Equity by Design:

Universal Supports/Prevention Services and Student Rights

Mollie R. Weeks

Amanda L. Sullivan

Thuy Nguyen

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The continued growth of racial and ethnic diversity within U.S. schools lies in stark contrast with the general racial and ethnic homogeneity of educators and administrators (de Brey et al., 2019). These demographic considerations, coupled with a steady pattern of school resegregation since the 1990s (Orfield, Kuscera, & Siegel-Hawley, 2012), leave schools vulnerable to situations or conditions that may infringe on students' civil rights through discriminatory treatment or outcomes. Universal academic and behavioral supports, which serve as the foundation for the increasingly common multi-tiered systems of educational support (MTSS), may be one method of preventing discriminatory conduct

support intended to provide a basic floor of opportunity and resources to all members of a school community and to prevent the development of significant educational difficulties. The purpose of this brief, therefore, is to provide educators and parents with information about universal supports, describe how these supports may prevent discrimination, and provide resources to address discrimination or disparate treatment in universal supports.

Civil Rights and Universal Supports

The U.S. Department of Education's Office of Civil Rights (OCR) is responsible for enforcing federal civil rights laws aimed to promote nondiscrimination within a variety of educational settings and situations. Public schools receiving federal funds are beholden to several pieces of legislation which dictate various educational practices (e.g., special education identification in relation to the Individuals with Disabilities Education Improvement Act [IDEA]; IDEA, 2006). In terms of civil rights, the Civil Rights Act of 1964 aims to protect individuals from discrimination by specific entities within the United States; Title VI of which is particularly relevant to schools as it protects against discrimination on the basis of race, color, or national origin by any entity receiving federal funding (Lhamon & Samuels, 2014). As such, schools determined to be in violation of Title VI have, in some way, advertently or inadvertently discriminated against specific students based on their demographic characteristics.

KEY TERMS

Discrimination - differential treatment of people or differential outcomes that are based on a person's race or ethnicity (Lhamon & Samuels, 2014).

Multi-Tiered Systems of Support (MTSS) - a framework of data-based decision making that utilizes: assessment screening, tiered intervention services, progress monitoring data, problem solving, and quality instruction to serve the needs of all students (Burns, Jimerson, VanDerHayden, & Deno, 2016).

Title VI - Civil rights legislation that prevents discrimination on the basis of race, color, or national origin by any institution received federal funding (Lhamon & Samuels, 2014).

Universal Supports - academic, social-emotional, and behavioral programs received by all students as a direct result of attending school (Lane, Oakes, & Menzies, 2014).

and providing equitable educational conditions for all learners. Critical to the implementation and success of MTSS is *universal prevention or*

Federal Definition of Discrimination

As defined by the OCR, school-based discrimination occurs when students

experience differential treatment or differential outcomes due to their race, color, or national origin, among other identifiers (e.g., religion, language, etc.). Differential outcomes can result from school practices and policies that, on the surface, are racially-neutral but were either created under the pretext of impacting certain groups of students or administered in a manner that targets specific students (Lhamon & Samuels, 2014). Within schools, there are a myriad of situations that are vulnerable to discriminatory practices including, but not limited to: processes and procedures to identify students eligible for special education services (Lhamon, 2016) or other supports; the development and implementation of programs to support emergent multilingual learners as well as subsequent meaningful involvement in school activities (Lhamon & Gupta, 2015); the administration of school-based discipline (Lhamon & Samuels, 2014); and even the distribution of educational resources within a district (Lhamon, 2014). Given the remedies owed to students in cases in which discrimination was determined to be present (Lhamon & Samuels, 2014), as well as the potential positive outcomes of providing equitable access to school services, supports, and academic rigor (Gregory, Bell, & Pollock, 2016), schools must proactively design practices and policies in ways to prevent situations in which discrimination may arise.

Disproportionality in Education

Beyond the legal repercussions schools face after a determination of discriminatory conditions or conduct, evaluating discrimination within schools is important due to the implications of educational disparity for students' short- and long-term outcomes. In general, disproportionality is observed when students belonging to various sociodemographic groups experience differential treatment or outcomes based on membership within those groups (Sullivan & Proctor, 2016). For example racially and ethnically diverse students are more likely

than their White peers to be referred for special education evaluations under high-incidence categories (e.g., specific learning disability, cognitive impairment, and emotional disorder, among others) which require more interpretation on the part of the assessor (Sullivan & Bal, 2013). They may also experience delays in identification of disabilities (e.g., autism) that are particularly sensitive to early intervention (Magaña, Lopez, Aguinaga, & Morton, 2013). In both cases, these patterns are concerning because they mean students may receive inappropriate educational services—on one hand, unneeded special education services that remove them from general education settings and opportunities, and on the other, missing out on much needed intervention services—that reduce their opportunities to learn and likelihood of later success.

Disparities are not limited to special education identification, but extend to other areas of education, including behavior support and discipline. Black students in particular receive

exclusionary discipline, such as out-of-school suspension, at rates drastically higher than their peers; with some estimates indicating that they are 3-5 times as likely as White peers to receive exclusionary discipline (Gage, Whitford, Katsiyannis, Adams, & Jasper, 2019). These

discipline disparities exist despite evidence that Black students behave in similar ways as White students. Rather, Black students are likely to receive more frequent and harsher punishment for identical behavioral infractions (Skiba et al., 2011). Although it is unlikely that there is one
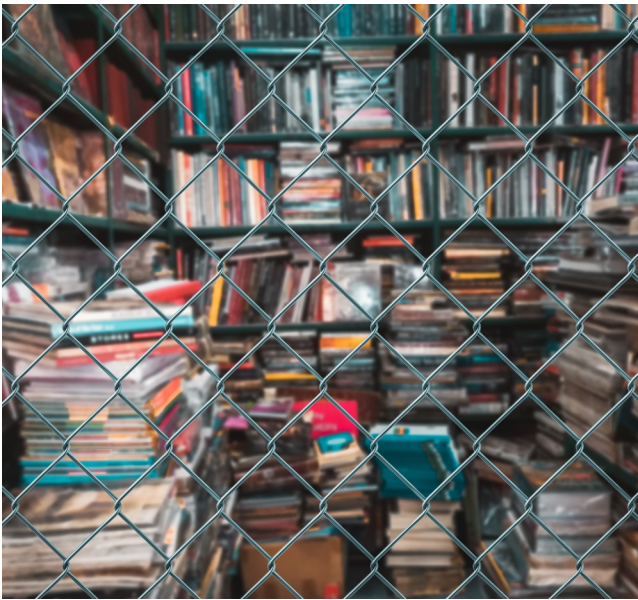
sole cause of such disproportionality (Skiba, Michael, Nardo, & Peterson, 2002), several hypothesized origins of inequity are related to bias in educators' decisions and inequitable access to educational resources (Skiba et al., 2008; 2011). Possible differential selection of students who receive discipline should raise concerns about the extent to which implicit bias influences disciplinary decisions (Girvan, Gion, McIntosh, & Smolkowski, 2017; Gregory & Roberts, 2017). As disproportionality in special education identification and discipline may indicate the presence of discrimination within school systems, educators and administrators should seek to implement policies and practices that help prevent civil rights violations.

Where differential or inadequate access to resources is considered a contributor to students' educational difficulties and disparities, school systems are increasingly turning to MTSS to provide a continuum of educational supports that allow for differentiation and targeting of services based on students' responsiveness to services. Universal, or tier 1,

supports are those delivered school-wide whereas secondary and tertiary supports are provided to students whose needs may not be adequately addressed through universal supports.

What are Universal Supports?

School-based universal supports encompass the core curriculum taught to students in terms of both academic content, often aligned to state or national standards, as well as the material and instructional strategies used to teach or support students school-wide (Gibbons, Brown, & Niebling, 2019). Such supports are commonly incorporated into response-to-intervention models. Beyond academics, universal programming may also include social-emotional learning (SEL), as well as school-wide behavior support systems (Lane, Oakes, & Menzies, 2014). As the foundation of MTSS, universal supports aim to prevent academic and social-emotional and behavioral (SEB) issues (Stoiber & Gettinger, 2016) by providing services that are generally effective for all or most students, thus helping the majority of students to reach academic or social-emotional skill proficiency (Gibbons et al., 2019). A second purpose of universal supports and assessment is to allow for early identification of students who are not responding to the general curriculum and may benefit from supplemental or intensive academic or behavior supports (Fuchs, Fuchs, & Compton, 2012). Through early identification and intervention, universal supports have been theorized to help reduce racial disproportionality in suspension and other school outcomes (Cholewa, Hull, Babcock, & Smith, 2018) and are now frequently adopted where special education or discipline disparities are found.

Core Components of Academic and Behavior Supports

As universal supports include both the core curricula and the methods of instruction, it is important to consider how best to teach

academic and SEB content. Evidence suggests that within the domains of reading and mathematics, universal supports are characterized by different types of effective instruction. For young readers, universal supports should provide explicit instruction in the alphabetic principle and phonics (e.g., skills like encoding and decoding) as well as instruction that can improve comprehension via oral and academic language. Students should be given opportunities for daily reading (Foorman & Wanzek, 2016). Universal reading supports in secondary grades should emphasize explicit instruction for both vocabulary and comprehension. Moreover, students should engage in regular discussion of classroom text (see Foorman & Wanzek, 2016, for greater detail regarding the universal reading supports described above). Effective universal supports for mathematics include (a) explicit instruction in the areas of math concepts and procedures; (b) strategy instruction in the form of heuristics, and (c) think-alouds, and visual representations; and (d) sequenced examples (Jitendra & Dupuis, 2016). Evidence regarding the effectiveness of universal supports in reading and mathematics show some effectiveness (i.e., small to moderate effect sizes) for improving reading (Burns, Pulles, Helman, & McComas, 2016) and math achievement (Chard et al., 2008), as well as remediating skills for struggling learners (Burns et al., 2016, Clarke et al., 2011).

Universal supports to build social-emotional and behavioral skills can be grouped broadly under SEL curricula and school-wide positive behavior interventions and supports (SWPBIS). SEL curricula seek to help all students develop competencies that will aid in their ability to regulate emotions, establish and maintain positive relationships with others, and achieve goals, among others. Competencies can be grouped into the following areas: self-awareness; self-management; social awareness; relationship skills; and responsible decision-making (CASEL, 2013). Extensive research has documented the effectiveness of school-based, universal SEL programming with participants showing improvements not only in SEL skills, but academic performance, attitudes, emotional distress, substance abuse (Taylor, Oberle, Durlak, & Wissberg, 2017), as well as positive social behaviors and conduct problems (Durlak, Weissberg, Dymnicki, Taylor, & Schellinger, 2011).

SWPBIS is a framework to assist schools in implementing evidence-based practices that support behavior for all students (Sugai, Horner, & Lewis, 2010). Core components of universal supports with SWPBIS include: defining and teaching behavioral expectations to all students, providing rewards for good behavior while administering consequences for misbehavior, implementing evidence-based classroom management practices, encouraging family involvement, and collecting and analyzing behavioral data to help make school-wide and student-level decisions (Horner, Sugai, & Anderson, 2010). Similar to studies of SEL

programs, evidence suggests that SWPBIS is associated with several positive student outcomes from increased academic achievement (Kim, McIntosh, Mercer, & Nese, 2018) and prosocial behavior (Bradshaw, Waasdorp, & Leaf, 2012) at the level of

individual students, to heightened perceptions of school safety broadly (Horner et al., 2009). Although behavior frameworks like SWPBIS may help schools reduce some incidents of exclusionary discipline (Bradshaw, Mitchell, & Leaf, 2010), there is yet little research regarding specific interventions to reduce disproportionality (Gregory, Skiba, & Noguera, 2010, Skiba & Horner, 2019).

Universal Supports as a Method of Upholding Civil Rights

Whereas services related to universal supports (e.g., positive behavior interventions and support) appear in existing laws—IDEA (2006) and the Every Student Succeeds Act (ESSA; 2015) —the reach of these regulations are reserved for certain populations of students (i.e., students with disabilities in the case of IDEA or schools seeking grant funding per ESSA). The connection of universal supports to civil rights, however, is open to broader interpretation. Given outcomes related to universal supports within schools, providing universal supports to all students is one strategy that may help preserve students' civil rights within schools and help schools avoid discriminatory behavior. Per OCR guidance, school-based discrimination can be prevented or remedied by "developing and implementing strategies for teaching, including the use of appropriate supports and interventions, which encourage and reinforce positive student behaviors and utilize exclusionary discipline as a last resort" (Lhamon & Samuels, 2014, p. 21). This includes implementing school-wide tiered behavior supports, developing school-wide policies for evidence-based classroom management, providing equitable access to school support personnel including school psychologists, and arranging ongoing professional development focused on evidence based practices and classroom management (Lhamon & Samuels, 2014). As universal supports encompass the previous recommendations, schools can strive to uphold

civil rights by ensuring that students have equitable access to academic and behavioral resources.

Considerations for Educators and Families

Given specific remedies that may be owed students whose civil rights have been violated due to discriminatory discipline practices (Lhamon & Samuels, 2014), it is incumbent upon schools to proactively address situations or school conditions that may result in discrimination towards students on the basis of race, color, nationality, or other social status. However, practices are only as effective to the extent that they are implemented fully and correctly (that is, with fidelity). Implementing universal supports with fidelity can be a challenging endeavor for schools as they often face barriers including, but not limited to, staff buy-in, financial resources, administrative support, and adequate professional learning that can hinder implementation (Pinkelman, McIntosh, Rasplica, Berg, & Strickland-Cohen, 2015).

Although perfect implementation is a lofty goal (as many schools struggle to implement universal programs with 80% fidelity), meaningful student change is possible even if all universal support components are not

> Where disparate access or outcomes are found, changes in policy and practice will be necessary to honor student rights and support positive outcomes.

implemented fully. In some cases, positive change has been observed when programs were implemented with as little as 60% fidelity (Durlak & Dupree, 2008). However, is not to say that schools should be satisfied with low fidelity. Indeed, all schools should strive for full and sustained implementation to promote positive student outcomes. To monitor

implementation and outcomes, schools must regularly collect and analyze academic and behavioral data which should include data disaggregation across school settings and student demographic characteristics (e.g., race, special education eligibility) to uncover patterns that may identify educational inequities and, possibly, discrimination (McIntosh, Barnes, Eliason, & Morris, 2014). See the checklist in Table 1 for examples of steps in measuring implementation and analyzing data from universal programming to address discipline disparities.

The Role of Families in Supporting Student Rights

Families serve as a crucial stakeholder in the delivery of nondiscriminatory educational policies and practices by bringing potential issues to the awareness of school or federal agencies. To seek remedy for educational discrimination, concerned family members can file a formal complaint with the Office of Civil Rights. Complaint forms are available to mail, to send by fax, or email, and should contain the following information: name and contact information for the complainant; type of protected class of the person discriminated against; name and location of discriminatory institution; and a description of the alleged discriminatory incident. Although not required prior to a complaint to OCR, families have the opportunity to work with the institution to try and address the complaint without OCR support. Unless delayed by special circumstances, complaints must be filed within 180 days of the discriminatory incident or within 60 of completing the institution's complaint process if families pursued that route first (Duncan, 2010).

Family recourse. Various remedies may be available to families if the OCR determines that their students' schools violated Title VI in relation to behavior support and discipline. Although remedies are derived from the OCR's findings in each case, examples of remedies could include, but are not limited to: correcting

disciplinary records, proving compensatory education in cases in which students were deprived of educational time, and utilizing positive behavior supports to correct problematic behavior. Beyond remedies to individual students, districts may also be responsible for changing practices for entire school systems. For example, schools may be required to train educational personnel on strategies for behavior management, alter disciplinary policies to improve fairness, or involve key stakeholders in open discussions related to discipline policies and practices (see Lhamon & Samuels, 2014, for additional examples of potential remedies as well as illustrative scenarios of school-based discrimination). Often, where special education disparities are concerned, remedies have emphasized non-discriminatory MTSS, including universal supports (Sullivan & Osher, 2019).

Such cases indicate some guiding questions schools can consider when selecting, implementing, and evaluating universal supports:

- Are universal supports based on practices or principles with documented effectiveness for this context/population? How do we know? If research directly applicable to our student community is not available, how do cultural considerations inform

conceptualization of universal supports? Do the universal supports show high levels of effectiveness for students from different sociodemographic groups? If not, why and how will the general effectiveness of universal supports for all groups be improved?

- Do universal supports include nondiscriminatory assessment procedures and tools/instruments? Are universal supports provided equitably to all students? What data are used to make these determinations? How is equity in implementation of universal supports systematically evaluated and documented on an ongoing basis?

- Are decisions to provide more intensive supports based on non-discriminatory, research-based assessment data? Do similarly situated students (e.g., those with similar academic, behavioral, or social difficulties) have equal access to more intensive supports? How is equity in access to educational resources assessed and documented in students' school records?

- Are all educators adequately prepared to appropriately implement universal supports with all students? Does initial and ongoing professional learning address provision of universal supports to the various subpopulations/groups within the school community?

Depending on responses to the above questions, schools may need to engage in additional efforts to ensure that universal supports are conceptualized and delivered to be non-discriminatory. Where disparate access or outcomes are found, changes in policy and practice will be necessary to honor student rights and support positive outcomes.

Families as advocates. Beyond filing complaints with the OCR, families can help schools proactively design nondiscriminatory environments through active involvement and advocacy for culturally responsive universal supports. Family involvement in schools is regarded as an essential component of healthy school functioning (Comer & Haynes, 1991) and can facilitate advocacy. Strategies for proactive family involvement include communicating with teachers and schools about student and school programming; supporting schools through volunteerism; contributing to decision-making roles within school organizations, advisory groups, and committees; and collaborating with community members via local advocacy groups (Epstein et al., 2002; Henderson & Mapp, 2001; Jackson & Cooper, 1989) or parent-to-parent communication (Henderson & Mapp, 2001).

Conclusion

Ensuring equitable access to educational opportunities is a valuable goal for individual schools and broader government agencies such as the OCR. Given the negative student outcomes and possible repercussions for discriminatory behavior, schools should strive to develop policies and practices that preserve civil rights. Properly implementing school-based universal supports is one avenue by which schools can improve educational equity and prevent discrimination with proactive consideration of equity and civil rights through planning and implementation.

About the Authors

Mollie R. Weeks is a doctoral candidate in Educational Psychology at the University of Minnesota. Her research focuses on evidence-based practices to promote equity for traditionally marginalized student populations as well as the influence of policy and legislation on educational practice.

Dr. Amanda L. Sullivan is a Professor of school psychology and Birkmaier Educational Leadership Professor at the University of Minnesota, and an Equity Fellow with the Midwest and Plains Equity Assistance Center. Her research focuses on special needs among children from culturally and linguistically diverse backgrounds and disparities in the educational and health services they receive.

Thuy Nguyen is a doctoral student in School Psychology at the University of Minnesota. Her research focuses on equitable education for traditionally marginalized populations.

Table 1. Universal Support Implementation and Effectiveness Checklist

Measuring Implementation	
Select Measurement Instrument	Various measurement tools will monitor implementation of universal school services. Schools should select tools that: measure relevant components of universal services, have evidence for reliability and validity, and are sensitive to change-over-time if being used for frequent progress monitoring (Horner, Sugai, & Fixsen, 2017).
	Examples [a]: School Wide Evaluation Tool (SET); Benchmarks of Quality (BoQ); Tiered Fidelity Inventory (TFI); Team Implementation Checklist (TIC); Self-Assessment Survey (SAS).

[a]Information about each instrument including scoring manuals and training can be found at https://www.pbis.org/evaluation/evaluation-tools

Table 1. Universal Support Implementation and Effectiveness Checklist cont.

Evaluating Data: The Problem-Solving Model	
Problem Identification	Use school disciplinary data (e.g., office discipline referrals, suspensions, expulsions) to examine overall rates of school discipline as well as rates of discipline for specific sociodemographic groups (i.e., race, gender, SES). Rates of discipline can be compared using risk ratios. Problems exist when there is a difference between what a school wants to see in terms of disciplinary data and what is actually observed.
Problem Analysis	Look for patterns within data that may provide evidence for why a problem may occur. For example, high rates of referrals given in the hallway could indicate that additional support needs to be provided during transition times. Disaggregating data can help reveal patterns of discipline that may be discriminatory (e.g., if Black students are consistently being referred for issues related to insubordination, schools may need to revisit how insubordination is defined and interpreted by teachers).
Plan Implementation	Based on the results from the Problem Analysis step, schools must select, implement, and monitor strategies designed to target the root causes of identified problems (e.g., structured reminders for appropriate hallway behavior and positive reinforcement for demonstration of appropriate behavior).
Plan Evaluation	Examine fidelity data to determine whether the plan is being implemented as designed. School-wide disciplinary data should be evaluated monthly or quarterly, whereas disaggregated data to examine possible issues of discrimination should be analyzed quarterly.

Table 1. Universal Support Implementation and Effectiveness Checklist cont.

Additional Considerations	
When to Change Plans	If no progress is being made and fidelity is low, then schools need to focus on improving plan implementation. If no progress is being made and fidelity is high, then schools should consider changing plans and returning to the Problem Identification phase. If progress is being made and implementation is high, then schools should continue with plan implementation or consider fading some supports (Sanetti & Kratochwill, 2008).
Situations that are Susceptible to Discrimination	Vulnerable decisions points are environmental or situational conditions that increase the chance that disciplinary decisions are influenced by bias (McIntosh et al., 2014). Schools suspecting that bias may be impacting disciplinary decisions can consider implementing interventions aimed to reduce decision-making during vulnerable decision points (Cook et al., 2018).

Note: Content adapted from McIntosh et al. (2014) which includes more extensive steps for monitoring school-based discipline as well as illustrative case examples based on school data.

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The mission of the Midwest & Plains Equity Assistance Center is to ensure equity in student access to and participation in high quality, research-based education by expanding states' and school systems' capacity to provide robust, effective opportunities to learn for all students, regardless of and responsive to race, sex, and national origin, and to reduce disparities in educational outcomes among and between groups. The Equity by Design briefs series is intended to provide vital background information and action steps to support educators and other equity advocates as they work to create positive educational environments for all children. For more information, visit http://www.greatlakesequity.org.

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