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Bureau of Special Education Support FY'23 Memo #31

Date: April 11, 2023

To: Superintendents of Schools
Administrators of Special Education

From: Office of the Commissioner of Education

Division of Learner Support
Bureau of Special Education Support

RE: Indicator 4 Change in Calculation and Definition of Significant Discrepancy for FFY22

The New Hampshire Department of Education (NHED), Bureau of Special Education Support (Bureau) is writing with information for LEAs relative to the change in calculation method of Indicators 4a and 4b: Significant Discrepancy as part of the State's definition of significant discrepancy as it applies to federal Indicators 4a and 4b.

This will go into effect beginning with the analysis of the 2021-2022 discipline data for the Federal Fiscal Year 2022 (FFY22) State Performance Plan (SPP) and Annual Performance Report (APR) federal reporting.

Previously the State defined significant discrepancy as:

- An LEA that met the minimum cell and N size, with a rate of suspensions and expulsions greater than 10 days in a school year for children with IEPs that is greater than 3% of students with IEPs enrolled in the district for Indicator 4A, and by race/ethnicity for Indicator 4B. The cell size was at least 4 students with IEPs suspended or expelled for greater than 10 days during the school year for Indicator 4A, and in a racial/ethnic group for Indicator 4B and the N size was at least 11 students with IEPs in the district as of the October 1st child count for that year for Indicator 4A and in a racial/ethnic group for Indicator 4B.

The rate is calculated by dividing the number of students suspended/expelled (cell size) by the number of students with disabilities in the category (N size).

With this definition the Bureau excluded the majority of LEAs from their review each year of Indicator 4A and 4B due to the minimum cell and n size requirements.

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With the increased attention to Indicator 4 from the Office of Special Education Programs (OSEP), and in the field nationwide, the Bureau convened a stakeholder group to advise in revising the definition of significant discrepancy in NH in order to include as many LEAs as possible in the review and to change the comparison method to one determined by OSEP as an effective comparison.

Based on stakeholder input and technical assistance from a federal technical assistance center, the Bureau has updated the State's definition of significant discrepancy, effective for the 2021-2022 school year analysis, to:

- An LEA with a rate greater than 3.5 times the State's rate of suspensions and expulsions greater than 10 days in a school year for students with IEPs for Indicator 4A, and for Indicator 4B as an LEA with a rate for any racial/ethnic group that is greater than 3.5 times the State's rate for all students with IEPs with policies, procedures, or practices that contributed to the significant discrepancy.
- In order to review the maximum number of LEAs each year there will be no cell or n size requirement for Indicators 4A and 4B.

This comparison to the State's rate will allow the Bureau to identify LEAs that are suspending or expelling students with IEPs overall or in a specific racial/ethnic category at a disproportionately higher rate than the State as a whole.

While removing the cell and N size requirement will mean LEAs with few students with IEPs will be included in the review, when the Bureau analyzed previous years' data under the new definition no LEAs with fewer than 10 students with IEPs were more than 3.5 times the State's rate.

In order to provide LEAs with additional data around their own disciplinary practices, in addition to the state comparison data that all LEAs will receive, the Bureau will also include a comparison of an LEA's rate of suspension/expulsion for children with disabilities to the rate of suspensions and expulsions for children without disabilities within the LEA (4A) and a comparison of an LEA's rate of suspension/expulsion for children with disabilities in a racial/ethnic group to the rate of suspensions and expulsions for children without disabilities within the LEA (4B). This additional data will not be reported on the state's annual submission of the SPP/APR, instead it is being provided to allow LEAs to better analyze their own practices.

The Bureau will be convening stakeholders in the upcoming months to discuss the effect of changing the definition of significant discrepancy and the associated calculation on the baseline data and targets for reporting in the State Performance Plan/Annual Performance Report.

Should you have questions, or need further clarification, please contact Lexie Ferraro at Alexandra.M.Ferraro@doe.nh.gov or (603) 271-3750.

Attachment:

IDEA Part B Indicator 4 Fact Sheet – Revised April 2023

IDEA Part B Indicator Data Fact Sheets