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SUMMIT**

Understanding Significant Disproportionality in Special Education

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Agenda

- Regulations
 - Purpose
 - Content
- Calculations
 - Calculation of significant disproportionality
 - Thresholds
- Moving Forward
 - State and district requirements if identified

What is Significant Disproportionality?

- Disproportionality is the overrepresentation of a racial or ethnic group in a particular category.
- It is measured by a risk ratio that asks:

*How **likely** is one group of students to have “x” occur, compared to all other groups of students?*

- Disproportionality becomes **significant** when the overrepresentation exceeds a defined risk ratio threshold *for a certain period of time.*

REGULATIONS

CONTENT AND PURPOSE

Notice: Significant Disproportionality

- December 2016: Revised regulations dictate that states review and amend the definition, calculation, tracking of & response to district-level significant disproportionality in three major areas: identification, placement and discipline. (34 CFR §300.636)
- July 2018: OSEP issued a rule delaying implementation until 2020.
- March 2019: Delay was vacated in a judicial decision in COPAA v. DeVos.
- May 2019: States must follow the 2016 regulations and implement without delay.
 - Identify districts for significant disproportionality for the 2018-19 school year.
 - Require 15% set-aside for CCEIS in 2019-20.

Purpose of Revised Regulations

*All children who require special education services should be appropriately identified and supported. At the same time, no child should be inappropriately **identified** for special education services, **segregated** from his or her peers, or **disciplined** more frequently or harshly simply because they are a student of color with a disability. These regulations will help ensure that the promise of IDEA is fulfilled without regard to race or ethnicity.*

US Department of Education, December 12, 2016. **FACT SHEET: Equity in IDEA.** <https://www.ed.gov/news/press-releases/fact-sheet-equity-idea>

The Revised Regulations...

- Dictated **14 categories** of measurement;
- Required that all states use the same mathematical methods to identify inequity (applied with some flexibility);
- Required that districts **identify & address factors** contributing to significant disproportionality,
 - This includes a **mandatory set-aside** of 15% of federal SPED funding.
- And clarified requirements for reviewing & revising local policies, procedures, and practices as contributing factors.

98 Ways...

- A district has ninety-eight “opportunities” to be identified as being significantly disproportionate.
 - Seven racial/ethnic groups
 - Fourteen categories
 - SPED identification
 - 6 disability categories (AU, ED, ID, OHI, SLD, SLI)
 - Two placement categories
 - Five discipline groups

CALCULATING Significant Disproportionality

THE DETAILS

How a Risk Ratio is Calculated I: SPED Identification

Step one active question: What percentage of students from a specific racial/ethnic group in the LEA receive special education and related services?

$$\text{STEP ONE: GROUP RISK} = \frac{\text{Asian students with disabilities}}{\text{All Asian students}} = \frac{40}{180} = 0.222$$

So: 22.2% of Asian students in the LEA receive special education and related services. Risk equals about 1 in 5.

How a Risk Ratio is Calculated II: SPED Identification

Step two active question: What percentage of students from all other racial/ethnic groups in the LEA receive special education and related services?

$$\begin{aligned} \text{STEP TWO:} \\ \text{NON-GROUP RISK} &= \frac{\text{Non-Asian students with disabilities}}{\text{All Non-Asian students}} = \frac{336}{2250} \\ &= 0.149 \end{aligned}$$

So: 14.9% of Non-Asian students in the LEA receive special education and related services. Risk is about 3 in 20.

How a Risk Ratio is Calculated III: SPED Identification

Step three active question: What is the risk for Asian students in the LEA to receive special education and related services, compared to the risk for all other students?

$$\begin{aligned} \text{STEP THREE:} \\ \text{RISK RATIO} &= \frac{\text{Risk for Asian students}}{\text{Risk for Non-Asian students}} = \frac{0.222}{0.149} \\ &= 0.1489 \end{aligned}$$

So: Asian students in the LEA are 1.49 times as likely as all other students to receive special education and related services.

Minimum Cell & N Sizes/Counts

Having minimum cell and n-sizes allows the state...

- to avoid calculating risk for very small groups of students in the numerator, and
- prevents comparison to the state risk unless the district is extremely homogenous in its special education population.

“**Cell size**” refers to numerator in the risk calculation.

“**N size**” refers to denominator in the risk calculation.

In Oklahoma:

Cell size = 10

N size = 10

Why This Matters: Minimum Counts

Asian students with disabilities
All Asian students

Non-Asian students with disabilities
All Non-Asian students

- If **cell size** is less than 10 on the top, NO CALCULATION MADE.
- If **n-size** is less than 10 in the top, NO CALCULATION MADE.
- If **cell size** OR **n-size** is less than 10 on the bottom, COMPARISON TO THE STATE IS REQUIRED via the *alternate risk calculation*.

cell size = risk numerator

n-size = risk denominator

The Alternate Risk Calculation

State non-group risk = the risk for “all other students” in the state to be in a particular category.

- Affects small districts and homogenous districts (with very few students in “other” racial/ethnic groups).

EXAMPLE:

White students with disabilities in LEA

All white students in LEA

All non-white students with disabilities in state

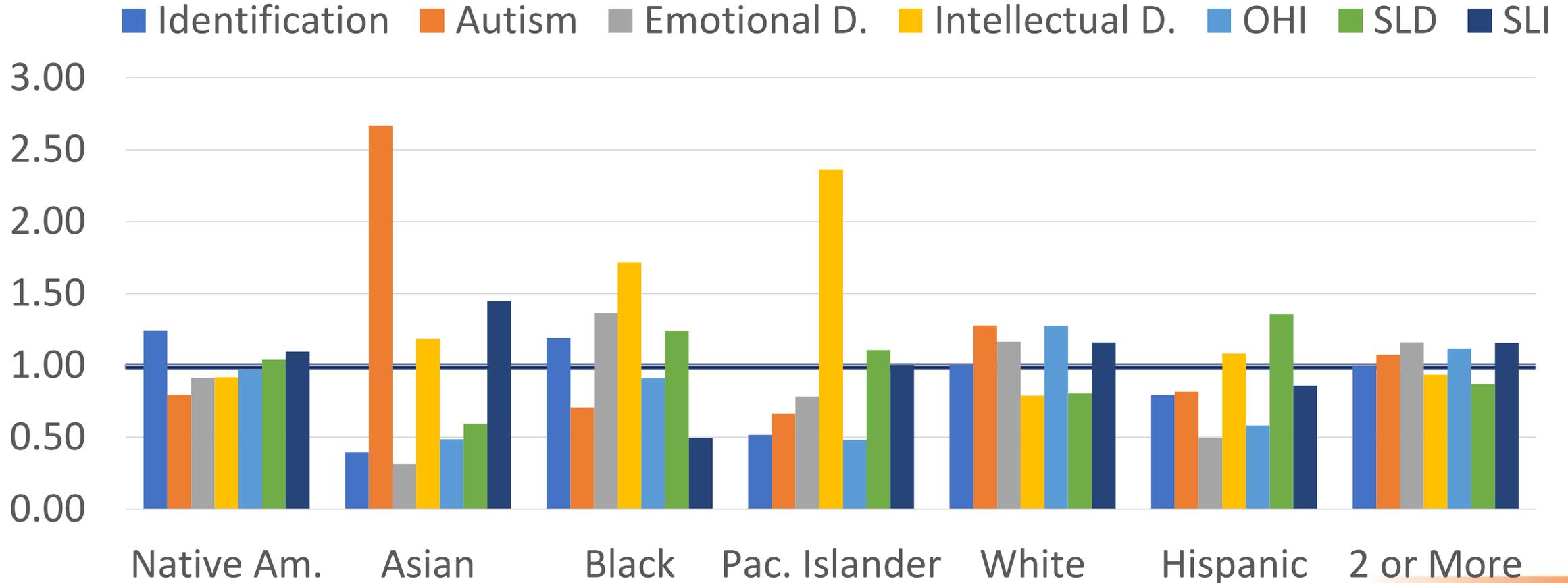
All non-white students in state

Approved Risk Ratio Thresholds: Oklahoma

Three risk ratio thresholds have been selected after extensive stakeholder input, one for each major area of categorical risk:

- Identification and 6 sub-categories: 2.6
 - Base is total enrollment, 3-21
- Placement categories (2): 2.5
 - Base is total child count, 6-21
- Total removals and 4 sub-categories of discipline: 2.25
 - Base is total child count, 3-21

Oklahoma Identification 2016-2017: Risk Ratios Overall & by Disability, by Race



Using Multiple Years of Data

- A district must be above the risk ratio threshold for three consecutive years in a single race-category pair before OSDE marks it as **significantly** disproportionate.

EXAMPLE:

- District X is above the threshold for Native American-OHI in year one and year two. It drops below the threshold in year three, so is not identified as significant. That year begins a new three year cycle.

Measuring Reasonable Progress

- To meet the "reasonable progress" standard in Oklahoma, an LEA must:
 - Reduce the risk ratio for the relevant race-category pair by 15% annually until the approved threshold for significant disproportionality is met, and
 - Meet a "secondary risk ratio threshold" of 4.5 by year three of any three year cycle, until the approved threshold is met.

MOVING FORWARD

State & District Requirements

Broadly, through CCEIS districts must...

- Address the factors contributing to the significant disproportionality
- Primarily serve children in those groups identified with significant disproportionality
- Address any policies, practices and procedures (PPP) identified by the district as contributing to the significant disproportionality
- Publicly report on any changes to PPP

State Requirements in IDEA

- In the case of a determination of significant disproportionality in a district, the State shall:
 1. provide for the review and, if appropriate, revision of the policies, procedures, and practices used in discipline, identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this title;
 2. require the local educational agency to publicly report on the revision of policies, practices, and procedures; and
 3. require any local educational agency identified to reserve the maximum amount of funds to provide CCEIS to serve children in the local educational agency, particularly children in those groups that were significantly over identified.

1. “Provide for the Review of PPP...”

- The OSDE-SES Data and Compliance Teams will:
 - Require completion of a root cause analysis to identify factors contributing to the determination of significant disproportionality
 - Require completion of a plan to address the factors
 - Review whether the analysis and the plan are valid, reasonable and comprehensive
 - Review whether any proposed changes to PPP have been completed
 - Monitor the plan’s implementation and results

2. “Require PPP Public Reporting...”

- If noncompliance is found and/or the contributing factors include district policies, practices & procedures:
 - Changes must be made
 - Changes must be publicly reported
- OSDE-SES will review proposed and finalized changes to PPP to determine whether appropriately address contributing factors.
- OSDE-SES will post all adopted changes on its website to meet the public reporting requirement.

3. “Require the 15% CCEIS Set-Aside...”

- The OSDE-SES Finance Team will:
 - Provide for the allocation and budgeting of CCEIS funds in GMS
 - Allow districts to identify the proportions of all 611 and 619 funds to reserve and the source year (reaching the 15% maximum of the sum of both funds)
 - Review the proposed budget to ensure matches the root cause analysis and proposed improvement plan
 - Approve the budget
 - Review and approve claims and track funds used for CCEIS
 - Require periodic reports and progress updates

LEAs May Use CCEIS Funds For...

- For planning and analysis of root causes/contributing factors
- To revise policies, practices & procedures
- Training and professional development
- Educational and behavioral evaluations, services and supports
- Other activities and purchases identified under CEIS, which *may* include salaries, indirect costs, technology, etc.

...But only to the extent these address the contributing factors.

Use of Funds, Cont'd

From pp. 21-22 of OSEP's [Essential Questions & Answers on Significant Disproportionality](#), funds may be used...

- To target a subset of school sites.
- To operate a district-wide program, in certain cases.
- To fund salaries, but only duties/activities related to the contributing factors that have not been funded previously.

For example...

- Addressing OHI for White students:
 - Increase training on identification of educational impact
 - Increase outreach to medical and other professionals to ensure focusing on the educational impact of a diagnosis
- Addressing SLD for Native American students:
 - Improve implementation of RTI and other forms of early intervention
- Addressing ED for African-American students:
 - Audit evaluations, review identification criteria and reassess categorization
 - Change policies, practices and procedures to ensure correct identification

MOE and CCEIS

- LEAs required to set aside funds for CCEIS cannot reduce the district's MOE.
- Funds must supplement not supplant.
- Funds cannot be used to provide services already required by law.
- Funds cannot be used to provide services that were paid for with other funds in a previous year.

Resources I

- <https://Cifr.wested.org/resources/ceis/ceis-step-by-step-significant-disproportionality>
- <https://www2.ed.gov/policy/special/guid/idea/memosdcltrs/significant-disproportionality-qa-03-08-17.pdf>
- http://www.niusileadscape.org/docs/FINAL_PRODUCTS/LearningCarousel/Distinguishing_Difference_from_Disability.pdf
- http://www.doe.virginia.gov/special_ed/tech_asst_prof_dev/self_assessment/disproportionality/an_assessment_and_strategic_planning_process.pdf
- https://www.researchgate.net/publication/296706566_Preventing_DISPROPORTIONALITY_by_Strengthening_District_Policies_and_Procedures_-_An_Assessment_and_Strategic_Planning_Process

Resources II

- https://www.researchgate.net/publication/49610272_Addressing_the_Disproportionate_Representation_of_Culturally_and_Linguistically_Diverse_Students_in_Special_Education_through_Culturally_Responsive_Educational_Systems
- <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-racedisc-special-education.pdf>
- <https://www.spptap.org/significant-disproportionality/>
- https://steinhardt.nyu.edu/scmsAdmin/media/users/ll81/Identifying_the_Root_Causes_of_Disproportionality.pdf
- <https://rti4success.org/related-rti-topics/special-education>
- <https://iris.peabody.vanderbilt.edu/module/preref/>
- <https://www.youtube.com/watch?v=Jo-eibC0IrY&feature=youtu.be>

Questions & Contacts

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