

Restrictiveness and Race in Special Education: Facts that Remain Difficult to Ignore Anymore

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Perhaps one of the most long-standing concerns in special education is the over-representation of some groups of children in special education. In this issue, Fierros and Blomberg report that racial/ethnic representation of special education students in charter schools mirrors that in general education populations. These finding are not new and are easily reproducible; the position taken here is that illustrating that over-representation exists, or the extent of it, is misplaced effort. If special education worked, few would be concerned about the distribution (or, 'over-distribution') of services; but, special education does not work all that well for many children receiving it; and, therefore, research, reassessment, and reform should be redirected to the quality of services students receive not who receives them. This also is not a new idea, but it is among the least long-standing actions taken in special education and the time for change is rapidly approaching a critical edge.

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In 1991, Minnesota passed the first charter school law, with California following suit in 1992. By 1995, 19 states had signed laws allowing for the creation of charter schools, and by 2003, that number increased to 40 states, Puerto Rico, and the District of Columbia. Nearly 3,000 new schools have been launched since state legislatures began passing charter legislation in the 1990s. Chartering is a radical educational innovation that is moving states beyond reforming existing schools to creating something entirely new. Chartering is at the center of a growing movement to challenge traditional notions of what public education means.

Chartering allows schools to run independently of the traditional public school system and to tailor their programs to community needs. While not every new school is extraordinarily innovative and some school operations may mirror that of traditional public schools, policymakers, parents, and educators are looking at chartering as a way to increase educational choice and innovation within the public school system. www.uscharterschools.org

People establish charter schools for a variety of reasons. The founders generally fall into three groups: grassroots organizations of parents, teachers, and community

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members; entrepreneurs; or existing schools converting to charter status. According to the first-year report of the *National Study of Charter Schools,* the three reasons most often cited to create a charter school are to realize an educational vision, gain autonomy, and serve a special population. Parents and teachers choose charter schools primarily for educational reasons—high academic standards, small class size, innovative approaches, or educational philosophies in line with their own. Some also have chosen charter schools for their small size and associated safety (charter schools serve an average of 250 students). Given these foundations, there is no reason to believe that charter schools will address over-representation issues that have plagued special education for many years.

What We Know about Charter Schools

As is the case with all grand initiatives, the U. S. Department of Education has supported research to document and analyze the charter school movement. Considerable descriptive information is available online and in hard copy relative to the number and type of charter schools that have become operational and about the factors that facilitate or hinder the development and implementation of the "movement;" extensive data on student characteristic are available in each report (U. S. Department of Education, 1997, 1998, 1999, 2000).

- First year preliminary research did not produce evidence of discriminatory admissions practices or that charter schools "cream" or select "desirable" students from the overall student population (U. S. Department of Education, 1997).
- In general, racial enrollments in charter schools mirrored the racial distribution of students in all public schools; with about one-half of charter *and* all public schools serve predominately White students, about one-quarter of charter *and* all public schools serve predominately non-White students, and the remainder serve a diverse group of students (U. S. Department of Education, 1998).
- One fear regarding the charter movement was that charter schools would be elitist, serving a lower proportion of students of color than other public schools. In recent research, most charter schools had about the same percentage of white students as their district average. More than 70 percent of charter schools were within 20 percent of the average district percentage of white students, while about 16 percent had a distinctly higher percentage of students of color than their surrounding district, and the remaining 12 percent of schools had a lower percentage of students of color than their surrounding district (U. S. Department of Education, 1999).
- Critics and advocates alike have feared that charter schools would primarily serve white students. This has not turned out to be the case. Overall, charter schools enrolled a larger percentage of students of color than all public schools in the states with open charter schools. Over the last 3 years, the percentage of white students served by charter schools has slightly declined. At the local level, most charter schools had about the same proportion of white students (within 20 percent) as their surrounding districts (U. S. Department of Education, 2000).

Fierros and Blomburg (this issue) examined the representation of special education in for-profit and non-profit charter schools in California to better understand whether a status can lead to differential enrollment patterns of students with disabilities. Consider these facts:

- A small number (2.35%) of students are enrolled in charter schools in California (see Table 1, p. 8) and the representation of special education in them is even smaller (1.11).
- Distribution of racial groups in special education is the same as the distribution in regular education (see Table 2, p. 9).
- Attitudes toward enrolling certain races in special education are identical across types of schools.
- Enrollments by race in non-profit and for-profit are similar (see Table 3, p. 10).
- Few disability-based differences were evident across all comparisons.

These findings mirror those in larger, national reports and can easily be reproduced in data available in most states (see Figure 1). The risk in grounding broad conclusions in data from a single state is that unless ethnic distributions are representative (n/b North Carolina and California are quite different—see Table 1), generality of specific finding is limited (e.g., what group is "over-represented" depending in large part of general demographics whose edges blend as sampling becomes more diverse). More importantly there is no reason to believe that over-representation issues that have plagued special education for many years have been or will be eliminated by continuing analyses of data from regular schools, charter schools, or any schools.

FIGURE 1. *Ethnic Enrollment in North Carolina (2003–2004)*

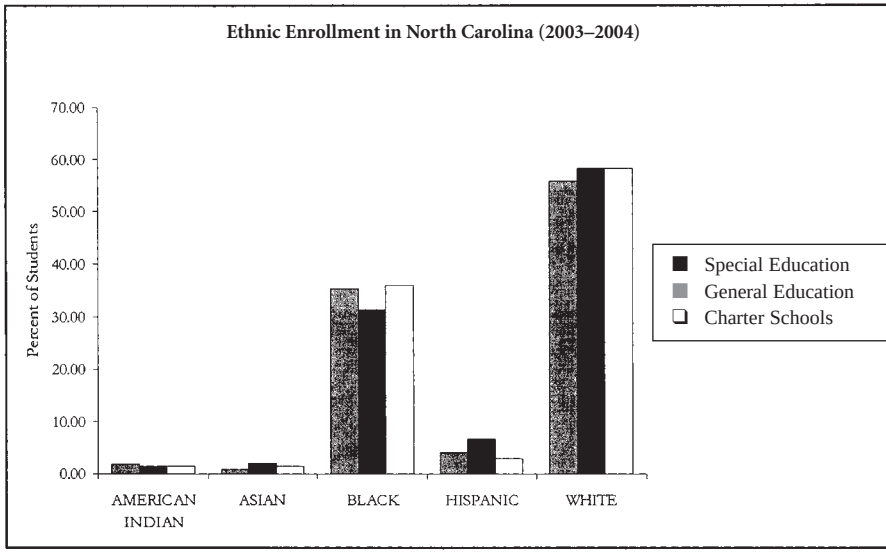

Table 1. *Comparison of Percent of Students Identified with Specific Learning Disabilities, Mental Retardation, Speech and Language Impairments, and Emotional Disturbance by Race/Ethnicity*

	AMERICAN INDIAN	ASIAN	BLACK	HISPANIC	MULTIRACIAL	WHITE
Ferrios & Blomberg Charter Schools (2001–2002)						
SLD	1.55	2.80	14.73	39.33		41.58
MR	1.89	5.30	11.36	40.15		41.29
SLI	1.43	4.64	7.86	40.08		45.99
ED	0.46	2.78	18.52	24.07		54.17
North Carolina All Schools (2003-2004)						
SLD	1.63	0.76	30.36	5.41	1.70	60.14
MR	2.99	0.52	59.02	3.30	0.97	33.19
SLI	2.67	1.07	25.76	3.92	2.43	64.13
ED	1.01	0.16	53.19	1.26	2.30	42.07

Taking the Broader View, All Over Again

Special education is at a crossroads. Almost 30 years have passed since the enactment of America's mandatory special education law (The Education for All Handicapped Children Act: Public Law 94–142), today reauthorized as the Individuals with Disabilities Education Act, and the number of students receiving special education has increased at a rate of about 3% a year despite general declines in the general school population (U. S. Department of Education, 2002b). Today, the number of children served has more than doubled, from the first "counts" made public, to close to 6,000,000 and more than half of them are classified with specific learning disabilities. All the growth has been coupled with continuing facts that are difficult to resolve, among them is the "particularly disturbing finding . . . that children of minority status are over-represented in some categories of special education" (U. S. Department of Education, 2002a).

More than twenty years ago, in a National Research Council (Heller, Holtzman, & Messick, 1982, pp. 3, 94–95) report, *Placing Children in Special Education: A Strategy for Equity,* a blue-ribbon panel of experts identified the same problem: "The overrepresentation of minorities in special education . . ." and based recommendations for change on six "principles of responsibility" that made (*and make*) abundantly good sense:

1. "It is the responsibility of teachers in the regular classroom to engage in multiple educational interventions and to note the effects of such interventions on a child experiencing academic failure before referring the child for special education assessment."
2. "It is the responsibility of assessment specialists to demonstrate that the measures employed validly assess the functional needs of the individual child for which there are potentially effective interventions."

3. "It is the responsibility of the placement team that labels and places a child in a special program to demonstrate that any differential label used is related to a distinctive prescription for educational practices and that these practices are likely to lead to improved outcomes not achievable in the regular classroom."
4. "It is the responsibility of the special education and evaluation staff to demonstrate systematically that high-quality, effective special instruction is being provided and that the goals of the special education program could not be achieved as effectively within the regular classroom."
5. "It is the responsibility of the special education staff to demonstrate, on at least an annual basis, that a child should remain in the special education class. A child should be retained in special education class only after it has been demonstrated that he or she cannot meet specified educational objectives and that all efforts have been made to achieve these objectives."
6. "It is the responsibility of administrators at the district, state, and national levels to monitor on a regular basis the pattern of special education placements, the rates for particular groups of children or particular schools and districts, and the types of instructional services offered to affirm that appropriate procedures are being followed or to redress inequities found in the system."

Twenty years later, Donovan and Cross (2002) noted that the "principles continue to express the vision of a well-functioning, equitable special education system" (p. 360). More than two decades later, few would argue that these principles have been heeded and the real concern is that conditions in special education are substantially the same today as they were 20 to 30 (or more) years ago. Apparently, critical responsibilities, directions, and expected actions are rhetoric more than reality.

What to Do and When to Do It

Over the years, judgments as to whether disproportionate placement is problematic have focused on reasons for the disproportion less than on the consequences of placement. Interestingly, if special education worked, few would be concerned about the distribution of services; in fact, parents and other caregivers would likely be clamoring for ways to have their children identified, placed, and served (much like they did in the early days of the learning disabilities movement when promises overshadowed practices). But, special education does not work all that well and therefore concern for change should shift from who (appropriately or inappropriately) receives services to improving the quality of what he, she, or they receive. Obviously, simply listing responsibilities and expecting change is largely ineffective, unrealized, and inept policy. Further, there is no reason to believe that over-representation issues that have plagued special education for many years have been or will be eliminated by charter schools or continuing efforts to uncover, discover, or recover promised benefits that simply have not borne fruit in efforts to improve the lives of children (with or without disabilities).

What to do? Teach natural groups of neighbors and peers relentlessly in normal environments guided by beliefs *and actions* illustrating that all children can learn. Use assessment to inform the process of teaching, not to celebrate the practice of testing. Demonstrate the benefits of alternative placements or do away with them.

Monitor the process and fidelity of teaching so that blaming children (or their backgrounds) for failure becomes a "thing of the past." Make monitoring progress the daily, weekly, and monthly duty of every professional working in the school. Monitor the effects of teaching and when regressing replaces progressing, check the fidelity, change the intensity, and/or increase the rewards of instruction; but do not blame the child unless it is abundantly clear that high quality teaching, over a reasonable period of time, has been ineffective.

When to do it? Now, because "fundamental change in special education will take time . . ." (Heller, Holtzman, & Messick, 1982, p. 93) but sadly, time is running out and the long-standing ineffectiveness of the system is increasingly indicting, embarrassing, and upsetting to all those who seek to improve the lives of children. Do it now (in all classrooms in every school) and concerns about over-representation will take a very different form and function.

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