



TO: P-12 Education Committee
FROM: Angelica Infante-Green *A. Infante - Green*
SUBJECT: Disproportionality by Race/Ethnicity in Special Education
DATE: June 6, 2016
AUTHORIZATION(S): *Mary Ellen Ecia*
SUMMARY

Issue for Discussion

To provide the Board of Regents with information on the Department's initiatives to address findings of disproportionality by race/ethnicity in the identification, classification, placement and disciplinary actions for students with disabilities in New York State school districts.

Reason(s) for Consideration

For information and discussion.

Proposed Handling

This item will come before the P-12 Education Committee for discussion at the May meeting of the Board of Regents.

Background Information

The overrepresentation of children from racial, cultural, ethnic, and linguistic minority backgrounds in special education programs has been a national concern for four decades.... When children of color are identified as children with disabilities at substantially higher rates than their peers, there is a strong concern that some of these children may have been improperly identified as children with disabilities, to their detriment. Misidentification interferes with a school's ability to provide children with appropriate educational services.... The over identification of children of color in special education, in particular, raises concerns of potential inequities in both educational opportunities and outcomes....

U.S. Department of Education, Federal Register, March 2, 2016

<https://www.federalregister.gov/articles/2016/03/02/2016-03938/assistance-to-states-for-the-education-of-children-with-disabilities-preschool-grants-for-children#h-12>

Identification and Actions with School Districts with Data Showing Disproportionality

Consistent with sections 612(a) and 618(d) of the Individuals with Disabilities Education Act (IDEA) and 34 CFR sections 300.173 and 300.646, New York State (NYS) has policies and procedures designed to prevent the inappropriate over-identification or disproportionate representation by race and ethnicity of students as students with disabilities.

1. Data collection and analysis

Each year, the State collects and examines individual school district data to determine if significant discrepancies and/or disproportionality, based on race and ethnicity, is occurring with respect to each of the following:

- long-term suspension of students with disabilities based on race/ethnicity;
- rates of *identification* of students for special education and related services;
- types of *disability classification* (intellectual disabilities; learning disabilities; emotional disturbance; speech or language impairment; other health impairments; and autism).
- *type of special education placement (percent of day in the general education classroom; separate classes; separate schools);* and
- the *incidence, duration and type of disciplinary actions*, including suspensions and expulsions.

2. Required use of IDEA funds

Consistent with federal requirements, the State requires the each school district with data showing disproportionality by race/ethnicity in one or more of the above categories to spend 15 percent of its Part B IDEA funds to provide comprehensive coordinated early intervening services to serve children in the school district, particularly children in those groups that were significantly over-identified.

3. Review of school districts' policies, procedures and practices

Each year in which a school district's data shows significant discrepancies and/or disproportionality by race/ethnicity, the State conducts a monitoring review of the school district's policies, procedures, and practices in the identification, classification, placement and/or disciplinary actions to ensure that such policies, procedures, and practices comply with the requirements of IDEA. Upon a finding that the school district has inappropriate policies, procedures and/or practices, the district must correct the noncompliance for each individual student affected and for all students and publicly post its revised policies, practices and procedures. The State publicly reports if the school district has data showing disproportionality by

race/ethnicity that is the result of inappropriate policies, procedures and/or practices. See <http://data.nysed.gov/lists.php?type=district> (most recent report for 2013-14).

4. Technical assistance

The State offers each identified school district technical assistance resources to assist them in identifying and addressing root causes for the data findings.

NYS Data on Disproportionality by Race/Ethnicity

Statewide, NYS special education data shows:

- Black and African American and Hispanic/Latino students are overrepresented in special education, while White students and other racial groups are somewhat underrepresented in the group of students with disabilities.
- By disability category, Black/African American students are significantly overrepresented in the categories of emotional disturbance (ED), intellectual disability (ID), with over representation also noted for learning disabilities (LD) and speech and language impairment (SLI); and
- Hispanic/Latino students are significantly overrepresented in the category of SLI, with overrepresentation also noted in the categories of LD, ED and ID.
- Overrepresentation of Black/African American students in the percent of students spending less than 80 percent of the school day in general education classrooms and placements in separate settings.

Based on the 2015-16 individual school district data:

- 94 different school districts in the State were identified for one or more of the indicators listed above.
- 23 of the 94 districts were identified for two or more indicators.
- 21 school districts were identified with data showing a significant discrepancy based on race/ethnicity in the long-term suspension of students with disabilities.
- 8 school districts were identified with data showing significant disproportionality in the identification of students with disabilities.
- 15 school districts were identified with data showing significant disproportionality by race/ethnicity in the classification of students with disabilities.
- 3 school districts were identified with data showing significant disproportionality by race/ethnicity in the placement of students with disabilities.

- 71 of the 93 districts were identified for significant disproportionality based on race/ethnicity in the incidence, duration and type of disciplinary actions, including suspensions and expulsions.

Technical Assistance Resources

Through IDEA discretionary funds, the Office of Special Education funds a Technical Assistance Center on Disproportionality (TAC-D). New York University Metropolitan Center for Research on Equity and the Transformation of Schools (Metro Center) currently holds the contract with the New York State Education Department NYSED to develop, implement, and assess a process of providing comprehensive technical assistance and professional development trainings to NYS school districts to address issues of disproportionality. TAC-D's work includes building the capacity of regions and districts in understanding the root cause and systemically addressing the disproportionate assignment of various subgroups in special education. This entails providing professional development trainings, coaching, training follow-ups, materials, and resources.

The purpose and goals of the TAC-D are to:

1. Build the capacity of school districts identified by NYSED in understanding the root cause and systemically addressing the disproportionate assignment of various subgroups in special education.
2. Provide professional development training, coaching, training follow-up, materials, and resources to assist identified districts in analyzing and addressing issues of disproportionality.
3. Assist school districts targeted for support in the development of action plans to reduce disproportionate rates by racial and ethnic groups in the identification, classification, placement and/or suspension of students with disabilities.
4. Develop statewide resources for school districts and technical assistance centers funded by NYSED, to better understand and address issues related to disproportionality in special education. The resources include a Web-Based Clearinghouse, a Disproportionality Data Repository (DDR), a Data Analysis Workbook, research-based articles, journals, and manuals (<http://steinhardt.nyu.edu/metrocenter/about/>).

Support to individual school districts:

TAC-D offers and provides targeted professional development and technical assistance to approximately 16 school districts each year. School districts are identified for this level of support based on a regional planning process that includes collaboration with NYSED Special Education Quality Assurance (SEQA) Regional Offices, Regional Special Education Technical Assistance Support Centers (RSE-TASC) and TAC-D. Participation in the technical assistance is voluntary. In each of these districts, TAC-D utilizes a quality improvement process (QIP) linking the identified root causes of

disproportionality to measurable goals and objectives designed to help the district build capacity in addressing the policies, procedures and practices related to disproportionality. The QIP also identifies the professional development and technical assistance activities targeted to help school districts achieve their goals and objectives.

Regional professional development workshops:

TAC-D also provides regional professional development sessions for districts identified for or at-risk of identification for disproportionality.

Summer Institute on Disproportionality:

Annually, TAC-D sponsors a summer institute to provide district and school staff, researchers, and technical assistance providers with an opportunity to address methods of decreasing disproportionality in schools and reflect on innovative ways to enrich learning for all students. This year's summer institute was on the theme ***Unleashing the Power of Culturally Responsive Education in the 21st Century: Empowering students, families and educators*** and more than 1,000 individuals registered for this year's institute.

Collaboration with other Technical Assistance Providers

The work of TAC-D intersects closely with the Department's efforts to support implementation of **Positive Behavioral Interventions and Supports (PBIS)** in schools and districts across the State. Through the 10 **RSE-TASC** contracts, NYSED funds 40 **Behavior Specialists** who provide professional development and technical assistance to schools whose data shows high rates of suspension of students with disabilities and/or disproportionality by race/ethnicity in the disciplinary actions for students with disabilities. Since the PBIS framework is particularly relevant in addressing the challenge of disproportionality in disciplinary action, TAC-D has worked closely with the NYS PBIS Technical Assistance Center and the RSE-TASC Behavior Specialists to ensure school districts implement a PBIS framework based on culturally responsive practices.

Results

As a combined result of the Department's data notifications to school districts; monitoring and correction of findings of noncompliance relating to the district's policies, procedures and practices; redirection of use of IDEA funds; and technical assistance provided by TACD and/or the RSE-TASC, of the school districts that received notification that their data showed disproportionality by race/ethnicity in one or more of the categories noted above,;

- 65 districts that received a notification in the prior year were not identified for the same data issue in 2013-14;
- 66 districts that received a notification in the prior year were not identified for the same data issue in 2014-15; and
- 40 districts that received a notification in the prior year were not identified for the same data issue in 2015-16.

Next Steps

1. Conduct annual data analysis and reporting at the State and district level to determine improvements in disproportionality by race/ethnicity in special education identification, classification, placement and disciplinary actions.
2. Conduct a review of school district special education policies, procedures and practices each year a school district's data shows disproportionality by race/ethnicity to determine if the reason for the data is inappropriate policies, procedures and practices.
3. Propose policy to the Board of Regents in the fall to ensure that each school district reviews its least restrictive environment data to ensure that special education placements are not disproportionate based on race/ethnicity.
4. Direct school districts with data showing disproportionality by race/ethnicity to work directly with technical assistance providers to develop an actionable plan to support students.
5. Ensure that the Department's special education technical assistance providers receive ongoing professional development on culturally responsive education and behavior supports to ensure that they are prepared to support school districts to review and address the quality of their instructional programs and practices.
6. Collaborate with the Office of Bilingual Education and World Languages on policy, guidance and professional development on language differences versus disability to ensure the appropriate identification of English language learners as students with disabilities.