



Parentally-Placed Private School Students with Disabilities: OSEP Question and Answer

June 30, 2020

NCSI at-a- Glance

NCSI provides TA that builds capacity for lasting impact through a focus on four high-impact transformation priorities and the complementary knowledge and skills needed to achieve them.

HIGH-IMPACT TRANSFORMATION PRIORITIES

1

Maximize leadership to align general and special education systems to close equity gaps

2

Optimize general supervision, accountability and support systems to improve results

3

Operationalize evidence-based practices for teaching and learning

4

Actualize improvement for students with disabilities in low-performing schools

FOUNDATIONAL KNOWLEDGE AND SKILLS TO ACHIEVE TRANSFORMATION PRIORITIES

NCSI helps states to develop and deepen the foundational knowledge and skills required for sustaining impact in each priority:

- | | |
|---|---|
| <p>a. Data Literacy: Collecting necessary data and determining quality, understanding what the data mean, and deriving sensible data-based conclusions to guide decision-making.</p> | <p>c. Stakeholder & Family Engagement: Meaningfully engaging diverse stakeholders and strengthening the role of family members in shaping educational systems and decisions.</p> |
| <p>b. Research-Informed Practice: Providing effective TA&PD on using high-leverage evidence-based practices (EBPs) for students with disabilities and supporting implementation of EBP frameworks.</p> | <p>d. Systems Coherence: Designing interconnected policies and allocating resources to enable efficiency and effectiveness in developing and implementing strategic improvement plans.</p> |

Presenters



Lisa Pagano

OSEP

lisa.pagano@ed.gov



Jennifer Finch

OSEP

Jennifer.finch@ed.gov



Dr. Kate Moran

OSEP

kate.moran@ed.gov



Sara Doutre

NCSI Fiscal Support Team

sdoutre@wested.org



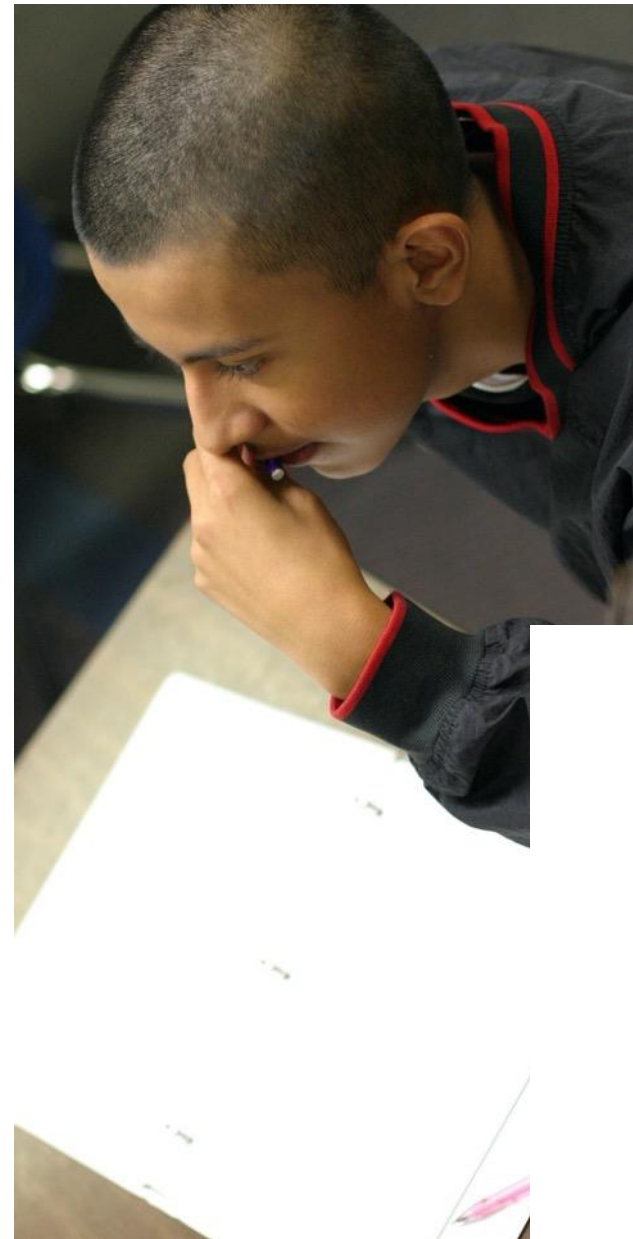
Nancy O'Hara

NCSI Fiscal Support
Team

nohara@wested.org

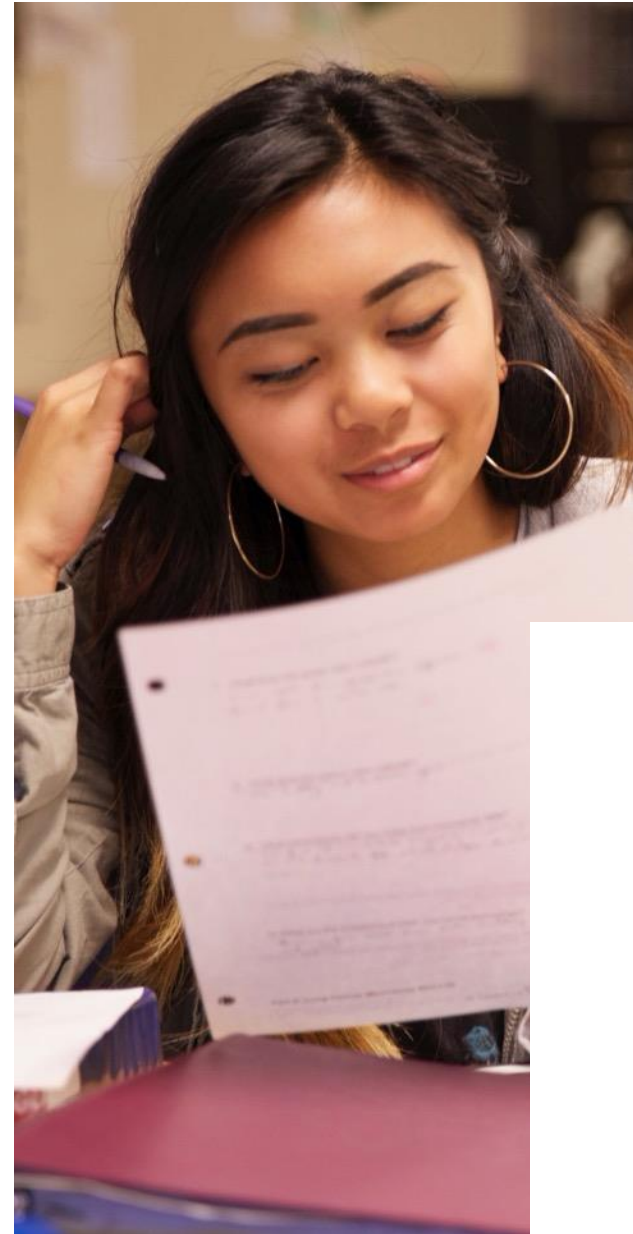
Session Objectives

- Discuss frequently asked questions about parentally-placed private school students with disabilities
- Solicit additional questions from states
- Provide a venue to discuss common solutions and challenges



Topical Outline

- General Introduction
- Child Find and Child Count
- Definition of Elementary and Secondary Schools
- Meaningful Consultation
- Equitable Services
- Services plans
- Calculating LEA Obligation for Proportionate Share
- Reallocation of Funds Set Aside for Proportionate Share
- Use of Funds
- Access to Private Schools





General Introduction

Assurances

<https://osep.grads360.org/#communities/pdc/documents/18527>

		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
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		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
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Regulatory Authority

- **2 C.F.R. 200.331** (Requirements for Pass-Through Entities) https://www.ecfr.gov/cgi-bin/text-idx?SID=fc0dce00376b8103d5b57aebddb41b7&mc=true&node=se2.1.200_1331&rgn=div8
- **2 C.F.R. 200.207** (Specific Conditions) https://www.ecfr.gov/cgi-bin/text-idx?SID=fc0dce00376b8103d5b57aebddb41b7&mc=true&node=se2.1.200_1207&rgn=div8
- **200.338** (Remedies for Noncompliance) https://www.ecfr.gov/cgi-bin/text-idx?SID=fc0dce00376b8103d5b57aebddb41b7&mc=true&node=se2.1.200_1338&rgn=div8
- **34 C.F.R 300.149** (SEA responsibility for general supervision) https://www.ecfr.gov/cgi-bin/text-idx?SID=88e9bda53238364a50c3a5ea1ef1efcc&mc=true&node=se34.2.300_1149&rgn=div8
- **300.600** (State monitoring and enforcement) https://www.ecfr.gov/cgi-bin/text-idx?SID=88e9bda53238364a50c3a5ea1ef1efcc&mc=true&node=se34.2.300_1600&rgn=div8

Definition – Parentally-Placed Children with Disabilities

Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in §300.13 or secondary school in §300.36, other than children with disabilities covered under §§300.145 through 300.147.

34 C.F.R. § 300.130



Child Find and Child Count

Relevant Regulations, Letters or other documentation

- §§300.300(4)(i) and 300.300(4)(ii) https://www.ecfr.gov/cgi-bin/text-idx?SID=1704f0ab65a375d7bb79b15f2653deac&mc=true&node=se34.2.300_1300&rgn=div8
 - (4)(i) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the consent override procedures (described in paragraphs (a)(3) and (c)(1) of this section); and
 - (ii) The public agency is not required to consider the child as eligible for services under §§300.132 through 300.144.
- Letter to Wayne <https://sites.ed.gov/idea/files/osep-letter-to-wayne-01-29-2019.pdf>
- Letter to Sarzynski <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/sarzynski070615parentallyplacedprivateschool3q2015.pdf>
- Letter to Corwell <https://sites.ed.gov/idea/idea-files/policy-letter-february-4-2013-to-dr-george-v-corwell/>



Definition of Elementary and Secondary Schools

Relevant Regulations, Letters or other documentation (1)

- Starting Point:

<https://www2.ed.gov/admins/comm/choice/regprivschl/regprivschl.pdf>

- Question N-1:

[https://sites.ed.gov/idea/files/Private School QA April 2011.pdf](https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf)

- Letter to Smith

<https://www2.ed.gov/policy/special/guid/idea/letters/2006-4/smith120106privschools4q2006.pdf>



Meaningful Consultation

Consultation

- The child find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process.
- The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities, including the determination of how the proportionate share of those funds was calculated.
- How the consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

Consultation (continued)

- How, where, and by whom special education and related services will be provided, including a discussion of the types of services – including direct services and alternate service delivery mechanisms as well as how the services will be apportioned if funds are insufficient to serve all children – and how and when those decisions will be made
- How, if the LEA representatives disagree with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to adopt the recommendations of the private school officials.

See OSEP Q&A A-2

Relevant Regulations, Letters or other documentation (2)

- 34 C.F.R. § 300.134 https://www.ecfr.gov/cgi-bin/text-idx?SID=847c3658c3d090366372cb5fc214f02b&mc=true&n ode=se34.2.300_1134&rgn=div8
- Section A of OSEP's Q&A Document: https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf
- OSEP Letter to Radziwill (September 8, 2017) <https://sites.ed.gov/idea/files/osep-letter-to-radziwill-09-8-2017.pdf>



Equitable Services

Relevant Regulations, Letters or other documentation (3)

- Questions E-2, E-3, E-4:
[https://sites.ed.gov/idea/files/Private School QA April 2011.pdf](https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf)
- 34 C.F.R. § 300.138(c)
https://www.ecfr.gov/cgi-bin/text-idx?SID=847c3658c3d090366372cb5fc214f02b&mc=true&node=se34.2.300_1138&rgn=div8

Equitable Services Providers

(c) *Provision of equitable services.* (1) The provision of services pursuant to this section and §§ 300.139 through 300.143 must be provided:

(i) By employees of a public agency; or

(ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.

(2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

34 C.F.R. § 300.138(c)



Calculating LEA Obligation for Proportionate Share

Relevant Regulations, Letters or other documentation (4)

- Question H-1:

https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf

- Letter to Apostle:

<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/11-020686r-mt-apostle-eqserv-8-8-12.pdf>

- Question D-3:

https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf



Reallocation of Proportionate Share Funds

Relevant Regulations, Letters or other documentation (5)

- Letter to Andrejack (2010):
<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2010-2/andrejack060110useoffunds2q2010.pdf>
- Question H-5:
[https://sites.ed.gov/idea/files/Private School QA April 2011.pdf](https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf)



Use of funds

Relevant Regulations, Letters or other documentation (6)

- Question B-10:

[https://sites.ed.gov/idea/files/Private School QA April 2011.pdf](https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf)



Access to Private Schools



Resources

Proportionate Share Resources

U.S. Department of Education IDEA Topic Areas Website:

<https://sites.ed.gov/idea/topic-areas/#Private-Schools-Parentally-Placed>

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools (April 2011):

https://sites.ed.gov/idea/files/Private_School_QA_April_2011.pdf

Questions and Answers on IDEA Part B Dispute Resolution Procedures (July 2013):

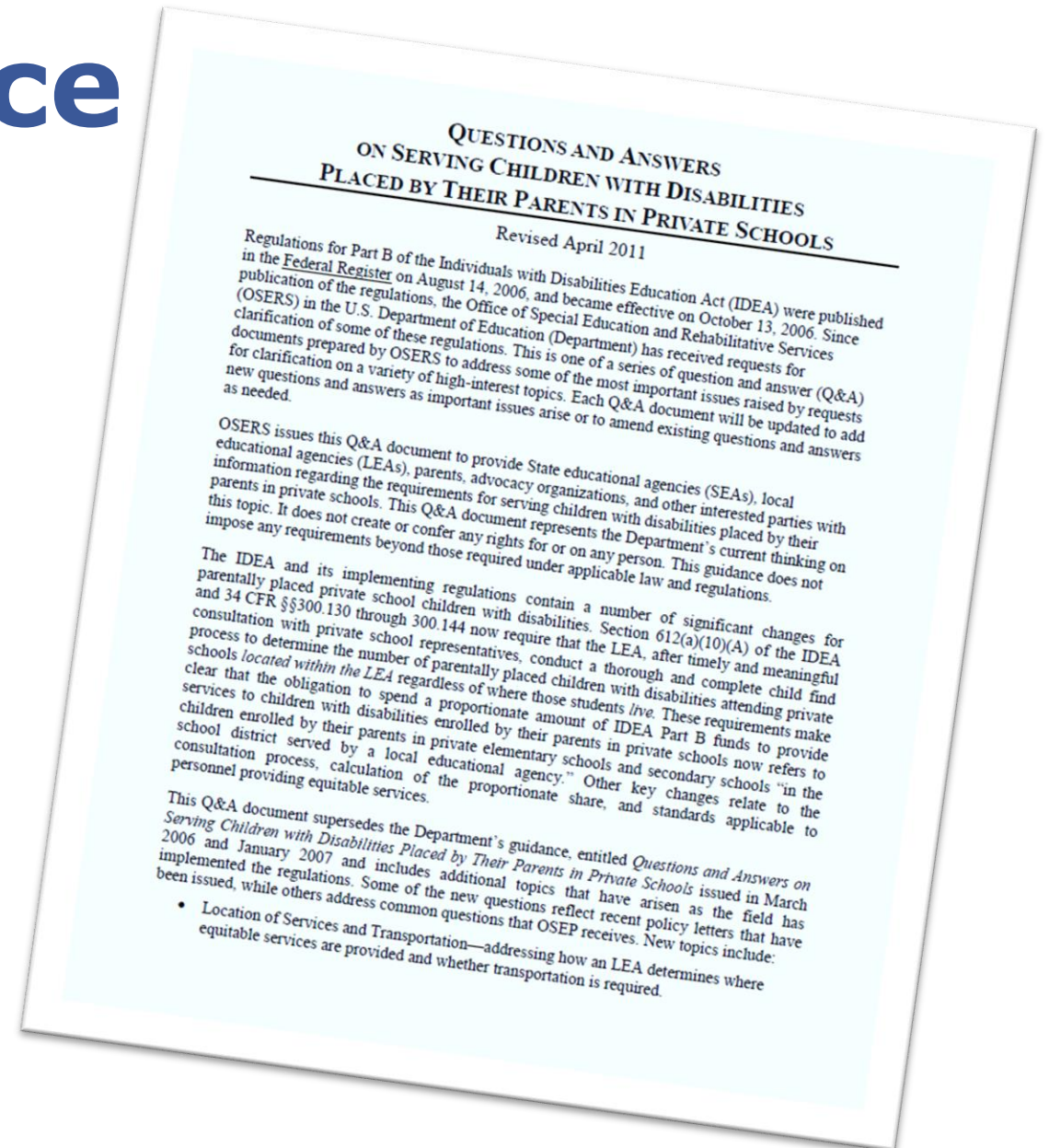
<https://sites.ed.gov/idea/files/idea/policy/special/guid/idea/memosdcltrs/accombinedusersdisputeresolutionqafinalmemo-7-23-13.pdf>

IDEA Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools (March 2011):

<https://www2.ed.gov/admins/lead/special/privateschools/idea.pdf>

Featured Resource

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools (April 2011)



Proportionate Share Resources (cont.)

- OSEP letters related to private schools:
<https://www2.ed.gov/policy/speced/guid/idea/letters/revpolicy/tpchwdprivsch.html>
 - Letter to Apostle (2012) – obligation when additional children are identified throughout the year
 - Letter to Chambers (2017) – transportation outside of the LEA or state
 - Letter to Goodman (2016) – calculation to be made prior to reduction for CCEIS
 - Letter to Inzelbuch (2015) – individual settlement agreement
 - Letter to Radziwill (2017) – meaningful consultation and definition of “representatives of parents of parentally-placed private school children with disabilities”
 - Letters to Sarzynski (2015) and Corwell (2013) – child find for out-of-State and out-of-country students
 - Letter to Sutton and Rebel (2014) – incidental benefit in private schools
 - Letter to Wayne (2019) – LEA’s responsibility to offer FAPE

Questions?



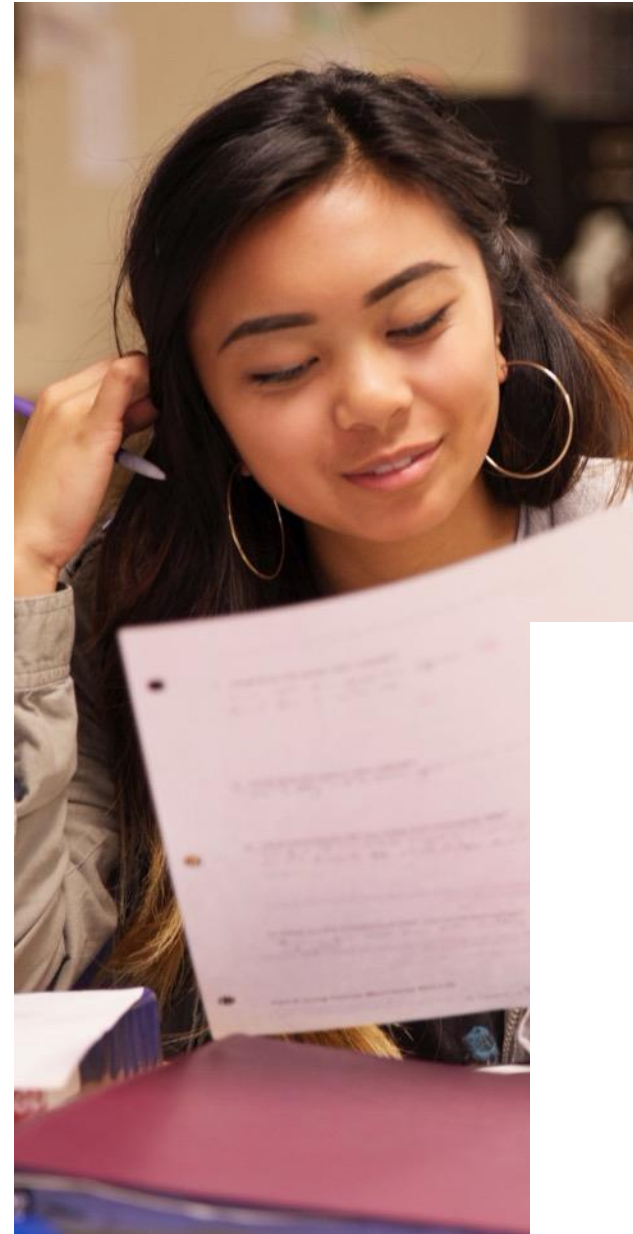
Your turn

- Additional questions?
- What are your needs or priorities related to this topic?

Please complete our survey to provide feedback and inform future work.

Link:

https://meadowscenter.ca1.qualtrics.com/jfe/form/SV_9vspD2DLvIOCMD3



Next Steps

- The slides will be posted to the NCSI website. We will also post and distribute our notes from today's call after reviewing for accuracy.
- NCSI is developing TA materials.
- Next Webinar: From Policy to Practice—Learn from your Peers.
 - Date: Late July or early August, watch for an email.

Thank you.

The contents of this document were developed under a grant from the US Department of Education, #H326R190001. However, those contents do not necessarily represent the policy of the US Department of Education, and you should not assume endorsement by the Federal Government. Project Officer: Perry Williams (October 2019)



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