

# Disproportionality in Special Education

Presented by:  
Exceptional Children Resources



# *Technical Assistance Sources:*

- *Disproportionality in Special Education: Where and Why Overidentification of Minority Students Occurs*, By Sue Gamm, Esq., LRP Publications
- *Reducing Disproportionality in Special Education: Together We Can!* Webinar Series Developed by the Regional Resource Center, Presented February through May, 2009; Accessible at <http://spp-apr-calendar.rrfcnetwork.org/explorer/view/id/631>

# *Technical Assistance Sources:*

- *The National Center for Culturally Responsive Educational Systems* Accessible at [www.nccrest.org](http://www.nccrest.org)

## *States Must Address:*

(1) “Disproportionate Representation”

34 C.F.R. § 300.600(d)(3)

(2) “Significant Disproportionality”

34 C.F.R. § 300.646

# *“Disproportionate Representation”*

- First, the State must collect and review data from all LEAs concerning the over-representation and under-representation in identification of all racial and ethnic groups.
- Second, the State must determine if there is disproportionate representation of racial and ethnic groups in identification.
- Third, if disproportionate representation exists, the State must determine the extent to which it is the result of inappropriate identification.
- Fourth, the State must report the disproportionate data and the State’s conclusions in Indicators 9 and 10 of the State Performance Plan and Annual Performance Report.

# Disproportionate Representation

- Indicator 9 - Overall Identification for Special Education.

## Calculating the Relative Difference:

- Total Enrollment – 10,168
- Total Black Enrollment – 3,909
- Black Enrollment Percentage – 38.4%
- Total Special Ed Enrollment -1,108
- Total Black Special Ed – 605
- Percent Black Special Ed – 54.6%
- Relative Difference =  $(54.6\% - 38.4\%) / 38.4\% = 0.42$
- A Relative Difference greater than 0.21, with a cell size of 10 or more students indicates Disproportionate Representation.

Significant Disproportionality – Indicates two consecutive years with a Relative Difference greater than 0.3 and a cell size with 15 or more students.

# Disproportionate Representation

## Indicator 10 - Identification for Specific Disability Groups

### Calculating the Relative Difference:

- Total Black Enrollment – 2,182
- Black Enrollment Percentage – 25.0%
- Total Black LD -151, Total LD– 441
- Percent Black Special Ed LD – 34.2%
- Relative Difference =  $(34.2\% - 25.0\%) / 25.0\% = 0.37$
- A Relative Difference greater than 0.21, with a cell size of 10 or more indicates Disproportionate Representation.

Significant Disproportionality – Indicates two consecutive years with a Relative Difference greater than 0.3 and a cell size with 15 or more students.

# *“Significant Disproportionality”*

The State has a separate obligation to collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the LEAs of the State with respect to the:

- (1) identification of children as children with disabilities (including identification in particular categories);
- (2) the placement of children in restrictive placements; and
- (3) the incidence, duration, and type of disciplinary actions.



# *What Happens if the State Identifies an LEA with Significant Disproportionality?*

The State must:

First - Provide for the review and, if appropriate, revision of the policies, procedures, and practices, used in the identification, placement, or discipline of children with disabilities.

Second - Require the LEA to reserve 15% of IDEA funds to provide comprehensive early intervening services to serve children who have not been identified.

Third - Require the LEA to publicly report on the results of any revision of policies, practices, and procedures, as a result of the review.

# Comparison....

## Disproportionate Representation

- The focus is on identification only
- A State monitoring priority. Relates to Indicators 9 & 10 of State Performance Plan and Annual Performance Report
- State must do more than just examine numerical information
- State must use monitoring data, and review of policies, practices, and procedures to determine if disproportionate representation results from inappropriate identification
- Focuses on over-representation and under-representation

## Significant Disproportionality

- The focus is on identification, placement, and disciplinary actions
- State must annually identify LEAs having significant disproportionality and notify LEAs
- Significant disproportionality is determined by a numerical examination of data only
- If significant disproportionality is identified, State must order LEA to reserve 15% for CEIS; provide for the review and revision of policies, practices, and procedures; and require the LEA to publicly report on any revision
- Focuses on over-representation only

## *Disproportionality in Special Education*

- On May 10, 2011, the Department sent letters to all districts
- Each district must provide a report to the Department, in writing, no later than November 1, 2011 describing the process used to conduct the review and the conclusions reached by the district.

# *Disproportionality in Special Education*

## How to Conduct a Review of Policies, Practices, and Procedures

# *How to Conduct a Review of Policies, Practices, and Procedures*

- Many strategies exist to address disproportionality. The Department does not mandate a particular standard of review.
- Districts should not consider disproportionate representation to be a “problem” that must be fixed by special education administrators.
- Rather, research supports the conclusion that disproportionality should be addressed through schoolwide system review involving general education.

# *How to Conduct a Review of Policies, Practices, and Procedures*

For example, depending on the scope of the review, districts can consider reviewing:

- the frequency and quality of the general education early intervention provided to students;
- the quality of the general education instruction provided to students;
- whether effective progress monitoring is occurring;
- the use and effectiveness of positive behavioral supports provided in the general education setting; and
- any other relevant subject areas.

# *How to Conduct a Review of Policies, Practices, and Procedures*

The scope of the review will depend upon the areas in which the district was found to have disproportionality.

In other words, each district should tailor its review of policies, practices, and procedures based on the findings of disproportionality specific to each district.

*Caveat:* A district can always conduct a broader review and system analysis than required by the State. It is up to the district.



# *Some Steps to Consider...*

## Step One - Start Planning and Make Decisions

- (a) Establish a disproportionality team within your district, including general and special education representatives, and others as appropriate
- (b) Identify the area(s) the district was found to have significant disproportionality. Was it identification, placement, and/or discipline?
- (c) Discuss and plan the scope of the district's review



# *Some Steps to Consider...*

## Step One Continued...

- (d) Make an informed decision about what areas will be reviewed. For example, will the district review its referral practices; the comprehensiveness of evaluations; how placement decisions are made; how; eligibility decisions are made; whether effective progress monitoring is occurring; whether general education early intervention is provided; how suspensions and expulsions are determined; whether positive behavioral supports are provided in the general education environment; etc.
  
- (e) Review additional resources and literature on disproportionality as needed

# *Some Steps to Consider...*

## Step One Continued...

- (f) Consider what evidence sources will be considered by the district. Depending upon the scope of the district's review, the district should gather information from a variety of evidence sources, such as:
- review of written district and school policies and procedures;  
student file reviews;
  - interviews with district and school administrators, teachers, and others; review of district and school forms, and other documents;
  - information from classroom observations conducted by the disproportionality team or others

# *Some Steps to Consider...*

## Step One Continued....

- (g) Decide which schools will be reviewed for school-based policies and practices
- (h) As applicable, decide how to select student files to review, and whether such files should be representative of relevant ethnic and/or minority groups
- (i) Determine the tool to be used to gather information. For example, will the district use a protocol for student file reviews, interviews, and/or classroom observations, or some other method.

# *Some Steps to Consider...*

## Step One Continued...

- (j) Discuss roles and responsibilities of each team member, including drafting of the report to the Department, and any necessary revision to policies, procedures, and practices, including timeline for publication.
  
- (k) Set up Timelines
  
- (l) Contact the Department with any questions or concerns, including the required review process, or the data that resulted in the finding(s) of significant disproportionality for the district

# *Some Steps to Consider...*

## Step Two – Review Written Policies and Procedures

- (a) Review and analyze all written district and/or school policies and procedures that are relevant to your district's finding(s) of disproportionality and self- assessment.
  
- (b) Convene the disproportionality team and discuss the findings. Determine whether there are any written district and/or school policies and procedures that are inconsistent with the IDEA and state law concerning the identification of children with disabilities, the placement in particular educational settings of such children, and/or the discipline of such children.

# *Some Steps to Consider...*

## Step Two Continued...

- (c) If the district determines there are written policies and procedures that are inconsistent with the IDEA and state law, determine how the district will respond, including the revision of such policies and procedures, and the public reporting of the revision.

# *Some Steps to Consider...*

## Step Three - Review District and School-Based Practices

- (a) Gather information about district and school-based practices through the evidence sources determined appropriate by the disproportionality team.

# *Some Steps to Consider...*

## Step Three Continued...

- (b) Once the information is gathered, convene the disproportionailty team to discuss the findings. Determine the strengths and weaknesses of district and school-based practices. Determine whether there is evidence of district and/or school-based practices that are inconsistent with the IDEA and state law.



# *Some Steps to Consider...*

## Step Three Continued...

- (c) If the district determines there are district and/or school-based practices that are inconsistent with the IDEA and state law, determine how the district will respond, including the revision of practices, and the public reporting of such revision.

# *Disproportionality in Special Education*

## How to Report the Results of the District's Review to the Department



# *The District's Report*

- I. Describe the review of policies, practices, and procedures conducted by the district, and include the following:
  - (a) A description of the specific areas reviewed by the district.
  - (b) For each area reviewed, describe the evidence sources that were gathered and considered.
  - (c) Describe the staff involved in the review process.

# *The District's Report*

II: Describe the conclusions reached by the district, and include the following:

- (a) Whether the District found evidence of district and/or school-based practices that are inconsistent with the IDEA and state law concerning the identification of children with disabilities, the placement in particular educational settings of such children, and/or the discipline of such children.

## *The District's Report*

- (b) Describe how the district will respond to its findings, including any action steps to be taken.
  
- (c) Describe whether, as a result of the review, the district has or will revise any policies, practices, or procedures used in the identification, placement, or discipline of children with disabilities. Also describe how and when the district will publicly report on any such revisions.

# *The District's Report*

Note: The district can provide the Department with a copy of its public notice, or inform the Department how to access the public notice through, for example, a web link.