

Significant Disproportionality Frequently Asked Questions

Overview

What is significant disproportionality?

Under federal law (Individuals with Disabilities Educational Act (IDEA) Regulations at 34 C.F.R. 300.646), states are annually required to collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring within districts and the state with respect to:

- Identification of students with disabilities (SWDs), including identification of students in six high-incidence disability categories
- The placement of SWDs in particular educational settings
- The incidence, duration, and type of disciplinary actions (specific to SWDs), including suspensions and expulsions

What happens if my district is identified with significant disproportionality?

Should a district be identified with significant disproportionality in one or more of these areas, states must:

- Provide for the review (and, if appropriate) revision of policies, procedures, and practices
- Require identified districts to reserve the maximum amount of funds (15 percent) under Part B of IDEA to be used for comprehensive coordinated early intervening services (CEIS)
- Require the identified districts to publicly report on the revisions of their policies, procedures, and practices

Can my district have significant disproportionality in more than one category?

Yes. Districts can be identified in multiple categories for significant disproportionality for one or more racial/ethnic groups. Regardless of the number of categories or racial/ethnic groups for which the district qualifies, the district only has to reserve the maximum 15 percent of Part B IDEA funds total.

Data

What are the criteria for significant disproportionality?

For a district to be identified with significant disproportionality for at one least racial/ethnic group and in one of 14 categories in the three aforementioned areas, the following criteria must be met for three consecutive years:

- **Discipline**
 - *Risk ratio* – Threshold of 2.0 for a particular race/ethnicity. This means that SWDs in a

particular racial/ethnic group are at least two times more likely to experience a disciplinary outcome compared to all SWDs in the six other racial/ethnic groups.

- *Cell size* – 10 or more SWDs (ages 3-21) in a particular racial/ethnic group qualifying for one of the following categories:
 - SWDs receiving in-school suspensions for 10 or fewer days
 - SWDs receiving in-school suspensions for more than 10 days
 - SWDs receiving out-of-school suspension/expulsion for 10 or fewer days
 - SWDs receiving out-of-school suspension/expulsion for more than 10 days
 - Total number of discipline incidents, including in-school and out-of-school suspensions, removals by school personnel to an interim alternative education setting, and removals by a hearing officer (average number of discipline incidents per SWD); and
- *“N” size* – 30 or more SWDs (ages 3-21) in a particular racial/ethnic group

- **Identification**

- *Risk ratio* – Threshold of 3.0 for a particular race/ethnicity. This means that SWDs in a particular racial/ethnic group are at least three times more likely to be identified with a disability compared to all SWDs in the six other racial/ethnic groups.
 - *Cell size* – 10 or more SWDs (ages 6-21) in a particular racial/ethnic group qualifying for one of the following categories:
 - Identified with any disability (overall)
 - Identified in the following high-incidence disabilities:
 - Autism
 - Emotional disturbance
 - Intellectual disability
 - Other health impairment
 - Specific learning disability
 - Speech/language impairment; and
 - *“N” size* – 30 or more students (ages 6-21) in a particular racial/ethnic group in the district

- **Educational Environment**

- *Risk ratio* – Threshold of 3.0 for a particular race/ethnicity. This means that SWDs in a particular racial/ethnic group are at least three times more likely to be placed in restrictive settings compared to all SWDs in the six other racial/ethnic groups.
 - *Cell size* – 10 or more SWDs (ages 6-21) in a particular racial/ethnic group qualifying for one of the following categories:
 - In the general education setting 40-79 percent of the day
 - In the general education setting less than 40 percent of the day
 - In separate schools or residential facilities; and

- “N” size – 30 or more SWDs (ages 6-21) in a particular racial/ethnic group

What is reasonable progress?

Districts meeting the criteria in one or more of the areas above will not be identified in that particular area if they are deemed to be making *reasonable progress* by decreasing the risk of students in particular racial/ethnic groups being discipline, identified with a disability, or placed in more restrictive settings. Reasonable progress is defined as follows:

- Minimum decrease in the risk ratio by 0.25 or more across the three years used for the calculation (meaning a 0.25 decrease from year one to year two and then another 0.25 decrease from year two to year three); or
- Risk ratio for the most current school year’s data (e.g. would the 2017-18 school year if looking at data from the 2015-16, 2016-17, and 2017-18 school years) must be less than 4.0.

If a district is identified with significant disproportionality in multiple areas and reasonable progress is only made in one, the district will remain significantly disproportionate in the other areas and be held to the requirements detailed above. They will not, however, need to address the area in which reasonable progress was made.

Where does the data used in the calculations come from?

Information used to determine significant disproportionality comes from multiple sources, including:

- Child count/educational environment data pulled on Dec. 1; data source is the Table 1 and 3 report in EasyIEP.
- Student membership data pulled on Oct. 1; data source is the enrollment pull completed in EIS.
- All disciplinary actions reported for students with disabilities; data source in EIS.

How can my district assess whether it will be identified with significant disproportionality?

The state has developed a [template tool](#) in which districts can enter data regarding counts of students by race/ethnicity in various categories. **This tool is optional** to use and is intended to be a quick assessment of possible significant disproportionality. The data resulting from the tool’s calculations will not be the final numbers used by the department, but tool will provide an estimate based on the data entered. Districts are **not** obligated to use this tool.

Can my district appeal the determination of significant disproportionality?

Yes. Districts can submit a request ([here](#)) to appeal their determination of significant disproportionality. The department will provide districts with the data used for calculations for the district to confirm or refute. Any changes noted by the district must be substantiated with explicit documentation subject to department approval. A request for appeal must be submitted within 7

business days of receiving a determination of significant disproportionality. Upon receipt of requested information, districts will have 10 additional business days to provide responses and documentation. The department will make a final determination regarding appeals within 10 days of receipt of responses/documentation.

Is significant disproportionality the same as significant discrepancy (Annual Performance Report (APR) Indicator 4 A/B)?

No. The calculation methodology and areas evaluated for significant disproportionality are different than those employed for identifying significant discrepancy. While some aspects of significant discrepancy are similar to significant disproportionality (both address disciplinary actions and similar data elements), the two are not the same. Districts can be identified for significant discrepancy and not identified with significant disproportionality, and vice versa.

Is significant disproportionality the same as disproportionate representation (APR Indicators 9 and 10)?

No. The calculation methodology and areas evaluated for significant disproportionality are different than those employed for identifying disproportionate representation. While some aspects of significant discrepancy are similar to significant disproportionality (both address identification of SWDs actions and similar data elements), the two are not the same. Districts can be identified for significant discrepancy and not identified with significant disproportionality, and vice versa.

Fiscal

What is the difference between coordinated CEIS and comprehensive CEIS?

Coordinated CEIS is voluntary. Districts can choose to use a portion of their IDEA Part B funds (up to 15 percent) for services to a defined group of at-risk students. These funds can only be used for students grades kindergarten through grade 12 who are not currently identified with a disability. *Comprehensive* CEIS (CCEIS) is mandatory. Districts identified as having significant disproportionality in identification, placement, and/or disciplinary removals for one or more racial/ethnic group must use IDEA Part B funds for CCEIS.

What is the fiscal requirement for funding CCEIS in the district?

The district must reserve an amount that is equal to 15 percent of the entire IDEA Part B allocation (611 and 619) to provide comprehensive CEIS that addresses the factors that contributed to significant disproportionality.

Must the calculated reserve be taken from both section 611 and 619 allocations?

While the total amount of funds to be reserved must be calculated on the total Part B allocation, the

district has the flexibility to determine the source(s) from which to make that reserve. So, the district could take amounts totaling the 15 percent from both 611 and 619 allocations, from 611 only or from 619 only. This flexibility is available without regard to the age of the children receiving services.

Who can a district serve with these reserved funds?

Funds may be used to serve children from age 3 through grade 12, particularly (but not exclusively) students in those groups that were significantly over-identified, over-disciplined, or over-placed in restrictive settings. Participants can include both eligible students with disabilities as well as students that are not identified as SWDs but who need additional support to succeed in the general education program. However, CCEIS cannot be limited to only students with disabilities.

What services may be provided with funds reserved for comprehensive CEIS?

These funds must be used to identify and address the factors contributing to the significant disproportionality in the district for the identified category. The United States Department of Education (USDOE) has identified the following as possible factors:

- a. Lack of access to scientifically based instruction
- b. Economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings
- c. Inappropriate use of disciplinary removals
- d. Lack of access to appropriate diagnostic screenings
- e. Differences in academic achievement levels
- f. Policies, practices, or procedures that contribute to the significant disproportionality

Services may include training/professional development, educational evaluations, services and supports, and/or behavioral evaluations and supports. However, in doing so, the district must be addressing the factors identified by the district as contributing to significant disproportionality as identified by the department. The district must also address any of its policies, procedures or practices it has identified as contributing to the significant disproportionality.

How does reserving 15 percent of the district IDEA allocation affect maintenance of effort (MOE) obligations at the local level?

The district must determine what effect lowering the amount of funds available for services from Part B funds will have on providing FAPE to special education students. If in decreasing the amount of funds available for services necessitates that the district increase state/local funding by 15 percent, this will automatically increase maintenance of effort expenditures for that school year. In addition, a district that is identified with significant disproportionality is not eligible for the district MOE adjustment that would otherwise be available under 34 C.F.R. §300.205.

Monitoring

What does CCEIS monitoring entail?

To monitor CCEIS, the department will conduct a thorough review of district documentation to ensure the implementation of program activities/services addressing areas of significant disproportionality for impacted student subgroups. Additionally, this monitoring will assess compliance with fiscal requirements and expenditures of funds. Should revision of policies, procedures, and practices be required for districts, state monitors will ensure that such updates are publicly reported.

The CPM IDEA monitoring coordinator will contact district special education supervisors in impacted districts to share information about the monitoring process, which will include a review of:

- Formal policies and procedures related to the use of CCEIS
- Processes for identifying students/groups of students (such as grade levels) receiving CCEIS in each area of significant disproportionality
- Procedures for determining the appropriate services to be provided
- Evaluation of the program
- Fiscal policies and procedures for the compliant and supplemental use of funds

Once districts are notified of areas determined significantly disproportionate, the IDEA director should review, change, and/or be prepared to share their district's formal policies and procedures with department staff.

Materials to capture student-level information will be provided to identified districts for annual reporting purposes. Regional special education consultants will be available to provide technical assistance to districts regarding the required reporting requirements for participating students and their progress.