

A. DONALD McEACHIN

4TH DISTRICT, VIRGINIA

WASHINGTON OFFICE

314 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-6365

RICHMOND DISTRICT OFFICE

110 N. ROBINSON ST. SUITE 401
RICHMOND, VIRGINIA 23220
(804) 486-1840



Congress of the United States
House of Representatives
Washington, DC 20515-4604

COMMITTEE ON NATURAL RESOURCES

OVERSIGHT AND INVESTIGATIONS (RANKING MEMBER)

FEDERAL LANDS

COMMITTEE ON ARMED SERVICES

SEA POWER AND PROJECTION FORCES

READINESS

FRANKING COMMISSION

September 20, 2017

Hillary Malawer
Assistant General Counsel
Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue, SW, Room 6E231
Washington, DC 20202

Dear Ms. Malawer:

I am writing to express my strong support for maintaining the Equity in IDEA regulations regarding significant disproportionality in special education, 34 CFR 300.646- 300.647, enacted in December of 2016 under the Individuals with Disabilities Education Act (IDEA). These regulations are critical to addressing the misidentification and disproportionate over-representation of students in special education on the basis of ethnicity and race. As a member of Congress from Virginia, a state where some school districts have a documented history of disproportionality and discipline disparities, I urge the Department to preserve these critical improvements enacted by the Obama Administration.

Significant disproportionality— that is, when children from any racial or ethnic group are identified as having disabilities, placed in more restrictive educational settings, or disciplined at noticeably higher rates than their peers— is a national problem.¹ Children of color are identified as students with disabilities at significantly higher rates than their peers. The overrepresentation of minority children in special education contributes to an increasingly segregated educational system. These students are also subjected to stark discipline disparities resulting in decreased time in the classroom learning. Children with disabilities, particularly African Americans with disabilities, are suspended and expelled from schools at disproportionately higher rates in comparison to their White peers or peers without disabilities. Significant disproportionality not only greatly hurts children's ability to obtain a quality education, but it also indicates a school may not be meeting the needs of all of its students.

Congress took important action on the issue of significant disproportionality in the 2004 reauthorization of IDEA. School districts were required for the first time to report annually on disproportionality, examining three factors: identification of students within special education, placement in educational settings, and disciplinary instruments such as suspensions and expulsions. How a district would define and measure significant disproportionality, however, was left undefined, allowing states to construct their own methods for measurement and identification. Consequently, according to a 2013 report by the Government Accountability Office (GAO), only two percent of the nation's school districts were flagged for having an overrepresentation of minorities in special education.

¹ <https://www.ed.gov/news/press-releases/fact-sheet-equity-idea>

In response, the Obama administration established a rule, following an extensive notice and comment process, creating a standardized approach to determine whether districts have significant disparities in how they identify, place in restrictive segregated educational settings, or discipline minority students with disabilities. Starting in 2018-19, identified disparities in these categories would require a school district to spend 15 percent of their federal special education allotment under IDEA on "coordinated early-intervening services." States have discretion in terms of how they direct school districts to use those funds but must address underlying disparities to reduce their significant disproportionality.

I strongly support the disproportionality regulations developed by the Obama Administration to address and reduce the issue of significant disproportionality in our public schools. Enforcing a standardized approach is critical to ensuring that the issue of significant disproportionality is properly understood and remedied. These well-crafted regulations were the result of years of data collection and input from numerous educational professionals, researchers, and policy makers. Weakening, failing to enforce, or eliminating these regulations, as some have suggested, would be devastating for our children, particularly those most in need. I urge the Department to maintain this policy as it presently exists, and to continue working to better address the issue of disproportionality in our public schools.

Thank you for your attention to this critical issue impacting our nation's students.

Sincerely,

A. Donald McEachin

A. Donald McEachin
Member of Congress