

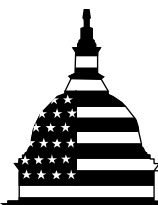
GAO

Report to the Chairman, Committee on
Health, Education, Labor, and
Pensions, U.S. Senate

February 2013

INDIVIDUALS WITH
DISABILITIES
EDUCATION ACT

Standards Needed to
Improve Identification
of Racial and Ethnic
Overrepresentation in
Special Education



G A O

Accountability * Integrity * Reliability

Highlights of [GAO-13-137](#), a report to the Chairman, Committee on Health, Education, Labor, and Pensions, U.S. Senate

Why GAO Did This Study

Concerned that certain racial and ethnic groups were overrepresented in special education, Congress in the 2004 reauthorization of IDEA required that school districts take certain actions to address this problem. Specifically, districts identified with “significant disproportionality” based on race and ethnicity must spend 15 percent of their IDEA funds to provide early intervening services to school age children who need additional academic and behavioral support. GAO was asked to review these early intervening services. GAO examined (1) the numbers and characteristics of districts that provide services and how states determine which districts are required to provide services; (2) the types of services provided; and (3) oversight by the Department of Education and states. GAO analyzed data on early intervening services for school years 2009-10 and 2010-11; reviewed 16 states’ methods for identifying districts required to provide services that included review of states that did and did not require districts to provide services; visited state educational agencies and school districts in 4 states; and interviewed Education and state officials.

What GAO Recommends

To promote consistency in determining which districts need to provide early intervening services, Education should develop a standard approach for defining significant disproportionality to be used by all states. Education proposed a revision to the recommendation, citing the need to collect more information. GAO continues to believe that the recommendation is valid as discussed in the report.

View [GAO-13-137](#). For more information, contact George A. Scott at (202) 512-7215 or scottg@gao.gov.

February 2013

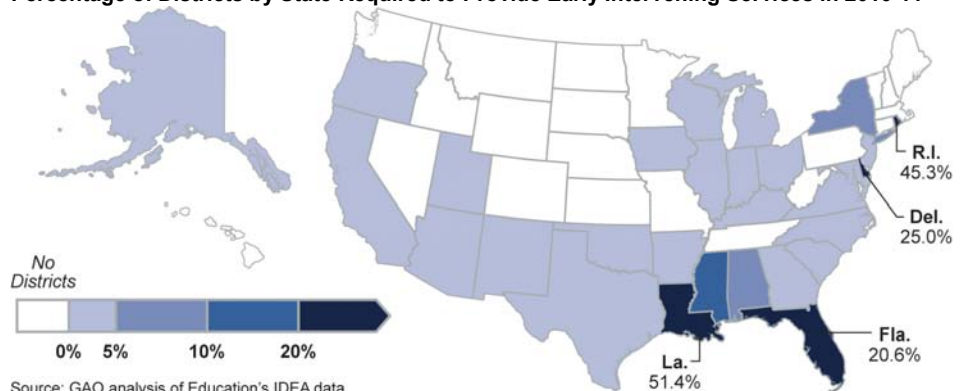
INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Standards Needed to Improve Identification of Racial and Ethnic Overrepresentation in Special Education

What GAO Found

In 2010, states required about 2 percent of all districts to use Individuals with Disabilities Education Act (IDEA) funds for early intervening services to address the overrepresentation of racial and ethnic groups in special education. Based on definitions states individually developed to measure this overrepresentation—referred to in IDEA as significant disproportionality—356 districts were required to provide services. Half of these districts were clustered in five states and 73 were in Louisiana alone. States have used flexibility provided by Education to develop their own definitions of significant disproportionality and GAO’s analysis of 16 selected states found wide variation in definitions. Further, GAO found that the way some states defined overrepresentation made it unlikely that any districts would be identified and thus required to provide early intervening services. Nebraska and Louisiana illustrate differing outcomes that can result from different state definitions. In Nebraska, one of 21 states that did not require any districts to provide services in 2010-11, racial and ethnic groups must be identified for special education at a rate three times higher than for other groups for 2 consecutive years. In contrast, racial and ethnic groups in Louisiana districts must be identified for special education at twice the rate of other students in any year. GAO’s analysis found if Nebraska had used Louisiana’s definition, Nebraska districts may have been required to provide services and, conversely, Louisiana might have identified fewer districts under Nebraska’s definition.

Percentage of Districts by State Required to Provide Early Intervening Services in 2010-11



Districts used their IDEA funds for a range of early intervening services including literacy and math tutoring as well as professional development to help educators address behavioral and emotional issues. For instance, one of the districts GAO visited provided struggling students with individualized math and reading instruction that resulted in improved performance.

Education’s oversight of racial and ethnic groups’ overrepresentation in special education is hampered by the flexibility states have to define significant disproportionality. Specifically, Education periodically reviews states’ definitions as part of its onsite monitoring under IDEA, but the department has not required a state to change its definition when it makes it unlikely that overrepresentation will be identified. States in turn are required to identify districts and ensure that these districts reserve the required amount for early intervening services.

Contents

Letter		1
	Background	3
	States Required About 2 Percent of Districts Nationwide to Provide Early Intervening Services in School Year 2010-11	7
	Districts Provided a Range of Services to Assist Struggling Students	15
	Inconsistent Definitions and Limited Oversight May Hinder Identification of Overrepresentation of Racial and Ethnic Groups in Special Education	18
	Conclusions	22
	Recommendation for Executive Action	22
	Agency Comments and Our Evaluation	23
Appendix I	Scope and Methodology	25
Appendix II	Data on the Number of Children Served and Number and Percentage of Districts Providing Services by State (School Years 2009-10 and 2010-11)	30
Appendix III	Criteria and Methodologies for Calculating Significant Disproportionality in 16 Selected States	36
Appendix IV	Overlap between IDEA Indicators and Significant Disproportionality	41
Appendix V	Comments from the Department of Education	42
Appendix VI	GAO Contact and Staff Acknowledgments	44

Tables

Table 1: IDEA, Part B Funding and Number of Children Served (Fiscal Years 2008-2012)	6
Table 2: Amount of IDEA, Part B Funding Reserved for Early Intervening Services (School Years 2009-10 and 2010-11)	10
Table 3: Key Components of Definitions of Significant Disproportionality in Identification for 16 Selected States	11
Table 4: Percentage of Districts Providing Early Intervening Services Using IDEA, Part B Funds, by the Type of Activity Funded (School Year 2008-2009)	16
Table 5: Early Intervening Services Provided in the Districts We Visited	28
Table 6: Number of Children Receiving Early Intervening Services by State (School Years 2009-10 and 2010-11)	30
Table 7: Number and Percentage of Districts Providing Early Intervening Services in the 2009-10 and 2010-11 School Years.	32
Table 8: Student Enrollment and Number and Percentage of Students in Special Education by State (School Year 2010-11)	34

Figures

Figure 1: Risk of Receiving Special Education, by Racial or Ethnic Group (School Years 2006-2010)	4
Figure 2: Percentage of Districts Required to Provide Early Intervening Services by State (School Year 2010-11)	7
Figure 3: Number and Percentage of Districts Providing Early Intervening Services (School Years 2009-10 and 2010-11)	8
Figure 4: Selected Characteristics of Districts by Provision of Early Intervening Services (School Year 2010-11)	9
Figure 5: Differences in State Definitions of Significant Disproportionality, Selected Elements	13
Figure 6: Overlap between IDEA Performance Indicators and Significant Disproportionality	21
Figure 7: State Role in Overseeing Early Intervening Services	22

Abbreviations

IDEA	Individuals with Disabilities Education Act
Recovery Act	American Recovery and Reinvestment Act of 2009
OSEP	Office of Special Education Programs
OSERS	Office of Special Education and Rehabilitative Services
SY	School Year
RTI	Response to intervention

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



G A O

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

February 27, 2013

The Honorable Tom Harkin
Chairman
Committee on Health, Education, Labor, and Pensions
United States Senate

Dear Mr. Chairman:

The overrepresentation of minority students in special education continues to be a persistent and challenging issue in education. This is a complicated issue because it is often difficult to determine if a student is struggling in school because of a disability or—as some suggest—other factors such as poverty, limited English proficiency, or factors within the school environment, such as a lack of high quality instruction or cultural bias. To illustrate, a 6th grade Hispanic girl who is not proficient in English may be diagnosed as having a learning disability because she is not reading at grade level. Similarly, an African American boy who may be acting out in school because of problems at home may be diagnosed as having an emotional disability. The consequences of overrepresentation have serious implications for students who may be inappropriately identified as having a disability because these students are placed in an educational track that is different than their peers which may negatively impact their academic and career outcomes.

In response to concerns about overrepresentation of racial and ethnic groups in special education, the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA) included a provision allowing school districts the option of using up to 15 percent of their IDEA, Part B funds¹—previously expended only for students with disabilities—to provide early intervening services² to students not currently receiving special education services but who need additional academic or behavioral supports to succeed in school. More significantly, the law requires a school district that is determined by its state as having

¹ Districts are allowed to use no more than 15 percent of their IDEA, Part B funds on early intervening services.

² Early intervening services and coordinated early intervening services are terms used interchangeably by Education. We use “early intervening services” throughout this report.

“significant disproportionality”—a term not defined in law—to reserve 15 percent of its IDEA, Part B funds to provide early intervening services for students who are not currently in special education. You asked us to review issues related to these services. This report examines: (1) the numbers and characteristics of districts that provide early intervening services and how states determine which districts are required to provide these services, (2) the types of services provided, and (3) how the Department of Education (Education) and states oversee early intervening services.

To examine the numbers and characteristics of the districts that provided early intervening services, we analyzed Education’s IDEA data for school years 2009-10 and 2010-11, which contained information on the number and characteristics of districts with students receiving special education and early intervening services provided,³ IDEA, Part B child count data, and Education’s Common Core of Data, which provided demographic data on all students in school districts. To assess the reliability of data from these data sets, we interviewed knowledgeable Education officials, reviewed documentation of data collection procedures, and conducted internal reliability checks. We determined that the data were sufficiently reliable for our purposes. To obtain more in depth information about early intervening services, we conducted site visits to eight districts in four states (California, Florida, Maryland, and Texas) where we interviewed state and local officials, and visited schools that had provided early intervening services. We selected these states—which all required some districts to provide early intervening services in school year 2009-10—based on geography, the percentage of districts required to provide the services, and the percentage of districts that implemented the program voluntarily. Within those states, we selected districts that provided early intervening services based on location, whether they were required to implement the program or did so voluntarily, the amount they received in IDEA, Part B funding, poverty levels, and the percentage of students receiving special education services.

To identify how states determine which districts are required to provide early intervening services, we reviewed 16 states’ methodologies for determining significant disproportionality. To ensure that our review of

³ IDEA data on early intervening services are collected by local educational agencies or educational service agencies. Throughout this report, use of the term “school districts” is synonymous with local educational agencies and educational service agencies.

state methodologies included states that did and did not have districts identified as having significant disproportionality, we chose the six states with the highest percentage of districts required to provide services in school year 2009-10, and we randomly selected eight states that took into account the number of districts required to provide early intervening services, including 4 states that did not have any districts required to provide early intervening services. Further, we judgmentally selected two additional states due to the relatively low percentage of districts required to provide services. To identify the types of services that districts provided students, we reviewed data on services collected as part of Education's IDEA National Assessment Implementation Study, which collected information for school year 2008-09, and Education's early intervening services data. To examine how Education and states oversee the program, we reviewed relevant federal laws and regulations, Education's monitoring protocols, and the findings from Education's monitoring visits of the 16 states included in our review of significant disproportionality definitions. We also interviewed Education officials and state officials in the four states we visited about their monitoring efforts. See appendix I for more details on our scope and methodology.

We conducted this performance audit from January 2012 to February 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

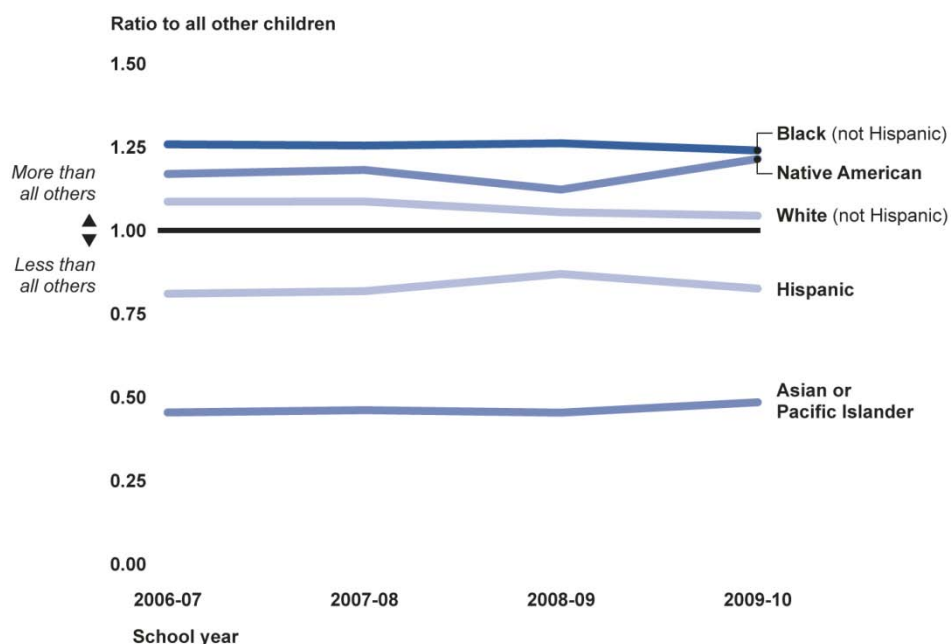
Background

Some groups of students are at greater risk of receiving special education than other students, and this trend has persisted over time (see fig. 1). Specifically, according to Education's data, African American and American Indian/Alaska Native students are at greater risk of receiving special education than students from other racial and ethnic groups.⁴ Research suggests overrepresentation may be a consequence of several

⁴ Data presented at the 2012 IDEA Leadership Conference: *Looking at Race/Ethnicity Disproportionality in Special Education from the Student Outcomes Side of the Educational System: Why Analyzing Disproportionality Matters for Results Improvement Planning* (Data Accountability Center and Regional Resource Center Program, Washington, D.C. 2012).

factors such as poverty, factors within the school environment, such as cultural bias, or some combination of these elements.

Figure 1: Risk of Receiving Special Education, by Racial or Ethnic Group (School Years 2006-2010)



Source: Data presented at the 2012 IDEA Leadership Conference: *Looking at Race/Ethnicity Disproportionality in Special Education from the Student Outcomes Side of the Educational System: Why Analyzing Disproportionality Matters for Results Improvement Planning*. Data Accountability Center and Regional Resource Center Program, Washington, DC, 2012.

Notes: Risk ratio was defined as a specific racial or ethnic group's risk of receiving special education and related services divided by the risk for all other children. The data represent children ages 6 to 21. All school years, with the exception of school year 2009-10, are based on either 50 states (school years 2006-07 and 2008-09) or 49 states (school year 2007-8) reporting along with District of Columbia. School year 2009-10 is based on those 38 states and the District of Columbia that reported using the same 5 racial/ethnic categories used in the previous years. Beginning with school year 2010-11 and beyond, states are required to report using seven racial/ethnic categories.

To address the issue of overrepresentation, in the last reauthorization of IDEA in 2004, Congress added provisions allowing school districts the option to use up to 15 percent of their Part B funding to provide early intervening services for students in kindergarten through grade 12 (putting particular emphasis on providing services to kindergarten through grade 3) who have not been identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment. While the 2004 reauthorization of IDEA allowed districts the option to voluntarily provide early intervening services, it made it mandatory for districts with

“significant disproportionality.”⁵ This term is used in the law to refer to the overrepresentation of racial and ethnic groups in special education, although it is not defined. Under IDEA, a school district is required to reserve 15 percent of its IDEA, Part B funds for early intervening services⁶ if that district is found to have significant disproportionality in special education based on race and ethnicity with respect to: (1) the identification of children with disabilities; (2) the identification of children in particular disability categories; (3) the placement of children with disabilities in particular educational settings; and (4) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

IDEA outlines two broad categories of activities for which districts may use funds for early intervening services: (1) professional development for teachers and other school staff, and (2) educational and behavioral evaluations, services, and supports, including scientifically-based literacy instruction. The law requires districts providing these services to report annually to the state on the number of students who received these services and the number of students served who subsequently receive special education and related services during the preceding 2-year period.⁷

Funding for early intervening services is authorized under Part B of IDEA. First enacted in 1975, IDEA is the primary federal law that addresses the educational needs of students with disabilities.⁸ Under IDEA, Part B, Education provides grants to states that enable school districts to provide services to students with disabilities aged 3 through 21. In 2009, federal funding under IDEA, Part B was more than double the 2008 amount because of the American Recovery and Reinvestment Act of 2009

⁵ Pub. L. No. 108-446, § 101, 118 Stat. 2647, 2739 (2004)(codified at 20 U.S.C. §§ 1413(f)(1) and 1418(d)(2)(B).

⁶ The term “significant disproportionality” was used in the 1997 reauthorization of IDEA. At that time, Congress required states to collect and examine data to determine if significant disproportionality based on race is occurring with respect to the identification, particular disability category, and placement of students in special education. It was not until the 2004 reauthorization that Congress required districts identified as having significant disproportionality to use IDEA, Part B funds for early intervening services.

⁷ 20 U.S.C. § 1413(f)(4).

⁸ IDEA was originally enacted as the Education for All Handicapped Children Act, Pub. L. No. 94-142, 89 Stat. 773 (codified as amended at 20 U.S.C. §§ 1400-1482) (1975).

(Recovery Act) (see table 1). The Recovery Act provided districts additional funds that could be used for any allowable purposes under IDEA, including to retain teachers and other school personnel, purchase technological equipment such as computers, and provide teacher professional development, among other things.⁹

Table 1: IDEA, Part B Funding and Number of Children Served (Fiscal Years 2008-2012)

Fiscal year	Federal funds (in billions)	Number of children with disabilities served aged 3-21 (in thousands)
2008	11.3	6,718
2009	23.6	6,599
2010	11.9	6,614
2011	11.9	6,558
2012	12.0	6,558

Source: Education's fiscal year 2013 budget request accessed on December 4, 2012 at: <https://www2.ed.gov/about/overview/budget/budget13/justifications/index.html>.

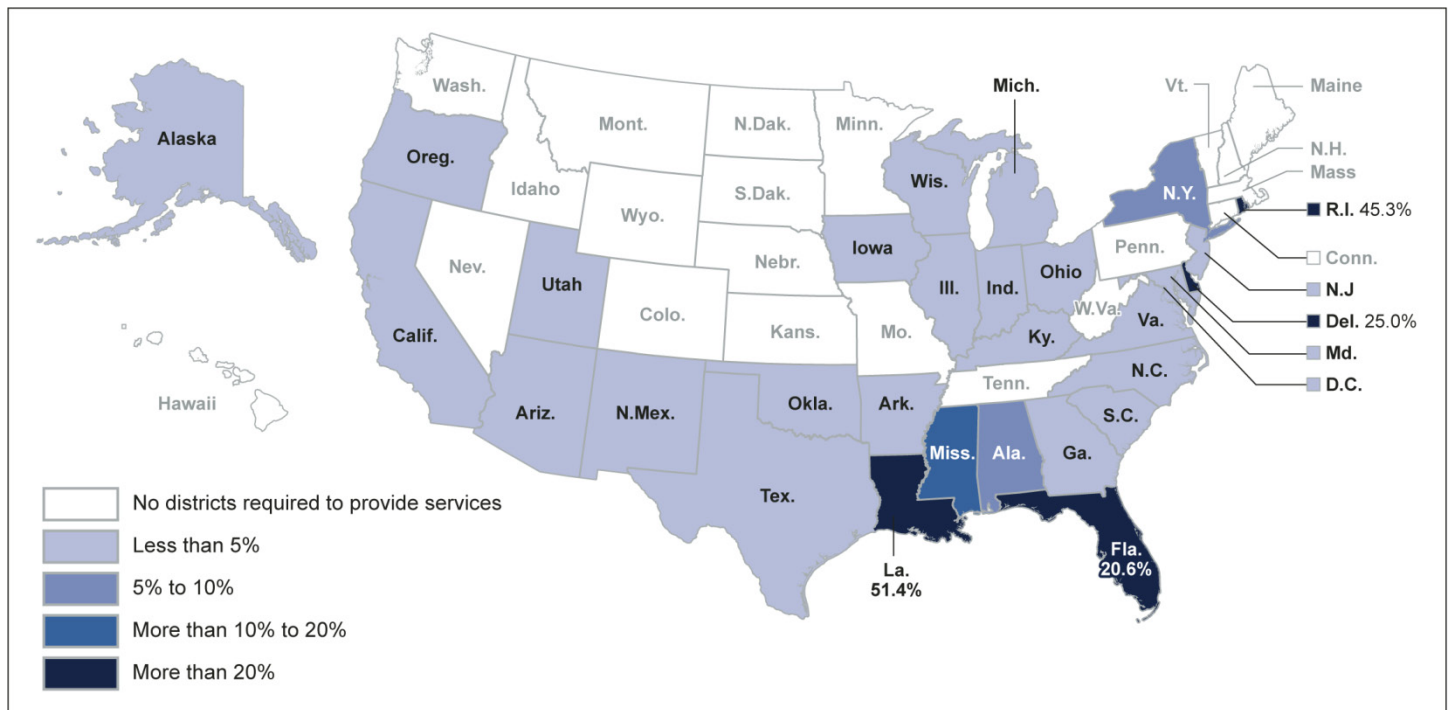
Until 2004, IDEA, Part B funds could only be used to provide services to children with disabilities. Currently, these funds can be used to provide early intervening services to students who have not been identified as needing special education services, but who need additional academic and behavioral support to succeed. IDEA is administered by Education's Office of Special Education Programs (OSEP) in the Office of Special Education and Rehabilitative Services (OSERS).

⁹ See GAO, *Recovery Act: One Year Later, States and Localities' Use of Funds and Opportunities to Strengthen Accountability*, [GAO-10-437](#) (Washington, D.C.: March 3, 2010).

States Required About 2 Percent of Districts Nationwide to Provide Early Intervening Services in School Year 2010-11

Among the almost 15,000 school districts nationwide that received IDEA funding in school year 2010-11, states required 356 (2.4 percent) districts to use these funds for early intervening services due to significant disproportionality. This represents a 12 percent decrease from the previous school year when 405 school districts were required to provide these services. Over half of the districts required to provide services in both school years were concentrated in five states—Louisiana, Michigan, Mississippi, New York, and Rhode Island—with 73 districts located in Louisiana alone in school year 2010-11. Twenty-one states did not require any of their districts to provide services (see fig. 2).

Figure 2: Percentage of Districts Required to Provide Early Intervening Services by State (School Year 2010-11)

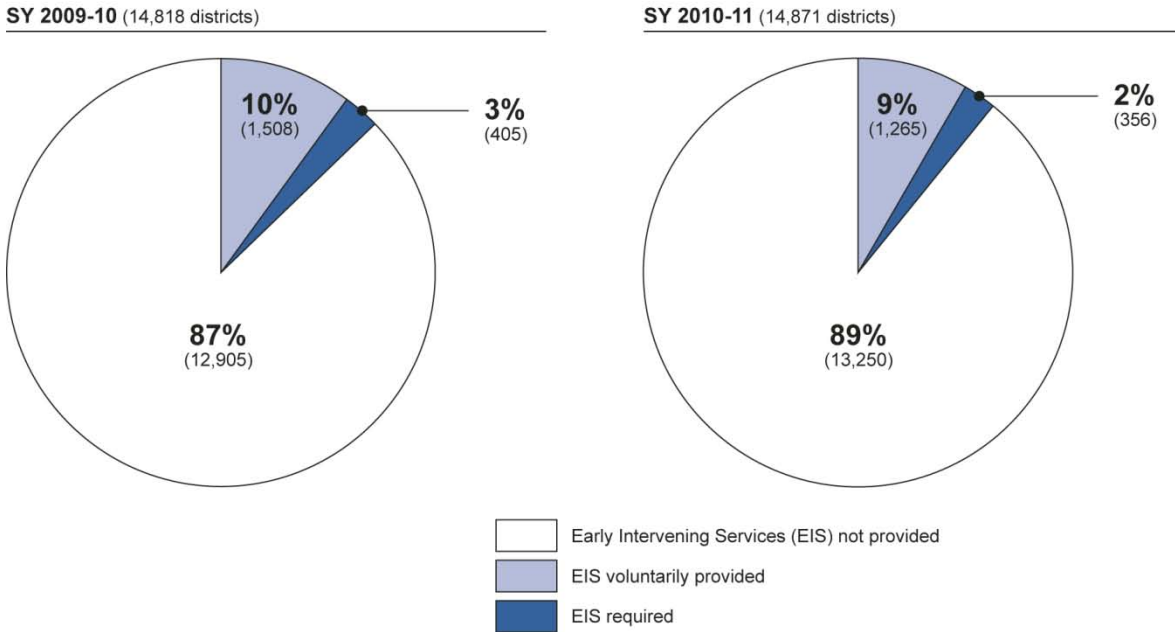


Source: GAO analysis of Education's IDEA Table 8 data file as of August 13, 2012; National Atlas of the United States (base map).

An additional 9 percent of districts nationwide that were not identified as having significant disproportionality voluntarily provided these services in school year 2010-11, but that number similarly decreased from 1,508 (about 10 percent) in school year 2009-10 to 1,265 (about 9 percent) in 2010-11 (see fig. 3). In total, about 1.26 million students received early intervening services during the 2010-11 school year. See appendix II for state-by-state data on the number of children served and number and

percentage of districts providing services in the 2009-10 and 2010-11 school years.

Figure 3: Number and Percentage of Districts Providing Early Intervening Services (School Years 2009-10 and 2010-11)

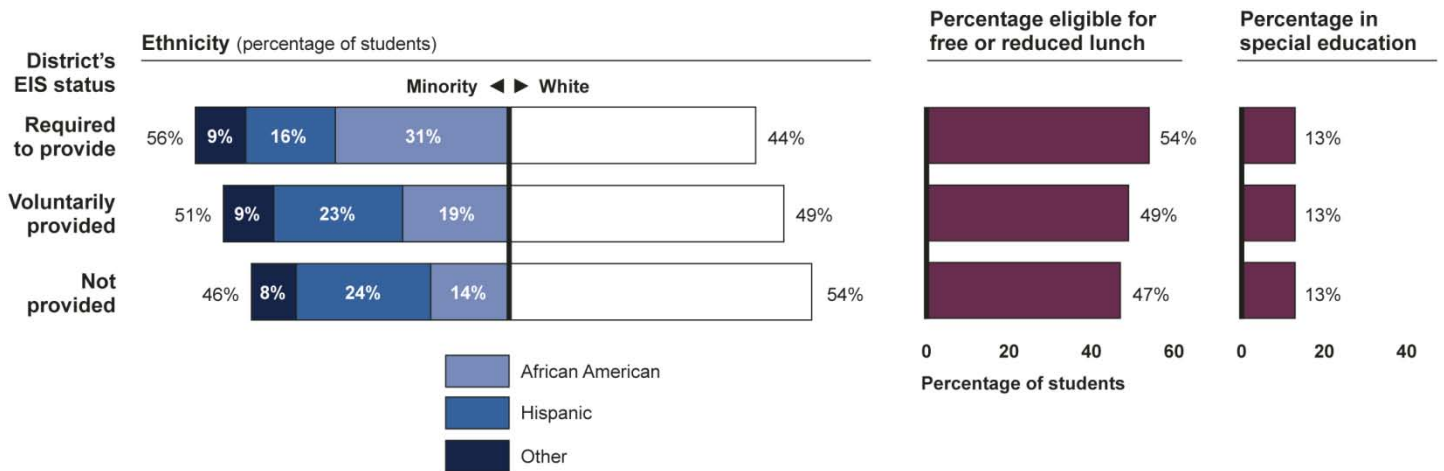


Source: Education's IDEA Table 8 data file as of January 24, 2012 for SY2009-10 and August 13, 2012 for SY2010-2011.

Notes: Percentages may not add to 100 percent due to rounding. SY = school year.

The characteristics of students in the districts that were required to and voluntarily provided early intervening services did not differ substantially, except that the districts required to provide services had a higher percentage of African American students and a lower percentage of Hispanic students (see fig. 4). However, given the small number of districts required to provide services, it may be difficult to discern meaningful differences between these two groups of districts, which also differed little from the majority of districts providing no services, as shown below.

Figure 4: Selected Characteristics of Districts by Provision of Early Intervening Services (School Year 2010-11)



Source: GAO analysis of Education's IDEA Table 8 data file as of August 13, 2012 and Common Core of Data as of August 20, 2012.

During the 2 school years we reviewed, districts also reduced funding reserved for early intervening services, as shown in table 2. Funding decreased 47 percent between school years 2009-10 and 2010-11 among districts required to provide services and more steeply—56 percent—among districts voluntarily providing services.¹⁰ Some officials we interviewed said that the additional funding districts received under the Recovery Act,¹¹ which gave states an additional \$11.7 billion for IDEA, enabled them to fund early intervening services, but without these funds school districts officials said they struggled to provide these services without major cuts to other educational services. For example, in California's Capistrano Unified School District, officials reported that they eliminated approximately 50 positions to pay for these services, and the student-teacher ratio increased from 20:1 to 32:1. In Baltimore County School District, officials reported that they will be required to use about \$3.3 million of IDEA, Part B funds for these services in school year 2012-

¹⁰ Education's data do not include information about the actual amount spent on these services. States have up to 27 months to obligate these funds for the provision of early intervening services.

¹¹ The American Recovery and Reinvestment Act of 2009 (Recovery Act) provided \$11.7 billion in additional funding for IDEA, Part B grants to states and districts. School districts were required to obligate all IDEA Recovery Act funds by September 30, 2011. Education encouraged districts to spend the majority of these funds during the 2008-09 and 2009-10 school years.

13, and because they must also provide special education services, general education teachers and general education services will likely be affected.

Table 2: Amount of IDEA, Part B Funding Reserved for Early Intervening Services (School Years 2009-10 and 2010-11)

Type of district	Number of districts SY 2009-10	Amount of IDEA funding reserved SY 2009-10	Percentage of total IDEA funding SY 2009-10	Number of districts SY 2010-11	Amount of IDEA funding reserved SY 2010-11	Percentage of total IDEA funding SY 2010-11	Percentage change in amount reserved from SY 2009-10 to SY 2010-11
Districts required to provide services	405	\$306,949,685	1.44	356	\$163,851,707	1.60	-47
Districts voluntarily providing services	1,508	\$251,840,189	1.18	1,265	\$110,175,488	1.07	-56
Total	1,913	\$558,789,874	2.62	1,621	\$274,027,195	2.67	-51

Source: GAO analysis of Education's IDEA Table 8 data file as of January 24, 2012 for SY 2009-10 and August 13, 2012 for SY 2010-11.

Note: SY = School Year.

State-Developed Criteria Largely Drives Decisions about Whether Districts Are Required to Provide Early Intervening Services

Selected states' definitions for determining which districts have significant disproportionality—and are required to provide early intervening services—varied widely and may prevent states from identifying the magnitude of racial and ethnic overrepresentation in special education, according to our analysis. To determine whether any of their districts have significant disproportionality, states have used the flexibility Education provided them to develop their own definitions. These definitions include method(s) of calculation and associated criteria that set the conditions under which a determination of significant disproportionality is made. Specifically, after states calculate how many students of each race and ethnicity receive special education services, states compare these results to criteria established in their definition, which include (1) the value that must be exceeded, and (2) the number of years that value or condition must persist for a determination of significant disproportionality. States can also establish a minimum number of students needed in a group for calculation, and all of these factors can influence a determination of

significant disproportionality.¹² In general, the higher the value that must be exceeded, the more years the value or condition must persist, and the greater the minimum number of students required for calculation, the less likely a state will identify districts as having significant disproportionality. (See table 3).

Table 3: Key Components of Definitions of Significant Disproportionality in Identification for 16 Selected States

State	Value to be exceeded when comparing groups	Years value must be exceeded	Districts required to provide early intervening services		Districts in state SY 10-11
			SY 09-10	SY 10-11	
Alaska	3.5 or more	3 consecutive years	0	1	54
California	4.0 or more ^a	Current year and 2 out of 3 previous years	17	15	980
Connecticut	4.0 or more	2 consecutive years	3	0	169
Delaware	1.4 (decreasing each year based on stakeholder input)	2 consecutive years	15	9	36
Florida	3.50 or more	1 year	13	15	72
Iowa	2.0 or more	3 consecutive years	7	7	376
Louisiana	2.0 or more	1 year	86	73	111
Maryland	2.0 or more in 4 of 6 disability categories	1 year	8	1	25
Mississippi	4.0 or more	1 year	35	28	151
Nebraska	3.0 or more	2 consecutive years	0	0	253
Pennsylvania	Greater than 4.0	3 consecutive years	0	0	615
Rhode Island	Risk level for group being examined 1% or higher than the national risk for all students and a risk ratio at least 2.5 times the combined risk for all students in the nation	2 consecutive years	26	24	51
South Carolina	4.0 or more	1 year	3	4	85
Texas	Calculated value must exceed critical value set by state. Critical value set at 99th percentile	2 consecutive years	5	12	1259
West Virginia	3.0 or more	2 consecutive years	0	0	57

¹² See app. III for detailed information on components of selected states' definitions for significant disproportionality.

State	Value to be exceeded when comparing groups	Years value must be exceeded	Districts required to provide early intervening services		Districts in state SY 10-11
			SY 09-10	SY 10-11	
Wisconsin	4.0 or more and risk 1.0% or greater than state level risk for white students	3 consecutive years	2	5	446

Source: GAO analysis of 16 selected state definitions of significant disproportionality. For the number of districts in state, Education's IDEA Table 8 data file as of January 24, 2012 for SY 2009-10 and August 13, 2012 for SY 2010-11.

^aIn addition to a risk ratio, California uses an additional calculation called an E-formula, which assesses whether the proportion of the group in special education being examined exceeds the proportion of that same group in general education by 3 standard errors.

Note: SY = School Year

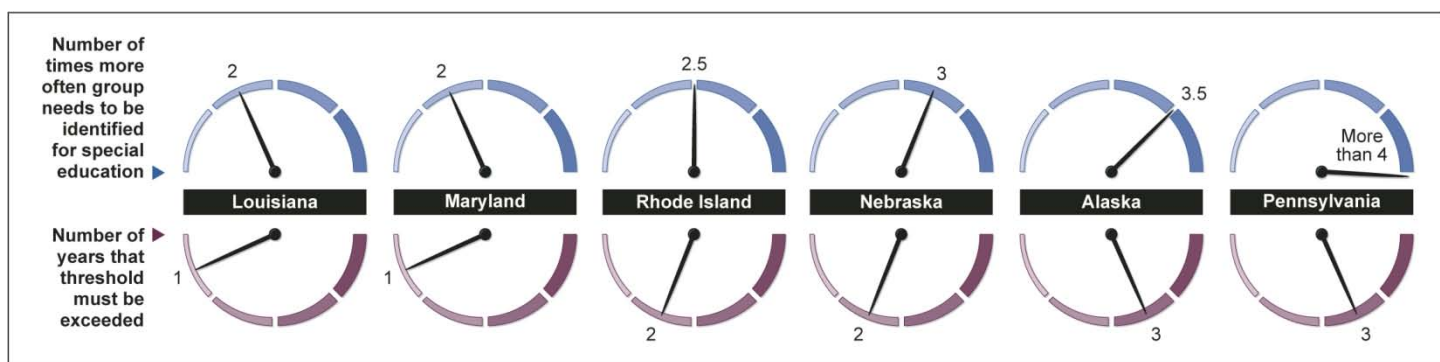
The following examples illustrate how state definitions can influence the extent to which districts are found to have significant disproportionality. Pennsylvania, a state with almost 1.8 million students and 16 percent of its students receiving special education services, did not require any of its over 600 districts to provide services in either of the years we examined.¹³ In this state, racial and ethnic groups in a district must be identified for special education at a rate more than four times higher than other groups for 3 consecutive years to be identified as having significant disproportionality. Pennsylvania also requires districts to have at least 40 students in each racial and ethnic group to conduct a calculation—allowing small districts and districts with small numbers of certain racial and ethnic groups to be exempt from providing services since the districts are excluded from the calculation of significant disproportionality. Similarly, in Nebraska, which has about 300,000 school-age children, of which 15 percent receive special education services, none of the state's 253 districts were identified as having significant disproportionality in school years 2009-10 or 2010-11. In this state, racial and ethnic groups in any of its districts must be identified in a specific disability category at a rate three times higher than all students for 2 successive years to trigger the requirement for services, and districts must have at least 30 students in a racial or ethnic group to be included in their calculations. Alaska, a state with over 132,000 school-age children, of which 14 percent receive special education, required none of its 54 districts to provide services in school year 2009-10 and one district in 2010-11. In Alaska, racial and ethnic groups in the district must be identified for special education at a

¹³ Pennsylvania reported it had 615 districts in SY 2009-10 and 632 districts in SY 2010-11.

rate three-and-a-half times higher than their non-minority peers for 3 consecutive years.

In contrast, states such as Louisiana, Maryland, and Rhode Island identified relatively more districts that were required to provide early intervening services. For example, Louisiana, a state with 700,000 school-age children, required 86 of its 111 districts to provide services in school year 2009-10, and 73 in school year 2010-11. In that state, if racial and ethnic groups are found to be identified for special education at twice the rate of other students in a district, in a single year, it must provide services. Maryland, a state with 850,000 school-age children, required 8 of its 25 districts to provide services in school year 2009-10, although that number dropped to one in 2010-11. In Maryland, districts must provide services when racial and ethnic groups are represented two or more times the rate of students who are in four out of six disability categories in any year. Finally, Rhode Island, a state with 143,000 students, of which 18 percent are in special education, required 26 of its 51 districts to provide services in school year 2009-10 and 24 in school year 2010-11. In that state, services are required in districts where racial and ethnic groups are two and half times more than the combined risk of all students in the nation for 2 consecutive years to be in special education. (See fig. 5.)

Figure 5: Differences in State Definitions of Significant Disproportionality, Selected Elements



Source: GAO analysis of selected states' definitions of significant disproportionality.

In addition to the key components of a state's definition, the method of calculation can affect whether a district is identified as having significant disproportionality and required to provide early intervening services. States have discretion to select the methods for calculating significant disproportionality. For example, one commonly used set of methods

examines “risk” of being in special education. This includes calculation of risk, risk ratios, alternate risk ratios, and weighted risk ratios. Some of these methods compare students within a district while others compare students in the district with students in the state or the nation. These comparisons can be of students in the same racial group within the district or compare one racial group from the district to that racial group at the state or national level. Also, with one method, the calculated value might be above the value and the district would be identified as having significant disproportionality, whereas with another method, it might not. To illustrate the effect a state’s choice of methodology can have on a finding of significant disproportionality, we applied Louisiana’s methodology, a risk ratio, to state data from Nebraska, which identified no districts. We found that in school year 2010-11, African American students in Nebraska were identified with emotional disabilities at a rate 2.9 times higher than all other students in the state.¹⁴ However, because Nebraska’s criteria for significant disproportionality requires districts to have over-identified students of a racial or ethnic group 3 times more often than other groups combined, no districts were required to provide services for the years we reviewed.¹⁵ The reverse was also true when we applied Nebraska’s criterion to Louisiana’s state data. African American students in Louisiana were identified at a rate 2.2 times more often for intellectual disabilities than all other students in the state in school year 2010-11. While this rate is considered significantly disproportionate using Louisiana’s criteria it would not be considered significantly disproportionate using Nebraska’s criteria. (See app. I for more information on our methodology and app. III for more detailed information on the definitions used in the 16 states we reviewed.)

We explored the reasons some states adopted their definitions of significant disproportionality. In some states, such as Maryland and Florida, officials reported they have chosen to reduce burden or confusion by defining significant disproportionality in the same way they define other

¹⁴ Nebraska uses a weighted risk ratio, not a general risk ratio as we used in our analysis, and resulting calculations of districts as having significant disproportionality using a general risk ratio may differ from our results. Further, our Louisiana calculation is based on state-wide data and resulting calculations of districts as having significant disproportionality may differ from Louisiana’s state calculations. See app. III for detailed descriptions of state definitions for significant disproportionality.

¹⁵ These comparisons are for illustrative purposes only and should not be construed to suggest that one methodology is preferable.

IDEA annual reporting requirements on disproportionality. For example, in Maryland the definitions for significant disproportionality and disproportionate representation of racial and ethnic groups in special education are the same.¹⁶ Other states opted for a tiered approach, setting certain criteria of the definition of significant disproportionality higher than other IDEA reporting requirements on disproportionality. For example, in Alaska, districts are considered as having significant disproportionality when racial and ethnic groups are identified for special education at a rate three-and-a-half times higher than their non-minority peers, whereas for disproportionate representation, the requirement is that they be three times more likely. Finally, California conducted extensive research to determine the strengths and weaknesses of various definitions and ran different scenarios in all of their districts to determine outcomes from each definition. Based on this analysis, the state developed a new methodology so complex an Education official reported the monitoring team needed a substantial amount of time for its review.

Districts Provided a Range of Services to Assist Struggling Students

The types of early intervening services students received varied, according to a national study by Education,¹⁷ with most districts providing literacy instruction; response to intervention (RTI), an approach that provides different levels of assistance to students based on their needs;¹⁸ and behavioral interventions (see table 4.)

¹⁶ Disproportionate representation is one of the IDEA annual performance indicators used to measure overrepresentation of racial and ethnic groups in special education.

¹⁷ M.C. Bradley et al., *IDEA National Assessment Implementation Study* (NCEE 2011-4027) (Washington, D.C.: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U. S. Department of Education, 2011). In this study, researchers surveyed a nationally representative sample of 1,200 school districts.

¹⁸ For this study, response to intervention (RTI) was defined as a multi-step approach to providing early and progressively intensive intervention and monitoring within the general education setting. In principle, RTI begins with research-based instruction and behavioral support provided to students in the general education classroom, followed by screening of all students to identify those who may need systematic progress monitoring, intervention, or support. Students who are not responding to the general education curriculum and instruction are provided with increasingly intense interventions through a tiered system, and they are frequently monitored to assess their progress and inform the choice of future interventions, including possibly special education for students determined to have a disability.

Table 4: Percentage of Districts Providing Early Intervening Services Using IDEA, Part B Funds, by the Type of Activity Funded (School Year 2008–2009)

Type of activity supported by IDEA, Part B program funds	Districts required to provide early intervening services (percentage)	Districts voluntarily providing early intervening services (percentage)
Literacy instruction	81.79	84.33
Response to Intervention (RTI)	81.65	67.07
Behavioral interventions	63.36	60.11
Math instruction	63.22	48.63
Adaptive and instructional software	55.02	41.43
Educational evaluations	43.00	46.30
Behavioral evaluations	47.47	36.51
Other instruction	17.79	21.23
Other	14.06	10.76

Source: Education's 2011 IDEA National Assessment Implementation Study.

The districts we visited also reported providing these services using IDEA funds. Most of the districts we visited reported providing supplemental instruction in reading and math. For instance, the Austin Independent School District in Texas implemented a program for middle school students who were up to two grade levels behind and found that a higher number of participating students passed the state's standardized math test. Officials from Baltimore County School District in Maryland reported that fifth graders who participated in a before-school program increased their math test scores. In Duval County School District, Florida, officials reported that the district provided elementary school students who faced significant academic challenges—including students who had been held back—with individualized math and reading instruction that resulted in improved performance on state assessments.

Most districts we visited also provided services to address students' behavioral and emotional issues, which can affect learning. For example, in Prince George's County School District, Maryland, officials reported that behavior specialists were placed in the middle and high schools with the highest number of suspensions to help students develop skills such as coping and anger management. The specialists also worked with teachers to help them identify alternative strategies to address student misconduct. In the Jefferson County School District in Florida, officials reported that school staff worked with middle school and high school students to develop plans and interventions to address attendance,

tardiness, and behavior problems. Officials from two districts we visited said that providing students more assistance with literacy can also help address their behavior problems. As one official noted, students are less likely to act out if they feel more successful academically.

Teachers' perceptions about students can also play a role in special education placement, and most of the districts we visited reported using IDEA funds for their professional development and for other school staff. For example, in Baltimore County School District, Maryland, officials reported that principals will take training in cultural awareness to help them better discern the underlying reasons for the behavior a child may be exhibiting and understand that the behavior may not necessarily indicate the need for placement in special education. District officials from all eight districts we visited cited improved decision-making in that providing the services allowed them to more readily assess whether students were responding to the services or needed more intensive services, such as those provided through special education. Officials from all eight districts we visited also reported that referrals for special education evaluations still occurred, but where there was ambiguity, early intervening services allowed them to see if the child benefited from the services. For example, officials from Liberty School District in Texas said that although some students showed no improvement with early intervening services, the information staff collected while providing the services allowed them to more accurately identify children who needed special education services. Officials from the Jefferson County School District in Florida told us these services allowed them to collect better data on children's progress and now they better distinguish students who need more help in the general classroom from those who need special education services.

Inconsistent Definitions and Limited Oversight May Hinder Identification of Overrepresentation of Racial and Ethnic Groups in Special Education

Federal oversight

Education has responsibility for monitoring overrepresentation of racial and ethnic groups in special education. However, Education's ability to oversee states' identification of districts with significant disproportionality is hampered by the flexibility states have to individually define significant disproportionality. Rather than developing a standard definition of significant disproportionality that all states could use, Education told states they have the discretion to define the term, citing the need to give states flexibility to account for factors such as population size and composition.¹⁹ However, during the course of our study, Education officials acknowledged that some states' definitions may be preventing them from identifying disproportionality. According to Education officials, the requirement for districts identified with significant disproportionality to reserve 15 percent of their IDEA, Part B funds for early intervening services could be a financial burden, a sentiment echoed by officials in several states and districts we visited, who saw the requirement as a struggle for districts to afford.

In addition, while Education requires states to change their definition of significant disproportionality when it appears to treat one racial or ethnic group differently, it has not similarly required states to change their definitions when they make it unlikely that disproportionality will be identified. As part of its on-site monitoring of IDEA, Education reviews

¹⁹ Education discussed states' discretion in a 2007 memo to state special education directors and in the comment section of final agency regulations published in 2006. 71 Fed. Reg. 46,540, 46,738 (Aug. 14, 2006).

each state's definition approximately every 5 years, but does not currently collect these definitions even though states can change their definitions annually. In reviewing states' definitions, Education officials told us they assess whether the definitions appear to treat one racial or ethnic group differently and the department may solicit input from its Office for Civil Rights when making such determinations.²⁰ We found that in 2010 Education required California to revise its definition because of such concerns. However, Education officials also said the department generally has not required states to change their definition even when an assessment suggests that a state's definition may prevent it from identifying overrepresentation of racial and ethnic groups in special education. For example, when Education concluded that Alaska's definition made it unlikely that any districts would be identified, it did not require the state to change its definition but suggested only that Alaska reexamine its definition. During our review, Education officials acknowledged that state definitions of significant disproportionality merit additional attention, and in response to issues we have raised, said over the next year they will begin collecting states' definitions and examine race and ethnicity data to establish whether states' current definitions appropriately gauge disproportionality. Education officials also said they are considering other options to gather information to address concerns that states' definitions might be masking overrepresentation of racial and ethnic groups, including auditing states that have not identified any districts and providing guidance to states. However, Education has not articulated how it will address the differing definitions states currently have for defining significant disproportionality that prevent the Department from having a consistent picture of the extent of the problem.

In addition to reviewing states' definitions during on-site monitoring visits, Education recently began collecting data on districts providing early intervening services. In 2011, Education began collecting such data for the 2009-10 school year regarding early intervening services. These data include the number of districts required to provide services, the amount of IDEA funds reserved, the number of students receiving services, and the number of students who subsequently received special education. However, at the time of our review, Education officials had not used the data to specifically inform their review of definitions of states with no

²⁰ Education's Office for Civil Rights enforces a number of civil rights laws including Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin under federally funded programs or activities.

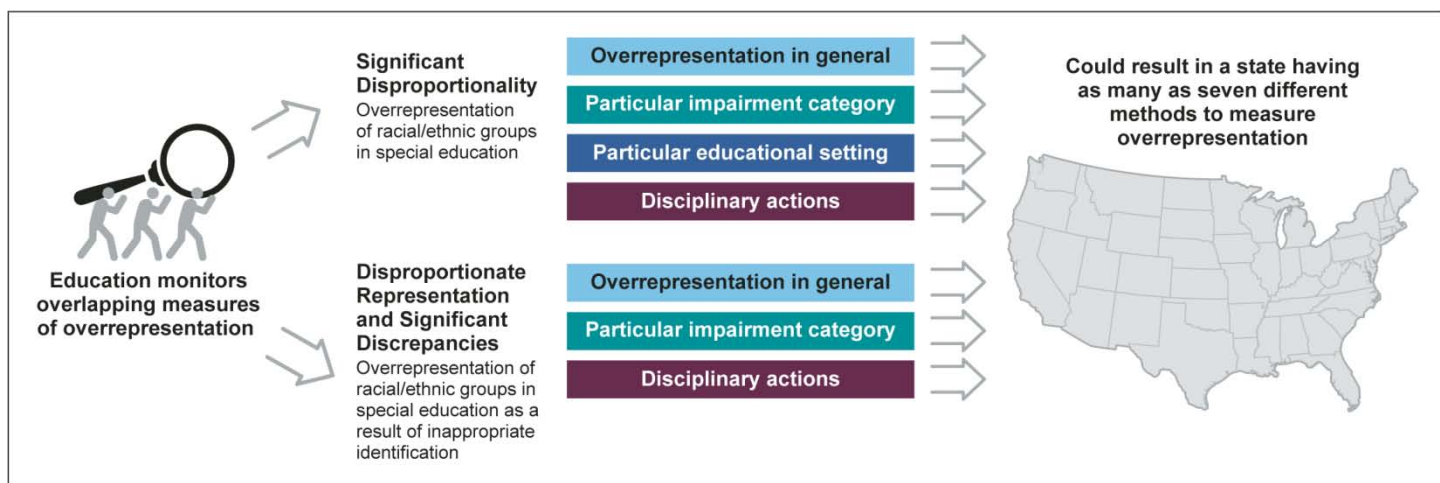
identified districts. Instead, Education officials reported that they review the data to check for its accuracy and signs of possible noncompliance with the law. For instance, Education officials reported that they flag districts that did not reserve funds for early intervening services, but reported students receiving these services. Education officials said that they contact the state and district to ensure the data are accurate and, if noncompliance is identified, to ensure corrective action is taken.

Education also monitors overrepresentation of racial and ethnic groups in special education through three performance indicators, based on monitoring priorities prescribed in IDEA. The three indicators Education uses are: (1) “disproportionate representation” of racial and ethnic groups in special education due to inappropriate identification, (2) “disproportionate representation” of racial and ethnic groups in special education in specific disability categories due to inappropriate identification, and (3) “significant discrepancies” in suspensions and expulsions (see appendix IV). While these indicators use different terminology, they overlap with the requirement for states to identify significant disproportionality. For instance, states must identify whether racial and ethnic groups are disproportionately identified for special education and by category of impairment when calculating both significant disproportionality and disproportionate representation. As with the flexibility states have in developing their definitions of significant disproportionality, states have discretion in how they define disproportionate representation and significant discrepancy. Therefore, one state may have different definitions across these measures of overrepresentation and therefore different findings of overrepresentation (see fig.6), while another state may have the same definitions. In addition to the data states submit to Education on early intervening services, states must also annually report on these indicators. While we were unable to fully explore this issue in our current study, we recently reported that state and school districts officials we interviewed found Education’s IDEA indicators to be complicated, resource-intensive, and duplicative.²¹ Education has sought input from state special education directors on this issue. The majority of state directors Education surveyed supported the idea of having one requirement to identify overrepresentation of racial and

²¹ See [GAO- K-12 Education: Selected States and School Districts Cited Numerous Federal Requirements As Burdensome, While Recognizing Some Benefits, GAO-12-672](#) (Washington, D.C.: June 27, 2012).

ethnic groups among districts instead of requirements for identifying both significant disproportionality and disproportionate representation.

Figure 6: Overlap between IDEA Performance Indicators and Significant Disproportionality



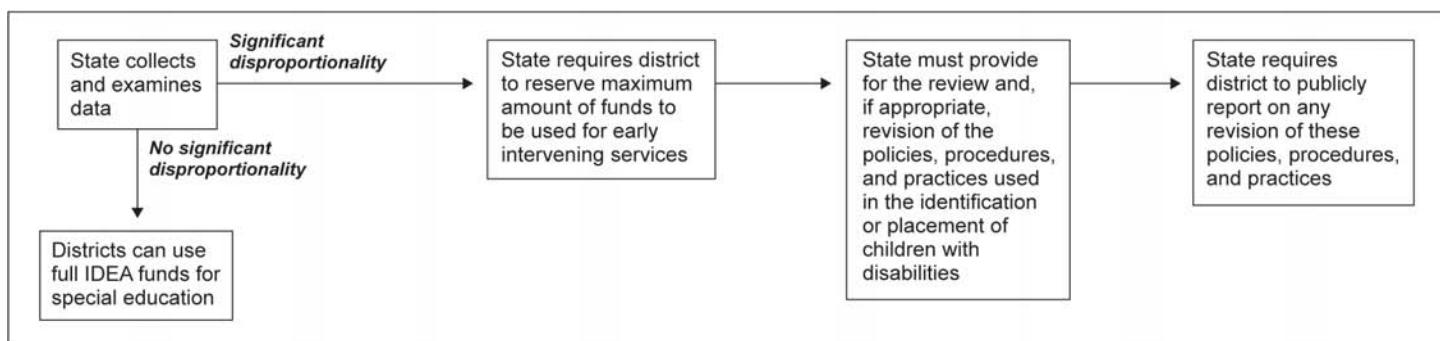
Source: GAO analysis of Education's guidance for early intervening services and IDEA indicators.

State Oversight

States are responsible for identifying the districts required to provide services and then ensuring that these districts spend the required 15 percent of IDEA funds for these services (see fig. 7 on state oversight role). To carry out its responsibilities, officials in the states we visited reported various monitoring activities to oversee districts' fiscal compliance and service implementation. For example, to monitor fiscal compliance in California, officials reported using accounting codes to track districts' use of IDEA funds for early intervening services. Maryland officials said they conduct periodic on-site monitoring of districts. In Texas, state officials said districts that have significant disproportionality are required to use their data to determine the root causes of overrepresentation and that the state's data system facilitates this analysis by allowing districts to examine their data in a variety of ways. States we visited also had different approaches for overseeing the types of services provided. Two of the states we visited reported requiring those districts to submit to the state a plan for how they will implement early intervening services, including the services they will provide. In Florida, officials said that districts are required to use funds for direct student support services, rather than for curriculum materials or administrative supports, and that the state reviews districts' plans and provides additional guidance to ensure districts follow this state requirement.

Maryland officials, in contrast, said that they do not dictate how districts deliver services to their students.

Figure 7: State Role in Overseeing Early Intervening Services



Source: GAO analysis of IDEA.

Conclusions

To address the persistent problem of the overrepresentation of racial and ethnic groups in special education, Congress required states and school districts to take measures to help improve outcomes for struggling students. However, the discretion that states have in defining significant disproportionality has resulted in a wide range of definitions that provides no assurance that the problem is being appropriately identified across the nation. More significantly, without these services, struggling students may not receive the services they need to help them improve academically and thus may ultimately need special education services. Education has allowed states the flexibility to define significant disproportionality to account for differences in state population size and composition. However, a standard approach to defining significant disproportionality with built-in flexibilities to account for differences among states, would provide better assurance that states are gauging the true magnitude of the problem of overrepresentation of racial and ethnic groups in special education.

Recommendation for Executive Action

To better understand the extent of racial and ethnic overrepresentation in special education and promote consistency in how states determine the districts required to provide early intervening services, we recommend the Secretary of Education develop a standard approach for defining significant disproportionality to be used by all states. This approach should allow flexibility to account for state differences and specify when exceptions can be made.

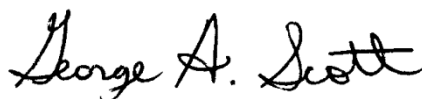
Agency Comments and Our Evaluation

We provided a draft of this report to the Department of Education for review and comment. The comments are reproduced in appendix V. In its comments, Education stated that the effect of state definitions of significant disproportionality on decisions concerning children from various racial and ethnic groups merit additional attention. However, in response to our recommendation that the department require a standard approach to define significant disproportionality to be used by all states, Education proposed an alternative course of action that would focus on more collection of information about state definitions and to make that information available to the public as a matter of transparency. Specifically, Education stated that for the upcoming reporting year, the department will collect states' definitions of significant disproportionality and information by disability categories in which a district was identified with significant disproportionality. Education stated that such information will provide greater transparency and assist in holding states accountable for meeting the requirements regarding significant disproportionality and early intervening services by highlighting states where further examination may be warranted. Further, the department said that it may provide additional guidance on the issue that might include developing a standard approach for defining significant disproportionality. While the department's data collection efforts will allow it to have, for the first time, complete information about the full range of definitions states are using, our report provides several examples of the range of different ways states have defined significant disproportionality. We believe that Education's proposed efforts do little to address the overriding concern raised in our study about the lack of consistency across states in how they define significant disproportionality. Further, because some state definitions can be very complex and states can change definitions annually, we are concerned that Education's collection and review of definitions may be burdensome for it to execute. Consequently, we have not revised our recommendation.

Education also provided technical comments which we incorporated into the report where appropriate.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies of this report to the Secretary of Education, relevant congressional committees, and other interested parties. In addition, this report will be available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or scottg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VI.



George A. Scott
Director, Education, Workforce,
and Income Security Issues

Appendix I: Scope and Methodology

This appendix discusses our methodology for this study, which was framed around three objectives: (1) What are the numbers and characteristics of districts that provide early intervening services and how do states determine which districts are required to provide services? (2) What are the types of services provided? (3) How do the Department of Education (Education) and states oversee early intervening services?

Providing Information on the Numbers and Characteristics of Districts and How States Identify Districts for Early Intervening Services

To determine the number and characteristics of districts providing early intervening services, we analyzed Education's IDEA data, commonly referred to as Table 8 data, for 2009-10 and 2010-11, the most recent years at the time of our review, and IDEA, Part B data on child counts (618 data). We analyzed data reported by the states to Education on the number of districts providing services and the amount of IDEA, Part B funding districts reserved for these services. To create a composite description of districts, we linked information from Table 8 on the characteristics of the districts that were required to and voluntarily provided services, as well as districts that did not provide early intervening services, to data from Education's Common Core of Data for school year 2010-11, which includes the characteristics of all students enrolled in the school districts, including their racial/ethnic composition, percentage receiving special education, and percentage eligible for free or reduced price lunch. To assess the reliability of data from these data sets, we interviewed relevant Education officials, reviewed documentation of data collection procedures, and conducted internal reliability checks. We determined that the data were sufficiently reliable for our purposes.

To determine how states determine which districts are required to provide services, we collected and reviewed 16 states' methodologies for determining significant disproportionality with respect to the percentages of racial and ethnic groups in special education, which triggers the requirement that districts provide services. To ensure that our review of 16 states included states with districts that did and did not have districts identified as having significant disproportionality, we chose the six states with the highest percentage of districts required to provide services in school year 2009-10 (Delaware, Florida, Louisiana, Maryland, Mississippi and Rhode Island), and eight additional states (Alaska, Connecticut, Iowa, Nebraska, Pennsylvania, South Carolina, West Virginia, and Wisconsin) that we selected through a stratified, random sample, based

on the number of districts required to provide early intervening services.¹ Texas and California were selected because they were included in our site visit selection and due to their relatively low percentage of districts required to provide services in School Year 2009-10. The selected states were Alaska, California, Connecticut, Delaware, Florida, Iowa, Louisiana, Maryland, Mississippi, Nebraska, Pennsylvania, Rhode Island, South Carolina, Texas, West Virginia, and Wisconsin. We requested each state's definition and analyzed them with respect to their method(s) of calculation, the minimum number of students in a group required for performing the calculation (N size), the number of years of data used, and the threshold value for identification of significant disproportionality. We followed up with knowledgeable officials in the 16 states to ensure our analysis was accurate and up to date.

Further, in order to illustrate how a state's choice of definition can affect a finding of significant disproportionality, we provide two scenarios in the report using state data from Nebraska and Louisiana. To do this, we applied a standard metric, a risk ratio, to Louisiana and Nebraska's state data. To reduce the risk of inappropriately identifying a particular racial or ethnic group for receiving special education services, different methodologies for assessing risk can be used in calculating disproportionality. As part of our review, we chose to assess the risk of racial and ethnic student groups being placed in special education using a general risk ratio analysis applied to data from Education's Common Core of Data. We conducted these analyses on school year 2010-11 state level data to determine the rate of racial and ethnic groups' identification for special education, and for each disability category. According to the Department of Education, this risk ratio method of calculation is used to answer the question: "What is a specific racial/ethnic group's risk of receiving special education and related services for a particular disability compared to the risk for all other children with that disability?" Using this method, we calculated a risk ratio value, which we then compared to a "cut point" number which is determined by the state. The cut point number indicates how much more likely students of a specific race or ethnicity have to be overrepresented in special education in order for districts in a state to be considered as having significant disproportionality. The

¹ We randomly selected four states from those that identified some districts as significantly disproportionate (Iowa, Connecticut, South Carolina, and Wisconsin); and four states from those that did not identify any districts as significantly disproportionate (Alaska, Nebraska, Pennsylvania, and West Virginia.)

calculated risk ratio value has to be greater than the cut point value for a specific racial/ethnic group's risk to be considered significantly disproportionate. States can vary in the cut point number they choose to use and, in our analyses, we examined the risk ratio values we calculated in relation to the cut points used by Nebraska and Louisiana.

Describing the Types of Services Provided

To identify the types of early intervening services districts provided, we reviewed Education's IDEA National Assessment Implementation Study, which included national data on the types of early intervening services districts provided during the 2008-09 school year.² To gain further insight into how these services were delivered at the school and district level, we conducted site visits in four of our 16 selected states—California, Florida, Maryland, and Texas. In each state, we interviewed officials from the state department of education and two school districts we visited. In three states, we also visited elementary schools (see table 5.) We selected these states based on geography, the percentage of districts required to implement the program, and the percentage of districts that implemented the program voluntarily. Within these states, we selected the districts based on location, whether they were required to or voluntarily provided services, the amount they received in IDEA, Part B funding, poverty levels, percentage of students receiving special education services, and size. The information provided from these four site visits is not generalizable across all states and school districts.

² M.C. Bradley et al., *IDEA National Assessment Implementation Study* (NCEE 2011-4027) (Washington, D.C.: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U. S. Department of Education, 2011). In this study, researchers surveyed a nationally representative sample of 1,200 school districts.

Table 5: Early Intervening Services Provided in the Districts We Visited

District	Student enrollment (School Year 2010-11)	Required or Voluntarily Providing Services	Amount reserved and percent of IDEA, Part B allocation	Number of children served	Schools Visited
Capistrano Unified School District, CA	53,192	Required in SY 2009-10 and SY 2010-11	For SY 2009-10: \$ 2,830,881 (15%) For SY 2010-11: \$1,290,287 (15%)	Not reported	Palisades Elementary
Chico Unified School District, CA	13,060	Voluntarily in SY 2009-10 Not required or provided voluntarily in SY 2010-11	\$85,000 (2%)	154	Chapman and Shasta Elementary Schools
Duval County, FL	123,997	Voluntarily in SY 2009-10 Not required or provided voluntarily in SY 2010-11	\$2,117,879 (3%)	1,304	Jacksonville Heights Elementary
Jefferson County, FL	1,104	Required in SY 2009-10 and SY 2010-11	For SY 2009-10: \$124,625 (15%) For SY 2010-11: \$72,814 (15%)	For 2009-10: 84 For 2010-11: 142	Jefferson County ESE Combination School
Baltimore County Public Schools, MD	104,160	Required in SY 2009-10 Not required or provided voluntarily in SY 2010-11	\$7,402,321 (15%)	4,105	No schools visited
Prince George's County Public Schools, MD	126,671	Not required or provided voluntarily in SY 2009-10 Required in SY 2010-11	\$3,859,783 (15%)	1,491	No schools visited
Austin Independent School District, TX	85,697	Voluntarily in SY 2009-10 Not required or provided voluntarily in SY 2010-11	\$2,596,202 (8%)	604	Andrews Elementary School
Liberty Independent School District, TX	2,148	Required in SY 2009-10 Not required or provide voluntarily in SY 2010-11	\$138,404 (15%)	103	San Jacinto Elementary School

Sources: Education's IDEA data and Common Core of Data.

Note: SY = School Year

Identifying How Education and States Oversee Early Intervening Services

To determine how Education and states oversee the provision of early intervening services, we interviewed Education officials from the Office of Special Education Programs (OSEP) and Office for Civil Rights. We interviewed staff from Education's contractor for its Data Accountability

Center³ that at the time of our review was responsible for providing technical assistance to states in developing the definitions of significant disproportionality, disproportionate representation, and significant discrepancy. In addition, we interviewed members of Education's Disproportionality Priority Team, created under the umbrella of Education's Regional Resource Centers. This entity was established to help states address disproportionality in special education and is comprised of staff from OSEP, the Regional Resource Centers, and the Data Accountability Center. We reviewed relevant federal laws and regulations and Education's monitoring policies and protocols. For the 16 states included in our review, we obtained and reviewed Education's findings from their most recent monitoring visits, all of which were conducted between 2008 and 2011. We interviewed officials in the four states we visited about the states' monitoring activities, as well as their perspectives of Education's monitoring. We also interviewed a few experts in the field of racial disparities in special education, and staff at relevant organizations, including the Council for Exceptional Children and the National Association of State Directors of Special Education.

We conducted this performance audit from January 2012 to February 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

³ The Data Accountability Center was funded by Education to review IDEA data collection efforts and provide technical assistance to improve state capacity to meet data requirements.

Appendix II: Data on the Number of Children Served and Number and Percentage of Districts Providing Services by State (School Years 2009-10 and 2010-11)

Table 6: Number of Children Receiving Early Intervening Services by State (School Years 2009-10 and 2010-11)

State	Total number of children receiving services (SY 2009-10)	Total number of children receiving services (SY 2010-11)
Alabama	1,055	2,880
Alaska	9,485	11,992
Arizona	45,221	32,779
Arkansas	5,654	5,051
California	10,892	32,633
Colorado	6,442	4,621
Connecticut	11,534	4,580
Delaware	19,676	22,573
District of Columbia	9	Not reported
Florida	67,292	75,776
Georgia	6,691	3,328
Hawaii	300	0
Idaho	3,060	406
Illinois	41,770	114,399
Indiana	14,956	21,298
Iowa	1,909	1,903
Kansas	73	53
Kentucky	902	2,658
Louisiana	82,048	79,953
Maine	0	0
Maryland	20,475	1,491
Massachusetts	12,166	214
Michigan	15,851	16,792
Minnesota	2,215	2,993
Mississippi	45,637	36,660
Missouri	36,360	49,010
Montana	427	0
Nebraska	2,441	2,019
Nevada	65,577	72,239
New Hampshire	1,019	656
New Jersey	8,641	9,099
New Mexico	4,053	8,452
New York	101,221	142,642

Appendix II: Data on the Number of Children Served and Number and Percentage of Districts Providing Services by State (School Years 2009-10 and 2010-11)

State	Total number of children receiving services (SY 2009-10)	Total number of children receiving services (SY 2010-11)
North Carolina	43,128	47,780
North Dakota	3,780	1,813
Ohio	37,647	45,340
Oklahoma	27,565	29,641
Oregon	18,278	17,066
Pennsylvania	31,642	53,035
Rhode Island	7,385	8,674
South Carolina	50,576	30,858
South Dakota	759	1,083
Tennessee	32,379	6,312
Texas	229,404	200,065
Utah	12,240	7,242
Vermont	2,960	4,426
Virginia	11,294	10,738
Washington	10,345	13,417
West Virginia	240	138
Wisconsin	14,587	12,762
Wyoming	5,427	5,247
Total 50 states and D.C.	1,184,688	1,254,787

Source: GAO analysis of Education's IDEA Table 8 data file as of January 24, 2012 for SY2009-10 and August 13, 2012 for SY2010-2011.

Note: SY = School Year

Appendix II: Data on the Number of Children Served and Number and Percentage of Districts Providing Services by State (School Years 2009-10 and 2010-11)

Table 7: Number and Percentage of Districts Providing Early Intervening Services in the 2009-10 and 2010-11 School Years.

State	Total number of districts (2009-10)	Number of districts required to provide services (2009-10)	Percentage of districts required to provide services (2009-10)	Number of districts voluntarily providing services (2009-10)	Percentage of districts voluntarily providing services (2009-10)	Total number of districts (2010-11)	Number of districts required to provide services (2010-11)	Percentage of districts required to provide services (2010-11)	Number of districts voluntarily providing services (2010-11)	Percentage of districts voluntarily providing services (2010-11)
Alabama	132	1	0.76%	3	2.27%	132	12	9.09%	4	3.03%
Alaska	54	0	0.00%	1	1.85%	54	1	1.85%	2	3.70%
Arizona	559	0	0.00%	62	11.09%	580	2	0.34%	37	6.38%
Arkansas	267	25	9.36%	53	19.85%	268	13	4.85%	35	13.06%
California	980	17	1.73%	7	0.71%	1,002	15	1.50%	5	0.50%
Colorado	61	0	0.00%	4	6.56%	62	0	0.00%	0	0.00%
Connecticut	169	3	1.78%	45	26.63%	169	0	0.00%	14	8.28%
Delaware	35	15	42.86%	0	0.00%	36	9	25.00%	0	0.00%
District of Columbia	46	5	10.87%	1	2.17%	43	1	2.33%	0	0.00%
Florida	72	13	18.06%	25	34.72%	73	15	20.55%	10	13.70%
Georgia	188	8	4.26%	9	4.79%	196	7	3.57%	7	3.57%
Hawaii	1	0	0.00%	1	100.00%	1	0	0.00%	0	0.00%
Idaho	127	0	0.00%	8	6.30%	131	0	0.00%	5	3.82%
Illinois	871	6	0.69%	96	11.02%	871	7	0.80%	203	23.31%
Indiana	355	7	1.97%	17	4.79%	354	7	1.98%	1	0.28%
Iowa	376	7	1.86%	6	1.60%	376	7	1.86%	8	2.13%
Kansas	78	0	0.00%	1	1.28%	76	0	0.00%	1	1.32%
Kentucky	176	4	2.27%	1	0.57%	176	7	3.98%	0	0.00%
Louisiana	111	86	77.48%	17	15.32%	142	73	51.41%	48	33.80%
Maine	315	0	0.00%	0	0.00%	290	0	0.00%	0	0.00%
Maryland	25	8	32.00%	1	4.00%	25	1	4.00%	1	4.00%
Massachusetts	392	0	0.00%	23	5.87%	393	0	0.00%	5	1.27%
Michigan	717	11	1.53%	24	3.35%	731	29	3.97%	17	2.33%
Minnesota	251	0	0.00%	88	35.06%	256	0	0.00%	105	41.02%
Mississippi	151	35	23.18%	26	17.22%	151	28	18.54%	72	47.68%
Missouri	537	0	0.00%	8	1.49%	542	0	0.00%	11	2.03%
Montana	428	0	0.00%	0	0.00%	428	0	0.00%	0	0.00%
Nebraska	253	0	0.00%	14	5.53%	253	0	0.00%	10	3.95%
Nevada	17	0	0.00%	2	11.76%	17	0	0.00%	1	5.88%
New Hampshire	175	0	0.00%	16	9.14%	176	0	0.00%	7	3.98%

Appendix II: Data on the Number of Children Served and Number and Percentage of Districts Providing Services by State (School Years 2009-10 and 2010-11)

State	Total number of districts (2009-10)	Number of districts required to provide services (2009-10)	Percentage of districts required to provide services (2009-10)	Number of districts voluntarily providing services (2009-10)	Percentage of districts voluntarily providing services (2009-10)	Total number of districts (2010-11)	Number of districts required to provide services (2010-11)	Percentage of districts required to provide services (2010-11)	Number of districts voluntarily providing services (2010-11)	Percentage of districts voluntarily providing services (2010-11)
New Jersey	643	19	2.95%	12	1.87%	649	15	2.31%	11	1.69%
New Mexico	108	0	0.00%	13	12.04%	127	6	4.72%	13	10.24%
New York	701	63	8.99%	74	10.56%	701	40	5.71%	44	6.28%
North Carolina	213	1	0.47%	38	17.84%	217	2	0.92%	27	12.44%
North Dakota	32	0	0.00%	14	43.75%	32	0	0.00%	12	37.50%
Ohio	1,009	0	0.00%	116	11.50%	934	2	0.21%	96	10.28%
Oklahoma	532	21	3.95%	11	2.07%	529	2	0.38%	21	3.97%
Oregon	201	3	1.49%	18	8.96%	201	3	1.49%	19	9.45%
Pennsylvania	615	0	0.00%	26	4.23%	632	0	0.00%	16	2.53%
Rhode Island	51	26	50.98%	5	9.80%	53	24	45.28%	7	13.21%
South Carolina	85	3	3.53%	50	58.82%	86	4	4.65%	34	39.53%
South Dakota	159	0	0.00%	14	8.81%	156	0	0.00%	14	8.97%
Tennessee	139	0	0.00%	20	14.39%	139	0	0.00%	15	10.79%
Texas	1,259	5	0.40%	369	29.31%	1,253	12	0.96%	172	13.73%
Utah	114	2	1.75%	18	15.79%	117	1	0.85%	20	17.09%
Vermont	59	0	0.00%	17	28.81%	60	0	0.00%	16	26.67%
Virginia	132	5	3.79%	12	9.09%	132	6	4.55%	12	9.09%
Washington	295	0	0.00%	25	8.47%	295	0	0.00%	16	5.42%
West Virginia	57	0	0.00%	2	3.51%	57	0	0.00%	0	0.00%
Wisconsin	446	2	0.45%	72	16.14%	448	5	1.12%	67	14.96%
Wyoming	49	4	8.16%	23	46.94%	49	0	0.00%	24	48.98%

Source: GAO analysis of Education's IDEA Table 8 data file as of January 24, 2012 for SY2009-10 and August 13, 2012 for SY2010-2011.

Appendix II: Data on the Number of Children Served and Number and Percentage of Districts Providing Services by State (School Years 2009-10 and 2010-11)

Table 8: Student Enrollment and Number and Percentage of Students in Special Education by State (School Year 2010-11)

State	Student enrollment	Number of students in Special Education^a	Percentage of students in Special Education^a
AK	132,104	18,048	14
AL	755,552	81,216	11
AR	482,114	64,883	13
AZ	1,071,751	125,806	12
CA	6,289,578	662,508	11
CO	843,316	84,710	10
CT	560,546	68,130	12
DC	71,284	11,947	17
DE	129,403	18,608	14
FL	2,643,347	366,824	14
GA	1,677,067	177,536	11
HI	179,601	19,716	11
IA	495,775	68,498	14
ID	275,859	27,365	10
IL	2,091,654	303,092	14
IN	1,047,232	165,802	16
KS	483,701	66,851	14
KY	673,128	102,370	15
LA	696,558	82,934	12
MA	955,563	167,323	18
MD	852,211	102,818	12
ME	189,077	29,502	16
MI	1,587,067	217,213	14
MN	838,037	122,850	15
MO	918,710	127,148	14
MS	490,526	63,786	13
MT	141,693	16,760	12
NC	1,490,605	184,704	12
ND	96,323	13,097	14
NE	298,500	44,299	15
NH	194,711	29,778	15
NJ	1,402,548	225,471	16
NM	338,122	46,612	14
NV	437,149	48,078	11

Appendix II: Data on the Number of Children Served and Number and Percentage of Districts Providing Services by State (School Years 2009-10 and 2010-11)

State	Student enrollment	Number of students in Special Education^a	Percentage of students in Special Education^a
NY	2,734,955	452,551	17
OH	1,754,191	259,448	15
OK	659,911	97,247	15
OR	570,720	80,283	14
PA	1,793,284	295,077	16%
RI	143,793	25,332	18%
SC	725,838	100,262	14%
SD	126,128	18,026	14%
TN	987,422	119,004	12%
TX	4,935,715	441,987	9%
UT	585,552	70,232	12%
VA	1,251,440	162,338	13%
VT	96,858	13,562	14%
WA	1,043,788	127,909	12%
WI	872,286	124,721	14%
WV	282,879	44,924	16%
WY	89,009	15,231	17%

Source: GAO analysis of Education's Common Core of Data as of August 20, 2012.

^aStudents with Individualized Education Programs.

Appendix III: Criteria and Methodologies for Calculating Significant Disproportionality in 16 Selected States

State	Category of overrepresentation	Method of calculation	Minimum number in group required for performing the calculation (N size)	Threshold value for determination	Years threshold must be exceeded for determination
Alaska	Identification ^a	Risk Ratio	10 students with IEPs in the racial/ethnic group of interest AND in the comparison group	3.5 or more	3 consecutive years
	Placement	Risk Ratio	10 students with IEPs in the racial/ethnic group of interest AND the comparison group	3.5 or more	3 consecutive years
	Discipline	Risk Ratio	at least 10 children with IEPs enrolled in the school district	3.5 or more	3 consecutive years
California	Identification ^a	Alternate Risk Ratio and E Formula	20 plus	Ratio of 4.0 or more and E formula value exceeds 3 standard errors	Current Year & 2 out of 3 consecutive years
	Placement	Alternate Risk Ratio and E Formula	20 plus	Ratio of 4.0 or more and E formula value exceeds 3 standard errors	Current Year & 2 out of 3 consecutive years
	Discipline	State Rate of Suspension Plus 2%	20 plus	State Rate of Suspension Plus 2%	Current Year & 2 out of 3 consecutive years
Connecticut	Identification ^a	Relative Risk Index	no minimum	4.0 or more	2 consecutive years
	Placement	Relative Risk Index	no minimum	4.0 or more	2 consecutive years
	Discipline	Relative Risk Index	no minimum	4.0 or more	2 consecutive years
Delaware	Identification ^a	Relative Risk Ratio (beginning in school year 2011-12)	10	SY 2011-12 – 1.4 (decreasing each year based on stakeholder input)	2 consecutive years
	Placement	Relative Difference Method	10	Relative difference value must be greater than .30	2 consecutive years
	Discipline	Rate Ratio	10	SY 09- 10 – 1.32; SY 10-11 – 1.3 (decreasing each year based on stakeholder input)	2 consecutive years
Florida	Identification ^a	Risk Ratio	30 in group being examined	3.50 or more	Annually
	Placement	Risk Ratio	30 in group being examined	3.50 or more	Annually
	Discipline	Risk Ratio	30 incidents of removal in group being examined	3.50 or more	Annually

**Appendix III: Criteria and Methodologies for
Calculating Significant Disproportionality in 16
Selected States**

State	Category of overrepresentation	Method of calculation	Minimum number in group required for performing the calculation (N size)	Threshold value for determination	Years threshold must be exceeded for determination
Iowa	Identification ^a	Weighted Risk Ratio	10	2.0 or more	3 consecutive years
	Placement	Weighted Risk Ratio	10	2.5 or more	3 consecutive years
	Discipline	Rate of Suspension	10 with 3 or more students in the group being examined suspended/expelled for more than 10 days in the school year	2% above state average	3 consecutive years
Louisiana	Identification ^a	Risk Ratio	10	2.0 or more	Annually
	Placement	Risk Ratio	10	2.0 or more	Annually
	Discipline	Comparison of Percents	no minimum	Percent must be higher than state average multiplied by 1.5	Annually
Maryland	Identification ^a	Weighted Risk Ratio	30	2.0 or more in 4 of 6 disability categories	Annually
	Placement	Weighted Risk Ratio	30	2.0 or more	Annually
	Discipline	Comparative Discrepancy Ratio	30	2.0 or more	Annually
Mississippi	Identification ^a	Alternate Risk Ratio	40 in group being examined	4.0 or more	Annually
	Placement	Comparison of Percents	25 in group being examined	Percent must be higher than 2.0 times the state rate for students with disabilities in that placement	Annually
	Discipline	Comparison of Percents	20 students with disabilities suspended or expelled for more than 10 days in the school year	Percent must be more than 5 percentage points higher than the rate for all students without disabilities in the same school district.	Annually
Nebraska	Identification ^a	Weighted Risk Ratio	30	3.0 or more	2 consecutive years
	Placement	Weighted Risk Ratio	30	3.0 or more	2 consecutive years

**Appendix III: Criteria and Methodologies for
Calculating Significant Disproportionality in 16
Selected States**

State	Category of overrepresentation	Method of calculation	Minimum number in group required for performing the calculation (N size)	Threshold value for determination	Years threshold must be exceeded for determination
	Discipline	Comparison of Percents	30 with 6 or more students in the group being examined suspended/expelled for more than 10 days in the school year	Percent must be higher than 3.0 times the state rate for students with disabilities and 5.0 times state rate for race/ethnic groups	Annually
Pennsylvania	Identification ^a	Weighted Risk Ratio	40	Greater than 4.0	3 consecutive years
	Placement	Weighted Risk Ratio	40	Greater than 4.0	3 consecutive years
	Discipline	Weighted Risk Ratio	40	Greater than 4.0	3 consecutive years
Rhode Island	Identification ^a	Risk Ratio	10 in group being examined	Risk level for group being examined 1% or higher than the national risk for all students and a risk ratio at least 2.5 times the combined risk for all students in the nation	2 consecutive years
	Placement	Alternate Risk Ratio or Alternate Total Removals Per Child (TRPC) Ratio plus E Formula	10 in group being examined	Ratio of 2.5 or more and E formula value exceeds 3 standard errors	2 consecutive years
	Discipline	Risk Ratio	10 in group being examined	Ratio of 2.5 or more and E formula value exceeds 3 standard errors	Annually
South Carolina	Identification ^a	Weighted Risk Ratio	25	4.0 or more	Annually
	Placement	Weighted Risk Ratio	25	4.0 or more	Annually
	Discipline	Risk Ratio	25	4.0 or more in 2 or more of the disciplinary categories examined	Annually

**Appendix III: Criteria and Methodologies for
Calculating Significant Disproportionality in 16
Selected States**

State	Category of overrepresentation	Method of calculation	Minimum number in group required for performing the calculation (N size)	Threshold value for determination	Years threshold must be exceeded for determination
Texas	Identification ^a	Risk	Only school districts with at least 30 students receiving special education services are included in the computation of critical values and determination of disproportionality. Districts smaller than 100 students overall and districts with more than 40 percent of students receiving special education services are excluded	Calculated value must exceed critical value set by state. Critical value set at 99th percentile	2 consecutive years
	Placement	Risk	Only school districts with at least 30 students receiving special education services are included in the computation of critical values and determination of disproportionality. Districts smaller than 100 students overall and districts with more than 40 percent of students receiving special education services are excluded	Calculated value must exceed critical value set by state. Critical value set at 95th percentile	2 consecutive years
	Discipline	Risk	Only school districts with at least 30 students receiving special education services are included in the computation of critical values and determination of disproportionality. Districts smaller than 100 students overall and districts with more than 40 percent of students receiving special education services are excluded	Calculated value must exceed critical value set by state. Critical value set at 95th percentile	2 consecutive years
West Virginia	Identification ^a	Risk Ratio	20	3.0 or more	2 consecutive years
	Placement	Risk Ratio	20	3.0 or more	2 consecutive years
	Discipline	Risk Ratio	20	3.0 or more	2 consecutive years
Wisconsin	Identification ^a	Weighted Risk Ratio	10 in group being examined and minimum total enrollment in the school district of 100 students in any given racial group being examined	4.0 or more and risk 1.0% or greater then state level risk for white students	3 consecutive years

**Appendix III: Criteria and Methodologies for
Calculating Significant Disproportionality in 16
Selected States**

State	Category of overrepresentation	Method of calculation	Minimum number in group required for performing the calculation (N size)	Threshold value for determination	Years threshold must be exceeded for determination
	Placement	Weighted Risk Ratio	10 in group being examined and minimum total enrollment in the school district of 40 students in any given racial group being examined	4.0 or more and risk 1.0% or greater than state level risk for white students	3 consecutive years
	Discipline	Weighted Risk Ratio	10 in group being examined and minimum total enrollment in the school district of 40 students in any given racial group being examined	4.0 or more and risk 1.0% or greater than state level risk for white students	3 consecutive years

Source: GAO analysis of information from state officials on selected states definitions of significant disproportionality.

^aThis includes identification and Identification in a specific disability category.

Appendix IV: Overlap between IDEA Indicators and Significant Disproportionality

IDEA Indicators	Significant Disproportionality
<p><i>States required to determine annually:</i></p>	<p><i>States must determine annually whether “significant disproportionality” based on race or ethnicity is occurring in the State and LEAs of the State with respect to:</i></p>
<p><i>“Disproportionate Representation” in Identification (Indicator 9):</i> Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.</p>	<p>the identification of children as children with disabilities;</p>
<p><i>“Disproportionate Representation” in Category (Indicator 10):</i> Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.</p>	<p>the identification of children with a particular disability;</p>
	<p>the placement of children with disabilities in particular educational settings; and</p>
<p><i>“Significant Discrepancy” in Discipline (Indicator 4b):</i> Percent of districts that have a significant discrepancy, by race or ethnicity, in the rates of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and policies, procedures or practices that contribute to the significant discrepancy.</p>	<p>the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.</p>

Source: GAO analysis of Education’s guidance for early intervening services and IDEA indicators.

Appendix V: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

February 6, 2013

Mr. George A. Scott
Director
Education, Workforce, and Income Security Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Scott:

Thank you for the opportunity to comment on the U.S. Government Accountability Office (GAO) draft report, "INDIVIDUALS WITH DISABILITIES EDUCATION ACT—Standards Needed to Improve Identification of Racial and Ethnic Overrepresentation in Special Education" (GAO-13-137). The Department of Education (Department) appreciates the work that went into this study and the collaborative manner in which GAO staff worked with staff from the Department. Our response to your specific recommendation to the Department follows, and our technical comments on the draft report are enclosed.

While the Department shares GAO's view that understanding the extent to which children of various racial and ethnic groups are identified as needing special education, how they are placed and disciplined, and the effect of State definitions of "significant disproportionality" on decisions concerning these children merit additional attention, we respectfully request that GAO modify its recommendation as follows:

To better understand the extent of racial and ethnic overrepresentation in special education and promote consistency in how states determine the districts required to provide early intervening services, we recommend that the Secretary of Education collect more information on this issue and make it available to the public as a matter of transparency, and provide additional guidance on this issue that may include developing a standard approach for defining significant disproportionality to be used by all states. The guidance developed should allow flexibility to account for state differences and specify when exceptions can be made.

This approach allows for flexibility to determine the most appropriate next steps while building on the research in this area and the significant steps the Department has already taken to further our work on these matters. For example, the Department has provided guidance to states on the use of various methods to calculate disproportionality and the pros and cons of each methodology. The Department also convened a group of experts to provide input on strategies for states to use in identifying and addressing inappropriate disproportionality. In addition, the Office of Special Education and Rehabilitative Services (OSERS) is working with the Office for Civil Rights (OCR) on a number of issues, including the disproportionality of racial and ethnic

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-2500
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Page 2 – Mr. Scott

groups in special education. Specifically, OCR is sharing its complaint investigations and compliance reviews with OSERS to inform OSERS' work with states.

For the upcoming reporting year (July 1, 2013-June 30, 2014), the Department will collect, through the Department's *EDFacts* data collection, states' definitions of significant disproportionality. In addition, the Department will collect information by category(ies) (as set out in the Individuals with Disabilities Education Act statute) in which a local educational agency (LEA) was identified with significant disproportionality (*i.e.*, identification as a child with a disability, identification by disability category, placement, and disciplinary actions). The *EDFacts* data collection will provide greater transparency and facilitate understanding of state data on proportionality and significant disproportionality, as well as assist the Department in holding states accountable for meeting the requirements regarding significant disproportionality and early intervening services by highlighting states where further examination may be warranted.

Additionally, the Department is considering other options within its authority to gather information and address concerns that states may not be identifying significant disproportionality or may be "masking" disproportionality through their approaches for defining significant disproportionality, including the value or threshold that, when exceeded, indicates significant disproportionality and the number of years that value or threshold must be exceeded. Options being considered include: (1) using desk audits to monitor states that use high risk ratios and are not identifying any LEAs with significant disproportionality; and (2) providing further guidance to states on issues related to the identification of significant disproportionality, which might include developing a standard approach for defining significant disproportionality, with appropriate exceptions.

Thank you again for the opportunity to comment on the draft report. The Department remains committed to addressing concerns regarding the inappropriate overrepresentation of minority students in special education and will continue to work with states on this important issue. Please let us know if you have any questions or would like to discuss our comments. We look forward to receiving the final report.

Sincerely



Michael Yudin
Acting Assistant Secretary

Enclosure

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

George Scott, Director, (202) 512-7215 or scottg@gao.gov

Staff Acknowledgments

In addition to the individual named above, Sherri Doughty, Assistant Director; Karen Febey, Sonya Harmeyer Marsden, Cady Panetta, and Cathy Roark made key contributions to this report. Also contributing were Tom Beall, James Bennett, Deborah Bland, Holly Dye, Ying Long, Luann Moy, James Rebbe, and Kathleen van Gelder.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (<http://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to <http://www.gao.gov> and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#). Subscribe to our [RSS Feeds](#) or [E-mail Updates](#). Listen to our [Podcasts](#). Visit GAO on the web at www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: <http://www.gao.gov/fraudnet/fraudnet.htm>

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Katherine Siggerud, Managing Director, siggerudk@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800 U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, DC 20548

