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The Evolution of Special Education

Retracing legal milestones in American history.

Kelli J. Esteves and Shaila Rao

The events that have driven the gradual and progressive evolution of special education serve as a backdrop to understanding the foundation of the field and its ever-changing nature. Knowledge of this history is critical if we intend to make further progress.

When Exclusion Was the Rule

The philosophy of excluding students with disabilities from public school education can be traced back in legal history to 1893, when the Massachusetts Supreme Court upheld the expulsion of a student solely due to poor academic ability (Smith, 2004; Yell, Rogers, & Rogers, 1998). Nearly 30 years later, the Wisconsin Supreme Court denied education to a student with cerebral palsy because he “produce[d] a depressing and nauseating effect upon the teachers and school children” (Smith, 2004). This is just one example of the widely accepted belief around the turn of the century that students with disabilities were best kept at the margins of society.

The first significant court case to influence special education actually addressed racial segregation. In *Brown v. Board of Education* (1954), it was determined that segregation on the basis of race violated equal educational opportunity. The *Brown* decision led the way to a growing understanding that all people, regardless of race, gender, or disability, have a right to a public education.

Opening Classroom Doors

Although funding for special education programs and training increased following *Brown*, school districts still had the right to choose whether or not to participate in special education incentive programs throughout the mid-1960s (Smith, 2004). In 1965, with the passage of the Elementary and Secondary Education Act, schools began receiving federal monies for public education. A year later, an amendment to the act set aside funds specifically for students with disabilities (Yell, Drasgow, Bradley, & Justesen, 2004).

In 1973, Section 504 of the Rehabilitation Act stated that a person with a disability cannot be excluded or denied benefit

from any program or activity receiving federal financial assistance, either public or private. The Americans with Disabilities Act of 1990 requires the additional compliance of school districts and institutions that do not receive federal aid.

Defining Appropriate Education

As late as 1975, up to half of the estimated 8 million children with disabilities in the U.S. were either being inappropriately educated or fully excluded from the public school setting (Pulliam & Van Patten, 2006). Something had to be done to correct this situation, and the next major phase in the evolution of special education evolution came on Nov. 29, 1975, when President Gerald Ford signed the Education for All Handicapped Children Act, currently known as the Individuals with Disabilities Education Act (IDEA).

What was previously seen as a privilege is now a legal right, and the basic requirements of the original law remain the hallmarks of special education as we know it today: All children with disabilities must have an individualized education program (IEP), a free and appropriate public education, and be served in the least restrictive environment.

However, while the Education for All Handicapped Children Act focused on *access* to educational programs for students with disabilities, it did not address the *degree* of educational opportunity (Yell & Drasgow, 1999). Courts were left to decide what truly constitutes a free and appropriate public education in the least restrictive environment (Pulliam & Van Patten, 2006).

The next major milestone came in 1982 with *Board of Education of Hendrick Hudson Central School District v. Rowley*, the first special education case to land in the U.S. Supreme Court. The court ruled that students who qualify for special education services must have access to public school programs that meet their unique educational needs, and that the programs must be supported by services that enable students to benefit from instruction (Yell et al., 2004). The high court further ruled that while parents were not necessarily given the right to the best possible programs for their children, students with disabilities

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are entitled to an IEP reasonably calculated to facilitate learning. The ruling gave lower courts a standard to follow when deciding what adds up to free and appropriate public education.

Providing Accountability

According to the U.S. Department of Education (as cited in Yell & Shriner, 1997), by 1990 students who qualified for special education services had increased 23 percent since 1976, the year after the Education for All Handicapped Children Act took effect. At this time, amendments to IDEA provided supplemental funding for state and local programming, mandated services for 3- to 5-year-olds, and added traumatic brain injury and autism to the existing disability categories. However, the 1990 amendments did little to address issues of low expectations for students with disabilities, the lack of focus on research-based programming, and the arduous paperwork tied to legal requirements (Yell & Shriner, 1997). Even though a growing number of students were receiving special education services, only about 10 percent participated in statewide assessments (Thurlow, 2000), resulting in little accountability for students with disabilities.

Additional amendments to IDEA in 1997 shifted the focus from providing access to public education services to providing meaningful and measurable programs for all students with disabilities (Hardman & Nagle, 2004). Significant components of the amendments were:

- The requirement that measurable annual goals be written;
- Mandatory assessment and measurement of progress;
- Increased parent involvement in the development of their child's IEP and an invitation to participate throughout the special education process; and
- Mandatory reporting of goal progress to parents.

The law also stated that if a student was not making sufficient progress toward meeting IEP goals, the plan needed to be revised.

In direct response to the growing inclusion movement, IDEA now required the IEP team to specify *why* a decision was made to pull a student with disabilities from the general education classroom (Yell et al., 2004). It also directed that a general education curriculum with supplementary aides and services must be considered before an alternative special education curriculum is instituted (Yell & Shriner, 1997).

Special Education Today

More recent legislation, such as the No Child Left Behind (NCLB) Act and IDEA 2004, have enhanced the quality of special education programs at the state level. NCLB addresses accountability for student achievement by requiring increased

participation on statewide assessments by students with identified disabilities. The law also calls for highly qualified teachers, including those who teach special education (Pulliam & Van Patten, 2006). The intention of NCLB is to tighten the achievement gap for students considered to be at-risk.

IDEA 2004 allows for alternative models to identify learning disabilities, such as response to intervention (RTI), which is the "practice of providing high-quality instruction and interventions matched to student need, monitoring progress frequently to make decisions about changes in instruction or goals, and applying child response data to important educational decisions" (NASDSE, 2006). While RTI is primarily a general education initiative, it has a significant impact on how the school community views struggling students. Instead of sending them off to special education, the emphasis now is on preventing learning gaps from occurring and addressing minor academic and behavior issues before they become major issues.

“The Brown decision led the way to a growing understanding that all people, regardless of race, gender, or disability, have a right to a public education.

Perhaps the most fundamental message of NCLB and IDEA is that special education should continue to focus on producing results. To do so, educational plans must include research-based programming and IEP teams must continue to write measurable annual goals, address how progress will be monitored, and make revisions if progress is not made. Overall, the provisions of NCLB and IDEA focus less on procedural compliance and more on results (Shriner & Yell, 2005).

Where Do We Go From Here?

During the past two decades, the number of students with special needs being educated in the general education classroom has progressively increased (Whitten & Rodriguez-Campos, 2003). Reports to Congress show that close to 95 percent of students with disabilities are being educated in local general education schools, and 75 percent receive either full inclusion or a combination of inclusive and pull-out resource-room services (U.S. Department of Education, 2006). Professional literature increasingly speaks to how teachers can use differentiated instruction to address variance in the general education classroom without the need for specialized instruction from a special education teacher (Tomlinson et al., 2003).

As the trend continues to move more toward including students with disabilities with their general education peers, some fear the lines between general education and special education are being blurred and that we are losing track of the most basic tenet of special education—individualization (Kavale & Forness, 2000). While that concern is most certainly valid, the progress that has been made cannot be ignored. Whereas integration was the prominent theme in decades past, today we are accountable for education that is meaningful, formative, results-oriented, and individualized for *all* students, not just those with diagnosed disabilities.

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When principals consider how to improve special education even further, it may be helpful for them to reflect on the following questions:

- What can be learned from the history of special education?
- Are the actions and decisions of general education and special education teachers reflective of the philosophy employed in my building?
- What underlying factors might be affecting negative views from members of the community, principals, and teachers?
- What are teachers doing to differentiate instruction for all learners and how can I support their efforts?

By placing current issues and trends in historical perspective, principals can appreciate how far the field of special education has come and promote further advancement. With the passage of key special education laws more than 30 years ago, parents and educators celebrated the fact that students with disabilities were granted the right to education. Today, we want to ensure that students with disabilities not only have access to educational services, but that they are entitled to a meaningful education that facilitates learning at all levels and produces measurable outcomes.

The road ahead may be marked with obstacles, but we must keep moving forward.

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