

Addressing Disproportionality in the Identification of English Language Learners (ELLs) for Special Education Programs: What Pre-Service Teachers Need to Know

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As our nation's classrooms become more diverse, how to best educate all of our students is of paramount importance. The educational placement of students of racial, cultural, ethnic, and linguistic diversity in classes for students with special needs at a disproportionate level is well documented. This paper addresses the issue of disproportionate representation of English Language Learners (ELLs) in special education programs. Teacher beliefs, cultural bias, lack of culturally responsive professional development opportunities, and assessments contribute to inappropriate referrals and identification. Preparing pre-service teachers to understand disproportionality and why it exists can help reduce the inappropriate referrals and placement of ELLs in special education programs.

Introduction

The disproportionate representation of racially and ethnically diverse students in special education was introduced to scholarly literature in the late 1960s. Since then, the literature has shown that this problem persists and is becoming more wide-spread. While there has been an abundance of literature on the disproportionate representation of racially and ethnically diverse students in special education over the past several decades, it was only in the past decade that the literature on disproportionality began to focus on language and not just race and ethnicity. Understanding the disproportionate representation of ELLs in special education, and understanding why it exists, is important for preservice teachers.

Recent studies have shown an increasing number of ELLs in our nation's classrooms and an increasing number of ELLs receiving special education services. During the 2001-2002 school year, approximately 357,325 English Language Learners were receiving special education services (Zamora, 2009, p. 94). As linguistic diversity continues to rise,

teachers are challenged to meet all students' learning needs, despite their language, race, or ethnicity. The problem that arises is that teachers who lack knowledge and experience in working with diverse students may have difficulty in distinguishing whether low achievement is due to a learning disability or limited English proficiency because ELLs and students with learning disabilities often display the same learning characteristics.

Both groups of students demonstrate discrepancies between actual academic achievement level and their potential academic achievement level, and it can be difficult for teachers to determine the cause of this discrepancy. Preservice teachers who understand these differences and are prepared to deal with diversity will be better able to meet their students' needs.

Understanding Disproportionality

Dunn (1968) investigated the disproportionate representation of ethnically and racially diverse students being labeled as mentally retarded. Dunn's study brought attention to students' civil rights in education and gave rise to numerous subsequent studies regarding the over-representation of ethnically and racially diverse students in special education programs.

Mercer (1973) investigated the over-representation of African-American and Mexican-American students in special education classes and found that public schools identified and labeled more students mentally retarded than any other institution serving children. Specifically, ethnically and racially diverse students were referred to special education at about the same rate as their white-counterparts; however, Mexican-American and African-American students were disproportionately placed in special education. Mercer concluded that the disproportionate representation was a result of IQ testing since "three times more Mexican-American and Black children and about twice as many children from lower socioeconomic levels appeared to be failing the intelligence test as would be expected from their proportion in the population of the school district," (p. 122).

Subsequently, equal access to education became an increasing concern in the 1970s and the decades that followed. This led to numerous court cases being fought to ensure that all students, regardless of race or ethnicity, received equal access to education. *Mills v. The Board of Education* in 1972 guaranteed all students, regardless of disability, equal access to education, and the Education for All Handicapped Children Act in 1975 helped states meet the needs of students with disabilities.

In the 1984 case of *Larry P v. Riles*, it was argued that the IQ tests used to place students in special education classes in the public school system in the state of California violated federal statutes (Skiba et al., 2008). This resulted in court orders for the state of California to develop a plan to eliminate the disproportionate number of African American students enrolled in educable mentally retarded special education classes. Additionally, in the 1980s the U.S. Department of Education Office for Civil Rights began providing data regarding the disproportionate number of ethnically and racially diverse students enrolled in special education classes.

Although this data did not provide an explanation for the disproportionality, it brought awareness regarding the extent to which the disproportionality was occurring nation-wide. However, in 1997 provisions of the Individuals with Disabilities Education Act (IDEA) took this awareness a step further by requiring states and districts to investigate solutions to the problem of the over-representation of culturally and linguistically diverse (CLD) students in special education programs.

More recently, the provisions of IDEA (2004) required states to disaggregate data by race, ethnicity, disability category, and special education placement. The provisions mandate that states must continuously monitor the data, and if a disproportionate representation is found, the state must review local policies and procedures. More importantly, if a disproportionate representation is found, local education agencies (LEAs) are required to allot the maximum amount of Part B funds allowable (15%) to early intervening programs (Skiba et al., 2008).

While the court mandates and data provided by the Office of Civil Rights have raised awareness of the disproportionality, the over-representation of CLD students in special education programs continues to be one of the most enduring problems in education. To better understand the trends and patterns of representation among ethnically and racially diverse students in special education, The U.S. Department of Education has two agencies that report data regarding their enrollment: The Office of Special Education Programs (OSEP) and the Office for Civil Rights (OCR). OSEP has reported data for three decades, but the data were never broken down by racial or ethnic group until more recently.

The data reported by OCR, on the other hand, have always been broken down into five racial and ethnic categories: American Indian/Alaskan Natives, Asian/Pacific Islander, Hispanic, non-Hispanic whites, and blacks. OCR reports the risk of students being identified in one of three special education categories: mental retardation (MR), learning disabilities (LD), and emotional disturbance (ED). A 1998 OCR report showed that blacks were most at-risk for being identified as MR than any other racial or ethnic category, while Hispanics were more at risk as being identified as MR than Asian/Pacific Islander (Donovan & Cross, 2002).

OCR projects that the identification of students as LD will increase for all racial and ethnic categories except for Asian/Pacific Islander, and the risk of being identified as ED has been increasing over the years for all five racial and ethnic categories.

The national trends shown in the OCR reports are reflected in the literature as well; researchers and scholars have written numerous articles and books reporting the disproportionate enrollment of ethnically and racially diverse students in special education in many districts in many states.

A study conducted by Hosp and Reschly (2004) showed that a student's racial/ethnic category is a strong predictor for being referred to and placed in a special education program. Being classified as Hispanic, African American, or American Indian was a strong predictor for being identified as ED and LD. In another study, Gottlieb et al. (1994) collected data on the referral and placement of low-performing students in special education programs in urban school districts over a ten-year period. Their analysis of the data

collected revealed that 95% of the students in the special education population were of a racial or ethnic minority group.

Similarly, Oswald et al. (1999) analyzed various school districts' data in the 1992 OCR compliance report, and using an odds ratio, found that African American students were 2.4 times more likely to be identified as MMR than their non-African American counterparts. They also found that 16% of the students in the sample population were African American, yet 21% of the students enrolled in special education programs were African American.

This same trend was observed by Manni et al. (1980) as cited in Reschly (1981). Analyzing district data of students in New Jersey revealed that the population was comprised of 7% Hispanic students, yet this group represented 14% of the students identified as MR. African American students comprised 18% of the student population but 43% of the MR population.

These figures remind us that the over-representation of CLD students in special education programs has been persistent over the years, for in the 1984 case of *Larry P. v. Riles*, 10% of the students in California were African American, yet 25% of the students receiving special education services were African American (MacMillan & Reschly, 1998). Not only has the over-representation of CLD students been persistent over the past four decades, the problem is wide-spread. Parrish (2002) noted that not only are African American students the most over-represented racial/ethnic group in special education, but they are over-represented in nearly every state.

While much of the research has focused on the over-representation of African American students in special education programs, there is a growing body of literature showing the over-representation of Hispanic students in special education programs. For example, Ortiz and Yates (1983) as cited in Ortiz (1997) found that Hispanic students in Texas were over-represented in special education programs by more than 300%. Blanchett et al. (2009) studied the intersection of language and learning disabilities and found that Hispanic students were 1.5 times more likely to be identified as having MR when compared to their White counter-parts.

In recent years, researchers have also begun to put language at the forefront of the investigation, and there has been a growing body of literature investigating the representation of ELLs in special education programs. Artiles et al. (2005) examined the placement pattern of ELLs in urban school districts in California and found that an increasing number of ELLs were being placed in special education programs at the elementary level, and ELLs were considerably over-represented at the secondary level. ELLs were between 1.42 and 2.43 times more likely to be identified and served in a program for students with MMR, LD, or speech/language impairment when compared to English-speaking students.

The results of their study also showed that language proficiency was linked to the likelihood of being classified as LD or MR. ELLs at the secondary level who have limited proficiency in both their native language and in English were more likely to be placed in all high-incidence categories than White, English-proficient peers. The more remarkable

finding among this group of students is that ELLs at the secondary level who have limited proficiency in both their native language and in English are actually 46 times more likely to be identified as MR than their white peers. At the elementary level, they found that ELLs who had limited proficiency in their second language were 75% more likely to be identified as LD when compared to their peers who were proficient in English.

They also concluded that the amount of language support ELLs received directly correlated to the chances of being placed in a special education program; ELLs with the least amount of support were more likely to be placed in a special education program than those who received support ESOL instruction.

Finally, a briefing report on minorities in special education issued from the U.S. Commission on Civil Rights (2009) presented findings of various scholars regarding the misplacement of CLD students in special education programs. The information shared in the briefing report was based on a 2007 briefing in which scholars in the field gathered to share their research. They discussed the extent to which CLD students are misplaced in special education programs; they explained some of the possible causes; and they offered solutions on how to resolve the problem.

The proceedings of five panelists in particular contribute greatly to this body of literature. Ms. Stephanie Monroe, OCR Assistant Secretary, reported that recent studies have shown that CLD students continue to be over-represented in special education. As a result, OCR has conducted hundreds of compliance reviews and has addressed 144 related complaints. The concerns included teachers referring CLD students for evaluation, but not white students, even though they shared similar characteristics and similar circumstances; using different tests for CLD students and white students; and placing CLD students in pull-out classes while white students are placed in mainstream classes.

OCR has found that there were fewer CLD students referred to special education programs following their initiatives addressing the compliance issues. Dr. Gould, Director of Technology and Research at the National Council on Disability, analyzed numerous government reports and attributed the over-representation of CLD students in special education to subjective criteria being used rather than objective criteria. He reported that the over-representation is inclusive of blacks, Hispanics, and American Indian/Native Alaskan in special education programs and using objective assessments could help solve the problem.

Hilary Shelton, Director of the NAACP and William Hurd, a partner of Troutman Sanders, both reported that the over-representation of ELLs in special education is an enduring problem, and they reported possible causes. Shelton attributed the problem to inappropriate referrals and placement, while Hurd attributed the problem to socio-economic factors and lack of parental support.

Perhaps the most significant proceedings contributing to this body of literature are from Peter Zamora, from the Regional Counsel for the Mexican American Legal Defense and Education fund. Zamora's report focused solely on the disproportionate representation of ELLs in special education, adding that "ELLs constitute the fastest-growing subgroup of students in U.S. public schools, with an annual increase of about 10% and a 72% increase

between 1992 and 2002” (p. 93). According to Zamora, the cause of the over-representation of ELLs in special education is the misclassification of students due to teachers’ lack of trainings in special education and language acquisition.

Teachers who lack knowledge and experience in working with diverse students may have difficulty in distinguishing whether low achievement is due to a learning disability or limited English proficiency. This could explain why ELLs who reside in districts where there is a smaller number of ELLs are more likely to be placed in special education than those who reside in districts with large populations of ELLs.

To address the problem of the over-representation of ELLs students in special education, the panel suggested courses of action including districts screening students before academic problems occur, implementing a pre-referral process, improving education programs and trainings for teachers on how to deal with diversity, using more objective assessments, encouraging more parental involvement, offering more options to parents who are not satisfied with public school services, and increasing federal oversight.

Special Education Referral Process

The over-representation of CLD students in special education programs has been attributed to both over-referrals and inappropriate referrals. Prior to the 1970s, students with disabilities received few academic services and were often denied learning opportunities because there were little or no established programs to help meet their needs. This all changed in 1972 with *Mills v the Board of Education of the District of Columbia* which mandated that all states and localities educate students with disabilities.

This was followed by Congress enacting the *Education for All Handicapped Children Act* (Public Law 94-142) in 1975 in order to “support states and localities in protecting the rights of, meeting the individual needs of, and improving the results for infants, toddlers, children, and youth with disabilities and their families” (U.S. Department of Education, 2010). Purposes of this act included to:

- assure that all children with disabilities have available to them...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs;
- assure that the rights of children with disabilities and their parents...are protected;
- assist states and localities to provide for the education of all children with disabilities; and,
- assess and assure the effectiveness of efforts to educate all children with disabilities.

Public Law 94-142 is currently enacted as the Individuals with Disabilities Education Act (IDEA) with the purpose of providing continuous support and improvement of services for students with disabilities.

Current procedures for special education referrals begin with a teacher, school personnel, or a parent suspecting a disability and requesting an evaluation of the student in

order to determine the student's needs for special education services. If a disability is suspected, general education interventions are implemented; observations are arranged; a form detailing the areas for concern is completed; and parent consent is obtained on the Informed Notice and Consent for Evaluation form.

Once these criteria have been met, the evaluation process begins in order to determine whether the student has a disability and what kind of individualized instruction and accommodations need to be provided to the student. The school district's evaluation specialists, which include but are not limited to speech language pathologists, behavior specialists, and school psychologists, are responsible for completing the initial evaluation.

The initial evaluation must be completed within sixty school days and includes the parent providing information regarding the student's adaptive behavior as well as the student taking an intellectual functioning test. The district does not use only one assessment to determine a student's eligibility for special education services; rather, it uses various measurement tools in order to ensure a more accurate evaluation.

The school district analyzes the assessments, behavioral patterns, and developmental information in order to develop an individual educational plan, or IEP, for the student. The assessments and measurement tools used during the evaluation process are:

- Selected and administered so as not to discriminate on a racial and cultural basis.
- Provided and administered in the student's native language, or other mode of communication, and in the form that most accurately measures what the student knows and can do.

Despite these efforts, the various steps of the referral and evaluation process can lead to the misidentification and mislabeling of CLD students as having special needs. The literature suggests that various factors including teacher beliefs and cultural bias, lack of professional development, and assessments may all contribute to the misidentification of CLD students in special education programs.

Teacher Beliefs and Cultural Bias

Educating diverse student populations in our nation's classrooms is a daunting task twenty-first century educators face. Understanding, identifying, appreciating, and respecting cultural differences has become increasingly challenging for teachers as the student population continues to diversify.

In order to deliver relevant instruction in a meaningful manner, it is imperative for teachers to understand their students and their backgrounds. However, Nieto and Bode (2008) point out that teachers are "frequently unaware of or uncomfortable with their own ethnicity," so it is no surprise that teachers lack knowledge relating to the ethnic, linguistic, and cultural backgrounds of their students. Furthermore, the population of school teachers is "becoming more White, female, and middle class" (Children's Defense Fund, 2004; Trent & Artiles, 2007, as cited in Trent, Kea, & Oh, 2008, p. 329).

As student diversity increases and as the teacher population becomes more homogenous, cultural bias in special education referrals and assessments may also be on the rise (Oswald et al., 1999). When teachers are unprepared to deal with diversity, students may be inappropriately referred for special education evaluation or students may not be referred at all when they do qualify for special education services; this is a bi-directional problem.

Teachers who are not prepared to be culturally responsive are challenged in determining whether a student is not showing academic growth because of linguistic factors or because of a learning problem. This can be challenging for teachers because ELLs and students with learning disabilities often display the same learning characteristics (Barerra, 2006).

Both groups of students demonstrate discrepancies between actual academic achievement level and their potential academic achievement level; it can be difficult for teachers to determine the cause of this discrepancy. Klingner et al. (2006) point out that “general education teachers sometimes hesitate to refer ELLs to special education because they cannot determine if ELLs’ difficulties with learning to read are due to second language issues or LD” (p. 109).

Figueroa (2000) found that ELLs are often not identified as needing special education services when they do in fact qualify because school employees fear misidentifying or misdiagnosing a student. When this occurs, the student is deprived of special education services that he or she is entitled to. Not having access to these services can ultimately lead to poor academic performance.

In other cases, teachers are unsure about the correct time to refer an ELL for special education (Skiba et al., 2008). As rules and policies continue to change, teachers must continuously be abreast of the correct procedures to follow. However, when teachers are not up-to-date on the most recent policies, ELL students are at-risk for an inappropriate referral. For example, if teachers are not sure if ELLs must attain a certain level of proficiency in English before referring them to special education, they may wait too long before referring these students. As a result, these children will be deprived of services to which they are entitled.

Another specific problem that ELLs face is the misconception that they are lacking in academic skills and intelligence when their problem is only linguistic. Oftentimes, people equate poor English skills with poor academic skills. As Klingner et al. (2006) remind us, “educators often misinterpret a lack of full proficiency in English as a second language as a widespread intelligence deficit or as a language or learning disability” (p. 115).

When this occurs, teachers may refer ELLs for special education evaluation because they believe they have observed the student as having a learning disability when in fact the problem is only linguistic. In cases where teachers are unsure of the nature of a culturally and linguistically diverse student’s problem, they often choose to err on the side of caution and refer the student to special education rather than examining and implementing appropriate interventions for low-achieving ELLs.

When this occurs, it can lead to a disproportionate number of ELLs receiving special education services when they do not necessarily qualify. In fact, Zamora reported that “in the 2001-2002 school year, up to three-fourths of ELL special education students were improperly placed” (U.S. Commission on Civil Rights, 2009, p.13). This is a call to action. As diversity in the U.S. continues to rise, it is imperative that teachers receive the proper trainings in both special education and in language acquisition in order to effectively meet the needs of the students in their classrooms.

Many of the ELLs in our nation’s schools are bright, intelligent students. The reason they do not always do well on assignments, tests, projects, and standardized assessments is not because they are not intelligent; instead, it is due to language barriers (e.g., Spinelli, 2008; Obiakor & Utley, 2004; Kwate, 2001). Therefore, these students should not be treated as inferior or any less capable academically, and they should not be recommended for evaluation for special education services. They can offer a wide variety of knowledge and experiences to the classrooms. Unfortunately, in many cases teachers single them out or make them feel inferior to those who speak Standard English. This only leads to negative interactions and consequences for ELLs.

Classrooms must be an environment where students feel comfortable and relaxed and where all children of all backgrounds are given the same educational opportunities. Schools should be a place where all cultures and languages are embraced and praised, and where all students respect one another. When cultural biases and lack of appropriate knowledge regarding ELLs interferes with the proper referral of students who need special education services, the child fails to receive the necessary services to succeed academically. Therefore, this raises the importance of preparing pre-service teachers to teach ELLs and properly identify ELLs who may qualify for special education services.

Inadequate Professional Development Opportunities

The problem of teachers feeling unprepared to meet the needs of the diverse learners in their classrooms is not a new one. Multicultural education is rooted in the influx of immigrants in the United States. Multiculturalism started to take form in the 1960’s, a period of time in which various political movements were occurring, including racial minority groups and women struggling for more rights and homosexual people fighting for acceptance (Jay, 1997).

Since multicultural education started making its way into schools and classrooms, teachers have been challenged to meet the needs of diverse learners, yet teachers often do not feel fully prepared to be culturally responsive. One reason teachers feel unprepared is due to the lack instruction and workshops given to pre-service and in-service teachers respectively.

According to Barnes (2006), there is an increase in diversity among students in the United States, but there is still a lack of teacher education programs that teach teachers how to deal with diversity. This lack of cultural knowledge and understanding among teachers causes negative interactions between the teachers and students and does not help in minimizing prejudices and stereotypes.

In addition, academic achievement among culturally and linguistically diverse students is suffering because educators are not teaching in a way that is responsive to these students' needs. If pre-service teachers and current teachers were provided with resources for materials and information, culturally responsive teaching could increase. According to Brown (2007), teachers and pre-service teachers who are trained, taught, and practice teaching diverse students feel they would be more culturally responsive teachers and would create classrooms free of discrimination.

On the other hand, teachers who receive no formal multicultural education training feel uncomfortable addressing racial and cultural issues in the classroom. Unfortunately, this seems to be the case with the majority of our nation's teachers. Consider a survey by the National Center for Education Statistics that found that "just 27 percent of teachers report that they feel well prepared to teach ELLs, and only 12.5 percent of teachers with ELLs in their classrooms have participated in even one day's worth of ELL-related training during the past three years" (Flannery, 2006 as cited in Spinelli, 2008, p. 102).

Knowing this, it only seems inevitable that the teachers will not know how to address their students' racial and cultural issues, and ignoring these issues only hinders academic growth among culturally and linguistically diverse students because the students' needs are not being met. Becoming more culturally responsive can help teachers better meet the needs of their diverse students.

Many scholars remind us how important it is for teachers to understand the relationship between culture and learning. For example, Donovan and Cross (2002) believe that "teachers should be familiar with the beliefs, values, cultural practices, discourse styles, and other features of student's lives that may have an impact on classroom participation and success" (p. 373). Brown (2007) suggests that teachers should understand the home cultures of their students because academic achievement can increase if educators teach in a way that is responsive to the students' home cultures.

Assessments

Recent research has investigated the extent of disproportionality, and researchers have increased their efforts to understand why the problem persists. One possible cause for the over-representation of CLD students in special education is the misclassification due to the assessments being used (e.g., Klingner, Artiles, & Barletta, 2006; Obiaker & Utley, 2004; Reschly, 1981).

A great deal of research has been conducted analyzing the validity and reliability of such assessments. Intelligence tests, such as the Wechsler scales and the Binet, are considered to be critical in the determination and classification of students with special needs (Reschly, 1981). However, the over-representation of CLD students who are classified as mild mental retardation (MMR) raises concern regarding the fairness and accuracy of these assessments.

This became a larger issue in the 1970s when the use of such assessments to determine special education disability was seen as institutional racism (Jones & Wilderson, 1976). The special education labels assigned to CLD students were embarrassing and

became a hindrance to the students' education, yet the over-representation of CLD students assigned the classification of MMR persisted. Reschly (1979) found that CLD students were significantly over-represented; in fact, in some cases CLD students were three or four times more likely to be disproportionately classified as special needs than other population subgroups.

As a result, there was a rise in class action court cases during the 1970s among black, Hispanic, and Native American students who were disproportionately classified as MMR. These court cases revolved around the issue of the fairness of the intelligence tests, and most cases in the early 1970s were ruled in favor of the plaintiff or were settled by a consent decree (Reschly, 1979). These court cases were followed by the *Larry P. v. Riles* case (1984) which ultimately decided that the use of intelligence tests was biased against African American students.

Many researchers have discussed the disadvantages of using intelligence tests to determine special education eligibility. Alfred Binet, the creator of one of the most widely-used assessments, warned against using one single test score as a means of assessing intelligence (Obiakor & Utley, 2004). Binet did not believe that one score alone could completely describe a student's abilities.

Kwate (2001) described the uselessness of IQ scores, stating that while they once served a purpose, they now lead to the misidentification and misplacement of students in special education programs. Obiakor & Utley (2004) argued that intelligence assessments, such as IQ tests, are not accurate predictors of the intelligence and the abilities of CLD students.

Consequently, inaccurate scores may prevent CLD students from reaching their maximum potential, so using such assessments may do more harm than good. Reschly (1981) did not favor IQ testing either, but he also did not see the test as such a hindrance because the single most determining factor of students being classified and placed in special education programs is academic failure or behavior problems which lead to the referral.

It is only once the student exhibits academic or behavior problems in the classroom that he or she is referred for special education testing. Therefore, Reschly argued that the banning of IQ tests "would have little effect on over-representation," (p. 1097). Although Reschly supported the fact that a disproportionate number of CLD students are referred to special education because they are exhibiting academic and behavior problems in the classroom, teacher perceptions must not be neglected.

Reschly (1981) showed that some students who would have met eligibility requirements for special education services were never even referred because the teacher did not observe an academic or behavior problem in the classroom. This suggests that the bias in testing coupled with bias in teacher referrals can ultimately contribute to the disproportionate representation of ELLs in special education.

Because of the issues surrounding the assessment and placement of ELLs in special education programs, some scholars have suggested alternative assessment methods. For example, Spinelli (2008) attributed the disproportionate representation of ELLs in special

education programs to misidentification. In order to reduce the misidentification of these students, Spinelli recommended informal assessments in addition to the already existing standardized assessments but with adaptations.

Effective forms of informal assessments include curriculum-based assessment, performance-based assessment, dynamic assessment and portfolios. These informal methods of assessment are more authentic, as they allow the students to better demonstrate what they know and what they can do, and they allow teachers to more accurately assess their students' abilities.

In another study, Barrera (2006) suggested using curriculum-based measurement or dynamic assessment. In curriculum-based assessment, teachers may use the non-standardized form of assessment in which classroom-based assignments assess a student's capabilities or they may use the standardized form in which specific learning tasks are tested for reliability and validity. With both, the teacher administers a pre-test to collect base-line data, provides instruction, and then administers a post-test to track progress.

Dynamic assessment focuses on understanding what students can do as they are being taught, rather than focusing on what the students may or may not already know. It requires teachers to teach new concepts and collect data to monitor progress. If used correctly, these methods of assessment may help practitioners differentiate between students who are low-achieving and those students who have a learning disability. Furthermore, they may help practitioners better understand whether a student's discrepancy between academic performance and potential is due to a learning disability or language proficiency.

Individuals with Disabilities Education Act (IDEA)

New initiatives and the provisions set forth in IDEA have helped to mitigate the issues concerning assessments and the over-representation of CLD students in special education. IDEA provides early intervention at the state and local level, and it encourages the effective use of assessments and teaching methodologies.

Moreover, it offers Individualized Family Service Plans (IFSPs) that help in identifying and meeting the individual needs of each child who has a disability, and more importantly, IDEA supports culturally relevant instruction for diverse learners who have learning disabilities. This is achieved through various principles that include maintaining classrooms that reflect and promote cultural diversity, teaching to different learning styles, accommodating to variations in styles of communication, and developing relationships with parents regardless of the language spoken.

As a result of IDEA, nearly six million students receive special education services to help meet their academic needs (U.S. Department of Education, 2010). This has led to a higher number of students with disabilities being able to attend their neighborhood schools, an increased graduation rates among students with disabilities, and increased enrollment in post-secondary institutions among students with disabilities.

IDEA has been amended twice-once in 1997 and once in 2004-in order to further increase the success of students with disabilities. The 1997 provision mandated that schools

report the progress of students with disabilities to their parents as frequently as they report progress of students who do not have disabilities. Part of the 2004 provisions were created to address the issues of disproportionality and the over-representation of CLD students qualifying for special education services. Specifically, the provisions require that policies and procedures be established in order to prevent the misidentification and over-representation by race and ethnicity as children with disabilities.

Local Education Authorities, or LEAs, must provide district data of students who qualify for special education services, and the data must be disaggregated by race and ethnicity. If there is an over-representation of racial and ethnically diverse students qualifying for special education services, then the State must review the data and placement procedures and revise the policies and practices as needed. In addition, the State is now required to monitor the LEAs in order to ensure that the over-representation is not due to misidentification.

IDEA 2004 also eliminated the need for a student to demonstrate a severe discrepancy between intellectual ability and achievement in order to qualify for special education services (Klotz & Canter, 2000). As an alternative, many school districts have embraced and implemented a Response to Intervention program as part of the evaluation process in determining students' special education eligibility.

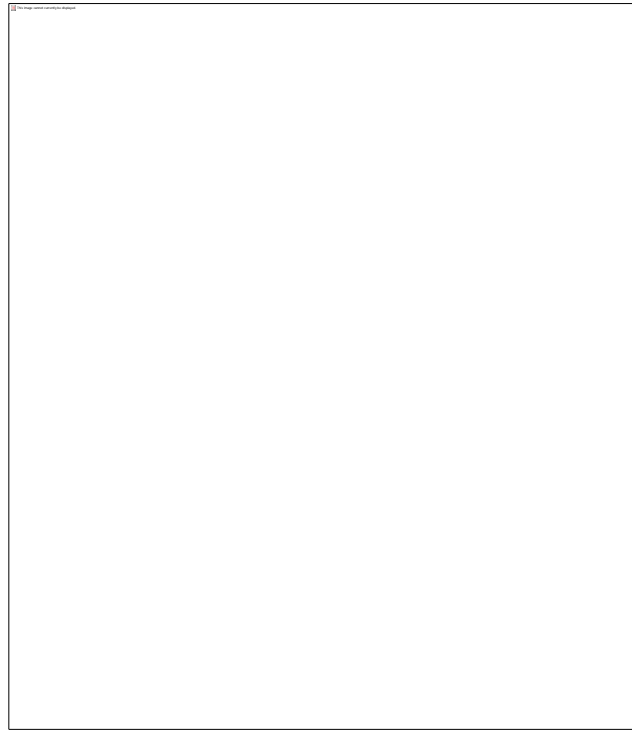
Response to Intervention

Response to Intervention (RtI) is rooted in the common belief that all students, regardless of race or ethnicity, have the ability to learn. Klotz and Canter (2000) defined RtI as "a practice of providing high quality instruction and interventions matched to student need, monitoring progress frequently to make decisions about changes in instruction or goals and applying child response data to important educational decisions."

Rather than waiting for students to fail before offering special education services, RtI monitors student progress, offers early intervening services, and evaluates how well students respond to the changes in instruction. RtI, which uses a multi-tiered model of service and delivery, focuses on monitoring student progress, analyzing data to make decisions, and intervening early in order to effectively help all students learn.

Figure 1 illustrates the three tiers used for academic and behavior systems. Tier 1 includes core instruction that is appropriate for all learners which includes differentiated instruction. Tier 2 involves the supplemental instruction that is given in addition to the core instruction and is based on the individual's academic or behavioral needs. The student's progress is closely monitored, and the student generally receives the supplemental instruction in a small group setting. The third tier involves intensive, more frequent intervention that focuses on specific skills. The instruction is delivered by a highly qualified teacher in a small group setting of generally one to five students. Similar to Tier 2, student progress must be closely monitored in Tier 3.

Figure 1: Three Tiered Model of Response to Intervention



Across the tiers, there is a four-step problem-solving method used to understand the students' educational needs in order to match appropriate instructional resources to meet the need. The first step involves identifying the problem. In other words, what is the discrepancy between what is expected of the child and what is actually occurring?

In Step Two, data is analyzed to understand why the discrepancy exists. In the third step, an intervention plan is created to specify the student's goal and how progress will be monitored. The fourth and final step evaluates the extent to which the interventions are working for the student.

If student progress is not being made, the intervention plan must be adjusted to better help meet the child's learning needs. Not only does following the four-step problem solving method of RtI help students receive the services they need to succeed before they fail, but it also can help reduce the number of students who are referred for special education services because it "helps distinguish between those students whose achievement problems are due to a learning disability versus those students whose achievement problems are due to other issues such as lack of prior instruction" (Klotz & Canter, 2000).

Many school districts have adopted the RtI model, and the teachers are trained through this model. RtI teams within each school meet to discuss and address student areas of concern. A classroom teacher is always part of the RtI team and the rest of the team may be comprised of guidance counselors, behavior specialists, speech/language pathologists, school psychologists, or other school personnel deemed necessary based on the area of concern. Parents are also encouraged to be members of the RtI team.

According to the Florida Department of Education (2009), the RtI team uses the four-step problem-solving process to address each student's area of concern(s). RtI team members address the following questions as part of the basic four step-process:

- What is the problem?
- Why is it occurring?
- What are we going to do about it?
- Is it working?

The four-step problem-solving process, along with the three tiers, plays an essential role in determining the appropriate instruction and the targeted interventions services. The goal is for the district to provide an infrastructure to every school in the district to help address all student needs and increase student achievement, regardless of racial, ethnic, or linguistic background, through the RtI model.

Summary

How to address the issue of disproportionality has been an enduring problem in the field of education for several decades. Studies since the 1960s have consistently shown that there is an over-representation of racially and ethnically diverse students in special education programs. More recent studies have shown that this same trend is also occurring with linguistically diverse students.

The research suggests that the over-representation cannot be attributed to one single factor; rather, the research shows a pattern of numerous factors that contribute to the problem: (a) teacher beliefs (b) cultural bias (c) lack of training and professional development opportunities, and (d) assessments. Taking these factors into account, along with the fact that diversity in the United States is on a constant rise, teachers are even further challenged to recognize whether a student's low achievement is due to a learning disability or linguistic factors.

In order to address the problem of disproportionality, various federal mandates have been implemented. The Office of Special Education Programs the Office for Civil Rights (OCR) report data on the enrollment of CLD student in special education. The data is broken down by racial and ethnic category in order to better understand the trends and patterns of each group.

Congress has enacted the Individuals with Disabilities Education Act (IDEA) with the purpose of providing continuous support and improvement for students with disabilities. Its 2004 provisions require states to continuously monitor data disaggregated by race, ethnicity, disability category, and special education placement. If a disproportionate representation is found, the state must review local policies and procedures to understand why it is occurring.

In recent years, many school districts in the U.S have implemented a Response to Intervention model that provides early intervening services to students rather than waiting for the students to fail before offering special education services.

Conclusion

As diversity in the United States continues to rise, the K-12 student population is also becoming increasingly diverse, both racially and linguistically. The U.S. Department of Education and the National Institute of Child Health and Human Development reported that there is at least one ELL in 43% of the classrooms in the U.S., and it is predicted that this number will continue to grow (Klingner et al., 2006).

As a result, pre-service teachers and teachers alike are challenged to meet the learning needs of the ELLs. Not only must teachers ensure that ELLs are making adequate yearly progress, they are also responsible for identifying ELLs who also have special learning needs.

Identifying ELLs for special education presents an added challenge for teachers. Teachers who have little experience working with diverse students may have difficulty in distinguishing whether an ELL's low achievement is due to a learning disability or limited English proficiency. This can lead to issues with the referral process and placement of ELLs in special education (U.S. Commission on Civil Rights, 2009).

In order to help teachers be more prepared and feel more comfortable teaching diverse students, it is recommended that pre-service teachers take courses at their institutions of higher learning that focus on being a culturally competent teacher. Preparing educators to teach diverse student populations is important in districts that serve large populations of ELLs in order to ensure that teachers are meeting all of their students' learning needs.

Offering courses and professional development opportunities on diversity in the classroom is equally important in districts with smaller ELL populations because teachers typically have had less exposure to students with diverse backgrounds and do not have as much experience in determining whether an ELL's low achievement is due to linguistic factors or whether the student has a learning disability.

Teachers who take language acquisition classes and attend professional development opportunities focused on learning cultural competency strategies are more prepared to teach in a way that is culturally responsive (Brown, 2007). Language acquisition classes help teachers better understand how languages are learned, so they are therefore better able to understand their ELLs' learning needs, are able to recognize cultural differences, and are better able to distinguish when an ELL's low achievement level is due linguistic factors versus a special learning need.

Once teachers become more knowledgeable on knowing how to meet the needs of their diverse students, the students will benefit from receiving the education they are entitled to, and inappropriate referrals of ELLs to special education will be reduced.

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