

# More Than a Least Restrictive Environment: Living Up to the Civil Covenant in Building Inclusive Schools

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## ABSTRACT

*This article describes and analyzes data from the first annual Inclusion Institute (AII) held during the 2006-2007 academic year at Arcadia University, and raises questions about the essential processes needed to create inclusive schools. In particular, our analysis focuses on the need to redirect our attention from the individual needs of particular students and toward the social and civil rights of all students, including those with disabilities. The innovative, team-based professional development model used in this project asks school-based teams of teachers, administrators and parents to create action plans, meet regularly, implement changes, and reflect on their practices to create inclusionary learning environments for all children. The authors have found that a limited definition of who gets included in the meaning of "all" students as well as an exclusive emphasis on legal mandates and the learning needs of particular students have obscured the need to think holistically and systematically about the ways that schools may need to fundamentally change in order to live up to the civil covenant of the United States.*

*It has been a challenge, but I've been pretty successful at demonstrating to teachers that these children are quite capable if given a different format to display their talents. I believe this is because of experiences with my own son who found the physical act of writing extremely difficult. Writing a biographical report on William Penn seemed like a task he would never conquer. After consulting with his very understanding teacher, he had a rubric for essential elements that needed to be related. He also had the "green light" to present his biography in any format with which he was comfortable. He has always been a fan of Elvis Presley songs, so on "Biography Day", he dressed like Penn and took an electric guitar to school. His report was sung to the tune of "Blue Suede Shoes" and was entitled "Don't Step on my Religious Views." He earned an "A" for that report which was a big hit with the teacher and the students. Since then, his teacher has changed the format of the project and the students can demonstrate their learning in a variety of ways. Some have written and performed plays; others have done videos and Power Points or have built dioramas. One even made a comic book about the life of a former president. That teacher admits that some of*

*the most creative projects have come from children with suspected or diagnosed learning differences. These projects have exceeded her expectations for her students (teacher journal, March).*

In this vignette, a teacher gives a compelling example of the possibilities for inclusion when students within the same classroom context are able to highlight their talents utilizing multimodal pathways toward common goals. Although the vignette begins by focusing on an individual child, the most compelling part of this story for our purposes has to do with how it altered the assignment possibilities for many other students – those with and without disabilities. In this article, we would like to draw the reader's attention away from a primary focus on particular children and their individual experiences of inclusive practices. We would instead like to emphasize the ways that an attention to alternative learning modalities creates an enhanced learning environment for *all* students. It is clear from this account that it is not just a story of individual student success, it is also a story of an improved assignment, new opportunities for individual and collaborative learning, and enhanced meaningful participation by a greater number of classroom participants. In

this article, we emphasize the ways that these benefits to the community of learners are not just side benefits of meeting the needs of an individual student with disabilities, but a critical and often missed opportunity for living up to the spirit and not just the letter of the law.

Although this article focuses on students with disabilities and not immigrant newcomers, the questions it raises about how we create classroom environments that work for diverse students has implications for immigrant students as well. In fact, much of the literature on social rights utilized in this article focuses on immigrant newcomers and how to meet their social rights in educational contexts. As we have written previously (Skilton-Sylvester & Slesaransky-Poe, 2002), the legal mandates that govern special education services have significantly more "teeth" than those that have shaped educational programs for English Language Learners. Even so, for both special education as well as immigrant education in the United States, the legal system is often what drives changes in policy and practice from the top-down. In this way, in an issue that focuses on immigrant education, it is relevant to investigate how and if local schools and districts respond to legal mandates as

catalysts for meaningful change (Skilton-Sylvester, 2003).

## LIVING UP TO THE CIVIL COVENANT: SOCIAL RIGHTS AND A RELATIONAL VIEW OF DIFFERENCE

In the spring of 2006, we heard John Hockenberry speak at an Inclusion Conference at Syracuse University (Hockenberry, 2006). In his keynote address, he told hilariously painful stories of trying to use public transportation in New York City in a wheelchair. He also used the notion of a civil covenant to talk about the work that still needs to be done to fully embrace members of our society who have disabilities. This notion of a “civil covenant” moves beyond the notion of an individual person’s civil rights (what Castles and Davidson (2000) describe as “freedom from discrimination”) in that it implies a mutually enhancing relationship among members of society. This civil covenant requires not only attention to civil rights but also to social rights that guarantee citizens the capacity to participate fully in society. What Hockenberry is advocating is strongly linked to Abu El-Haj’s (2006) description of a relational perspective on difference. As she says,

Thinking about difference from a relational standpoint not only demands that teachers unmask assumptive frameworks that exclude some individuals or groups; it also requires that the community make substantive inclusion of all its members a primary value, whatever that takes in terms of reconfiguring practice. (pp. 190-191)

This “reconfiguring of practice” is what we are most interested in understanding, particularly in relation to the legal concept of the “Least Restrictive Environment.”

Legal mandates, however, focus on the rights of the few without addressing normative assumptions in schools and classroom in a way that might alter the structure for all students rather than those “covered” by the lawsuit. The resulting outcomes are often the mini-

mum amount that needs to be done without regard for the historical and current contexts in which education is taking place. The emphasis on students being placed in the Least Restrictive Environment, by definition, makes the student’s placement seem like the most important aspect of inclusion when it is, in fact, the minimum. In spite of these limitations, legal intervention in school policies and practices can also open the door for the possibility of reconfiguring practice. At this point, it is unclear whether or not new legal mandates concerning the Least Restrictive Environment will create lasting opportunities for reconfiguring practice or merely new room assignments and similarly segregating practices.

Like Artiles, Harris-Murri and Rosenberg (2006), we have also been struck by the tensions in special education between addressing individual educational needs and rights and creating a collective school vision for how all students can fully participate. We also agree with Varenne and McDermott (1998) that a focus solely on individuals will not lead to better policies and practices in schools. As they say:

Individuals must be the units of concern and justice, but they are misleading units of analysis and reform. The greater our concern with individuals, the greater must be our efforts to document carefully the social conditions in which they must always express themselves. We must look away from individuals to preserve them. (p. 145)

In the analysis that follows, we have attempted to frame the experiences of individual teachers, parents and students within very specific micro and macro social conditions in ways that allow us to look beyond the individual.

## PARTICIPANTS, CONTEXT, METHODS

In the summer of 2006, 20 teams of principals, general education and special education teachers, school counselors, and parents came to our campus to learn about inclusion, develop a vision for what inclusion should look like in their schools, and create year-long ac-

tion plans to implement that vision. The state’s funding of our year-long Inclusion Institute and the enthusiastic response from school teams to participate are framed by the guidelines of IDEA and the recent court-mandated Gaskin Settlement Agreement (2005). In this settlement between multiple families of children with disabilities and the Pennsylvania Department of Education, the state agreed to prioritize placing all students identified with disabilities in the “least restrictive environment,” reinforcing the understanding that special education ought to be a service not a place.

The current reality in the state of Pennsylvania is that schools are being monitored based on the percentage of time students with disabilities are spending with their general education peers. If schools report that students with IEPs spend significant time outside of the general education classroom, they are mandated to take corrective action with the support and supervision of the state. There are many involved in the process who see this as a pivotal and potentially transformative moment in the history of educational inclusion in K-12 education in the state, in spite of the ways that legal action can bring about a surface-level shift in actions without (necessarily) a corresponding shift in underlying philosophies and beliefs.

In this article, we have focused on analyzing Year 1 data – particularly interviews of school teams and journal entries from participants in which they were asked to reflect on their day-to-day experiences of designing more inclusive settings. Our analysis included systematic, inductive coding of key themes from a year’s worth of data with an emphasis on uncovering participants’ varied experiences and points of view. In looking closely at the lived realities of a group of practitioners actively seeking to build more inclusive environments, our analysis focuses on some of the dilemmas of enacting the relational promise of the civil covenant in daily classroom and school decisions and practices. The data presented here focus both on day-to-day practices as well as underlying assumptions about what inclusion is and what it ought

to be. In the sections that follow, we first highlight the range of ways these schools are thinking about and practicing inclusion. Next, we illustrate the ways that particular schools or teachers are addressing (or not addressing) what Hockenberry (2006) calls the civil covenant – which includes social rights – not only civil ones.

### FOR THESE TEAMS, WHAT IS INCLUSION AND WHAT DOES IT LOOK LIKE?

What comes up in these “discourses on the ground” in the day-to-day work of building inclusive environments is that there is tension around what is possible, what is desirable, and how we address what students actually need. The parent coordinator of the Inclusion Institute at our university articulates these tensions well in response to the distance between schools’ philosophies and their on-going practices that focus more on labeling and placement than on what Abu El-Haj (2006) has called “substantive inclusion.” The parent coordinator explains: “Inclusion seems to be promoted as more of a philosophy, rather than as something natural and as a civil right...” (Parent program coordinator, 10/28/06).

This parent highlights how important the rights perspective is in moving forward with inclusion; from this point of view, it is not just about a preference for a particular style of education. It is a mechanism for addressing the civil and social rights of all. In discussing the “natural” dimensions of inclusion, she is imagining the fulfillment of the civil covenant in which those with disabilities are seen as legitimate members of communities in spite of the ways those communities may need to be restructured so that all members can achieve full participation. Changing the structure of schools is also very much connected to what we see as natural or normal. We tend to see classrooms segregated by “ability” as normal, but this is a societal decision. There is nothing inherently natural about this way of dividing students up for learning.

In an effort to understand the underlying assumptions driving school teams’ actions, we asked team members to define inclusion in our initial

interviews with them. What happened was that participants started with a definition of inclusion that mentioned that *all* students are a part of the school – both academically and socially. Soon after, we would ask them to describe their programs and it would become quickly clear that all didn’t really mean *all*. Students with significant behavioral or cognitive challenges were not typically a part of their (or their administration’s) vision for inclusion. There is a huge range of ways inclusion is implemented, even within the same district. As one parent team member said,

It also seems evident that inclusion means something different to each school, even inside of our own school district (some of the schools are including the children for small times then pulling back out, while at our school, the students who were pushed in, remain in, the entire day with support). The principals’ expectations at each school are different; therefore the end products are different. (Parent, November journal)

In some cases, signing on to build an inclusive environment has inadvertently reified existing tracking policies. In one school, they have eliminated self-contained classes for students with disabilities and have moved all of those students into the lowest track, called “Intensive.” This is an example of how the emphasis on LRE has obscured the underlying goals of inclusion and has not always meant that the community has made “substantive inclusion of all its members a primary value” (Abu El-Haj, 2006, p. 191).

Often, inclusionary practices are treated as an add-on rather than as something that fundamentally alters what a school is doing for all students. Many schools who are participating this year have designed “inclusion classes” that run parallel to classes without students with identified disabilities. As our parent coordinator suggests, “Once you call a class an ‘inclusion class,’ it no longer is; now it’s the class where they place labeled kids” (AAII coordinator, March). When this happens, the number of students with IEPs often continues to rise throughout

the year. As one participant explained:

The administration keeps piling kids into this class because they need extra assistance, but what they don’t realize is that the more kids, the less assistance you can give... It frustrates me in faculty meetings or our Inclusion meetings when administration states that ideally there are only 4-5 included students in the room, when I’m facing at least half of my class. And constant new additions each month for no reason. It’s very frustrating. (Teacher, December journal)

Ironically, this move to create “inclusion classes” within the regular structure of the school, in the end, begins to recreate a pull-out situation as the number of students with IEPs increases. In still other classes, inclusion is described in relation to students with disabilities visiting a general education classroom for a specific event. Here again, the emphasis is on the place where instruction is happening rather than on how all students come to feel a sense of belonging in the school – a focus on individuals and on narrowly defined civil rights rather than an expanded sense of civil rights as well as social rights that guarantee the capacity to participate fully.

At one of our professional development sessions on campus, we had the principals of a middle school present about how they had completely altered how they schedule students with IEPs and support both students and staff. It is clear that they took a relational view of difference and moved toward an expanded view of students rights that focused not just on freedom from discrimination but also full, substantive inclusion, and recognition of their social rights as well. One of our participants had this to say after hearing about their school:

The two co-principals... were extremely insightful... One point that really stuck in my mind was when they said that the schools belong to our children. This statement is at the core of inclusion in my mind too. Each and every child *needs and has the right to* view their schooling

as their own....Each day, I strive to promote a sense of belonging in my classroom for every child. (Teacher, February journal, emphasis added)

In discussing belonging, needs, and rights, this teacher is highlighting key elements of what it means to be a full citizen. Often in the literature (see, for example, Castles and Davidson, 2000), these same issues were discussed in relation to immigrant newcomers who do not always have the opportunity to participate fully – even if they are legal citizens. In, the following section, we explore in more specific terms what it would take to address not only freedom from discrimination but full participation.

### INCLUSION IN RELATION TO SOCIAL RIGHTS: EXPANDING THE CIVIL COVENANT

What we like about thinking in terms of social rights is that it pertains to participation in society and not just to freedom from discrimination, as civil rights are typically framed. According to this understanding of social rights, they should be available to everyone in a society regardless of how s/he contributes. As Castles and Davidson (2000) suggest:

Social rights are hard to define precisely. Perhaps the core of the notion of social rights is that of decoupling achievement from entitlement: everyone should be entitled to the minimum standard seen as appropriate for a given society. (p. 110)

In that social rights are connected to us all being in the same boat and getting what we need, they open up the focus not just to individuals but to all of the members of a particular classroom or school. This focus on needs and rights shifts the gaze away from particular labels of individuals and toward meeting the various needs of the group. As one participant explained:

As I had suspected, teachers repeatedly say that the regular ed kids

don't look so much different from the special education students, when you compare behavior and academic functioning. Maybe the pendulum will swing back to less labeling and just providing kids what they need to succeed in a classroom... Since the days of 'just' refer, test, and place are over, hopefully regular education teachers will do more to keep their students in their classrooms. (Teacher, February journal)

Focusing on the rights of students with disabilities to be full social members of a particular school and classroom community is typically seen as the fluff of inclusion – it is not the academic piece, but the social piece. In fact, there is literature that suggests that social belonging and positive relationships within schools have much to do with academic achievement. As Hicks (2002) suggests, “students’ searches for social belonging are as much a part of learning in school as anything that might be described as cognitive or even discursive” (p. 1). This perspective is evident in the following example:

We had our monthly meeting this morning...Our parent member shared how rewarding inclusion has been for her son. She spent a half day observing in her son's classroom. She sees that her son is looked at first rather than his disability being viewed first. She observed students in the classroom working as a team and caring for each other socially and academically. Her son is reading aloud without hesitation and raising his hand to volunteer and share experiences and knowledge. This parent has seen her son grow so much during this school year both inside the school environment and outside of the school setting. He is having new play dates and has joined a basketball team. His classroom experiences this year have given him strategies to cope and interact with new friends and adults. (Teacher, January journal)

In this example as well as in the one that began the article, it is easy to see the possibilities and potential of sub-

stantive inclusion.

We would like to argue, based on our initial analysis of the data, that substantive inclusion is only possible when there are several significant shifts beyond student placement. Creating opportunities for substantive inclusion requires at least three shifts: 1) an ability to focus beyond the needs and behaviors of individual students and toward the needs of a community of learners, 2) a move from imagining that students with disabilities need to change to a sense that the structures of classrooms and schools need to change, and 3) a fundamental shift in attention from the deficits of students with disabilities to the value of those students to the community as full, participating members. In this first example, the teacher sees inclusion where our parent coordinator does not:

Inclusion at its best today! The Social Studies teacher in the classroom next door to me has been doing a USA floats on parade activity for several years. His students pick a state and make a float depicting important aspects of that state. The culminating event is a “parade” through the hallways of the school. Last week I brought my life skills students to watch the parade but it was a bit overwhelming (too many kids, too much noise). When I asked if a couple of his students could come down to the life skills class with their floats, he invited the class up to his room. So today we had a wonderful activity where my students practiced their social skills, asked questions and mingled with typical students who they don't usually come in contact with. All of the students seemed to enjoy the activity. There are so many opportunities for this type of inclusion. We should all be thinking and planning these kinds of activities on a regular basis. (Teacher, December journal, emphasis added)

In contrast, the parent coordinator sees this in a very different way:

Disappointing, this journal depicts visiting and practicing skills as inclusion. Not to mention the label

“my life skills students.” Also, the assumption that “watching” the parade was overwhelming because of the number of kids and noise, but what about the thought they had no ownership in creating the parade, or no knowledge about what the parade was about? It bothers me when students with disabilities are considered like a project, they are “given” an opportunity to “mingle” as if that should be considered a great goal. If the students don’t usually come in contact how can they claim they are doing inclusion? (Parent Program Coordinator, 1/5/07)

To us, this illustrates an example of how isolated instances of having students in the same room has taken the place of meaningful interactions over time that would acknowledge the unique contributions of these students to the community and allow all students to be members rather than dividing the group into mainstream members and guests with IEPs . The task has been defined solely in “majority” terms rather than in terms that would include the unique contributions of the students with disabilities and the fostering of relationships across difference.

## CONCLUSION

The data we have analyzed from this project thus far are full of contradictions and full of possibility. Rarely have we seen educators more involved in the fundamental issues of education in the U.S. and rarely have we seen such frustration in the midst of competing discourses and priorities. The history of providing educational services to students with disabilities has been very focused on the individual. Legal mandates in education have often reinforced this idea by focusing on potential violations to individuals civil rights. Current legal mandates focusing on the Least Restrictive Environment both reinforce this tendency and (indirectly) push back at it. The notion of the LRE is still very individually focused and very focused on the placement itself as the priority. This can leave schools scrambling to look as though they are “doing the right thing” without having

fundamentally altered how they run their classrooms or organize their institutions. Even so, this current legal moment does open up the possibility for other kinds of change. In this paper, we argue that looking beyond the individual and toward a relational view of difference and an expanded view of the rights of all students provides opportunities to frame what is needed differently. If we can think of students’ civil and social rights as central to their experiences of schooling, we have provided a potential place where theory and practice can meet. A rights discourse (in relation to students needs) keeps theory grounded and could keep special education practice from remaining solely in the service of the location of instruction. We believe that finding ways to connect inclusionary discourses to inclusionary practices begins with expanding what we mean by rights – to see them in relational terms, moving beyond focusing exclusively on civil rights that work to assure *freedom from* discrimination and toward the guaranteeing of social rights that foster full participation. Living up to the civil covenant will require nothing less.

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inclusion of all students, both in the United States and in Argentina, her country of origin.

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