Chapter 1
Introduction

Disproportionate representation of American Indian and African American students happens when their placement in special education programs exceeds what would be expected given their numbers in the general population, or when compared to that of students from other racial groups. This issue is of national concern and evident throughout the U.S. Minnesota’s first response to this concern came with the initial publication of this manual in 1998. The revised edition responds further, by promoting promising practices for 2014 and beyond—with renewal and revision of content focused on information and methods to support fair assessment of American Indian and African American students in public schools.

Disproportionate representation has causes and effects that extend beyond the walls of individual classrooms or schools. A directed effort by educators, administrators, and collaboration with caregivers and community leaders is necessary to address and change the factors that contribute to disproportionate representation.

A collaborative effort was conducted to review and revise content from the original Reducing Bias manual. Members of this collaborative included professionals from the University of Wisconsin – River Falls, St. Scholastica in Duluth, St. Mary’s University in Minneapolis, Winona State, community consultants, parent representatives, staff from the Minnesota Department of Education (MDE), school district administrators, and professionals with expertise in the areas of cultural competence, racial development, linguistic diversity, and special education issues. The exclusive focus of this work is on the needs of American Indian and African American students.

The guidelines are designed to promote promising practices in general and special education programs, for decision making related to the educational needs of American Indian and African American students. A specific desired outcome is to effect a reduction in overrepresentation of this student population throughout Minnesota’s special education programs. The guidelines are also designed to provide educators and families with knowledge of school environment issues and strategies that proactively contribute to supporting students, while helping to reduce negative outcomes for American Indian and African American students.

Throughout the discussion the term caregiver is used to represent parents, guardians, or other relatives responsible for making educational decisions for a student. Recognizing that family configurations can vary greatly, the term caregiver is broadly inclusive; encompassing parents, and also grandparents, aunts, uncles, brothers, sisters, or legal guardians.

It is important to support expectations for the success and achievement of American Indian and African American students. Negative outcomes for students include removal from traditional classrooms, suspension, expulsion, and dropping out. With removal or inappropriate special education placement students lose access to traditional services that support their growth and development. A point of emphasis in these guidelines is the promotion of a positive school

climate to support American Indian and African American students as they progress through their schooling in Minnesota public school districts.

Within this manual, a comprehensive perspective to address the educational, social, and emotional needs of American Indian and African American students is presented. The guidelines also address educator awareness, knowledge, and issues related to collaboration with parents, families, and caregivers when cross-cultural communication and cultural competency are essential.

The recommended strategies can be used regardless of a student’s race, ethnicity, or primary language. They were particularly designed for settings where American Indian and African American students make up a significant percentage of the student population, and where their presence within special education programs exceeds what would be expected through statistical probability. Many aspects of the material on race and culture may be applied to a broader discussion of race and cultural identity of students. This discussion is important and sets the stage for learning, growth, development, and positive change.

Special Education: The Individuals with Disabilities Education Act (IDEA)

Special education services are provided based on the needs of students who are identified and found eligible for services under federal legislation, the Individuals with Disabilities Education Act (IDEA). IDEA establishes baseline special education standards, which states must follow, including procedures related to assessment and eligibility determinations, across thirteen disability categories. Requirements and protections under IDEA with regard to the conduct of evaluations/assessments for determining individual special education eligibility and needs are clear and comprehensive. In accordance with IDEA, schools must

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining—
   (i) Whether the child is a child with a disability under § 300.8; and
   (ii) The content of the child’s IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);
(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

Further, schools must ensure that—

---


(1) Assessments and other evaluation materials used to assess a child under this part—
(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
(ii) Are provided and administered in the child’s native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer; [emphasis added] (see Footnote 2, §300.304 Evaluation Procedures, p. 46785).

An underlying foundation of IDEA entitles students with disabilities to a free and appropriate public education, also known as FAPE. The vehicle for ensuring that each student receiving special education services does indeed receive FAPE, is the Individualized Education Program or IEP, which is designed to meet the unique needs of the student for whom it is written and implemented. The IEP delineates the “special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living” (see Footnote 2, §300.1 Purposes).

Generally, special education services are intended to provide—
• Specially designed individualized curriculum and instruction
• Access to specialty and therapeutic related services
• Greater family input on educational goals through the IEP process
• Access to the general education curriculum with modifications, as appropriate
• Access to supplementary aids and services in order to maximize (a) progress in the general education curriculum and (b) education with children who are not disabled
• Preparation for adult life, including instruction geared toward postsecondary opportunities, employment, independent living, and self-advocacy

Services offered through special education placement often involve modification of the standard curriculum, to support implementation of developmentally appropriate instruction. However, a concern with prolonged exposure to a curriculum substantially different from general education requirements is that students are sometimes diverted from curriculum that could help them achieve success on state standards. For other students, postsecondary choices, such as college, may not be achievable because their special education program is lacking rigorous preparation to achieve success at the college level. In other situations, college pre-requisites involving foreign language study or higher-level mathematics are eliminated. Notwithstanding a student’s need for special education instruction, access to a rigorous curriculum and equitable education is a goal for all students.
While special education and other alternative education settings are designed to provide interventions and supports for students who qualify for and require services, educators, administrators, and the public at-large have legitimate concerns when students are placed in specialized programs for reasons other than individual, disability-related, educational needs.

When placement in special education programs is a result of inadequate or inappropriate assessment, leading to (over)identification, the concept of an appropriate public education is challenged. Schools seeking to improve their decision-making approach for American Indian and African American students should engage in on-going data collection and assessment. Assessment is commonly used to refer to the process of evaluating the needs of students. Assessment can be both formal and informal. Assessment can also be used from the systems perspective with regard to accountability efforts, system appraisal, and data collection to inform good practice and make adjustments to support the needs of students. As used within these guidelines, assessment is defined as the collection and interpretation of information that forms the basis for decisions about the strategies, services, or interventions to benefit individual students, and to support caregivers and families.

The Gordon Commission (2013)\(^3\) asserted that (a) assessment of student achievement after a period of learning and (b) assessment to adjust and improve learning must be tailored for their specific purposes.

“…assessments do more than document what students are capable of and what they know. To be as useful as possible, assessments should provide clues as to why students think the way they do and how they are learning as well as the reasons for misunderstandings” (p.10).

For years concerns have been reported about the disproportionate representation of American Indian and African American students, and other culturally and linguistically diverse (CLD) students in special education programs. While at the same time these students are typically underrepresented in programs for students identified as gifted. Issues related to diversity factors and cultural differences have a major impact on the special education eligibility process. In terms of referral and assessment, the aspects of diversity of most concern to educators are factors related to racial identity and cultural affiliation, communication patterns and practices, and socioeconomic factors\(^4\).

Concerns about special education placement and negative outcomes for students include lowered expectations for academic achievement, loss of access to the general K-12 education program, with corresponding inability to meet statewide achievement standards, and reduced access to postsecondary opportunities. These negative consequences are important to avoid for all students, yet American Indian and African American students are particularly at-risk for

---


(inappropriate) special education or alternative placements that do not match their needs, and restrict their educational opportunities.

**The Concept and Reality of Overrepresentation**

As stated by the Council for Exceptional Children, “over-representation in special education occurs when a group’s membership in the program is larger than the percentage of that group in the educational system, or within a given disability category (e.g., learning disability, cognitive disability, emotional disturbance, etc).”\(^5\) Data consistently indicate American Indian and African American students are susceptible to over-representation (Vincent, Randall, Cartledge, Tobin & Swain-Bradway, 2011\(^6\). Such population-specific differences in placement are difficult to justify and is cause for concern.

The Office of Special Education Programs at the U.S. Department of Education has two systems to measure racial proportions in special education. One system, which is part of each state’s Annual Performance Report, examines overrepresentation that is caused by *inappropriate identification practices or inappropriate practices related to suspensions or expulsions of students with disabilities*. This system utilizes a combination of numeric data and information regarding compliance with IDEA requirements.

The second system used by the Office of Special Education Programs relies only upon numeric data and can result in districts being required to set aside 15% of their IDEA funds to provide *comprehensive early intervening services* (CEIS) for students who require academic or behavioral support.

Under IDEA, three types of data are used to make determinations as to whether a district meets the criteria for significant disproportionality:

1. Identification of students with disabilities across all special education categories or in the specific categories of Developmental/Cognitive Disabilities, Specific Learning Disabilities, Emotional/Behavioral Disability, Other Health Disabilities, Speech/Language Disabilities, or Autism Spectrum Disorders.
2. Placement of students with disabilities in restrictive educational settings
3. Suspension or expulsion of students with disabilities for 10 or more days.

---


States have been given flexibility as to how they define disproportionate representation. However, the Government Accountability Office (GAO) has recommended that the Secretary of Education develop a standard definition to be used by all states. In their report of February 2013, the GAO “found that the way some states defined overrepresentation made it unlikely that any districts would be identified and thus required to provide early intervening services.”

The concern is that some settings report no disproportionate representation; however, such findings in some situations may likely be due more to poor definition rather than an absence of the problem.

In Minnesota, school districts are identified as having significant disproportionality and required to set aside 15% of federal special education funds for comprehensive early intervening services when they meet the threshold for disproportionate representation for three consecutive years. Overrepresentation of American Indian and African American students in special education programs within a district can be viewed as a sign that forces involving errors or potential bias are operating in schools within the district to the degree that they significantly and negatively impact specific groups of students. Such forces need to be addressed. These forces can include lack of educator knowledge about the impact of cultural differences, faulty intervention and assessment systems; faulty decision-making processes when students from diverse backgrounds are involved, or institutional racism.

**Issues related to overidentification.** Many factors contribute to disproportionate identification and placement in special education of American Indian and African American students. Some factors relate to individual characteristics of the student (language differences, differences in belief systems). Other factors relate to the school setting and involve systemic issues such as, educator recruitment and preparation and how well educators are equipped to work with students from diverse backgrounds. Educators in some settings may find it difficult to adjust their understanding of the student’s needs when diversity factors are present. Instructional style preferences of educators and learning style preferences of students are also important to understand, as a mismatch between the two perspectives can create missed learning opportunities.

These factors combine with inequities in opportunity based on socio-economic factors such as poverty, and with curriculums that are not culturally responsive (Sullivan, A’Vant, Baker, Chandler, & Graves, et al, 2009). Often, the orientation in conducting evaluations of students is deficit based. It is important to approach understanding students and their needs through focusing on their strengths. Educators involved with assessment and evaluation teams must maintain a student-centered approach in each step of the evaluation and programming process.

---


Figure 1. Issues related to overidentification of American Indian and African American students in special education.

In particular, assessment procedures contribute to disproportionate placement when practices

- use referral processes that bypass or minimize quality Tier 1 (Universal Interventions), Tier 2 (Targeted Interventions), or Tier 3 (Intensive Interventions);
- rely on standardized tests (particularly nationally standardized individualized tests of intelligence) with norming samples that are inconsistent with district population;
- fail to take a holistic view of the individual student;
- focus on student weaknesses to the exclusion of strengths (“can’t do” versus “can do”);
- blame the child/family rather than the consideration of other variables that may cause the presenting problem;
- fail to adequately consider cultural and/or environmental factors in assessing the needs of a student;
- fail to consider other variables that may cause the presenting problem.  

---

9 Howard, G. (2006). *We can't teach what we don't know: White teachers, multiracial schools.* (2nd ed.) NY: Teachers College Record.
Commentary on standardized tests and concerns about bias. Standardized tests of intelligence, achievement, adaptive behavior, or behavioral adjustment must be evaluated for use with students on a case-by-case basis. While appropriate for many students, some standardized tests are not appropriate for all students. When standardized tests have content bias or technical limitations because of norming samples that are not sensitive to populations with a significant number of diverse students, evaluators must make decisions about the appropriateness of the instrument with their student population. Although standardized tests undergo rigorous review, it cannot be assumed that these instruments are completely free of bias.

Standardized tests may have greater validity for students who are more acculturated to the norms of the dominant culture and whose experiences are reflected in the content and norming samples of a given test. In determining whether a standardized test is appropriate for a given student, assessment teams need to consider whether a particular student’s life experiences are represented in the content of the instrument and whether he/she is similar to students included in the norming samples.

Standardized tests may have less validity for students who are members of a racial or diverse cultural group and/or who have not been exposed to a wider range of information and life experiences because of socio-economic disadvantage. Inferences and interpretations from nationally standardized tests may be less valid for students living in a home where another language or dialect is spoken or where the use of English is influenced by the cross-generational use of another language. Assessment teams must be vigilant to factors that weaken the reliability or validity of information gained from testing, particularly when placement decisions are considered. Any limitations about measures should be communicated to parents and caregivers when results of assessment are shared.

When inferences or interpretations drawn from standardized tests have limited validity for American Indian or African American students, educators should use a variety of strategies to reduce bias and increase fairness. State guidelines require careful consideration of factors that could lead to bias in interpreting results from assessment. As previously stated, the IDEA also requires careful consideration and use of a variety of instruments that are free from racial, cultural, or language bias.

Disproportionate representation in special education can result from an initial failure to understand the cultural dynamics of American Indian or African American students. This initial failure in understanding can be further exacerbated in conjunction with bias in (a) referral procedures, (b) assessment practices, and (c) how placement decisions are made regarding American Indian and African American students.

Disproportional representation has causes and effects that extend beyond repercussions for the individual student, classroom, or school. Educators working towards a more equitable system are seeking ways to (a) make good decisions about assessment and eligibility for individual students, and (b) advocate for an improved education system that meets the needs of all students.
In support of equitable practices in assessment, the American Psychological Association (APA) has published the *Code of Fair Testing Practices in Education* to guide “professionals in fulfilling their obligation to provide and use tests that are fair to all test takers regardless of age, gender, disability, race, ethnicity, national origin, religion, sexual orientation, linguistic background, or other personal characteristics” (Joint Committee on Testing Practices, p.3). The *Code* provides guidance separately for test developers (people and organizations that construct tests, as well as those that set policies for testing programs) and test users (people and agencies that select tests, administer tests, commission test development services, or make decisions on the basis of test scores) in four critical areas: (a) developing and selecting appropriate tests, (b) administering and scoring tests, (c) reporting and interpreting test results, and (d) informing test takers.

The *Code* applies broadly to testing in education (admissions, educational assessment, educational diagnosis, and student placement) regardless of the mode of presentation, so it is relevant to conventional paper-and-pencil tests, computer-based tests, and performance tests. Further, the *Code* is directed primarily at professionally developed tests used in formally administered testing programs. Although the *Code* is not intended to cover tests prepared by teachers for use in their own classrooms, teachers are encouraged to use the guidelines to help improve their testing practices.  

**Impact on American Indian students.** Minnesota is the home of seven Anishinaabe reservations and four Dakota Communities. According to Minnesota Department of Education (MDE) data from 2008-2009, the statewide overall weighted risk ratio for American Indian students was the highest of all racial groups at about 1.7, (this data suggests that American Indian students are almost twice as likely as same age peers within the general population to be involved in special education programs; scores greater than 1 indicate over-representation).

American Indian students were consistently rated at the highest identification rate for specific learning disabilities, developmental cognitive disabilities, and emotional and behavioral disorders. This disproportionate representation is of concern as research shows that special education has limited exit strategies after students are placed, limited and less rigorous curriculum than the general classroom setting, limited access to academically able peers who serve as age-appropriate role models. Other concerns include reduced post-secondary opportunities and separation from peers based on race or culture.

**Impact on African American students.** In Minnesota, African American students are 1.5 times more likely to be in special education programs compared to other racial groups. African American students are three times more likely to be identified as having an emotional or behavioral disorder (EBD) when compared to their White peers. Of additional concern is the high rate of students within special education who were suspended or expelled for more than 10 days. Repeated discipline referrals of students can establish negative or low expectations about the student, and such events are a persistent occurrence for African American students (see Footnote 7).

---

Repeated use of discipline referrals and suspensions, without identifying the emotional and support needs of students and developing appropriate interventions, does not serve students and does little to enable students to meet goals. An editorial from the Minnesota Star Tribune newspaper expressed alarm about the use of suspensions with Black students, reporting there was no national evidence that Black students engaged in misbehavior at a rate higher than other students. However, Black students were suspended more often than their peers, often for less serious infractions than their peers.  

**World View, Educator Awareness, and Cultural Competence**

Decisions that involve interventions, referral for assessment, placement in special education programs, or suspension/expulsion for an American Indian or African American student must consider the student’s culture, language, experience and world view before making any changes in their educational program.

A person’s world view involves consideration of the social, economic, and political climate surrounding the individual, combined with family influences, individual characteristics, and cultural background. Other degrees of world view include a person’s connection to role models beyond those found in their immediate family. Students who are culturally and linguistically diverse can be impacted negatively by those who do not understand their perspective, or through the use of assessment tools, which do not account for their cultural differences (Flores, López, & De Leon, 2000).

Educators who fail to consider their own world view, as well as the world views of their students, can develop misperceptions about students or have communication difficulties when working with students and families whose world view differs from theirs (Sattler, 1998).

Persons in professional development programs (e.g. teachers, administrators, special educators, school counselors, school psychologists), “come into training knowing only their own culture, which can lead to cultural tunnel vision, a perception of reality based on a very limited set of cultural experiences” (Corey, Corey, & Callanan, 2007, p. 114). Another expression of this view is to consider, “everyone has a cultural lens that affects their world view” (Guerrero & Leung, 2008, p.19).

---


Faulty vision or misperceptions about the ability, skills, or behavioral intent of African American and American Indian students contributes to erroneous judgment of these students, suggesting implementation of interventions that are not warranted or placements that are not appropriate. Educator awareness of nonbiased strategies to assess the needs of American Indian and African American students, combined with a broad world view, is a key to reducing disproportionate representation and the problems associated with it.

All educators, professional support staff, and administrators must work from a culturally-competent perspective. As part of profession training, education professionals in Minnesota typically receive diversity training as part of their licensure requirements. However, educators, program administrators, and staff have a professional responsibility to continue to increase their knowledge of how race and culture, communication differences, and socioeconomic diversity influence special education assessment and decisions about students.

A review of position statements from educator and administrator disciplines affirms the importance of cultural competence. Professional organizations have validated the importance of specific training in cultural awareness as a component of the knowledge base of professionals. Chambers (2012) asserts that one of the responsibilities of teacher education programs is to create opportunities to discuss belief systems and perspectives that might influence classroom interactions. Cultural competence applies to all professional educators and administrators.

A culturally competent perspective is one that identifies behaviors, attitudes, and policies within a school system and among professionals to enable the system to be responsive to the needs of all students. Tools such as the Intercultural Development Inventory can foster self-awareness and growth in this area (http://www.idiinventory.com/).

**Considering bioecological understanding of a student.** Child development is impacted by both heredity and environment. What educators understand is that heredity does not produce “finished traits” but rather interacts with environmental experience in determining developmental outcomes (Bronfenbrenner & Ceci, 1994, p. 571) As mothers/fathers/caregivers know, their interaction with the child is connecting the child’s inner traits with the outer experiences in a continually growing, interactive process to encourage and build the child’s capacities.

Caregivers provide the initial essential processes of support and nurturance, and the environment is where the processes take place. Not only is environment the immediate setting, but also, in the broader sense, it includes structures of ethnicity, culture, subculture, social class, communication patterns, and other unique factors. These continual processes are found in caregiver/adult-child and child-child activities, language development, new knowledge development, problem solving, development of social, emotional, and behavioral skills, and the integration of culturally specific behaviors.

---


The interaction of the individual with their environment means that each individual’s actual genetic potential for growth may be expanded, given strong environmental processes. Throughout the lives of each person, strong and appropriate environmental support is important. The environment has the capacity to provide positive intervention. Unfortunately, if not attended to, the environment also has the capacity to become a barrier to growth. Caregivers, educators, and community resources are all part of the processes that may positively impact the child’s acquisition of developmental competence (e.g., cognitive skills, learning, social and emotional learning).

The bioecological approach is a model that conveys a child’s inner world (cognitive, emotional, and spiritual) and the child’s outer world (physical, social, behavioral). It is a dynamic process involving an interaction of the student’s response to multiple settings and multiple factors.

It is important to know that many representations of a bioecological system are not inclusive of diversity, which should be a standard component of all systems. Each culture will have their unique factors that are not currently represented in any one given representation. The goal is to ensure that education is integrated into culture. The concepts of Bronfenbrenner’s Ecological model provide the basis for understanding the interrelationships of factors that influence a student. The following representations and links to web sites provide further depictions and information about the Bronfenbrenner model.

---

*Figure 2 The Bioecological Model of Human Development*
To Develop a Bioecological Understanding of a Student

- Consider the ecological system of one of your diverse students in your setting.
- What components of the child’s system do you need to learn more about?
- What source(s) might provide the most valid information?
- How can this information help build upon the student’s background information?
- How can this information inform your instruction and understanding?
- How is parent/community involvement supported?

The bioecological model shows the ever-expanding systems of the environment supporting a student. When systems work collaboratively to support the child/student, his or her progress evolves more smoothly. As an example, the systems that support an American Indian student include elders, spiritual beliefs of the family, and support of extended caregivers.

A culturally responsive school team reaches out to all of these potential support systems to provide services to the student. Although the bioecological model emphasizes the value of prosystems working together, any model must also ensure that education is integrated into a culturally and linguistically appropriate system, inclusive of our American Indian and African American students (see Footnote 19).
Digging Deeper

To underscore why digging deeper to understand the background of a student that is different from most educators in a building makes a difference, consider the following example. (*Italics are intentional* to emphasize negative statements or attitudes communicated about students, their family, or their background.)*

An elementary school in a very-affluent neighborhood of a large, Midwestern city comprised of students who were primarily White and middle- to upper-middle class also drew a certain number of students from an economically distressed area of the city. Students who attended the school from the distressed area of the city were primarily African American. The district was also involved in a desegregation program to improve racial balance among students attending the school. Unfortunately, *those* kids from *that* area of the city were often looked upon with suspicion and fear by some staff, administrators, and caregivers of the more affluent students.

A fifth-grade girl from *that* area was referred for special education testing under the possible category of emotional-behavioral disturbance due to a situation that arose in the classroom. The student did not follow a classroom rule and was administered discipline in the form of the loss of recess for one week. According to the teacher, the student went “berserk” upon learning of the consequence for her behavior, leading the teacher to make the referral for assessment (*a point of emphasis within this manual is that descriptions of students are data-based or stated in measurable terms*).

The school psychologist, puzzled as to why the student reacted the way she did, decided to investigate the situation further before proceeding with any form of assessment. Through his research, the school psychologist learned the student was being raised by a single mother who worked the 2:00 p.m.-midnight shift, meaning the girl was responsible for looking after herself and her younger brother after school, including doing the cooking, cleaning, and homework monitoring for both students. Additionally, the girl and her brother were instructed by their mother to go right from the school bus to their apartment, to lock the door, and not to go out for any reason due to the high-level of crime and gun violence in the neighborhood.

Thus, by taking away the girl’s recess, the school took away the only unfettered, worry-free time the girl had to play outside during the day. With this new information, it was decided to apply another form of consequence to deal with the rule infraction and to reinstate the girl’s recess time. By digging deeper and being flexible in their approach to dealing with student discipline, staff became more sensitive to the needs and situations of this individual student and stopped judging the student based on impressions and biases about who she was and from where she came.
**Considering race and culture.** Race and culture are the terms most often identified when discussing diversity. However, race and culture are hardly discrete and it is a challenge to separate the notion of race from that of culture.

At its most basic level the term *race* is used in the United States to refer to skin color and possibly to country of origin, often appearing as a category that must be checked on a form. For many people the choices provided to designate their race do not begin to correspond to their own complex, multi-racial identity.

*Culture* refers to a more complex web of values and behaviors. Culture includes the shared history or the stories people hear that shape their attitudes, beliefs, and outlook toward the world. Culture is closely related to other aspects of diversity involving communication patterns. With assessment in general and/or special education, in particular, culture is a more relevant concept than race.

It is helpful to remember that some aspects of culture are observable and some are not. Educators should not make assumptions about a student’s cultural identity based only on aspects of culture that are easily observable. Culture is complex and includes the following components.

<table>
<thead>
<tr>
<th>Observable</th>
<th>Not Easily Observable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Behaviors</td>
<td>Activity level</td>
</tr>
<tr>
<td>Celebrations</td>
<td>Assumptions</td>
</tr>
<tr>
<td>Customs for greetings</td>
<td>Attitudes toward education</td>
</tr>
<tr>
<td></td>
<td>toward people with disabilities</td>
</tr>
<tr>
<td>Dress</td>
<td>Authority</td>
</tr>
<tr>
<td>Food</td>
<td>Customs</td>
</tr>
<tr>
<td>Holidays</td>
<td>Gender roles</td>
</tr>
<tr>
<td>Language</td>
<td>Obligations</td>
</tr>
<tr>
<td>Spiritual/Religious practices</td>
<td>Recognition of disabilities</td>
</tr>
<tr>
<td></td>
<td>Sanctions</td>
</tr>
<tr>
<td></td>
<td>Sentiments</td>
</tr>
<tr>
<td></td>
<td>Spiritual beliefs</td>
</tr>
<tr>
<td></td>
<td>Time orientation</td>
</tr>
<tr>
<td></td>
<td>Traditions</td>
</tr>
<tr>
<td></td>
<td>Values</td>
</tr>
</tbody>
</table>
While many American Indian and African American students have some characteristics that are common to their respective racial and cultural backgrounds, there will be variations among students involving their personal characteristics, environments, and unique experiences. An assumption that the experience for all American Indian and African American students is the same is flawed.

For the purposes of these guidelines, it is necessary to be mindful that students, their caregivers, as well as educators, are unique individuals who are also members of groups.

Individual identity is a combination of personal characteristics and those that are adopted as a result of group affiliation. Personal characteristics involve one’s spiritual beliefs, emotional status and intellectual attributes. Group affiliation includes shared traditions that have a historical basis (dress, food, language, celebrations).

**Considering socioeconomics and poverty.** Socioeconomic status is another aspect of diversity. Students enrolled in public schools in Minnesota come from homes that represent all classes, ranging from wealthy to working poor, as well as families experiencing multi-generational poverty.

Demographic information indicates that many members of cultural and racial minority groups in Minnesota are poor. As is true with each aspect of “self” (bio-psycho-social-developmental-cultural-spiritual components) socioeconomic status overlaps with other characteristics and can compound the challenges these students face in school. Educators need to be aware of the possibility of confusing socioeconomic issues with racial and/or cultural differences and become experts in understanding the bigger, holistic picture when conducting assessments for American Indian and African American students. The greater the understanding gained of how different components interact, impact, and meld within a student, the greater the capacity is for educators to make appropriate decisions and a positive difference for each student.

In sum,

- Socioeconomic differences overlap and interact with cultural, racial, and other differences.
- Socioeconomic differences shape group affiliations and individual identities.
- Socioeconomic classes can be thought of as a subculture in and of themselves.
Poverty also affects children in many ways. Students growing up in poverty may not have the range of experiences and knowledge that is expected in order for them to do well in school and on standardized tests. This may be due to extreme environmental limitations in access to information, learning, and basic resources, such as books, newspapers, media, or technology. Students faced with serious economic problems may also experience a great deal of stress and anxiety. Students who lack proper nutrition are at-risk for poor physical development and lower cognitive functioning, as well. It can be more than difficult for a student to focus on lessons and learning when she or he is not able to have basic living needs met and experiences homelessness, hunger, instability and isolation.

The struggle some families face in trying to provide for their children’s basic needs can often result in very limited verbal communication among family members and limited language development (and learning) in children. With these identified concerns, however, it is important to avoid making an assumption that poverty means the student comes to school with automatic deficits in their potential, ability, or motivation. A perspective that all students have potential for success and attainment of age and grade-related goals serves students better.

While it is important for those involved in the education system to respect a family’s privacy and dignity, gathering enough information about the child’s economic situation is important to the intervention and assessment process. Living in poverty can greatly influence a child’s experiential learning opportunities and may ultimately affect language and/or conceptual development. Children living in extreme poverty may not be able to demonstrate adequate academic skill development and as a consequence may score substantially lower on standardized tests than their same-age peers, increasing their risk for inappropriate interventions and/or placements.

**Multi-tiered Systems of Support**

Throughout Chapters 3 - 6 the use of a Multi-Tiered System of Support (MTSS) is emphasized as a cornerstone for providing services for all students and is considered a foundation to address the problem of disproportionate representation of American Indian and African American students.

Important elements of a multi-tiered system include emphasis on prevention and problem solving at the classroom and individual student level. The perception that special education placement is the intended intervention must be eliminated.

The use of systematic data collection to guide the development of strategies to benefit individual students is the goal. Typically, a tiered system of services will involve universal interventions (those intended for all students), targeted interventions for students at risk, and intensive interventions for students with significant need for services.

When parents and teachers express concerns about a student’s academic, social, emotional, adaptive, or behavioral skills, a range of building level interventions should be available to assist the student. At every stage of strategy development to support students, parents and caregivers should be informed and involved. Educators should be assisted in identifying strategies to benefit students prior to a decision for a referral for special education assessment.
A common model of systemic support involves the use of three tiers; each with an increasing degree of support provided to students identified for additional help. In settings where a multi-tiered system of support is not in place, the use of intervention teams for developing student support strategies is an option.

Universal interventions under a Tier 1 format should be available to screen all students across various domains of development. Such efforts to identify student status across domains, such as academic development, social skills, and self-regulation is a proactive means to support students and to communicate information to their parents and caregivers, with data to support concerns.

Common among multi-tiered systems of support is using data on students’ Response to Intervention (RtI) to enhance student learning, social-emotional well-being, and/or mental health (VanDerHeyden & Burns, 2010). The goal of RtI is to optimize the potential for success in these areas for all students, including those students who are at risk, but not necessarily eligible for special education services. RtI components include:

- High-quality core instruction
- Universal screening
- Differentiated instruction or support based on student need
- Implementation of increasingly-intensive evidence-based interventions targeting areas of identified need
- Progress monitoring
- Use of data to make various educational decisions

---

Tier 1. Tier 1, also known as the universal level, involves quality core instruction to which all students are exposed. Universal screenings in academic areas, social-emotional status, self-regulation, and interpersonal skills, and/or mental health domains are conducted several times a year to learn how all students are responding to curricula. These screenings constitute the vital signs of learning “in that they can be used to reflect in a meaningful way whether children are at risk or not in their instructional programs” (see Footnote 19).

Screenings usually take place three times a year (e.g., fall, winter, spring), with the expectation that approximately 80% of students should respond successfully to universal curriculum and instruction. For the approximately 20% of students who do not respond successfully at the universal level, some type of intervention to attend to their areas of need is implemented (Burns, Appleton, & Stehouwer, 2005). Tier 2 is the next level of instruction, intervention, and assessment where the needs of this 20% are addressed.

---

Tier 2. Tier 2 involves the use of targeted instruction or intervention for those students identified as falling in the lower 20% through universal screening. This instruction or intervention is delivered in some type of small-group format using groups that are flexible, fluid, and homogenous in nature, relative to baseline and progress monitoring data (see Footnote 19).

Whereas assessment data at Tier 1 are used to make screening decisions, assessment data at Tier 2 are used to determine those prerequisite, or other skills, which need to be taught to the student or augmented. Other adjustments at the Tier 2 level involve the determination of the instructional conditions that may accelerate a student’s learning trajectory. The data collected are also used to establish homogenous skill groups as a means of matching intervention to student needs.

The evaluations of student progress and response to intervention at Tier 2 also happen more frequently than at the Tier 1 level. These assessments of student progress occur every one to two weeks, so that a student’s progress, or lack thereof, is frequently monitored and appropriate modifications to the intervention are made, as needed. The ultimate goal is to return students receiving targeted instruction and intervention to the universal curriculum and developmentally appropriate instruction (i.e., Tier 1) as quickly as possible.

Tier 3. Even with Tier 2 services implemented, some students will continue to struggle (approximately 2-5%). These students would be advanced to Tier 3 to receive intensive assessment and intervention in their identified areas of need, above and beyond what can be provided at Tier 2 (see Footnote 19). Given the intensive learning, behavioral, and/or mental health needs of students at Tier 3, instruction and interventions at this level are based on individual student needs and are tailored to her or him, accordingly.

Due to the increased need for precision in assessment and frequent progress monitoring, data at Tier 3 are collected at least weekly and can be conducted on a daily basis, as necessary. Data collection at Tier 3 should be focused on identifying the cause or causes of a student’s less-than-optimal performance in the area(s) of concern.

If after all of the efforts employed at Tiers 2 and 3, the student fails to show progress at a rate that would lead to meeting goals, the movement towards special education eligibility determination is likely warranted. It must be made clear that within Minnesota standards, Tier 3 data collection is not a special education evaluation. However, the data collected at the Tier 3 level, as well as information on student performance at Tier 1 and Tier 2, can be included to communicate information about the student in making special education decisions.

When students demonstrate difficulty in acquiring academic information or meeting specific goals educators should not assume that the fault lies with the learner. Multiple factors can contribute to difficulty, and it is the responsibility of the team, working collaboratively with caregivers, to determine the combination of factors that best explains the difficulties shown by the student. Furthermore, apparent disinterest on behalf of the parent/caregiver should not be
presumed. “Never judge a man until you have walked two moons in his moccasins (Creek, 1994).”

For culturally diverse students, some of the following may apply to understanding the reasons students have apparent difficulty meeting academic or social expectations.

- Gaps in learning (see mobility discussion within School Climate and also consider differences in curriculum from one school to another)
- Lack of opportunity to learn (unable to do homework due to other responsibilities or lack of resources assumed to be present by the school)
- Lack of knowledge of the expectations of the setting (raising hand before speaking, asking a question when unfamiliar with items)
- Lack of experience with standardized testing requirements (waiting for instructions, understanding that testing is a formal setting and not a game where creativity is allowed)
- Episodes of giving up easily when confronted with a frustrating task in the presence of someone the student is not familiar with, such as a tester
- Difficulty connecting materials to be learned to their life circumstances (questions of relevancy)
- Gap between expectations of educators and parents, or between caregiver and child

Educators can consult with caregivers and the student about the presence of any of these concerns, and work to identify strategies to support the student. Educators should also work to support identification of strengths for students and families. Administrative support within the school district for training on data collection and analysis, as well as support for training on cultural understanding is essential to developing a focused program that is respectful of the cultural characteristics of the student population that, if not addressed, could lead to errors in decision making and the continuation of disproportionate representation. Negative expectations about students or their families should be challenged, and a strengths based orientation should be prominent in the work of those who engage families.

---


21 De Leon, J. (2002). *Designing instruction for English language learners*. Presentation to the Arkansas State Department of Education Special Task Force on Instruction of ELLs, Little Rock, AR.
**Ethical Responsibilities of Educators: Do No Harm**

In determining the needs of students in public schools, equitable opportunity, appropriate instruction, and positive outcomes are paramount for all learners. From an ethical perspective, professional educators and others who work with students are obligated to do no harm (Williams, Armistead, & Jacob, 2008). As such, to prevent harm to students, at a minimum, action is required when overt injustices are present.

In some situations injustices may be covert, subtle, or difficult to detect. Nevertheless, the failure to act where inequity is found, contributes to harm of students. With the subtle but persistent concern throughout the United States of the statistical over representation of American Indian and African American students, as well as other Culturally and Linguistically Diverse (CLD) students in specific disability categories (e.g., programs for students with Emotional or Behavioral Disorders, Learning Disabilities, or Cognitive Disabilities), action must be taken to reduce harm to students placed inappropriately.

The persistence of over representation requires action to ensure that American Indian and African American students receive fair treatment throughout their educational experiences. Within the assessment or special education referral process, inadequate attention to appropriate, culturally relevant procedures and decision-making rubrics can contribute to disproportionate placement in special education programs for American Indian and African American students.

Minnesota Administrative Rules mirror federal regulations in establishing state requirements for implementation of IDEA and emphasize the importance of fair assessment of students and inclusion of caregivers and parents in the assessment process—two key components in efforts for equity in education.

**Minnesota Rule 3525.2710 Evaluations and Reevaluations** states:

C. Each district shall ensure that:

1. Tests and other evaluation materials used to evaluate a child under this part are selected and administered so as not to be discriminatory on a racial or cultural basis, and are provided and administered in the pupil's native language or other mode of communication, unless it is clearly not feasible to do so;

2. Materials and procedures used to evaluate an English learner are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education and related services, rather than measure the child's English language skills;

3. Any standardized tests that are given to the child have been validated for the specific purpose for which they are used, are administered by trained and knowledgeable personnel, and are administered in accordance with any instructions provided by the producer of such tests;

---

(4) *The child is evaluated in all areas of suspected disability*, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(5) Evaluation tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the pupil are provided;

(6) If an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report;

(7) Tests and other evaluation materials include those tailored to evaluate specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

D. Upon completion of administration of tests and other evaluation materials, *the determination of whether the child is a pupil with a disability* as defined in Minnesota Statutes, section 125A.02, shall be made by a team of qualified professionals and the parent of the pupil in accordance with item E, and a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent (emphasis added).

**Promoting Fair Assessment and Reducing Disproportionate Representation**

A preponderance of research indicates a framework of evidence exists to reduce disproportionate representation within special education programs and to increase the academic achievement of American Indian and African American students (Fullan, 1998; Johnson, 2002; Ladson-Billings, 2006).

Factors that promote positive outcomes include

- understanding the role of students’ native language and culture;
- recognizing and supporting the perspective of caregivers;
- understanding community values;
- implementing culturally responsive instruction;
- developing culturally relevant high standards; and
- promoting high expectations for American Indian and African American students.

---


Stakeholders must work collaboratively to share information and enhance understanding of the needs of American Indian and African American students, while also providing methods to improve acquisition of cross-cultural skills for educators. Multiple factors contribute to equity in education, from individual professionals operating from an ethical base that guides their work, through systemic dedication to honoring the culture, language, and background of all students.

*Reduction in the disproportionate placement of American Indian and African American students can be achieved.*

Change occurs when all of those touching the lives of American Indian and African American students engage, proactively, to resolve inequities in education. Positive change will occur when students, caregivers, educators, and members of the community share a vision of high expectations and achievement for American Indian and African American students.
Chapter 1 Footnotes/References


Retrieved from:
http://www.gao.gov/products/GAO-12-137

Publisher Site:
http://www.nasponline.org/publications/

Publisher Site:
http://www.tcrecord.org/

Retrieved from:

Retrieved from:
http://www.startribune.com/opinion/editorials/134938518.html


Publisher Site:
http://www.sattlerpublisher.com/index.htm

Publisher Site:
http://www.cengage.com/us/

Publisher Site:
http://www.nasponline.org/publications/


22. De Leon, J. (2002). Designing instruction for English language learners. Presentation to the Arkansas State Department of Education Special Task Force on and Instruction of ELLs, Little Rock, AR.


   Publisher Site: http://www.corwin.com

   Publisher Site: http://edr.sagepub.com/