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TO: Members of the State Board of Education

FROM: Karen B. Salmon, Ph.D.

DATE: December 5, 2017

SUBJECT: Code of Maryland Regulations (COMAR) 13A.05.02.04
State Administration
PERMISSION TO PUBLISH

PURPOSE:

Request permission to publish additions to COMAR 13A.05.02.04 *State Administration* which governs the identification of significant disproportionality under the Individuals with Disabilities Education Act (ATTACHMENT I).

REGULATION PROMULGATION PROCESS:

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, MSDE staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

BACKGROUND/HISTORICAL PERSPECTIVE:

On December 12, 2016, the U.S. Department of Education released final regulations under Part B of the Individuals with Disabilities Education Act (IDEA), aimed at promoting equity by targeting widespread disparities in the treatment of students of color with disabilities. The regulations address significant disproportionality in the identification, placement, and disciplinary removal of students with disabilities based on race or ethnicity. Such reporting under the IDEA is not new, but the regulations were revised to require that each State use a standard methodology (risk ratio) within

reasonable data parameters (34 C.F.R. § 300.646(b)) (ATTACHMENT II). The revised federal requirements become effective on July 1, 2018.¹

Each State must now define its process for identifying significant disproportionality. First, the State must complete the methodology by setting a risk ratio threshold, a minimum cell size that is no greater than 10, and a minimum n-size that is no greater than 30 (34 C.F.R. § 300.647(b)) (ATTACHMENT III). Second, the State must decide whether it will exercise one or both of the flexibility options that are available. A State is not required to identify a local education agency (LEA) until it has exceeded the risk ratio threshold for up to three consecutive years (multi-year flexibility) and/or failed to demonstrate reasonable progress in lowering the risk ratio (reasonable progress flexibility) (34 C.F.R. § 300.647(d)).

Identifying an LEA as having significant disproportionality triggers certain consequences. The LEA must review and revise its policies, practices, and procedures, if appropriate, and publicly report on the results of that process (34 C.F.R. § 300.646(c)). In addition, the LEA must reserve the maximum 15 percent of its Part B funds to provide comprehensive coordinated early intervening services (CEIS) to address factors contributing to the significant disproportionality (34 C.F.R. § 300.646(d)). This occurs if significant disproportionality is identified in any of the applicable categories of analysis (i.e. identification, placement, and disciplinary removal).

Importantly, the standards set by the State (i.e. risk ratio threshold, minimum cell size, minimum n-size, and reasonable progress) must be based on advice from stakeholders, and are subject to monitoring and enforcement for reasonableness by the Secretary of Education (34 C.F.R. § 300.647(b)). The State's definition and rationale, once incorporated into the State's policies, procedures, and regulations, are expected to be reported to the U.S. Department of Education in May 2019. What follows is an overview of the stakeholder process used over the past several months to develop a recommendation for significant disproportionality in Maryland.²

The Division of Special Education/Early Intervention Services convened two sets of stakeholders for this purpose. The first set consisted of State and local leaders, school staff, advocacy groups, and specialty organizations. The second set consisted of the Special Education State Advisory Committee (SESAC), which includes parents. The meetings were held on April 5, 2017, May 9, 2017, and July 12, 2017 (ATTACHMENT IV). There was extensive discussion in small groups as well as a review of the legal framework and current data for context. A national expert on the topic of disproportionality, Dr. Edward Fergus, participated in the stakeholder process, and will be supporting Maryland in providing ongoing technical assistance.

To illustrate the continuation of this work, attached is a federal timeline that has been modified to show State and local implementation, including key milestones (ATTACHMENT V).

¹ Although States are not required to include children ages 3-5 in the calculation of significant disproportionality in the area of identification until July 1, 2020, MSDE is planning to include this population on July 1, 2018.

² Separately from the IDEA's requirements, Maryland adopted a disproportionality regulation that applies to all students and seeks to analyze culture and climate through discipline practices at the individual school level (COMAR 13A.08.01.21). The State model has some similarities and differences with the model being presented to comply with the IDEA's requirements, largely because they serve different functions.

EXECUTIVE SUMMARY:

The recommendation is as follows:

- Risk Ratio Threshold = 2.0 (if a LEA has a risk ratio above this number, it may be identified as having significant disproportionality)
- Minimum Cell Size = 5 (this is the numerator in the calculation; if a LEA has fewer than 5 instances of the measured action, then it is excluded from analysis)
- Minimum N-Size = 20 (this is the denominator in the calculation; if a LEA has fewer than 20 students in a racial/ethnic group, then it is excluded from the analysis)
- Reasonable Progress = 0.15 for risk ratios 2.0 – 4.0 and 0.50 for risk ratios above 4.0 (this is a two-step analysis whereby a LEA is not identified unless it has exceeded the risk ratio for two consecutive years; if it has, then it still may not be identified if it has shown progress in decreasing the risk ratio by these numbers)

ACTION:

Request permission to publish the proposed additions to COMAR 13A.05.02.04 *State Administration*.

COMAR 13A.05.02.04

Title 13A State Board of Education
Subtitle 05 Special Instructional Programs
Chapter 02 Administration of Services for Students with Disabilities

.04 State Administration

A. Assurance.

(1) The Department shall ensure that all students, birth through the end of the school year in which the student turns 21 years old residing in the State, who have disabilities, regardless of the severity of the disability, and who are in need of special education and related services, are located, identified, evaluated, and provided with services consistent with:

- (a) The student's IEP;
- (b) 20 U.S.C. §§1400—1419;
- (c) 34 CFR 300;
- (d) Education Article, §§8-401—8-415, Annotated Code of Maryland; and
- (e) COMAR 13A.05.01.

(2) Students under §A(1) of this regulation include:

- (a) Students with disabilities attending private schools;
- (b) Highly mobile students;
- (c) Migrant students;
- (d) Homeless students, as defined in COMAR 13A.05.09;
- (e) Wards of the State, as defined in COMAR 13A.05.01; and
- (f) Students who are suspected of being a student with a disability under 34 CFR §300.8 and in need of special education, even though they are advancing from grade to grade in accordance with 34 CFR §300.101.

B. Oversight Responsibility. The Department shall have in effect policies and procedures to ensure that a FAPE is available to all students with disabilities residing in the State in accordance with §A of this regulation.

C. State Implementation. To receive funds under Part B of the Act, the Department shall submit information that includes the requirements of 20 U.S.C. §1411 to the United States Department of Education at the time and in the manner specified by the Secretary of the U. S. Department of Education.

D. State Performance Plan.

(1) The Department shall have a performance plan that:

(a) Evaluates the State's efforts to implement the requirements and purposes of the Act in accordance with 20 U.S.C. §1416(b) and 34 CFR §300.601; and

(b) Describes how the Department shall improve implementation.

(2) The Department shall establish measurable rigorous targets for the indicators established in accordance with 20 U.S.C. §1416(a)(3).

(3) The Department shall collect information to report annually to the Secretary of the U. S. Department of Education in accordance with 20 U.S.C. §1416(b)(2)(B), 34 CFR §300.602, and Regulation .11 of this chapter.

(4) The Department shall use the targets described in §D(2) of this regulation to analyze and report annually on the performance of each public agency in the State in accordance with 20 U.S.C. §1416(b)(2)(C) and 34 CFR §300.602.

(5) If the Department receives notice that the Secretary of the U.S. Department of Education is proposing to take or is taking an enforcement action pursuant to 34 CFR §300.604, the Department shall notify the public in the manner described in 34 CFR §300.606.

E. Access to Instructional Materials. The Department shall adopt the National Instructional Materials Standards (NIMAS) and coordinate with the National Instructional Materials Access Center (NIMAC) to provide instructional materials in specialized formats to blind students and students with print disabilities in accordance with 34 CFR §300.172 and Education Article, §8-408, Annotated Code of Maryland.

F. Significant Disproportionality.

(1) The Department shall collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in each public agency in the State in accordance with 34 CFR §300.646.

(2) In making determinations of significant disproportionality, the Department shall use:

(a) A risk ratio threshold of 2.0;

(b) A minimum cell size of 5; and

(c) A minimum n-size of 20.

(3) The Department shall determine that significant disproportionality is occurring in a public agency that has:

(a) Exceeded the risk ratio threshold for two consecutive years; and

(b) Failed to demonstrate reasonable progress under §F(4) of this regulation.

(4) Demonstrating reasonable progress means that a public agency has:

(a) Decreased its risk ratio by 0.15 and the current risk ratio is 2.0 to 4.0; or

(b) Decreased its risk ratio by 0.50 and the current risk ratio is above 4.0.

Side-By-Side Comparison

	<p style="text-align: center;">CURRENT 34 CFR 300.646 Released August 14, 2006 MARYLAND PRACTICE</p>	<p style="text-align: center;">REVISED 34 CFR 300.646 and 300.647 Released December 12, 2016 PROPOSED RECOMMENDATIONS</p>
<p>Categories of Analysis</p>	<p>Based on race (all races) and ethnicity in any of the following:</p> <ul style="list-style-type: none"> • Identification <ul style="list-style-type: none"> ○ As a student with a disability ○ With a particular disability • Placement <ul style="list-style-type: none"> ○ Inside Regular Education > 80% ○ Inside Regular Education < 40% ○ Inside separate schools/ residential facilities • Disciplinary Removals <ul style="list-style-type: none"> ○ Single incident > 10 days ○ Multiple incidents > 10 days • All suspensions/expulsions > 10 days 	<p>Based on race (all races) and ethnicity in any of the following:</p> <ul style="list-style-type: none"> • Identification <ul style="list-style-type: none"> ○ As a student with a disability ○ With a particular disability (ID, SLD, ED, SPL, OHI, Autism) • Placement <ul style="list-style-type: none"> ○ Inside Regular Education < 40% ○ Inside separate schools/residential facilities • Disciplinary Removals <ul style="list-style-type: none"> ○ Out-of-school suspensions/expulsions 10 days or fewer <u>and</u> > 10 days ○ In-school suspensions 10 days or fewer <u>and</u> > 10 days • Total removed to interim alternative education setting (IAES) and removals by hearing officer
<p>Population</p>	<ul style="list-style-type: none"> • Ages 6-21: Identification, Placement, and Disciplinary Removals 	<ul style="list-style-type: none"> • Ages 3-21: Identification and Disciplinary Removals • Ages 6-21: Placement
<p>Methodology</p>	<p>Method State-Driven:</p> <ul style="list-style-type: none"> • Risk Ratio <p>Threshold State-Driven</p> <ul style="list-style-type: none"> • 2.0 <p>Minimum cell size (numerator)</p> <ul style="list-style-type: none"> • 30 <p>Minimum N-size (denominator)</p> <ul style="list-style-type: none"> • N/A 	<p>Method Federal-Driven</p> <ul style="list-style-type: none"> • Risk Ratio <p>Threshold State-Driven</p> <ul style="list-style-type: none"> • 2.0 <p>Minimum cell size (numerator)</p> <ul style="list-style-type: none"> • 5 <p>Minimum N-size (denominator)</p> <ul style="list-style-type: none"> • 20
<p>Flexibility Options</p>	<p>None (based solely on State-driven methodology)</p>	<p>Not identify a Local School System (LSS) until the LSS has exceeded the threshold for 2 consecutive years</p> <p style="text-align: center;">and</p> <p>Not identify a LSS if the LSS has demonstrated reasonable progress</p> <ul style="list-style-type: none"> • 0.15 for Risk Ratios 2.0 – 4.0 • 0.50 for Risk Ratios above 4.0
<p>Process for Identification</p>	<p>LSS identified through:</p> <ul style="list-style-type: none"> • State-driven methodology • Annually 	<p>LSS identified through:</p> <ul style="list-style-type: none"> • State-driven methodology within federal parameters • Annually
<p>Response to Identification</p>	<p>Review policies, procedures, and practices</p> <ul style="list-style-type: none"> • Require LSS to report on any revisions <p>Reserve 15% of Part B (611 and 619) fund allocation for coordinated early intervening services (CEIS)</p> <ul style="list-style-type: none"> • Focus: Overidentified student group in Regular Education • Population: Students without disabilities 	<p>Review policies, procedures, and practices</p> <ul style="list-style-type: none"> • Require LSS to report on any revisions <p>Reserve 15% of Part B (611 and 619) fund allocation for coordinated early intervening services (CEIS)</p> <ul style="list-style-type: none"> • Focus: Overidentified student group in Regular Education • Population: Students with <u>and</u> without disabilities

Disproportionality at a Glance

A CONDENSED GLOSSARY OF TERMS

- **Minimum Cell size:** The minimum number of children experiencing a particular outcome, to be used as the numerator when calculating either the risk for a particular racial or ethnic group or the risk for children in all other racial or ethnic groups. (34 CFR § 300.647(a)).
- **Minimum N-Size:** The minimum number of children enrolled in an Local Education Agency (LEA) with respect to identification, and the number of children with disabilities enrolled in an LEA with respect to placement and discipline, to be used as the denominator when calculating either the risk for a particular racial or ethnic group or the risk for children in all other racial or ethnic groups. (34 CFR § 300.647(a)).
- **Risk ratio:** A calculation performed by dividing the risk of a particular outcome for children in one racial or ethnic group within an LEA by the risk for children in all other racial and ethnic groups within the LEA. (34 CFR § 300.647(a)).
- **Risk ratio threshold:** A threshold, determined by the State, over which disproportionality based on race or ethnicity is significant under 34 CFR §§ 300.646(a) and (b). (34 CFR § 300.647(a)).

Karen B. Salmon, Ph.D.
State Superintendent of Schools



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Maryland's Approach to Significant Disproportionality STAKEHOLDER ADVISORY WORKGROUP

Hosted by the Maryland State Department of Education
Division of Special Education/Early Intervention Services (DSE/EIS)

April 5, 2017 | JHU Center for Technology in Education

AGENDA

I. Opening

- A. Introductions
- B. State Stakeholder Workgroup Process
- C. Timeline Snapshot with Key Milestones
- D. DSE/EIS Strategic Plan Implementation
- E. Access, Equity and Progress Story

Marcella E. Franczkowski, Assistant State Superintendent, DSE/EIS

Edward Fergus, Assistant Professor, Educational Leadership and Policy, New York University

II. Revised IDEA Regulation Requirements

- A. Overview (34 CFR § 300.646 & § 300.647)
- B. Crosswalk (Prior/Revised)
- C. Touch Points for Decisions

Alan Dunklow, Assistant Attorney General, Office of Attorney General

Marcella E. Franczkowski

III. Preparation for Data Review

- A. Glossary for Common Understanding
- B. Template

Edward Fergus

Marcella E. Franczkowski

IV. Data Review

Deborah Carran, Professor and Researcher, Johns Hopkins University

A. Identification

Three Races for Identification: Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

- African American
- Hispanic
- White

Small Group Points of Discussion:

- Looking for Patterns
- Cell Size (Numerator)
- N Size (Denominator)
- Threshold

B. Identification by Disability

Three Races by Six Disabilities for Identification: Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.

- | | |
|---|--|
| <ul style="list-style-type: none"> • African American • Hispanic • White | <ul style="list-style-type: none"> • Speech Language • Emotional Disability • Intellectual Disability • Specific Learning Disability • Autism |
|---|--|

Small Group Points of Discussion:

- Looking for Patterns
- Cell Size (Numerator)
- N Size (Denominator)
- Threshold

C. Placement Type

Three Races by Three Placement Types: Percent of children with IEPs receiving services inside the general education classroom less than 40% of the time.

- African American
- Hispanic
- White
- Inside RegEd < 40%

Small Group Points of Discussion:

- Looking for Patterns
- Cell Size (Numerator)
- N Size (Denominator)
- Threshold

D. Disciplinary Removal

Three Races by Disciplinary Removal: Rates of suspensions and expulsions.

- African American
- Hispanic
- White
- In-School Suspensions > 10 days
- Out-Of-School Suspensions and Expulsions > 10 days
- In-School Suspensions <10 days
- Out-Of-School Suspensions and Expulsions < 10 days

Small Group Points of Discussion:

- Looking for Patterns
- Cell Size (Numerator)
- N Size (Denominator)
- Threshold

V. Data Summary

- A. What is the significance?
- B. What is the impact?

Brian Morrison, DSE/EIS Section
Chief, Policy & Data
Edward Fergus

Break (10 minutes)

VI. Flexible Options of IDEA Regulations: Think, Pair, and Share Activity

A. CEIS Flexibility Options

- 1. Delay identification of LEAs that exceed risk ratio threshold up to three consecutive years
- 2. Not identify if demonstrate reasonable progress for two consecutive years

B. Response to Significant Disproportionality

- 1. Part B fund allocations
- 2. Review of policy, practices, and procedures

C. Preschool Option

Edward Fergus

VII. Wrap Up

Next Meeting: May 9, 2017 | JHU Center for Technology in Education



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Maryland's Approach to Significant Disproportionality
STAKEHOLDER ADVISORY WORKGROUP
Hosted by the Maryland State Department of Education
Division of Special Education/Early Intervention Services (DSE/EIS)
May 9, 2017 | JHU Center for Technology in Education
AGENDA

I. Opening

- A. Introductions
- B. Timeline Snapshot with Key Milestones

Marcella E. Franczkowski, Assistant State Superintendent, DSE/EIS

II. State Definition of Significant Disproportionality: Methodology

- A. Summary of Stakeholder Input
 - 1. Cell Size (Numerator)
 - 2. N Size (Denominator)
 - 3. Risk Ratio Threshold
- B. Stakeholder Methodology Recommendation

Marcella E. Franczkowski

Alan Dunklow, Assistant Attorney General, Office of Attorney General

III. State Definition of Significant Disproportionality: Flexibility Options

- A. Multi-Year Flexibility: Not Identify Until LEA Exceeds Risk Ratio Threshold for Up to Three Consecutive Years
 - 1. Multi-Year – 1 Year
 - Apply Recommended Methodology to 17-18 Data
 - 2. Multi-Year – 2 Years
 - Apply Recommended Methodology to 16-17 and 17-18 Data
 - 3. Multi-Year – 3 Years
 - Apply Recommended Methodology to 15-16, 16-17, and 17-18 Data

Edward Fergus, Consultant and Assistant Professor, Educational Leadership and Policy, New York University

Alma McPherson, Branch Chief, Policy and Accountability, DSE/EIS

AND/OR

- B. Reasonable Progress Flexibility: Not Identify If the LEA Demonstrates Reasonable Progress for Two Prior Consecutive Years
 - 1. Reasonable Progress – Decrease Risk Ratio by .25 or by 25%
 - 2. Reasonable Progress – Decrease Risk Ratio by .50 or by 50%
 - 3. Reasonable Progress – Decrease Risk Ratio by .75 or by 75%

IV. Flexibility Options: Maryland Data Review

Brian Morrison, Section Chief,
Policy and Data, DSE/EIS

A. Small Group Data Review

1. Identification by Race Ethnicity

Three Races for Identification:

- African American
- Hispanic
- White

2. Identification by Disability

Three Races by Six Disabilities for Identification:

- | | |
|---|---|
| <ul style="list-style-type: none">• African American• Hispanic• White | <ul style="list-style-type: none">• Speech Language• Emotional Disability• Intellectual Disability• Specific Learning Disability• Autism• Other Health Impairments |
|---|---|

3. Placement Type

Three Races by Two Placement Types:

- | | |
|---|--|
| <ul style="list-style-type: none">• African American• Hispanic• White | <ul style="list-style-type: none">• Inside RegEd <40%• Separate School |
|---|--|

4. Disciplinary Removal

Three Races by Disciplinary Removal:

- | | |
|---|---|
| <ul style="list-style-type: none">• African American• Hispanic• White | <ul style="list-style-type: none">• In School Suspensions >10 Days• Out-Of-School Suspensions > 10 Days• In School Suspensions <10 Days• Out-Of-School Suspensions < 10 Days |
|---|---|

B. Flexibility Options: Stakeholder Recommendations

1. Consider

- What is the Significance?
- What is the Impact?

2. Multi-Year Flexibility

- Look Back at 1 Year of Data
- Look Back at 2 Years of Data
- Look Back at 3 Years of Data

3. Reasonable Progress Flexibility

- Look for Risk Ratio to Decrease by .25 or by 25%
- Look for Risk Ratio to Decrease by .50 or by 50%
- Look for Risk Ratio to Decrease by .75 or by 75%

V. Technical Assistance Models

A. Effective Technical Assistance

B. Maryland's Differentiated Technical Assistance Framework

Marcella E. Franczkowski
Edward Fergus

VI. Next Steps

A. Share with State Superintendent

B. Revise State Policies, Procedures, and Regulations

Marcella E. Franczkowski



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Maryland's Approach to Significant Disproportionality
STAKEHOLDER ADVISORY WORKGROUP

Hosted by the Maryland State Department of Education
Division of Special Education/Early Intervention Services (DSE/EIS)
July 12, 2017 | JHU Center for Technology in Education

AGENDA

I. Opening

- A. Introductions
- B. Timeline Snapshot With Key Milestones

Marcella E. Franczkowski,
Assistant State Superintendent,
DSE/EIS

II. State Definition of Significant Disproportionality:

Methodology

- A. Methodology Recommendation
 - 1. Cell Size (Numerator)
 - 2. N Size (Denominator)
 - 3. Risk Ratio Threshold
- B. Preschool Option Recommendation

Marcella E. Franczkowski
Alan Dunklow, Assistant
Attorney General

III. State Definition of Significant Disproportionality:

Flexibility Options

- A. Multi-Year Flexibility (Not Identify Until LSS Exceeds Risk Ratio Threshold)
 - 1. Multi-Year – 2 Years
 - 2. Apply Recommended Methodology To 16-17 & 17-18
- B. Reasonable Progress Flexibility (Not Identify If The LSS Demonstrate Reasonable Progress From The Prior Year)
 - 1. Decrease Risk Ratio By .15 or .50
 - 2. Review Data Scenarios
- C. Recommendations Forward

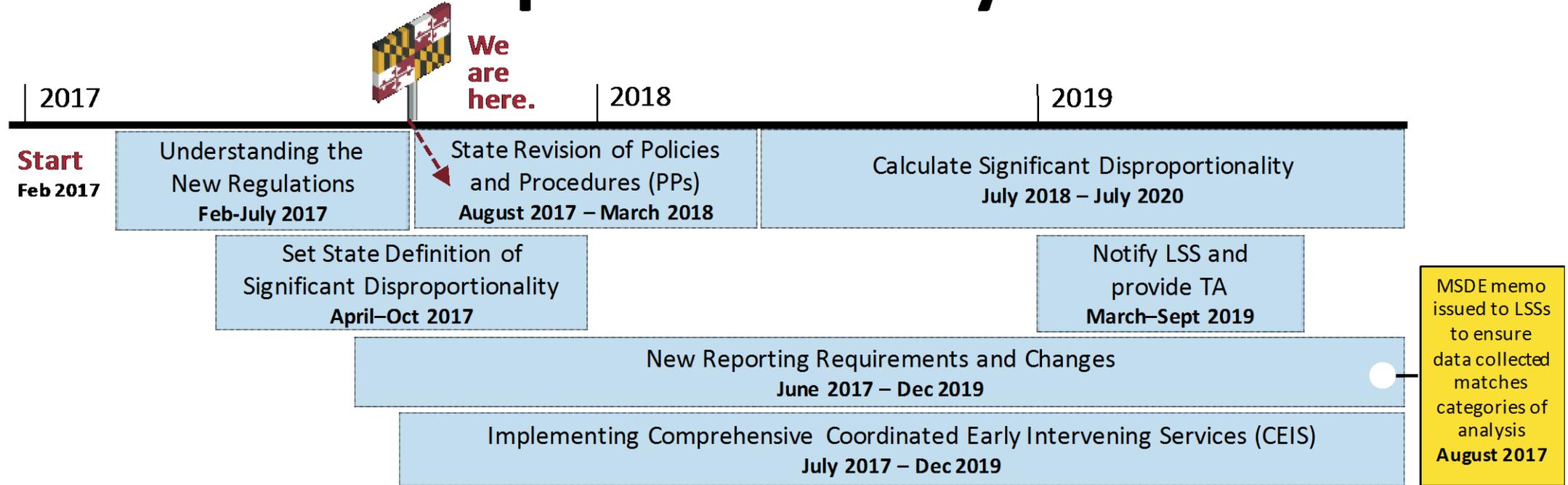
Brian Morrison, Section Chief,
Policy and Data, DSE/EIS

IV. Next Steps

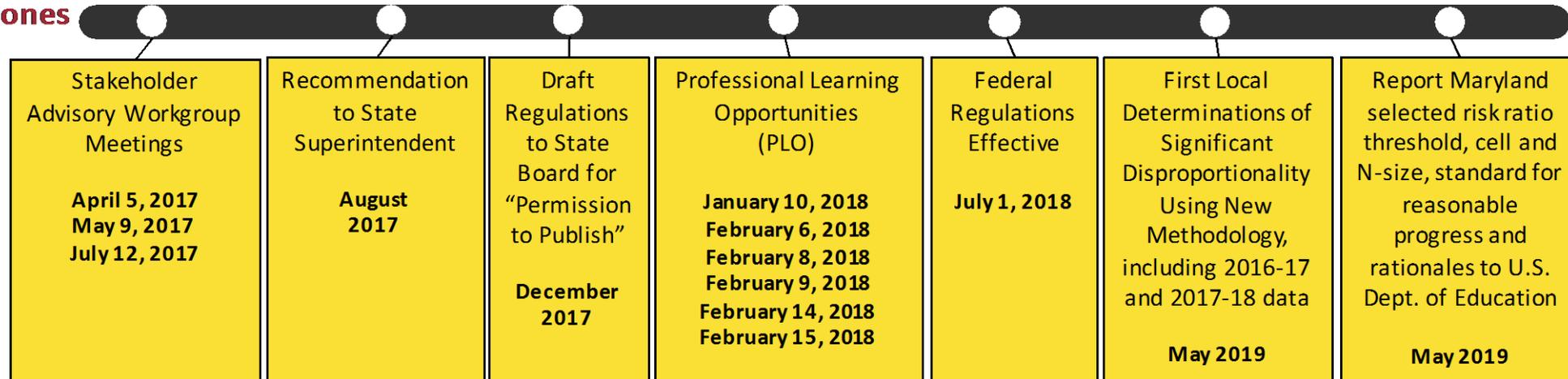
- A. Share Recommendations With State Superintendent Of Schools
- B. Draft State Policies, Procedures, and Regulations, As Appropriate
- C. Share Draft With Stakeholder Workgroups
- D. DSE/EIS to Define Technical Assistance Model
 - 1. Develop Local Self-Assessment Measure
 - 2. Hire 1.0 FTE Equity Specialist
 - 3. Contract With National Expert On Disproportionality
 - 4. Conduct Regionalized Professional Learning Opportunities (Access, Equity, And Progress)
 - 5. Develop And Release Digital Procedural Facilitation For Decision-Making Guide
 - 6. Conduct On-Site Data Review And Analysis To At Risk LSSs
 - 7. Differentiated Technical Assistance To LSSs Based On Areas Of Significant Disproportionality

Marcella E. Franczkowski

Timeline Snapshot with Key Milestones



Milestones



- Blue - Federal Timeline
- Yellow - State/Local Implementation



Maryland's Approach to Significant Disproportionality

Under the Individuals with Disabilities Education Act (IDEA)

PRESENTATION TO THE
MARYLAND STATE
BOARD OF EDUCATION
December 5, 2017



**CAROL
WILLIAMSON**
Chief Academic Officer
& Deputy State
Superintendent for
Teaching and Learning
Maryland State
Department of Education

**MARCELLA
FRANCZKOWSKI**
Assistant State
Superintendent
Division of Special
Education/Early
Intervention Services
Maryland State
Department of Education

**EDWARD
FERGUS**
Assistant Professor
Temple University
College of Education

**DEBORAH
CARRAN**
Researcher and Professor
The Johns Hopkins University
School of Education



Purpose

Presentation to the Maryland State Department of Education | December 5, 2017

- 1. Provide** an overview of revised Federal regulations on Significant Disproportionality
 - o IDEA 34 CFR 300.646 and 300.647
- 2. Present** Maryland's recommendations for the definition of Significant Disproportionality and the potential impact
- 3. Request** permission to publish
 - o COMAR 13A.05.02.04, Code of Maryland Regulations

Equity in Special Education



- Provisions to monitor disproportionality based on race and ethnicity in identification and placement were first introduced as part of IDEA 1997
- Those provisions were strengthened in IDEA 2004 (added disciplinary removal and made interventions mandatory, including reservation of federal funds)
- This has been a priority for the federal government and Maryland, with impacts in both general education and special education

What Gets MEASURED... Gets DONE

Each State must **collect & examine data** to determine if significant disproportionality based on race and ethnicity is occurring in the State and local education agencies, with respect to:

1) Identification

- As children with disabilities
- As children with a particular disability

2) Placement

3) Disciplinary removals

- Incidence, duration, and type
- Including suspensions and expulsions

34 CFR 300.646(a)

In the event a State identifies a local education agency (LEA) as having significant disproportionality in any area [identification, placement, or disciplinary removals], **the State must:**

1) Provide for annual review, and if appropriate, revision

- Of LEA policies, procedures, and practices
- And require LEA to report on its revisions

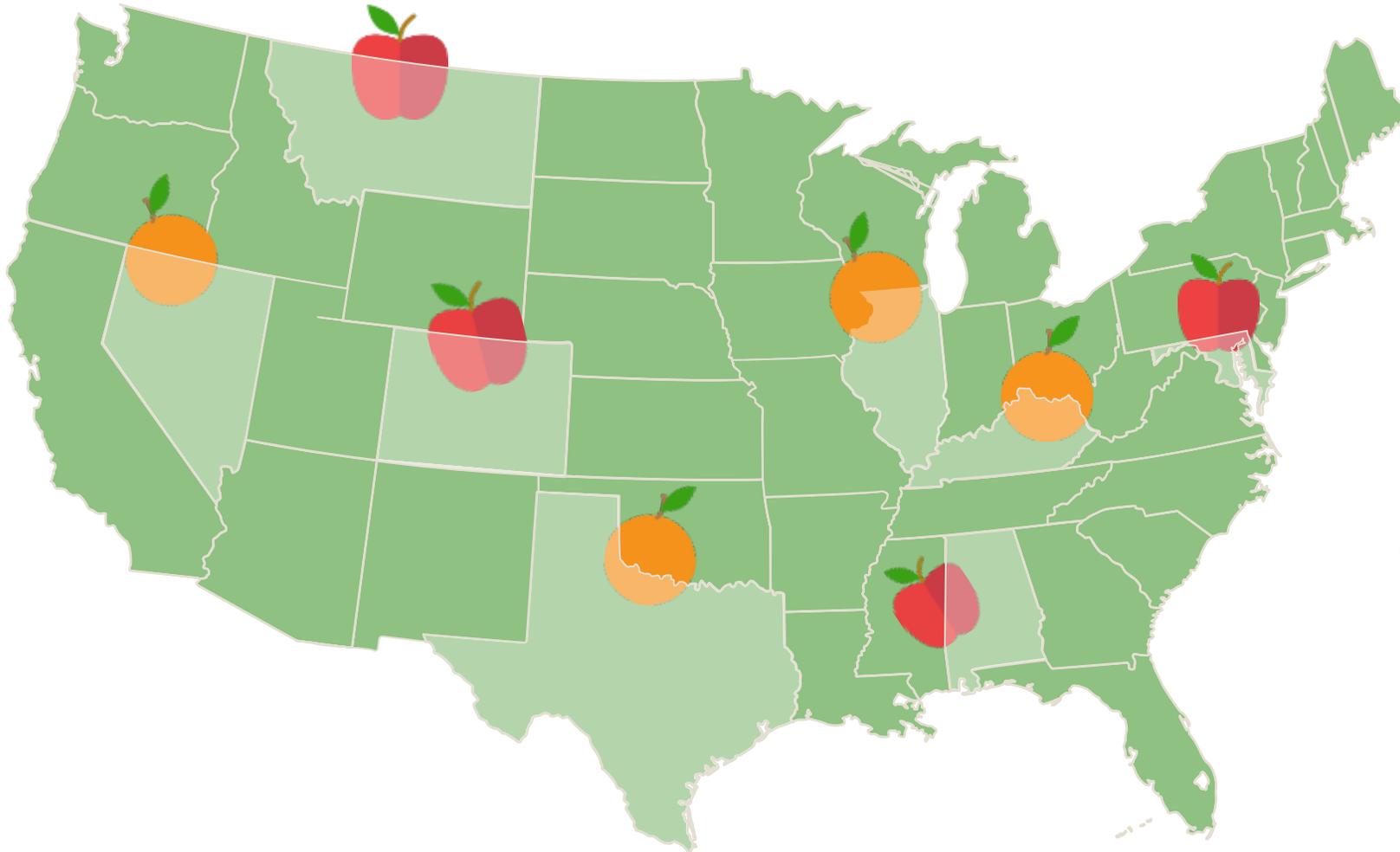
2) Require the LEA to reserve the maximum 15% of IDEA funds

- To provide coordinating early intervening services (CEIS)
- For students with and without disabilities, age 3 through grade 12

34 CFR 300.646(c) & (d)

Why the Revised Federal Regulation?

Useful Data Comparisons Across States

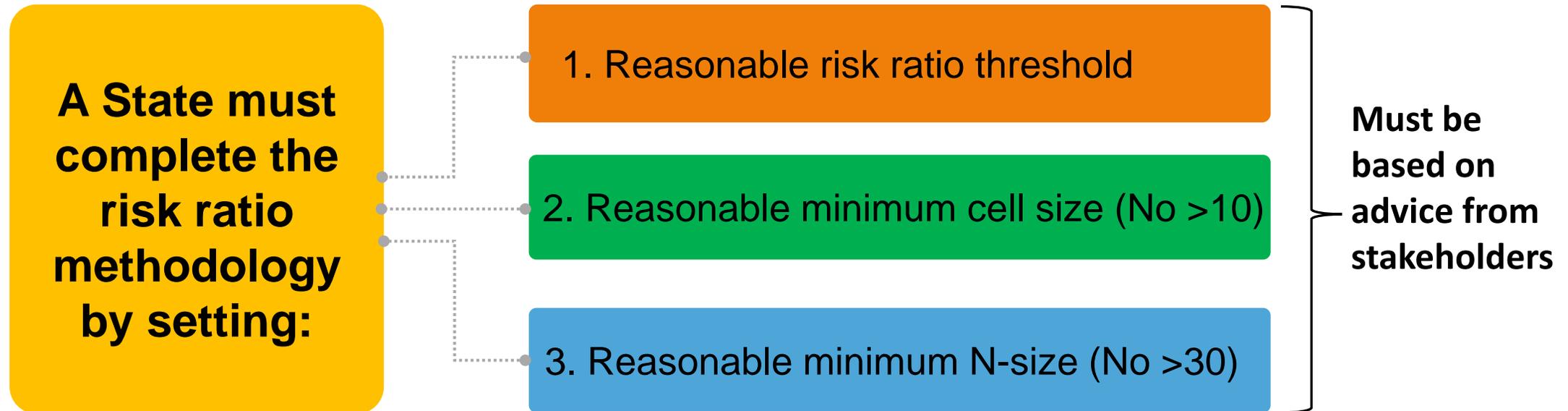


- In 2013, the Government Accountability Office (GAO) reported that 2% of all State districts used IDEA funds to provide **coordinated early intervening services (CEIS)**
- The way states defined significant disproportionality often made **identification unlikely**; it also made **comparison across states** and **Federal oversight difficult**

Revision to IDEA Regulation

What are the Methodology Parameters?

- In December 2016, the U.S. Department of Education revised the IDEA regulation and adopted a **risk ratio** as the standardized methodology.

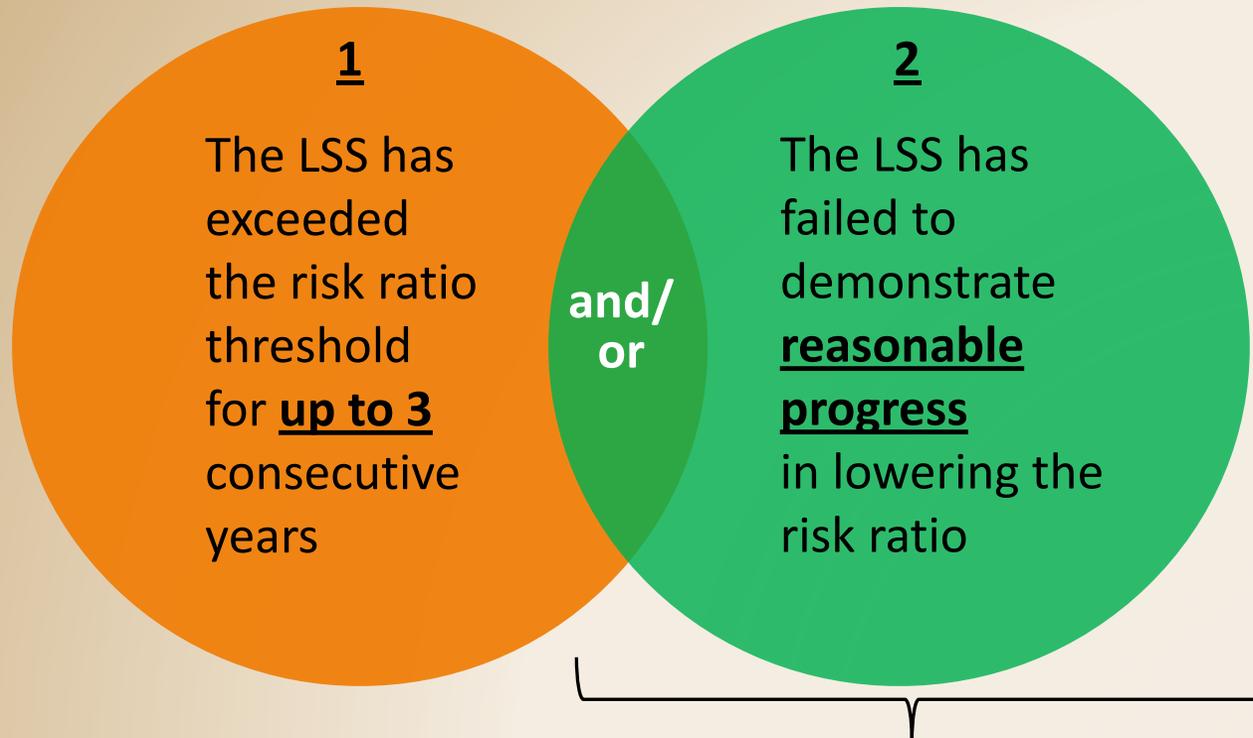


- The requirements of the regulation become effective July 1, 2018.

Revision to IDEA Regulation

What are the Flexibility Options?

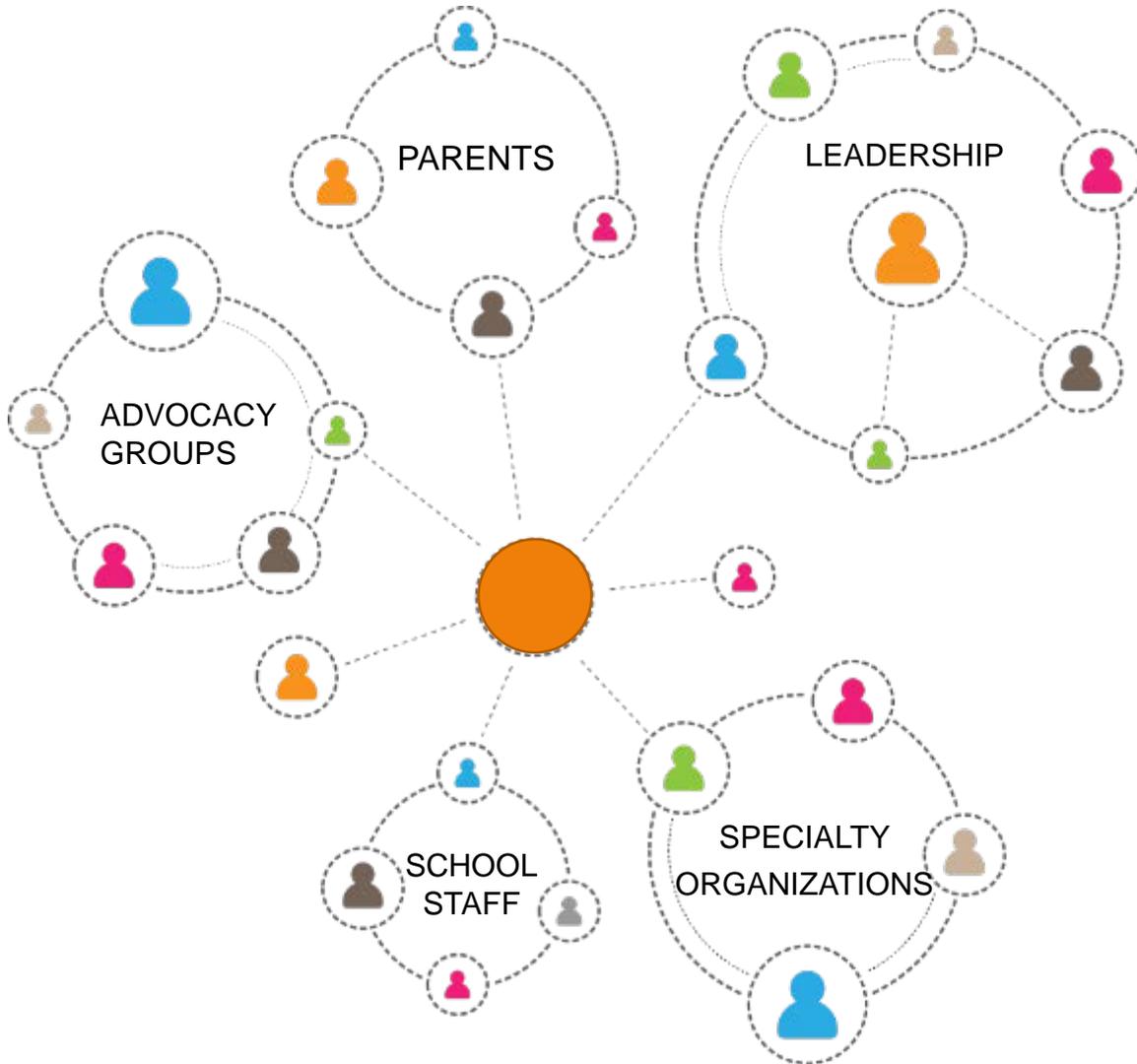
- A State is not required to identify a local school system (LSS) as having significant disproportionality until:



Another Option:

The State is not required to include children ages 3-5 in the calculation of significant disproportionality in the area of identification until July 1, 2020

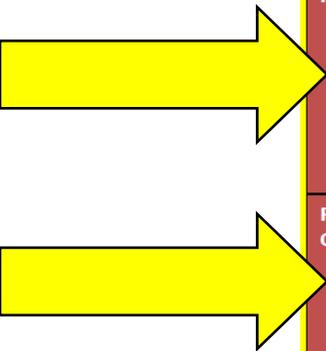
Stakeholder Engagement



- Local School System Superintendents
- Deputy & Assistant State Superintendents
- Local Directors of Special Education
- Preschool Directors
- Disability Rights Maryland
- Advocates for Children & Youth
- Juvenile Services Education System
- NAACP
- ACLU
- Maryland Coalition for Inclusive Education
- Institutes of Higher Education (IHE)
- Maryland Association of Nonprofit Special Education Facilities
- Parents/Families
- Pathfinders for Autism
- Decoding Dyslexia
- The ARC Northern Chesapeake Region
- Maryland Coalition of Families
- Department of Juvenile Services
- Department of Human Services
- The Seed School of Maryland
- Developmental Disabilities Council
- Department of Rehabilitative Services
- Maryland State Education Association
- Homeless Education & Neglected and Delinquent Student Specialist

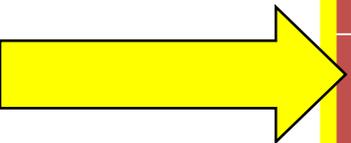
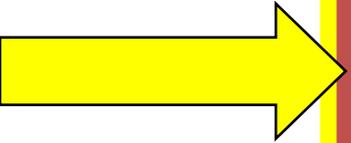
Maryland's Side-By-Side Comparison

	CURRENT 34 CFR 300.646 Released August 14, 2006 MARYLAND PRACTICE	REVISED 34 CFR 300.646 and 300.647 Released December 12, 2016 PROPOSED RECOMMENDATIONS
Categories of Analysis	Based on race (all races) and ethnicity in any of the following: <ul style="list-style-type: none"> <input type="checkbox"/> Identification <ul style="list-style-type: none"> ○ As a student with a disability ○ With a particular disability <input type="checkbox"/> Placement <ul style="list-style-type: none"> ○ Inside Regular Education > 80% ○ Inside Regular Education < 40% ○ Inside separate schools/ residential facilities <input type="checkbox"/> Disciplinary Removals <ul style="list-style-type: none"> ○ Single incident > 10 days ○ Multiple incidents > 10 days <input type="checkbox"/> All suspensions/expulsions > 10 days 	Based on race (all races) and ethnicity in any of the following: <ul style="list-style-type: none"> <input type="checkbox"/> Identification <ul style="list-style-type: none"> ○ As a student with a disability ○ With a particular disability (ID, SLD, ED, SPL, OHI, Autism) <input type="checkbox"/> Placement <ul style="list-style-type: none"> ○ Inside Regular Education < 40% ○ Inside separate schools/residential facilities <input type="checkbox"/> Disciplinary Removals <ul style="list-style-type: none"> ○ Out-of-school suspensions/expulsions 10 days or fewer and > 10 days ○ In-school suspensions 10 days or fewer and > 10 days <input type="checkbox"/> Total removed to interim alternative education setting (IAES) and removals by hearing officer
Population	<input type="checkbox"/> Ages 6-21: Identification, Placement, and Disciplinary Removals	<input type="checkbox"/> Ages 3-21: Identification and Disciplinary Removals <input type="checkbox"/> Ages 6-21: Placement
Methodology	Method State-Driven: <ul style="list-style-type: none"> <input type="checkbox"/> Risk Ratio Threshold State-Driven <ul style="list-style-type: none"> <input type="checkbox"/> 2.0 Minimum cell size (numerator) <ul style="list-style-type: none"> <input type="checkbox"/> 30 Minimum N-size (denominator) <ul style="list-style-type: none"> <input type="checkbox"/> N/A 	Method Federal-Driven <ul style="list-style-type: none"> <input type="checkbox"/> Risk Ratio Threshold State-Driven <ul style="list-style-type: none"> <input type="checkbox"/> 2.0 Minimum cell size (numerator) <ul style="list-style-type: none"> <input type="checkbox"/> 5 Minimum N-size (denominator) <ul style="list-style-type: none"> <input type="checkbox"/> 20
Flexibility Options	None (based solely on State-driven methodology)	Not identify a Local School System (LSS) until the LSS has exceeded the threshold for 2 consecutive years <p style="text-align: center;">and</p> Not identify a LSS if the LSS has demonstrated reasonable progress <ul style="list-style-type: none"> <input type="checkbox"/> 0.15 for Risk Ratios 2.0 – 4.0 <input type="checkbox"/> 0.50 for Risk Ratios above 4.0
Process for Identification	LSS identified through: <ul style="list-style-type: none"> <input type="checkbox"/> State-driven methodology <input type="checkbox"/> Annually 	LSS identified through: <ul style="list-style-type: none"> <input type="checkbox"/> State-driven methodology within federal parameters <input type="checkbox"/> Annually
Response to Identification	Review policies, procedures, and practices <ul style="list-style-type: none"> <input type="checkbox"/> Require LSS to report on any revisions Reserve 15% of Part B (611 and 619) fund allocation for coordinated early intervening services (CEIS) <ul style="list-style-type: none"> <input type="checkbox"/> Focus: Overidentified student group in Regular Education <input type="checkbox"/> Population: Students without disabilities 	Review policies, procedures, and practices <ul style="list-style-type: none"> <input type="checkbox"/> Require LSS to report on any revisions Reserve 15% of Part B (611 and 619) fund allocation for coordinated early intervening services (CEIS) <ul style="list-style-type: none"> <input type="checkbox"/> Focus: Overidentified student group in Regular Education <input type="checkbox"/> Population: Students with and without disabilities



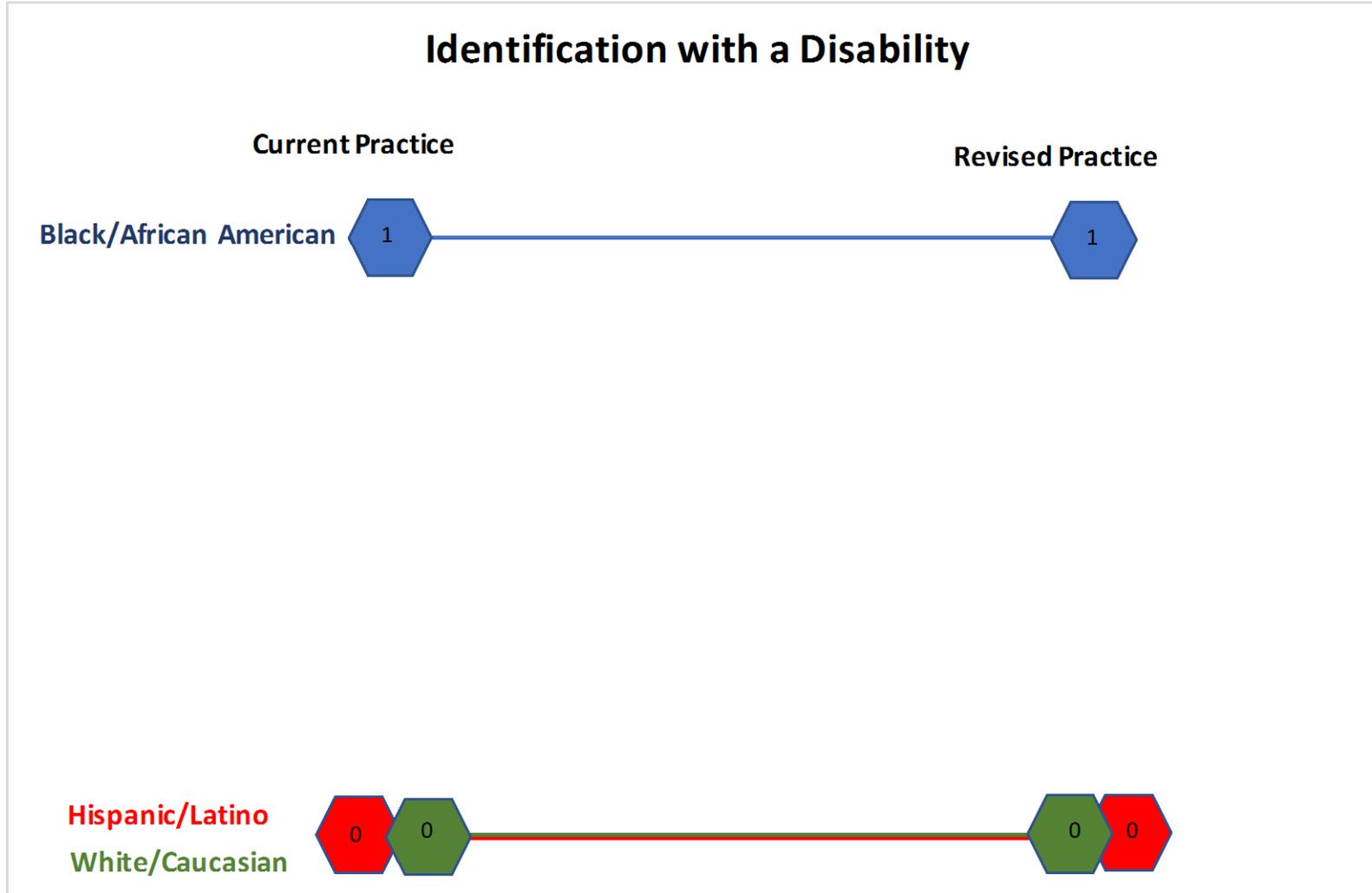
Stakeholder/MSDE Recommendations

REVISED 34 CFR 300.646 and 300.647 Released December 12, 2016 PROPOSED RECOMMENDATIONS	
Methodology	Method Federal-Driven <input type="checkbox"/> Risk Ratio Threshold State-Driven <input type="checkbox"/> 2.0 Minimum cell size (numerator) <input type="checkbox"/> 5 Minimum N-size (denominator) <input type="checkbox"/> 20
Flexibility Options	Not identify a Local School System (LSS) until the LSS has exceeded the threshold for 2 consecutive years <p style="text-align: center;"><u>AND</u></p> Not identify a Local School System (LSS) if the LSS has demonstrated reasonable progress <input type="checkbox"/> 0.15 for Risk Ratios 2.0 – 4.0 <input type="checkbox"/> 0.50 for Risk Ratios above 4.0



Projected Impact

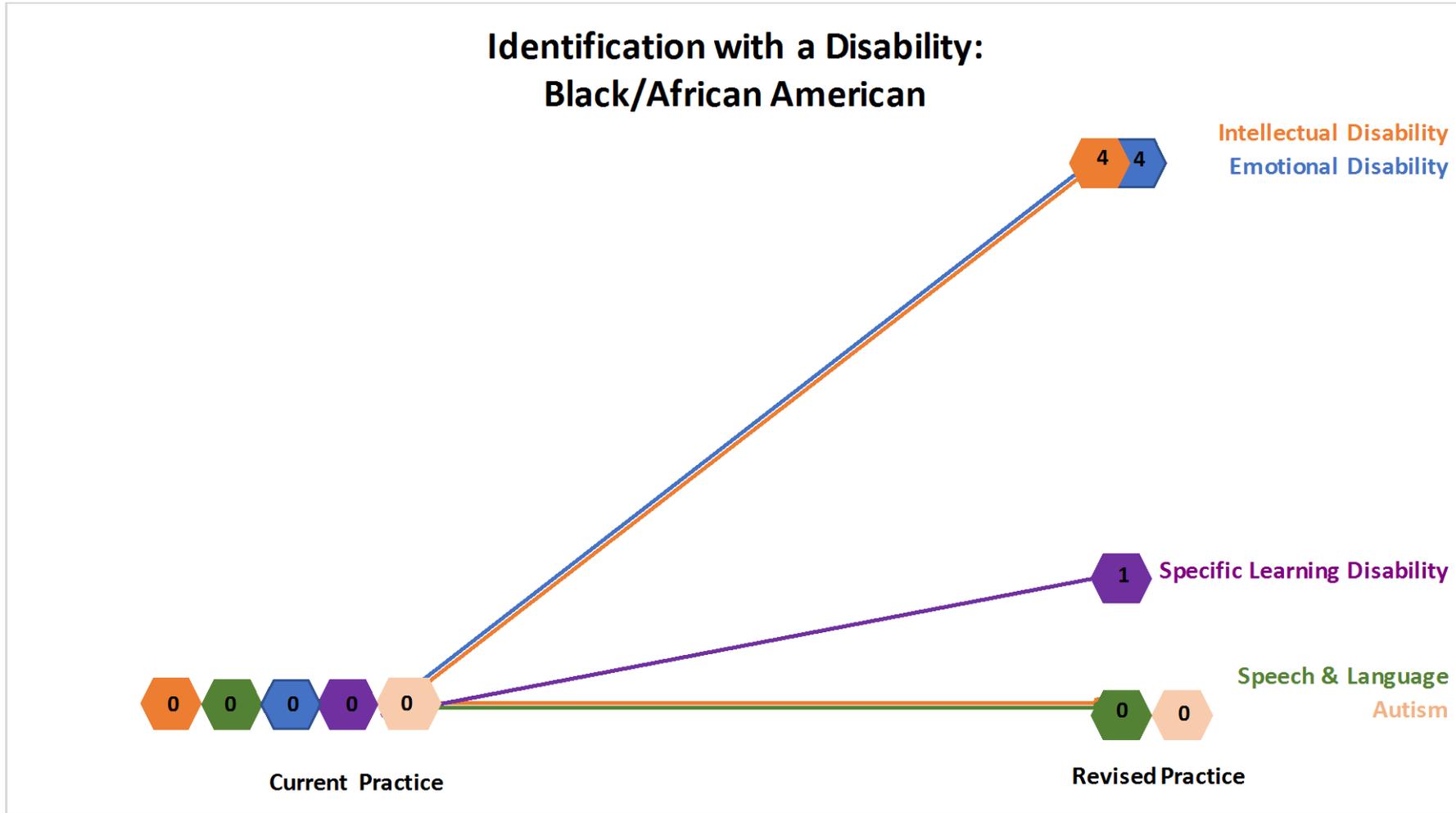
Local School Systems Identified as Having Significant Disproportionality



Data period analyzed: July 1, 2014-June 30, 2016

Projected Impact

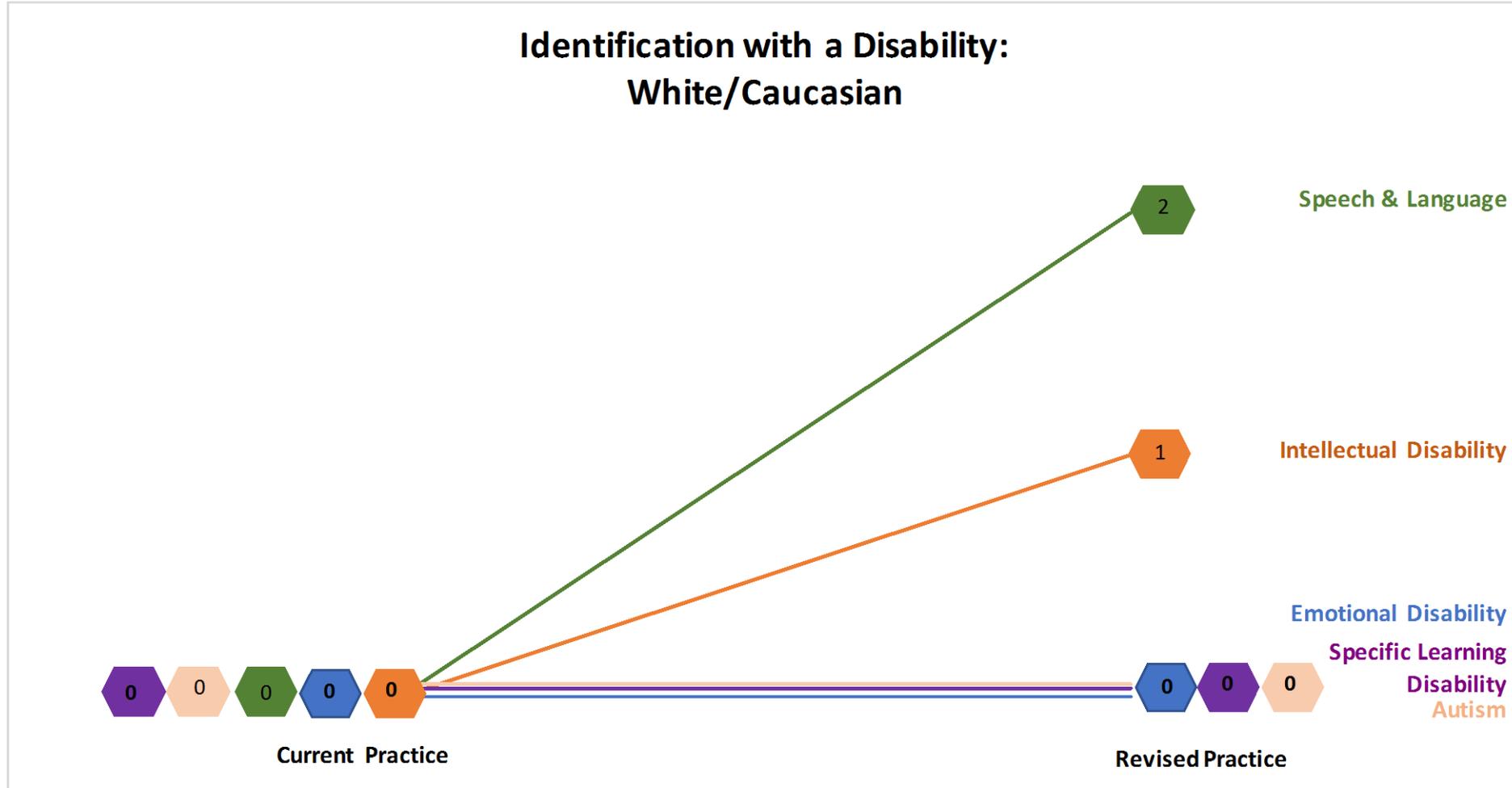
Local School Systems Identified as Having Significant Disproportionality



Data period analyzed: July 1, 2014-June 30, 2016

Projected Impact

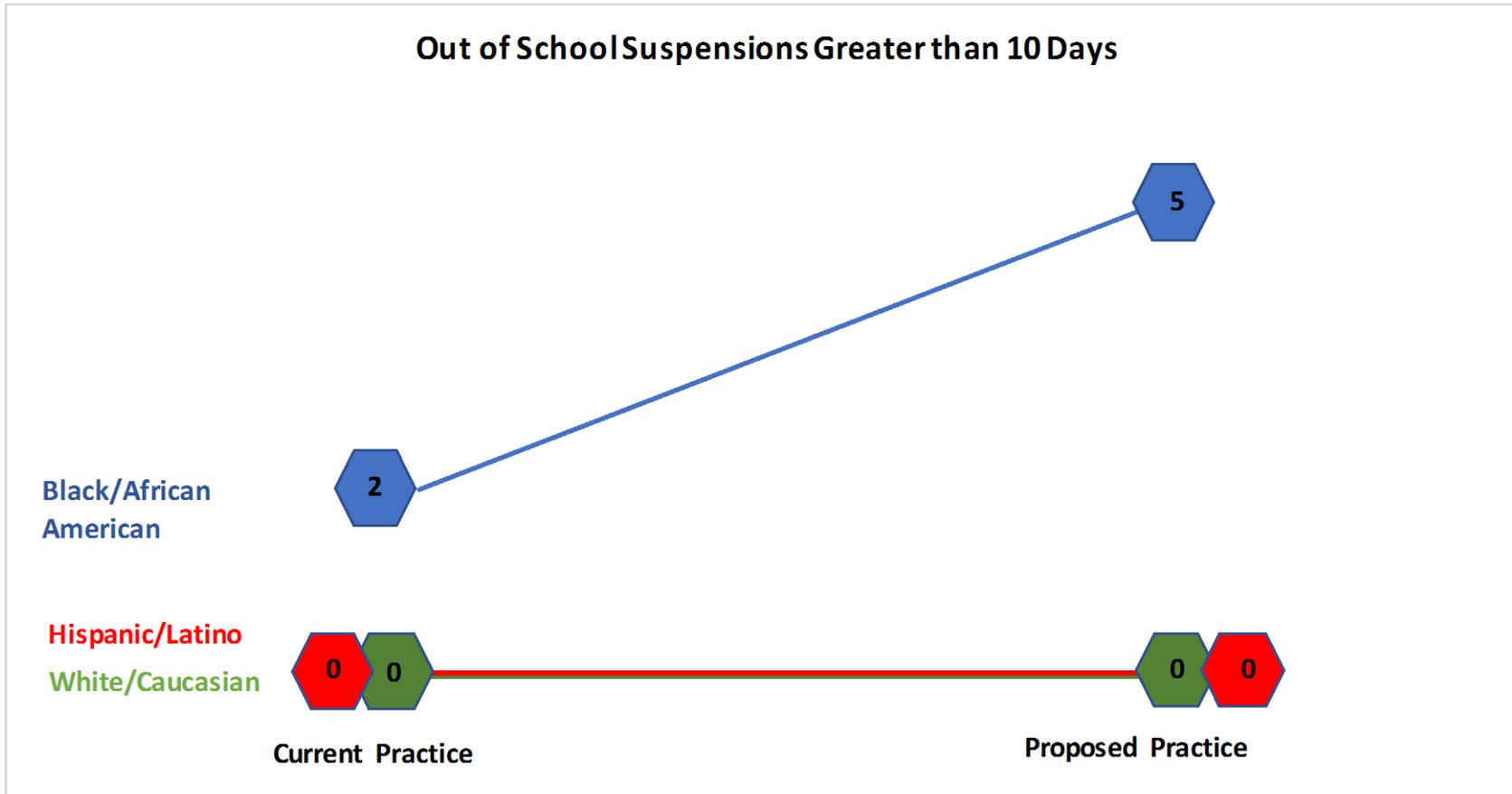
Local School Systems Identified as Having Significant Disproportionality



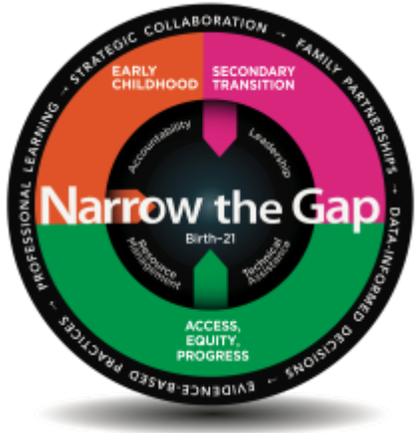
Data period analyzed: July 1, 2014-June 30, 2016

Projected Impact

Local School Systems Identified as Having Significant Disproportionality



Data period analyzed: July 1, 2014-June 30, 2016



Plan for Implementation & Technical Assistance To Support Local School Systems

Hire

1.0 FTE Equity Specialist

Partner

With National Expert on Disproportionality (Dr. Edward Fergus)

Develop

Local Self-Assessment Tool

- Onsite data review
- Onsite consultation

Conduct

Regional Equity Professional Learning Opportunities

- Local Implementation Plan
- Discretionary IDEA Funds to Implement
- Implementation Plan Monitoring/Technical Assistance Support

Create

Procedural Facilitator Tool to Assist IEP Team Decision Making

Request to Publish

COMAR 13A.05.02.04



.04 State Administration

- A. (proposed text unchanged)
- B. (proposed text unchanged)
- C. (proposed text unchanged)
- D. (proposed text unchanged)
- E. (proposed text unchanged)

F. Significant Disproportionality

- (1) The Department shall collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in each public agency in the State in accordance with 34 CFR §300.646.
- (2) In making determinations of significant disproportionality, the Department shall use:
 - a) A risk ratio threshold of 2.0;
 - b) A minimum cell size of 5; and
 - c) A minimum n-size of 20.
- (3) The Department shall determine that significant disproportionality is occurring in a public agency that has:
 - a) Exceeded the risk ratio threshold for two consecutive years; and
 - b) Failed to demonstrate reasonable progress under §F(4) of this regulation.
- (4) Demonstrating reasonable progress means that a public agency has:
 - a) Decreased its risk ratio by 0.15 and the current risk ratio is 2.0 to 4.0; or
 - b) Decreased its risk ratio by 0.50 and the current risk ratio is above 4.0.



Questions?

