

## Witnessing Brown Pursuit of an Equity Agenda in American Education

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Anne Smith, Elizabeth B. Kozleski

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by Anne Smith  
Elizabeth B. Kozleski  
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Witnessing Brown: Pursuit of an Equity Agenda in American Education

Anne Smith

United States Department of Education\*

Office of Special Education Programs

Elizabeth B. Kozleski

University of Colorado at Denver

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\* \* for identification purposes only. The opinions expressed herein do not necessarily reflect the policy of the U.S. Department of Education, and no official endorsement should be inferred.

Abstract

The 50<sup>th</sup> 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 in achieving racial desegregation and its relationship to the progressive inclusion of students with disabilities into public schools across the United States. This paper explores the parallels and intersections between the racial desegregation of America's public schools with the inclusion of students with disabilities in these schools.

## Witnessing Brown

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 forties and the fifties 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.

Many Americans viewed public school education as a great equalizer. Through education, upward mobility and the pursuit of the American dream was felt to be possible. The logic was that by desegregating the schools, the next generations of Americans who attended integrated schools would erase the color line. The first step was to create proximity and access. Lawyers and activists recruited plaintiffs, cultivated local school support and laid the groundwork for the long legal challenge to 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 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 Warren Court found that “separate was not equal.” While the rhetoric was powerful, many White Americans were not prepared to live in integrated communities. They were particularly concerned over the prospect of integrated schools. Thus, in the wake of Brown desegregation orders, public schools experienced White flight. While many families pulled their children out of public schools, preferring to pay for private and segregated schools, other families helped 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 maintaining segregation, a half-century later, there are 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. Yet, while proximity may be the first step, it is not sufficient. In racially integrated schools, there are many kinds of students who continue to be marginalized in subtle and not so subtle ways. When the Education Trust examined the number of students of color who were in college prep tracks in high school, they found that 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 ACT or the SAT. Consider that 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 and middle class counterparts. Yet, the results of this grand experiment suggest that proximity alone does not eliminate the socially constructed boundaries that marginalize some students and advantage others. Scratch the surface and the data suggest that continued vigilance and action is needed. For instance, students of color are more likely to (a) be in special education, (b) fail to graduate; and (c) take vocational rather than college preparatory courses.

For the past twenty-five years, the National Assessment of Educational Progress (NAEP) has published the Nation's Report Card that 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/ethnic differences (Lee 2002). At grades 4 and 8, while 22 percent of white students were performing below a basic reading level, 57 percent of African American and 51 percent Hispanic American students, respectively, were reading below this level (US Department of Education, Office of Educational Research and Improvement, 1996). Many of these children are referred to special education. These data heighten the importance of the Federal government's recommitment to ensure equal access to education and to promote educational excellence throughout the nation.

In this paper, the 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 desegregate America's schools share similar paths. Yet, these paths also diverge because the progressive inclusion of students with disabilities has often been a White, middle class movement in rural and suburban schools ironically has not always included students of color. Furthermore, in many places, students of color have a heightened risk for being identified as disabled. Continuing to make progress in developing inclusive schools, requires attention to both race and disability. The danger lies in ignoring the potential for marginalization on either or both dimensions.

### Cultural and Historical Context for Equity in Education

#### The Rise of Jim Crow

The 14th Amendment to the United States Constitution assures equal protection to its citizens - "We the People." Since its enactment into law by legislative and executive branches of the federal government following the Civil War, the 14<sup>th</sup> 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 (a) the right to own property, (2) the right to marry, (3) the right to vote, and (4) the right to run a business. Litigation ensued and the judicial branch retrenched to



upheld 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 African Americans 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. County Board of Education (1899) ruling that separate schools were legal even if comparable schools for African 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 glaring discrepancies in the quality of facilities and services for Whites and Blacks for more than a half-century.

Similarly, people with disabilities have been subjected to prejudice, discrimination and segregation in the United States and throughout the world. Bogdan and Biklen (1976) define "handicapism" as (1) a theory and set of practices that promote unequal and unjust treatment of people because of apparent or assumed physical or mental disability; (2) a concept similar to racism and sexism. Handicapism

is more than just personal ignorance and prejudice; it is entrenched in society, at every level, in every institution (Bogdan & Biklen, 1976). Smith (2001) notes that disability labels are not benign, some disability labels carry greater stigma than other labels, and the degree or level of involvement of disability is a co-factor in stigmatization and segregation. The lives of individuals with disabilities have a range of opportunities that are limited less by disability than by societal attitudes and how people view others (Gartner & Lipsky, 1999). Barton (1999) defines '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

## 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 by litigating a series of test cases to challenge the constitutional validity of racial discrimination in American society that could no longer be ignored nor denied. While segregation was firmly enforced, the segregating states were lax about providing equal facilities (Carter, 2004).

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, <http://www.thenation.com/doc.mhtml?i=20040503&c=4&s=forum>). 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 lead a strategic battle against segregationist policies by focusing on schools. In fact, Brown was composed of four cases from the states of Kansas, South Carolina, Virginia, and Delaware. By deciding to bring the 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 14<sup>th</sup> Amendment, was not possible when schools were segregated.

#### Brown V. Board of Education Decision

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 Fourteenth 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." 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 both a hard-edged litigation strategy paired with a twenty-year-long organizing effort (Sullivan, 2004). Brown is a tangible sign that courts can right fundamental wrongs in the struggle for racial justice and provided

momentum for the civil rights movement that led to the end of officially and explicitly sanctioned racial segregation. Conversely, Brown backlash also mobilized white segregationists to oppose African-American 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 post-segregationist future was a momentous a judicial mistake that opened the door to a decade evasion by failing to consider or operationally define the standard for "some substantial degree of integration." Hence, the Brown desegregation orders did not create an integration imperative (Wu, 2004) and the status quo was maintained. Subsequent Supreme Court judgments have also eroded Brown's effectiveness by upholding racial divisions coinciding with urban and suburban boundaries, thus accepting racial divisions that emerge from housing availability (Wu, 2004). Furthermore, some school districts used several strategies to circumvent school desegregation, and some may have re-segregated students by using special education placements (Fierros & Conroy, 2002). NAACP General Counsel Robert L. Carter laments (2004),

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. (website)

While Brown has not achieved its primary purpose--to guarantee equal educational opportunity for all African-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 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).

"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, website p.)

"Integrating" the schools did not eliminate the ideology of White supremacy from which "segregation" derived (Hilliard, 2004). Ewing (2001) explains that both in and out of school whiteness accumulates "privilege" and "status" while color accumulates "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. While 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 or not they are overtly racist themselves and privilege plays out differently depending on context and other aspects of one's identity (Jensen, 1998).

#### Legal Advocacy The Association for Retarded Children

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 come from agitators and resisters who have sought restitution and reform for the marginalized and the exploited. The narrative in the disabilities field follows suit. Families whose children were not allowed in public schools or who had to fight for classrooms in church basements and community centers formed an organization originally known as the *Association for Retarded Children*, then the Association for Retarded Citizens, and now The Arc.

While the NAACP used a legal precedent to increase equitable educational opportunities, parent advocacy groups such as The ARC worked to establish school programs. They advanced legal advocacy by organizing a series of right to education lawsuits, including the Pennsylvania Association for Retarded Children (PARC) class action suit. The 1971 PARC decree extended Brown by successfully arguing that provisions of Pennsylvania state law allowing schools to exclude children with mental

retardation from schooling with their peers violated the principals of Brown (PILCOP, 2004). The PARC decree led to the passage of P.L. 94-142 (Hehir & Gamm, 1997), the Education for All Handicapped Children Act of 1975 (EHA), now PL 105-17 - the Individuals with Disabilities Education Act - PL 105-17 (IDEA 97). 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 a successful battle to gain access for students with disabilities “to a free and appropriate education in the least restrictive environment.” The parallel between the NAACP and the ARC is remarkable. Yet, their struggles for equity and access have remained largely separate.

#### Special Education Litigation, Legislation, and Policy Implementation

In the decade following the passage of EHA, data collected by the U.S. Department of Education indicated: (a) consistent reliance upon 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 type and severity of disability contributed to school placement decisions. In other words, why are 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 (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 an adult, 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 as either 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 as well as discretionary research to practice grants program. The Regular Education

Initiative (REI) launched several LRE initiatives including (a) the National LRE Network; (b) the California Research Institute on the Integration Students with Severe Disabilities; and (c) the Statewide Systems Change Projects for Students with Severe Disabilities.

While the movements to desegregate schools racially and to integrate students with disabilities have operated in parallel universes, activists for the desegregation of schools for students with disabilities 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 selected phrases from the *Brown v. Board of Education* decision 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 U.S. is the segregation of people with disabilities in the educational system and notes that integration is not a goal; it is a means to achieve the goal of social participation and acceptance. In fact, Hardman argues that we bus to segregate students with disabilities. *Principles of Effective Racial Desegregation* (see Table 1) was disseminated by the National LRE Network to serve as a blueprint for systems change in the movement of students with disabilities from segregated schools for the disabled to integrated school campuses (Hardman, 1987).

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Insert Table 1 about here

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### The Struggle for Equity Continues

The Brown decision addressed two main issues - the physical segregation of schools and the financial inequalities in school funding (Hilliard, 2004). The financial inequities continue to this day. Consider that the Government Accounting Office report 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 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 to the deterioration of school buildings (Kozol, 1991). The magnitude of these problems should be of grave concern given the fact that urban schools comprise the 4% of American school districts that 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) laments the current status of educational opportunity for a significant segment of African-American children because it mirrors the pre-Brown era due to the lack 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).

#### Demographics – Segregation by Race and Disability

*Racial Desegregation.* The Harvard Civil Rights Project argues that 50 years later schools are as segregated as ever. Orfield and Lee (2004) contend that in many districts where court-ordered desegregation ended over the past decade, schools have experienced a major increase in segregation. In three of the four cases, a long-term trend reversing desegregation has been maintained. Interestingly, rural and small town school districts are, for the most part, more integrated for both African Americans and Latinos than central cities in large metropolitan areas. For these districts, as well as in the suburban rings of large metropolitan districts, school segregation is rife. Further, the National Center for Culturally Responsive Practices is finding that cities are deeply segregated by race (NCCRESt, 2004).

In schools where the majority population is considered a 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 segregated white schools often experience the best curricular and instructional settings offered by the best public schools in the nation. Latinos confront very serious levels of segregation by race and poverty, and non- English speaking Latinos tend to be

segregated in schools with each other. The data show no substantial gains in segregated education for Latinos even during the civil rights era. The increase in Latino segregation is particularly notable in the West. And, the rate of identification for Latino students for special education is increasing in the same states (NCCRESt, 2004).

There has been a massive demographic transformation of the West, which has become the nation's first predominantly minority region in terms of total public school enrollment. This has produced a sharp increase in Latino 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-American descent comprise about 16.3 % of the school-age population but are more than 31% of the students classified as having mild mental retardation and 23.7% of the students classified as severely emotionally disturbed while Latino students are over represented in the categories of learning disabilities and speech and language impaired (Heward & Cavanaugh, 2001). Researchers suggest that patterns of over representation 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) reports that (a) in at least forty-five states, Black children in special education are extensively overrepresented in some categories, and (b) that Black student experience the highest risk for being identified with mental retardation (NCCRESt, 2004). 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 2 and half times as likely as their White counterparts to be identified for special education services for mental retardation. In addition, the latest data from the U.S. Department of Education/Office of Special Education Services (OSEP) displayed on the NCCRESt website show that Latinos, American-Indians and Asian/Pacific Islanders are disproportionately represented in special education and children with emotional disturbance labels are more likely to be male, African American, 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 demographics of inclusive schooling produced a series of papers that systematically examined the effects of special education student demographic characteristics regarding placement, services, and outcomes (LeRoy & Kulik, 2004). They 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) African-American students and Hispanic students with disabilities were found to be 2.5 times and 1.8 times, respectively, more likely than their White counterparts to be in segregated school settings; (c) even in districts with high overall rates of inclusion, minority students were 2-3 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 studying solely the effects of race; (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 postsecondary education than students from lower income families; (h) wealthier parents were three times more likely to be involved in their child's secondary school education and Individual Education Plan Team meetings, and (i) interactive effects indicated that minority and low income students with disabilities were least likely to be included in regular classrooms or to be provided with services and opportunities which could lead to successful adult outcomes.

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Insert Table 2 about here

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LeRoy & Kulik (2004) used qualitative methods in interviews and focus groups with minority (race/ethnicity and income) families that corroborated the quantitative findings and revealed that (a) parents felt 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 and/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 sent into special education but once in, who has access to general education environments and curriculum. An important interpretation of these data is offered by Lisa Delpit (1999; 1995). She suggests 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 about academic and social performance and subsequent referrals to special education. Brantlinger (2001) observes 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. Further, as Smith (2001) notes, 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 referring, some kinds of academic or social skills are privileged or preferred over others, although neither may stem from a deficit.

Concerns about the effects of disability labels for special education eligibility are of widespread concern. Patton (1998) asserts that socio-cultural construction of categorical labels of mild mental disability, learning disability, and serious emotional or behavioral disability have definitional and validity problems with serious negative implications for African American students.

In light of these issues, it seems appropriate to return to the words of the NAACP General Counsel, Robert L. Carter (2004):

*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, <http://www.thenation.com/doc.mhtml?i=20040503&s=carter>)*

### Challenges and Opportunities in Forging an Equity Agenda

Hilliard (2004) notes that while 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 U.S. present both conceptual and structural challenges that require both a whole new resolve and resources to provide truly equal opportunities to learn. Artiles (2000) argues that special education needs examination in the context of larger cultural and political process of education reform 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 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 will help to create a coherent vision for transforming the current educational 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 undergird Institutionalized Segregation Policies

Brantlinger (2001) argues 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 involved repetitive and onerous characteristics of students who presented dangers to themselves or others. Positionality is another feature that permeates social groups. Positionality 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). Segregation, exclusion,

integration and inclusion are highly complex phenomena involving volatile issues of hierarchy, ethics, power, privilege, hegemony and construction of “the other.”

Educators must be mindful 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, 2001, p.1). Williams (2001) states, “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) assert that ethical issues that are heavily laden with power and privilege implications have rarely been explored in the context of educating African American students in special education. Segregation, overrepresentation, exclusion and inclusion are highly complex phenomena involving volatile issues of hierarchy, ethics, power, privilege, and construction of “the other” 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 systems but 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.

#### Both And: The Disability and Racial Dialogues

Artiles (2000) asserts that the two most important developments in contemporary special education are (1) the inclusive education movement and (2) the overrepresentation of ethnic/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, <http://www.isec2000.org.uk/>).” While the inclusive education movement has emerged as an empowered voice about disability rights and improving educational services for students with special education needs, it has been “painfully silent about the plight of minority students (Artiles, 2000, <http://www.isec2000.org.uk/>).”

Often the “rights of the individual” to pursue school inclusion is framed as “incompatible with the common good” (Smith, 1998). Such underlying assumptions about 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 conversation that includes multicultural perspectives on inclusion and disproportionality (Artiles, 1998). Rioux (1999) states that 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 non-disabled students. This holds true for ALL children who are “the other” as these children are considered as less worthy of education and are accused of lowering school standards and squandering precious resources

Proponents of inclusive education argue 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). Further, 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 (Ferguson, 1995; Berres, Ferguson, Knoblock & Woods, 1996; National Association of State Boards of Education, 1990; Sailor & Skirtic, 1995; Skirtic, 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 James Banks (2001) recommends, schools need a true multi-cultural value system that encompasses simultaneously a concept, a process and a reform agenda. Multi-cultural 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 advantaged by their socio-cultural and economic status, ethnicity, and gender (Nieto, 1996). In a true multi-cultural 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 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

Right to education litigation spanning five decades provides a sense of how intractable 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 Federal Court of Appeals decision (1992) 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, 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 what people are being influenced to do. In doing so, 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 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 upon lessons learned in previous education reform efforts including Brown.



According to Adolf 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 special education systems change vehicle 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 use of innovative strategies are interrelated and must be aligned (Smith, 1997). Therefore, implementing inclusive school practices requires a systemic approach at the federal, state, and local levels.



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TABLE 1. REI Policy and Practice: Guidelines for implementing effective change that will successfully place students with severe handicaps into regular education environments (Hardman, 1987)

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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 as well as acknowledge the logistical issues without overstating the problem.
3. Implement change based on a simultaneous and district-wide basis – This minimizes resistance and facilitates comprehensive planning.
4. Top level support is essential to successful integration – any change in status quo directly effects 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 / improving quality of services while being flexible about ways in which they are provided.

8. Actively plan for integration, not just physical proximity.
9. Build in feedback and evaluation mechanisms
  - a. To what extent does interaction with non-handicapped peers actually occur?
  - b. Do you continually reassess staff development needs?
  - c. Is there a means for assessing consumer feedback on a frequent basis to facilitate proactive problem-solving strategies?

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Table 2. The Demographics of Inclusion in Michigan (LeRoy & Kulik, 2004)

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- With regard to disability, students with mild disabilities are 2.4 times more likely to be educated in inclusive classrooms than students with more challenging disabilities.
  - With regard to race, Black students and Hispanic students with disabilities were found to be 2.5 times and 1.8 times, respectively, more likely than their White counterparts to be in segregated school settings.
  - Even in districts with high overall rates of inclusion, minority students were 2-3 times less likely to be in inclusive education settings.
  - 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.
  - Only 17% of students with disabilities from lower income backgrounds were included in the general education classroom.
  - White students received more services across all disability categories as compared to students of color
  - Among higher income families, students were more likely to participate in high stakes testing, to graduate, and to go on to postsecondary education than
-

students from lower income families.

- Wealthier parents were three times more likely to be involved in their child's secondary school education and IEPT meetings.
  - Interactive effects indicated that minority and low income students with disabilities were least likely to be included in regular classrooms or to be provided with services and opportunities which could lead to successful adult outcomes.
  - Parents acknowledged that schools were unwelcoming institutions for their children with disabilities and that, after several disheartening years of conflict with the schools, they often disengaged from any further interactions as a form of self-preservation.
  - Parents were suspicious of school personnel and the school culture and they believed that schools intentionally withheld information about their services and programs. They also 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 and/or emotional impairments.
  - Families indicated that they sought other avenues and networks as support systems for their children.
-