Equity by Design:
Understanding Conflict between Charter Schools and Black and Latinx Students with Disabilities

Federico R. Waitoller
Understanding Conflict between Charter Schools and Black and Latinx Students with Disabilities

Executive Summary

In this brief, I summarize a study (Waitoller, 2020) that examines conflicts between Black and Latinx parents of students with disabilities, and the charter schools their children attended in Chicago. This study sought to understand, from the parents’ perspectives, the mechanisms at play in charter schools that both generated and sustained these conflicts. Understanding such conflicts can provide insight into the information, supports, and policies needed for schools and families in order to better serve students with disabilities in charter schools. Our research question was the following: What are the sources of conflict between parents of students with disabilities and charter schools? Through analysis of interviews with Black and Latinx parents, and with lawyers from a legal advocacy agency that supported these parents, we identified the following interrelated sources of conflict which parents and their children experienced in different combinations and to different degrees:

- Inflexible and rigorous academic and disciplinary practices
- Delay and denial of special education services
- Lack of adequately trained personnel
- Practices of advising parents to “choose” another school for the benefit of their children

Introduction

Charter schools have proliferated across the U.S. over the past twenty years. From 1999 to 2012, charter school enrollment grew from .3 to 2.5 million students (National Alliance for Public Charter Schools [NAPCS], 2016). Students with disabilities are also enrolling in charter schools in growing numbers. In the 2010-11 school year, over ten percent of students enrolled in charter schools received special education services (Rhim, Gumz, & Henderson, 2015). As charter schools serve these students, advocates, researchers, and legal groups have raised concerns about how charter schools educate students with disabilities. For instance, there is some evidence of charter schools steering away students with disabilities (e.g., Southern Poverty Law Center v. Pastorek, 2010). Steering away occurs through practices that explicitly or implicitly communicates to parents that their child should move to another school (Welner & Howe, 2005). Some examples of steering away practices include staff letting parents know that the school is not equipped to provide the services needed by the child; repeatedly using disciplinary measures such as detentions and suspensions; or failing to provide services required in a student’s individual education plan (IEP) (Welner & Howe, 2005). These concerns are supported both by data available on the low rates of students with disabilities attending charter schools compared to traditional public schools.
(TPS) (Rhim and Kothari, 2018)), and by studies of the disproportionate suspension and expulsion rates for Black students and students with disabilities in charter schools (Losen, Keith, Hodson, & Martinez, 2016)

By leaving it up to parents to decide whether to leave or remain in the charter school...administrators appealed to a school choice rationale while avoiding the responsibility to include students with disabilities.

Though concerns have been raised about steering away practices, research on this issue is limited and outdated. Ahearn, Lange, Rhim, & McLaughlin (2001) analyzed in-depth interviews with key informants in 15 states and concluded that some charter schools counseled out students with disabilities. Zoller and Ramanathan (1998) found that education management organizations (EMOs) operating charter schools counseled out students with disabilities by suggesting they leave to receive better services elsewhere, engaging “in a pattern of disregard and often blatant hostility toward students with more complicated behavioral and cognitive disabilities” (p. 299). A mixed methods study by Estes (2004), which included an analysis of enrollment and interview data with administrators from charter schools in Texas, found that administrators admitted that they were “honest with parents, explaining what they offer and how and relaying some advantages and disadvantages of their instructional model” (p. 262). By leaving it up to parents to decide whether to leave or remain in the charter school (Estes, 2004), administrators appealed to a school choice rationale while avoiding the responsibility to include students with disabilities.

However, using student level data from Denver Public Schools, Winters (2015) found that the special education enrollment gap between charters and TPS is not due to charter schools pushing students with disabilities out. The gap begins because students with disabilities are less likely to apply to charter schools in key entry grades (Winters, 2015). Further, the gap more than doubles because neighborhood schools are more likely to identify students for special education services, and charter schools are more likely to exit students from special education (Winters, 2015). Winters (2015) clarified that the gap is also driven by the enrollment of non/disabled students who enrolled in charter schools at higher rates than TPS, lowering the percentage of students with disabilities.

In urban districts where Black and Latinx students compose the majority of the charter school population, concerns about services for students with disabilities have additional implications. Charter schools enroll larger
proportions of Black (28%) and Latinx (28%) students than traditional public schools (TPS) (16% and 24%, respectively) (NAPCS, 2016). In urban centers, demographic differences are more pronounced. In Chicago, for instance, Black students represent 38% of the total Chicago Public Schools enrollment, but they represent 53% of the total enrollment in charter schools (Chicago Public Schools, 2016). This enrollment trend in Chicago is reflected in special education services as well; in neighborhood schools 42% of special education students were identified as Black, while Black students composed 63% of the special education population in charter schools (Waitoller, 2017). Special education has been fraught with racial inequities (Losen & Orfield, 2002) such as differential access to related services like speech or occupational therapy (Skiba et al., 2008) as well the disproportional representation of students of Color in special education (Waitoller & Artiles, 2010), and their disproportional placement in more segregated placements (Skiba, Plon-Staudiner, Gallini, Simmons, & Feggins-Azziz, 2006; Waitoller & Maggin, 2018). Further, Black male high school students are more likely to receive more severe disciplinary sanctions for particular behaviors than their White peers with the same disability diagnosis (Skiba et al., 2008). Considering the above demographics, charter schools can ameliorate or further exacerbate already existing racial inequities in special education services.

This Equity by Design Research Brief presents a qualitative study of Black and Latinx parents of students with disabilities who experienced conflicts with charter schools. The purpose of the study was to understand the mechanism that generated and sustained the conflict. Understanding this conflict can provide guidance for charter schools, and parents seeking school options so that students of Color with disabilities experience inclusive quality services in any school option.

Methods

Context of the Study

Waitoller (2020) examined conflicts between parents and charter schools in the city of Chicago, which is a rich context for studying charter schools due to its long history of charter school policy. Chicago’s student composition is also a key factor since most charter schools operate in neighborhoods with majority populations of Color. Black and Latinx students comprise the bulk of the enrollment in Chicago Public Schools (CPS) (38% and 47%, respectively), and over 13.5% of the 381,000 students in the district received special education services in 2017 (CPS, 2017).
Charter schools have proliferated in Chicago since the 2004 passing of Renaissance 2010 (Ren2010), a plan that called for closing and turning around more than 70 neighborhood schools and opening 100 new schools. By the 2016-2017 school year there were 125 charter campuses, accounting for 55,800 students (14% of total district enrollment), from which over 7,500 (14%) received special education services. Reflecting national trends, advocates for students with disabilities in Chicago have raised concerns about charter schools discriminating against students with disabilities, which has been documented in several newspaper stories (e.g., FitzPatrick, 2015; Karp, 2012).

Recruitment of Participants

For our study we recruited participants through a partnership with the Charter School Clinic at Disability Legal Advocates (DLA: a pseudonym), a civil rights non-profit agency that provides legal advice, support, and representation to individuals with disabilities. Using a purposive sample (Payls, 2008), we selected Black and Latinx parents of students with disabilities who had experienced a conflict with a charter school. DLA staff assisted in the initial recruitment of participants and the research team was able to arrange interviews with 24 parent participants (see Table 1) along with 6 DLA lawyers who had provided legal advice and representation to those parents.

Data Collection

The research team conducted in-depth semi-structured and open-ended interviews, which we audio recorded and transcribed, de-identifying participants. After coding the parents’ interviews, we conducted six interviews with lawyers from DLA, which served to support parents’ claims, add details to their stories, and clarify remaining questions from the cases. We also asked these lawyers how the participants’ cases compared to other cases served by the agency to contextualize our data with the larger sample of cases. We generated detailed field notes for each interview and, with parental consent, collected Individual Education Plans (IEPs) that were on file at DLA. These documents provided information about the services that students were legally entitled to receive, and served to triangulate data from the interviews. Finally, we gathered 60 artifacts from the charter schools attended by our participants, including applications, mission statements, student handbooks, and school histories from charter websites.

Data Analysis

We analyzed the data using methodological tools from Grounded Theory (Charmaz, 2008). First, we conducted initial coding on the 24 parent interviews, which included line-by-line, incident-by-incident, and In Vivo codes, followed by focus-coding memoing, and transforming codes into conceptual categories (Charmaz, 2008). Two members of the research team coded 60% of the interviews, meeting biweekly to discuss and compare coding until reaching 100% coding agreement and refining the definitions of the categories. The research team recoded the remaining interviews according to the agreement established in those meetings. We wrote summaries that we later confirmed with the participants according to member check procedures (Lincoln & Guba, 1985). Using axial coding techniques (Strauss & Corbin, 1990), we clustered certain codes along particular axes, both vertically (i.e., coding trees) and horizontally, to create
theoretical categories. This was an iterative process that involved moving between explanatory models, the data, and the literature on charter schools while systematically searching for disconfirming cases and debriefing with colleagues.

Limitations of the Study

This study has several limitations. First, the sample only included parents with the knowledge, resources, and time to seek legal services. Second, the large majority (83%) of the charter schools included in this study were charter franchises, with only a few participants in stand-alone or mom-and-pop charter schools (Fabricant & Fine, 2012). Franchise charter schools are “large non-profit operations that focus on a particular educational model and attempt to bring it to scale,” often replicated “in a cookie-cutter style across a district or nationally” (Fabricant & Fine, 2012, p. 22). Though this school sample can be considered a limitation, franchise charter schools dominate the Chicago charter landscape. Third, we did not continue to collect data over time. Thus, our findings only represent parents’ experiences up to the time of the interview. Finally, we did not collect interview data from charter administrators and staff, which would have provided more insight into the reasons for conflicts between parents and schools.

Findings

We found four interrelated sources of conflict between charter schools and parents of students with disabilities: (a) inflexible and rigorous academic and disciplinary practices; (b) delay and denial of special education services; (c) lack of adequately trained personnel; and (d) practices of advising parents to “choose” another school for the benefit of their children. Parents and their children experienced different combinations of these practices.

Discipline and Academic Practices

Rigorous and inflexible disciplinary and academic practices based in zero tolerance measures created conflicts for Black and Latinx students with disabilities. Dominique, a Black parent of a high school student identified with ADHD and learning difficulties, shared,

My son is in science and he unfolds a paper clip and here he is with detention for destruction of property. Hold on, did you think that my child is curious? You don’t know what his mind was saying, let’s see—and they were playing with magnets. Let’s see if I can unfold this paper clip and see if the magnet will still attract to it or something. You didn’t think about this before you gave my child detention. This again is where those special needs come into play because really, none of us know what he was thinking. (September 8)

Charter school staff applied disciplinary punishment with consistency and without accommodations for her son’s disability. Dominique’s son sat frequently for detentions and Dominique received repeated calls due to disciplinary issues: “You walk away, okay, who’s gonna call me today” (September 8). These disciplinary practices were not limited to middle and high school. Angela, a Black parent, recalled, “She kept getting suspended. She got suspended six times in kindergarten” (August 16). Disciplinary
policies served to define and reinforce expected behavior, establishing a hierarchy among those students identified as good and rule-following and those who needed to be regulated and punished, even for playing with a paper clip. Students who could not comply were removed from the classroom, suspended, or expelled from the charter school.

Academic pressure also caused difficulties for students. Veronica, a Latinx mother of a student who was eventually identified with a learning disability and an anxiety disorder, struggled with the rigorous academic expectations in the classroom and the overwhelming amount of homework, coupled with little support or modifications. Veronica fought the charter school for three years to conduct a full evaluation to receive special education services, eventually leaving the school for a therapeutic environment. Veronica stated,

"Everything’s the same, everyone had to keep up—if not, of course you suffer the consequences. I started noticing the kids were going to the bathroom on themselves because there was only a certain number of times you can go to the bathroom. It was very rough on the kids. My daughter started being fearful that, “Oh my gosh, I don’t remember the spelling words. Oh my goodness, I forgot my book at school. I was thinking about social studies and I forgot the notes for math. Oh my goodness, where did I leave my notes? Mom, I don’t remember. Can you try to call someone?” My goodness, it went on and on and on, and she started suffering the consequences. “Mrs. Lopez, she’s disturbing the class. Mrs. Lopez, she’s following directions. She didn’t finish homework.” (September 2)

Strict academic practices punished those students who could not conform to them. Veronica’s daughter could not keep up with the intense academic demands and over time, she was identified as a behavior problem while experiencing increasing levels of anxiety that resulted in serious physical and mental health complications.

**Delay and Denial of Special Education Services**

Another source of conflict was the delay and denial of an evaluation for special education identification or of the services detailed in an existing IEP. Keisha, a Black parent of a student with autism, described how the charter school delayed evaluating her son for special education services,

"I want say it was like halfway through the year, she refused to test him. They were not doin’ it. The lady was
like, “Oh no, he’s a boy so boys just act out sometimes.” Or, “It’s because you just had a baby.” (September 25)

Keisha’s story illustrates two ways that delay and deny caused conflicts. The school delayed her son’s evaluation by downplaying the struggles he experienced. A common narrative in our interviews, parents reported that school staff assured them that by raising expectations for behavior and academic work, their child would succeed without specialized interventions or academic labels associated with an IEP.

Delay and deny also manifested when charter school staff failed to inform parents of special education eligibility rights and procedures established in IDEA. Angela, a Black parent of kindergarten student identified with a behavioral disability, stated,

I kept asking about an IEP. They said, “Well, oh, no, she don’t need one. Academically, she’s doing fine.” See, me not knowing exactly what’s all involved with an IEP, I didn’t know it covered behavior, too. They never said that. All they kept saying to me was that academically, she’s doing fine. Which, she was—she’s very smart...She got suspended six times in kindergarten. Six times. Six times. After she got suspended—oh, and the school was calling me every day. Every day, two and three times a day, wanting me to leave work to come and get her. You know, but still you’re saying she don’t need an IEP. I took her therapist with me. The therapist asked why you guys haven’t done an IEP? Then the special ed teacher says to me, “Because she hasn’t requested one.” No one ever said to me that I needed to request in writing that she needed an IEP. I was just asking them verbally about the IEP...She was suggesting a therapeutic school—and I was like, no. I said, “She’s only six years old. That is not gonna happen.” Then she suggested, [a paraprofessional]... Then the principal called and cancelled the meeting. She said that she didn’t think Melissa needed a paraprofessional. I’m like, “Excuse me? Now I’m really confused.” I said, “Just last week, you wanted to send her to a therapeutic school.” (August 16)

IDEA requires schools to conduct an evaluation within 60 days if the parent requests it in writing. Never mentioning the need for a written request for evaluation allowed the school to leverage a legal requirement to delay assessment. IDEA requires schools to actively seek and identify students with disabilities and provide services accordingly. In this case, the school knew that Angela’s daughter was struggling, as indicated by their suggestion that she move to a therapeutic school, yet they claimed she would not benefit from a paraprofessional. The rigorous disciplinary practices positioned Angela’s five-year-old daughter as a problem child who was academically able, but did not have the self-discipline of a successful student. So, delay and deny served as a strategy to nudge her out to another school before an aide could be assigned, at which point a move would have been more difficult to suggest.
Lack of Trained Staff

Every parent in our study felt that the charter school did not have the capacity or the willingness to invest in well-trained staff to serve the needs of their child. Charter school staffing problems affected students in three ways. First, charter schools often did not hire, or hired too few, specialized staff like counselors, social workers, nurses, paraprofessionals, and special education teachers. Rochelle, a Black parent of a student with behavioral difficulties, stated,

“They just got a social worker because they said something about the budget and I’m like also, “You all just got one?” She’s like, “Yeah, Rochelle, ever since you been asking we just getting the social worker.” I’m like, “Are you serious?” I say, “Well, what about the counselors?... “She’s only here certain days of the week. She’s between these schools.”

Lack of staff affected the academic performance of students as well. Aisha, a Black parent of a student identified with ADHD, stated,

“There wasn’t an aide in there to help the sixth graders learn what they needed to learn, to help them learn. He’s missing 22 assignments. It wasn’t the homework. It was the class work. That’s how he—they got behind.” (September 3)

In Aisha’s case, the charter school delayed hiring a paraprofessional, and the resulting lack of support made the general education classroom a space where Aisha’s son could not keep up with academic expectations. After a year without a teacher’s aide, Aisha moved her son to another charter school.

Second, classroom teachers were not trained in special education or inclusive teaching strategies. When charter schools had special education personnel, many of them did not have the expertise needed to provide services for students with disabilities. A DLA lawyer described IEP meetings,

They couldn’t write it [an IEP goal]. The special ed teacher could not write a goal to save her life. She wasn’t very good at her job, the school as a whole was just totally incompetent. (March 5)

Charter schools are given flexibility and freedom from some state and federal mandates, including the freedom to hire teachers who are not certified. Parents, over time, grew tired of receiving poor services and more importantly, students’ struggles escalated.

Third, the high teacher turnover rate in charter schools, coupled with the practice of stretching staff to cover multiple positions,
had a negative impact on students with disabilities. This is particularly significant for students who struggle in establishing relationships. Jada, a Black a parent of student identified with ADHD and a behavioral disability, stated,

In these charter schools, everybody does everything. It’s not always good. I think that’s the way to cut down on money. You would have one teacher; she might be the lunch lady; she might be the line captain; she might halfway teach this class this day, or be back in this class. Every year they would change out teachers, and once they got the special ed teams staffed, those teachers were gone. If you didn’t do something right you were really gone [...] Unfortunate to my son, who doesn’t do good with changes in his routine; who doesn’t do well to new people entering his already set environment.

Stretched personnel and high turnover rates created barriers for students who benefit from a more stable environment. Over time, lack of access to qualified personnel was another way to erode parent satisfaction with the school and worsened students’ academic and behavioral struggles. If they could not adapt to the normative practices of the school with limited, unqualified, or changing personnel, students were subject to punitive academic and disciplinary measures and/or asked to leave.

**Suggesting Parents "Choose" Another School**

More than half of the parents (12) were approached by charter school staff to move their child to another school that could better meet their child’s needs. Charter schools leveraged the previously examined sources of conflict to persuade parents to “choose” a different school. Angela shared an experience with lack of qualified staff,

I got a call from the principal telling me that they weren’t going to be able to meet her needs and that—I was like, “Well, what are you saying? She’s not going to be able to attend your school?” She said, “Well, no. She’s not.” I said, “You’re calling me two weeks before school starts, telling me she cannot come there because you can’t meet her needs.” I was like—I was really upset, so I got off the phone. She said that they didn’t have a nurse. They didn’t have a social worker. I’m like, are you just now finding this out? She called me back, and I explained to her—I said, “I’ll be up there tomorrow, to get her things.” She was like, “Well, that’s your choice.” Now I’m confused. You just told me she can’t come there, now you’re telling me it’s my choice. I said, “Well, which is it?” She said that, “Well, I’m just telling you that you need to think about what’s best for Melissa.” (August 16)

In other cases, the charter schools used their rigorous academic policies to suggest that parents choose another school. Kimberly, a Black mother of a student with a learning disability who was facing retention in first grade, explained,

I reached out to [a special education office administrator], and she proceeded to tell me that they [the charter] have failed and retained 12 kids with special education help, and that also if I took my son out of charter and put him in CPS that he...
would be eligible for promotion because they were held at a different criteria.

The charter school told Kimberly that her child would need to be retained a year due to low performance despite the fact that he had recently received an IEP, but he would be able to pass the grade if she would move him to a neighborhood school with less rigorous academic standards. This was framed as a better choice for Kimberly, who ended up moving her son from the school.

Other charter schools denied and delayed an evaluation and then recommended the neighborhood school as the preferred place to have the child evaluated for special education services. Linda, a Black parent who struggled to have her son evaluated, described to us,

They recommended that he go to a regular school setting to start kindergarten and everything like that so that I could get the ball rolling with trying to get him tested and to see what may be going on with him so we could have early intervention on whatever’s going on. (September 18)

Expulsion was also leveraged to convince the parent that another school would be a better fit. A lawyer for one of the parents stated,

By suspending or expelling students, denying or delaying special education services, or having inadequate staffing practices, charter schools encouraged parents to think about what was best for their child….Set up this way, parents assume the full responsibility for their children’s poor education while charter schools are freed of the obligation to educate students with disabilities...

What they want to do, usually, is convince the parent or parent’s attorney to withdraw from the charter in exchange for no expulsion. Some parents want that, and so we say, “If that’s what you want, that’s what we’ll negotiate for, but you have the right to be here, and have us attend your expulsion hearing, and you have to right to fight it. Don’t let them make you feel like you need to walk away.” But at the same time, they have to weigh the pros and cons of, you know, “I don’t want an expulsion record. This is my chance to walk away. CPS might honor this expulsion, and then I’m in a real tizzy, whereas if I walk away, he can go enroll in the home school.” (March 10)

By suspending or expelling students, denying or delaying special education services, or having inadequate staffing practices, charter schools encouraged parents to think about what was best for their child. Thus, charter school staff appealed to parents’ sense of responsibility for their children and a “consumer choice” rationale to steer away parents of students with disabilities. Choice positions parents as consumers of educational services and frames it as parents’ work to find the right services for the children. Set up this way, parents assume the full responsibility for their children’s poor education while charter schools are freed of the obligation to educate students with disabilities; however, in practice parents did not have much of a choice. Parents were forced to either remain in a school that was hostile towards their child or search for another school.
Recommendations

According to the results of the present study, we provide the following recommendations for charter schools, charter authorizers, and parents.

Recommendations for Charter School Administrators and Staff

• Be knowledgeable about the Individuals with Disability Education Act (IDEA), and your legal responsibilities towards students with disabilities.
• Identify, locate, and evaluate students for special education services as intended in the Child Find provision of IDEA.
• Be flexible and differentiate for students with disabilities. Rather than having standarized and one-size fits all educational practices, prepare school leadership and teachers in universal design (Rose, Meyer, & Hitchcock, 2006) principles to address the diversity of students that attend to their schools.
• Implement Culturally Responsive Schoolwide Positive Behavior Support Plan (see Bal, Afacan, & Cakir, 2018), involving parents and students in the planning of the school behavior plan.
• Partner with parents to make decisions about students’ educational plans. This should be a collaborative.
• Prioritize funding for students with disabilities according to the IEPs served in the schools. This should include funds for teacher aids, teacher training, assistive technologies, and other related services such as social workers and counselors.
• Hire and retain trained and licensed special education teachers.
• Partner with universities and other agencies with expertise on students with disabilities to train administration and staff on how to best serve these students.

For Charter Authorizing Agencies (State or District)

• Provide adequate funding and training support for charter schools to improve their services for students with disabilities.
• Develop expectations and a formal protocol to evaluate how charter schools serve students with disabilities. This protocol should include a survey of parents of students with disabilities to understand their
satisfaction or struggles with the charter school.

• Use the above suggested protocol to evaluate whether to reauthorize or not a charter school.
• Require that charter school administration and staff receive yearly training about the legal rights of students and parents, and how to best serve students with disabilities.

Recommendations For Parents

• Engage with a local or national organization that can help you navigate the special education process.
• Know your child’s legal rights under IDEA and learn about the IEP process.
• Keep written documentation of any communication with the charter school.
• In case the charter school staff denies or delays an evaluation for special education services, write a letter requesting a full evaluation, make the administration sign it, and keep a copy.
• In case of conflict with the charter school, call the school district or state department of special education and seek help with legal agencies.
## Table 1

Characteristics of Study Participants and Their Children

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<th>Children (N=24)</th>
<th>Parents/Caregivers (N=24)</th>
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<td>17% (4)</td>
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<td>African American</td>
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<td>High School</td>
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<td><strong>Type of charter school</strong></td>
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<tr>
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<tr>
<td>Stand-Alone</td>
<td>17% (4)</td>
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Dr. Federico Waitoller is an Associate Professor at the Department of Special Education at the University of Illinois at Chicago, and serves as an Equity Fellow for the Midwest and Plains Equity Assistance Center. His research focuses on urban inclusive education. In particular, his work examines and addresses policies and practices that generate or reproduce inequities for students of Color with disabilities. Dr. Waitoller is also interested in examining how these inequities are affected by the production of space in urban economies and the role of teacher learning and school/university partnerships in developing capacity for inclusive education.
References


About the Midwest & Plains Equity Assistance Center
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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