

Significant Disproportionality Frequently Asked Questions

The following questions and answers are intended to provide technical assistance information to local education agencies (LEAs) in the state regarding Kansas' methodology and implementation of the Individuals with Disabilities Education Act (IDEA) significant disproportionality requirements. This is general, informal guidance only.

General Rule

1. What is "significant disproportionality"?

According to 34 C.F.R. § 300.646 of the regulations implementing the Individuals with Disabilities Education Act (IDEA), States must annually collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the state and each local education agency (LEA) of the State with respect to the identification of children as children with disabilities (ages 3–21), including the identification of children as children with a particular disability; the placement of children with disabilities in particular educational settings (5-year-old kindergarteners through age 21); and the incidence, duration, and type of disciplinary actions, including suspensions and expulsions (ages 3–21).

KSDE Methodology

2. What is the Kansas methodology for determining whether an LEA has significant disproportionality?

The Kansas State Department of Education (KSDE) uses a risk ratio calculation to determine whether an LEA has significant disproportionality, consistent with 34 C.F.R. § 300.647. This identification of an LEA with significant disproportionality is based on an analysis of numerical information only and may not include consideration of the State's or LEA's policies, practices, or procedures.

An LEA is determined to have significant disproportionality if its final risk ratio in one or more categories evaluated exceeds the risk ratio threshold for that category for 3 consecutive years.

An LEA that exceeds the risk threshold for 3 consecutive years, but that has shown reasonable progress will be evaluated by KSDE and may not be identified with significant disproportionality. Reasonable progress is defined as ≥ 0.5 progress per year in lowering the risk ratio in each of the most recent 2 consecutive years.

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3. What risk ratio thresholds has Kansas established for significant disproportionality evaluations?

KSDE established the following risk ratio thresholds for significant disproportionality calculations:

Identification Risk Ratio Thresholds

All Disabilities	≥3.0
Autism	≥3.0
Emotional Disturbance	≥3.0
Intellectual Disability	≥3.0
Other Health Impairment	≥3.0
Specific Learning Disability	≥3.0
Speech or Language Impairment	≥4.5

Discipline Risk Ratio Thresholds

In-School Suspension ≤ 10	≥3.0
In-School Suspension >10	≥3.0
Out-of-School Suspension ≤ 10	≥3.0
Out-of-School Suspension >10	≥3.0
All Suspensions	≥3.0

Placement Risk Ratio Thresholds

Regular Environment < 40%	≥3.0
Separate Settings	≥3.0

4. What is meant by the “final risk ratio” used in the Kansas’ significant disproportionality calculation?

The final risk ratio is the applicable risk ratio applied to the thresholds set by KSDE to determine whether an LEA has exceeded the threshold set by the state. Using a minimum cell size of 10 for the group experiencing the particular outcome (numerator) and an n size of 30 for the enrolled group (denominator), a risk is calculated for both the target group experiencing the particular outcome within the LEA and the comparison group experiencing the particular outcome either within the LEA or within the State. The risk ratio is then calculated by dividing the risk of a particular outcome for children in the target group within the LEA by the risk of that particular outcome for children in the all others group within the LEA (risk ratio) or within the state (alternate risk ratio used if the cell or n-size for the all other student group is below the respective minimums). Risk ratio, alternate risk ratio, minimum cell size, minimum n size, comparison group, and risk ratio threshold are all defined at 34 C.F.R. § 300.647(a).

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5. What does a risk ratio mean in practical terms and can you provide a sample calculation of a risk ratio?

A risk ratio essentially tells us how the risk of one group compares to the risk of another group. For example, an LEA risk ratio of 4.0 for black or African-American children to be identified for special education and related services means that, within that LEA, black or African-American children were four times as likely as all other children to be identified for special education and related services.

Here is a simplified example calculation:

# in target ethnic group in SPED		<u>40</u>	
# in target ethnic group enrolled	=Target Group Risk	100	=0.40 Target Group Risk
# in other ethnic groups in SPED		<u>50</u>	
# in all other ethnic groups	=Other Group Risk	500	=0.10 Other Group Risk
<u>Target Group Risk</u>		<u>0.4</u>	
Other Group Risk	=Risk Ratio	0.10	=4.0 Risk Ratio

6. Must an LEA meet the threshold for significant disproportionality in all categories before being identified?

No. An LEA only needs to meet the definition for one or more of the categories to be identified with significant disproportionality. An LEA is only identified as having significant disproportionality, once every year based on meeting the threshold for one or more of the categories.

7. What data sources does KSDE use in calculating significant disproportionality?

KSDE uses the following data sources when calculating significant disproportionality:

Identification

- EDFacts file FS052 - Membership (internal name is the Sept. 20 count)
- EdFacts files FS002 and FS089 - Child Count (internal name is Final December 1 Report)

Placement

- EDFacts file FS002 - Child Count (school age) (internal name is Final December 1 Report)

Discipline

- EDFacts files FS002 and FS089 - Child Count (internal name is Final December 1 Report)
- EDFacts file FS006 (internal name is Final OSEP Table 5 Discipline Incident Report)

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8. When calculating significant disproportionality for placement, is a student attending the Kansas State School for the Deaf or the Kansas State School for the Blind full time, counted as attending a “Residential Facility”? If so, is that count attributed to the student’s home school district or the state school?

Students who reside at a state school are counted with the Residential Facility OSEP Environment Code at the state school. A student who attends a state school, full or part time, is attributed to the significant disproportionality analysis for the student’s home school LEA.

9. When calculating significant disproportionality for placement, is a student attending the Kansas State School for the Deaf or the Kansas State School for the Blind as a day student, counted as attending a “Separate School”? If so, is that count attributed to the student’s home school district or the state school?

Students who attend a state school as a day student, for all or part of their school day, would be counted in the Separate School OSEP Environment Code if the student spends 50% or more of the day in a “J” (Special Day School) service setting code. Students splitting their day between a state school and their home school district may have less than 50% of the day in “J,” resulting in a different OSEP Environment Code. A student who attends a state school, full or part time, is attributed to the significant disproportionality analysis for the student’s home school LEA.

10. Which placements are included in the significant disproportionality placement analysis?

The OSEP Environment Codes “Separate School” (SS), “Residential Facility” (RF), and “More than 60% outside of the regular class” (SC). This data can be reviewed in the projected and final December 1 reports in the SPEDPro web application.

11. Which service settings are coded as a “Separate School” for the purposes of calculating significant disproportionality?

Service setting code “J” (Special Day School) factors in the significant disproportionality placement analysis. A student could be included in the Separate School category based on the amount of time allocated in the “J” setting. This data can be reviewed in the projected and final December 1 reports in the SPEDPro web application.

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12. Where can I find my LEA's Significant Disproportionality reports?

LEA Significant Disproportionality data reports are available on the [Kansas APR Reports](https://www.ksapr.org/KansasAPR/Login.aspx) (<https://www.ksapr.org/KansasAPR/Login.aspx>) under the Sig Dis tab after login. KSDE strongly encourages all LEAs to review this data whether the LEA has been identified for significant disproportionality or not. Also, keep in mind that the significant disproportionality calculations are based on LEA level data and three consecutive years of risk ratios under the current KSDE methodology. The KS APR Report *Sig Dis User Guide* is located under the Sig Dis tab on the Kansas APR Reports website and was created to assist LEAs in accessing this data and utilizing specific report features and is available under the Sig Dis reports tab.

For cooperatives and interlocals, KSDE provides district-level analysis to assist with data drilldown. Significant disproportionality determinations are made at the LEA- level for cooperatives and interlocals, meaning all data from all member districts is added together to conduct the analysis.

Remedies Required

13. What happens if an LEA is identified as having Significant Disproportionality?

If an LEA has been identified as having significant disproportionality, the LEA is restricted from reducing its Maintenance of Effort (MOE) level by using the 50% reduction rule, and it must:

- Reserve 15% of its IDEA Part B Section 611 and 619 allocations for comprehensive coordinated early intervening services to address factors contributing to the significant disproportionality;
- Review and, if appropriate, revise its policies, practices, and procedures used in identification or placement in particular education settings, and/or disciplinary removals, to ensure that the policies, practices, and procedures comply with the requirements of the IDEA; and
- Publicly report on the revision of those policies, practices, and procedures consistent with the requirements of the Family Educational Rights and Privacy Act, its implementing regulations in 34 C.F.R. part 99, and IDEA Part B Section 618(b)(1).

Reserving the Maximum Set-Aside under 34 C.F.R. §300.226

14. How is the 15% reserve calculated?

The 15 percent reservation must be calculated on the basis of both the LEA's section 611 and 619 allocations.

15. When must the required 15% of funds be reserved?

An LEA should reserve IDEA Part B funds that it is required to reserve for comprehensive coordinated early intervening services from the funds awarded for the Federal Fiscal Year (FFY) following the school year in which KSDE identified the significant disproportionality.

16. For what can the required 15% reserved funds be used?

As noted in the previous question, the funds must be used for comprehensive coordinated early intervening services that address factors contributing to the significant disproportionality. Per 34 C.F.R. § 300.646, in implementing comprehensive coordinated early intervening services an LEA:

- May carry out activities that include professional development and educational and behavioral evaluations, services, and supports.
- Must identify and address the factors contributing to the significant disproportionality, which may include, among other identified factors, a lack of access to scientifically based instruction; economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings; inappropriate use of disciplinary removals; lack of access to appropriate diagnostic screenings; differences in academic achievement levels; and policies, practices, or procedures that contribute to the significant disproportionality.
- Must address a policy, practice, or procedure it identifies as contributing to the significant disproportionality, including a policy, practice or procedure that results in a failure to identify, or the inappropriate identification of, a racial or ethnic group (or groups).

17. What flexibility does the LEA have in how the 15% reserve is allocated and expended within the identified LEA?

The LEA has discretion about how to allocate these funds within the LEA. So long as funds are used in accordance with the requirements in 34 C.F.R. § 300.646(d), the LEA may distribute the IDEA Part B funds reserved for comprehensive CEIS to its schools to carry out comprehensive coordinated early intervening services (CCEIS) as it determines is best to address the factors contributing to the identified significant disproportionality, including providing funds only to a specific subset of schools for CCEIS.

18. What expenditures may constitute supplanting?

It depends on the expenditure and situation. For example, 34 C.F.R. § 300.226(e) states that comprehensive coordinated early intervening services (CCEIS) funds may be used to carry out CCEIS aligned with activities funded and carried out under the Elementary and Secondary Education Act (ESEA) if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted using CCEIS funds. Additionally, uses such as activities aligned under Title I or Title III of ESEA would implicate the supplement not supplant provisions of those programs. See Question 24 in From OSEP's Coordinated Early Intervening Services Guidance [OSEP 08-09](#)

24. What are the supplement not supplant requirements for CEIS funds?

The general non-supplant requirement for IDEA funds in 34 CFR §300.202(a)(3) states that funds provided to LEAs under Part B of the IDEA must be used to supplement State, local, and other Federal funds and not to supplant those funds. This requirement applies to all Part B funds including any used for CEIS. In addition, 34 CFR §300.226(e) states that CEIS funds may be used to carry out CEIS aligned with activities funded and carried out under the ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted using CEIS funds. The Department will presume that an LEA is in violation of the IDEA's supplement not supplant provisions if it uses IDEA funds in one of the following ways: (1) to provide services that are otherwise required by Federal, State or local law; or (2) to provide services that were paid for with other funds in a prior year, including, if the IDEA funds are used for CEIS activities coordinated with activities funded under the ESEA, and the IDEA funds are used to provide services that were paid for with ESEA funds in the prior year. CEIS may not include services that were provided with other funds in a prior year, including services that were paid with ESEA funds. An LEA might be able to rebut these presumptions through the presentation of evidence that, even without CEIS funds, the other funds would not have been used in the current year for the activities now paid for with CEIS funds. Additional supplement not supplant provisions apply to Federal funds provided under Titles I and III of the ESEA. If an LEA chooses to use CEIS funds for activities aligned with activities funded under Titles I and III, it must meet those requirements.

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19. **How might the LEA's use of IDEA funds for comprehensive coordinated early intervening services (CCEIS) affect its Maintenance of Effort obligation under IDEA?**

It is important for an LEA to consider the effect that the decrease in the available Part B funds may have on the LEA's maintenance of effort obligation. Particularly, the possible use of additional local or state funds in place of the Part B funds now required to be used for CCEIS. Generally, the increased local or state and local expenditures becomes the new required maintenance of effort level for the LEA in the subsequent year. See Question 23 in OSEP's Coordinated Early Intervening Services Guidance, linked in the resources item below, for more information and contact KSDE with specific questions.

20. **What happens if a district does not encumber all the 15% set aside in a given year?**

The reserved funds carry-over but must still be spent on the LEA's CCEIS. In all cases, the LEA must expend the funds reserved to provide CCEIS within that FFY grant award period of performance. KSDE will monitor the use of funds over the period of the grant and may request assurances or updated plans from the LEA to ensure the funds will be timely spent. Failure to spend the full 15% set aside amount within the period of performance may result in specific conditions being placed on the LEA's Part B funds as well as other monitoring activities.

Reviewing Policies, Practices, and Procedures

21. What tools are available to use in conducting the policy, practice, and procedure review and are there specific ones required by KSDE for this step?

KSDE has developed review tools for LEAs to use in conducting a focused review of the LEA's policies, procedures and practices that most closely relate to the specific area(s) of disproportionality for which it has been identified – identification, placement, and/or discipline. The tools are linked on the Significant Disproportionality page at <https://www.ksde.gov/policy-and-funding/kias/kias-results-driven-accountability/significant-disproportionality>.

This policies, practices, and procedures review must provide evidence that the LEA has fully reviewed and determined the compliance of policies, practices, and procedures with the related regulatory requirements applicable to the LEA's area(s) of significant disproportionality.

Further, at KSDE's discretion, technical assistance may be directed to the LEA during the review process and the information submitted and the supporting documentation referenced by the LEA is subject to additional review by KSDE.

22. When must LEAs publicly report on the revision of its policies, practices, and procedures used in identification or placement in particular education settings, and/or disciplinary removals?

When an LEA is identified with significant disproportionality, KSDE must provide for review and, if appropriate, revision of policies, practices, and procedures used in identification, placement, or discipline to ensure they comply with the requirements of IDEA.

KSDE has established a timeline by which the LEA must complete this review and another timeline for the revision of any policy, practice or procedure, if necessary, and publication of any necessary revision. If through this process of review, a policy, practice or procedure is identified as noncompliant with the requirement of IDEA, the correction of that policy, practice or procedure, including any individual correction of noncompliance, must be completed within one year of the identification of noncompliance. If in a subsequent year, the LEA is again identified with significant disproportionality, the LEA must again provide for a review of policies, practices, and procedures consistent with this annual timeline to determine if there is any new or continuing non-compliance with IDEA.

Providing Comprehensive Coordinated Early Intervening Services (CCEIS)

23. What are Comprehensive Coordinated Early Intervening Services?

Comprehensive Coordinated Early Intervening Services (CCEIS) encompasses a broad range of activities that include professional development and educational and behavioral evaluations, services, and supports.

An LEA must use funds reserved for CCEIS to identify and address the factors contributing to the significant disproportionality in the LEA for the identified category. Therefore, an LEA may use CCEIS funds for training and professional development and behavioral evaluations and supports, such as functional behavioral assessments, behavioral intervention plans, and positive behavioral interventions and supports, only to the extent that it is doing so to address the factors identified by the LEA as contributing to the significant disproportionality identified by the State.

24. Who may an LEA serve through CCEIS? Is this different from voluntary coordinated early intervening services?

An LEA may serve children from age 3 through grade 12, particularly, but not exclusively, children in those groups that were significantly over-identified, including children not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment and children with disabilities. (See 34 C.F.R. § 300.646(d)(2).) An LEA may not limit CCEIS only to children with disabilities. (See 34 C.F.R. § 300.646(d)(3).) This is different from voluntary coordinated early intervening services, which is limited to non-identified students in grades K–12.

25. What are some examples of factors that might contribute to an LEA's significant disproportionality?

Such factors may include a lack of access to scientifically based instruction; economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings; inappropriate use of disciplinary removals; lack of access to appropriate diagnostic screenings; differences in academic achievement levels; and other similar policies, practices, or procedures that contribute to the significant disproportionality.

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26. Is there a required tool or protocol for conducting a root cause analysis of the LEA's significant disproportionality?

Identification of the factors contributing to the LEA's disproportionality is a critical, required step in the remedies for significant disproportionality. However, LEAs have the flexibility to choose an appropriate root cause analysis tool or protocol that best fits that LEA's situation. Some suggested options are provided in this FAQ.

Regardless of the tool or protocol selected, a root cause analysis is a process that leads to a narrowing of potential causal factors of a problem to specific areas of focus for the LEA. The most important function of this process is for the LEA to use evidence and data to gain a deeper understanding of the possible cause(s) of the disproportionality.

At the end of the process, the LEA should be able to briefly describe the following elements and outcomes of its root cause analysis:

- the diverse stakeholder group engaged in the root cause analysis,
- the key data points used to narrow the focus of possible root causes,
- the LEA's resulting area(s) of focus and specific action steps identified to address the disproportionality.

These elements should be described in and clearly inform the development of the LEA's Comprehensive Coordinated Early Intervening Services Plan (CCEIS Plan).

Failure to support the CCEIS Plan with this information regarding the process and outcomes of the root cause analysis may result in a rejection of the LEA's plan.

Here are examples of root cause analysis processes and tools that an LEA may, but is not required to use:

- [5-Step Root Cause Analysis](#) (MindTools)
- [Compilation of Resources](#) (Model Schools Conference)

27. What resources are available to assist our LEA in developing a plan for CCEIS that appropriately addresses the factors contributing to the disproportionality identified through the root cause analysis and the policies, practice, and procedures review?

In developing the LEA's Comprehensive Coordinated Early Intervening Services (CCEIS) Plan for addressing the factors contributing to the significant disproportionality, an LEA may consider resources and technical assistance available at www.ksdetasn.org which address many of the possible contributing factors or potential policy, procedure, and practices identified. KSDE also provides direct technical assistance support for an LEA working through this process. KSDE encourages LEAs to include its KSDE TA lead in this process and to seek feedback on the CCEIS Plan in advance of the submission deadline for the plan narrative to KSDE.

28. When must comprehensive coordinated early intervening services begin?

Once the LEA has submitted a substantially approvable application for the fiscal year allocation from which the funds are reserved, and it is at least July 1 of that fiscal year, reserved funds would be available for obligation. However, the LEA is encouraged to conduct the policy, practice, and procedure review and a root cause analysis to determine factors contributing to the disproportionality prior to implementing CCEIS and use that information to create a plan for CCEIS to be submitted in Part 2 of the LEA IDEA Part B Application. Once that plan has been approved, the LEA should begin implementation of CCEIS. Whatever timeline for beginning implementation in the LEA, the LEA must document that 15 percent of its IDEA Part B funds were reserved and actually used to provide CCEIS in accordance with 34 C.F.R. § 300.646(d) within the period of performance for those funds.

An LEA may use funds reserved for comprehensive coordinated early intervening services to serve children from age 3 through grade 12, particularly, but not exclusively, children in those groups that were significantly over identified under paragraph (a) or (b) of this section, including children who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment; and children with disabilities. However, an LEA may not limit the provision of CCEIS to children with disabilities.

Technical Assistance Resources

29. What KSDE support is available for LEAs on significant disproportionality?

In addition to webinars, this FAQ, links to resources, and conference presentations on this subject, KSDE has the following designated staff who provide technical assistance to support LEAs in the understanding and implementation of the significant disproportionality requirements:

Placement – Kelly.Steele@ksde.gov 785-296-2050

Identification – Steve.Backman@ksde.gov 785-296-2267

Discipline – Trish.Backman@ksde.gov 785-296-6937

Fiscal Implications & General Questions – Helen.Swanson@ksde.gov 785-296-1712

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30. Where can an LEA find more resources or information on significant disproportionality?

KSDE has posted the KSDE Disproportionality Policy, Practice, and Procedure Self-Assessments under Significant Disproportionality at: <https://www.ksde.gov/policy-and-funding/kias/kias-results-driven-accountability/significant-disproportionality>

The Office of Special Education and Rehabilitative Services (OSERS) has released *Significant Disproportionality (Equity in IDEA) Essential Questions and Answers (Q&A)*, which can be found at: <https://sites.ed.gov/idea/files/significant-disproportionality-qa-03-08-17-1.pdf>.

The IDEA Data Center and Center for IDEA Fiscal Reporting created a tool for collecting data on CEIS, which can be found at: <https://cifr.wested.org/resource/coordinated-early-intervening-services-ceis-fiscal-and-student-data-tracker/>.

Significant disproportionality regulations can be found at: <https://www.ed.gov/laws-and-policy/students-disabilities-laws-and-policy/osep-monitoring--significant-disproportionality-reporting-under-idea-part-b>

The Government Publishing Office maintains current electronic copies of the implementing regulations for significant disproportionality at: <https://www.ed.gov/laws-and-policy/students-disabilities-laws-and-policy/osep-monitoring--significant-disproportionality-reporting-under-idea-part-b>

National Technical Assistance Centers:

- [IDEA Data Center](#) (IDC)
- [Civil Rights Project](#) (Center for Civil Rights Remedies)
- [Center for IDEA Fiscal Reporting](#) (CIFR)

U.S. Department of Education Resources:

- [OSEP Memo 07-09: Significant Disproportionality](#)
- [OSEP Memo 08-09: Coordinated Early Intervening Services \(CEIS\)](#)
- [Significant Disproportionality \(Equity in IDEA\): Essential Questions and Answers](#) (March 31, 2017) (pp. 4– 17)
- [Significant Disproportionality 101: Equity in IDEA – Contents of the Final Rule](#) (YouTube 2017)
- [Significant Disproportionality 201: Equity in IDEA – Contents of the Final Rule](#) (YouTube 2017)