



Legal Brief

History of Segregation in the United States: Implications for Students with Disabilities Today



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School segregation has a long history in the United States. After slavery was abolished by the Thirteenth Amendment in 1865, state and local Jim Crow laws ensured that African Americans remained separated from White Americans inside and outside of schools. These laws were upheld with the Supreme Court's 1896 *Plessy v. Ferguson* decision that Black and White individuals could be segregated if their separate facilities (e.g., schools) were equal in quality. In other words, "separate but equal" was permissible. However, these facilities were not, in fact, comparable. School districts intentionally undervalued the education of Black students by underfunding them, which led to under-resourced schools (Skiba et al., 2008, Yell et al., 1998). Other students also experienced school segregation. For instance, starting in the late 1800s until the 1970s, Indigenous students were segregated and isolated in residential schools (Callimachi, 2021). In addition, from the early 1900s to the early 1950s, many school districts in the southwestern region of the United States required Mexican American students to attend "Mexican schools" (Powers, 2008).

In response to the inequalities their children faced, many parents, with the support of civil rights organizations, fought against school segregation. For example, the National Association for the Advancement of Colored People supported Black parents in suing

various states so that their children could attend White schools, which received more funding and resources. Moreover, "Mexican schools" were declared unconstitutional in 1947 by the *Mendez v. Westminster* federal court case decision. Ultimately, the greatest blow to de jure (or legally supported) school segregation was *Brown v. Board of Education of Topeka* (1954).

In 1954, the U.S. Supreme Court declared that de jure racial segregation was a violation of the Equal Protection Clause of the Fourteenth Amendment, which stated that governing bodies could not deny U.S. citizens the equal protection of the laws. Therefore, state and local laws that established separate public schools for Black and White students were deemed unconstitutional. This decision overturned *Plessy v. Ferguson*, and separate was no longer legally considered to be equal (Yell et al., 1998).

Even after *Brown v. Board of Education*, desegregation was a long, arduous, and, at times, violent process. Nonetheless, *Brown v. Board of Education* set the foundation for future educational progress. In particular, the Supreme Court's decision motivated change for the education of students with disabilities (SWDs). The premise was that if it was illegal to deny students a public education based on race, then surely, it should be illegal to deny students one based on disability status.

History of the Education of SWDs in the United States

Around the time of the *Brown v. Board of Education* decision, SWDs, particularly those with more extensive support needs, were often excluded from public education. Many states had policies in place that permitted schools to deny children with disabilities access to education in their local schools (Yell et al., 1998). Instead, many SWDs often attended isolated residential schools, which were considered the only educational setting appropriate for children with more significant needs. The conditions in many of these settings, however, were horrendous, as individuals with disabilities typically suffered abuse and neglect (Yell et al., 1998). Further, following *Brown v. Board of Education*, many schools segregated Black students with disabilities via placements in special education settings (Dunn, 1968). These educational placements led to the exclusion of SWDs—among whom Black children were often overrepresented.

In the 1970s, two essential court cases—*PARC v. Commonwealth of Pennsylvania* (1971) and *Mills v. DC Board of Education* (1972)—changed the landscape of education for SWDs. These court cases were family-led initiatives, as families were (and continue to be) fundamental to advocacy for a better education and inclusion for SWDs. Both cases tackled unfair state policies that excluded children with disabilities from schools. In *Pennsylvania*, children were excluded from schools if they had not reached what was deemed a mental age of five by first grade. The decision in *PARC v. Commonwealth of Pennsylvania* stated that all students, including SWDs, had a right to attend school and would benefit from doing so. In *Mills v. DC Board of Education*, parents fought for the educational right of their children who had been denied a public education due to their disability. The *Mills v. DC Board of Education* decision provided SWDs the right to a free public education and the right to procedural protections for school status change (i.e., procedures to protect SWDs from unjust expulsion or placement changes).

PARC v. Commonwealth of Pennsylvania and *Mills v. DC Board of Education* set the precedent for the passing of the nation's first special education law—the 1975 Education for All Handicapped Children Act (EAHCA; Public Law 94-142). Furthermore, much of the language, ideas, and concepts from these cases were adopted into EAHCA. After the passing of EAHCA, schools receiving

federal funding were required to provide access to education for all SWDs—that is, a free appropriate public education in the least restrictive environment. The law, which was last reauthorized as the Individuals with Disabilities Education Improvement Act (IDEA) of 2004, guarantees SWDs specially designed instruction, as detailed in their Individualized Education Programs, to meet each student's unique needs.

While IDEA has been integral to the inclusion and education of SWDs in the United States, there have been several egregious violations of the law. For example, in 2016, the U.S. Department of Justice sued the state of Georgia for segregating students with behavioral disorders into isolated programs that did not provide SWDs with equitable educational opportunities. In addition, in 2018, following investigations from the U.S. Department of Education, it was determined that SWDs in Texas were routinely excluded from receiving special education services under IDEA. Thus, while IDEA laid the groundwork for the educational rights of SWDs to access an equitable and inclusionary education, many systemic issues still impact the access to educational opportunities for SWDs today.

References

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