

Restrictiveness and Race in Special Education: Socio-cultural and Linguistic Considerations

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The relationship between achievement and cultural, ethnic/racial, and linguistic diversity cannot be ignored given that students who struggle to learn are often the ones that are referred to special education even though the failure may not be due to a disability on the part of the student (Presidential Commission on Special Education, 2002). In particular, Fierros and Blomberg's article, "Restrictiveness and Race in Special Education Placements in For-Profit and Non-Profit Charter Schools in California," presents readers with urgent concerns regarding the overrepresentation of minority students in Special Education. After a review of the authors' findings, this commentary presents an overview of considerations relevant to pre-referral interventions grounded in the field of culturally responsive instruction as well as suggestions for the professional development of teachers, both general education teachers and special educators, relevant to addressing the needs of students from diverse ethnic/racial, socio-cultural, and linguistic backgrounds.

Key words: Special Education Placements, Diverse Learners, Culturally and Linguistically Responsive Pedagogy, Pre-Referral Interventions

Fierros and Blomberg's article, "Restrictiveness and Race in Special Education Placements in For-Profit and Non-Profit Charter Schools in California," presents readers with urgent concerns regarding the overrepresentation of minority students in Special Education, while simultaneously warranting future study as described below. The relationship between achievement and cultural, ethnic/racial, and linguistic diversity cannot be ignored given that students who struggle to learn are often the ones that are referred to special education even though the failure may not be due to a disability on the part of the student (Presidential Commission on Excellence in Special Education, 2002). Indeed, alarming evidence of the overrepresentation of minority students in Special Education is reported in the National Research Council (NRC) report on *Minority Students in Special and Gifted Education* (2002) and the 20th Annual Report to Congress. Of particular concern is the overrepresentation of students from African-American and Native American backgrounds in particular disability categories. While both reports provide similar data on disproportionate over or underrepresentation for Hispanics and Asians and Pacific Islanders, the NRC report indicates a wide variation among states and notable inconsistencies within states regarding the representation of minority stu-

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dents in special education. A focused study on the context of California and special education placements certainly warrants attention.

The cultural gap between the current U.S. school-age population and the teaching pool is widely recognized. In California's typical public school classroom, nearly 50 percent of the students are members of racial/ethnic "minority" groups or recent immigrants and speak a first language other than English. Additionally, more than 25 percent of students are sent to school by families with incomes below the poverty level and about 10 percent have been identified with learning disabilities (Darling-Hammond, LaFors, & Snyder, 2001). On the contrary, the diversity of the current U.S. teaching force is decreasing (Simpson, Whelan, & Zabel, 1993; Turnball, Turnball, Shank & Leal, 1999). While the number of European-American, White teachers grew from 88% in 1971 to 90.7% in 1996, the number of African-American teachers decreased from 8.1% to 7.3%. Indeed, teachers today face the strong probability of teaching in schools where their experiential background as well as their cultural and linguistic background may differ from that of their students and their students' parents (Zeichner, 1993).

Teacher quality is inextricably tied to the work of school—student learning (Schalock & Imig, 1999). As stated by Fierros and Blomberg, charter school teachers are allowed to teach with certification or formal training and often have limited knowledge of the Individuals with Disability Education Act (IDEA) or lack understanding of the complexities of special education. Yet, documented concerns about teacher quality and qualifications extend beyond the context of charter schools to the broad landscape of public schools in California. In fact, more than 40,000 California teachers were reported to be working without full preparation or credentialing, almost exclusively in high-minority and low-income schools (Sheilds, Humphrey, Wechsler, Riel, Tiffany-Morales, Woodworth, Youg, & Price, 2001). Such numbers are alarming considering that teacher certification status has been identified as the strongest predictor of school-level student achievement in mathematics and reading, followed by teacher experience (Betts, Rueben, & Dannenberg, 2000; Goe, 2002). What the authors identified as a concern for California charter schools, appears to be a systemic problem in K-12 public schools statewide.

Authors Fierros and Blomberg examined the enrollment patterns of students in California's charter schools to gain a better understanding of whether the for-profit or non-profit status of a charter school can lead to differential enrollment patterns of students who have identified special needs and are eligible for special education services. Specifically, the authors investigated traditional public schools and charter schools to identify differences in placement rates and rates of restrictiveness for students with special needs; and, examined for-profit and non-profit charter schools to determine if students with special needs are equally served. California charter school population represents 2.3 percent of the total state enrollment or approximately 142,148 students. California students enrolled in regular public schools (non-charter) totals slightly more than 6 million. California's 502 charter schools consist of 265 for-profit schools and 236 non-profit schools (California Department of Education).

The authors employed clear selection criteria of charter schools to be included in

the study by taking full advantage of California Department of Education's most recent data base. Prior to analyzing the data, the authors cleverly collapsed the data categories regarding race/ethnicity in order to match the state-level California data with the U.S. Office of Civil Rights racial categories. This type of adjustment was completed to allow for a potentially rich comparison of California enrollment data with similar date from other U.S. states.

Using odds ratio to reflect the probability of disproportionate representation of minority students with special education needs and data supplied by California Department of Education, Fierros and Blomberg reported that American Indian and Black students with special needs are slightly more likely to be placed in special education within charter school settings. Additionally, the authors developed a series of highly descriptive data profiles of minority students with special needs in regular education schools and charter schools including for-profit and non-profit charter schools with attention to disability categories (e.g., specific learning disabilities, behavior disorders, emotional disturbance, and mental retardation). Findings indicate that minority students with special needs are restricted in both charter and non-charter schools; and, minority students eligible for special education services are more likely to be placed in restrictive settings as compared to White students.

The data presented by Fierros and Blomberg is rich in its descriptive nature and offers clarity based on the selection process. In future studies, I encourage the authors to include similar data from multiple states—beyond California. While it appeared that they were intending to make such comparisons after collapsing the demographic data categories of California's enrollment data, the authors missed an opportunity for potentially rich and valuable comparisons. I suggest that Fierros and Blomberg take full advantage of the data categories they collapsed and aligned with U.S. Office of Civil Rights racial categories by comparing data between states, in particular states with similar demographics and placement issues for students from diverse ethnic/racial, socio-cultural, and linguistic backgrounds. Lastly, while highly descriptive, the overall outcomes of this research study would have been greatly enhanced by the application of inferential statistical analysis to the data; a suggested consideration for future investigations.

Fierros and Blomberg were able to emphasize valuable information relevant to the stated concern of restrictiveness and overrepresentation of minority students in special education thereby reporting the data by disability categories including high-incidence disabilities such as specific learning disabilities, behavior disorders, emotional disturbance, and mental retardation. That said, the study would be enhanced with further explanation of how the restrictive rates and the level of restrictiveness for each placement were determined. Subsequent to a learner being identified with a disability, the type of service is determined—from a least-restrictive level (e.g., consultation and services provided in inclusive classrooms, services offered in part-time resource room, etc.) to highly restrictive level (e.g, services offered in a district school, hospital setting, jail, etc.) (Deno, 1986). An uninformed reader could easily have concluded from this study that learners identified with the aforementioned disabilities were placed in restrictive settings (e.g., segregated classrooms or schools) as opposed to least-restrictive settings such as services offered in inclusive classrooms.

How can we ensure that the 'right' students are being identified and served?

Disproportionate representation of students from diverse ethnic/racial, sociocultural, and linguistic backgrounds in special education is a complex and persistent concern in the field. Its complexity has made it resistant to change despite ongoing efforts of leading researchers in the field. While a clear set of guidelines from federal and state laws exist for assessment purposes related to identifying students with disabilities and determining their eligibility for special services, considerations and guidelines for conducting nondiscriminatory and unbiased assessment have been developed in the last decade or so (e.g., National Joint Committee on Learning Disabilities, 1998). Moreover, researchers in the field of culturally responsive instruction offer considerations relevant to pre-referral interventions. One final area that warrants attention is the professional development of teachers, both general education teachers as well as special educators.

Considerations for conducting nondiscriminatory and unbiased assessment and referral

An assessment that is nondiscriminatory is defined as "reducing the chance that a child might be incorrectly placed in special classes and increasing the use of intervention programs which facilitate his or her physical, social, emotional, and academic development" (Tucker, 1977, p. 109). Federal guidelines state that evaluations should meet the following three criteria to be fair and unbiased:

1. Assessments should be conducted in the student's native language or other mode of communication.
2. All evaluation or testing material should be used for the specific purpose for which it has been validated.
3. Standardized tests should be administered by an appropriately trained professional with the expertise to administer it according to the specified guidelines from the test producer.

Disproportionate representation of racial/ethnically, culturally and/or linguistically diverse students is also due in part to bias in testing and referral practices. When addressing concerns for bias, educators need to consider the following potential sources of bias (Haager & Klingner, 2005; Overton, 1996):

1. *Inappropriate content.* Students from diverse backgrounds may not have adequate exposure to constructs included in the assessment instrument.
2. *Inappropriate standardization samples.* Minority groups may not have been thoroughly represented in the normative sample that was used to establish evaluation standards.
3. *Examiner and language of examination.* When a test is conducted in English or by an examiner of a cultural or linguistic background difference from the student's, the student may feel intimidated.
4. *Measurement of different constructs.* The constructs included in the test may represent a majority culture: these tests may only measure the extent to which a minority student has absorbed the majority culture.
5. *Different predictive validity.* Tests used to predict future educational outcomes may not be adequate predictors for minority students.

6. *Translation of tests in English to other languages.* When tests are translated into another language, the original meaning may be lost thereby making the norms for the instrument invalid.

It is important to avoid pitfalls related to questionable assumptions when administering standardized tests to students of racial/ethnic, cultural and/or linguistic diverse backgrounds. We cannot assume that a student's test performance accurately reflects his or her competence or true abilities. Numerous situational factors can affect how the student performs on a given assessment (Haager & Klingner, 2005). For example, a learner's cultural perspective may influence different interpretations of the test task, perceptions of the problem to be solved, perceived options for reaching a solution, the amount of time best needed to complete a task, and the learner's comfort level with a particular examiner. Another pitfall, content validity involves the assumption that the learner is familiar with the overall content included in the text and from which test items are drawn. Content validity can be violated when the test reflects content, abilities, and skills valued by the majority culture instead of the culture of the student being tested. Other considerations that can impact the learner's test performance but are often misinterpreted or overlooked include, home data about primary culture and language practices, stage of English language acquisition, English language proficiency level of the learner, and language of the assessment instrument.

Lastly, even though assessment experts have not yet determined how to distinguish between normal second language learning influences and disabilities, it is important to note that every test given in English is testing the learner's language or literacy in addition to the actual assessment focus (American Educational Research Association, American Psychological Association, & National Council on Measurement in Education, 1985). A common practice of transitioning English language learners to English-only programs based on their superficial interpersonal communication skills without attention to their cognitive academic language proficiency, often results in underachievement in academic work (Cummins, 1984). Predictive validity of tests, for example, intelligence tests, often misrepresent the ability of students from diverse ethnic/racial, socio-cultural, and linguistic backgrounds by underestimating their potential achievement (Rueda, 1997).

Culturally and linguistically responsive pre-referral intervention processes

Since the 1970s, when pre-referral intervention emerged relevant to the inappropriate identification of children with special needs, pre-referral models have evolved to ensure that students' social-cultural, racial/ethnic, linguistic, and other relevant background factors are addressed at all stages of review and assessment (Ortiz, 2002). In many schools, the dominant, majority culture permeates school culture and expectations including behavior, social interactions, academics, instruction, curriculum, and assessment. Teachers must come to understand culture in the broad sense, that is, all learners (and teachers) have cultures that provide the context for teaching and learning (Gollnick & Chinn, 2002). Garcia & Ortiz (2004) recommend that the responsibility for educating all students and providing culturally-responsive instruction, curriculum, and assessment must be shared by all teachers in the school. These responsibilities include: (a) making available a range of supports, services, and

programs that accommodate the unique needs of learners (e.g., early childhood education, Title 1 services, English language acquisition/bilingual education, gifted and talented education, services for immigrant students); (b) valuing and building on the knowledge, strengths, and experiences of the students and their families; and, (c) providing professional development for teachers.

In the case when students experience academic or behavioral difficulties, early intervention and timely support systems are important components toward improving academic performance and reducing inappropriate special education referrals (Garcia & Ortiz, 2004). At the classroom level, teachers can sequentially teach subjects, concepts or skills, then re-teach them using different strategies when a learner is struggling, and ultimately use informal assessment strategies to identify students' strengths and weaknesses (Ortiz, 2002). At the school level, a broader range of supports should be available. For example, peers or experts can support classroom teachers toward the development of instructional strategies or resources, ideas for managing behavior, and the coordination of content instruction with a focus on English language acquisition. When prevention and early intervention efforts fail to resolve learning difficulties, data gathering using multiple sources of information need to be considered if and when referral to special education services is warranted (Haager & Klingner, 2005; Ortiz, 1997).

Implementing professional development for diversity-responsive teaching

Classrooms today need teachers who can educate students varying in race/ethnicity, socio-culture, language, abilities and many other characteristics (Gollnick & Chinn, 2002). If we decontextualize teaching and learning from the ethnicities and cultures of students, we minimize the chances that students' will achieve their full potential (Gay, 2000). Moreover, Ball and Cohen (1999) advocate for teachers to not only know their students but understand that they teach children who come from backgrounds different from their own. Yet, teachers continue to struggle with students' needs relevant to cultural and language differences, differences in ability, or social and family differences (Nieto, 1999). In fact, in a recent study, 80% of teachers polled reported that they feel ill-equipped to teach diverse populations (Futrell, Gomez, and Bedden, 2003). Clearly, we are challenged to prepare highly qualified educators who are accountable for educating all learners (Danielson, 2001). Townsend (2002) advances this need for culturally responsive teaching to the arena of standards-based assessment. Teachers are charged with meeting the demands of standards-based reform, both for themselves as well as their students. The way that teachers choose to seize or shy away from these challenges warrants objective assessment.

What are the characteristics of a teacher who is successful and accountable to the needs of students from racial/ethnically, culturally, and linguistically diverse backgrounds? What professional development needs to be in place to support teachers' growth toward such a goal? Although the dynamics of cultural competency have been defined in various ways, Hanley (1999) conceptualized it as "the ability to work effectively across cultures in a way that acknowledges and respects the culture of the person or organization being served" (p. 10). Culturally responsive teachers see learning to have intellectual, academic, personal, social, ethnical, and political dimensions each of which develop in concert with one another (Gay, 2000). Ladson-Billings (2001) asserts that culturally relevant teaching is based on three propositions

relevant to the teacher's ability to create a context in which all students can be successful. Such teachers:

1. focus on individual student's academic achievement (e.g., using clear goals, multiple forms of assessment);
2. have attained cultural competence and help develop students' cultural competence;
3. have a developed sense of sociopolitical consciousness and foster students' sense of sociopolitical consciousness.

Villegas and Lucas (2002) expand on this framework of culturally relevant teaching by articulating six characteristics that define the culturally responsive teacher:

1. sociocultural consciousness (e.g., understanding that people's ways of thinking, behaving, and being are deeply influenced by such factors as race, ethnicity, social class and language;
2. an affirming attitude toward students from culturally diverse backgrounds (e.g., students who differ from the dominant culture);
3. the commitment and skills to act as agents of change (e.g., recognition that schools have served to maintain social inequities and the willingness to take action to change this);
4. constructivist views of learning (e.g., use and build on learners' prior knowledge and beliefs);
5. learned knowledge about their students (e.g., students' backgrounds, experiences, lives, communities);
6. culturally responsive teaching practices (e.g., involving all students in construction of knowledge, building on students' personal/cultural strengths, teaching students to examine curriculum from multiple perspectives, making classroom cultures inclusive).

Customized guides that focus on observing, mentoring, and assessing teachers' abilities to meet the diverse needs of all learners can also be used to meet the challenge of guiding teachers' professional development. Sobel, Taylor & Anderson (2003a: 2003b), faculty from an urban university and large school district, developed a standards-based observation tool used to evaluate and mentor inservice and preservice teachers' abilities to meaningfully address issues of diversity in their classrooms. The tool is grounded in state and district standards for diversity-responsive teaching including: competency in and valuing of diversity, subject matter knowledge, effective instruction, effective classroom management, professional commitment to education, and effective interpersonal skills. Designed to foster a discussion between teacher and observer, the tool's use is two-fold: to meet the requirement of the teaching standard and to support and mentor teachers' development in culturally responsive teaching.

In closing, quality teachers have the responsibility to ensure that all their students have an equal opportunity to achieve. Such teachers must not only possess the knowledge and awareness of culturally relevant practices, but must also be supported by the administrative contexts where they work. These contexts operate within the political, social and cultural worlds called schools. It is the educational system that plans the curriculum for schools. Acknowledging that practice exists within

these systems creates a schema for supporting culturally responsive practice that builds on multiple levels of simultaneous change. It is imperative that teachers recognize and use their influence as they teach other people's children (Delpit, 1988). In our schools, measuring student performance must coincide with standards for teachers' practice that create accountability for all, not just some or most students. An important contribution to building culturally responsive systems resides in the tools and procedures we use to measure, encourage, and assess the change and progress of teachers and learners.

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