
DISRUPTIVE DISABILITIES AND ROOM CLEARS: RETHINKING
THE IDEA’S LEAST RESTRICTIVE ENVIRONMENT PROVISION

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This Note explores the increasing use of “room clears” as a method of handling disruptive student behavior in the elementary school classroom, focusing particularly on the relationship between room clears and limitations on student discipline under the IDEA. Part I addresses the increasing prevalence of room clears and the associated impact on overall classroom education. Part II explores the legal framework surrounding the inclusion of students with disabilities in the general classroom, the restrictions on removing certain students from the classroom, and the utilization of room clears as a technique for handling disruptive students. Part III analyzes the impact of disrupted learning environments on all students and the resulting deprivation of educational rights. Finally, Part IV recommends revising the IDEA and implementing increased funding and reporting mechanisms to reduce the prevalence of room clears.

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I. INTRODUCTION

For the past three years, first grade teacher Gene Trowbridge has experienced severe, violent, and disruptive behaviors from students within his classroom on an hourly basis.¹ These behaviors range from turning over classroom furniture and ripping educational materials off the walls, to verbally abusing or physically attacking others.² To make matters worse, when one student’s disruptive behavior is witnessed by the rest of the classroom, school no longer offers a safe, supportive learning environment for the students.³ As Mr. Trowbridge puts it, “[n]ot only are the needs of the disruptive student unmet—but the situation has caused the trauma to ripple out to classmates.”⁴

1. Gene Trowbridge, *Trauma Ripples Out*, Story in *Educator Stories: Disrupted Learning Environments*, TODAY’S OEA: OR. EDUC. ASS’N MAG., <http://todaysoea.org/articles/educator-stories-disrupted-learning-environments> (last visited Mar. 20, 2022) [<https://perma.cc/VSS2-Y9HJ>].

2. *Id.*

3. *See id.*

4. *Id.*

These sentiments and experiences shared by Mr. Trowbridge are disheartening but not uncommon among other classrooms.⁵ According to a 2019 poll of almost 1,900 educators, the vast majority identified an increase in classroom behavioral disruptions within the early grades over the last several years.⁶ Behavioral disruptions range from verbal abuse, such as screaming or threatening others, to physically violent actions, like overturning classroom furniture or tearing materials off the classroom walls.⁷ Nobody knows exactly why disruptive behaviors have steadily increased over the last several years, but educators point to noticeable contributing factors such as increased class sizes, lack of resources, decreased student support specialists, lack of appropriate training, and lack of clarity around the implementation of disciplinary policies.⁸

What can a teacher do when a student is acting out in a way that disrupts the classroom? In many states, the teacher is restricted from taking certain disciplinary measures to control the disruptive behavior.⁹ For example, in Washington State, teachers are not allowed to use restraint or isolation to discipline, punish, or correct a child's behavior.¹⁰ In part due to restrictions on disciplinary measures, teachers are increasingly utilizing alternative approaches such as "room clears," in which a teacher empties a classroom of all other students except for the disruptive child to calm that individual.¹¹ In some school

5. EAB GLOBAL, INC., *BREAKING BAD BEHAVIOR: THE RISE OF CLASSROOM DISRUPTIONS IN EARLY GRADES AND HOW DISTRICTS ARE RESPONDING* 5 (2019), <http://pages.eab.com/rs/732-GKV-655/images/BreakingBadBehaviorStudy.pdf> [<https://perma.cc/C4R5-UFU5>].

6. *Id.*

7. See ELIZABETH AUTIO, OR. EDUC. ASS'N, *A CRISIS OF DISRUPTED LEARNING: CONDITIONS IN OUR SCHOOLS AND RECOMMENDED SOLUTIONS* 6 (Jan. 2019), http://opb-imgserve-production.s3-website-us-west-2.amazonaws.com/original/a_crisis_of_disrupted_learning_1549344834428.pdf [<https://perma.cc/844N-WMW2>] (listing behaviors described by educators that inhibit them from providing safe and inclusive learning environments); Chris Nagus, *Classroom Chaos: Disruptive Students Force Teachers to Evacuate Classes for Safety*, KMOV ST. LOUIS (Sept. 24, 2019), <https://www.kabc.com/2019/09/24/classroom-chaos-disruptive-students-force-teachers-to-evacuate-classes-for-safety/> [<https://perma.cc/QTH2-9Z6T>] (noting a former teacher recalling how her colleague endured a concussion after being struck on the head by a student).

8. AUTIO, *supra* note 7, at 6; see also Leah Willingham, *Letter: Concord Teachers Say They Don't Feel Safe in Classrooms*, CONCORD MONITOR (Jan. 11, 2020, 7:11 PM), <https://www.concordmonitor.com/Teachers-union-tells-school-board-educators-do-not-have-resources-to-meet-need-31817839> [<https://perma.cc/TEL5-U9RD>] ("[M]any of the children with severe behavioral needs . . . are not students that [the] district has categorized as special education students. They are more often students who experienced trauma at a young age and need support."); Brittany Wallman & Megan O'Matz, *Violent Kids Take Over Florida's Classrooms, and They Have the Law on Their Side*, S. FLA. SUN SENTINEL (Dec. 10, 2019), <https://projects.sun-sentinel.com/teenage-time-bombs/how-schools-manage-violent-kids/> [<https://perma.cc/CQ4W-Q7TX>] ("Teachers with years of experience say they've never seen the kind of 'meltdowns' they're seeing now. No one's sure what's behind it: food additives, environmental toxins, violent video games, trauma?").

9. See, e.g., WASH. REV. CODE § 28A.600.485 (2015) (restricting when isolation and restraint can be used and identifying protocols that must be followed if isolation or restraint is used).

10. *Restraint and Isolation of Students*, WASH. STATE GOVERNOR'S OFF. EDUC. OMBUDS, https://oeo.wa.gov/en/education-issues/restraint-and-isolation-students?fbclid=IwAR2ZgP_LJlxyU9z3xrRix-qRPx7bW7dIpm31VpHgmerqFab7EvpuzVnawag (last visited Mar. 20, 2022) [<https://perma.cc/BG6T-HHJN>].

11. See Colette Clark, *UP Students Witness Oregon's Crisis of Disruptive Learning*, BEACON (Mar. 31, 2019, 10:15 PM), <https://www.upbeacon.com/article/2019/04/oregon-classroom-crisis> [<https://perma.cc/G4AP-KWXW>].

districts, room clears occur multiple times a week¹² and there can be as many as forty to fifty room clears per month.¹³ Despite the increased use of room clears, however, many parents are unaware of the extent to which the procedure has become commonplace in their children's schools.¹⁴

When an entire classroom is emptied because of a disruptive student, all of the students who would otherwise be in the classroom are deprived of valuable instructional time.¹⁵ Students who are eager to learn are unable to do so because classroom disruptions are forcing teachers "to stop math lessons, writing lessons, reading lessons, and even art projects."¹⁶ Moreover, even after a room clear occurs and students return to the classroom, many are unable to get back on track due to the unexpected disruption.¹⁷ This loss of instructional time, however, is rarely recorded or reported.¹⁸ Much of the focus in recent years has been on the loss of instructional time resulting from suspensions or expulsions, but barely any attention has been paid to the loss of instructional time resulting from classroom-wide disruptions.¹⁹ As most schools do not have protocols in place for room clears, nor require teachers to report incidences of room clears, the frequency and severity of these types of disruptions are going unnoticed.²⁰

12. See Joyce Rosenau, *These Students Can Never Get Away from Each Other*, Story in *Educator Stories: Disrupted Learning Environments*, TODAY'S OEA: OR. EDUC. ASS'N MAG., <http://todaysoea.org/articles/educator-stories-disrupted-learning-environments> (last visited Mar. 20, 2022) [<https://perma.cc/VSS2-Y9HJ>] ("In my school, we experience severe behavior daily. Room clears happen several times a week at my building.")

13. See N.D. LEGIS. MGMT., MINUTES OF THE EDUCATION POLICY COMMITTEE 5 (Jan. 7, 2020) (reporting data on room clears within North Dakota's West Fargo School District).

14. See Paul Takahashi, *Special-Needs Student's Classroom Outbursts Led Classmate's Parents to Seek Restraining Order*, LAS VEGAS SUN (July 3, 2013, 2:00 AM), <https://lasvegassun.com/news/2013/jul/03/special-needs-students-classroom-outburst-led-clas/> [<https://perma.cc/CH2P-H8BB>] (relating how parents of a second-grade girl eventually discovered their daughter's classroom was being evacuated three times per week due to another student's disruptive episodes, in spite of the school's failure to notify parents about the evacuations); Nagus, *supra* note 7 (noting that the district does not collect or retain data regarding the frequency of room clears and that parents are not alerted when students are evacuated from a classroom due to disruptive behavior); *Hilton Parents Angry Over Disruptive Student Issue*, WHMI (Dec. 2, 2018), <https://www.whmi.com/news/article/hilton-school-disruptive-student-evacuations> [<https://perma.cc/TD9Z-UNEN>] (noting that although a class had lost seven hours of instructional time during the fall period due to disruptive outbursts from a particular student, the school district did not communicate with parents about any of the incidents nor did the district notify parents when their children had to be evacuated due to the disruptive behavior).

15. Annie Robertson, *We Aren't Just Teachers*, Story in *Educator Stories: Disrupted Learning Environments*, TODAY'S OEA: OR. EDUC. ASS'N MAG., <http://todaysoea.org/articles/educator-stories-disrupted-learning-environments> (last visited Mar. 20, 2022) [<https://perma.cc/VSS2-Y9HJ>].

16. *Id.*

17. See Rosenau, *supra* note 12.

18. See AUTIO, *supra* note 7, at 8 (noting that although educators have noticed an increase in disrupted learning environments, the State doesn't require school districts to record data on room clears or similar incidents).

19. See Jody Stallings, *Teacher to Parent—Severe or Continual Disruptive Behavior in School Is a Crime*, MOULTRIE NEWS (Aug. 30, 2020), https://www.postandcourier.com/moultrie-news/opinion/teacher-to-parent---severe-or-continual-disruptive-behavior-in-school-is-a-crime/article_c82f402d-1592-57b3-9b07-248b759b2df0.html [<https://perma.cc/NSB2-2GYW>].

20. See AUTIO, *supra* note 7, at 8

When a student's disruptive behavior is linked to a disability, the teacher's ability to discipline or remove the student becomes even more hindered.²¹ Students with disabilities have historically been disciplined at a higher rate than students without disabilities,²² leading legislators to establish special protections for students with disabilities.²³ Schools must now follow special procedures when disciplining students with disabilities to avoid violating special education laws.²⁴ While special education laws do not outright prohibit the discipline of students with disabilities, they do place certain restrictions on the manner of discipline or require extra steps to be taken to ensure that disciplinary measures are appropriate.²⁵ Some educators and school administrators, however, interpret the restrictions and requirements of these laws to mean that they must refrain entirely from disciplining students with disabilities and as a result feel helpless to intervene when a student with disabilities is acting disruptively.²⁶

When Congress enacted the Individuals with Disabilities Education Act ("IDEA"), it established the presumption that children with disabilities should be "mainstreamed" in general education classrooms whenever possible.²⁷ This presumption has been challenged by those who point out that the "IDEA emphasizes the importance of making placement decisions based on the needs of an individual student, not the implications of the decision for their classmates or teachers."²⁸ At the center of the IDEA is the requirement that all children with disabilities receive a free appropriate public education ("FAPE")²⁹ in the least restrictive environment possible ("LRE").³⁰ Although the IDEA does not specify what the "least restrictive environment" is, it is generally assumed to be the general education classroom.³¹

To be sure, students with disabilities deserve to be educated alongside their peers and should not be segregated based solely on the nature of their

21. See *What Parents Need to Know When Disability Impacts Behavior and Discipline at School*, P'SHIP FOR ACTION, VOICES FOR EMPOWERMENT, <https://wapave.org/what-parents-need-to-know-when-disability-impacts-behavior-and-discipline-at-school/> (last visited Mar. 20, 2022) [<https://perma.cc/PN2N-LQDZ>].

22. *Id.*

23. *See id.*

24. *See id.*

25. See Kevin P. Dwyer, *Disciplining Students with Disabilities*, NAT'L ASS'N SCH. PSYCHS. (Oct. 1997), <https://www.wrightslaw.com/info/discipline.stud.dis.dwyer.pdf> [<https://perma.cc/64TC-ZDB7>].

26. *See id.*

27. See *Roncker ex rel. Roncker v. Walter*, 700 F.2d 1058, 1063 (6th Cir. 1983) ("The Act does not require mainstreaming in every case but its requirement that mainstreaming be provided to the *maximum* extent appropriate indicates a very strong congressional preference.").

28. Allison F. Gilmour, *Has Inclusion Gone Too Far?*, EDUC. NEXT (July 24, 2018), <https://www.educationnext.org/has-inclusion-gone-too-far-weighing-effects-students-with-disabilities-peers-teachers/> [<https://perma.cc/VV8N-JPJZ>].

29. 20 U.S.C. § 1400(d)(1)(A).

30. 20 U.S.C. § 1412(a)(5).

31. See Ann Christy Dybvik, *Autism and the Inclusion Mandate*, EDUC. NEXT (July 13, 2006), <https://www.educationnext.org/autismandtheinclusionmandate/> [<https://perma.cc/E4Q2-ULNL>] ("While the word 'inclusion' cannot be found in the text of IDEA, the law reflected a set of beliefs and aspirations signaling that the 'least restrictive environment' is the general-education classroom—for all children, regardless of disability.").

disabilities.³² Educating students with disabilities in inclusive classrooms can result in positive educational outcomes and increased understandings of diversity among schoolchildren.³³ Additionally, relegating students with disabilities to separate classrooms may cause those students to be stigmatized by their peers or miss out on equal educational opportunities.³⁴ Yet, when the inclusion of students with disabilities is implemented in a way that enables disruptive behavior to frequently disturb the classroom and interrupt the education of all of the students in a class, the prioritization of inclusion should be re-examined.

This Note will address the increasing use of “room clears” as a method of handling disruptive student behavior as well as the relationship between room clears and limitations on disciplining students under the IDEA. In particular, this Note will focus on the interaction between the “least restrictive environment” provision of the IDEA and the increasing tendency to let disruptive students remain in a classroom while removing the non-disruptive students from the environment. Part II explains the legal framework surrounding the inclusion of students with disabilities in the general classroom, the restrictions on removing certain students from the classroom, and the utilization of room clears as a technique for handling disruptive students. Part II will also address the limitations on teachers’ abilities to handle disruptive students and how these limitations impact the education of all students in the classroom. Part III will analyze the impact of disrupted learning environments on all students and the resulting deprivation of educational rights that can occur. Part IV recommends that state or federal agencies require school districts to report incidences of disrupted learning environments to increase accountability. Part IV also recommends a revision to the IDEA’s “least restrictive environment” provision to allow for easier removal of disruptive students without violating the rights of students with disabilities. Part IV concludes by suggesting an increase in federal funding to supply additional supports and training for general education teachers to reduce the occurrences of room clears. Overall, this Note aims to highlight an overlooked, unintended effect of the federal special education law and to propose possible measures that may be taken to address the occurrence of room clears as a response to disruptive student behavior.

32. *See id.*

33. *See* Carmen Constantinescu & Christina A. Samuels, *Studies Flag Potential Downside to Inclusion*, EDUC. WK. (Sept. 6, 2016), <https://www.edweek.org/ew/articles/2016/09/07/studies-flag-potential-downside-to-inclusion.html> [<https://perma.cc/6ZM9-YPBQ>] (“Although actual research on the benefits of including students with such disabilities has been scarce over the past 10 years, there is general agreement that educating students with disabilities in inclusive settings results in positive academic and learning outcomes, social acceptance, consistent interactions and friendships for students with disabilities, and enhanced understanding of diversity for their peers.”).

34. *See* Marissa L. Antoinette, Comment, *Examining How the Inclusion of Disabled Students into the General Classroom May Affect Non-Disabled Classmates*, 30 *FORDHAM URB. L.J.* 2039, 2040 (2003).

II. BACKGROUND

A. *The Right to Education*

When discussing the impact of one student's disruptive behavior on the education of other students in the classroom, it is helpful to understand what right students have to an education in general. While American citizens enjoy various fundamental constitutional rights such as the right to freedom of religion,³⁵ the right to freedom of speech,³⁶ and the right against self-incrimination,³⁷ an entitlement to education is not among such rights. Unlike many other developed countries, the United States does not contain any mention of the word "education" within its constitution.³⁸

Attempts have been made to establish an implicit constitutional right to education, but the Supreme Court in 1973 refused to recognize education as such an implicit right.³⁹ In the landmark case of *San Antonio Independent School District v. Rodriguez*, the Supreme Court held that education was neither an explicitly protected right under the Constitution nor an implicitly protected right.⁴⁰ In *Rodriguez*, the plaintiffs—parents of school-aged children—argued that Texas's statutory scheme linking property taxes to the funding of school districts resulted in their children receiving a lesser quality education than children in wealthier districts.⁴¹ The Court disagreed and upheld the state's funding scheme, finding that relative differences between spending among districts did not rise to "an absolute denial of educational opportunities to any . . . children."⁴² Following the *Rodriguez* decision, it was recognized that education policymaking was a matter best left to the States and their subordinate divisions.⁴³

Recently, a federal court came close to recognizing a fundamental federal right to education that would have changed the landscape of public school policy.⁴⁴ In April 2020, a panel of the Sixth Circuit Court of Appeals briefly recognized a constitutional right to basic education in the case of *Gary B. v. Whitmer*,⁴⁵ before the full court subsequently vacated the decision about a month

35. U.S. CONST. amend. I.

36. *Id.*

37. U.S. CONST. amend. V.

38. See Stephen Lurie, *Why Doesn't the Constitution Guarantee the Right to Education?*, ATLANTIC (Oct. 16, 2013), <https://www.theatlantic.com/education/archive/2013/10/why-doesnt-the-constitution-guarantee-the-right-to-education/280583> [<https://perma.cc/M2YT-K9KN>] (pointing out that each country ahead of the United States in a global ranking of education systems has either a constitutional or statutory guarantee of a right to education, and that the term "education" is missing from the U.S. Constitution).

39. *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 35 (1973).

40. *Id.*

41. *Id.* at 23.

42. *Id.* at 37.

43. See *Wayne v. Shadowen*, 15 F. App'x 271, 283 (6th Cir. 2001).

44. See *Gary B. v. Whitmer*, 957 F.3d 616, 655–62 (6th Cir. 2020), *reh'g en banc granted, opinion vacated*, 958 F.3d 1216 (6th Cir. 2020).

45. *Gary B. v. Whitmer*, 957 F.3d at 648.

later.⁴⁶ *Gary B.* was a class-action lawsuit brought by seven Detroit, Michigan students against state officials alleging that dismal school conditions and poor educational outcomes violated their fundamental right to education under the Fourteenth Amendment of the U.S. Constitution.⁴⁷ A panel of the Sixth Circuit initially decided to hear the case because the Court in *Rodriguez* never ruled specifically on the right to a “basic minimum education.”⁴⁸ The panel in *Gary B.*, however, found that the plaintiffs were constitutionally entitled to a basic minimum education,⁴⁹ but this finding was short-lived.⁵⁰ The decision was vacated a month later,⁵¹ in effect erasing the progress made toward recognizing education as a fundamental federal right.⁵²

Although education is not a fundamental federal right under the Constitution, it is subject to certain constitutional safeguards when it is provided by a state.⁵³ If a state provides free public education and requires that its citizens partake in public education, it must provide this education in a manner consistent with the Fourteenth Amendment’s principles of equal protection and due process.⁵⁴ In *Goss v. Lopez*, the Supreme Court held that, although there is no constitutional right to education where a state enacts a statute entitling all students in that state to a free education, that entitlement is subject to the Due Process Clause of the Constitution’s Fourteenth Amendment and must be granted equally to all students.⁵⁵ The Court in *Goss v. Lopez* reached this conclusion by characterizing a student’s entitlement to public education as a property interest.⁵⁶ By recognizing a student’s right to education as a property interest, the Court was able to find that a school’s deprivation of a student’s education via a suspension was in effect a deprivation of the student’s property interest, and thus, that the student facing a suspension was entitled to some level of due process before being deprived of their property interest.⁵⁷

Many educators, parents, and legal scholars call for the federal government to establish education as a fundamental right.⁵⁸ Without recognizing a fundamental right to education, federal laws which establish educational standards while delegating accountability and enforcement to the states create

46. *Gary B. v. Whitmer*, 958 F.3d at 1216.

47. *Gary B. v. Whitmer*, 957 F.3d at 620–21.

48. *Id.* at 646.

49. *Id.* at 662.

50. *Gary B. v. Whitmer*, 958 F.3d at 1216.

51. *Id.*

52. *See id.*

53. *See Wayne v. Shadowen*, 15 F. App’x 271, 283 (6th Cir. 2001).

54. *See id.*; U.S. CONST. amend. XIV, § 1.

55. *Goss v. Lopez*, 419 U.S. 565, 586 (1975).

56. *Id.* at 574.

57. *Id.* at 579, 581.

58. *See* Stephen Sawchuk, *Is the Time Right to Make Education a Constitutional Right?*, EDUC. WK. (Dec. 11, 2018), <https://www.edweek.org/policy-politics/is-the-time-right-to-make-education-a-constitutional-right/2018/12> [<https://perma.cc/Z47S-KZZN>] (discussing several cases from 2016–2018 where arguments were made for courts to recognize a right to education based on the U.S. Constitution).

confusion over who has responsibility overseeing education policy.⁵⁹ As a result, education policy is a complex issue “that has refused a binary of state or federal-only control.”⁶⁰ This partly explains why there is such great variance among the nation’s public schools in the areas of school funding, educational quality, and academic and social outcomes.⁶¹ When a student receives a failing education, whether remedies should be sought from the state or from the federal government is not readily apparent.

B. The Inclusion of Students with Disabilities in the General Education Classroom

Historically, children with disabilities have been excluded from the general education classroom.⁶² This changed dramatically in 1997 with the reauthorization of the federal special-education law, renamed the Individuals with Disabilities Education Act (“IDEA”).⁶³ The IDEA signified a federal commitment to including children with disabilities in a classroom where they would be educated alongside their non-disabled peers.⁶⁴ At the time of reauthorization, Congress recognized that although the IDEA had already led to great progress in the education of students with disabilities, there was room for improvement to ensure that the law was implemented appropriately and that children received adequate education among their peers.⁶⁵ Congress explicitly discouraged the education of children with disabilities in environments separate from children without disabilities and included in the 1997 reauthorization of the IDEA the presumption that children with disabilities should be educated in the regular classroom.⁶⁶

Despite the benefits accompanying the inclusion of children with disabilities into the general education classroom, educators and legislators disagree about the extent to which inclusion should affect the general curriculum and the accountability standards which should be used to measure the effectiveness of the educational process for students with disabilities.⁶⁷ Further, some educators find it difficult to challenge the presumption of inclusion because

59. See Eric Chung, *Locating Rights to Education for Ensuring Every Student Succeeds*, YALE INST. FOR SOC. & POL’Y STUD. (Feb. 23, 2016), <https://isps.yale.edu/news/blog/2016/08/locating-rights-to-education-for-ensuring-every-student-succeeds> [https://perma.cc/G4XV-N27U] (discussing how the Every Student Succeeds Act returned some accountability and oversight to the states while simultaneously recognizing “a federal responsibility for providing equal and adequate educational opportunities for every student”).

60. See *id.*

61. See Alia Wong, *The Students Suing for a Constitutional Right to Education*, ATLANTIC (Nov. 28, 2018), <https://www.theatlantic.com/education/archive/2018/11/lawsuit-constitutional-right-education/576901/> [https://perma.cc/K2GQ-5U26].

62. Dybvik, *supra* note 31.

63. See *id.*

64. See 20 U.S.C. § 1412(a)(5)(A).

65. S. REP. NO. 105-17, at 5 (1997).

66. *Id.* at 20–21 (1997).

67. See Stacey Gordon, *Making Sense of the Inclusion Debate Under IDEA*, 2006 BYU EDUC. & L.J. 189, 190 (2006).

separating students based on disabilities can be seen as a form of segregation,⁶⁸ which is obviously contrary to public policy.⁶⁹

1. *A General Overview of the IDEA*

The IDEA was enacted with the purposes of ensuring that children with disabilities receive a free appropriate education that meets their needs, that the rights of children with disabilities are protected, and that agencies and other entities have the assistance they need to provide education for children with disabilities.⁷⁰ States can receive funding through the IDEA to assist with the implementation of special education and services for children with disabilities.⁷¹ The receipt of funding is conditioned on the state meeting certain substantive and procedural criteria.⁷² One of the conditions a state must meet to receive IDEA funding is that the state must make a free appropriate public education (“FAPE”) available to all children with disabilities.⁷³ In order to satisfy the FAPE requirement, the state must create an individualized education plan (“IEP”) for each child with a disability, and the education and services provided to the child must conform to the child’s IEP.⁷⁴ In addition to an IEP, children with disabilities are entitled by the IDEA to receive an education in the “least restrictive environment.”⁷⁵

2. *The “Least Restrictive Environment” (“LRE”) Provision of the IDEA*

The LRE provision of the IDEA factors prominently into the inclusion debate. Although the language of the IDEA never includes the word “inclusion,” the statute specifies that the LRE is one where “[t]o the maximum extent appropriate, children with disabilities . . . are educated with children who are not disabled.”⁷⁶ As a result, educators have interpreted the statute to mean that the LRE for a child with disabilities is the general education classroom.⁷⁷ Because the general education classroom is assumed to be the LRE, schools must show evidence that a particular student with a disability is unable to be educated in the general classroom to place that student elsewhere.⁷⁸ The school must

68. See Constantinescu & Samuels, *supra* note 33 (pointing out that the IDEA is “civil rights legislation” and that advocates for inclusion are sensitive to the issue).

69. See *id.*

70. 20 U.S.C. § 1400(d)(1)(A)–(C).

71. See 20 U.S.C. §§ 1411, 1312(a).

72. See 20 U.S.C. § 1412(a)(1)–(25).

73. See 20 U.S.C. § 1412(a)(1).

74. See 20 U.S.C. §§ 1401(9)(D), 1414(d).

75. 20 U.S.C. § 1412(a)(5).

76. 20 U.S.C. § 1412(a)(5)(A).

77. Susan C. Bon, Susan C. Faircloth & Gerald K. LeTendre, *The School Violence Dilemma: Protecting the Rights of Students with Disabilities While Maintaining Teachers’ Sense of Safety in Schools*, 17 J. DISABILITY POL’Y STUDS. 148, 155 (2006) (“Although the law does not specify what the least restrictive environment is, it is often considered to be the general education setting.”).

78. Jason Fletcher, *Spillover Effects of Inclusion of Classmates with Emotional Problems on Test Scores in Early Elementary School*, 29 J. POL’Y ANALYSIS & MGMT. 69, 71 (2010).

demonstrate that the student's education needs are unable to be met in the general classroom, even with the use of supplemental aids and services.⁷⁹

The Supreme Court has declined to rule on what constitutes an LRE, instead leaving the matter to be addressed by circuit courts.⁸⁰ The courts have taken different approaches, resulting in slightly varied tests adopted by different courts to determine the LRE.⁸¹

Federal funding is provided to states by the IDEA on the condition that schools within the state comply with the LRE provision of the IDEA and educate disabled children in classrooms with their non-disabled peers.⁸² States must ensure that students with disabilities are educated in general education classrooms with the use of supplemental aids and services unless a student's disability prevents the student from being able to access education in this environment.⁸³

3. *The "Stay-Put" Provision of the IDEA*

Section 1415 of the IDEA also lays out various procedural safeguards that schools must abide by when handling the discipline of students with disabilities.⁸⁴ Such procedural safeguards include the opportunity for parents to examine records, participate in meetings, and obtain independent educational evaluations.⁸⁵ As a whole, the system of procedural safeguards ensures that parents of children with disabilities are given the chance to participate in decisions concerning their children's education.⁸⁶ Such a system also provides an avenue for judicial and administrative review of decisions about which parents disagree.⁸⁷ One of the more contested procedural safeguards implemented by the IDEA is known as the "stay-put" or "pendency" provision.⁸⁸ This provision requires that a student must remain in her educational placement while any Section 1415 proceedings are conducted.⁸⁹ The stay-put provision presumes that

79. Daniel H. Melvin II, *The Desegregation of Children with Disabilities*, 44 DEPAUL L. REV. 599, 646 (1995).

80. *Id.*

81. See Daniel R.R. v. State Bd. of Educ., 874 F.2d 1036, 1045–46 (5th Cir. 1989) ("Although we have not yet developed a standard for evaluating mainstreaming questions, we decline to adopt the approach that other circuits have taken."); Kelsey Reiner, Note, *Least Restrictive Environments: Where Segregated, Self-Contained Special Education Classrooms Fall on the Continuum of Placements and Why Mainstreaming Should Occur with Same-Age Peers*, 2018 MICH. ST. L. REV. 743, 747 (2018) ("In applying LREs under IDEA, circuit courts have created different tests to decide placements on the continuum.").

82. See Melvin II, *supra* note 79, at 646–47.

83. See *id.* at 647.

84. 20 U.S.C. § 1415.

85. 20 U.S.C. § 1415(b)(1).

86. Honig v. Doe, 484 U.S. 305, 308 (1988).

87. *Id.*

88. Elizabeth A. Bunch, *Chalk Talk: School Discipline Under the Individuals with Disabilities Education Act: How the Stay-Put Provision Limits Schools in Providing a Safe Learning Environment*, 27 J.L. & EDUC. 315, 316 (1998).

89. 20 U.S.C. § 1415(j).

“students do best when educated with their peers, to the largest extent possible, and that schools should not be able to isolate students they find too difficult.”⁹⁰

The 1987 Supreme Court decision in *Honig v. Doe* addressed the stay-put provision, maintaining that the provision was intended to prevent schools from exercising unilateral authority to remove disabled students from school.⁹¹ *Honig* involved two students with disabilities who were suspended after exhibiting violent and disturbing behavior, including choking another student forcefully enough to leave abrasions,⁹² extorting money from peers,⁹³ and making sexual comments to female classmates.⁹⁴ School officials reacted to these behaviors by suspending the students.⁹⁵ Although the initial suspensions were scheduled to last for only five days, in both situations the school officials extended the suspensions indefinitely while they determined whether to expel the students permanently from the school.⁹⁶ The Court held that the indefinite suspensions violated the stay-put provision of the IDEA.⁹⁷

There are several exceptions within the stay-put provision to the prohibition against a change in student placement.⁹⁸ These exceptions allow school officials to remove a student for up to forty-five days without first holding a manifestation determination review in instances involving weapons, drugs, or serious bodily harm.⁹⁹

4. Arguments Against Full Inclusion

Aside from the benefits of including all students with disabilities in the general education classroom, some argue that the IDEA’s presumption of full inclusion is the wrong attitude towards education.¹⁰⁰ Some researchers have examined the “spillover effects” of inclusion and found that students without disabilities have been negatively affected by the presence of students with emotional and behavioral disabilities.¹⁰¹ Others, focusing on the effects of inclusion directly on students with disabilities, argue that not all students with disabilities can make academic progress in the general classroom and that exposure to the general education curriculum does not mean that the curriculum is actually being learned by these students.¹⁰²

90. Blakely Evanthia Simoneau, *Stay Put and the Individuals with Disabilities Education Act: A Proposal for Clarity and Change*, 21 U. PA. J.L. & SOC. CHANGE 153, 161 (2018).

91. *Honig*, 484 U.S. at 323.

92. *Id.* at 313.

93. *Id.* at 315.

94. *Id.*

95. *Id.* at 313, 315.

96. *Id.*

97. *Id.* at 328.

98. 20 U.S.C. § 1415(k)(1)(G).

99. *Id.*

100. See Carmen Constantinescu & Christina A. Samuels, *supra* note 33 (discussing literature questioning the presumption in favor of full inclusion).

101. *Id.*

102. See Gilmour, *supra* note 28.

One of the difficulties with a default insistence on inclusion for any student with a disability is it assumes the classroom, teacher, and other students are equipped to handle the complex needs of that student.¹⁰³ Teachers and schools, however, often lack the resources or skill necessary to appropriately handle the behavioral complexities which arise as a result of full inclusion.¹⁰⁴ One of the contributing factors to a lack of resources is the lack of funding from Congress.¹⁰⁵ The National Center for Learning Disabilities highlights the discrepancy between what was promised by the IDEA and what was fulfilled:

When Congress passed IDEA, they promised to cover 40% of the extra cost of special education. . . . Unfortunately, Congress has never come close to fulfilling that promise. The number of students with disabilities served under IDEA has increased by 25 percent in the past two decades. Yet . . . [t]he federal government is only covering 14.6% of the additional cost.¹⁰⁶

Without such funding, schools are unable to meet the financial burden of providing adequate resources for special education students.¹⁰⁷ Because the general education classroom is presumed to be the appropriate placement for all students with disabilities under the IDEA, general education teachers “must be knowledgeable of the special education process to meet the needs of all students in their classrooms.”¹⁰⁸ This level of knowledge and expertise requires financial resources to adequately provide an appropriate learning environment for all students in the classroom.¹⁰⁹

C. *Restrictions on Disciplining Disruptive Behavior in the Classroom*

While some amount of discipline is expected among school classrooms, data indicates that students with disabilities are subjected to certain types of discipline more frequently than students without disabilities.¹¹⁰ In particular, students with disabilities have historically been subjected to the disciplinary use of restraints and seclusion at a much higher rate than students without disabilities.¹¹¹ The U.S. Department of Education’s Office for Civil Rights reported that in the 2013–14 school year, students with disabilities represented 67% of all students who were restrained or secluded in school, although students with disabilities only comprised 12% of the total population of students enrolled in public school.¹¹² While segregating or isolating students may be necessary in

103. *Id.*

104. *See id.*

105. *See IDEA Full Funding: Why Should Congress Invest in Special Education?*, NAT’L CTR. FOR LEARNING DISABILITIES, <https://nclد.org/news/policy-and-advocacy/idea-full-funding-why-should-congress-invest-in-special-education/> (last visited Mar. 22, 2022) [<https://perma.cc/76HC-QNEH>].

106. *Id.*

107. *Id.*

108. Bon, Faircloth & LeTendre, *supra* note 77, at 153.

109. *Id.* at 151.

110. Dear Colleague Letter about Restraint and Seclusion of Students with Disabilities from Catherine E. Lhamon, Assistant Secretary for C.R., U.S. Dep’t of Educ. Off. for C.R., at 2 (Dec. 28, 2016).

111. *Id.*

112. *Id.*

some cases, it also has the potential to cause behaviorally challenged students to regress or develop more intensive behavioral issues.¹¹³

As more awareness has been raised about the rate of discipline among students with disabilities, some states have responded by enacting laws that restrict the amount and type of discipline that school officials can use when interacting with such students.¹¹⁴ For example, legislation enacted in Washington State now prohibits any use of restraint or isolation unless it is “reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.”¹¹⁵ Under this legislation, “restraint” includes any “physical . . . force used to control a student,” while “isolation” refers to restricting a student to a room or enclosure on their own.¹¹⁶

Federal law also places certain restrictions and limitations on the discipline of a student who is identified as having a disability.¹¹⁷ Under the IDEA, if a school decides to change the placement of a child with a disability because of the student’s misconduct, the school usually must conduct a “manifestation determination” review within ten days of the change in placement.¹¹⁸ The school must determine whether the student’s conduct “was caused by, or had a direct and substantial relationship to, the child’s disability.”¹¹⁹ Alternatively, if the school determines the student’s conduct was not caused by or directly and substantially related to the student’s disability, the school must consider whether the conduct “was the direct result of the local educational agency’s failure to implement the [child’s] IEP.”¹²⁰

As noted by the Fourth Circuit, the IDEA prohibits the disciplining of a student with disabilities “unless an MDR committee concludes that the student’s IEP was appropriate relative to his qualifying disability and that the student’s disability did not inhibit his capacity either to appreciate that his behavior was inappropriate or to conform his behavior to expectations.”¹²¹ If, after conducting a review of the child’s conduct, the school determines that the child’s behavior is a manifestation of the child’s disability, the school must follow additional procedures.¹²² These procedures include, in some instances, conducting a functional behavioral assessment or reviewing and modifying a behavioral intervention plan.¹²³

113. L. Kate Mitchell, “*We Can’t Tolerate That Behavior in This School!*”: *The Consequences of Excluding Children with Behavioral Health Conditions and the Limits of the Law*, 41 N.Y.U. REV. L. & SOC. CHANGE 407, 419 (2017).

114. See, e.g., WASH. REV. CODE § 28A.600.485 (2015) (restricting when isolation and restraint can be used and identifying protocols that must be followed if isolation or restraint is used).

115. *Id.*

116. *Id.*

117. 20 U.S.C. § 1415(k).

118. 20 U.S.C. § 1415(k)(1)(E)(i).

119. 20 U.S.C. § 1415(k)(1)(E)(i)(I).

120. 20 U.S.C. § 1415(k)(1)(E)(i)(II).

121. *A.W. ex rel. Wilson v. Fairfax Cnty. Sch. Bd.*, 372 F.3d 674, 677 (4th Cir. 2004) (citing 20 U.S.C. § 1415(k)(4)).

122. 20 U.S.C. § 1415(k)(1)(F).

123. 20 U.S.C. § 1415(k)(1)(F)(i)–(ii).

D. Limitations on Teachers' Abilities to Handle Disruptive Students in the General Education Classroom

Proponents for full inclusion insist that all children with disabilities should be educated in the general education classroom alongside their non-disabled peers.¹²⁴ At the same time, there has been a push to reduce the use of strict disciplinary practices which remove students from the classroom, such as suspensions or expulsions.¹²⁵ As a result, students with disruptive behavioral disabilities who might otherwise be placed outside the general education classroom instead remain within it.¹²⁶ The IDEA reinforces this result as the correct outcome by mandating that a student with a disability should be removed from the general education classroom “only when the nature or severity of the disability . . . is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”¹²⁷

What is often overlooked in this situation, however, is that most teachers do not have the experience, training, or support necessary to appropriately handle the unique needs of behaviorally disordered students *and* the needs of the rest of the students in the classroom.¹²⁸ As kindergarten teacher Nettalien Eagar put it, “[students with disruptive behaviors] are all in need of more behavioral intervention supports,” but when teachers ask for help they are “given tracking cards and flowcharts of how to respond.”¹²⁹ Ms. Eagar notes that she cannot reasonably manage escalating disruptive behavior while also instructing and managing the behaviors of the rest of her class, and points out that “if teachers are expected to manage these extreme behaviors, [they] need a lot more training and education to deal with trauma and stress related behaviors.”¹³⁰

III. ANALYSIS

Over the past decade, there has been an increase among public schools in the use of classroom clears as a method of dealing with disruptive student behavior. Section III.A analyzes the occurrence of room clears by initially examining one of the possible contributing factors—the LRE provision of the IDEA—and how the provision has been interpreted and applied among different circuits. Sections III.B and III.C analyze the impact of disruptive behavior on the educational environment and the relationship between disruptive behavior and

124. See Anne Proffitt Dupre, *Disability and the Public Schools: The Case Against “Inclusion,”* 72 WASH. L. REV. 775, 779 (1997).

125. See Stephanie Marken, *In U.S., 54% Say Teachers Unprepared to Handle Discipline*, GALLUP (May 1, 2019), <https://news.gallup.com/poll/249185/say-teachers-unprepared-handle-discipline.aspx> [https://perma.cc/WH66-GEQK].

126. See *id.*

127. 20 U.S.C. § 1412(a)(5)(A).

128. See Nettalien Eagar, *Putting Out Fires, Story in Educator Stories: Disrupted Learning Environments*, TODAY’S OEA: OR. EDUC. ASS’N MAG., <http://todaysoea.org/articles/educator-stories-disrupted-learning-environments> (last visited Mar. 21, 2022) [https://perma.cc/VSS2-Y9HJ].

129. *Id.*

130. *Id.*

classroom clears. Finally, Section III.D concludes with an examination of a recent Iowa rule addressing the topic of room clears and analyzes the potential implications for other states facing the same situations in their public schools.

A. *Tests Adopted by Different Circuits to Determine the Least Restrictive Environment*

Due to the lack of guidance from the Supreme Court as to what constitutes the LRE for a student with disabilities, the circuit courts have adopted their own tests for determining the appropriateness of student placements.¹³¹ Unfortunately, because various circuits have adopted different tests, the lack of consensus has led to confusion among educators and policymakers about how to determine whether an environment is the least restrictive for a student with disabilities.¹³²

Despite Congress's preference that disabled students be educated alongside their non-disabled peers,¹³³ courts have not always agreed that the general education classroom is the appropriate educational environment for a child with disabilities.¹³⁴ As the presumption under the IDEA is that the general education classroom is the LRE, the burden is on the schools to prove that it is necessary to educate a particular student elsewhere.¹³⁵

The Second, Third, Fifth, and Eleventh Circuits have adopted the two-prong *Daniel R. R.* test to analyze whether a student's placement is in accordance with the LRE provision,¹³⁶ while the Fourth, Sixth, and Eighth Circuits apply the *Roncker* test instead.¹³⁷ The Ninth Circuit applies a four-factor balancing test that combines elements of both the *Daniel R. R.* and the *Roncker* tests.¹³⁸ Other courts have declined to adopt any of these tests, and have instead applied analyses that incorporate factors from each test.¹³⁹

Insistence upon the LRE for a student can be misguided depending on the motivation for the insistence.¹⁴⁰ Different interests and concerns are at play when the insistence is in response to the exclusion of a student at the choosing of school

131. See Reiner, *supra* note 81, at 747 ("In applying LREs under IDEA, circuit courts have created different tests to decide placements on the continuum.").

132. See Gordon, *supra* note 67, at 190.

133. See Melvin II, *supra* note 79, at 646 ("While Congress may have contemplated the need for more restrictive placements, Congress left no doubt that educating disabled children alongside their non-disabled peers was to be preferred.").

134. See, e.g., *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036, 1051 (5th Cir. 1989) (finding that the regular classroom was too strenuous for a student with special needs and that the evidence favored placing the student in a special education classroom).

135. Fletcher, *supra* note 78, at 71.

136. See *P. ex rel. Mr. & Mrs. Ps. v. Newington Bd. of Educ.*, 546 F.3d 111, 119–20 (2d Cir. 2008); *Oberti v. Bd. of Educ.*, 995 F.2d 1204, 1215 (3d Cir. 1993); *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036, 1048 (5th Cir. 1989); *Greer v. Rome City Sch. Dist.*, 950 F.2d 688, 696 (11th Cir. 1991).

137. See *Devries v. Fairfax Cnty. Sch. Bd.*, 882 F.2d 876, 878–79 (4th Cir. 1989); *Roncker ex rel. Roncker v. Walter*, 700 F.2d 1058, 1063 (6th Cir. 1983); *N.W. ex rel. A.W. v. Nw. R-1 Sch. Dist.*, 813 F.2d 158, 163 (8th Cir. 1987).

138. See *Sacramento City Unified Sch. Dist. Bd. of Educ. v. Rachel H.*, 14 F.3d 1398, 1404 (9th Cir. 1994).

139. See, e.g., *Monticello Sch. Dist. No. 25 v. George L. ex rel. Brock L.*, 102 F.3d 895, 906 n.3 (7th Cir. 1996) (discussing the *Daniel R. R.* test and *Roncker* test but declining to adopt a specific test).

140. See Bonnie Spiro Schinagle & Marilyn J. Bartlett, *The Strained Dynamic of the Least Restrictive Environment Concept in the IDEA*, 35 CHILD.'S LEGAL RTS. J. 229, 231 (2015).

authorities versus in response to a parent's wishes for their child to be educated in a certain environment where the school has not elected to place the child.¹⁴¹

1. *The Two-Prong Daniel R. R. Test*

In the 1989 case, *Daniel R. R. v. State Board of Education*, the Fifth Circuit addressed the placement of a six-year old boy with Down Syndrome into a class solely for special education students.¹⁴² The child's parents argued that the school's refusal to place him in a general education classroom violated the Education of the Handicapped Act.¹⁴³ To determine whether the child's placement was in compliance with the mainstreaming provision of the Act, the Court developed a two-part test.¹⁴⁴ The first part of the test poses the question of whether education in the regular classroom can be satisfactorily achieved for the specific child, with or without the use of supplemental aids and services.¹⁴⁵ If the child is unable to be educated in the regular classroom, the second part of the test asks whether the school has mainstreamed him or her "to the maximum extent appropriate."¹⁴⁶

To apply its two-part test, the *Daniel R. R.* court considered several factors, after cautioning that these factors did not amount to an exhaustive list.¹⁴⁷ The *Daniel R. R.* court first considered "whether education in the regular classroom . . . can be achieved satisfactorily for a given child" with appropriate accommodations, such as providing supplementary aids and modifying the regular education program.¹⁴⁸ The court next considered "whether the child will receive an educational benefit from regular education."¹⁴⁹ Third, the court considered "the child's overall educational experience in the mainstreamed environment."¹⁵⁰ Finally, the court considered "what effect the handicapped child's presence has on the regular classroom environment, and thus, on the education that the other students are receiving."¹⁵¹

The *Daniel R.R.* court considered the *Roncker* test but declined to follow the *Roncker* court's analysis.¹⁵² The *Daniel R.R.* court found the *Roncker* factors to be relevant to a determination of the LRE but also felt that the *Roncker* test "necessitate[d] too intrusive an inquiry into the educational policy choices that Congress deliberately left to state and local school officials."¹⁵³ The *Daniel R.R.*

141. *Id.*

142. *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036, 1039 (5th Cir. 1989).

143. *Id.* at 1038. Note that the "Education for All Handicapped Children Act" was later revised and renamed the "Individual with Disabilities Education Act." See 20 U.S.C. § 1400.

144. *Daniel R.R.*, 874 F.2d at 1048-49.

145. *Id.* at 1048.

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.* at 1049.

150. *Id.*

151. *Id.*

152. *Id.* at 1046.

153. *Id.*

court indicated that state and local school officials would be better at determining the feasibility of providing certain services than the court would be.¹⁵⁴

2. *The Roncker Test*

The court in *Roncker* recognized “the strong preference in favor of mainstreaming” while acknowledging that some children with disabilities are unable to benefit from being mainstreamed in a general education classroom.¹⁵⁵ The court held that when a placement outside of the general education classroom is considered best for a child, the court should make a determination of “whether the services which make that placement superior could be feasibly provided in a non-segregated setting.”¹⁵⁶ As part of this determination, cost is one factor that may be considered, but only to the extent that the cost of services for one student exceeds the cost of services for students in general.¹⁵⁷ The *Roncker* court pointed out that a school cannot assert cost as a defense if the school has failed to use its funds to adequately provide services for children with disabilities.¹⁵⁸

3. *The Ninth Circuit’s Four-Factor Balancing Test*

The Ninth Circuit has chosen to adopt neither the *Daniel R.R.* test nor the *Roncker* test but has instead developed its own four-factor balancing test to determine whether a student’s placement violates the LRE provision of the IDEA.¹⁵⁹ Under this test, the court considers “(1) the educational benefits of placement full-time in a regular class; (2) the non-academic benefits of such placement; (3) the effect [the student has] on the teacher and children in the regular class; and (4) the costs of mainstreaming [the student].”¹⁶⁰ The Ninth Circuit’s test reflects a more holistic and balanced approach to determining the least restrictive environment than the *Daniel R.R.* test or the *Roncker* test.¹⁶¹

B. *The Impact of Disruption on the General Education of Students in the Classroom*

While special education laws have resulted in great benefits and advancements for students with disabilities, some educators worry that “the rights of students with disabilities are often protected at the expense of the teachers and students in the educational environment.”¹⁶² According to some, “the current disciplinary system weighs the interests of the state and school

154. *Id.*

155. *Roncker ex rel. Roncker v. Walter*, 700 F.2d 1058, 1063 (6th Cir. 1983).

156. *Id.*

157. *Id.*

158. *Id.*

159. *See Sacramento City Unified Sch. Dist. Bd. of Educ. v. Rachel H.*, 14 F.3d 1398, 1404 (9th Cir. 1994).

160. *Id.*

161. *Compare id.* at 1399–1405, with *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036 (5th Cir. 1989), and *Roncker ex rel. Roncker v. Walter*, 700 F.2d 1058 (6th Cir. 1983).

162. *Bon, Faircloth & LeTendre, supra* note 77, at 153.

districts against the interests of students with disabilities and their parents while ignoring the interests of students who do not present disciplinary problems.”¹⁶³ The IDEA requires the weighing of the interests of individual disabled students against the interests of the State and school districts, but leaves out of the equation the interests of non-disruptive students.¹⁶⁴

When a student exhibits disruptive behavior but is allowed to remain in the classroom, it infringes on the teacher’s ability to provide adequate instruction to the rest of the students and inhibits the other students from receiving the education to which they are entitled.¹⁶⁵ A teacher who must take a substantial amount of time to handle a disruptive student is not able to provide the full amount of instructional time to students that they would receive in a non-disrupted classroom.¹⁶⁶ Teachers may also choose to avoid teaching subjects that they know might elicit a disruptive reaction from a specific student.¹⁶⁷ Additionally, students observing one student’s unrestrained disruptive behavior “may be more likely to engage in such behavior themselves.”¹⁶⁸

Increasingly, schools across the nation are seeing a rise in disruptive student behavior that teachers are not equipped to handle.¹⁶⁹ This behavior includes verbal and physical assaults against both teachers and other students displayed at a level sufficient to make teachers and students feel unsafe.¹⁷⁰ In seemingly unstoppable fits, students shout profanities, throw items, hit their peers, rip materials off the walls, break computers, knock over tables, and destroy class supplies.¹⁷¹ In addition to disrupting other students’ learning time, these behaviors result in trauma and anxiety for the classmates who witness these outbursts.¹⁷² Teachers in a New Hampshire school district who have seen an increase in such disruptive outbursts explain:

The impact of trauma on other students is difficult to measure and quantify, [sic] but is real and cannot be ignored. Younger students are typically not developmentally capable of verbalizing how witnessing such traumatic events affects them. Even more alarming is that many of them are

163. *Id.* at 154.

164. Bunch, *supra* note 88, at 321.

165. MIKE FORD, BADGER INST., THE IMPACT OF DISRUPTIVE STUDENTS IN WISCONSIN PUBLIC SCHOOLS (Apr. 2013), <https://www.badgerinstitute.org/BI-Files/Reports/TheImpactofDisruptiveStudentsinWisconsinPublicSchools.pdf> [https://perma.cc/5ANX-P5AS].

166. *Id.*

167. *Id.*

168. *Id.*

169. *See, e.g.*, Nagus, *supra* note 7 (describing one teacher’s decision to quit her job after teaching for seven years because she “felt like [she] was drowning” without support to handle disruptive student behavior).

170. *See* Willingham, *supra* note 8.

171. *E.g., id.* (“Students punch, slap, scratch, push, kick, and spit at other students and staff . . .”); Nagus, *supra* note 7 (“[A former teacher] witnessed kids ‘tearing things apart, walking on desks and tables, and hitting kids.’”); Kaylee Tornay, *Teachers, Parents Report Increase in Unruly Students*, ASSOCIATED PRESS (June 19, 2018), <https://apnews.com/article/235024be3f984493b54aec8bfbd2d4c> [https://perma.cc/73AP-VRX6] (describing behavior from students such as “[s]creaming at teachers, throwing objects ranging from musical instruments to chairs, and leaving class without permission but with loud outbursts”).

172. Willingham, *supra* note 8.

becoming desensitized and view these behaviors as the norm and acceptable.¹⁷³

As classrooms full of students are exposed over and over again to disruptive outbursts that result in entire room evacuations, students are likely to feel a long-lasting impact that may extend beyond their time in school.¹⁷⁴

C. Criminal Statutes Indicate a Legitimate Need to Restrict Disruptive Behavior Among Various States

In some states, disruptive behavior in school can subject a student to criminal liability.¹⁷⁵ For example, a New Mexico statute prohibits any person from “willfully interfer[ing] with the educational process of any public or private school” by causing an act that would “disrupt, impair, interfere with or obstruct” the functioning or mission of the school.¹⁷⁶ Violation of the statute results in the conviction of a misdemeanor.¹⁷⁷ The Tenth Circuit has interpreted this statute very liberally, finding that the statute prohibits student behavior as seemingly mild as “burping, laughing, and leaning into the classroom” if that behavior “stop[s] the flow of student educational activities.”¹⁷⁸ Likewise, a Florida statute makes it a misdemeanor for an individual to knowingly “disrupt or interfere with the lawful administration of functions of any educational institution.”¹⁷⁹

Statutes such as these, while perhaps controversial for “outlawing adolescence,”¹⁸⁰ demonstrate a legislative intent to restrict individuals from interfering in the educational process.¹⁸¹ By criminalizing disruptive behavior, these statutes emphasize the value placed on an undisturbed learning environment. State legislatures have recognized that students need to receive continuous educational instruction without interruptions in order to fully benefit from their schooling.¹⁸²

173. *Id.*

174. *See id.*

175. For a list of laws and regulations by state that address a teacher’s authority to remove students from the classroom, see *School Discipline Laws & Regulations by Category & State*, NAT’L CTR. ON SAFE SUPPORTIVE LEARNING ENV’TS, <https://safesupportivelearning.ed.gov/school-discipline-laws-regulations-state> (last visited Mar. 21, 2022) [<https://perma.cc/RP5J-3SHF>].

176. N.M. STAT. ANN. § 30-20-13 (LexisNexis 2020).

177. *Id.*

178. *A.M. ex rel. F.M. v. Holmes*, 830 F.3d 1123, 1142 (10th Cir. 2016).

179. FLA. STAT. ANN. § 877.13 (LexisNexis 2020).

180. *See* Amanda Ripley, *How America Outlawed Adolescence*, ATLANTIC (Nov. 2016), <https://www.theatlantic.com/magazine/archive/2016/11/how-america-outlawed-adolescence/501149> [<https://perma.cc/HE2T-XA2S>].

181. *See id.*

182. *See id.*

D. The Use of “Room Clears” as a Means of Addressing Disruptive Student Behavior

With the increasing prevalence of disruptive student behaviors and the rise of legislation prohibiting the restraint of disruptive students, teachers are increasingly choosing to use “room clears” to handle disruptive outbursts.¹⁸³ Each room clear that occurs disrupts the education of not only the student exhibiting the disruptive behavior, but the education of the rest of the students in the classroom as well.¹⁸⁴

One of the main problems with room clears is that they are not clearly defined by law, nor are they uniformly reported to state or federal agencies.¹⁸⁵ Because data about the frequency of room clears is lacking, it is likely that states do not fully comprehend the severity and scope of the problem.¹⁸⁶ This is in direct contrast to other disciplinary techniques such as restraint and isolation, which some states mandate must be tracked and reported by school districts to record every instance the technique is used.¹⁸⁷

1. The Increasing Prevalence of Room Clears as a Tactic to Address Disruptive Behavior

Clearing a classroom because of a disruptive student can occur at every grade level, even with children as young as kindergarteners. In one extreme case, children were evacuated from their kindergarten classroom twenty-eight times within the first three months of the school year.¹⁸⁸ The evacuations were caused by one child in particular, who repeatedly threw shoes, books, crayons, and

183. See Jennifer Moody, *Cry for Help: Emotionally Troubled Students Pose Challenge to Teachers*, ALBANY DEMOCRAT HERALD (Dec. 13, 2015), https://democratherald.com/news/local/education/cry-for-help-emotionally-troubled-students-pose-challenge-to-teachers/article_3104e910-7e0b-5918-bae4-dd600a61dc9a.html [https://perma.cc/6FEL-5VLF] (describing “room clears” that involve taking the rest of the students to a library or unused room to keep them safe while an out-of-control student settles down in the main classroom).

184. See *id.*

185. See Rob Manning, *Changing the System of Restraint and Isolations Won’t Be Easy*, KUOW (Mar. 20, 2019, 5:00 AM), <https://www.kuow.org/stories/changing-the-system-of-restraint-and-isolations-won-t-be-easy> [https://perma.cc/2PB5-MMS5] (noting that Oregon law does not clearly define room clears).

186. Alisha Roemeling, *Violent Student Behaviors on the Rise, Officials Say*, NEWS-REV. (Nov. 17, 2018), https://www.nrtoday.com/violent-student-behaviors-on-the-rise-officials-say/article_ba8efc4e-6ee7-583b-aeel-7c89a78ede84.html [https://perma.cc/4SDN-LE6Z] (“The lack of data leaves the state without a way to understand the severity and scope of the situation in each school, which ultimately keeps officials from finding a way to address it . . .”).

187. See *Are Schools Required to Collect or Report Data on How Often They Use Restraint or Isolation?*, WASH. STATE GOVERNOR’S OFF. EDUC. OMBUDS, <https://www.oeo.wa.gov/en/are-schools-required-collect-or-report-data-how-often-they-use-restraint-or-isolation> (last visited Mar. 21, 2022) [https://perma.cc/88CQ-VZY3] (“Each school district in Washington State is required to collect data on the use of restraint and isolation. They must summarize the written reports completed for each use of restraint or isolation and submit the summaries to [the Office of Superintendent of Public Instruction] each year.”).

188. Susan Bromley, *Enough’: 28 Evacuations in 3 Months, Parents of Brighton Kindergarteners Plead for Help*, LIVINGSTON DAILY (Dec. 1, 2018, 9:22 AM), <https://www.livingstondaily.com/story/news/local/community/brighton/2018/11/30/brighton-michigan-hilton-elementary-kindergarten-class-evacuated/2141620002/> [https://perma.cc/RV8Y-3T6V].

chairs at other students and the teacher.¹⁸⁹ Instead of removing the one child, the twenty-four other children in the class were repeatedly evacuated from the room when the disruptive child had his outbursts.¹⁹⁰ Due to the disruptive child's actions, the classroom had frequently become an unsafe learning environment for the rest of the children.¹⁹¹

Similar stories are voiced by teachers across all grade levels and geographic areas.¹⁹² Some believe that the use of room clears is directly related to the policy initiatives that have restricted the use of restraint and isolation techniques on schoolchildren.¹⁹³ This belief is based on the idea that disruptive students who would have previously been restrained or isolated for their behavior are now being left in the room while the rest of the students are removed.¹⁹⁴ There is some validity to this argument, as well as some criticism. It is true that due to restraint and seclusion laws, some educators feel helpless to intervene when a student is demonstrating destructive behavior.¹⁹⁵ When restraint and seclusion laws require school officials to have highly specialized training to administer restraint techniques, teachers who have not received specialized training or who do not have others around who have been specially trained feel helpless to act.¹⁹⁶ If a teacher is not specially trained in restraint techniques and uses physical restraint to subdue a disruptive student, the teacher may be subject to discipline in states with strict restraint laws.¹⁹⁷ Thus, to handle a disruptive student, the teacher may clear the room of the rest of the students or may sacrifice their own safety to avoid discipline under their state's restraint laws.¹⁹⁸

In some instances, room clears are even more clearly connected to a state's restriction on the use of restraint and isolation techniques.¹⁹⁹ For example, Washington State's Longview School District came under attack after its practices of using an isolation room for misbehaving students came to light.²⁰⁰ Once the state limited the controversial practice of using the isolation room, teachers began handling disruptive students by using the room clearing method.²⁰¹ Teachers who may have previously isolated or restrained students during incidents of disruptive behavior turned to alternative methods, namely

189. *Id.*

190. *Id.*

191. *Id.*

192. *See, e.g.,* Wallman & O'Matz, *supra* note 8.

193. *See* Max Eden, *When Disruptive Students Are Coddled, the Whole Class Suffers*, *QUILLETTE* (Dec. 1, 2019), <https://quillette.com/2019/12/01/when-disruptive-students-are-coddled-the-whole-class-suffers/> [<https://perma.cc/2X7A-VX2A>].

194. *See id.*

195. *See* AUTIO, *supra* note 7, at 6 (listing "[u]nclear implementation of policies regarding restraint and seclusion" as a contributing factor to disrupted learning environments).

196. *See id.* at 21.

197. *See id.*

198. *See id.*

199. *See, e.g.,* Tom & Curley Show, *New WA School Restraint Bill Would Help Deal with Disruptive Students*, *KIRO RADIO* (Feb. 13, 2020, 1:05 PM), <https://mynorthwest.com/1718786/school-restraint-bill-disruptive-students/> [<https://perma.cc/3U8Y-C6EN>].

200. *See id.*

201. *See id.*

room clears, once the previous method of handling the behavior was no longer an option.²⁰²

After completely outlawing the use of restraint and isolation techniques, legislators in Washington State attempted to swing the pendulum back the other way,²⁰³ perhaps after realizing the unintended consequences of over-restricting disciplinary measures. In 2015, the Washington legislature amended an existing statute restricting the use of restraint and isolation to extend the restriction to all students.²⁰⁴ Prior to the amendment, the limitation on restraint and isolation applied only to students with IEPs.²⁰⁵ Once amended, the statute applied to students with IEPs, but also every other student as well.²⁰⁶ A bill was introduced in 2019 that sought to effectively rescind the previous amendment so that the restrictions on restraint and isolation techniques would once again apply solely to students with IEPs.²⁰⁷ The proposed bill specifically noted that since the time of the 2015 amendment, “classroom practices for managing disruptive or violent students have shifted” and that “[t]he use of the room clear procedure, in which the teacher sends the majority of the students to a neighboring classroom while the teacher attends to the disruptive student, has become more common.”²⁰⁸ The proposed bill intended to “narrow the applicability of restraint and isolation provisions,” so that teachers would be able to remove more disruptive students from the classroom without having to clear the entire room of students.²⁰⁹ Although the Washington bill never came to be enacted, the text of the proposed bill indicates a realization that the restriction on the use of restraint and isolation techniques has contributed to the rise in room clears.

2. *Lack of Data and Non-Reporting of Room Clears*

One of the major problems inherent in the use of room clears as a method of handling disruptive behavior is the lack of data collection and reporting related to the instances of room clears.²¹⁰ While other methods of discipline are recorded and communicated to officials, the instances of room clears are generally not recorded or officially reported by teachers.²¹¹ It is difficult to gauge the widespread occurrence of room clears and identify problems or patterns when there is a lack of data to examine.²¹² Schools may not even realize that room

202. See Bob Heye, *Washington Lawmaker Introduces Student Restraint Legislation*, ABC7 (Feb. 10, 2020), <https://katv.com/news/nation-world/washington-lawmaker-introduces-student-restraint-legislation> [<https://perma.cc/YXU7-L6L8>].

203. See H.B. 2930, 66th Leg., Reg. Sess. (Wash. 2020).

204. See WASH. REV. CODE § 28A.600.485 (2015).

205. See Substitute H.B. 1688, 63rd Leg., Reg. Sess. (Wash. 2013).

206. See WASH. REV. CODE § 28A.600.485 (2015).

207. See H.B. 2930, 66th Leg., Reg. Sess. (Wash. 2020).

208. *Id.*

209. *Id.*

210. See AUTIO, *supra* note 7, at 8.

211. *Id.*

212. See *id.* (noting that because the state does not require schools to keep formal data on room clears, the full scope of the crisis is undetermined even though educators have noticed an increase in disrupted learning environments).

clears are happening as frequently as they are if they are not keeping track of each occurrence.²¹³ Furthermore, parents of schoolchildren likely are not aware of the extent to which room clears have become a part of their children's educational experience.²¹⁴ School districts, in addition to not tracking data related to how often classroom clears occur, do not typically alert parents of every time their children are evacuated from their classroom due to a disruptive student.²¹⁵ While they school may notify parents when a smoke alarm goes off and the classroom is subsequently evacuated, the school is silent when it comes to communicating incidents of evacuations due to behavioral disruptions, leaving parents to find out about these incidents solely from their children.²¹⁶

3. *Iowa's 2020 Rules Regarding Room Clears and the Implications for Other States*

While some have never heard of the "room clear" technique for dealing with disruptive students, others have brought the matter to the attention of state agencies.²¹⁷ In 2020, the Iowa State Board of Education amended Chapter 41 of the Iowa Administrative Code to add conditions on the use of room clears as a classroom safety technique.²¹⁸ These conditions were added to existing special education law and include a prohibition on the inclusion of room clears in a student's IEP.²¹⁹ The conditions also specify a procedure for teachers to call a team meeting after a room clear is conducted.²²⁰ Specifically, the new rule adopted by the Board of Education declares:

An IEP or a behavioral intervention plan shall not include provisions for clearing all other students out of the regular classroom in order to calm the child If a student whose behavior caused a classroom clearance has an IEP or a behavioral intervention plan, the classroom teacher shall call for and be included in a review and potential revision of the student's IEP or behavioral intervention plan by the student's IEP team.²²¹

Iowa's adoption of this rule indicates an acknowledgement that room clears present a problem for the current state of education and that the problem needs to be addressed by regulations. This rule specifically addresses room clears that are connected to behavior from a student with a disability.²²²

Additionally, the Iowa Code has another rule that addresses the use of the room clear method to handle behavioral challenges more generally. Section

213. *See id.*

214. *See Nagus, supra* note 7.

215. *See id.*; *see also Hilton Parents Angry Over Disruptive Student Issue, supra* note 14.

216. *See Hilton Parents Angry Over Disruptive Student Issue, supra* note 14 ("[T]he school district has not communicated with [the parents] about any of the [disruptive] incidents and they have not been notified when any of the frequent evacuations have taken place.").

217. *See id.*

218. *See* IOWA STATE BD. OF EDUC., EXECUTIVE SUMMARY 1 (Nov. 18, 2020), <https://educateiowa.gov/sites/files/ed/documents/2020-11-18%20Chapter%2041.pdf> [<https://perma.cc/HS2P-4HVL>].

219. *Id.*

220. *Id.* at 2.

221. IOWA ADMIN. CODE r.281-41.320(7) (2021).

222. *Id.*

279.51A of the Iowa Code, effective July 1, 2020, indicates that a “classroom teacher may clear students from the classroom only if necessary to prevent or terminate an imminent threat of bodily injury to a student or another person in the classroom.”²²³ The statute also contains a notice requirement, mandating that if a room clear does occur, “the school principal shall, by the end of the school day if possible but at least within twenty-four hours after the incident giving rise to the classroom clearance, notify the parents or guardians of all students assigned to the classroom that was cleared.”²²⁴ The student whose behavior led to the room clear should not be mentioned in the notification.²²⁵ The statute also specifies that “[t]he principal of the school shall request that the parent or guardian of the student whose behavior caused the classroom clearance meet with the principal, the classroom teacher, and other staff as appropriate.”²²⁶

Section 279.51A of the Iowa Code both limits the ability of teachers to use room clears as a method of handling disruptive students and provides parents of schoolchildren with greater insight into the occurrences of room clears at their children’s schools.²²⁷ By requiring school principals to notify parents when their children are evacuated from their classroom as part of a room clear, parents are drawn into helping track the prevalence of room clears. Parents are also given notice as to how the amount of instructional time their child is receiving is impacted by disruptive student behavior leading to room clears. While parents must receive notice of every instance of a room clear, the Iowa Code does not require schools to detail exactly how much instruction time is foregone because of the room clear.²²⁸ In this way, no distinction is made between a brief room clear where the students return after a short amount of time and a much longer room clear where the students are displaced for a more severe length of time.

IV. RECOMMENDATION

A. *Require Schools to Report Disruptions in Instructional Time*

Tracking the number of times a disruptive student is disciplined or suspended is useful in determining the appropriateness of the student’s behavioral interventions, but does not provide any indication of the impact of the student’s behavior on the rest of the classroom.²²⁹ Many schools track the number of times a student is removed from the classroom to keep track of that student’s lost instructional time.²³⁰ These schools, however, should also track the number of times a disruptive student is *not* removed from the classroom due to a room clear, resulting in the other students in the classroom losing instructional

223. IOWA CODE § 279.51A (2021).

224. *Id.*

225. *See id.*

226. *Id.*

227. *See generally id.*

228. IOWA CODE § 279.51A (2021).

229. *See Stallings, supra* note 19.

230. *See id.*

time due to that one student's disruptive behavior.²³¹ If a report is written to document a disruptive student's behavior in addition to information about the behavior in question, the report should include information about the behavior's impact on the rest of the classroom. For instance, "[i]nstead of just reporting a student for 'shouting obscenities,' we should document that '29 students had to stop learning for 10 minutes while one student cursed out his teacher.'"²³² In this way, information is retained about the effects of one student's disruptive behavior on the rest of the students in the class instead of solely focusing on the isolated behavior itself. Making a note of the amount of instruction time lost as a result of a student's disruptive behavior will help to track the overall impact of disruption on the classroom functioning.²³³

Iowa is one of the few states that has taken steps toward tracking classroom disruptions in a meaningful and productive way. On June 29, 2020, the governor of Iowa signed Senate File 2360, a bill that not only restricts the use of room clears but also lays out notification protocols that must be followed if a room clear occurs.²³⁴ The bill requires that the school principal notify the parents of all students assigned to a classroom within twenty-four hours of a room clear occurring.²³⁵ This notification requirement is unique to situations of classroom disruptions in that parents of general education students are not typically notified when learning is disrupted, unless the disruption pertains specifically to their child's conduct.²³⁶ By requiring the school to notify all parents of incidences of room clears, the Iowa bill is providing adequate notice to all parents of instances that affect their children's right to adequate educational time. Since disruptive incidents can cause trauma to all students involved,²³⁷ notifying parents of each room clear incident in their child's classroom can help parents address the situation with their child and determine how their child's needs have been affected.²³⁸

Schools are required to report disruptions to education that occur on an individual basis, such as suspensions and expulsions, but are not required to report disruptions such as room clears that occur on a widespread basis and affect an entire classroom of students.²³⁹ While a suspension or expulsion results in lost

231. *See id.*

232. *Id.*

233. *Id.*

234. *See* IOWA DEP'T OF EDUC., SENATE FILE 2360: GUIDANCE FOR SAFE CLASSROOM LEARNING ENVIRONMENTS 1 (2020).

235. *Id.* at 3.

236. *See, e.g.,* N.D. LEGIS. MGMT., *supra* note 13, at 6 ("[I]t is not current practice to notify parents of every room clear situation.").

237. *See* Trowbridge, *supra* note 1 (describing how behavioral outbursts in the classroom cause trauma to "ripple out" to other students).

238. *See Best Practices in Student Time-Out and Seclusion*, HANOVER RESEARCH 4, 23 (Mar. 2017), <https://www.iowacityschools.org/cms/lib/IA01903939/Centricity/Domain/70/Best%20Practices%20in%20Student%20Time-Out%20and%20Seclusion%20-%20Iowa%20City%20Community%20Schools.pdf> [https://perma.cc/67R5-HBD4].

239. *See, e.g.,* Roemeling, *supra* note 186 ("While districts are not required to track behavioral episodes or room clears, they are required by the state to track and report serious injuries happening at school or on work

educational time for one single student, a room clear results in lost educational time for many students.²⁴⁰ If the lost educational time for one student is recognized as data that is worth reporting, then the lost educational time for many students as a result of one student's disruptive behavior is surely worth reporting as well. In addition to raising awareness of the prevalence of the practice, another benefit of having data on the rates of room clears is that it can allow policymakers to recognize and address any unfairness or discrimination within the practice.²⁴¹

Further, because schools are not required to report widespread disruptions such as room clears, the agencies that oversee education are not getting an accurate picture of the scope and severity of the problem that disruptive behavior poses to the general education population. In order for the problem to be appropriately addressed, it is necessary to provide adequate data and information on the occurrence of room clears so that the magnitude of the problem can be accurately assessed.

B. Amend the IDEA to Enable the Removal of Students with Severely Disruptive Disabilities

While the IDEA established many needed protections for students with disabilities, it also made it more difficult for educators to remove students with disabilities from the classroom when those students demonstrate severely disruptive behavior.²⁴² As a result, disruptive behaviors are increasingly becoming a routine part of the daily classroom experience for many students.²⁴³ Because educators feel restricted from removing disruptive students from the classroom, they are increasingly choosing to instead remove the non-disruptive students and leave the disruptive student to settle down on his own.²⁴⁴ It is hard to imagine that this is what Congress had in mind when it enacted the IDEA with the emphasis on mainstreaming children with disabilities.

If the IDEA is amended to alter the "integration presumption," it would open up the possibility of removing disruptive students and placing them in alternative educational settings if doing so would be in the best interests of the student and his or her peers. The "integration presumption" included in the IDEA assumes that students with disabilities should be educated in the regular classroom to the maximum extent possible.²⁴⁵ This presumption creates a

time, as well as the number of expulsions, suspensions and incidents where staff had to use seclusion or restraint tactics to alleviate a situation.").

240. See *supra* Part IV.

241. See, e.g., Ary Amerikaner, *Why We Need to Protect the Civil Rights Data Collection (CRDC) from Secretary DeVos' Proposed Cuts*, EDUC. TRUST (Oct. 2, 2019), <https://edtrust.org/the-equity-line/why-we-need-to-protect-the-civil-rights-data-collection-crdc-from-secretary-devos-proposed-cuts/> [https://perma.cc/A99J-FMY6] (pointing out how data collected by the U.S. Department of Education on preschool suspensions allows advocates to highlight racial discrimination in disciplinary practices).

242. See *supra* Section III.B.

243. See *supra* Section III.B.

244. See *supra* Section III.D.

245. See Education for All Handicapped Children Act of 1975, Pub. L. No. 94-142, 89 Stat. 773, 781 (codified as amended at 20 U.S.C. § 1412(a)(5)(A)) (adopting the integration presumption).

justification hurdle which educators must overcome in order to place a student with disabilities outside of the regular classroom. What the IDEA presumes is that the general education classroom is the best place for a student with disabilities, whereas the reality is that a student with disabilities who exhibits severely disruptive behavior might benefit more from being placed in an alternative educational setting that is equipped to handle his or her needs.²⁴⁶

C. *Recognize a Federal Right to Education*

Recognizing a federal right to education would lay the foundation for mandating that Congress consider the impact of the “least restrictive environment” and “stay-put” provisions on the entire classroom of students. If it is recognized that each student has a fundamental right to education, then the loss of instructional time for a classroom of students as a result of one student’s behavioral disruptions would, in effect, be a violation of each student’s educational rights.

The lack of a federal right to education for all has resulted in a patchwork of school systems across the nation, with some students receiving sub-standard education compared to students at other schools.²⁴⁷ This educational inequality is difficult to address on a state-by-state or county-by-county basis.²⁴⁸ Instead of having a uniform quality of education, the quality of education a student receives is dependent on where the student lives.²⁴⁹ The resources that a school district receives affects the quality of education that the school is able to provide, and resources depend on how the state structures school funding.²⁵⁰ “Some states rely heavily on local property taxes and wealth, while others allocate resources more equitably across all districts.”²⁵¹ The disparities in resources among schools have led to different educational systems and outcomes for students.²⁵²

Yet another reason to recognize a fundamental federal right to education lies in the difficulties educators have with maintaining safe, orderly classrooms while avoiding violations of the IDEA.²⁵³ Educators are aware that classroom disruptions are depriving children of valuable instructional time to which they are entitled,²⁵⁴ and yet, instructional time is increasingly being put on hold while

246. *See id.*

247. *See* Trish Brennan-Gac, *Educational Rights in the States*, AM. BAR ASS’N (Apr. 1, 2014), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2014_vol_40/vol_40_no_2_civil_rights/educational_rights_states/ [https://perma.cc/KB4T-PSQD].

248. *Id.*

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.*

253. *See supra* Section III.B.

254. *See, e.g.*, Judith Siviglia, *Class Time Lost*, in *Educator Stories: Disrupted Learning Environments*, TODAY’S OEA: OR. EDUC. ASS’N MAG., <http://todaysoea.org/articles/educator-stories-disrupted-learning-environments> (last visited Mar. 21, 2022) [https://perma.cc/VSS2-Y9HJ] (“If I spend 6 minutes dealing with disruptive behavior in a class period, that’s 10 percent of class time lost. When a student interrupts a lesson with, say, a rude noise, everyone laughs, people make comments, others copy the behavior. That easily eats up a couple

disruptive students behave uncontrollably without impediment.²⁵⁵ This can be traced in part to the IDEA's emphasis on educating students with disabilities in the general education classroom and its restrictions on removing such students without certain justifications. It does not make sense, however, that a disruptive student diagnosed with a disability has the right to a "free appropriate public education" while her peer without a disability has no such clearly delineated right.²⁵⁶ Recognition of a federal fundamental right to education for *all* students would allow educators to more reasonably balance the interests of all students and would not force educators to prioritize the treatment of one student at the expense of the others.

D. Increase Federal Funding of Inclusive Classrooms to Reduce the Need for Room Clears

One of the reasons teachers cite for carrying out room clears is the inability to simultaneously manage both the disruptive student's behavioral escalation and the needs of the rest of the students.²⁵⁷ When students with disabilities are placed in the general education classroom, they need extra support.²⁵⁸ Without this extra support, general education teachers are unequipped to handle the disruptive behaviors that may arise and are forced to resort to methods such as room clears when they are unable to deescalate a behavioral situation. Because federal law mandates that students with disabilities be educated in the general education classroom to the maximum extent possible, general education teachers must have knowledge of the special education process in order to successfully incorporate these students into the classroom and ensure that they are learning and succeeding in the classroom. Yet research shows that general education teachers are not always adequately trained to work with students with disabilities.²⁵⁹

To remedy this situation, schools must be equipped with the resources, systems, and support that are necessary for them to meet the needs of all their students. The costs of educating a special needs student are greater than the costs of educating a non-special needs student,²⁶⁰ and if classrooms are to be fully inclusive then schools need to receive more funding to cover these costs. Well-implemented inclusion of students with disabilities in the general education classroom requires additional funding for extra support staff, specialized training for teachers, and other behavioral resources such as counseling.²⁶¹

of minutes. If I stop to address the behavior and the student argues or resists redirection, that can eat up another 2 to 5 minutes. If behaviors are ignored, they escalate.").

255. *See id.*

256. *See* 20 U.S.C. § 1412(a)(1).

257. *See* Eagar, *supra* note 128.

258. Dybvik, *supra* note 31.

259. Bon, Faircloth & LeTendre, *supra* note 77, at 155.

260. *IDEA Full Funding: Why Should Congress Invest in Special Education?*, *supra* note 105.

261. *See* Patrick Skahill & David Desroches, *Students with "Emotional Disturbances" Face High Rate of Suspensions*, CONN. MIRROR (May 20, 2019), <https://ctmirror.org/2019/05/20/students-with-emotional-disturbances-face-high-rate-of-suspensions/> [<https://perma.cc/W47K-2E3L>] ("Ideally . . . a school should be staffed with plenty of social workers and school psychologists, there should be a strong 'social and emotional

If adequate funding is provided to schools such that general education classrooms have the appropriate training and resources necessary to handle disruptive behaviors, then teachers would not need to resort to room clears when disruptive outbursts occur. Funding can be used to increase the number of support staff, such as social workers, or to train teachers in de-escalation techniques or other methods of behavioral management.²⁶² Funding may also be applied to providing educators with trauma-informed training or hiring teachers with specialized behavioral backgrounds.²⁶³

V. CONCLUSION

Students come from all different backgrounds and cultures, and no one student experiences school in exactly the same way as any other student.²⁶⁴ Children, however, attend school with hundreds of other children and participate in shared educational experiences.²⁶⁵ In most schools across the country, a single schoolteacher is responsible for teaching a classroom of about twenty students.²⁶⁶ It is essential, in order for the schoolteacher to be able to get through his or her lesson and deliver all of the instructional material, that disruptions to the classroom are not a regular occurrence.²⁶⁷

Yet, disruptive student behavior has been steadily increasing over the past several years for reasons that are not entirely known.²⁶⁸ Some point to increases in traumatic childhood experiences, while others point to changes in childhood nutrition or childhood exposure to drugs and violence.²⁶⁹ Whatever the cause, disruptive student behavior is increasingly common among classrooms and is resulting in the deprivation of valuable instructional time for other students.²⁷⁰

When disruptive behavior is displayed by a student with a disability, some teachers and educators feel powerless to address the behavior due to special education laws that place restrictions on the type of discipline that can be used with such a student.²⁷¹ To avoid violating these restrictions, teachers choose instead to conduct room clears in which they remove the rest of the students from the classroom environment.²⁷² While this response ensures that the disruptive student is not subject to disallowed forms of discipline, it unfairly deprives the rest of the students of the education to which they should be entitled.

learning' component to the school culture and curriculum, and teachers should be well-trained in behavior de-escalation. But with limited resources, most schools lack all of these components.").

262. See Nagus, *supra* note 7.

263. See Willingham, *supra* note 8.

264. See *The Value of Inclusive Education*, OPEN SOC'Y FOUNDS.: EXPLAINER (May 2019), <https://www.opensocietyfoundations.org/explainers/value-inclusive-education> [<https://perma.cc/763G-K9HU>].

265. See *supra* Section IV.C.

266. See Trowbridge, *supra* note 1.

267. *Id.*

268. See, e.g., Roemeling, *supra* note 186.

269. See Trowbridge, *supra* note 1.

270. See, e.g., Roemeling, *supra* note 186.

271. See *supra* Section IV.A.

272. See *supra* Section III.C.

Schools should be required to report each occurrence of a classroom clear and the amount of instructional time lost as a result of the disruption, and reports should be provided to both parents of impacted children as well as administrative agencies in charge of educational policymaking.²⁷³ By keeping a record of the occurrences of classroom clears, the impact of disruptive behavior that has thus far been underreported may finally be recognized.

While there are numerous benefits to maintaining inclusive classrooms that provide rich educational environments for students with and without disabilities, classrooms that include students with disruptive behavior who are allowed to behave uncontrollably and inhibit the education of their peers cannot be said to be successful educational environments. Recognizing a connection between the increasing frequency of the room clear method and educators' increasing unwillingness to remove students with disabilities from "the least restrictive environment" will allow policymakers to reevaluate the impact of the IDEA and the unintended consequences on the education of all students.

273. *See supra* Section IV.A.

