Significant Disproportionality in Special Education – Vol.2

Exceptional Student Services Unit

BACKGROUND

IDEA Section 618(d) requires States to annually examine whether significant disproportionality based on race and ethnicity exists in their Local Education Agencies (LEAs). The amendment to the regulations surrounding significant disproportionality ([Link to 34 CFR §300.616)](#) in December 2016 brought many changes to the prior version of the regulation ([Link to summary of regulation changes](#)). The regulation is now more uniform, requiring all states to use a standard methodology to analyze significant disproportionality in their LEAs. States were also required to develop a definition of significant disproportionality with stakeholders' input.

FEDERAL POSTPONEMENT AND COLORADO'S PLAN

In the fall of 2017, CDE hosted stakeholder meetings to seek input regarding Colorado's definition of significant disproportionality (e.g., methodology for calculating disproportionality, thresholds for identifying LEAs as significantly disproportionate, and what it means for LEAs to make reasonable progress towards proportional representation). Based on this input, Colorado's revised definition of significant disproportionality, which was planned to be implemented on July 1, 2018 as the 2016 regulation required. However, the U.S. Department of Education postponed the compliance date for implementing the 2016 regulation by two years, from July 1, 2018 to July 1, 2020 ([Link to 83 FR 31306](#)). The postponement allowed States to have flexibility to implement the new regulation in part, in whole, or hold off completely until the compliance date of July 1, 2020. Given this delay, CDE, with stakeholders' input, has made the decision to gradually implement Colorado's new definition of significant disproportionality which had been developed with stakeholders prior to the postponement ([Link to Colorado's definition of significant disproportionality](#)). The gradual implementation enables Colorado to take advantage of the flexibility the 2016 regulation allows, while giving the State and LEAs time to prepare for the full implementation set for July 1, 2020. It is important to note that States are statutorily obligated to make annual determinations as to whether significant disproportionality exits in their LEAs despite the delay of the 2016 regulation. The timeline below illustrates CDE's plan to gradually implement Colorado's new definition of significant disproportionality by 2020 ([Link to implementation timeline](#)).

The primary changes to the key concepts of significant disproportionality will happen between SY2017-18 and SY2018-19, including a large change to Comprehensive Coordinated Early Intervening Services (CCEIS). Please see the "Summary of Important Concepts" on Page 3 for more detail. In SY2018-19, CDE will implement a portion of the 2016 regulation to make changes to the methodology for calculating significant disproportionality. After SY2018-19, there will be a reduction of risk ratio thresholds and increase in the amount of risk
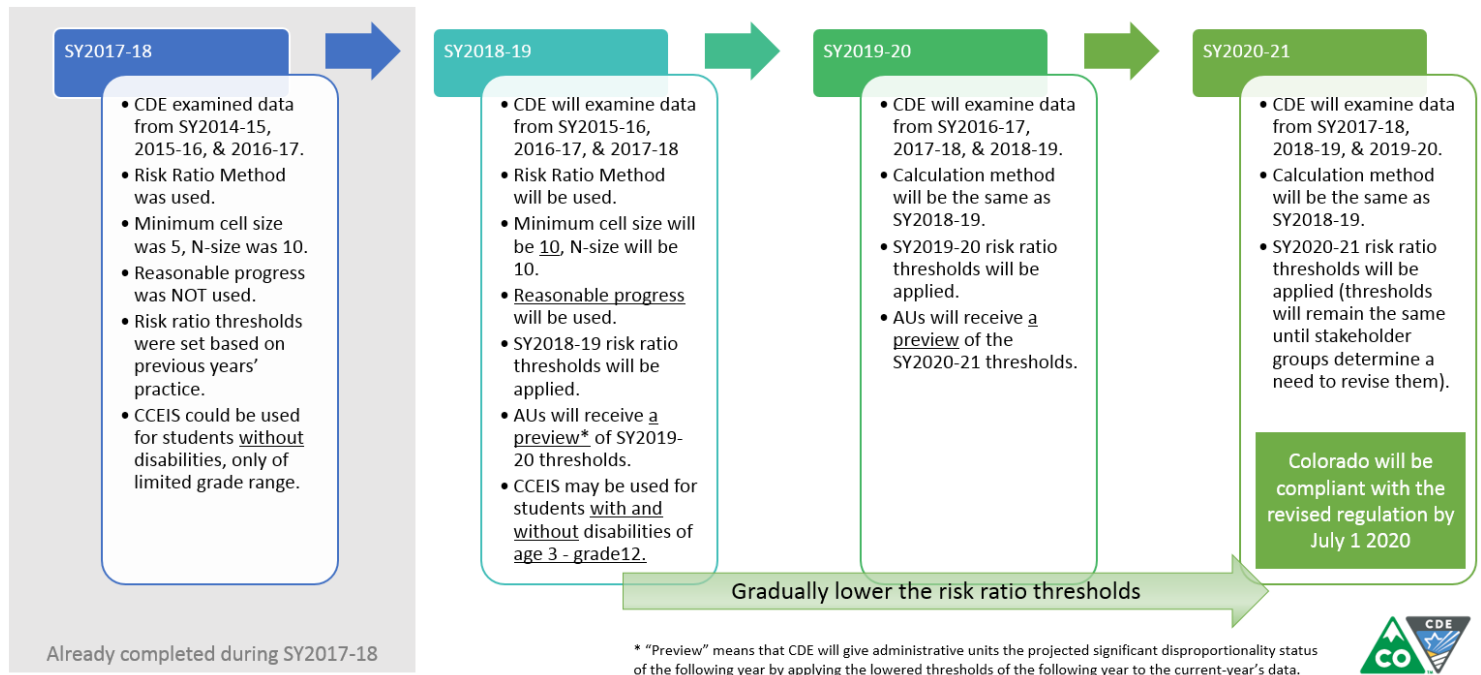
History of Significant Disproportionality in IDEA

- **1997 – Individuals with Disabilities Education Act (IDEA)** recognized racial inequity in special education and required states to examine disproportionality annually.

- **2004 – Amendment to IDEA**
  - In addition to the regulation developed under IDEA 1997, the 2004 amendment required States to determine if significant disproportionality was occurring in disciplinary actions.

- **December 2016 – Amendment to 34CFR§330**
  - States were required to use a standardized methodology in determining significant disproportionality.
  - Compliance date was July 1, 2018

- **June 2018 – Delay of the compliance date of the 2016 regulation**
  - The 2016 regulation compliance date was postponed by two years, from July 1, 2018 to July 1, 2020.
  - States could implement the standard methodology required in the 2016 regulation in part, in whole, or none.

ratio reduction necessary to qualify for "reasonable progress." Colorado will reach the thresholds stakeholders recommended and CDE planned to implement originally on July 1 2018 by July 1, 2020 in alignment with the implementation date of the regulation.

CDE'S APPROACH TO SCALE-UP IMPLEMENTATION FOR SIGNIFICANT DISPROPORTIONALITY BY 2020

SY2017-18
- CDE examined data from SY2014-15, 2015-16, & 2016-17.
- Risk Ratio Method was used.
- Minimum cell size was 5, N-size was 10.
- Reasonable progress was NOT used.
- Risk ratio thresholds were set based on previous years' practice.
- CCEIS could be used for students without disabilities, only of limited grade range.

Already completed during SY2017-18

SY2018-19
- CDE will examine data from SY2015-16, 2016-17, & 2017-18
- Risk Ratio Method will be used.
- Minimum cell size will be 10, N-size will be 10.
- Reasonable progress will be used.
- SY2018-19 risk ratio thresholds will be applied.
- AUs will receive a preview* of SY2019-20 thresholds.
- CCEIS may be used for students with and without disabilities of age 3 - grade12.

SY2019-20
- CDE will examine data from SY2016-17, 2017-18, & 2018-19.
- Calculation method will be the same as SY2018-19.
- SY2019-20 risk ratio thresholds will be applied.
- AUs will receive a preview of the SY2020-21 thresholds.

SY2020-21
- CDE will examine data from SY2017-18, 2018-19, & 2019-20.
- Calculation method will be the same as SY2018-19.
- SY2020-21 risk ratio thresholds will be applied (thresholds will remain the same until stakeholder groups determine a need to revise them).

Colorado will be compliant with the revised regulation by July 1 2020

Gradually lower the risk ratio thresholds

* "Preview" means that CDE will give administrative units the projected significant disproportionality status of the following year by applying the lowered thresholds of the following year to the current-year's data.

TIMELINE FOR SIGNIFICANT DISPROPORTIONALITY DETERMINATIONS

The determinations of whether significant disproportionality based on race and ethnicity exists in LEAs are based on analyzing three previous consecutive school years of data. Furthermore, the data are collected via three independent data collections: Student October, Special Education December Count, and Special Education Discipline Collection. Please see the figure below (Link to a larger version) for the timeline of significant disproportionality determinations:

Significant Disproportionality Determinations Made For:	Areas of Analysis	Data Analyzed			Determinations Will be Made in:
SY2018-19	Identification of students as students with disabilities	December Count 2015	December Count 2016	December Count 2017	September 2018
	Educational placement of students with disabilities	December Count 2015	December Count 2016	December Count 2017	September 2018
	Discipline	SY2015-16 Special Ed Discipline Collection	SY2016-17 Special Ed Discipline Collection	SY2017-18 Special Ed Discipline Collection	November 2018
SY2019-20	Identification of students as students with disabilities	December Count 2016	December Count 2017	December Count 2018	May 2019
	Educational placement of students with disabilities	December Count 2016	December Count 2017	December Count 2018	May 2019
	Discipline	SY2016-17 Special Ed Discipline Collection	SY2017-18 Special Ed Discipline Collection	SY2018-19 Special Ed Discipline Collection	November 2019
SY2020-21	Identification of students as students with disabilities	December Count 2017	December Count 2018	December Count 2019	May 2020
	Educational placement of students with disabilities	December Count 2017	December Count 2018	December Count 2019	May 2020
	Discipline	SY2017-18 Special Ed Discipline Collection	SY2018-19 Special Ed Discipline Collection	SY2019-20 Special Ed Discipline Collection	November 2021

SUMMARY OF IMPORTANT CONCEPTS

The table below summarizes how the key concepts of significant disproportionality will change (or remain the same) between SY2017-18 and SY2018-19, and rationales for those decisions:

Concept	SY2017-18	SY2018-19	What is it?	Why change / no change?
Calculation Method	Risk Ratio	Risk Ratio	A risk ratio indicates how much more likely an outcome (e.g., identified as a student with disability) were to occur to students of one racial group (e.g., Hispanic) compared to students of other racial groups (e.g., non-Hispanic). A risk ratio of 1.0 indicates that students of the racial group is equally likely to experience the outcome (e.g., identified as students with disabilities) compared to students of other-race peers. A risk ratio of 2.0 indicates that students of the racial group is twice as likely to experience the outcome compared to other-race peers.	The 2016 regulation requires all states to use the risk ratio method. Colorado had been using this method since SY2016-17. Thus, no change is necessary.
Calculation Method	Alternate Risk Ratio	Alternate Risk Ratio	An alternate risk ratio is used in place of a risk ratio when the comparison group does not meet the minimum cell or N size.	The 2016 regulation requires all states to use the alternate risk ratio method when necessary. Colorado had been using this method since SY2016-17. Thus, no change is necessary.
Minimum Cell Size	5	10	The minimum required number of students in the LEA who experienced the outcome of interest (identified as students with disability) for states to calculate the risk ratio.	The 2016 regulation acknowledged the minimum cell size of 10 or smaller to be reasonable. The increase from 5 to 10 reduces false identification of an LEA as significantly disproportionate.
Minimum N Size	10	10	The minimum required number of students in the denominator (e.g., Hispanic total enrollment) for states to calculate the risk for an interested racial category to experience an outcome (e.g., Hispanic students to be identified with intellectual disability)	The 2016 regulation acknowledged the minimum N size of 30 or smaller to be reasonable. The minimum N size of 10 reduces failure to detect significantly disproportionate LEAs in the state.
Risk Ratio Thresholds	Set based on previous years' practice	Will be lower (Link to new definition)	A threshold, determined by the state, over which disproportionality based on race/ethnicity is considered significant.	Colorado will lower the risk ratio thresholds gradually from SY2018-19 to SY2020-21, and reach the level stakeholders recommend by SY2020-21 (Link to new definition).

Multi-year Data Use	Examine previous 3 school-years of data	Examine previous 3 school-years of data	Only when an LEA exceeds the risk ratio threshold for 3 consecutive years, is the LEA identified as significantly disproportionate (unless they make reasonable progress; see below).	The 2016 regulation specifies that States can use up to 3 previous consecutive years of data. The use of multi-year data not only allows greater reliability in the determination of significant disproportionality, but it also allows time for LEAs to change course if the LEA is at risk to exceed the thresholds in future years.
Reasonable Progress	No application of reasonable progress	Application of reasonable progress	If an LEA has exceeded the risk ratio threshold for 3 previous consecutive years but has demonstrated reasonable progress, as determined by the State, in lowering the risk ratio, such an LEA would not be determined to be significantly disproportionate.	The 2016 regulation introduced the reasonable progress flexibility for the first time. By applying the flexibility, LEAs that have already been showing progress do not need to be identified as significantly disproportionate. Colorado will adopt this flexibility in SY2018-19.
Comprehensive Coordinated Early Intervening Services (CCEIS)	The funds can be used for students without disabilities of grade K-12	The funds can be used for students with and without disabilities of age 3 - grade 12	LEAs identified as significantly disproportionate must set aside 15% of their IDEA funds for CCEIS. CCEIS activities include, and are not limited to, professional development, educational and behavior evaluations, positive behavioral intervention and supports. The funds may be used to address the factors that the LEA determined as contributing to the significant disproportionality.	The 2016 regulation expanded the use of CCEIS funds to include students with and without disabilities and of a wider age range. Colorado will adopt this new, more flexible CCEIS starting in SY2018-19.

Where can I learn more?
- Colorado's definition of significant disproportionality for SY2018-19 and on (Link to definition PDF)
- A timeline to implement Colorado's new definition of significant disproportionality (Link to timeline PDF)
- Equity in special education Fact Sheet Vol.1 (Link to Vol.1 PDF)
- Significant Disproportionality CDE Webpage (Link to Webpage)