

Disproportionality in Special Education: A Trainer's Guide



A training guide developed for Parent Centers by the
Center for Parent Information and Resources (CPIR)
<http://www.parentcenterhub.org>

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This trainer's guide is... | One part of a training module developed for Parent Centers to use in staff development and board training on disproportionality in special education, as well as in training sessions about disproportionality conducted for families and professionals.

The complete training module on disproportionality includes... | Three trainer's guides that go with three separate PowerPoint slideshows, and handouts for participants. Feel free to adapt the slideshows and handouts to include information specific to your state or especially relevant to your audience. The three slideshows are designed to address the different information needs of specific audiences:

- **Slideshow 1** (27 slides) | Provides an overview of disproportionality and key aspects of the final regulations on disproportionality published in December 2016. Parent Centers can use this presentation as part of staff development, to inform their Advisory Boards about disproportionality issues nationally and within their state, and to enlist community groups and others in local and state efforts to address disproportionality in special education. Slideshow 1 is intended primarily for use with **general audiences** with little prior or in-depth knowledge of disproportionality as a national, state, and local concern. Note that Slideshow 1 is best paired with Slideshow 2.
- **Slideshow 2** (not available yet, but soon!) | Explains what IDEA requires states to do if they determine that any of their school districts or local educational agencies (LEAs) have a significant disproportionality in special education based on race or ethnicity. It also explains states' public reporting requirements and what information must be reported annually to the U.S. Department of Education. Use this slideshow with audiences that have participated in training under Slideshow 1 and who want or need to know more about what corrective actions are required under the new regulations.

Download the Training Materials

This training session and its component parts can be downloaded from the CPIR Hub, at:
<http://www.parentcenterhub.org/parent-center-boot-camp-2017/>

- **Slideshow 3** (*not available yet*) | Focuses on how disproportionality is measured via risk-ratio analysis and highlights the elements that states must develop with stakeholder input. Technical! Use this slideshow with participants who are **already knowledgeable** about disproportionality as a concern but who need to understand the new regulations, the terms that must be defined at the state level, and the points in time where informed stakeholder input is required.

The trainer’s guide, slideshows, and handouts are a 2017 revision of... | The training module produced in 2007 by the National Dissemination Center for Children with Disabilities (NICHCY) at the request of the Office of Special Education Programs (OSEP) at the U.S. Department of Education.

How this guide is organized | The trainer’s guide begins with an **overview** of:

- what disproportionality is in the context of the Individuals with Disabilities Education Act (IDEA);
- its history as an ongoing concern in special education and where we stand today;
- the recent publication of new final IDEA regulations that are changing how states identify and address disproportionality within their school districts and schools; and
- the influential role that Parent Centers, parent leadership groups, and community organizations can play in the process.

After the overview, the guide will take care of “housekeeping” details—such as what files you’ll need to download and from where; what handouts are available for training participants; and how to interpret references to IDEA and its sections. This section of the trainer’s guide will close with the credits and thank you’s to the authors, editors, and contributors to this revised training module.

The guide will then move through Slideshow 1, slide by slide, explaining the content, offering suggestions for trainers, and describing how the handouts might be used with or adapted for training participants. The trainer’s guides for Slideshows 2 and 3 are separate documents that follow the same pattern of moving slide by slide through the content.

Overview of Disproportionality

Defining disproportionality | In the context of IDEA, the nation’s special education law, disproportionality refers to findings that students from certain racial and ethnic groups may have a greater (or lesser) likelihood than students from other groups of:

- being identified as a child with a disability who needs special education and related services;
- being identified as having a *particular* disability (e.g., autism, intellectual disabilities);
- receiving their special education services in settings that are more separated or restrictive;
- receiving harsher, more exclusionary discipline, including suspension and expulsion.

When specific racial or ethnic groups are more likely (or less likely) than others to have any of these outcomes, it’s cause for concern and deeper investigation. In some cases, the percentage of an ethnic or racial group in special education may be **less** than what is found in the student minority population in general. In this case, the group may be described as **underrepresented in special**

education. In contrast, when a specific ethnic or racial group is represented in special education at a **greater** rate than the student minority population in general, that group is said to be **overrepresented.**

This training module will focus primarily on the issue of *overrepresentation* in special education, as does IDEA itself.

Is Disproportionality Something New?

No. In fact, the need to address the disproportionate representation of specific racial or ethnic groups in special education has been evident for several decades. Consider that Congress has twice commissioned the National Academy of Sciences to study the issue—in 1982 and again in 2002. When IDEA was reauthorized in 2004, Congress drew express attention to the issue, stating as part of its findings that:

- Greater efforts were needed to prevent the intensification of problems connected with mislabeling minority children with disabilities.
- More minority children had been, and were continuing to be, served in special education than would be expected from the percentage of minority students in the general school population.
- African-American children were identified as having intellectual disabilities and emotional disturbance at rates greater than their White counterparts.
- Studies had found that, in schools with predominately White students and teachers, disproportionately high numbers of minority students were being placed in special education. [20 U.S.C. 1400(c)(12)]

IDEA 2004 made many changes in how States and LEAs were to address disproportionality in special education. Congress was sufficiently concerned about the disproportionate representation of minority children in special education, and how they were categorized and placed, that disproportionality became one of three areas it established as a **monitoring priority** to the extent that such “representation is the result of inappropriate identification.”

Yet here we are today, more than a decade later, having made little progress in addressing disproportionality. According to a 2013 report from the U.S. Government Accountability Office (GAO), it continues still, in:

- how minority children are **identified** as having a disability (and *which* disability);
- *where* they are **placed** to receive special education and related services (e.g., in more restrictive or segregated environments); and
- how they are disproportionately **disciplined** by schools for behavior or other infractions.

GAO’s recommendation? That the U.S. Department of Education (ED) “should develop a standard approach for defining significant disproportionality to be used by all states. This approach should allow flexibility to account for state differences and specify when exceptions can be made.”²

Which is exactly what ED did.

New IDEA Regulations on Disproportionality

On December 12, 2016, the U.S. Department of Education released final regulations under Part B of the Individuals with Disabilities Education Act (IDEA), aimed at promoting equity by targeting widespread disparities in the treatment of students of color with disabilities. These regulations address a number of issues related to significant disproportionality in the identification, placement, and discipline of students with disabilities based on race or ethnicity. At the same time, the Department also released a new *Dear Colleague Letter* addressing racial discrimination and a fact sheet on *Equity in IDEA*.

You can connect with all of these resources at:

<http://www.parentcenterhub.org/final-idea-rule-on-disproportionality/>

Suggestions | Resources from ED are authoritative sources of information on disproportionality—its history as a Congressional concern, the research base that has fueled that concern, and the road forward from here under the 2016 regulations. Use ED’s resources in professional development activities within your Parent Centers adapt them as handouts to inform families or your Advisory Board, and share them with colleagues. **Especially take advantage of the places where stakeholder input is required—be informed and be involved!**

“Housekeeping” Details

Files You’ll Need for Training Sessions Conducted with Slideshow 1

<http://www.parentcenterhub.org/parent-center-boot-camp-2017/>

Trainer’s Guide for Slideshow 1 (*this document*)

Slideshow 1 in PowerPoint

Handouts for Participants

When Slideshows 2 and 3 become available, they, too, will be posted at the above link.

Finding Specific Sections of the Regulations: 34 CFR

As you read the explanations about the final regulations on disproportionality, you will find references to specific sections, such as §300.647. (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.

However, be aware that all 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 §300.646. We have omitted the 34 CFR in this training curriculum for ease of reading.

Finding the Most Current Version of IDEA’s Regulations

The most update-to-date version of the regulations can be found in the e-CRF, which stands for the Electronic Code of Federal Regulations. The e-CRF is available online at:

<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>

On the next page, we provide screenshots of what you’ll see when you visit the e-CRF and what links you should choose to work your way to IDEA’s regulations. You may never have a reason to access the e-CRF, but it can be very useful if you want to verify the exact language of the law at some future point in time.

Citing the Regulations in This Trainer’s Guide

You’ll be seeing a lot of citations in this trainer’s guide that look similar to this: **81 Fed. Reg. at 92389**

This means that whatever is being quoted can be found in the *Federal Register* (Fed. Reg.) published on December 19, 2016—Volume 81, Number 243, to be precise. The number at the end of the citation (in our example, 92389) refers to the page number on which the quotation appears in that volume.

When people quote from something published in the *Federal Register*, this is the typical citation style they’ll use: Volume Number of the *Federal Register* in which the cited words appeared, at such-and-such page #.

How does information about how we’ve cited regulations in this guide relate to the final regulations on disproportionality? Most of the regulations cited in this guide refer to the recent final regulations on disproportionality, which were published in 81 Fed. Reg. at 92463- 92464.

The new final regulations are just two pages long? Yes. Two pages, neat and tidy. However...

If you download a copy of those regulations (see below), they come with 87 pages of analysis and discussion of the comments received from the public during the public comment period following the release of proposed regulations by the Department (known as the Notice of Public Rulemaking, or the NPRM).

The *Analysis of Comments and Changes* can give you a fascinating window into the depths and details of IDEA as well as what’s happening in the field and in people’s genuine experience. That’s why, when appropriate, we’ve included snippets from that discussion in this trainer’s guide.

To download a copy of the disproportionality regulations

| View or download a copy from the Federal Register website. The first 87 pages will be, as we’ve said, the *Analysis of Comments and Changes*. You’ll find the two pages of the regulations at the very end (pages 92463-92464).

PDF version (547 KB) | <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/pdf/2016-30190.pdf>

HTML version | <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/html/2016-30190.htm>

[Continued on page 7]

Note to Trainers

We’ve provided *only* the final regulations on disproportionality (as printed in the Federal Register) on **Handout 3**.

Exhibits 1 and 2


Screenshots from the e-CFR and How to Navigate to IDEA's Regulations

The date of its currency is given in red.

See this drop-down menu? Scroll down and select "Title 34—Education."

Then hit GO.

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Browse: Select a title from the list below, then press "Go".

▼
Go

Select the blue "300-399" link. That's where IDEA's regulations are codified.

e-CFR data is current as of August 18, 2017

Title	Volume	Chapter	Browse Parts	Regulatory Entity	
Title 34 Education		1	Subtitle A—Office of the Secretary, Department of Education		
			1-99	OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION	
		Subtitle B—Regulations of the Offices of the Department of Education			
		2	I	100-199	OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION
			II	200-299	OFFICE OF ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION
			III	300-399	OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION
			IV	400-499	OFFICE OF CAREER, TECHNICAL, AND ADULT EDUCATION, DEPARTMENT OF EDUCATION
			V	500-599 [Reserved]	OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS, DEPARTMENT OF EDUCATION
			VI	600-679	OFFICE OF POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION
			VII	680-699	OFFICE OF POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION
		4	VII	700-799	OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION [RESERVED]

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Thank You's and Acknowledgements

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- **Perry Williams**, Ph.D., Office of Special Education Programs, U.S. Department of Education, who was the primary original author of this module and who continues to be closely involved in addressing disproportionality in special education;
- **Carmen Sánchez**, Office of Special Education Programs, U.S. Department of Education, who is the federal project officer for CPIR and many Parent Center programs and who has been a sharp-eyed reviewer and advisor during the module's development; and
- CPIR's **Significant Disproportionality Advisory Committee** that has guided development of these materials all along the way, sharing their Parent Center perspectives and commitment to this topic—namely, **Kanika Littleton** (Michigan Alliance for Families), **Barb Koumjian** (The Branch, MPTAC), and **Paula Wills** (Family Resource Center on Disabilities, serving Chicago, IL).

Now... Let's Dig In!

Here ends Section 1 of this Trainer's Guide. The remainder of the guide is devoted to the describing the slides in Slideshow 1. We'll move slide by slide, giving you a thumbnail picture of the slide, a detailed discussion of its content, the relevant regulations (if any), possible handouts or activities that can be used with the slide, tidbits of information you may wish to share with your audience, and helpful resources you might consult for your own learning or find appropriate to share with the audience.

Center for Parent Information and Resources

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Küpper, L. (Ed.) (2017, September). *Disproportionality in special education: Trainer's guide for slideshow 1*. Newark, NJ: Center for Parent Information and Resources.



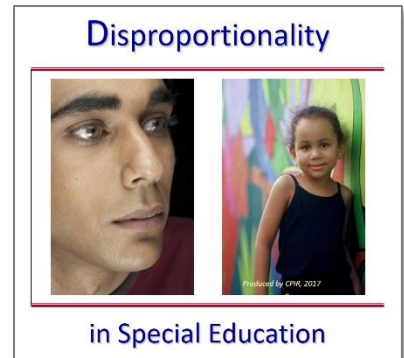
Slide 1 / Title Slide

Suggested handout: Handout 1, Sketching out the Scene

Use Slide 1 to orient your audience to this training. Just as the title of the slide indicates, the topic under the microscope will be *Disproportionality in Special Education*.

The 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 made immediately personal as well.

The activity sheet for participants is **Handout 1, Sketching out the Scene**. The activity itself is described between the lines below.



Opening Activity

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 handout. Large group to discuss.

Materials | Handout 1, Sketching out the Scene

Instructions

1. Refer participants to Handout 1. 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 educational experience of different ethnic or racial groups. What about differences in how they are disciplined at school (e.g., referrals to the office, suspensions, expulsions)?

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.

Slide 2 / Agenda Slide

Slide 2 is an advance organizer for the audience regarding the content treated in this slideshow. The slide loads completely, headers, bullets, and photo.

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.

Suggestions:

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

Bullet 2: Why disproportionality is an important concern. Does anyone in the audience care to comment on why disproportionality is a concern? Are participants aware that it is a concern and has been for quite some time? If not, then you’ll tell them all about it.

Bullet 3: IDEA’s regulations. Can anyone in the audience summarize what IDEA has required in the past regarding disproportionality (under IDEA 2004)? How much do trainees know about new provisions taking effect in 2017? Show of hands—would they rate their knowledge as “I know it all,” “I know a little bit,” or “I know nothing.”

Bullet 4: How “significant disproportionality” is determined. What might “significant disproportionality” be? Would anyone hazard a guess, or a knowledgeable statement?

Bullet 5: What SEAs, LEAs, Parent Centers, and communities can do. Let the audience know that you have lots of goodies for them in terms of resources on disproportionality in special education, which they can use when they finish this training session and return to their “regularly scheduled programming.”

This training session focuses on...

- Defining disproportionality
- Why disproportionality is an important concern
- IDEA regulations
- How “significant disproportionality” is determined
- What SEAs, LEAs, Parent Centers, and communities can do to reduce disproportionality

Produced by CPRE, 2017

Slide 3 / What is Disproportionality?

Suggested handout: Handout 2, Congressional Concerns: Excerpts from Findings in IDEA 2004's Statute

Slide 3 focuses on defining disproportionality, both overrepresentation and underrepresentation. Both situations are graphically depicted on the slide by the cylinders of different sizes.

Suggestions for Trainers

This slide lays the foundation for talking about disproportionality throughout this training session.

The concept of disproportionality is relatively easy to explain, but describing how it is determined is much more complicated. This slide will help you do that.

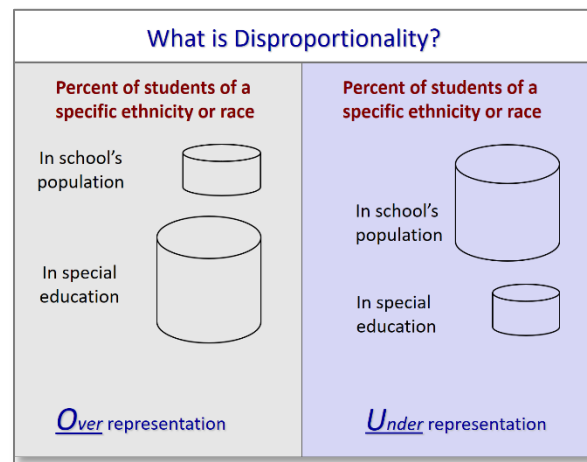
- Use the graphics of the cylinders to explain what over- and under-representation are. These will help most participants grasp the concept of “over” (too many) and “under” (too few), and will be particularly helpful to visual learners in the audience.
- Take advantage of what participants may have shared in the opening activity (Handout 1, Sketching out the Scene) about their own schools and possible disproportionalities.
- Share information about the history of Congressional concern over disproportionality in special education and how that concern has resulted in concrete legislative action, most notably through the IDEA statute. You may wish to share **Handout 2** with participants, so they can see exactly what Congress expressed as “findings” that must be addressed.
- Remind everyone that **determining disproportionality requires data analysis**. Real numbers must be crunched and compared. What may *appear* to be unequal practices in special education toward some racial or ethnic groups can only be verified by looking at school data. Participants will hear more about what data needs to be analyzed in upcoming slides.

Background and Supporting Information

What is Disproportionality?

Within the context of this training session, *disproportionality* refers to situations when the percentage of students from a specific racial or ethnic group in special education programs or specific special education categories is noticeably greater than (or markedly less than) the percentage of their enrollment in a school's general student population or in comparison with other racial or ethnic groups in the school.

Overrepresentation | The left side of the slide shows the situation of **overrepresentation**—where the percentage of students from a specific ethnic or racial group (e.g., American Indians) is greater in special education than in the school's population. We see this **graphically depicted** by the two cylinders on the left. The cylinder at the bottom left (percentage of such students in special education) is much bigger than the cylinder at the top left (their percentage in the school's student population).



It is well known that children of some racial or ethnic groups are **overrepresented** in some categories of special education. For example, research data show that the problem of disproportionality is especially apparent for **African-American males** in high-incidence categories such as intellectual disability and emotional disturbance.³ Upcoming slides will take a deeper look at that research data.

Over the last 30 or more years, overrepresentation has been the focus of much discussion and action—including research into what is causing it and how to take direct action against it. This truth can be readily seen in many provisions of IDEA over the years, especially in IDEA 97, IDEA 2004, and the recent IDEA regulations published in 2016.

Underrepresentation | As everyone can see, the right side of the slide appears nearly identical to the left; both include the same examination of what percent of children of a specific race or ethnic group are represented in special education versus in the school's population. What's different is the size of the cylinders shown. The cylinders on the right are the visual opposite of those on the left, graphically depicting a situation where there are markedly *fewer* children of that race or ethnicity in special education than in the school population. This is a case of *underrepresentation*.

Although this training session focuses primarily on the overrepresentation of students of particular racial or ethnic groups in special education, it's important for the audience to understand that underrepresentation of a particular racial/ethnic group is also a disproportionate representation and therefore a cause for concern and action. Several studies of disproportionality have revealed the *underrepresentation* of children from particular racial or ethnic groups in programs for the gifted and talented and in special education classes.⁴ However, this will not be discussed in any detail in this module. This is consistent with what the U.S. Department of Education asserts has been its long-standing interpretation of original Congressional intent, which was to require states to address overrepresentation, not underidentification or underrepresentation. As the Department states in its *Analysis of Comments and Changes*:

The basis for congressional action was largely due to a concern that students of color were being identified too often for special education services, and placed too frequently in segregated settings, in ways that were detrimental to their education.⁵

Congressional Concern

Trainers may find it appropriate to share 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. For example:

- IDEA 97 mandated new state reporting requirements concerning enrollment by race and ethnicity in special education.
- IDEA 2004, passed by Congress in December 2004, opened with a list of findings that specifically identify disproportionality as an issue to be addressed. Those findings are presented below and on **Handout 2**, if you'd like to share them with the audience. As you can see, they are quite extensive. They also remain relevant today as we examine the revision of IDEA's disproportionality regulations that the Department of Education published in December 2016.

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 dropout 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.⁶**

Slide 4 / What is Disproportionality?

Slide 4 sharpens the discussion of disproportionality in special education to the three distinct areas addressed in the 2016 revision of IDEA’s disproportionality regulations and requirements. As shown on the slide, these three areas of inquiry and monitoring are:

- Who is **referred** to special education and what **disability** “label” they receive after evaluation;
- **Where** students receive special education services (i.e., their **placement**); and
- How **school disciplinary matters** are handled.

These three threads will run through this entire training module. They serve as the current frame through which states, school districts, and schools must examine their special education data and practices, as well as:

- How they will reach determinations of “significant disproportionality” in any of their local education agencies (LEAs) and school districts;
- What remedial actions must be taken, if required; and
- What information they must report (e.g., findings and any resultant actions to be taken) to the public and to the U.S. Department of Education.

Discussing the Slide

- Go over the points on the slide. Be sure to stress that the audience take special note of these areas, because they *do* serve as the frame for how the educational system will identify and addresses disproportionate practices in special education.
- Note that participants will hear more about each of these areas during the training session and that the action steps suggested near the end of the session will harken back to these important areas.
- Note as well that, prior to the reauthorization of IDEA in 2004, disproportionality monitoring looked at only the first two areas. The third (examining disciplinary data to see if there are significant differences between how one ethnic/racial minority group is disciplined versus another) is new in IDEA 2004. The 2016 revision of IDEA 2004’s regulations on disproportionality has reinforced discipline as an area of concern.
- Indicate that each area stands alone as its own line of state and local inquiry and monitoring. Together, they constitute what must be looked into when addressing questions of disproportionality.

The slide is titled "What is Disproportionality?". It features a list of three key areas of inquiry and monitoring:

- Who is **referred** to special education and what **disability** “label” they receive
- Where students receive special education services (**placement**)
- How school **discipline** matters are handled (suspension, expulsion, etc.)

Below the list, there is a diagram with two rows:

<i>er</i> representation	→	Too many
<i>er</i> representation	→	Too few

Moving on to the Next Slide

Let's get into some examples of why these three areas are of particular concern when talking about disproportionality in special education. What does the research reveal?

Slide 5 / Examples of Disproportionality

Slide 5 begins a series of slides on what we know from research about disproportionate practices. This slide looks at the first area of concern. Specifically, are students from a given racial or ethnic group more (or less) likely than others to be:

- **Referred** for evaluation to see if they have a disability; and/or
- **Identified** as having a particular disability?

Disproportionality in Referrals

As the slide (left column) indicates:

“Black/African-American students are...twice as likely as White students to be referred for evaluation”

The bullet is footnoted, with the research citation for the statement appearing in the speaker notes section below the PowerPoint slide. Participants will not be able to see the citation. Should they ask, or should you wish to share where this information comes from, we've provided the citation at the end of this slide's discussion.

This is but one example from the research literature as to *which* students are more likely to be referred for evaluation than would be expected from their numbers in the school population (or compared to how often students from other minority groups are referred for evaluation).


Disproportionality in Disability Identification

As the slide (right column) indicates:

American Indian/Alaskan Native students are...nearly twice as likely to be identified with specific learning disabilities than all other racial/ethnic groups

Examples of Disproportionality

In referring students for evaluation	In disability identification
Black/African-American students are...twice as likely as White students to be referred for evaluation ¹	American Indian/Alaskan Native students are...nearly twice as likely to be identified with specific learning disabilities than all other racial/ethnic groups ²
	Black/African-American children are...twice as likely as Whites and American Indians/ Alaskan natives to be identified as having intellectual disabilities ³



Note to Trainers

As a trainer, you are at liberty to decide how much time you will spend with the audience on this (or any) slide. How much does the audience already know about how students are referred for special education evaluation or how they are identified as having a disability? If not much, then you may wish to share some of the overview information we've provided under the “Background and Supporting Information” section of this slide's discussion.

If the audience is already well-versed in these two facets of the special education system, focus on the research findings, sum them up quickly, and move on to Slide 6.

Black/African-American children are... twice as likely as Whites and American Indians/ Alaskan natives to be identified as having intellectual disabilities

These two research findings are footnoted on the slide and come from the sources identified at the end of this slide's discussion. The findings are among the most-often mentioned when disproportionality in special education is discussed.

What these statistics tell us is that there's disproportionality in how specific racial or ethnic groups are being "assigned" to disability categories, which will have a significant impact on the education and support services these children receive.

Background and Supporting Information

Quick Overview of Referral | Given that referral for evaluation is an area where disproportionate practices have been found, you may need to take the audience through a quick "tour" of the referral process in general. You can share this information with the audience or discuss what participants already know about the referral process, as you deem necessary. It's always good to be clear about what's being discussed. You might mention:

- There are a number of paths by which students may come to receive an evaluation for disability, including at the request of parents or the school system itself.⁷ General education teachers often refer students for evaluation based on poor academic performance or behavior in class.
- Upon receiving a referral, the school system must promptly provide parents with prior written notice about its proposal to evaluate their child, ask for and obtain parents' written consent, and conduct the evaluation in keeping with IDEA's timeframe requirements (60 days from receiving parental permission, or within the timeframe set by the state).⁸
- Parents must give their informed consent before the school may evaluate their child for a disability.⁹

State-Specific Practices, Policies, and Procedures | The referral process may be affected by a number of state-specific policies (described below). If any of these are used in your state, you may wish to mention them in any overview about referral you offer.

- Many states have a **pre-referral process** or team designed to determine if a referral for special education evaluation is really necessary or appropriate. If your state has such a process, you'll want to mention it to the audience.
- Many states also provide what's known as **early intervening services (EIS)** before evaluating a child. With EIS, assistance is given to children who have not yet been identified as eligible for special education and related services under IDEA but who need extra help and support to progress in the general education environment.¹⁰ Is this approach relevant in your state? If so, it may need to be mentioned, because it affects the referral process.
- Many schools also use a **response-to-intervention (RTI)** or similar approach as a step before actual evaluation for specific learning disabilities. One of RTI's underlying premises is the possibility that a child's struggles may be due to inadequacies in instruction or in the curriculum either in use at the moment or in the child's past. Is this relevant to your audience?

If so, you may wish to explain briefly that an RTI approach is designed to see if the student in question responds to a program of high-quality, evidence-based instruction with ongoing progress monitoring. RTI typically has several tiers where intervention becomes steadily more intensive and targeted. If a student's academics or behavior does not improve at a lower tier, he or she may move up to a more intensive tier of intervention.¹¹

- It's important to note that, at any time during an RTI approach, parents have the right to ask that their child be evaluated to see if he or she has a disability.¹² If they do request such an evaluation, the school must promptly ask for parents' written consent and conduct the evaluation in keeping with IDEA's timeframe requirements (60 days from receiving parental permission, or within the timeframe set by the state).¹³

Disability Identification: 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 intellectual disabilities. In contrast, diagnoses for categories such as mild intellectual disability, emotional disturbance, or specific learning disabilities (SLD) rest on the "art" of professional judgment¹⁴ in that referral for special education evaluation and diagnoses involve school personnel's subjective opinions, which can cause inconsistencies in identification.¹⁵

It is for this reason that we need to pay greater attention to the general education world where the problem of disproportionate representation often begins. The problem of disproportionality can no longer be viewed solely as a special education issue.

Citations for the Research Findings Noted on the Slide

For Referral Reference

Echevarria, J., Powers, K., & Elliott, J. (2004). Promising practices for curbing disproportionate representation of minority students in special education. *Issues in Teacher Education*, 13(1), 19-34. As cited in Fletcher, T.R. (2014). *Exploration of implicit bias on multidisciplinary team members when referring African American students for special education services*. (Doctoral dissertation). Available online at: <http://scholarcommons.sc.edu/etd/2942>

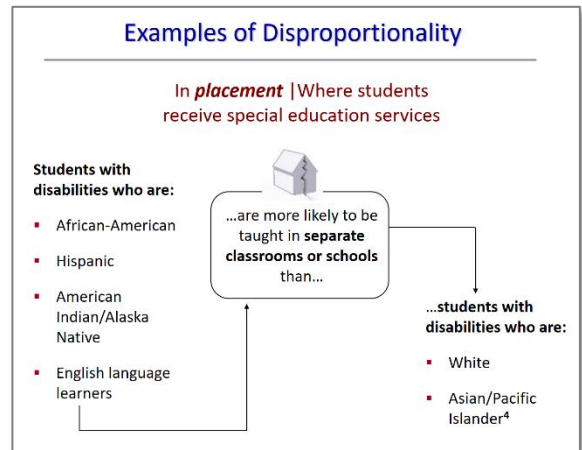
For Identification References

- *Re: American Indians/Alaska Natives*
Collier, C. (2012). Special education for indigenous students. *NABE Perspectives*, May/June 2012, 9-10. Online at: <https://jan.ucc.nau.edu/jar/NABE/Collier%20SE.pdf>
- *Re: Blacks/African-Americans*
81 Fed. Reg. at 92380 (*The Analysis of Comments and Changes*, which accompanied the publication of the final disproportionality regulations in December 2016.

Slide 6 / Examples of Disproportionality

Slide 6 continues the brief look at examples of disproportionality—this time capturing what research says about disproportionality in special education **placement**.

As the slide indicates, students with disabilities who are African-American, Hispanic, American Indian/Alaska Native, or English language learners are more than likely to be taught in separate classrooms or schools that students with disabilities who are White or Asian/Pacific Islanders.



As with the previous slide, the research is footnoted in the speaker notes area of the slide. For your information, that citation is:

National Education Association. (2008). Disproportionality: Inappropriate identification of culturally and linguistically diverse children. *NEA Policy Brief (PB02)*, 1-4. Online at: http://www.nea.org/assets/docs/HE/mf_PB02_Disproportionality.pdf

Talking about the Slide: Covering the Basics of Placement First

What's placement? | For clarity's sake, start by stating what "placement" means, something simply put as "Placement is where students with disabilities receive their special education and related services."

Ask the audience to name a few possible placements | The slide uses the phrase "more likely to be taught in separate classrooms or schools." What other placements might there be? Possible answers you may hear: in a resource room; in a pull-out program; in a class only for students with disabilities; at home; in a special school.

What's so terrible about being taught in a separate class? | While participants may not voice this question aloud, some might be wondering it. It will be important to address the question whether it's voiced or not.

The answer to this question is complicated, but it's directly tied to the requirements of IDEA regarding placement (discussed more fully in the Background and Supporting Information section of this slide's discussion). Briefly here, you may wish to make the following points:

Note to Trainers: Need More Info on Placement?

Depending on the familiarity of the audience with placement, you may find they need a brief overview of the subject.

Refer to the **Background and Supporting Information** section of this slide's discussion for key information such as: Who decides a child's placement? What are the options, according to IDEA? How do IDEA's least restrictive environment (LRE) provisions guide placement decisions?

- In and of itself, receiving special education services in a separate classroom is not “terrible” or necessarily “wrong.” IDEA itself requires each public agency (e.g., school district, LEA) to ensure that a **continuum of alternative placements** is available to meet the needs of children with disabilities for special education and related services.¹⁶ That continuum includes making instruction in special classes or in special schools available as a placement option.
- However, as the Department states and IDEA’s provisions make clear, “The overriding rule is that placement decisions must be determined on an individual, case-by-case basis, depending on each child’s unique needs and circumstances and, in most cases, based on the child’s IEP.”¹⁷
- Moreover, IDEA has always required that placement decisions be made in keeping with the law’s **least restrictive environment (LRE) provisions**, which include the following:

(2) Each public agency must ensure that—

(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.¹⁸

- Especially note the strength of the wording in IDEA’s LRE provisions: “To the maximum extent appropriate” | “... occurs only if...”
- Parents have the right to be part of any group that decides their child’s placement.¹⁹

The decades-long concern over disproportionality in placement decisions, therefore, is not about the *quality* of special education services that children with disabilities receive in separated environments as opposed to services they might receive in the general education setting. Rather, the concern is that children with disabilities of certain racial or ethnic groups are more likely—often *much* more likely—to be placed in segregated, more restrictive environments. This is one of the reasons why IDEA requires that LEAs examine their placement data by race and ethnicity to identify if they are placing disproportionately higher percentages of students from certain racial or ethnic groups in separated, more restrictive settings.

Placement Info You Can Share with Families

Looking for an easy-to-read explanation of placement to share with the families you serve? Try these:

Placement, Short-and-Sweet
<http://www.parentcenterhub.org/placement-overview/>

Determinando la Ubicación del Niño
<http://www.parentcenterhub.org/ubicacion/>

Discussing the Example of Disproportionality Given on the Slide

Research findings that children with disabilities from specific minority groups are more likely to be placed in a separated setting than children with disabilities from other groups have definitely been an impetus for Congress to take legislative action. There may be many reasons behind this disproportionality (some will be discussed under Slide 14), but the data reveal a consistent pattern of placement disproportionality based on race and ethnicity. But we'll get to those requirements of law in an upcoming slide! Let's move on to our last research-based example of disproportionality—this time with regard to *disciplinary action*.

Slide 7 / Examples of Disproportionality

Note to Trainers | The slide will display all graphics and text fully and automatically, without you having to click to advance the elements. However, the slide is set to display slowly, not all at once, so be patient as each piece presents itself! (The slow display makes it easier for participants to absorb each individual element.)

Slide 7 wraps up this series of disproportionality examples drawn from the research. Three research findings are mentioned; all relate to the ways in which students with disabilities receive disciplinary actions such as suspension, expulsion, or restraint/seclusion.

Examples of Disproportionality

In disciplinary action |
Suspension, expulsion, restraint and seclusion

Students with disabilities are **more than twice as likely** to receive an out-of-school suspension (13%) as students without disabilities (6%)⁵

- **Black preschool** children are **3.6 times** as likely to receive one or more out-of-school suspensions as their White peers
- **Black K-12** students are **3.8 times** as likely to receive one or more out-of-school suspensions as White students⁶

- Students with disabilities are more than twice as likely to receive an out-of-school suspension (13%) as students without disabilities (6%)
- Black **preschool** children are 3.6 times more likely to receive one or more out-of-school suspensions as their White peers
- Black **K-12** students are 3.8 times more likely to receive one or more out-of-school suspensions as White students

As with previous slides, each of these findings are footnoted in the speaker notes area of the slide. For your convenience, we provide those citations at the end of this slide's discussion.

Finding 1 | The first finding simply compares the likelihood of receiving an out-of-school suspension between two groups: students with disabilities and students without disabilities. Clearly, students with disabilities are more than **twice as likely** to be suspended from school (K-12) than are students without disabilities.

Findings 2 and 3 | Here, research reveals that Black students are *much* more likely than their White peers to receive an out-of-school suspension. Truly disturbing is the number of Black children who are suspended from **preschool!** We don't normally think of preschoolers being suspended, but the data tell a different reality. In addition to what's listed on the slide, you might mention several of the alarming statistics below, all of which come from the Office for Civil Rights at the U.S. Department of Education.²⁰

- Black children represent **19%** of preschool enrollment, but **47%** of preschool children receiving one or more out-of-school suspensions. In comparison, White children represent **41%** of preschool enrollment, but **28%** of preschool children receiving one or more out-of-school suspensions.
- Black boys represent **19%** of male preschool enrollment, but **45%** of male preschool children receiving one or more out-of-school suspensions.
- Black girls represent **20%** of female preschool enrollment, but **54%** of female preschool children receiving one or more out-of-school suspensions.

There's also a disparity in suspension rates by **gender**: Most of the public preschool children suspended are boys. While **boys** represent **54%** of preschool enrollment, they represent **78%** of preschool children receiving one or more out-of-school suspensions. Interestingly, at the preschool level, children with disabilities and English learners are not disproportionately suspended.²¹

In K-12 public schools, the **suspension** rate of students with disabilities varies noticeably by race and ethnicity. More than **1 out of 5** American Indian or Alaska Native (23%), Native Hawaiian or other Pacific Islander (23%), Black (25%), and multiracial (27%) boys with disabilities served by IDEA received one or more out-of-school suspensions, compared to **1 out of 10** White (10%) boys with disabilities served by IDEA.²² As the Office for Civil Rights summarizes:

The Civil Rights Data Collection (CRDC) reveals that students of certain racial or ethnic groups and students with disabilities are disciplined at far higher rates than their peers, beginning in preschool. The CRDC data also show that an increasing number of students are losing important instructional time due to exclusionary discipline.²³

Beyond Suspension

Out-of-school suspensions are only one form of disciplinary action used by schools. Others include referral to the principal's office or detention, in-school suspensions, restraint and seclusion, expulsion, alternative placements, referral to law enforcement agencies, and arrest. Here are some data you can share with participants about these other forms of discipline. They all shed light on the serious and ongoing inequity in how some students are disciplined at school.

- Secondary-school-age youth with disabilities are more likely to experience an **in-school** than out-of-school suspension, with 17% undergoing an in-school and 11% an out-of-school suspension.²⁴
- Students with disabilities represent a quarter of the students who are referred to **law enforcement** or subjected to school-related **arrests**, while representing just 12% of the student population.²⁵
- Data on referrals to law enforcement and school-based arrests indicate that the majority of suspensions and expulsions resulted from only trivial infractions of school rules or offenses, not from offenses that endangered the physical well-being of other students.²⁶
- Up to 85% of youth in juvenile detention facilities have disabilities that make them eligible for special education services, yet only 37% receive these services while in school. Black students

with disabilities represent 18.7% of the IDEA population, but 49.9% of IDEA students in correctional facilities. This has become known as the “school-to-prison pipeline.”²⁷

- Students with disabilities served by IDEA represent 12% of students enrolled in public schools, but 75% of the students who are subjected to **physical restraint** during school and 58% of those subjected to **seclusion**.²⁸
- Black students represent 19% of students with disabilities served by IDEA, but 36% of those students who are subject to mechanical restraint.²⁹

Enough said? Not quite yet. IDEA 2004’s discipline rules are complex and sometimes hard to understand, yet they play an important role in how students with disabilities are disciplined for behavior or other infractions of the student code of conduct. We’ve listed several resources below that your audience may find helpful now or in the future.

Brief Listing of Resources on Discipline for Families, Staff, and Others

Placement and School Discipline

This article takes a not-so-brief look at how a student placement can be affected by disciplinary actions at school.

<http://www.parentcenterhub.org/disciplineplacements/>

On the Legal Limits of Using Restraint or Seclusion

This suite of resources comes from the Office for Civil Rights at the U.S. Department of Education.

<http://www.parentcenterhub.org/restraint-seclusion-ed2016/>

Webinar | IDEA Behavioral Support and Discipline

In this CPIR webinar, Renee Bradley, of OSEP, is joined by representatives from Parent Centers, protection and advocacy agencies, and state directors of special education to unpack an important “Dear Colleague” letter released by OSEP regarding behavior and school discipline, and discuss its impact on the field.

<http://www.parentcenterhub.org/webinar-oser-dcl-idea-behavioral-support-and-discipline/>

School Climate and Discipline

This page of resources at the U.S. Department of Education is really a suite of resources that connects you with the latest data and thinking on suspension and expulsion of students from school. The basic message is “Rethinking Discipline” in order to create safe and positive school climates.

<http://www2.ed.gov/policy/gen/guid/school-discipline/index.html>

School Discipline Laws and Regulations by Category and State

See what school discipline laws your state has on the books.

<https://safesupportivelearning.ed.gov/node/3510>

Citations for the Research Findings Noted on the Slide

Finding at the Top of the Slide

U.S. Department of Education, Office for Civil Rights. (2014, March). Data snapshot: School discipline. *Issue Brief 1*, 1-24. Online at: <https://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>

Left and Right Findings

U.S. Department of Education, Office for Civil Rights. (2016, October). *A first look: Key data highlights on equity and opportunity gaps in our nation's public schools* (2013-2014 Civil Rights Data Collection). Washington, DC: Author. Online at: <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

Slide 8 / What, Me Worry?

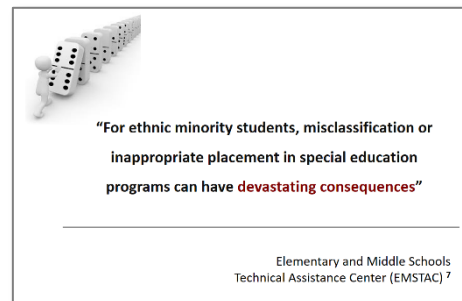
Slide 8 is meant to be a quick, wry slide. After having presented a handful of sobering findings from research, it's clear why Congress was worried about disproportionality—and why we should be, too.

The “What, Me Worry?” title on the slide should call to mind Alfred E. Neuman of *Mad Magazine*, who made the statement famous.³⁰ Anyone in the audience recognize it?



Slide 9 / Devastating Consequences

Slide 9 presents a quote from the Elementary and Middle School Technical Assistance Center (EMSTAC), a project formerly funded by OSEP to provide technical assistance to school districts and designated individuals (called “Linking Agents”) to implement new and effective practices in special education. The quote comes from EMSTAC’s page of frequently asked questions about disproportionality.



“For ethnic minority students, misclassification or inappropriate placement in special education programs can have devastating consequences.”³¹

While EMSTAC is no longer in operation, materials on its website remain available. This quote acts as both a summative statement of the research review just presented (“What, Me Worry?”) and the lead-in to the next slide, which looks at some of the very real consequences of misclassifying or inappropriately placing ethnic minority students in special education. The graphic on this slide (top left) shows a row of dominos about to go down.

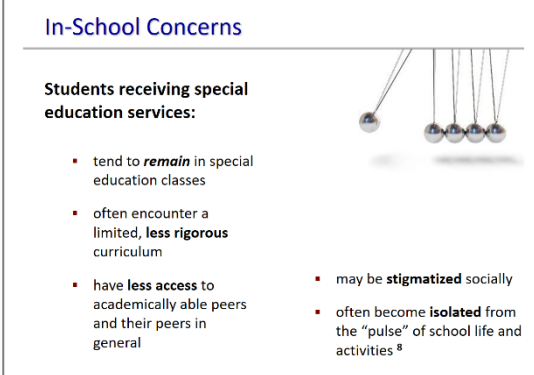
Read the quote aloud, then ask the audience if they can project what some **in-school** consequences might be (Slide 13 will address post-school consequences). Let participants name several possible in-school repercussions. Then move on to Slide 10 and explore with the audience what research has to contribute to our deeper awareness of how damaging disproportionality in special education can be for many minority students with disabilities.

Slide 10 / In-School Consequences

Slide 10 takes a research-based look at the consequences that misidentification, inappropriate placement, and discriminatory disciplinary actions can have on special education students, especially those from minority backgrounds. As the slide states:

Students receiving special education services:

- tend to remain in special education classes once they are “placed” there
- often encounter a limited, less rigorous curriculum with limited access to the curriculum used in general education
- have less access to academically able peers and their peers in general
- may be stigmatized socially
- often become isolated from the “pulse” of school life and activities



In-School Concerns

Students receiving special education services:

- tend to **remain** in special education classes
- often encounter a limited, **less rigorous** curriculum
- have **less access** to academically able peers and their peers in general
- may be **stigmatized** socially
- often become **isolated** from the “pulse” of school life and activities⁸

These findings come from multiple research studies, which are summarized in:

National Education Association. (2007). *Truth in labeling: Disproportionality in special education*. Washington, DC: Author. Online at: <http://www.nea.org/assets/docs/HE/EW-TruthInLabeling.pdf>

Did anyone in the audience notice how frequently these in-school consequences include words that convey isolation from and limited access to the normal life of students within a school?

When you consider that many students (especially those from minority groups) have been misidentified as having a particular disability and then provided with services appropriate for a disability they don't have, sometimes in settings that are unjustifiably separated from their peers, these consequences are not all that surprising. Even in this day of state standards for learning and IEP development that ties student goals to those standards, these consequences accrue, slowly and steadily. What *is* surprising is that so many students of color are being educated in more restrictive environments when IDEA's LRE provisions *explicitly* state that “special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if

the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily” [§300.114(a)(2)].

And these aren’t the only negative consequences that can occur. Slide 11 describes yet more—consequences largely associated with being suspended or expelled from school.

Slide 11 / Being Suspended or Expelled from School

Slide 11 focuses on the consequences associated with the third strand of disproportionality that states must attend to—namely, disciplinary practices that disproportionately affect students from specific racial or ethnic groups.

The consequences of being suspended or expelled from school are many, and they are all negative. As the slide captures, being suspended or expelled from school:

- Means lost classroom and learning time
- Disconnects students from school
- Increases likelihood of:
 - being retained a grade
 - landing in the juvenile justice system
 - dropping out⁹

Being Suspended or Expelled from School

Means lost classroom and learning time

Disconnects students from school

Increases likelihood of:

- being retained a grade
- landing in the juvenile justice system
- dropping out⁹

Many researchers and concerned professional groups have noted these consequences, including the one that’s cited in the speaker notes area below the slide:

National Association of School Psychologists. (2013). *Racial and ethnic disproportionality in education: Position statement*. Bethesda, MD: Author. Online at: <http://www.nasponline.org/x26829.xml>

Discussing the “Costs” of Suspension or Expulsion

In this section, you’ll find more detail about particular items on the slide. This background and supporting information is primarily intended to add to your knowledge base as a trainer and equip you with specifics to back up the summative statements on the slide. Any of this information can be shared or discussed with the audience, as a way of stimulating conversation and exchange, or to provide participants with the sharp-edged details of the bigger picture at hand (i.e., what suspension or expulsion from school can mean for too many minority students with and without disabilities).

Lost Instructional Time | Removing students with disabilities from school via suspension or expulsion not only means lost instructional and learning time, but obviously can undermine students' academic achievement. As the Office for Civil Rights at the U.S. Department of Education states in its December 2016 *Dear Colleague Letter, Preventing Racial Discrimination in Special Education*:

For students who do not have disabilities and are mistakenly identified as having disabilities and who receive special education services as a result, special education services are inappropriate and may have negative consequences for the educational development of such students, by limiting the student's access to proper instruction.³²

Involvement in Juvenile Justice System | Of definite concern is the greater likelihood of becoming involved with the juvenile justice system for students with disabilities (especially those who are from minority populations) who have one or more suspensions in a school year or outright expulsion from school. The issue will also be addressed in the Slide 13, so you might put off discussing it right here.

This issue has become known as the “school-to-prison pipeline.” It doesn't just apply to those with disabilities, however. The school-to-prison pipeline is a serious reality for youth of color in general³³ and has spawned a wide array of federal and state initiatives intended to reduce the risk of juvenile justice involvement for youth of color and youth with disabilities.

The audience may or may not be familiar with some of those initiatives (which include laws), so let us list a few examples that trainers might mention:

- **My Brother's Keeper** initiative, launched under the Obama administration, addresses persistent opportunity gaps faced by boys and young men of color.
<https://obamawhitehouse.archives.gov/node/279811>
- **Juvenile Justice and Delinquency Prevention Act (JJDP)**, originally passed in 1974 and most recently reauthorized by Congress in 2002, offers core protections to youth (including those with disabilities) involved in the juvenile justice system. Among those protections:
 - The “Deinstitutionalization of Status Offenders” requirements that states and territories must follow. (More information about “status offenses” is provided in the box on the next page, because status offenses are relevant to exclusionary school disciplinary decisions.)
<http://www.act4jj.org/what-jjdp>
 - The “Disproportionate Minority Contact” provisions require states to “address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system.”³⁴
- **Office of Juvenile Justice and Delinquency Prevention (OJJDP)** is a federal office within the Department of Justice. Its charge is “to support local and state efforts to prevent delinquency and improve the juvenile justice system.”³⁵ Lots of good resources here for Parent Centers, families, advocates, and others alarmed by the school-to-prison pipeline for youth of color, including those who have disabilities. Check out OJJDP's **State Contacts** page, for identify JJ contacts in your state, at: <https://www.ojjdp.gov/statecontacts/resourcelist.asp>

More about Status Offenses

“Status offenses are offenses that only apply to minors whose actions would not be considered offenses if they were adults. The most common are skipping school, running away, breaking curfew, and possession or use of alcohol.”

The Deinstitutionalization of Status Offenders (DSO) provision “seeks to ensure that status offenders who have not committed a criminal offense are not held in secure juvenile facilities for extended periods of time or in secure adult facilities for any length of time. These children, instead, should receive community-based services, such as day treatment or residential home treatment, counseling, mentoring, family support, and alternative education.”

Quotation from *Core Requirements* on the website of Act 4 Juvenile Justice website: <http://www.act4jj.org/our-work/member-engagement>

Dropping Out of School | Students who are expelled from school are far more likely to drop out of school. Research shows that being suspended even once in ninth grade is associated with a two-fold increase in the likelihood of dropping out.³⁶

While the high school graduation rate of ethnic/racial minority students has significantly increased in the last 10 years, the connection remains evident between in-school disciplinary actions and the increased likelihood of a student dropping out of school. This brief section reviews current data that you can share with the audience as you wish or have time to include.

- High school graduation rates for: Asian students (88.7%); Whites (86.6); Hispanic/Latino students (75.2%); and African American students (70.7%).³⁷
- The percentage of 16- to 24-year-olds who are not enrolled in school and have not earned a high school credential is known as the **status dropout rate**. According to the Current Population Survey, in 2013 there were approximately 2.6 million such youth, with disparities by race and ethnicity: Hispanic youth had the highest status dropout rate (12%); followed by Black youth (7%) and White youth (5%). Data from the American Community Survey mirrored these results, but also included the status dropout rate for American Indian/Alaska Native youth (13%).³⁸
- Dropouts are 3.5 times more likely to be arrested than high school graduates. Many so-called dropouts who end up in jail are

Dropout Nation | A Frontline Video

The PBS television series **Frontline** included a 2-hour special called *Dropout Nation*, which aired in September of 2012. The show investigated the causes, challenges, and potential solutions of the epidemic of teens dropping out of high school. You can view the show online at:

<http://www.pbs.org/wgbh/frontline/film/dropout-nation/>

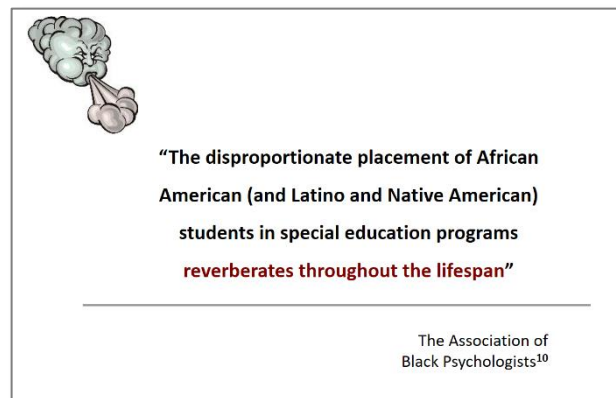
actually push-outs. Under the guise of zero tolerance, initiated after Columbine, students are often asked to leave school as a first response rather than a last resort.³⁹

- Among dropouts between the ages of 16 and 24, incarceration rates were a whopping 63 times higher than among college graduates.⁴⁰
- The graduation rate for **students with disabilities** hit 61.9% in 2012-13, which is nearly 20 points behind the national average.⁴¹
- Want to find out **your state's graduation rates**? Visit the Everybody Graduates Center's state-specific pages, beginning at: <http://new.every1graduates.org/building-a-grad-nation-2016/building-a-grad-nation-state-profiles-and-annual-updates/>

Slide 12 / Lifetime Reverberations

Slide 12 is meant to be quickly covered. It serves as a steppingstone from earlier slides of in-school consequences of disproportionality to the next slide, which identifies post-school consequences of note. The quote on the slide says:

“The disproportionate placement of African American (and Latino and Native American) students in special education programs **reverberates throughout the lifespan.**”



The citation associated with this quote is provided in the speaker notes box below the slide (which the audience cannot see). Here it is, should you wish to share that information:

Codrington, J., & Fairchild, H.H. (2012, February). *Special education and the mis-education of African American children: A call to action* (p. 5). Ft. Washington, MD: The Association of Black Psychologists. Online at: <http://www.abpsi.org/pdf/specialedpositionpaper021312.pdf>

Suggestion to Trainer

Read the quote aloud, then ask the audience if they can project what some **post-school** consequences might be. Let participants name several possible repercussions. Then move on to Slide 13 and explore with the audience what research reveals are some of the real-life and lifelong consequences.

Slide 13 / Post-School Consequences

Slide 13 takes us to “What happens afterwards?” What are the longer-term, perhaps lifelong, consequences of disproportionality in special education for students from minority backgrounds?

Three areas are addressed: dropout rates; percent of those who are unemployed but not in school; and imprisonment rates. You may have mentioned some of these areas of consequences as you moved through Slides 10 to 12.

Post-School Consequences	
Dropout Rates	<ul style="list-style-type: none"> African American, Hispanic/Latino, and Native American students are disproportionately represented among the nation's dropouts¹¹
Unemployed but not in school	<ul style="list-style-type: none"> 38% Native American/Alaska Native 29% African-American 21% Hispanic 16% White 13% Asian¹²
Imprisonment Rates	Young adult Black males are incarcerated at: <ul style="list-style-type: none"> 2 times the rate of Hispanic males 6 times the rate of White males¹³

Discussion of the Slide

Dropout rates | Students with disabilities drop out of high school at a significantly higher rate than students without disabilities.⁴² As the slide indicates, disproportionate percentages of African-American, Hispanic/Latino, and Native American students are among those who drop out of high school. In fact, Native American/Alaska Native 18- to 24-year-olds who had not completed high school have the *highest* dropout rate (at 25%).⁴³

Employment | Given the statistics shown on the slide, it's clear that, even after many ethnic/racial minorities exit school (for whatever reason), the pattern of negative consequences comes with them and contributes to their disproportionate numbers among the unemployed. Consider this chart from the Bureau of Labor Statistics at the U.S. Department of Labor. It shows how dramatically levels of education can affect future employment and wages.⁴⁴ The lower the educational attainment of an individual, the lower his or her projected earnings will be.

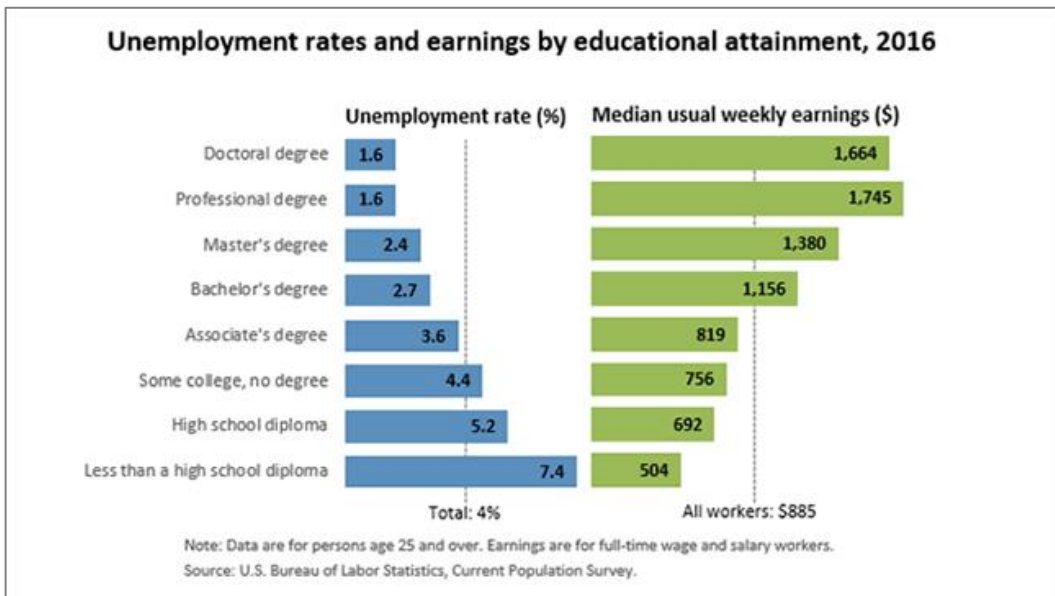


Figure 1: Employment Projections from the Bureau of Labor Statistics

Imprisonment rates | The school-to-prison pipeline has been mentioned several times in this trainer’s guide. Refer to the discussion under Slide 11 for more statistical information about the disproportionate numbers of ethnic/racial minorities who are incarcerated. The data cited on the slide come from:

Federal Interagency Forum on Child and Family Statistics. (2014). *America’s young adults: Special issue, 2014*. Washington, DC: U.S. Government Printing Office. Online at: https://www.childstats.gov/pdf/ac2014/YA_14.pdf

In sum | The overall post-school outcomes for ethnic/racial minority youth, including those with disabilities, depict a difficult life ahead, with “higher incarceration rates, lower college attendance, blunted employment opportunities, lower socio-economic well-being, more dire health statistics, and lower life expectancies.”⁴⁵

All of this begs the question, *Why?* The next slide looks at some hypotheses about the roots of disproportionality in special education.


You may wish to pause here (on this slide) and talk with the audience about what they think might be possible causes or roots of the problem. If you have time, have the audience break into small groups of 2-4 to discuss this question and list what they think is causing or contributing to disproportionality in special education based on race or ethnicity. Have the small groups report back as part of the post-activity debriefing.

Slide 14 / Why? Some Hypotheses

Slide 14 brings us to the obvious question that most of the audience is probably asking: What in the world?! What is causing or contributing to the disproportionality of ethnic/racial minority students in special education?

Some possibilities are given on the slide:

- Failure of general education to educate children from diverse backgrounds
- Misidentification, misuse of tests
- Lack of access to effective instruction
- Bias and misperception
- Teachers who are less well prepared
- Problems associated with poverty

Why?	Some Hypotheses
	<ul style="list-style-type: none">▪ Failure of general education to educate children from diverse backgrounds▪ Misidentification, misuse of tests▪ Lack of access to effective instruction▪ Bias and misperception▪ Teachers who are less well prepared▪ Problems associated with poverty

Associated with these possibilities comes a plethora of research and speculation. Certainly, the role that discrimination or implicit bias might play has been more than substantively discussed and has many dimensions. Have a look at this resource for a deeper exploration of eight possible root causes.

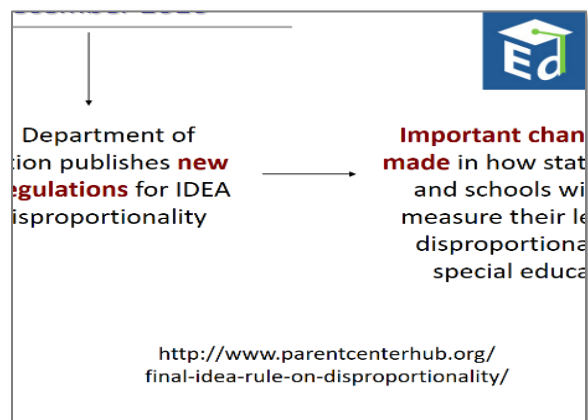
Identifying the Root Causes of Disproportionality | From the New York University Technical Assistance Center on Disproportionality. This 13-page guide is hands-on, with tips for guiding local discussions about this complicated and sensitive issue. Possible causes explored: (1) discipline policies and practices, (2) interventions and referrals, (3) instruction and assessment, (4) differential access to educational opportunity, (5) family and community partnerships, (6) teacher expectations and misconceptions, (7) cultural dissonance, and (8) district socio-demographics. Online at: https://steinhardt.nyu.edu/scmsAdmin/media/users/ll81/Identifying_the_Root_Causes_of_Disproportionality.pdf

This slide ends Section 1 of the slideshow, which looked at what we know about disproportionality in special education. The next slide opens Section 2 of the slideshow---what is being done to address this issue?

Slide 15 / December 2016

Slide 15 takes us out of the realm of background information and into the realm of **action**. The remaining slides in this presentation briefly introduce the final IDEA regulations on disproportionality that were published by the U.S. Department of Education in December 2016.

As the Slide 15 indicates, the new final IDEA regulations on disproportionality bring important changes in how states, LEAs, and schools will now measure their levels of disproportionality in special education.



The final rule on disproportionality, plus | At the same time that ED released IDEA's 2016 final regulation on disproportionality, it also published a fact sheet on equity and announced a *Dear Colleague Letter (DCL) on Racial Discrimination* from the Office for Civil Rights. All (the final rule, the fact sheet, and the DCL) can be accessed at the URL address given at the bottom of the slide: <http://www.parentcenterhub.org/final-idea-rule-on-disproportionality/>

We highly recommend reading and sharing the *Dear Colleague Letter on Racial Discrimination*. It's 25 pages long, but is an excellent and authoritative resource on the obligation of states, districts, and public schools (including charter schools) not to discriminate on the basis of race, color, or national origin in the administration of special education or related aids and services. Several federal laws are discussed: IDEA, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990.

Slide 16 / What States Must Do

Suggested handout: Handout 3, IDEA Final Regulations on Disproportionality (6 pages)

Slide 16 captures in brief what states must do under the 2016 final regulations (beginning at §300.646). States must monitor for disproportionality in its LEAs and *meaningfully identify those with significant disproportionality*.

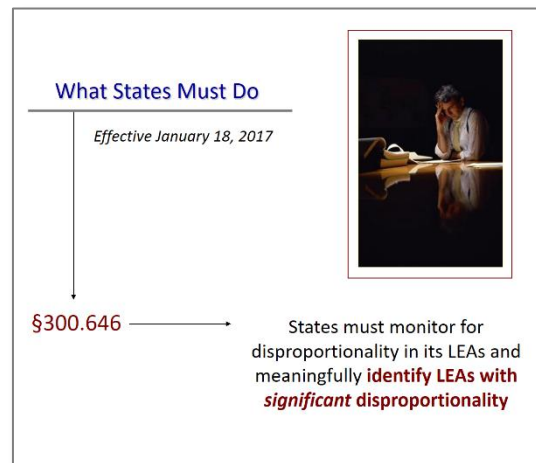
These requirements raise several immediate questions:

- What must states monitor for, *specifically*?
- What does the word “*meaningfully*” mean?
- What is *significant* disproportionality, and how does it differ from disproportionality as discussed to date in this slideshow? Are they the same thing?

These questions will be answered within this series of slides on the requirements of the new regulations. You might ask the audience to brainstorm some possible answers. Given what’s been said thus far, they should have a fairly concrete notion of the basic strands or threads of student data that states must monitor (e.g., referral and disability identification, placement, discipline).

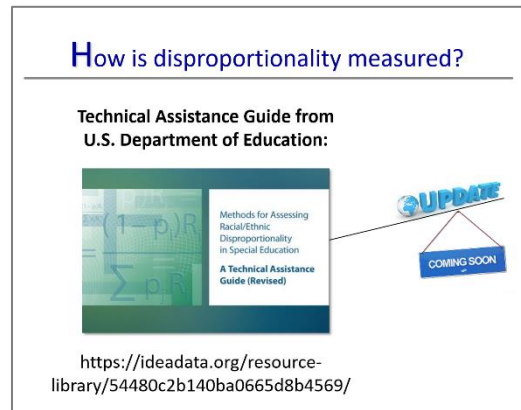
How much information does your audience need about what states are required to do? | Some audiences may not require or want detailed information about the regulations. This may be especially so for families or stakeholders not steeped in prior knowledge about disproportionality. If you’re trying to raise general awareness of disproportionality, you may wish to move quickly through the next slides, so that audience members “get” the broad picture of what is now required of states. They may appreciate receiving **Handout 3** for later reference, but whether or not you share the handout is up to you.

If, however, you are training colleagues or stakeholders likely to get involved in addressing disproportionality at the systems level, then you will want to share **Handout 3**, letting participants know that you will be referring to it as you go through the upcoming slides. These federal regulations are important. They provide states, LEAs, and stakeholders with critical definitions and rules for identifying and addressing disproportionate representation based on race/ethnicity in special education, as well as state reporting requirements to the federal government and to the public.



Slide 17 / How is Disproportionality Measured?

Slide 17 poses a question at the top: **How is disproportionality measured?** It dodges (for now) the answer to that question and instead identifies a potential resource of guidance. The *Methods for Assessing Racial/Ethnic Disproportionality in Special Education*, a Technical Assistance Guide from the OSEP-funded IDEA Data Center, was first published in 2011 and revised in May of 2014. It is currently being revised anew, to conform with what the 2016 regulations require.



How is disproportionality measured?

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

Methods for Assessing
Racial/Ethnic
Disproportionality
in Special Education
A Technical Assistance
Guide (Revised)

UPDATE
COMING SOON

<https://ideadata.org/resource-library/54480c2b140ba0665d8b4569/>

The URL where the 2014 edition can be found is given on the slide, as well as the information that an update is coming soon. For now, it's enough for the audience to know that technical assistance resources exist, with more on the way to help states, LEAs, and stakeholders understand how disproportionality is measured. The next edition of the guide can be used by state agency staff who make decisions regarding their state's disproportionality analyses and those who analyze disproportionality data or interpret the results of those analyses. The forthcoming guide will also describe some of the more common methods and provide step-by-step examples of how disproportionality is calculated and interpreted.

So, stay tuned!

Slide 18 / Looking at Specific “Trouble” Areas

Slide 18 answers aspects of the question raised on Slide 16: What must states monitor for, **specifically**?

As might be expected, given the information provided already in this slideshow, states must now collect and examine data *every year* to determine if any of their LEAs have significant disproportionality based on race or ethnicity in how children with disabilities are:

- **Identified** as having a disability, including which disability;
- **Placed** in specific educational settings; and
- **Disciplined** at school (i.e., the incidence, duration, and type of disciplinary actions taken, including suspension and expulsion).

Looking at Specific “Trouble” Areas

IDEA requires states to **annually collect and examine data** to determine whether **significant** disproportionality based on race or ethnicity is occurring in the state and its LEAs in:

- **Identification** of children as children with disabilities, including identification as children with particular impairments
- **Placement** of children in particular educational settings
- **Disciplinary actions taken** (incidence, duration, and type of actions, including suspensions and expulsions)

These three areas have been mentioned multiple times, and now we see them as part of IDEA-required monitoring by states.

If you've shared **Handout 3** with the audience, refer them to the very beginning of the disproportionality regulations—§300.646(a), to be precise, which reads as follows:

Sec. 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 removals from placement, including suspensions and expulsions.

Slide 19 / Looking at Specific “Trouble” Areas

Slide 19 also answers the question posed in conjunction with Slide 16: What must state monitor for, specifically? It adds the details of monitoring if significant disproportionality is occurring based on race and ethnicity—which racial and ethnic groups are we talking about?

The new regulations make it very clear which racial and ethnic groups are the focal point of interest in the state’s monitoring efforts. So does the slide, which lists IDEA’s requirements. These are found on page 4 of **Handout 3**, at §300.647(b)(2), and read as follows:

“Racial and Ethnic Groups” | Which?

To identify LEAs with significant disproportionality, states must look at data specific to **these** “racial and ethnic groups”

- Hispanic/Latino of any race (this includes individuals that are Latino only)
- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White
- Two or more races

(2) The State must apply the risk ratio threshold or thresholds determined in paragraph (b)(1) of this section to risk ratios or alternate risk ratios, as appropriate, in each category described in paragraphs (b)(3) and (4) of this section and the following racial and ethnic groups:

(i) Hispanic/Latino of any race; and, for individuals who are non-Hispanic/Latino only;

(ii) American Indian or Alaska Native;

- (iii) Asian;
- (iv) Black or African American;
- (v) Native Hawaiian or Other Pacific Islander;
- (vi) White; and
- (vii) Two or more races. [§300.647(b)(2)]


Slide 20 / “Identification of Children with Disabilities”

Slide 20 provides detail about what states must monitor in the identification of children as having a disability. (This issue was discussed under Slide 5.) In addition, states must also monitor if there is racial or ethnic disproportionality in what disabilities children are identified as *having*. This corresponds to the findings of research that students of color are more likely to be identified with intellectual or emotional disabilities, and that students from other racial or ethnic groups are more likely to be identified as having, for example, specific learning disabilities.

“Identification of Children with Disabilities”

Are children from any of the mentioned racial or ethnic groups more (or less) likely than others to be identified by an LEA as...

- having a disability?
- having one of **these** disabilities?



- Intellectual disabilities
- Specific learning disabilities
- Emotional disturbance
- Speech or language impairments
- Other health impairments
- Autism

Here, succinctly enumerated on the slide and in regulation, are the **disability categories** on which states must focus their monitoring when they look at an LEA’s data on students with disabilities who come from specific racial or ethnic groups. If you shared **Handout 3** with participants, direct their attention to IDEA’s pertinent regulations on page 4, at §300.647(b)(3):

- (3) Except as provided in paragraphs (b)(5) and (c) of this section, the State must calculate the risk ratio for each LEA, for each racial and ethnic group in paragraph (b)(2) of this section with respect to:
 - (i) The identification of children ages 3 through 21 as children with disabilities; and
 - (ii) The identification of children ages 3 through 21 as children with the following impairments:
 - (A) Intellectual disabilities;
 - (B) Specific learning disabilities;
 - (C) Emotional disturbance;
 - (D) Speech or language impairments;

(E) Other health impairments; and

(F) Autism.

What does “except as provided in paragraphs (b)(5) and (c) of this section” refer to? | This phrase offers two exceptions to the just-stated requirements. Both exceptions need not be explained to general audiences, only to those audiences who need to know the particulars of the regulations because they expect to be involved in providing stakeholder input or advocacy work at a systems level. Even with well-informed audiences, there’s no need to explain the exceptions in this slideshow. They are exactly what they seem to be—exceptions to the rule.

Slide 21 / “Placement” of Children with Disabilities

Slide 21 is one of two about what states must monitor with respect to significant disproportionality in **placement**—where children with disabilities from the ethnic/racial groups identified on Slide 19 receive special education and related services.

The regulations associated with this slide can be found at the top of page 5 of **Handout 3** (if you shared it), at §300.647(b)(4). They read as follows:

(4) Except as provided in paragraphs (b)(5) and (c) of this section, the State must calculate the risk ratio for each LEA, for each racial and ethnic group in paragraph (b)(2) of this section with respect to the following placements into particular educational settings, including disciplinary removals:

(i) For children with disabilities ages 6 through 21, inside a regular class less than 40 percent of the day;

(ii) For children with disabilities ages 6 through 21, inside separate schools and residential facilities, not including homebound or hospital settings, correctional facilities, or private schools...

Discussing the Regulations

It’s important to let participants know that what’s on this slide represents only part of what’s required by the regulations in terms of monitoring placements. The next slide will focus on the remainder of what’s required. We’ve broken the requirements into two parts for your ease of presentation and discussion, not to mention participant understanding. Breaking the discussion into two parts makes logical sense, too, when you consider the nature of what’s being monitored about placement.

- **Restrictiveness of placement:** Slide 21 (*this slide*) describes the required monitoring of placements for children with disabilities ages 6 to 21 (especially within the specified

“Placement” of Children with Disabilities

Are children from any of the mentioned racial or ethnic groups more (or less) likely than others to receive their special education services in a particular place or setting?

Especially in any of these placements?

For children with disabilities ages 6 through 21

- Inside a regular class less than 40% of the day
- Inside separate schools and residential facilities*

racial/ethnic groups) in *more restrictive settings* (i.e., inside a regular class less than 40% of the day; inside separate schools and residential facilities); and

- **Placement affected by disciplinary actions:** Slide 22 focuses on the monitoring of *disciplinary actions* taken with children with disabilities ages 3 to 21 (especially within the specified racial/ethnic groups), including out-of-school suspensions and expulsions, in-school suspensions and expulsions, and total number of disciplinary removals.


What does the asterisk on Slide 21 refer to? | See that * (asterisk) after the last bullet on the slide (which says “inside separate schools and residential facilities”)? It’s meant to indicate that “inside separate schools and residential facilities” does not include “homebound or hospital settings, correctional facilities, or private schools.”

Slide 22 / “Placement” of Children with Disabilities

Slide 22 is the second of two about what states must monitor with respect to significant disproportionality in **placement**. It completes the story begun in the previous slide, and shows what must be monitored with respect to **disciplinary placements**.

“Placement” of Children with Disabilities *(continued)*

And how about in any of these **disciplinary placements**? → For children with disabilities ages 3 through 21



- Out-of-school suspensions and expulsions
 - of 10 days or less
 - of more than 10 days
- In-school suspensions and expulsions
 - of 10 days or less
 - of more than 10 days
- Disciplinary removals in total**

The Regulations, Verbatim

Slide 21 provided the *beginning* of the verbatim regulations at §300.647(b)(4). The current slide provides the remainder of those regulations, which read as follows:

(4) Except as provided in paragraphs (b)(5) and (c) of this section, the State must calculate the risk ratio for each LEA, for each racial and ethnic group in paragraph (b)(2) of this section with respect to the following placements into particular educational settings, including disciplinary removals:

(i)

(ii)...

(iii) For children with disabilities ages 3 through 21, out-of-school suspensions and expulsions of 10 days or fewer;

(iv) For children with disabilities ages 3 through 21, out-of-school suspensions and expulsions of more than 10 days;

(v) For children with disabilities ages 3 through 21, in-school suspensions of 10 days or fewer;

(vi) For children with disabilities ages 3 through 21, in-school suspensions of more than 10 days; and

(vii) For children with disabilities ages 3 through 21, disciplinary removals in total, including in-school and out-of-school suspensions, expulsions, removals by school personnel to an interim alternative education setting, and removals by a hearing officer.

Discussing the Slide

You may wish to make several points about this slide, such as:

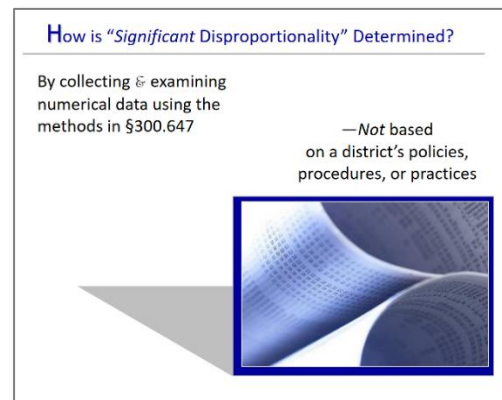
- Obviously, these IDEA requirements address the third strand of concern discussed throughout this slideshow—whether disciplinary actions taken with minority children with disabilities are disproportionately harsher and more exclusionary than actions taken with other groups of students.
- The double asterisk (**) after “disciplinary removals in total” indicates that the regulations contain additional information about this category—namely, the category includes in-school and out-of-school suspensions, expulsions, removals by school personnel to an interim alternative education setting, and removals by a hearing officer. Participants can see this additional regulatory detail on **Handout 3** at §300.646(b)(4)(vii). It also appears in the verbatim regulations cited above—in that last line.
- Most audiences will not need this level of detail about what states must monitor about placements. Participants already know (from Slide 18) that the monitoring of disciplinary actions within an LEA must include the “incidence, duration, and type of disciplinary removals from placement” [§300.646(a)(3)]. Suffice it to say that the regulations now require states to monitor for disproportionality in placements, including (as this slide shows) when disciplinary actions remove students from their placement and exclude them from regular school activities, even from the building itself.

Slide 23 / How is “Significant Disproportionality” Determined?

Slide 23 addresses a critical point about monitoring for disproportionality based on race and ethnicity. The regulations require states to collect and examine data, data, data, and identify *significant* disproportionalities in the state and in its LEAs. What is “significant”? When does disproportionality rise to a level considered “significant”? What is that level?

Discussing the Slide

- The first element to point out to the audience is that disproportionality determinations are made based on **data**. Hard data. Numerical data. Determinations are *not* made by looking at a district’s policies, practices, or procedures—that scrutiny happens *after* a finding of significant disproportionality.
- The 2016 regulations do not define the term “significant disproportionality.” This is something that the state must define for itself, with input from stakeholders, including its State Advisory Panel. However, the regulations [at §300.647(b)] *do* describe the method by



which the state reaches a determination of significant disproportionality in an LEA or in the state itself. That will be the focus of the next slide.

- **Considering the audience** | As we've said before, the amount of detail that audience members might need about the subject at hand will vary greatly from audience to audience. If you are making this presentation to a general audience, limit how much terminology you throw at them (e.g., risk ratio, risk ratio threshold, minimum cell size). These may be the nuts-and-bolts of how a state defines and determines significant disproportionality, but this slideshow is not the place to explore what such terms mean. Slideshow 3 pursues that purpose, for those who need to know what's involved in calculating risk, risk ratios, and so on.
- The term significant disproportionality isn't difficult to define in general, lay terms. You might describe, for example, a pot on the stove reaching the boiling point. What degree of disproportionality in special education is *too much*? Where's the cut-off point, the limit, the "it's-gone-over-the-threshold" point? *That* is what the state must decide, with stakeholders weighing in.

Slide 24 / Defining "Significant Disproportionality"

Slide 24 points out that it is the state that defines the term "significant disproportionality" for the state itself and for its LEAs. The regulations require that states use what is referred to as the "standard methodology" described at §300.647.

Again, it's best to limit how deeply you delve into this subject with a general audience. It's sufficient for most introductory audiences to understand that:

The slide is titled "Defining 'Significant Disproportionality'". It is divided into two main sections. The left section, titled "State defines for LEAs and for state in general", features a map of the United States with a blue border, set against a yellow and orange gradient background. The right section, titled "State determines what level of disproportionality is 'significant' using the standard methodology in §300.647", includes a small graphic of a white ribbon with the word "NEW" written on it.

- Each state defines this important term (and several others such as risk ratio), with input from stakeholders, including the State Advisory Panel. This means that everyone has a role to play in the process, should they care to. More information about how to take part is provided under Slide 26 and on **Handouts 4, 5, and 6: Action Steps You Can Take**.
- According to the Model State Timeline prepared by OSEP for states, the process of meeting with stakeholders and gathering their input should already be underway—"from June 2017 to October 2017" is the suggested timeframe.⁴⁶
- The Model State Timeline is provided with these training materials as **Handout 7**. However, as a handout, it's primarily meant to be shared as part of Slideshow 2 (which provides a deeper look at what states must do under the new disproportionality regulations) and Slideshow 3 (where trainees take "the deep dive" into risk-ratio analysis, cell sizes, and other key terms to be defined).

- The regulations published in 2016 require all states to use the same approach when defining and calculating significant disproportionality. This is the first time that IDEA requires all states to use the same approach—the **standard methodology** referred to on the slide and highlighted with the “new” sign. According to the Department, standardizing the methodology used by states:

“...will provide clarity to the public, increase comparability of data across States, and improve upon current policy, which has resulted in State definitions which vary widely and may prevent States from identifying the magnitude of racial and ethnic overrepresentation in special education.”⁴⁷

A summary of the standard methodology is provided on the next slide.

Slide 25 / About the Standard Methodology

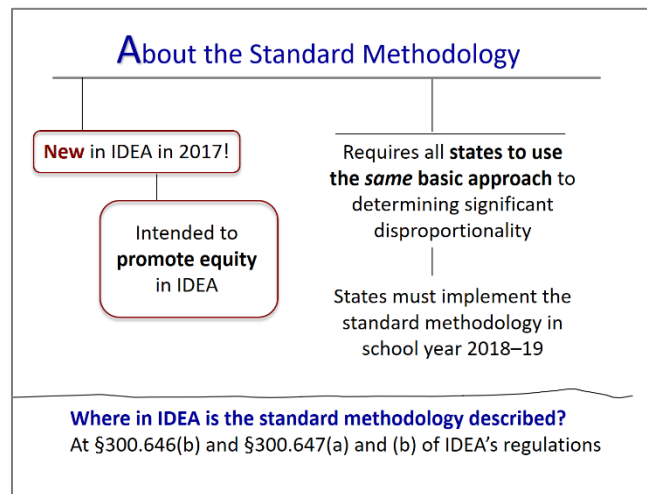
Slide 25 presents several summary points about the standard methodology that are important to share with general audiences.

The “Due Date”

Perhaps the most salient point on the slide is that states must implement the methodology **in school year 2018-19**.

On Slide 16 we learned that the new regulations became effective on January 18, 2017. Here, on this slide, we see *when* states must begin implementing use of the standard methodology. This gives states time to:

- Review and understand the new regulations and guidance
- Let their LEAs know about relevant changes related to these new regulations
- Consider what assistance LEAs may need to identify factors contributing to significant disproportionality
- Review and analyze state significant disproportionality data to inform stakeholder discussions
- Meet with stakeholders to define key terms
- Review and draft revisions of their state policies and procedures (as necessary to comply with the new regulations), a process that involves holding public hearings to gather comments from stakeholders, including individuals with disabilities and parents of children with disabilities

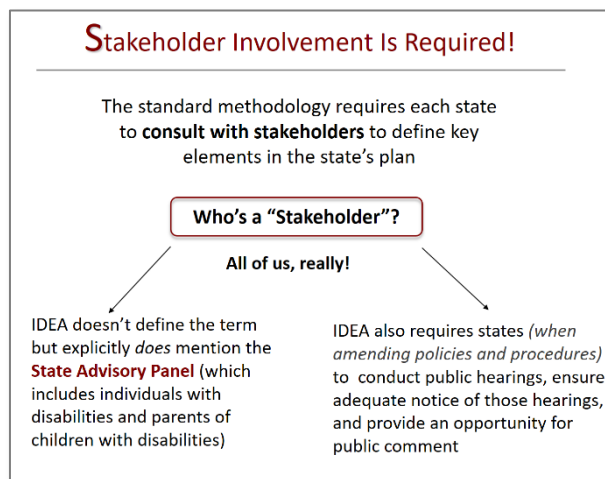


- Begin calculating disproportionality based on race/ethnicity using the standard methodology⁴⁸

Slide 26 / The Need for Input from Stakeholders

Suggested Handouts

- Handout 4: Action Steps for Parents of Children with Disabilities
- Handout 5: Action Steps for Parents, Parent Leadership Groups, and Community Organizations
- Handout 6: Action Steps for Educators and Administrators



Slide 26 takes a summary look at the role of input from stakeholders plays in implementing these new regulations on disproportionality at the state level. This subject— stakeholder involvement—will be covered in much greater detail in Slideshow 3. Here, it's important to let your general audience know that IDEA *does* require states to involve stakeholders in deciding and defining key elements of its state approach to disproportionality.

Defining "Stakeholder"

The new regulations do not define the term, any more than it's defined in other parts of IDEA. As the slide indicates, IDEA only specifically mentions that "advice from stakeholders" includes input from the State Advisory Panel.

Who's on the State Advisory Panel?

The required membership of the State Advisory Panel is described elsewhere in IDEA [(§300.168(a))]. In general, it's appointed by the Governor (or any other official authorized under State law to make such appointments) and must "be representative of the State population and be composed of individuals involved in, or concerned with the education of children with disabilities." State Advisory Panels must include parents of children with disabilities and individuals with disabilities. In fact, by special rule, "A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities (ages birth through 26)."⁴⁹

What about Requirements for Public Input?

Yes, this, too, is mentioned on the slide. It's a general requirement of IDEA and has been for a long time. When a state is revising any of its policies and procedures, it is required to do so with public input. That means holding public meetings, informing the public of those meetings with sufficient lead-time to allow them to attend, and receiving public comment. This requirement appears at §300.165(a) and reads:

- (a) Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment

available to the general public, including individuals with disabilities and parents of children with disabilities.

What Type of Input is Being Sought from Stakeholders?

The state must define certain terms for itself and for its LEAs. The audience has already heard (on Slide 24) about the state’s responsibility to define, for example, the term “significant disproportionality” and the level at which disproportionality becomes “significant.” Other elements central to how the state will monitor for (and determine) disproportionality in its LEAs include scary-sounding terms such as:

- Reasonable minimum cell size
- Reasonable minimum n-size
- Reasonable risk ratio threshold
- Standard for measuring reasonable progress (only needed if a State uses the flexibility options provided in the regulations).

Each of these terms must be defined by state with input from stakeholders. This means that there are, and will be, opportunities for public input and stakeholder involvement that can have a real impact on how a state measures for and identifies instances of disproportionate based on race and ethnicity.

That said, we don’t want general audiences fleeing the building upon hearing such terms. While they may eventually want to know more and be actively involved in the decision-making process, there’s no need at this point in the training session (which is almost over) to overwhelm.

Slideshow 3 will cover these terms, what they mean in general, and how they are used in analyzing data. We purposefully put the slideshows in this sequence, so that trainers could build an audience’s foundation of knowledge about disproportionality first. Some participants won’t need or want to know the mechanical moving parts of number crunching.

Of course, we also recognize that there are **many** stakeholders that *do* want to know the terms, are *ready* to know them (especially the number-crunching part), and want to dig into helping the state move forward in defining them.

How Else Might People Become Involved?

This training session is accompanied by 3 separate handouts listing action steps that people can take to become part of resolving issues of disproportionality. Depending on your audience, you might share one or another.

- Handout 4: Action Steps for Parents of Children with Disabilities
- Handout 5: Action Steps for Parents, Parent Leadership Groups, and Community Organizations
- Handout 6: Action Steps for Educators and Administrators

Activity Suggestion

Also depending upon the audience, you might delay sharing the handout in favor of having participants first get into small groups and brainstorm action steps of their own. What can they reasonably see themselves as doing? What might they do at their child’s school, or in the neighborhood, or in the classroom (depending on who they are).

Close the activity with a full-group discussion and sharing of potential action steps. Then share the appropriate handout with participants, if it seems appropriate.

Slide 27 / Final Slide in This Slideshow

Slide 27 is the last slide in Slideshow 1. It ends with the question “What happens if there’s a determination of significant disproportionality?”

Yes, the ending is abrupt. But it’s not really the end of the information flow or the training session. It merely provides you with a space of time in which to offer the audience a break in the action.

When the audience returns, continue the training session—this time using Slideshow 3—and answer the question you left hanging.



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