
Ala.	1.9	4.4	7.9
Alaska	2.6	6.8	10.3
Ariz.	2.1	5.9	8.1
Ark.	1.5	11.7	9
Calif.	2.9	5.4	8.1
Colo.	3	6.6	7.4
Conn.	4.4	8	9.3
Del.	3.3	7.3	10.3
D.C.	3	6.6	10
Fla.	2.1	6	9.1
Ga.	2.1	4.6	8.4
Hawaii	3.1	4.5	6.4
Idaho	2.7	5.2	7.2
Ill.	3.4	8	9.6
Ind.	4.1	7.1	10.7
Iowa	2.5	5.6	8.6
Kan.	4.2	9.6	9.4
Ken.	2.9	10.7	9.2
La.	2.6	5.4	7.5
Maine	2.4	8.9	12.3
Md.	3.7	6.2	7.7
Mass.	9.4	8	11.3

Appendix III: Accessible Data

State	Part C (Birth through 2)	Part B (Age 3 through 5)	Part B (Age 6 through 21)
Mich.	2.9	6.1	8.6
Minn.	2.7	7.8	10
Miss.	1.7	7.4	9
Mo.	2.9	7.9	8.8
Mont.	2.3	4.5	7.9
Neb.	2.3	Not available	10.2
Nev.	3	7.9	8.2
N.H.	5.2	8.9	9.8
N.J.	4.4	6	12.1
N.M.	7.4	5.5	10.6
N.Y.	4.4	9.5	11.5
N.C.	2.9	5.3	8.5
N.D.	3.7	6.5	7.8
Ohio	2.4	5.5	9.9
Okla.	1.6	5.9	11.7
Ore.	2.7	7.7	9.6
Penn.	4.9	7.9	11.1
R.I.	6.1	9.1	9.6
S.C.	2.5	5.4	9.3
S.D.	3.3	7.5	9.4
Tenn.	2.3	5.5	8.6
Texas	2.1	3.9	6.7
Utah	2.8	6.9	8.9
Vt.	5.2	10.2	10.1
Va.	3.2	5.7	8.8
Wash.	2.8	5.8	8.6
W.V.	5.5	8.7	11.9
Wisc.	2.8	Not available	Not available
Wyo.	5.5	14.6	9.8

Source: GAO analysis of U.S. Department of Education report to Congress. | GAO-19-348

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