

## **Discrimination Against LEP Students in Gifted and Talented Classes**

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*Rosa, a fourth grade student with limited English proficiency, was evaluated at parent request for inclusion in the gifted and talented program. Rosa was assessed in English using standard district identification criteria. These criteria were composed of the Wechsler Intelligence Scale for Children, a group administered aptitude test, and a teacher recommendation form. Rosa's scores fell below the designated cutoff score of ninety-five percent. The teacher declined to recommend her for placement in the program, citing that Rosa rarely participated in classroom discussion due to her lack of English competency. Rosa's request for inclusion in the gifted and talented program was denied. Upon further investigation, Rosa's parents learned that although the district's*

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*Hispanic population exceeded thirty-eight percent, no Hispanic students were enrolled in the gifted and talented program at Rosa's school.*

If you were to enter a classroom for the gifted and talented (G/T) in nearly any community today, you would probably notice that the majority of the student population represents the middle to upper middle class mainstream society. There is often a marked lack of minority representation in the programs for the gifted and talented. Amodeo (1982) defines the gifted and talented as the top five percent of any cultural group. However, many programs for the gifted do not reflect these student percentages because they emphasize the use of standardized intelligence tests which measure a very limited range of intellectual abilities. Gardner (1983) theorizes that there are at least seven distinct kinds of intelligence: linguistic, musical, logical-mathematical, spatial, kinesthetic, intrapersonal, and interpersonal. This concept suggests that using a single measure of intelligence, such as an IQ test, is clearly inadequate for describing an individual's intellectual capabilities (Gage & Berliner, 1991). The following definition for gifted children appears in the Javits Gifted and Talented Students Education Act of 1988:

[Gifted children are] Children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities. (§ 3603)

Although this definition of giftedness includes characteristics that are not exclusive to Anglo-American children, in assessing these characteristics, school systems generally apply procedures that cater to white middle class students.

Rosa's scenario is illustrative of the difficulties that many Hispanic students encounter when trying to gain admittance into programs for the gifted and talented. Documentation shows the underrepresentation of minority students in G/T programs as a well established fact. Some of the reasons provided by researchers include: (a) the presence of systematic bias in the standardization process as instruments and approaches follow a middle-class mainstream basis of measurement (Bruch & Curry, 1978; Cohen, 1988); (b) the common practice of identifying G/T students on the basis of a single test administration (Renzulli, 1979); (c) the pervasive lack of knowledge and cultural sensitivity on the part of teachers and appraisers due to inadequate training (Bermúdez & Rakow, in press; Torrance, 1971).

The court system has repeatedly emphasized the need for thoroughly integrating minority cultures into educational programs. Numerous legal precedents have been cited as instrumental cases in the desegregation of these programs.

The United States Supreme Court mandated educational integration in 1954. The landmark case, *Brown v. Board of Education* (1954), stated that

Segregation of white and colored children has a detrimental effect upon the colored children...the policy of separating the races is usually interpreted as denoting the inferiority of the...group. A sense of inferiority affects the motivation of a child to learn. (p. 494)

Further clarification arose in the passage of the Civil Rights Act of 1964. This piece of legislation emphasized that no person shall, on the grounds of race, color, or national origin be subject to discrimination under any program receiving federal assistance.

These two quotations reinforced the ruling that it is unconstitutional to discriminate against ethnic groups or to separate groups of people based on race, color, or national origin. *Lau v. Nichols* (1974) extended this ruling by clarifying that

even though no purposeful design is present: a recipient 'may not...utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination' or has 'the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin. (p. 568)

In *U.S. v. Texas* (1971) a lower court heard testimony which presented a commentary on the problems commonly faced by Mexican American students. This testimony showed that these students frequently demonstrated characteristics which have a causal connection with their general inability to benefit from educational programs designed primarily to meet the needs of Anglo students. These characteristics included "English language deficiencies and cultural incompatibilities" (p. 26). Additionally, the court noted that Mexican Americans have been recognized by the Supreme Court as an ethnic group which may sustain discriminatory treatment as a class.

*Hobson v. Hanson* (1967) attacked the use of tracking systems in which segregation occurs by law or by fact. The court examined the crucial issue posed by the plaintiffs' attack on the defendants' use of standardized tests for the purpose of determining student potential. The aptitude test, defined as a measurement specifically designed to predict future success in an academic curriculum, measures skills which are primarily verbal (p. 477). These tests are "essentially a test of the student's command of standard English and grammar" (p. 478). Those sections of the test which measure nonverbal abilities usually consist of questions which involve abstract reasoning and spatial perception. Neither of these skills is innate or inherited; they are learned. Therefore, a determination was made that aptitude tests only test a student's present level of

learning in certain skills, and from that an evaluator should not infer potential capability to increase this learning. Further discussion emphasized the role of environmental opportunities that could present factors which could reduce test scores. Emotional attitude toward the test could trigger test anxiety thus resulting in depressed test scores. An examination of the test standardization methods revealed that although the tests were normal on national populations, race was not a controlled factor. The court noted that because the tests were standardized on primarily white middle class children, the aptitude tests used to place children in the tracking system did not relate to minority and disadvantaged children, thus relegating these children to lower tracks. These children, stigmatized by inappropriate testing, are denied equal opportunity to obtain the white collar education available to the white and more affluent children.

In the same scope of examining test discrimination against minorities and disadvantaged populations, *Larry P. v. Riles* (1979) attacked the use of standardized group intelligence tests. The plaintiffs alleged that the defendants violated both state and federal constitutional guarantees of the equal protection of the laws by tolerating disproportionate enrollments of black children in classes for the retarded and the use of placement mechanisms, particularly the intelligence test, that perpetuate those disproportions (p. 933). These allegations were supported with evidence that the standardization of the Wechsler Intelligence Scale for Children was based upon white subjects only. *Lau v. Nichols* was cited in *Larry P. v. Riles* as further substantiation of the allegation of failure by the district to provide English language teaching which foreclosed substantial numbers of students from any meaningful educational opportunity resulting in biased placement from the use of intelligence tests. The court ruled in favor of the plaintiff, citing

failure to adopt and implement procedures to insure that test materials and other assessment devices used to identify, classify, and place exceptional children are selected and administered in a manner which is non-discriminatory in its impact on children of any race, color, national origin, or sex. (p. 965)

*Lau v. Nichols* continued by directing school districts to rectify language deficiencies when these deficiencies exclude national origin-minority group children from effective participation in educational programs. *Morales v. Shannon* (1975) strengthened this ruling by stating that the "failure to take appropriate action to overcome language barriers is an unlawful educational practice," citing the Equal Educational Opportunity Act of 1974 (p. 415).

The use of ability grouping which segregated students was challenged in *U.S. v. Gadsden* (1978). The ability level of each student was assessed through the use of standardized tests along with teacher recommendations. Evidence

supported the court findings that ability grouping in five elementary schools resulted in concentration of white students in the upper level classes and minority students in the lower sections of each grade. The court entered an order enjoining the use of ability grouping as a method of assigning students to different classrooms. The court pointed out, however, that ability grouping is not constitutionally forbidden; educators are free to use grouping when such grouping does not have a racially discriminatory effect.

Criteria for separate admissions have been established at various schools in an effort to reduce or eliminate the segregation imposed by the use of standardized test scores. However, in *Regents of University of California v. Bakke* (1987), suit was filed against the Medical School of the University of California at Davis contending that the regular admissions program was more stringent than the minority/disadvantaged admissions program. The Supreme Court affirmed the decision invalidating the special admissions program and quota systems but only insofar as they prohibit the program from taking race into consideration as a factor in future decisions.

Given the strength of these cited court cases, school districts may consider it prudent to reconsider their identification criteria for gifted and talented programs in order to reduce the segregation caused by the current identification practices. These identification criteria should be designed to allow the inclusion of minority groups based on multiple criteria which are culturally fair and unbiased. Although the misuse of standardized tests often results in segregation, these tests could be included as optional instruments for evaluation. Providing multiple identification measures with qualification in a percentage of the categories may provide the necessary flexibility for inclusion rather than exclusion of minority groups. The gifted and talented program could then be strengthened through the recognition of the many varied facets of giftedness represented by the multicultural population enrolled in this program. Although revision of the identification process would not guarantee admission for minority students into the program, their placement would be determined by measures which are appropriate for their culture.

Rosa's parents and attorney actively pursued the matter citing the aforementioned litigation. The school district consequently revised their identification and assessment procedures. Rosa was then reassessed under revised guidelines and qualified for participation in the gifted and talented program.

## References

- Amodeo, L. (1982). Parental involvement in the identification of gifted Mexican children. Paper presented at the Council for Exceptional Children National Conference for the Exceptional Bilingual Child, Phoenix, AZ.
- Bermúdez, A., & Rakow, S. (1993). Examining identification and instruction practices for gifted and talented limited English proficient students. In L.M. Malavé (Ed.) *NABE 90-91 Annual Conference Journal*. Washington DC: National Association for Bilingual Education, pp 99-114.
- Brown v. Board of Education. 347 U.S. 484 [1954].
- Bruch, C., & Curry, J. (1978). Personal learning: A current synthesis on the culturally different gifted. *Gifted Child Quarterly*, 22.
- Civil Rights Act of 1964, 42 U.S.C. sec. 2000 (d).
- Cohen, Linda M. (Fall 1988). Meeting the needs of gifted and talented minority language students: Issues and practices. *National Clearinghouse for Bilingual Education*, 8.
- Gage, N.L., & Berliner, D.C. (1991). *Educational Psychology*. Princeton, NJ: Houghton Mifflin Co.
- Gardner, H. (1983). *Frames of Mind*. New York: Basic Books.
- Hobson v. Hanson. 269 F. Supp. 475 [D.D.C. 1967].
- Jacob K. Javits Gifted and Talented Students Education Act of 1988. 20 USC 3063 [1988].
- Larry P. v. Riles. 495 F. Supp. 926 [D.C.Cal. 1979].
- Lau v. Nichols. 414 U.S. 568 [1974].
- Morales v. Shannon. 516 F. 2nd 411 [5th Cir. 1975].

Regents of University of California v. Bakke. 438 U.S. 912 [1978].

Renzulli, J. (1979). What makes giftedness: A reexamination of the definition. *Science and Children*, 16. p. 14-16.

Torrance, E. (1971). Are the Torrance tests of creative thinking biased against or in favor of disadvantaged groups? *Gifted Child Quarterly*, 22, 293-312.

U.S. v. Gadsden. 572 F. 2nd. 1049 [5th Cir. 1978].

U.S. v. Texas. 342 F. Supp. 24 [E.D. Tex. 1971].