

IDENTIFYING DISABILITIES IN CHILDREN WITH LIMITED ENGLISH PROFICIENCY

Alison Beier

ELEMENTARY GENERAL EDUCATION, SENIOR, INDIANA UNIVERSITY

ABSTRACT

Research shows there is a disproportional number of limited English proficient (LEP) students in special education. This misrepresentation is due to the inability of general educators to confidently identify students with LEP. Special education legislation has attempted to clarify the identification procedures for special education placement with limited success. The consensus in the field is that the process of making a decision about special education is more complex when the student at hand is limited in English proficiency. This article discusses the issues surrounding the process and provides guidelines for teachers as they make the difficult decision of referral for special education evaluation.

Historically, English language learners (ELL) have been both over represented and under-represented in special education (CAST, 2001). This varied representation of LEP students in special education is a result of several factors, but the major factor is believed to stem from the difficulties general educators face when identifying the learning problem. Students that come to American schools without an English background or English as a second language have a higher risk of being misidentified due to the general educator's lack of knowledge in the specified language (Klingner & Artiles, 2003). According

to estimates provided by the Council for Exceptional Children (2004), 5.5 million children with LEP (2004) are enrolled in schools across the nation. This means that according to the mandate under the Individuals with Disabilities Education Act (IDEA) of 2004, schools have the responsibility to provide each of those 5.5 million students, a free appropriate public education (FAPE). But how is it possible when the process of identifying the children with LEP is so unclear? Teachers can utilize the pre-referral process to reduce premature and incorrect referrals, but in most cases with LEP students, the question remains whether teachers are

willing to implement this process.. This leaves general educators with a difficult dilemma: to refer to the possibility that the child's problem is strictly a language barrier or not to refer to the risk that the LEP student does have a learning disability despite his language barrier.

The No Child Left Behind (NCLB) law requires that schools demonstrate adequate yearly progress of all students, including LEP students (CEC, 2004). This means that due to the pressure NCLB has placed on educators, teachers have more responsibility and are held accountable for the achievement of the students with LEP. Therefore, there is even more strain on the general educator to correctly identify the LEP student in order to assure progress with the student's education. With the help of the pre-referral process and other tools, are general educators able to better identify the LEP students? If not what should be done?

Some bilingual special education scholars (e.g., Ortiz, 2001) argue that general educators lack training in identifying cognitive disabilities in LEP students. Therefore, general educators commonly mistake the child's language deficiency for a cognitive disability resulting in an inappropriate over-referral of LEP students identified and placed in special education (Ortiz, 2001). In the past, this problem of above average representation partly stemmed from the inability of the students to comprehend the clearly biased tests (Ochoa, 2003). This language-biased test was not only unfair to the language-challenged student, but also to the teacher who had no other way of identifying special needs students besides the tests written in English. Due to the Educational Amendments Act of 1974, the public agency (local school) has to give tests in the student's native language. This has allowed students to be fairly graded on their curriculum intel-

ligence and not by their lack of English proficiency. This and many other legislative acts and mandates which stem from IDEA have been changed to better meet the needs of LEP students. IDEA, the most influential and functional legislation for LEP students, has established many requirements that have been intended to reduce the amount of wrongly placed LEP students in special education (Ochoa, in press). IDEA has not only demanded testing to be unbiased (against people with disabilities, ELLs), but also mandates that students with disabilities are provided an individualized education program (IEP) in the least restrictive environment (LRE) (Ochoa, 2003). This requires general educators to go through the pre-referral process with any student in question of special education. Therefore, a team suggests strategies that the teacher is required to apply before the student is referred. Ochoa outlines a checklist that she recommends to educators to put into practice before referring. She suggests that the teacher does the following:

- Obtain and review all the school's records of the child in question. Look for information that could help the educator understand the student's academic and behavioral problems. In particular review the records to determine if the student:
 - Has had a psychological evaluation
 - Qualified for special services in the past
 - Ever been included in other programs (e.g., programs for disadvantaged children or speech and language therapy)
 - Has scored far below average on standardized tests
 - Been retained in a grade level
 - Indicates good progress in some areas and poor progress in others
 - Has any physical or medical problems
 - Is taking medication

- Talk to other educators who have worked with the students to determine if they share similar concerns and have found successful ways of responding to the student

- Talk with the student's family and make a home visit if possible to assess and understand the student's home environment

- As you are implementing pre-referral interventions:

- Document the strategies used in the general education classroom
- Note those that have been successful and unsuccessful (in press, p. 8)

These steps are intended to help the general educator become more familiar with the student in order to make the referral process more effective.

IDEA also includes an exclusionary clause requiring the child to have ample time to learn (in this case the language) before being declared as having a disability (Klingner & Artiles, 2003). Though this should prevent general educators from labeling LEP students too quickly, Klingner and Artiles argue that the pre-referral team tends to overlook the clause and the students are handicapped for being English deficient (2003). Therefore, LEP students are not provided sufficient time in most cases to display their abilities. Like most cases, there are mandates that are meant to improve the education system, but if these mandates are not followed consistently they can do nothing. In this example, general educators are expected to give the LEP student sufficient time in the classroom before questioning the abilities.

Baca (in Zehr, 2004) a bilingual special education scholar, argues that the U.S. has a need for general educators that are educated in language as well as special education (in Zehr, 2004). To have more teachers trained in language and special education would be ideal for LEP students, and it

could quite possibly solve the majority of misrepresentation problems. General educators who would be able to confidently refer LEP students to special education would save a lot of time and trouble. Worthy as this goal may be, it is quite unrealistic for the time being due to the lack of experience and understanding people have of this recent issue. If policymakers and educators sincerely want to correct the misrepresentation of LEP students in special education and all the other strategies and tools have been attempted, then there are numerous other recommendations that are applicable. According to Klingner and Artiles (2003), their three-pronged approach was to first offer professional training to the general educators in regards to comprehending the requirements of the exclusionary clause. Secondly, the school must provide a professional in the area of the child's native language who would be a part of the IEP and the pre-referral intervention meetings. Thirdly, there should be more observations done by educators other than the actual teacher. These observations should be done in order to give a substantial idea of how the child was learning in the classroom. As recommended in the NCCREST (2003), steps for pre-referral may include:

- Focus on language, social and intellectual development
 - Build habits of the mind
 - Core ideas, big questions, tools for inquiry
- Bridge home and school cultures in the curriculum
- Be culturally responsive—get to know your students' backgrounds and socio-cultural histories
- Provide rich literacy, numeric and technologic environments
- Universally design classrooms and curriculum

These recommendations have the potential to help improve the professional

decision the teacher will be faced with.

In conclusion, it is clear that general educators have the difficult task of referring their students who do not speak English to special education evaluations. It is impossible to be 100% sure when identifying a LEP student as a potential student in need of special services. Despite the pre-referral process and the IEP, which are meant to help the teacher identify their students, teachers are still left unsure of whether the LEP student is simply having trouble with language or suffers from an actual disability. In the words of Walter H. MacGinitie (1983), "The state of uncertainty is not one of indifference; it leads by a stonier path to tolerance; to be genuinely uncertain, one must care. That is the burden of uncertainty" (p. 679). For educators to identify LEP students, we must question, question and question again. Teachers must always be faced with a sense of doubt in order to know that they care. To truly identify LEP students correctly we must care, we must have doubts, we must not make rash decisions, but keep an open mind in what we observe. Therefore, we will continue to look for signals, we will second-guess; we are allowed to change our minds. In the meantime, if we must make a decision, if we must come to a conclusion about a child, I believe it is safer to refer a child to special education and give him closer examination, than to deny him special attention and allow him to fall behind.

REFERENCES

- CAST (2001, August 14). *Limited English proficient students and special education*. Retrieved September 27, 2004, from <http://www.cast.org/ncac/LimitedEnglishProficientStudents2082.cfm#fn11>
- CEC (2004, February 27). *ED assists states, English language learners under NCLB*. Retrieved September 27, 2004, from http://www.cec.sped.org/pp/legislative_update/modules/news/article.php?storyid=52
- Klingner, J. K., & Artiles, A. J. (2003). *When should bilingual students be in special education? Educational Leadership, 61*(2). Retrieved September 14, 2004, from http://web1.epnet.com/citation.asp?tb=1&_ug=sid+3F5A9FA8%2D3125%2D4DEB%2D883F%2D28058C3DB2DD%40sessionmgr6+db+aph%2Ceric%2Cprh+cp+1+B5C1&_us=hs+False+or+Date+ss+SO+sm+KS+sl+%2D1+dstb+KS+ri+KAAACBVA0000104+36D3&_uso=hd+False+tg%5B0+%2D+st%5B0+%2DKlingner%2C++Janette+db%5B2+%2Dprh+db%5B1+%2Deric+db%5B0+%2Daph+op%5B0+%2D+0A49&fn=1&rn=2
- Kozleski, E. B. (2003). *Solutions to disproportionality*. Retrieved September 27, 2004, from <http://www.nccrest.org/forum/Solutions.PPT>
- MacGinitie, W. H. (1983). The power of uncertainty. *Journal of Reading, 26*, 677-679.
- Ochoa, T. (in press). Bilingual special education. In Carlos Ovando, Virginia Collier, & Mary Carol Combs, *Bilingual and ESL classrooms: Teaching in multicultural contexts*. Boston: McGraw Hills.
- Ochoa, T. (2003). Bilingual special education. In Carlos Ovando, Virginia Collier, & Mary Carol Combs, *Bilingual and ESL classrooms: Teaching in multicultural contexts* (pp. 358-378). Boston: McGraw Hills.

Ortiz, A. (2001). English language learners with special needs: Effective instructional strategies. *ERIC Clearinghouse on Languages and Linguistics Washington D.C.*, ERIC Document Reproduction Service No. ED469207. Retrieved September 14, 2004, from <http://www.ericfacility.net/ericdigests/ed469207.html>

Zehr, M. A. (2004, January 14). Report updates portrait of LEP students. *Education Week*, 23(18), Retrieved September 8, 2004, from http://web14.epnet.com/citation.asp?tb=1&_ug=sid+A373D416%2DBF6B%2D456C%2D9B0B%2DAC03F94E1DB%40sessionmgr5+dbs+aph+cp+1+2E3E&_us=hs+True+cst+0%3B1%3B2+or+Date+ss+SO+sm+KS+s1+0+dstb+KS+ri+KAAACBGC00000689+D39B&_uso=tg%5B0+%2Ddb%5B0+%2Daph+hd+False+clv%5B0+%2D20040100%2D20040200+op%5B0+%2Dcli%5B0+%2DDDT1+st%5B0+%2DBilingual++AND++special+education+F4B0&fn=1&rn=1