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Preparation Minority Teachers: Law and Out of Order

Joy M. Barnes-Johnson  Temple University

The inability of American colleges and universities to produce teachers for America’s urban classrooms has reached epidemic proportions. This article seeks to describe the legal effects of policies and laws designed to create conditions for highly qualified teaching professionals. Issues germane to the topic of urban teacher preparation and certification will be discussed. The history of pre-service teacher education from federal policy and higher education’s organizational structure perspectives will be described, including the evolution of the Higher Education Act. Recent relevant litigation will be explicated using appropriate theoretical frameworks. Finally, relevant research related to higher education’s treatment of these problems will be discussed.

STATEMENT OF THE PROBLEM

During the past twenty years, beginning teachers have increasingly been held to accountability standards that are similar to professional standards in other fields. As part of this accountability construct, pre-service teachers are required to take examinations to demonstrate proficiency in specific basic and content-knowledge areas before they can earn their teaching certificate. Many of these examinations are standardized tests developed to measure very concrete skills that may or may not predict how well the teachers will perform in an actual classroom setting. “Virtually every major standardized exam has had a legal challenge to its use as a gate keeping device” whether for employment testing in other fields or for certification; this is the heart of the problem—standardized tests can not be the sole mechanism by which a candidate for any job is measured, especially when that test is treated as objective in a highly subjective field (Olivas, 1997, p. 1052). There is arguably no such thing as objective assessment. Similar to any other “gate-keeping” device, it is relatively easy to claim discrimination when only one criterion is used to evaluate qualification. When coupled with (a) the dearth in minority teaching candidates and education professionals, (b) the history of testing as a sorting tool in education, particularly in the segregated South, and (c) “scientific justification” of racial inferiority, accusations against those in control of certification, licensure and hiring seem reasonable. Additionally, teachers of color consistently represent a small percentage of all teaching staff. In a study of new teachers in Philadelphia, a majority (63%) of the population was White (Costelloe, 2006). This sample was demographically different from many national accounts that described a public school teaching force that is between 84% (SASS, 1999-2000) and 85% (Frankenburg, 2006; Marvel, Lyter, Peltola, Strizek, & Morton, 2007) White. These elements combine to form the basic premise of stereotype threat (Steele & Aronson, 1995)—the social-psychological predicament that arises when a negative stereotype is made more plausible by one’s own conformity to it (p. 797). As a professional educator and teacher trainer committed to matters of social justice and fairness, this is a dilemma for this author. The need for reliable and valid skills assessment tools is understood, but these tools must not place candidates in “double jeopardy” among the judges of their work.

The double jeopardy reference is deliberate: It is a legal term describing how a person being tried can not be convicted for an act more than once. In many cases, minority students already have to fight the effects of stereotype threat when they matriculate postsecondary programs. The psychological impact of such a “battle” could catalyze the types of anxiety during testing that limit performance, especially when racialized conditions are perceived or prevail (Sawyer & Hollis-Sawyer, 2005; Stricker & Bejar, 1999). Speaking of the reality of life for educated “Negroes”, Woodson (1933/2000) wrote that “scholarship among Negroes has been vitiated by the necessity for all of them to combat segregation and fight to retain standing ground in the struggle of the
races” (p. 16). When ones credentials are always called in to question, it is difficult to distinguish oneself on any level—this truth remains evident.

The preparation of teachers has traditionally been the responsibility of institutions of higher education. Starting with normal schools for the training of Black rural elementary school teachers, specialized colleges for secondary public school teachers began to emerge in American education history in the first half of the twentieth century. However, “the vast majority of U.S. teachers[White] in the second half of the 19th century received their certificate from local offices on the basis of their performance on exams knowing as much as the oldest child they were assigned to teach” (Angus, 2001, p. 13). This period has been characterized as the beginning of a “double standard” in education certification—separate and unequal (Fultz, 1995, p. 200). The role of Black colleges in the preparation of teachers became clearer in this era (Dillard, 1930; Thomas, 1930). By the end of World War II, most teacher colleges became part of larger liberal arts colleges and university settings and a normalized means for evaluating teacher knowledge became necessary (“Teacher training”, 2007). Education is often seen as the primary pathway to success, therefore, economic liberties afforded to educated people—an indicator of “high culture” to some people—became a matter of policy. The relationship between education and opportunity has since become the grounds on which politics are enacted, and laws are argued.

A “Robin Hood” Policy

The Higher Education Act of 1965 (HEA) was first signed into law in 1965 as part of a larger social program to address poverty in the United States (HEA, 1965). HEA was a “simple” plan to designate financial aid to students, institutions, and programs for postsecondary training. HEA represented a paradigm shift from policies that were race-specific and religion-focused to poverty. HEA could exist because several factors were in place to enable it—presidential leadership (President Lyndon Johnson was a former teacher and his parents had been teachers), congressional support, a broad national constituency, momentum from the Civil Rights movement, and a growing economy (Hannah, 1996). It was a “Robin Hood” policy whose time had come.

The purpose of the Act was to appropriate funds as a “solution to community problems like housing, poverty, government, recreation, employment, youth opportunities, transportation, health and land use” in the form of grants to colleges and universities (Higher Education Act, 1965, §101). HEA is known primarily for its provision of financial aid, but Title II of the legislation provides for pre-service teacher training; and it authorizes grant funds for three initiatives: (a) improving teacher education programs, (b) strengthening recruitment of teachers, and (c) providing technology training for teachers. These three goals have been consistent throughout many iterations of the policy. There have been at least seven “generations” of the HEA: (a) the1965 (original) Act; (b) 1972 amendments focusing on educational opportunity; (c) 1978 with the introduction of related legislation allowing middle income families to be eligible for federal financial aid; (d) 1980/86 were reauthorization years; (e) 1992 represented a shift in funding structure from grants to loans; (f) 1998 amendments dealt with teacher quality/quantity, reemphasizing teacher training and introducing testing to Title II; and (g) the Ready to Teach Act of 2003 (Hannah, 1996; Ready to Teach Act, 2003; Stedman, 2002). These most recent changes, extend Title II, Part A of HEA, amends Part B and adds Part C—the creation of Centers of Excellence for the training of teachers at minority-serving institutions (Almanac of Policy Issues, 2002; “Issues in Depth”, 2008; Stedman, Kuenzi, & Mangor, 2003).

Over time, one other dimension of the title was introduced that is relevant. The call for greater accountability for the nation’s teachers led to a requirement for reporting about teacher education: This reporting most often took the form of indications of pass rates on licensure examinations, and were considered to be marks of teacher education program quality and, eventually, an expression of teacher quality. Just as the 1965 legislation represented a paradigm shift from race and religion, the 2003 reauthorization represented a paradigm re-shifting toward a racialized context for teacher recruitment and preparation of minority teachers. It recast the complexity of the problems inherent
in the system. The Ready to Teach Act of 2003 was the latest generation of legislation associated with the HEA (Ready to Teach Act, 2003). By the time it reached the Senate floor, the legislation became known as the “Ready to Educate Act of 2003” (§.408). The Senate version clearly defined the parameters for “highly qualified teachers” by building on research evidence around verbal ability, content knowledge and pedagogical knowledge. Unfortunately, most certification and licensure exams neglect pedagogical knowledge for the former, more traditional measures.

**Policy Climate of Higher Education for Teachers**

In an analysis of the HEA, Hannah wrote that “the 1992 reauthorization of HEA is a case study in the consequences of an incremental and fragmented federal policy making process” (Hannah, 1996, p. 498). This statement was a clear indicator of the inchoate nature of policy, in general. Hannah described how slow the evolution of policy is because of its political underpinnings. The idea that policies can only evolve is an issue in itself: human nature wants new policies to be based on familiar, old ones which has the potential to exacerbate already flawed ideas. Re-emphasizing testing in HEA re-introduced old biases into the dialogue about teacher quality. Underlying HEA are civil rights issues that can go largely undetected, if not contextualized. Title VI of the Civil Rights Act of 1964 outlined anti-discrimination laws on the base of race, color or national origin. The Elementary and Secondary Education Act of 1965 was signed on April 9, 1965 and seven months later, the Higher Education Act of 1965 was signed. These two bills changed education in the U.S., at a time when the nation was still very much divided over issues of race and international status. It would be naïve to believe that these factors were absent from the discourse, even if they were invisible to the masses.

**Disparate Impact and Bias in Assessment**

Most descriptions of the impact of HEA point to it as a policy tool used to strengthen resources of colleges and universities so that they could provide financial aid to American citizens. That remained the primary focus of HEA until the 1998 and 2003 reauthorizations, when teacher quality was moved closer to the center of the discussion. The establishment of institutional reporting ushered in a climate of conditions that cultivated questionable practices around testing. One policy researcher described the practice as potentially “deleterious” because schools and states were reporting 100% pass rates on licensure exams (Stedman, 2002; Stedman, Kuenzi, & Mangor, 2003). A positive consequence/response to an institution’s low pass rate should have been better training and improved reading and writing for pre-service teachers; however, the institutional response turned to redefined classifications of students as program completers, graduates, or students not yet admitted to education programs, and practices that included “teaching to tests” that remain (Stedman, 2002; Stedman, Kuenzi, & Mangor, 2003).

One important state-level policy example was the case in Massachusetts: In 1998, 59% of prospective teachers failed the state’s new certification exams (Ludlow, Shirley, & Rosca, 2002; Stedman, Kuenzi, & Mangor, 2003). Institutions were labeled as “besieged” if they had large numbers of students failing the initial administration of the state license examinations—it is not difficult to see how the stigma associated with such a label could compromise the integrity of the enacted policy at the institutional level. “One besieged institution has defined students at risk of failing if they have an SAT verbal score below 420, did poorly in basic college writing or introductory education course, have ESL or have a learning disability”; these students were required to take 15 to 24 hours of test preparation prior to the test which, if passed, would gain them entry into the certification program (Ludlow, Shirley, & Rosca, 2002, para 44, at notes 3-4). It is not difficult to understand who the students most at-risk might have been. Interestingly, most reports of teacher quality do not include demographic information on race, gender, class, or ability. In the No Child Left Behind state report cards (Education Commission of States, 2007) this author was able to find, years of experience, region, degree of urbanicity, and age as the only details that were reported.
The term “disparate impact” appears in much of the literature that disputes the validity of certification tests; it is so deemed in large part because to the teachers who are at risk, they feel particularly disadvantaged by the testing situation as well as the school situation (Bond, 1998; McDowell, 2000; Richardson v. Alabama, 1991) There are five broad categories of sources of disparate impact as cited by Bond): (a) demographic differences that relate to a teacher’s own educational experiences; (b) recruitment differences; (c) contextual differences related to support (administrative, technical and collegial); (d) biases or deficiencies in the assessment, and (e) differences emergent from unequal educational opportunity (pp. 211-213). Given these precedents, assessment bias and “disparate impact” allegations are common associations.

**Litigation**

Where there is far-reaching policy, there will usually be ground for litigation. The impact of racially disparate performance on tests is the key: It is clear that certain life conditions provide privileged people some advantages over less-privileged people. It is also clear that test developers, who tend to be culturally homogeneous by virtue of their status as teacher educators and researchers, propagate their values and cultural norms in the items they develop. The disposition of the court, however, regarding cases involving the testing of employees (particularly teachers) has been less dependent on the burden of racial disparity charges brought by plaintiffs and more reliant on justification of such examinations by defendants. Allen et al. v. Alabama State Board of Education (1987) and Richardson v. Alabama (1991) are two examples. It was argued in these cases that the tests themselves were invalid and should not be used to decide who can be teacher. In Allen et al. v. Alabama State Board of Education (original suit filed in 1985), plaintiffs and plaintiff-interveners, four Black teachers, and a predominantly Black state university, filed a class action lawsuit alleging that the State of Alabama’s teacher certification tests discriminated against Black persons. This case has particular significance for the history of advocacy of Black colleges and communities for justice in education. Increasingly tensions have been mounting in the court of public opinion about the “disparate impact” of testing on minority teachers. The byline “when teachers flunk, they sue” (Heartland Institute, 2006) is just one example of public incredulity and intolerance of the issue.

Other landmark cases include Richardson v. Alabama (1991) and Gulino, et al. v. NYC Board of Education (1996). It is well worth noting that Gulino et al. was argued in front of a famous civil rights lawyer, Judge Constance M. Baker whose reputation (as a Brown v. Board (1954) lawyer) and character (as a civil rights activist) may have had a significant impact on the way this case had been treated. Other appellate judges “gingerly” articulate potential limits of earlier decisions, since Judge Baker’s passing.

Most of these cases have challenged the predictive validity of licensure examinations regarding teacher effectiveness—a compelling argument. The results of many of these cases have tended to lean toward class action suits granting widespread certification. These kinds of decisions are salient examples of conflict avoidance rather than negotiation of the tensions that frame the controversy. Teacher education researchers and education policy analyses must find ways to address the problem.

School changed utterly with racial integration. Gone [is] the messianic zeal to transform minds and beings that had characterized teachers and their pedagogical practices in our all [Black] schools. (hooks, 1994, p. 3)

It may be argued that the source of these problems rests in the fact that college-educated students are choosing not to become teachers, minority teachers are not teaching in minority schools and when they do, they may not be motivated by the social justice traditions of their political past but instead the value-laden incentives of certification that do not desire to transform the community but reinforce the status quo. As a community, the “talented tenth” are forced to reconcile their double consciousness: Having chances to finally enter non-teaching and non-preaching fields on (almost) equal footing with other college-educated people, top minority

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college graduates are not returning to teaching and they may not return to their communities. To encapsulate the perspective of Carter G. Woodson as presented in The Mis-education of the Negro, perhaps we have “missed the mark” because we have experienced a “loss of vision” (Woodson, 1933/2000). We must find ways to activate social justice principles among all education stakeholders, starting with ourselves.

RESEARCH ON TESTING: CONFLICT AND CRITICAL THEORIES

In the background of research on testing, are theoretical frames that are based in conflict theory and critical theory. Bennett, McWhorter, and Kuykendall (2006) list ethnic identity development, stereotype threat, cultural continuity/discontinuity, and bias in standardized testing as the conceptual bases for their work. These schemas form essential elements of critical race theory. The authors described how items that advantaged African American and Latino test takers were omitted from the Praxis Pre-Professional Skills Test (PPST) during their validity tests; items that advantaged White students were retained as a matter of psychometric consistency—not fair or just practice. As in cases mentioned earlier (Gulino et al., 1996; Richardson 1991), most test takers had greatest difficulty with the language portions of the examinations (reading and writing). The researchers found that the major issues with the language portions of the test were time, content and skills, and relevance. According to the results reported by Bennett and colleagues (2006), the 44 minority student participants in their study were unfamiliar with Eurocentric language, spent more time translating or interpreting meaning of test stimuli, and felt disconnected from the course content. The problem remained, however, that the participants were successful college students with academic promise—they attended a selective university. Additionally, the students who had the least success on the teacher licensure examinations implicated their K through 12 education. Holmes (1986) emphasized that by noting the patterns of performance on tests that minority students demonstrate are likely related to both “the positive and negative impact of the early years of schooling [and] probably account for many features of the future life of students” (p. 342). Although a very important perspective is presented by Holmes, very little evidence beyond K-12 data is presented to substantiate the claim that minority teachers can past tests. Minority teachers must meet the standards of professional evaluation to which all teachers are subject, and advocates for quality teacher education must position the experiences, voice, and culture of minority teachers in such a way that they are able to compete with other teacher candidates.

POSITIONALITY: TEACHER-LEADER ADVOCATES

A very important question emerges from the haze of discourse that positions the race of a teacher or a group of teachers above other credentialing factors: why can’t college-educated people pass the test? The answer undoubtedly lies in a complex milieu of cultural references, unfamiliar phrases and incongruent expectations. Writing in 1930, W. O. Brown, a sociologist from the Chicago School of Sociology, explained that “in folk sentiment, and increasingly in tacit policies, [the Negro’s] place is fixed” (p. 331) as evidenced by inferior schools and segregated communities—he saw race matters as being distinctly related to the Black man’s inability to overcome. The sentiments of Holmes (1986) and later, Fultz (1995), echoed these words more than fifty years later. “Thus, in myriad ways, inadequately prepared African American teachers were an inevitable outcome—indeed, a structured feature—of a process of educational disenfranchisement fostered and perpetuated by the dictates of racist oppression and suppression (Fultz, 1995, p. 207). Perhaps following the recommendations of Holmes (1986) to familiarize minority teacher candidates with the tools of assessment (and its constituent scoring rubrics) will help but it may be more important to establish new norms that include multiple perspectives and demonstrate the kinds of multicultural competency that is more reminiscent of the past.

Beyond the cries of “disparate impact” against minority teachers, are the histories and traditions of teachers of color who believe that education is the key to success of its people. “For [Black] folks teaching—educating—was fundamentally political because it was rooted in antiracist struggle” (hooks, 1994, p. 2). Carter G. Woodson made a similar point when he wrote,
“the attitude of Negro teachers is everything . . . real education means to inspire people to live more abundantly . . .” (1933/2000, p. 29). Potentially a major premise in the words of both hooks and Woodson exists: somehow in the familiar hands of teachers that look like them and who have experienced a life like theirs, protective factors for student achievement and resiliency can be found. Perhaps, under these conditions, students of color can develop tenacity and hope that is predicated on the strength of their teachers.

To be frank we must concede that there is no particular body of facts that Negro teachers can impart to children of their own race that may not be just as easily presented by persons of another race if they have the same attitude as Negro teachers; but in most cases tradition, race hate, segregation, and terrorism make such a thing impossible. . . . if the Negro is to be forced to live in the ghetto he can more easily develop out of it under his own leadership than under that which is super-imposed. The Negro will never be able to show all of his originality as long as his efforts are directed from without by those who socially proscribe him. (Woodson, 1933/2000, p. 28)

A case of tenure presented by Olivas (1997) provided an interesting perspective on the education of teachers in Clark v. Claremont University (1992). Reginald Clark took issue with testing as the sole criterion for admission to the graduate program in which he taught. He pointed out Educational Testing Service (ETS) research findings that claimed that there was “no relationship between the scores and how well students performed in an actual program (p. 382).” At the time of Clark’s own professional review, his qualifications were called into question. The case was decided that he was denied tenure for racially motivated, discriminatory reasons. The point, however, is the location of this author’s concerns about the use of testing in teacher preparation. As in times past, “the Negro intellectual” would often find himself in a crisis over such matters—feeling powerless to change a system that will use itself to justify its existence with a kind of flawed logic that is oppressive to those outside of the circle of shared culture. In the way that it is currently designed, teacher evaluation programs “systematically produce inequalities” (Bennett, McWhorter, Kuykendall, 2006., p. 532). Better ways of defining teacher quality and determining what makes a teacher effective in a diverse classroom, must be developed.

**Facing Goliath: Combating the Stereotype of “Less-Ness”**

Stereotype threat has had a profound effect on people throughout history; it just had not been articulated semantically until the mid-1990s. Having a “Napoleonic complex” might be a widely accepted explanation for some behaviors by specific populations about stature, but racialized contexts are often treated less as an explanation, but more as an excuse. This author hears the “threat” in the compositions of W. E. B. Du Bois (1903/1989, 1940/1983); Booker T. Washington (1901/1989); Duke Ellington (1976); Ralph Ellison (1953/1995); Gordon Allport (1954/1986), Harold Cruse (1967/1984, 1987); bell hooks (1994), Lee Baker (1998), and countless others whose words have encouraged and enlightened. There is a constant struggle to decentralize the realities of substandard education, poverty, and access challenges so that talent can develop and be recognized. In spite of the challenges, we have a knowledge base that informs the way we share information.

In general, “teaching candidates of color often lack emotional, financial, and personal support and feel marginalized” this may be as a product of the threat of “less-ness” and therefore be a social justice issue that needs serious consideration in current policies (Frankenberg, 2006, p. 7). There are people in the community who bring more to the classroom than that which is measured using current evaluations. Along with content knowledge, they bring a sensibility that promotes resilience. Delpit (1988) described the “culture of power” struggle that many teachers of color feel in the education arena. As teachers and policy makers develop tools to better communicate knowing, it will be more likely that disenfranchised and often “defeated” teachers of color will find their voice, build their skills and achieve success.
CONCLUSION

Whether described as a crisis (Flippo, 2003) or a dilemma (Fultz, 1995), issues related to high stakes testing of minority teachers is a major problem. Schools that serve minority children concentrated in urban areas need people who are dedicated to the mission of education in a complex economic structure but these teachers must be capable of proving to be competent and credible in content and pedagogy. Urban, minority-serving schools need to find ways to improve the attitudes, skills and knowledge-bases of all of their teachers—some may have come from these same, often marginalized schools but still others have come from the “outside” and may embrace a deficit view of their schools, the communities where their schools are located, the leaders charged with the responsibility of leading these schools and the families being served by these schools. Historically, it has been the view that when teachers have had substandard educational experiences as K-12 students, they are very likely to reproduce their own inadequate education (Du Bois, 1903/1999; Fultz, 1995; Woodson, 1933/2000). Colleges and universities, especially those who are predominantly minority-serving institutions, have a responsibility to educate school teachers to deal with these challenges. Higher education programs for teachers must reflect on that which is already known from scholars of the African Diaspora.

For the remaking of Negroes most credit must be given to the schools at work among them. The teacher has made the school, the school has figured largely in the making of the home, and the home has produced a new civilization. (Woodson, 1922, p. 288)

Policy seems to be allowing itself to be informed by arguments about relevance and connectedness that have been presented by education research (Bennett, McWhorter, & Kuykendall, 2005). However, there is an inherent danger in too much content-specificity when trying to evaluate teachers. If all knowledge bases, social, cultural, and academic, are not treated as being valid, it is impossible to know an educator’s level of competence. Education is a distinctly human endeavor—when human (subjective) character is ignored in evaluative processes for pseudo-objective means, the system must be deemed flawed. This is where cross-cultural competence evaluation and pedagogical content knowledge (specific skills for teaching content to particular populations) evaluation are important. There must be parity between teacher preparation objectives in theory and in practice, which must then be aligned to teacher pre-service and in-service assessment. This author understands the movement toward creating a “highly objective and uniform system of standards evaluation” and why it is necessary. However, evaluation that is not based on sound education will continue to reinforce flawed discrimination between those who may be qualified to teach and those who are only qualified because they can pass a test. In the final analysis, weak K-12 education will remain a pervasive problem: Twenty-first century schools need teachers who are willing to be the teachers that they did not have—the kind of teachers that their parents had.

As a student, teacher, teacher educator, and advocate for better schools, this author cringes at the state of the education system—a system that limits the potential of students who might make great teachers. Teaching requires a disposition that is open to multidimensional analysis of problems that emerge in a classroom. Teachers must be on-their-feet problem solvers that can draw out of students enough evidence to convince them and others that their out-of-school experiences are enough to enable their success. It is a sociocultural approach to education that some might think is inadequate and immeasurable—educators must find a way to efficiently evaluate the merit of out-of-school experiences as a viable resource in the construction of knowledge.

Great efforts are being made to eliminate bias in test items. Citing several ETS-affiliated researchers, Schaeffer (1996) explained that race is one area that can be predicted from scores on standardized tests with consistency and accuracy. Sixty-five percent of African Americans and 64% of Latino teachers who took the 1987/1988 licensure examination in New York failed the test compared to 23% of White teachers. With numbers that significant, it is impossible to argue that there is nothing wrong with the system and the instrument. In the final analysis of his critique,
Schaeffer (1996) made two suggestions to teachers that are salient and summarize this author's position: (a) play their game—develop better writing and critical reading skills so that effectiveness and perceived competency will not stop at a literacy level of proficiency; and (b) fight teacher licensing practices at a state policy level.

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