

Disproportionality of Racial and Ethnic Groups in Special Education

Technical Assistance Webinar

October 2, 2009

Presented by:

Martha Toomey, Director
Exceptional Children and Early Childhood Group

Jennifer Kline, Esq., Education Associate
Procedural Safeguards & Monitoring



What will we cover in this webinar?

Part I: Brief Overview of Disproportionality and Pertinent Regulations

Part II: How to Conduct a Review of Policies, Practices, and Procedures

Part III: How to Report the Results of the District's Review to the Department

Before we start . . .

There are a number of existing resources to assist school districts, charter schools, and other public agencies with understanding disproportionality, and how to conduct a review of practices, policies, and procedures.

Here are a few . . .

- *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>.

Here are a few . . .

- *The National Center for Culturally Responsive Educational Systems* Accessible at www.nccrest.org.

Disproportionality in Special Education

Part I:

Brief Overview of Disproportionality and Pertinent Regulations

Disproportionality in Special Education

Long-standing concerns that children from certain racial and ethnic groups are:

- Inappropriately identified as special education students;
- More likely to be placed in restrictive placements than other students; and
- More frequently subjected to disciplinary actions than other students.

Disproportionality in Special Education

National patterns and data trends documented and established over time continually show disproportionate representation.

A constant and consistent area of concern at the national level.

Congressional Findings . . .

When the IDEA was reauthorized in 2004, Congress specifically found:

- (1) Minority children are identified as having emotional disturbance and mental retardation at rates greater than their white counterparts.
- (2) More minority children continue to be served in special education than would be expected from the percentage of minority students in general school population.

Congressional Findings . . .

- (3) In the 1998-1999 school year, African-American children represented 14.8% of the population of students ages 6 through 21, but comprised 20.2% of all those with disabilities.
- (4) Studies have found that schools with predominantly white students and teachers have placed disproportionately high numbers of minority students in special education.

So, What is the State's Role in this?

IDEA 2004 Increased the Focus on Disproportionality and the State's Responsibilities to Monitor and Address It.

Two Major Requirements:

(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.

“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.

So, what really is the difference between the terms “*disproportionate representation*” and “*significant disproportionality*”?

Here are a few . . .

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.

15 Districts Identified with Significant Disproportionality (2007-2008 Data)

Appoquinimink
Red Clay
Brandywine
Seaford
Caesar Rodney
Smyrna
Cape Woodbridge
Capital
Christina
Delmar
Indian River
Lake Forest
Laurel
Milford

15 Districts Determined with Significant Disproportionality (2007-2008 Data)

- On July 29, 2009, the Department sent letters to all 15 districts.
- Each district is required to conduct a self-assessment of policies, practices, and procedures based on the findings of significant disproportionality.

15 Districts Determined with Significant Disproportionality (2007-2008 Data)

- Each district must provide a report to the Department, in writing, no later than December 1, 2009 describing the process used to conduct the review and the conclusions reached by the district.
- Each district must also publicly report on the revision of any policies, practices, and procedures used in the identification, placement, or discipline of children with disabilities as a result of the review.

Before we move on...

Any Questions?

Disproportionality in Special Education

Part II:

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 school-wide system review involving general education.

“How to” Conduct a Review of Policies, Practices, and Procedures”

- When conducting a review of policies, practices, and procedures, districts should consider assessing the procedures and practices applied in the general education system. Not just special 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 significant disproportionality.

In other words, each district should tailor its review of policies, practices, and procedures based on the findings of significant 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 One Continued . . .

- (m) Sketch out the district's review plan, give to team members, and get started.

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 significant 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. As mentioned, such sources could include, student file reviews, classroom observations, interviews with district and school administrators, teachers, and others, and review of district and school forms, etc.

Some Steps to Consider . . .

Step Three Continued . . .

(b) Once the information is gathered, convene the disproportionality 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 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 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.

Some Steps to Consider...

Step Four - Review the Process Used and Findings

- (a) Convene the disproportionality team to discuss the strengths and weaknesses of the review process used by the district. For example, was it effective? Did it result in valuable information? Did the review process assist the district in addressing disproportionality?

Some Steps to Consider . . .

Step Five - Draft and Submit the District's Report to the Department

- (a) Prepare the district's written report to the Department describing the specific review process used by the district, and the conclusions reached by the district.

A couple of things to note . . .

- The Department offers this approach as guidance only.
- Districts can tailor their own review process, but must assure it is an adequate review to address, at a minimum, the findings of significant disproportionality.
- A helpful source providing model protocols and interview questions can be found in: *Where and Why Overidentification of Minority Students Occurs*, by Sue Gamm, Esq., LRP Publications.

Before we move on...

Any Questions?

Disproportionality in Special Education

Part III:

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

How to Report to the Department

- By December 1, 2009, each district must submit a written report to the Department describing the process used to conduct the review, the conclusions reached by the district, and whether any revision of policies, practices, and procedures occurred.

Here are some suggestions for outlining the district's report...

I. In the first part of the report, 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.

(For example, did the district review its referral practices; how eligibility decisions are made; disciplinary practices, etc.)

Here are some suggestions for outlining the district's report...

(b) For each area reviewed, describe the evidence sources that were gathered and considered.

(For example, if the district reviewed student files to examine evaluation practices, how many files were reviewed, how were the files selected, from which grades and schools, were the student files representative of certain racial and ethnic groups).

Here are some suggestions for outlining the district's report...

(c) Describe the staff involved in the review process.

(For example, did the district use a disproportionality team. Did the team include general and special education representatives?)

Here are some suggestions for outlining the district's report . . .

Part II: In the second part of the report, 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.

Here are some suggestions for outlining 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.

Here are some suggestions for outlining 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.

Any Questions?

Discussion and Questions . . .

Here are some case studies for discussion:

Case Study Review

If a district has significant disproportionality in the identification of children in particular disability categories:

Consider Student File Reviews

- **Choose files based on data**
 - School and grade level reflective of over-representation
 - Grade based on academic profile data
- **Selection of files**
 - Proportionate sample based on enrollment demographics
 - Additional sample reflecting over-represented group
 - Sample of students found eligible and non-eligible
- **Content**
 - Evaluation & Eligibility Processes
 - Consistent practices across student groups?
 - General education interventions provided before referral
 - RTI practices for academic and behavior support

Case Study Review

If a district has significant disproportionality in the identification of children in particular disability categories:

Consider Staff Interviews

- **Choose staff to interview based on data**
 - In schools based on over-representation and corresponding file review
 - RTI and screening data – number of students below benchmark
 - Representative of general/ special educators, service providers
- **Interview Process – What to ask**
 - Consider use of tool with interview questions
 - Discuss referral practices, RTI process, eligibility process

Case Study Review

If a district has significant disproportionality in the identification of children in particular disability categories:

Consider Class Observations

•Class Observations

- Consider use of tool or protocol
- Conducted by general and special education personnel
- General education instructional practices, classroom management
- Review RTI practices and interventions provided before referral

Case Study Review

If a district has significant disproportionality in disciplinary actions:

Consider Student File Reviews

- **Choose files based on data**
 - School and grade level reflective of over-representation
- **Selection of files**
 - Proportionate sample based on enrollment demographics
 - Additional sample reflecting over-represented group
 - Consider sample of students w/ similar offenses, with and without disabilities, variety of disability categories, students w/ over 10 days of suspension (FAPE)

Case Study Review

If a district has significant disproportionality in disciplinary actions:

Consider Student File Reviews

•Content

- Consistent discipline & behavior support practices across student groups
- Academic and behavior interventions provided
- Adequacy of Functional Behavior Assessment & Behavior Support Plans
- Progress monitoring data for behavior interventions

Case Study Review

If a district had significant disproportionality in disciplinary actions:

Consider Staff Interviews

- **Choose staff to interview based on data**
 - In schools based on over-representation and corresponding file review
 - Representative of general/ special educators, service providers
- **Interview Process**
 - Consider use of tool with interview questions
 - Consistency of discipline and behavior support practices
 - Awareness of needs of diverse student population

Case Study Review

If a district had significant disproportionality in disciplinary actions:

Consider Class Observations

•Class Observations

- Consider use of tool or protocol
- Conducted by general and special education personnel
- General education instructional practices
- Classroom management strategies

And finally...

Thank you for efforts !

- And -

*Please provide the Department with
feedback and comments.*