



DISTRICT OF COLUMBIA

**Significant Discrepancy Review Guide
FFY 2016 (based on SY2015-16 data)**

Office of the State Superintendent of Education
Division of Elementary, Secondary, and Specialized Education
Accountability, Performance, and Support Cluster

Dear LEA Team,

This guide includes instructions for completing the FFY 2016 Indicator 4b Significant Discrepancy Self-Study, answers to frequently asked questions regarding the significant discrepancy calculation, and resource and background information for those interested in learning more about Indicator 4b.

The following two steps must be completed and submitted to OSSE no later than **Thursday, June 22, 2017**:

STEP ONE: CONDUCT STUDENT FILE REVIEW

The student file review tool (see below) is in the form of a checklist and should be used to review individual student files in SEDS, the District of Columbia’s Special Education Data System.

When reviewing the student(s) file(s), place an “X” in either the “Yes”, “No”, or “N/A” column of each item on the Student File Review Checklist. Once all checklists have been completed, tabulate the total number for each column and report the count in the corresponding row of the tally Sheet below.

Which student files should be reviewed? The LEA is required to review files for all students with disabilities who were expelled and/or suspended for ten or more cumulative school days in FFY 2015 (July 1, 2015 through June 30, 2016). However, LEAs who expelled and/or suspended greater than 25 students with disabilities for ten or more cumulative days in FFY 2015 are only required to review files for 25 students.

Note: If a student is no longer enrolled in your LEA, but is still a student in the District of Columbia (transferred to another LEA within the District), OSSE will complete the student file review.

STEP TWO: SUBMIT LEA POLICIES AND PROCEDURES FOR REVIEW

Submit the following materials to your designated State Contact by email **no later than Thursday, June 22, 2017**:

- LEA’s special education discipline policies and procedures (in particular those relating to positive behavioral interventions and supports, procedural safeguards, and IEP development and implementation)
- The Student File Review Checklists and Tally Sheet from the Student File Review activity detailed above.

FAQs

How did our LEA come up in the data and what does it mean?

- **OSSE compares suspension and expulsion rates.**
OSSE uses suspension and expulsion data submitted by the LEA to OSSE to determine whether an LEA has significant discrepancy. The FFY 2016 data review is based on FFY 2015 data (SY 2015-16). OSSE compares the rate of suspension and expulsion for more than ten days of all

general education students to the rate of suspension and expulsion for more than ten days of students with disabilities within each racial or ethnic group the LEA serves.

- **The State has a new definition of significant discrepancy**
 In prior years, OSSE had a discrepancy margin of zero, meaning any LEA with an excess in the rate of suspension or expulsion for special education students within a particular subgroup would be identified as having a significant discrepancy. Starting with the FFY 2015 review, OSSE began applying a two-part definition for significant discrepancy and only identifying LEAs that meet the following criteria:

 - 1) Any excess in the rate of long-term suspension or expulsion between students with disabilities and students without disabilities; and,
 - 2) A rate ratio of 1.5 or higher, meaning students from a particular racial or ethnic group are suspended or expelled at a rate that is at least one and a half times greater than the rate for all nondisabled students.

- **To undergo analysis for Indicator 4b in a particular race category, an LEA must suspend/expel at least 3 students with disabilities from that racial or ethnic group.**
 In APR reporting, states are required to identify the number of LEAs with significant discrepancy; and of those, the number of LEAs that have policies, procedures, or practices that contribute to the significant discrepancy and do not comply with the regulatory requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports and procedural safeguards.

- **Data showing a significant discrepancy in and of itself does not lead to a finding of noncompliance.**
 Only if the LEA has policies, procedures, or practices that are contributing to the significant discrepancy and not compliant with the regulatory requirements related to the development and implementation of IEPs, the use of positive behavioral supports and interventions, and/or procedural safeguards is noncompliance cited and the LEA required to carry out corrective actions.

BACKGROUND INFORMATION ON SIGNIFICANT DISCREPANCY

The Individuals with Disabilities Education Act (IDEA) requires state education agencies (SEAs) to measure the performance of local educational agencies (LEAs) using quantifiable indicators in priority monitoring areas and to report annually on its findings to the Office of Special Education Programs (OSEP), the federal agency responsible for ensuring the protection of the educational rights of infants, toddlers, children and youth with disabilities. This review focuses on Indicator 4b.

Indicator 4 – Percent of districts that have (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures, or practices that contribute to the significant discrepancy and do not comply with regulatory requirements relating to the development and implementation of IEPs, the use of positive behavioral supports and interventions, and procedural safeguards.

LEAs identified by OSSE as having a significant discrepancy are subject to the review. Failure to complete the review is cited as noncompliance with the requirements of 34 CFR §300.601.

In the District of Columbia, a 'significant discrepancy' is defined as the suspension and expulsion of any child with a disability for 10 or more cumulative days in a school year by an LEA within a qualifying subgroup at a rate that is 1.5 times higher than the equivalent rate for non-disabled peers.

If review of an LEA's data shows that there is a significant discrepancy, IDEA requires an examination of the policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards in order to determine whether the LEA's policies are compliant and whether the LEA has policies, procedures or practices that are contributing to the significant discrepancy.

If it is determined that the LEA has policies, procedures or practices that are contributing to the significant discrepancy and do not comply with the requirements relating to the development and implementation of IEPs, procedural safeguards, and the use of positive behavioral interventions and supports, the LEA will be cited for noncompliance with the requirements of 34 CFR §300.170 (b) and required to undertake a root cause analysis and to revise its policies and procedures.

ADDITIONAL RESOURCES

New York Times Articles

"Suspensions Are Higher for Disabled Students, Federal Data Indicate"

In August 2012, the New York Times published an article regarding the recent findings from the US Department of Education that minority students with disabilities are suspended at a much higher rate than other students. This article, "*Suspensions Are Higher for Disabled Students, Federal Data Indicate*," may be beneficial for your reference. It is available at:

<http://www.nytimes.com/2012/08/08/education/analysis-examines-disabled-students-suspensions.html>

"Zero Tolerance Reconsidered"

In January 2014, the New York Times published an article regarding studies that show that suspension and expulsion do not improve school climate, but they do increase the risk that children will experience long-term social and academic problems. This article, "*Zero Tolerance, Reconsidered*," may be beneficial for your reference. It is available at: <http://www.nytimes.com/2014/01/06/opinion/zero-tolerance-reconsidered.html? r=0>

Student File Review

Significant Discrepancy Student File Review Checklist								
LEA: School/Campus:		Date of Review:						
Student Name:		Birthdate:		Race/Ethnicity:				
Student ID:		Student's Disability Area(s):						
Reviewers Name:		Reviewers Title:						
IDEA Regulation		Response Criteria			Y	N	N/A	Explanation
Focus Area – Procedural Safeguards								
§300.530(h)	1.1 On the date on which the decision was made to make a removal that constituted a change of placement of a child with a disability because of a violation of a code of child conduct, the LEA must notify the parents of that decision.	Yes: There is evidence in SEDS showing that a parent was notified on the date a decision is made to make a removal that constituted a change in placement. No: There is no such evidence in SEDS.						
§300.530 (h)	1.2 The LEA provided the parents with a copy of procedural safeguards on the date on which a decision was made to make a removal that constituted a change of placement.	Yes: There is evidence in SEDS showing that a parent was given a copy of procedural safeguards once a year and during discipline procedures. No: There is no such evidence in SEDS.						

	IDEA Regulation	Response Criteria	Y	N	N/A	Explanation
Focus Area – Positive Behavioral Interventions and Supports						
§300.324 (a)(2)	2.1 In the case of a child whose behavior impedes the child’s learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports and other strategies to address behavior.	<p>Yes: There is evidence in SEDS showing the use of positive behavioral interventions and supports and other strategies to address behavior including the development of a BIP.</p> <p>No: There is no such evidence in SEDS.</p>				
§300.530 (d)(1)(ii)	2.2 A child with a disability who is removed from the child’s current placement pursuant to paragraphs (c), or (g) of this section must receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.	<p>Yes: There is evidence in SEDS showing that the student who was removed from a current placement received as appropriate, a FBA, and behavioral intervention services and modifications designed to address the behavior so it does not recur.</p> <p>No: There is no such evidence in SEDS.</p>				
§300.530(f)	2.3 If the LEA, the parent, and relevant members of the child’s IEP Team make the determination that the conduct was a manifestation of the child’s disability, the IEP Team must either					
§300.530 (f)(1)(i)	A) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or	<p>Yes: There is evidence in SEDS showing that if a determination was made that the conduct of the child is a manifestation of the child’s disability that the IEP team conducted an FBA or if already conducted, implemented a BIP.</p> <p>No: There is no such evidence in SEDS.</p>				

	IDEA Regulation	Response Criteria	Y	N	N/A	Explanation
§300.530 (f)(1)(ii)	<p>B) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.</p>	<p>Yes: There is evidence in SEDS showing that if a determination was made that the conduct of the child is a manifestation of the child’s disability that the IEP team developed, reviewed, and/or modified a BIP. No: There is no such evidence in SEDS.</p>				
Focus Area – Development/Implementation of IEPs						
§300.530(e)(1)	<p>3.1 Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child’s IEP Team (as determined by the parent and the LEA) reviewed all relevant information in the student’s file, including the child’s IEP, any teacher observations, and relevant information provided by the parents to determine</p>					
	<p>A) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or</p>	<p>Yes: There is evidence in SEDS showing the LEA, parent, and relevant members of the child’s IEP team discussed, within 10 days of any decision to change the placement of a child, if the conduct was caused by the child’s disability. No: There is no such evidence in SEDS.</p>				

	IDEA Regulation	Response Criteria	Y	N	N/A	Explanation
	<p>B) If the conduct in question was the direct result of the LEA's failure to implement the IEP.</p>	<p>Yes: There is evidence in SEDS showing that the LEA, parent, and relevant members of the child's IEP team discussed, within 10 days of any decision to change the placement of a child, if the conduct was the LEA's failure to implement the IEP. No: There is no such evidence in SEDS.</p>				
<p>§300.530(d)(1)(i)</p>	<p>3.6 A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must continue to receive educational services, as provided in §300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.</p>	<p>Yes: There is evidence in SEDS showing that the child who has been removed from their current placement continued to receive educational services. No: There is no such evidence in SEDS.</p>				

Significant Discrepancy Student File Review Tally Sheet					
LEA: School/Campus:		Date of Review:			
IDEA Regulation		Totals			
		Y	N	N/A	
Focus Area – Procedural Safeguards					
§300.530(h)	1.1 On the date on which the decision was made to make a removal that constituted a change of placement of a child with a disability because of a violation of a code of child conduct, the LEA must notify the parents of that decision.				
§300.530 (h)	1.2 The LEA provided the parents with a copy of procedural safeguards on the date on which a decision was made to make a removal that constituted a change of placement.				
Focus Area – Positive Behavioral Interventions and Supports					
§300.324 (a)(2)	2.1 In the case of a child whose behavior impedes the child’s learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports and other strategies to address behavior.				
§300.530 (d)(1)(ii)	2.2 A child with a disability who is removed from the child’s current placement pursuant to paragraphs (c), or (g) of this section must receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.				
§300.530(f)	2.3 If the LEA, the parent, and relevant members of the child’s IEP Team make the determination that the conduct was a manifestation of the child’s disability, the IEP Team must either				

	IDEA Regulation	Y	N	N/A	
§300.530 (f)(1)(i)	A) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or				
§300.530 (f)(1)(ii)	B) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.				
Focus Area – Development/Implementation of IEPs					
§300.530(e) (1)	3.1 Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child’s IEP Team (as determined by the parent and the LEA) reviewed all relevant information in the student’s file, including the child’s IEP, any teacher observations, and relevant information provided by the parents to determine				
	<p>A) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or</p> <p>B) If the conduct in question was the direct result of the LEA's failure to implement the IEP.</p>				
§300.530(d)(1)(i)	3.6 A child with a disability who is removed from the child’s current placement pursuant to paragraphs (c), or (g) of this section must continue to receive educational services, as provided in §300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.				