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The History of Inequality in Education

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Chapter 1

THE HISTORY OF INEQUITY IN EDUCATION

AMITY L. NOLTEMEYER, JULIE MUJIC, & CAVEN S. MCLOUGHLIN

President John F. Kennedy (1962) described education in the United States as, “. . . both the foundation and the unifying force of our democratic way of life . . . it is at the same time the most profitable investment society can make and the richest reward it can offer” (para. 2). Although the exact purposes of education have been widely debated, teachers in the U.S.A. generally accept the importance of education reflected within this profound statement and believe that their teaching prepares students to contribute meaningfully to society (Tozer, Vioas & Senese, 2002). John Dewey (1944) proposed that education serves to stimulate the intellectual, social, and moral development of individuals, which ultimately contributes to the betterment of society. From this perspective, which is congruent with that voiced by Kennedy and internalized by countless teachers, an overarching goal of education is to prepare citizens to lead productive lives within our democratic society.

In addition to recognizing this general goal of education, it is critical to consider *how* it is achieved. Gutmann (1999) advocates for democratic education, suggesting that education should emphasize values including tolerance, mutual respect for rights, inclusive and deliberate decision-making, accountability for nondiscrimination, and equality for all. If we are to realize the promise of equal opportunity and participation for all students that is consistent with a democratic framework, then education should be provided fairly, equitably, and inclusively. In other words, education should be provided in a manner consistent with the principles of a social justice perspective. *Social justice* in education describes the notion that all individuals and groups should be treated with fairness, respect, and dignity and should be entitled to the resources, opportunities, and protections that schools offer (North, 2006; Shriberg &

Fenning, 2009). Despite the progress and assets of America's educational system, repeated violations of social justice principles are undeniable. These violations – often a product of larger societal forces and trends – have impacted the educational experiences of countless children and adolescents.

The purpose of this chapter is to consider a sampling of the critical events that demonstrate this history of inequity, with the understanding that they have contributed to the current status of American schools. To this end, we will explore relevant events related to the education of individuals of different racial, gender, language, and disability backgrounds. We do not intend to provide an exhaustive overview of the history of American education, nor will we provide a detailed account of the history of equity in the broader society outside of the educational sector. Rather, we will provide a cursory glimpse at some of the major issues that have emerged throughout history in an attempt to establish sufficient context for the construct of disproportionality (i.e., the overrepresentation of certain populations as recipients of special education services and disciplinary consequences) that is the focus of the remainder of the book.

RACE AND ETHNICITY

The history of race and ethnicity in America is tied inextricably to concerns about justice and equality. From the earliest days of our nation's history, American Indians were subject to harsh forms of oppression by European settlers. For example, their way of life was under unceasing attack from these new arrivals, resulting in substantial losses in American Indian land, resources, and lives (Rury, 2005). In the realm of education, boarding schools for American Indian children emerged in the United States of America in the late 1800s with the intent to force assimilation to White culture (Loring, 2009). Coercive and unequal access to quality education was not isolated to American Indians, however. In California in the 1800s, for example, school administrators routinely denied Chinese American children entrance into schools based on their ancestry. Although *Tape v. Hurley* (1884) established that these children had the right to attend public schools, California school boards continued to be permitted to force Chinese American students to be educated in segregated Chinese schools for decades thereafter. Schools also routinely excluded Latino students from educational opportunities during the turn of the twentieth century, particularly in the southwest region of the United States where Latino populations were more expansive. It was not until 1931 that the first successful local school desegregation court decision – made by a San Diego judge in *Roberto Alvarez v. The Lemon Grove School Board* – prohibited the

Lemon Grove School Board from turning away Mexican American students. However, the rationale behind the decision was not wholly driven by social justice for all; rather, the judge determined that children of Mexican origin were considered to be of the White race, and consequently were not subject to segregation rules that applied to other minority races. These are merely a few of the many instances of racial discrimination and exclusion within our nation's schools.

Because of its centrality to the topic of disproportionality, the discriminatory treatment of Black students in our nation's educational system warrants particular scrutiny. Africans began their experiences in America as indentured servants or slaves, neither of which were labor situations that they entered into willingly. Instead, the capture of Africans on Africa's western coast and their transportation across the Atlantic in chains established a persistent precedent for the lack of rights and inequitable treatment of Blacks prior to the Civil War. During the early years of slavery, most Whites blocked Blacks in America – freed or enslaved – from obtaining opportunities for education. In fact, the 1800s ushered in an increasing number of state laws that made it illegal for Black students to be taught to read and write in the South (Reef, 2009). Despite a widespread lack of educational opportunity, some individuals and organizations educated Black individuals with private funds, although these initiatives typically were driven by a desire to teach Christian principles to the slaves. Among other examples, Elias Neau opened a private school in the early 1700s in New York City with the intent of catechizing Africans; however, support for his work declined after two slaves who attended the school participated in a planned uprising (Reef, 2009). The Quakers also had a strong role in educating Black Americans. In the late 1700s, the New Jersey and Philadelphia Quakers each opened a school for Black learners, and such efforts continued to expand into the 1800s. Although such advances were promising, these individuals continued to be excluded from higher education until Oberlin College became the first college to admit Black students in 1833.

Despite these isolated signs of hope, the majority of Whites in the United States continued to discourage or prohibit the education of Black men and women. For example, when a Quaker woman named Prudence Crandall opened a school for Black children in Connecticut, the outrage and mobbing that ensued forced the school to close (Reef, 2009). In an incident with a similar precipitating action, Margaret Douglass was sentenced to jail for her attempts to teach the children of freed Black Americans to read and write (Douglass, 1854). Mirroring the sentiment suggested by these actions, numerous southern states passed laws to make it illegal to educate slaves. South Carolina began the trend in 1740 and other states quickly followed. Some states repealed their laws after a time, while others crafted laws designed to

prohibit the teaching of slaves to read and write while assembled in a group. The fear of group education was that it would encourage uprisings among the slaves. In fact, historians estimate that literacy rates among slaves in the antebellum South were as low as five to ten percent (Lucander, 2007). Only South Carolina, North Carolina, Georgia, and Virginia still legally enforced illiteracy by the time of the Civil War (Kolchin, 1993). Even when communities or individuals promoted the education of Africans, it was generally undertaken with the intent of imparting White behavioral norms, conceptions of morality, and religious beliefs that were viewed as being deficient in Blacks (Rury, 2005).

The legal rights of Black individuals improved following the Civil War. Slavery was outlawed with the Thirteenth Amendment to the U.S. Constitution in 1865 and Black Americans were recognized as citizens with equal protection and privileges with the passage of the Fourteenth Amendment in 1868. Despite these legislative advances, differential treatment of Black students in the educational system persisted. The period of Reconstruction brought promise along with the emergence of schools for newly freed Black slaves. However, the end of Reconstruction in 1877 resulted in slowed or reversed progress. In addition, in the late 1800s, Jim Crow laws were widely enacted throughout the country, mandating racial segregation in public places based on a “separate-but-equal” philosophy. This philosophy was further strengthened in 1896 when the U.S. Supreme Court upheld the separate-but-equal doctrine related to the schools in *Plessy v. Ferguson* (1896). Unfortunately, this doctrine was flawed, with sufficient evidence that the schools for Black children remained inferior in quality and funding (Reef, 2009). Black students were even faced with challenges finding a segregated school to attend. For example, in *Cumming v. Richmond County Board of Education Georgia* (1899), the U.S. Supreme Court refused to stop a school district from allocating funds to a White high school while concurrently closing a Black high school.

Despite advances in teaching freed slaves to read in the late nineteenth and early twentieth centuries, vast disparities in the quality of educational programming existed between education for Black and White students. Black students were typically educated in segregated, inferior facilities. In addition, there was a large gap in the availability of secondary schools for these students (e.g., Rury, 2005). The tipping point to these injustices came in 1954 when *Brown v. Board of Education* (1954) overturned *Plessy v. Ferguson*, decreeing that “separate” was *not* “equal.” Although this ruling demanded that schools must be desegregated, progress was slow and Black students encountered substantial opposition in some areas. This was particularly true in the South, where resistance was at times quite dramatic and even violent (Rury, 2005). Examples of physical and emotional abuse thrust upon Black schoolchildren attempting to desegregate schools proliferated in newspapers throughout the

nation in the late 1950s and early 1960s. One of the most notorious instances came in 1957 with the integration of Little Rock High School in Arkansas, where President Eisenhower had to use military forces to protect the Black students struggling to get through mobs of angry White protestors. Repeat occurrences of these gruesome scenes were scattered throughout the South in all levels of schooling, including the 1962 integration of the University of Mississippi, which also required an escort of U.S. Marshals.

The promise of the *Brown* decision was further supported by several civil rights advances. For example, the passage of the Federal Civil Rights Act of 1964 – which prohibited federally funded programs from discriminating on the basis of race, color, national origin, or gender – allowed for serious enforcement of the *Brown* decree by allowing the U.S. Department of Justice to withhold federal funds from school districts that discriminated against Black students (Minow, 2004). The same year, the Department of Education Office for Civil Rights was established to enforce civil rights in education. Despite these advances, many school districts continued to experience *de facto* segregation, which in some locales in the 1970s and 1980s was addressed through mandated busing of students within the district to other schools to ensure racial integration.

As a result of this synergy of court cases, legislation, and policy, American schools had become increasingly integrated from the early 1960s through the mid-1980s. Recently, however, this trend has dissipated. Among other researchers, Orfield, Frankenberg, and Lee (2002) documented resurgence in racial resegregation in recent years. For example, the average White student attends a school with a population that is nearly 80% White and the average Black student attends a school that is less than 33% White (Orfield et al., 2002). Although scholars debate the exact causes of resegregation, contributing factors may include changes in residential patterns, increased school choice, and recent court decisions that have reversed earlier improvements (see Orfield et al., 2002).

Despite slow progress and continued inequities, there have been indicators of increased success for Black students. For example, the gaps related to school attendance, literacy skills, grade completion, and college attendance all markedly improved from the earliest days of education. By 2000, White and Black high-school graduates were attending college at nearly the same rates and by 2005, more than 17% of the Black population over the age of 24 earned at least a bachelor's degree (Brinkley, 2010). However, there continue to remain many concerns regarding equal access to high quality education. Class is increasingly become the prohibitive issue for Blacks with regards to higher education. As members of the Black middle class graduate from high school in increasing rates, inner-city Blacks continue to fall behind. In 2006, less than 50% of Black youth living in inner-cities graduated from high school.

Additionally, Black students are significantly overrepresented in special education programs and exhibit an “achievement gap” when compared to White students; these topics will be discussed thoroughly in this book. Also, extremely segregated Black schools have historically been associated with less equitable outcomes. For example, such schools tend to be more likely to experience high concentrations of poverty and unequal access to financial resources (e.g., The Civil Rights Project, 2002, as cited in Orfield et al., 2002). Some research also suggests that teachers in highly segregated schools have less experience and are less qualified in the content they are teaching (e.g., Aud, Fox & Kewal Ramani, 2010; Haycock, Jerald & Huang, 2001; Peske & Haycock, 2006). This lack of expertise can contribute to unequal outcomes for students attending highly segregated urban schools.

LINGUISTIC DIVERSITY

In addition to racial and ethnic minorities, linguistic minorities have also faced challenges and barriers resulting from our nation’s educational system. As previously mentioned, the purpose of educating American Indians in the early days of colonization was to force assimilation, and the boarding schools that emerged in the late 1800s had rules that prohibited speaking American Indian languages (Loring, 2009; McCarty, 2009; Nieto, 2009). In fact, Francis La Flesche (2001), a member of the Omaha Tribe who graduated from a Presbyterian mission school, recounts rigid enforcement of such rules with a hickory rod. The schoolmasters changed the American Indian students’ names to English ones, converting, for example, the identity of one young man from his given name to Philip Sheridan and another to Ulysses S. Grant (La Flesche, 2001). Although these efforts were not fully successful in extinguishing American Indian languages, the practice left longstanding effects including linguistic ambivalence and mistrust of American education (McCarty, 2009). African slaves also experienced language loss, as their owners often deliberately isolated them from others who shared their language in an attempt to minimize the likelihood of an uprising or revolt (Baugh, 1999).

European colonization also resulted in a variety of languages spoken by White inhabitants. In fact, Brisk (1981) noted that colonial America was settled by seven different European language groups, many of whom maintained their own schools in their own languages in an attempt to preserve their linguistic heritage. For example, by the mid-1700s, one-in-three of Pennsylvania’s population was German, and schools that taught primarily in German proliferated (Reef, 2009). Due to increasing concerns that it would threaten the English way of life, English settlers tried to use schools to suppress the

German language. This push for monolingualism was also evident during and following World War I – a product of the intense nationalistic climate – when local school boards and state governments prohibited the teaching of German in parochial and public schools (Ross, 1994). In fact, by the 1920s, there was concern among many Americans regarding the large number of non-English speaking immigrants and by 1923, 34 states had passed laws requiring that English be the language of instruction in public schools (Bender, 1996). Where legislatures did not step in, public opinion, sometimes in the form of mob riots, often forced English-only teaching in local public and parochial schools.

Whereas the first half of the twentieth century was characterized by European immigration and languages, the second half was characterized more by Latino and Asian immigration (Nieto, 2009). Wiley (1999, as cited in Nieto, 2009) claimed that Americans assigned an inferior status to American Indian, African, and Mexican languages and pushed these groups to assimilate, while European languages were generally more accepted and tolerated. Scholars such as Nieto (2009) contend that these assimilations, whether voluntary or forced, ultimately caused feelings of frustration and ambivalence within these repressed groups and may have contributed to the achievement gap for their children in school.

In 1968, Congress provided discretionary, supplemental funding (federal aid) for school districts through the Bilingual Education Act (Title VII of the Elementary and Secondary Education Act; 1968), which established programs to meet the educational needs of children with limited English speaking ability. However, participation was voluntary and not all schools were providing such services. Title VII was reauthorized several times and eventually incorporated in a modified version into the No Child Left Behind Act (NCLB, 2001). NCLB mandates that school districts ensure that Language Minority (LM) learners attain English proficiency, develop high levels of academic achievement, and meet the same academic standards expected of their native English speaking peers.

There also were several court cases influential in establishing the rights of linguistic minorities within our nation's schools. For example, the U.S. Supreme Court case of *Lau v. Nichols* (1974) sided with the parents of Chinese-speaking students in California schools who charged that the schools were not providing equal educational access to their children, since their children were not able to profit from English-only instruction to the same extent as their peers. Although this ruling did not mandate bilingual education (i.e., teaching academic content in both the native language and English), it set a precedent that school districts have the responsibility of providing services and accommodations to students who do not speak English. It allowed local discretion in determining the most appropriate ways to make this happen. Soon after

this decision, Congress passed the Equal Educational Opportunity Act (1974), which extended the *Lau* decision by mandating that no state could deny equal educational opportunity to any student based on the failure of an educational agency to take appropriate measures to overcome language barriers that may impede the student from profiting from instruction. In 1981, the ruling in *Castañeda v. Pickard* (1974), tried in the U.S. District Court for the Southern District of Texas, further supported LM learners' rights by requiring schools to take actions to overcome language barriers and serve linguistically diverse students.

Despite an increasing recognition of the importance of appropriate educational services for LM students, bilingual education programs remained controversial. In 1998, California's Proposition 227 eliminated most forms of bilingual education by mainstreaming LM students into the same classes as their monolingual peers after one year of English language classes. Arizona also eliminated bilingual education in 2000 and Massachusetts voters overwhelmingly followed suit in 2002 (Nieto, 2009). Although some continue to debate the value of bilingual education versus other approaches to instructing LM students, the results of five meta-analyses suggest that bilingual Spanish-English reading instruction results in better reading achievement than English-only instruction (Goldberg, 2008). Despite the promise of bilingual approaches, a majority of LM students currently receive instruction only in English (Goldberg, 2008).

Today, the number of LM students in our schools is expanding rapidly. In fact, in American elementary and secondary schools, there were 11 million LM students in 2007, representing 21% of all elementary and secondary students (Aud et al., 2010). When compared to their English-speaking peers, LM students experience significantly lower levels of academic achievement (see National Center for Education Statistics, 2009). Unfortunately, teachers and schools often report feeling insufficiently equipped to adequately address the unique instructional needs of LM students. For example, Mueller, Singer, and Carranza (2006) found that a striking 63% of teachers in their sample (who served LM students with moderate to severe disabilities) reported receiving no training or preparation to work with LM students. Given the substantial and continuously growing LM population, researchers have noted the importance of ensuring that teachers receive the training necessary to provide instruction that is responsive to LM students' needs (Mueller et al., 2006).

GENDER

Equal opportunity has also been problematic for women throughout our country's history. In the colonial days, it was commonly accepted that women

needed only to be prepared to be effective wives and mothers; consequently, their education was most often confined to emulating their mothers and obeying their fathers within the home (Tozer et al., 2002). During the Revolution, Americans placed immense emphasis on the role of mothers in educating their daughters in the values of the Republic. Historian Linda K. Kerber (1980) argues, "Motherhood was discussed almost as if it were a fourth branch of government" (p. 200). The education of girls began to focus on increased literacy and skills beyond those needed to become good wives. The Revolution's daughters had to be educated so that they could someday protect the country by teaching their children to be defenders of the newly achieved independence and keeping their husbands in line with the characteristics of "civic virtue" (Kerber, 1980, p. 199). As common schools developed in the 1800s, a somewhat greater acceptance of educating girls also emerged, resulting in increased enrollments (Reef, 2009). Although the contention that women were less capable than their male counterparts persisted, liberals began to believe that additional education for women might not be harmful. However, the benefits of education continued to be viewed in terms of helping women raise children and be better companions to their husbands (Reef, 2009). In addition, those who did receive education tended to come from families with the financial means to allow them to participate in school rather than to assist in the home or farms (McClelland, 1992).

Higher education continued to be restricted to men in the early 1800s. The first institution to offer baccalaureate degrees to women in 1836 was the Georgia Female College (Reef, 2009). Like its previously discussed efforts to provide educational opportunities to Black students, Oberlin College also became the first college to offer bachelor's degrees to both males and females taking the same curriculum (Reef, 2009), with the first three women obtaining their degrees in 1841. The first state university to admit women did not emerge until the University of Iowa accepted women in 1855. Despite these increased opportunities, women's ability to compete with men for higher status jobs remained disadvantageous and only very incrementally began to improve (Rury, 2005).

In addition, even though more opportunities for education existed, women remained disenfranchised in other ways. For example, women did not earn the right to vote until the Nineteenth Amendment to the U.S. Constitution was ratified in 1920. In the employment sector, it was not until Title VII of the Civil Rights Act was passed in 1964 that employment discrimination based on gender was outlawed. However, gender discrimination in the workplace continued to exist and women were often encouraged to enter professions deemed appropriate for females (McClelland, 1992). Nearly a decade later, Title IX (1972) was added to U.S. civil rights legislation, extending the ban on gender discrimination to schools and other institutions receiving fed-

eral funds. Among other school-based outcomes, this resulted in the increased female participation in school athletics, fewer gender stereotypes in texts and curricular materials, and a *gradual* increase in the number of female administrators (Rury, 2005). Despite these laudable changes, challenges remain. For example, women continue to be underrepresented in school leadership positions (Tozer et al., 2002). In addition, even as recent as 1992, a report developed by the American Association of University Women (AAUW) asserted that education policymakers were neglecting issues relevant to girls such as declining self-esteem, gender bias in testing, achievement gaps in math and science, and the absence of women's issues in the curriculum (AAUW, 1992 as cited in Weaver-Hightower, 2009).

Interestingly, data suggest that female students are today faring quite well in the educational system. For example, girls scored above boys on the 2007 National Assessment of Educational Progress, and the gap is even larger when considering writing achievement (National Center for Education Statistics, 2007). This is not to say that issues of equity and social justice are not still relevant for women. As noted by Weaver-Hightower (2009), "Girls' needs may not show up on a test, but they are still very real. I join a chorus of those cautioning against the misguided conclusion that girls' needs have been solved. Girls still struggle with access to technology and technological literacy, access to high-status fields, and equitable outcomes from schooling such as workforce and economic indicators (p. 25)." Research also suggests that girls continue to have poorer postsecondary outcomes than their male counterparts, and this holds particularly true for girls with disabilities (Doren & Benz, 2001; Newman et al., 2010).

However, it is also important to note unique issues of social justice related to males in our educational system. Although the United States population tends to think of "gender" issues as synonymous with *women's* issues (Weaver-Hightower, 2009), this perspective is narrow and fails to account for the unique issues boys face in schools. These issues emerged with increasing attention beginning in the late 1990s with a variety of texts dedicated to the topic (Weaver-Hightower, 2009). For example, authors have asserted that boys too have unaddressed mental health issues, attend schools that favor females, are stereotyped by teachers, and have lower educational outcomes (see Weaver-Hightower, 2009 for an overview). In addition to having lower reading and writing achievement, as previously discussed, boys also have higher rates of high school dropout, grade retention, special education referrals, and disciplinary actions (see Whitmire, 2010).

These findings have led many to speculate that our schools are now leaving our boys behind. In 2004, then U.S. Secretary of Education Rod Paige noted, "It is clear that girls are taking education very seriously and that they have made tremendous strides. . . . The issue now is that boys seem to be

falling behind. We need to spend some time researching the problem so that we can give boys the support they need to succeed academically” (U.S. Department of Education, par. 4). Although the causes of these factors contributing to an increased risk for school failure in boys have been widely debated, one issue that has received recent attention is the gender imbalance in the teaching profession. More than 90% of all elementary teachers and 75% of teachers in all grades are female (Whitmire, 2010). Some individuals have proposed that boys at school may lack male role models, gender normative behavior may be misunderstood, and instruction may be tailored more to the interests of girls. Other explanations range from a “toxic culture” for boys, biologically based differences that are not accounted for in schools, erosion of literacy skills, increased focus on a narrow aspect of academic success, and a failure to adequately address the needs of boys at a national level (see Whitmire, 2010 and Tyre, 2006 for a review).

DISABILITIES

Individuals with disabilities – whether physical, learning, cognitive, and/or emotional in nature – have also faced unequal access, subpar education, and outright discrimination. Early in our country’s history, individuals with disabilities were excluded from education altogether. During the colonial period, people with disabilities were either kept at home, accepted by communities, or persecuted in a myriad of ways (Osgood, 2008). By the 1850s, several institutions – such as the Asylum for the Deaf in Connecticut and the Asylum for the Blind in Massachusetts – opened amid an interest in institutionalizing and treating individuals with disabilities (Osgood, 2008). This movement was a part of a larger national trend towards reform of various aspects of American society. Many Americans in the antebellum period feared for the moral standards of the country’s population and undertook a number of reforms, including temperance, antislavery, and the enhancement of educational opportunities for American youth. Asylums and prisons benefited greatly during this era, as activists improved conditions for residents both in the physical facilities and in the quality of care (Tyler, 1944).

As compulsory attendance laws increasingly were passed and enforced between 1870 and 1930, schools were faced with an increasing number of children now required to attend school who had either never before attended or had previously attended unsuccessfully (Fagan & Wise, 2007). In response, schools became more structured and standards became more rigid, so that students with disabilities who were previously overlooked were now noticed for their differences (Osgood, 2008). By 1910, special education programs became available in many urban schools (Fagan & Wise, 2007), although

these tended to be segregated placements (i.e., serving students with disabilities apart from their regularly educated peers) (Osgood, 2008). The provisions of services in segregated classrooms continued into the 1960s. Although some rural schools in the early 1900s had special education programs, many lacked the financial resources, professional development opportunities, and processes for identifying students for special education to adequately initiate or sustain these supports (Osgood, 2008).

As a result of the increasing awareness surrounding disabilities, the early 1900s ushered in an era of distrust and contempt related to individuals with disabilities, and the emphasis in residential facilities was more on isolation and eradication than education and treatment of individuals with what was often referred to as “feeble-mindedness” and “mental deficiency” (Osgood, 2008). Hall (1911, p. 607; as cited in Fagan & Wise, 2007, p. 34) reflected the sentiments of many at the time about the education of individuals with disabilities by saying, “. . . habits of stupidity and inertness are often more contagious than are the examples of the best workers. This is why the elimination of the stupid is so urgent and so often effected today by segregating them in various ways.”

By the mid-1950s, most public schools provided *some sort* of services for children with disabilities (Osgood, 2008). Surprisingly, even 16 years after *Brown v. Board of Education* (1954), schools were not *required* to serve children with disabilities (Blanchett & Shealy, 2005). Those that did often provided poor educational services in separate schools, aligned with the segregationist philosophy previously articulated. Even in buildings shared with regular students, this separation manifest itself in different start and end times for the school day and for recess, and inferior classroom locations in basements or dilapidated sections of school buildings (Sealander, 2003). Additionally, as national interest, and thus governmental concern, grew towards improving the conditions in these facilities, the children often suffered while various agencies and researchers engaged in debate and conducted research studies using this population (Osgood, 2008). Due to the very limited options available to them, families often placed their children with significant disabilities in residential institutions (Katzman, 2005). However, the public was becoming increasingly aware and critical that, “. . . most such places offered nothing but hellish, brutal worlds for those entrusted to their care” (Osgood, 2008, p. 90). Many students in both situations – segregated schools and residential facilities – experienced both intense feelings of isolation and inconsistent identification of their capabilities. Both of these situations precluded clear goals for their educational achievement, and consensus on the most effective methods and measures for children with disabilities remained elusive.

One of the first legislative changes that had a positive impact on children with disabilities emerged during the civil rights period. The Elementary and

Secondary Education Act of 1965 (ESEA) and its amendments provided funding to schools for special education services and to universities to train teachers for the disabled. Despite these initial provisions, many children with disabilities continued to receive inadequate services until the results of the federal monetary initiatives with regard to teacher training and improved programs began to trickle into school systems. Finally, in the mid-1970s, a strong momentum emerged that ultimately led to the protection of students with disabilities within the public schools. For example, there were several court cases that challenged the segregated and unequal education received by children with disabilities. *PARC v. Commonwealth of Pennsylvania* (1972) established the precedence for guaranteeing special education services to children with cognitive disabilities. One year later, *Mills v. the District of Columbia* (1973) extended these rights to all children with disabilities.

Three pieces of legislation passed in the same time period also influenced perceptions and actions regarding the education of individuals with disabilities. Section 504 of The Vocational Rehabilitation Act of 1973 protected individuals from discrimination based on a disability in the schools and other public organizations. These regulations were later adopted as part of the Americans with Disabilities Act of 1990 (ADA), which also required accommodations and modifications for individuals with disabilities in public and private organizations. However, the most influential piece of legislation was the Education for All Handicapped Children Act of 1975 (PL 94–142). PL 94–142 required that school districts identify students with disabilities and provide them a free and appropriate public education in the least restrictive environment. It also required that an Individualized Education Program (IEP) be developed for each student identified with a disability. The law was refined and reauthorized several times, including in 1990 when the name was changed to the Individuals with Disabilities Education Act and in 2004 with the passage of the Individuals with Disabilities Education Improvement Act. The No Child Left Behind Act (2001) also influenced children with disabilities, as it required districts to hold *all* students accountable for math and reading proficiency, even those with disabilities who had previously been excluded from accountability initiatives (see the following timelines for more information on each of these pieces of legislation and other key events).

Substantial progress has been made in ensuring the rights of students with disabilities to an appropriate education. There are currently over 6.5 million children with disabilities being educated in American public schools (U.S. Department of Education, 2010). Between 1987 and 2003, the percentage of students with disabilities completing high school increased by 17 points and their postsecondary education participation more than doubled (U.S. Department of Education, 2010), suggesting significantly improved academic outcomes.

Significant Events, Policies, Legislation, and Litigation on the Path Towards Education Equity

<i>Year</i>	<i>Action</i>	<i>Description</i>
1836	Georgia Female College	Becomes the first university to offer B.A.s to women.
1855	University of Iowa	First state institution to admit women.
1856	13th Amendment Ratified	Outlawed slavery.
1868	14th Amendment Ratified	Recognized Blacks as citizens.
1884	Tape v. Hurley	Established the right for Chinese American students to attend public schools.
1898	Cummins v. Georgia	Upheld school segregation. Black students wishing to attend school must move to a county where a segregated school is available.
1920	19th Amendment Ratified	Gave women the right to vote.
1931	Alvarez v. Lemon Grove School Board	Prohibited school board from turning away Mexican American students.
1954	Brown v. Board of Education	Established that segregated schools are unconstitutional.
1957	Integration of Little Rock High School	Forced desegregation of a public high school.
1964	Federal Civil Rights Act	Outlawed discrimination.
1964	Est. of Dept. of Ed. Office for Civil Rights	Established to enforce civil rights in education.
1964	Title VII of Civil Rights Act	Outlawed employment discrimination based on gender.
1965	Elementary and Secondary Ed. Act	Provided funding to schools for special education services.
1968	Bilingual Education Act	Provided federal funds to schools with established programs to meet the needs of children with limited English speaking ability.
1972	Title IX	Extended the ban on gender discrimination to schools.
1973	Mills v. District of Columbia	Extended PARC v. Commonwealth of Pennsylvania ruling to all students with disabilities.
1973	Sec. 504 of Vocational Rehabilitation Act	Protected individuals from discrimination based on disability.
1974	Lau v. Nichols	Set a precedent that school districts have the responsibility of providing services and accommodations to students who do not speak English.

Continued on next page

<i>Year</i>	<i>Action</i>	<i>Description</i>
1974	Equal Education Opportunity Act	Extended the Lau decision by mandating that no state could deny equal educational opportunity to any student based on the failure of an educational agency to take appropriate measures to overcome language barriers that may impede the student from profiting from instruction.
1975	Education for all Handicapped Children Act	Required that school districts identify students with disabilities and provide them with a free and appropriate public education in the least restrictive environment.
1981	<i>Castañeda v. Pickard</i>	Supported Language Minority learners' rights by requiring schools to take actions to overcome language barriers and serve linguistically diverse students.
1990	Americans with Disabilities Act	Extended Sec. 504 by requiring accommodations and modifications for individuals with disabilities in public and private organizations.
2001	No Child Left Behind Act	Extended the Elementary and Secondary Education Act, requiring greater accountability for schools to meet national standards.

Despite these promising advances, coupled with the legal protections, these students are now entitled to in the schools, issues of equity remain at the forefront. For example, Katzman (2005) raises the difficulties educators face related to federal requirements to ensure all students achieve the same high academic standards. As she noted, "How do we realize the ideals of individualization and access to the general education curriculum in an environment that calls for standardization of curriculum?" (p. 4). Katzman (2005) also discusses how negative assumptions regarding students with disabilities continue to exist. In addition, the disproportionate representation of minority students and other groups is clearly a persistent concern and a topic of this book. Finally, evidence that special education may not be effective at improving student outcomes is quite problematic (e.g., Carlberg & Kavale, 1980; Gartner & Kerzner Lipsky, 2005; Detterman & Thompson, 1997). Special education has been criticized for using a "one size fits all" approach and implementing strategies that have not been demonstrated to be appropriate or effective (Detterman & Thompson, 1997).

DISPROPORTIONALITY IN EDUCATION AND SPECIAL EDUCATION: AN INTRODUCTION TO THE BOOK

Mirroring other aspects of society, inequalities that have perpetuated disadvantages for select populations have characterized the history of education and special education. What should be clear after reading this chapter is that a variety of events have shaped our current educational and societal landscape which are not in concert with the principles of social justice and which have contributed to gaps in educational experience and attainment. Individuals and groups have been marginalized, provided with unequal access to resources and opportunities, discriminated against, and been treated unfairly. Although attempts were made to remedy many of these actions, their presence undoubtedly has residual effects that have persisted.

It is our goal and that of many other educators nationwide to understand these events and how they influence current practice. Most notably, we recognize the need to continue to strive for equitable educational experiences for all, in conjunction with the ideals of democratic education and social justice. For example, given the array of negative outcomes associated with – and recent legislation and policies aimed at preventing – disproportionate representation of such students in special education and exclusionary discipline, it is increasingly important to understand and address the contributing factors. It is our hope that the chapters in this book will provide readers with the knowledge and skills necessary to help forge ahead on a quest for equity in the schools.

This book will be structured to effectively facilitate such a lofty outcome. The first section, *Disproportionality and Special Education*, will consider disproportionality in special education identification, with chapters examining overrepresentation by ethnicity, gender, and language. The second section, *Disproportionality and Discipline*, will address disproportionality in discipline, specifically focusing on inequalities in school disciplinary actions and juvenile justice decisions based on ethnicity and gender. The final section, *Improving Equity in Education and Special Education*, will provide readers with approaches for addressing disproportionality and creating more equitable learning environments now and in the future, e.g., culturally responsive practices, response to intervention, positive behavior supports. When reading this book, we hope you will consider the bidirectional and evolving relationship between the topics examined in each chapter and the historical framework presented here.

CONCLUSIONS

Children and educators do not live in a vacuum, but rather in an always changing milieu. The historical, societal, and educational contexts in which they function have both direct and indirect influence on the ways in which they function. In particular, disproportionality – the focus of this book – has been influenced and perpetuated by many of the historical events highlighted in this chapter.

Culturally and linguistically diverse students continue to face unique barriers in our educational system. Although these challenges undoubtedly exist, Reef (2009) mirrors our hopeful outlook that, “American schools are continually developing, and teachers, students, parents, and in fact, all people have the capacity to learn. Thus, roadblocks can become opportunities, and overcoming them can bring the goal of an equitable educational system, one that helps each person achieve his or her aspirations, into view” (p. xxiv).

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