

**Unnoticed, Misidentified and Underidentified: The Challenges for Effective
Identification of Learning Disabilities Among Minority Students**

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Abstract

The purpose of this study is to review the underlying causes and impacts of the misidentification and underidentification of minority students with disabilities for federal and state special education resources as defined by the Individuals with Disabilities Education Act. This study will examine and analyze literature and data regarding the underlying causes of the misidentification and under-identification, the consequences to school districts when substantial disproportionate identification is reported to the Government Accountability Office, the impact to disabled students and their families, and recommend the possible resolutions to improve the identification processes.

List of Abbreviations

CRS	Congressional Research Service
DEI	Diversity, Equity, and Inclusion
EHA	Education for All Handicapped Children Act
ESSA	Every Student Succeeds Act of 2015
GAO	Government Accountability Office
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Plan
IES	Institute of Education Sciences
NCLBA	No Child Left Behind Act
RTI	Response to Intervention

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During the 1970's, the U.S. Congress voiced on-going concerns about the misidentification of children with disabilities which resulted in the Education for All Handicapped Children Act (EHA) enacted in 1975, and over the last 50 years, the number of students participating in special education programs and initiatives has increased substantially due to these legislative efforts by Congress. Prior to the enactment of the EHA, disabled children were denied equal access to public educational resources and learning opportunities, with numerous states having exclusionary laws and policies in effect regarding the education of disabled children. (Lai et al., 2024). Since its inception, the law has undergone multiple revisions and amendments, including a name change in 1990 to Individuals with Disabilities Education Act (IDEA), with revisions as recently as 2016, and with the implementation of Equity in IDEA, which included additional equity policies.

With the passage of the EHA, access to education for all children with disabilities was guaranteed, Individualized Educational Plans (IEPs) were mandated, inclusionary classroom practices were recommended, parental rights were to be included in the decision-making process for their child were ensured, and federal funding was provided for the cost of implementing the new special education programs. Even with the enactment of EHA/ IDEA legislation outlining the protections and rights to be afforded disabled students, “researchers and others continue to debate whether disparities signal real variation in disabilities across racial or ethnic groups, misidentification due to academic issues such as inadequate instruction, or are the consequence of implicit or explicit bias” (Lai et al., 2024).

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While considerable progress in the identification of disabled students and development of special education programs has occurred since the passage of EHA, and subsequent amendments and revisions to the legislation, findings from more recently reported data, suggest a pervasive and ongoing issue within states at the district level, especially in the eleven (11) U.S. states considered the geographic south. Additionally, since the passage of EHA, subsequent research and reporting data from the representative samples done nationwide have shown that while overall special education identification numbers have increased, “minority students are less likely to be identified for special education than white students” (Morgan et al., 2017).

In November 2001, Richard N. Apling, Specialist in Social Legislation of the Domestic, of the Domestic Social Policy Division in a Congressional Research Service (CRS) report to the U.S. Congress, noted that the problem has been “ongoing and deeply rooted” (Apling, 2001). Key findings assessed from 2002 in a study by M. Suzanne Donovan and Christopher T. Cross (National Research council, 2002, edited Donovan & Cross), in 2015 from researchers, Morgan, Farkas, Hillemeier, Mattison, Maczuga, Li, and Cook, (Morgan et al., 2015), and as recently as 2024 by the independent research entity of the U.S. Department of Education, the Institute of Education Sciences (IES), determined there is evidence of racial and ethnic disproportionality in the identification of children for special education. The IES study in 2024 noted that disparities continue to exist in special education identification, and though federal efforts have been made to encourage consistency, differences remain from state-to-state and district-to-district regarding “how disparities were defined may have limited detection in some cases” (Lai et al., 2024).

In a 2020 article, researchers Morgan, Woods, Wang, Hillemeier, Farkas, and Mitchell, stated, “schools have been theorized to use disability identification as a ‘tool of exclusion’ to segregate students by race following the Supreme Court’s 1954 Brown v. Board of Education

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decision (Ferri & Connor, 2005) and so continue racism in K–12 schools (Codrington & Fairchild, 2012; Kohli, Pizarro, & Nevárez, 2017)” (Morgan et al., 2020). This raises questions as to why this issue continues to happen, and if school districts are deliberately under-identifying minority students with disabilities because of bias, efforts to artificially inflate their success rates, or to avoid flagging by the Government Accountability Office (GAO), which monitors the annual report data from the school districts in each state for significant disproportional identification numbers in special education.

The Identification Process

As shown in Figure 1, the IDEA identification process is comprised of multiple steps. The assessment data collected during the IDEA mandated outreach, along with observation by the Individualized Education Plan (IEP) professionals, serve as the primary components for special education eligibility for these students.

Figure 1. The IDEA Identification Process



(Note: the image in *Figure 1: The IDEA Identification Process* was created by Debra Godwin, July 2024, using content from U.S. Department of Education, 2000)

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The U.S. Department of Education (ED, 2018) 40th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act (IDEA), 2018, and, the Every Student Succeeds Act of 2015 (ESSA) which was originally the No Child Left Behind Act (NCLBA) of 2001, mandate inclusivity and compliance, but inequities continue in the application of each of these laws to minority students with disabilities. “IDEA requires the lead state-level agency for early intervention services to coordinate with other major efforts to find young children who may have a disability and ensure they are evaluated. To enable early intervention, identification prior to pre-kindergarten or kindergarten by the state requires wide outreach efforts, which may be challenging to finding minority children with disabilities which can occur if they are served by public and private caregivers” (Lai, 2024). While the IDEA does provide a substantial amount of guidance regarding the identification process, due to discrepancies in the interpretation of the law, and state and federal policies, efforts to identify disabled students and their families are not as comprehensive as they should be. (Melvin-Williams, 2021)

Impediments to the Identification Process

Even with federal guidance, there are multiple impediments to the identification process. Identification challenges can include ineffective evaluation processes and strategies dependent upon the type of disability the child has. If the assessment process or the performance data is unreliable or inaccurate, misidentification is more likely to occur. Under-identification, misidentification, and gaps in referrals for special education occur due to the process of being identified for the Individualized Education Program (IEP) being subjective and contingent upon stakeholder expertise and factors that impact their expertise, including but not limited to, their interpretation and application of state and federal laws, personal or professional biases, level of

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formal and higher education, specialized training, and the number of years of experience they have as an educator. In addition to variances among those on the IEP team, formal and informal assessment criteria and processes also vary. The need for consistent implementation processes in Response to Intervention (RTI) and monitoring are crucial for the identification of students with disabilities.

Additionally, the effective evaluation and broad outreach efforts may be constrained by the human and financial resources needed, underfunded schools, cultural and linguistic impediments, the time required to conduct the search and perform the home visits, less frequent interactions with those qualified to assess and diagnose the disabilities, interagency agreements, and federal and state privacy laws regarding confidentiality and the sharing of data.

IDEA Funding Allocation, Risk Ratios, Annual Monitoring, and Reporting

Funding Allocation

Federal funding is provided to incentivize states and school districts to locate and identify students based on IDEA criteria, and currently, IDEA allocates almost “\$14 billion in federal funds each year to states and districts, and requires them to provide special education and related services to the more than 7.5 million eligible infants, toddlers, children, and youth across the nation who have disabilities” (Lai, 2024). Misidentification and under-identification impact how these allocated funds are used within each district.

Risk Ratio Thresholds, Annual Monitoring and Reporting

IDEA requires the setting of risk ratio thresholds, annual monitoring, and reporting to the Government Accountability Office by the states and districts, but the identification parameters set by IDEA for determining disproportionality are also flexible and can vary from state-to-state

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and district-to-district. The wide variances among risk ratios, and policies and procedures district-wide can impair identification efforts.

“The risk ratio measures the likelihood, or risk rate, that children of one race or ethnicity in a school district are identified for special education compared to the likelihood of identification for children of all other races or ethnicities. Starting with the risk ratio threshold, annual reporting data show that in 2019–2020, 17 states set thresholds above 3, while 25 states set threshold levels equal to 3, and 9 states set them below 3. Thresholds ranged from a low of 2 (2 states) to a high of 7 (1 state), meaning that in one state a racial or ethnic group would need to have a risk that was seven times higher than that for all other races and ethnicities before the district was flagged for significant disproportionality. For reference, the national risk rate for Black or African American students is 12.3, while the risk rate for all other racial and ethnic groups combined is 9.1, resulting in a national risk ratio for Black or African American students of 1.4” (Lai et al., 2024, pp. 16-17).

Signification Disproportionality

Once the data is submitted to the GAO for review, if significant disproportionality is found in the reported data, the school district is ‘flagged,’ and remediation efforts are required. Getting flagged for significant disproportionality based on the key components defined by the Equity in IDEA can impede receiving federal funding and impact how that funding can be allocated within the school district. If a district is flagged, IDEA requires that the state where the infraction occurred must “ensure that flagged districts reserve 15 percent of their IDEA funds” (Lai et al., 2024) and dedicate them to remediation efforts. If lower risk ratio thresholds are set by the school district initially, it increases the likelihood districts will not be flagged for significant

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disproportionality, and the use of IDEA funds will not have to be committed for the remediation efforts. **The Impact of misidentification and under-identification**

Under-identification or misidentification of children with disabilities not only has consequences for the districts where it occurs, it can have long-term, profound educational, mental health, and social consequences for the children left out. Due to the lack of consistency during identification for and implementation of special education programs within school districts, those children who are not identified or are misidentified are not receiving access to the critical educational support resources they may need. This can result in ineffective instruction by educators unaware that the student requires an Individualized Education Program (IEP) due to their disability. Appropriate, culturally responsive, early intervention, and the educational resources provided with an IEP can help ensure disabled students have access to the necessary resources required to develop speech and language competency, recognize missed potential, provide mental stimulation, obviate social isolation, and manage behavioral challenges. The implementation of special education programs can enhance educational outcomes, remove barriers, and foster independence by teaching life skills, and help break the cycle of poverty.

Labeling Stigma and Other Concerns

The correct identification of minority students for these special education programs, while beneficial since it provides previously unavailable educational resources and opportunities to disabled students and their families, can have a disparate impact as well. One of the detrimental effects being the stigma associated with being labeled as different. In 2007, Drs. Fraser Lauchlan and Christopher Boyle discussed the negative impacts of identification and labeling stigma in their article, “Is the use of labels in special education helpful” (Lauchlan & Boyle, 2007). Labeling stigma can manifest as discriminatory and exclusionary treatment.

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Labeling stigma can have an even more profound impact on minority students who may already be the recipients of discriminatory treatment due to their minority status. Improving educator resources and training, along with exposure and inclusionary conversations for non-disabled, non-minority students can help mitigate the negative impact of labeling.

In addition to the identification challenges noted, there are legal and ethical concerns that remain unresolved. The obligation and responsibility of our civilized society to disabled children, especially those of minority status, remains a gray area and often a politically charged topic due to the recent public backlash against Diversity, Ethnicity, and Inclusion (DEI) initiatives in education. It is, however, reasonable for the tax-paying families of disabled minority students to expect the same access to equitable educational resources afforded to non-disabled, non-minority students as mandated and guaranteed by the federal government and current special education

laws.**Conclusion**

Based on the literature and research data reviewed for this paper, ongoing disparities continue to exist, particularly for minority students with disabilities, despite the significant legislative initiatives to ensure fair and equitable access to public education for all students. While the process of accurate identification of minority students with disabilities is riddled with challenges and complexities, it is imperative that the numerous disparities are addressed, evaluated, and resolved at the district level. The possible resolutions should include addressing identification and implementation process challenges, identifying the causes for them to develop “workarounds,” providing specialized training for personnel responsible for identifying and supporting these students, and continuously monitoring the districts’ IEPs for effectiveness. Prioritizing these efforts will result in improved outcomes for disabled students, their families and for the school districts overall, and ensure that disabled minority students do not go

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unnoticed, under-identified or misidentified, and as a result, unsupported as they pursue educational opportunities.

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