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## MEMORANDUM

**TO:** County Superintendents  
Superintendent, Office of Diversion and Transition Programs  
Superintendent, West Virginia Schools for the Deaf and the Blind  
Directors of Special Education

**FROM:** Susan Beck *SB*  
Executive Director  
Office of Special Education and Student Support

**SUBJECT:** Changes in the Regulation of Significant Disproportionality Calculations

**DATE:** October 23, 2019

The West Virginia Department of Education, Office of Special Education and Student Support (OSESS) has revised the definition of significant disproportionality in response to the U.S. Department of Education, Office of Special Education Programs' (OSEP) new regulations that require the use of Standard Risk Ratio and Alternate Risk Ratio methods to calculate significant disproportionality. Below is a link to the USDE "Calculating Significant Disproportionality" announcement: <https://www2.ed.gov/about/offices/list/osers/index.html>.

- A designation of significant disproportionality means that the district will be required to reserve the maximum amount of fifteen percent (15%) of its federal funds (sections 611 and 619) available under the Individuals with Disabilities Education Act (IDEA) allocation to provide Comprehensive Coordinated Early Intervening Services (CCEIS) to address factors contributing to the significant disproportionality. In implementing Comprehensive Coordinated Early Intervening Services an LEA—
  - (i) May carry out activities that include professional development and educational and behavioral evaluations, services, and supports.
  - (ii) Must identify and address the factors contributing to the significant disproportionality, which may include, among other identified factors, a lack of access to scientifically based instruction; economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings; inappropriate use of disciplinary removals; lack of access to appropriate diagnostic screenings; differences in academic achievement levels; and policies, practices, or procedures that contribute to the significant disproportionality.
  - (iii) Must address a policy, practice, or procedure it identifies as contributing to the significant disproportionality, including a policy, practice, or procedure that results in a failure to identify, or the inappropriate identification of, a racial or ethnic group (or groups).

Districts also may allocate funds voluntarily, Coordinated Early Intervening Services (CEIS). In either case, the number of students must be tracked and reported. The number of students receiving CCEIS or CEIS and the amount of funds expended will be reported to OSEP. Additionally, the amount of funds expended through the reduction in maintenance of effort provision will be reported to OSEP.

### **Definition of Significant Disproportionality**

To determine if significant disproportionality is evident, the WVDE annually collects and examines 1) special education identification rates; 2) special education identification rates by disability category; 3) placement rates in least restrictive environments; and 4) suspension and expulsion rates by incidence, duration and type of disciplinary action. Each data element is analyzed by district level risk for students with disabilities and by race and ethnicity subgroups in the form of relative risk ratios, and alternate risk ratio to account for low populations.

After stakeholder input, the new criteria defining **significant disproportionality** has been applied in the analysis of data collected for 2017-18 and 2018-19 school years in order to make determinations.

1. Cell size requirement has been **decreased** to 10 in order to meet the minimum cell size requirement recommended by OSEP for determination purposes. Although calculations will be derived for all districts for risk assessment, an alternate risk ratio will be calculated in order to best represent small populations in calculating significant disproportionality. No race/ethnicity is excluded from calculations.
2. N size (all group for enrollment and students with IEPs) requirement will remain a minimum of 30 students.
3. Relative risk ratios must equal or exceed a threshold of 3.0 for a district to be identified as having significant disproportionality outcomes by race and ethnicity in any individual area of identification, placement or discipline.
4. Trend data will be considered. Districts will be required to set aside fifteen percent of funds for CCEIS when the district exhibits significant disproportionality for two consecutive years this year (2018-19), and **three** consecutive years thereafter, beginning the 2019-20 school year. A district's most recent years of data will always be included in the trend analysis.
5. OSEP requires consideration of the *incidence, duration* and *type* of disciplinary removal. Significant disproportionality in "discipline" is defined as students with disabilities ages 3-21 in a particular racial/ethnic group being at a considerably greater risk of being subjected to disciplinary action during the school year than all other racial/ethnic groups. The discipline categories used to calculate significant disproportionality are listed below:
  - In-school suspensions of 10 days or less (ISS  $\leq$  10 days)
  - In-school suspension of greater than 10 days (ISS  $>$  10 days)
  - Out-of-school suspensions/expulsions of 10 days or less (OSS  $\leq$  10 Days)
  - Out-of-school suspensions/expulsions of greater than 10 days (OSS  $>$ 10 days)
  - Total number of disciplinary removals

All discipline data is reviewed based on cumulative days during the school year.

Districts will be informed in writing by the WVDE if significant disproportionality is evident or not, by November 1st. Districts identified with significant disproportionality, as well as those “at-risk” will also receive resources and supports to assist in reviewing practices and procedures and root cause(s) for significant disproportionality.

Please note the definition of *significant disproportionality* differs from the definition of *disproportionate representation* used for the State Performance Plan/Annual Performance Report determinations. Significant disproportionality analyses and subsequent CCEIS determinations are contingent solely upon districts' data and calculated risk and alternate risk ratios in relation to the above criteria (i.e., 1-5). Compliance with policies, practices and procedures is not considered.

For additional information on CCEIS/CEIS requirements and implementation, please reference the OSEP guidance memos:

<https://sites.ed.gov/idea/files/significant-disproportionalityqa-03-08-17.pdf>

[https://ideadata.org/sites/default/files/media/documents/2017-09/idc\\_ceis\\_chart.pdf](https://ideadata.org/sites/default/files/media/documents/2017-09/idc_ceis_chart.pdf)

<https://www.ed.gov/news/press-releases/fact-sheet-equity-idea>

Please direct questions to Renee Eccckles-Hardy, Coordinator of Data Management, 304-558-2696 or [renee.eccckleshardy@k12.wv.us](mailto:renee.eccckleshardy@k12.wv.us).