

MEMORANDUM

TO: Superintendents, Administrators of Special Education, School Business Officials, and Other Interested Parties

FROM: Jacqueline Kelleher, Ph.D., Vermont State Director of Special Education
Cassidy Canzani, Vermont IDEA Part B Data Manager

SUBJECT: Policy and Procedures: Significant Disproportionality in Special Education

DATE: June 10, 2020

Purpose

This memorandum provides policy and a description of methodology concerning the requirements in the Individuals with Disabilities Education Act (IDEA) with respect to significant disproportionality. While requirements that states assess and identify disproportionality in special education have been part of IDEA for many years, the U.S. Department of Education revised its regulations in 2016 to standardize the way that states and districts must identify and respond to significant disproportionality in special education. States were required to implement a policy and methodology for identifying significant disproportionality as of July 1, 2018.

Further, under 34 C.F.R. 300.646 and 300.647, states must annually collect and examine data to see if significant disproportionality is occurring within the state and at the Local Education Agency (LEA) level. The IDEA regulations also expand the ways that districts must use funds to provide Comprehensive Coordinated Early Intervening Services (CCEIS) to students to address the identified disproportionality and to alleviate barriers to students' access to curriculum and appropriate supports.

IDEA Requirements on Significant Disproportionality

IDEA requires states to collect and examine data to determine whether significant disproportionality based on race and ethnicity is occurring in school districts with respect to:

1. The identification of students as students with disabilities, including the identification of students with disabilities in accordance with certain impairments;
2. The placement in selected educational settings of such students; and
3. The incidence, duration and type of disciplinary removals from placement, including suspensions and expulsions.

Contact Information:

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States must use risk ratios to analyze disparities for seven racial or ethnic groups, comparing each to all other children within the district in 14 different categories of analysis summarized above. These analyses must be done annually.

Vermont Methodology for Calculating Risk of Significant Disproportionality

The Vermont Agency of Education (AOE) methodology for calculating risk of significant disproportionality was determined in part using stakeholder feedback as required by the IDEA. The AOE worked with the Vermont Special Education Advisory Council and Vermont Council of Special Education Administrators to outline a reasonable practice for determining if significant disproportionality is present. Stakeholders advised on a reasonable threshold, minimum cell size, minimum n-size and number of years of data to review.

IDEA regulations require states to use a standard quantitative methodology and develop a system for making the determination of significant disproportionality. States can set risk ratio thresholds and consider multiple years of data prior to making a finding of disproportionality. States must report their methodology to the Office of Special Education Programs (OSEP); Vermont submitted its methodology with its IDEA Part B FFY20 grant application.

The AOE will use a risk ratio to identify disproportionality. A risk ratio is the likelihood that a student in a particular racial or ethnic group will experience a particular outcome (i.e. identification, placement or discipline) compared to the likelihood of that outcome for students in all other racial or ethnic groups. In calculating risk, the AOE must ensure that there are enough students in the racial or ethnic group and in all other racial and ethnic groups to create a valid comparison.

The AOE's revised methodology requires that there be at least 5 students in the racial or ethnic subgroup experiencing the outcome in the LEA, and at least 15 students in the racial or ethnic subgroup enrolled (in the case of identification) or at least 15 students with IEPs in the racial or ethnic subgroup enrolled (in the case of placement and discipline) in order to calculate a risk ratio. This is known as "cell size" and "n-size," respectively. Only districts in which the specific subgroups meet the cell and n-size requirements will have a risk ratio calculated for that outcome. If the n-size and cell-size requirements are met for the racial or ethnic subgroup being examined, but there are not enough students in all other racial or ethnic groups to make a comparison, then the AOE must calculate an alternate risk ratio. That means that the AOE will compare the district's data to the state's data to determine disproportionality.

Requirements for LEAs Identified with Significant Disproportionality

An LEA will be identified as having disproportionality if the risk ratio or alternate risk ratio calculation exceeds the state-established threshold of 3.0 in any outcome for the same racial and ethnic subgroup for three consecutive years. An LEA can be identified in multiple categories for significant disproportionality for one or more racial/ethnic groups.

IDEA requires that any LEA identified with significant disproportionality must take specific actions to address that disproportionality, including targeting expenditures from the following year's IDEA Part B grant for these activities. LEAs will receive a letter detailing their three-year

risk ratio analysis of disproportionality, and any required actions if significant disproportionality is determined. If an LEA has been identified as having significant disproportionality, the LEA is restricted from reducing its Maintenance of Effort (MOE) level by using the 50% reduction rule. Additionally, an LEA identified with significant disproportionality is required to:

- review and, if appropriate, revise policies, practices and procedures to ensure compliance with the requirements of IDEA;
- publicly report on the revision of policies, practices, and procedures; and
- reserve 15 percent of its total IDEA Part B allocation and spend those funds on providing CCEIS to address factors contributing to the significant disproportionality.

The AOE will be coming out with further guidance on allocations for CCEIS and addressing factors contributing to significant disproportionality.

The identification of a district with significant disproportionality is not a finding of IDEA noncompliance. However, the AOE is required to make an annual determination of significant disproportionality for all LEAs.