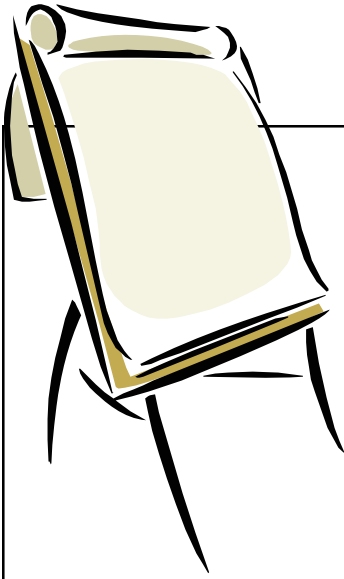


Module 5

Disproportionality

and

Overrepresentation



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U.S. Department of Education

In Partnership With...

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National Dissemination Center for Children with Disabilities

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We have a tremendous amount of information available on our Web site, in our library, and in the combined expertise of our staff. Please feel free to contact NICHCY for the latest information and connections in research and disabilities. We'd also love for you to visit our Web site and help yourself to all that's there.

Background and Discussion

Federal law has long been concerned with providing equity and academic parity for the nation's children. However, the disproportionate representation¹ of students in particular racial or ethnic groups in special education is a national longstanding issue that has been debated, investigated, and litigated by advocacy groups, the research community, and policymakers.

What is Disproportionate Representation?

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

- In some cases, the percentage of an ethnic or racial group may be less than what is found in the population in general. In this case, the group may be described as underrepresented.
- Conversely, when a particular ethnic or racial group is represented in special education at a greater rate than the population in general, that group is said to be overrepresented.

How This Discussion Section is Organized

As with the other modules in this curriculum, this discussion section is organized by overhead. A thumbnail picture of each overhead is presented, along with brief instructions as to how the slide operates. This is followed by a discussion intended to provide trainers with background information about what's on the slide. Any or all of this information might be appropriate to share with an audience, but that decision is left up to trainers.

Why Addressing Disproportionality is Critical

The importance of addressing disproportionate representation is evident in that Congress has twice commissioned the National Academy of Sciences to study the issue—in 1982 and again in 2002. The recent 2002 report concluded, “[T]wenty years later, disproportion in special education persists” (Donovan & Cross, 2002, p. 1). The phenomenon of disproportionate representation is particularly troubling when one considers that minority children are comprising an increasing percentage of public school students.

Congress contends that:

- Greater efforts are needed to prevent the intensification of problems connected with mislabeling minority children with disabilities.
- More minority children continue to be served in special education than would be expected from the percent-

age of minority students in the general school population.

- African-American children are identified as having mental retardation and emotional disturbance at rates greater than their White counterparts.
- 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.
- Studies have found that in schools with predominately White students and teachers, disproportionately high numbers of minority students have been placed in special education. [20 U.S.C. 1400(c)(12)]

¹ *Disproportionate representation* will be used interchangeably with the term *disproportionality* throughout this training curriculum.

IDEA 2004's Emphasis on Disproportionality

As the National Center for Culturally Responsive Educational Systems (NCCRESt, 2005) summarizes for us in this overview, and as we shall see in detail in this training module, IDEA 2004 has made numerous changes in how States and LEAs must now address disproportionality in special education. Changes in Part B regulations² include a more extensive scan for instances of disproportionality, more extensive remedies where findings of disproportionality occur, and a focus on the development of personnel preparation models to ensure appropriate placement and services for all students and to reduce disproportionality in eligibility, placement, and disciplinary actions.

While IDEA '97 mandated that States analyze their special education student count data for disproportionality, the requirements under that law were limited to identification and placement data. As a result, States could look at their LEA

data to see if there were disproportionate numbers of students from particular ethnic or linguistic groups in particular special education placements. For instance, a State might find that, in a particular local educational agency, students who were African American were more likely to be identified for emotional disturbance and placed in self-contained day programs. However, States were not asked to analyze disproportionality in suspension and expulsion rates, and other disciplinary actions. New provisions in IDEA 2004 and its regulations require this analysis.

IDEA requires that where a determination of significant disproportionality is found, the SEA shall provide for review and, if appropriate, revision of policies, procedures and practices used in identification and placement to ensure compliance with the requirements of IDEA. New provisions of the law additionally stipulate that, when States identify significant disproportionality, they must require LEAs to reserve the maximum amount of funds

under section 613(f) to provide comprehensive, coordinated, early intervening services to students in the LEA, particularly students in groups that are significantly overidentified, and to report publicly on the revision of policies, procedures and practices used in identification and placement.

This Module in Time and Space

This module on *Disproportionality and Overrepresentation* falls within the umbrella topic of **IDEA and General Education**. Within that broader area, there are six modules in all, as follows:

- *NCLB and IDEA*, on hold pending reauthorization of NCLB, will provide an overview of the No Child Left Behind (NCLB) Act and how many of IDEA 2004's new provisions have purposefully been aligned to NCLB.
- *Statewide and Districtwide Assessments*, also on hold pending reauthorization of NCLB, will take a closer look at IDEA 2004's provisions that require children with disabilities to participate in large scale assessment programs.

Thanks to the Authors of This Module

NICHCY would like to express its appreciation for the hard work and expertise of:

Perry Williams, Office of Special Education Programs, U.S. Department of Education, who is the primary author of this module; and

NCCRESt, the National Center for Culturally Responsive Educational Systems—special thanks to *Elizabeth Kozleski*, NCCRESt Co-Principal Investigator—who have generously shared their incredible materials and knowledge about disproportionality with us all.

² Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg. 46540 (August 14, 2006) (to be codified at 34 C.F.R. pt.300). Available online at:

- www.nichcy.org/reauth/IDEA2004regulations.pdf
- <http://idea.ed.gov>

- *Disproportionality and Overrepresentation* (this module) focuses on IDEA's provisions addressing the overidentification of specific racial and ethnic groups for special education.
- *Early Intervening Services and Response to Intervention* examines two new sets of provisions in IDEA intended to allow districts to catch learning or behavior problems early and to permit methods of identification of children with specific learning disabilities that focus on students' responses to appropriate instruction in regular education.
- *Highly Qualified Teachers* provides an overview of another new area within IDEA that comes to us from NCLB and that sets new standards of quality for special educators.
- *NIMAS*, also new to IDEA 2004, discusses a set of accessibility standards that will greatly improve access to the general education curriculum for children with print disabilities.

All of these modules are intended for general audiences. The background materials (what you're reading right now) and *Resources for Trainers* include substantial additional information that trainers can use to adapt training sessions to specific audience needs and the amount of time available for training.

You are currently reading the background section and discussion in the module on *Disproportionality and Overrepresentation*.



Looking for IDEA 2004?

The Statute:

- www.nichcy.org/reauth/PL108-446.pdf
- <http://idea.ed.gov>

Final Part B Regulations:

- www.nichcy.org/reauth/IDEA2004regulations.pdf
- <http://idea.ed.gov>

Finding Specific Sections of the Regulations: 34 CFR

As you read the explanations about the final regulations, you will find references to specific sections, such as §300.173. (The symbol § means "Section.") These references can be used to locate the precise sections in the federal regulations that address the issue being discussed. In most instances, we've also provided the verbatim text of the IDEA regulations so that you don't have to go looking for them.

Final Part B regulations are codified in Title 34 of the *Code of Federal Regulations*. This is more commonly referred to as 34 CFR or 34 C.F.R. It's not unusual to see references to specific sections of IDEA's regulations include this—such as 34 CFR §300.173. We have omitted the 34 CFR in this training curriculum for ease of reading.

Citing the Regulations in This Training Curriculum

You'll be seeing a lot of citations in this module—and all the other modules, too!—that look like this: 71 Fed. Reg. at 46738

This means that whatever is being quoted may be found in the *Federal Register* published on August 14, 2006—Volume 71, Number 156, to be precise. The number at the end of the citation (in our example, 46738) refers to the page number on which the quotation appears in that volume. Where can you find Volume 71 of the *Federal Register*? NICHCY is pleased to offer it online at:

www.nichcy.org/reauth/IDEA2004regulations.pdf



References for This Module

Civil Rights Project. (2002). *Racial inequity in special education: Executive summary for federal policy makers*. Cambridge, MA: Author. (Available online at: www.civilrightsproject.harvard.edu/research/specialed/IDEA_paper02.php)

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O'Connor, C., & DeLuca Fernandez, S. (2006). Race, class, and disproportionality: Reevaluating the relationship between poverty and special education placement. *Educational Researcher*, 35(6), 6-11.

Oswald, D.P., M.J. Coutinho, & Best, A.M. (2000). *Community and school predictors of overrepresentation of minority children in special education*. Paper prepared for the Harvard University Civil Rights Project, Conference on Minority Issues in Special Education, November 17, 2000, Cambridge, MA.

Wagner, M., Cameto, R., & Guzmán, A.M. (2003, June). Who are secondary students in special education today? *NLTS2 Data Brief*, 2(1), 1-4. (Available online at: www.ncset.org/publications/viewdesc.asp?id=1008)

Wagner, M., D'Amico, R., Marder, C., Newman, L., & Blackorby, J. (1992). *What happens next? Trends in postschool outcomes of youth with disabilities. The second comprehensive report for the National Longitudinal Transition Study of Special Education Students*. Menlo Park, CA: SRI International.



How to Operate the Slide:

- No clicks necessary. Slide self-presents.

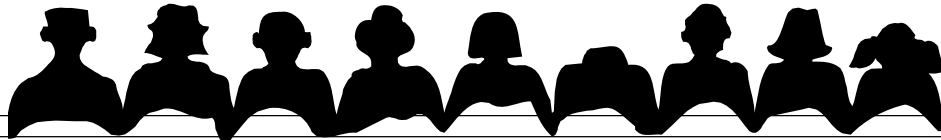
CLICK to advance to next slide.

Use Slide 1 (above) to orient your audience to this training. Just as the title of the slide indicates, the two topics under the microscope will be:

- Disproportionality, and
- Overrepresentation.

This module begins with an activity designed to have participants focus on the racial and ethnic elements in their own community, school, or school system. By starting off with their personal context, which is more

familiar to them than anything else, the topic of this training session is immediately made personal as well. The activity sheet for participants is **Hand-out B-3**. The activity itself is described in the box on the next page.



Opening Activity (see Slide 1)

Purpose

To have participants reflect on the racial/ethnic profile of their school or school system.

Total Time Activity Takes

10 minutes.

Group Size

Individually to complete hand-out. Large group to discuss.

Materials

Handout B-3

Instructions

1. Refer participants to **Handout B-3**. Indicate that this is the activity sheet they each have to complete. There are no right or wrong answers, only what they know or would presume. They will have 5 minutes.

2. Give participants the allotted 5 minutes to work alone. Then call them back to the large group.

3. Take 5 minutes to do a rough scan of how participants answered. Question 1...show of hands, for example. Ask for more detail from participants, especially about the diversity of their student population and whether

they believe that differences exist between the performance of different ethnic or racial groups.

Possible Prompts

- How many of you answered thinking of a school where the majority of students are White? African American? Hispanic? Asian?
- Does anyone know their school/system's dropout rate for these ethnic groups?
- Let's list a few ways that leaders might demonstrate their commitment to students who are racially or ethnically diverse.

When you've heard from a few participants, summarize their comments as appropriate, and use that summary as the segue into the module on disproportionality.

View I

This module looks at...

Slide loads with header "This module looks at..." and Bullet 1.

- Defining disproportionality



Clicks 1-4

This module looks at...

Clicks 1—4: Bullets 2, 3, 4, and 5 load as you click.

- Defining disproportionality
- Why disproportionality is on the front burner
- IDEA 2004's provisions
- Determination of "significant disproportionality"
- Resources for SEAs and LEAs



CLICK to advance to next slide.

(discussion on next page)



Slide 2: Background and Discussion

4 Clicks



Slide 2 is an advance organizer for the audience regarding the content treated in this module.

The slide loads the header “This module will look at...” and Bullet 1. Each new CLICK will bring up a new bullet.

Using the Slide to Activate Knowledge and Focus Attention

Each of the bulleted items allows you to solicit a smattering of remarks from your audience, as time permits. The interaction you have with the audience—or more precisely, their *participation* in the interaction—activates their knowledge base and attention, and allows other participants to absorb that knowledge and interest. Some suggestions:

Bullet 1: Defining disproportionality. Ask the group how they’d define it. What’s their understanding of this term?

Bullet 2: Why disproportionality is on the front burner. Does any one in the audience care to comment on why disproportionality has become a concern? Are participants aware that it’s a concern? If not, then you’ll tell them all about it.

Bullet 3: IDEA’s provisions. Can anyone in the audience summarize what IDEA has required in the past regarding disproportionality? How much do trainees know about new provisions under IDEA 2004? Show of hands—would they rate their knowledge as “I know it all,” “I know a little bit,” or “I know nothing.”

Bullet 4: Determination of significant disproportionality. What might this be? Would anyone hazard a guess, or a knowledgeable statement?

Bullet 5: Resources for SEAs and LEAs. Let the audience know that you have lots of goodies for them in terms of resources on disproportionality and overrepresentation that they can

use when they finish this training session and return to their “regularly scheduled programming.”

Theme B, Among Other Themes

While this slide presents the agenda for the training session, it can also be used to highlight that this module on disproportionality and overrepresentation is just one of six in *Building the Legacy’s* Theme B, IDEA and General Education. The titles of the other

Themes in *Building the Legacy*

Theme A

Welcome to IDEA

Theme B

IDEA
and General Education

Theme C

Evaluating Children
for Disability

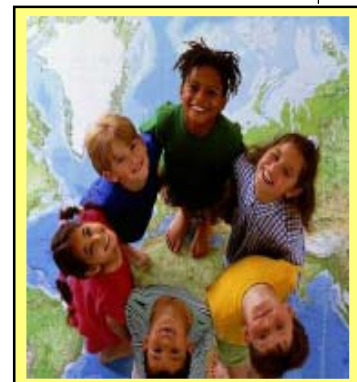
Theme D

Individualized Education
Programs (IEPs)

Theme E

Procedural Safeguards

Available online at:
[www.nichcy.org/training/
contents.asp](http://www.nichcy.org/training/contents.asp)



modules in Theme B were identified in the introduction.

And just as this module exists within a series, Theme B exists within a curriculum of multiple themes. Those themes represent critical components and organizing elements within IDEA. You may wish to make participants aware that there are other themes around which important IDEA-related issues can be (and are!) meaningfully grouped. A list of themes in this training curriculum is provided in the

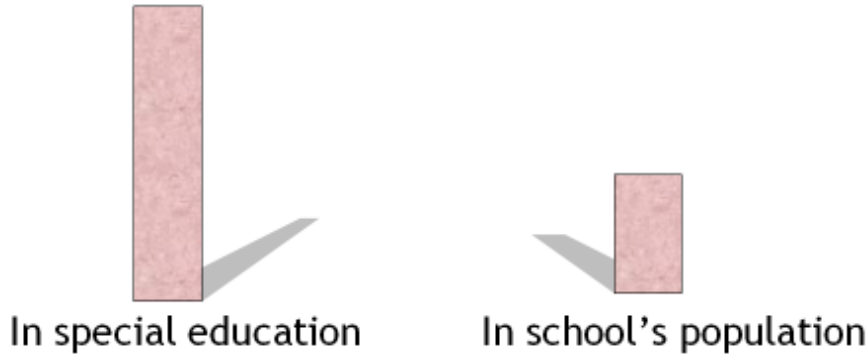
box on the previous page. If participants want to learn more on their own (or share information with their family or colleagues), they're welcome to visit NICHCY's Web site and download any and all modules they wish.

—Space for Notes—

View I

What is Disproportionality?

% of students of a specific ethnicity or race

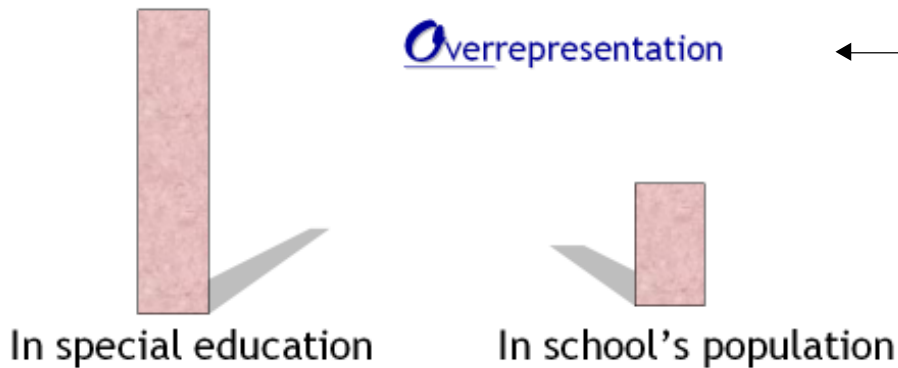


← Slide loads with this view.

Click I

What is Disproportionality?

% of students of a specific ethnicity or race



← Click 1: The word "Overrepresentation" appears.

CLICK to advance to next slide.



Slide 3 is one of two sketching out what disproportionality is. This one focuses on: *Overrepresentation*. (Slide 4 offers a contrasting look at: *Underrepresentation*.)

The slide loads with only the question at the top: What is Disproportionality? You can recap some comments from any discussion you held on the agenda slide, or use this opportunity to present a working definition drawn from the background material below.

What is Disproportionality?

Within the context of this training session, disproportionality refers to situations when representation of racial or ethnic groups in special education programs or specific special education categories exceeds (or is markedly less than) their proportional enrollment in a school's general population.

It is evident that children of some racial or ethnic groups are overrepresented 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 categories such as mental retardation and emotional disturbance.

The past 30 years have been marked by discussions of this phenomenon, research into what is causing it, and direct action against it, as can be seen in many provisions of IDEA 97 and IDEA 2004.

Congressional Concern

Although Congressional action regarding disproportionality is examined on Slide 17, it would be appropriate to discuss Congress's concern here as foundational. The Congress has expressed its concern about this issue over the years and taken action to investigate and ameliorate it. IDEA 97, for example, mandated new State reporting requirements concerning enrollment by race and ethnicity in special education. Public Law 108-446—IDEA 2004, passed by Congress in December 2004—opens with a list of findings that specifically identify disproportionality as an issue to be addressed. These findings are presented in the box on the next page. As you can see, they are quite extensive. (These findings are again provided in Module 6 on *Early Intervening Services and Response to Intervention*, because they are relevant there as well.)

Insights from the Literature

The professional literature distinguishes between *judgmental* or high-incidence and

nonjudgmental or low-incidence disability categories. Nonjudgmental categories relate to children who are deaf and blind or have orthopedic impairments or severe mental retardation. In contrast, diagnosis for categories such as mild mental retardation, emotional disturbance, or specific learning disabilities (SLD) rests on the "art" of professional judgment (O'Connor & DeLuca Fernandez, 2006). Often children "who are referred to the judgmental 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 & Cross, 2002, p. 209). It is for this reason that we need to pay greater attention to the general educational context where the problem of disproportionate representation originates. The problem of disproportionality can no longer be viewed solely as a special education issue.

Underrepresentation as Disproportionality

Although the focus of this discussion is tailored to the overrepresentation of students in particular racial or ethnic groups in special education, an *underrepresentation* of a particular racial/ethnic group is also a disproportionate representation (the subject of the next slide). Concerns have also been raised over the underrepresentation of children in particular racial or ethnic groups in programs for the gifted and talented or of Asian students in special education classes. In these cases, the percentage of African-American or Asian students may be less than what is found in the population in general.

Excerpts from *Findings* in IDEA 2004's Statute

“(10)(A) The Federal Government must be responsive to the growing needs of an increasingly diverse society.

“(B) 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.

“(C) Minority children comprise an increasing percentage of public school students.

“(D) 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.

“(11)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

“(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

“(C) 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 language backgrounds.

“(12)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high drop-out rates among minority children with disabilities.

“(B) 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.

“(C) African-American children are identified as having mental retardation and emotional disturbance at rates greater than their White counterparts.

“(D) In the 1998–1999 school year, African-American children represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.

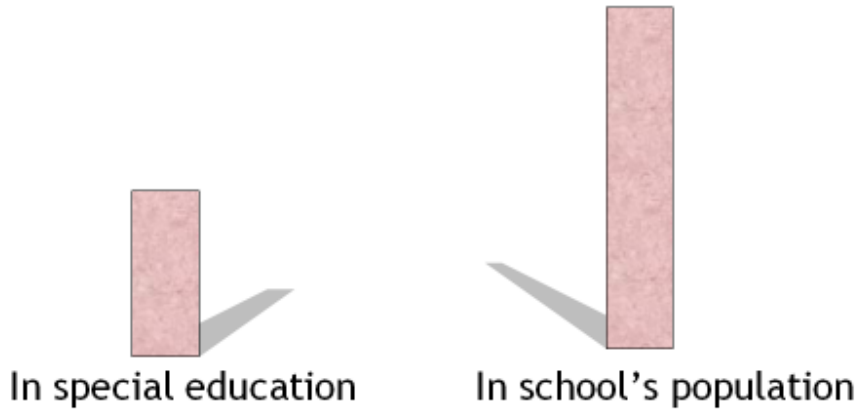
“(E) Studies have found that schools with predominately White students and teachers have placed disproportionately high numbers of their minority students into special education.”

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

View I

What is Disproportionality?

% of students of a specific ethnicity or race

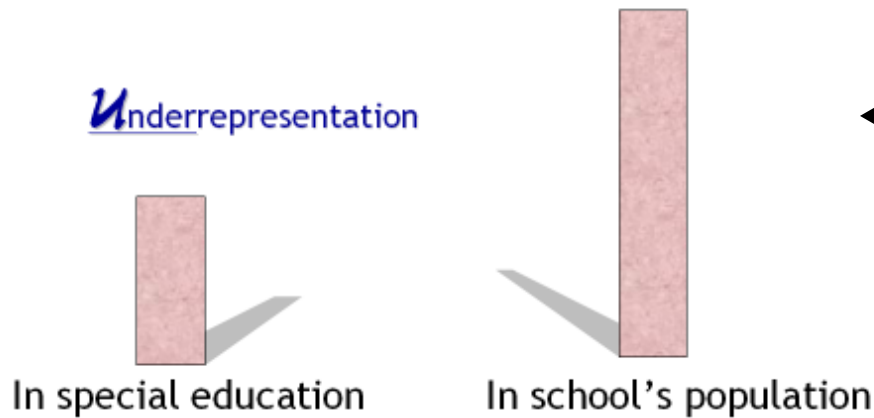


Slide loads with this view.

Click I

What is Disproportionality?

% of students of a specific ethnicity or race



Click 1: The word "Underrepresentation" appears.

(discussion on next page)

CLICK to advance to next slide.

Slide 4: Background and Discussion

1 Click



Slide 4 looks at disproportionate representation from its other side—*underrepresentation*.

The slide appears nearly identical to the one before—the same examination of what percent of children of a specific race or ethnic group are represented in special education versus the school’s population—only this time, there are markedly *fewer* children of that race or ethnicity in special education than in the school population. This is a case of underrepresentation.

This slide serves dual purposes:

- to point out that disproportionality includes the possibility of underrepresentation, even though it is typically discussed in terms of overrepresentation; and
- to point out the method by which disproportionality is calculated. More will be said about making such calculations later in this module.

The slide loads with all the information available, save the term “underrepresentation.” It is so visibly similar to the last slide that the audience may at first miss the fact that the size of the pink column over “In Special Education” is now the small one. Can anyone tell you what the difference between the two slides is? And if so, do they know the term for when a group’s representation in an activity or program is less than their representation in the population?

This is a quick slide, meant to indicate that the equation of disproportionality can go both ways—over or under, and that each condition is a cause for concern.

Supporting Example

According to the Civil Rights Project at Harvard University (2002), national data indicate that Latino and Asian-American children are underidentified in cognitive disability categories compared to Whites, “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 Latinos are *overrepresented*, suggesting that “there are both over- and under-representation concerns for these minority groups.”



Editor’s note: All references for this module are presented on page 5-6.

View I

Statistics

- African-American children
Twice as likely as whites and American Indians/
Alaskan natives to be identified as having **mental
retardation**.



← Slide loads with this view, including Bullet 1.

Click I

Statistics

- African-American children
Twice as likely as Whites and American Indians/
Alaskan natives to be identified as having **mental
retardation**.
- African-American children
Half again more likely than White students to be
classified with **emotional disturbance**.

← *Click 1:*
Bullet 2 appears and
picture disappears.

(discussion on next page)

CLICK to advance to next slide.

Slide 5: Background and Discussion

1 Click



Slide 5 looks at statistics regarding overrepresentation in special education, to illustrate the nature—although not the extent—of the problem.

Here we see evidence that certain racial or ethnic groups are disproportionately identified as having mental retardation or emotional disturbance. Your audience may have ideas as to why that might be that they'd be willing to share, but it's also important to point out that disproportionality must be investigated along several dimensions. For example, are there many more or fewer students of a specific race or ethnic group:

- in special education than in the school's population?
- identified in one disability category versus another?
- assigned to a particular placement versus another?

The statistics on the slide don't tell us anything about whether an LEA disproportionately assigns specific racial or ethnic groups to special education. The statistics also don't tell us if the LEA disproportionately assigns specific racial or ethnic groups to particular *placements*—such as a separate classroom, a separate school, or other arrangement. What these statistics tell us is that there's disproportionality in how specific racial or ethnic groups are being assigned to *disability categories* (as the chart at the right shows), which will have a significant

impact on the education these children receive, as we will discuss in a minute.

The chart combines the results of two longitudinal studies conducted to learn more about the experiences and outcomes of children receiving special education and related services in our schools. These studies are:

- the Special Education Elementary Longitudinal Study (SEELS), and
- the National Longitudinal Transition Study-2 (NLTS2).

For five years, SEELS followed a nationally representative sample of more than 11,000

children aged 6 to 12 in at least first grade and receiving special education in September 1999. The NLTS2 was similar to SEELS, but consisted of youth aged 13 to 16 in December 2000. It also followed students for five years and was the sequel to the original NLTS, which provided information on a nationally representative sample of secondary school students with disabilities in 1987. From studies such as these, we learn a great deal about who is receiving special education services and what their

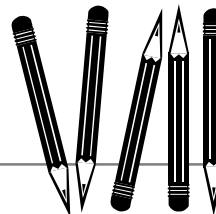
Disability Category	Percentage Who Are:		
	African-American	Hispanic	Other/Mixed
General student population	17	15	5
<i>Children with:</i>			
Specific learning disability	18	16	4
Speech/language impairment	16	12	5
Mental retardation	35	9	3
Emotional disturbance	27	13	3
Hearing impairment	14	16	5
Orthopedic impairment	18	14	3

Source: *Facts from OSEP's National Longitudinal Studies: Minorities among children and youth with disabilities* (August 2002). Menlo Park, CA: SRI International. Available at www.nlts2.org/fact_sheets/nlts2_fact_sheet_2002_08.pdf

experiences and outcomes are. Race/ethnicity is just one characteristic of children upon which data can be collected, but these can be combined with a multitude of other data collected for a picture of whether or not disproportionality exists in special education. As the chart on page 5-16 confirms, disproportionality occurs—in specific areas and for specific racial/ethnic groups. As the report states:

Among elementary and middle school students, those with mental retardation and emotional disturbances are markedly more likely to be African American than are students in other disability categories. The proportion of Hispanic students differs from the general population most noticeably among those with mental retardation. ...Thus, disproportionality appears to be concentrated largely among elementary and middle school students in only a few disability categories. (Ibid, p. 2)

—Space for Notes—



View I

Post-School Outcomes

Unemployed 2 years
out of high school



← Slide loads
with this view.

Click I

Post-School Outcomes

Unemployed 2 years
out of high school

75% African-American students
47% White

← *Click 1:*
Picture disappears,
statistic 1 appears
on right.



(continued on next page)

Click 2

Post-School Outcomes

Unemployed 2 years out of high school 75% African-American students
47% White

Still not employed 3-5 years out of school 52% African-American young adults
39% White young adults

Click 2: —————→
All of Statistic 2 row
("Still not em-
ployed") appears.

Click 3

Post-School Outcomes

Unemployed 2 years out of high school 75% African-American students
47% White

Still not employed 3-5 years out of school 52% African-American young adults
39% White young adults

Arrest rate 40% African-Americans with disabilities
27% Whites with disabilities

Click 3: —————→
All of Statistic 3 row
("Arrest rate") appears.

CLICK to advance to next slide.

(discussion on next page)



Slide 6: Background and Discussion

3 Clicks



Slide 6 takes a look at the status of children with disabilities by race after they finish school.

Studying the Situation

These data come from Wagner, D'Amico, Marder, Newman, and Blackorby's (1992) now famous longitudinal study of postschool outcomes of youth with disabilities, the NLTS (National Longitudinal Transition Study). Conducted more than a decade ago, the study contributed greatly to our understanding of outcomes for youth with disabilities. The findings of the NLTS (that postschool outcomes for youth with disabilities were alarmingly dismal) have contributed to the more intensive

transition planning for youth with disabilities required by IDEA 97, and its greater emphasis on involving such students in the general education curriculum, including them in large-scale assessments and holding them to State-approved academic standards.

There is now an NLTS-2 underway to capture, among other things, how well youth with disabilities are doing when they leave school today. The NLTS-2 was mentioned in the background discussion on the last slide and offers a special look into the experiences of youth with disabilities in special education. Does the NLTS-2 also conclude that youth of certain racial or ethnic groups are disproportionately represented in special education? Look at the chart below. Which numbers jump out at you? Which group is marked with an

asterisk—meaning that there is a statistically significant difference between their representation in special education and their representation in the general population? Yes. African-American youth.

Impact of Disproportionality

African-American youth placed in special education programs experience fewer positive outcomes than their White counterparts. They:

- are more likely to be assigned to segregated classrooms or placements;
- have limited access to inclusive and general educational environments;



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

	Youth with Disabilities	General Population
White	62%	63%
African-American	21%*	16%*
Hispanic	14%	16%
Other	3%	5%

* Statistically significant difference at the $p < .01$ level.

Source: Wagner, Cameto, & Guzmán (2003)

- experience higher dropout rates and lower academic performance;
- 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; and
- are less likely than their White counterparts to return to general education classrooms. (Council for Exceptional Children, 2002)



—Space for Notes—

The Civil Rights Project (2002) at Harvard University states that disproportionality patterns are similar for Latino students:

Once identified, most minority students are significantly more likely to be removed from the general education program and be educated in a more restrictive environment. For instance, African American and Latino students are about twice as likely as White students to be educated in a restrictive, substantially separate educational setting.

The implications?

Given that students with special needs benefit most when they are educated in the least restrictive environment to the maximum extent appropriate, the data on educational settings raise serious questions about the quality of special education provided to Hispanic, African-American, and other minority students compared to Whites. (Civil Rights Project, 2002)

View 1

Why?

Some Hypotheses

- Failure of general education to educate children from diverse backgrounds



← Slide loads with this view, including Bullet 1.

Why?

Some Hypotheses

- Failure of general education to educate children from diverse backgrounds
- Misidentification, misuse of tests
- Lack of access to effective instruction



Clicks 1-2

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Bullet 2 appears.

← Click 2:
Bullet 3 appears.



(continued on next page)

Click 3-5

Why?

Some Hypotheses

- Failure of general education to educate children from diverse backgrounds
- Misidentification, misuse of tests
- Lack of access to effective instruction
- Insufficient resources
- Teachers who are less well prepared
- Poverty



Clicks 3—5:
Bullets 4, 5, and 6
appear as you click.
Picture changes.

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Slide 7: Background and Discussion

Slide 7 raises the question that inevitably is asked when disproportionality is considered. Why? What is causing this?

Looking for Answers

Disproportionality is a complex phenomenon, and research suggests that there are multiple factors that contribute to this problem. Two of the most common hypotheses regarding overrepresentation are:

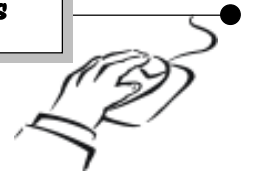
- Racial or ethnic groups are differentially susceptible to disability, and
- Overrepresentation is the result of special education referral, assessment, and eligibility

processes. Instruments used in those processes are culturally and linguistically biased—and, as a result, measure and interpret the ability, achievement, and behavior of students differently across ethnic groups (Oswald, Coutinho, & Best, 2000).

Other causal factors identified by the professional literature and appearing on the slide are:

- Failure of the general education system to educate children from diverse backgrounds
- Misidentification and the misuse of tests

5 Clicks



- Lack of access to effective instruction in general education programs
- Insufficient resources and less well-trained teachers, making learning more difficult
- Poverty.

With respect to the latter theory—that poverty can explain overrepresentation in mental retardation or emotional disturbance—the Civil Rights Project at Harvard University writes that

the theory is contradicted by national trends revealed by the data: For example, poverty theory fails to explain: (a) why gross racial disparities are only found in mental retardation (MR) and emotional disturbance (ED), and not in the category of specific learning disability or any medically diagnosed disabilities; or (b) why Hispanics have a far lower identification rate for MR and ED than both African Americans 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)

While these factors are extremely important in shaping the discussion on disproportionality, it is not the intent of this training to focus on the numerous theories that exist to explain the causes of disproportionality. The professional literature is infused

in these background materials solely to help contextualize the discussion. Let's focus on the purpose of this training curriculum—the provisions of IDEA—and see how IDEA 2004 addresses disproportionality.

—Space for Notes—

What States Must Do

§300.173



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Slide 8 moves the discussion to how IDEA 2004 addresses disproportionate representation by looking first at the requirements of §300.173, presented in the box at the right and at the very top of **Handout B-4**.

This provision makes clear that overidentification and disproportionality are to be actively addressed by States, beginning with, but certainly not limited to, having policies and procedures in place to prevent overidentifying (or disproportionately representing) children by race and ethnicity as “children with disabilities” (always a direct reference to IDEA’s definition of “child with a disability” at §300.8). The provision specifically mentions §300.8, in fact, indicating that part of States’ policies and procedures must address preventing the overidentification or disproportionate representation of chil-

dren by race and ethnicity in specific disability categories—IDEA phrases this as “children with disabilities with a particular impairment.” Given what has been said in this module, you might ask the audience to consider which “particular impairments” are likely to be categories where children are overidentified or disproportionately represented? If anyone in the audience is involved in administration at the State or

local level, they may know how their State addresses this provision of IDEA through policies and procedures as described in §300.173. Ask, and invite participants to briefly share the real-world implementation of this provision.

§300.173 Overidentification 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 overidentification 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.

What States Must Do

§300.646



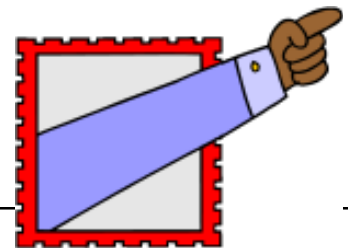
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What else must States do regarding overidentification and disproportionate representation? This slide mimics the last one, with §300.646 in the spotlight this time. The first part of the regulation—§300.646(a)—appears in the box at the right; the complete regulation is provided on Handout B-4.

Refer participants to **Handout B-4** and review the wording of the requirements under “(a) *General*.” Draw attention to the use of the term “significant disproportionality” and discuss for a moment that the size of any LEA’s problems with disproportionality is also an element that States and LEAs must analyze. In order to know if disproportionality exists, and if it is significant, States are required to “provide for the collection and examination of

data.” Have participants identify what data must be collected and examined, according to §300.646(a). How does this provision intersect with the provision discussed on the last slide (§300.173)?



§300.646 Disproportionality.

(a) *General*. 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—

- (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 educational settings of these children; and
- (3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

This collection and examination of data to determine if significant disproportionality based on race or ethnicity exists in the State and the LEAs of the State must occur in any one of the three areas noted in the provision. Only one of these was not in the prior Part B requirements: The incidence, duration, and type of disciplinary actions, including suspensions and expulsions [§300.646(a)(3)]. Prior to IDEA 2004, States were not required to analyze disproportionality based on race or ethnicity in suspension and expulsion rates, and other disciplinary actions.

Summary

The process of determining if significant disproportionality based on race and ethnicity is occurring in the State or in any LEAs of the State begins with the State having policies and procedures as discussed on the last slide and then, as discussed on this slide, ensuring that specific data are collected—the numbers and types of children in special education, the disability categories into which they are identified, and the other factors mentioned in IDEA (e.g., placement, disciplinary actions). The

State must then scrutinize the data to see if significant disproportionality exists. If significant disproportionality is identified, the State must take specific actions—these will be discussed in Slides 14-16.

But first let's learn more about IDEA's regulations for significant disproportionality—how it's defined and how it's determined.

—Space for Notes—

View 1

Defining "Significant Disproportionality"

State defines for LEAs
and for state in general



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top view.

Click 1

Defining "Significant Disproportionality"

State defines for LEAs
and for state in general



State determines
criteria for what level of
disproportionality is
significant

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(discussion on next page)

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So what IS “significant disproportionality” and how is it defined? How does a State educational agency (SEA) determine if an LEA in the State has a disproportionality that is “significant” or not? Slide 10 shines a light on how IDEA 2004 expects SEAs and LEAs to answer these questions.

Definition of Significant Disproportionality

In the Analysis of Comments and Changes to the final Part B regulations,¹ the Department of Education writes:

With respect to the definition of 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. (71 Fed. Reg. at 46738)

Thus, as the slide indicates, “significant disproportionality” is a term that each State defines for itself and its LEAs.

Why No National Standard?

Some stakeholders may wonder why the Part B regulations do not establish a national standard for making determinations of “significant disproportionality.” The Department addressed this question in the following discussion:

Establishing a national standard for significant disproportionality is not appropriate because there are multiple factors at the State level to consider in making such determinations. For example, States need to consider the population size, the size of individual LEAs, and composition of State population. States are in the best position to evaluate those factors. (71 Fed. Reg. at 46737)

An Important Point about Defining 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. This requirement is clearly reflected in §300.646. (71 Fed. Reg. at 46738)

The regulation is also clear that a finding of significant disproportionality triggers a review, and if appropriate revision, of policies, procedures and practices to ensure that they comply with the requirements of the IDEA.



1 Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg. 46540 (August 14, 2006) (to be codified at 34 C.F.R. pt.300). Available online at:

- www.nichcy.org/reauth/IDEA2004regulations.pdf
- <http://idea.ed.gov>

Determining "Significant Disproportionality"

Is based on collection and examination of data --

-- and *not* on a district's policies, procedures, or practices.



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Slide 11 adds one additional point that is important to make explicit to the audience—the determination of significant disproportionality is based on collecting and examining data, not on examining the policies, procedures, or practices of the State or LEA with respect to identification of children as “children with disabilities” (including identifying them in accordance with a particular impairment), their placement in particular educational settings, and the incidence, duration, and type of disciplinary actions (including suspensions and expulsions).

In other words: A review of LEA policies, procedures, and practices to determine whether they are consistent with the

IDEA is a *consequence* of a State determining that the LEA has significant disproportionality, and not an *element* of the State’s determination of 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. This requirement is clearly reflected in §300.646. (71 Fed. Reg. at 46738)

Thus, determining significant disproportionality is data-driven. Refer participants to **Handout B-4**, to take a look at the precise language at §300.646(a). This should make it clear that a determination of significant disproportionality is what *triggers* a review (and, if appropriate, revision) of policies, procedures and practices.

How do you measure disproportionality?

Technical Assistance Guide from
U.S. Department of Education:

www.ideadata.org/docs/Disproportionality%20Technical%20Assistance%20Guide.pdf

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Slide 12 asks the \$64,000 question: How do you measure disproportionality?

Space does not allow us to go into a lengthy technical description of the methods by which a State or LEA might analyze their data and determine whether or not it reveals a disproportionality by race or ethnicity. NCCRESt, the National Center for Culturally Responsive Education Systems, strongly recommends the technical assistance guide mentioned on the slide, available online at the address on the slide and in the box at the right.

We've also included the full guide as a *Resource for Trainers* (see **Resource B-1**), which you can share with participants who need technical assistance. The 28-page guide is entitled *Methods for Assessing Racial/Ethnic Disproportionality in Special Education: A Technical Assistance Guide*.



www.ideadata.org/docs/Disproportionality%20Technical%20Assistance%20Guide.pdf

What happens if there's a determination of significant disproportionality?

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Slide 13 asks another critical question that will serve as the segue into the remaining slides in this training module: What happens if there's a determination of significant disproportionality?

Take a moment to have participants work in pairs or in the large group to brainstorm what actions would likely be triggered, or desirable, if the State's analysis of the data collection reveals a significant disproportionality in any of the three areas identified in §300.646 and discussed on Slide 9:

- 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;

- The placement in particular educational settings of these children; and
- The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

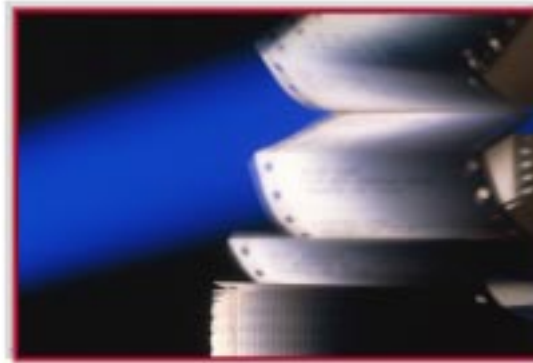
Discuss their ideas in the large group, perhaps noting them on a flip chart. Then indicate that the next slides will focus on what IDEA 2004 requires on the part of States and LEAs when significant disproportionality is found.

For Determinations of Significant Disproportionality

States must:

- ❑ Provide for the review and revision (if appropriate) of policies, procedures, and practices used in identification or placement of children*

* Do they comply with requirements of IDEA?



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Slide 14 is the 1st of 3 slides that will examine IDEA's requirements that apply when States make determinations of significant disproportionality.

Summary of IDEA's Requirements: What States Must Do

When States make determinations of significant disproportionality based on race or ethnicity with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, they must take certain steps. As shown on **Handout B-4**, these three provisions are:

- Provide for the review and revision (if appropriate) of policies, practices, and proce-

dures to ensure compliance with requirements of IDEA;

- Require the LEA to reserve funds to be used for early intervening services; and
- Require the LEA to publicly report on the revision of policies, procedures, and practices.

Looking at Policies, Procedures, and Practices

First, the State must:

Provide for the review and, if appropriate, revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the

requirements of the Act. [§300.646(b)(1)]

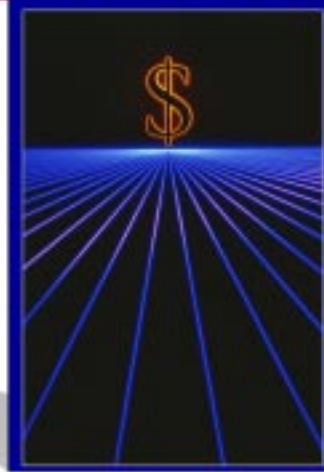
In the Analysis of Comments and Changes to final Part B regulations, the Department of Education writes:

The State's review of its constituent LEAs' policies, practices, and procedures for identifying and placing children with disabilities would occur in LEAs with significant disproportionality in identification, placement, or discipline, based on the examination of the data. The purpose of this review is to determine if the policies, practices, and procedures are consistent with the Act. (71 Fed. Reg. at 46738)

For Determinations 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 overidentified.

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Slide 15 presents the 2nd of 3 slides examining IDEA's requirements when findings of significant disproportionality occur—the State must require the LEA to reserve the maximum allowable amount of funds to be used for early intervening services.

What Are Early Intervening Services?

Early intervening services (EIS) are new to IDEA 2004, as is Response to Intervention (RtI), both of which are the subject of a separate module in this training package—*Early Intervention Services and Response to Intervention*. While we refer you to that module for a full description, we'll summarize here. IDEA's provisions regarding EIS are also

included in the participants' handout package as **Handout B-8**.

As described in the separate module, early intervening services—EIS for short—are not the same thing as early intervention services. These are two very different initiatives, although, to be fair, both are about intervening early. Early intervention is for infants and toddlers with disabilities; early intervening services (EIS) are about catching problems early in school-aged children. EIS are about identifying when children are struggling to learn—especially apparent in the early grades and in tasks like reading and math—and quickly intervening to provide support.

Under IDEA 2004, school districts may use up to 15% of their Part B funds to develop and provide EIS to children who are not children with disabilities but who need academic or behavioral support to succeed in a general education environment. EIS are for children in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three). EIS 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 EIS.

However, a child who previously was identified as being a child with a

disability but who currently does not need special education or related services would not be prevented from receiving EIS. For example, a child who received special education services in kindergarten and had services discontinued in grade 1 (because the public agency and the parent agreed that the child was no longer a child with a disability), could receive early intervening services in grade 2 if the child was found to be in need of additional academic and behavioral supports to succeed in the general education environment. (71 Fed. Reg. at 46626)

The rationale behind using IDEA funds to pay for EIS is that the earlier that school staff can identify children’s learning difficulties, the quicker and less expensive the task of helping those children catch up is. The longer a child goes without assistance, the longer the remediation time and the more intense those services will have to be. The Department believes that the use of Part B funds for EIS has the potential to benefit children by reducing academic and behavioral problems in the regular educational environment and reducing the number of referrals to special education that could have been avoided by relatively simple regular education interventions. From child, administrative, fiscal, and instructional perspectives, providing EIS makes very good sense.

EIS and Findings of Disproportionality

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities; the placement in particular educational settings of such children; or the incidence, duration, or type of disciplinary actions (including suspensions and expulsions), IDEA 2004 stipulates that the SEA must require the LEA to reserve 15% (the maximum allowable amount) of the funds it receives under Part B of IDEA to provide comprehensive, coordinated EIS to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly overidentified. [§300.646(b)(2)]

Important Note!

The above requirement seems to be a recognition that significant disproportionality in special education may be the result of inappropriate regular education responses to academic or behavioral issues. However, it is important to note that the obligation to use of 15% of the LEA’s IDEA funds for EIS is triggered based solely on a determination of significant disproportionality independent of any analysis of whether that disproportionality is the result of inappropriate identification.

Activities and Services For Which Funds Can Be Used

As can be seen on **Handout B-8**, in implementing coordinated, early intervening services, an LEA may carry out activities that include—

- Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction and, where appropriate, instruction on the use of adaptive and instructional software; [§300.226(b)(1)] and
- Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction [§300.226(b)(2)].

The Department believes that the terms “services” and “supports” in §300.226(b)(2) are broad enough to include the use of supplemental instructional materials that may provide additional reinforcement to the core curriculum used in the regular classroom.

Other Provisions under EIS

It is important that parents and local school personnel understand that EIS neither limit nor create a right to FAPE and may not delay an appropriate evaluation of a child suspected of having a disability. [§300.226(c)]. Children receiving EIS do not have the same rights and protections as children identified as eligible for services under sections 614 and 615 of

the Act. Again, this is because EIS are for children not yet identified as needing special education and related services, and are therefore not entitled to FAPE.

Finally, §300.226(e) requires that funds made available to carry out EIS may be used to carry out comprehensive, coordinated EIS aligned with activities funded by, and carried out

under the Elementary and Secondary Education Act (ESEA) if those funds are used. Coordination with ESEA represents ongoing efforts to improve collaboration between regular education and special education, in order to improve educational results and outcomes for all children.


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For Determinations of Significant Disproportionality

The LEA must:

- Publicly report on the revision of policies, practices, and procedures



CLICK to advance to next slide.

Slide 16 is the last of 3 slides addressing IDEA's requirements when the State finds significant disproportionality in an LEA. The focus of this slide is on IDEA's requirement for public reporting of results.

Reporting Results to the Public

You will recall that a determination of significant disproportionality by race or ethnicity is based on a collection and examination of data and triggers three important provisions. We have already discussed the first two: review and, as appropriate, revision of policies, procedures, and practices; and the reservation of funds to be used for EIS.

The third provision, found at [§300.646(b)(3) and appearing on **Handout B-4**:

Require[s] the LEA to publicly report on the revision of policies, practices, and procedures described under [§300.646(b)(1)].

If disproportionality is identified in LEAs, the policies, procedures, and practices of the LEAs will be examined to determine if they are leading to inappropriate identification. Pursuant to §300.646(b)(3), the LEA will be required to report publicly on the revision of policies, practices, and procedures used in identification or placement. They will

also have to continue to publicly report on their revision of policies, practices, and procedures until the significant disproportionality in the LEA is eliminated. (71 Fed. Reg. at 46738)

View 1

IDEA 2004

- **Disproportionality** is now 1 of 3 monitoring priorities.



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Click 1

IDEA 2004

- **Disproportionality** is now 1 of 3 monitoring priorities.



- States must **monitor** LEAs' levels of disproportionality.

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Slide 17 focuses once again on IDEA 2004 and how, through new provisions to Part B regulations, the issue of disproportionality will be addressed.

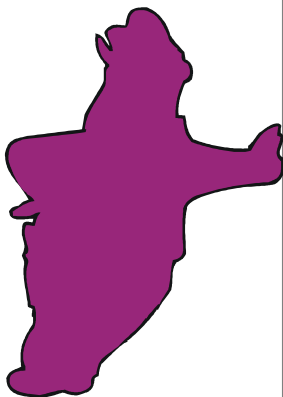
Congress was sufficiently concerned about the disproportionate representation of minority children in special education, and how they were categorized and placed, that disproportionality is now one of three areas established as a monitoring priority, to the extent such “representation is the result of inappropriate identification” (section 616(a)(3)—cited in the box below).

Inclusion of this new priority in the State monitoring and enforcement component of the law clearly reflects the seriousness of this issue. Part B regulations accordingly reflect what is new to the statute, as we shall see across the next slides.

States now are required to monitor the LEAs located in the State, using quantifiable indicators for disproportionate representation (and such qualitative indicators as are needed) to

adequately measure performance in:

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. [§300.600(d)(3)]



Monitoring Priorities: Public Law 108-446

“(3) MONITORING PRIORITIES.—The Secretary shall monitor the States, and shall require each State to monitor the local educational agencies located in the State (except the State exercise of general supervisory responsibility), using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in the following priority areas:

“(A) Provision of a free appropriate public education in the least restrictive environment.

“(B) State exercise of general supervisory authority, including child find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services as defined in sections 602(34) and 637(a)(9).

“(C) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

Section 616(a)(3) of Public Law 108-446, Individuals with Disabilities Education Act of 2004

View 1

Reporting

- States must annually **report** under 6-year State Performance Plan (SPP) on:

% of districts with DR of racial and ethnic groups



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Click

Reporting

- States must annually **report** under 6-year State Performance Plan (SPP) on:

% of districts with DR of racial and ethnic groups → in special education and related services

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Reporting

- States must annually **report** under 6-year State Performance Plan (SPP) on:

% of districts with DR of racial and ethnic groups

- in special education and related services
- in specific disability categories

that results from *inappropriate identification.*

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Slide 18: Background and Discussion



What States Are Required to Do

Refer participants to **Handout B-5**, which presents the exact language of the Part B regulations governing the content of this slide and several upcoming slides. As the slide indicates, States are required to report this information to the federal government (and make it publicly available as well) in annual reports under their six-year State Performance Plans (SPPs). The SPP contains the following two indicators for disproportionality:

- The percent of districts with disproportionate representation of racial and ethnic

groups in special education and related services that is the result of inappropriate identification. [20 U.S.C. 1416(a)(3)(C)]

- The percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. [20 U.S.C. 1416(a)(3)(C)]

How do these relate to the concept of significant disproportionality? Note that the monitoring indicators focus not on significant disproportionality, but on disproportionate representation

that is the result of inappropriate identification. This language signals that more than just an examination of data is required to respond to the monitoring indicators. Instead of merely reviewing data, States need to probe instances in which they identify disproportionality to determine whether it is the result of inappropriate identification. Obviously, the indicators are linked to the analysis of district policies, procedures, and practices that is required by §300.646(b)(1).

What Disability Categories Must Be Monitored

The disability categories for which monitoring for overrepresentation must occur are discussed on the next slide.

Disproportionality as a Monitoring Priority

IDEA 2004 establishes three areas as priorities for monitoring, one of which is disproportionate representation, to the extent that it is the result of inappropriate identification. It is worth noting to participants that the scope of the monitoring priority does not include racial disproportionality in educational placement. As the Department explains:

Because the monitoring priority area clearly refers to disproportionate representation to the extent the representation is a result of inappropriate identification of children with disabilities, and not placement, we do not believe we can include disproportionate representation resulting from educational placement within the scope of this monitoring priority area. (71 Fed. Reg. at 46732)



As part of being named as a priority for monitoring, disproportionality is an area in which States “are required to establish targets for indicators established under the monitoring priority areas” (*Id.*). Two indicators for disproportionality monitoring have been established by the Secretary—the two mentioned earlier in this section. Thus, States are required to establish targets for those two indicators; further, these targets must be “measurable and rigorous.” And, as the Department points out, “Congress stated its expectation that State performance plans, indicators, and targets be developed with “broad stakeholder input and public dissemination” (*Id.*).

States are not limited to using only the two indicators established by the Secretary, as directed in the Act. They “have the flexibility to establish their own indicators, in addition to the indicators established by the Secretary...if there are other areas the States wishes to improve” (*Id.*). However, if the State does add indicators to the State Performance Plan:

[T]he State must include measurable and rigorous targets for each additional indicator because the purpose of the State performance plan is to evaluate the State’s efforts to implement the statutory requirements and describe how the State will improve. States are free to have additional indicators that are not included in the State performance

plan and these indicators would not need to have measurable and rigorous targets. (71 Fed. Reg. at 46732-3)



How Often Must States Report Their Findings?

Annually. While the SPP is a six-year plan, States must submit an annual report on their performance under the SPP. Because disproportionality that results from inappropriate identification is among the indicators for which the State will have annual targets, this annual report must include the State’s findings regarding disproportionality in the State resulting from inappropriate identification.

Public Reporting

The State also must report to the public on the performance of each LEA in the State on the State's targets, including those concerning disproportionality that is the result of inappropriate identification. The Department has made clear that it expects this report to be "in an understandable and uniform format across the State, including alternative formats upon request, and, to the extent practicable, in a language that parents understand" (71 Fed. Reg. at 46733).

States have the discretion as to how these reports will be made available to the public. While posting monitoring reports on the State Web site is an option, it is not a requirement.

Additional Public Reporting

The Department noted that, in addition to the data described above, which relates to State and LEA performance in specific targeted areas (the two indicators established by the Secretary), other public reporting is required by other sections of the law.

We also note that §300.642(a)...requires that data collected pursuant to section 618 of the Act be reported publicly. These data will include State-level data on the number and percentage of children with disabilities by race and ethnicity on a number of measures, including identification as children with disabilities, placement, graduation and drop-out, and discipline. (71 Fed. Reg. at 46734)

—Space for Notes—

What Disability Categories?

- mental retardation
- specific learning disabilities
- emotional disturbance
- speech or language impairments
- other health impairments
- autism

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CLICK to advance to next slide.

Slide 19 takes a look at the disability categories for which States must provide disproportionality data as part of submitting the State Performance Plan (SPP) and the Annual Performance Report (APR) to OSEP.

Zeroing in on Specific Disability Categories

States are required to provide racial/ethnic disproportionality data for children ages 6 through 21 served under IDEA, at a minimum, for children in the following six disability categories:

- mental retardation,
- specific learning disabilities,

- emotional disturbance,
- speech or language impairments,
- other health impairments, and
- autism.

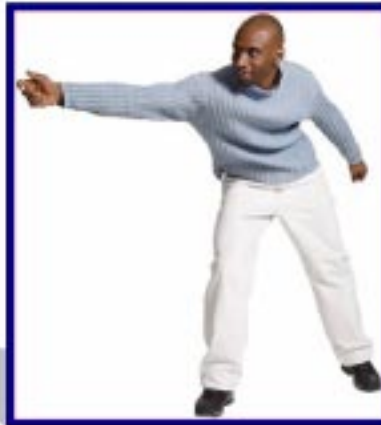
However, if a State has previously identified a problem, or if a State has reason to believe that there are issues with other disability categories (i.e., through written complaints, due process filings, etc.), then the State should explore the remaining disability categories as necessary.

First View and Click 1

Sources of Technical Assistance

IDEA authorizes and supports:

- ✓ Technical assistance
- ✓ Demonstration projects
- ✓ Dissemination of information
- ✓ Implementation of scientifically based research



Slide loads with this view with the intro phrase "IDEA authorizes and supports..."

Click 1: Picture appears and so does the list of bullets.

Click 2

Sources of Technical Assistance



www.nccrest.org



Click 2: Bulleted list disappears and NCCREST's logo and Web site address appear.

(discussion on next page)

CLICK AGAIN to advance to next slide.



Slide 20 provides the opportunity to connect participants with technical assistance on disproportionality.

What Resources are Available to Assist School Personnel and Parents?

The IDEA is designed to ensure that children with disabilities receive a free appropriate public education (FAPE). To accomplish this goal, schools must have appropriate procedures to determine if the child who is referred for special education services is a “child with a disability” who requires special education and related services to achieve and progress appropriately in the school curriculum.

School professionals must attend to all phases of the placement process—the classroom ecologies from which children are referred to special education, the reasons for referral, the decision-making process that leads to evaluation, the actual evaluation, development of the IEP, and the resulting placement.

Section 663 under IDEA 2004 authorizes technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research aimed at improving educational results and outcomes for all children. Some of the activities that may be carried out under section 663 include activities to improve services provided under IDEA, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through... demonstrating models of personnel preparation to ensure appropriate placements and services for all children, and to reduce disproportionality in eligibility, placement, and disciplinary actions for minority children and those with limited English proficiency and disseminating information on how to reduce inappropriate racial and ethnic disproportionality identified under section 618.

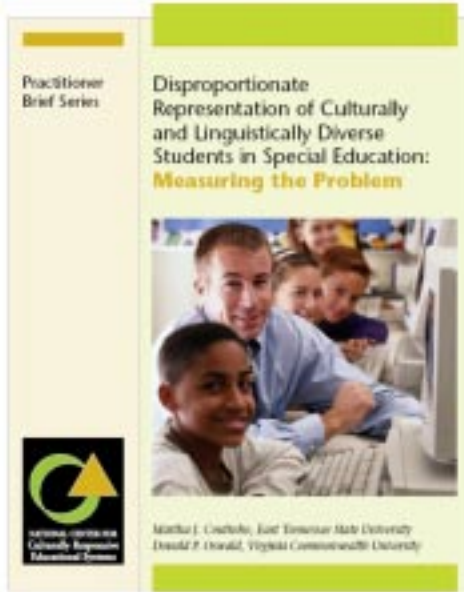
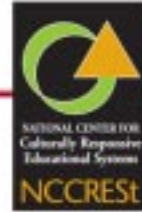
NCCRESt

The OSEP-funded National Center for Culturally Responsive Educational Systems (NCCRESt) is available to assist administrators, teachers, and parents in addressing issues surrounding disproportionality. NCCRESt has developed a variety of practical tools, informative guides, and other products stakeholders can put to immediate use in their schools and school systems. This information can be found on NCCRESt’s Web site at: www.nccrest.org.

The next slide gives the audience a very brief sampling of key NCCRESt’s resources to get folks started and keep them going on addressing—and eliminating—disproportionality by race and ethnicity in our schools.

View 1

NCCRESt Resources

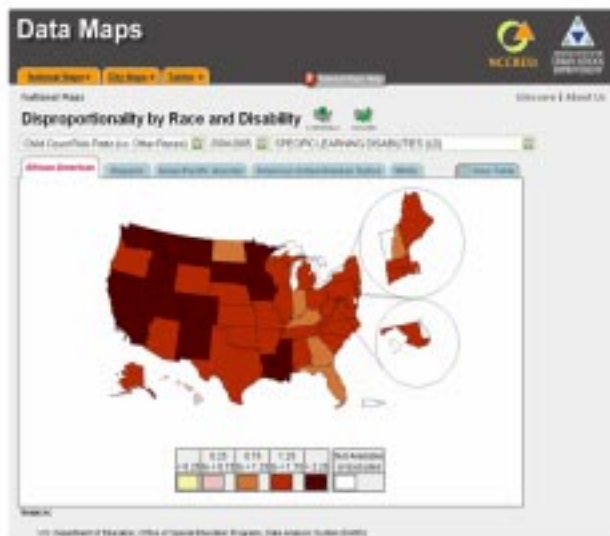


Practitioner briefs.

← Slide loads with this view, a NCCRESt Practitioner Brief.

Click 1

NCCRESt Resources



Data maps.

← Click 1: Scene changes to an NCCRESt data map....



(continued on next page)

Click 2

NCCRESt Resources



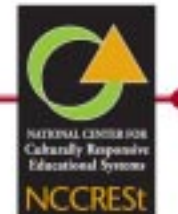
Click 2:
...to a "How-To" guide...

Preventing DISPROPORTIONALITY
by Strengthening District Policies and
Procedures — An Assessment and
Strategic Planning Process

"How-to" guides.

Click 3

NCCRESt Resources



Click 3:
...and finally
NCCRESt's Web
site.

www.nccrest.org

CLICK AGAIN to advance to next slide.



This slide shows some of NCCRESt's many publications and useful resources. There are more. Encourage your participants to visit NCCRESt's Web site, if disproportionality and cultural competency are areas of interest or concern to them.



Slide loads fully. No clicks are necessary, except to end the slide show.

CLICK to *end* the slide show.

Use this slide for a review and recap of your own devising, or open the floor up for a question and answer period. Depending on how much time you have available for this training session, you can have participants work in pairs or small groups to make a quick list of what information they've gleaned from this session and then share their lists in large group. Make sure you correct misinformation as necessary. Emphasize the local or personal application of the information presented here.