

Disproportionality– Sec. 612(a)(22)and (24); 618(d)
 Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)

STATUTORY COMPARISON

IDEA 1997 P.L. 105 – 17	IDEA 2004 P.L. 108 – 446	GUIDANCE
<p>Sec. 612 (22) SUSPENSION AND EXPULSION RATES- (A) IN GENERAL- The State educational agency examines data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities --(i) among local educational agencies in the State; or (ii) compared to such rates for nondisabled children within such agencies.</p> <p>(B) REVIEW AND REVISION OF POLICIES- If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.</p>	<p>612 (a) (22) SUSPENSION AND EXPULSION RATES- (A) IN GENERAL- The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities-- (i) among local educational agencies in the State; or (ii) compared to such rates for nondisabled children within such agencies.</p> <p>(B) REVIEW AND REVISION OF POLICIES- If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this title.</p>	<p>Informational Update 8 <i>"Overidentification and Disproportionality,"</i> Developed May 2005</p>

Bold = New statutory language
 Overidentification
 Disproportionality
 Sec. 618(d)
 May 6, 2005

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IDEA 1997 P.L. 105 – 17	IDEA 2004 P.L. 108 – 446	GUIDANCE
	612 (a) (24) OVERIDENTIFICATION AND DISPROPORTIONALITY- The State has in effect, consistent with the purposes of this title and with section 618(d), policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in section 602.	
618 (c) DISPROPORTIONALITY- (1) IN GENERAL- Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State with respect to -- (A) 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); and (B) the placement in particular educational settings of such children.	SEC. 618. PROGRAM INFORMATION. (d) DISPROPORTIONALITY- (1) IN GENERAL- Each State that receives assistance under this part, and the Secretary of the Interior, shall 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 of the State with respect to-- (A) 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); (B) the placement in particular educational	Informational Update 8 “ <i>Overidentification and Disproportionality,</i> ” Developed May 2005

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<p>(2) REVIEW AND REVISION OF POLICIES, PRACTICES, 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, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act.</p>	<p>settings of such children; and (C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. (2) REVIEW AND REVISION OF POLICIES, PRACTICES, 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, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall-- (A) provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this title; (B) require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated early intervening services to serve children in the local educational agency, particularly children in those groups that were significantly</p>	

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	<p>overidentified under paragraph (1); and (C) require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).</p>	