

# OVER-IDENTIFICATION AND DISPROPORTIONALITY

## Local Procedures

It shall be the policy of District/Local Education Agencies (LEA) to prevent the inappropriate disproportionate representation by race and ethnicity of students with disabilities.

The Humboldt-Del Norte SELPA and its member Local Educational Agencies (“LEAs”) have a policy of preventing inappropriate disproportionate representation by race and ethnicity of students with disabilities in identification, eligibility, placement, and disciplinary actions. The LEAs of the Humboldt-Del Norte SELPA will implement procedures designed to prevent the inappropriate over-identification and representation by race and ethnicity of students with disabilities, including, but not limited to a more extensive scan for instances of disproportionality, more extensive remedies where findings of disproportionality occur, and a focus on the development of personnel preparation models.

The Humboldt-Del Norte SELPA and its member LEAs are strongly committed to maintaining high expectations for all of their students, and to eliminating disparities in achievement, performance, and social-emotional adjustment among subgroups based on race, ethnicity, language, national origin, gender, sexual orientation, gender identity, gender expression, socio-economic status, or disability.

Under the IDEA, the CDE is responsible for collecting and examining data to determine if significant disproportionalities or significant discrepancies are occurring in LEAs in the State. The CDE must look at data related to the over representation of students by race and ethnicity with respect to:

1. Identification as children with disabilities;
2. Identification in various disability categories;
3. Placement in educational settings; and
4. Disciplinary actions including suspension and expulsion.

(34 C.F.R. § 300.646). The CDE is required to annually identify LEAs that have a significant discrepancy in the suspension/expulsion (Indicator 4) and LEAs that have a disproportionate representation and eligibility (Indicators 9 and 10). (20 U.S.C. § 1418(d)); 34 C.F.R. § 300.646(a)).

Disproportionality is the inappropriate over-representation or over-identification of racial or ethnic subgroups in special education. Disproportionality exists if an LEA has a significant discrepancy and/or disproportionate representation of a specific race or ethnicity in relationship to the overall general education and special education populations of the LEA and the State. An LEA can be considered “disproportionate” based on one year of data, and can be considered to have a “significant disproportionality” based on three consecutive years of data. (34 C.F.R. § 300.647). The term “significant discrepancy” is associated with suspensions and expulsions only, and is based on one year of data with regard to incidence of discipline, duration of discipline, and type of disciplinary action. (34 C.F.R. § 300.646(a)(3)).

The CDE must calculate significant disproportionality using a standard method established in 34 C.F.R. § 300.647. The CDE must compare discipline data. Additionally, if CDE finds an LEA to have a significant discrepancy and/or disproportionate representation, the State is required to monitor and ensure that district policies, procedures, and practices are compliant, do not lead to inappropriate identification, and comply with requirements relating to the development and implementation of IEPs,

the use of positive behavioral interventions and supports, and procedural safeguards. (34 C.F.R. § 300.600(d)). This is done through a self-review process.

It is the policy of the Humboldt-Del Norte SELPA to encourage its member LEAs to work to avoid inappropriate disproportionate representation by race and ethnicity of students with disabilities in identification, eligibility, placement, and disciplinary actions. Member LEAs are encouraged to monitor special education student count data relative to identification rates by race and ethnicity; monitor LEA Annual Performance Plan data relative to equitable identification rates by race and ethnicity; use a Student Study Team or like process to consider the effects of environmental and cultural factors, as well as other limiting factors, relative to students' academic performance; implement regular education interventions prior to a referral for a special education assessment; evaluate the interventions applied in regular education for a period of time prior to a referral for a special education assessment; and review LEA policies and procedures that could be contributing the disproportionate representation.

If a member LEA is considered to be in significant disproportionality, it will need to select one or more areas of focus to address the significant disproportionality. The areas of focus identified by the CDE are closing the achievement gap; culturally responsive school environments; positive behavior interventions and supports; using a multi-tiered system of supports; and/or access to, and achieving in, the least restrictive environment. The Humboldt-Del Norte SELPA encourages all member LEAs that have disproportionate representation to review and address those areas of focus as needed

The Humboldt-Del Norte SELPA recognizes that the overrepresentation of certain minority students in special education and in the disciplinary system is a nationwide problem and that multiple factors contribute to disparities in academic achievement, socio-emotional adjustment and behavior between student sub groups. The causes of disproportionality are complex and cross many social systems and the district recognizes that inappropriate identification and placement of students in special education can have long-term deleterious effects. The Humboldt-Del Norte SELPA is committed to examining the root causes of disproportionality to ensure that race, ethnicity, gender and socio-economic status are not predictors of which students will be referred for special education services or to the disciplinary system, and partnering with the appropriate agencies to correct these persistent patterns. The Humboldt-Del Norte SELPA encourages its member LEAs to take similar actions, and to create a culturally competent staff, maintain uniformly high expectations for all, promoting rigorous curricula, differentiate instruction, and maximize access for all students to high-level educational opportunities.

## **Legal Reference**

EC 56205(a); 20 USC 1412(a); CFR 300.173