Disciplinary disparities by race and disability: using DisCrit theory to examine the manifestation determination review process in special education in the United States

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ABSTRACT

Exclusionary discipline practices in the United States are used disproportionately in the punishment of Black students with a disability compared to White and Black students with or without a disability. One potential mechanism leading to the disproportionate use of exclusionary discipline is a process called 'manifestation determination reviews' (MDR), a process mandated under the U.S. federal Individuals with Disabilities Act that is tasked with determining whether students' offending behaviours were related to their disability. Using a disability studies/critical race theory (DisCrit) lens, the MDR process can be understood as a mechanism that serves to sustain these inequities through vague guidance in critical elements of the MDR process, lack of clarity about the composition of the MDR team, and perpetuation of a race-neutral framework. Implications for policy, educators, and school psychologists within the United States are discussed.

Exclusionary discipline practices such as out-of-school suspensions and expulsions are common approaches for addressing perceived student misbehaviour in school settings. For example, during the 2013–14 school year, 2.8 million (6%) of public-school students experienced one or more out-of-school suspensions (U.S. Department of Education [DOE], 2014) and over 111,000 students were expelled from school (CRDC n.d.). Even though these practices are still used throughout the United States public education system, little evidence exists in support of these practices. In fact, scholars in the field recommend limiting exclusionary discipline as it is associated with poorer outcomes. For example, students who receive exclusionary discipline are more likely to have poorer academic achievement (Arcia 2006; Suh and Suh 2007), increased behavioural problems (Hemphill et al. 2006; Tobin, Sugai, and Colvin 1996), and a greater likelihood of being arrested (Christle, Jolivette, and Nelson 2005; Fabelo et al. 2011; Mowen and Brent 2016).

Despite these findings, the negative effects of exclusionary discipline are not borne equally by all student groups; marginalized populations are disproportionately excluded from school compared to their peers. Specifically, in the 2013–14 school year, Black students were 3.8 times more likely to experience one or more out-of-school suspensions and 1.9 times more likely to be expelled than their White peers (U.S. DOE, 2014).

Similarly, students with an identified disability label receiving services under the Individuals with Disabilities Education Act (IDEA) were two times more likely to experience one or more out of school suspensions compared to non-labeled peers (U.S. DOE 2014; Losen 2018). The disparities are even more egregious at the intersection of race and disability. Black students with a disability label received one or more out-of-school suspensions at rates four times higher than White students with a disability label in the 2011–2012 school year. During the 2015–16 school year, Black students with a disability label were three times more likely than White students with a disability label to be transferred to an alternative school setting and to receive a school related arrest. These disparities persist across type of discipline, intensity of behaviour, socioeconomic status, age, and grade (Losen et al. 2014; Skiba et al. 2002).

Although researchers, educational organizations, and task forces continue to draw attention to these disparities, there is not yet agreement on the best way to address them. Of particular concern for students with disability labels is the fact that federal law – specifically, the Individuals with Disabilities Education Act (IDEA) – prohibits students with disabilities from missing instruction for more than 10 cumulative school days demonstrating a pattern or 10 consecutive school days within a year (34 CFR §300.523, U.S. DOE 2010) if the offending behaviour is a manifestation of their disability (U.S. DOE 2010). This means that if a student's behaviour is a violation of school rules, but also is an expected behaviour resulting from the student's disability, schools are legally limited in their ability to administer exclusionary discipline for that behaviour. However, national statistics from the last decade suggest this law may not be applied as intended; for example, 33% of students diagnosed with an emotional disturbance/behavioural disorder (ED/BD) were suspended from school in 2009–10, even though their misbehaviours very likely resulted from their disability (Losen et al. 2014). A nearly identical pattern of disparate discipline trends was reported in both the 2014–15 and 2015–16 school years (Losen 2018). Although these statistics are unable to disentangle whether these suspensions followed the letter of the IDEA law, the trend suggests that students with disabilities largely characterized by non-normative behaviours are particularly likely to receive exclusionary discipline despite IDEA guidance (Allday et al. 2011; Annamma, Connor, and Ferri 2013; Ferguson 2001; Gilliam et al. 2016; Watts and Erevelles 2004).

This problem is not new. In 1975, Congress recognized that schools were using exclusionary discipline practices with students receiving special education services to a high degree, particularly for special education students with emotional or behavioural difficulties (Lewis 2017). As such, they created the Individuals with Disabilities Education Improvement Act (IDEIA, Principle B) which imposed federal regulations regarding the use of exclusionary discipline practices for students with a disability label in order to determine if the behaviour is a manifestation of a disability (Jacob, Decker, and Lugg 2016). Specifically, this is done through a process called the *manifestation determination review* (MDR) which involves a team approach to determining if a student's behaviour is a result of either their disability status or an inadequate behaviour plan (Lee 2005). Here, we examine the steps and implementation of the MDR process through a disability studies/critical race theory (DisCrit) lens in an effort to better understand how it may contribute to discipline disparities. DisCrit purports that policies like the MDR process are, in part, tools that segregate students based on race and ability through systemic procedures rooted in historical segregation (Annamma, Connor, and Ferri 2013).

Through this lens, the current paper critically examines the MDR process as a mechanism that exacerbates inequalities for Black students and students with disability labels – especially ED/BD – as they are disproportionately excluded from school.

Discipline disparities by race and disability label

Black students are excluded from school at a rate higher than any other racial/ethnic group in the United States. During the 2015–2016 school year, Black students made up about 16% of the student population, but accounted for 39% of the out-of-school suspensions and 33% of the expulsions nationwide; conversely, White students made up about 49% of the student population, but accounted for only 32% of the out-of-school suspensions and 37% of the expulsions (U.S. DOE, Office for Civil Rights, 2018a). Although one potential explanation for this disparity is that Black students demonstrated more misbehaviour than White students, this hypothesis has largely been debunked. Black students are consistently more frequent recipients of suspensions and expulsions compared to White students when accounting for the type of infraction or severity of offense (Perry and Morris 2014; Ritter and Anderson 2018; Skiba et al. 2014).

Similar disparities exist for students with disability labels. In the 2015–16 school year, students identified with one or more disabilities were twice as likely to receive an out-of-school suspension than students without a disability label (Losen 2018). Specifically, students with an identified disability made up 12% of total student enrolment, but accounted for 26% of all out-of-school suspensions and 24% of all expulsions. Exclusionary discipline rates vary greatly within special education and between categories. Suspension data collected from 42 states during the 2009–10 school year revealed students labelled with emotional/behavioural disorders (ED/BD) had the highest suspension rates of all disability types (Losen et al. 2014). In fact, this rate was more than two times higher than the next highest suspension rate in the category of other health impairment and 7.6 times higher than students identified with autism (Losen et al. 2014).

Although the disciplinary disparities by race and disability label are striking on their own, the intersection of these two dimensions paints an even starker picture. For example, one study found that 24% of Black students with disability labels were suspended compared to only 9% of White students with disability labels (Losen et al. 2014). Furthermore, Black students with a disability label represented a higher percentage of suspensions than Black students without a disability (17%) and White students without a disability (5%). National-level estimates from the 2015–16 school year indicate that Black students with a disability label were at least four times more likely to receive exclusionary discipline than White students with a disability label (Losen 2018). On average, for every 100 students with an IDEA identified disability label, White students lost 43 days to suspension whereas Black students lost 121 days, a disparity that actually widened since previous years (Losen 2018).

Of particular note, Black students with disability labels tend to be overrepresented in disability categories associated with higher rates of exclusionary discipline and underrepresented in categories with lower rates (Losen et al. 2014). Specifically, one study found that Black students were 2.28 times overrepresented in the category of ED/BD. Conversely, Black students were significantly underrepresented in the category of Autism (Turnbull et al. 2015), even though these disabilities manifest in similar behaviours (Moody 2016; Ramey 2018). Thus, not only are Black students and students with

disability labels more likely to receive exclusionary discipline, but the uneven distribution of Black students among different types of disability categories exacerbates the disparities.

Manifestation determination review process

One key step in the process for administering exclusionary discipline to students with disability labels is the MDR process. Although one might expect exclusionary discipline would be more frequent for an individual with a behaviour-related diagnosis, it is unlawful to academically and socially exclude students when their behaviour is a manifestation of their identified disability (Losen et al. 2014; Turnbull et al. 2015; U.S. DOE 2010, 34 CFR §300.523, 2004). The MDR process is a procedure to ensure that students are not excluded from educational opportunities if they demonstrate behaviour that typically falls under district policy resulting in exclusionary punishment is actually a result of an identified disability (Turnbull et al. 2015).

The MDR process is required every time a disciplinary action would result in a change in placement for a student with a disability. A change in placement refers to situations in which a disciplinary action would result in out-of-school suspension for more than 10 consecutive school days, suspension out of school for more than 10 cumulative days with a pattern, or removal to an alternative educational setting (U.S. DOE 2010 34 CFR §300.523). An MDR meeting must occur within ten days of the misconduct and be documented on the students' individualized education plan (IEP; Kubick and Lavik 2014). A change in placement due to a disciplinary action can only occur after it has been determined by the review team that the misconduct is not a manifestation of the student's disability nor as a result of inappropriate IEP implementation. In order to make a determination, the review team must collect and review academic data, previous psychoeducational evaluations, the current IEP and placement, and complete an observation of the student within 10 days of the final determination meeting (Lee 2005). If it is determined after the 10 days of data collection that the behaviour was not a result of the student's disability or an inappropriate implementation of the IEP, then the student may be disciplined in the same way as general education students (Kubick and Lavik 2014). Conversely, if the behaviour is determined to be a manifestation of the student's disability, then the student may not be removed beyond the 10-day limit. However, similar to the notion of 'innocent until proven guilty,' when making determinations, it should be assumed that the behaviour is a manifestation of the disability and the team must demonstrate clear evidence that the behaviour is not a manifestation of the disability (U.S. DOE 2010, 34 CFR §300.523). Additionally, the decision must be unanimous by the team.

DisCrit theory and the manifestation determination review

In spite of the use of MDR as a safeguard to protect students with disabilities against the overuse of exclusionary discipline, students with disability labels are still disproportionate recipients of exclusionary discipline. Particularly, Black students with disabilities are the most likely to receive exclusionary discipline compared to White students with or without a disability (Losen et al. 2014). One useful perspective for understanding these

dynamics is DisCrit. Annamma, Connor, and Ferri (2013) explained DisCrit as an extension to critical race and disability study theories through acknowledging the interconnectedness of race and disability as interlocking socially constructed paradigms in the context of historical systemic educational inequities. They posited that embedded social injustices within the school system – particularly those relative to race and ability – have lifelong consequences for students and families. Consequently, one of the goals of the DisCrit framework is to expand scholars' capacity to analyze these inequities (Connor, Ferri, and Annamma 2016). As a basis, DisCrit posits that social, political, and economic policies reinforce notions of 'normativity' which are embodied by White, middle-class, able-bodied citizens (Davis 1995; Erevelles 2000; Watts and Erevelles 2004). Furthermore, DisCrit suggests that normativity is a socially constructed concept that serves to further marginalize students of color by labeling them as 'disabled' (Annamma, Connor, and Ferri 2013). It is through this lens that we scrutinize the MDR process as a potential explanation for disciplinary disparities by race and disability status.

MDR relationship test as a race neutral contributor to the discipline gap

MDR guidelines follow the paradigm that disabilities are biological or medical in nature, meaning that behaviour is seen as being within the person rather than shaped by external factors (Lee 2005). Conversely, DisCrit purports that both race and ability are interconnected social constructions, not based in biology. However, MDR guidelines reflect a 'race-neutral' lens and assume ability is defined by through a medical model lens (Ramey 2018). Medical model assumptions for disabilities have historically been rooted in understanding disabilities like Autism and Attention Deficit/Hyperactivity Disorder in such a way that behaviours related to disabilities like these are out of the control of the individual. However, in practice in the school setting, the logic of the medical model does not hold up for school-based diagnoses like ED/BD in which an individual's behaviour is often seen as within their control (Ramey 2018; Storey 2007). This tension between whether or not a behaviour is in a student's control is reflected in an element of the MDR process called the relationship test, which is the only guidance provided to the MDR team in making manifestation determinations. It requires the team to ask two questions: whether the student was (a) aware of the consequences of their behaviour and (b) fully aware of their behaviour (Hartwig and Ruesch 2000). The underlying assumptions of these questions is that intentionality of behaviour is determined by ability status.

Although there is little specific guidance in conducting this test, what is given suggests that the MDR team is responsible for determining whether the student's behaviour was intentional, which can be interpreted broadly and based on racist assumptions (Kubick and Lavik 2014). Therefore, if the team believes that the student knew that their behaviour was inappropriate and had control over it, then it cannot be a manifestation of their disability. However, this is problematic as determining intentionality is open to bias, especially racial bias. DisCrit contends that behavioural interpretation differs by stereotypes related to race and ability (Annamma, Connor, and Ferri 2013). For example, educators disparately expect Black students – especially those with a disability – to exhibit more frequent and aggressive inappropriate behaviour than their White peers (Gilliam et al. 2016; Kunesh and Noltemeyer 2015; Okonofua and Eberhardt 2015). Thus, if two students of different races exhibit identical inappropriate behaviours, racial bias likely

contributes to racially disparate discipline outcomes. However, to our knowledge there is a lack of empirical evidence examining the outcomes of MDR decisions by race.

Further exacerbating the potential for racial bias during the relationship test is how educators understand disabilities. This is particularly evident when comparing diagnoses of autism and ED/BD. Autism and ED/BD are two of the more subjective disability categories (Maag and Katisyannis 2008), relying heavily on subjective data collection including parent and teacher ratings and observations in the initial diagnostic stages. These data collection procedures are highly susceptible to racial biases due to the subjectivity of observations and interpretations in rating the degree to which the behaviour is inappropriate (Hunsley and Mash 2007). The subjectivity inherent in both the diagnostic criteria of ED/BD and in behaviours requiring suspension increase the likelihood that racial biases shape manifestation determination reviews. According to DisCrit, disabilities like autism that are often diagnosed in medical settings are believed to be biological or medical in nature and thus are perceived to require medical treatment to improve behaviours seen as problematic. Conversely, disabilities like ED/BD that are often diagnosed based on perceived inappropriate behaviours are often viewed as problems that are fully under the students' control and thus are perceived to require punishment to improve these behaviours (Moody 2016). Even though autism and ED/BD are often seen as diagnoses that require differential treatment, there are a number of similarities between the observed behavioural manifestations of both when behaviours displayed are determined to be disruptive, insubordinate, or aggressive (Moody 2016; Ramey 2018). However, the functions of the behaviour – which are more difficult to observe – are likely to differ.

Despite the documented overuse of punishment for students with ED/BD, many school districts have adopted positive behavioural systems in which positive reinforcement and evidence-based interventions are used appropriately. One such example is an approach called Culturally Responsive Positive Behavioral Interventions and Support (CRPBIS). CRPBIS focuses on equitable solutions to improve student behaviour by intervening at the system level (Leverson et al. 2016). However, in the absence of these sorts or positive approaches to school discipline, the underrepresentation of Black students in the category of autism and overrepresentation in the category of ED/BD (Turnbull et al. 2015) increases the likelihood that the relationship test within the MDR process will result in racially disparate decisions about punishment as a result of underlying assumptions about students' behavioural control. Thus, the potential for bias in conducting the relationship test likely contributes to disparities in discipline outcomes.

Vague MDR team building guidance contributes to racially biased decision-making

In addition to the racially disparate patterns of diagnoses that may bias the relationship test in MDR meetings, vague guidelines in the construction of an appropriate MDR team increases the potential for racially biased decision-making. IDEA 34 CFR §300.523 (2004) regulations state that an MDR team must be formed and include at least a district representative, a parent, and other relevant members including the student's IEP team. This guidance is problematic for two reasons. First, the term 'other relevant members' is a category open for interpretation and little guidance regarding the IEP team is offered. Team members may be chosen by convenience or based on volunteers rather

than by their familiarity with students and their behaviours. Due to this potential lack of familiarity, team members may be forced to rely on preconceived notions about groups of students and types of behaviours, leaving them susceptible to bias in regard to the behaviour in question. Furthermore, this team is required to review the IEP and make a decision if the punishment is appropriate, without a requirement that experts in diagnoses or testing be present (Kubick and Lavik 2014). This again introduces the opportunity for MDR team members to rely on preconceived notions about behaviour rather than having expertise in the student's particular situation.

Second, school personnel who serve as disability experts (e.g. school psychologists, speech/language pathologists, occupational and physical therapists) are not considered mandatory team members (Turnbull et al. 2015). One study found that in one large urban school district, only 7.5% of the MDR meetings were attended by school psychologists (Lewis 2017). One plausible explanation for the low rates of school psychologists attending MDR meetings may be the expedited nature of the meetings. Another reason may be related to the large work load that school psychologists typically carry. In fact, one report found that two-thirds of school psychologists surveyed by New York's school board association stated that their district did not have enough psychologists to meet students' needs, which suggests that psychologists in some districts may be spread too thin to attend these MDR meetings (Heiser, Garruto, and Faustino 2018).

We focus on the role of school psychologists because they are uniquely qualified members of school teams because they have expertise in the provision of direct educational, behavioural, and mental health services in addition to expertise in the collaboration with families, school administrators, educators, and other professionals. The National Association for School Psychologists (2017) recently released a statement indicating that school psychologists should be considered experts in the school setting related to school climate improvement, positive behaviour efforts, and leaders in efforts to reduce disciplinary issues. Thus, school psychologists not only fill a unique role in respect of working with interconnecting ecological systems influencing the student, but they also are experts in issues of discipline, indicating that they should hold an essential role in MDR meetings. Furthermore, school psychologists are among the only school-level members tasked with using an orientation that recognizes the role of race and ability (Kubick, and Lavik 2014). Although the inclusion of school psychologists appears to be a necessary addition, the training models for school psychologists are historically rooted within a medical model framework which reinforces the deficit mindset ingrained within the educational system (Ramey 2018). Moreover, school psychologists as well as educators are at least 80% White and female, which is a demographic mismatch with students in public schools, potentially increasing the likelihood of biased decisions and responses to student behaviour (NASP 2017). Therefore, the addition of psychological professionals in MDR meetings, although important, is one component within a need for larger, systemic educational change.

Providing more specific guidance in the composition of a team such as the MDR team is not without precedent. In fact, there are many other IDEA policies that require the development of a team in which detailed guidance documents have been developed and distributed. For example, guidance in developing appropriate response to intervention teams includes detailed descriptions of team members with recommendations about the roles and necessary expertise as well as a requirement for team members to have direct knowledge of the targeted student (Hale 2008). Specifically, the person implementing the

intervention with the student must be present, as well as an educator who specializes in the particular deficit area. However, guidance such as this does not exist in the MDR process, leaving more room for decisions to be biased by students' race, disability, or the intersection of the two rather than familiarity with the students' specific situations. This is particularly relevant given that school administrators' orientation toward school discipline is associated with rates of disciplinary disparities (Skiba et al. 2014); having these same administrators as part of MDR teams without the mandated presence of staff more familiar with students' disabilities leaves too much room for those orientations toward exclusionary discipline to be applied in the MDR process.

For example, if an MDR team member already has racially biased predispositions to use exclusionary discipline for Black students, but has had little interaction with the student in question, this may contribute to the existing disparities in exclusionary discipline. Requiring that MDR teams include members who are familiar with the students and their disabilities may be one systematic way to guard against – although not necessarily prevent entirely – bias in the MDR process. DisCrit contends that exclusionary discipline rates are highest for Black students with a disability label because of the intersection of institutional racism and institutional ableism (Annamma, Connor, and Ferri 2013). The combination of these biases and vague MDR guidelines about who belongs on the MDR team increases the potential for discriminatory decision-making about discipline (Kubick and Lavik 2014). Vague guidelines allow for little accountability during implementation and open the door for administrative and political agendas, whether they are explicit or implicit.

Potentially exacerbating the problem with the lack of clarity in the composition of the MDR team is that implicit bias is more likely to have an influence on decisions that occur in stressful and time-intense situations (Greenwald and Krieger 2006). Given that MDR meetings must occur within 10 days of the incident, the composition of the MDR team members may often be based on availability rather that considering which people are most important to have on the team. Additionally, the selected team members (who may or may not know the child or the situation) are then required to quickly determine if the behaviour is a manifestation of the disability. This yields a situation in which school personnel who are largely unfamiliar with a student's disability are responsible for making quick judgements about the extent to which the disability informed the student's behaviour, leaving ample room for implicit bias to shape the team's decisions. Thus, the lack of federal guidance in the composition of MDR teams contributes to the potential for biased decision making.

MDR process as a race neutral reflection of normativity

Although there are specific elements of MDR guidelines that may contribute to disciplinary disparities including vague guidelines about the relationship test and the MDR team composition, the MDR process also functions to reinforce socially constructed ideas of normativity in a broader sense. At the systems level, DisCrit contends that U.S. social and economic politics have consistently maintained the social power of White, middle-class, able bodied citizens through the promotion of a race-neutral lens toward social reform rather than social transformation (Crenshaw 1995; Freeman 1995). This has manifested in the widespread racial segregation of schools, originating from housing

policies of redlining that contributed to the disproportionate representation of Black citizens residing in urban and poor communities (Freeman 1995). U.S. public school districts often require students to attend schools within their residing jurisdictions, creating a vastly different demographic composition of students within schools in various communities across the country.

These broad policies and practices that serve to maintain the status quo are reinforced by schools' use of special education and punishment (Watts and Erevelles 2004), with the MDR process being a critical cog in this system. DisCrit contends that special education is used as a form of segregation in which students exhibiting behaviours that deviate from normativity are separated from the rest of the student body (Annamma, Connor, and Ferri 2013; Watts and Erevelles 2004). This process can largely be understood as one of social control in which students deviating from social norms are placed under further control in the context of special education in an effort to change their behaviours (Ramey 2018). If non-normative behaviours continue to present a problem for school personnel, exclusionary discipline becomes the next line of defense for schools to reinforce ideas of what constitutes normal, acceptable behaviour (Artiles 1998; Noguera 1995). Given that educators are more likely to perceive Black students' behaviours as problematic in comparison to White students' behaviours (Gilliam et al. 2016; Kunesh and Noltemeyer 2015; Okonofua and Eberhardt 2015), it is perhaps no surprise that exclusionary policies and practices are most frequent in schools with high percentages of Black student enrollment (Welch and Payne 2010, 2012). Thus, in accordance with DisCrit, schools may appear equal in opportunity and access despite the persistence of systemic problems (e.g. racial segregation outside of schools in neighborhoods and within schools in special education). This largely results in White, middle-class, able bodied students benefiting most from school resources and support.

The MDR process largely reinforces these notions of what is considered normative. Driven by behaviours that school personnel consider non-normative, the MDR process functions as a way of deciding whether students who have already been subject to social control via special education deserve additional social control via exclusionary punishment. However, the race neutral process does not acknowledge the systematic biases that exist among educators and reflect broader societal biases and inequalities. Educators' expectancy that Black students will misbehave (Gilliam et al. 2016; Kunesh and Noltemeyer 2015; Okonofua and Eberhardt 2015) not only increases the racially disparate use of discipline but also influences the type of treatment perceived to be effective, which is typically punitive rather than restorative. This trend is especially relevant within special education given that Black students are overwhelmingly represented in categories believed to require punitive action compared to other disability categories believed to require other interventions (Turnbull et al. 2015). The race neutral guidelines for the MDR process promote the same ideals as the socio-political culture in which people who deviate from normativity ought to be segregated from mainstream society. This is particularly evident in the relationship test, where school personnel who presumably often represent 'normative society' are tasked with inferring information about the knowledge and intention of students who already deviate from notions of normativity. The compounding identities of being a racial minority and having a disability label symbolically represent an even further deviation from normativity than either identity alone, likely influencing school personnel to exclude Black students with disabilities at particularly high rates.

Summary and recommendations

The disproportionate use of exclusionary discipline practices by race, disability, and the intersection of the two are striking, and lead to lost educational time for students who already may be at an educational disadvantage (Losen 2018). These rates persist despite evidence of a similar frequency and intensity of behaviours across race and disability status (Losen et al. 2014; Skiba et al. 2002). However, the mechanisms that lead to these disciplinary disparities have largely been underexplored. We argue that the disparities in exclusionary practices for students who are Black and identified with an IDEA disability label can be explained in part by the MDR process. The MDR process aims to increase access to education for students with disabilities by limiting exclusionary discipline if the behaviour is as a result of the student's disability. However, viewing the MDR process through a DisCrit lens, we contend that through vague guidelines in the relationship test, a lack of specificity in constructing MDR teams, and uncritically reflecting broader cultural trends, the MDR process aids in the persistence of existing disparities. DisCrit recognizes the role that systemic policies contribute to further marginalizing at-risk populations rooted in historical segregation (Annamma, Connor, and Ferri 2013), and the MDR process exemplifies one such policy.

The problematic nature of MDR reflects the broader systemic issues within education. The same race-neutral and deficit model orientations have persisted throughout time with little accountability. Therefore, the recommendations for MDR policy reform are intended to highlight the broader need for critical examination of educational policies and processes that continue to advantage certain students. In order to address discipline disparities for students at the intersection of race and disability within the MDR policy specifically, we recommend multiple reforms. First, the relationship test should be eliminated as a guiding principle in the MDR process. Viewing the relationship test through a DisCrit lens highlights its reliance on individualistic understandings of behaviour without adherence to broader systems that may affect both students' behaviours and school personnel's interpretation of those behaviours. Instead, the MDR team should acknowledge the contribution of the multiple interconnected ecological systems to the behaviour in question as well as to the multiple ways in which that behaviour might be understood. We recommend that in in place of the relationship test that MDR teams consider the cultural appropriateness of the current IEP.

Second, school psychologists (or other disability experts) should be mandated members of MDR teams. As mentioned previously, school psychologists have a unique expertise in both working with individual and systems in the school and are considered leading experts in effective and fair discipline practices. Although this expertise suggests their essential role as a team member, the school psychologist is also often the only qualified school personnel to give and interpret psychoeducational assessments. Thus, the involvement of the school psychologist in the MDR meeting limits the potential for misinterpretations of behavioural manifestations related to the student's disability.

Third, in order for the MDR team to avoid the potential impact of implicit bias in meetings, we recommend schools adopt culturally responsive practices and interventions within the school setting. Providing educators with the tools to better understand the students they serve and to recognize their own cultural biases is likely to prove beneficial during the MDR process. Moreover, the inclusion of these practices is likely to repair and

improve the relationships between educators and diverse students before the MDR process is triggered. Given the cyclical nature of educator bias and stereotype threat that contributes to disparate discipline practices (Davis, Aronson, and Salinas 2006; Mello et al. 2012), preventative practices that improve on the student-teacher relationship will likely help to decrease the need for MDR meetings altogether and improve the nature of the MDR process as cultural awareness improves.

Fourth, a related change that schools might make is to focus on restorative practices. As a response to perceived student misbehaviours, restorative practices seek non-punitive responses that promote healing and restoration for all those affected by the offense. However, a critical component of restorative practices is the relationship work that occurs long before student misbehaviour becomes an issue. Restorative practices help to build positive relationships between students and teachers, which may lead to a reduction in exclusionary discipline (Erb and Erb 2018; González 2012; Pavelka 2013; Smith, Fisher, and Frey 2015). This overall orientation toward student discipline and relationship building is likely to reduce the reliance on exclusionary discipline, thereby reducing the need for MDRs. Similarly, it is likely to reduce educators' reliance on preconceived notions about students based on certain elements of their identities like race and ability, and instead allows them to recommend strategies for dealing with their misbehaviours that are based on their individual needs.

Fifth, in order for educators to effectively implement multicultural practices within the school, we recommend districts consider professional development opportunities focused on increasing awareness of discipline disparities at the intersection of race and disability and education reorientation to understanding disability as a social construction. Given the widespread disparities in exclusionary discipline for Black students with disability labels (specifically ED/BD), districts should consider incorporating professional development training opportunities for school staff in an effort to raise awareness of the inequities present. Additionally, using DisCrit's perspective on disability as a social construction would help educators and administrators better understand the systemic contributions to discipline inequities (Ellison et al. 2000; Turnbull et al. 2015).

Finally, researchers and practitioners within schools should gather and analyze consistent data on the MDR process, and ideally make those data available to the public. Currently, this type of data is lacking because schools are not currently required to report the specifics of MDR meeting outcomes by race/ethnicity to databases that are readily available to the public (Lee 2005; Lewis 2017). This will help to increase fidelity and also provide a means to track fairness and consistency across MDR meetings. Given the persistency in disparate discipline data by race and ability throughout history, data collection is a necessary component of improving systems. These data should include descriptions of the student's behaviour under consideration, how and why the final decision was made, and demographic data on the student and MDR team participants. Furthermore, in order to increase fidelity across MDR team decision-making processes, training models focusing on understanding students' individual circumstances should be developed and implemented across districts.

Although the critique presented here focused on a particular set of intersecting identities (i.e. race and disability), there are multiple other student identities and characteristics that need to be considered. Given that the U.S. educational system has historically centered the White, able, middle-class experience, the various

intersections of students' class, ethnicity, nationality, language, and other character-istics are important to consider as well. Educational research on these multiple intersecting identities is currently lacking, but future research would benefit from thoughtful analyses of these intersections. Overall, there is sufficient evidence indicating a need to further examine MDR practices and provide further training for all school staff.

Conclusion

Striking statistics show a pattern that exclusionary discipline affects Black students with disability labels more than most other students in the school system. Although the problem of disproportionate exclusionary discipline practices has recently come into focus, there has been little guidance about concrete steps that might be taken to ameliorate the situation. Given the race-neutral and problematic processes within the educational system at large, critical examination of policy creation, data collection, and biases at the system level is an underexamined area requiring further critical examination. One example of problematic educational policy that has been under-explored is the role of the MDR process, an U.S. federally mandated policy under IDEA. Examining this policy through a DisCrit lens indicates that it contributes to discipline disparities through a functioning as a race neutral test of behaviour intentionality, providing vague guidelines regarding who is involved in making the decision, and mirroring the broader socio-political climate that perpetuates segrega-tion. Thus, drawing on DisCrit tenets, we call for policy reform as well as incorpor-ating multicultural considerations at the school and district level to reduce the need for MDR meetings and reduce educator bias both before and during these meetings.

Disclosure statement

No potential conflict of interest was reported by the author(s).

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