DISPROPORTIONALITY IN EDUCATION AND SPECIAL EDUCATION

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# DISPROPORTIONALITY IN EDUCATION AND SPECIAL EDUCATION

A Guide to Creating More Equitable Learning Environments

Edited by

AMITY LYNN NOLTEMEYER, Ph.D., NCSP

and

CAVEN S. MCLOUGHLIN, PH.D.



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We would like to dedicate this book to all of the children - past and present - who have had their opportunities limited by disproportionality. May we always challenge ourselves, each other, and our institutions to reflect critically on the issues presented in this book and ensure equitable treatment of children from all backgrounds.

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## PREFACE

The overrepresentation of minority students in special education programs has been cause for concern since the issue was first identified over 40 years ago. Despite federal mandates for State and Local Education Agencies to enact policies to prevent such disproportionality, current data suggest that the trend persists. Perhaps the most longstanding and alarming trend surrounds the disproportional representation of Black students in special education programming; however, disproportionality in special education identification has also been documented for other groups, including Language Minority (LM) students. Gender is another domain in which special education disproportionality has been found, with boys disproportionally represented in virtually all special educational categories.

Also problematic is the issue of minority overrepresentation in disciplinary consequences. For example, Black students have been found to be two-to-three times more likely to be suspended from school than White students across all grade-levels for the same rules violation. This overrepresentation persists and is not fully explained by an increased number or severity of problematic behaviors engaged in by these students, by statistical artifacts, or by poverty alone. Disciplinary disproportionality – which extends beyond the schools into the juvenile justice system – has also been documented for male students.

Given the burgeoning number of diverse students in our nation's schools, coupled with the potentially negative outcomes and wasted resources associated with the misidentification of students for special education and the excessive use of exclusionary discipline for specific subgroups of students, it is imperative that educational professionals understand and address the implications arising from disproportionality for children both with and without disabilities.

Despite the increasing relevance and need for information on this issue, gaps remain in the existing literature base. This book contributes unique perspectives and content aimed at bridging the gaps. First, there is an urgent need for a book devoted to comprehensively exploring both disproportionality in special education *and* disciplinary disproportionality. Because both are forms of inequity and share several common causative factors and solutions, a simultaneous consideration is warranted. Second, existing books focus almost exclusively on ethnically diverse students, with a much smaller degree of attention devoted to linguistically diverse students. This book not only includes the latter population, but also addresses other previously neglected populations, including male students and those enmeshed in the juvenile justice system. Finally, the book presents up-to-date information, including advances and research that have emerged since the last of the extant books was published. Because of the rapidly changing nature of students in schools, educational laws and policies, and research-based practices, it is necessary for readers to operate from a current and relevant framework.

In addition to these unique contributions, the overall aims of this edited book are fourfold. Specifically, it: (1) provides a context for the topic of disproportionality by examining the broader history of inequities in education and special education; (2) examines current research regarding disproportionality in special education identification by ethnicity, gender, and native language; (3) examines the current research regarding disproportionality in discipline and juvenile justice by ethnicity and gender; and (4) provides evidence-based strategies that can be used in schools to reduce inequity and consequently address disproportionality. To meet these aims, we have included 11 chapters divided into three sections. Although each chapter can be read in isolation, we recommend reading the entire book as the integration of content between chapters can facilitate a deeper insight into the connections between various topics and the implications for practice. A section introduction precedes each of the three sections, serving as a guide for the chapters.

Before concluding this preface, we would like to acknowledge the importance and impact that language can have when addressing issues related to ethnicity and gender. We recognize that language serves an extremely powerful purpose, and that the terms used to describe different demographic populations have the potential either to be inclusive or exclusive, supportive or demeaning. In addition, we realize that the connotations associated with different terms evolve over time, so that a description that may be accepted at one point in time is later discarded as inappropriate.

Considering these issues, and in an effort to improve clarity and consistency, we decided to use the same terms to describe various race/ethnic designations throughout the book. After consulting guidelines on language by relevant professional organizations (e.g., American Psychological Association), as well as recent publications on the topic, we confirmed that multiple terms were deemed acceptable for several populations (e.g., Latino *or* Hispanic, Black *or* African American, White *or* Caucasian). We chose to use the terms White and Black for several reasons: (a) These terms most commonly are Preface

used when participants self-reported their race in many of the studies that are discussed throughout the book, since the federal authorities use these terms in the collection of data, and (b) we viewed Black as being more all encompassing and inclusive, since there are many Black individuals in the United States who do not have African heritage. When selecting a term to describe the fastest-growing ethnicity in the United States, those of Latino/Hispanic origin, we selected the term Latino for use throughout this book.

Because of the comprehensive nature of the topics covered in the book, it is an ideal "one-stop" reference for readers aiming to acquire a broad understanding of the key issues related to the topic. We anticipate that *Disproportionality in Education and Special Education: A Guide to Creating More Equitable Learning Environments* will appeal to a range of potential readers, including university students and practitioners in the fields of education, psychology, sociology, gender studies, ethnic studies, and criminal justice as well as layreaders interested in issues of equality and/or education.

> A.L.N. C.S.M.

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We also would like to thank our respective universities for their support of our work. Specifically, Amity Noltemeyer would like to thank the Education, Health, and Society division at Miami University for awarding her the Summer Research Award, allowing her focused time to dedicate to this book. In addition, she would like to thank her department chair Dr. Nelda Cambron-McCabe for ongoing commitment to supporting research and her colleague Dr. Doris Bergen for guidance and encouragement. Caven Mcloughlin's contributions to this text were completed with research support provided by the University of Johannesburg, South Africa, where he is Visiting Professor in the Faculty of Education; he also thanks Kent State University where he serves as Professor in School Psychology for ongoing institutional support including the assignment of a graduate assistant. The inspiration for this book comes from a passionately-held concern for the education and welfare of children who traditionally have been underserved within the U.S. education system – predominantly those of African American heritage.

Additionally, we would like to acknowledge the chapter authors for their timely and enthusiastic contributions to the book. Without their expertise and follow-through, this book would not have come to fruition. We feel honored to have worked with such an exceptional and knowledgeable group. Finally, we want to thank the publisher, Charles C Thomas, for belief in our initial idea for the book and providing guidance and assistance along the journey to publication.

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DISPROPORTIONALITY IN EDUCATION AND SPECIAL EDUCATION

# Chapter 1

## THE HISTORY OF INEQUITY IN EDUCATION

AMITY L. NOLTEMEYER, JULIE MUJIC, & CAVEN S. MCLOUGHLIN

**P**resident John F. Kennedy (1962) described education in the United States as, ". . . both the foundation and the unifying force of our democratic way of life . . . it is at the same time the most profitable investment society can make and the richest reward it can offer" (para. 2). Although the exact purposes of education have been widely debated, teachers in the U.S.A. generally accept the importance of education reflected within this profound statement and believe that their teaching prepares students to contribute meaningfully to society (Tozer, Vioas & Senese, 2002). John Dewey (1944) proposed that education serves to stimulate the intellectual, social, and moral development of individuals, which ultimately contributes to the betterment of society. From this perspective, which is congruent with that voiced by Kennedy and internalized by countless teachers, an overarching goal of education is to prepare citizens to lead productive lives within our democratic society.

In addition to recognizing this general goal of education, it is critical to consider *how* it is achieved. Gutmann (1999) advocates for democratic education, suggesting that education should emphasize values including tolerance, mutual respect for rights, inclusive and deliberate decision-making, accountability for nondiscrimination, and equality for all. If we are to realize the promise of equal opportunity and participation for all students that is consistent with a democratic framework, then education should be provided fairly, equitably, and inclusively. In other words, education should be provided in a manner consistent with the principles of a social justice perspective. *Social justice* in education describes the notion that all individuals and groups should be treated with fairness, respect, and dignity and should be entitled to the resources, opportunities, and protections that schools offer (North, 2006; Shriberg & Fenning, 2009). Despite the progress and assets of America's educational system, repeated violations of social justice principles are undeniable. These violations – often a product of larger societal forces and trends – have impacted the educational experiences of countless children and adolescents.

The purpose of this chapter is to consider a sampling of the critical events that demonstrate this history of inequity, with the understanding that they have contributed to the current status of American schools. To this end, we will explore relevant events related to the education of individuals of different racial, gender, language, and disability backgrounds. We do not intend to provide an exhaustive overview of the history of American education, nor will we provide a detailed account of the history of equity in the broader society outside of the educational sector. Rather, we will provide a cursory glimpse at some of the major issues that have emerged throughout history in an attempt to establish sufficient context for the construct of disproportionality (i.e., the overrepresentation of certain populations as recipients of special education services and disciplinary consequences) that is the focus of the remainder of the book.

## **RACE AND ETHNICITY**

The history of race and ethnicity in America is tied inextricably to concerns about justice and equality. From the earliest days of our nation's history, American Indians were subject to harsh forms of oppression by European settlers. For example, their way of life was under unceasing attack from these new arrivals, resulting in substantial losses in American Indian land, resources, and lives (Rury, 2005). In the realm of education, boarding schools for American Indian children emerged in the United States of America in the late 1800s with the intent to force assimilation to White culture (Loring, 2009). Coercive and unequal access to quality education was not isolated to American Indians, however. In California in the 1800s, for example, school administrators routinely denied Chinese American children entrance into schools based on their ancestry. Although Tape v. Hurley (1884) established that these children had the right to attend public schools, California school boards continued to be permitted to force Chinese American students to be educated in segregated Chinese schools for decades thereafter. Schools also routinely excluded Latino students from educational opportunities during the turn of the twentieth century, particularly in the southwest region of the United States where Latino populations were more expansive. It was not until 1931 that the first successful local school desegregation court decision - made by a San Diego judge in Roberto Alvarez v. The Lemon Grove School Board - prohibited the Lemon Grove School Board from turning away Mexican American students. However, the rationale behind the decision was not wholly driven by social justice for all; rather, the judge determined that children of Mexican origin were considered to be of the White race, and consequently were not subject to segregation rules that applied to other minority races. These are merely a few of the many instances of racial discrimination and exclusion within our nation's schools.

Because of its centrality to the topic of disproportionality, the discriminatory treatment of Black students in our nation's educational system warrants particular scrutiny. Africans began their experiences in America as indentured servants or slaves, neither of which were labor situations that they entered into willingly. Instead, the capture of Africans on Africa's western coast and their transportation across the Atlantic in chains established a persistent precedent for the lack of rights and inequitable treatment of Blacks prior to the Civil War. During the early years of slavery, most Whites blocked Blacks in America - freed or enslaved - from obtaining opportunities for education. In fact, the 1800s ushered in an increasing number of state laws that made it illegal for Black students to be taught to read and write in the South (Reef, 2009). Despite a widespread lack of educational opportunity, some individuals and organizations educated Black individuals with private funds, although these initiatives typically were driven by a desire to teach Christian principles to the slaves. Among other examples, Elias Neau opened a private school in the early 1700s in New York City with the intent of catechizing Africans; however, support for his work declined after two slaves who attended the school participated in a planned uprising (Reef, 2009). The Quakers also had a strong role in educating Black Americans. In the late 1700s, the New Jersey and Philadelphia Quakers each opened a school for Black learners, and such efforts continued to expand into the 1800s. Although such advances were promising, these individuals continued to be excluded from higher education until Oberlin College became the first college to admit Black students in 1833.

Despite these isolated signs of hope, the majority of Whites in the United States continued to discourage or prohibit the education of Black men and women. For example, when a Quaker woman named Prudence Crandall opened a school for Black children in Connecticut, the outrage and mobbing that ensued forced the school to close (Reef, 2009). In an incident with a similar precipitating action, Margaret Douglass was sentenced to jail for her attempts to teach the children of freed Black Americans to read and write (Douglass, 1854). Mirroring the sentiment suggested by these actions, numerous southern states passed laws to make it illegal to educate slaves. South Carolina began the trend in 1740 and other states quickly followed. Some states repealed their laws after a time, while others crafted laws designed to