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Significant Disproportionality

Advisory Panel
June 2018
Procedure Update

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What is Disproportionality?

Disproportionality exists when students in a **racial or ethnic group** are more likely to be...

- identified as a student with a **disability**
- identified as a student with a **particular disability**
- **placed in more restrictive settings**
- **suspended or expelled**

...than students in other racial or ethnic groups

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Significant Disproportionality

- IDEA 97
 - Set up the current rules and regulations around significant disproportionality
 - Introduced the concept of significant disproportionality
- IDEA 2004 and related regulations
 - Continued the required monitoring of significant disproportionality
 - Shifted the emphasis from fixing noncompliance with special education law to prevention in the general education setting

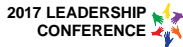
GAO Report on Significant Disproportionality

- Few districts identified as having significant disproportionality
- No common methodology across states
- Education’s oversight of racial and ethnic groups’ overrepresentation in special education is hampered by the flexibility states have to define significant disproportionality
 - Specifically, Education periodically reviews states’ definitions as part of its onsite monitoring under IDEA, but the department has not required a state to change its definition when it makes it unlikely that overrepresentation will be identified
- States in turn are required to identify districts and ensure that these districts reserve the required amount for early intervening services



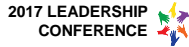
GAO Report on Significant Disproportionality

- GAO recommended:
 - To better understand the extent of racial and ethnic overrepresentation in special education and promote consistency in how states determine the districts required to provide early intervening services, we recommend the Secretary of Education develop a standard approach for defining significant disproportionality to be used by all states
- This approach should allow flexibility to account for state differences and specify when exceptions can be made



New Regulations

- ED issued a Notice of Proposed Rulemaking (NPRM) in March 2016
- 34 CFR §§ 300.646-647 in December of 2016
- Determine whether significant disproportionality based on race/ethnicity is occurring with respect to:
 - The identification of children as children with disabilities, including identification as children with particular impairments
 - The placement of children in particular educational settings
 - The incidence, duration, and type of disciplinary actions, including suspensions and expulsions



If the State Identifies Districts

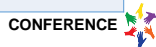
- The state must:
 - Ensure districts reserve 15% of IDEA funds for Comprehensive Coordinated Early Intervening Services (CCEIS) to address factors contributing to the significant disproportionality
 - Provide for the annual review of policies, practices, procedures of any district that has significant disproportionality
 - Require districts to publicly report on the revision of policies, practices, and procedures

- NOTE: Voluntary CEIS is **not** part of the significant disproportionality regulations



CCEIS


Grade Level/Ages Served	Age 3 through grade 12
Groups Served	<p>Children <u>who are not currently identified</u> as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.</p> <p>Children <u>currently identified as needing special education or related services</u> (funds can be used primarily, but not exclusively, for this group).</p>
Permitted Activities	<p>Professional development and educational and behavioral evaluations, services, and supports.</p> <p>The activities must address factors and policy, practice, or procedure contributing to significant disproportionality.</p>



Providing CCEIS

- Districts are required to identify the factors that may be contributing to significant disproportionality, which may include:
 - a lack of access to scientifically based instruction
 - economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings
 - inappropriate use of disciplinary removals
 - lack of access to appropriate diagnostic screenings
 - differences in academic achievement levels
 - policies, practices, or procedures that contribute to the significant disproportionality
- Address a policy, practice, or procedure it identifies as contributing to the significant disproportionality



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TIMELINE


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Timeline


- Regulations were released
- South Dakota Stakeholder Input
 - Advisory Panel for Children with Disabilities
 - September 15, 2017
 - Significant Disproportionality Stakeholder –
 - September 26, 2017
- Public Hearing
 - March 19, 2018 at 4:00 pm MacKay building
 - April 12, 2018 at 5:30 pm at MacKay building

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METHODOLOGY THRESHOLDS


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98 Ways...

- Seven racial/ethnic groups
- Fourteen areas
 - All disabilities
 - Six disability categories (CD, ED, SLD, ASD, OHI, Sp/L)
 - Two placement categories
 - Five discipline groups
- A district has 98 “opportunities” to be identified as being significantly disproportionate


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Reasonableness


- States required to set
 - reasonable risk ratio thresholds
 - number of years to consider (max of 3)
 - reasonable minimum cell sizes
 - reasonable minimum n-sizes
 - and standards for measuring reasonable progress
- All with input from stakeholders (including State Advisory Panels), subject to the US DOE’s oversight
- **Cell size of 10** and **n-size of 30** are considered presumptively reasonable by US DOE

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STATE METHODOLOGY DATA

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STATE PROCEDURES

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Proposed Delay of Regulations

- Notice of proposed rulemaking (NPRM) that would postpone by two years the compliance date for implementing the significant disproportionality regulations published on December 19, 2016.

Activity	Current	Proposed
Implementation to include data for age 6-21	July 1, 2018	July 1, 2020
Implementation to include data for age 3-21	July 1, 2020	July 1, 2022

- South Dakota intent to implement when required.

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Background (cont.)

- In March 2019, there was a ruling on the delay of regulations that appealed the delayed start date.
- States are now required to move forward with implementation on new standard methodology.

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Current Documented Procedure

- Spring 2018 Notify Districts of the Policy Change
- **Every Spring,**
 - If a district has met significant disproportionality in one of the 98 ways, an official letter will be sent.
 - The IDEA Flow Through Fund Application will reflect the required 15% CCEIS set aside funds.
- **Example:**
 - March 2019 district(s) will be identified for significant disproportionality. The district(s) would take 15% of CCEIS amounts in the 2019-2020 budget year.

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Proposed Procedure Change

Current Procedure	Proposed changed
<ul style="list-style-type: none"> • Every Spring (March 2019) • District identified use current year child count (2018) and previous year(17-18) suspension data. • District required to set aside 15% of federal funds in the upcoming IDEA application (19-20). 	<ul style="list-style-type: none"> • Every Fall (November 2019) • District identified use previous year child count (2018) and suspension (18-19) data. • District would require to take the 15% CCEIS funds by: <ul style="list-style-type: none"> – Amend current application (2019-2020) – Set aside funds in next application (2020-2021)

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ADVISORY PANEL INPUT

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Comments on Proposed Procedure

- If you have any comments on the proposed procedure change, please email
 - Melissa.Flor@state.sd.us
 - By July 1, 2019
- More information at <https://doe.sd.gov/sped/Disproportionality.aspx>

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