

## Indicator 4A: Suspension/Expulsion

### Instructions and Measurement

**Monitoring Priority:** FAPE in the LRE

**Results Indicator:** Rates of suspension and expulsion:

A. Percent of local educational agencies (LEA) that have a significant discrepancy, as defined by the State, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and

B. Percent of LEAs that have: (a) a significant discrepancy, as defined by the State, 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, as defined by the State, and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.

(20 U.S.C. 1416(a)(3)(A); 1412(a)(22))

#### Data Source

State discipline data, including State's analysis of State's Discipline data collected under IDEA Section 618, where applicable. Discrepancy can be computed by either comparing the rates of suspensions and expulsions for children with IEPs to rates for nondisabled children within the LEA or by comparing the rates of suspensions and expulsions for children with IEPs among LEAs within the State.

#### Measurement

Percent = [(# of LEAs that meet the State-established n and/or cell size (if applicable) that have a significant discrepancy, as defined by the State, in the rates of suspensions and expulsions for more than 10 days during the school year of children with IEPs) divided by the (# of LEAs in the State that meet the State-established n and/or cell size (if applicable))] times 100.

Include State's definition of "significant discrepancy."

#### Instructions

If the State has established a minimum n and/or cell size requirement, the State may only include, in both the numerator and the denominator, LEAs that met that State-established n and/or cell size. If the State used a minimum n and/or cell size requirement, report the number of LEAs totally excluded from the calculation as a result of this requirement.

Describe the results of the State's examination of the data for the year before the reporting year (e.g., for the FFY 2022 SPP/APR, use data from 2021-2022), including data disaggregated by race and ethnicity to determine if significant discrepancies, as defined by the State, are occurring in the rates of long-term suspensions and expulsions (more than 10 days during the school year) of children with IEPs, as required at 20 U.S.C. 1412(a)(22). The State's examination must include one of the following comparisons:

- The rates of suspensions and expulsions for children with IEPs among LEAs within the State; or
- The rates of suspensions and expulsions for children with IEPs to rates of suspensions and expulsions for nondisabled children within the LEAs.

In the description, specify which method the State used to determine possible discrepancies and explain what constitutes those discrepancies.

Because the measurement table requires that the data examined for this indicator are lag year data, States should examine the section 618 data that was submitted by LEAs that were in operation during the school year before the reporting year. For example, if a State has 100 LEAs operating in the 2021-2022 school year, those 100 LEAs would have reported section 618 data in 2021-2022 on the number of children suspended/expelled. If the State then opens 15 new LEAs in 2022-2023, suspension/expulsion data from those 15 new LEAs would not be in the 2021-2022 section 618 data set, and therefore, those 15 new LEAs should not be included in the denominator of the calculation. States must use the number of LEAs from the year before the reporting year in its calculation for this indicator. For the FFY 2022 SPP/APR submission, States must use the number of LEAs reported in 2021-2022 (which can be found in the FFY 2021 SPP/APR introduction).

Indicator 4A: Provide the actual numbers used in the calculation (based upon LEAs that met the minimum n and/or cell size requirement, if applicable). If significant discrepancies occurred, describe how the State educational agency reviewed and, if appropriate, revised (or required the affected local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with applicable requirements.

Provide detailed information about the timely correction of child-specific and regulatory/systemic noncompliance as noted in OSEP's response for the previous SPP/APR. If discrepancies occurred and the LEA with discrepancies had policies, procedures or practices that contributed to the significant discrepancy, as defined by the State, and that do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, describe how the State ensured that such policies, procedures, and practices were revised to comply with applicable requirements consistent with OSEP QA 23-01, dated July 24, 2023.

If the State did not ensure timely correction of the previous noncompliance, provide information on the extent to which noncompliance was subsequently corrected (more than one year after identification). In addition, provide information regarding the nature of any continuing noncompliance, improvement activities completed (e.g., review of policies and procedures, technical assistance, training) and any enforcement actions that were taken.

If the State reported less than 100% compliance for the previous reporting period (e.g., for the FFY 2022 SPP/APR, the data for FFY 2021), and the State did not identify any findings of noncompliance, provide an explanation of why the State did not identify any findings of noncompliance.

## 4A - Indicator Data

### Historical Data

Baseline Year	Baseline Data
2016	0.00%

FFY	2017	2018	2019	2020	2021
Target <=	0.00%	0.00%	0.00%	0.00%	0.00%
Data	0.00%				

### Targets

FFY	2022	2023	2024	2025
Target <=	0.00%	0.00%	0.00%	0.00%

### Targets: Description of Stakeholder Input

Discussions and Stakeholder input of the State's Performance Plan (SPP), Annual Performance Report (APR), State's Systemic Improvement Plan (SSIP), and Results Driven Accountability (RDA)/Results Based Accountability (RBA) began in 2013 with our State Special Education Advisory Panel. The Panel is fully vested and broadly representative of Montana. Additionally, many of the panel members as well as SEA staff serve in other agency or organization leadership positions or on advisory groups in the disability community. This enables MT to draw insight and advice from a broad group of stakeholders with an understanding of Montana's unique needs, strengths, and potential weaknesses.

Other stakeholder groups we sponsor and/or engage include:

- 1) Our Comprehensive System of Personnel Development (CSPD) includes both regional and state councils that regularly meet to assess APR data and to evaluate professional development priorities and results.
- 2) The State Education Agency (SEA) staff has developed strong working relationships with other Montana agencies that serve youth and adults with disabilities. The SEA staff participate as members of advisory councils for early childhood, vocational rehabilitation, low incidence disabilities, developmental disabilities, and the state independent living council. This has strengthened the commitments of the agencies working with Montana's youth to facilitate smooth transitions from birth to adulthood.
- 3) Working with the Technical Assistance for Excellence in Special Education (TAESE) staff, the SEA has facilitated the Montana Higher Education Consortium (HEC). The HEC provides a mechanism for collaboration, networking, discussion, and advising of critical issues among Montana Institutes of Higher Education. The consortium works towards encouraging a more seamless educational system and merging general and special education into one unified system; understanding and promoting the use of evidence-based academic and behavioral strategies; and closely linking Montana teacher training and educational leadership programs to early childhood programs, K-12 education, and the SEA.
- 4) The SEA staff is engaged with the Schools Administrators of Montana (SAM) which include affiliates for Superintendents, Principals, Special Education Administrators, and Information Technology (IT) Directors. This partnership gives the SEA the opportunity to develop collaborative partnerships with the Local Education Agencies (LEAs). The SEA also provides SAM with a grant to help fund the Montana Recruitment Project. This program focuses on recruiting hard to fill positions such as speech/language pathologists, special education teachers, occupational therapists, and school psychologists for our districts.
- 5) Annually, the SEA brings together representatives from various stakeholder groups for a joint meeting facilitated by TAESE. This meeting brings stakeholders together to share up-dates and gather input from each other. There is a comprehensive representation of the Montana disability community, families and parents of children and students with and without disabilities.

During the FFY22 reporting period, the Student Support Services Senior Manager met with the parents and community members of the Montana School for the Deaf & Blind (MSDB) to start creating a graduate profile. In addition, our Early Assistance Program (EAP) Director presented to the parents of MSDB on the IDEA Framework (state purposes), general supervisory responsibilities and OPI's role as an SEA. The EAP Director also provided information on dispute resolution options and where at the OPI parents could go for technical assistance.

The Montana Empowerment Center and the OPI conducted various virtual presentations for parents of students with disabilities birth through age 21 and LEA staff. During the reporting period, the OPI presented on Present Levels of Academic Achievement Functional Performance (PLAAFPs), Measurable Annual Goals (MAGs), Multi-Tiered Systems of Support (MTSS), transitions, early childhood, and extended school year. Superintendent Arntzen hosted multiple community events in four geographically diverse cities across the state in December of 2022. Parents listened to the goals of legislators for education and then had the opportunity to ask questions of the legislators. Throughout the reporting period, OPI provided numerous virtual trainings for parents regarding student and school safety and supporting youth with ASD and other developmental disorders.

Annually, the OPI assists with the Montana Youth Transitions (MYT) Conference. The OPI team works in conjunction with MYT to present, coach, and mentor educators, parents, and students. This conference brings together the transition team of youth, parents, and professionals to learn strategies and resources to build a seamless transition plan from high school to the adult world. One parent stated the following, "This was my first time at the conference, and I had no idea there were so many things out there to help my son. The sessions on parenting techniques and educational tools were eye-opening, and I feel more equipped to support my child's learning journey."

**FFY 2022 SPP/APR Data**

**Has the state established a minimum n/cell-size requirement? (yes/no)**

YES

**If yes, the State may only include, in both the numerator and the denominator, LEAs that met the State-established n/cell size. Report the number of LEAs excluded from the calculation as a result of the requirement.**

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Number of LEAs that have a significant discrepancy	Number of LEAs that met the State's minimum n/cell-size	FFY 2021 Data	FFY 2022 Target	FFY 2022 Data	Status	Slippage
0	0		0.00%		N/A	N/A

**Choose one of the following comparison methodologies to determine whether significant discrepancies are occurring (34 CFR §300.170(a))**

The rates of suspensions and expulsions of greater than 10 days in a school year for children with IEPs in each LEA compared to the rates for nondisabled children in the same LEA

**State's definition of "significant discrepancy" and methodology**

OPI has been using the same methodology for Indicator 4A since 2005-06. At that time, OPI and stakeholders did a thorough review of the suspension data and determined that this methodology i.e., a minimum cell size of 10 and a statistical test difference between the suspension rates of students with disabilities (SWD) and students without disabilities (SWOD), was the best methodology to enable OPI to accurately identify those districts with a significant discrepancy in their suspensions of greater than 10 days without falsely identifying those districts due to a small numbers issue. Montana has a large number of districts and a small number of SWD which means that most districts have very small numbers of SWD (in 2021-22, 56% of districts had less than 20 SWD; 78% had less than 50 SWD; only 9% of districts had more than 100 SWD).

Furthermore, the number of SWD suspended for greater than 10 days in any given school year is very small. In 2021-22, out of 20,014 SWD, only 35 SWD at 26 districts were suspended/expelled for more than 10 days. Of the 26 districts that suspended at least one SWD for more than 10 days, 21 districts suspended only one SWD; the other five districts suspended between 2-4 SWD for greater than 10 days.

However, while OPI believes that the current methodology is a strong one in terms of preventing false positives, OPI believes that now is the time to change its methodology to ensure that OPI is reviewing at least some districts each year for significant discrepancy. By doing so, OPI will be demonstrating to the districts across the state that even though very small numbers of SWD are being suspended for greater than 10 days, OPI is taking very seriously the data that shows SWD are being suspended at greater rates than SWOD. OPI will convene a group of stakeholders this summer to examine the 2022-23 suspension data and to determine going forward what methodology will be the best to ensure that district disciplinary policies, procedures, and practices comply with requirements of the law.

**Provide additional information about this indicator (optional)**

**Review of Policies, Procedures, and Practices (completed in FFY 2022 using 2021-2022 data)**

**Provide a description of the review of policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.**

No review occurred because no district met the minimum N for this indicator.

The State DID NOT identify noncompliance with Part B requirements as a result of the review required by 34 CFR §300.170(b)

**Correction of Findings of Noncompliance Identified in FFY 2021**

Findings of Noncompliance Identified	Findings of Noncompliance Verified as Corrected Within One Year	Findings of Noncompliance Subsequently Corrected	Findings Not Yet Verified as Corrected
0	0	0	0

**Correction of Findings of Noncompliance Identified Prior to FFY 2021**

Year Findings of Noncompliance Were Identified	Findings of Noncompliance Not Yet Verified as Corrected as of FFY 2021 APR	Findings of Noncompliance Verified as Corrected	Findings Not Yet Verified as Corrected

## 4A - Prior FFY Required Actions

In the FFY 2022 SPP/APR, the State must explain how its methodology is reasonably designed to determine if significant discrepancies are occurring in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs, including how the State's LEAs are being examined for significant discrepancy under the State's chosen methodology; and how the State's threshold for measuring significant discrepancy in the rate of long-term suspensions and expulsions is reasonably designed.

**Response to actions required in FFY 2021 SPP/APR**

A LEA is determined to have a significant discrepancy if, given a minimum N of 10, it demonstrates a statistical difference in long-term suspension and expulsion rates for students with disabilities when compared to the long-term suspension and expulsion rates for students without disabilities. The statistical test is a one-tail test at the .01 significance level. Montana uses a Z score of 2.33 to determine a statistical difference.

Montana conducted a review of LEA long-term suspension and expulsion rates for students with disabilities to determine if a significant discrepancy occurred within a LEA. This is calculated by comparing the rates of long-term suspensions and expulsions of students with disabilities to the rates of long-term suspension and expulsion rates of nondisabled students within each LEA. Montana uses a test of the difference between proportions as the methodology for identifying significant discrepancy. The minimum N of 10 is applied to the numerator of this equation - that is, if an LEA does not have at least 10 students with disabilities who had a long-term suspension or expulsion, the data is reviewed for that LEA, but it is not considered for this indicator. The minimum N of 10 was determined after consultation with the Special Education Advisory Panel.

For any districts that do meet the minimum N of 10 and are determined to have a significant discrepancy, a full Policies, Practices, and Procedures review is completed. If it is determined that the LEA has inappropriate policies, practices, or procedures that led to the discrepancy, the OPI would issue a finding and work with the LEA to correct the issues, utilizing the OSEP 23-01 memo requirements .

As noted in OSEP's Part B Indicator Measurement Table, data used in the state's examination is from the 2021-2022 school year, resulting in a one-year data lag for this indicator.

Montana did not have any districts that met the minimum "n" for this indicator.

## 4A - OSEP Response

OSEP's Required Actions in response to the State's FFY 2021 SPP/APR required the State to explain, in its FFY 2022 SPP/APR, how its methodology is reasonably designed to determine if significant discrepancies are occurring in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs. In the FFY 2022 SPP/APR, the State indicated that it plans to review its methodology for this indicator. OSEP appreciates the State's efforts. However, for the FFY 2022 SPP/APR, OSEP notes that the State's methodology continues to result in a threshold for measuring significant discrepancy in the rate of long-term suspension and expulsion rates of children with IEPs that falls above the median of thresholds used by all States. Additionally, OSEP notes that the State included none the State's LEAs in its analysis of rates of suspension and expulsion of greater than 10 days in a school year for children with IEPs. Therefore, OSEP could not determine whether the State's methodology is reasonably designed to determine significant discrepancies in the rate of long-term suspensions and expulsions for children with disabilities.

## 4A - Required Actions

In the FFY 2023 SPP/APR, the State must explain how its methodology is reasonably designed to determine if significant discrepancies are occurring in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs, including how the State's threshold for measuring significant discrepancy in the rate of long-term suspensions and expulsions is reasonably designed and how the State's LEAs are being examined for significant discrepancy under the State's chosen methodology.