

**Addressing  
Racial Disproportionality  
in the Area of  
Special Education Services**

**VCASE Fall 2008 Institute**

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**Today's Discussion**

- ✓ Brief overview
- ✓ IDEA requirements & SPPs
- ✓ Policies, procedures & practices
- ✓ Designs for strategic change and resources

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## Brief Overview

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### Two Types of Disabilities

- ✓ Obvious
- ✓ Judgmental

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### Obvious Disabilities

Usually identified by  
medical personnel before  
a child begins school.

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**Judgmental Disabilities**

Children are almost always identified as having a disability after starting school.

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**Judgmental Disabilities**

Most common areas of disability eligibility based on some aspect of judgment:

- ✓ Learning Disabilities
- ✓ Mild Mental Retardation
- ✓ Emotional Disturbance

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**More than 30 Years > PL 94-142**

AA Students Increasingly Overrepresented in MR/ED

MR increased by 3%:

AA increased by 7%; risk by 38%

Hispanic, Asian increased somewhat, risk increased slightly but usually underidentified

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**More than 30 Years > PL 94-142**

**Emotional Disturbance**

**AA increased by 71%**

**Risk increased by 41%**

**Hispanic, Asian, American Indian**

**Substantial incidence increase & somewhat for whites**

**Not much risk increase**

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**Due to Poverty?**

✓ **The largest gender gap is between African American girls & boys**

✓ **There are relatively little or no racial/ethnic differences among students with medically diagnosed disabilities**

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**Racial Inequity in Special Education**

**[http://www.civilrightsproject.ucla.edu/research/books/special\\_ed.php](http://www.civilrightsproject.ucla.edu/research/books/special_ed.php)**

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### Due to Academic Performance?

- ✓ Most students are referred for special education eligibility because of academics
- ✓ AAs/Hispanics average NAEP scores are significantly less than whites in reading, writing, math & science

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### Preparation Gap

Striking disparities in what children know and can do well before they enter kindergarten.

- ✓ Spoken words to youngsters ranged from *13 million to 45 million*
- ✓ Affirmative statements heard ranged from *800 thousand to 80 thousand*.

Hart & Risley, *Meaningful Differences* (1995)

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### Lessons from Research

In practice, it can be difficult to distinguish internal child traits that require the ongoing support of special education from inadequate opportunity or contextual support for learning behavior.

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**Lessons from Research**

**Disability  
or  
ABT?**

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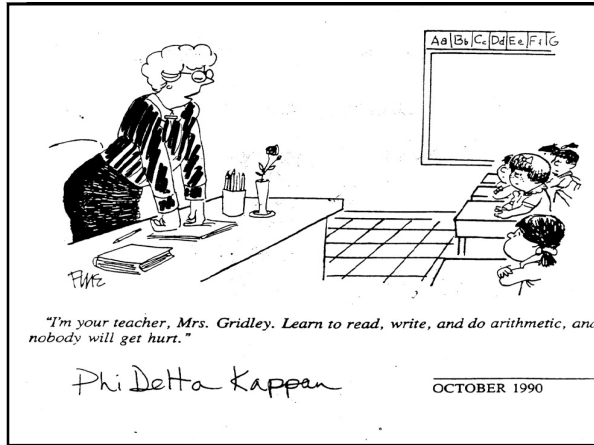
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**Many children are  
"instructional casualties" of  
failed or poor reading  
instruction.**

**National Reading Panel  
(2000).**

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# IDEA Requirements

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## 2 Concepts Under IDEA

**Disproportionate Representation  
and  
Significant Disproportionality**

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## What Do These Terms Mean?

- ✓ There is NO national standard or definition for either term
- ✓ What may be a problem in one state may not be in another.

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# Significant Disproportionality

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## Application

- ✓ All Special Education Services
- ✓ Disability Areas (not specified)
- ✓ Educational Settings
- ✓ Suspensions & Expulsions

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## Example of Analysis: By Disability

Compare	S/L	LD	Aut.	OHI	MR	ED	ALL
Black							
White							
Hispanic							
Asian							
Native American							

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### Example of Analysis: LRE

General Ed Services	> 80%	40-79%	< 40%	Separate Schools	ALL
Black					
White					
Hispanic					
Asian					
Native American					
ALL					

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### Westat TA Document

<http://www.nichcy.org/training/B-resources.pdf>

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### Significant Disproportionality Consequences

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**Only  
NUMBERS  
Count**

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**Financial Consequence**

For significant disprop in special ed, disability areas or LRE:

- ✓ Reserve 15% of IDEA funds for early intervening services
- ✓ Reserve means SPEND!
- ✓ Until significant disprop ends!

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**When Using IDEA \$ For EIS**

Annually report to VDOE

- ✓ Number receiving EIS; and
- ✓ Number with EIS & subsequently receiving special education services during preceding 2 years.

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**Other Consequences**

- ✓ Review & (if appropriate) revise policies, procedures & practices
- ✓ Publicly report revisions until eliminate disproportionality

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**Educational Settings**

- ✓ Is NOT an area states are required to monitor by race/ethnicity
- ✓ Some states do so voluntarily

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**Disproportionate Representation**

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**Priority Monitoring**

SEAs must identify LEAs with disproportionate representation of racial/ethnic groups and 6 disability areas resulting from inappropriate identification

No comparable mandate for LRE

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**State  
Performance  
Plan Indicators  
9 & 10**

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**DR Requirements**

- ✓ State identifies criteria for disproportionate representation for all SwD and 6 disability areas
- ✓ Includes underdisproportionality & includes white students
- ✓ Monitor to determine if result of inappropriate identification
- ✓ Review pp & p & post changes

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## Summary Of 2 Concepts

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### Disp Rep (DR)

- SPP 9 & 10: ID only
- 6 disability areas
- Not just numbers
- Use data & ppp: link inappropri ID & DR?
- Over & under DR
- State defined bar
- Targets must be 0%

### Signif Disprop (SD)

- ID, LRE & discipline
- 6 disability areas
- Just numbers
- No analysis
- Not over & under
- State defines bar
- Reserve 15% for EIS

Review (if appropriate) revise p p & p

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## Suspension & Expulsion

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**Suspension & Expulsion**

**If significant disproportionality**

Review/revise policies, procedures & practices for

- ✓ IEP development
- ✓ Use of PBIS
- ✓ Procedural safeguards

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**Indicator 4B**

**% of LEAs with significant discrepancy in rates of suspensions/ expulsions > 10 days/school year for SwD by race & ethnicity.**

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**Different From SPP 9 & 10**

**Determine if disprop. rep. resulted in inappropriate identification re:**

- 9 All students receiving special education services
- 10 6 areas (LD, MR, ED, Speech, OHI, autism)

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### Suspension & Expulsion

June 2007, USDOE warned each state to cease taking action to remedy racial disparities in discipline pursuant to for risk of violating the U.S. Constitution

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### Instructions to States

- ✓ States must immediately cease unless based on finding of inappropriate PPP re: development & implementation of IEPs, use of PBIS & procedural safeguards, etc.
- ✓ OSEP's website continues to include #4B for SPPs.

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### Think You're Confused?

- ✓ 15 states did not analyze data for white students
- ✓ 15 states didn't include underrep
- ✓ 14 states did not distinguish between significant disprop. & disprop. representation
- ✓ 27 states didn't report % of LEAs with disprop. representation

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### Hot off the Press

Just before states' Annual Performance Reports were due (Feb. 2008), OSEP notified SEAs that DP includes underrepresentation (even if state wasn't cited in prior year's review.

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### Dazed & Confused

The SPP disproportionality indicators 4, 9 & 10 "were probably the single most problematic indicator[s]" for states."

Ruth Ryder, OSEP Director of Monitoring & State Improvement Planning at OSEP Leadership Conference – 8/8/07 (SpecialEdConnctions – LRP Pub.)

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## LD Requirements

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**IDEA Regs**

**4 Major New Rules  
For LD Eligibility**

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**The  
Perfect  
Storm**

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**1<sup>st</sup> LD Requirement**

**Student doesn't**

- ✓ **Achieve adequately for age  
or**
- ✓ **Meet grade-level standards ...  
with learning experiences &  
instruction that's age or  
grade-level appropriate**

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By Grade & All Grades		White		Black		Hisp.		Asian		NA		ALL	
		#	%	#	%	#	%	#	%	#	%	#	%
NO IEP	Not Proficient												

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**2<sup>nd</sup> Requirement**

**Insufficient progress to meet age or grade-level standards...with response to scientific research-based intervention (RtI)**  
 or  
**Pattern of strengths & weaknesses in performance or achievement**

- Age, Grade-level standards or
- Intellectual development

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**3<sup>rd</sup> Requirement**

**Eligibility isn't primarily result of**  
**Visual, hearing, or motor disability; MR; ED; cultural factors; environmental or economic disadvantage; LEP; or lack of appropriate instruction in reading or math**

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**4<sup>th</sup> No Lack of Approp. Instruction**

1. Data showing prior to/part of referral process, student given:

- Appropriate instruction in regular education settings
- Delivered by qualified personnel

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**Lack of Appropriate Instruction**

2. Data-based documentation of repeated assessments of achievement at

- Reasonable intervals
- Reflecting formal assessment of student progress during instruction
- Provided to parents

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**The Perfect Storm**

New IDEA regulatory framework for LD eligibility

Lack of attention to systemic & fidelity-based general education interventions & progress monitoring

May lead to more disproportionality

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**Helpful Documents**

1. One-page summary of LD Requirements
2. Eligibility Worksheet

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**Sample 3-Tier Framework**

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**Reviewing & Revising  
Policy  
Procedures &  
Practice**

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**Disproportionality in  
Special Education:  
Identifying Where & Why  
Overidentification of Minority  
Students Occurs**

<http://www.shoplrp.com/product/p-300252.html>

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**Helpful  
Websites**

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**Designing  
Change**

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**Strategies for Change**

1. Use data from analytical review
2. Target specific areas of need
3. Identify population of students impacted

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**Strategies for Change**

- ✓ Active leadership & ownership of general, supported by special educators & those involved with ELL students
- ✓ Unified system that collaboratively addresses needs of all students

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