

**DISPROPORTIONALITY AND OVERIDENTIFICATION**

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 will be effective on July 1, 2005, with the exception of some elements of the definition of “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. This document addresses only the changes to the provisions regarding disproportionality and overidentification of IDEA that will take effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

**IDEA 2004:****1. 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 overidentification or disproportionality by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in Section 602 (Definitions). [612(a)(24)]

**2. Collection and examination of data regarding disproportionality.**

Each state that receives assistance under IDEA, and the secretary of the interior, must 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 educational agencies (LEAs) of 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 described in Section 602(3);
- The placement in particular educational setting of such children; and
- The incidence, duration and type of disciplinary actions, including suspensions and expulsions.

[618(d)(1)]

**3. 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] must:

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<sup>1</sup> Other topics in this series include: Disproportionality and Overidentification; Early Intervening Services; Changes in Initial Evaluations and Reevaluations; Individualized Education Program (IEP); Discipline; Statewide and Districtwide Assessments; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice, Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Alignment With the *No Child Left Behind Act*; Highly Qualified Teachers; Children Enrolled by Their Parents in Private Schools; State Funding; and Local Funding. Documents are available on the OSERS Web site at: [www.ed.gov/about/offices/list/osers/index.html](http://www.ed.gov/about/offices/list/osers/index.html).

- Provide for the review and, if appropriate, revision of the policies, procedures and practices to ensure these 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, particularly to serve children in those groups that are 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. Technical Assistance, Demonstration Projects, Dissemination of Information and Implementation of Scientifically Based Research--Authorized Activities.**

Activities that may be carried out under this section include activities to improve services provided under this title, 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... [663(c)(9)]