
Witnessing *Brown*

Pursuit of an Equity Agenda in American Education

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ABSTRACT

The 50th anniversary of the *Brown v. Board of Education* decision provides a critical opportunity to reflect on *Brown's* importance, impact, and the lessons it provides on achieving racial desegregation and its relationship to the progressive inclusion of students with disabilities into public schools across the United States. This article explores the parallels and intersections between the racial desegregation of America's public schools and the inclusion of students with disabilities in these schools.

PUBLIC SCHOOLS WERE AT THE CENTER OF THE National Association for the Advancement of Colored People's (NAACP) strategy to achieve racial equity economically and socially throughout the United States in the 1950s. Despite the heroism of Black soldiers in World War II, the integration of troops, and the opportunities to pursue education through the Veteran's Act, Black Americans in the late 1940s and the 1950s faced Jim Crow laws in much of the South and de facto segregation throughout much of the North. Stymied by attempts at social and economic integration, the NAACP decided to focus on desegregating the schools:

"Segregation," "desegregation," "integration" and "assimilation" are key words that have served as lenses through which racial inequity and oppression through schooling have been viewed and understood. This language is not a compatible fit with the real world of schools, teaching and learning, nor does it reflect an understanding of the full dimensions of the problem. (Hilliard, 2004)

Many Americans view public school education as a great equalizer. Through education, upward mobility and the pursuit of the American dream were felt to be possible for Black Americans. The logic was that by desegregating the schools, the future generations of Americans who would attend integrated schools would achieve equity and erase the color line. The first step was to create proximity between Blacks and Whites and to allow Black children access to the privileged education formerly available only to Whites. Lawyers and activists recruited plaintiffs, cultivated local school support, and laid the groundwork for the long legal challenge to the racial segregation of schools (Sullivan, 2004). By exposing the differential outlay of resources for children of color in terms of teachers, materials, and even facilities, lawyers for the plaintiffs revealed the lack of opportunity available to Black children because of the systematic segregation of students by race. In an elegantly constructed argument, the plaintiffs made the case that even children were well aware of the privilege and preferential treatment received by White children simply because of the color of their skin. In their disposition of the case, the Supreme Court found that "separate was not equal." Although the rhetoric was powerful, many White Americans were not prepared to live in integrated communities. They were particularly concerned about the prospect of integrated schools. Thus, in the wake of desegregation orders, public schools in affected areas experienced White flight to residential areas that were predominantly White. Whereas many families pulled their children out of public schools, preferring to pay for private, segregated schools, other families pressured public school systems to institute new forms of segregation. Tracking students, initiating gifted and talented programs and magnet schools, and flight to the

suburbs were all avenues used by Whites to resist and avoid school desegregation.

In spite of a range of approaches to maintain segregation, a half-century after *Brown*, there are successful examples of racially mixed communities that also have racially integrated schools, where students from a variety of racial, ethnic, and cultural backgrounds are educated side by side. Unfortunately, these schools appear to be the exception rather than the rule. Although proximity to each other in desegregated schools may be the first step, it is not sufficient. In most racially desegregated schools, many students continue to be marginalized in subtle and not so subtle ways. The results of this grand experiment suggest that proximity alone does not eliminate the socially constructed boundaries that marginalize some students and privilege others. Scratch the surface and the data suggest that continued vigilance and action are needed. For instance, students of color are more likely to (a) be placed in special education, (b) fail to graduate; and (c) take vocational rather than college preparatory courses. When the Education Trust examined the number of students of color who were in college prep tracks in high school, they found that only a small percentage of the students of color were represented. This is one of many ways that some students do not have access to the same high-quality curriculum and, thus, may not achieve well on standardized achievement measures like the American College Test (ACT) or the Scholastic Achievement Test (SAT). The children of migrant workers; children who are culturally, linguistically, and ethnically diverse; children with disabilities; and children who are homeless are also attending schools alongside their White, middle-class peers.

For the past 25 years, the National Assessment of Educational Progress (NAEP) has published the *Nation's Report Card*, which delineates how well we are educating our students in the basic content areas of reading, writing, social studies, and other literacy areas (Lee, 2002). Reading report cards in the 1990s showed large racial and ethnic differences (Lee, 2002). At Grades 4 and 8, 22% of White students were performing below a basic reading level, but 57% of African American and 51% of Hispanic American students, respectively, were reading below this level (U.S. Department of Education, 1989). Many children who read below grade-level expectation are referred to special education. These disheartening data, the goals of the desegregation litigation, and the increased student demographic diversity heighten the importance of the U.S. Department of Education's mission to ensure equal access to education and to promote educational excellence throughout the nation.

In this article, the parallels and intersections between racial segregation, special education, and the inclusive schools movement are explored. In many ways, the movement to include students with disabilities in general education and the continued struggle to racially integrate America's schools share similar paths. These paths diverge, however, because the progressive inclusion of students with disabilities has thus far

largely involved and benefited children and families from the White middle class. This terrain has become increasingly disparate in benefits because in many places, students of color have a heightened risk for being identified as having disabilities, and once classified, they are more likely to be educated in segregated special education classrooms (Oswald, Coutinho, & Best, 2002). There is danger in ignoring the potential for marginalization (and denial of access to quality public education) based on either race or disability or both.

CULTURAL AND HISTORICAL CONTEXT

Racial segregation has a long history in the United States, beginning with slavery and continuing with legally enforced segregation of public and private institutions after emancipation. At the same time, activists have fought against racial injustices, leading up to the successful *Brown v. Board of Education* (1954) lawsuit. It seems important to review the history prior to *Brown* to situate this landmark litigation in its historical context.

The 14th Amendment to the U.S. Constitution ensures equal protection for U.S. citizens—that is, for the very inclusive “We the People.” Since its enactment into law by legislative and executive branches of the federal government following the Civil War, the 14th Amendment has endured multiple challenges to equal rights. Initially, the concept of equal protection under the law was explored as communities began to apply the concept to newly freed slaves. Particularly in the South, all freedoms were debated, including the right to own property, the right to marry, the right to vote, the right to run a business, and the right to equal access to public institutions. Regarding this last right, litigation ensued, and the judicial branch retrenched to uphold racial segregation across the nation in the 1896 *Plessy v. Ferguson* Supreme Court decision.

Segregation was given the Supreme Court's stamp of approval in *Plessy v. Ferguson* under the “separate but equal” doctrine, which held that Blacks could be kept apart from Whites as long as the facilities to which Blacks were confined were substantially equal to those for Whites. The court ruled that separate facilities met the equal protection clause of the 14th Amendment. Southern states passed laws that restricted Blacks' access to schools, restaurants, hospitals, and public places. “Whites Only” or “Colored” signs were posted at entrances and exits, water fountains, waiting rooms, and restrooms. The judicial branch provided further support for segregation in the *Cumming v. Richmond County Board of Education* (1899) ruling that separate schools were legal even if comparable schools for Black Americans were not available. Laws restricting all aspects of life varied from state to state. Subsequent litigation upheld the doctrine of “separate but equal” despite the glaring discrepancies in the quality of facilities and services for Whites and Blacks for more than a half-century. Whereas segregation was firmly enforced, the

segregating states were lax about providing equal facilities (Carter, 2004).

Similarly, people with disabilities have been subjected to prejudice, discrimination, and segregation in the United States and throughout the world. Bogdan and Biklen (1976) defined *handicapism* as (a) a theory and set of practices that promote unequal and unjust treatment of people because of apparent or assumed physical or mental disabilities; (b) a concept similar to racism and sexism. Handicapism is more than just personal ignorance and prejudice; it is entrenched in society at every level and in every institution (Bogdan & Biklen, 1976). Smith (2001) noted that (a) disability labels are not benign; (b) some disability labels carry greater stigma than other labels; and (c) the degree or level of involvement of disability is a cofactor in stigmatization and segregation. The lives of individuals with disabilities have a range of opportunities that are limited less by their disabilities than by societal attitudes and by the way that people view others (Gartner & Lipsky, 1999). Barton (1999) defined *disability* as “a form of oppression,” noting that “the fundamental issue is not one of an individual’s inabilities or limitations, but rather a hostile and unadaptive society.” Consider the attitudes, values, and beliefs about students with disabilities and school inclusion expressed in a New York Times Magazine article:

On children’s television, the kid in the wheelchair has become a kind of mascot, beloved by all his gang. But imagine a real-life classroom where all of the children are nondisabled except the one who drools uncontrollably, who hears voices or who can’t read a simple sentence when everyone else can. Diversity is a noble ideal. But many disabled children would be marginalized and ridiculed in the mainstream. . . . Special education was never intended as a permanent place except for the most profoundly handicapped students. . . . But the central goal was always to educate children who had traditionally been viewed as ineducable. (Staples, 1999)

ADVOCACY AND ACTIVISM

Advocates and activists have been instrumental in the quest for equity in America’s schools. Their collective, organized efforts have produced both racial desegregation and the inclusion of students with disabilities in public schools.

The NAACP

The NAACP was founded in 1909 by a multiracial group of activists, who answered the call to renew the struggle for civil and political rights (NAACP, 2004). The NAACP sought to eliminate segregation in public education from primary school

to the highest levels of the state university system, including the graduate and professional schools. Their approach was to litigate a series of test cases to challenge the constitutional validity of racial discrimination in American society, which they felt could no longer be ignored or denied. In 1952, seventeen states still had legally segregated schools. Segregation encompassed far more than the “separate but equal” doctrine and petty apartheid reflected in “Whites Only” or “Colored Only” signs (Reed, 2004). Segregation was a system of state-sponsored and state-enforced racial domination about who had the rights and protections of citizenship and who did not (Reed, 2004). Segregation was not just the mandatory separation of the “races” in schools, “but instead was a total structure of domination across major societal institutions . . . that reflected the robustness of the White supremacist social order, and its manifestation in the structure” (Hilliard, 2004). Segregation installed and maintained a pattern of social relations rooted in class, economic, and power dynamics anchored by the ideology of White supremacy (Reed, 2004).

The NAACP’s leadership decided to wage a strategic battle against segregationist policies by focusing on schools. In fact, *Brown v. Board of Education* (1954) was composed of four cases from the states of Kansas, South Carolina, Virginia, and Delaware. By deciding to bring these cases together to the Supreme Court, the plaintiffs were able to develop a powerful case that equal protection under the law, the key phrase of the 14th Amendment, was not possible when schools were segregated.

Brown v. Board of Education

On May 17, 1954, a unanimous Supreme Court invalidated state laws requiring or permitting racial segregation in public primary and secondary schools. Chief Justice Earl Warren read aloud the *Brown v. Board of Education* decision that racial segregation violated the equal protection clause of the 14th Amendment, stating, “We conclude that in the field of public education, the doctrine of separate but equal has no place. Separate educational facilities are inherently unequal.” Some have maintained that the 1954 *Brown v. Board of Education* Supreme Court decision is the most important judicial ruling in the history of our democracy (Carter, 2004; Wu, 2004). The decision is the high-water mark of the civil rights movement that used a hard-edged litigation strategy paired with a 20-year-long organizing effort (Sullivan, 2004). *Brown* is a tangible sign that courts can right fundamental wrongs in the struggle for racial justice. It provided the momentum for the civil rights movement that led to the end of officially and explicitly sanctioned racial segregation. Conversely, the *Brown* backlash also mobilized White segregationists to oppose Blacks’ efforts for equality with radically increased vigor as Black southerners petitioned for school integration, boycotted segregated municipal buses, and attempted to desegregate all-White public universities.

The *Brown* court's fundamental failure to articulate an affirmative standard for public education's postsegregationist future was a momentous judicial mistake that opened the door to a decade of evasion. This failure to consider or operationally define the standard for "some substantial degree of integration" had the effect of undermining the integration imperative (Wu, 2004). Hence, the status quo of segregation was maintained. Subsequent Supreme Court judgments have also eroded *Brown*'s effectiveness by upholding racial divisions that coincide with urban and suburban boundaries, thus accepting racial divisions that emerge from housing availability (Wu, 2004). Furthermore, some school districts have used several strategies to circumvent school desegregation, and some may have resegregated students by using special education placements (Fierros & Conroy, 2002). NAACP General Counsel Robert L. Carter (2004) lamented,

This majestic ruling, however, was compromised by the "all deliberate speed" or "over time" relief formula the Court adopted in 1955, the first time it has ever deferred immediate vindication of a successful litigant's entitlement to a constitutional right. The over-time provision corrupts *Brown* with racist delimitations, scored with a White supremacist brush.

The history of the United States might well be organized into the pre- and post-*Brown* eras. That the *Brown* strategy was developed and led by Black activists may have even greater significance. In the United States, from its founding days, the greatest shapers of our culture have been agitators and resisters who have sought restitution and reform for the marginalized and the exploited. The narrative for the right-to-education litigation for individuals with disabilities follows the path of *Brown*.

Although *Brown* has not achieved its primary purpose—to guarantee equal educational opportunity for all American children—its mandate is written into law and history and continues to shape the struggle for racial and social justice (Sullivan, 2004). *Brown* was a major challenge to the structure of racial domination, but it did not have the capacity to address the totality of the school problem—a problem maintained through economic and political power dynamics and White supremacy (Hilliard, 2004). The absence of real understanding about domination continues to perpetuate some of the worst elements of school segregation, such as "tracking" (Hilliard, 2004).

The Complexity of Segregation

Integrating the schools did not eliminate the ideology of White supremacy from which segregation derived (Hilliard, 2004). Ewing (2001) explained that both in and out of school, whiteness accumulates privilege and status whereas color accumu-

lates deficits or disadvantages in classrooms where teachers display power through discipline, praise, attention, and use of curricular materials that highlight the existence and the contributions of Whites to the history of America. Although the phenomenon of power and privilege corresponds with racism, it is essential to recognize that racism functions not only through overt prejudice and discrimination but also in the unconscious attitudes and behaviors of our society that presume but do not acknowledge the pervasiveness of White cultural norms (Ewing, 2001). White people have privilege, whether they are overtly racist themselves or not, and privilege plays out differently depending on context and other aspects of one's identity (Jensen, 1998).

The Arc of the United States

The National Association for Retarded Citizens (NARC) was founded in 1950 as the National Association of Parents and Friends of Mentally Retarded Children. The NARC was founded due to several factors, including (a) widespread exclusion from school of children with IQs below 50, (b) lack of community services, (c) waiting lists for admission to residential institutions, and (d) parental dissatisfaction with the conditions in many institutions (Segal, 1974). Families whose children were not allowed in public schools had to organize to establish classrooms in church basements and community centers. The organization became the National Association for Retarded Children from 1953 to 1973, then the National Association for Retarded Citizens from 1973 to 1981, the Association for Retarded Citizens of the United States from 1981 to 1992, and, since 1992, The Arc of the United States.

Just as the NAACP used a legal precedent to increase equitable educational opportunities, the Pennsylvania Association for Retarded Children (PARC) organized another historic right to education class action suit, *PARC v. The Commonwealth of Pennsylvania*. The 1971 *PARC* decree extended *Brown* by successfully arguing that the provisions of Pennsylvania state law allowing schools to exclude children with mental retardation from schooling with their peers violated the principles of *Brown* (Public Interest Law Center of Philadelphia, 2004). The importance of *PARC* was heralded on the front page of *The New York Times* on October 9, 1971, and again in an October 13, 1971, editorial. The *PARC* decree led to the passage of the Education for All Handicapped Children Act of 1975, now the Individuals with Disabilities Education Act (IDEA; Hehir & Gamm, 1997). This civil rights legislation was crafted to ensure that students with disabilities had access to a free, appropriate public education (FAPE) in the least restrictive environment (LRE). Its genesis lay in a group of families who, through grassroots organization, led the successful battle to gain such access for students with disabilities. The parallel between the NAACP and The Arc is remarkable. Yet their struggles for equity and access have remained largely separate.

LITIGATION, LEGISLATION, AND IMPLEMENTATION

In the decade following the passage of IDEA, data collected by the U.S. Department of Education indicated (a) consistent reliance on segregated facilities for the educational placement of students with disabilities and (b) great variability in placement patterns across individual states (U.S. Department of Education, 1989). These findings led the federal government to question whether factors other than the type and severity of disability contributed to school placement decisions. In other words, why were some states much more successful than others in providing special education and related services in integrated school settings? While raising these difficult questions, the report also suggested that “attributing meaning to the degree of variability across states may be more a matter of values than empirical analysis” (U.S. Department of Education, 1989, p. 29).

Gilhool (1989) argued that the LRE provision of this law constitutes an “integration imperative,” and that Congress recognized that effective schooling would not be found in the segregation of students with disabilities because (a) all children learn from modeling the behavior of other children, (b) children must attend school together if students with disabilities are to lead a decent life in the community as adults, and (c) parental and community supervision of schools would ensure equitable resource distribution and greater protection for all students if children with disabilities were educated with their typical peers (Smith, 1997). In spite of professional developments and the clear preference of Congress, courts are increasingly refining LRE doctrine (Brady, McDougall, & Dennis, 1989).

In 1986, the Office of Special Education and Rehabilitative Services (OSERS) proposed the Regular Education Initiative (Will, 1986), encouraging special and general education to form a partnership to serve students with special needs in general education classrooms. The Office of Special Education Programs (OSEP) recognized that building the capacity of local schools to serve all students could be conceptualized either as an issue of the LRE provisions of the law or as an issue of implementing best practice (Bellamy, 1987). OSEP employs both focused-monitoring formula grants and discretionary research-to-practice grants programs. The Regular Education Initiative (REI) launched several LRE initiatives, including (a) the National LRE Network; (b) the California Research Institute on the Integration of Students with Severe Disabilities; and (c) the Statewide Systems Change Projects for Students with Severe Disabilities.

Whereas the movement to desegregate schools racially and the movement to integrate students with disabilities have operated in parallel universes, activists for the desegregation of schools for students with disabilities have capitalized on the arguments and strategies used for racial desegregation. The National Federation for Families of Children with Special Needs issued a parent training document concerning LRE

provisions with a red, white, and blue stars-and-stripes cover with the “separate education is inherently unequal” language from the *Brown v. Board of Education* decision prominently displayed on the cover (Taylor, Biklen, Lehr, & Searle, 1987). Advocates established a conceptual foundation for LRE and inclusion that was grounded in principles of social justice and equity. Hardman (1987) argued that the last bastion of sanctioned segregation in the United States is the segregation of people with disabilities in the educational system and noted that integration is not a goal; it is a means to achieve the goal of social participation and acceptance. In fact, Hardman argued that we bus to segregate students with disabilities. Principles of effective racial desegregation (see Appendix) were disseminated by the National LRE Network to serve as a blueprint for systems change in the movement of students with disabilities from segregated schools to integrated school campuses (Hardman, 1987).

THE STRUGGLE FOR EQUITY CONTINUES

The *Brown* decision addressed two main issues—the physical segregation of schools and the financial inequities in school funding (Hilliard, 2004). The financial inequities continue to this day. Consider that the U.S. Government Accounting Office reported that 80% of our nation’s urban schools are funded at a lower rate than their suburban counterparts, in spite of the recent influx of state funds to shore up failing urban school systems. The lack of equitable funding over an extended period of time has led to increased class sizes, lack of sufficient books and materials, shortages of certified teachers, and the deterioration of school buildings (Kozol, 1991). The magnitude of these problems should be of grave concern given that urban schools represent 4% of American school districts but serve more than 44% of our nation’s students (*Federal Register*, 1997). The very nature of our system for funding schools has disadvantaged urban school systems since the Great Depression (Anyon, 2001). Sullivan (2004) lamented the current status of educational opportunity for a significant proportion of Black children because it mirrors the pre-*Brown* era due to the lack of essential resources. Nowhere is the need for this broadening of cultural perspective more apparent than in the hallways and classrooms of our nations’ urban schools (Fine, 1994).

SEGREGATION BY RACE AND DISABILITY

Racial Desegregation

The Harvard Civil Rights Project has argued that 50 years after *Brown*, schools are as segregated as ever. Orfield and Lee (2004) contended that in many districts where court-ordered desegregation ended over the past decade, schools have experienced a major increase in segregation. In three of four cases, a long-term trend reversing desegregation has

been maintained. Interesting enough, rural and small-town school districts are for the most part more integrated for both African Americans and Hispanic Americans than central cities in large metropolitan areas (Orfield & Lee, 2004). In these districts—and in the suburban rings of large metropolitan districts—school segregation is rife. Furthermore, the National Center for Culturally Responsive Practices (NCCREST; 2004) is finding that cities are deeply segregated by race.

In schools where the White majority population is an actual numerical minority, the conditions of schooling are unrelentingly impoverished. Facilities, curricular materials, teachers, and transportation are all woefully inadequate. Students face safety and security issues on a daily basis. The reverse is almost never true; students in majority White schools often experience the high-quality curricular and instructional settings offered by the best public schools in the nation. Hispanic children confront very serious levels of segregation by race and poverty, and non-English-speaking students tend to be segregated in schools with each other (Artiles, Rueda, Salazar, & Higareda, 2002). The data show no substantial gains in segregated education for Hispanic Americans even during the civil rights era. The increase in Hispanic segregation is particularly notable in the western states (Artiles et al., 2002). Also, the rate of identification of Hispanic students for special education is increasing in the same states (NCCREST, 2004).

There has been a massive demographic transformation of the western states, which have become the nation's first predominantly minority region in terms of total public school enrollment. This has produced a sharp increase in Hispanic segregation. Thus, the persistence of racial inequality—measured by access to education, income, joblessness and underemployment, and rates of incarceration—is closely linked to an educational system that barely functions for large numbers of children of color and fails to address the needs of many more (Sullivan, 2004).

Disproportionate Representation in Special Education

In urban schools, the overrepresentation of students of color and English language learners in special education is visible (Fusarelli, 1999). For instance, students of African descent compose about 16.3% of the school-age population but represent more than 31% of the students classified as having mild mental retardation and 23.7% of the students classified as having severe emotional disturbance, whereas Hispanic students are overrepresented in the categories of learning disabilities and speech–language impairment (Heward & Cavanaugh, 2001). Researchers have suggested that patterns of overrepresentation are a result of the narrow cultural preference for particular modes of communication, cognitive schemas, affect, behavior and knowledge (Artiles, Trent, Hoffman-Kipp, & Lopez-Torres, 2000; Hilliard, 1992).

Parrish (2002) reported that in at least 45 states, Black children in special education are extensively overrepresented in some categories and that Black students experience the highest risk for being identified with mental retardation. According to NCCREST (2004), Black students represent 16% of elementary and secondary enrollments, but they constitute more than 21% of total enrollments in special education. In some states, Black students are more than two and a half times as likely as their White peers to be identified for special education services for mental retardation. Furthermore, the latest data from OSEP, displayed on the NCCREST Web site, show that Hispanic Americans, American Indians, and Asian/Pacific Islanders are disproportionately represented in special education and that children with emotional disturbance labels are more likely to be male, Black, and economically disadvantaged. These patterns have existed for the past 30 years and have been resistant to attempts to ameliorate them (Donovan & Cross, 2002).

Connecting the Dots

OSEP field-initiated research on the demographics of inclusive schooling produced a series of studies that systematically examined the effects of special education students' demographic characteristics on placement, services, and outcomes (LeRoy & Kulik, 2004). These studies investigated features of disability, race, district rates of inclusion, family income, and student placement in inclusive settings and, in summary, found that (a) students with mild disabilities are 2.4 times more likely to be educated in inclusive classrooms than students with more challenging disabilities; (b) Black students and Hispanic students with disabilities were found to be 2.5 times and 1.8 times, respectively, more likely than their White peers to be in segregated school settings; (c) even in districts with high overall rates of inclusion, minority students were two to three times less likely to be in inclusive education settings; (d) when examining inclusion rates for lower income minority students, only 17% of these students were included in the general education classroom; (e) White students received more services across all disability categories when solely the effects of race were taken into account; (f) students from higher income families were included in general education classrooms at a rate nearly double that of lower income families (62% and 38%, respectively); (g) among higher income families, students were more likely to participate in high-stakes testing, to graduate, and to go on to post-secondary education than students from lower income families; (h) wealthier parents were 3 times more likely to be involved in their child's secondary school education and Individualized Education Program (IEP) team meetings; and (i) interactive effects indicated that minority and low-income students with disabilities were least likely to be included in general education classrooms or to be provided with services and opportunities that could lead to successful adult outcomes.

LeRoy and Kulik (2004) used qualitative methods in interviews and focus groups with minority and low-income families that corroborated the quantitative findings and revealed that (a) parents felt that schools were unwelcoming institutions for their children with disabilities, and following several disheartening years of conflict with the schools, they often disengaged from any further interactions as a form of self-preservation; (b) parents were suspicious of school personnel and the school culture, and they believed that schools intentionally withheld information about their services and programs; (c) parents were well aware of the deleterious effects of the schooling process on their children, recognizing that the justice system was often the most probable outcome for their children with mild mental or emotional impairments; and (d) parents indicated that they sought other avenues and networks as support systems for their children.

Disproportionality is manifested not only in who is placed into special education, but, once in special education, in who has access to general education environments and curriculum. An important interpretation of these data was offered by Delpit (1995, 1999). She suggested that at least some of the school difficulties experienced by children of color are products of miscommunication, societal imbalances of power, and the dynamics of inequality in our educational systems. These miscommunications lead teachers to misinterpretations of academic and social performance and subsequent referrals to special education. Brantlinger (2001) observed that "an assumption underpinning disability classification is that special education service has a positive influence on subsequent school or post-school careers of students" (p. 4), despite efficacy studies that do not substantiate this claim (e.g., Dunn, 1968; Reynolds & Wolfe, 1999). As teachers confront behavior that disturbs them or the order in their classrooms, they are likely to seek special education services. Furthermore, as Smith (2001) noted, issues of ethics, power, and privilege play an important role in the determination of "disability" as children are sorted and classified in our schools. That is, in the act of referral, some kinds of academic or social skills are privileged or preferred over others, although neither may stem from a deficit.

The effects of disability labels on special education eligibility are of widespread concern. Patton (1998) asserted that the sociocultural construction of categorical labels of mild mental disability, learning disability, and serious emotional or behavioral disability has definitional and validity problems with serious negative implications for African American students.

CHALLENGES AND OPPORTUNITIES

Hilliard (2004) noted that whereas *Brown* was mainly about the Black and White divide in 1954, the rainbow of ethnic groups that are reflected in the changing demographics of the United States present conceptual and structural challenges

that require both a whole new resolve and the resources to provide truly equal opportunities to learn. Artiles (2000) argued that special education in the context of the larger cultural and political process of education reform needs to examine underlying values, views of competence, and current reform goals that may increase the likelihood that poor and minority students will be further disadvantaged. Special education reforms have focused on access and equity, but they have not adequately addressed the complex issues of exclusion and discrimination at individual or institutional levels, nor have they addressed the disability rights movement (Rivzi & Lingard, 1996). If these often disconnected conversations can be joined, they have the potential to create a coherent vision for transforming the current education system so that the social and educational inequities that currently exist for students of differing abilities, ethnicities, religions, experiences, and wealth are no longer present.

Social Dynamics of Institutionalized Segregation

Brantlinger (2001) argued that social hierarchies establish and maintain power by keeping subordinates in their designated places, and that domination is achieved through *othering*. Understanding the concept of othering helps to explain how the marginalization of students occurs when they are sorted out and labeled. A persistent theme used to justify placement in segregated educational settings involves the repetitive and onerous characteristics of students who present dangers to themselves or others. According to Grant and Ladson-Billings (1997), *positionality* is another feature that permeates social groups and is a way of describing an individual's social identity. "Positionality is both sturdy, or stable, and fluid, subject to the social contexts through which an individual moves. Positionality is always reflective of societal power arrangements" (Grant & Ladson-Billings, 1997, p. 216), with both societal structures and the varieties of specific contexts always in play. The dynamics of othering and positionality help to explain the complex dance that occurs as people organize their rhythms and routines within systems. The nature and construction of individual and group identities inform our understanding of race, culture, class, language use, gender, and disability and are inextricably linked to issues of ethics, power, and privilege in determining what is "normative" and how we become sorted into "us," "them," and "the other" (Smith, 2001).

Educators must be mindful of the impact of their responses to these complex issues of ethics, power, and privilege on the lives of students and their families, because "whether or not we address these issues overtly, in 'whispers' or not at all, they remain as critical factors" (Patton & Townsend, 1999, p.1). Williams (2001) stated that "discovering and addressing ethical issues of daily practice are perhaps the most crucial tasks in which educational leaders engage" (p. 45). Patton and Townsend (2001) asserted that

ethical issues that are heavily laden with power and privilege implications have rarely been explored in the context of African American students in special education. Segregation, overrepresentation, exclusion, and inclusion are highly complex phenomena, involving volatile issues of hierarchy, ethics, power, privilege, hegemony, and construction of “the other” (Smith, 2001). These complex phenomena, paired with the pain and sense of urgency to rectify these long-standing and deeply entrenched patterns and practices, may be contributing factors in the lack of synergy and collaboration among the overrepresentation and inclusion discourse and practice communities (Smith, 2001).

The challenge of understanding the concepts of power and privilege is daunting, particularly in the context of discussions concerning race, gender, and social class aspects of schools (Ewing, 2001). Ethics, power, and privilege are interrelated and influence all aspects of the educational system, but they are particularly insidious at the practice level in teaching, curriculum and instruction teacher preparation, policy development, and decision making in local schools (Patton & Townsend, 1999). These same elements influence constructions of special education and disability.

Disability and Racial Dialogues

Artiles (2000) asserted that the two most important developments in contemporary special education were the inclusive education movement and the overrepresentation of ethnic and linguistic minority students in special education. However, “there is a troubling silence about minority issues in the inclusion discourse, while overrepresentation scholarship lacks a vision of an ideal state of affairs; moreover, both discourse communities ignore the multi-layered historical character of human development and the multifaceted nature of culture” (Artiles, 2000). The inclusive education movement has emerged as an empowered voice about disability rights and improving educational services for students with special education needs, but it has been “painfully silent about the plight of minority students” (Artiles, 2000).

Often, the “rights of the individual” to pursue school inclusion are framed as “incompatible with the common good” (Smith, 1998, p. 164). Such underlying assumptions about the inclusion of “the other” are repeatedly played out for both children of color and children with disabilities as a rationale for exclusion and segregation. To expand this conversation beyond the special education community, practitioners, families, and researchers must engage in a dialogue that includes multicultural perspectives on inclusion and disproportionality (Artiles, 1998). Rioux (1999) stated that the backlash to inclusive education reveals societal attitudes and assumptions that (a) some children are more worthy of teaching than others; (b) the presence of children with disabilities is viewed as lowering school standards; and (c) the child with a disability is educated at the expense of nondisabled students. This holds true for all children who are “the other,” as

these children are considered less worthy of education and are accused of lowering school standards and squandering precious resources.

Proponents of inclusive education have argued that the basic tenets of special education that have led to separate programs and services promote and support the overrepresentation of culturally and linguistically diverse students in special education because they permit the exclusion of those students from general education classrooms (Artiles & Trent, 1994; Ewing, 1995; Patton, 1998; Pugach & Seidl, 1995). Furthermore, the inclusive education movement has focused on the poor outcomes that students in special education have achieved as a result of their limited access to the general education curriculum (Berres, Ferguson, Knoblock, & Woods, 1996; Ferguson, 1995; National Association of State Boards of Education, 1990; Sailor & Skritic, 1995; Skritic, 1995; Tetler, 1995).

Schools for Diversity

All school renewal and reform must address differences in culture, gender, language, ability, class, and ethnicity (Delpit, 1995). As Banks (2001) recommended, schools need a true multicultural value system that encompasses simultaneously a concept, a process, and a reform agenda. Multicultural education is based on the notion that all students must have equal access, and it acknowledges that in our current school system, some students are privileged by their sociocultural and economic status, ethnicity, and gender (Nieto, 1996). In a true multicultural education system, the practices and climate of schools that convey privilege associated with class, gender, language, ability, ethnicity, and culture are no longer present (Banks, 2001).

Teachers must understand and value children’s differing experiences based on culture, race, ethnicity, disability, economic background, and gender (Briscoe, 1991; Hollins, 1996; Lightfoot, 1983). In urban schools, such complex issues are negotiated daily in multiracial classrooms. Urban schools must draw on the strength of student diversity and use that diversity as an asset to foster creativity and to leverage new interactions that support learning (Nieto, 1996). The voices of diverse students, parents, and communities then become integral to the educational process and may suggest changes in policy and practice that better support the education and learning of all students.

CONCLUSION

The right to education litigation spanning 5 decades provides a sense of how intractable the issues of inclusion and exclusion are, given the *Brown* decision (1954) stating that “separate education is inherently unequal” and the *Oberti v. Board of Education* (1992) Federal Court of Appeals decision stating that “inclusion is a right, not a privilege for a select few.” Exclusionary practices identify some students as “the other”

by differentiating “them” from “us” and by segregating “them” from mainstream education, and children from diverse racial, cultural, and linguistic backgrounds and children with disabilities continue to be excluded and segregated in school (Smith, 2001).

Leadership involves significant influence over people’s lives, and there is therefore a need to develop sensitivity to the ethical aspects of that influence, both in terms of the way the influence is exerted and in terms of what people are being influenced to do. Educational leaders will need to address and overcome those issues related to power and privilege in educational settings (Williams, 2001, p. 45). We have learned a great deal since the passage of the EHA in 1975 about how rights, public policy, attitudes, values, pedagogy, research, and innovative strategies are interrelated and must be aligned using a systemic approach at federal, state, and local levels (Smith, 1997) to build on lessons learned in previous education reform efforts, including *Brown*.

According to Reed (2004), the main lessons learned from *Brown* are that (a) actions by and pressure on government can help change fundamental social relations and the nature of the terrain for political action; (b) political movements ferment slowly and grow in relation to their efforts to change actual policies; and (c) moments of sharp social change can condense abruptly, when least expected. The use of legislation and litigation as a vehicle of special education systems change continues to perplex many educators, because their viewpoint is grounded in the belief that real and enduring systems change cannot occur via top-down, legislative, and compliance-oriented mechanisms (Smith, 1997). However, rights, public policy, attitudes, values, pedagogy, and the use of innovative strategies are interrelated and must be aligned (Smith, 1997). Therefore, implementing inclusive school practices to ensure equity and excellence in American education requires a systemic approach at the federal, state, and local levels.

In light of these issues, it seems appropriate to conclude with the words of NAACP General Counsel Robert L. Carter:

Moreover, taking stock of the current state of public education, it is clear that *Brown* has not achieved its primary purpose of guaranteeing equal educational opportunity for children of color. Yet, in making equality for all people a fundamental tenet in our society, *Brown* provides the foundation for activists and scholars committed to fulfilling its promise to pursue that goal. I am optimistic or fatuous enough to believe that at some future point in time, America will give credence to that unfulfilled promise. (Carter, 2004) ■

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APPENDIX

REGULAR EDUCATION INITIATIVE POLICY AND PRACTICE: GUIDELINES FOR IMPLEMENTING EFFECTIVE CHANGE THAT WILL SUCCESSFULLY PLACE STUDENTS WITH SEVERE HANDICAPS INTO GENERAL EDUCATION ENVIRONMENTS

1. Develop an overall change strategy that focuses on making it happen, not whether it should happen—given the complexity of educational needs for these students, change must be handled in a comprehensive and well-conceived manner.
2. Clearly articulate the benefits to students with severe handicaps and acknowledge the logistic issues without overstating the problem.
3. Implement change based on a simultaneous, districtwide basis—this minimizes resistance and facilitates comprehensive planning.
4. Top-level support is essential to successful integration—any change in the status quo directly affects administrators, teachers, and parents, but can be minimized with a clear directive from central administration.
5. Involve community leaders, parents, professionals, and advocacy groups in designing the change strategy—effective change can be initiated as well as supported at the grassroots level through parental and teacher advocacy.
6. Place students as close as possible to their own neighborhood school.
7. Emphasize maintaining and improving the quality of services while being flexible about the ways in which they are provided.
8. Actively plan for integration, not just physical proximity.
9. Build in feedback and evaluation mechanisms:
 - To what extent does interaction with nonhandicapped peers actually occur?
 - Do you continually reassess staff development needs?
 - Is there a means for assessing consumer feedback on a frequent basis to facilitate proactive problem-solving strategies?

Note. Source: Hardman, 1987.