

Overview of Illinois' Process for Determining and Addressing Disproportionality in Special Education Identification and Significant Disproportionality in Identification, Placement, and Discipline

Part I. Disproportionate Representation in Special Education Identification

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, Intellectual Disability, Autism, and Other Health Impairment.

State Definition

The Illinois State Board of Education (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, Black, Hispanic, Native American, Native Hawaiian or Other Pacific Islander, White, or Two or More Races) 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, Black, Hispanic, Native American, Native Hawaiian or Other Pacific Islander, White, or Two or More Races) 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, Intellectual Disability, Autism, and Other Health Impairment) than all other racial/ethnic groups enrolled either in the district or in the state.

State Disproportionate Representation Calculation Methods and Criteria

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 and Correction Requirements

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 one or more of the criteria above 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 one or more 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 in writing and must meet certain requirements, as discussed below.

Inappropriate identification is considered by OSEP to be noncompliance with one or more statutory and/or regulatory requirements. To correct this noncompliance, districts must develop and implement an improvement plan. The improvement activities must be incorporated into the District Improvement Plan, and the noncompliance must be corrected within one year of the date on which the district was notified of the determination of inappropriate identification.

Part II. Significant Disproportionality in Identification, Placement and Discipline

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(a), 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 with respect to:

- (1) Identification of children as children with disabilities,
- (2) The placement in particular educational settings of these children, and
- (3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.”

It should be noted that significant disproportionality is only determined for overrepresentation, not for underrepresentation.

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 total IDEA Part B (611 and 619) flow-through funds to provide comprehensive coordinated early intervening services (CEIS) for students not identified as needing special education and related services, as required in the IDEA regulations (34 CFR § 300.646(b)(2)). For districts with disproportionate representation in identification of children with disabilities, 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 later section of this document (see *15 Percent Set Aside Requirement*).

State Definitions of Significant Disproportionality

Special Education Identification: ISBE defines significant disproportionality as “students in a particular racial/ethnic group (i.e., Asian, Black, Hispanic, Native American, Native Hawaiian or Other Pacific Islander, White, or Two or More Races) 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, Intellectual Disability, Autism, and Other Health Impairment) than all other racial/ethnic groups in special education or in the primary disability category in question.”

Educational Environment Placement: ISBE defines significant disproportionality as “students in a particular racial/ethnic group (i.e., Asian, Black, Hispanic, Native American, Native Hawaiian or Other Pacific Islander, White, or Two or More Races) being at a considerably greater risk of being placed in one of the following Educational Environment (EE) placement categories than all other racial/ethnic groups enrolled in the district: 1) inside the regular classroom 40 – 79 percent of the school day, 2) inside the regular classroom less than 40 percent of the school day, 3) in separate schools and residential facilities. Per OSEP Memo 08-09, placements in homebound/hospital settings, correctional facilities, or placements by the parent of a student in private schools are not included in this examination. Further, per OSEP Memo 08-09, the State does not examine data for placements inside the regular classroom for more than 79 percent of the school day.

Discipline: ISBE defines significant disproportionality as “students in a particular racial/ethnic group (i.e., Asian, Black, Hispanic, Native American, Native Hawaiian or Other Pacific Islander, White, or Two or More Races) being at a considerably greater risk of being suspended or expelled for greater than 10 days during the school year than all other racial/ethnic groups enrolled in the district.”

State Calculation Methods and Criteria for Significant Disproportionality

Special Education Identification: To determine significant disproportionality, Illinois conducts an annual analysis of Fall Enrollment data and December Special Education Child Count from the preceding three years. These data are used to calculate a weighted risk ratio in order to determine 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 in Part I.

For significant disproportionality, the minimum group sizes and definition of the comparison group are different than those for disproportionate representation. There must be 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). ISBE’s criterion for determining significant disproportionality in special education identification is a weighted risk ratio of 4.0 or higher for a particular racial/ethnic group for three consecutive years.

Educational Environment Placement: To determine significant disproportionality, ISBE conducts an annual analysis of Fall Enrollment data and December Special Education Child Count from the preceding three years. These data are used to calculate weighted risk ratios for each school district in which there are at least 20 students in the racial/ethnic group and EE placement category in question and at least 20 students in the comparison group (all other races/ethnicities in EE placement category in question). Illinois’ criterion for determining significant disproportionality in EE placements of students is a weighted risk ratio of 4.0 or higher for a particular racial/ethnic group for three consecutive years.

Discipline: Significant Disproportionality for the number of out-of-school suspensions (including expulsions) of greater than 10 days is defined as:

1. A Suspension/Expulsion rate for each racial/ethnic category is calculated for each district using the following formula: [(# of students with IEPs suspended or expelled in the racial/ethnic category for more than 10 days) divided by (# of students with IEPs in the racial/ethnic category)] times 100.
2. An Overall State Suspension/Expulsion Rate is calculated by using the total number of students with IEPs suspended or expelled for more than 10 days statewide, and the total number of students with IEPs statewide.
3. A State Suspension/Expulsion Rate by Race/Ethnicity is calculated by using the total number of students with IEPs suspended or expelled for more than 10 days in the racial/ethnic category statewide, and the total number of students with IEPs in the racial/ethnic category statewide.
4. ISBE will use the greater of the statewide rates calculated in Steps 2 and 3 to calculate the number of standard deviations of each district’s rate from the statewide rate.
5. A district is determined to have a significant disproportionality if:

- a. Its Suspension/Expulsion Rate for a particular racial/ethnic category is greater than the State Suspension/Expulsion Rate plus three standard deviations for three consecutive years AND
- b. The district has at least 45 students suspended or expelled more than 10 days in the racial/ethnic category.

Response Requirements

Any district that meets the criterion for significant disproportionality for special education identification, EE placement and/or discipline is required to conduct a self-assessment. Forms for completing the self-assessment are provided by ISBE and are different for each type of significant disproportionality. ISBE staff review each district's completed self-assessment to determine if any further action by the district, beyond setting aside 15 percent of IDEA Part B funds for CEIS, is necessary.

For districts with significant disproportionality in special education identification, the determination process discussed above includes whether or not the significant disproportionality is the result of inappropriate identification. If inappropriate identification is determined, the associated correction requirements are the same as those for disproportionate representation discussed in Part I.

15 Percent Set Aside Requirements

As discussed previously, any district found to have significant disproportionality based on risk ratio alone must set aside 15 percent of its total IDEA Part B (611 and 619) flow-through funds to provide CEIS for students not identified as needing special education and related services. In addition, districts that do not have significant disproportionality may voluntarily set aside up to 15 percent of funds for this purpose.

When using IDEA Part B funds for CEIS, either voluntarily or because they are required to do so, districts must adhere to certain requirements set forth in the federal regulations at 34 CFR §§ 300.226 and 300.646, as well as other parameters established by ISBE (in alignment with the federal regulations), as delineated below.

1. Activities (34 CFR § 300.226(b)):
 - a. *Professional Development*: ISBE has determined that the majority of funds earmarked for CEIS 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:
 - i. A problem-solving process for decision making.
 - ii. A multi-tiered intervention model, including review and evaluation of Tier 1 (core) curricula and instruction (particularly in reading and math), whole-group interventions and development, and delivery of Tier 2 and Tier 3 interventions.
 - iii. Design and delivery of scientific, research-based interventions, including implementation integrity/fidelity.
 - iv. Student progress monitoring.
 - v. Positive behavior interventions and supports.

- b. Providing Educational and Behavioral Evaluations and Assessments, Services, and Supports, including Scientifically-Based Literacy Instruction:
 - i. Evaluation and assessment of students may include the purchase of data-based progress-monitoring tools/systems.
 - ii. 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.
 - iii. Funds allocated for provision of services may include salaries of staff to serve as district- and/or building-level coaches, provide interventions, or complete other activities directly associated with the provision of CEIS. However, funds may not be used to supplant salaries of existing staff.
2. Target Population: In accordance with 34 CFR 300.226(a), districts that are required to set aside 15 percent of IDEA Part B flow-through funds for CEIS due to significant disproportionality in special education identification, EE placements, and/or discipline must ensure that the funds are used to provide services to students in grades K-12 who are not identified as needing special education and related services, but who need additional support to succeed in the general education environment. While students with Individualized Education Programs (IEPs) can benefit from CEIS, the district must ensure that any participation of such students in IDEA Part B-funded CEIS does not have the result of increasing costs or preventing other at-risk students who do not have IEPs from receiving CEIS. The requirements discussed in this paragraph also apply to districts that voluntarily set aside up to 15 percent of IDEA Part B funds for CEIS.

In accordance with 34 CFR 300.646(b)(2), those districts that are required to set aside 15 percent of their IDEA Part B flow-through funds for CEIS due to significant disproportionality in special education identification, EE placements, and/or discipline must also ensure that the funds are used to serve children particularly, but not exclusively, in those racial/ethnic groups that were significantly overrepresented.

3. Reporting Requirements: In accordance with 34 CFR 300.226(d), districts that are required to or that voluntarily set aside IDEA Part B flow-through funds for CEIS must annually collect and report to ISBE the following data:
 - a. The number of children served who received CEIS in a given year and
 - b. The number of children who received CEIS during the preceding two-year period and subsequently receive special education and related services in the current year.
4. Supplement vs. Supplant: Funds allocated for CEIS may not be used to supplant activities and services funded by other federal, state and local sources.