



ISSUE BRIEF | Education Opportunity

GETTING DEI OUT OF IDEA: END RACIAL QUOTAS IN SPECIAL EDUCATION

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TOPLINE POINTS

- ★ The Obama Administration issued a regulation that created an implicit racial quota for providing special education services.
- ★ This regulation to the Individuals with Disabilities in Education Act was based on the false premise that minority students are over-represented in special education, and it requires school districts to re-allocate funding from serving students with disabilities toward things like Diversity, Equity, and Inclusion consultants.
- ★ The Trump Administration has taken a significant step toward curbing this regulation, but it can and should go further in its mission to send education back to the states by rescinding it altogether.

INTRODUCTION AND BACKGROUND

In November 2025, the Individuals with Disabilities Education Act (IDEA) turned 50 years old. It provides states and school districts with \$15.4 billion per year and requires schools to identify and address the needs of students with disabilities ([Dragoo, 2026](#)). In 2004, Congress reauthorized IDEA recognizing a concern that Black students were being identified with disabilities at higher rates than White students. Congress therefore required states to collect data from school districts to determine whether there is a “significant disproportionality” by race in special education identification or discipline ([20 U.S.C. § 1418\(d\)](#)). If a state education agency determines that a district has significant disproportionality, the district must re-allocate 15% of its IDEA Part B funding—which represents more than 90% of federal IDEA funds ([Kaput & Schiess, 2024](#))—to Comprehensive Coordinated Early Intervention Services in order to address the disproportionality ([20 U.S.C. § 1418\(d\)2\(B\)](#)).



In 2013, the Government Accountability Office found that 2% of school districts were identified as having significant disproportionality, and half of those districts came from five states ([GAO, 2013](#)). Citing the Government Accountability Office Report, the Department of Education issued a request for information regarding a federal regulation in 2014 ([Addressing Significant Disproportionality, 2014](#)) and issued a final regulation in 2016 known as Equity in IDEA ([Assistance to States for the Education of Students with Disabilities, 2006/2016, Sections 300.646-647](#)). The regulation requires school districts to establish “risk ratios” for disability identification and discipline, which compare the percentages of students of different races who are identified in each disability category ([Assistance to States for the Education of Students with Disabilities, 2006/2016, Section 300.647](#)).

For example, if a school district had 100 Black students and 300 White students and ten students of each race were identified as having a learning disability, then Black students would be identified at three times the rate of white students, yielding a risk ratio of 3.0. Equity in IDEA does not directly dictate the risk ratios that states must use, but the Department of Education provided its own suggested risk ratios for every disability category, as well as the amount of discipline issued to students with disabilities by race. For example, the recommended risk ratio for speech and language impairment is 2.03; for intellectual disabilities is 2.48; and for total disciplinary removals is 1.87 ([Department of Education, 2016](#)). States are permitted to set their own risk ratios, provided The Department deems them “reasonable” ([Assistance to States for the Education of Students with Disabilities, 2006/2016, Section 300.647](#)).

School districts are required to gather statistics across 14 categories and 7 racial groups, yielding a total of 98 calculations. The regulation led to a substantial increase in the number of districts categorized with significant disproportionality. In 2016, about 3% of school districts were identified having significant disproportionality ([Samuels & Harwin, 2018](#)). In 2021, 5% of school districts were so identified ([Arundel, 2023](#)). In some states, the percentage of districts identified rose dramatically. For example, in Wisconsin, the percentage of districts increased from 1% to 13% from before to after the regulation was implemented, and in Tennessee, identification increased from zero to 18% ([Arundel, 2023](#)). All newly identified districts shifted fifteen percent of their IDEA funding to early intervention services intended to reduce disability identification.

In December 2017, the Trump Administration proposed delaying implementation of Equity in IDEA to provide more time to study the issue ([Diamant, 2018](#)). This regulatory delay was successfully challenged in court by the Council of Parents, Attorneys, and Advocates, and the Trump Administration took no further action on the issue, allowing the regulation to take effect ([Marshall, 2019](#)). In August 2025 ([Annual State Application Under Part B, 2025](#)) and in January 2026 ([Annual State Application Under Part B, 2026](#)), the Trump Administration requested public comment on a proposal to state reporting requirements regarding significant disproportionality.

THE ERRONEOUS PRESUMPTIONS OF EQUITY IN IDEA

The Obama-era regulation is based on two assumptions: (1) minority students—and Black students in particular—are over-represented in special education; and (2) this over-representation causes harm. Neither assumption is grounded in fact.



Advocates for educational “equity” tend to be alarmed by the presence of racial disparities. Raw data demonstrates that Black students were 40% more likely to be identified with any disability, and two times as likely to be identified as having an emotional behavior disability or an intellectual disability ([Harper, 2017](#)). Raw statistics, however, can be misleading. Students are more likely to be identified with a disability if they demonstrate lower academic achievement ([Hibal et al., 2010](#)). Lower academic achievement is linked to background factors such as poverty ([Reardon, 2012](#)) and family structure ([Egalite, 2016](#)). Neither poverty rates nor single-parent household rates are consistent among racial groups in the United States, nor are those the only factors that academics can examine.

Researchers who examined a national dataset, which had data on that family income, family structure, parental education level, and other factors, found that “differences in SES entirely account for African-American and Hispanic disproportionality” ([Shifrer et al., 2010](#)). Researchers examining another national dataset that contained further factors, such as a child’s birthweight, poverty exposure, and early academic achievement and behavioral issues, found that minority children were less likely than situated white students to be identified with a learning disability, an intellectual disability, a health impairment, a speech impairment, and emotional disturbance ([Morgan et al., 2015](#)). Two years later, the same team of researchers replicated the findings and further established that minority under-representation spans elementary through high school and occurs throughout the academic achievement spectrum ([Morgan et al., 2017](#)). Examining the same national dataset for more recent years yielded the same result: Black and Hispanic students were significantly less likely to be identified with a disability than White students ([Morgan et al., 2025](#)). For example, utilizing state education and birth data from Florida, researchers have found that Black students were 13% less likely than observationally similar White students to be diagnosed with a disability by fourth grade ([Elder et al., 2021](#)). This research strongly suggests that Equity in IDEA fundamentally misdiagnosed the nature of the national disparity in special education identification. Student background factors, not racial discrimination, are responsible.

The second assumption of Equity in IDEA, that special education causes harm, runs contrary to both the theory and the empirical literature of providing children with disabilities with additional services. There is less academic literature on this than one might expect. Researchers require granular student data to establish a plausible comparison between similar students who were and were not identified with a disability. The literature examines only short-term academic outcomes of standardized tests; there are no long-run comparison studies.

A study of students in Texas examined whether identifying otherwise similar students with disabilities affected academic achievement as measured by standardized tests. It found that for every year that a student was provided with special education services, academic performance improved by 0.1 standard deviations, or by 3 to 4 percentile points ([Hanushek et al., 2002](#)). For reference, the authors explain, this is an effect size equivalent to the estimated gains from reducing a fourth- or fifth-grade class size by ten students ([Hanushek et al., 2002](#)). A study of students with learning disabilities in New York City found that special education provided a 0.117 standard deviation benefit in math and a 0.102 standard deviation benefit in English Language Arts ([Schwartz et al., 2021](#)). A study of students diagnosed with a learning disability in Indiana found that special education



improved math achievement by 0.259 standard deviations and reading by 0.08 standard deviations, and found that minority students tended to see more academic benefits from special education than White students ([Hwang, 2026](#)).

Insofar as the matter has been studied, the literature confirms the commonsense hypothesis that providing students with more services helps them academically. It was, therefore, peculiar that advocates for racial “equity” were disturbed by data they thought showed that Black students received additional services at a higher rate. The more sensible and empirically validated concern is rather that Black students receive special education services at a lower rate than they should and are therefore suffering unnecessarily in academics.

THE DEI IN IDEA

Equity in IDEA establishes an impermissible de facto racial quota system in special education identification. After a state sets its risk ratio, school districts above or close to the statistical threshold will likely feel pressure to lower disability identification or discipline by race to avoid the financial and logistical burden of reallocating 15% of their IDEA Part B funding.

Racial quotas in education have been unconstitutional for decades ([Regents of the University of California v. Bakke, 1978](#)). In 2023, citing *Brown v. Board of Education*, the Supreme Court reaffirmed that “No state has any authority under the equal-protection clause of the Constitution to use race as a factor in affording educational opportunity amongst its citizens” ([Students for Fair Admission v. Harvard, 2023](#)). Any school district that denies minority students special education services due to pressure from a state-imposed racial quota could be violating Title VI of the Civil Rights Act and the 14th Amendment.

If the school district does not meet the racial quota in disability identification or discipline, it will have to reallocate 15% of its special education funding away from its typical uses toward Comprehensive Coordinated Early Intervention Services. This can disrupt school finance and operations, depending on the restrictions that states designate for Comprehensive Coordinated Early Intervention Services. For example, Virginia prohibits districts classified with significant disproportionality from using their Comprehensive Coordinated Early Intervention Services funding for special education teachers ([Virginia Department of Education, n.d.](#)). Other states push districts toward ideological programming. For example, Maryland encourages school districts to adopt “culturally responsive and sustaining practices in all education settings,” to infuse “culturally responsive and sustaining policies” for behavior management, and to develop “culturally responsive data literacy among district staff at all levels” ([Maryland Department of Education, 2024](#)). In the context of education, culturally responsive and sustaining is one of a repertoire of similar terms ([Johnston et al., 2017](#)) that are tightly conceptually linked with critical race theory ([Brown et al., 2017](#)).

Some school districts have certainly taken such suggestions. For example, the Shawnee-Mission school district in Kansas, which serves about 27,000 students, utilized IDEA funding to implement Diversity, Equity, and Inclusion training for its teachers. In 2018, the school district was identified with significant disproportionality and had to reallocate \$916,826 of its annual \$5,991,414 in federal



IDEA funding every year ([Shawnee Mission School District, n.d.](#)). The school district chose to spend nearly half a million dollars over two years on a Diversity, Equity and Inclusion Coordinator and on a DEI teacher training program called Deep Equity ([Shawnee Mission School District, n.d.](#)). Deep Equity trains teachers to progress through stages of *White Identity Orientation*: from a *Fundamentalist White* identity, which fosters ignorance and supremacism; to an *Integrationist White* identity, which features color-blindness and guilt; to a *Transformationist White* identity, which features anti-racism and advocacy. Teachers are charged to transform their school environment from one of *social dominance* to one of *social justice*. *Social dominance*, they are told, is exerted by males, Whites, heterosexuals, and Christians ([Howard, 2014, pp. 231-239](#)).

State education agencies do not maintain a centralized, publicly accessible record of how school districts have spent their IDEA funding under Equity in IDEA, so there is no way to know for certain how widespread the issue of special education funds being diverted to Diversity, Equity, and Inclusion consultants is. Any amount of federal funding for such training violates President Trump's executive order "Ending Radical Indoctrination in K-12 Schools," which asks The Department of Education to prevent federal funds from directly or indirectly supporting the advancement or promotion of discriminatory equity ideology ([The White House, 2025](#)).

POLICY RECOMMENDATIONS

Special education funding should not be redirected toward Diversity, Equity, and Inclusion consultants, and no student should be denied special education services based on their race. The Trump Administration has taken a strong step toward addressing this issue by proposing to cease the federal collection of state data on significant disproportionality. This will permit some states to relax their risk ratio standards, which in turn would decrease the number of school districts that face an implicit racial quota and may be compelled to redirect special education funding to other purposes. However, the continued existence of such regulations and bureaucratic inertia would cause many states to continue to impose racial quota pressures on school districts. Here are further policy recommendations for Congress, the Department of Education, and states:

Congress

Congress should repeal [20 U.S.C. § 1418\(d\)\(2\)](#), which requires states to designate school districts with significant disproportionality and compels school districts to redirect 15% of their federal IDEA funding.

Department of Education

The Department of Education may intend to go no further than its currently proposed regulation. If this is the final action, the Department should issue a Dear Colleague Letter that relates the academic literature cited above and warns that states may exacerbate minority under-representation by continuing to implement this policy. The Department should advise state education agencies to increase their risk ratios to the point where they effectively cease implementing the regulation. Additionally, the Department should advise state education agencies to scrutinize school district plans to ensure that no money intended for special education is diverted to DEI. Alternatively (and preferably), the Department should repeal the Equity in IDEA regulation altogether. This would send the strongest signal to the



states that they should cease implementing risk ratios altogether. Consistent with President Trump's executive order, the Department could clarify through a Dear Colleague letter that any state determination of significant disproportionality can be made only after a thorough, interview-based investigative process with a finding of disparate treatment.

States

Regardless of any Congressional or further executive action on this front, state education agencies should increase the risk ratios they are currently administering under Equity in IDEA to a level high enough to cease identifying school districts with significant disproportionality. They should further audit all school district spending under Comprehensive Coordinated Early Invention Services to examine whether and to what extent special education funding in their state has been redirected toward Diversity, Equity, and Inclusion.

CONCLUSION

The Obama Administration's Equity in IDEA regulation represented an attempt at solving a problem that more rigorous empirical research suggests does not exist. Rather than being over-represented in special education, the best available literature suggests that minorities are under-represented. Requiring states to establish statistical thresholds for disability identification by race is legally suspect and would logically lead to school districts diagnosing and accommodating otherwise similar students differently based on their race. School districts that are identified as having a significant disproportionality must, at best, divert resources away from students with disabilities toward other spending, and, at worst, can divert those resources toward ideological ends. The Trump Administration has taken a step in the right direction by moving to eliminate state reporting requirements. To truly promote the cause of sending education back to the states the regulation should be repealed altogether.

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