

DISPROPORTIONALITY AND OVERIDENTIFICATION

(See also **Early Intervening Services, Local Funding, and State Funding**)

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements.¹ This document addresses only the changes to the provisions of IDEA regarding disproportionality and overidentification that took effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

IDEA 2004:**1. Requires policies and procedures.**

The state has in effect, consistent with the purposes of IDEA and with Section 618(d), 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 Section 602(3). [612(a)(24)]

2. Requires collection and examination of data regarding disproportionality.

Each state that receives assistance under IDEA, and the secretary of the interior, shall 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 local education agencies (LEAs) in the state with respect to:

- The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment as described in Section 602(3);
- The placement in particular educational settings of such children; and
- The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

[618(d)(1)]

¹ Topics in this series include: Alignment With the *No Child Left Behind Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; National Instructional Materials Accessibility Standard (NIMAS); Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Secondary Transition; State Funding; and Statewide and Districtwide Assessments. Documents are available on the OSERS Web site at: www.ed.gov/about/offices/list/osers/index.html.

3. Establishes requirements when reviewing policies and procedures.

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children ... the state, or the secretary of the interior, as the case may be, shall:

- Provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of IDEA;
- Require any LEA identified under Section 618(d)(1) to reserve the maximum amount of funds under Section 613(f) to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly children in those groups that were significantly overidentified under Section 618(d)(1); and
- Require the LEA to publicly report on the revision of policies, practices, and procedures described under Section 618(d)(1)(A).

[618(d)(2)]

4. Authorizes technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.

Activities that may be carried out under Section 663 include activities to improve services provided under IDEA, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through... demonstrating models of personnel preparation to ensure appropriate placements and services for all students, and to reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children and disseminating information on how to reduce inappropriate racial and ethnic disproportionalities identified under Section 618. [663(c)(9)-(10)]