Significant Disproportionality Methodology in Michigan

Michigan Department of Education

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Significant Disproportionality Methodology in Michigan

Introduction

The Office of Special Education and Rehabilitative Services, U.S. Department of Education, has revised regulations that affect how Michigan identifies Intermediate School Districts (ISDs) for significant disproportionality.

Note: In federal language, the term "local education agency (LEA)" is equivalent to an ISD in Michigan. To avoid confusion, this document will refer to local districts in Michigan as "member districts".

Executive Summary

The purpose of the federal regulations is to promote equity in *Individuals with Disabilities Education Act* (IDEA). Specifically, the regulations are intended to ensure States meaningfully identify ISDs with significant disproportionality and States assist ISDs in ensuring children with disabilities are properly identified for services, receive necessary services in the least restrictive environment, and are not disproportionately removed from their educational placements for disciplinary reasons. These regulations also address the well-documented and detrimental over-identification of certain students for special education services with concern that over-identification results in children being placed in more restrictive environments and not being taught to challenging academic standards. ISDs are legally obligated to work with member districts to ensure appropriate identification of students with disabilities and provide the resources and supports they need to have equal access to education. Thus, States are encouraged to ensure the ISDs' Child Find policies, procedures, and practices, are working effectively to identify all children with disabilities, regardless of race or ethnicity.

IDEA requires States to take steps to determine the existence of and address significant disproportionality in special education. The statute and regulations for IDEA Part B include important provisions for how States must address significant disproportionality, including an examination of significant disproportionality and remedies where findings of significant disproportionality occur.

Under IDEA section 618(d) (20 U.S.C. 1418(d)) and 34 CFR §300.646, States are required to collect and examine data annually to determine whether significant disproportionality based on race or ethnicity is occurring in the State and the ISDs of the State with respect to the identification of children as children with disabilities, including identification as children with particular impairments; the placement of children in particular educational settings; and the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. States must make this determination annually.

When a State Education Agency (SEA) identifies ISDs with significant disproportionality in one or more of these areas based on the collection and examination of their data, States must: (1) provide for the review, and if appropriate, revision of the ISD's policies, procedures, and practices for compliance with IDEA; (2) require the ISD to reserve the maximum amount (15 percent) of its Part B funds to be used for comprehensive coordinated early intervening services (CCEIS) to serve children in the ISD, particularly, but not exclusively, children in those groups that were significantly over-identified; and 3) require the ISD to publicly report on the revision of its policies, procedures, and practices. Under the statute and regulations, each State has considerable discretion in how it defines significant disproportionality. To address and reduce significant disproportionality, the regulations establish a standard methodology that each State must use in its annual determination under IDEA section 618(d) (20 U.S.C. 1418(d)) of whether significant disproportionality based on race and ethnicity is occurring in the State and the ISDs of the State.

Further, funds reserved for required CCEIS must be used to identify and address the factors contributing to significant disproportionality and may be used to serve children from age 3 through grade 12, with and without disabilities.

Summary of Major Provisions of this Regulatory Action

- 34 CFR §300.646(b) and 34 CFR §300.647(a) and (b) provide the standard methodology that States must use to determine whether there is significant disproportionality based on race or ethnicity in the State and its ISDs;
- As part of the standard methodology, 34 CFR §300.647(b)(1) requires States to set reasonable risk ratio thresholds, reasonable minimum n-sizes, reasonable minimum cell sizes, and if a State uses the flexibility described in 34 CFR

§300.647(d)(2), standards for measuring reasonable progress, all with input from stakeholders (including their State Advisory Panels), subject to the Department's oversight;

- 34 CFR §300.647(b)(1)(iv) sets a rebuttable presumption that a minimum cell size of no greater than 10 and a minimum n-size of no greater than 30 are reasonable;
- 34 CFR §300.647(d) provides flexibilities that States, at their discretion, may consider when determining whether significant disproportionality exists. States may choose to identify an ISD as having significant disproportionality after an ISD exceeds a risk ratio threshold for up to three prior consecutive years. States may also choose not to identify an ISD with significant disproportionality if the ISD is making reasonable progress, as defined by the State, in lowering risk ratios in each of the two consecutive prior years, even if the risk ratios exceed the State's risk ratio thresholds;
- 34 CFR §300.646(c) clarifies the remedies in IDEA section 618(d)(2) are triggered if a State makes a determination of significant disproportionality with respect to disciplinary removals from placement;
- 34 CFR §300.646(c)(1) and (2) clarify the review of policies, procedures, and practices must occur in every year in which an ISD is identified with significant disproportionality and ISDs reporting of any revisions to policies, procedures, and practices must be in compliance with the confidentiality provisions of the Family Educational Rights and Privacy Act (FERPA), (20 U.S.C. 1232), its implementing regulations in 34 CFR Part 99, and IDEA section 618(b)(1); and
- 34 CFR §300.646(d) describes which populations of children may receive CCEIS when an ISD has been identified with significant disproportionality. Comprehensive CEIS may be provided to children from age 3 through grade 12, regardless of whether they are children with disabilities, and, as part of implementing CCEIS, an ISD must identify and address the factors contributing to the significant disproportionality.

Significant Disproportionality Defined in Michigan

- Calculations are done at the ISD-level.
- Over-Identification population is 3-21 years of age.
- Educational settings population are age 5 in kindergarten -21 years or age.
- Use of Risk or Alternate Risk ratio.
- Comprehensive CEIS must identify and address the factors contributing to the significant disproportionality.
- If identified with Significant Disproportionality, CCEIS for ages 3 through grade 12 for students with and without disabilities.
- Annual review and, if appropriate, revision of LEA's policies, practices, and procedures.
- 2 years of data for all areas (discipline, identification & educational settings).
- Minimum cell size of 10 (numerator) for each race/ethnicity group Minimum 'n' size (denominator) of 30.
- A risk ratio greater than 3.0 in all areas (discipline, identification & educational settings) for two consecutive years.
- Reasonable Progress as defined by the Tiered-Level of Response (pages 7-10).
- State's methodology requires input from stakeholders and approval by the U.S. Department of Education, Office of Special Education Programs (OSEP); the OSE, did seek stakeholder input during 2017-2018 school year.

Tiered Levels of Response

Each year, risk ratios for discipline, identification, and educational settings are calculated for every member district and aggregated to the ISD level. The data along with the business rules and methodology documentation are then provided to each ISD. Based on the calculated risk ratios, an ISD is placed in a tier as outlined below. The OSE provides an appropriate level of technical assistance based on the tier in which an ISD falls. Depending on the tier, there may be additional requirements an ISD must fulfill. The remainder of this document defines the tiers and describes how the OSE supports the ISDs in each tier.

Tier 0: Universal

Which ISDs are in This Tier?

If an ISD has not exceeded the risk ratio threshold in discipline, identification, or educational settings, for two consecutive years, the ISD is not considered at risk. However, if the ISD or any of the member districts have exceeded the risk ratio threshold for one year or have a risk ratio between 2.0 and 2.99, proactive measures should be taken to ensure the ISD and member districts are paying attention to procedures and practices to ensure the ISD does not become At Risk of identification of Significant Disproportionality.

OSE Response

The OSE provides guidance documentation which is made available to all ISDs. In addition, access is provided to the Wayne State University website to review aggregate and member district-level data.

Tier I: "At Risk" for Identification of Significant Disproportionality

Which ISDs are in This Tier?

ISDs meeting one of the following criteria are considered "At Risk" but are **not** identified for significant disproportionality.

1. An ISD has exceeded the threshold of 3.0 for two consecutive years but within the ISD there are no member districts exceeding the threshold in the **same areas** of the ISD **or**

2. An ISD and/or its member districts have demonstrated "reasonable progress." The OSE has defined "reasonable progress" to mean a year-to-year decline in risk ratio of at least 0.2 in each of the two consecutive years (with data) for the ISD and/or the member districts exceeded the 3.0 threshold. Table 2 shows an example of reasonable progress.

Table 1: Example of Decreasing Risk Ratios Demonstrating Reasonable Progress

2022-2023	2023-2024	2025-2026
4.9	4.3	3.6

OSE Response

The OSE provides guidance documentation to all ISDs. Additional technical assistance is available from the OSE upon request for ISDs considered At Risk to help review and analyze data and to provide additional assistance to decrease the ISD and member district risk ratios.

Tier II: "Moderately At Risk" for Identification of Significant Disproportionality

Which ISDs are in This Tier?

ISDs meeting the following criteria are in Tier II. These ISDs are considered "Moderately At Risk" but are **not** identified for significant disproportionality.

1. An ISD with a risk ratio greater than 3.0 AND more than zero but 1/3 or less of member districts within the ISD have risk ratios greater than 3.0

Note: the one-third of member districts per ISD is based on a single area of identification (i.e. discipline, over-identification, or educational environments). If a member district exceeds the 3.0 risk ratio in multiple areas, the member district is only counted once in determining the 1/3 or less of member districts. For purposes of identification and educational placement, risk ratio is attributed to resident district and not the ISD.

OSE Response

ISDs in Tier II have access to all universal technical assistance. Additionally, in Tier II, an ISD is required to develop and implement a Response Plan for ISDs "Moderately At Risk" for Identification of Significant Disproportionality. The OSE collaborates with ISDs in Tier

II on the development and implementation of the Response Plan. The Response Plan is to address areas of needed improvement at the ISD and within the affected member district(s).

Tier III: Identified for Disproportionality

Which ISDs are in Tier III?

ISDs meeting one of the following criteria are in Tier III. These ISDs **are** identified for significant disproportionality. Tier III includes all ISDs not meeting the criteria for Tiers 0, I, or II.

1. Any ISD with a risk ratio greater than 3.0 AND not making "reasonable progress" as defined in Tier I OR
2. Any ISD with a risk ratio greater than 3.0 AND greater than 1/3 of their member districts with risk ratios greater than 3.0

When an ISD is in Tier III, the ISD must:

1. Provide for the review (and if appropriate) revision of the policies, procedures, and practices for compliance with IDEA **and**
2. Reserve the maximum amount (15 percent) of its IDEA Part B funds to be used for CCEIS to serve children, particularly, but not exclusively, children in those groups that were significantly over-identified **and**
3. Publicly report on the revision of its policies, procedures, and practices.

OSE Response

Regulation 34 CFR §300.646 of the Individuals with Disability Education Act (IDEA) requires ISDs must:

- Allocate 15% of IDEA Special Education (Part B, Section 611) Flow-Through Grant
- Review/Revision of Policies, Practices and Procedures
- Publicly Report Revisions of Policies, Practices, and Procedures

ISDs in Tier III have access to all the universal technical assistance. The OSE also provides intensive technical assistance to support the ISD which may include remote and onsite support and training in addition to the technical assistance provided in Tiers 0, I and II.