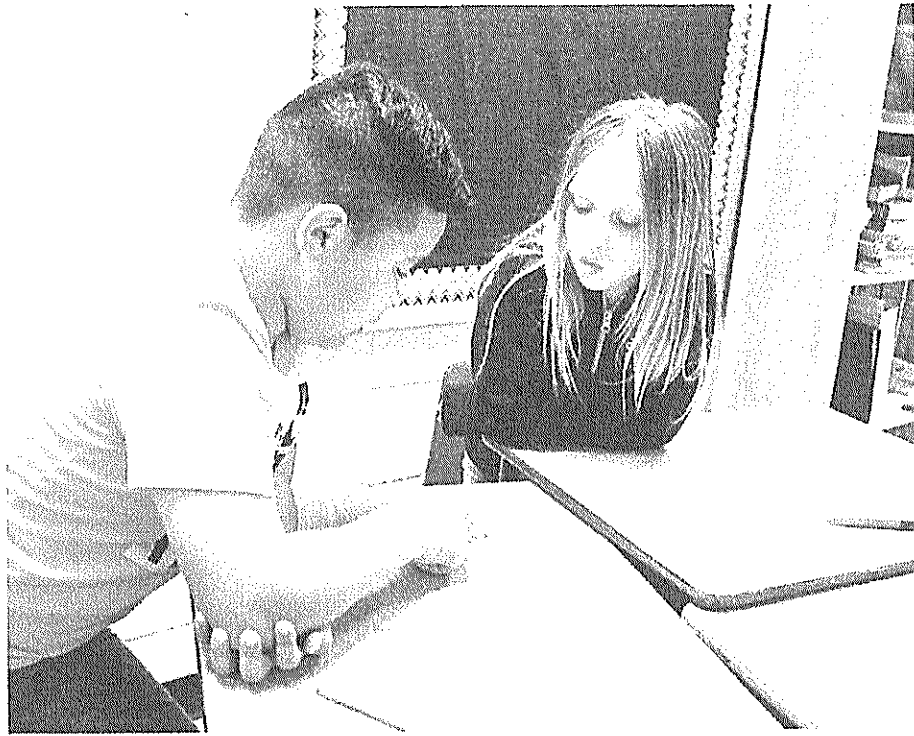


CHAPTER 8

SPECIAL EDUCATION ISSUES IN THE ASSESSMENT OF CLD STUDENTS



When I moved to [a special education classroom in a new school], my class was again filled with Spanish [speaking] students. Many of them were labeled "borderline," which I soon discovered meant that they could have functioned in a regular class if [appropriate] interventions had been used. . . . I often felt my class was a dumping ground for students the teachers could not handle. More than once a teacher would remark that the student just did not "fit" in her classroom.

Shirley Wilson, Prekindergarten Teacher

Chapter Outline

- What Is Special Education?
- Is Disproportionality Really an Issue?
- Why Should We Be Concerned?
- Implications for Classroom Teachers
 - Attention to the Assessment Process
 - The Bilingual Special Education Student
- Summary

Learning Outcomes

After reading this chapter, you should be able to:

- Hold informed conversations with administrators, colleagues, and parents about issues of *exceptionality* and *disproportionality* in relation to special education programs.
- Gather data to inform decisions about eligibility and need for special education as well as least restrictive environments for students.

One of the most challenging dilemmas teachers face is wondering *if* and *when* to consider special education for a culturally and linguistically diverse (CLD) student. Unless educators have substantial knowledge of—and are responsive to—the unique sociolinguistic needs of CLD students, these learners are at greater risk of being misidentified, mislabeled, and consequently miseducated in our schools. Such students may also be harmed by blanket practices that discourage referral or set an arbitrary timeline for consideration of more individualized need (“No ESL student can be referred until they’ve been in the country for *x* number of years.”). Although it may seem reasonable to advise waiting until the student is proficient in English, the reality is that neither poor educational programming nor specialized need will be properly addressed by the mere passage of time. Any situation that interferes with student learning warrants a better understanding of that student and possibly adjustments to methods, materials, or mindset. When practices are in place to continually assess and respond to the majority of all students’ (in all groups) needs, it becomes much easier to discuss and address the specialized needs of a very few. There is nothing inherently helpful or “special” about a program so named, unless the benefit available is specifically designed for the actual strengths and needs of the *individual* child.

WHAT IS SPECIAL EDUCATION?

Special education is the term given to a range of programs and supports that ensure each student, regardless of exceptionality, receives a free and appropriate public education (FAPE). This assurance, commonly referred to by its abbreviation, is

described in Part B and Appendix C of the Individuals with Disabilities Education Act (IDEA) (Public Law 105-117, reauthorized in 2004). To be eligible for special education services, students must be identified as having one or more cognitive, linguistic, or physical exceptionalities that necessitate special instructional approaches or supports for that student to participate in *and benefit from* the curriculum. Such exceptionalities include speech or language impairments, behavioral disorders, specific learning difficulties, physical impairments (e.g., mobility, vision, hearing), or cognitive skills that are significantly higher or lower than the average range of a student's peers. In the case of students with severe cognitive impairments, academic goals may represent the general curriculum in the broader sense of helping these students develop the life skills necessary to function as independently as possible in society.

Although there is variation in the criteria required by each state to meet the definition of *exceptionality*, special education eligibility is generally understood to exclude *achievement discrepancies* that are the result of external variables such as language, experience, cultural difference, socioeconomic status, attendance, mobility, and family crises (IDEA, 1997). It also excludes the delays and skill/knowledge gaps that result from ineffective instructional programs. Because intrinsic exceptionalities can be assumed to occur in all populations at generally similar rates, we would expect all groups to be represented in special education in numbers proportional to their representation in a given population. No group would be significantly more or less likely to be placed in special education than another group (Artiles & Harry, 2004; Card & Giuliano, 2016).

For example, a school district with 35% Caucasian, 20% African American, 25% Hispanic, 10% Asian, 5% American Indian, and 5% Biracial/Other students would expect to see similar demographic patterns in all its special education programs, including those for the gifted and talented. Consider the implications for such a district that has the following special education demographics:

	American Indian	Asian	African American	Caucasian	Hispanic	Biracial/Other
School district population	5%	10%	20%	35%	25%	5%
Gifted/talented	0%	16%	4%	75%	4%	1%
Learning disabilities	0%	4%	27%	36%	33%	0%
Speech/language impaired	3%	14%	19%	30%	33%	1%
Behavior disorders	0%	0%	34%	28%	31%	7%
Visually impaired	6%	8%	22%	37%	24%	3%

As this table illustrates, students from different ethnic backgrounds are represented disproportionately in this district's special education programs. Although 10% of the student population is Asian, 16% of students in gifted and talented programs are Asian, and no Asian students have been identified as having behavior disorders. By contrast, African American students make up 20% of the student population, yet only 4% of students in gifted and talented programs are African American, and African Americans represent 34% of students identified as having behavior disorders.

Further examination of these data reveals “visually impaired” is the exceptionality that most closely reflects the overall representation of students in the district. Why might this be the case? For which exceptionalities might language acquisition or cultural mismatch be factors in the disproportional representation of CLD students?

Is Disproportionality Really an Issue?

Educators might wonder, “Is disproportionality really an issue?” The easy answer is, “Yes,” but there is not one simple reason *why*. The variables are multilayered. Reviews of demographic data support concerns of *disproportionality*—that student representation by race, ethnicity, and language learner status frequently do not correlate with those students’ representation in special education (Morgan, Farkas, Hillemeier, & Maczuga, 2017). One reason it is difficult to understand “why” is that common demographic data isn’t clear when it comes to categories such as race or ethnicity or language of the home. For example, “Hispanic” can be assumed to include English learners but not all “Hispanic” or Latino/a students are English learners. If Hispanic students as a group are disproportionately represented in certain categories of special education, is that because there are English learners in this group, or is something else going on?

What further complicates consideration of English learner incidence in special education is the differing natures of those groups. Students with most types of disabilities (other than speech) will require support or continue to be so identified *throughout the educational years*. This is a fairly stable group to follow through school. By contrast, the conditions for being designated as English learner are more *situational* than innate. As such, English learners may be re-classified out of English learner status when second language (L2) competencies increase (Umansky, Thompson, & Diaz, 2017). Many such students will no longer be technically English learners by secondary school. The changing composition of this subgroup makes it difficult to derive a clear picture. Nevertheless, critical information has emerged regarding the relationship between language learning phenomena and disproportional representation in special education programs.

For example, data included in the 24th annual report to Congress on IDEA implementation in 2002 revealed that, despite the fact that the percentage of the general population who did not speak English in the home increased by only 2.5% between 1987 and 2001, there was a nearly 11% increase in special education placements for students from those homes during the same period. When this type of data is examined further, patterns emerge that remain evident today. For instance, English learners in general continue to be overrepresented in special education (Morgan et al., 2018). Additionally, there is evidence that Hispanic students remain overrepresented in special education programs for learning disabilities (although responses to highlighted discrepancies can subsequently result in *underrepresentation*) (Morgan et al., 2018). Large-scale studies reveal that this trend of *overrepresentation* may be even more apparent when those students are also English learners (Artiles, Rueda, Salazar, & Higuera, 2005; Sullivan, 2011). Other indicators of CLD student disproportionality include evidence that African American and American Indian students, especially males, are often overrepresented in programs for learning disabilities, mental retardation, and behavioral

assessment FREEZE FRAME 8.1

Although there is variation in the criteria required by each state to meet the definition of exceptionality, special education eligibility is generally understood to exclude achievement discrepancies that are the result of external variables such as language, experience, cultural difference, socioeconomic status, attendance, mobility, and family crises.

disorders (Chinn & Hughes, 1987; de Valenzuela, Copeland, Qi, & Park, 2006; Finn, 1982; Yates, 1998; Bal, Sullivan, & Harper, 2014). However, African American, Hispanic, and American Indian students are typically *underrepresented* in programs for the gifted and talented (Card & Giuliani, 2016; Finn, 1982; Ford, 1998; Ford & Harris, 1998; de Valenzuela et al., 2006).

Researchers have identified a number of factors that appear to contribute to the disproportionate consideration of CLD students for special education. The most commonly noted themes include the following:

1. Connections to Demographic Characteristics

- Racial and ethnic minorities are more likely to experience poverty, which is a factor in special education referrals and placements (Oswald, Coutinho, Best, & Singh, 1999; Proctor & Dalaker, 2002; Skiba et al., 2005; USDE, 2017).
- Low-income students as a group, which includes the majority of CLD students, typically have less access to a high-quality education provided by highly qualified teachers who use techniques and materials known to be effective for diverse learners (Banks, Obiakor, & Algozzine, 2013; Biddle & Berliner, 2002; Gandara, Rumberger, Maxwell-Jolly, & Callahan, 2003).
- Experiencing parental incarceration by age 5 has been associated with lower noncognitive school readiness as well as a greater likelihood of special education placement by age 9 (Haskins, 2014).
- Students acquiring a L2 often exhibit academic, attention, and behavior difficulties that are similar to those of students with a learning disability (Barrera, 2006; C. Collier, 2010; Collier et al., 2007).

2. Inappropriate General Education Practices

- Teachers may misinterpret culturally different behaviors as indicators of learning or behavioral disability (Ortiz, 2008; Salend, 2005).
- Misinterpretation of language differences as indicators of reading and writing disability contributes to misidentification of CLD students for special education (Klingner, Artiles, & Barletta, 2004; Sullivan, 2011).
- When CLD student needs are not recognized at the instructional level, they are unlikely to be recognized or addressed during the intervention process (Cabral, 2008; Ortiz, Wilkinson, Robertson-Courtney, & Kushner, 2006; Sanford, Brown, & Turner, 2012).
- CLD students frequently lack opportunities to expand first language (L1) development; yet those with limited L1 and L2 proficiencies are significantly more likely to be identified as having mental retardation, learning disabilities, or speech language impairments (Artiles et al., 2005).
- Low school achievement is found to be a significant factor in the determination of disability (Hosp & Reschly, 2004); therefore, educational practices that result in achievement gaps between CLD and dominant-culture students may contribute to the overrepresentation of CLD students in special education (Cartledge & Kourea, 2008; Fletcher & Navarrete, 2003).

3. Inappropriate Special Education Placements and Programming

- Despite concerns regarding the influence of culture, language acquisition, and prior educational experiences, many schools continue to rely on discrepancy models that interpret achievement gaps as indicators of learning disability (Baca & Cervantes, 2004; Ortiz, 2004; Smith Bailey, 2003).

- * Despite the range of considerations necessary to determine genuine educational disability, assessment teams often make decisions based on insufficient information (Huang, Clarke, Milczarski, & Raby, 2011; Overton, Fielding, & Simonsson, 2004), insensitive screeners, or use of standardized assessments that are not developed, normed, or administered appropriately for CLD students (Anaya, Peña, & Bedore, 2018; Crowley, 2011; Rhodes, Ochoa, & Ortiz, 2005; Rodríguez & Rodríguez, 2017).
- * Inappropriate special education placements and actions locate achievement or behavior problems within the student population and enable the educational system to avoid taking necessary measures to identify and accommodate the general education needs of diverse students (Baca & Cervantes, 2004).
- * Once identified, CLD students are more likely to be placed in more restrictive settings for longer periods of time than their non-CLD peers with similar academic or behavior concerns (Artiles et al., 2005; de Valenzuela et al., 2006).

We caution educators to remember that overreliance on data that lumps heterogeneous subgroups into broad categories can obscure within-group (e.g., gendered) patterns of over- or underreferral for special education as well as over- or underrepresentation in various tiers of intervention. With respect to the learning needs of CLD students, it is important to note that although most teachers recognize that these learners may have difficulty with skills such as vocabulary, pronunciation, and grammar, many have never considered the numerous other characteristics associated with students with learning disabilities that are also typical of students acquiring a L2 or experiencing acculturation (see Figure 8.1).

assessment FREEZE FRAME 8.2

Inappropriate special education placements and actions locate achievement or behavior problems within the student population and enable the educational system to avoid taking necessary measures to identify and accommodate the general education needs of diverse students.

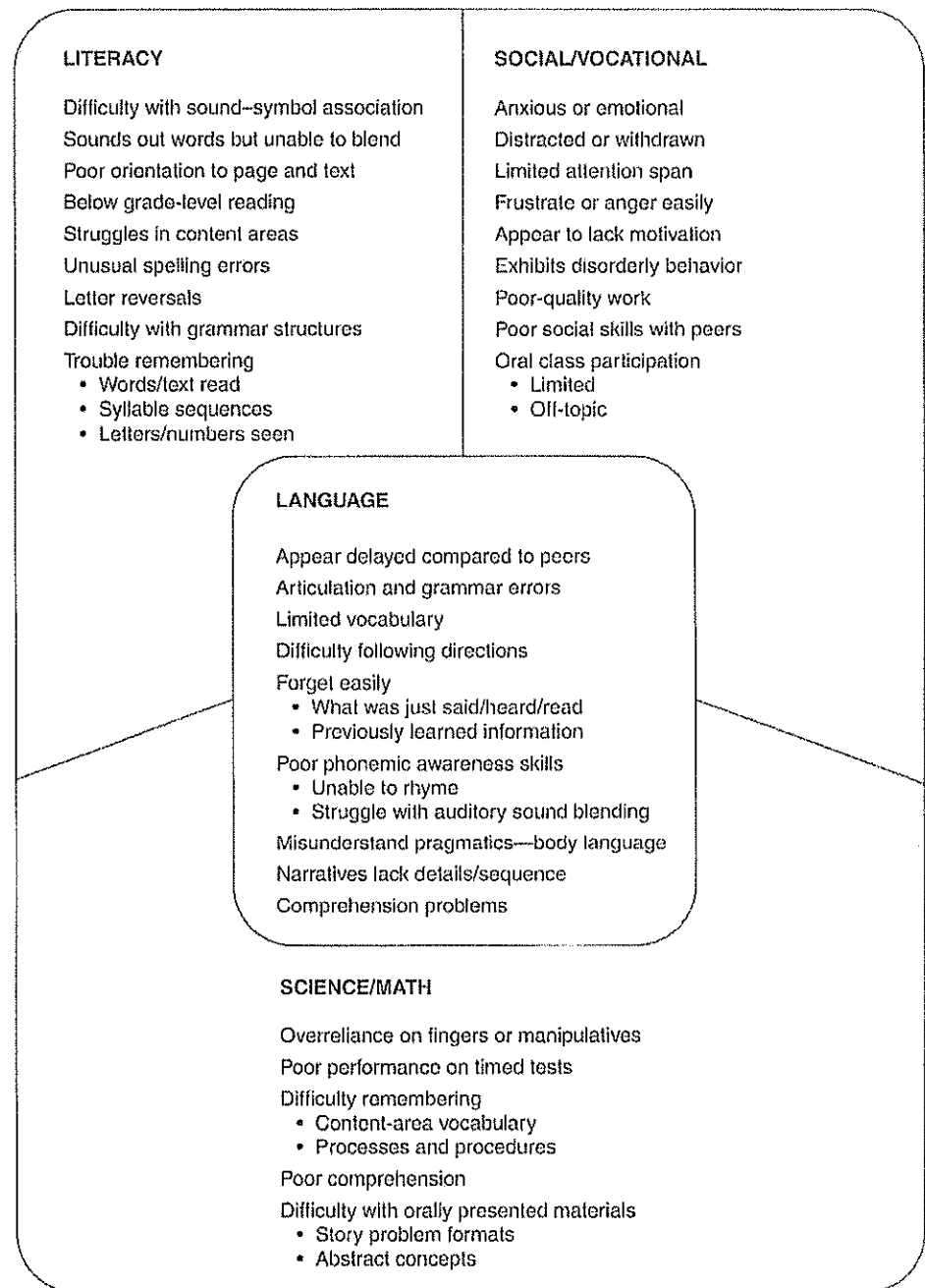
Why Should We Be Concerned?

Disproportional representation in special education is a matter of concern for administrators, teachers, parents, and other stakeholders for several reasons. One overriding reason is the realization that disproportionality can be a strong indicator that students are not being identified for, or placed in, the most appropriate programs. By appropriate, we mean *least* restrictive. Students should be placed in the program or setting in which they can maximally participate *while also being challenged* by the curriculum.

For most students, the *least restrictive environment* is regular education. However, the nonaccommodative regular classroom may actually be very restrictive to the CLD student who is either *overwhelmed* or *underchallenged* in that setting. In this situation, it is most likely the level of instructional accommodation rather than the presence or absence of student exceptionality that should be addressed first. Careful attention to data gathered via both formal and informal means increases the teacher's ability to respond to student needs in a timely and targeted manner. As detailed in Chapter 7, the informed review of class, grade, or schoolwide data may also reveal patterns that compel systemic instructional change.

When nondisabled students are misidentified and placed in special education settings, they are disenfranchised from the broader offerings and opportunities of the grade-level classroom. For these students, the special education setting or

Figure 8.1 Typical Characteristics of Both English Speakers with a Learning Disability and Second Language Learners Without a Disability



Sources: Baca and Cervantes (2004), Barrera (2006), Chu and Flores (2011), Collier et al. (2007), Fradd and McGee (1994)

classroom is a more restrictive setting that may actually constrain their learning. In contrast, the student with a genuine disability might be better able to learn specific skills when provided the type of structure and supports that would typically restrict other learners. Fortunately, many schools have begun implementing practices based on the understanding that least restrictive environments are not the same for all students. Increasing numbers are moving away from pull-out programs toward inclusive classrooms where purposeful collaboration among grade-level, ESL, and special education teachers fosters optimal learning environments for all students.

The other side of disproportional representation is underrepresentation. In some cases, truly exceptional students may be denied consideration for supports and services because their difficulties are attributed almost entirely to language. Teachers and support personnel often lack the training or experience to distinguish between language acquisition phenomena and learning disabilities (Figueroa & Newsome, 2006; Hoover, Klingner, Baca, & Patton, 2008). Whenever students are being over- or underidentified for special education services, they are being effectively disenfranchised from their maximal participation in the curriculum. In addition, more subtle consequences of disproportionality affect all students. When CLD students are more likely than others to be removed from the grade-level classroom for special programming, those left behind are denied the richness of diverse perspectives and experiences that complement their own learning.

Federal regulations require the use of nonbiased assessment measures and techniques when serving the differential needs of CLD students (U.S. Congress, 1999). Because of long-standing concerns in this area, the Individuals with Disabilities Education Improvement Act (2004) includes notable amendments and language to address issues related to CLD students. Among these amendments are the following from section 602.10-13 of the act:

- (10) (A) The Federal Government must be responsive to the growing needs of an increasingly diverse society.
- (11) (A) The limited English proficient population is the fastest growing in our nation, and the growth is occurring in many parts of our nation.
 - (B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.
 - (C) Such discrepancies pose a special challenge for special education in the referral of, assessment of, and provision of services for our nation's students from non-English language backgrounds.
- (12) (A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.
 - (B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

Source: Disabilities Education Improvement Act (2004) Among these amendments are the following from section 602.10-13 of the act.

These amendments strengthen the original law that stipulates a number of protections to ensure that all students, including those with limited English proficiency, receive appropriate special education evaluations. IDEA requirements state that eligible CLD students who demonstrate need are placed in least

assessment FREEZE FRAME 8.3 

When CLD students are more likely than others to be removed from the grade-level classroom for special programming, those left behind are denied the richness of diverse perspectives and experiences that complement their own learning.

SNAPSHOT from CLASSROOM PRACTICE

81



Ms. Rush purposefully structures activities in which students can benefit from a variety of peer scaffolds in advance of her clarification and feedback. These include partner collaboration, L1/L2 discussion, and the opportunity to review peer models before deciding what to add or comment on for each content element. Ms. Rush finds that such techniques naturally foster all students to reach levels of individualized rigor within the accommodated core. She also uses the completed products to document students' growing conceptualizations and skills.

Essence Rush

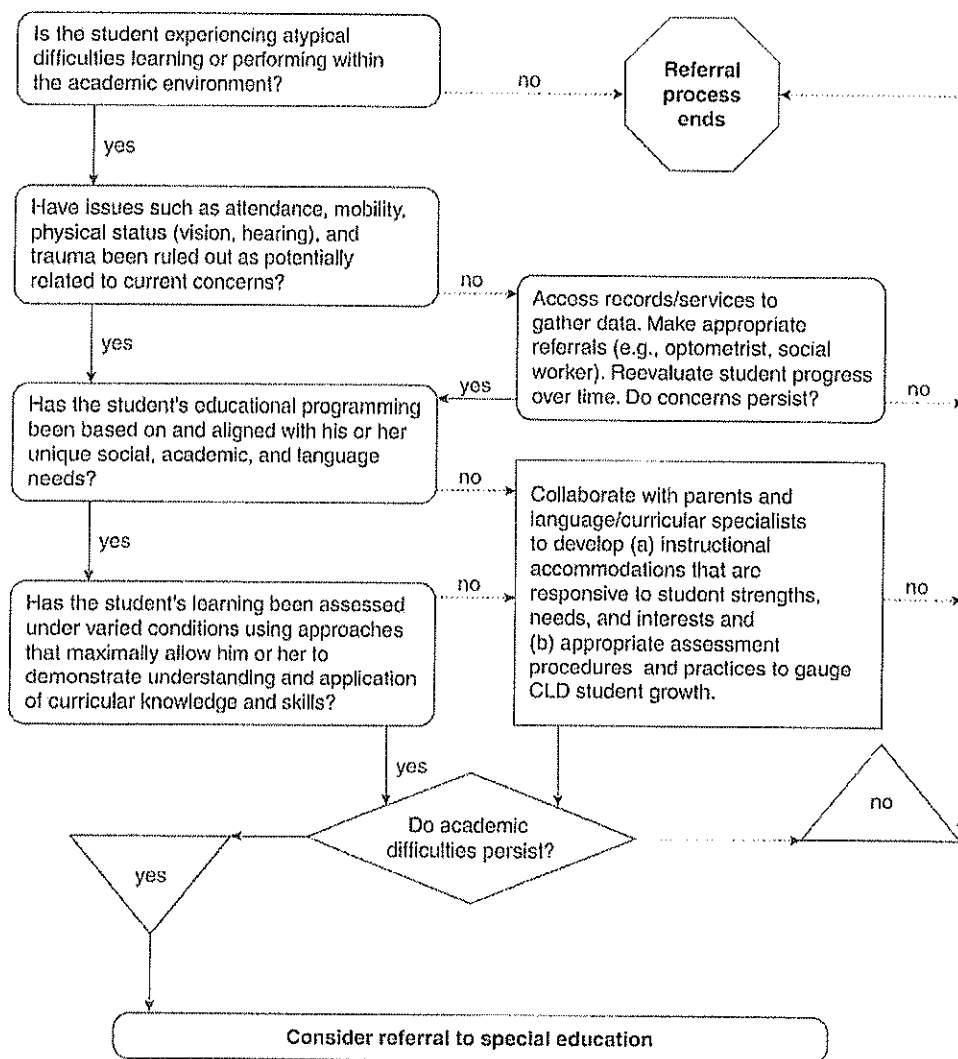
restrictive learning environments that also take into account these students' unique language acquisition needs.

IMPLICATIONS FOR CLASSROOM TEACHERS

According to Brown (2004), a teacher's professional development regarding the role that language acquisition and acculturation play in student performance is "the first step in reducing the over-referral of CLD students for special education" (p. 226). Brown cites culture shock, L1 loss, inconsistent education, reduced opportunities to learn, inappropriate instructional models, low teacher expectations, and mobility among the phenomena that contribute to inappropriate referrals and placements in special education.

Chapter 7 provides a detailed explanation of the practices and processes that inform consideration of exceptionality with CLD students. Careful attention to, and accommodation for, the language, culture, and situational factors that influence a student's success and participation is required during each step. The volume of data gathered via these processes can also powerfully improve the interpretation of, and response to, early indicators of student struggle within a model of response to intervention (RTI) that does *not* presume special education need. If, however, the student's background experiences and other preassessment information (e.g., responsiveness to interventions) do not seem to account for the noted learning concerns, a full and individual evaluation of language, cognition, achievement, and social skills may be the next recommendation. Refer to Figure 8.2 for a brief overview of the process for determining whether a referral to special education might be appropriate.

Figure 8.2 Prereferral Flowchart: Questions Every Teacher Should Answer Before Referring a CLD Student for Special Education



Attention to the Assessment Process

Asusena was in the 3rd grade when she was referred by her teacher to the student intervention team at her school. This team was composed of Asusena's ESL and classroom teachers; two other teachers esteemed for their knowledge and effectiveness with diverse learners; a counselor familiar with the community; a bilingual interpreter trained in special education issues and terminology; and Asusena's mother, the recognized expert on this child.

The team began by reviewing pertinent school records. According to the home language survey, Spanish was the language of the home. Asusena's mother nodded as this was reported and translated for her participation. Preassessment of L1

proficiency indicated Asusena began school with well-developed primary language skills. Asusena also demonstrated a history of consistent school attendance and ESL services. In this particular school, the majority of students were provided ESL support by classroom teachers who modified instruction in accordance with knowledge gained through an ESL endorsement or specialized training in sheltered instruction. Spanish- and Vietnamese-speaking paraprofessionals were used in the lower grades as well as with older newcomers to provide pre- and postinstructional content support in the primary language. All other instruction, including literacy development, was provided in English only.

Recent language proficiency assessments revealed that Asusena demonstrated intermediate English oral fluency. Her reading and writing skills, however, were found to be well below those of her CLD peers (even lower than those of the students who did not perform as well on oral tests). These findings were supported by the anecdotal and observational logs of Mrs. Karas, the classroom teacher. Although Asusena was able to participate well in most aspects of her accommodative classroom, writing skills were a growing concern.

In discussing Asusena's strengths, Mrs. Karas noted that Asusena participated well in class during group time and always appeared to have understood the story or lesson presented through activities or lecture. Considering her apparent ability to learn, Mrs. Karas did not understand why Asusena was unable to transfer skills and motivation to seatwork. More perplexing was Asusena's recent tendency to "act up" in certain situations.

Counselor (to Mrs. Karas): Can you describe one of these situations?

Mrs. Karas: In general, Asusena gets along well with others, but she can become very irritable with classmates during indoor recess. At first, I thought she was just having a bad day, but this has happened on several occasions and is affecting the desire of other students to let her join their play.

Counselor: Does this occur during outside recess?

Mrs. Karas: No, never. She's actually somewhat of a leader and very popular. So I've become concerned that something may be going on. It's just not like her to get so angry with friends.

As she listened to the translated comments, Asusena's mother looked puzzled. She shared that Asusena always seemed to play well at home with siblings or cousins, whether indoors or out, rain or shine.

Consulting Teacher 1 (to mother): What type of activities or games does she like to play at home?

Mother: Mostly they like to play Barbies, soccer, and jacks. She's really good at jacks. She already knows she can pick up three sets of three with one left over, and two sets of four with two left over. . . . She knows all the patterns.

Mrs. Karas: Wow, I don't see that skill in math. In fact, she rarely finishes two-digit addition pages without help. She seems to know the facts in her head but has trouble putting them on paper. Most everyone finishes before her. Lately, I've given her fewer problems, more widely spaced. This helps a little but she is still making lots of errors. One day I asked her to say everything out loud as she worked the problem. I noticed she was not only misreading some of the numbers, like 2 for 5, but she also had trouble staying in the same column while adding.

Consulting Teacher 1 (to Mrs. Karas): Despite her paperwork, I'm hearing you and Mom both say that Asusena seems to understand the facts and concepts in her head. Is that correct?

Mrs. Karas looked at Asusena's mother and nodded.

Asusena's mother (smiling): Yes.

Consulting Teacher 2: Getting back to the conflicts with peers, what type of activities are students doing during indoor recess?

Mrs. Karas: Well, I like to make everything a learning opportunity, so most of my games involve some use of reading, writing, or math skills. There are several game boards that require students to solve math problems, follow directions, or answer questions on cards.

ESL Teacher: What about your students who have yet to acquire enough English for those tasks?

Mrs. Karas: Every one of my students is aware of who may need more support, and they always offer to help read or translate so everyone can play.

Consulting Teacher 1: Do they offer to help Asusena?

Mrs. Karas: They really don't offer to help Asusena because she speaks English better than many. In fact, that can be a problem in our cooperative groups because she always wants to be the person who reports. I've heard some of the students call her a *sabelotodo* [know-it-all].

Consulting Teacher 2: What is happening in the games when Asusena gets upset?

Mrs. Karas: Now that I think of it, they complain about how she reads the cards. Some students even accuse her of cheating because she holds the cards very close, gets mad when the others ask to see them, and then decides she doesn't want to play.

Consulting Teacher 1: Tell me again—how are her reading and writing skills?

ESL Teacher: Although we know oral skills develop before reading and writing skills, Asusena is having more trouble in those areas than I would expect, given her oral English proficiency. Mrs. Karas and I have been collaborating on a few interventions, but it really doesn't appear her difficulties are related to language.

Mrs. Karas: Yes, I've allowed Asusena to buddy with a partner. Although she often contributes her share or more to the content of the discussion, she always prefers the buddy to write. At first I discouraged this, but Asusena's written work never got done or was completely indecipherable. Now I allow Asusena to copy her partner's notes of their collaborative responses, but there are still significant errors in letter recognition and orientation, even while copying.

By the time the team had met for a second and third time, all members, including Asusena's mother, had concluded that Asusena's difficulties and response to intervention could not be explained solely on the basis of her socialization, language acquisition, or prior academic experiences. Asusena was then referred to a multidisciplinary assessment team whose members were experienced professionals with keen understandings of the informal and formal approaches (as covered in Chapters 2–7) that would be least biased and most effective in the assessment of Asusena's situation. These multidimensional analyses were interpreted in light of their ability to explain or account for the volume of authentic and dynamic information that had already

been compiled. In this case, multiple sources of evidence revealed that despite strong oral language, Asusena demonstrated unusual difficulties connecting discrete linguistic units with visual symbols. These problems significantly affected her ability to read, write, and learn content from text. The team determined that Asusena would not only qualify for, but (more important) *benefit from*, targeted special education support scheduled to maximize her ongoing participation in the enriched instructional core.

The scenario illustrates many of the assessment dynamics that have been discussed up to this point in the text. It also highlights appropriate ways teachers and other evaluating personnel can put into practice many of the stipulations and recommendations in the law, such as the following that address communication with parents and the language of assessment.

- Parents should be notified upon their child's initial referral to special education and their consent obtained for special education actions, including evaluation or changes to an existing placement. Although documents of notification and consent must be written in a language that is understandable to the general public, it must also be appropriately and accurately translated orally, in writing, or by other means (e.g., sign language) as necessary to ensure that CLD parents understand the content and intent of the proposed action(s).
- Students should be assessed "in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer" (IDEIA, 2004, section 614.[a](3)[ii], p. 59).
 - In accordance with this requirement, schools should make every effort to assess students in their home or dominant language using instruments and administration procedures that are valid and reliable for that population.
 - Caution is recommended in any efforts to interpret bilingual student performance based exclusively or primarily on language or academic tests that are normed on, or compare the students with, monolingual students of either language.
 - Academic knowledge, skills, and capacities among students should be assessed in the language in which these students are receiving instruction. When this language of instruction is not the student's primary or dominant language, modifications should be employed to reduce the degree to which culture and language interferes with students' demonstration of academic knowledge, skills, and abilities.
- When reporting results, the evaluator should describe any modifications that were used to reduce the effect of potential bias in assessments. For example, the evaluator might mention "a translator was used to administer the assessment in the student's primary language" or "an interpreter translated and modified the assessment questions in a manner consistent with the student's culture and local dialect." Note that these statements are not synonymous. The second reflects much greater control for potential bias.
- If an assessment is used or administered in a manner different from the conditions under which it was standardized, it is preferable to describe student performance qualitatively and correlate that with other forms of data than to cite potentially misleading scores. Such a statement might read, "As this assessment is normed on monolingual Spanish speakers receiving consistent educational instruction in their primary language, comparison of this student to that

group is inappropriate. However, analysis of student performance reveals (e.g., mastery of the following skills . . . ; difficulties with . . .).”

- Achievement results should also be interpreted with attention to research demonstrating the impact that the instructional model (e.g., ESL pullout, bilingual transition, dual language) has on English learner achievement (Thomas & Collier, 2002, 2012).

Assessment information gathered through formal evaluation is best used to augment and illuminate rather than replace or override information gathered in more contextual and authentic situations. For this reason, references to specific diagnostic instruments are omitted in this chapter in favor of an emphasis on the knowledge bases necessary for all educators to select among, and interpret the results of, a multitude of available tools. When a detailed understanding of a student’s prior life, language, and learning experiences is compared with his or her current ability to demonstrate skills in varied contexts, it is possible to make well-informed decisions about whether the student should receive special education services or more accommodative levels of sheltered instruction in the classroom.

assessment FREEZE FRAME 8.4

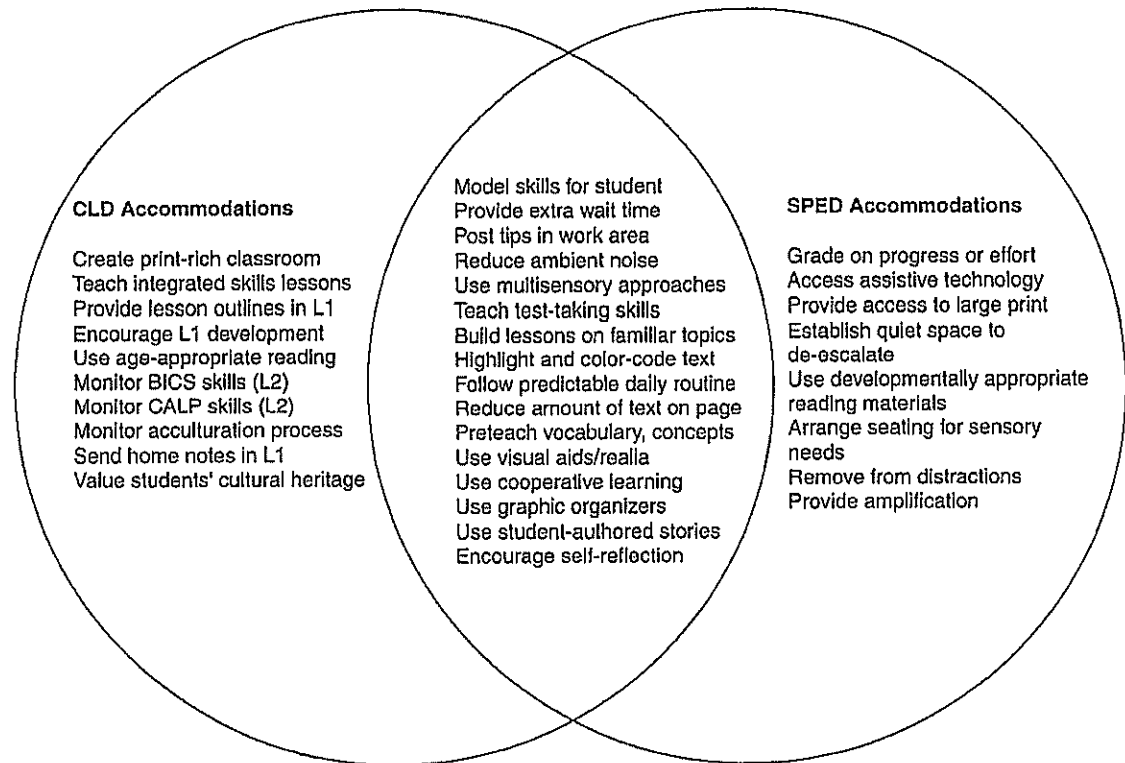
IDEA requirements state that eligible CLD students who demonstrate need are placed in least restrictive learning environments that also take into account these students’ unique language acquisition needs.

The Bilingual Special Education Student

As noted in Chapter 7, special education students should be assigned to the most appropriate and least restrictive tier of instruction for each curricular need. In the case of Asusena, the team realized that she had a very specific need for some specialized instruction in reading and writing. Looking at her profile, it was also apparent that Asusena was learning well in the language-rich general classroom setting with ESL supports. She went on to participate fully in the core curriculum with accommodations for reading and writing while also receiving some direct special education support for literacy. Five years earlier, that would not have been the recommendation. Many teachers previously had thought of the dual ESL/SPED qualification as a *doubling* of need. Students like Asusena had often spent the entire language arts block away from classmates, working on remedial English skills. Because reading was required for texts, the reading disability would “require” even more pullout time—time during which students were away from core class discussions, projects, and connections that made those texts come alive.

In cases of dual ESL/SPED qualification, the multidisciplinary assessment team, including the parent(s) or guardian(s), develops a culturally and linguistically appropriate *individualized education program (IEP)* that, among other things, stipulates the languages, strategies, and settings of instruction that best minimize barriers to student achievement. Among recommended accommodations of this IEP, the multidisciplinary team is likely to incorporate a combination of accommodations that relate to the biopsychosocial and language histories of the *bilingual special education student*, as well as his or her general education needs. A sample range of potential accommodations is detailed in Figure 8.3. This figure compares and contrasts some of the pedagogical and logistical accommodations that are specific to CLD students or students in special education, as well as those that are common to both.

Figure 8.3 Comparison of CLD and SPED Accommodations



Special education is appropriate for genuinely exceptional CLD students *if it is adapted to meet unique language acquisition needs* (Baca & Cervantes, 2004; Collier, 2010; Hoover et al., 2008; Rodríguez & Rodríguez, 2017). Unfortunately, the instructional programs and recommendations for CLD students with learning disabilities are all too often the same as those recommended for their native-English-speaking peers, with little or no consideration given to their unique language needs (Chang, Lai, & Shimizu, 1995; de Valenzuela et al., 2016; Hoover et al., 2008). Whether the result of inexperience or a disinclination to spend the time and resources necessary, the tendency to simplify the needs and complexities of CLD students can compromise every stage of the education process.

Another troubling pattern is that once CLD students are determined to have a disability, they are often effectively reclassified as no longer in need of language support. This type of response derails the development of appropriate educational plans and practices for CLD students with disabilities. It is important to remember, "Under ESSA Section 3121, an LEA [local education agency] must disaggregate by English learners [ELs] with disabilities in reporting the number and percentage of ELs making progress toward English language proficiency, and in reporting the number and percentage of former ELs meeting State academic standards for each of the 4 years after they no longer receive Title III services" (USDE, 2016, p. 37).

Therefore, schools must also be accountable for the ongoing English development of CLD students with disabilities.

Misconceptions Related to CLD Students with Disabilities

The health history indicated that Jonathan was born at 30 weeks gestation and had been "a bit slower" than siblings to walk and talk. By age 1, he was also diagnosed with cerebral palsy. Nevertheless, by his fourth birthday, Jonathan was putting together four-word phrases ("Me duele el estómago" "My stomach hurts") and asking short questions ("¿Donde está el perro?" "Where is the dog?") at home. Because of Jonathan's physical needs, the pediatrician referred the family to a screening process sponsored by a local education agency. This doctor also advised Jonathan's parents to use more English at home because "children with disabilities struggle to learn any language and English will be the language of school."

Information gained via parent interview, bilingual evaluation specialists, and home observation led to Jonathan's placement in a Pre-K program for students with "developmental disabilities." The goal of this program was to provide students time and opportunity to show skills before being labeled or assigned to a more restrictive setting. During this time, Jonathan seemed to enjoy school and make new friends. His teachers praised his efforts to use English and parents confirmed they now limited use of Spanish when talking to their son. By the time of his next evaluation (2 years later), Jonathan spoke primarily one- to three-word English phrases at school. Parents also reported that he was now speaking more English than Spanish at home.

Given this information, the child study team conducted all aspects of the *reevaluation* in English. Jonathan scored particularly low on the speech pathologist's expressive and receptive language testing as well as the psychologist's measures of verbal intelligence. A home rating scale was used to gather family perceptions but parents reported that Jonathan's communication had regressed, and he was not yet independently dressing. This seemed to align with the teacher's report of fine motor and language delays. As a result, Jonathan was placed in a classroom comprised solely of students with intellectual disability. Many of these students also had language impairments and some required picture systems to communicate their wants and needs.

Jonathan is now almost age 9 and due for another reevaluation for special education. The team had only planned on updating information from the previous evaluation since he had already been tested several times. However, when Jonathan's mother met with the social worker to discuss the required consent, she voiced concerns about his progress. The translator also helped Mom convey specific worries that Jonathan was becoming less verbal and not being taught to read like others his age. The social worker tried to explain why the curriculum was somewhat different for students in Jonathan's class, but Mom said she wanted new testing by people who were bilingual "like the first time." This surprised the social worker, who questioned, "Didn't you say Jonathan speaks English at home?" Mom replied, "Oh yes, but he understands everything people around him are saying in Spanish."

Although the team did not think Jonathan's case merited a *bilingual* referral, they nevertheless contacted the personnel necessary to "cover this base." No one was more surprised than these team members when it was revealed that Jonathan had lower *average range* nonverbal intelligence. The consulting speech language pathologist was able to determine that Jonathan's combined comprehension of Spanish and

English was also in this range. Although these results indicated Jonathan may need some support, he most certainly was not intellectually disabled. Despite these positive findings, Jonathan had indeed regressed verbally and had learned fewer skills than similar peers in less restrictive settings.

The case of Jonathan demonstrates how disregard for, or inattention to, the language learning history and profile of a CLD student with disabilities can result in misinterpretation of assets/needs and placement in overly restrictive settings that impede cognitive, linguistic, and social growth. How did this go so wrong? Key insights to development occur in the early years. More careful attention to initial milestones would have revealed that Jonathan was developing Spanish at rates approximating his peers. The pediatrician's primary concern related to Jonathan's potential physical needs. Unfortunately, uninformed advice about language use contributed to changes in home dynamics that negatively affected Jonathan's ongoing language development and the ability of educators to fully recognize his many strengths.

At the heart of Jonathan's case are also misconceptions that are prevalent among educators. Three misperceptions related to CLD students with disabilities are especially common.

1. *Special education services "trump" language support services when meeting the needs of CLD students with disabilities.* This line of thinking is akin to stating that eyeglasses "trump" hearing aids. CLD students with disabilities do not cease being culturally and linguistically diverse upon placement in special education. As we have discussed in this chapter, a comprehensive picture of the individual student's social, linguistic, academic, and cognitive profile is central to the development of an appropriate IEP. Denying CLD students access to language support programs and/or accommodations within the special education setting can have damaging effects on that student's linguistic, cognitive, and social development.
2. *CLD students with disabilities should focus on learning only one language.* Unfortunately, this misconception is still being relayed by family members, teachers, and sometimes ill-informed professionals such as pediatricians, speech-pathologists, and psychologists (Marinova-Todd et al., 2016). The basis of this myth is the unsupported belief that a student with communication or cognitive challenges has "enough difficulty" learning one language. Exposure to two is thought to either confuse the child or divert critical language resources to a language not used in school. Not only is this view unfounded, but a growing body of research indicates that bilingual environments and educational approaches optimize socialization and language learning outcomes for CLD students with disabilities. Such groups include, but are not limited to, students with specific language impairment, cognitive disability, and autism spectrum disorder (Cleave, Kay-Raining Bird, Trudeau, & Sutton, 2014; Gonzalez-Barrero & Nadig, 2017; Rodríguez & Rodríguez, 2017; Thordardottir, 2010).
3. *Special education services are so specialized that they meet every need of the exceptional CLD student.* Not only is this a misconception, but special education services that disregard the CLD student's culture/language assets and needs may result in less academic and language growth than if that student had remained in more inclusive settings (Maldonado, 1994; Serpa, 2011).

Researchers have found that students with diminished or arrested L1 development, as well as those from historically marginalized economic, racial, and linguistic groups, are more likely to be assigned to more restrictive environments than their peers from the dominant culture who are identified with the same disability (Artiles et al., 2005; Artiles, Kozleski, Trent, Osher, & Ortiz, 2010). The following tips can facilitate team (parent, teacher, evaluator, counselor, etc.) conversations around the development of IEPs that better ensure maximal learning opportunity for CLD students with disabilities.

Tips for Determining Least Restrictive Environments:

- Make sure the IEP contains information describing the student's current *assets and needs* across settings.
 - Has completion of the required sections of the IEP been informed by, and did it include evidence from, the home/community environment?
- Confirm the IEP *goals* reflect the student's learning or skill levels demonstrated in different languages and/or gathered from different sources as well as performance in the targeted language.
 - For example, a student may speak in age-appropriate sentences in the L1 but use much shorter, stilted, or ungrammatical sentences in the L2. This student does not require a goal for expressive language because there is no inherent disability in that area. This student would, however, benefit from ongoing support with English language development.
- Ensure the IEP describes a coherent *plan* for meeting the student's academic, social, behavioral, or language needs that also takes into account identified need for language support, accommodations, and recommended language of instruction.
- Determine where, and with whom, the student spends the majority of his or her day.
 - How likely will it be for the student to develop friendships and authentically socialize with nondisabled peers?
 - Do the instructional approaches utilized foster *communication* and *collaboration* with nondisabled, native English-speaking peers?
- Confirm the IEP explains how the student's L1 language and academic development will be monitored along with L2 growth.

Reevaluation Considerations Many of the CLD students featured in the scenarios in this text might easily have been referred for and placed in special education had their teachers not understood and responded to the critical information that was gathered through multiple types of assessment, most notably formative assessment of student response to high-quality, targeted, and intensive instruction in areas of individualized need. Some knowledgeable teachers providing differentiated supports and innovative assessment may find themselves questioning the status of a CLD student in their class who has already been placed in special education. It is not at all unusual to hear comments such as the following:

- "I can tell Hien is a bright student. Everything he demonstrates is what we'd expect of a CLD student with his background. Hien learns just as well as the others when given the chance to learn and show what he knows in other ways."
- "When I asked why Sonia goes to special education, I was told she has a language problem that affects learning. Then I found out she wasn't even tested in her own language."

Under IDEA, teachers and parents with concerns about the appropriateness of a student's existing placement or services can request a reevaluation at any time. During this process, the teacher will want to present evidence of current student skills that demonstrate the student's ability to learn when provided with supports known to be effective with CLD students. In some settings, a teacher with greater experience and knowledge about CLD students may need to serve as a resource to student intervention or child study teams that lack this area of expertise. This resource person may even find it necessary to advocate for best practices that are not yet familiar to diagnostic personnel. Examples of such practices include:

- Comprehensive assessment that does not rely on previous data gathered using potentially biased assessments or methods
- Inclusion of authentic assessment data and informal indicators of student achievement
- Assessment of the current instructional setting for its facilitation of learning and its differentiated responsiveness to CLD student learning
- Careful consideration of the student's achievement in light of her or his educational history (e.g., consistency of schooling, language supports)
- Inclusion of parent information regarding related skills or learning as it occurs within the context of the home and community

As illustrated throughout this chapter, the vast majority of the issues related to the over- and underreferral of CLD students to special education can be addressed through appropriate instruction and assessment in all phases of their academic, acculturation, and language acquisition processes.

VOICES FROM THE FIELD

When I started the year, there was a 3rd-grade student who was on an individualized education program (IEP) for resource services in the areas of reading, math, and writing. As the year progressed, I began to wonder why she was on an IEP and receiving resource services. In my classroom, she was performing on grade level in math, and at a 2nd-grade level for reading. Her writing included a lot of run-on sentences, but that is because she wrote like she talked. Her classroom performance showed that she was able to maintain at least Cs in all areas with accommodations and modifications that the classroom teacher was able to offer on a daily basis.

I started digging deeper and pulled old reports to see what previous information I could find. Reports showed that she didn't start speaking till after the age of 3, which caused concerns as she began basic concepts and skills. After years of interventions from speech/language and resource support, they went ahead and labeled this girl developmentally delayed (DD) and put her on an IEP.

After completing a biography card at the beginning of the year, I knew that Spanish was the primary language spoken at home. Mom spoke no English and Dad spoke limited English. The student's ELL teacher shared her IPT [Idea Proficiency Test] . . . scores (2nd grade) with me, and they showed that she was a fluent English speaker, so I thought this was the perfect opportunity to see if she was truly a student with a learning disability or whether she was simply a CLD student. I knew this would be a challenging task, but I don't believe any child should have any label if he or she doesn't have to.

VOICES FROM THE FIELD 8.1 (Continued)

So I began the testing process. I collected informal data, administered standardized testing, completed observations, and asked the ELL teacher to collect new information using the IPT. As far as her academic testing, her math scores came out in the average range, her writing scores came out in the average range, and her reading scores came out in the low average range. Based on all of these scores and knowing that she was a CLD student, I made my decision that she no longer needed special education services. If this child wasn't a CLD student, there is no way I would have qualified her for special education services; even as a CLD student, there was not enough discrepancy with her scores to qualify her for an IEP.

After all the testing was done, I called a team meeting one day after school to share these results with the staff because I wanted them to see her scores and then also make them aware of what I would be proposing to parents at her IEP meeting. By the end of the IEP meeting, we went ahead and dismissed her from an IEP because she no longer demonstrated that academic need. When determining the services a student should receive, we always have to remember to look beyond the scores to see the child from a holistic perspective.

Anonymous, Special Education Teacher

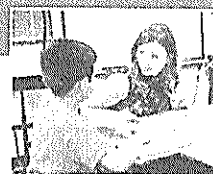
ACCOMMODATIVE ASSESSMENT PRACTICES 8.1

As discussed throughout this text, the fundamental use of assessment is to inform instruction. Practices discussed in previous chapters not only ensure the alignment between assessment and instruction but also enable classroom teachers to proactively address situations that contribute to over/underreferral of CLD students for special education. Chief among these are the necessity to:

- *Collect sufficient background information to inform appropriate CLD student placement, accommodations, and expectations.* Assumptions made about a student's prior educational experiences can lead to placement in classes that, although below grade level, are nevertheless well above the level at which the student can be expected to learn most effectively, given his or her history. Conversely, CLD students can also be placed in classes far below the level that would best support their cognitive engagement and educational growth.
- *Routinely draw upon students' existing funds of knowledge to facilitate maximal participation in and understanding of the curriculum.* The potential for gaining the most benefit from instruction is

diminished for students if their learning is limited to making connections between unfamiliar referents and the new material.

- *Differentiate between content and language performance as well as objectives.* Develop instructional strategies and routines that accommodate the language proficiency of learners with *varying* linguistic profiles. When instruction is presented through language that is not made comprehensible by scaffolding or sheltering, CLD students are unlikely to learn content-area material at expected levels.
- *Consider alternate views or perceptions related to social/interpersonal/learning behaviors observed in school settings.* Classroom instruction and assessment practices that do not account for acculturation frequently yield results that are misinterpreted. Teachers who do not understand the impact of acculturation on CLD students are more likely to misinterpret these students' difficulties as



ACCOMMODATIVE ASSESSMENT PRACTICES 8.1 (Continued)

indications of learning or behavior problems rather than as predictable reactions to the significant social, linguistic, and academic demands of their lives.

- *Proactively respond if pressured to use decontextualized drills to prepare students to take high-stakes tests.* Voice the counterperspective that presentation of new information without regard for CLD students' academic needs (e.g., ignoring identified lack of prerequisite skills) will impede student participation and effectively preclude CLD students from learning. Share alternative evidence of student learning with parents and

colleagues to contextualize instructional decisions and practices.

- *Establish and practice group-level problem solving processes* (discussed in Chapter 7). Such are especially necessary when any form of data (formal assessments, screeners, teacher-made tests, curriculum-based measures, etc.) suggest that numerous students in any group are not benefitting from current instructional practices.
- *Focus individual problem solving on determining least restrictive resolutions* rather than building a case for placement or nonplacement into SPED. ■

SUMMARY

The final chapter of this text addresses CLD students and special education. As noted throughout this text, assessment practices can play a critical role in the decisions that inform—or misguide—the instruction of CLD learners. Overidentification and underidentification for special education may occur for varying reasons. However, either scenario suggests inadequate consideration of CLD students' assets and needs. Deeper examination reveals that both types of disproportionality can be prevented by developing greater awareness and capacities among educators. Instructional environments that provide students with opportunities to draw upon individual strengths and experiences permit insight into conditions that optimize learning and reduce behaviors associated with disconnection, frustration, and mental fatigue.

Careful consideration of the types of supports that foster successful participation in the general education

classroom is required to determine the least restrictive environment for CLD students with exceptionalities. Discussion of least restrictive environment must also include the settings and instructional programs/practices that best support ongoing language development throughout each component of the student's instructional day. Teachers concerned about the appropriateness of a student's programming and services can request (re)evaluation of the learner's educational needs. Key to this process is the collection of data that provides historical context from the student's sociocultural, cognitive, academic, and linguistic background. Evidence of what the student is able to do and what he or she struggles with, including details about the settings and circumstances surrounding performance, is needed for informed decision making.

KEY CONCEPTS

Achievement discrepancies
Bilingual special education student
Disproportionality
Exceptionality

Individualized education
program (IEP)
Least restrictive environment
Overrepresentation

Reevaluation
Underrepresentation

PROFESSIONAL CONVERSATIONS ON PRACTICE

1. CLD students are both overrepresented and underrepresented in special education. Discuss factors contributing to these types of disproportionality.
2. Explain why assessment results alone are inadequate to determine exceptionality among CLD students.
3. Discuss how general education classroom environments and practices that accommodate CLD students' needs and assets thereby reduce the possibility of overreferral.

QUESTIONS FOR REVIEW AND REFLECTION

1. How would you explain the term *exceptionality*? List three types of exceptionality that may qualify a student for special education services.
2. Eligibility requirements for special education typically exclude what types of achievement discrepancies?
3. Why would we expect demographic subgroups of students to be represented in special educations in proportions similar to which they are represented in the population at large?
4. How would you explain the term *disproportionality*?
5. CLD students whose L1 is not English sometimes exhibit academic, attention, and behavioral difficulties that teachers misinterpret as indicators of a learning disability. What are at least three examples of such difficulties?
6. Why is it important to consider the language of instruction during assessment and on the IEP of a CLD student?
7. How would you respond to the common misunderstanding that CLD students with disabilities should focus on learning one language to succeed in school?
8. What is a least restrictive environment? Explain.
9. How can too much time spent in a special education setting undermine development of a CLD student's academic, cognitive, language, and social development?
10. Why it is important to scrutinize past evaluation practices and include all sources of information when conducting a special education reevaluation for a CLD student?