Urban School Failure and Disproportionality in a Post-*Brown* Era

Benign Neglect of the Constitutional Rights of Students of Color

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ABSTRACT

The decision in the Brown v. Board of Education (1954) case was one of the most significant events in American history in general and specifically in the educational system. Brown is so highly regarded because it held promise of placing America on the path toward equitable treatment of all of its citizens and laid the foundation for the civil rights and disabilities rights movements. Fifty years after Brown, however, it is very clear that many of the promises of Brown have not been fulfilled with regard to students of color living in urban settings, students who live in poverty, and students with disabilities. This article will discuss (a) the state of urban schools in the post-Brown era, (b) special education in the post-Brown era, (c) disproportionality and resegregation of African American students, (d) the double jeopardy of disproportionality and urban school failure, (e) the reasons why Brown is not working from the perspectives of urban community leaders, and (f) recommendations for fulfilling the promises of Brown.

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HE LANDMARK SUPREME COURT DECISION IN THE *Brown v. Board of Education* (1954) case has been hailed as the single most important court decision in American educational history. The decision in this case overturned the *Plessy v. Ferguson* "separate but equal" clause by establishing that segregated schools denied African American students their constitutional rights guaranteed to them in the 14th amendment. *Brown,* which guaranteed equal protection under law for all citizens, would serve as the impetus for challenging several inequities as Jim Crow laws in the South and, on

many levels, for generally protecting the civil rights of African Americans and later of individuals with disabilities. Ironically, the plaintiffs in the *Brown* case wanted the same thing for their children more than 50 years ago that many parents still want for their children today—the best education possible. Tired of seeing their children being forced to walk, in many instances, several miles to school because they could not attend their neighborhood schools due to their race, the Browns elicited the help of the NAACP in challenging segregation in public schools. Citing similar concerns, as well as the poor physical condition of and lack of resources provided to Black schools, in 1951, other Black parents joined the Browns. The NAACP requested an injunction that would forbid the segregation of Topeka's public schools (Knappman, 2001).

The Board of Education's defense was that because segregation in Topeka and elsewhere pervaded many other aspects of life, segregated schools simply prepared Black children for the segregation they would face during adulthood. The board also argued that segregated schools were not necessarily harmful to Black children, because great African Americans such as Frederick Douglass, Booker T. Washington, and George Washington Carver had overcome segregated schools and other racial and class obstacles to achieve what they achieved (Knappman, 2001). The NAACP countered with the argument that Black schools were inferior to White schools due to the poor physical conditions of the schools and the limited public resources provided to them.

The "inferior Black school" argument was not the sentiment held by all Black parents. In fact, many Black parents considered Black schools and the teachers and administrators who staffed them to be highly capable of teaching students of any race and especially competent to teach and educate African Americans. They argued against desegregation in favor of equitable resource distribution and a more inclusive society where White children and Black children lived, learned, and played together. The precedent of *Plessy v. Ferguson* supposedly allowed separate but equal school systems for Blacks and Whites, and no Supreme Court ruling had overturned this decision. Consequently, the court felt "compelled" to rule in favor of the Board of Education. The *Brown* plaintiffs and the NAACP appealed to the Supreme Court.

On May 17, 1954, Chief Justice Earl Warren read the decision of the unanimous court:

> We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does. . . . We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

The Supreme Court struck down the "separate but equal" doctrine of *Plessy v. Ferguson* for public education after 60 years of legalized discrimination by ruling in favor of the plaintiffs. At the same time, this ruling mandated the desegregation of schools across America "with all deliberate speed" ([Brown v. Board of Education, 1954 p. 620] as cited in Carter [1995]).

The Supreme Court's *Brown v. Board of Education* decision did not abolish segregation and discrimination in other areas outside of public education, nor did it erase the long-term effects of school segregation and exclusion. It also did not require desegregation of public schools by a specific time. As a result of placing no time limit for schools to desegregate, coupled with the widespread individual and institutional resistance to desegregation both in the North (which was not under court order) and in the South, it took 2 decades to break down the walls of segregation and move toward physical integration, with the most progress being made in the South (Harvard Civil Rights Project, 2004). Among states with high percentages of Blacks in the South, Florida had close to 50% of Blacks attending majority White schools from the 1970s to 1991 (Orfield & Lee, 2004). In 2001, however, North Car-

olina and Virginia were the most desegregated states for Black students in the South (Orfield & Lee, 2004).

Mostly because of the de facto neighborhood segregation caused by poverty among Blacks, in 2001, New York, Michigan, Illinois, and California were the four most segregated states for Black students in terms of Black exposure to White students and percentage of Blacks in White majority schools (Orfield & Lee, 2004). Specifically, in New York and California, only one in seven Black students attended a majority White school, with the average Black student attending a school that was 82% non-White in New York and 77% in California (Orfield & Lee, 2004). The most integrated states for Black students in 2001 were Washington, Kansas, Nebraska, and Minnesota. Ironically, 50 years after *Brown*, the most integrated states for Blacks are those that have relatively small populations of Blacks and those that were not actively engaged in the civil rights movement. With little or no federal monitoring of states' desegregation efforts coupled with orders to end desegregation plans, a steady progression toward resegregation has been noted over the last decade. For example, in 1991, ten states with significant Black populations had 50% or more of Blacks attending schools that were 50% or more White; however, a decade later, due to resegregation, only five states remained in this group (Orfield & Lee, 2004). Also, in 1991, there were five states, including Kentucky, Washington, Kansas, Nebraska, and Delaware, with almost no Black students attending intensely segregated minority or majority schools (Orfield & Lee, 2004). By 2001, of these five states, only Kentucky was left (Orfield & Lee, 2004).

Integration of Black students into majority White schools reached its climax in the early 1980s; however, from the 1980s forward, we have seen a steady and sophisticated structural effort to resegregate by not enforcing desegregation orders, modifying school district and attendance policies, and rezoning (Orfield & Lee, 2004). This practice has made desegregation plans and efforts in large urban and metropolitan areas where African American and Hispanic students attend schools very difficult to implement and monitor. By the 1996–1997 school year, Black students' attendance of majority White schools had regressed to the levels noted in the 1960s, prior to court-ordered desegregation (Orfield & Lee, 2004). Although it seems that many of the promises of *Brown* have not been fulfilled and that much of the progress made in the decades succeeding it is eroding, the Supreme Court decision placed the American educational system on a journey toward equitable schooling for all children and, surprisingly, provided the legal impetus for special education as we currently know it. This article will discuss (a) the state of urban schools in the post-*Brown* era; (b) special education in the Post-*Brown* era; (c) disproportionality and resegregation of African American students; (d) the double jeopardy of disproportionality and urban school failure; (e) the reasons why *Brown* is not working from the perspectives of urban community leaders; and (f) recommendations for fulfilling the promises of *Brown*.

Post-*Brown* State of Urban Schools

Fifty years removed from the landmark *Brown v. Board of Education* (1954) case, urban education is in a strange and paradoxical state. Although there have been many positive changes, as American schools have enjoyed limited integration through bussing and other transportation strategies, at the same time, educational policies and practices have created a new system of segregation. Wilkinson (cited in Altenbaugh, 2003) noted five stages of school desegregation: (a) absolute defiance, (b) token compliance, (c) modest compliance, (d) massive integration, and (e) resegregation. These stages of desegregation have been facilitated by significant Supreme Court legislation. For example, *San Antonio Independent School District v. Rodriguez* (1973) reinforced unequal school funding and, in essence, blocked the further extension of *Brown* (Altenbaugh, 2003). Then, in 1974, *Milliken v. Bradley* struck down bussing strategies that were interdistrict in nature; intradistrict bussing remained untouched, but this decision encouraged and protected White flight to suburbia. These decisions were orchestrated by Richard Nixon and others who wanted an end to desegregation (Kailin, 2002). As Lipsitz (1998) explained:

> Richard Nixon secured the key support of Strom Thurmond in the 1968 presidential campaign in return for a promise to lessen federal pressure for school desegregation. White southern voters consequently provided him with a crucial vote margin in a closely contested election. Nixon supervised the abandonment of the school desegregation guidelines issued in the 1964 Civil Rights Act, nominated opponents of bussing to the Supreme Court, and in his 1972 reelection campaign urged Congress to pass legislation overturning court ordered bussing. (p. 35)

The results of these historic decisions are what we see today. Obviously, these actions were deliberately planned and maintained by individuals who had both something to gain and something to lose. Summarizing desegregation in U.S. schools, Shipler (1997) wrote,

> The laws mandating segregation have been struck down, but segregation remains, sustained by economic disparities and the resulting residential patterns, White indifference and aversion, the undercurrent of Black resistance that has grown in recent years. A truly integrated school has been the rare exception. No constitutional rulings, no intricate court orders, no fine platitudes of conscience and vision have been powerful enough to turn back the tides of separation that still engulfs the races. (pp. 61–62)

In America, many African Americans and many other people of color are concentrated in large urban or metropolitan areas and communities. Although many of these individuals gravitated toward cities in hopes of securing industrial jobs and improving their quality of life, over the years, as industrialization has declined and Whites have fled to the suburbs, many of these areas have gradually deteriorated. West (1994) wrote,

> The exodus of stable industrial jobs from urban centers to cheaper labor markets here and abroad, housing policies that have created 'chocolate cities and vanilla suburbs,' White fear of Black crime . . . all have helped erode the tax base of American cities just as the federal government has cut its support and programs. The result is unemployment, hunger, homelessness, and sickness for millions. (p. 9)

Many urban school districts are a microcosm of this economic, political, and social phenomenon. In such places, there is an even greater need for positive change due to the fact that in central cities and metropolitan areas, students are confronted with numerous issues placing them in greater peril. Furthermore, urban schools are affected by city politics and dynamics. Also, they must continuously deal with negative notions of city students, lack of funding and support, and a growing bureaucracy (Alston, 2002). This type of disdain for city schools provides the rationale for the underfunding, marginalization, and collective criticism of urban schools (Ayers, 1994). These schools struggle to combat overwhelming odds and to skillfully avoid a spiraling cycle of despair (Sanders, 1999).

Contrary to what some believe, the struggle to desegregate schools is much larger than simply wanting Black and White children to sit next to each other and to be educated in the same environment. Whereas it makes sense that we would expect our public schools to be reflective of the diversity that exists in our society and that children would be educated in racially, culturally, and linguistically diverse settings, integrated schools offer the potential for other opportunities as well. For many poor parents of color, and for some middle class parents as well, especially in urban settings, integrated schools are the only hope for their children to receive high-quality educational opportunities. In fact, research has illustrated that schools attended primarily by African American or Hispanic students are often deemed high-poverty schools and have a high turnover of teaching and instructional staff, a high number of uncertified or provisionally licensed teachers, limited access to technology, few educational specialists (e.g., math and reading specialists) and resources (e.g., accelerated curriculum for all students), limited extracurricular opportunities, and dilapidated physical environments. Moreover, in

recent years with the implementation of the No Child Left Behind Act (NCLB) of 2001, the school just described is more likely to be identified as a "failing school" despite the obvious lack of financial, human, and educational resources.

On the other hand, schools that have a mostly White student body are often viewed as just the opposite of those attended by a majority of African American or Hispanic students. These schools are often located in suburban or rural areas and are touted and labeled as "high-performance" schools. Many of their teachers and instructional staff hold graduate degrees, receive higher salaries, and have access to state-of-the-art technology and science labs, accelerated, honors, or advanced placement curriculum, newer or renovated physical structures, and a waiting list of teachers who would like to become employed by the school. Despite numerous calls for local, state, and federal policymakers to be responsive to the fiscal needs of students in large metropolitan areas, a large percentage of whom live in poverty and are students of color, the funding in many of these schools continues to be insufficient. Middle class parents, a disproportionate percentage of whom are White, have actively opposed tax increases and other funding proposals to increase the funding of urban schools. These actions are the result of an effort to ensure the success of majority White schools, often attended by their children, and ultimately to maintain educational privilege (Brantlinger, 2003). Many researchers (Kozol, 1992; Losen & Orfield, 2002) have cited the overt underfunding of urban schools and the lack of societal ownership and responsibility for the success of these students as a new form of structural racism and discrimination. More important, the failure to provide students in urban settings, a disproportionate number of whom are poor and students of color, with a high-quality, equitable education has been identified as a major contributing factor to the overrepresentation of students of color in special education.

POST-*BROWN* SPECIAL EDUCATION

The decision in the *Brown v. Board of Education* case laid the foundation for litigation to challenge the constitutionality of "separate but equal" as it related to public schooling opportunities for students with disabilities. Because the Supreme Court in its decision in this case established that forcing African American students to attend segregated or Black-only public schools denied them equal protection under the law as guaranteed by the 14th amendment, advocates and parents of students with disabilities were able to use this decision to argue against the segregation of students with disabilities on the basis of disability. Prior to this landmark decision, students with disabilities and their parents were completely at the mercy of states and individual school districts, meaning that states and school districts were not obligated to educate students with disabilities. It is estimated that during this time,

nearly half of the nation's four million children with disabilities were not being served in public schools (Losen & Orfield, 2002). Those states and schools that did educate students with disabilities often did so with little or no accountability. As a result, when students with disabilities were served, they were often educated in "ghetto-like," isolated and run-down classrooms within buildings that housed students without disabilities or in separate facilities altogether (Losen & Orfield, 2002). Prior to court-ordered desegregation, African American students with disabilities—particularly those with mild disabilities—often attended segregated Black schools with their brothers, sisters, and neighbors without disabilities. Advocates of special education fought to develop special education programs, because general education was often not inclusive of students with disabilities and, as such, was not meeting their educational needs. The challenges to the existing segregated educational system came on the heels of the *Brown* decision in the form of several well-known court cases, including *PARC v. Commonwealth of Pennsylvania* and *Mills v. the District of Columbia*. The rulings in these cases established that separate schools for students with disabilities were unconstitutional and paved the way for the passage of the Education for All Handicapped Children Act of 1975, currently known as the Individuals with Disabilities Education Act (IDEA) of 1990.

The passage of IDEA has remarkably improved the educational benefits for students with disabilities. Currently, more than six million children with disabilities enjoy a free and appropriate public education in the least restrictive environment with a number of legal and procedural safeguards, including due process, parental involvement, and Individualized Education Programs (IEPs). For many parents, particularly in the African American community, the passage of IDEA meant that their children were finally going to get access to integrated schools that were inclusive and reflective of our larger society in terms of race and ethnicity and that their children with disabilities were going to be afforded a free and appropriate public education in the least restrictive environment. Although few would argue against the significant changes in special education service delivery brought about as a result of the passage of IDEA, the benefits of special education have not been equitably distributed (Losen & Orfield, 2002). Segregation on the basis of race or ethnicity and disability is still a pervasive problem in our educational system as a whole and in special education programs in particular. What African American parents did not know but history would later prove is that segregation would not end either with the decision in the *Brown* case or with the passage of IDEA. Their children would not attend integrated schools, and children with disabilities would not have the access to the general education curriculum and to their peers without disabilities that their parents had hoped. Students in urban settings, a disproportionate number of whom are students of color and students living in poverty, regardless of their race,

would not have access to the same quality of schooling as their peers in suburban areas or from middle and upper class socioeconomic levels. Segregation would raise its ugly head again, but this time under the guise of urban education and special education.

Resegregation of African American Students

Shortly after the courts ordered schools to desegregate and begin enforcing desegregation plans in the years following the *Brown* decision, it became apparent that significant percentages of African American children in New York and Mexican American students in California were being labeled as having mild mental retardation (MMR) and placed in segregated classrooms (Dunn, 1968; Mercer, 1973). In work with poor inner-city students in New York, Dunn noted that African American students' representation in programs for students identified as having MMR exceeded the rates that would be expected given their proportion in the general population of school-age children. Dunn called attention to the finding that Black children were labeled as having MMR and their White peers not labeled at all, even when White children evidenced more visibly obvious disabilities than the Black students. Mercer (1973) noted similar patterns in California among Mexican American students who were new immigrants and English language nonspeakers or learners. The work of these and other researchers helped to end the use of intelligence tests as the sole basis for determining special education eligibility and played a role in securing some of the safeguards guaranteed by IDEA. Moreover, this research provided the legal basis for parents and advocates to challenge special education referral, evaluation, and placement decision making and prompted the establishment of several national committees to study this issue. Whereas these efforts have resulted in the Harvard Civil Rights Project playing a major role in studying this issue and in the convening of two National Academy of Science (NAS) commissioned studies and a lengthy list of recommendations for addressing the problem, overrepresentation and disproportionality have persisted for more than 30 years and seem resistant to change.

Double Jeopardy: Disproportionality and Urban School Failure

A large part of the problem for students of color is failed urban school districts. Professor Martin Haberman (2003a) asserted,

> The growth and maintenance of 120 failed urban school districts miseducating diverse children in poverty for over a half century is a predictable,

explainable phenomenon, not a series of accidental, unfortunate, chance events. . . . The larger society provides the institutional and cultural setting which protects, preserves and enhances these failing urban school systems for the purpose of providing a broad spectrum of constituencies with a priceless set of unearned privileges. The most valuable of these is access to economically and ethnically segregated forms of schooling for middle class Whites which is effective and does lead to careers, higher education and improved life opportunities. (p. 1)

The discussion of urban school failure usually emphasizes individual schools or students themselves as the primary problem. This line of thought absolves institutionalized, systemic structures, policies, and practices that create and perpetuate the context for a failing urban school system. All too often, people of color are the ones who bear the brunt of the criticism and suffer the most in these situations. English (2002) wrote, "The low success rate of minority students in our schools has too often been portrayed as individual failures of students instead of instructional failures of the system based on false notions of objectivity shrouded in the mantle of impartial tests of 'ability'" (p. 307). Kincheloe (1999) concurred, noting that existing hierarchies of power work to "undermine the educational progress and economic mobility of nonwhite and poor students" (p. 221). "Not surprisingly, this unnatural, selective school crisis is a crisis of the poor, of the cities, of Latino and African American communities. All the structures of privilege and oppression apparent in the larger society are mirrored in our schools" (Ayers & Ford, 1996, p. 88). Thus, proper emphasis must be placed on systems that undermine student success and covertly collude in creating the environment for continued failure. Not only are districts culpable, but individual schools also buy into this culture of failure.

The building level is ground zero for educational change. Educators (principals and teachers) will ultimately make or break any change effort and hold the power for facilitating student success or failure. In failing situations, leadership is characterized as cold, aloof, and arrogant; decisions are made unfairly and inconsistently (Hersey, Blanchard, & Johnson, 1996). The principals of failing schools have little concern for the greater educational context that places their schools in dire situations, nor do they show sensitivity for the cultures of their students and surrounding communities. Haberman (2003b) posited, "The effective leader of an urban poverty school accomplishes three basic goals: s/he creates a common vision; builds effective teams to implement that vision; and engenders commitment to task, i.e. the persistent hard work needed to engender learning" (p. 2). The role and function of teachers is critical to the success of students at the school level. "We have failed to understand that teachers are first and foremost cultural workers, not neutral professionals

exercising pedagogical or psychological skills on a culturally detached playing field" (English, 2002, p. 306). Teachers' cultural attitudes and expectations can have a woeful effect on their students. Teachers do urban school students an incredible disservice if they consistently have low expectations, practice invisible racism (avoidance behavior or providing less assistance), or hand out more harsh disciplinary actions to students of color than to White students (Delpit, 1995; Kunjufu, 2002; Tatum, 1997). Individual schools, by the actions of educators, can contribute to grander notions of urban school failure. At this same level, exceptional (special) education also contributes to the problem.

The use or misuse of exceptional education contributes to larger schemes of failure in urban school districts and also stigmatizes and labels students of color. Kunjufu (2001) wrote:

> Six percent of all children, or six million children, are in special education. There has been a 42 percent increase in special education placements over the past decade. As a result, special education has become a $40 billion industry. . . . African American children are 17 percent of the children in public schools, but represent almost 40 percent of children placed in special education. (p. 43)

It appears that urban poor students of color not only suffer in general education (we listed some specific instances previously) but also face significant problems with regard to special education. This is not to say that all students of color are mislabeled or misused by the "system," but these situations are more common than one might expect. Jones (2002) stated that students of color are frequently misclassified and misplaced into low-level or MMR courses, sometimes with little or no chance for mainstreaming. Students of color, in general, are placed into special education more often than their White peers, especially within certain disability classifications (Harry, 1992; Kunjufu, 2001). The struggles over special education and achievement in urban school districts are only symptoms of a larger problem with urban districts: the unfinished dream of integration.

There are several historical, social, economic, political, and institutional forces that contribute to urban school failure. From this analysis, we understand first that schooling in the United States serves the purposes of capitalism, creating a class system that includes docile content workers and a small group of elite leaders (Gatto, 2001). Second, when we examine the way in which many people of color are regulated into ghettoes and underserved by failing institutions (including school systems), we realize that housing patterns, White flight, and lack of political and social capital are products of design (Asante, 2003; West, 1994; White & Cones, 1999). Working in concert with institutional failures are the policies, practices, and philosophies of educators at the school level (including special education). Finally, urban school failure is maintained by the continuing legacy of segregation, which protects suburban districts from integration and confines desegregation to specified areas within cities (Altenbaugh, 2003). Ultimately, the system generates a group of students who underachieve, drop out, and become marginally employed or moderately successful (Haberman, 2003a). Unfortunately, this group contains primarily students of color. Ayers and Ford (1996) concurred, "Illinois in effect has created two parallel systems—one privileged, adequate, successful, and largely White, and the other disadvantaged in countless ways, disabled, starving, failing, and predominantly African American" (p. 88).

Who benefits from these failing systems? Haberman (2003b) identified at least 22 beneficiaries of failing urban school districts. Some of these beneficiaries include (in no particular order) employees of central offices; students outside of urban districts competing for college admission and the workplace; consultants; federal, state, and elected officials; the media; and universities. Haberman (2003b) asserted, "Central office functionaries' primary goal is to protect the present distribution of financial rewards, power, status and unearned privileges for themselves and their constituents who benefit from maintaining the present failed systems" (p. 2). Students outside of urban districts benefit by being unfairly compared to their less fortunate peers. Consultants make lucrative agreements with large urban districts, promising to solve tough problems; in reality, many consultants end up leaving and taking large sums of the district's money with them. It is evident that certain constituencies have much to gain from the plight of urban schools. Political candidates clearly understand that people are concerned about their children and that votes are connected to those who can offer solutions to the problems of failed urban school districts. The media conveniently scapegoat urban schools and spread negative press to people surrounding urban areas, perpetuating and reinforcing preconceived notions (Chideya, 1995). Universities benefit because urban districts provide fertile ground for research, there are large amounts of grant monies available to conduct research in these areas, and these institutions have teacher/administrator certification responsibilities combined with a lack of accountability for the failure of their products.

PERSPECTIVES OF COMMUNITY LEADERS

Despite the fact that we are celebrating the 50th anniversary of *Brown v. Board of Education,* schools in large metropolitan areas and smaller central cities in the United States are more segregated than they were before the 1950s. Given the diversity that is often typical of large metropolitan areas and communities, one would expect to find schools that are equally if not more racially diverse in terms of the student body. Contrary to expectation, rural and small-town schools are the most racially integrated for African American and Hispanic students. Although White students only make up

60% of students in U.S. schools, with the exception of the South, most White students attend schools that are primarily White (Orfield & Lee, 2004). Similarly, most African American and Hispanic students also attend schools that are majority African American or Hispanic. A number of issues have contributed to the resegregation of schools in urban settings, with inequitable educational resources and White flight to the suburbs, leaving large concentrations of poor families, among the most cited (Kozol, 1992). The disproportionate placement of students of color in special education has also been cited as a contributing factor to the resegregation of these students in educational placements where they have limited access to the general education curriculum and to their peers without disabilities (Losen & Orfield, 2002).

Much of the professional literature related to urban school failure and the problem of disproportionality of Black students in special education and low tracks has been offered by researchers, with major contributors from a wide range of disciplines, including education, law, sociology, and psychology. Unfortunately, many of these contributors are very far removed from the problem of disproportionality and resegregation of students of color through special education referral and placement. It has been suggested that many of these researchers are themselves a part of the power structure that has created, ignored, and maintained the problem of disproportionality (Patton, 1994). Several researchers (e.g., Artiles & Trent, 1994; Patton, 1998) have called for new producers of knowledge and scriptwriters to put an end to the problem and to guide the field toward equitable educational opportunities for students of color.

Despite numerous calls for input from other relevant parties, including community representatives and parents from communities where disproportionality exists, these stakeholders have rarely been asked to contribute their perspectives and thoughts regarding this persistent problem. To address the missing perspectives of community stakeholders, one of us (Blanchett) invited community leaders, including activist parents, community advocates and educators, and community-based agency directors, to participate in a focus group discussion on factors that contribute to special education referral and placement. The focus group participants were all community leaders in a large midwestern metropolitan community where disproportionality and resegregation of students of color existed. The 15 focus group participants included individuals who identified themselves as administrators of nonprofit organizations, community-based educational researchers, community-based social workers and parents, consultants, and family service coordinators. All community leaders identified themselves as either people of color (i.e., African American, Native American, or Hispanic) or mixed race (e.g., Mexican, Irish, Filipino). Participants' responses and contributions to the discussion were recorded and transcribed verbatim. The themes that emerged from the community leaders' input suggest that *Brown* is not working because general education is not adequate to meet the needs

of all its students, especially African American students, and because the teacher–student mismatch that exists in many classrooms often results in urban school failure and subsequent special education referral and placement.

Inadequate General Education

Several participants pointed to the inadequacy of general education and its inability or unwillingness to meet the needs of all its students as the root of the problem of disproportionality in special education. Despite increased state standards and federal attention given to holding all education systems more accountable for students' learning, some community leaders believed that general education is not structured in a way to comply with these standards and that the services offered are insufficient to meet the needs of all students. As one participant stated,

> We have made a big theme about high standards for all children. At the same time, there are no resources allocated to provide quality instruction to every one of those children. Some children get it, some children don't. . . . We are setting children up for failure from the start. . . . Research shows very clearly that if you provide effective . . . early childhood education, the rate of failure is much less significant throughout that child's academic career.

The lack of appropriate prereferral interventions and supports in the general education setting was linked to teachers' overreliance on special education referral for students who are experiencing difficulty. As one community leader said,

> Because in many communities . . . the problem hasn't been dealt with in the general education environment, sometimes the only option that seems to be available is specialized education or individualized education through special education, so there is that referral process.

Another community leader, in explaining overrepresentation, cited the lack of effort on the part of general educators to rule out explanations outside of the student for students' poor or inadequate classroom performance prior to special education referral:

> They are quick to put them in special education classes, but they haven't got some of the basic things tested . . . some of the basic physical things that could stop a child from learning. I work with young boys from grade school to high school, eighth grade, coming to us who could hardly read. Why? He could hardly hear. No one ever bothered

to actually get him tested. Since he is able to function in their mind socially, they never thought . . . he literally could not hear. . . . I think some of the basic things you look at when you are teaching a child [are] overlooked completely, so instead of getting the eyes tested, hearing tested, did he eat a decent breakfast, are they cold, things like that— they automatically say this child isn't behaving correctly or is destructive.

Several community leaders identified teachers' development of social or interpersonal relationships at the expense of teaching their students in urban settings as an example of general education's inadequacy contributing to disproportionate representation of students of color in special education. As one participant stated,

I guess it hit home to me especially with African American males. . . . You hear the teachers, "Oh, he is such a nice kid." But you [teachers] are babying him to death. . . . This irks me when teachers baby their students to death instead of pushing the potential out of them. I get that a lot when you have White teachers who have never worked with Black students from the urban environment, and they think the way they can reach out to these students is to mother them to death or cuddle them to death. You [teachers] are doing the child a great disadvantage, because what you are doing is not giving the skills needed to go on, so I see that a lot as well, especially that mother–son relationship happening, but it is very unhealthy. It is like you [students] need love, attention, affection, someone to listen to you versus you need to learn how to read.

Teacher–Student Mismatch

Several community leaders indicated that teacher–student mismatch in the general education setting plays a role in special education referral and ultimately in the disproportionate representation of students of color in special education. As a participant said in reference to how students learn, how teachers teach, and what options are available to students to get out of situations that are not working,

I see a lot of mismatch between how children learn and how teachers teach. So in a sense, we are setting up children for failure that just gets worse and worse the longer they are in school. If I am an adult, and I am in an environment where I can't possibly succeed, I typically choose to get out of that environment. If I am a child in a classroom, I don't have that option, except if I behave really, really out of line, I get kicked out of the classroom. That puts children in a real bind.

Community leaders pointed to the rigidity of the general education environment and the lack of room for individual differences in these settings as another teacher–student mismatch that might contribute to special education referral:

I think we go back to not understanding the children. Children are different. They are brought up different. They have different rules and regulations at home, and we can't expect for them to come to school, for all of them to sit down and act the same way. I think that it is a big problem. People don't see the difference that children have.

The teacher–student racial mismatch, the lack of diversity of teachers, and the limited diversity of students in urban schools were also highlighted as contributing to special education referral. As one participant indicated,

We do have a big mismatch between the racial breakdown of teachers versus . . . the racial breakdown of students in MPS [Milwaukee Public Schools]. It is like 80% White teaching staff and 20% other. In some respect, the misunderstanding and miscommunication is a given that we have to work from, and it is just opposite for the students. It is . . . 80% children of color and . . . between 17 and 20% White children.

Similarly, in reference to the cultural competence on the part of some general education teachers regardless of their cultural and ethnic background, another community leader said the following:

I think a piece of that, too, is a lack of cultural competence among those who are in our schools as adults, and cultural competence is not necessarily related to the cultural background of the individual, but it is more, how has that individual learned how to interact effectively regardless of the variety of cultures? A person can be African American and do a very culturally competent job teaching Hmong American students. The fact that they are from two different cultural backgrounds is mitigated by the fact that the adult in that scenario has cultural competency skills. So when you add a lack of cultural competency across the board to . . . the disparity or the lack of cultural diversity in our teaching force, it ends up where kids are the losers.

Community leaders cited the lack of preparation for developing competence and proficiency for teaching in urban schools as an issue that contributes to special education referral:

I have to go back to teacher training. I am looking at the School of Education at . . . University and

the way they train their teachers. Not to say they don't do a fine job, but one of the things that I found in looking at a lot of the teacher training programs is that it is rare that they give the students an opportunity to student teach in urban settings. When they do, it is very limited and very monitored. I find that, for example, a lot of teachers coming out . . . tend to . . . go back home and work in a suburban public school or a Catholic school or private school. . . . We are not putting teachers into . . . an urban setting. . . . I think a lot of teachers coming into the classroom do not have the skills. It is not simply something that you can learn in the classroom either.

Several participants identified schools as cultural systems and pointed to the lack of supports to assist students and families in navigating these cultural systems as contributing to special education referral. For example, one participant said,

When I . . . was part of a tribal community school project where the people of the tribal nation created their own school system, in part because   . the public school system was not doing what it needed to do. One of the goals of the tribal school system was to teach children and all those who love those children—so the whole extended family—how to navigate the American school culture. So there is an understanding of public school academics as a cultural entity, with cultural norms and cultural rules for behavior. . . . You could take a six-year-old and . . . you said, when you are in school, this is the behavior that is expected. It [talking to the student] didn't disrespect other behaviors outside of that, but it said let me teach you . . . what the expectations are. . . . It was an understanding that every kid coming into our school needed to learn that. Some . . . were going to come in with . . . broader experience, and some were going to come in with no experience [of] succeeding in the educational culture. But every kid there had the potential to learn . . . and it was amazing when they started understanding that. . . . They became very, very capable of functioning very well in that different culture without having to feel like their own culture was being put down or disrespected or devalued. I don't typically see that kind of an understanding, but when I teach parents in my current position, when you go into an IEP meeting, you need to know you are interfacing with a very different culture than you probably ever experienced before. Unless you are a school person, let me help you understand how that culture works. The parent goes, ah ha, no

wonder it makes no sense to me. Now I understand why, for example, at an IEP meeting, the teacher who always talks to me very nicely suddenly doesn't talk to me at all, because it is a cultural thing. It is the culture of that school system. So when we talk about cultural diversity, it helps me to think of school systems as kind of a subculture, with all the attributes of cultures in terms of values, rules, unspoken language, things like that.

Similarly, another community leader suggested that the school culture and the different cultures in classrooms contributed to special education referral:

Let's not be ashamed to say there is such a thing called school culture. It is not that we have school culture and culture culture. There is a distinct school culture. . . . When you go into that school, you know what is expected of you—the same way when you have your kids come to your house, you know they know what is expected of them. The school can set that tone. There is such a thing as school culture. I think sometimes we are busy changing the school culture—what I mean is, changing the kids versus [changing] the people that actually work in that culture—and I think that is the problem. It is too hard to change the kids. You are dealing with . . . many . . . people with different personalities. . . . Now, what are you going to adapt to that culture to make sure you get the results that you need to get? And I am for whatever you need to do . . . as long as it is legal and the kids respond to it. They learn, they can read, they can [go] on to college and be a productive citizen. . . . We don't have to have the same model of education all the time. I don't buy into that, and I don't buy into that each classroom has to be the same model. We can have the same school, same culture, different models, different classrooms based on the teacher, as long as it works.   .

CONCLUSIONS AND RECOMMENDATIONS

It goes without saying that the *Brown* decision has had a significant positive impact on the American education system and on life in general in the United States. However, for many students, particularly African American students in urban settings and students with disabilities, much more is needed to realize the full promise of *Brown*. To move toward more equitable schooling and to protect the constitutional rights of some of our most vulnerable children, we offer the following recommendations:

Develop equitable school funding systems. As with the current debate surrounding congressional and presidential elec-

tions and campaign finance reform, states should develop and implement new school finance systems. These reformed school finance systems should be designed to eliminate the inequalities inherent in the current funding systems. Current school funding formulas based on property taxes have been a corrupting influence on the road to equality, leading to a qualitatively different level of education for students based on their race, socioeconomic status, and community backgrounds. A system that bases equity in education on property taxes is inherently flawed, because property taxes reflect inequity. The current system of funding education functions much like a societal sorting mechanism for class, race, and privilege and creates a separate and unequal system of "haves" and "have-nots" with regard to education access.

Issue a new equity challenge in the federal courts. Fifty years after *Brown v. Board of Education*, millions of students of color still go to segregated schools and receive an inferior education. In fact, there is a rising tide of resegregation in U.S. schools. Unless something is done, more generations of students of color will be educated in racially segregated schools in many of the urban areas of the country. As the Supreme Court declared racial segregation in public schools unconstitutional more than 50 years ago, educators, parents, lawmakers, and community leaders should join together to bring about a new *Brown* type of litigation to challenge the constitutionality of the disproportionate placement of African American children in special education and the poor quality of schooling provided to many who live in poverty. Litigation has always been one of the most effective strategies used to fight unjust conditions. Historically, large class action lawsuits have served as a means for generating widespread systemic change. Unlike the *Brown* lawsuit, however, future litigative actions should focus not just on identifying the problem but on implementing solutions to the problem. Legal pressure on the federal courts is needed to make the federal government give more tangible substance to the promise of equitable schooling.

Reinforce ideals already on the books. More than 50 years ago, the Supreme Court recognized that education was a right of *all* American citizens, not just a privilege for a select few. In 2002, President George W. Bush signed NCLB into law, supposedly to improve the educational opportunities for every child in the country. However, in practice, so far NCLB has only exposed children living in poverty to more testing and more limited educational resources and opportunities. Today, it is common to hear politicians espousing clichés like "education is the key to opportunity" and "every child can learn," while continuously promoting and adopting policies that, when implemented, widen the gap between Black children, children with disabilities, and children living in poverty and their White, nondisabled, middle class peers. Some of the rhetoric espoused by politicians in the current political climate are great American ideals that, if implemented literally, would change many U.S. schools from institutions of promise to institutions of prominence.

Make noncompliance a legal issue. In many instances, courts of law have acknowledged the inequalities in our school systems. However, they have disengaged themselves from enforcing compliance with desegregation. In short, court decisions have been insufficient to ensure equity for students of color in U.S. school systems. When it comes to matters of promoting quality and equity for minority students, the courts have tended to frame these issues as legislative rather than judicial matters. In doing so, the courts have given states and school systems wide latitude to go ahead with smoke-and-mirrors or good-faith reform efforts, with no real accountability for what actually happens in schools. To have real reform, the ruling in the *Brown* case should be enforced at the federal level, similar to other rulings aimed at preventing discrimination. For example, the Americans with Disabilities Act (ADA) of 1990 and Title IX of the Education Amendments to the Civil Rights Act were developed to prohibit discrimination of certain classes of people. ADA prohibits discrimination against individuals with disabilities, and Title IX prohibits discrimination on the basis of gender. Both have very specific rules for compliance and should be strictly enforced. Violators of these federal laws should face severe consequences, not a slap on the wrist. This type of enforcement model would help eliminate some of the political barriers to establishing more equitable schools and would help reorder the nation's social priorities.

Make quality education everybody's problem. Traditionally, the school system serves as the hero or the scapegoat of education. School officials and teachers are praised for student success and blamed for student failure. The truth of the matter is that when it comes to matters of quality and equity, *all* educational stakeholders have a responsibility to help ensure the success of students. These stakeholders include,

- The teacher, who has the most direct control over what happens in the classroom;

- The principal, who sets the climate for change in the school;

- The student, who must be actively engaged in the learning process;

- The district administrator, who can establish and enforce district policy;

- The consultant, who brings specialized knowledge and enables follow-through;

- The parent and the community, who can give students a leg up by being actively involved;

- The government, who can mandate action and provide or withhold resources;

- The teacher educator, who can equip the potential teachers with tools for leading change (Fullan & Stiegelbauer, 1991).

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