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## State Definitions of Significant Disproportionality

by Paula Burdette

### INTRODUCTION

The 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA 2004) gives states the flexibility and responsibility under Section 618<sup>1</sup> to define “significant disproportionality” based on race or ethnicity at the state (SEA) and local education agency (LEA) levels. This applies to the identification, placement and disciplinary actions. States must make this determination annually based on an analysis of numerical information. According to Memorandum #07-09, April 2007 from the Office of Special Education Programs (OSEP) at the U.S. Department of Education<sup>2</sup>, multiple factors for states to consider in making such determinations include population size, the size of the individual LEA and the composition of the state population.

### METHODOLOGY

In order to develop and provide technical assistance for the states, OSEP asked Project Forum to provide it with data from the states. Project Forum conducted a survey of all SEAs to determine how they define significant disproportionality for their LEAs in each of the three areas of identification, placement and discipline. Thirty-three SEAs responded to Project Forum’s survey in May 2007. Project Forum at the National Association of State Directors of Special Education (NASDSE) produced this document as part of its collaborative agreement with OSEP.

### FINDINGS

#### Status of Definitions

When asked to describe their progress on defining significant disproportionality, 25 of the 33 responding SEAs reported that their definition is complete. All of these SEA respondents said

<sup>1</sup> See either the IDEA statute at 20 U.S.C. 1418(d) or the IDEA Regulations at 34 CFR § 300.646).

<sup>2</sup> After July 2007, this memorandum will be available on line at

<http://www.ed.gov/about/offices/list/osers/osep/index.html>.

that they had released their definition publicly or would by July 2007. The remaining eight SEAs reported that their definition is not complete and did not provide a tentative date for release of this information. One respondent stated, “Like other states, we were clearly not aware of the distinction between ‘disproportionality due to inappropriate identification’ and ‘significant disproportionality’ prior to the April 2007 OSEP memorandum.” Two SEAs responded that they would not discuss tentative dates or definitions until they had been approved.

### **Identification Definitions**

Twenty-eight respondents reported that they had developed procedures to analyze significant disproportionality with respect to identification. Of these, 18 use a risk ratio formula, either alone or with other procedures. The risk ratio formula, when applied to a disability category, describes what percentage of students from a specific racial/ethnic group receive special education and related services for a particular disability. Two SEAs reported using a review of LEA written policies and procedures to determine significant disproportionality. One state reported that staff use “data analysis” to determine significant disproportionality; another reported using the monitoring process of each LEA; another state explained that it disaggregates the data; and a fourth state said that it does an “analysis of means.” Some SEAs reported that they determine disproportionality in only specific disability categories (e.g., preschool with disability, mental retardation, emotional disturbance, learning disability and speech or language impairment). One SEA reported reviewing LEA data for each federal disability category under IDEA. Some SEAs that responded were silent on the criteria or process they used to determine significant disproportionality with respect to identification. See the appendix for samples of state definitions for significant disproportionality in the areas of identification, placement and discipline.

### **Placement Definitions**

Twenty-five respondents reported having procedures to analyze significant disproportionality with respect to placement. Of these, the same states that reported using a risk ratio for identification continued to use a risk ratio for placement. The two SEAs that reported using a review of policies and procedures for defining disproportionality in identification did not have procedures with respect to placement. One SEA reported that staff examine only self-contained placements for significant disproportionality. Another SEA reported examining both students placed “outside the classroom for more than 60% of the time” and the relative risk of a student of a specific race or ethnicity being placed in a separate facility. A third SEA will evaluate significant disproportionality in three placement categories: removed from regular classes for less than 20% of the day; removed from regular classes for more than 60% of the day; and all separate settings combined.

### **Discipline Definitions**

Twenty-one SEAs reported that they have procedures developed for analyzing significant disproportionality with respect to discipline. Of these, eight specified that they will use some form of risk ratio to determine significant disproportionality. Two SEAs mentioned that they

would look at both suspension and expulsion data. Three other SEAs mentioned that they would look at suspension data. Three SEAs report that they will review data in relation to the state's rate of disciplinary action. One SEA said that staff will use a risk ratio formula and then "review [each number] for validity" due to small "n" size.

### **Criteria for Exclusion of LEAs**

Nineteen SEAs described enrollment criteria that would exclude some LEAs from being designated as having significant disproportionality. Eight of these stated that cell sizes of less than 10 would not be considered in calculations for significant disproportionality. Other minimum cell sizes mentioned were:

- 15, 20, or 30 students with disabilities in the school;
- 10 students with disabilities within the cell;
- 15 students within the cell for identification and placement; and
- 10 students within the cell for discipline.

One SEA's enrollment criteria stated that in order to be counted, the student had to be a full-time student in the school for at least half of the year. This same SEA reported that if there were fewer than the minimum number in the cell for Adequate Yearly Progress (30 students), the risk ratios were calculated and reported to the LEAs, but no consequences were triggered. Another SEA considers class size rather than cell size. Other exclusionary factors include:

- a district that has only one school;
- LEAs that provide services, but do not identify students, such as vocational districts;
- students who are placed by agencies other than education (e.g., Department of Children, Youth and Families); and
- unique circumstances identified by the LEA and confirmed by the SEA.

### **Other Issues**

Other issues that were mentioned by the SEAs include the following:

- Two SEAs review significant disproportionality only as it relates to black students.
- One SEA reviews significant disproportionality only with respect to identification for "newly placed students with disabilities."
- Three SEAs reported that they will use data collected over a three-year period; four reported that they will determine significant disproportionality using only current year data; and the rest of the reporting SEAs were silent on the issue.

Although the survey protocol did not request information regarding what actions the SEA plans to take when an LEA is found to have significant disproportionality, one state explained that LEAs will be required to develop an Early Intervening Services project, using 15% of its Enrollment/Poverty funds [consistent with IDEA §300.613(f)]. Another SEA used the exact

wording from the IDEA regulations §300.646(b)<sup>3</sup> to describe the steps it would take with an LEA that had been determined to have significant disproportionality. One SEA reported that it will not require LEAs to spend money on early intervening services unless it has been determined that money will address the issue. The LEAs in this state will, however, be required to reserve the money until the issue is resolved. One state reported that in subsequent years, it might revise its definition by lowering the risk ratio as well as the minimum number of students needed in a group to be considered for significant disproportionality.

## SUMMARY

Most SEAs report that their definitions are complete. However, while all except two reporting states based their determination of significant disproportionality on numerical data of varying types as required by IDEA 2004, many states identify LEAs based only on one or two of the three areas that must be considered (i.e., identification, placement and disciplinary actions) and some for only specified racial or ethnic groups or disability categories.

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<sup>3</sup> §300.646 Disproportionality

(b) Review and revision of policies, practices, and procedures. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, in accordance with paragraph (a) of this section, the State or the Secretary of the Interior must--

(1) Provide for the review and, if appropriate revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the requirements of the Act.

(2) Require any LEA identified under paragraph (a) of this section to reserve the maximum amount of funds under section 613(f) of the Act to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly overidentified under paragraph (a) of this section; and

(3) Require the LEA to publicly report on the revision of policies, practices, and procedures described under paragraph (b)(1) of this section.

## APPENDIX

### SAMPLE DEFINITIONS FOR SIGNIFICANT DISPROPORTIONALITY

#### Definitions of Identification

- Set a state three-year average baseline plus one standard deviation as a trigger for black students only. If the difference between special education and district exceeds the trigger value, [districts] are found to have a significant discrepancy.
- Calculate for each district the extent to which total minority population in special education varies from the minority population. Districts that have +/-20% difference in minority representation in special education as compared to that district's total education population will be flagged for disproportionality. The SEA also requires a minimum individual cell sample size of 15 to consider exceeding +/- 20% of a [district's] total education population as a reliable indication of significant disproportionality.
- Use a weighted risk ratio for districts in which there are at least 10 students in the racial/ethnic group and at least 10 students in the comparison group enrolled in the district. Use an alternate risk ratio for districts in which there are at least 10 students in the racial/ethnic group but fewer than 10 in the comparison group enrolled in the district. The criterion for significant disproportionality is 3.0 or higher for three consecutive years for a particular racial/ethnic group in which there are at least 10 students in the special education population.
- Compare the percent of total enrollment of each race/ethnic group in special education or in specific disabilities with the percent of total enrollment of all other race/ethnic groups in special education or in specific disability categories combined. Use the following criteria to find "disproportionate representation":
  - at least 75 students with disabilities enrolled on a certain date;
  - a minimum of 30 students total of a particular race/ethnicity enrolled on a certain date;
  - at least 75 students total of all other race/ethnicities enrolled on a certain date;
  - at least 10 students with disabilities of a particular race/ethnicity or particular race/ethnicity and disability enrolled on a certain date; and either
    - both the relative and weighted relative risk ratio for any race/ethnicity group is 2.5 or higher for disproportion in special education of 4.0 or higher for disproportion in specific disability; or
    - all students with disabilities in special education or in a specific disability are of only one minority group regardless of the size of the relative and weighted risk ratio.

## Definitions of Placement

- Use risk ratios developed by Westat<sup>4</sup> and then review each placement risk ratio for validity due to small “n” size.
- Examine the difference between a [district’s] minority representation within each of five disability categories and compare it to the total minority population in that [district]. [Those districts] that have +/-20% difference in minority representation in special education as compared to [their] total education population are flagged for disproportionality. The SEA also requires a minimum individual cell sample size of 15 to consider exceeding +/- 20% of a [district’s] total education population as a reliable indication of significant disproportionality.
- Compare the percent of total enrollment of each race/ethnic group in special education or in specific disabilities with the percent of total enrollment of all other race/ethnic groups in special education or in specific disability categories combined.
- Use the following criteria to find “disproportionate representation”:
  - at least 75 students with disabilities enrolled on a certain date;
  - at least 10 students with disabilities of a particular race/ethnicity in specific settings enroll on a certain date;
  - at least 20 students with disabilities of all race/ethnicities enrolled; and either
    - both the relative and weighted relative risk ratio for any minority group is 2.5 or higher (For the ‘removed from regular classes for 20% or less’ placement category, the relative and weighted relative risk ratio must be .33 or lower.); or
    - all students with disabilities in a particular setting are of only one minority group regardless of the size of the relative or weighted relative risk ratio.

## Definitions of Discipline

- Use risk ratios developed by Westat and then review each placement risk ratio for validity due to small “n” size.
- Look at the percent of students with disabilities who had long-term suspensions/expulsions who are in the minority population and compare this to the percent of all students with disabilities who are in the minority population in that [district]. If the former exceeds the latter by more than 20%, the [district] is flagged for

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<sup>4</sup> Information about risk ratios developed by Westat can be found at <http://www.ideadata.org/docs/Disproportionality%20Technical%20Assistance%20Guide.pdf>.

having significant discrepancies. The minimum cell size for discipline is 10 students with disabilities regardless of race/ethnicity.

- Compare the percent of total enrollment of each race/ethnic group in special education or in specific disabilities with the percent of total enrollment of all other race/ethnic groups in special education or in specific disability categories combined.
- Compare the number of students suspended of each race/ethnicity category with the number of students suspended of all other race/ethnicity categories combined and compute relative and weighted relative risk ratios. Use the following criteria to find “significant discrepancy”:
  - at least 75 students with disabilities enrolled on a certain date;
  - at least 10 students with disabilities of the particular race/ethnicity were suspended;
  - at least 20 students with disabilities of all other race/ethnicities were enrolled; and either
    - both the relative and weighted relative risk ratio for any minority group was 2.0 or higher; or
    - all students with disabilities suspended were from only one minority group regardless of the size of the relative and weighted relative risk ratio.

### Definitions that Include Identification, Placement and Discipline

- For all three areas, use a two-step process for the analysis of disproportionate representation: (1) a 95% confidence interval to adjust for the effect of sample size; and (2) the calculation and interpretation of the relative risk ratio. A relative risk ratio greater than 2.0 indicates significant disproportionality.
- Use a weighted risk ratio by ethnic/racial group in all three areas. A ratio of 3.0 and above is considered to be significantly disproportionate.

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