# Chapter 3

# A Primer on the Individuals With Disabilities Education Improvement Act and Advocacy for Students Who Are Culturally and Linguistically Diverse

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## ABSTRACT

*Well prepared educators are essential to the identification and delivery of services to students who have disabilities, most especially when it comes to students who are culturally and linguistically diverse (C/LD). Professionals must be aware of the requirements in IDEIA and assure that multiple and appropriate assessments are used in determining whether C/LD students are, in fact, disabled before being assigned to special education. This chapter identifies current issues such as the under and over identification of certain students who are C/LD in special education, second language acquisition, and the evaluation of children whose primary language is not English. It is a tool to assist professionals in assessing students who are C/LD and in educating families and guiding them to advocate for the provision of supported interventions in general education, appropriate assessment, and educational planning. Recommendations for advocating for students who are C/LD are presented and discussed.*

## BACKGROUND: IDENTIFICATION AND OVERREPRESENTATION

The Individuals with Disabilities Education Improvement Act (IDEIA) of 2004 is designed to assist students with disabilities in obtaining a free and appropriate public education. However, students of color and those who are from culturally and linguistically diverse (C/LD) backgrounds have continued to be overrepresented in special education (Togut, 2011; Rein, 2015). In other words, a far higher percentage of C/LD students continue to be placed in special education as compared to the percentage of C/LD students in the population (Sullivan, 2011). Although researchers argue about the actual degree to which C/LD students have been identified, the fact remains that, if C/LD students have disabilities, they should be able to take advantage of the supports special education has to offer in a timely manner. At the same time, if C/LD students do not have disabilities, it is wrong for them to be relegated to instruction beneath their ability or to be led to believe that they are disabled when they are not.

Research on disenfranchised groups in special education have not typically adjusted disability rates for family income, other student characteristics or cultural aspects of school environments (Artiles et.al., 2010). When social problems are mathematized, as in much of the research on the topic, causal issues essential to improved outcomes are never considered. Facts such as class size, educational resources and the connectedness of school and family create school environments that influence academic outcomes in positive ways are often forgotten as is the fact that special education is, many times, practiced in racially stratified schools and communities where unconscious institutional bias often abound. Quantification in the research dismisses essentials while failing to unearth critical causal factors. When research results lack clear information about the socio-cultural aspects and perspectives involved as is the case with much of past research on the problems of over and under identification of special education, important information that has the potential of creating change is not identified.

By studying children from the time they entered school and were classified as English Language Learners (ELLs) to the time they left school, thereby keeping the same children in focus over time, Umansky, Thompson and Diaz (2017) found that inadequate linguistic proficiency was a major reason for being identified for special education as ELL students went up the grades. What at first appeared to be an over-identification of ELLs in special education at the secondary level was really a case of ELLs who lacked English proficiency because of their disabilities got in the way. These students were not identified for special education until they reached secondary school. Prior studies of different ELLs at varying ages had not been able to identify what Urmansky, Thompson and Diaz were able to see when they studied the same children longitudinally. They concluded, not that ELLs were being over-identified at middle and high school, but that earlier assessment and identification of ELLs for special education is warranted in order to afford early intervention services and to remove the bottlenecking of dual classifications at middle and high school levels.

Similarly, Rein (2015) found that being over-zealous in avoiding over-identification in special education was not helpful because such efforts may be counterproductive. She argues that districts that try too hard to avoid placing children of color in special education do not give sufficient credence to the impact of poverty from poor nutrition, environmental toxins, and stressors. Given the substantive impact of poverty on learning, the prevalence of disability ought to be expected in high poverty communities. The danger in ignoring the impact of poverty to avoid over-representation in special education may do more harm than good.

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