

2012

Examining Teacher Attitudes Toward Integration: Important Considerations for Legislatures, Courts, and Schools

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Recommended Citation

Mark T. Keane, *Examining Teacher Attitudes Toward Integration: Important Considerations for Legislatures, Courts, and Schools*, 56 St. Louis U. L.J. (2012).

Available at: <https://scholarship.law.slu.edu/lj/vol56/iss3/16>

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**EXAMINING TEACHER ATTITUDES TOWARD INTEGRATION:
IMPORTANT CONSIDERATIONS FOR LEGISLATURES, COURTS,
AND SCHOOLS**

INTRODUCTION

“The foundation of every state is the education of its youth.”

– Diogenes Laërtius

Karen, a fifth-grade student diagnosed with autistic disorder, quietly sits at her desk and stares blankly at her multiplication assignment. Unlike most of the other twenty-six students in the general education classroom, Karen requires special modifications and teacher assistance to help her complete assignments. As the math period concludes, Karen’s teacher collects yet another untouched, incomplete assignment on Karen’s desk. For the last three years, Karen’s school district provided a full-time paraprofessional educator to assist Karen in the regular education classroom. However, after significant budget cuts to education funding, the school system judged that the full-time paraprofessional was no longer necessary. Overwhelmed by the sheer number of students in the class, lack of training for teaching special education students, and the removal of paraprofessional support, Karen’s teacher was incapable of addressing Karen’s highly individualized needs. Unfortunately, Karen’s sad story is not unique. Across the country, school districts are struggling to meet the individualized needs of students with disabilities who are educated in regular education classrooms.¹

Public schools in the United States are required to provide various special education services for students like Karen who qualify under the Individuals with Disabilities Education Act (“IDEA”).² The IDEA affords students with disabilities³ the right to receive a “free [and] appropriate public education” in

1. See, e.g., MICHAEL R. GIBBONS ET AL., MISSOURI BLUE RIBBON PANEL ON AUTISM 14–15 (2007). The recent rise of autism diagnoses has proven particularly troubling to public schools in Missouri, where there is a shortage of educators specifically trained to address the increasing demand of autistic students matriculating in the public schools. *Id.*

2. See 20 U.S.C. § 1400(d)(1)(A) (2006).

3. The IDEA defines “child with a disability” as a child “with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities” *Id.* § 1401(3)(A)(i) (2006).

the “least restrictive environment” (“LRE”).⁴ The requirement that schools educate students with disabilities in the LRE is one of the most contested and controversial provisions in the IDEA.⁵ Restrictiveness is determined by the percentage of the school day that the special education student spends in a general education setting—the more time a student spends in a general education setting, the less restrictive the environment.⁶ The IDEA requires that children with disabilities be educated with their non-disabled peers to the maximum extent possible.⁷ Thus, schools are obliged to provide children with disabilities a variety of alternative placements and supplementary services in regular education settings.⁸ Since the inception of special education rights legislation in the 1970s, the legislative and judicial branches have expressed a transparent preference for integrating children with disabilities in regular education classrooms with their non-disabled peers.⁹

Despite the clear preference for integrating special education services with the general education setting, there remains a lively, contentious debate over the efficacy of the integration model.¹⁰ In order to understand the debate and surrounding controversy over the legislative and judicial preference for integrating special education students, basic legal and educational terms must be identified, defined, and distinguished.

The terms “least restrictive environment,” “inclusion,” “mainstreaming,” and “integration,” though similar, are not synonymous. As mentioned, LRE is a substantive legal provision enshrined in the IDEA that requires children with disabilities to be educated to the maximum extent appropriate alongside their non-disabled peers.¹¹ “Mainstreaming” and “inclusion” are educational terms that are frequently, though incorrectly, used interchangeably. Mainstreaming and inclusion are different methods by which schools fulfill the IDEA

4. *Id.* § 1412(a)(1) & (a)(5) (2006).

5. *See, e.g.*, Michael A. Rebell & Robert L. Hughes, *Special Education Inclusion and the Courts: A Proposal for a New Remedial Approach*, 25 J.L. & EDUC. 523, 549 (1996); Megan Roberts, Comment, *The Individuals with Disabilities Education Act: Why Considering Individuals One at a Time Creates Untenable Situations for Students and Educators*, 55 UCLA L. REV. 1041, 1044–46 (2008).

6. Edward Garcia Fierros & James W. Conroy, *Double Jeopardy: An Exploration of Restrictiveness and Race in Special Education*, in RACIAL INEQUITY IN SPECIAL EDUCATION 39–40 (Daniel J. Losen & Gary Orfield eds., 2002).

7. 20 U.S.C. § 1412(a)(5)(A) (2006).

8. *See id.*

9. *See, e.g.*, Daniel R.R. v. State Bd. of Educ., 874 F.2d 1036, 1044 (5th Cir. 1989) (describing the IDEA as “creat[ing] a strong preference in favor of mainstreaming” and citing other circuit cases in which this congressional purpose was recognized).

10. Terry Jean Seligmann, *An IDEA Schools Can Use: Lessons from Special Education Legislation*, 29 FORDHAM URB. L.J. 759, 765 (2001).

11. 20 U.S.C. § 1412(a)(5)(A) (2006).

requirement that students be educated in the least restrictive environment.¹² Mainstreaming occurs when special education students spend a portion of their day in a regular education classroom and a portion in a separate special education classroom.¹³ Inclusion, on the other hand, occurs when special education students learn exclusively in a regular classroom, alongside non-disabled students.¹⁴ The term “integration” will hereinafter refer to the general concept of including children with disabilities in the general education environment, which can be accomplished through either the mainstreaming model or the inclusion model.

Over the last three decades, courts have adopted an “integration presumption” when adjudicating LRE disputes between parents and school districts.¹⁵ The integration presumption places the burden on school districts to justify the segregation of children with disabilities from the regular education environment.¹⁶ Although courts consistently favor as much integration as possible, numerous court decisions have approved special education students’ placements in segregated or more restrictive settings.¹⁷ Unfortunately for lower courts and local school districts grappling with integration issues and LRE compliance, the appellate judicial system has not provided a coherent or consistent test for assessing the adequacy of integration programs.¹⁸ To make matters worse, given the absence of any Supreme Court decision on the issue, the federal circuits have adopted different tests for determining the appropriateness of a student’s placement in a segregated or integrated context.¹⁹ Without any judicial consensus on the issue, states and local school districts have developed and applied different standards and procedures for determining when it is appropriate to place children with disabilities in an integrated general education setting.²⁰ For instance, Ohio, Michigan, Kentucky, and Tennessee integrate only 10% of their intellectually disabled students while Massachusetts integrates more than 60% of its intellectually disabled students.²¹

12. Lorna Idol, *Toward Inclusion of Special Education Students in General Education: A Program Evaluation of Eight Schools*, 27 REMEDIAL & SPECIAL EDUC. 77, 78 (2006).

13. *Id.*

14. *Id.*

15. Ruth Colker, *The Disability Integration Presumption: Thirty Years Later*, 154 U. PA. L. REV. 789, 796 (2006).

16. *Id.*

17. Allan G. Osborne, Jr., *Is the Era of Judicially-Ordered Inclusion Over?*, 114 EDUC. L. REP. 1011, 1019–20 (1997).

18. Kathryn E. Crossley, Note, *Inclusion: A New Addition to Remedy a History of Inadequate Conditions and Terms*, 4 WASH. U. J.L. & POL’Y 239, 245 (2000).

19. Ashley Oliver, Survey, *Should Special Education Have A Price Tag? A New Reasonableness Standard for Cost*, 83 DENV. U. L. REV. 763, 766 (2006).

20. *Id.* at 766–67.

21. *Id.* at 767.

The importance of the integration debate is underscored by the increasing number of students diagnosed with disabilities under the IDEA. For example, during the 1976–77 school year, more than 3.6 million public school students, approximately 8% of the total public school population, qualified for special education services.²² During the 2008–09 school year, approximately 6.5 million public school students qualified for special education services under the IDEA, which comprised 13.2% of the total public school enrollment in the United States.²³ The numbers are also rising for children between the ages of three and five. In 1990–91, approximately 390,000 of these children received special education services while in 2008–09, approximately 700,000 received special education services.²⁴

As more students qualify for IDEA services,²⁵ more students with disabilities are being integrated into general education classrooms. For instance, in 1989, less than 32% of special education students between the ages of six and twenty-one spent 20% or less of their class time in segregated special education classrooms.²⁶ In contrast, by 2008, 58% of special education students spent 20% or less in segregated classrooms.²⁷ Furthermore, in 1989, nearly 25% of special education students spent more than 60% of the school day in segregated classrooms; in 2008, only 15% of special education students spent more than 60% of their day in segregated classrooms or facilities.²⁸

The increasing presence of special education students in general education classrooms has raised concerns not only about the overall efficacy of the integration model for special education students, but also about its potentially adverse impact on the general education population.²⁹ Critics of integration argue that the education of non-disabled students is being compromised by the time-consuming, highly individualized demands of their special education counterparts.³⁰ Such concerns are understandable given the sizeable budget cuts in education and increasingly unmanageable classroom sizes.³¹ Other critics assert that the judicial and legislative preference for integration is misguided and unfounded given the absence of consensus among educational

22. NAT'L CTR. FOR EDUC. STATISTICS, DIGEST OF EDUCATION STATISTICS 2010, at 82 (2011), available at <http://nces.ed.gov/pubs2011/2011015.pdf>.

23. *Id.*

24. *Id.* at 84.

25. *See id.*; Roberts, *supra* note 5, at 1072–73.

26. NAT'L CTR. FOR EDUC. STATISTICS, *supra* note 22, at 83.

27. *Id.*

28. *Id.*

29. Roberts, *supra* note 5, at 1074.

30. *Id.*

31. Stacey Gordon, *Making Sense of the Inclusion Debate Under IDEA*, 2006 BYU EDUC. & L.J. 189, 213.

policy experts and researchers studying the issue.³² More troubling, critics highlight research that arguably confirms the failure of various mainstreaming and inclusion models around the country.³³

Despite these critics' legitimate concerns and criticisms, this Comment contends that the integration model still stands as the most propitious option available, thereby warranting the longstanding legislative and judicial preference for integration.

More specifically, this Comment argues that legal commentary on the issue of integration has not adequately examined the most consequential factor impacting the efficacy of integration programs—teacher attitudes toward integration.³⁴ The success of any integration effort is crucially dependent on the willingness and capacity of our teachers to implement it. Because teacher attitude toward integration is a critical component to its success, legislatures, courts, and schools ought to pay careful attention to the various environmental and institutional factors that nurture teacher resistance to integration. Such factors include, though are not limited to, access to critical supplemental support services, availability of professional development, preparation and collaborative planning time, and classroom size. By addressing these external factors, teachers, students, and schools will undoubtedly benefit as compelling research on the benefits of integration has repeatedly demonstrated.

Part I of this Comment will detail the history of disability segregation in the public schools and the evolutionary progress of special education legislation that eventually precipitated the shift toward integration. Part II will provide a history of the judicial preference for integration by detailing significant federal appellate court decisions concerning the adequacy of integration programs in the public schools. Part III will highlight subsequent congressional legislation that significantly impacted the integration debate. In Part IV, the integration debate will be presented and analyzed from differing philosophical and theoretical perspectives. Part V will outline education-based research that illuminates the effectiveness (or lack thereof) of various integration programs across the country. Part VI will underscore the often-overlooked research examining teacher attitudes toward integration and the environmental and institutional factors that shape their attitudes. Finally, the Conclusion will argue that the legislative and judicial preference for integration is justified. Moreover, the Conclusion will propose that legislatures, courts, and schools must collectively acknowledge and address the environmental factors that influence teacher attitudes toward integration, so

32. Colker, *supra* note 15, at 828–29.

33. *Id.* at 829–31.

34. Jane M. Leatherman, “*I Just See All Children as Children*”: *Teachers’ Perceptions About Inclusion*, 12 QUALITATIVE REP. 594, 595 (2007), <http://www.nova.edu/ssss/QR/QR12-4/leatherman.pdf>.

that all stakeholders in the debate—most importantly our children—will benefit.

I. A HISTORY OF SPECIAL EDUCATION LAW AND THE SHIFT TOWARD INTEGRATED CLASSROOMS

In order to understand the current issues surrounding the integration debate, it is imperative to review the history and evolution of special education legislation over the last forty years. By looking through the lens of history, one gains a perspective allowing a more thorough understanding of the arguments surrounding the integration debate.

Prior to 1970, millions of children with disabilities were denied access to basic educational services.³⁵ Instead, the state sequestered hundreds of thousands of disabled people in state institutions.³⁶ In 1970, only one in five children with disabilities actually received a public education.³⁷ Shockingly, some states completely prohibited certain categories of disabled students from even attending school.³⁸ For those who actually received some form of public education, schools used differing approaches to educate their special-needs students.³⁹ For instance, some schools placed children with disabilities in the same hallway or building as general education students while other schools segregated special-needs students in separate facilities.⁴⁰

Determined to surmount the barriers to obtaining meaningful educational opportunities, parents of children with disabilities mobilized support for special education rights by forming the National Association of Retarded Citizens, United Cerebral Palsy, and the Association for Children with Learning Disabilities in the late 1960s.⁴¹ Drawing on the Supreme Court's landmark *Brown v. Board of Education* decision, many special education advocates argued that having segregated facilities for children with disabilities was inherently unequal and produced substandard educational opportunities and outcomes.⁴²

35. See U.S. DEP'T OF EDUC., THIRTY-FIVE YEARS OF PROGRESS IN EDUCATING CHILDREN WITH DISABILITIES THROUGH IDEA 3 (2010), available at <http://www2.ed.gov/about/offices/list/osers/idea35/history/idea-35-history.pdf>.

36. *Id.*

37. *Id.*

38. *Id.* (describing how some schools refused to admit blind, deaf, emotionally disturbed, or mentally retarded children).

39. Rebell & Hughes, *supra* note 5, at 530.

40. *Id.*

41. *Id.* at 531.

42. *Id.* at 532–33.

In the early 1970s, several important lawsuits in Pennsylvania⁴³ and Washington, D.C.⁴⁴ elevated the burgeoning social movement dedicated to securing special education rights.⁴⁵ After courts in Pennsylvania and Washington, D.C. invalidated longstanding practices denying children with disabilities the right to receive a proper education, Congress conducted its own investigation into the matter.⁴⁶ In a Senate Report issued in 1975, Congress noted that only 3.9 million of the 8 million disabled children in America were receiving an appropriate education.⁴⁷ Additionally, Congress found that 1.75 million did not receive any educational services at all, while another 2.5 million received an “inappropriate education.”⁴⁸

Determined to remedy this societal injustice, Congress passed the Education for All Handicapped Children Act of 1975 (“EAHCA”).⁴⁹ For the first time in American history, the EAHCA guaranteed a “free appropriate public education” (“FAPE”) to *all* children—disabled and non-disabled alike.⁵⁰ As part of the FAPE requirement, EAHCA provided every disabled child the right to receive an “individualized education program” (“IEP”) designed to meet the child’s unique learning needs.⁵¹ With participation from parents or guardians, EAHCA required school officials to prepare and annually review the student’s IEP.⁵² At a minimum, the IEP must include a statement of the child’s present level of educational performance, annual and short-term instructional goals, specific educational services to be provided, an estimated number of hours the child will spend in regular education classes, the projected date of initiation and duration of such services, and appropriate criteria and evaluation schedules for determining whether the stated goals are being met.⁵³ In addition to IEP requirements, EAHCA required schools to provide special

43. *Pa. Ass’n for Retarded Children v. Pennsylvania*, 334 F. Supp. 1257, 1259 (E.D. Pa. 1971) (finding in a consent agreement that “mentally retarded persons are capable of benefiting from a program of education and training”).

44. *Mills v. Bd. of Educ.*, 348 F. Supp. 866, 875 (D.D.C. 1972) (finding that the opportunity to receive a public education “is a right which must be made available to *all* on equal terms”) (emphasis added) (quoting *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954)).

45. Erin Phillips, Note, *When Parents Aren’t Enough: External Advocacy in Special Education*, 117 *YALE L.J.* 1802, 1812–13 (2008).

46. See S. REP. NO. 94-168, at 1 (1975), reprinted in 1975 U.S.C.C.A.N. 1425, 1425.

47. *Id.* at 8.

48. *Id.*

49. Education for All Handicapped Children Act of 1975, Pub. L. No. 94-412, 89 Stat. 773. Congressional findings regarding the educational needs met through implementation of this Act are codified at 20 U.S.C. § 1400(c)(2)–(3) (2006).

50. Education for All Handicapped Children Act of 1975, sec. 5(a), § 612(1).

51. *Id.* § 614(a)(5).

52. *Id.* sec. 4(a), § 602(19).

53. *Id.*

education and related services to disabled children in the “least restrictive environment commensurate with their needs.”⁵⁴

Spurred by the arguments of disability advocates that disability segregation was similar to racial segregation, Congress fashioned a rebuttable presumption for integrating classrooms to the maximum extent allowable unless the school could show that the severity of the disability made a general education placement detrimental to the child.⁵⁵ Thus, courts and schools must operate from the premise that a child’s least restrictive environment is the general education setting where assistive services and support can be provided as necessary.⁵⁶ If the child is not placed in a general education setting, the school has the affirmative obligation to justify the segregated placement.⁵⁷ The legislative presumption supporting integration is understandable given the stunningly egregious practice of sequestering children with disabilities in distant, segregated facilities with little to no realistic educational opportunities.⁵⁸

While the EAHCA laid unprecedented groundwork for protecting and guaranteeing special education rights, the new law left many puzzled as to the specific educational rights afforded to children with disabilities. What was an “appropriate” education? How much exposure to the general education classroom was required to meet LRE? The next section will describe the judiciary’s important role in interpreting and clarifying these nebulous legislative provisions.

II. JUDICIAL EFFORTS TO CLARIFY AND INTERPRET THE LEAST RESTRICTIVE ENVIRONMENT PROVISION

After the passage of the EAHCA, many parents and guardians sued school districts for alleged noncompliance with EAHCA provisions. In *Board of Education v. Rowley*, parents of a disabled child filed suit in a federal district court when the school denied a parent’s request that her child be supplied with a qualified sign language interpreter in every class.⁵⁹ The child, who was diagnosed as possessing minimal residual hearing, had already been provided a special hearing aid and additional instruction from tutors.⁶⁰ In agreeing to grant certiorari, the Supreme Court clarified the definition of a “free

54. *Id.* sec. 5(a), § 618(d)(2)(A).

55. Colker, *supra* note 15, at 792–93.

56. *Id.* at 796.

57. *Id.*

58. *See, e.g.*, S. REP. NO. 94-168, at 9 (1975), reprinted in 1975 U.S.C.C.A.N. 1425, 1433; Colker, *supra* note 15, at 795–96.

59. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 185 (1982).

60. *Id.* at 184.

appropriate public education” for the first time.⁶¹ The Supreme Court held that a free appropriate public education did not mean that states were required to provide “equal” educational opportunities for disabled and non-disabled children.⁶² Instead, the court held that the EAHCA only required schools to provide some form of specialized education that met a “basic floor of opportunity.”⁶³ Consequently, the denial of a qualified sign language interpreter did not violate the FAPE requirement.⁶⁴

Although the Supreme Court in *Rowley* did not directly address the issue of integration or the LRE provision, some legal commentators suggest that the *Rowley* decision implicitly repudiated the idea that the LRE provision requires schools to substantially modify the general education environment to meet the needs of special education students.⁶⁵ However, even if true, many subsequent court decisions interpreted the LRE provision in a substantive and demanding manner.⁶⁶

For instance, the Sixth Circuit Court of Appeals decision in *Roncker v. Walter* affirmed that integration must be implemented to the maximum extent possible.⁶⁷ More importantly, the *Roncker* decision outlined several reasons why courts might find placement in a segregated facility to be appropriate, despite the strong preference for integration: (1) because the child would gain no benefit from integration; (2) because the educational benefits from a segregated placement would far outweigh those of an integrated placement; (3) because the child would have a disruptive presence in the regular education classroom; and (4) because integration of that student would generate excessive costs to the school district to the detriment of other special education students.⁶⁸ The Eighth Circuit⁶⁹ and Fourth Circuit⁷⁰ subsequently adopted similar tests for determining the adequacy of a child’s placement in a segregated or integrated classroom environment. While several circuits embraced the *Roncker* test, the majority of circuit courts adopted a slightly

61. *Id.* at 186.

62. *Id.* at 199–200.

63. *Id.* at 201.

64. *Rowley*, 458 U.S. at 209–210.

65. *See* Rebell & Hughes, *supra* note 5, at 553.

66. Osborne, *supra* note 17, at 1015.

67. *Roncker v. Walter*, 700 F.2d 1058, 1063 (6th Cir. 1983). However, the *Roncker* court acknowledged that integration is not required in every situation. *Id.*

68. *Id.* Although cost is a factor to consider, the court expressly warned that schools cannot invoke cost as a defense if the school “failed to use its funds to provide a proper continuum of alternative placements for handicapped children.” *Id.*

69. *A.W. v. Northwest R-1 Sch. Dist.*, 813 F.2d 158, 163 (8th Cir. 1987).

70. *Devries v. Fairfax Cnty. Sch. Bd.*, 882 F.2d 876, 878–80 (4th Cir. 1989).

different approach, which was originally fashioned by the Fifth Circuit in *Daniel R.R. v. State Board of Education*.⁷¹

In *Daniel R.R.*, the Fifth Circuit declined to follow *Roncker* finding it “too intrusive an inquiry” into local educational decisions.⁷² Instead, the court promulgated its own test.⁷³ First, the court focused on whether the special education student could receive a satisfactory education in a regular education setting with the use of supplemental support and services.⁷⁴ To answer this first question, the court assesses several factors: for example, the potentially disruptive effect of having the special-needs child in a regular academic setting, the benefits of being exposed to a general education curriculum, the general educational experience in an integrated environment, and the impact of an integrated placement on the general education classroom environment.⁷⁵ Second, if integration into the general education environment is not possible, the court should then assess whether the child’s placement outside the regular education setting meets the LRE requirement.⁷⁶ To determine whether this requirement is met, courts will investigate whether the school made any attempt to mainstream the child in some academic courses, in non-academic courses, or at lunch or recess.⁷⁷ Depending on the answer to this highly fact-sensitive inquiry, the court will then determine whether a child’s segregated placement is consistent with the LRE requirement.⁷⁸ Unlike the *Roncker* test, the *Daniel R.R.* test does not incorporate any consideration of cost.⁷⁹

The Third Circuit,⁸⁰ Eleventh Circuit,⁸¹ and Tenth Circuit⁸² have all followed the Fifth Circuit’s lead by employing the *Daniel R.R.* test. However, the Ninth Circuit in *Sacramento City Unified School District v. Rachel H.* adopted still a third test by combining the features of the *Roncker* and *Daniel R.R.* tests.⁸³ In *Rachel H.*, the Ninth Circuit approved the district court’s balancing test weighing four major factors: (1) the educational benefits⁸⁴ of full integration in a general education classroom; (2) the non-academic benefits of

71. *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036 (5th Cir. 1989).

72. *Id.* at 1046.

73. *Id.* at 1048.

74. *Id.*

75. *Id.* at 1048–49.

76. *Daniel R.R.*, 874 F.2d at 1048.

77. *Id.* at 1050.

78. *Id.*

79. *Id.* at 1049 n.9.

80. *Oberti v. Bd. of Educ.*, 995 F.2d 1204, 1215 (3d Cir. 1993).

81. *Greer v. Rome City Sch. Dist.*, 950 F.2d 688, 696 (11th Cir. 1991).

82. *L.B. ex rel. K.B. v. Nebo Sch. Dist.*, 379 F.3d 966, 977 (10th Cir. 2004).

83. *Sacramento City Unified Sch. Dist. v. Rachel H.*, 14 F.3d 1398, 1404 (9th Cir. 1994).

84. Two years later, the Ninth Circuit liberally construed the concept of an “educational benefit” to include “academic, social, health, emotional, communicative, physical and vocational needs.” *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996).

full integration; (3) the impact of integration on the teacher and students in the general education classroom; and (4) the costs of integration.⁸⁵ Although a district court in the Seventh Circuit applied the *Rachel H.* test,⁸⁶ no other circuit has officially recognized and applied the Ninth Circuit's test for assessing an LRE challenge.⁸⁷

Although federal courts do not uniformly apply the exact same test, all federal appellate courts consider the impact of the child's placement not only on the individual child but also on the other students in the general education classroom.⁸⁸ Today, while most courts still apply an integration presumption, the courts diverge over the extent to which students must be integrated in the general education setting.⁸⁹ Regardless of the circuit split, judicial interpretation of the LRE provision has tended to facilitate more integration in the public schools.⁹⁰ While the courts have struggled to articulate a consistent standard for assessing the appropriateness of special education placements, Congress continued to modify the IDEA with noteworthy amendments.⁹¹ In addition, the federal government passed fundamental education reform via the No Child Left Behind Act in 2002.⁹² The next section will highlight these important legislative developments in order to set the stage for analyzing the current debate over integration in the public schools.

III. THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT & THE NO CHILD LEFT BEHIND ACT

For the first time since EAHCA's inception in 1975, Congress significantly amended the Act in 1997—by then renamed the “Individuals with Disabilities Education Act.”⁹³ Determined to address the steady rise of special education students placed in regular education classroom settings, the 1997 IDEA provided additional measures to ensure that students with disabilities had

85. *Rachel H.*, 14 F.3d at 1404.

86. *D.F. v. W. Sch. Corp.*, 921 F. Supp. 559, 566–67 (S.D. Ind. 1996). This test is sometimes referred to as the *Holland* test, following the caption of the district court case. *Id.*; *Bd. of Educ. v. Holland*, 786 F. Supp. 874 (E.D. Cal. 1992).

87. Oliver, *supra* note 19, at 772–73.

88. *Id.* at 775.

89. Gordon, *supra* note 31, at 209.

90. NAT'L COUNCIL ON DISABILITY, BACK TO SCHOOL ON CIVIL RIGHTS 32 (2000) [hereinafter NCD CIVIL RIGHTS REPORT].

91. *E.g.*, Individuals with Disabilities Education Act Amendments of 1997, Pub. L. No. 105-17, 111 Stat. 37.

92. No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (2002).

93. Individuals with Disabilities Education Act Amendments § 101, 111 Stat. at 37–155; NCD CIVIL RIGHTS REPORT, *supra* note 90, at 32, 34 (explaining that Congress changed the EAHCA's name to the Individuals with Disabilities Education Act in 1990); *see also* U.S. DEP'T OF EDUC., *supra* note 35, at 6.

access to the general education curriculum to the maximum extent possible.⁹⁴ For the first time, Congress explicitly codified the integration presumption in amendments to the IDEA.⁹⁵ Moreover, Congress inserted additional safeguards for any special-needs child removed from the general education classroom by requiring schools to justify the removal in the child's IEP.⁹⁶

Five years later, Congress enacted another important piece of education-based legislation when it passed the No Child Left Behind Act ("NCLB") in 2002.⁹⁷ NCLB imposes new obligations on all students and schools to "ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education."⁹⁸ Unlike the IDEA, NCLB applies to both disabled and non-disabled students.⁹⁹ NCLB requires states to compose rigorous academic standards in reading, language arts, and math, and to assess students in these topics annually.¹⁰⁰ Like previous federal education laws, NCLB allows the states to create their own academic achievement standards.¹⁰¹ However, NCLB requires states to hold *all* students—disabled and non-disabled—under the same scoring standard.¹⁰² NCLB does allow for "reasonable adaptations and accommodations for students with disabilities" in order to ensure compatibility with IDEA.¹⁰³ Given the legislative and judicial preference for integration, holding schools accountable for the educational progress of children with disabilities in regular education classrooms is not surprising. While NCLB yearly progress reports require schools to include the testing results of special education students, such arrangements remain extremely controversial.¹⁰⁴

Nevertheless, for the first time in U.S. history, NCLB has attempted to hold public schools accountable for student achievement, including the

94. See NCD CIVIL RIGHTS REPORT, *supra* note 90, at 34–35.

95. See S. REP. NO. 105-17, at 21 (1997); Roberts, *supra* note 5, at 1050.

96. 20 U.S.C. § 1414(d)(1)(A)(V) (2006); Roberts, *supra* note 5, at 1050.

97. No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (2002) (codified as amended at 20 U.S.C. §§ 6301–7491 (2006)).

98. 20 U.S.C. § 6301 (2006).

99. Allison S. Owen, Note, *Leaving Behind a Good IDEA: How No Child Left Behind Fails to Incorporate the Individualized Spirit of the IDEA*, 78 GEO. WASH. L. REV. 405, 408, 411 (2010).

100. 20 U.S.C. § 6311(b)(1) (2006).

101. *Id.* § 6311(b)(2)(G).

102. *Id.* § 6311(b)(1)(B).

103. *Id.* § 6311(b)(3)(C)(ix)(II).

104. See, e.g., Owen, *supra* note 99, at 414 (arguing that NCLB's uniform testing standard has a "deleterious effect" on the rights set forth in the IDEA and does not adequately account for the individual educational needs of disabled children); Michael Winerip, *Testing Fad is Farce For the Disabled*, N.Y. TIMES, Apr. 16, 2003, at D9 (arguing that NCLB's required state standardized tests are not suitable for the uniquely diverse needs of special education students).

academic achievement of the special education population.¹⁰⁵ Based on the results of annual state assessments, schools that fail to meet “adequate yearly progress” (“AYP”) face potential penalties like the withholding of funds and even the closing of failing schools.¹⁰⁶ In addition to annual standardized testing measurements, NCLB requires teachers to become “highly qualified.”¹⁰⁷ Further, all new teachers hired by states and school districts receiving federal funds must be “highly qualified” teachers.¹⁰⁸ NCLB broadly defines “highly qualified” as holding at least a bachelor’s degree and obtaining some form of state certification or licensing.¹⁰⁹ One way teachers can become “highly qualified” is through “professional development” which includes activities that “provide instruction in methods of teaching children with special needs.”¹¹⁰

Although beset with controversy from its inception,¹¹¹ NCLB attempts to make schools accountable for the academic achievement of *all* students.¹¹² When NCLB became law in 2002, many states initially struggled to comply with both IDEA and NCLB requirements.¹¹³ Many perceived the requirements of NCLB and IDEA as inherently incompatible.¹¹⁴ Critics underscored major structural differences and policy objectives between the two laws.¹¹⁵ For instance, the IDEA focuses on the individual student, instruction is based on ability, and assessments are based on a range of skills, while NCLB focuses on groups of students, instruction is based on grade level, and assessments are solely focused on academic progress.¹¹⁶ Exasperated by the seemingly incompatible nature of the two laws, some school districts unsuccessfully sued the U.S. Department of Education claiming NCLB’s accountability provisions contravened the IDEA.¹¹⁷ The Department of Education countered that

105. See, e.g., Maria Newman, *Federal Law on Failing Schools Has States Scrambling to Comply*, N.Y. TIMES, July 4, 2002, at B1 (showing the struggles schools and parents face when academic achievement fails to meet the statutory requirements).

106. 20 U.S.C. § 6311(b), (g)(2) (2006); see Newman, *supra* note 105.

107. 20 U.S.C. § 6319(a)(2) (2006).

108. *Id.* § 6319(a)(1).

109. *Id.* § 7801(23).

110. *Id.* § 7801(34)(A)(xiii). Providing teachers with professional development and training in this particular area is crucial to the success of any integration program. See *infra* text accompanying notes 218–21.

111. See, e.g., Newman, *supra* note 105.

112. 20 U.S.C. § 6301 (2006).

113. NAT’L COUNCIL ON DISABILITY, THE NO CHILD LEFT BEHIND ACT AND THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT: A PROGRESS REPORT 9 (2008) [hereinafter NCD NCLB REPORT].

114. *Id.* at 92.

115. *Id.* at 93.

116. *Id.*

117. Gordon, *supra* note 31, at 220.

students with disabilities must be included in the testing procedures in order to ensure that each school is accountable for the academic progress of its special education population.¹¹⁸

Although many policymakers, advocates, parents, and school administrators continue to decry the apparent incompatibility of the two laws, others still believe that NCLB and IDEA complement and strengthen each other overall.¹¹⁹ While both laws sometimes seem to be in tension with each other, both NCLB and IDEA include provisions attempting to account for (albeit in different ways and in differing degrees) the disparate learning needs of children with disabilities.¹²⁰ Both IDEA's integration presumption and NCLB's requirement to include special education students in measuring a school's AYP serve as conspicuous manifestations of the legislative preference for integration.

Over the last forty years, substantive federal legislative and judicial efforts have opened the doors of educational opportunity to millions of children with disabilities. The progress made over the last four decades is especially laudable when comparing today's environment to the dark days when schools literally closed the doors of educational opportunity to millions of children with disabilities. Though there is broad consensus regarding the right of children with disabilities to receive proper educational opportunities, there is significant disagreement over the means to most effectively provide those opportunities.

IV. THE DEBATE OVER THE EFFICACY OF INTEGRATION PROGRAMS

After passage of the EAHCA in 1975, schools increasingly implemented various mainstreaming and inclusion programs as a way to integrate and meet the LRE requirement.¹²¹ The rising number of special education students learning in general education classrooms precipitated an ongoing, fervent debate about integration generally and also about which integration programs (for example, mainstreaming versus inclusion) are most efficacious.¹²² The debate over integration involves many stakeholders expressing a wide variety of opinions.¹²³ On one end of the spectrum, some argue for the complete

118. *Id.*

119. NCD NCLB REPORT, *supra* note 113, at 92.

120. Admittedly, many would argue that NCLB does not adequately account for the individualized educational focus inherent in the IDEA. *See* 20 U.S.C. § 6311(b)(1)(B) (2006). However, even though IDEA and NCLB adopt differing approaches to addressing student achievement, both laws at least recognize the need to improve the academic achievement of children with disabilities.

121. LISSA A. POWER-DEFUR & FRED P. ORELOVE, INCLUSIVE EDUCATION: PRACTICAL IMPLEMENTATION OF THE LEAST RESTRICTIVE ENVIRONMENT 2 (1997).

122. Rebell & Hughes, *supra* note 5, at 536-45.

123. *Id.*

abolition of the entire integration system, while on the opposite end, others call for full integration no matter how severe the child's disability.¹²⁴ Other stakeholders fall somewhere in between and argue about the degree to which children with disabilities should be integrated in a general education classroom.¹²⁵

Proponents of integration generally argue that segregation of students with disabilities stigmatizes disability by making students with disabilities feel inferior to their general education peers.¹²⁶ Integration via mainstreaming or inclusion boosts the special needs child's self-esteem and prospects for academic success.¹²⁷ Not only does integration benefit the disabled child, but it also has profound social and educational benefits for non-disabled children.¹²⁸ Integration advocates argue that including special education services and special-needs students in the general education classroom promotes diversity, challenges discriminatory attitudes, and fosters more tolerant and hospitable communities.¹²⁹ Where children are segregated at an early age because of disability, a perpetual cycle of separation obstructs efforts to better understand disability and challenge prejudice.¹³⁰ By integrating special-needs children with their general education peers, more students will appreciate and sympathize with those living with the challenges and stigma of disability.¹³¹

Integration advocates further allege that these same social benefits accrue to children with disabilities by facilitating positive peer interaction and improved socialization skills.¹³² When children with disabilities are educated alongside their non-disabled peers, children with disabilities learn how to socialize through emulation and observation of their non-disabled peers.¹³³ These social benefits, though non-academic in nature, are recognized by the Department of Education and by IDEA.¹³⁴ In fact, one of IDEA's objectives is to assist in the development of good citizens by fostering "full participation, independent living, and economic self-sufficiency for individuals with

124. *Id.*

125. Jionel Edgardy Pierre, *Not in My Classroom: Regular Education Teacher Attitudes on the Inclusion of Special Education Students in Rural and Urban School Communities* 28 (Nov. 2009) (unpublished Ph.D. dissertation, Walden University) (on file with the Walden Library).

126. Crossley, *supra* note 18, at 254.

127. *Id.*

128. U.N. EDUC., SCIENTIFIC & CULTURAL ORG., *POLICY GUIDELINES ON INCLUSION IN EDUCATION* 8 (2009), *available at* <http://unesdoc.unesco.org/images/0017/001778/177849e.pdf>.

129. *Id.* at 8–9.

130. Gordon, *supra* note 31, at 211.

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.* at 222.

disabilities.”¹³⁵ Thus, integration advocates assert that integration—via mainstreaming or inclusion—is essential to carry out this fundamental objective of IDEA.¹³⁶

Although there are broad, underlying philosophical and theoretical principles shared by proponents of integration, there is profound disagreement within the pro-integration movement regarding the extent to which children with disabilities ought to be integrated into the general education classroom.¹³⁷ Some integrationists concede that children with severe disabilities may require segregated services, thereby justifying a segregated placement for at least some part of the school day.¹³⁸ These integrationists tend to support the mainstreaming model, which allows students to spend part of their day in special education classrooms when necessary.¹³⁹ Integrationists that promote the inclusion model seek the elimination of all segregated special education facilities and call for children with disabilities to receive *all* of their academic instruction in a general education setting.¹⁴⁰ Critics of the inclusion model contend that some disabilities are so severe that placement in a general education setting can actually hamper the individual child and the entire class’s academic development.¹⁴¹ These critics argue that where a child’s disability is extremely debilitating and severe, the best placement might be a segregated facility appropriately equipped to address and accommodate the disability.¹⁴²

At the other end of the debate are those who criticize the general idea that integration is beneficial.¹⁴³ Critics of integration generally reject the notion that segregating children with disabilities is inherently prejudicial.¹⁴⁴ More specifically, some critics argue that the physical separation of students based on ability does not, by itself, stigmatize students.¹⁴⁵ Instead, the stigma arises from the belief that separating special-needs children from the general classroom diminishes the self-worth of those students.¹⁴⁶ To provide an example where physical separation is not inherently prejudicial, critics highlight the separation of children with exceptional intelligence, known as “gifted” students, into magnet schools or advanced classes.¹⁴⁷ Moreover,

135. 20 U.S.C. § 1400(c)(1) (2006).

136. See Gordon, *supra* note 31, at 212.

137. Pierre, *supra* note 125, at 28–29.

138. Rebell & Hughes, *supra* note 5, at 540.

139. *Id.*

140. *Id.*

141. Crossley, *supra* note 18, at 254–55.

142. *Id.* at 254.

143. See, e.g., Rebell & Hughes, *supra* note 5, at 541–45.

144. Gordon, *supra* note 31, at 212.

145. *Id.* at 212–13.

146. *Id.*

147. *Id.* at 212. In fact, these exceptional students can find the separation “empowering.” *Id.*

critics of integration question whether integration actually fosters a socially inclusive, tolerant environment.¹⁴⁸ Integration, according to these critics, actually underscores the differences of children with disabilities by exposing them to a general education environment where their non-disabled peers are noticeably different.¹⁴⁹ Such exposure will unfortunately propagate the very stigmatization integrationists seek to avoid.¹⁵⁰

Many critics of integration challenge the basic premise that integration is desirable because of the social benefits afforded to children with disabilities.¹⁵¹ Integration critics argue that too much emphasis is placed on non-academic benefits since the essential purpose behind education is to educate—not to enhance the social skills of certain students.¹⁵² Therefore, justifying integration based on improving socialization skills runs contrary to the fundamental purpose of education.¹⁵³ Moreover, critics frequently claim that costly assistive services (for example, paraprofessional educators or supplementary aids) in integrated classrooms drain already scarce financial resources for the general education population.¹⁵⁴ General education suffers when special education funds increasingly swallow up the limited budgets of schools, especially in tight economic times when local and state governments continue to slash education spending as a way to shrink mounting budget deficits.¹⁵⁵ Therefore, critics argue that integration unfairly diverts general education resources to costly special education services.¹⁵⁶ Similarly, critics decry the skyrocketing costs of providing special education services, which some estimates report to be twice as much as general education services.¹⁵⁷

Similarly, critics of integration underscore the burdensome expectations imposed on schools and teachers by mainstreaming or inclusion programs.¹⁵⁸ As classroom sizes increase and education spending decreases, teachers cannot devote enough attention to both general education students and students with disabilities.¹⁵⁹ Children with disabilities, especially severe disabilities, may unintentionally disrupt and slow down the learning process for other students given their highly individualized needs.¹⁶⁰ To compound the problem, critics

148. *Id.* at 213.

149. Gordon, *supra* note 31, at 213.

150. *Id.*

151. Crossley, *supra* note 18, at 254–55.

152. *Id.* at 255.

153. *Id.*

154. *Id.* at 255–56.

155. *See* Phillips, *supra* note 45, at 1825.

156. Crossley, *supra* note 18, at 256.

157. Gordon, *supra* note 31, at 214.

158. *Id.* at 213.

159. *Id.* at 213–14.

160. *Id.*

argue that special education teachers are better equipped to work successfully with special-needs children in separate classrooms.¹⁶¹ Thus, critics contend that special education students ought to be educated in a segregated setting specifically designed to accommodate and serve their highly individualized interests.¹⁶²

While there are compelling theoretical and philosophical arguments advanced on both sides of the integration debate, the most telling and consequential indicator of integration efficacy is the education-based research examining the efficacy of various mainstreaming and inclusion models. The next section will set forth the conclusions of various research studies and set the stage for an examination of the most important, yet too often ignored, consideration in the integration debate—teacher attitudes toward integration.

V. RESEARCH ON THE EFFICACY OF INTEGRATION PROGRAMS IN PUBLIC SCHOOLS

As more school districts moved toward more integrated classrooms to meet the LRE requirement, research projects were commissioned to study the efficacy of various mainstreaming and inclusion programs in public schools. One of the more famous reports was a 1992 study commissioned by the National Association of State Boards of Education (“NASBE”).¹⁶³ The NASBE report determined that the tradition of segregating special education students and services from the general education classroom caused widespread, systemic academic failure for those in special education.¹⁶⁴ Finding a disproportionate number of special education students not graduating, unemployed, and/or incapable of independent living after completing school, NASBE called for urgent change in the way special education was delivered.¹⁶⁵ In calling for a new approach, NASBE supported the inclusion model where all students, regardless of disability, were educated in a regular classroom with the assistance of supplemental services and paraprofessional aids as necessary.¹⁶⁶

Integrationists cite NASBE’s findings as proof that segregated special education services do not provide meaningful educational opportunities to students with disabilities.¹⁶⁷ To support the movement toward integration,

161. Nancy Rice, *Opportunities Lost, Possibilities Found: Shared Leadership and Inclusion in an Urban High School*, 17 J. DISABILITY POL’Y STUD. 88, 88 (2006).

162. *Id.*

163. NAT’L ASS’N OF STATE BDS. OF EDUC., WINNERS ALL: A CALL FOR INCLUSIVE SCHOOLS (1992).

164. *Id.* at 8.

165. *Id.* at 8, 12.

166. *Id.* at 12.

167. *See, e.g.,* POWER-DEFUR & ORELOVE, *supra* note 121, at 6.

integrationists frequently allude to numerous studies that underscore the benefits to children with disabilities when educated in a mainstreamed or inclusive classroom.¹⁶⁸ Such benefits include improved standardized test results, improved socialization skills with others, greater success meeting IEP objectives, and better preparation for opportunities after completing school.¹⁶⁹ A recent study of an inclusive classroom conducted in 2006 found that some students with disabilities, including those diagnosed as moderately intellectually disabled,¹⁷⁰ “performed close to and occasionally above what would be expected for their age/grade.”¹⁷¹ Furthermore, studies have shown that students in inclusive elementary schools are better prepared for the transition to secondary school.¹⁷²

In 2000, the National Center for Educational Restructuring and Inclusion conducted its own research on the efficacy of the inclusion model and concluded that students in integrated programs benefitted by achieving IEP goals and enjoyed increased academic gains and standardized test results.¹⁷³ Furthermore, the research indicated that students with disabilities submitted fewer incomplete assignments, expressed a more positive attitude toward school, and enjoyed more positive interactions with peers.¹⁷⁴ Proponents of integration also cite research indicating that students in integrated classrooms created new student interests and increased students’ knowledge of the world.¹⁷⁵ Notably, in 2005, a pair of special education experts concluded that all the available research on the issue “overwhelmingly supports integrated instructional approaches over those that are categorically segregated.”¹⁷⁶

168. *See, e.g., id.* at 4.

169. *Id.*

170. The term “intellectually disabled” is the now the preferred nomenclature in the scientific and education communities for the term “mentally retarded” despite IDEA’s use of the older term. 20 U.S.C. § 1401(3)(A)(i); *see also* 34 C.F.R. § 300.7(c)(6) (2006) (defining mental retardation as “significantly subaverage general intellectual functioning”). *See generally* Robert L. Schalock et al., *The Renaming of Mental Retardation: Understanding the Change to the Term Intellectual Disability*, 45 INTELL. & DEVELOPMENTAL DISABILITIES 116 (2007).

171. Coral Kemp & Mark Carter, *The Contribution of Academic Skills to the Successful Inclusion of Children with Disabilities*, 18 J. DEVELOPMENTAL & PHYSICAL DISABILITIES 123, 123 (2006).

172. *See* FLA. STATE UNIV. CTR. FOR PREVENTION & EARLY INTERVENTION POL’Y, BENEFITS OF INCLUSION: INCLUDING SCHOOL-AGE STUDENTS WITH DEVELOPMENTAL DISABILITIES IN THE REGULAR EDUCATION SETTING (2002), *available at* http://www.cpeip.fsu.edu/resourceFiles/resourceFile_18.pdf.

173. MARY KONYA WEISHAAR ET AL., INCLUSIVE EDUCATIONAL ADMINISTRATION: A CASE-STUDY APPROACH 122 (2d ed. 2007).

174. *Id.*

175. POWER-DEFUR & ORELOVE, *supra* note 121, at 5.

176. Wayne Sailor & Blair Roger, *Rethinking Inclusion: Schoolwide Applications*, 86 PHI DELTA KAPPAN 503, 504 (2005).

Supporters of inclusion also underscore research demonstrating integration's positive impact on general education students. A 1996 study revealed that general education students in an integrated classroom enjoyed higher grades and improved standardized test scores.¹⁷⁷ Researchers explained that low-achieving students particularly benefitted from the repetition and review provided to students with disabilities.¹⁷⁸ There are also notable non-academic or social benefits that general education students enjoy in an integrated classroom. For instance, a 2007 study revealed that general education students exhibited more tolerant attitudes toward students with disabilities when placed in small-group projects together.¹⁷⁹ A 2004 study comparing an inclusive classroom to a segregated special education facility found lower degrees of abusive behavior and the development of friendships in the inclusive classroom.¹⁸⁰

As students become more socially connected to and familiar with their fellow classmates who are disabled, integrated classrooms facilitate noteworthy benefits to students' emotional intelligence. As one parent of a child in an integrated school described, "The kids see their challenges and offer help. They get assigned to assist the disabled child with pushing their chair or carrying their books. My children are growing empathetically, as well as emotionally by learning alongside a child who needs patience and kindness."¹⁸¹ Multiple research studies support this anecdotal finding that integration promotes better understanding of the similarities between those with disabilities and those without, heightens the enjoyment of social interaction for children with disabilities in larger-sized classrooms, improves acceptance of diversity within the school, and advances the quality of life by facilitating more satisfying and meaningful learning experiences.¹⁸²

Integration's impact on the family, though indirect, is also noteworthy. For example, families of children with disabilities often experience a heightened connection to other families in the community since all children, even those with disabilities, attend the neighborhood school.¹⁸³ Moreover, research reports that families are grateful for the positive changes they observe

177. POWER-DEFUR & ORELOVE, *supra* note 121, at 5.

178. *Id.*

179. Ashley Flower et al., *Meta-Analysis of Disability Simulation Research*, 28 REMEDIAL & SPECIAL EDUC. 72, 76 (2007).

180. Pierre, *supra* note 125, at 84.

181. Interview with Patricia Harrison, Assistant Clinical Professor, Saint Louis Univ. Sch. of Law, in St. Louis, Mo. (Jan. 11, 2011).

182. CAROL A. KOCHHAR ET AL., SUCCESSFUL INCLUSION: PRACTICAL SUGGESTIONS FOR A SHARED RESPONSIBILITY 37 (2000).

183. POWER-DEFUR & ORELOVE, *supra* note 121, at 5.

in their children when placed in an integrated environment more conducive to tolerance and understanding.¹⁸⁴

Despite the extensive research cited by integration advocates, critics of integration point to contradictory research that calls into question claims of integration success. For instance, in a review of literature that focused on the efficacy of various inclusion programs, one study acknowledged that positive outcomes are not occurring for some children with disabilities placed in an integrated setting.¹⁸⁵ Further, the claim that schools and teachers are ill-equipped to meet the needs of both general and special education students in the same classroom is bolstered by a research project conducted in five elementary schools in five states.¹⁸⁶ That study found that students in special education received full access to the general education curriculum but did not receive the adequate special education assistance or services required to make this exposure meaningful.¹⁸⁷ The same study challenged the notion that integration improves academic achievement for children with disabilities.¹⁸⁸ More specifically, researchers studying the inclusion programs observed students with disabilities in a general education environment were “clearly deficient academically” and were struggling to complete assignments.¹⁸⁹ Opponents of integration also cite research indicating the success of segregated educational services for children with disabilities. For instance, one study revealed that a variety of students with disabilities benefitted from the individualized instruction, smaller class size, and highly trained special education teachers in segregated settings.¹⁹⁰

Other research specifically challenges the inclusion model where children are educated in the general education classroom for the entire day without any periodic “pull-out” into segregated classrooms. For instance, one research study found that despite significant funding for inclusion programs, students with learning disabilities failed to make satisfactory academic or social progress in the inclusive classroom.¹⁹¹ The study underscored the inability of the general education teacher to adequately accommodate the highly

184. *Id.* at 6.

185. WEISHAAR ET AL., *supra* note 173, at 122.

186. *Id.*

187. Janice M. Baker & Naomi Zigmond, *The Meaning and Practice of Inclusion for Students with Learning Disabilities: Themes and Implications from the Five Cases*, 29 J. SPECIAL EDUC. 163, 171 (1995).

188. *Id.* at 178.

189. *Id.*

190. Douglas Marston, *The Effectiveness of Special Education: A Time Series Analysis of Reading Performance in Regular and Special Education Settings*, 21 J. SPECIAL EDUC. 13, 23 (1988).

191. Stuart Harrington, *Full Inclusion for Students with Learning Disabilities: A Review of the Evidence*, 7 SCH. COMMUNITY J., Spring/Summer 1997, at 63, 69.

individualized needs of the students with learning disabilities.¹⁹² Although the authors of the research concede that such problems might be corrected with adequate teacher training and planning, this is not likely to happen given the lack of training for inclusion programs and insufficient planning time for teachers during the school day.¹⁹³

Advocates on both sides of the integration debate invoke empirical data from various research studies analyzing the impact of mainstreaming and inclusion in the public schools to support their respective arguments. Nevertheless, most of the research on the efficacy of mainstreaming and inclusion programs supports some variation of integration if funded, designed, and executed properly. Several studies spotlight the failures of various integration programs in schools across the country exposing the missing components required to make integration work.

To better understand the importance of designing effective integration programs, examining teacher attitudes toward integration is critical. As the following section will argue, teacher attitudes toward integration is the most important, yet too often overlooked, consideration in the integration debate.¹⁹⁴ Every stakeholder in the debate can benefit by analyzing teacher attitudes and closely examining the environmental and institutional factors that shape them.

VI. TEACHER ATTITUDES TOWARD INTEGRATION

The single most important factor for any successful integration program is the unequivocal, genuine support of those being asked to implement it on a daily basis—teachers. The strong correlation between teacher attitudes and integration efficacy is not only intuitive, but it is also supported by empirical data. In a 2004 study of personnel and specialists in various preschools and child care centers, researchers found that general education teachers exert a critical influence on the success of the children with disabilities in the integrated classroom.¹⁹⁵ The research indicates that teachers who hold positive attitudes toward integration tend to incorporate children with disabilities in *all* classroom activities.¹⁹⁶ Thus, when teachers have more positive attitudes toward integration, students benefit from a classroom environment more conducive to learning, especially where teachers provide children with disabilities every opportunity to participate in classroom activities and develop their potential.¹⁹⁷ Moreover, because integration requires a substantial measure of collaboration and cooperation among educators sharing classrooms, the full

192. *Id.* at 68.

193. *Id.* at 69.

194. *See infra* Part VI.

195. Pierre, *supra* note 125, at 54–55.

196. Leatherman, *supra* note 34, at 595.

197. *Id.* at 607–08.

support of those implementing integration is absolutely critical to its efficacy.¹⁹⁸

Additional research conducted to specifically examine teacher attitudes toward integration confirms the momentous role that teachers play in making integration work. For instance, one study reporting on the failure of an inclusion program found that teacher attitudes toward inclusion and toward children with disabilities remained the “driving force” behind the efficacy of the inclusion program.¹⁹⁹ Additional research found that “[t]eacher attitude is one of the most important variables in the education of children with disabilities.”²⁰⁰ One study conducted in 2005 revealed that negative teacher attitudes toward inclusion and toward children with disabilities present a significant obstacle and risk to the success of any integration effort.²⁰¹ Another 2005 study concluded that positive teacher attitude toward integration was one of the indispensable requirements for successful inclusion.²⁰²

Understanding teacher attitudes toward integration necessarily entails a deeper inquiry into the variety of factors and conditions that shape teacher attitude. Researchers have identified numerous factors that influence the way teachers view integration: access to supplemental services and aids, availability of professional development training, preparation and collaborative planning time, and classroom size.²⁰³ When these factors are not properly accounted for, teachers tend to express negative views toward integration since overbearing environmental conditions make successful implementation virtually impossible.²⁰⁴ These environmental constraints are compounded by NCLB’s push to make teachers and schools more accountable for the academic achievement of their special education students.²⁰⁵ Given the adverse consequences to teachers and schools for failing to meet annual progress goals,²⁰⁶ it is not difficult to understand why teachers placed in such strenuous working environments would hold negative attitudes toward integration.

198. Pierre, *supra* note 125, at 91. As an example, many special education teachers opposing integration efforts bemoan the unwelcome, negative attitudes of general educators that make the special educator feel less like a teacher and more like an “extra set of hands.” Harrington, *supra* note 191, at 68.

199. Pierre, *supra* note 125, at 61.

200. *Id.* at 62.

201. *Id.* at 71.

202. *Id.* at 146. According to the same study, the other three requirements are qualified personnel, available support services, and adequate space and equipment to meet the needs of all students. *Id.*

203. *Id.* at 64, 83.

204. See Sharon Vaughn et al., *Teachers' Views of Inclusion*, 11 LEARNING DISABILITIES RES. & PRAC. 96, 101 (1996).

205. See *supra* text accompanying notes 97–118.

206. See *supra* text accompanying notes 105–06.

At the heart of any successful integration model is collaboration and cooperation between special educators, general educators, and paraprofessional assistants. One of the most conspicuous and problematic institutional barriers to facilitating collaboration and cooperation between educators is the ubiquity of the dual school system model. As an example, the Special School District of St. Louis County operates as a completely independent, bureaucratic entity from the St. Louis County Schools.²⁰⁷ At a macro level, dual school systems needlessly create organizational problems and obstruct efforts to integrate special education services within general education settings.²⁰⁸ At a micro level, dual school systems inhibit efforts to foster teacher collaboration and shared goal setting, which is crucial to the success of any integration program.²⁰⁹ Furthermore, research on teacher collaboration reveals that collaboration requires shared responsibility, shared resources, mutually agreed-upon goals, and parity between participants.²¹⁰ Dual school systems are far more likely to encounter difficulties fostering an environment conducive to this sort of cooperation and collaboration.²¹¹ Not surprisingly, teachers view integration less favorably where pesky bureaucratic obstacles encumber collaborative opportunities with their peers.²¹²

Teacher attitudes toward integration are also intricately related to the availability of supplemental services and paraprofessional assistance in integrated classrooms.²¹³ Where schools provide inadequate supplemental services and aids, teachers report higher levels of dissatisfaction with their job.²¹⁴ Not surprisingly, the lack of supplemental assistance in an integrated classroom substantially contributes to teacher “burnout” and attrition.²¹⁵ To demonstrate, one research study, which was devoted to studying the relationship between teacher attitudes toward inclusion and teachers experiencing burnout, found that teachers experienced disproportionate burnout levels in classes with high numbers of children with disabilities and minimal supplemental assistance or support.²¹⁶ Without the indispensable support services to address the increasingly diverse needs of students in integrated settings, teachers are justifiably frustrated with desultory attempts

207. *History*, SPECIAL SCH. DISTRICT OF ST. LOUIS COUNTY, http://www.ssdmo.org/about_us/history.html (last visited Mar. 14, 2012).

208. KOCHHAR ET AL., *supra* note 182, at 70.

209. *Id.*

210. TIM LOREMAN ET AL., INCLUSIVE EDUCATION: A PRACTICAL GUIDE TO SUPPORTING DIVERSITY IN THE CLASSROOM 83 (2005).

211. *See* KOCHHAR ET AL., *supra* note 182, at 70.

212. NAT'L ASS'N OF STATE BDS. OF EDUC., *supra* note 163, at 9.

213. Pierre, *supra* note 125, at 63–64.

214. *Id.* at 78–79.

215. *Id.*

216. *Id.* at 69–70.

by school districts to integrate classrooms. A national survey conducted by the Council for Exceptional Children confirmed that poor working conditions contribute to the high rates of teacher attrition and the inferior delivery of educational services to children with disabilities.²¹⁷

Research also shows that general educators do not believe they are adequately trained or prepared to manage an inclusive classroom.²¹⁸ Consequently, many teachers feel ineffective in trying to educate children with disabilities in an inclusive environment because they lack the requisite training or preparation and planning time to make it work.²¹⁹ Moreover, teachers who feel ineffective and overextended due to inadequate or non-existent training and preparation in their integrated classroom are more likely to experience failure.²²⁰ Researchers studying educator preparedness concluded that a lack of teacher preparation and training was a fundamental impediment to providing successful integration programs for children with disabilities.²²¹

Classroom size is another critical factor shaping teacher attitudes toward integration.²²² In order to better understand the link between teacher attitudes toward integration and classroom size, one must recognize that smaller classes substantially improve academic outcomes. Teachers with smaller classroom sizes are more effective educators since they spend less time addressing behavior and more time delivering instructional content.²²³ Additionally, students are able to receive more individualized attention from the teacher in smaller classroom settings,²²⁴ which is especially crucial for our growing special education population educated in integrated settings.²²⁵ One notable research project that underscores the importance of reducing classroom size is called Project STAR (Student/Teacher Achievement Ratio).²²⁶ This four-year research project, which involved roughly 11,600 students in more than forty-two school districts, found significant academic achievement in small classrooms.²²⁷ By reducing classroom size, teachers are able to attend to the

217. *Id.* at 78.

218. Pierre, *supra* note 125, at 75.

219. *Id.* at 81.

220. *Id.* at 80.

221. *Id.*

222. *See id.* at 83.

223. *See* Am. Educ. Research Ass'n, *Class Size: Counting Can Count*, RES. POINTS, Fall 2003, at 2.

224. *Id.*

225. *See* COMM. ON MINORITY REPRESENTATION IN SPECIAL EDUC., NAT'L RESEARCH COUNCIL, MINORITY STUDENTS IN SPECIAL AND GIFTED EDUCATION 1-2 (M. Suzanne Donovan & Christopher T. Cross eds., 2002). *But see* Am. Educ. Research Ass'n, *supra* note 223, at 4 (noting that although smaller class sizes are beneficial, they are not a "cure-all" for academic achievement).

226. Am. Educ. Research Ass'n, *supra* note 223, at 1.

227. *Id.* at 1-2.

diverse, individualized needs of *all* students without feeling hopelessly overwhelmed and ineffective.

Although some teachers oppose the integration model for a variety of reasons, many still acknowledge integration's benefits.²²⁸ For example, one study discovered that sixty-one percent of general educators disagreed with or were indifferent to the concept of mainstreaming, but found that more than fifty percent of teachers believed mainstreaming is beneficial for certain children with disabilities.²²⁹ The data illustrates that teachers are not opposed to integration out of principle; instead, many teachers merely object to the imposition of unfair external constraints that make successful integration impossible.²³⁰ Additional research confirms this reality. To demonstrate, one study reported that teachers did not exhibit negative attitudes toward the general idea of integration, yet the number of special-education students placed in an inclusive classroom substantially influenced their attitudes toward integration.²³¹

Another obstacle to integration involves the subconscious and conscious biases some teachers harbor toward students with disabilities. Studies have revealed that some educators believe that children with disabilities should be taught only in existing special school systems.²³² Another research study noted that although most of the interviewed teachers supported integration efforts, one teacher reported that her colleagues resented the added burdens of managing special education programs and that special education students should be supported by specially trained teachers.²³³ Some educators have even described integration as a "form of baby-sitting" that impedes the teacher's ability to educate other students in the class.²³⁴ Disability bias can also manifest itself in a more subtle form. As one experienced child advocate described, "[T]he school counselor [argued that] the stigma of an IEP would be too much for [a] very sensitive child It would not be good for his self-esteem to be labeled I have heard this from many general education teachers and school counselors."²³⁵

Teacher prejudice toward disability presents considerable problems for establishing effective integration programs. Human bias or prejudice seems immune to any sort of judicial or legislative resolution. Interestingly, however,

228. Harrington, *supra* note 191, at 67.

229. Pierre, *supra* note 125, at 69.

230. See NAT'L ASS'N OF STATE BDS. OF EDUC., *supra* note 163, at 10.

231. Pierre, *supra* note 125, at 144-45.

232. *Id.* at 8.

233. Beryl Watnick & Arlene Sacks, *A Snapshot of Teacher Perceptions on Full Inclusion in an International Urban Community: Miami-Dade County, Florida*, 7 J. INT'L ASS'N SPECIAL EDUC. 67, 72 (2006).

234. Harrington, *supra* note 191, at 67.

235. See Interview with Patricia Harrison, *supra* note 181.

research on integration provides some evidence to believe otherwise. One research study reported that integration challenged and ultimately “transformed” some teachers’ negative preconceptions and low expectations of children with disabilities.²³⁶ In another study, researchers reported that teachers expressed initial hesitation about the presence of children with disabilities in their classrooms, yet later expressed genuine pleasure and satisfaction in contributing to their growth and learning.²³⁷

While many teachers’ attitudes are transformable, some teachers will still oppose integration efforts even where all institutional and environmental problems are resolved. After all, biases can only be overcome if people are amenable to honest self-reflection and change. Those expressing obstinate or unalterable opposition to integration are not likely to challenge their prejudices about disability or integration in any meaningful way. In such unfortunate situations, school districts should remove those teachers unwilling to collaborate and cooperate with their peers to make integration work. As research indicates, the widespread presence of teachers opposed to integration will guarantee the failure of any integration program.²³⁸ We simply cannot allow the prejudices of others to impede the educational progress of our children.

CONCLUSION

Although compelling arguments for and against integration exist, the arguments for integration ultimately outweigh those against it. Integration, though rarely perfected in practice, offers the most promising, fair, and effective model for educating the growing special-needs population. Not only does integration present the most promising model for children with disabilities, but integration is also advantageous to non-disabled students and other important stakeholders.²³⁹ Consequently, the legislative and judicial preference for integration ought to be maintained. In order to further defend this proposition, the various arguments against integration will be addressed individually.

Critics of integration often argue that special-needs students will likely encounter more stigmatization if integrated in a classroom full of non-disabled children.²⁴⁰ Yet, this argument fails to appreciate that the most effective way to challenge prejudice and ignorance is through greater exposure and understanding, not through isolation and separation. More importantly,

236. Michael F. Giangreco et al., *“I’ve Counted Jon”: Transformational Experiences of Teachers Educating Students with Disabilities*, 59 *EXCEPTIONAL CHILD* 359, 364–65 (1993).

237. Pierre, *supra* note 125, at 55.

238. *See supra* text accompanying notes 195–202.

239. *See supra* text accompanying notes 177–84.

240. *See supra* text accompanying notes 148–50.

research confirms that integration tends to foster more tolerance, understanding, and respect for children with disabilities because of increased social interaction.²⁴¹ Critics also challenge the notion that segregation is inherently prejudicial by pointing out that some forms of school segregation are actually desirable (for example, the creation of magnet schools for gifted students).²⁴² However, whether physically separating students is inherently prejudicial or not is ultimately irrelevant. What is relevant, however, is the undeniable prejudice that accompanies being segregated because of a disability. Comparing the segregation of students with disabilities to the segregation of gifted students underestimates the power and presence of our deeply entrenched societal prejudice against disability. Thus, unlike intellectual giftedness, there is a potent pejorative connotation ascribed to disability that warrants special consideration and sensitivity.²⁴³ Additionally, comparing the segregation of gifted students in magnet schools to the segregation of children with disabilities in special education facilities completely overlooks the shameful history of separating and secluding generations of children with disabilities in remote institutions that offered little to no educational opportunities.²⁴⁴

Another common critique of integration is that general education teachers are not nearly as successful or equipped to teach children with disabilities as a special education teacher in a segregated classroom.²⁴⁵ Although this argument seems compelling at first glance, this criticism ultimately fails to appreciate how properly executed integration models operate. When implemented properly, integrated classrooms have appropriate in-class support for children with disabilities.²⁴⁶ Frequently, a special education teacher and/or paraprofessional assistant works collaboratively with or alongside the general education teacher to provide supplemental assistance when necessary.²⁴⁷ Consequently, proper mainstreaming and inclusion programs provide access to trained professionals so that children with disabilities can still receive individualized services and accommodations as necessary in the general education setting.

One of the most trenchant criticisms of the integration model is that it forces and expects teachers and schools to perform the impossible. Critics argue that integration imposes unreasonable, onerous demands on already

241. *See supra* text accompanying notes 179–82.

242. *See supra* text accompanying notes 144–47.

243. Admittedly, some might argue that being gifted similarly carries a pejorative connotation (for example, being an elitist “know-it-all”). Yet, in this author’s opinion, the stigma of intellectual giftedness is far less inimical to a child than the stigma of disability.

244. *See supra* text accompanying notes 35–40.

245. *See supra* text accompanying notes 161–62.

246. WEISHAAR ET AL., *supra* note 173, at 72.

247. *See* *Idol*, *supra* note 12, at 77.

cash-deprived school districts desperately trying to manage overcrowded classrooms with inadequately trained personnel and scarce educational resources.²⁴⁸ While sympathetic to the underappreciated and overworked public school teacher, critics of integration cannot use the failure of our political leaders to provide adequate funding as an excuse to preclude the implementation of a proven method beneficial to *all* students. What these critics are actually attacking is not the integration model itself; rather, their criticism unmasks the failure of our government at all levels to adequately fund public education obligations. Thus, the emotional and intellectual fervor exhibited by integration critics ought to be redirected toward the actual source of the problem: political leaders willing to slash the funding needed to execute properly implemented integration programs that have repeatedly proved successful.

More generally, however, critics are misguided in characterizing the integration debate as an unavoidable clash between general education and special education. Framing the integration debate by pitting special education against general education is self-defeating and mutually destructive. Instead, a more sensible and constructive approach is to examine the problem at its roots by addressing the problem of inadequate funding.²⁴⁹

One way to address this issue is for the federal government to begin fully funding the IDEA for the first time in its thirty-five year history. In theory, the IDEA allows for a maximum federal grant equal to the number of children receiving special education services, multiplied by forty percent of the national average per-pupil expenditure.²⁵⁰ In practice, however, Congress has never appropriated the maximum amount, and on average, the federal government only covers fifteen percent of the per-pupil expenditure.²⁵¹

State governments, most of which currently suffer significant budgetary shortfalls,²⁵² are incapable of filling the gap with supplemental funds.²⁵³ Local funding is similarly incapable of addressing the federal funding gap given the political unpopularity of increasing local property taxes to fund special education services.²⁵⁴ Thus, one very significant way to resolve the concerns

248. See *supra* text accompanying notes 154–57.

249. Some commentators have even argued for eradicating the terms “special education” and “general/regular education” in order to challenge the common perception that special and general education are unique and independent of each other. See WEISHAAR ET AL., *supra* note 173, at 38–39.

250. Phillips, *supra* note 45, at 1824.

251. *Id.*

252. Elizabeth McNichol et al., *States Continue to Feel Recession's Impact*, CTR. ON BUDGET & POL'Y PRIORITIES (July 15, 2010), <http://www.cbpp.org/files/9-8-08sfp.pdf>.

253. See NCD Civil Rights Report, *supra* note 90, at 67.

254. Phillips, *supra* note 45, at 1825.

of integration critics is for the federal government to fully fund its IDEA obligations.

While funding is absolutely crucial, funding alone will not transform a failing integrated program into a successful one. As stated before, the crucial factor behind any successful integration program is the unequivocal support of those being asked to implement it—teachers. Research examining teacher attitudes toward integration consistently underscores the importance of designing an effective, sensible integration model that provides supplemental services or paraprofessional aids, professional development/training, preparation and collaborative planning time for teachers, and reduced classroom size. Allocating the funding to ensure these measures are provided will significantly contribute to the success of any integration program.

One significant way to move the integration debate forward is to re-conceptualize the way we perceive the problem by viewing it more holistically. Rather than divisively characterizing the integration debate as an unavoidable conflict between special education and general education, we are better suited to definitively address the problem at its roots. To do this, legislatures, courts, and schools should earnestly consider the views of those being asked to implement these programs on a daily basis—our teachers. Examining teacher attitudes toward integration reveals that the efficacy of integration is critically dependent on the availability of supplemental support services and paraprofessionals, professional development, preparation and collaborative planning time, and manageable classroom sizes. Where such environmental factors are adequately accounted for, teachers can actually implement effective mainstreaming and inclusion programs proven to benefit *everyone*—students with disabilities, students without disabilities, teachers, administrators, parents and families, communities, and other stakeholders. Consequently, it behooves our legislatures, courts, and schools to thoroughly consider and examine these all-important variables when weighing in on the integration debate. Nothing short of our collective capacity to effectively educate our nation's most precious resource depends on it.

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* I would like to express my deepest thanks to Professor Patricia Harrison for her invaluable insight and expertise, Teach For America and Corey Williams for their professional guidance and support, my students for teaching me far more than I ever taught them, and my family for their unwavering loyalty and love.