

Restrictiveness and Race in Special Education: Practicalizing the Laws

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This article is a response to Fierros and Blomberg's article on "Restrictiveness and Race in Special Education Placements in for-profit and non-profit charter schools in California." It compliments these scholars for confirming through their findings that ethnically diverse students with special education needs endure segregationist policies in charter schools. To a large measure, this article calls for vigorous critiques and analyses of reform programs such as charter schools before consumers can jump on the emotional band-wagon. In this era of accountability when no child is supposed to be left behind, society cannot and must not condone presumed innovative programs that disenfranchise those that they are expected to help. In a nut shell, this article's premise is that true quality and equity must go hand-in-glove.

Key words: Charter Schools, Reform Programs, Accountability, True Quality, Equity.

Charter schools highlight the United States' desire to reform public education in its current form. They represent yet another innovative proposal to address issues of accountability, quality, and equity; and to a large measure, they represent the dream of *educating all learners* (Obiakor, Grant, & Dooley, 2002). Notable scholars and educators (e.g., Gill, Timpane, Ross, & Brewer, 2001) have attempted to critically analyze the viability of charter schools, especially since the promulgation of the 2001 *No Child Left Behind Act* (Public Law 107–110). In this article, Fierros and Blomberg reported their study on 502 charter schools; 265 of which are for-profit and 237 are non-profit. In this study, they utilized data from the California Department of Education (CADE) to compare regular and special education students in these charter schools. A multilevel analysis was used to determine restrictiveness and placement rates of these schools. Data analysis revealed that (a) California charter schools have fewer numbers of students with special needs, (b) little variability exists with regard to race/ethnicity, (c) ethnically diverse students in both charter and regular schools are restricted, and (d) ethnically diverse students eligible for special education services are more apt to be placed in segregated educational settings as compared to their White peers.

RESISTING THE BAND WAGON MENTALITY

As it appears, Fierros and Blomberg's article recognizes that charter schools are supposed to present smaller classrooms, more attention, and individual programming

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for *all* learners, especially those with special education needs. However, it points to the fact that charter schools are restrictive and discriminatory to ethnically diverse learners with exceptionalities. In addition, it acknowledges the lack of accountability prevalent in charter and other presumed innovative schools. While federal laws do not permit discrimination and segregation, Fierros and Blomberg found that in California, more ethnically diverse learners are placed in restrictive environments than their White peers because “there is no de facto penalty for charter schools excluding students with special needs.” In this era of accountability, Fierros and Blomberg must be complimented for resisting the band wagon mentality in their work. As educators, they understand that school choice is a good thing; but they also note that some choices are wrong for individual and collective growth. They recognize that the failure to analyze consequences of reform programs have had far-reaching consequences on today’s critical issues (e.g., inclusion, assessment, placement, and instruction). In addition, Fierros and Blomberg must be complimented for making efforts to expand their investigation to unmask traditional disparities of state-level statistics. Typically, some investigators have been known to abuse data to arrive at some strange conclusions (see Herrnstein & Murray, 1994).

With this work, Fierros and Blomberg have added to the body of research on charter schools, general education, and special education. It is important that scholars continue to analyze the effectiveness of reform programs, even when they have well-intended goals and good-sounding titles (e.g. charter schools and *No Child Left Behind Act*). The utilization of a multilevel analysis of the CADE data shed some light on the relationships between restrictiveness, race/ethnicity, special education, and charter schools. Ultimately, Fierros and Blomberg’s underlying message is that with all their innovative ingredients, charter schools are not immune from segregationist practices. Like public schools, these schools may not be the educational panacea that some politicians claim. Without careful vigilance, public scrutiny, and rigorous research, ethnically diverse learners with special education needs will suffer in programs supposed to help them to maximize their fullest potential. In essence, allowing charter schools to go unchecked and unmonitored will create another school system that perpetuates educational inequities (Noguera, 2004; Obiakor, 2001; Yeo & Kampil, 1999).

While Fierros and Blomberg must be complimented for this article, their work manifests limitations that deserve attention. The article’s title includes for-profit and non-profit charter schools; however, Fierros and Blomberg fail to expand their discussion to include the for-profit schools. Although, they discuss issues of race and ethnicity in special education, they fail to mention some leading scholars in that area of research. Incorporating the multiple voices of such scholars would have buttressed the scholarly intensity of this work. Finally, with the rise of specialty schools, it is evident that students will be included or excluded as needed. For instance, in Milwaukee, Wisconsin (U.S.A.), there are many specialty public schools that allow students to excel in measurable ways. Gladly, Fierros and Blomberg acknowledge that the “organization and motivation of a charter, and an examination of its origins may play a role in its enrollment of special education students.” The laws in special education (e.g., the 1975 Education of All Handicapped Children’s Act; its amendment, the 1990 individuals with Disabilities Education Act; and the reauthorization

of this law, the 1997 Individuals with Disabilities Act) support education of exceptional learners in least restrictive environments (LRE). The laws do not support indiscriminate inclusion or integration of students. The fact remains that meeting the unique needs of individuals is central to the sacred existence of special education (Kauffman & Hallahan, 2005; Obiakor, Utley, & Rotatori, 2003).

PRACTICALIZING THE LAWS IN SPECIAL EDUCATION

It has become increasingly evident that ethnically diverse students are over represented in special education programs (Artiles & Trent, 2000; Obiakor 2001; Obiakor & Utley, 2004; Utley & Obiakor 2001). In this work, Fierros and Blomberg use examples from other States (e.g., Massachusetts, New Hampshire, and Texas) to confirm the relationship between race, ethnicity, special education, and the placement of students in charter schools. As they point out, such placements and uncertainties “create the potential for abuse of students with special needs and a chilling effect for students with special needs that may be interested in attending charter schools.” Since many of these learners come from ethnically diverse backgrounds, they find themselves with shattered dreams (Obiakor & Utley, 2004).

More than two decades ago, Staples (1984) argued that the “ideology of equal opportunity masks the reality of a country stratified along racial, gender, and class lines” (p. 12). Today, race has continued to matter in the United States (West, 1993), and the laws that are supposed to help disenfranchised individuals have not been pragmatically pursued (Obiakor, 2001; Obiakor et al., 2002). They appear to be toothless bull-dogs. For instance, there is no formative or summative evaluation on how well teachers, school programs, school principals, and school district personnel respond to civil rights of their students. In reality, it has not been costly to discriminate against ethnically diverse individuals. It is bad enough to inappropriately identify ethnically diverse students as having problems because they look, learn, talk, and behave differently. It is equally bad to use instruments that lack validity and reliability to assess or label these students. But, it is immoral to establish charter schools under the guise of educating all learners and then disenfranchise learners who need the most help. Clearly, all schools, whether chartered or not, must help all learners to optimize their capabilities (Obiakor, 2001; Obiakor et al., 2002; Utley & Obiakor, 2001).

CONCLUSION

Fierros and Blomberg’s article is beneficial to scholars and educational practitioners. It critically examines differential enrollment patterns in charter schools and reveals new information on ethnically diverse students with special education needs. This work also has larger educational implications for program planners and change agents. In the rat race to reform public education, we should not hastily accept any and every alternative without appropriate discussion, research, and critique. At the same time, general and special educators must make sure that they are not just reinventing the same broken wheel. Finally, we conclude that we have not truly done our jobs as professionals when solutions that we have so vigorously supported have done nothing but perpetuate past problems.

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