

## Overview of Illinois' Process for Determining and Addressing Disproportionality in Special Education

### Disproportionate Representation

#### *Federal Requirements*

Under the 2004 reauthorization of the Individuals with Disabilities Education Improvement Act (IDEA 2004), the U.S. Department of Education placed an increased emphasis on addressing the challenge of disproportionate representation of students of different races/ethnicities in special education. A variety of causes, such as flawed assessment practices or inadequate instruction, may contribute to such disproportionality. The Office of Special Education Programs (OSEP) requires each state education agency (SEA) to determine if disproportionality based on race and ethnicity and resulting from inappropriate identification is occurring in the state and within local school districts. Further, if such disproportionality due to inappropriate identification is found, the SEA must notify the affected school districts and support them in carrying out improvement activities.

Each SEA must fulfill these requirements by implementing activities delineated in its IDEA Part B State Performance Plan (SPP) for Special Education. Indicators 9 and 10 of the SPP address the issue of disproportionate representation (overrepresentation and underrepresentation) resulting from inappropriate identification for students aged 6 through 21. Specifically, Indicator 9 addresses the overall disproportionate representation of racial and ethnic groups in special education, while Indicator 10 addresses the disproportionate representation of racial and ethnic groups in specific disability categories, i.e., Speech/Language, Specific Learning Disability, Emotional Disability, Cognitive Disability, Autism and Other Health Impairment.

#### *Definition*

ISBE defines disproportionate representation under Indicators 9 and 10 as follows:

**Indicator 9:** Disproportionate representation of racial/ethnic groups in special education is defined as students in a particular racial/ethnic group (i.e., Asian, Hispanic, Native American, Black or White) being at a considerably greater or lesser risk of being identified as eligible for special education and related services than all other racial/ethnic groups enrolled either in the district or in the state.

**Indicator 10:** Disproportionate representation of racial/ethnic groups in special education disability categories is defined as students in a particular racial/ethnic group (i.e., Asian, Hispanic, Native American, Black or White) being at a considerably greater or lesser risk of being identified as eligible for special education and related services in a specific disability category (Speech/Language, Specific Learning Disability, Emotional Disability, Cognitive Disability, Autism and Other Health Impairment) than all other racial/ethnic groups enrolled either in the district or in the state.

### *Disproportionate Representation Calculation Methods and Criterion*

ISBE uses a weighted or an alternate risk ratio method to calculate disproportionality in the identification of students as eligible for special education overall and by disability category for each of the five racial/ethnic groups listed previously, as described below. (Note: Prior to calculating district risk ratios, where applicable ISBE removes from a district's special education Child Count any student who is a ward of the state and placed at a facility within a district's boundaries through other entities, i.e., under the Orphanage Act or by the Court system.)

- A weighted risk ratio method is used for districts in which there are at least 10 students in the racial/ethnic group in question eligible for special education overall or within a particular disability category and at least 10 students in the comparison group (all other races/ethnicities in the total school enrollment, including students with and without IEPs).
- An alternate risk ratio method is used for districts in which there are at least 10 students in the racial/ethnic group in question eligible for special education overall or within a particular disability category but fewer than 10 students in the comparison group (all other races/ethnicities in the total school enrollment, including students with and without IEPs).

ISBE's criteria for determining disproportionate representation based on race/ethnicity are as follows:

- Overrepresentation: A weighted or an alternate risk ratio of 3.0 or greater for a particular racial/ethnic group for three consecutive years.
- Underrepresentation: A weighted or an alternate risk ratio of 0.25 or less for a particular racial/ethnic group for three consecutive years.

### *Determining Inappropriate Identification*

A calculated risk ratio alone is not sufficient to determine whether or not the disproportionality is actually the result of inappropriate identification. It is also necessary to examine local policies, procedures and practices. Therefore, any district that meets the criterion for disproportionate representation is required to conduct a self assessment. Upon receipt, ISBE reviews the district's documents and communicates further with the district as needed to determine whether disproportionate representation of particular racial/ethnic groups in special education overall or in specific disability categories is the result of inappropriate identification. If disproportionality based on race/ethnicity is verified to be the result of inappropriate identification, the district is notified and required to develop an improvement plan.

## Significant Disproportionality

### *Federal Requirements*

While states are required to monitor disproportionate representation under the SPP, the issue of *significant* disproportionality is not addressed in the SPP. Rather, states must address *significant* disproportionality in accordance with 34 CFR 300.646, which requires that “Each State that receives assistance under Part B of the Act...must provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LEAs [local education agencies] of the State....”

Each state has the discretion to define what constitutes *significant* disproportionality for the LEAs in the State and for the State in general. Each State’s definition of significant disproportionality must be based on an analysis of numerical information only. Any LEA found to have significant disproportionality must set aside 15 percent of its IDEA Part B flow-through funds to provide comprehensive coordinated early intervening services for students not identified as needing special education and related services, as required in the IDEA regulations (34 CFR § 300.646(b)(2)). These funds must be set aside even if the significant disproportionality is not the result of inappropriate identification. Further details of this requirement are provided in a subsequent section.

### *Definition of Significant Disproportionality for Special Education Identification*

ISBE defines significant disproportionality as “students in a particular racial/ethnic group (i.e., Asian, Black, Hispanic, Native American or White) being at a significantly greater risk of being identified as eligible for special education and related services overall or in a primary disability category (i.e., Speech/Language, Specific Learning Disability, Emotional Disability, Cognitive Disability, Autism and Other Health Impairment) than all other racial/ethnic groups in special education or in the primary disability category in question.”

### *Significant Disproportionality Calculation Methods and Criterion*

Like the calculation for disproportionate representation, ISBE uses a weighted or an alternate risk ratio method to calculate significant disproportionality in the identification of students as eligible for special education overall and by disability category for each of the five racial/ethnic groups listed previously. However, the minimum group sizes and definition of the comparison group are different for significant disproportionality, as described below.

- A weighted risk ratio method is used for districts in which there are at least 20 students in the racial/ethnic group in question who are eligible for special education overall or within a particular disability category and at least 20 students in the comparison group (all other races/ethnicities in special education or in the primary disability category).
- An alternate risk ratio method is used for districts in which there are at least 20 students in the racial/ethnic group in question who are eligible for special education overall or

within a particular disability category but fewer than 20 students in the comparison group (all other races/ethnicities in special education or in the primary disability category).

ISBE's criterion for determining disproportionate representation based on race/ethnicity is a weighted or an alternate risk ratio of 4.0 or higher for a particular racial/ethnic group for three consecutive years.

#### *Determining Inappropriate Identification*

The process for determining inappropriate identification and any associated requirements for a district improvement plan are the same for significant disproportionality as for disproportionate representation.

#### *15 Percent Set Aside Requirement*

As discussed previously, any district found to have significant disproportionality based on risk ratio alone must set aside 15 percent of its IDEA Part B flow-through funds to provide comprehensive coordinated early intervening services for students not identified as needing special education and related services. When using IDEA Part B funds for early intervening services, districts must follow certain parameters set by ISBE (in alignment with federal regulations at 34 CFR 300.226(b), as delineated below.

- 1) Professional Development: ISBE has determined that the majority of funds earmarked for early intervening services must be used for professional development. Funds may be used to deliver professional development (which may be provided by entities other than the LEA) for teachers and other school staff to enable such personnel to deliver scientific, research-based academic and behavioral interventions, including scientifically-based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software. Funds may also be used to provide information and training for parents. Professional development content may include, but is not limited to, the following:
  - a. The problem-solving process.
  - b. A multi-tiered intervention model, including review and evaluation of Tier 1 (core) curricula and instruction (particularly in reading and math) and whole-group interventions and development and delivery of Tier 2 & Tier 3 interventions.
  - c. Design and delivery of scientific, research-based interventions, including implementation integrity/fidelity.
  - d. Student progress monitoring.
  - e. Positive Behavior Interventions and Supports.
- 2) Provision of Educational and Behavioral Evaluations and Assessments, Services and Supports, including Scientifically-Based Literacy Instruction:

- a. Evaluation and assessment of students may include the purchase of data-based progress-monitoring tools/systems, e.g., DIBELS, AIMSweb.
  - b. Provision of services and supports may include the purchase of intervention resources. All services and supports, including intervention resources, should supplement and be directly linked to the core curriculum, be scientifically, research-based, or at a minimum, evidence-based and provide for frequent progress monitoring.
  - c. Funds allocated for provision of services may include salaries of staff to serve as district- and/or building-level problem solving coaches, provide interventions or complete other activities directly associated with the provision of early intervening services. However, funds may not be used to supplant salaries of existing staff.
- 3) Supplement vs. Supplant: Funds may not be used to supplant activities and services funded by other federal, state and local sources.

### Illinois' Process for Determining District Disproportionality

