

## Indicator 4B: Suspension/Expulsion

### Instructions and Measurement

**Monitoring Priority:** FAPE in the LRE

**Compliance 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) for one or more racial/ethnic groups that have: (a) a significant discrepancy, as defined by the State, by race or ethnicity, in the rates of suspensions and expulsions of more than 10 days during the school year of 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) divided by the (# of LEAs in the State that meet the State-established n and/or cell size (if applicable) for one or more racial/ethnic groups)] 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 the 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 4B: Provide the following: (a) the number of LEAs that met the State-established n and/or cell size (if applicable) for one or more racial/ethnic groups that have a significant discrepancy, as defined by the State, by race or ethnicity, in the rates of long-term suspensions and expulsions (more than 10 days during the school year) for children with IEPs; and (b) the number of those LEAs in which policies, procedures or practices 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.

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.

Targets must be 0% for 4B.

## 4B - Indicator Data

### Not Applicable

Select yes if this indicator is not applicable.

NO

### Historical Data

Baseline Year	Baseline Data
2016	0.00%

FFY	2017	2018	2019	2020	2021
Target	0%	0%	0%	0%	0%
Data	0.00%				

### Targets

FFY	2022	2023	2024	2025
Target	0%	0%	0%	0%

### 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.

399

Number of LEAs that have a significant discrepancy, by race or ethnicity	Number of those LEAs that have policies, procedure or practices that contribute to the significant discrepancy and do not comply with requirements	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		0%		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

Were all races and ethnicities included in the review?

YES

**State’s definition of “significant discrepancy” and methodology**

OPI has been using the same methodology for Indicator 4B since 2009-10. 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. Of these 35 suspended SWD, 22 were white; 3 Hispanic, 8 Native American, and 2 multi-racial.

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 was completed as no LEA 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

## 4B - 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, by race or ethnicity, 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, by race or ethnicity, in the rate of long-term suspensions and expulsions is reasonably designed.

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

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).

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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.

## 4B - OSEP Response

OSEP's Required Actions in response to the State's FFY 2021 SPP/APR submission required the State to explain, in its FFY 2022 SPP/APR, how its methodology is reasonably designed to determine if significant discrepancies, by race or ethnicity, 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 included none of 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. Additionally, the State reported that it uses a "statistical test difference between the suspension rates of students with disabilities (SWD) and students without disabilities (SWOD)" as part of its methodology. It is unclear what 'statistical test difference' is used as part of the State's methodology. Therefore, OSEP could not determine whether the State's methodology is reasonably designed to determine significant discrepancies, by race or ethnicity, in the rate of long-term suspensions and expulsions for children with disabilities.

## 4B- Required Actions

In the FFY 2023 SPP/APR, the State must explain how its methodology is reasonably designed to determine if significant discrepancies, by race and ethnicity, 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, by race or ethnicity, in the rate of long-term suspensions and expulsions is reasonably designed.