



Equity Requirements in IDEA

Nancy O'Hara
Julie Bollmer

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Equity Requirements in IDEA

The *Individuals with Disabilities Education Act* (IDEA) has three distinct requirements around equity: Disproportionate Representation [State Performance Plan/Annual Performance Report (SPP/APR) Indicators B9 and B10], Significant Discrepancy (SPP/APR Indicators B4A and B4B), and Significant Disproportionality. This resource can help clarify the differences and similarities among the three equity requirements and enable users to compare and contrast these various equity requirements. The table details key areas such as methodology, data sources, and reporting considerations for each of the three equity requirements.

	Disproportionate Representation 20 U.S.C. 1416(a)(3)(C)	Significant Discrepancy 20 U.S.C. 1416(a)(3)(A); 1412(a)(22)	Significant Disproportionality 20 U.S.C. 1418(d) and 34 CFR §§300.646-647
IDEA requirement	<ul style="list-style-type: none"> • Part B State Performance Plan/Annual Performance Report (SPP/APR) Indicators 9 and 10 <ul style="list-style-type: none"> – Indicator B9: Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification. – Indicator B10: Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. 	<ul style="list-style-type: none"> • Part B SPP/APR Indicator B4 <ul style="list-style-type: none"> – Indicator B4A: Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with individualized education programs (IEPs). – Indicator B4B: Percent of districts that have (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures, or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. 	<ul style="list-style-type: none"> • Determine whether significant disproportionality based on race/ethnicity is occurring with respect to <ul style="list-style-type: none"> – the identification of children as children with disabilities, including children with disabilities in accordance with particular impairments; – the placement of children in particular educational settings; and – the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

Based on current requirements as of 1/18/2017. Resources for each of these equity requirements are available on the IDC website in the resource section.

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Reporting requirements	<ul style="list-style-type: none"> • Indicators B9 and B10 of SPP/APR <ul style="list-style-type: none"> – B9 and B10 are both compliance indicators and require targets of zero percent. 	<ul style="list-style-type: none"> • Indicators B4A and B4B of SPP/APR <ul style="list-style-type: none"> – B4A is a results indicator and state sets target. – B4B is a compliance indicator and requires a target of zero percent. 	<ul style="list-style-type: none"> • Not an SPP/APR indicator. • <i>Currently:</i> State reports state definition of significant disproportionality in the State Supplemental Survey-IDEA (SSS-IDEA). <ul style="list-style-type: none"> – The definition should include the following elements, as appropriate: <ul style="list-style-type: none"> ▪ the calculation method(s) being used (i.e., risk ratio, weighted risk ratio, e-formula, etc.); ▪ any minimum cell or n-sizes (i.e., risk numerator and/or risk denominator); ▪ the number of years of data used in the calculation; and ▪ the threshold at which significant disproportionality is identified. • <i>Currently:</i> State reports via EMAPS the IDEA Part B Maintenance of Effort (MOE) Reduction & Coordinated Early Intervening Services (CEIS) data collection on <ul style="list-style-type: none"> – districts that were required to reserve funds for CEIS; – the amount required to be reserved, and the reason for significant disproportionality; – number of students who received CEIS; and – any student who received CEIS in the previous 2 years and subsequently received special education and related services during the current year. • <i>Future:</i> 34 CFR 300.647(b)(7) requires states to report more detail regarding all risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for reasonable progress, and rationales for each at a time and in a manner to be determined.

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<i>Data to review</i>	<ul style="list-style-type: none"> • Children ages 6-21 • All seven racial and ethnic groups • B9: All disabilities • B10: Disability categories of autism, intellectual disability, specific learning disability, emotional disturbance, speech or language impairment, other health impairment 	<ul style="list-style-type: none"> • Children ages 3-21 • All disabilities • B4A: Out-of-school suspensions/expulsions greater than 10 days • B4B: Out-of-school suspensions/expulsions greater than 10 days for each of the seven racial and ethnic groups 	<ul style="list-style-type: none"> • All seven racial and ethnic groups • Identification <ul style="list-style-type: none"> – Data for children ages 6-21 (Note: ages 3-5 to be included by July 1, 2020) – All disabilities – Disability categories of autism, intellectual disability, specific learning disability, emotional disturbance, speech or language impairment, other health impairment • Placement <ul style="list-style-type: none"> – Data for children ages 6-21 – Placement categories <ul style="list-style-type: none"> ▪ Inside a regular class for less than 40 percent of the day ▪ Inside separate schools and residential facilities, not including homebound or hospital settings, correctional facilities, or private schools • Discipline <ul style="list-style-type: none"> – Data for children ages 3-21 – Discipline categories <ul style="list-style-type: none"> ▪ Out-of-school suspensions and expulsions of 10 days or fewer ▪ Out-of-school suspensions and expulsions of more than 10 days ▪ In-school suspensions of 10 days or fewer ▪ In-school suspensions of more than 10 days ▪ Disciplinary removals in total, including in-school and out-of-school suspensions, expulsions, removals by school personnel to an interim alternative educational setting, and removals by a hearing officer

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Methodology	<ul style="list-style-type: none"> ● State must define disproportionate representation using a calculation method(s) and identifying a threshold at which disproportionate representation is identified. ● State may <ul style="list-style-type: none"> – define a minimum cell size; or – consider multiple years of data. ● Two-step process <ul style="list-style-type: none"> – State determines which districts meet the state definition for disproportionate representation. – When a district meets the state definition, the state must ensure a review of district policies, procedures, and practices to determine compliance with regulations. 	<p>For <u>each</u> indicator (B4A and B4B):</p> <ul style="list-style-type: none"> ● State selects one of two comparison options: <ul style="list-style-type: none"> – compare rates of suspension/ expulsion among districts within the state; or – compare rates of suspension/expulsion between students with and without disabilities within a district. ● State selects a calculation method and defines the threshold at which significant discrepancy is identified. ● State may define a minimum cell size. ● B4A is a one-step process: Determine which districts meet the state’s definition of significant discrepancy. ● B4B is a two-step process that requires the state to (1) review the data for each district to determine if they meet the definition of significant discrepancy, and (2) review the policies, procedures, and practices to determine if they contributed to the significant discrepancy and identify those that do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. 	<ul style="list-style-type: none"> ● For each analysis category (i.e., identification, placement, discipline), state must calculate a risk ratio for each LEA for each of the racial and ethnic groups. <ul style="list-style-type: none"> – <i>Exception:</i> If the particular racial/ethnic group being analyzed does not meet the minimum cell size or the minimum n-size, then the state does not calculate a risk ratio. – <i>Exception:</i> If the comparison group in the LEA does not meet the minimum cell size or the minimum n-size, then the state must calculate an alternate risk ratio. <ul style="list-style-type: none"> ▪ If the comparison group in the state does not meet the minimum cell size or the minimum n-size, then the state does not calculate an alternate risk ratio. ● State may set a reasonable minimum cell size (risk numerator). <ul style="list-style-type: none"> – Presumptively reasonable if 10 or less; anything larger requires rationale and detailed explanation. ● State may set a reasonable minimum n-size (risk denominator). <ul style="list-style-type: none"> – Presumptively reasonable if 30 or less; anything larger requires rationale and detailed explanation. ● State must set a reasonable risk ratio threshold. <ul style="list-style-type: none"> – May set different thresholds for each analysis category but not for individual racial/ethnic groups. ● Flexibilities <ul style="list-style-type: none"> – State may consider up to 3 years of data. – State may set a standard for measuring reasonable progress. <ul style="list-style-type: none"> ▪ State may choose not to identify a district if it has demonstrated reasonable progress each of the two prior consecutive years. – State must seek stakeholder (including state advisory panel) advice for <ul style="list-style-type: none"> ▪ reasonable threshold; ▪ reasonable minimum cell size; ▪ reasonable minimum n-size; and ▪ standard for reasonable progress.

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<i>If the state identifies districts</i>	<ul style="list-style-type: none"> If the state does not meet the compliance target, the state must ensure districts correct noncompliance (both individual instances of noncompliance and implementing the requirements systemically) within 1 year of identification and must report on the correction of noncompliance in the SPP/APR. 	<ul style="list-style-type: none"> B4A: If significant discrepancies occurred, the state must ensure that a review of policies, procedures, and practices is conducted and, if appropriate, revise (or require the districts affected to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with applicable requirements. The state must describe the process for review and revision in the SPP/APR. B4B: The state must ensure districts with significant discrepancies that had policies, procedures, or practices that contributed to the significant discrepancy and did not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards correct noncompliance (in accordance with OSEP Memo 09-02, October 17, 2008) and must report on the correction of noncompliance in the SPP/APR. 	<ul style="list-style-type: none"> State must ensure districts reserve 15 percent of IDEA funds for comprehensive CEIS to address factors contributing to the significant disproportionality. State must provide for the annual review of the policies, practices, and procedures of any district that has significant disproportionality. State must require the district to publicly report on the revisions of policies, practices, and procedures.

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<i>If district is identified</i>	<ul style="list-style-type: none"> • Districts that had noncompliance identified through the review of policies, procedures, or practices must correct that noncompliance within 1 year. <ul style="list-style-type: none"> – Districts develop and implement a corrective action plan to correct each individual instance of noncompliance and correctly implement requirements related to the noncompliance throughout the district. 	<ul style="list-style-type: none"> • Districts that had noncompliance identified through the review of policies, procedures, or practices in either B4A or B4B must correct that noncompliance in accordance with OSEP Memo 09-02, October 17, 2008. <ul style="list-style-type: none"> – Districts develop and implement a corrective action plan to correct each individual instance of noncompliance and correctly implement requirements related to the noncompliance throughout the district. 	<ul style="list-style-type: none"> • District must set aside 15 percent of their IDEA funds for Comprehensive Coordinated Early Intervening Services (CCEIS) for children ages 3 through 12th grade with and without disabilities. CCEIS must <ul style="list-style-type: none"> – identify and address the factors contributing to significant disproportionality; and – address a policy, practice, or procedure it identifies as contributing to the significant disproportionality. Note: When an LEA serves only children with disabilities, the state shall not require the LEA to reserve the funds for CCEIS. • District must publicly report on any revisions to policy, procedure, or practice.

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Notes	<ul style="list-style-type: none"> State may choose to align the methodology with significant disproportionality but is not required to do so. Please note that beginning July 1, 2020, age range of students to include in B9/B10 and significant disproportionality will be different. 	<ul style="list-style-type: none"> State cannot use the calculation methods for B9 and B10 for the significant discrepancy calculation for B4B. State cannot use the significant discrepancy analysis in B4B to meet the discipline analysis requirements of significant disproportionality. State should not calculate a rate ratio or rate difference within each district that compares the suspension/ expulsion rate for children with disabilities from one racial/ethnic group to the rate for children with disabilities from all other racial/ethnic groups, similar to the risk ratios that are used for Indicators B9 and B10 and significant disproportionality. <ul style="list-style-type: none"> They do not compare suspension/expulsion rates for children with disabilities among districts (Comparison Option 1). Instead, they compare within districts. They also do not compare children with disabilities to children without disabilities (Comparison Option 2), instead comparing children with disabilities to children with disabilities. The Department of Education has stated that using this methodology is unacceptable for B4B. 	<ul style="list-style-type: none"> Compliance date is July 1, 2018, with determinations made in school year 2018-19. <ul style="list-style-type: none"> <i>Exception:</i> States do not need to include children ages 3 through 5 in the calculations for identification of children with disabilities and the identification of children with particular disabilities until July 1, 2020. Data from indicator reports (B9, B10, B4A, B4B) do not meet all the requirements for significant disproportionality. Be sure to review the requirements for each and conduct the appropriate analyses. The determination for significant disproportionality is based on the data for each district and whether they meet the state’s threshold. Review of policies, procedures, and practices occurs after the determination is made and does not affect it.

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