

ADDRESSING DISPROPORTIONALITY IN ALABAMA SCHOOLS

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READ NOTES ALOUD.

Alabama has worked diligently to address disproportionality in special education since 2000 through the initiatives of the *Lee v. Macon* Special Education Consent Decree. This Consent Decree required special education programs in this state to address the overrepresentation of African-American students identified as having mental retardation (MR) and emotional disturbance (ED) and the underrepresentation of African-American students identified as having a specific learning disability (SLD) and giftedness (GT). Alabama made significant progress in reducing the disparities and, in December 2006, was granted unitary status with the provision that the state would continue to provide training to teachers, administrators, and evaluators with regard to disproportionality.

With the reauthorization of the Individuals with Disabilities Education Act 2004 (IDEA), the focus of disproportionality is taken to the next level. IDEA 2004 regulations extend the directives of the Consent Decree mandates to include an analysis of three additional disability areas: autism (AUT), other health impairment (OHI), and speech or language impairment (SLI) in addition to MR, ED, and SLD. It further requires that we also analyze state and local education agency (LEA) data with regard to disproportionate representation by race and ethnicity in least restrictive environment (LRE) and discipline.

Congress commissioned the National Academy of Sciences to study disproportionality in 1982 and again in 2002. As a result of those studies, "congress contends that: (1) greater efforts are needed to prevent the intensification of problems connected with mislabeling minority children with disabilities; (2) 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; (3) African-American children are identified as having MR and ED at rates greater than their White counterparts; (4) in the 1998-1999 school year, African-American children represented 14.8% of the population aged 6 through 21, yet comprised 20.2% of all children with disabilities served in our schools; and (5) studies have found that schools with predominantly white students and teachers have placed disproportionately high numbers of their minority students into special education." (Williams, Perry. Building the Legacy: IDEA 2004 Training Curriculum). Disproportionality is a complex problem - a symptom - and not a cause.

This Professional Development Module Will...

- Define disproportionality.
- Discuss the implications of significant disproportionality.
- Identify why disproportionality is on the “front burner”.
- Identify IDEA 2004’s provisions to address disproportionality.

READ SLIDE ALOUD.

What is Disproportionate Representation?

Disproportionate representation is defined as “the extent to which membership in a given group affects the probability of being placed in a specific special education-disability category.” (Oswald, et.al.1999)

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

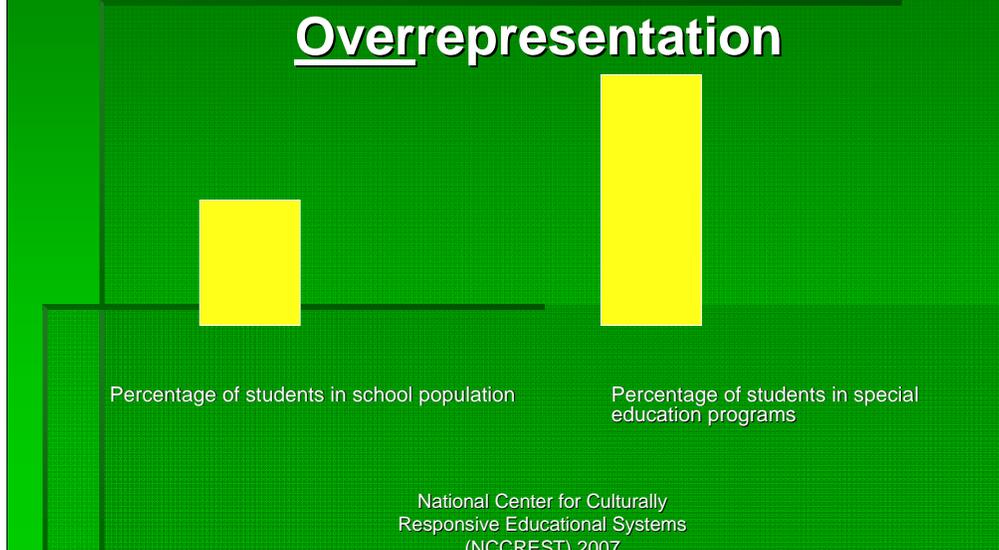
What is Disproportionate Representation?

Disproportionate representation encompasses both “overrepresentation” in high incidence disabilities and “underrepresentation” in programs for gifted and talented.

READ SLIDE AND NOTES ALOUD.

In our state the high incidence disability areas are MR, SLD, and ED.

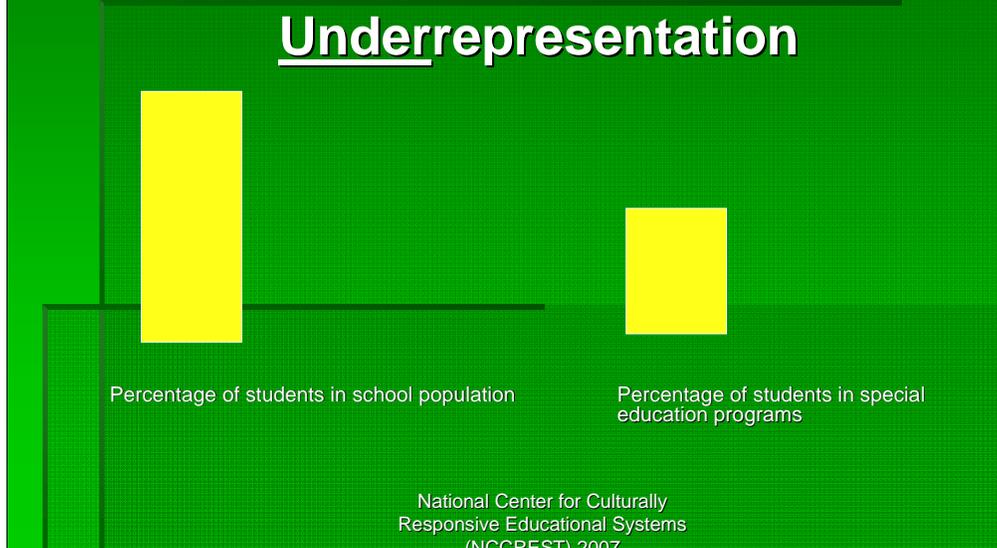
Disproportionate Representation Looks Like This



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When a particular racial or ethnic group is represented in special education at a rate greater than in the population in general, the group is said to be overrepresented.

Disproportionate Representation Looks Like This



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Conversely, when the percentage of an ethnic or racial group is less than what is found in the general population, the group may be described as underrepresented. According to the Civil Rights Project at Harvard University (2002), national data indicate that Latino and Asian-American children are underidentified in cognitive disability categories compared to Whites, “raising questions about whether the special education needs of these children are being met.” At the same time, perplexingly school and district data show instances where Latinos are overrepresented, suggesting that “there are both over and underrepresentation concerns” for these minority groups. Concerns have also been raised regarding the underrepresentation of children in particular racial or ethnic groups in programs for the gifted and talented or of Asian students receiving special education service. In these cases the percentage of African-American or Asian students may be less than what is found in the population in general.

Disproportionality: Why is it a problem?

National Center for Culturally
Responsive Educational Systems
(NCCREST) 2007

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Often children who are referred to the high incidence disability categories rarely come to school with a disability determination. They are referred to special education only after they have failed to achieve in the general education classroom” (Donovan & Cross, 2002). “The professional literature distinguishes between high incidence and low incidence disability categories. Nonjudgmental categories relate to children who are deaf and/or blind or who have orthopedic impairments or severe mental retardation. In contrast, diagnosis for categories such as mild MR, ED, or SLD rests on the “art” of professional judgment (O’Connor & Deluca Fernandez, 2006). Disproportionality is then, a general education issue as much as it is a special education issue. How would you rate your knowledge of disproportionality? “I know it all”, “I know a little”, or “I know nothing.”

ALLOW TIME FOR DISCUSSION.

Disproportionality: Why is it a problem?

“Among the conceptual factors that can influence disproportionate representation are issues of race and its definition and significance.” (Hilliard, 2001)

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It is evident that children of some racial or ethnic groups are overrepresented in some categories of special education. More specifically, research data show that the problem of disproportionality is especially apparent for African-American males in high-incidence categories such as MR and ED. As a result of two comprehensive studies on disproportionality, Congress requires action to investigate and eliminate it.

EXCERPTS FROM FINDINGS IN IDEA 2004'S STATUE

- “(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.

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

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It is for these reasons that we must pay particular attention to the general education context where the problem of disproportionality originates.

ALLOW TIME FOR DISCUSSION.

EXCERPTS FROM FINDINGS IN IDEA 2004'S STATUE

- **“(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.**

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

READ SLIDE ALOUD.

EXCERPTS FROM FINDINGS IN IDEA 2004'S STATUE

- **“(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 the referral of, assessment of, and provision of services for, our nation’s students from non-English language backgrounds.**

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

READ SLIDE ALOUD AND ALLOW FOR DISCUSSION.

EXCERPTS FROM FINDINGS IN IDEA 2004'S STATUE

- “(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.

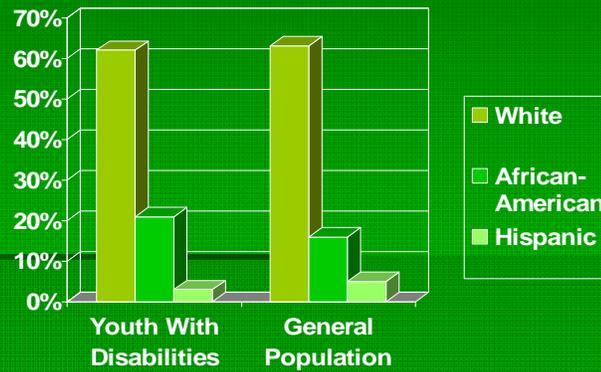
READ SLIDE ALOUD AND ALLOW FOR DISCUSSION.

IMPLICATIONS OF OVERREPRESENTATION

- Students may be denied access to the general curriculum.
- Students may receive services that do not meet their needs.
- Students may be misclassified or inappropriately identified.

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RACIAL/ETHNIC BACKGROUNDS OF YOUTH WITH DISABILITIES AND YOUTH IN THE GENERAL POPULATION



Wagoner, Cameto, & Guzman
(2003)

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Nationally, White students make-up approximately 62% of students with disabilities and 63% of the total population. African-American students make up approximately 21% of the students with disabilities but only 16% of the total population, and Hispanic students make up approximately 14% of students with disabilities but 16% of the total population.

MAJOR FACTORS THAT CONTRIBUTE TO DISPROPORTIONALITY

- Socio-demographic issues associated with poverty.
- Unequal educational opportunities for students of color, English language learners, and disadvantaged students.
- The special education referral and placement processes.

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African-American youth placed in special education programs experience fewer positive outcomes than their White counterparts. They (1) are more likely to be assigned to segregated classrooms or placements; (2) have limited access to inclusive and general education environments; (3) experience higher drop-out rates and lower academic performance; (4) are exposed to substandard and less rigorous curricula (Ferri & Conner, 2005); and (5) may be classified or inappropriately labeled.

“African-American Youth Placed in Special Education Programs”

- Have fewer positive outcomes than their White counterparts.
- Are more likely to be assigned to segregated classrooms or placements.
- Have limited access to inclusive and general educational environments.
- Experience higher dropout rates and lower academic performance.”

The Civil Rights Project, Harvard
University 2002

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"African-American Youth Placed in Special Education Programs"

- Are exposed to substandard and less rigorous curricula (Ferri & Connor, 2005)
- May be misclassified or inappropriately labeled;
- May receive services that do not meet their needs.
- Are less likely than their White counterparts to return to general education classrooms.

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Other Causal Factors for Disproportionality

- Failure of general education to educate children from diverse backgrounds.
- Misidentification and the misuse of test.
- Lack of access to effective instruction in general education programs.
- Insufficient resources and less well-prepared teachers.
- Poverty.

Disproportionality &
Overrepresentation (NCCREST)

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With respect to the latter theory—that poverty can explain overrepresentation in mental retardation or emotional disturbance – the Civil Rights Project at Harvard writes that the theory is contradicted by national trends revealed by the data. For example, poverty theory fails to explain: (a) why gross racial disparities are only found in MR and ED and not in SLD or any medically diagnosed disabilities; or (b) why Hispanics have a far lower identification rate for MR and ED than both African-Americans and Whites, despite the fact that African-Americans and Hispanics share a far greater risk than Whites for poverty, exposure to environmental toxins and low academic achievement. (Civil Rights Project, 2002).

WHAT STATES MUST DO

§300.173 Overidentification and Disproportionality

The state must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, **policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities**, including children with disabilities with a particular impairment described in 300.8.

Read Slide Aloud.

What States Must Do

§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 -**

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What States Must Do

- (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 education setting** of these children.
- (3) **The incidence, duration, and type of disciplinary actions** including suspensions and expulsions.

READ SLIDE AND NOTES ALOUD.

The process of determining if significant disproportionality based on race and ethnicity is occurring in the State or LEAs of the State begins with the State having policies and procedures as discussed on the last slide and then, ensuring that specific data are collected – the numbers and types of children in special education, the disability categories into which they are indentified, and the other factors mentioned in IDEA (e.g., placement, disciplinary actions). The State must then scrutinize the data to see if significant disproportionality exists. If significant disproportion is identified the State must take specific actions. But first lets learn more about IDEA’s regulations for significant disproportionality – how it’s defined and how it’s determined.

What is Significant Disproportionality?

Each State has the discretion to define the term for the LEAs and for the State in general. Therefore in identifying significant disproportionality, a State may determine statistically significant levels.

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There are no national standards for making determination of “significant disproportionality”. Alabama uses Child Count data to calculate risk and weighted risk ratio in determining significant disproportionality.

Significant Disproportionality

Section 618(d)(1) of the Act is clear that the determination of significant disproportionality by race or ethnicity is based on a collection and examination of data, and not on a district's policies, procedures, or practices. §300.646

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A review of an LEA's policies, procedures, and practices to determine whether they are consistent with the IDEA is a consequence of the State determining that the LEA has significant disproportionality with regard to identification, LRE, or discipline.

Measuring Disproportionality

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

[www.ideadata.org/docs/Disproportionality
%20Technical%20
Assistance%20Guide.pdf](http://www.ideadata.org/docs/Disproportionality%20Technical%20Assistance%20Guide.pdf)

National Center for Culturally
Responsive Educational Systems

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While time will not allow us to venture into a lengthy technical description of the methods by which a State or LEA might analyze their data and determine whether or not it reveals disproportionality by race or ethnicity, the National Center for Culturally Responsive Educational Systems recommends the technical assistance guide on the slide. A 28-page guide entitled *Methods of Assessing Racial/Ethnic Disproportionality in Special Education: A Technical Assistance Guide* is also available for those who would like to gain additional information.

WHAT HAPPENS IF
THERE'S A
DETERMINATION OF
SIGNIFICANT
DISPROPORTIONALITY?

READ SLIDE ALOUD.

WHEN THERE IS A FINDING OF SIGNIFICANT DISPROPORTIONALITY

LEAs Must

- provide for the review and revision (if appropriate) of policies, practices, and procedures to ensure compliance with requirements of IDEA;
- reserve funds to be used for coordinated early intervening services (CEIS);
- publicly report on the revisions of policies, procedures, and practices.

READ NOTES ALOUD.

When States make determinations of significant disproportionality based on race or ethnicity with respect to identification, LRE, or discipline, three provisions must be met. They must: provide for the review and revision (if appropriate) of policies, practices, and procedures to ensure compliance with requirements of IDEA. They must require the LEA to reserve funds to be used for coordinated (CESI) early intervening services (CEIS). And they must require the LEA to publicly report on the revisions of policies, procedures, and practices.

WHEN THERE IS A FINDING OF SIGNIFICANT DISPROPORTIONALITY

States must:

Require LEAs to use 15% of Part B funds for early intervening services



...particularly, but not only for children in those groups significantly overidentified.

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Coordinated Early intervening services (CEIS) are new to IDEA 2004. CEIS is about catching problems early when children are struggling to learn—especially apparent in the early grades and in tasks like reading and math.

Under IDEA 2004, school districts are required to use 15% of their Part B funds to develop and provide CEIS to children who are **not** already identified as children with disabilities but who need academic and behavioral support to succeed in the general education environment. CEIS are for children in kindergarten through 12th grade (with particular emphasis on students in grades K-3). CEIS are not services designated for children with disabilities—in fact, if a child has been determined eligible for special education and related services, that child would not be eligible for CEIS. However, a child who previously was identified as being a child with a disability but who currently does not need special education services would not be prevented from receiving CEIS.

The rationale behind using IDEA funds to pay for CEIS is that the earlier that staff identify children's learning difficulties, the quicker and less expensive the task of helping those children catch up will be. The longer a child goes without assistance, the longer the remediation time and the more intense the services must be. The U.S. Department of Education believes that the use of Part B funds for CEIS has the potential to benefit children by reducing academic and behavioral problems in the regular education environment and reducing the number of referrals to special education that could have been avoided by relatively simple regular education interventions.

For us, it is important to provide timely and appropriate interventions in the general education program. Most of our Part B funds are used for teacher salaries and benefits. A requirement to use 15% of that funding source could possibly result in the loss of teacher units.

EIS FUNDS

- Professional Development
- Educational and Behavioral Evaluation, Services, and Supports

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CEIS funds may be used to provide professional development for teachers and other school staff to enable such personnel to deliver scientifically researched - based academic and behavioral interventions, including literacy instruction and where appropriate, instruction on the use of adaptive and instructional software [§300.226(b)(2)]. It can also be used for providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction [§300.226(b)(2)]. Services and supports are broadly interpreted to include the use of supplemental instructional materials that may provide additional reinforcement to the core curriculum in the regular classroom.

REPORTING DISPROPORTIONALITY

States must annually report under the 6-year State Performance Plan (SPP) the percentage of LEAs with disproportionate representation of racial and ethnic groups in special education and related services that result from inappropriate identification.

READ SLIDE AND NOTES ALOUD.

How does this relate to the concept of significant disproportionality? The monitoring indicators focus not on significant disproportionality, but on disproportionate representation that is the result of inappropriate identification. Instead of merely reviewing data, the State Department of Education (SDE) reviews individual student eligibility determination forms to determine whether the student is appropriately identified. Obviously the indicators are linked to the analysis of district policies, procedures, and practices as required by §300.646(b)(1).

For us this means that only those students who meet eligibility criteria **and** have a need for specially designed instruction will be eligible for special education and related services.

ZEROING IN ON SPECIFIC DISABILITY CATEGORIES

- Mental Retardation
- Specific Learning Disabilities
- Emotional Disturbance
- Speech or Language Impairments
- Other Health Impairments
- Autism

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

THE END

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The IDEA is designed to ensure that children with disabilities receive a free appropriate public education (FAPE). To accomplish this goal, schools must have appropriate procedures to determine if the child who is referred for special education services is “a child with a disability” who requires special education and related services to achieve progress in the school curriculum. As professionals, we must attend to all phases of the placement process– the classroom ecologies from which children are referred to special education, the reasons for the referral, the decision-making process that leads to evaluation, development of the IEP, and the resulting placement. As our student populations become more diverse, it behooves us to change the way we have done many things in the past and embrace the future knowing that we have appropriately provided services for every child in our buildings.

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