
In the Shadow of *Brown*

Special Education and Overrepresentation of Students of Color

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ABSTRACT

In this first decade of the 21st century, we mark two milestones in education history: the 50th anniversary of the *Brown v. Board of Education* decision in 2004, and the 30th anniversary of the Individuals with Disabilities Education Act (IDEA) in 2005. Both *Brown* and IDEA asserted the need for increased educational opportunities for once excluded groups of students and asserted that segregation was inherently harmful and unequal. However, although we might wish to celebrate, there is also a need to critically examine the unfulfilled promise of both these efforts toward integrated education. In this article, we focus on one of the most long-standing critiques of special education practice: the disproportionate placement of students of color in special education programs, referred to in the education literature as overrepresentation. We then trace some of the origins of the current problem of overrepresentation by tracing the tangled relationship of special education and resegregation in the first years following the *Brown* decision.

IN THIS FIRST DECADE OF THE 21ST CENTURY, WE mark two important milestones in education history: the 50th anniversary of the *Brown v. Board of Education* decision in 2004 and the 30th anniversary of what we now know as the Individuals with Disabilities Education Act (IDEA) in 2005. Both of these reforms asserted the need for increased educational opportunities for once excluded groups of students and asserted that segregation was inherently harmful and unequal. As Justice Warren's oft-cited words reveal, segregating students "generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a

way very unlikely ever to be undone" (cited in Williams, 1987, p. 34). Although many last year will have claimed *Brown* as a source of pride and engaged in all manner of ritualized celebrations of *Brown*'s 50th birthday, it might be more honest to commemorate rather than celebrate. As Orfield and Eaton (1996, p. xix) wrote, "slowly, quietly, and without the nation's comprehension, political and legal forces have converged to dismantle one of our greatest constitutional victories." In other words, although we might wish to celebrate, there is also a need to critically examine the unfulfilled promise of both these landmark cases.

For example, we must acknowledge that our schools are as segregated as they ever were, with European American students remaining the most racially segregated of all student groups (Orfield, cited in Irons, 2002). Half a century after *Brown*, African American and Hispanic American students now face increasing rather than diminishing school segregation, with most students of color attending schools where the majority of students are economically disadvantaged, creating a situation of concentrated poverty (Orfield & Eaton, 1996). Likewise, students in special education continue to experience a separate existence in schools, despite being ensured a free and appropriate public education in the least restrictive environment (Lipsky & Gartner, 1996). In addition to the individual failings of both *Brown* and IDEA, we must consider what failings are shared or interactive. In thinking about these issues, two questions come to mind: How has special education ignored the intersection of race and disability and, in so doing, contributed to the failure of *Brown*? And how did *Brown* fail to consider disability, and special educa-

tion more specifically, as mechanisms for resegregating students of color within otherwise desegregated schools?

In this article, we focus on one of the most longstanding critiques of special education practice: the disproportionate placement of students of color in special education programs, referred to in the education literature as *disproportionality* or *overrepresentation*. We then trace the origins of the current problem of overrepresentation to the tangled relationship of special education and resegregation in the first years following the *Brown* decision.

THE PROBLEM OF OVERREPRESENTATION

The United States Office of Civil Rights (OCR) has reported a persistent problem of overrepresentation of minority children in certain disability categories since the 1970s. Thus, the problem of overrepresentation has not gone unnoticed. For example, early on, Dunn (1968) critiqued the overrepresentation of ethnic and racial minorities in special education, particularly in the category of mental retardation. Several landmark legal cases, such as *Diana v. State Board of Education* (1970) and *Larry P. v. Riles* (1971), challenged biases inherent in the standardized testing procedures used to identify students as eligible for special education. In *Diana*, a class action suit was filed on behalf of nine Hispanic children who were forced to take an individually administered IQ test in English and, as a result, were classified as labeled with educable mental retardation (EMR). Interesting enough, when retested by a Spanish-speaking examiner, only one of the nine children was classified as EMR. In a similar suit, *Larry P.*, the overrepresentation of minority children in EMR classes throughout San Francisco was determined to be due to unfair educational practices, including teacher bias. Both cases illuminated the role of school personnel, tests, and testing practices in erroneously labeling students of racial and linguistic minorities with a disability and placing them in restrictive special education classes.

These cases drew attention to the ways that special education labeling and placement decisions reflected stereotypic beliefs about White intellectual superiority. Both *Diana* and *Larry P.* called into question the widespread use of “scientifically” objective measures to gauge intellectual ability. Intelligence, which had been seen as innate, fixed, one-dimensional, and “naturally” distributed along racial and class lines, was now cast in a different light. As a result of these cases, it became increasingly clear that the use of evaluation instruments falsely reinforced presumed intellectual hierarchies among racial and ethnic groups. Although ability tests continue to be seen by many in the fields of educational psychology and special education as relatively neutral and valid, others within education have come to view standardized tests as forms of institutionalized racism. Critics have questioned

cultural and linguistic biases within the tests and norms, which were based on the supposedly universal values and experiences of American, White, middle class students.

Moreover, because the special education eligibility process typically begins with teacher referral, the widening racial imbalance between the teaching corps and an ever more diverse population of public school students remains an ever growing concern. Recent reports show that 90% of public school teachers in the United States are White, whereas 40% of U.S. public school students belong to racial or ethnic minorities (Delpit, 1995). Similar imbalances can be seen in the number of individuals who are licensed to administer assessments. Because cultural, social, class, and linguistic biases often influence teacher and examiner perceptions of a student’s ability, students from racial and linguistic minorities continue to risk having their differences pathologized when measured against exclusionary, ethnocentric norms and standards. Thus, more than 30 years after Dunn’s critique, and despite important legal cases, the problem of overrepresentation has not lessened.

Most troubling is the finding that special education, although conceived as a way to provide support and access for previously excluded students, has paradoxically participated in maintaining rather than minimizing obvious inequities. The most recent government reports reveal that although Black students constitute 14.8% of the school-age population, they represent 20.2% of the students placed in special education (Losen & Orfield, 2002). These same reports document that Black students remain three times as likely to be labeled as having mental retardation (MR) as White students, almost two times as likely to be labeled as having emotional disturbance (ED), and almost one and a half times as likely to be labeled as having learning disabilities (LD). The disability labels associated with the highest levels of disproportionate assignment of students of color are also the most subjective. In other words, the labels that are most reliant on clinical judgment of all of the disability classifications (Parrish, 2002) are also the labels that are overly ascribed to students from racial and linguistic minority backgrounds. Conversely, less subjective categories, such as blindness or deafness, are ascribed proportionately to all student groups. Among these subjective categories, MR, which is one of the most stigmatizing labels, remains most likely to be assigned to Black students. Furthermore, Black students who attend school in wealthier communities are more likely to be labeled as having MR and assigned to segregated classes than those attending predominantly Black, low-income schools (Oswald, Coutinho, & Best, 2002). Depending on context, both social class and racial biases can increase the risk of minority children being labeled and placed in segregated classrooms.

The problem of overrepresentation is complicated and is not confined to African American students alone. In states with high Hispanic or Native American populations, Hispanic and Native American students are also more likely to be

overrepresented in special education (Parrish, 2002). Once labeled, students from racial, ethnic, and linguistic minority groups are all more likely to be placed in more restrictive or segregated classrooms than their European American peers (Fierros & Conroy, 2002). Moreover, students from minority groups who attend school in large, urban districts are placed in the most segregated and restrictive of placements (Fierros & Conroy, 2002). Data on Hispanic students is complicated by the fact that they tend to be underidentified for special education in elementary school, but overidentified in high school (Artiles, Rueda, Salazar, & Higaeda, 2002). It is important to note that when we say that Hispanic students are underidentified in special education, we are not saying that that these children are likely to be placed in general education classrooms, but rather that they are most likely to be placed in self-contained, bilingual or English as a second language (ESL) classes. These classes, like self-contained special education classes, are overly restrictive and may limit a student's ability to gain access to the general education curriculum or to keep up with their grade-level peers. Students who are English language learners (ELL) or labeled as having limited English proficiency (LEP) are also likely to be placed in ESL or bilingual classes at the elementary level and then disproportionately placed in special education in the upper grades (Artiles et al., 2002). An exception to the minority overrepresentation trend is the underrepresentation of Asian American students (Losen & Orfield, 2002). Stereotyped as the "model minority," Asian American students are far less likely to be placed in the subjective categories of MR, ED, or LD than any other minority group. Further research is needed to determine if there are within-group differences, especially between newly arriving Asian immigrants and refugees and their middle class counterparts. Research is also needed to determine if there are differences in disproportional placements in schools with and without ESL or bilingual classes.

Although the category of MR often receives the most attention, the category of LD has also been deeply implicated in the problem of overrepresentation. Emerging during the 1960s, the category of LD was characterized by average or above-average intelligence, specific rather than generalized deficits, and a cultural or familial background that was unrelated to the academic difficulties that the student experienced in school. This category became associated with White students to such a degree that students of similar levels of achievement were given different labels along racial, ethnic, and class lines. In fact, in the first 10 years following the emergence of the LD category (1963–1973), the vast majority of students labeled LD were White, middle class boys (Sleeter, 1995). Sleeter hypothesized that middle class White parents negotiated this less stigmatizing category to explain their children's difficulties in school. Moreover, because students were placed in separate classrooms according to their label or disability category, special education became as racially segregated as general education. Thus special educa-

tion, like "ability tracking" (Mickelson, 2001), further reified the racial divisions that *Brown* was designed to dismantle.

It is of no small concern that the inappropriate classification of racial, ethnic, and linguistic minorities for special education leads to lowered achievement and poor postschool outcomes (Wagner, D'Amico, Marder, Newman, & Blackorby, 1992). Students in segregated special education classrooms are denied access to the general education curriculum and to their typically achieving peers. Students who are placed in special education are also more likely to drop out of school than their nonlabeled peers. Moreover, students in special education are more likely to experience lower teacher expectations as a result of being labeled and provided with instruction associated with poor transition outcomes after the student leaves school. These factors combine to negatively affect the academic performance of students of color who are labeled with a disability, who also have higher rates of suspension, face more severe disciplinary actions, and experience a higher dropout rate than their White and nondisabled peers (Losen & Orfield, 2002). Moreover, the failure to obtain a high school diploma further restricts occupational opportunities and leads to the increased likelihood of poverty. Unfortunately, the problem of overrepresentation is starting earlier and earlier, as children from economically poor Black or Hispanic families are increasingly being labeled with the ill-defined "at risk" category even before they enter school (Mutua, 2001).

Although many have suggested that socioeconomic status accounts for some or even all of the racial disparities in special education identification, recent reports have illustrated that the problem cannot be explained by any one factor. There remain large variations from district to district and from state to state in levels of overrepresentation in special education, suggesting that the degree of overrepresentation is affected by many variables and contexts. Southern states, for example, continue to have some of the highest incidence of overrepresentation regardless of social class, suggesting a connection to a longer legacy of racial segregation. Moreover, there are substantial within-group differences in terms of gender and age of diagnosis. Black girls, for example, are less likely to be overidentified than Black boys, but more likely to be labeled than White girls and boys. Again, because we can assume that Black boys and girls share similar social class standing, within-group gender differences in identification rates confound attempts to explain racial differences as primarily due to social class or race. Moreover, when language is taken into consideration, Spanish-speaking students who are learning English are much more likely to experience overrepresentation than those who are not. Such within-group differences point to an urgent need for more sophisticated research methodologies to fully understand the relationship of race, disability, and special education. In the next section, we highlight some of the ways that school desegregation orders were subverted in the wake of *Brown*, and we argue

that special education inadvertently became employed as one such strategy.

STRATEGIES OF RESEGREGATION

Many factors, including the repeal of judicial oversight and the failure to institute bussing across suburban and urban districts in large metropolitan areas, contributed to the lack of progress in achieving the promise of *Brown*. Furthermore, pupil placement laws instituted in the wake of *Brown* gave school boards the authority to place students according to dubious measures of ability or aptitude (Bullock, 1967). Of course, the goal of such measures was to subvert desegregation orders. Such pupil placement laws, adopted in at least 10 Southern states in the mid- to late 1950s, were

shrewdly designed statutes that avoided mention of “Negro” or “race.” They stipulated that local districts should assign students to schools according to very complicated psychological and “academic” criteria, such as student preparation and aptitude, and the “morals,” conduct, health, and personal standards of the pupil. The goal, of course, was to perpetuate segregated schools. (Patterson, 2001, p. 100)

In Virginia, for example, pupil placement boards rejected hundreds of thousands of Black applicants seeking admission to White schools based on questionable criteria, such as health and ability to adapt (Patterson, 2001). In the *Richmond Afro American*, the editor critiqued a pupil placement policy that included criteria such as “aptitude of the child and curriculum adjustment” as well as a catch-all category that included “all other factors considered pertinent, relevant and material affecting either the child or the school” (“They’re fooling,” 1955, p. 4). The editor wrote,

In the frantic search for some means to evade the school desegregation decision, members of the Wake County (N.C.) Board of Education have come up with a slick new scheme. It is so slick that other boards are eyeing it with interest, hoping that here, at best, is a way to disobey the court and still stay within the law. The gimmick is both simple and deceptive. . . . [but] it takes no vivid imagination to envision how these rules would be manipulated to hold that not a single colored child in Wake County could ever be qualified by aptitude, health, welfare or availability of facilities to sit in classes with white children. (“They’re fooling,” 1955, p. 4)

Pupil placement boards instituted across the South after *Brown* were only one strategy to circumvent court orders—

there were quite a few others. For example, some suggested segregating students on the basis of gender in order to calm Southern fears of miscegenation. Others went as far as proposing to abolish public schools rather than desegregate them. Such plans were suggested in a number of states, including Georgia and Virginia. The Prince Edward County schools in Virginia were actually closed between 1959 and 1964, which meant that two thousand Black children received no formal education in Prince Edward County during these years (Irons, 2002). Of course, White children received state-sponsored tuition grants to attend private academies during these years. In addition to these efforts designed to refuse court orders to desegregate schools, one of the most long-standing ways to maintain segregation was achieved by resegregating students *within* schools.

Ability tracking, which Mickelson (2001) called “second-generation segregation” (p. 215), was one such method used to resegregate within schools after *Brown*. Such practices of sorting students are “grounded in ideologies [of intelligence] that maintain race and class privilege” (Oakes, Wells, & Datnow, 1997, p. 484). Rooted in biological determinism, these notions of ability “provide[d] students from White and wealthy families with considerable advantage, but under the guise of their ‘natural’ abilities” (p. 486) as opposed to their privileged social status. A teacher remarked, “We all know that [tracking has] been a masquerade sometimes for institutional racism and classism” (cited in Oakes et al., 1997, p. 482). In many instances, tracking was instituted to appease White parents who assumed that integration would result in lower academic standards. Thus, tracking was seen as a strategy to curb the phenomenon of White families enrolling their children in private or suburban schools—a practice that came to be known as *White flight*. However, tracking was not always enough to keep White parents assured of their children’s privileged position. As one parent lamented, “we’ve moved our sixth-grader to parochial school . . . [because] the whole curriculum’s deteriorated” (Morgan, 1980, p. A6). Similar worries about “disrupting” the curriculum would resurface later when students with disabilities were seeking access to the general education classroom. Whether the normative space of the classroom was threatened by desegregation or by the inclusion of students with disabilities, the responses by White families and families of nondisabled children were similar in voicing strong resistance to integration and inclusion.

In addition to tracking, one of the most effective and pernicious means of resisting desegregation has been to over-refer students of color to segregated special education classes. In one example, perhaps to curb the huge tide of White students who were leaving the district, the schools in Washington, DC, doubled their enrollment of students in special education classes by placing many of their newly admitted Black students in segregated special education classrooms (“Negroes,” 1956). In fact, in the DC schools between 1955 and 1956, special education classes not only doubled their enrollment, but approximately 77% of students in special

education classes 1 year after schools were ordered to desegregate were Black ("Negroes," 1956). Of course, special education is always embedded within the larger education system, in which we continue to find racial disparities in areas such as dropout rates, juvenile infractions, academic tracking, and suspensions (Losen & Orfield, 2002, p. xvi). However, because of its central role in resegregation, the field of special education *in particular* must interrogate the ways that it has participated in the failure of *Brown* (Artiles et al., 2002). Whether we are talking about desegregation, immigration, compulsory attendance laws, or increased referrals to special education in response to statewide testing, special education has always served as a place for students who cannot or will not be assimilated (Heubert, 2002).

Thus, although special education may be seen as benevolently serving students with disabilities, it also serves the needs of the larger education system, which demands conformity, standardization, and homogenization (Hehir, 2002). Such values are often at odds with creating an inclusive school environment that is accepting and welcoming of human difference and diversity. Ironically, history illustrates that at the very moment when difference is on the verge of being integrated or included, new forms of containment emerge to maintain the status quo. Thus, when schools were finally ordered to desegregate, other modes of dividing students by race were instituted. This meant that segregation, which was once achieved by building separate schools, could now be achieved by building separate classrooms. In the first years after *Brown*, racial resegregation was accomplished in large part by placing non-White students in non-academic tracks and in special education. In the next section of this article, we focus on the origins of the current problem of overrepresentation by tracing the tangled relationship of special education and resegregation in the first years following the *Brown* decision.

EARLY REFLECTIONS ON *BROWN*

In the first 2 years following the *Brown* decision, several newspapers reported follow-up stories on schools that had begun to desegregate. What these follow-up stories shared was a hyperfocus on racial difference, which, of course, served to shore up White supremacy at a time when it was being threatened. Many of these follow-up reports listed or charted student comparisons on every dimension imaginable, and "ability" was increasingly enlisted to justify within-school segregation and tracking.

Schools in St. Louis, for example, were followed in the first and second years after integration in the *Southern School News*, a monthly publication financed by the Ford Foundation, which compiled news stories and editorials from across the country to chart the progress of desegregation. The first of these reports was from a previously all-White St. Louis high school, which gained 500 Black students in the first year after *Brown*. The enrollment jumped from 900 to 1,400 that year,

and one third of the students in the school were now Black ("First year," 1956, p. 3). Although desegregation in St. Louis schools began before the official court order and proceeded "without a single incident of identifiable racial friction," teachers in the first year reported vast differences between their White and Black students. For example, teachers reported that Black students were "tardier to school, tardier to class, more prone to skip an afternoon's classes, more inclined to absenteeism" (p. 3).

In another report, the principal, Mrs. Compton, noted that although students were getting along "famously," very few of the Black students "are rated by standard tests in the above average group . . . Most are low average or below average" ("Missouri," 1955, p. 19). Elementary teachers in this school were also interviewed. A sixth-grade teacher stated, "Most of 'them' [Black students] are definitely slow to learn. The Negroes generally are slower physically and mentally" (p. 19). Her colleague, a fourth-grade teacher, agreed, "The scholastic differences are 'dreadful'" (p. 19). She told the reporter that the "individual needs of the very inferior Negro students just cannot be met in a class of this size." She stressed that White and Black students learn differently and Black students "have trouble following detailed instructions" (p. 19). Finally, a first-grade teacher reported, "The five Negroes are all below average, and the lowest in the class" (p. 19).

Teachers and administrators in these reports seemed to have come to a shared consensus that the "biggest problem [posed by integration] is the difference in academic aptitude and achievement" among White and Black students ("Missouri," 1955, p. 19). A common feature of these reports is the documentation of comparisons in various subjects among White and Black students, carefully listed in percentages. In one of these reports, however, the reporter was careful to mention that teachers made these comparisons of students, "without reference to racial prejudice, and attributing the facts solely to differences in cultural, social and economic background" ("First year," 1956, p. 3). As this statement illustrates, there was a degree of carefulness about the ways in which student differences were explained. We found similar statements about differences in ability or achievement not being racial per se repeated several times in this and other articles. Of course, although teachers were not willing to attribute differences to race, they had no problem pathologizing students' cultural or familial backgrounds.

The following year, in an article entitled, "The Second Year is Harder," St. Louis teachers stated that "now the novelty has worn off" ("The second year," 1956, p. 1). The teachers in the second report stated, "Scholastic disparity remains just as great . . . [but these differences are] now complicated by feelings of frustration and defensiveness on the part of the Negroes" (p. 1). Of course, the fact that Black students were dealing with the indignity of being called "slow learners" and "below average" in their local paper was not seen as having anything to do with these "feelings of frustration and defen-

siveness" (p. 1). Again, this year, the principal was careful to say,

They are not racial differences. . . . They are differences of cultural background, family habits, educational level, interest in and capacity for learning, and parental concern and direction, and so on. It is not the color of the skin that makes these differences. . . . The fact is we now have in our school one group of youngsters so very different in all these ways that the teaching problem is complicated and the social results in the classroom difficult. ("The second year," 1956, p. 1)

Although she was careful not to attribute differences to race, her words were contradicted by an accompanying chart, which listed the numbers of students who were White and Black and then divided those groups into average, below-average, and above-average achievers ("The second year," 1956, p. 1). The chart did not explain, however, how the school came up with these numbers or what criteria they used to determine these categories. Moreover, on this list only one Black student was rated above average out of a total of 59 Black students (less than 2%), whereas 27% of White students in the school were deemed above average. In fact, more Black students were rated below average (62%) than were included in the average or above-average categories combined! Only 21% of the White students were rated in the below-average range. No text accompanied the chart—the figures were reported simply as fact.

In this second-year report, teachers were again interviewed. One teacher reported that the "majority of Negro pupils in her class are slow learners, need special attention, may ultimately affect the quality of education available to others" ("The second year," 1956, p. 1). She also claimed that absenteeism and tardiness were more of a problem with her Black students. She also found Black parents "uncooperative and unresponsive to suggestions." She concluded from her observations that "Negroes have a poorly developed sense of responsibility, apparently due to neglect at home" ("The second year," 1956, p. 1). Another teacher explained that Black students were experiencing a "conflict between *traditional* standards for middle-class White children and lower standards, which Negroes in a segregated school and at home had been accustomed to" (p. 1, *italics added*).

Again, in these reports, we found an almost unrelenting focus on differences between White and Black students, although again the differences between White and Black students were not characterized as racial differences. Some of the interviewers went so far as to inquire about differences in "hygiene and cleanliness" ("First year," 1956, p. 3) or "health and sanitation problems" ("Parochial school," 1955, p. 14) between White and Black students. Although teachers did not report any differences in these areas, the fact that hygiene and sanitation would even be questioned reflects an unstated

assumption about the depth of presumed differences between these two races.

Teachers in these follow-up reports were often asked to reflect on the impact that increased diversity among students was having on themselves and other teachers. In one report, two teachers gave very different responses to this question. One teacher reflected that "Negroes may benefit from integration, but at this stage the teacher is drained of vitality due to strain of managing differences in academic standards, cultural background, behavior patterns, personality" ("The second year," 1956, p. 1). The reporter contrasted this teacher's experience with another teacher who claimed to have a very different experience. The reporter described,

one new teacher who had just come out of university, where she studied alongside Negroes in a wholly integrated situation, did not report nearly so many problems and disappointments as some of those who had been teaching for many years in an all-White school. She accepted integration from the start and began her teaching career within that frame of reference. ("The second year," 1956, p. 1)

At least in this one example, we can see some hint that that the problem of diversity may lie in the perceptions and attitudes of teachers and administrators, or even of White students and families, as opposed to Black students themselves.

In another report of a parochial school that began integration voluntarily, the principal reported that although everything was going along fine, several complications had arisen from the school's interactions with public schools that had "declined to play them in basketball" because they were an integrated team. A field trip also had to be abandoned because the state-owned park would not admit a Black student ("Parochial school," 1955, p. 14). This is the only example in which the politics of integration takes center stage, although the principal also warned that the "problem of integration becomes [more] difficult as the proportion of Negroes to Whites in a school increases" (p. 14).

Perhaps the most disturbing aspect of any of these reports is the second follow-up report from St. Louis, in which a teacher stated that "segregation within integration" was developing this year, not on racial lines but on those of ability and cultural background ("The second year," 1956, p. 1). Apparently, the same students who a year ago were "getting along famously" were now resegregating themselves in accordance with school-based definitions of ability. The teacher described the students as "voluntarily" segregating themselves. The teacher reported, "Neither group seeks out the other . . . [and] each seems to find it more comfortable to be with their own kind" (p. 5). After 2 years, Mrs. Compton agreed with these divisions and said that the most "retarded Negroes should be given special attention in classes for slow children, so that they would not burden the regular classes"

(p. 1). This theme of diversity being a burden or drain on the system would surface again with the inclusion of students with disabilities. In both cases, the normative space of the classroom is seen as being under siege.

CONCLUSION

It is important to note what was said and not said in these follow-up reports. In general, nothing was contextualized. For example, we did not find questions about whether the teacher expectations or the measures of aptitude or achievement that were yielding such differences along racial lines might be biased. Nor could we evaluate these measures, as none of them were mentioned. We do not know why students were missing class or to what degree they were late or absent. Nor did we find any mention of shortened school schedules for Black schools, so as to not interfere with White plantation owners' planting and harvesting schedules. We also did not read that many Black schools were forcibly closed in the struggle to resist desegregation orders—or that many Black students were actively denied transportation.

What we *did* read in these reports and others was an increasing cognitive merging of race and ability, which was then used to further justify the impossibility of desegregating schools or to argue for the necessity of resegregating classrooms through tracking or segregated special education placements. For example, in an article entitled "Slow Learner Plan Urged," the commissioner of education advocated "holding back slow learners until they catch up" ("Slow learner," 1956, p. 6). Furthermore, the commissioner argued for revising the school system "to permit the placement of children in accordance with their ability to learn" (p. 6). As another report explained, "there would be no integration this fall and the academic lag between White and Negro schools was given as one reason" ("East Tennessee," 1956, p. 7).

Thus, what emerges from these early reports is the use of perceived academic difference as a justification for racial segregation and exclusion. When segregation could no longer be justified based on the rationale of race, a new way of talking about student difference had to be created. This deficit way of thinking about differences would lead to a burgeoning of ability tracking and special education classes during the years following *Brown*. Thus, of all the many strategies that were employed to resist desegregation—and there were quite a few—one of the most effective was the use of tracking and segregated special education. This is the shameful legacy of the current problem of overrepresentation. Of course, these supposedly non-race-related strategies were recognized early on by African American leaders, such as Mary McLeod Bethune and others, as nothing more than thinly veiled racism. As Preston King (1955) wrote,

The issue inherent here is, what legal or moral position can Georgia and the South take which

would foster upon the Negro a second class citizenship and yet be just? . . . There is no shred of evidence to indicate that the Negro is racially inferior and unfit. (p. 4)

Mary McLeod Bethune (1955) agreed:

So many of us have heard that there are great "differences" between White people and Negro people. This is what we might call a "half truth." There are great differences between all people, for we are each a unique being, a person. It is the emphasis on the differences, instead of all that we have and all that we are in common, which makes for tension. Emphasis on our similarities, on the ways we are alike, makes for understanding and hence for appreciation of each other. (p. 9)

If we are to learn from the history of *Brown*, we must consider how many of our current educational practices serve as tools of social control and exclusion and not, as we might prefer to think, as democratic tools of social transformation. By focusing on technologies of *exclusion* rather than examining strategies that support and justify *inclusion*, we aim to question traditional progress stories, in which special education is characterized as building on previous civil rights movements and struggles. In other words, we argue that it is time to rethink the origin story of special education and to acknowledge the ways that special education has contributed to the subversion of *Brown*. We hope that by attending to our failures and our complicities, we can, from the shadow of *Brown*, create a different and more inclusive future. ■

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AUTHORS' NOTE

We wish to thank Ellen Brantlinger for her careful reading of this article in manuscript.

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Manuscript received 7/23/2004
Revision received 9/15/2004
Final acceptance 10/12/2004

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