Beyond Disproportionality:

Investigating Hierarchies of Privilege Within Special Education and the Implications for Educational Therapy

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Much of the discussion on disproportionality in special education has centered on the over-identification of students of color. However, recent scholarship suggests that students of color may actually be under-identified for special education. Both claims can be supported, depending on the data that are used and the controls that are set. Furthermore, when identification patterns are unpacked by disability type, we see evidence for both over- and under-identification of students of color. In this paper, I sort through the knotty data on disproportionality and identify the factors that contribute to the disparate identification rates and placement outcomes for students of color, including the teacher referral process and the role of implicit bias, the social stratification of disability categories, the resources and racial makeup of the school, language variance in the misdiagnosis of language and reading disorders, the federal focus on disproportionality, and the exclusionary language of the Individuals with Disabilities Education Act.

The question of disproportionality in special education has long been debated in both the academic and public sphere, with much of the focus on the over-representation of students of color. Claims of disparities have prompted action from the U.S. Department of Education, which in 2016 issued new rules requiring states "to collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring," be it statewide or at the district level (Office of Special Education and Rehabilitative Services, 2016).

Recent studies have challenged the conventional narrative on disproportionality and argue that students of color are in fact less likely than their white peers to be identified for special education services even when they demonstrate comparable performance and behavior (Morgan et al., 2016). Still other scholars contend that a more nuanced picture unfolds when the data are examined by disability type, with students of color less likely to be identified for dyslexia (Odegard et al., 2020), speech or language impairments (Morgan et al., 2017a), autism (Constantino et al., 2020), and ADHD (Bax et al., 2019; Frye, 2021; Mandell et al., 2007; Morgan et al., 2013), and more likely to receive less socially desirable classifications (e.g., emotional disturbance, intellectual disability) that result in a segregated learning setting (Harper, 2017). Further muddying the narrative are the studies on school context, which find that students of color are *less* likely to be identified for a disability when they attend a primarily non-white school (Fish, 2019).

In this report, I summarize the current research—in sociology, psychology, education, and pediatric medicine—on the identification of students of color for special education, with a particular focus on African-American students, and attempt to disentangle the disparate and sometimes competing claims.

Sorting Out the Data: Are Black Students Identified Too Much or Too Little for Special Education?

Statistics on identification patterns by race and ethnicity vary greatly, based on the data sets that are used and the controls that are set. For example, federal data from the National Center for Education Statistics (2020) show a continued pattern of overrepresentation of black students identified for special education: In 2019-20, 16.6 percent of black students, versus 14.7 percent of white students, were identified as disabled. In 2018, the U.S. Department of Education reported that the risk ratios[1] for black students served under the Individuals with Disabilities Education Act (IDEA) were larger than 1 (with 1 denoting that likelihood for identification is equal to that of other racial/ethnic groups) for several disability categories (Office of Special Education Programs, 2018, pp. 30, 47).

A 2020 policy brief from the National Center for Learning Disabilities reported that black students are 40 percent more likely to be identified with a disability compared with all other students. Furthermore, in its more detailed trend analysis for African American students (based on 2013-14 data), the center reported that:

- Black students are twice as likely to be labeled as emotionally disturbed, compared to their white peers.

- Black students are three times as likely to be identified with an intellectual disability, compared to their white peers.

- Black students are disproportionately identified as having a specific learning disability: While they comprise only 16 percent of the student population, they account for 20 percent of students identified with a specific learning disability.

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[1] Definition of risk ratio provided in the *40th Annual Report to Congress on the Implementation of IDEA*:
Risk ratio compares the proportion of a particular racial/ethnic group served under IDEA, Part B, to the proportion served among the other racial/ethnic groups combined. For example, if racial/ethnic group X has a risk ratio of 2 for receipt of special education services, then that group's likelihood of receiving special education services is twice as great as for all of the other racial/ethnic groups combined. (pp. 30, 47)

- Once placed in special education, black students are more likely to be taught in separate classrooms: Only one-third of black students with disabilities, versus 55 percent of white students with disabilities, spend more than 80 percent of their school day in a general education classroom (National Center for Learning Disabilities, 2020).

Meanwhile, education scholars Paul Morgan and George Farkas have drawn on national multiyear longitudinal data from the Early Childhood Longitudinal Study—Kindergarten—to show that, after controlling for family characteristics, prior test scores, and teacher ratings of student behavior, students of color are consistently less likely than otherwise similar white, English-speaking children to be identified as disabled or to receive special education services: "From kindergarten entry to the end of middle school, racial- and ethnic-minority children were less likely to be identified as having (a) learning disabilities, (b) speech or language impairments, (c) intellectual disabilities, (d) health impairments, or (e) emotional disturbances" (Morgan et al., 2015, p. 278). The authors replicated these findings using National Assessment of Educational Progress (NAEP) data from 2003 through 2013 (Morgan et al., 2017b). As an example, the study found that, among fourth-grade children in the lowest decile of the 2013 NAEP reading achievement distribution, 74 percent of white children received special education services, as compared with 44 percent of black children, 43 percent of Hispanic students, and 48 percent of American Indian children.

Their findings have been the subject of considerable controversy. Some scholars have dismissed the work as inherently flawed, based on the authors' assumption that test scores and teacher reports represent accurate and unbiased indicators of a student's true cognitive and behavior capacities (Skiba et al., 2016). Others have warned of its potential to undermine civil rights inroads. Indeed, in 2018, when the U.S. Department of Education moved to delay federal regulations to address disproportionality in special education, it cited the Morgan and Farkas studies to justify its actions (Civil Rights Roundtable, 2018).

Factors Accounting for Disparate Outcomes for Children with Learning Disabilities

A multitude of factors contribute to the disparate identification rates and placement outcomes for black children:

- the teacher referral process and the role of implicit bias

- the social stratification of disability categories

- the resources and racial makeup of the school

- language variance (i.e., African-American English [AAE]) and its role in the misdiagnosis of language and reading disorders.

- federal focus on disproportionality

- the exclusionary language of the federal IDEA

The Teacher Referral Process and the Role of Implicit Bias

Not all labels are equal or lead to equal outcomes. Identification for a specific learning disability can generally be addressed in the regular classroom and carries relatively low stigma. The reverse is true when a student is identified for an emotional or behavioral disorder, which usually results in his removal from the general student population. Black children are overrepresented in the second category and underrepresented in the first (Skiba et al., 2008). One potential explanation for this disparity lies in the identification process, which usually begins with a teacher referral. If the referrals are anchored in disparate expectations for black and white children, the outcomes for the children will likely be disparate as well.

The sociologist Rachel Fish has looked at the role that race and ethnicity play in teacher referrals for exceptionalities. In one study (Fish, 2017), she presented third- and fourth-grade teachers with vignettes of fictional male students who fell into one of three categories: academic challenges, behavioral challenges, and academic strengths combined with emotional sensitivity. The vignettes were meant to represent borderline cases—suggesting a learning disability, an emotional disorder, or giftedness—but they left room for judgment. Fish was interested in learning how differently framed vignettes would affect teachers' recommendations for testing. The vignettes in each category presented the same details about the academic performance and emotional proclivities of the student, but she manipulated the background characteristics (race, ethnicity, English learner status, socioeconomic status). After reading each vignette, teachers were asked how likely they would be to refer the child for an evaluation. She found that teachers were more likely to refer a white boy for a learning disability and a black or Latino boy for a behavioral disorder. In the vignettes that suggested giftedness, teachers were likely to judge the white boys as exceptional.

Other research has shown that if teachers have lower academic expectations for black students, they will likely interpret their low performance as normal and expected (Gershenson et. al., 2016). A low performing white child would more likely be seen as underperforming and in need of resources that bring him into the norm. Misbehavior among black students (particularly black boys) may be seen as more menacing and trigger swifter and more serious responses from teachers. A well-behaved black child who is struggling with reading and writing may likely remain invisible in the classroom.

One sweeping study, which used individual-level data on all K-12 public school students across three states, found that race, not socioeconomic status, is a salient factor in the identification process: Non-low-income black students were roughly two times more likely to identified with an emotional or intellectual disability as otherwise similar non-low-income white students (Grindal et al., 2019). Significant disparities in placements were also found, and the magnitude of the disparity was even higher within the non-low-income group. These findings undermine the

claims that disproportionality can be fully explained by blacks' overall lower socioeconomic status.

The Stratification of Disability Categories

Education scholar Wanda Blanchett has examined the intersection of race, class, and disability in the U.S. and found that middle- and upper-class white students with an LD receive accommodations and modifications within the general education classroom setting, while students of color with the same labels are educated in restricted settings. In "Telling It Like It Is: The Role of Race, Class, & Culture in the Perpetuation of Learning Disability as a Privileged Category for the White Middle Class," she argues:

> Students labeled as having a learning disability are by the codified federal definition of a learning disability deemed intellectually superior or privileged compared to their peers because they are reported to have average or above intelligence, which sets them aside from students identified with developmental disabilities, who are reported to have significantly lower levels of intellectual ability . . . When the privilege conferred by the LD label is compounded by the privilege of whiteness and social class privilege, it greatly advantages those students. However, when LD intersects with lower socio-economic status or class and with being African American or of color, the privileges described above that are often associated with LD are denied these students. (Blanchett, 2010, pp. 6-7)

The sociologist Rachel Fish has examined the varying social statuses of individual disability categories. "Higher status" disabilities include autism, speech and language impairment, or "other health impairment," which is a category often used for children with ADHD. These categories are often linked with higher inclusion rates and less stigma. At the other extreme are intellectual disabilities and emotional/behavioral disabilities, which she calls "low status" disabilities. In one study on special education enrollment in Wisconsin, she found significant stratification of status categories along racial lines (Fish, 2019). Like Morgan and Farkas, she found that, overall, black and Hispanic students were identified with disabilities at lower rates than their similar white peers (based on poverty rates and test scores). However, when examining the data at the school level, she found a disturbing pattern: Not only were white students more likely to be diagnosed with a disability when they attended schools with non-white students; they were also more likely to be diagnosed with a "high status" disability. In contrast, black and Hispanic students who attended predominantly white schools were more likely to be diagnosed with "low status" disability categories.

School Resources and Racial Makeup

Research shows that the racial makeup of the school plays a significant role in the identification and placement process. Special education is expensive—up to more than double that of regular education—and the federal government funds only a small part of the cost. Racially isolated schools, where more than 90 percent of the students are non-white, are often strapped to provide for the basic needs of their students, much less the intensive level of services typically prescribed under an IEP. In addition, parents may be unfamiliar with their federal rights or feel disempowered to advocate for their children. Another factor is the relative low achievement within the school, which may lead to many learning-disabled students going unnoticed. Past scholars have attributed this to the "frog pond effect" (Hibbel et al., 2010), where children with similar achievement levels may only be perceived as low achieving if they attend a school with peers who are relatively higher achieving. In disadvantaged schools, however, only those children with the most acute academic or behavior challenges—relative to other low-performing children in the school—are referred for special education. Studies on other states have confirmed this pattern. One study on a large urban school district in the southwest found that students were more likely to be designated with a cognitive health condition (e.g., autism, learning disability) in schools with greater resources: higher teacher to student ratio, wealthier student body, magnet and charter programs (Shifrer & Fish, 2019).

Language Variance and the Misdiagnosis of African-American Students

In "Teaching Reading to African-American Children: When Home and School Language Differ," scholars Julie Washington and Mark Seidenberg examine the particularities of African American English (AAE) and the ways in which language variance increases the cognitive load in learning to reading. Using two language varieties (AAE and General American English, or GAE) can complicate the learning of reading and writing as much, *if not more than*, using two languages since "the subtle transformations between the cultural and the general varieties of a single language may be even more difficult for young children to detect and resolve than the more obvious differences between two languages" (Washington & Seidenberg, 2021, para. 6).

The risk of misidentification for AAE speakers is high since most standardized instruments were developed and normed using GAE-speaking children and lack sensitivity when used with children with language variance. Not only are the strengths of AAE-speaking children more likely to go unnoted, but their language variants may more often be scored as errors. Research from the field of speech and language confirms these assessment biases. In "Difference or Deficit in Speakers of African American English," speech and language pathologist Linda M. Bland-Stewart writes that "AAE speakers are frequently classified as language delayed or disordered when really they are language different" (Bland-Stewart, 2005, par. 5).

Federal Focus on Disproportionality

According to a 2017 Brookings Institution report, adverse out-of-school factors—poor nutrition, stress, and exposure to environmental toxins—unduly affect poor children and children of color (Gordon, 2017). Based on these harsh realities, the report argues, we would expect to see greater numbers of black and Hispanic students with disabilities. The authors warn, however, that a focus on disproportionality, along with federal requirements that states establish a uniform threshold for all

students, could incentivize districts to "under-identify—that is, to withhold services from—children who already face a broad array of systemic disadvantages" (para. 16).

Special Education Law and Eligibility Criteria

A final factor is the exclusionary language of the federal IDEA. The eligibility criteria for the provision of special education services for a specific learning disability explicitly restricts the identification for children whose learning problems are thought to be due to inadequate learning opportunities, environmental factors, cultural differences, or economic disadvantage (Whittaker & Ortiz, 2019). These broad categories of exclusion leave plenty of room for subjectivity when judging whether a student is working to their intellectual potential. If teachers view low achievement among poor black children as a natural outcome of their socioeconomic status or culturally impoverished home environment, they may more likely to ignore the neurological basis of a child's low achievement or behavior challenges.

IMPLICATIONS FOR EDUCATIONAL THERAPY

There is a new push within the field of educational therapy to reach out to more underserved communities and find creative ways to offer our services pro-bono or on a sliding scale. A recent survey conducted by the Social Justice Subcommittee of the Association of Educational Therapists (2021) found that "slightly more than half of educational therapists who responded to the survey provide low cost/no cost options within their practices."[2] The commitment of our profession is clear. Yet our ability to expand our reach to poor and minority children with learning disabilities is strongly linked to our schools' effectiveness in identifying them. The research highlighted in this paper shows that children of color, particularly black children, are much less likely to be identified with the "high status" disabilities that educational therapists most frequently address: dyslexia, dyscalculia, ADHD, and autism.

There are a few hopeful signs that the tide is turning. Over thirty states have adopted laws mandating universal dyslexia screening in the early grades.[3] In California, Governor Gavin Newsom announced plans to set aside $4 million for dyslexia screening and training in his 2020-21 budget proposal (Jones, 2020). Still, given the difficulties in distinguishing between difference and deficit in AAE-speaking children, we will need to ensure that the screening instruments are sensitive to language variance. As a national association, we can collaborate with regional dyslexia associations to advocate for inclusion of a screening instrument that is designed for AAE speakers.

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[2] Survey results reported at https://www.aetonline.org/index. php/public-policy/social-justice-survey

[3] Map of states with universal screening laws is shown at https://improvingliteracy.org/state-of-dyslexia.

SUMMARY

Although much of the discussion on disproportionality over the past decade has focused on the over-identification and over-labeling of students of color, there is no clear or single set of data to support such claims. Federal data from the National Center for Education Statistics (2020) show a continued pattern of overrepresentation of black students identified for special education, while longitudinal data from the Early Childhood Longitudinal Study produce contrary findings. Furthermore, analyses of NAEP data reveal that black students scoring within the lowest decile are less likely than white students scoring within the same decile to be identified for special education. When identification patterns are unpacked by disability type, we see evidence for both over- and under-identification of students of color. Not all labels are equal or lead to equal outcomes. Identification for a specific learning disability (a "high status" disability category) can generally be addressed in the regular classroom and carries relatively low stigma. The reverse is true when a student is identified for an intellectual impairment or behavioral disorder, which usually results in his removal from the general student population. Blacks are overrepresented in the second category and underrepresented in the first (Skiba et al., 2008). While teacher bias may weigh heavily in the initial referral process, there are a host of factors that account for the disparities, including the resources of the school (which are often tied to its racial makeup), the federal focus on disproportionality, which may disincentivize districts to identify student of color, and the exclusionary language of the federal IDEA, which invites judgments on the cause of low achievement among poor children of color. Until we can apply a common set of data and control variables to our analyses and disaggregate our data by individual disability category, we cannot begin to grasp the racial disparities that beset schools' delivery of special education services.

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