

Reducing Disproportionality in New Jersey Schools

Practical Ideas and Promising Strategies for Intervention & Referral Services (I&RS) Teams

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SUMMARY

In the education field, the prevalence of racial achievement gaps on standardized tests has been widely reported. Education equity advocates, however, point out that there is a lesser known—yet far larger and more complex parallel issue—that is dramatically impacting the ability of schools to teach and support struggling minority students.

It is known as disproportionality—an overrepresentation of students from certain racial/ethnic groups, particularly Black/African American and Hispanic students, in special education programs. Affected students are disproportionately isolated, spending more time in restrictive environments relative to their non-affected peer students and facing greater rates of suspension and expulsion.ⁱ Because affected students are less likely to access a rigorous curriculum, these students experience limited post-secondary opportunities and marginalized employment opportunities thereafter.ⁱⁱ

Furthermore, affected students are significantly more likely to be incarcerated—both as juveniles and as adults.ⁱⁱⁱ While determining exactly how disproportionality is calculated is subject to much scholarly and policy debate, the evidence is clear: this substantial issue has long-term implications for affected students both locally in New Jersey, as well as nationally.

Fortunately, there are a number of widely recommended steps that school teams can take to address and prevent overrepresentation issues. PCG offers a theory of action for remediating disproportionality, centered on the notion that highly functioning problem-solving teams, utilizing a consistent progress monitoring system within a framework of Multi-Tiered Systems of Support (MTSS), have the potential to target and provide appropriate academic and behavioral supports for struggling learners and, thereby, positively affect the culture of a district.

In this paper, we provide educators with current data and basic information about the root causes of disproportionality; discuss related policy, procedural, and practice issues both within the local New Jersey context and nationally; and offer recommendations within the framework of our theory of action about how Intervention & Referral Services (I&RS) teams can use data and technology systems to provide, and monitor the fidelity of, targeted interventions to students.

Our purpose in developing this paper is simple: to demystify disproportionality and offer strategies that I&RS teams in New Jersey can employ to begin resolving it.

Theory of Action

Developing Cultural Sensitivity	Guiding High Quality Instruction	Enhancing Home & School Collaboration	Supporting Culturally Appropriate Instruction & Assessment
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Providing Effective Services & Supports

Progress Monitoring & Problem Solving

If I&RS teams engage in practices that:

- Develop cultural sensitivity;
- Guide high quality instruction;
- Enhance home and school collaboration;
- Support culturally appropriate instruction and assessment;
- Provide effective services and supports for struggling learners; and
- Engage in consistent progress monitoring and problem solving practices,
- then struggling learners will be appropriately supported and disproportionality will be mitigated.
- Our Theory of Action was developed on the premise that struggling learners are supported and fewer students are over-identified when Multi-Tiered System of Supports are supported by I&RS teams.

Patterns of Disproportionality

Disproportionality includes both the *overrepresentation* and the *underrepresentation* of a “specific population or demographic group in special or gifted education programs, relative to the presence of this group in the overall student population.”^{iv} It can be present, for example, in any or all of the following ways:

- ✓ Over-identification of students as disabled, or under-identified as gifted/talented.
- ✓ Over-identification of students in students’ classification, placement, and suspension rates.
- ✓ Higher incidence rates in specific special education categories, such as intellectually disabled or emotionally disturbed.
- ✓ Under-representation in intervention services, resources, access to programs, and rigorous, high-quality curriculum and instruction.
- ✓ Excessive incidence, duration, and types of disciplinary actions, including suspensions and expulsions.^v

Equity in the Individuals with Disabilities Education Act

On December 19, 2016, the U.S. Department of Education published revised federal IDEA regulations aimed at promoting equity by targeting widespread disparities in the treatment of students of color with disabilities. These regulations require states to use a standard approach in determining whether significant disproportionality based on race or ethnicity is occurring in the state and in its districts.

This change is a marked departure from previous IDEA regulations that allowed states to determine their own measures. Since all states will use the same methodology in the near future, more accurate comparisons will soon be available within and across states. States must comply with this component of the revised regulation as of July 1, 2018.

Additional information on this change can be found at:
<https://www.ed.gov/news/press-releases/fact-sheet-equity-idea>

Researchers believe that there is no single factor that leads to the various forms of disproportionality; rather, it is a “complex phenomenon...influenced by a number of factors that vary from one context to another.”^{vi} Variables known to play a role in disproportionate representation and over-identification of minority students include:

- ✓ Discipline policies and practices, specifically around suspensions/expulsions
- ✓ Limited availability and varying implementation of interventions
- ✓ Variability in assessment practices
- ✓ Teacher expectations and misconceptions
- ✓ Cultural, language, and poverty biases
- ✓ Negative views of/interaction with families
- ✓ Inconsistent use of MTSS
- ✓ Weak or nonexistent data-driven culture within school and/or district

For minority students, misclassification and inappropriate placement in special education programs, coupled with excessive discipline practices, can have devastating consequences. When students are excluded from the regular education setting and the core curriculum, they are often subject to lowered expectations, a limited curriculum, and isolation from peers. This, in turn, leads to negative post-secondary education, limited long-term employment options, and a greater likelihood of incarceration. The special education supports that are designed to help minority students can, in effect, serve to stigmatize and marginalize them.^{vii}

While the significant impact of disproportionality on minority students should not be underestimated, it should be noted that even if a district receives a citation of disproportionality under IDEA this does not necessarily mean that intentional discrimination is occurring. Often times, the root causes of a district's disproportionality may be that underlying personal beliefs, or organizational practices and policies, have unintentionally created an environment in which inequity develops. One of the first steps toward eliminating disproportionality is to explore its root causes within the organization and analyze data to determine areas of concern. This can be complicated and sensitive work, requiring close attention to personal and organizational biases and deeply held beliefs about the expectations of minority students.

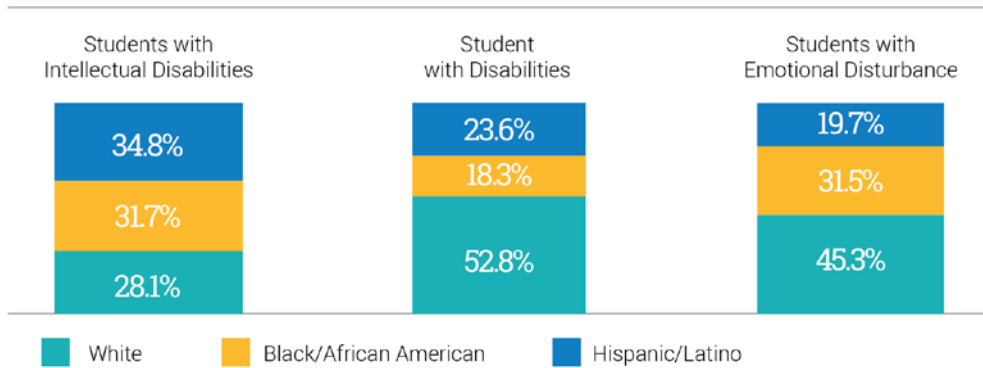
How does New Jersey compare to national trends?

It is well documented in the current literature that a child's race and ethnicity significantly contribute to the probability that he or she will be identified as disabled, in many cases inappropriately so.^{viii} Ahrum, Fergus, and Noguera argue that the overrepresentation of Black/African American and Hispanic/Latino students suggests two distinct processes occurring in schools when students are in the process of being identified for special education services: "(1) Assumptions of **cultural deficit** that result in unclear or misguided conceptualizations of disability, and (2) the subsequent labeling of students in special education through a **pseudoscientific placement process**."^{ix} In other words, school teams, though well-intentioned in their desire to provide supports for struggling students, may defer to their professional judgment or cultural assumptions in the referral and evaluation process of, in particular, culturally and linguistically diverse students.

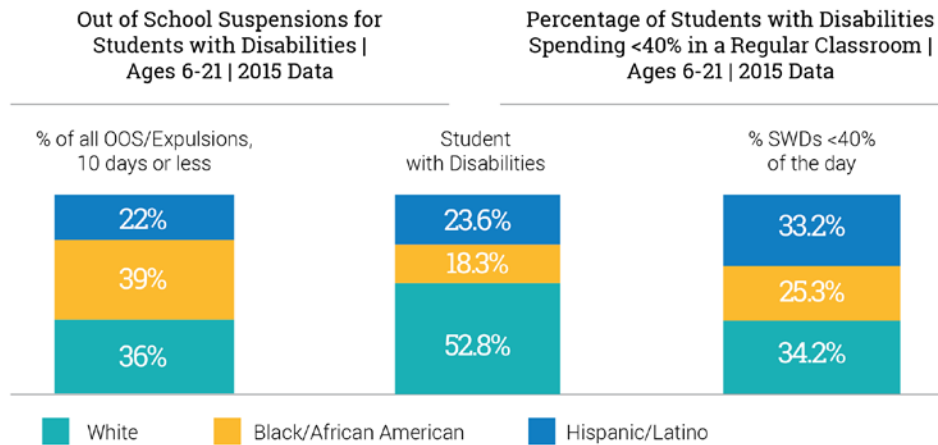
Researchers have identified patterns of over representation of students who are Black/African American and Hispanic/Latino in categories that primarily rely on the judgment of school professionals, chiefly in the emotional disturbance and intellectual disability categories.^x A brief look at 2015 national data shows these patterns clearly. For students with the diagnosis of emotional disturbance, 26.4 percent are Black/African American, while only 17 percent of the overall student population is Black/African American. This means that the rate of Black/African Americans being diagnosed with an emotional disturbance is **1.6 times** more than that of White students. Even more striking, for students with the diagnosis of an intellectual disability, 35 percent are Black/African American, while only 17 percent of the overall student population is Black/African American. This means that the rate of Black/African American being diagnosed with an intellectual disability is **2.4 times** more than that of White students.^{xi} Statistics show that overrepresentation of students who are Black/African American and Hispanic/Latino does not occur, however, in disabilities that are medically defined, such as blind or deaf.^{xii}

Similar to the national data, in New Jersey minority students are overrepresented in both the intellectual disability and emotional disturbance categories. Although 18.3 percent of the students with disabilities population in New Jersey are Black/African American, over 31 percent of students with intellectual disabilities are Black/African American.^{xiii} This disproportionate pattern can also be seen in the racial composition of students categorized in the area of emotional disturbance. Like before, 18.3 percent of students with disabilities in New Jersey are Black/African American, yet over 31 percent are categorized as emotionally disturbed.^{xiv}

Students with Disabilities in New Jersey | Ages 6-21 | 2015 Data

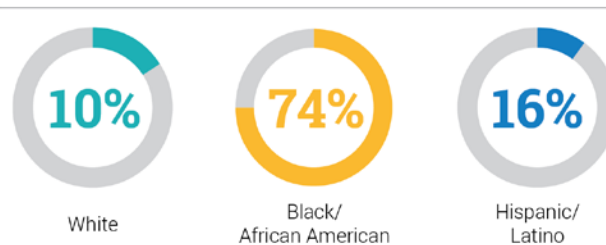


In addition to the intellectual disability and emotional disturbance disability categories, minority students with disabilities in New Jersey are also overrepresented in restrictive settings—in classrooms outside of a typical classroom for less than 40 percent of the school day or out of school suspensions/expulsions for less than 10 days.^{xv} For students with disabilities having an out of school suspension/expulsion for less than 10 days, the racial composition of Black/African American students is disproportionately twice as much as the overall Black/African American population of students with disabilities.^{xvi} And of the students with disabilities who spend less than 40 percent of their day in a regular classroom, over a quarter of these students are Black/African American.



Furthermore, students with disabilities in the juvenile justice system in New Jersey are predominately Black/African American—over 74 percent of these incarcerated students with disabilities are Black/African American.^{xvii}

Students with Disabilities in Juvenile Justice System | 2015 Data



Evidence-Based Solutions

Current research has shown that reducing disproportionality requires a comprehensive, multi-faceted approach that encompasses a data-driven decision making process, cultural responsiveness, a high quality and culturally appropriate core instructional program, universal screening and progress monitoring, evidence-based academic and behavioral interventions and support, and home and school collaboration.^{xviii} At the crux of this work is a highly-functioning school-based problem-solving and intervention team, charged with implementing MTSS. Positive effects from MTSS have been shown in “preventing behaviors before they occur through direct teaching of behavior to all students in the building... [and providing] supplemental academic supports to groups of students and individualize interventions for those most in need.”^{xix}

While New Jersey districts have had I&RS in place for nearly 20 years, districts are only recently, with guidance from the New Jersey Department of Education (NJDOE), starting to implement a comprehensive MTSS framework. One of the expected outcomes of developing this system, known as New Jersey Tiered System of Supports (NJTSS), is to reduce disproportionality.

New Jersey Tiered System of Supports (NJTSS)

Recognizing a lack of consistency on how districts across the state were supporting struggling learners, the *2015 New Jersey Special Education Task Force on Improving Special Education for Public School Students* identified the need for systemic, coordinated early intervening services that are data-driven. Furthermore, it recommended that student progress with this system be monitored with fidelity and frequency as part of the activities of the I&RS team.^{xx} In 2016, in partnership with Rutgers University and stakeholders across the state, NJDOE led the development of NJTSS.

Piloted in 60 districts, NJTSS is a framework of academic and behavioral supports and interventions to improve student achievement, based on the core components of MTSS and the three-tier prevention logic of Response to Intervention (RTI). Designed as a prevention framework to meet the academic, behavioral, health, enrichment, and social-emotional needs of all students, each of the three tiers supports intensity of a child’s unique challenges. Core components of NJTSS include:

- ✓ High-quality learning environments, curricula, and instructional practices
- ✓ Universal screening
- ✓ Data-based decision making
- ✓ Collaborative problem-solving team
- ✓ Progress monitoring
- ✓ Staff professional development
- ✓ Positive behavior, school culture, and climate
- ✓ District and school leadership
- ✓ Family and community engagement

NJTSS is meant to be a consistent approach to prevention, intervention, and enrichment and calls for a continuum of supports at the district- and school-level based on student learning of grade level knowledge and skills. If implemented as intended, NJTSS has the potential to reduce disproportionality and suspensions and improve post-secondary outcomes, goals embedded within the State’s Performance Plan.

In addition to NJTSS, some New Jersey school district I&RS teams have implemented the New Jersey Positive Behavioral Support in Schools (NJ PBSIS) model. Since 2003, NJ PBSIS has trained 15 cohorts of

schools to implement the tiered behavior intervention system, known as Positive Behavior Interventions and Supports (PBIS).

One key challenge in the district utilization of NJTSS and NJ PBSIS is that these models are often viewed as separate. Districts frequently note that they are providing both academic and behavior supports but that the I&RS team treats these interventions as separate, with different progress monitoring expectations and timelines. Based on our experience working with school districts in New Jersey, we also know that some schools are “picking and choosing” elements of traditional MTSS and PBIS models and, therefore, struggle with consistently documenting the interventions, storing the documentation, and monitoring the progress based on the intervention. Since adoption of the full NJTSS framework is voluntary, a relatively small number of schools, according to publicly available data, are receiving technical assistance for these frameworks.

It is often the case that districts try to “reinvent the wheel” when it comes to solving issues like disproportionality, when that may not be necessary. Given New Jersey’s investments in NJTSS and NJ PBSIS, and long-standing use of I&RS multi-disciplinary teams, utilizing these frameworks together may yield valuable benefits for struggling learners. The state has dedicated resources to provide training and technical assistance to school districts that leverage these resources as well.

The Roles and Challenges of I&RS Teams

Unlike many other states, in which the concept of a problem-solving team is not as well-ingrained in district culture, the I&RS team has been a component of New Jersey schools since 2001. Through state regulations, the I&RS teams within each district are charged with identifying the learning, behavior, and health difficulties of students; collecting information on identified students; developing and implementing action plans which provide for appropriate school or community interventions or referrals based on data collected by I&RS teams; and providing support, guidance, and professional development to school staff about learning to school staff who identify learning, behavior, and health difficulties. Students receiving supported interventions through I&RS continue to receive supports in the general education classroom.^{xxi} Through this process, those suspected as possibly having a disability will be subsequently referred to their school’s Child Study Team for further assessment.

I&RS teams face challenges, especially in large urban districts, maintaining consistency in their overall operation as well as the documentation of the data they collect through interventions. Although state regulation loosely defines the composition of I&RS team members, some teams differ on levels of expertise. Operationally, I&RS teams also differ quite widely within districts when it comes to the adoption and use of consistent protocols regarding the kinds of data they collect and interventions they support.

A recent study of similar problem-solving teams in two New York districts found similar challenges: inconsistencies and unbalance in team operation and membership, a lack of protocols and processes around MTSS, poorly maintained records of interventions and their effectiveness, and a failure to use benchmarks or screening tools to identify students in need of interventions.^{xxii} I&RS teams have the potential to be highly effective problem solvers. Despite this, like other school-based teams, they often “struggle to do so appropriately or efficiently for reasons such as time constraints, lack of understanding around what tiered interventions should look like, limited resources, and unawareness of the idea that cultural dissonance can often serve as a primary factor impacting student performance.”^{xxiii}

Despite these challenges, the benefits of school-based interdisciplinary teams in leading progress monitoring/data collection and reducing the misidentification or over-identification of minority students with disabilities are well documented.^{xxiv} When problem-solving teams monitor the fidelity of interventions, students often learn more quickly because they are receiving appropriate instruction, teachers have higher expectations, and special education referrals decrease.^{xxv}

Six Strategies for I&RS Teams to Reduce Disproportionality

We conclude this paper with six practical ways in which I&RS teams in New Jersey schools can begin tackling disproportionality in their districts by reviewing data trends, monitoring student progress on interventions, and fully implementing all components of a multi-tiered system of support. PCG's theory of action posits that by engaging in these strategies, I&RS teams can successfully mitigate disproportionality.



- (1) Develop Cultural Sensitivity.** Engage teachers, school leaders, and curriculum coordinators to cultivate a diverse culture through curriculum and student expectations. Include both special and general education teachers in the discussion and review of data. Recommend that administrators, teachers, and I&RS team members be trained in sensitivity to racial and cultural bias in instruction and assessment. Understand that behavioral standards are often cultural.
- (2) Guide High Quality Instruction.** Rally all school staff around NJTSS and NJ PBSIS, fostering a culture that is conducive to high quality instruction learning. Ensure there is equal access to instruction for all students, underpinned by a MTSS.
- (3) Enhance Home and School Collaboration.** Ensure families from all backgrounds are included in discussions/meetings about the school and their children's academic and behavioral progress. Provide reports and important documentation in their native or home language and ensure that teachers are making a consistent effort to communicate with parents.
- (4) Support Culturally Appropriate Instruction and Assessment.** Develop, with input from teachers and curriculum coordinators, effective academic and behavioral practices for all learners that are based on a school's recognition of diversity across student ethnicity, language, and socio-economic status. Engage in multicultural classroom guidance activities and other professional development opportunities which will heighten their awareness and acceptance of cultural, racial, and gender differences. Ensure all teachers have been trained to effectively participate in pre-referral intervention strategies. Provide training and resources so teachers can meet the linguistic needs of all children, including students with disabilities who are also English Language Learners.
- (5) Provide Effective Educational and Behavioral Supports.** Develop evidence-based standards for district-level policies to promote effective school discipline and positive behavior. Include all school staff in the development of the standards. Fully integrate learning supports (e.g., behavioral, mental health, and social services), instruction, and school management within a comprehensive, cohesive

approach that facilitates multidisciplinary collaboration. Employ effective, positive school discipline that: (a) functions in concert with efforts to address school safety and climate; (b) is not simply punitive (e.g., zero tolerance); (c) is clear, consistent, and equitable; and (d) reinforces positive behaviors.

- (6) Monitor Progress and Problem Solving.** Consider the implications of race, class, and culture constructs when developing student intervention plans. Be willing to abandon deficit models that emphasize students and/or families as the sole, inherent source of low student achievement outcomes. Be focused on identifying the root causes of school challenges while building cultural competence. Conduct a routine data analysis of referrals by race/ethnicity, grade, and school. Monitor suspension data monthly to assess patterns of student demographics, and review intervention data at least every six weeks for students involved in I&RS. Implement a district-wide monitoring system to support I&RS teams' documentation of and consistent adherence to the NJTSS and NJ PBSIS frameworks. Routinely review data.

Based on our research of I&RS team functionality, we also recommend these teams monitor progress utilizing a system that:

- (a) Supports student interventions by managing the documentation of the district's general education academic and behavior interventions;
- (b) Provides a dashboard representing the ongoing progress with graphical representations of a student's response to the interventions;
- (c) Houses important documentation of parental involvement, observations, data reviews, and screeners; and
- (d) Aligns with and support a school district's process to determine eligibility for special education services.

Conclusion

Disproportionality in schools is a challenging problem with far-reaching consequences, both nationally as well as in New Jersey. PCG offers a theory of action for remediating disproportionality, centered on the notion that highly functioning problem-solving teams, utilizing a consistent progress monitoring system within a framework of MTSS, have the potential to target and provide appropriate academic and behavioral supports for struggling learners and, thereby, positively affect the culture of a district.

Through the consistent adherence to the NJTSS and NJ PBSIS frameworks, I&RS teams can effectively mitigate disproportionality by cultivating cultural sensitivity, guiding high quality instruction, enhancing home and school collaboration, supporting culturally appropriate instruction and assessment, providing effective educational and behavioral supports, and serving as an effective champion and school-wide partner for the provision of services to struggling learners through problem solving and consistent progress monitoring.

About PCG

Public Consulting Group, Inc. (PCG) is a leading public sector consulting firm that partners with health, education, and human services agencies to improve lives. Founded in 1986 and headquartered in Boston Massachusetts, PCG has nearly 2,000 professionals in more than 60 offices around the US, in Canada and in Europe. PCG's Education practice offers consulting solutions that help schools, school districts, and state education agencies/ministries of education to promote student success, improve programs and processes, and optimize financial resources.

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Matthew Korobkin, provides internal and external leadership and expertise in matters of special education policy, compliance, operations, and instructional practice. He actively leads and participates in the design, development, and delivery of special education services and technology solutions to support teachers, district leaders, and state administrators as they work to solve complex special education challenges. Prior to joining PCG, Matthew was the Special Education Officer for Strategic Planning and Evaluation in the Office of the Secretary of Education at the Delaware Department of Education. Prior to his work in Delaware, Matthew supported the State Director of Special Education at the Massachusetts Department of Elementary and Secondary Education. He spent the first three years of his career in the classroom, working as a certified teacher and assistive technology specialist at a residential school for students with disabilities and the FLLAC Educational Collaborative, a public education service agency in Massachusetts. Matthew earned a M.S.Ed. in Education Policy from the University of Pennsylvania and a B.S. in Industrial and Labor Relations from Cornell University. He also holds a Certificate of Graduate Study in Assistive Technology from the California State University. Matthew also maintains an Assistive Technology Professional (ATP) credential from the Rehabilitative Engineering and Assistive Technology Society of North America (RESNA).

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ⁱ Gartner, A., and Lipsky, D.K. (1999). Disability, Human Rights, and Education: The United States. In F. Armstrong & L. Barton (Eds.), *Disability Human Rights, and Education: Cross Cultural Perspectives*, 100-118

ⁱⁱ Harry, B., and Klingner, J. (2006). *Why are so many minorities in special education? Understanding race and disabilities in schools*. New York: Teachers College Press.

ⁱⁱⁱ Annamma, S., Morrison, D., and Jackson, D. (2014). Disproportionality Fills in the Gaps: Connections Between Achievement, Discipline, and Special Education in the School-to-Prison Pipeline. *Berkeley Review of Education*. 5, 53-87.

^{iv} National Education Association (2007). Truth in Labeling: Disproportionality in Special Education. (available online at <http://www.nea.org/assets/docs/HE/EW-TruthInLabeling.pdf>)

^v Source: New Jersey Department of Education, Office of Special Education (2015-16). Effectively Utilizing Data to Inform Decision-Making (Disproportionality), LRE Training Module

^{vi} <https://www.nasponline.org/x26829.xml>

^{vii} Sullivan A., Kozleski E. B., Smith A. (2008, March). Understanding the current context of minority disproportionality in special education: Federal response, state activities, and implications for technical assistance. Paper presented at the American Educational Research Association Annual Meeting, New York, NY.

^{viii} jd.

^{ix} Annamma, S., Morrison, D., and Jackson, D. (2014). Disproportionality Fills in the Gaps: Connections Between Achievement, Discipline, and Special Education in the School-to-Prison Pipeline. *Berkeley Review of Education*. 5, 53-87.

^x Donovan, S., and Cross, C.T. (2002). *Minority Students in Special and Gifted Education*. Washington, DC: National Academy Press.

^{xi} Pearson, Jane (2015). Disproportionality: What is it? What Can We Do About It? US Department of Education. (Available online at <http://slideplayer.com/slide/707643/>)

^{xii} Harry, B., and Klingner, J. (2006). *Why are so many minorities in special education? Understanding race and disabilities in schools*. New York: Teachers College Press.

^{xiii} <https://osep.grads360.org/api/ApplicationMedia/GetDownload/48961>

^{xiv} <https://osep.grads360.org/api/ApplicationMedia/GetDownload/48961>

^{xv} New Jersey Department of Education, Report of Children with Disabilities Subject to Disciplinary Removal, <http://www.state.nj.us/education/specialed/data/2015/Discipline2.pdf>

^{xvi} New Jersey Department of Education, Report of Children with Disabilities Subject to Disciplinary Removal, <http://www.state.nj.us/education/specialed/data/2015/Discipline2.pdf>

^{xvii} New Jersey Department of Education, 2015 Special Education Student Count by District, http://www.state.nj.us/education/specialed/data/2015/6-21StudentcountByRace_District.xlsx

*It is important to note that not all incarcerated students with disabilities are in facilities within the New Jersey Juvenile Justice Commission. Some students, typically ages 18-21, are in adult detention facilities.

^{xviii} New Jersey Department of Education, Effectively Utilizing Data to Inform Decision-Making (Disproportionality),

<http://www.nj.gov/education/specialed/idea/lre/year1trainings/1/EffectivelyUtilizingData%20Disproportionality.pdf>

^{xix} NASP Position Statement: Racial and Ethnic Disproportionality in Education. (2013).

<<https://www.nasponline.org/x26829.xml>>

^{xx} New Jersey Task Force on Improving Special Education for Public School Students. (2015).

<<http://www.state.nj.us/education/strategic/toc.htm>>

^{xxi} Within IDEA 2004, I&RS is considered an early intervening service. Early Intervening Services encourages school districts to provide additional support for struggling students within the general education classroom. Both the student and the district benefit when Early Intervening Services are successful: students have the opportunity to succeed in general education classrooms, and schools save money by managing and reducing over (and inappropriate) identification of students for special education services.

^{xxii} Ahran, R., Fergus, E., Niguera, P. (2011). Addressing Racial/Ethnic Disproportionality in Special Education: Case Studies of Suburban School Districts. *Teachers College Record*. 113 (10), 2233-2266.

^{xxiii} Morales-James, C. & Stenbridge, A. Addressing Disproportionality Through the Creation of Culturally Responsive Problem-Solving Teams New York University Technical Assistance Center on Disproportionality. Retrieved from:

http://steinhardt.nyu.edu/scmsAdmin/media/users/l181/Addressing_Disproportionality_Through_the_Creation_of_Culturally_Responsive_Problem-Solving_Teams.pdf

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^{xxv} <http://www.rtinetwork.org/learn/research/progress-monitoring-within-a-rti-model>



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