IDEA Regulatory Reform comment re: Significant Disproportionality

The following comment regarding the significant disproportionality regulations is on behalf of the Missouri Department of Elementary and Secondary Education Office of Special Education. In regard to Significant Disproportionality (SD), there is a great deal of unnecessary inconsistency between the requirements for SD and State Performance Plan (SPP) Indicators 4B, 9 and 10. The inconsistencies in the two overlapping areas results in a lack of transparency that is causing difficulties for states and LEAs. While some states are attempting to align the two sets of requirements, there are several key differences that preclude clear alignment which therefore increases burden on states and LEAs.

SPP Indicators 9/10 allows states to define disproportionate representation and to select the calculations used. Significant disproportionality requires that states use both a risk ratio and an alternate risk ratio calculation. The issue with requiring use of the alternate risk ratio is that it identifies LEAs that have relatively high identification rates for students with disabilities in general. While relatively high identification rates may indeed warrant a review process in order to determine if eligibility criteria are being applied correctly, they should not be interpreted as having anything to do with the children’s races or ethnicities, and therefore these issues should not be addressed through the significant disproportionality review process.

Also, Indicators 9 and 10 use data for children age 6-21, while the significant disproportionality regulations expand the age range to 3-21. While it will be problematic for some states to find an accurate number of nondisabled children ages 3-5 to include in the denominator of the risk calculation, a larger issue is that there will be differing data sets used to meet the two requirements which will cause additional burden on states in computing the risk ratios and additional confusion for LEAs that are trying to keep straight which set of requirements need to be met based on identification under Indicators 9/10 or significant disproportionality, or both.

SPP Indicator 4B requires that states examine an LEA’s rate of long-term out-of-school suspensions for students with disabilities compared to either the rates for children with IEPs among LEAs within the state or the rate for nondisabled students within the LEA. The significant disproportionality regulations require that states examine five different discipline rates compared to the rates for all other students with disabilities within the LEA. This means that the one comparison for SPP Indicator 4B and the five comparisons for significant disproportionality must use different comparison groups.

Due to the different comparison group requirements, states are not allowed to align the calculations in order to reduce the complexity between the SPP and significant disproportionality. Having these two different analyses and identification processes that use the same basic data sets, but different comparison groups is very confusing for LEAs that are attempting to understand and track their data and analyze their rates of suspensions/expulsions – it is difficult to know which target to shoot for when there are multiple targets. A significant amount of time and effort is required of states to do the calculations and manage the review processes to meeting the requirements of the SPP and significant disproportionality. The result is two sets of LEAs (within which there may be overlap) that are identified under these two requirements when both have the same intent – to reduce any situations where students with disabilities in a particular racial/ethnic group are suspended more often than a comparison group.

Therefore, we recommend that the regulations for significant disproportionality be rescinded such that states are able to align the calculations and analysis for significant disproportionality and the State Performance Plan Indicators 4B, 9 and 10. Transparency in the calculations and analysis of data will allow states and LEAs to focus on addressing the real issues underlying the data rather than calculations themselves.