



New York State Education Department
Office of Special Education
Educational Partnership





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An Introduction to Disproportionality

Targeted Skills Group- Day One

Developed by the Technical Assistance Partnership for Equity at Bank Street College of Education

August 2022



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Disclaimer

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Staff List



Today's Facilitators

Agenda

- Understanding Our WHY
- What is disproportionality?
- Why should we be concerned?
- Who is affected?
- How do Educational Organizations (E)s get identified?
- What happens when an EO is identified?
- What are the contributing factors/root causes?
- Next Steps



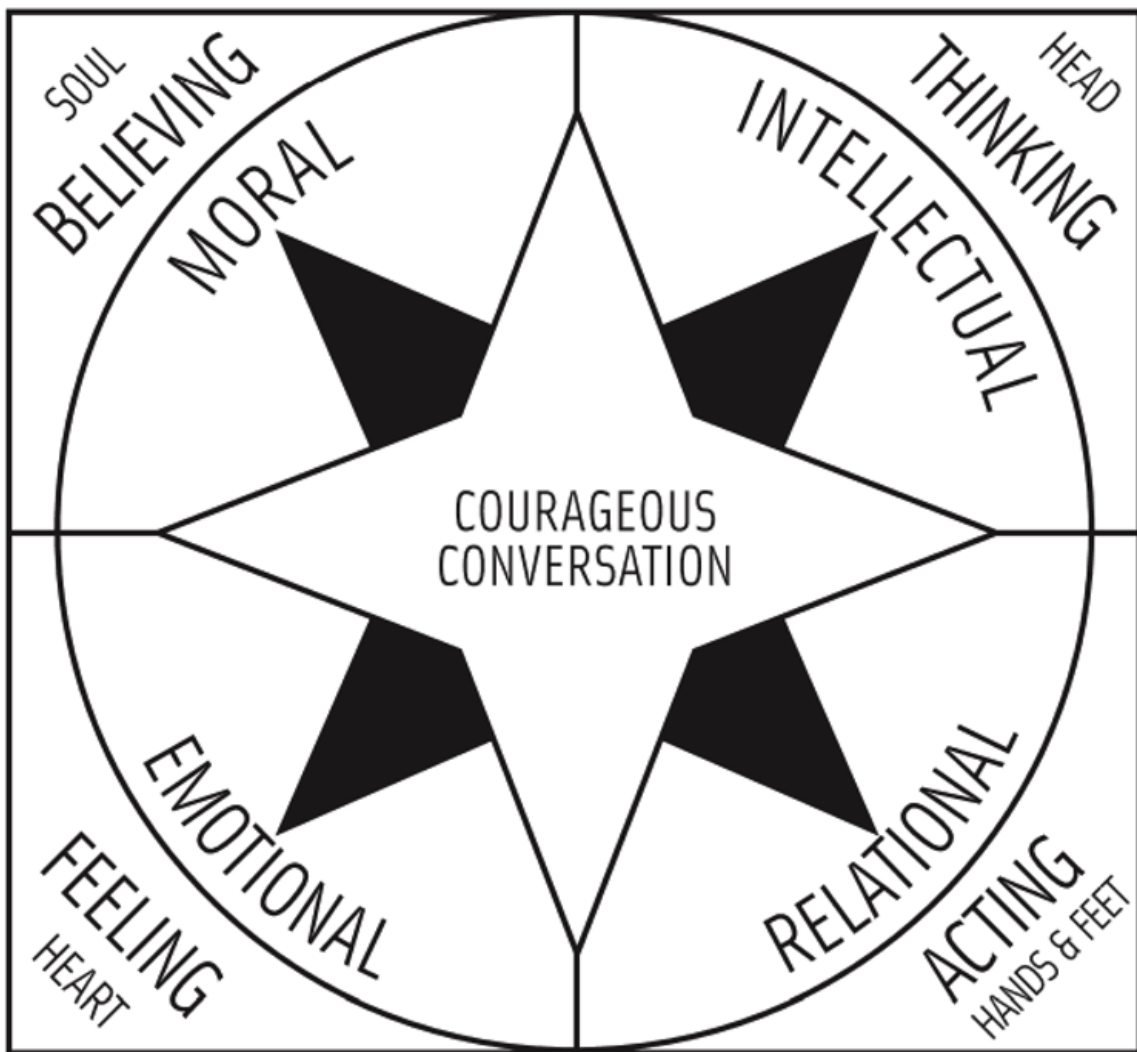
Learning Objectives

Participants will:

- Establish a common definition and understanding of disproportionality
- Understand the impacts of disproportionate classification and suspension on the educational experiences of students
- Gain an understanding of how EOs are identified and what EOs must do from a compliance standpoint
- Be introduced to frameworks to address disproportionality

Norms and Community Agreements

- Listen with respect
- Speak your truth- Use “I” statements
- Participate and struggle together
- Expect to experience discomfort
- Stay engaged
- Ask clarifying questions and provide feedback on impact-not character
- Honor Confidentiality
- Expect and Accept a lack of closure
- Push your growing edge
- Try not to take it personally



Courageous Conversations Protocol

Courageous Conversations Compass

Blueprint for Improved Results for Students with Disabilities



Self-Advocacy

Students engage in self-advocacy and are involved in determining their own educational goals and plan.



Family Partnership

Parents, and other family members, are engaged as meaningful partners in the special education process and the education of their child.



Specially-Designed Instruction

Teachers design, provide, and assess the effectiveness of specially-designed instruction to provide students with disabilities with access to participate and progress in the general education curriculum.



Research-Based Instruction

Teachers provide research-based instructional teaching and learning strategies and supports for students with disabilities.



Multi-tiered Support

Schools provide multi-tiered systems of behavioral and academic support.



Inclusive Activities

Schools provide high-quality inclusive programs and activities.



Transition Support

Schools provide appropriate instruction for students with disabilities in career development and opportunities to participate in work-based learning.

Understanding Our WHY

Suggested Video Clips



What is Disproportionality

Disproportionality is an overrepresentation of some racial or ethnic group in a category.

As of 2020, Districts identified as having one or two consecutive years of disproportionality will be identified and notified as “at risk” for significant disproportionality

Disproportionality becomes significant when the overrepresentation occurs for three consecutive years

Significant Disproportionality in Individuals with Disabilities Education Act (IDEA)

- States must determine if significant disproportionality based on race is occurring with respect to:
 - Identification
 - Placement
 - Discipline



Historical Perspective: Ruling Change

- Before December 2016
 - Definitions of significant disproportionality varied by state
- December 2016: “Equity in IDEA”
 - Common standard (with some flexibility) in defining significant disproportionality
 - Flexible use of Comprehensive Coordinated Early Intervention Services (CCEIS) funds to address disproportionality
- 2019
 - Court decision to implement new regulations beginning with 2018-2019 school year data

Defining Common Terms



Equality



Opportunity



Access



Equity

Equality

- **Educational equality** is the principle of allocating educational resources with an emphasis on the equal distribution of inputs without attention given to the corresponding outputs.



Opportunity

- Educational opportunity is **equitable inputs** in order to attain **equitable outputs**.
 - **Opportunities** include:
 - Rigorous curriculum ad college-ready coursework
 - Instruction by highly effective, experienced educators
 - Enrichment through extracurricular learning
 - Family and community engagement



Access

- **Educational access** is the right or opportunity to benefit from resources for success.
- **Making opportunities accessible:**
 - Rigorous curriculum - fair criteria for gifted & talented, AP/Honors; college-ready coursework for all
 - Instruction by highly effective, experienced educators - experienced educators serve struggling students
 - Enrichment through extracurricular learning - removal of financial and social barriers to participation
 - Family and community engagement - differentiated by culture, need, relationships

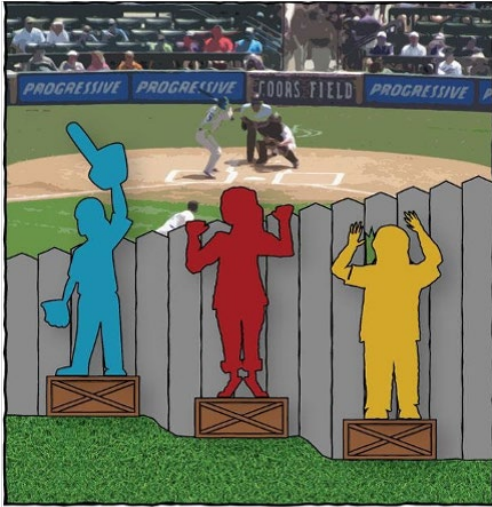


Equity

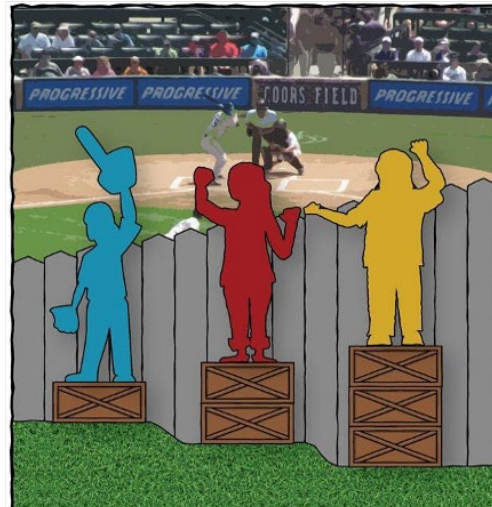
- **Educational equity** is the principle of altering current practices and perspectives to teach for social transformation and to promote equitable learning outcomes for students for all social groups.



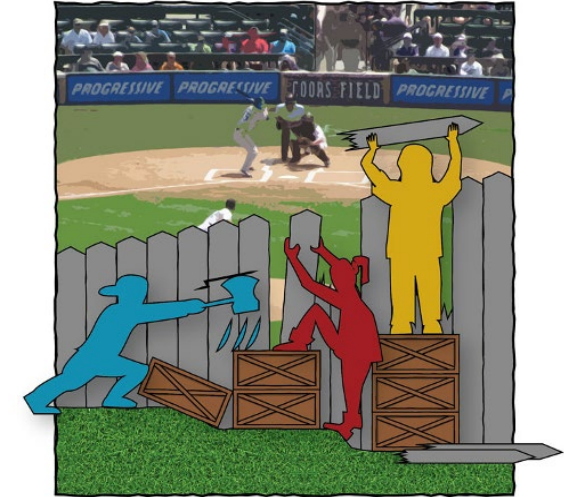
Equality, Equity and Justice



EQUALITY



EQUITY



JUSTICE

Equity is when everyone has access to the opportunities necessary to satisfy their essential needs, advance their well-being, and reach their full potential.



**Why should we be concerned
about disproportionality?**



Significant Disproportionality: Disciplinary Actions

- Students with discipline issues are less likely to complete high school.
- Discipline issues in earlier grades are predictive of discipline issues in latter grades.
- Students in schools with stricter discipline policies (e.g., zero tolerance) are less attached to their school
- Black and Latino students are more likely to be given out-of-school suspensions or expulsions for the same behavior than their White peers



Disproportionate Representation: Identification and Classification/Placement

Students in special education programs:

- Are likely to encounter a limited, less rigorous curriculum
- Can have less access to academically able peers
- Tend to remain in special education classes once receiving special education

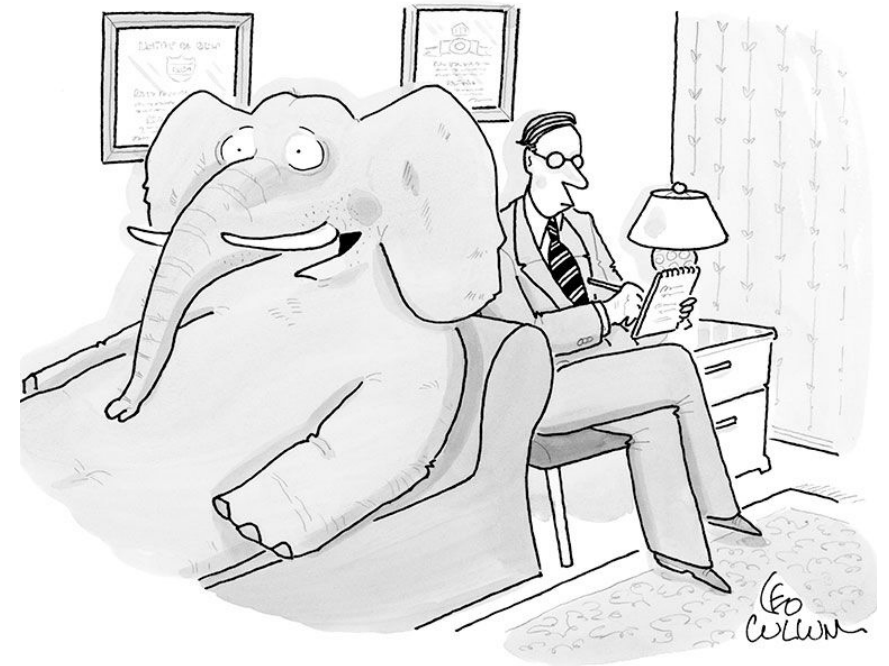
Who is affected?



Discussing the Elephant in the Room

Our educational systems have disproportionately negative impacts on particular students:

- Males
- Students of color (particularly Black and Latino students)
- Students of low socioeconomic backgrounds
- Students who identify as LGBTQ
- Students with disabilities



"I'm right there in the room, and no one even acknowledges me."

The National Equity Landscape





Examining National Data Trends

National Trends

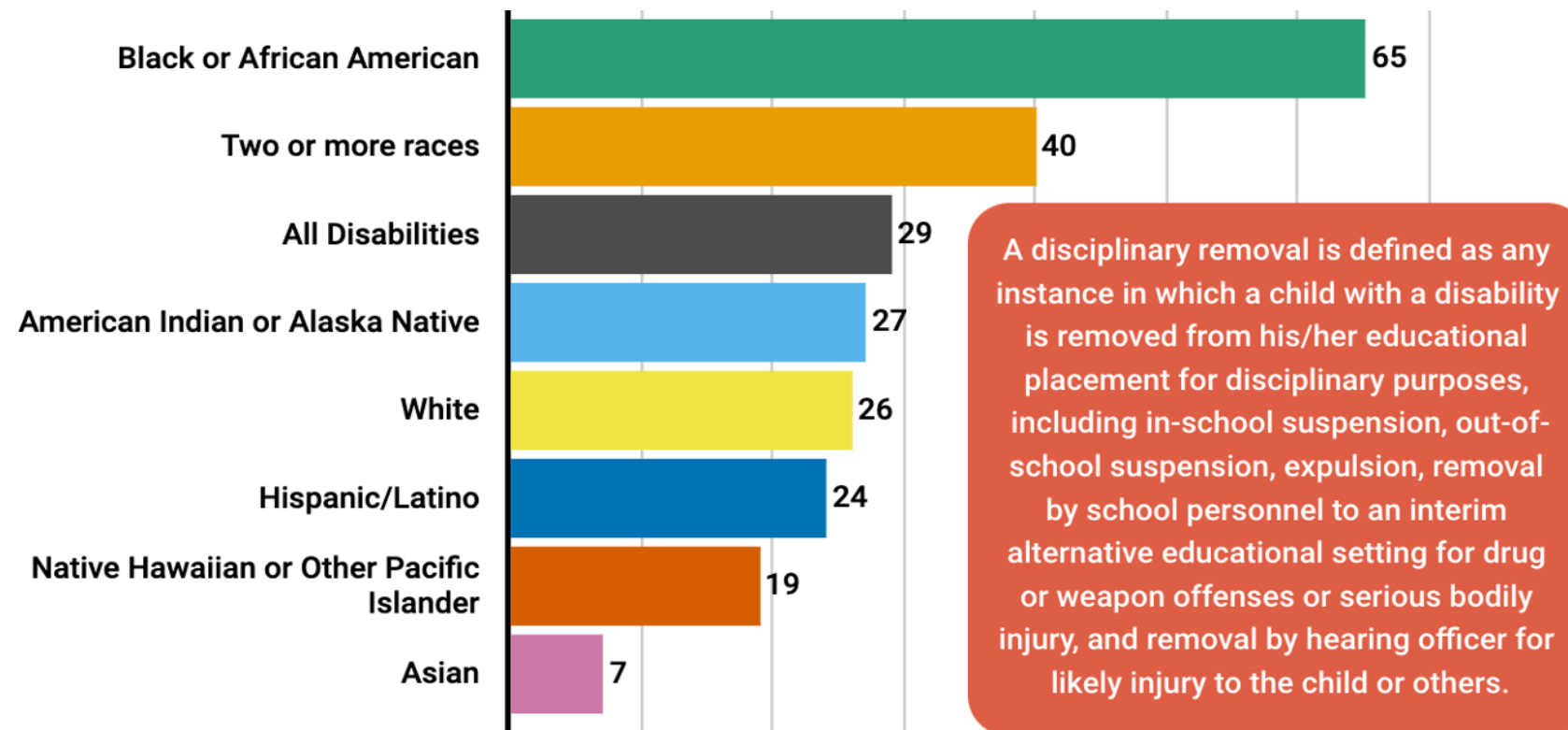
- Visit “*OSEP Fast Facts: Black or African American Children With Disabilities*”
- Review Data
- As a group:
 - What do you notice?
 - What do you wonder?
 - What connections are you making to the data? (Your data, practices, etc.)

Black or African American Children with Disabilities

“In 2018, Black or African American children comprised 13.8% of the population of ages 6-21. In school year 2018-19, 17.89% of school aged children with disabilities in the United States were Black or African American.”

- U.S. Department of Education’s Individuals with Disabilities Education Act (IDEA) website

Total Disciplinary Removals Per 100 Children Or Students With Disabilities, Ages 3 To 21, By Race/Ethnicity, Served Under IDEA, Part B, in the US, Outlying Areas, and Freely Associated States: School Year 2017-18



Source: U.S. Department of Education, ED Facts Data Warehouse (EDW): "IDEA Part B Discipline Collection," 2017-18. Data extracted from: <https://go.usa.gov/xG9u3>. Children and students reported in these categories may be subject to multiple disciplinary removals.

U.S. Department of Education, ED Facts Data Warehouse (EDW): "IDEA Part B Child Count and Educational Environments Collection," 2017-18. <http://go.usa.gov/xdb6v>. Data for Maine, Minnesota, Montana, Vermont, Wyoming, and Wisconsin were excluded, and data for the Virgin Islands and Vermont were not available.

Disciplinary Actions

Nationally, in 2015-2016, Black or African American students accounted for:

18%

Of all public school students with disabilities

37%

Of all public school students with disabilities to receive at least one out-of-school suspension

Office for Civil Rights: US Department of Education

Report to the President and Secretary of Education 03/15

March 15: Lowlights and Highlights

What Happens when educators feel unprepared to address disruptive behavior?





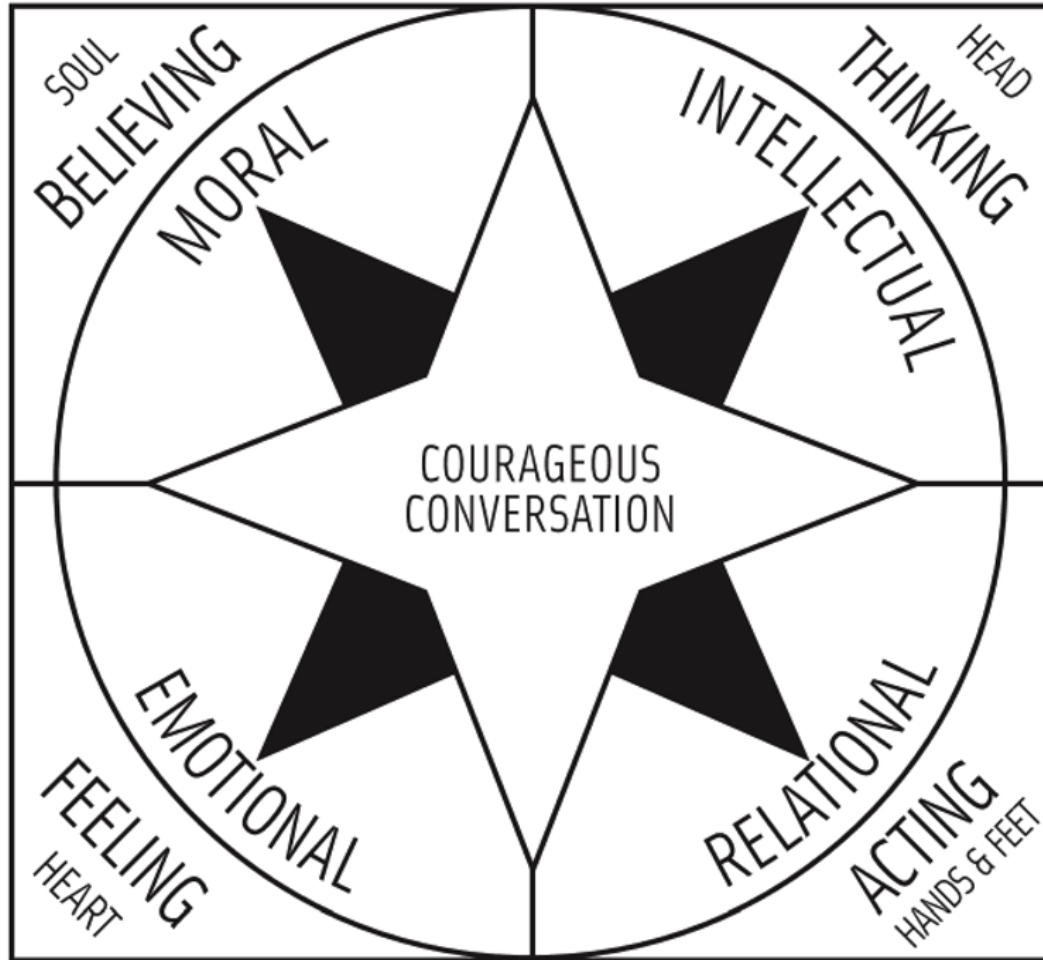
The Impact of Suspensions

What do you think is the impact of suspending students?



What do we know about the impact of suspensions?

- Diminished educational engagement and involvement
- Increased likelihood of dropping out
- Increased behavior problems
- Involvement with juvenile justice systems
- Substance abuse
- Decreased academic performance of non-suspended peers



Temperature Check

How do EOs Get Identified?

you that your district has 2018-19 school year data that demonstrates disproportionality by race/ethnicity in the incident of out-of-school suspensions and expulsions of students with disabilities. Detailed information on the criteria used to calculate and identify disproportionality is available at http://p12.nysed.gov/sedcar/forms/instructions/spp_criteria/sigdispro1920.html.

are required to complete and report on the results of the "Self-Review Monitoring Protocol – Suspension" relating to the development of individualized interventions and supports, and procedural safeguards. You must ensure that the review and reported results of the self-review (see the chart below) upon which the current notification of disproportionality is based. The self-review protocol is available at <http://p12.nysed.gov/specialed/spp/self-review-monitoring-protocol-suspension-2020.html>. You must report the results of this review to the State Education Department (SED) by June 5, 2020 (see 2019-20 menu – self-review checklists) no later than June 5, 2020. You must also provide notification/documentation to the Special Education Department on how and when you put in place appropriate policies, procedures, and practices.

Notification

Disproportionality Status: The data in the chart below shows that the district has five years of disproportionality in the incident of out-of-school suspensions for the same race, suspension length, and suspension type (suspension). Because the district is identified as having a disproportionate representation of students with disabilities, the district must reserve 15 percent of its federal IDEA funds (Section 619(b)(1)(B) of the Education of All Handicapped Children Act of 1975) for the purpose of this requirement.

**White students suspended Out-of-School for Less than 10 Days.
When Relative Risk Exceeds 3.0 Disproportionality Exists.**

B	C	D	E	F	G
Number of White students suspended out-of-school for less than 10 days	Risk of Race for OUT OF SCHOOL, L10 Suspension (B)	Number of SWD of Other Races Suspended	Number of SWD of Other Races Enrolled on BEDS Day	District Risk of Other Races for OUT OF SCHOOL, L10 Suspension	Statewide Risk of Other Races for OUT OF SCHOOL, L10 Suspension
2			33	0.06061	0.03136
			35	0.08571	0.03243
			37	0.05405	0.03014

Where is the data from?

Identification and placement of students are generated using data on student demographics entered by the district into the Basic Educational Data Systems (BEDS) on what is typically referred to as BEDS day.

For discipline, the State uses BEDS data, in addition to the district's submission of suspension data into the NYSED Portal Data (PD) 8 system.

BEDS and PD 8 data are used in calculations to determine identification for State Performance Plan (SPP) Indicators 4, 9, and 10 and Significant Disproportionality for Suspension, Identification, and Placement.

Identification Categories

- SPP Indicator 4A
- SPP Indicator 4B
- Significant Disproportionality: Disciplinary Actions
- SPP Indicator 9
- Disproportionate Representation: Identification
- SPP Indicator 10
- Disproportionate Representation: Classification/Placement in Specific Disability Categories

Discipline Categories

- In-School Suspension of 10 days or less
- In-School Suspension of over 10 days
- Out-of-School Suspension of 10 days or less
- Out-of-School Suspension of over 10 days
- Total Number of Removals

Significant Disproportionality Analysis Categories

Identification

- All Disabilities
- Intellectual Disability
- Specific Learning Disabilities
- Emotional Disturbance
- Speech or Language Impairments
- Other Health Impairments
- Autism

Placement

- Inside regular class less than 40 percent of day
- Separate schools and residential facilities

Discipline

- Out-of-school suspensions/expulsions of 10 days or less
- Out-of-school suspensions (including expulsions) of greater than 10 days
- In-school suspensions of 10 days or less
- In-school suspensions of greater than 10 days
- **Total disciplinary removals**

Analysis Categories

- Data must be reviewed and calculated for **each LEA** (school district) for each of the:
- 14 analysis categories and
- 7 ethnic/racial categories
- Each LEA has **98 opportunities** to have significant disproportionality

Required Methodology- Risk Ratio

What is each racial group's risk of:

Identification

Placement

discipline



As compared to the risk for all other children

Risk Ratio

Examples	Translation
2.0	Two times more likely
2.5	Two and a half times more likely
3.0	Three times more likely
3.5	Three and a half times more likely
4.0	Four times more likely

Risk Ratio Thresholds in NYS

Category	Thresholds
Suspension OSS Over 10 Days	2.0
Suspension ISS Over 10 Days	2.0
Suspension OSS 10 Days or Less	3.0
Suspension ISS 10 Days or Less	3.0
Suspension Total Removals	4.0
Identification-All Categories	2.5
Identification-Specific Categories	4.0
Placement	2.5

Alternate Risk Ratio

The state must use an alternate risk ratio if the comparison group in the district does not meet the minimum cell size or the minimum n-size.

In NYS, the cell size is 10 and the n-size is 30

What Happens When an EO Gets Identified?



Year One

When a district is identified for disproportionality for the 1st time, they are required to:

- conduct a **self-review** of their policies, procedures and practices (implementation of policies and procedures) using a standard review protocol
- identify policies, procedures or practices of the district that are contributing to the district's disproportionality in the target areas
- report any noncompliance identified to NYSED and make the appropriate corrections.

Year Two and Beyond...

For Consecutive Years

When a district is identified for disproportionality for the 3rd consecutive year, they are now considered significantly disproportionate, and are required to:

- Participate in a SEQA **Focused Review**
 - SEQA and a District team conducts a full review- collecting, reviewing records, interviews and other relevant activities to determine compliance using the same set of regulatory requirements contained in the self review.
 - District Team will identify contributing factors and conduct a root cause analysis
 - Reserve 15% of their IDEA funds
- If any regulatory non-compliance is identified SEQA will issue a CAP as necessary

Disproportionality in Suspension and Other Disciplinary Actions

The review focuses on the regulatory requirements in the following areas.

1. Individual Evaluations
2. Individualized Education Programs (IEPs)
3. Behavioral Intervention Plans
4. Manifestation Determinations
5. General Procedures for Disciplinary Removals

Disproportionality in Identification and Classification/Placement

The review focuses on the regulatory requirements in the following areas:

1. School-wide approaches and pre-referral interventions
2. Referral of students to the Committee of Special Education (CSE)
3. Individual Evaluations of students with disabilities
4. CSE recommendations
5. IEP development

Correction of Noncompliance

- Not later than 12 months from identification
- The state must verify that the LEA:
 1. is correctly implementing the specific regulatory requirements (i.e., achieved 100 percent compliance); and
 2. has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA

Determination of Whether the Data is the result of Inappropriate Policies, Procedures and/or Practices

Monitoring Review of Policies, Procedures, Practices

Identification of noncompliance

Correction of noncompliance

- Individual students
- All students (systemic)



Public Reporting of Revisions to Policies, Procedures and Practices

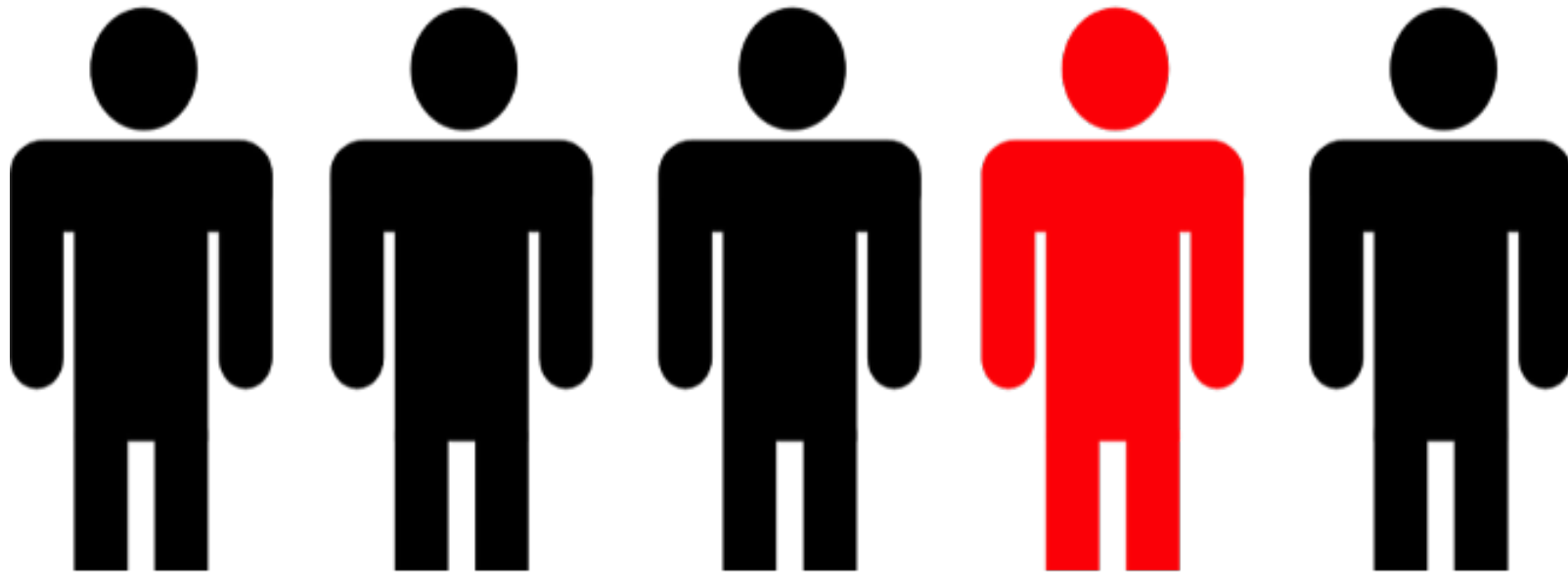
If the State Identifies a District for Significant Disproportionality

The State must:

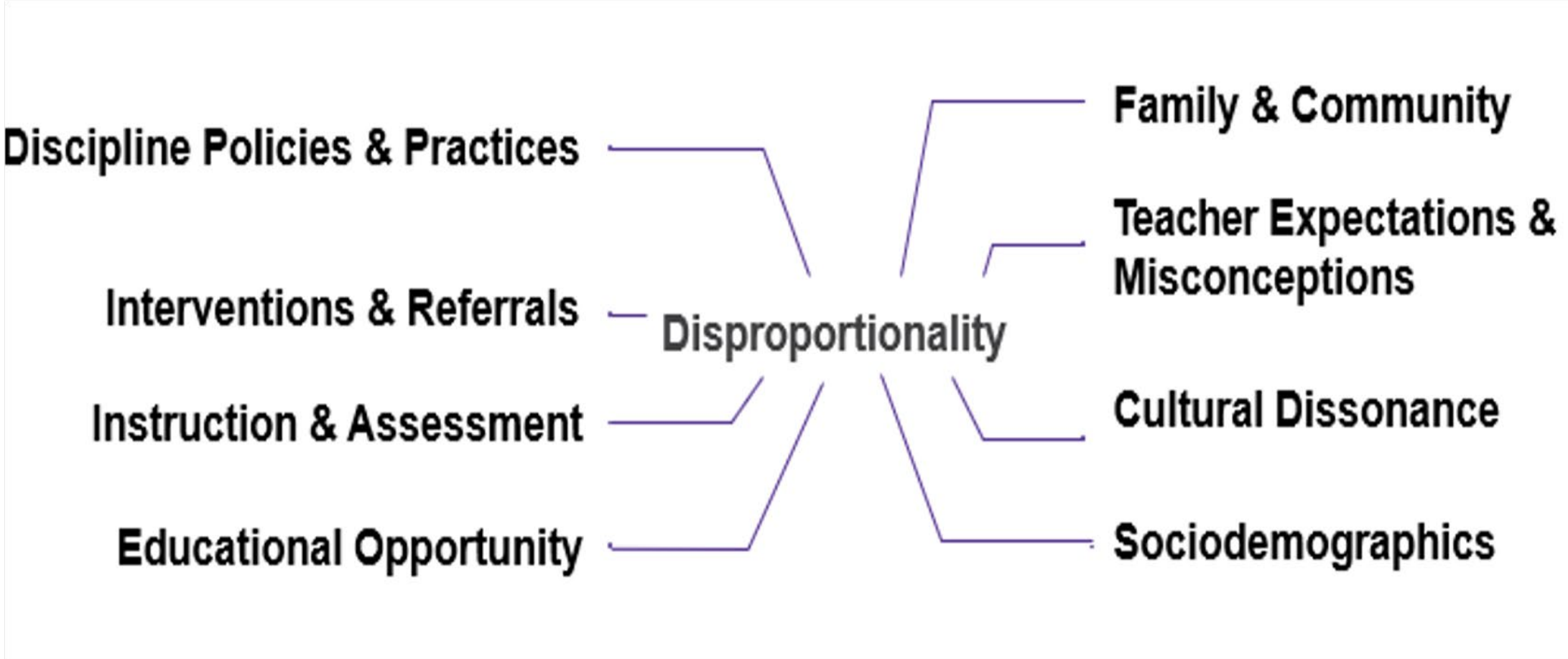
- Ensure Local Education Agency (LEA) reserves 15 percent of IDEA funds for Comprehensive Coordinated Early Intervening Services (CCEIS) to identify and address factors contributing to the significant disproportionality
- Provide for the annual review of policies, procedures, and practices of any LEA that has significant disproportionality
- Require LEAs to publicly report on the revision of policies, procedures, and practices

What factors contribute to Disproportionality?

Creating Systemic Change



Disproportionality is Complex



Disproportionality Results in Success Gaps

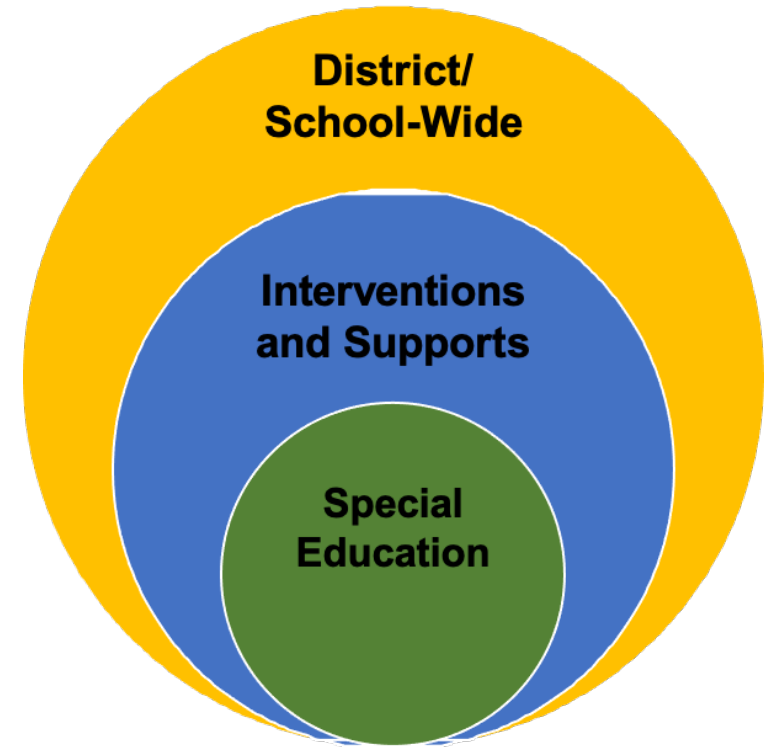
Differences or "gaps" in a variety of educational factors and outcomes that affect the likelihood of educational success for some groups of students compared to their peers

- Achievement
- Identification and/or placement for special education
- Suspension rates
- College and career preparation
- Graduation rates

Poor long-term outcomes for entire groups of students

Disproportionality is Not Only A Special Education Issue

While disproportionality citations come from special education laws, **the factors that lead to disproportionality are often outside of the realm of special education.**



Compounding Factors that Influence Disproportionality

Causes and Solutions

BELIEFS

The ideas held by school personnel about self, others, and the educational process or systems

POLICIES

The written guidelines that influence the educational process and practices

PROCEDURES

The steps outlining how a particular policy will be executed in practice, from the beginning to end

PRACTICES

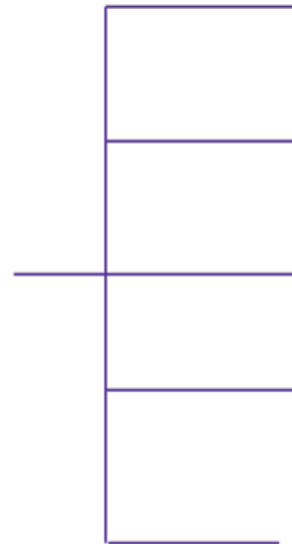
The activities—both formal and informal—that result from policies, procedures, and beliefs

Disproportionality has more than one cause and more than one solution.

Moving from Root Causes to Solutions

Beliefs, Policies, Procedures, and Practices influence both the Root Causes and Solutions

INDICATORS OF
SUCCESS



- Data-Based Decision Making
- Cultural Responsiveness
- Core Instructional Program
- Assessment – Universal Screening and Progress Monitoring
- Interventions and Supports

How Does this Align with Existing School Improvement Work?

Diagnostic Tool for School and District Effectiveness (DTSDE) Process

**District Comprehensive Improvement Plan (DCIP)
School Comprehensive Education Plan (SCEP)**

Evidence-Based Interventions

Considerations

Gathering Background Information

- What have districts already done in response to the citation?
- What existing district initiatives align with this work?
- What data will districts need to gather and review?

Looking Ahead

What to Expect

Session 2

Facilitated Root Cause Analysis for Implementation Planning

Session 3

Implementation Planning –Pathway to Change

Session 4

Evaluate and Sustain

Key Questions to Consider



Session 2: Root Cause Analysis

- What might be the root cause(s) of our disproportionate suspension?
- What data can we use to support our identification of the root cause(s)?
- Which one root cause will we address?

Key Questions to Consider



Session 3: Implementation Planning (Pathway to Change)

- What might be the root cause(s) of our disproportionate suspension?
- What data can we use to support our identification of the root cause(s)?
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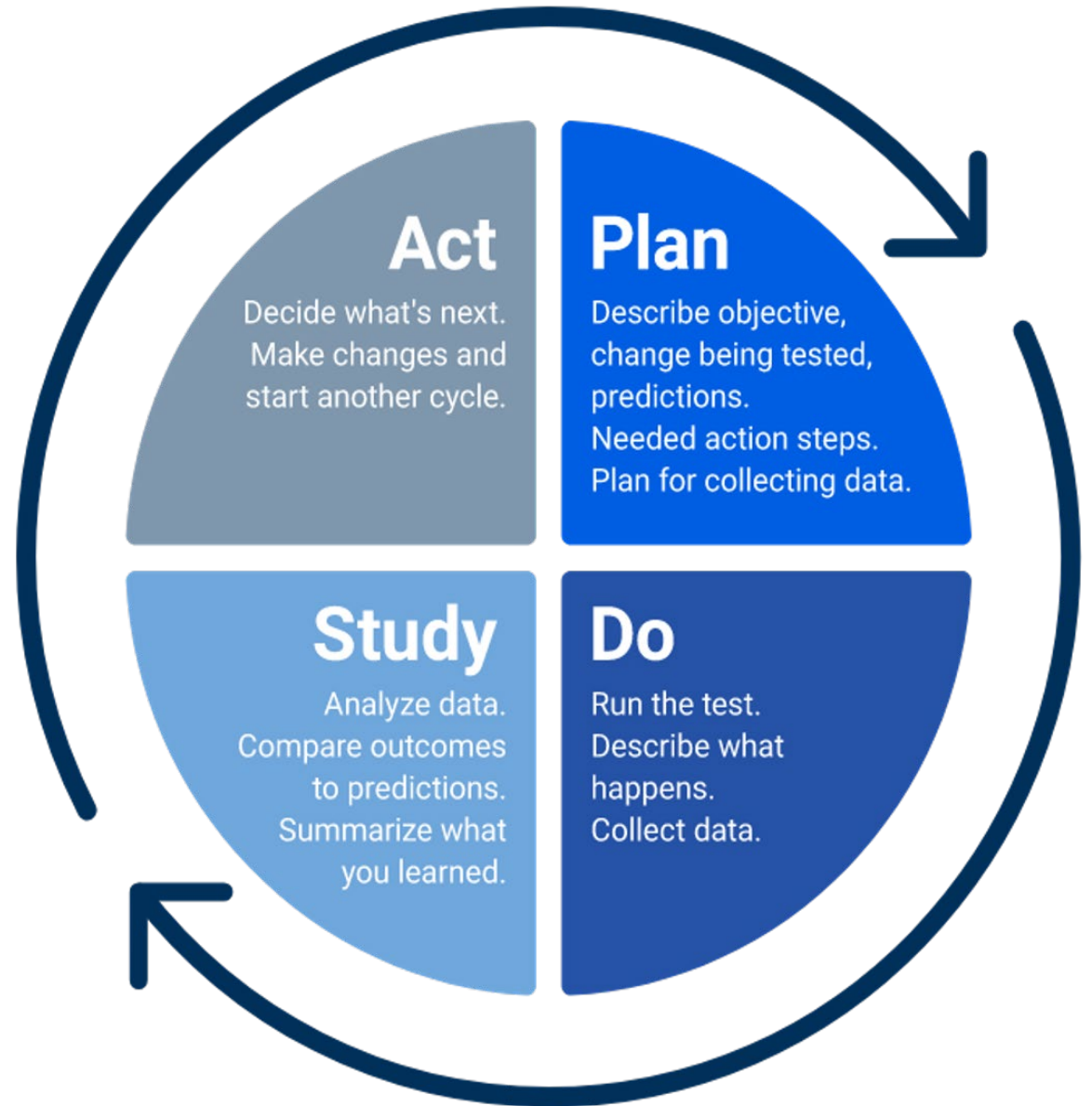
Key Questions to Consider



Session 4 and Beyond: Evaluate and Sustain

- What might be the root cause(s) of our disproportionate suspension?
- What data can we use to support our identification of the root cause(s)?
- Which one root cause will we address?

Plan-Do- Study-Act (PSDA Cycle)



Next Step: Meeting Logistics

Plan-Do-Study-Act through
Professional Development and
Technical Assistance



Additional TSG Meetings

- How many times will the group meet, and over what timeframe?
- How long will each meeting last?
- What work can be achieved asynchronously? What work must be achieved synchronously?

Thank You



Contact Us



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