

Overcoming Disproportionality, One Teacher at a Time

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Abstract: *This presentation seeks to explore the various complexities of racial and ethnic disproportionality in special education. We discuss the many competing and often contradictory findings in the current literature (Dever et al., 2016; Morgan et al., 2015; Sullivan, 2011; Voulgarides & Thorius, 2017). We briefly discuss the implementation of the Individuals with Disabilities Education Act (IDEA) and follow the impact of IDEA and other legislation on racial and ethnic disproportionality in special education. We present literature which indicates that legislation has caused or encouraged manipulation by state education agencies (SEAs) in their development of risk ratios which determine “significant disproportionality” (Bollmer, Bethel, Garrison-Mogren, & Brauen, 2007) Finally, we discuss how equity in terms of socioeconomic status and gender are all but ignored when addressing disproportionality in special education (Voulgarides & Thorius, 2017).*

According to Alexa Posny, the former director of the Office of Special Education for the United States Department of Education, racial and ethnic minority students should occupy special education classrooms at the same proportion as they occupy the general population of the school (Posny, 2007). If this proportion is skewed within special education, then that group is disproportionately represented in special education (Posny, 2007). Despite the simplicity of this definition, racial and ethnic disproportionality in special education has been and continues to be a problem in public schools in the United States (Albrecht, Skiba, Losen, Chung, & Middelberg, 2011; Bruce & Venkatesh, 2014; Dever, Raines, Dowdy, & Hostutler, 2016; Dunn, 1968; Voulgarides & Thorius, 2017). This review will examine the background and current status of disproportionality in special education to better understand the complexity of the issue.

BACKGROUND

The issue of disproportionality in special education was first raised by Dunn (1968) following *Brown v. Board of Education of Topeka (1954)*. Dunn (1968) argued that:

About 60 to 80 percent of the pupils taught by these teachers are children from low status backgrounds—including Afro-Americans, American Indians, Mexicans, and Puerto Rican Americans; those from nonstandard English speaking, broken,

disorganized, and inadequate homes; and children from other nonmiddle class environments. (Dunn, 1968, p. 6).

Dunn (1968) suggested that teachers referred students to special education settings because they thought it would help their classrooms make better progress, but he argued that separate settings were not beneficial for special education students.

Despite Dunn's call to action in 1968, racial and ethnic disproportionality in special education persisted. The Individuals with Disabilities Education Act (IDEA) of 1997 was the first legislation to specifically address ethnic disproportionality, but by the reauthorization of IDEA (2004), the disproportionality numbers had not declined. Subsequently, disproportionality was prioritized to be one of the top 3 enforcement concerns for the federal government (Albrecht, *et al.*, 2011; Castro-Villarreal, *et al.*, 2015; Thorius & Maxcy, 2014). This new priority caused the reauthorization to include language in the new law that could facilitate withholding money from states who failed to address racial and ethnic disproportionality.

IDEA (2004) introduced multi-tiered systems of supports (MTSS) and response to intervention (RTI) as strategies to reduce disproportionality in special education. RTI was to be used as a tool to help mitigate disproportionality and to ensure that students who were referred for special education services were in need of an Individual Education Program (IEP) and special education services (Thorius & Maxcy, 2014)

IDEA (2004) also required collection and reporting of disproportionality data at the state and district level. However, the government did not specify how that data should be analyzed. Each state utilized custom risk ratios which inadvertently explained their disproportionality while not addressing it. By using risk ratios, states could rationalize significant disproportionality rather than taking corrective action (Albrecht, *et al.*, 2011; Bollmer, Bethel, Garrison-Mogren, & Brauen, 2007). Ultimately, as state education agencies and local education agencies reported disproportionality data using their specific analytic techniques, and their specific definitions of significance, these data satisfied the requirements of the law but did not address the concerns that ultimately brought the law about in the first place (Albrecht, *et al.*, 2011).

Following IDEA (2004) with the new monetary incentive to address disproportionality and without addressing its cause the federal government mandated action from state education agencies. Thus, in spite of the state's previously developed risk ratio and with no other explanation of possible causality, states were required to take action on racial and ethnic disproportionality.

DISPROPORTIONALITY PRESENTLY

IDEA 2004 mandated action without knowing cause, and this has had unintended consequences. Because the cause of disproportionality is unknown, and the preferred intervention is RTI, then the most practical place to address the issue is within the classroom. Thus, the responsibility of addressing disproportionality falls directly to the teachers who make the original referrals in the classrooms (Castro-Villarreal, Villarreal and Sullivan 2016). However, Dunn (1968) argued that teachers may not be the best choice of professional to determine special education eligibility. Similarly, Gerber and Semmel (1984) said that teachers were ineffective at assessing the appropriateness of special education services for students, absent any other assessments. More recently, Thorius and Maxcy (2014) found that the RTI model has had no effect on disproportionality primarily due to the cultural and systemic bias in the classroom. Teacher perception and social stereotypes alter the assessment and response portions of the RTI model.

Voulgarides and Fergus (2017) added that both cultural differences and underdeveloped multi-tiered systems of support, especially where MTSS has not been properly operationalized, are likely to blame for disproportionality.

Despite issues with RTI, others argue that MTSS is likely the most effective tool in our arsenal to rectify ethnic and racial disproportionality in special education (Castro-Villarreal, *et al.*, 2016). It must be properly implemented, done with fidelity, and absent implicit bias (Castro-Villarreal, *et al.*, 2016). It is also noteworthy that both RTI and MTSS are systems and thus some of the responsibility for implementation must migrate back to the school and the district.

DISCUSSION

Racial and ethnic disproportionality is a longstanding issue in special education that is both complex and difficult to address. The population of the United States is rapidly becoming more diverse. However, the ethnic representation of teachers and administrators remains predominantly White (Moreno & Segura-Herrera, 2013). Therefore, teachers and school administrators must become more linguistically and culturally sensitive in assessment, curriculum development, and intervention methodology. This requires that faculty, management, and staff in our schools must become more culturally responsive (Griner & Stewart, 2012). This new set of competencies are now, more than ever before, required for all school personnel. Moreover, we must assess implicit and explicit bias in people and policy at the local level and at the state level. Institutional assessment and self-assessment for cultural sensitivity should be our first step in identifying and addressing ethnic disproportionality in special education.

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