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Alabama has worked diligently to address disproportionality in special education since 2000 through the initiatives of the *Lee v. Macon* Special Education Consent Decree. This Consent Decree required special education programs in Alabama to address the over-representation of African-American students identified as having mental retardation (MR) and emotional disturbance (ED) and the under-representation of African-American students identified as having a specific learning disability (SLD) and giftedness (GT). Alabama has made significant progress in reducing the disparities and, in December 2006, was granted unitary status with the provision that the state would continue to provide training to teachers, administrators and evaluators with regard to disproportionality.

With the reauthorization of the Individuals with Disabilities Education Act (IDEA) 2004, the focus of disproportionality is taken to the next level. The IDEA 2004 regulations extend the directives of the Consent Decree mandates to include an analysis of three additional disability areas: Autism (AUT), Other Health Impairment (OHI), and Speech or Language Impairment (SLI) in addition to MR, ED and SLD. It further requires the state and local education agencies (LEAs) analyze disproportionality data by race and ethnicity with regard to placements in the least restrictive environment (LRE) and disciplinary actions resulting in suspensions and expulsions.

Congress commissioned the National Academy of Sciences to study disproportionality in 1982 and again in 2002. As a result of those studies, "Congress contends that: (1) greater efforts are needed to prevent the intensification of problems connected with mislabeling minority children with disabilities; (2) more minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population; (3) African-American children are identified as having MR and ED at rates greater than their White counterparts; (4) in the 1998-1999 school year, African-American children represented 14.8% of the population aged 6 through 21, yet comprised 20.2% of all children with disabilities served in our schools; and (5) students have found that schools with predominantly white students and teachers have placed disproportionately high numbers of their minority students into special education." (Williams, P. Building the Legacy: IDEA 2004 Training Curriculum). Disproportionality is a complex problem - a

symptom, not a cause.



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This module will:

- Define disproportionality.
- Discuss the implications of significant disproportionality.
- Identify why disproportionality is a priority.
- Identify IDEA 2004's provisions to address disproportionality.

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What is Disproportionate Representation?

Disproportionate representation, commonly referred to as disproportionality, is defined as "the extent to which membership in a given group affects the probability of being placed in a specific special education disability category." (Oswald, et.al. 1999)

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Disproportionality in the context of IDEA refers to comparisons made among groups of students by race or ethnicity who are identified for special education and related services. When students from particular racial or ethnic groups are identified at rates greater than or lesser than all other students, then that group may be said to be disproportionately represented.

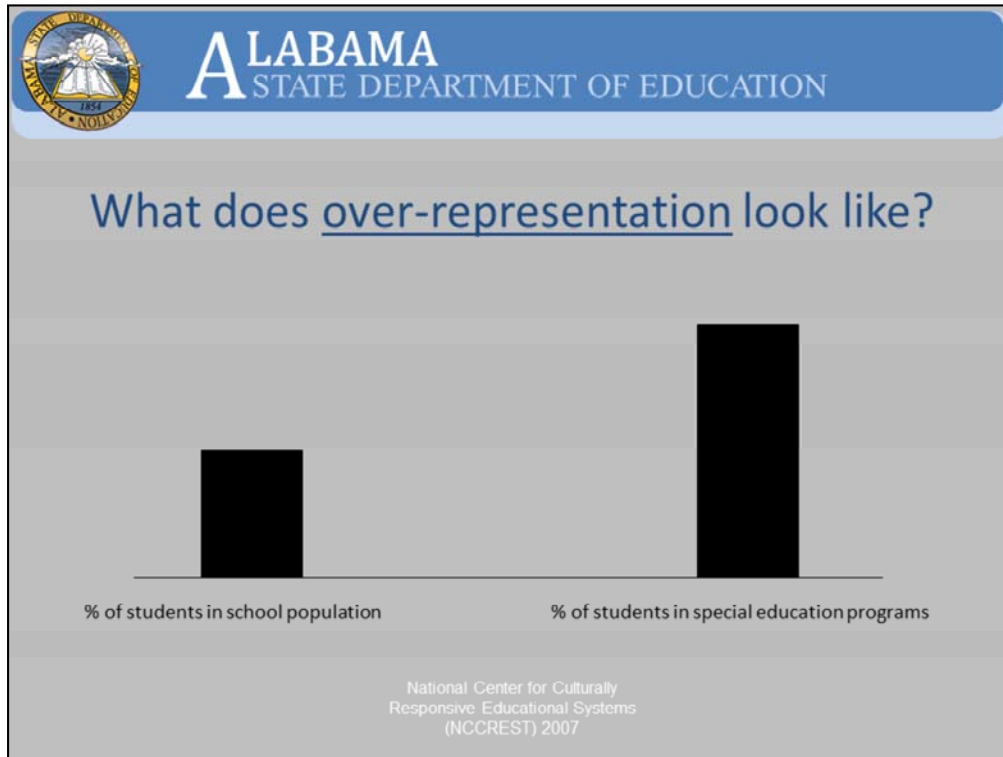


What is Disproportionate Representation?

- Disproportionality exists when a specific group is over- or under-represented in a specific category area.
- Disproportionality encompasses both "over-representation" in high incidence disabilities and "under-representation" in programs for gifted and talented.
- Disproportionality often means the over-identification of a particular racial or ethnic group in special education.

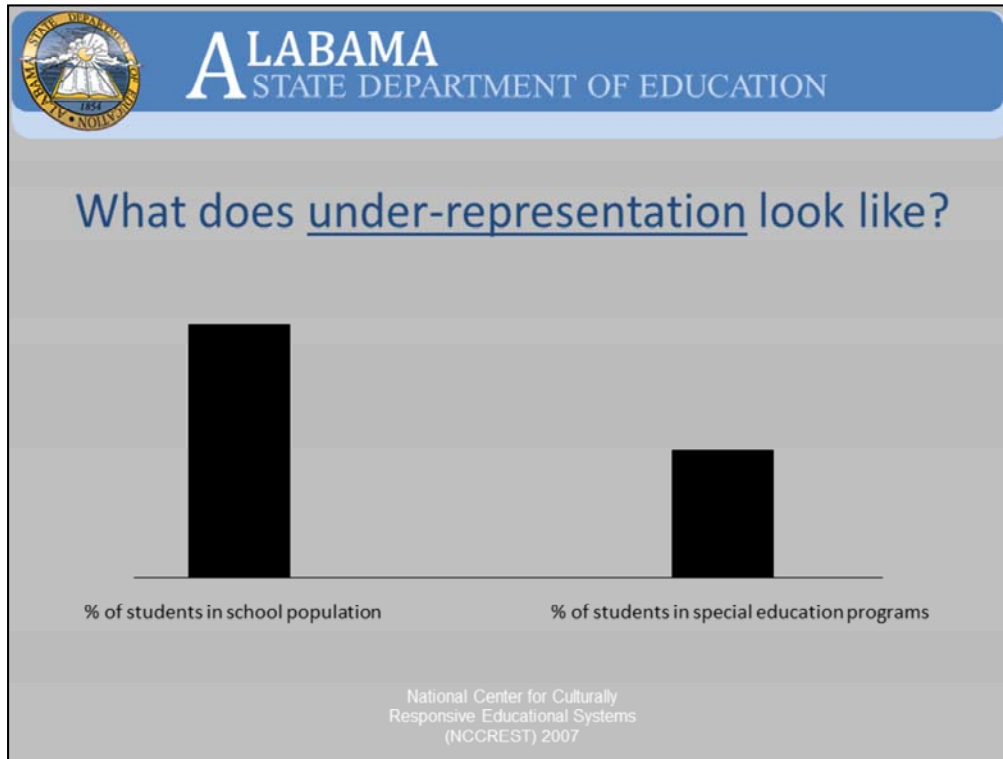
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In the state of Alabama, the high incidence disability areas are mental retardation (MR) now referred to as intellectual disability (ID), specific learning disability (SLD), and emotional disturbance (ED) now referred to as emotional disability (ED).



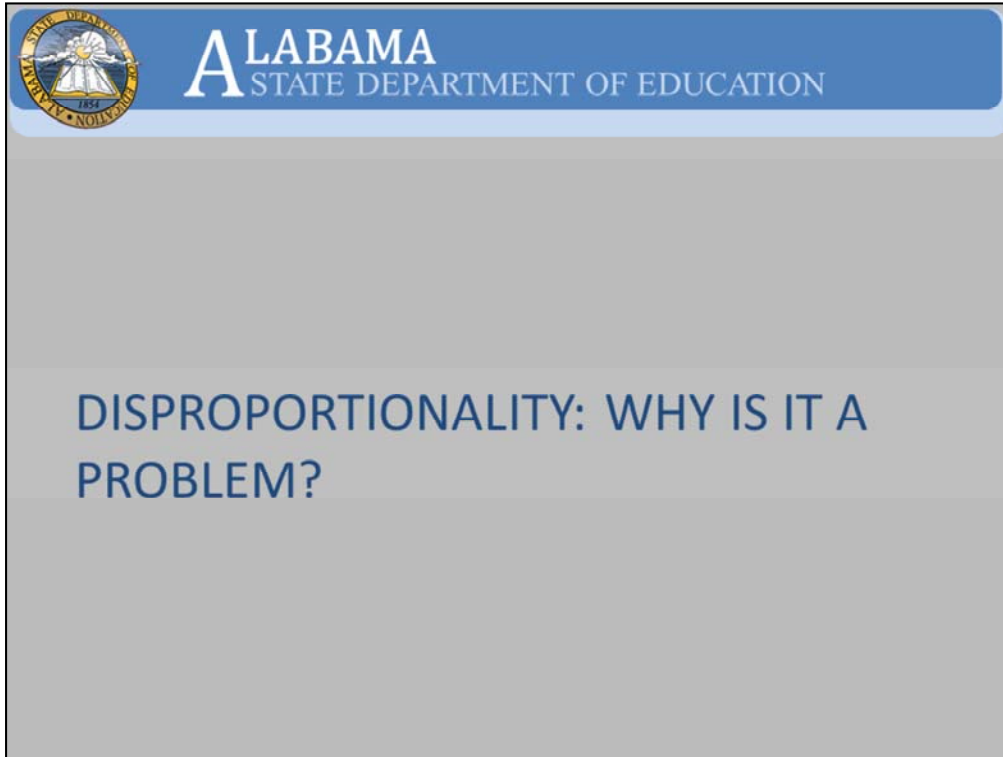
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When a particular racial or ethnic group is represented in special education at a rate greater than the population in general, the group is said to be over-represented.



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Conversely, when the percentage of a racial or ethnic group is less than what is found in the general population, the group may be described as under-represented. According to the Civil Rights Project at Harvard University (2002), national data indicate that Hispanic and Asian-American children are under-identified in cognitive disability categories compared to White children, "raising questions about whether the special education needs of these children are being met." At the same time, perplexingly school and district data show instances where Hispanics are over-represented, suggesting that "there are both over- and under-representation concerns" for these minority groups. Concerns have also been raised regarding the under-representation of children in particular racial or ethnic groups in programs for the gifted and talented and of Asian students receiving special education services. In these cases for under-representation, the percentage of African-American and Hispanics for gifted and talented programs and Asian students receiving special education services may be less than what is found in the population in general.



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The literature distinguishes between high incidence and low incidence disability categories. Diagnoses for high incidence disability categories such as mild to moderate mental retardation or intellectual disability (ID), emotional disability (ED) or specific learning disability (SLD) rely on the “art” of professional judgment; whereas, nonjudgmental low incidence disabilities refer to categories such as deaf-blindness (DB), orthopedic impairments (OI) or severe mental retardation or intellectual disability (ID). Often children who are identified in the high incidence disability categories rarely come to school with a disability determination. They are referred to special education only after they have failed to achieve in the general education classroom (Donovan and Cross, 2002). Therefore, disproportionality is a general education issue as much as it is a special education issue.

How would you rate your knowledge of disproportionality? Options: (1) I know it all; (2) I know a little; or (3) I know nothing.

ALLOW TIME FOR DISCUSSION.



Disproportionality: Why is it a problem?

"Among the conceptual factors that can influence disproportionate representation are issues of race and its definition and significance." (Hilliard, 2001)

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It is evident that children of some racial or ethnic groups are over-represented in some categories of special education. More specifically, research data show that the problem of disproportionality is especially apparent for African-American males in high incidence disability categories such as mental retardation or intellectual disabilities (ID) and emotional disabilities (ED). As a result of two comprehensive studies on disproportionality, Congress requires action to investigate and eliminate it.



Excerpts from Findings in IDEA 2004 Statute

- ❖ The Federal Government must be responsive to the growing needs of an increasingly diverse society.
- ❖ America's ethnic profile is rapidly changing. In 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient (LEP).

Public Law 108-446 Section 601(c),
Findings

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It is for these reasons that we must pay particular attention to the general education context where the problem of disproportionality originates.

ALLOW TIME FOR DISCUSSION.



Excerpts from Findings in IDEA 2004 Statute

- ❖ Minority children comprise an increasing percentage of public school students.
- ❖ With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession in order to provide appropriate role models with sufficient knowledge to address the special education needs of these students.

Public Law 108-446 Section 601(c),
Findings.

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Excerpts from Findings in IDEA 2004 Statute

- ❖ Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.
- ❖ Such discrepancies pose a special challenge for special education in the referral of, assessment of, and provision of services for our nation's students from non-English speaking language backgrounds.

Public Law 108-446 Section 601(c),
Findings.

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Excerpts from Findings in IDEA 2004 Statute

- ❖ The limited English proficient population is the fastest growing in our nation, and the growth is occurring in many parts of our nation.
- ❖ Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

Public Law 108-446 Section 601(c),
Findings.

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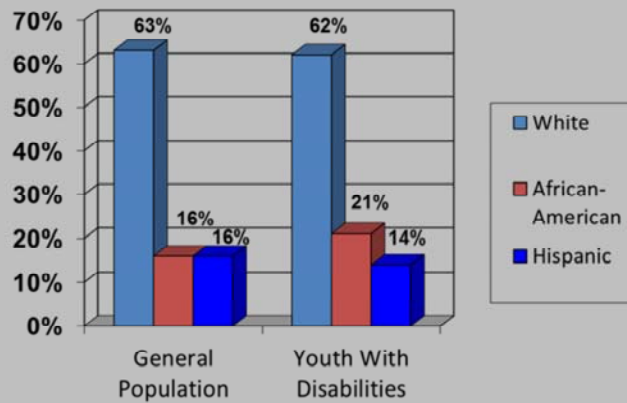
Implications of Over-representation

- Students may be misclassified or inappropriately identified.
- Students may be denied access to the general education curriculum.
- Students may receive services that do not meet their needs.

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Racial/Ethnic Backgrounds of Youth in the General Population and Youth with Disabilities



Wagoner, Cameto, & Guzman (2003)

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Nationally, White students make up approximately 63% of the total population and 62% of students with disabilities; African-American students make up approximately 21% of the students with disabilities but only 16% of the total population; and Hispanic students make up approximately 14% of students with disabilities but 16% of the total population.



Major Factors that Contribute to Disproportionality

- Socio-demographic issues associated with poverty.
- Unequal educational opportunities for students of color, English language learners, and disadvantaged students.
- The special education referral and placement processes.

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African-American youth placed in special education programs experience fewer positive outcomes than their White counterparts. They (1) are more likely to be assigned to segregated classrooms or placements; (2) have limited access to inclusive and general education environments; (3) experience higher dropout rates and lower academic performance; (4) are exposed to substandard and less rigorous curricula (Ferri & Conner, 2005) and (5) may be classified or inappropriately identified.



**African-American Youth Placed in
Special Education Programs:**

- Have fewer positive outcomes than their White counterparts.
- Are more likely to be assigned to segregated classrooms or placements.
- Have limited access to inclusive and general educational environments.
- Experience higher dropout rates and lower academic performance.

The Civil Rights Project, Harvard
University 2002

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African-American Youth Placed in Special Education Programs:

- Are exposed to substandard and less rigorous curricula (Ferri & Connor, 2005)
- May be misclassified or inappropriately labeled;
- May receive services that do not meet their needs.
- Are less likely than their White counterparts to return to general education classrooms".

The Civil Rights Project, Harvard
University 2002

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Other Causal Factors for Disproportionality

- Failure of general education to educate children from diverse backgrounds.
- Misidentification and the misuse of test.
- Lack of access to effective instruction in general education programs.
- Insufficient resources and less well-prepared teachers.
- Poverty.

Disproportionality & Overrepresentation
(NCCREST)

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With respect to the latter theory – that poverty can explain the over-representation in intellectual disability and emotional disability – the Civil Rights Project at Harvard writes that the theory is contradicted by national trends revealed by the data. For example, the poverty theory fails to explain: (a) why gross racial disparities are on found in the ID and ED disability categories and not in SLD or any of the medically diagnosed disability categories; or (b) why Hispanics have a far lower identification rate for ID and ED than both African-American and Whites, despite the fact that African-Americans and Hispanics share a far greater risk than Whites for poverty, exposure to environmental toxins and low academic achievement (Civil Rights Project, 2002).



What States Must Do

§300.173 Over-identification and Disproportionality

The state must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate over-identification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in §300.8.

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What States Must Do

§300.646 Disproportionality

Each State that receives assistance under Part B of the Act, and the Secretary of the Interior, 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 of the State with respect to...

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What States Must Do

- (1) The **identification** of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3) of the Act.
- (2) The **placement** in particular education setting of these children; and
- (3) The incidence, duration, and type of disciplinary actions including **suspensions and expulsions**.

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The process of determining if significant disproportionality based on race and ethnicity is occurring in the State or LEAs of the State begins with the State having policies and procedures as discussed on slide 19 and then ensuring that specific data are collected (i.e., the numbers and types of children in special education, the disability categories for which they are identified, and the other factors mentioned in IDEA such as placement and disciplinary actions). The State must then analyze the data to see if significant disproportionality exists. If significant disproportionality is identified, then the State must take specific actions. But, first, let's learn more about significant disproportionality in the IDEA regulations---how it is defined and how it is determined.



What is Significant Disproportionality?

Each State has the discretion to define the term for the LEAs and for the State in general. Therefore, in identifying significant disproportionality, a State may determine statistically significant levels.

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There are no national standards for determining “significant disproportionality”. Alabama uses Child Count data and Total Enrollment data to calculate the risk ratio and weighted risk ratio in determining significant disproportionality.

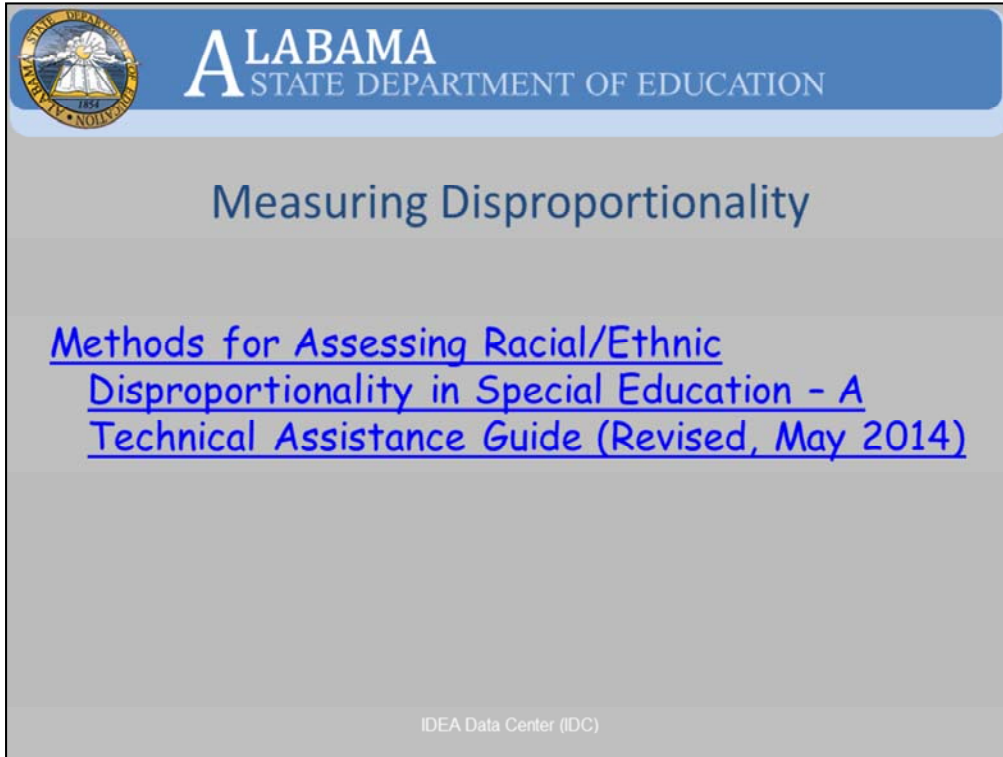


Significant Disproportionality

Section 618(d)(1) of the Act is clear that the determination of significant disproportionality by race or ethnicity is based on a collection and examination of data, **and not on a district's policies, procedures, or practices** (IDEA Regulations §300.646).

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A review of an LEA's policies, procedures, and practices to determine whether they are consistent with the IDEA is a consequence of the State determining that the LEA has significant disproportionality with regard to the identification, placement in the LRE, or disciplinary actions including suspensions and expulsions of students with disabilities.



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The Department of Education through the IDEA Data Center (IDC) has developed a technical assistance guide that describes the methods by which a State or LEA may analyze their data and determine whether it reveals disproportionality by race or ethnicity. It should be noted that although the guide indicates multiple methods for determining disproportionality, at this time Alabama defines disproportionality based on criteria using the Risk Ratio and Weighted Risk Ratio.

The direct link to the document is http://ideadata-admin.s3.amazonaws.com/docs/IDC_TA_Guide_508-Compliant-052814.pdf.



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WHAT HAPPENS IF THERE IS A
DETERMINATION OF SIGNIFICANT
DISPROPORTIONALITY?

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When there is a finding of significant disproportionality...

LEAs must:

- provide for the review and revision (if appropriate) of policies, practices, and procedures to ensure compliance with IDEA requirements;
- reserve funds to be used for a comprehensive coordinated early intervening services (CEIS);
- publicly report on the revisions of policies, procedures, and practices.

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When States identify districts as having significant disproportionality based on race or ethnicity with respect to the identification, placement, or disciplinary actions, three things must occur: 1) provide for the review and revision (if appropriate) of policies, procedures and practices to ensure compliance with IDEA requirements; 2) require the LEA to reserve funds to be used for coordinated early intervening services (CEIS); and 3) require the LEA to publicly report on the revisions of policies, procedures and practices.



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When there is a finding of significant disproportionality...

States must:

Require LEAs to use 15% of Part B funds for early intervening services...particularly, but not only for children in those groups significantly over-identified.

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Under IDEA 2004, school districts are required to use 15% of their Part B funds to develop and provide coordinated early intervening services (CEIS) to children who are not currently identified as children with disabilities but who are in need of academic and behavioral support in order to succeed in the general education environment. CEIS is for children in kindergarten through 12th grade (with particular emphasis on students in grades K-3). CEIS are not services designated for children with disabilities—in fact, if a child has been determined eligible for special education and related services, that child would not be eligible for CEIS. However, a child who was previously identified as being a child with a disability by who currently does not need special education services would not be prevented from receiving CEIS.



Coordinated Early Intervening Services (CEIS)

- Professional Development
- Educational and Behavioral Evaluation, Services, and Supports



Reporting Disproportionality

States must annually report the percentage of LEAs with disproportionate representation of racial and ethnic groups in special education and related services that result from inappropriate identification.



Zeroing in on Specific Disability Categories

- Autism
- Emotional Disability
- Intellectual Disability
- Other Health Impairment
- Specific Learning Disability
- Speech or Language Impairment



Summary

- IDEA ensures that children with disabilities receive a free appropriate public education (FAPE).
- Schools must have in place appropriate procedures to determine if the child referred is a child with a disability who requires special education and related services to achieve progress in the school curriculum.
- As professionals, we must attend to all phases of the placement process including the decision-making process that leads to evaluation, development of the IEP and the resulting placement.



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