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ABSTRACT

Random samples of black and white EMR (Educable Mentally Retarded) students (N=69) from defendant districts in Marshall v. Georgia were compared on numerous variables related to preplacement evaluation, classification and placement in special education, and reevaluation. On nearly all variables black and white mildly mentally retarded (MMR) students were essentially the same. The few statistically significant differences were relatively small, suggesting slightly greater impairment on the part of white students classified as mildly retarded. Findings suggest the equal treatment notion of fairness was achieved in these defendant school districts. However, other legal notions of fairness, such as equal results, were not achieved and probably cannot be achieved without using different placement criteria for white and black students. Examination of these records indicated that only one student was clearly misplaced. Although the placements for 68 of the 69 students seemed appropriate, some aspects of many of the preplacment evaluations were below reasonable standards for best practices. Assessment of adaptive behavior was frequently not discussed explicitly. Some improvement in assessment practices was apparent from the original preplacement to the triennial reevaluations. References and data tables are appended. (Author/CL)

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Abstract

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Random samples of black and white EMR students (N=69) from defendant districts in Marshall v Georgia (1984) were compared on numerous variables related to preplacement evaluation, classification and placement in special education, and reevaluation. On nearly all variables black and white Mildly Mentally Retarded (MMR) students were essentially the same. The few statistically significant differences were relatively small, and in the direction suggesting slightly greater impairment on the part of white students classified as mildly retarded. These findings suggest the equal treatment notion of fairness was achieved in these defendant school districts. However, other legal notions of fairness, such as equal results, were not achieved and probably cannot be achieved without using different placement criteria for white and black students.

Examination of these records indicated that only one student was clearly misplaced. Although the placements for 68 of the 69 students seemed appropriate, some aspects of many of the preplacement evaluations were below reasonable standards for best practices. Assessment of adaptive behavior was frequently not discussed explicitly. Some improvement in assessment practices was apparent from the original preplacement to the triennial reevaluations.

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Black and white mildly mentally retarded (MMR) students from Marshall v Georgia (1984) were compared on variables pertaining to preplacement evaluation, educational programming, and triennial reevaluation. These comparisons were undertaken to determine whether differences existed among black and white students placed in MMR programs. Differences on these variables would suggest differential treatment related to race, and discrimination as well, if black students were placed on different criteria, provided fewer services, or services reflecting lower quality. These considerations were central to the trial in Marshall v Georgia.

Marshall v Georgia was a class action suit filed on behalf of black students in Georgia alleging discrimination in assignment to special education programs and regular education tracking. The principal complaint was over-representation of black students in programs for the educable or mildly retarded, underrepresentation of black students in programs for the learning disabled, and disproportionate representation across educational tracks with underrepresentation of black students in programs for the gifted. The defendants in Marshall were seven school districts and the Georgia State Department of Education. Marshall was tried before Federal District Court Judge Edenfield in Savannah, Georgia in October-December, 1983. The trial decision, issued in June, 1984, rejected all plaintiffs' complaints concerning bias. The opinion did cite numerous inadequacies in the Georgia State

Department of Education monitoring procedures.

The data for this paper are based upon 36 white and 33 black MMR students randomly selected from the elementary grade level special education enrollments of the seven defendant school districts. Various analyses were completed to examine whether or not black and white MMR students were treated differently, and if so, the frequency, pattern, and nature of the differential treatment.

The special education directors in the seven defendant districts were given precise directions concerning random selection procedures. First, a procedure was provided for random selection of a classroom roster of MMR students, e.g., "in a list of MMR classrooms alphabetized by teacher's last name, choose the third classroom on the list." Further direction was given for random choice of students on the roster, e.g., choose the fifth white student counting from the bottom of the list or choose the third black student counting from the top of the list. Once the student was selected, the special education director was then asked to provide copies of all the information in the special education file. Names of students were to be deleted along with all other personally identifying information. A number was assigned to the case and a separate list with the case number and the race, age, and sex of each student was prepared.

All of the information, on ten cases per district, five white and five black students, were sent to the senior author for further examination and analysis. Each file was examined by two judges who independently summarized information on age, grade, educational achievement, educational history, retention/promotion, intellectual assessment, adaptive behavior assessment, behavior problems, and educational programming. All judgments were made

without knowledge of the student's race. In the few cases in which disagreements occurred, further discussions were held with the senior author in order to resolve differences. These discussions, too, were carried out without knowledge of race or sex.

Results

Comparisons between black and white students were then performed for all variables created from the special education files. Means and statistical tests for the following continuous variables are presented in Table 1: age in September, 1983; age at initial placement; initial placement IQ; initial reading; initial math; years in special education; current IQ; current IQ for self-contained placements; current IQ for resource placements; current reading; and current math. The only differences between black and white students on these eleven variables occurred with the variable of current IQ and current IQ for self-contained classroom placements. On both of these variables, black students obtained higher mean scores than white students (p .05). Although the mean for black students was significantly higher than for white students for the current IQ variable, this difference apparently was restricted to the current IQ for students placed in self-contained programs. No differences among white and black students were found for current IQ of students placed in resource programs. A further consideration concerning this difference is that the mean for both white and black students was well within the range typically associated with mild mental retardation.

A number of additional analyses were carried out with non-continuous variables which reflected various aspects of the referral, preplacement evaluation, and placement process. Chi-square statistical tests were carried

out with these variables (see Table 2). In all cases, small, statistically non-significant, differences were found in comparisons of black and white students.

Retention. About two-thirds of the students in both the white and black samples had been retained one or more years prior to placement in a special education program. There were no differences between the groups concerning the retention variable. These retention data, similar to findings reported by Mercer (1973), suggest that the low achievement leading to referral was serious and chronic.

Grade at Initial Referral. The grade at which the initial referral was made was virtually identical for white and black students. About two-thirds of both groups were initially referred at the kindergarten or first grade level, and all of the students included in this sample had been referred by the fourth grade level. However, 21 of 32 black students were referred by the end of first grade and 26 of 33 white students were referred by the end of first grade. Chi-square analyses comparing grades at which referrals occurred for white and black students were non-significant.

Reason for Referral. The reasons for initial referral were determined and then classified as primarily learning problems or primarily behavior or social adjustment problems for white and black students. Referral data were categorized in that manner for 68 of the 69 students. Again, the pattern for black and white students was virtually identical, with 26 of 33 black students referred exclusively for learning problems and 28 of 35 white students referred for the same reason. The chi-square analysis did not approach statistical significance.

Initial Placement. A further comparison among white and black students was made concerning nature of initial placement, resource or self-contained class. Again, the pattern of results was virtually identical with 14 of 28 black students placed initially in resource vs. 13 of 30 white students placed initially in resource. Again, the results did not approach statistical significance.

Mainstreaming. The IEPs for white and black students were then carefully examined to determine the amount and kind of mainstreaming specified in the initial placement. These data were available for all but three white students. The general pattern was essentially the same with a modest amount of mainstreaming, from about one to five hours per week, specified for about two-thirds of both samples. Again, the differences concerning amount of mainstreaming were not statistically significant. A further comparison was carried out concerning kind of mainstreaming for the 27 black and 27 white students for whom some degree of mainstreaming was specified in the initial IEP. For both groups, exactly 18 students were mainstreamed in academic and special subjects such as music and art while exactly nine students in both groups were mainstreamed for special subjects only. Obviously, the differences were not statistically significant.

Speech, Hearing, Vision, and Medical Concerns. Further analyses were conducted to determine whether or not the samples differed regarding the need for speech services, results of vision screening, results of hearing evaluation, and associated medical concerns. Again, the pattern for white and black students on all of these variables was virtually identical. Some specific findings serve to illustrate this general conclusion. Nine and 11

black and white students, respectively, were identified as needing speech services. Nearly all white and black students passed the vision and hearing screening and very few medical concerns were identified for either group.

Behavior Problems and Peer Relations. All files were carefully examined for evidence of behavior problems, particularly whether or not some kind of behavior checklist was completed by a regular education teacher. These results indicated that 12 black and 12 white students, out of 33 and 36 black and white students, respectively, appeared to have significant behavior problems as indicated by the results of a behavior checklist. We also attempted to determine the peer status of the white and black students classified as mildly retarded but found relatively little data on this variable. However, the data we did find were virtually identical for black and white students. For both black and white students, six persons in each sample were described as having poor peer relations. Nine black and ten white students were described as having good peer relations and no mention of peer relations was available for 18 black and 20 white students. Again, the presence or absence of poor peer relations did not differentiate among white and black students classified as mildly retarded.

IQ above 70. In addition to the comparisons of black and white mean IQs at initial placement, a further comparison was made concerning the pattern of IQ above the cut off score recommended by the Georgia State Department of Education. These results indicated that 5 of 30 black students and 4 of 32 white students had IQ scores of 71 or above. For black students, these scores were 71, two students at 72, 73, and 82. For white students, these scores were two at 71, 72, and 74. Again, these results did not meet the criterion of

statistical significance. Further comment will be made in a later section concerning the student with the IQ of 82.

Achievement Tests. After carefully studying the achievement test data in the files for these students, the following categories were established: Achievement assessed using only the Wide Range Achievement Tests (WRAT), a second category where some other individual achievement test was administered, and a third category for cases where no achievement test was given. Here, again, the results were quite similar with 11, 15, and 6 black students in categories 1, 2, and 3, respectively. The parallel aumbers for white students in categories 1, 2, and 3 were 10, 11, and 13. The only apparent trend in these data appeared to be the slightly greater likelihood that no achievement tests were listed in the preplacement evaluation for white students. The use of only the WRAT was surprisingly (and distressingly) high. However, the presence of questionable practices in this realm, (we would regard use of only the WRAT to assess achievement or no formal tests for assessing achievement as questionable) were equally common among white and black students.

Adaptive Behavior. The files were examined carefully concerning whether or not a formal adaptive behavior inventory was used in the preplacement evaluation. For 15 of 33 black and 15 of 35 white cases, some kind of formal adaptive behavior instrument was used during the preplacement evaluation. However, no formal adaptive behavior instrument was used in the majority of cases during the preplacement evaluation. This is, again, an obvious place where better practices are needed. Data on the most recent evaluation, which for some students was the initial evaluation while for others it was the triennial reevaluation, indicated somewhat greater use of adaptive behavior

instruments. In the reevaluation, 20 of 33 and 23 of 36 black and white students, respectively, had the results of a formal adaptive behavior instrument in their placement files. Two general trends are apparent here. First, the use of adaptive behavior instruments is not nearly as widespread as it probably should be, and second, the failure to use adaptive behavior instruments occurred about equally with white and black students.

Timely Reevaluation. The cases for whom a three-year reevaluation should have been completed by June 1, 1983 were identified. The timeliness of this reevaluation was then assessed, i.e., whether or not the reevaluation was conducted within three years of the original preplacement evaluation. The reevaluaion was not conducted within the three-year limit for 7 of 25 black students and 9 of 24 white students. There were 8 black and 12 white students for whom a reevaluation was not required by June of 1983 since three years from the time they were originally placed had not yet elapsed. This record of missing the mandated reevaluation, usually by a relatively short amount of time, clearly does not comply with Georgia State Department of Education or the Federal Rules and Regulations. However, the pattern of tardy reevaluations was virtually identical for black and white students.

Parent Participation. Several variables were constructed reflecting the degree to which parents were informed about and participated in staffing decisions related to initial placement or reevaluation. The results here can only be regarded distressing in that only 8 of 27 and 11 of 24 parents of black and white students, respectively, attended the original staffing. Attendance at the staffing held in conjunction with the reevaluation was only slightly better with 7 of 22 and 10 of 20 parents of black and white students in

attendance. This pattern of results indicates that white parents were slightly more likely than black parents to attend staffings, but the differences here were not statistically significant ($p < .23$ for both).

IEP Goals and Evaluation. Current individual educational programs (IEP) were available for 68 of the 69 students. These IEP goals were then analyzed concerning whether the content was academic only or academic and social. For 18 of 32 black students and 22 of 36 white students the IEP goals were academic only, with no apparent emphasis on social competence development. The IEPs were further analyzed for whether or not an evaluation method was listed for IEP goals and objectives. Here we found relatively high percentages with 26 of 33 black and 33 of 36 white students' IEPs listing an evaluation procedure for the goals and objectives. Although a slight trend was apparent toward greater likelihood of an evaluation method included for IEPs of white students, these differences did not meet the criterion for statistical significance ($p < .13$).

Return to Regular Education. A final variable reflecting whether or not the student had been staffed out of special education and placed full-time in regular education for at least a trial period over the past three years was developed. There was evidence that 6 of the 33 black students and 2 of the 36 white students had been staffed out of special education and either were or had been placed full-time in regular education over the past three years. The pattern in these results is toward greater likelihood of black students being returned to regular education, but the chi-square analysis did not reach statistical significance ($p < .10$).

Summary. Over a wide variety of variables, virtually no differences were found between white and black students placed in programs for the mildly

retarded. These variables reflected virtually all aspects of the referral, classification, and placement process, including initial referral, preplacement evaluation, kind of placement, IEP goals and evaluation, parental participation, and return to regular education. On all of these variables, no differences were found among black and white students. Although the practices revealed through study of these variables, did, in several instances, fall short of best professional practices, the poor professional practices, to the degree that they existed, appeared to occur in about the same way and with equal frequency with white and black students. Considerations concerning nature of best practices in evaluation and programming for mildly retarded students are considered in the following section.

Concerns for Best Practices

Our very painstaking review of the extensive case study information alleviated most of our concerns about possible discriminatory treatment toward black students classified as mildly retarded in the defendant districts in Marshall v Georgia. However, this very thorough study also led to a number of concerns about the quality of services provided to both white and black students. Before going further on this topic, it is perhaps important to note some of the characteristics of the districts named as defendant in Marshall. These defendants were, by and large, economically poor rural districts which had relatively limited resources. These limited resources, particularly difficulties in obtaining sufficient psychological services, probably led directly to some of the poor practices mentioned above. A prime example is the timeliness of the triennial reevaluations. The triennial reevaluations are an important protection for students, a conclusion which is not disputed by anyone

we know including school officials in the defendant districts. However, these reevaluations were not conducted on time for about a third of the white and black students included in this study. In some instances, the time elapsed beyond the three-year limit was trivial, only a matter of a few weeks. In other instances, several months, even a year or more had elapsed, certainly not a trivial amount of time.

Other aspects of the preplacement or reevaluations were troubling to us. We noted earlier the relatively low proportion of cases for whom formal adaptive behavior information was obtained. Practices in this regard appear to have improved somewhat with the reevaluations but still a significant number of students did not have sufficient adaptive behavior information in their cases studies. Our views on this matter are relatively well known from other publications (Richmond & Kicklighter, 1983; Reschly, 1985). We strongly recommend the use of a wide variety of information on adaptive behavior, including inventories constructed for that specific purpose, explicit discussion of adaptive behavior in case studies, and finally, explicit use of adaptive behavior data in decisions concerning classification, placement, and IEP development. These cases fell far short of what we would regard as best practices in this area, Unfortunately, the results here may not be atypical of practices throughout the United States.

Conclusions

Placement bias litigation has cost millions of dollars and has led to significant changes in school psychology and special education. The pre-1975 placement bias litigation was especially important in the development of rules and regulations reforming what can only be regarded as poor assessment

practices (Reschly, 1983, in press). The placement bias litigation since 1975 such as Marshall v Georgia has involved attacks on uses of conventional assessment instruments such as IQ scales as well as allegations that disproportionate classification and placement per se was discriminatory. A critical issue in these cases, not analyzed previously with randomly selected cases from defendant school districts, is the degree to which minority and majority students are treated in the same fashion at all stages in the referral, evaluation, classification, and placement process. These data indicate quite clearly that black and white students in the defendant districts in Marshall v Georgia were indeed treated in virtually identical ways at all stages of the classification/placement process. These results indicate that an equal treatment concept of fairness was achieved which is, in our view, the most appropriate conception of nondiscrimination.

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Table 1

Comparison of Black and White Students

in Marshall v. Georgia

Variable	Black			White				
	N	Mean	SD	N	Mean	SD	t	
Age, Sept. 1983	33	132.22	21.8	36	136.78	27.1	-0.75	N:S
Age, Initial Placement	33	85.27	23.8	35	87.40	17.3	-.041	N:S
Initial Placement IQ	30	63.33	8.5	32	61.03	6.9	1.17	N:S
Initial Reading	23	80.40	13.3	19	77.26	9.3	0.89	N:S
Initial Math	24	76.12	12.3	18	75.89	12.1	0.06	N:S
Years in Spec. Educ.	33	3.55	1.8	36	3.55	2.1	-0.02	N:S
Current IQ	32	61.63	8.5	34	56.79	8.8	2.28	.03
Current IQ-Self-Contained	14	59.93	7.7	18	54.28	9.7		.05
Current IQ, Resource	15	62.07	7.3	15	60.53	5.9		NS
Current Reading	27	73.07	14.9	30	72.60	12.7	0.13	NS
Current Math	27	74.11	14.0	29	70.00	13.9	1.09	NS

NOTES: 1) Two black students with current IQs of 72 and 81 were placed out of special education in the Fall, 1983. They were included in the current IQ comparisons, but not in the current IQ-Self Contained or Current IQ-Resource comparisons.

2) One black student with a preplacement Full Scale IQ of 81 was placed, contrary to the school psychologists recommendation, in a self-contained class for the mildly retarded. According to the psychological report, he should have been placed in a self-contained program for students with behavior disorders. This student was included in the Placement IQ and Current IQ comparisons, but not in the Current IQ-Self Contained comparisons. He was placed out of special education in September, 1983.

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Table 2
Chi Square Analyses

Variable	Categories	Black	White	χ^2	p
[1]Retention	Not Retained	11	8		
	1 year	11	19		
	2 years	9	3		
	3 years	0	1		
	4 years	0	1	7.59	.11
[1]Grade at Initial Referral	Preschool	2	0		
	Kindergarten	11	12		
	First	10	14		
	Second	4	2		
	Third	2	2		
	Fourth	3	3	3.36	.64
Referral Reason	Learning Problems	26	28		
	Behavior-Social	7	7	0.15	.90
Initial Placement	Resource	14	13		
	Self-Contained	14	17	0.26	.61
Mainstreaming Hours Per Week	None to 1 hour	3	8		
	1 to 3 hours	10	4		
	3 to 5 hours	10	14		
	> 5 hours	10	7	6.04	.11
Kind of Mainstreaming	None	5	6		
	Academic	18	18		
	Non-Academic	9	9	0.08	.96
Initial Behavior Problems Checklist	Not Done	21	24		
	Done, And Problems Indicated	12	12	0.07	.79
Initial Peer Relations	Not Done	18	20		
	Good	9	10		
	Poor	6	6	0.02	.89
IQ	> 70	5	4		
	≤ 70	25	28	0.22	.64
Initial Achievement Test	WRAT ONLY	15	11		
	Other Tests	11	10		
	None	6	13	3.18	.20
Initial Adaptive Behavior Instrument	Instrument Used	15	15		
	No Instrument	18	20	0.46	.83
Current Placement	Resource	15	15		
	Self-Contained	16	19	0.12	.73

Table 2 (cont.)

Chi Square Analyses

Variable	Categories	Black	White	χ^2	p
Current Mainstreaming Hours Per Week	0-1 hours	5	11		
	1-3 hours	13	8		
	3-5 hours	10	14		
	> 5 hours	5	3	4.49	.21
Current Mainstreaming Areas	None	2	5		
	Academic	18	17		
	Non-Academic	13	14	1.22	.54
Current Behavior Problems Checklist	Not Done	22	26		
	Done and Problems Indicated	11	10	0.25	.62
Current Peer Relations	Not Done	10	16		
	Good	18	12		
	Poor	15	8	1.69	.19
Current Achievement Test	WRAT ONLY	17	16		
	Other Tests	12	17		
	None	3	3	0.66	.72
Current Adaptive Beh. Instr.	Instrument Used	20	23		
	No Instrument	13	13	0.08	.78
Triennial Reevaluation	Not Applicable	8	12		
	On Time	18	15		
	Not on Time	7	9	0.50	.48
Parents At Initial Staffing	Yes	8	11		
	No	19	13		
	Could not Determine	6	12	1.43	.23
Parents At Reevaluation Staffing	Yes	7	10		
	No	15	10		
	Could Not Determine	11	16	1.44	.23
IEP Goals	Academic Only	18	22		
	Academic & Social	14	14	0.16	.68
Evaluation Methods For IEP	Yes (for 80% or more of goals)	26	33		
	No (< 80%)	7	3	2.30	.13
Staffed Out of Spec Ed for Trial Period over Past Three Years	Yes	6	2		
	No	27	34	2.68	.10

1. Several of the Chi Square analyses need to be redone with very low frequency cells combined. This is particularly true of the variables retention and Grade at Initial Referral.