IDC IDEA DATA CENTER | Collect, Report, Analyze, and Use High-Quality Part B Data

Equity Requirements in IDEA

Authors: Nancy O'Hara, Julie Bollmer

Westat

July 2021
Version 2.0

The IDEA Data Center (IDC) created this publication under U.S. Department of Education, Office of Special Education Programs grant number H373Y190001. Richelle Davis and Rebecca Smith serve as the project officers.

The views expressed herein do not necessarily represent the positions or policies of the U.S. Department of Education. No official endorsement by the U.S. Department of Education of any product, commodity, service, or enterprise mentioned in this publication is intended or should be inferred. This product is in the public domain. Authorization to reproduce it in whole or in part is granted.

Westat is the lead organization for IDC. For more information about the center's work and its partners, see www.ideadata.org.

July 2021

Suggested Citation:

O'Hara, N., and Bollmer, J. (2021, July). *Equity Requirements in IDEA* (Version 2.0). IDEA Data Center. Rockville, MD: Westat.

IDEAs that Work
U.S. Office of Special Education Programs

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.

Area	Equity Requirement		
	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	• Part B SPP/APR Indicators B9 and B10 – 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. – B10: Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. • Part B Measurement Table: https://sites.ed.gov/idea/files/1820-0624_FFY20Part_B_SPPAPR_Measurement_TableFINAL.pdf	• Part B SPP/APR Indicator B4 – 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 IEPs. – 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	• Determine whether significant disproportionality based on race/ethnicity is occurring with respect to 1. the identification of children as children with disabilities, including children with disabilities in accordance with particular impairments; 2. the placement of children in particular educational settings; and 3. the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
		implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. • Part B Measurement Table: https://sites.ed.gov/idea/files/1820-0624_FFY20Part_B_SPPAPR_Measurement_TableFINAL.pdf	• Regulations for significant disproportionality – Federal Register: https://sites.ed.gov/idea/files/20161219-Part_B_final_regulations.pdf • Significant Disproportionality: Essential Questions and Answers: https://osepideasthatwork.org/sites/default/files/significant-disproportionality-qa-03-08-17.pdf
Stakeholder engagement	• Broad stakeholder engagement for the SPP/APR that includes input on setting targets (where applicable), analyzing data, developing improvement activities, evaluating progress, and making the information available to the public. (See instructions to the SPP/APR for full details on stakeholder engagement.)	• Broad stakeholder engagement for the SPP/APR that includes input on setting targets (where applicable), analyzing data, developing improvement activities, evaluating progress, and making the information available to the public. (See instructions to the SPP/APR for full details on stakeholder engagement.)	• State must seek stakeholder (including state advisory panel) advice for – reasonable threshold(s); – reasonable minimum cell size(s); – reasonable minimum n-size(s); and – standard(s) for reasonable progress.

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
Reporting requirements	• SPP/APR – B9 and B10 are both compliance indicators and require targets of zero percent.	• SPP/APR – B4A is a results indicator and state sets target. – B4B is a compliance indicator and requires a target of zero percent.	• Not an SPP/APR indicator • Annual State Application Under Part B of the IDEA – State reports the following in Section V.B. Significant Disproportionality Reporting Form: 1. minimum n-sizes and rationales; 2. minimum cell sizes and rationales; 3. risk ratio thresholds and rationales; 4. standards for reasonable progress, if applicable, and rationales; and 5. number of years of data. • IDEA State Supplemental Survey (IDEA SSS) – State reports its definition of significant disproportionality, including the following elements, as appropriate: 1. the calculation method(s) being used;

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
			2. any minimum cell or n-sizes (i.e., risk numerator and/or risk denominator); 3. the number of years of data the state used in the calculation; and 4. the threshold at which significant disproportionality is identified. • IDEA Part B Maintenance of Effort (MOE) Reduction & Coordinated Early Intervening Services (CEIS) data collection – State reports on comprehensive CEIS (CCEIS) for significant disproportionality 1. districts that were required to reserve funds for CCEIS; and 2. the amount required to be reserved and the reason for significant disproportionality.

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
Data requirements	• B9 – Data for children ages 5 and in kindergarten through 21 for each of the seven racial and ethnic groups for 1. all disabilities. • B10 – Data for children ages 5 and in kindergarten through 21 for each of the seven racial and ethnic groups for 1. autism; 2. intellectual disability; 3. specific learning disability; 4. emotional disturbance; 5. speech or language impairment; and 6. other health impairment.	• B4A – Data for children ages 3 through 21 for 1. out-of-school suspensions and expulsions greater than 10 days. • B4B – Data for children ages 3 through 21 for each of the seven racial and ethnic groups for 1. out-of-school suspensions and expulsions greater than 10 days.	• All seven racial and ethnic groups • Identification – Data for children ages 3 through 21 for each of the seven racial and ethnic groups for 1. all disabilities; 2. autism; 3. intellectual disability; 4. specific learning disability; 5. emotional disturbance; 6. speech or language impairment; and 7. other health impairment. • Placement – Data for children ages 5 and in kindergarten through 21 for each of the seven racial and ethnic groups for 1. inside a regular class for less than 40 percent of the day; and

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
			2. inside separate schools and residential facilities, not including homebound or hospital settings, correctional facilities, or private schools. • Discipline – Data for children ages 3 through 21 for each of the seven racial and ethnic groups for 1. out-of-school suspensions and expulsions of 10 days or fewer; 2. out-of-school suspensions and expulsions of more than 10 days; 3. in-school suspensions of 10 days or fewer; 4. in-school suspensions of more than 10 days; and

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
			5. 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.
Methodology	• For both B9 and B10, state must use a two-step process: 1. The state analyzes data to determine which districts meet the state's definition of disproportionate representation. 2. When a district meets the state's definition, the state must ensure a review of district policies, procedures, and practices to determine if the disproportionate representation is due to inappropriate identification.	• For both B4A and B4B, state must use one of two comparison options: 1. Compare rates of suspension/expulsion among districts within the state; or 2. Compare rates of suspension/expulsion between students with and without disabilities within a district. • B4A uses a one-step process: 1. The state analyzes data to determine which districts meet the state's definition of significant discrepancy.	• State must calculate a risk ratio for each LEA for each of the racial and ethnic groups for each analysis category (i.e., identification, placement, discipline). – *Exception:* If the particular racial and 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. – *Exception:* If the comparison group in the LEA does not meet the minimum cell size or the minimum n-size, then the state

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
	• State must – select a methodology for calculating disproportionate representation; and – identify a threshold at which they will identify disproportionate representation. • State may – define and use a minimum cell size and/or n-size; and – use multiple years of data.	• B4B uses a two-step process: 1. The state analyzes data to determine which districts meet the state's definition of significant discrepancy. 2. When a district meets the state definition, the state must ensure a review of the district's policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. • For B4A and B4B, state must – select a methodology for calculating significant discrepancy; and – determine the state's definition of significant discrepancy. • For B4A and B4B, state may – define and use a minimum cell size and/or n-size.	must calculate an alternate risk ratio. ▪ 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). – Presumptively reasonable if 10 or less, and state must provide a rationale that includes ▪ justifications for the choices made, including all relevant data and research relied upon to make an informed choice and how the state included stakeholders in that process. – If larger than 10, then in addition to the above justification, state must provide a rationale that includes

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
			▪ a detailed explanation of why the numbers chosen are reasonable and how they ensure that the state is appropriately analyzing and identifying LEAs with significant disparities based on race and ethnicity in the identification, placement, or discipline of children with disabilities. – May set different minimum cell sizes for each analysis category but not for individual racial and ethnic groups. • State may set a reasonable minimum n-size (risk denominator). – Presumptively reasonable if 30 or less, and state must provide a rationale that includes ▪ justifications for the choices made, including all relevant data and research relied upon to make an informed choice and how the state included stakeholders in that process.

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
			– If larger than 30, then in addition to the above justification, state must provide a rationale that includes ▪ a detailed explanation of why the numbers chosen are reasonable and how they ensure that the state is appropriately analyzing and identifying LEAs with significant disparities based on race and ethnicity in the identification, placement, or discipline of children with disabilities. • State must set a reasonable risk ratio. – Provide a rationale that includes justifications for the choices made, including all relevant data and research relied upon to make an informed choice and how the state included stakeholders in that process. – May set different thresholds for each analysis category but not for individual racial/ethnic groups.

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
			• Flexibilities – Multiple years of data: State must use at least one year of data but may consider using up to 3 years of data. – Reasonable progress: State may set a standard for measuring reasonable progress. ▪ State may choose not to identify a district if the district has demonstrated reasonable progress in each of the two prior consecutive years. ▪ State must provide a rationale that includes justifications for the choices made, including all relevant data and research relied upon to make an informed choice and how the state included stakeholders in that process.

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
If the state identifies districts	• State must – ensure districts correct any noncompliance identified through the review of their policies, procedures, and practices; and – report on the correction of noncompliance in the SPP/APR.	• For B4A, state must – ensure a review of policies, procedures, and practices and, if appropriate, revise (or require the district 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. • For B4B, state must – ensure that any district policies, procedures, or practices that contributed to the significant discrepancy and 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 were revised to	• State must – ensure districts reserve 15 percent of IDEA funds for CCEIS to identify and address factors contributing to the significant disproportionality; – provide for the annual review of the policies, practices, and procedures of any district that has significant disproportionality; and – require the district to publicly report on the revisions to policies, practices, and procedures.

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
		– comply with applicable requirements consistent with the Office of Special Education Programs (OSEP) Memorandum 09-02, dated October 17, 2008; and – report on the correction of noncompliance in the SPP/APR.	
If district is identified	• District must – correct any noncompliance identified through the review of policies, procedures, or practices.	• District must – correct any noncompliance identified through the review of policies, procedures, or practices.	• District must – set aside 15 percent of their IDEA funds for CCEIS (except when the district serves only children with disabilities) and ▪ may use CCEIS funds to serve children from age 3 through grade 12, particularly, but not exclusively, children in those groups that were significantly over-identified; ▪ may include children not currently identified as needing special education or related services; ▪ may not limit CCEIS only to children with disabilities;

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
			▪ must identify and address the factors contributing to significant disproportionality; and ▪ must address a policy, practice, or procedure identified as contributing to the significant disproportionality; and – publicly report on any revisions to policy, procedure, or practice. • District may not – reduce LEA MOE based on 34 CFR § 300.205 adjustment to local fiscal effort in certain fiscal years.
Notes	• State may – choose to align the methodology with significant disproportionality but is not required to do so.	• State cannot – use the calculation methods for B9 and B10 for the significant discrepancy calculation for B4B; – use the significant discrepancy analysis in B4B to meet the discipline analysis requirements of significant disproportionality; or – calculate a rate ratio or rate difference within each district that	• State cannot – use the data from Indicators B9, B10, and B4 to meet all the requirements of significant disproportionality. ▪ The determination for significant disproportionality is based on the data for each district and whether the state's definition of

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
		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). ▪ The Department of Education has stated that using this methodology is unacceptable for B4B. ▪ This methodology does not compare suspension/expulsion rates for children with disabilities among districts (Comparison Option 1); instead, it compares within districts. ▪ It also does not compare children with disabilities to children without disabilities (Comparison Option 2), instead comparing children with disabilities to children with disabilities.	significant disproportionality is met. ▪ Review of policies, procedures, and practices occurs after the determination is made and does not affect it. • CCEIS is identified and described in 34 CFR § 300.646: – Activities may include professional development and educational and behavioral evaluations, services, and supports. – District 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;

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.

Area	Equity Requirement		
	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**
			▪ 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.

Table is based on current requirements as of 6/1/2021. Resources for each of these three equity requirements are available on the IDC website in the Resource Library.