

On June 19, 2014, the US Department of Education (USED) filed a Request for Information on Addressing Significant Disproportionality under the IDEA in the Federal Register. The USED is seeking public comment on the actions that the Department should take to address significant disproportionality based on race and ethnicity in the identification, placement, and discipline of children with disabilities. Specifically, the Department is requesting comment on the following questions:

1. Should the Department issue proposed regulations requiring states to use a standard appropriate to determine which LEAs have significant disproportionality? If so, how might a standard approach properly account for state differences (i.e., size, composition and LEA size)? If so, what should be included in the standard approach?

The Michigan Association of Administrators of Special Education (MAASE), which has over 650 members, supports the USED issuance of regulations regarding standards to be used by states to determine significant disproportionality. It is the recommendation of MAASE that the Department provide a framework within which each state must make this determination.

MAASE supports a framework that considers representation across disability areas while also taking into account the N size, the variability of the district, and the race/ethnicity representation within a given district that is small in overall population (i.e., districts with 2 out of 44 OSS >10 days, or 1/11 and over 3.6%).

2. What actions, apart from requiring a standard approach should the Department take to address the very small number of LEAs identified with significant disproportionality, despite data showing significant disparities based on race and ethnicity in the identification of children for special education, including disability category, educational placements, and disciplinary actions?

USED is encouraged to determine a statistically low number of LEAs identified in a state and require a more in-depth review of those state's processes to determine significant disproportionality and their policies, practices and procedures. Is the significant disparity based on significant disproportionality at a state level with very few LEAs within that state being

identified for significant disproportionality? If so, a few large districts across the state may be influencing the entire state-level data, while numerous smaller districts do not have data showing significant disproportionality. If this is the case, then this is not a “problem”, but further evidence that state-level data is not indicative of everything happening in a state.

It is also important to consider the effect of poverty that is playing out in many districts found to have significant disproportionality.

The cycle of identification for action for Significant disproportionality on a 3-year cycle rather than 2 years would allow time for a district to implement their corrective action plan and see the impact the plan has on their data. If a district is showing improvement, they should not be identified for a second 3-year cycle, for example, a district that started at 8% (of students with IEPs that have suspended more than 10 days) and has reduced that percentage to 4%, which is still over the 3.6% threshold, but shows growth in correcting the issue. Related to discipline specifically, the cultural change a district needs to go through takes significant time, certainly more than 2 years.

3. What action, including research-based actions, should the Department take to: (a) encourage greater voluntary use of funds for CEIS; and (b) assist LEAs in more effectively targeting their use of funds for CEIS to address significant disproportionality in both districts required to use funds for CEIS and districts voluntarily using their funds for CEIS, in a manner that is both consistent with the IDEA and which will help address the causes and effects of significant disproportionality.

MAASE recommends:

3(a) To increase the voluntary use of funds for CEIS, the Department should work with the Congress to move toward full funding of IDEA. The Department should also develop incentives to increase voluntary use of funds, such as allowing a district to utilize additional dollars when it chooses to use CEIS. Also, coordination of these funds with funds from Title programs should also be encouraged by simplifying the processes for doing so. Increases in IDEA funding will allow districts to more effectively address issues which confront special education, such as disproportionality, and will allow general education to more appropriately provide intervention to children at-risk for school failure by not draining those resources to further support students with IEPs.

3(b) MAASE agrees with the Department’s assessment that the current requirements are not working. Year after year, the same districts are found to be significantly disproportionate. In fact, the use of CEIS funds in required significant disproportionality rarely addresses or improves

that issue. Preventative programs are developed which are often not related at all to the issue. General education student intervention does nothing for students with IEPs and the district's approach to them. Currently, it is acceptable to develop a reading or math intervention program for "at-risk" general education students but not acceptable to provide direct behavior support for students with IEPs with required CEIS funds nor is it acceptable to provide training to administrators on behavior issues for students with IEPs or to improve SE evaluation procedures using CEIS funds.

The IDEA and its regulations require LEAs that have been found to be significantly disproportionate "to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly over-identified under paragraph (a) of this section; and." This is not what is happening in all states. Regarding required use of CEIS funds for significant disproportionality, the Department should ensure that each state's practices require those funds to be used directly to improve the area for which the district was cited. Districts should be required to analyze their policies, practices and procedures and then, with the use of CEIS funds, develop improvement plans that directly address the issues as they related to over-identification, discipline, or LRE. There may be the need to clarify the differences between what is required or allowed for the voluntary use of CEIS and required due to significant disproportionality.

In any further authorization of educational policy that addresses funding, there is a need for simplification in the ability to use funds for CEIS activities. Right now, there are too many funding streams, each with its own restrictions, and each with its own penalties for purported noncompliance.

In the area of discipline, consideration should be given to requiring identified districts to develop and implement clear guidelines regarding the type of school-based behavior that is properly handled by school administration and staff, and to provide additional training for school administration and staff on adolescent behavior, conflict resolution and de-escalation techniques and cultural factors affecting children's behavior. Use of Positive Behavior Interventions and supports are strongly encouraged.

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The **Department of Education** (ED) Other: [Extension of Public Comment Period](#)

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The Michigan Association of Administrators of Special Education (MAASE) appreciates this opportunity to provide advice and guidance to the USDOE around significant disproportionality. Please see attached comment.

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