

## ARTICLES

### INVERSE INTEGRATION AND THE RELATIONAL DEFICIT OF DISABILITY RIGHTS LAW

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*Integration has long been a central tenet of U.S. disability law. In both doctrine and scholarship, however, disability integration has been understood to operate in only one direction: integrating disabled persons into mainstream society. This conventional approach has overlooked a different model, inverse integration, whereby nondisabled persons enter or participate in disability-focused settings or activities. As this Article demonstrates, inverse integration is surprisingly popular. For example, nondisabled children study in special education programs, nondisabled persons reside in housing projects for disabled individuals, hearing actors perform in Deaf theaters, and nondisabled athletes compete in wheelchair sports.*

*This Article develops a typology of inverse-integration practices and analyzes the interaction of such practices with existing U.S. disability law. It shows that legal and social norms generally hinder the involvement of nondisabled persons in disabled spaces or activities. Against this backdrop, the seeming popularity of inverse integration is a puzzle. What is driving this practice? The answer, this Article argues, involves interpersonal relationships. Combining insights from various disciplines, this Article demonstrates how inverse integration fosters relationships by allowing disabled and nondisabled persons to share*

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*experiences, interests, and common language with family members, friends, and significant others. These interactive features of inverse integration, in turn, highlight disability law's failure to protect and facilitate interpersonal relationships, which is particularly problematic in an increasingly lonely society.*

*Drawing upon instances of inverse integration, this Article imagines what a more relational disability rights regime would look like and proposes specific interventions.*

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## INTRODUCTION

More than a decade ago, a beer commercial featured a group of people playing wheelchair basketball.<sup>1</sup> In the ad, the game is raucous. The players shout, push, collide, and fall out of their chairs. Their shirts are soaked in sweat. When the game ends, however, all but one of the players stand up out of their chairs and walk off the court. It turns out that only one participant actually needs a wheelchair. This image, together with a voice-over about “loyalty” and “commitment,” suggests that this is a story about companionship. If one of the friends cannot run, the rest will play in wheelchairs.

While the commercial’s portrayal of disability drew both criticism and praise,<sup>2</sup> one marketing aspect does not seem to be in dispute: the use of surprise. After all, most viewers probably did not expect to see individuals using wheelchairs for reasons unrelated to physical impairment. Indeed, in the popular imagination, disability integration generally goes in only

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1. @CaSjUs212, Guinness Beer Wheelchairs Basketball Commercial, YouTube (Sept. 6, 2013), <https://www.youtube.com/watch?v=iiB3YNTcsAA> (on file with the *Columbia Law Review*).

2. Compare Just One of the Guys—A Critique of the Wheelchair Basketball Guinness Commercial, Emily Ladau: Blog (Sept. 5, 2013), <https://emilyladau.com/2013/09/just-one-of-the-guys/> [<https://perma.cc/JY2N-K42U>] [hereinafter Ladau, Just One of the Guys] (arguing that the ad depicts disabled persons as “needing kindhearted non-disabled people to pay them some attention”), with Aaron Taube, An Incredible New Guinness Ad Breaks the Industry Stereotype, *Bus. Insider* (Sept. 5, 2013), <https://www.businessinsider.com/new-guinness-ad-breaks-the-mold-2013-9> [<https://perma.cc/WU68-NKHA>] (lauding the ad for portraying the nondisabled friends as kind and sensitive). For further engagement with Ladau’s critique, see *infra* section II.A.1.

one direction: integrating disabled<sup>3</sup> people into mainstream society. People<sup>4</sup> rarely think about what this paper calls *inverse integration*,<sup>5</sup> a term that refers to nondisabled persons participating in disability-focused settings, frameworks, or activities.

Inverse integration may be surprising, but it is neither rare nor entirely new. In the past three decades, for example, an increasing number of high schools and colleges have started offering American Sign Language (ASL) courses to hearing students.<sup>6</sup> As a result, ASL is currently the third most studied “foreign language”<sup>7</sup> in higher education.<sup>8</sup> Other examples

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3. This Article will use identity-first language (“disabled persons”), rather than people-first language (“people with disabilities”), for the same reasons explained by Emily Ladau. See Emily Ladau, *Demystifying Disability: What to Know, What to Say, and How to Be an Ally* 10–13 (2021) [hereinafter Ladau, *Demystifying Disability*] (explaining that identity-first language “is all about acknowledging disability as part of what makes a person who they are”).

4. This includes legal scholars. The few law professors who have discussed inverse integration in their work have generally done so without treating it as a distinct phenomenon. See Ruth Colker, *When Is Separate Unequal? A Disability Perspective* 6 (2009) (describing an inverse-integration practice employed by the preschool of the author’s son); Martha Minow, *Making All the Difference: Inclusion, Exclusion, and American Law* 85, 95–96 (1990) [hereinafter Minow, *All the Difference*] (proposing several practices that may constitute inverse integration, although not by that name); Yaron Covo, *Reversing Reverse Mainstreaming*, 75 *Stan. L. Rev.* 601, 615–61 (2023) (documenting and criticizing the way in which inverse integration in education has been implemented in the United States); Elizabeth F. Emens, *Integrating Accommodation*, 156 *U. Pa. L. Rev.* 839, 866 (2008) [hereinafter Emens, *Integrating Accommodation*] (noting that the question of whether “including nondisabled people in contexts principally populated by people with disabilities” could counteract stigma “deserves an empirical study”).

5. A note on terminology: Some disability scholars and advocates prefer to use “inclusion” rather than “integration.” Covo, *supra* note 4, at 604 n.1. In the disability context, inclusion usually refers to changing societal structures and conventions by creating “communities of acceptance and support” that would be open to people “of varying abilities and social identities.” Scot Danforth & Phyllis Jones, *From Special Education to Integration to Genuine Inclusion*, in *Foundations in Inclusive Education Research* 1, 2 (Chris Forlin, Phyllis Jones & Scot Danforth, eds., 2015). In other words, inclusion is an ideology. The practices described in this Article, however, do not necessarily subscribe to this ideology. Thus, the word “inclusion” would be inappropriate for the purposes of this Article.

6. Russell S. Rosen, *American Sign Language: Access, Benefits, and Quality*, 1 *Soc’y Am. Sign Language J.* 6, 11 (2017) [hereinafter Rosen, *American Sign Language*] (noting that the number of U.S. national research universities recognizing ASL as a foreign language that meets the undergraduate admission requirements has grown from 48 in 1991 to 181 in 2015). For the reasons why teaching hearing people sign language may constitute inverse integration, see *infra* notes 73–75, 176–178 and accompanying text.

7. On whether ASL should be considered a “foreign” language, see Brenda Jo Brueggemann, *Deaf Subjects: Between Identities and Places* 26–27 (2009); Russell S. Rosen, *American Sign Language as a Foreign Language in U.S. High Schools: State of the Art*, 92 *Mod. Language J.* 10, 11–12 (2008) [hereinafter Rosen, *ASL as a Foreign Language*]; *Sign Language: A Way to Talk, but Is It Foreign?*, *N.Y. Times*, Jan. 8, 1992, at B7 (on file with the *Columbia Law Review*).

8. Dennis Looney & Natalia Lusin, *Enrollments in Languages Other Than English in United States Institutions of Higher Education, Summer 2016 and Fall 2016: Final Report* 6, *Mod. Language Ass’n* (June 2019), <https://www.mla.org/content/download/110154/file/2016-Enrollments-Final-Report.pdf> [<https://perma.cc/T7U9-M3BP>].

abound: Nondisabled persons reside in housing projects for disabled individuals,<sup>9</sup> nondisabled students participate in “special education” programs,<sup>10</sup> hearing actors perform in Deaf theaters,<sup>11</sup> and, as the beer commercial illustrates, nondisabled athletes engage in wheelchair sports.<sup>12</sup>

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9. One example is the trend of integrating higher education students into elder care facilities and senior care homes. Such projects, offered by colleges and universities across the United States, often involve the provision of affordable housing arrangements for students who volunteer in cultural events with seniors, some of whom are disabled. See, e.g., Meet the 26-Year-Old Living in a Retirement Home, ABC News (Sept. 20, 2016), <https://abcnews.go.com/Lifestyle/meet-26-year-living-retirement-home/story?id=42222728> [<https://perma.cc/AWG5-A8KY>] (describing a program whereby music students join retirement communities where it is common “to see someone in a wheelchair”); Cathy Free, One Roommate Is 85, the Other Is 27. Such Arrangements Are Growing, Wash. Post (July 15, 2022), <https://www.washingtonpost.com/lifestyle/2022/07/15/multigenerational-housing-roommates-nesterly-senior/> (on file with the *Columbia Law Review*) (describing the move of a music student into a senior living community, where many of the residents “have limited mobility” (quoting Arlene DeVries)); see also *infra* note 168 and accompanying text (discussing other forms of inverse integration in housing).

10. As early as the mid-nineteenth century, educators have included nondisabled children in classrooms designed for disabled students, a practice that is still widely used today. See Covov, *supra* note 4, at 616–17.

11. From the early days of the National Theatre of the Deaf in the late 1960s, it included hearing actors. See Carol Padden & Tom Humphries, Inside Deaf Culture 101–02, 108, 112 (2005) (“The hearing actors were given their own lines to sign . . .”). Other theaters have followed suit, and today some Deaf theaters include both Deaf and hearing actors. Jessica Gelt, Deaf West Artistic Director David Kurs: Why Deaf Actors Should Be Cast to Play Deaf Characters, L.A. Times (July 13, 2017), <https://www.latimes.com/entertainment/arts/la-ca-cm-authenticity-deaf-west-20170713-story.html> (on file with the *Columbia Law Review*) (noting that Deaf West Theatre includes Deaf and hearing actors); Heather Skyler, A Theater Experience for the Deaf and the Hearing, UGAToday (July 8, 2019), <https://news.uga.edu/hands-in-theater-for-deaf-hearing/> [<https://perma.cc/F7EQ-4JB3>] (“Both Deaf and hearing actors perform, but everyone signs their lines . . .”). For more on the inclusion of hearing actors in Deaf theaters, see *infra* notes 278–282 and accompanying text. This Article distinguishes between the terms “Deaf,” which recognizes the cultural aspects of deafness, and “deaf,” which refers to deafness as an audiological matter. See Brueggemann, *supra* note 7, at 9–15.

12. Whether nondisabled persons should be permitted to participate in competitive wheelchair sports has been in dispute for several decades. Currently, nondisabled athletes are not allowed to compete in the U.S. National Wheelchair Basketball Association or the Paralympics. See *infra* note 150 and accompanying text. In Canada and other countries, however, nondisabled athletes compete “at the highest levels of the sport.” Carl Bialik, Seeking Integration in Wheelchair Basketball, Wall St. J. (Sept. 7, 2012), <https://www.wsj.com/articles/BL-DFB-19093> (on file with the *Columbia Law Review*) (describing the participation of nondisabled athletes in Canada’s wheelchair basketball league); see also Stefan Nestler, Wheelchair Basketball: How Disabled Do You Have to Be?, Deutsche Welle (Mar. 8, 2020), <https://www.dw.com/en/wheelchair-basketball-how-disabled-do-you-have-to-be/a-54406662> [<https://perma.cc/S555-DBTZ>] (noting that nondisabled athletes are allowed to participate in Germany’s wheelchair basketball competitions); Rebecca Ramsden, Rick Hayman, Paul Potrac & Florentina Johanna Hettinga, Sport Participation for People With Disabilities: Exploring the Potential of Reverse Integration and Inclusion Through Wheelchair Basketball, *Int’l J. Env’t Rsch. & Pub. Health*, Jan. 30, 2023, at 1, 2 (noting that, in the United Kingdom, “21% of players in the

The seeming popularity of inverse-integration practices is a puzzle, however, since both legal and social norms seem to push in the opposite direction. On the legal side, disability rights law advances a “mainstreaming” model of integration,<sup>13</sup> which focuses on allowing disabled persons to enter predominantly nondisabled spaces. On the social side, disability rights advocates are often suspicious of initiatives in which the presence of nondisabled persons has the potential to disrupt the dynamics of disability-focused spaces or siphon opportunities and resources away from disabled persons.<sup>14</sup> And then, of course, there is the fact that mainstream society still stigmatizes disability, which means that nondisabled persons are often reluctant to engage with disability culture in the first place.<sup>15</sup>

Thus, if legal and social norms are not driving inverse integration, then what is? This Article argues that what may motivate some disabled persons to invite nondisabled persons into disabled spaces, and what propels some nondisabled persons to enter those spaces, is the need to establish close interpersonal relationships.<sup>16</sup> For example, inverse integration allows disabled and nondisabled persons to share experiences, interests, and common language with family members, friends, and intimate partners.<sup>17</sup>

This understanding, in turn, sheds new light on the problems with the existing disability rights framework. Specifically, this Article reveals the relational deficit of traditional integration. While some scholars have noted that disability rights statutes are focused on commercial transactions rather than “humane relationships,”<sup>18</sup> this Article conceptualizes this issue as a systemic feature of disability rights law. By juxtaposing inverse

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national league are said to be non-disabled”). Moreover, in the United States, nondisabled persons sometimes participate in wheelchair basketball and other disability-focused sports at the recreational level. See, e.g., Mary A. Hums, Samuel H. Schmidt, Andrew Novak & Eli A. Wolff, *Universal Design: Moving the Americans With Disabilities Act From Access to Inclusion*, 26 *J. Legal Aspects Sport* 36, 46 (2016) (describing the participation of nondisabled children in a baseball league for disabled children); *Community-Based Sports, Adaptive Sports Ohio*, <https://adaptivesportsOhio.org/community-based-sports/> [<https://perma.cc/UM37-7E77>] (last visited Jan. 22, 2024) (“Often, non-disabled family members and friends join in on the fun at our recreational drop-in [wheelchair basketball] sessions.”).

13. Jasmine E. Harris, *The Aesthetics of Disability*, 119 *Colum. L. Rev.* 895, 904–11, 921–22 (2019) [hereinafter Harris, *The Aesthetics of Disability*]; see also *infra* section I.A.

14. See *infra* section II.A.1. To be clear, these suspicions do not necessarily translate into a wholesale rejection of inverse integration. See *infra* note 20 (noting support for inverse integration by disabled persons in some contexts).

15. See *infra* section II.A.2.

16. See *infra* Part III.

17. See *infra* Part III.

18. E.g., Adam M. Samaha, *Opening and Reopening: Dealing With Disability in the Post-Pandemic World*, *Slate* (July 6, 2021), <https://slate.com/technology/2021/07/pandemic-disability-reopening-essay.html> [<https://perma.cc/5XDM-PQGT>]; see also *infra* section IV.A (describing the relational deficit of disability rights law).

integration against the existing framework, this Article opens the door to an examination of how the law can better promote and cultivate interpersonal relationships.<sup>19</sup>

This is not to suggest, however, that we should give up on traditional integration or that inverse integration itself can end disability discrimination. In fact, even though some disabled persons find inverse integration desirable,<sup>20</sup> it may, in some cases, be detrimental to the disability community. Inverse integration can, for example, potentially involve tokenism, co-optation, or cultural appropriation.<sup>21</sup> Thus, rather than promoting inverse integration, this Article has the following three goals: (1) to identify interpersonal relationships as the underlying principle that likely drives inverse integration, (2) to use this relationality principle to test the normative underpinnings of conventional integration, and (3) to show how current disability law could benefit from the incorporation of this principle.<sup>22</sup>

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19. By close interpersonal relationships, this Article refers to interactions between individuals that involve interpersonal communication, reciprocity, and shared experiences. See *infra* Part III.

20. See, e.g., Nancy Spencer-Cavaliere & Danielle Peers, “What’s the Difference?” *Women’s Wheelchair Basketball, Reverse Integration and the Question(ing) of Disability*, 28 *Adapted Physical Activity Q.* 291, 304–06 (2011) (finding, based on a qualitative study, that disabled wheelchair-basketball players support inverse integration in sports, albeit not at the elite level); Ramsden et al., *supra* note 12, at 1, 5 (same); see also Samuel J. Supalla, Anita Small & Joanne S. Cripps, *American Sign Language for Everyone: Considerations for Universal Design and Youth Identity*, 4 *Soc’y Am. Sign Language J.* 43, 50 (2020) (advocating universal instruction of ASL to both deaf and hearing students); John Loepky, *Where Do Able-Bodied Athletes Belong in Wheelchair Basketball?*, *Defector* (July 14, 2021), <https://defector.com/where-do-able-bodied-athletes-belong-in-wheelchair-basketball/> [<http://perma.cc/A8JJ-VRSY>] (quoting Mak Nong, a disabled professional athlete, as supporting the inclusion of nondisabled players in competitive wheelchair basketball); *infra* notes 221–225 and accompanying text (discussing a Deaf person’s support of hearing people learning ASL).

Other disabled scholars and activists have also provided indirect and implicit support for the concept. See, e.g., Haben Girma, *Haben: The Deafblind Woman Who Conquered Harvard* *Law* 49, 124 (2019) (“Blind hide-and-peek beats sighted hide-and-peek. It’s more challenging, more exciting, more fun. *We could give sighted people sleepshades and teach it to them.*” (emphasis added)); M. Leona Godin, *There Plant Eyes: A Personal and Cultural History of Blindness* 145 (2021) (“[R]eading and writing braille can be learned not only by the blind but by the sighted as well. Motivation is the key.”); Tobin Siebers, *Disability Theory* 93–94 (2008) (“[A]ll worlds should be accessible to everyone, but it is up to individuals to decide whether they will enter these worlds.”); Mia Mingus, *Access Intimacy, Interdependence and Disability Justice*, *Leaving Evidence* (Apr. 12, 2017), <https://leavingevidence.wordpress.com/2017/04/12/access-intimacy-interdependence-and-disability-justice/> [<https://perma.cc/NRY5-WKGV>] (“The power of access intimacy is that it reorients our approach from one where disabled people are expected to squeeze into able bodied people’s world, and instead *calls upon able bodied people to inhabit our world.*”).

21. See *infra* section II.A.1.

22. See *infra* Parts IV–V (arguing that U.S. disability rights laws suffer from a relational deficit and proposing a number of principles for incorporating relationality into these laws).

Studying a relationship-based model of integration is particularly exigent given that in-person interactions are becoming less frequent.<sup>23</sup> Indeed, despite research establishing the significance of relationships for individual well-being<sup>24</sup> and workforce participation,<sup>25</sup> people in the United States today experience high rates of loneliness and social isolation.<sup>26</sup> And this burden falls disproportionately on disabled persons,<sup>27</sup> who may be the only people in their families or communities with the specific type of

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23. Vivek H. Murthy, *Our Epidemic of Loneliness and Isolation: The U.S. Surgeon General's Advisory on the Healing Effects of Social Connection and Community* 13, 16, 19–20 (2023), <https://www.hhs.gov/sites/default/files/surgeon-general-social-connection-advisory.pdf> [<https://perma.cc/3DCE-6SPU>] [hereinafter Murthy, *Our Epidemic of Loneliness and Isolation*].

24. See, e.g., Clare Huntington, *Failure to Flourish: How Law Undermines Family Relationships* 6 (2014) (“From ancient philosophers to modern psychologists, there is widespread agreement that strong, stable, positive relationships are essential for human growth and well-being.”); Murthy, *Our Epidemic of Loneliness and Isolation*, supra note 23, at 23–34 (reviewing scientific studies showing that social connection (1) “decreases the risk of premature death,” (2) is associated with “better self-rated health and disease management among individuals with diabetes,” and (3) may protect against depression, suicidal behavior, and the risk of dementia); Elizabeth F. Emens, *Intimate Discrimination: The State's Role in the Accidents of Sex and Love*, 122 *Harv. L. Rev.* 1307, 1374–76 (2009) [hereinafter Emens, *Intimate Discrimination*] (surveying studies showing that intimate relationships and marriage are correlated with improved health and increased lifespan, happiness, and satisfaction); Julianne Holt-Lunstad, Timothy B. Smith, Mark Baker, Tyler Harris & David Stephenson, *Loneliness and Social Isolation as Risk Factors for Mortality: A Meta-Analytic Review*, 10 *Persps. on Psych. Sci.* 227, 236 (2015) (estimating that “heightened risk for mortality from a lack of social relationships is greater than that from obesity” (citing Katherine M. Flegal, Brian K. Kit, Heather Orpana & Barry I. Graubard, *Association of All-Cause Mortality With Overweight and Obesity Using Standard Body Mass Index Categories*, 309 *JAMA* 71, 71–82 (2013))).

25. See Tom Shakespeare, *Disability Rights and Wrongs Revisited* 189 (2d ed. 2014) (describing the workforce as a valuable network); Emens, *Intimate Discrimination*, supra note 24, at 1377; see also Samaha, supra note 18 (“I got my first post-college job when a friend was hired first and he left the impression that we were a package deal.”).

26. See Murthy, *Our Epidemic of Loneliness and Isolation*, supra note 23, at 4, 13, 22, 45; infra notes 331–332 and accompanying text.

27. Murthy, *Our Epidemic of Loneliness and Isolation*, supra note 23, at 19; infra notes 333–340 and accompanying text. This is not to suggest that disabled persons are the only ones who suffer from loneliness and social isolation. See infra notes 331–332 and accompanying text. Nor is it to say that disabled persons are the sole beneficiaries of relationships with nondisabled persons. See, e.g., Eva Feder Kittay, *At Home With My Daughter*, in *Americans With Disabilities: Exploring Implications of the Law for Individuals and Institutions* 64, 73 (Leslie Pickering Francis & Anita Silvers eds., 2000) (“In the case of my daughter, her dependence is most prominent, but nonetheless, I depend on her as well—on her welcome when I return home[,] . . . on her laughter to remind me of sunshine when I'm overburdened with commitments and sadness, on her love when I feel alone.”). Moreover, many disabled persons are satisfied with their social lives; others may actually favor more independent lives that involve less interference from family members and care workers. Andrew Pulrang, *Disabled People Have Unique Perspectives on Solitude*, *Forbes* (Mar. 25, 2020), <https://www.forbes.com/sites/andrewpulrang/2020/03/25/disabled-people-have-unique-perspectives-on-solitude/?sh=52938f2b5e73> (on file with the *Columbia Law Review*).



impairment in question.<sup>28</sup> Drawing upon instances of inverse integration, this Article imagines what a more relational disability rights regime would look like and proposes specific legal and policy interventions.

This Article proceeds in five parts. Part I defines and elucidates the concept of inverse integration. It explains that the definition of inverse integration relies on three elements, each construed broadly: disability, focus, and integration. Part II explores the interaction between inverse integration and legal and social norms. It shows that social norms and the law are not the primary drivers of inverse integration. In fact, they often hinder the involvement of nondisabled persons in disabled spaces or activities. On the basis of this observation, Part II concludes that there must be another principle that facilitates inverse-integration practices. In Part III, this Article suggests a possible driver: the need to foster interpersonal relationships. Specifically, this Article posits that inverse integration offers unique relational opportunities by promoting three primary elements of interpersonal relationships: communication, shared experiences, and reciprocity.

Recognizing the relational advantages of inverse integration, Part IV uses it as a lens through which to evaluate traditional integration. This analysis shows that the mainstreaming model of integration suffers from a relational deficit in that it generally fails to protect, facilitate, and reinforce interpersonal relationships between disabled and nondisabled persons. Thus, the analysis of inverse integration serves as a vehicle to identify the flaws in disability rights law and shows the importance of incorporating relationality into the disability integration regime at the structural level. Last, Part V proposes legal and policy interventions aimed at

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28. Unlike disabled persons, members of other marginalized groups—people of color, women, and members of low-income families—are more likely to share experiences, networks, or neighborhoods with people who share the same identities. Shakespeare, *supra* note 25, at 191; Ruth Colker, *The Disability Integration Presumption: Thirty Years Later*, 154 U. Pa. L. Rev. 789, 835–36 (2006) [hereinafter Colker, *The Disability Integration Presumption*]. Of course, disability often intersects with other identity axes, which means that drawing distinctions between disabled persons and members of other social groups can be analytically misguided. See Jamelia Morgan, *On the Relationship Between Race and Disability*, 58 Harv. C.R.-C.L. L. Rev. 663, 665–67 (2023) [hereinafter Morgan, *Relationship Between Race and Disability*]; see also *infra* notes 325–327 and accompanying text (describing the Disability Justice movement, which centers on intersectionality). In addition, families in which more than one person is disabled are not rare. But much of this Article’s focus is on the ways in which integration measures interact with *specific* impairments, as opposed to disability more generally. This focus raises an interesting question whether a situation in which a person with one type of impairment engages in a disability-focused activity associated with another impairment (e.g., a deaf person who plays wheelchair basketball) meets the definition of inverse integration. Although the definition proposed in this Article refers specifically to nondisabled persons, as a theoretical matter, the answer might be yes. See *infra* note 405 (describing how activist and author Simi Linton, who is a sighted wheelchair user, participated in a museum “blind people’s tour,” in which people are allowed to touch artwork).

strengthening the relational potential of disability rights laws in the United States.

### I. INVERSE INTEGRATION

Because inverse integration is a mirror image of traditional integration in many respects, one cannot understand the former without first addressing the latter. Thus, this Part begins with a brief summary of traditional integration in section I.A. Next, section I.B provides a working definition of inverse integration and offers some examples of inverse-integration practices. Additional examples can be found in section II.B, which discusses the interaction of inverse integration with disability rights laws.

#### A. *Traditional Integration: The Mainstreaming Model*

Historically, disabled individuals were isolated and segregated from mainstream society.<sup>29</sup> Through official state action and informal measures, disabled persons were separated from their families, sent to asylums and institutions, sterilized,<sup>30</sup> and removed from the public sphere altogether.<sup>31</sup> In fact, public officials operating under the influence of eugenic ideology declared that disabled persons “had to be kept from mingling with others.”<sup>32</sup>

In the 1960s and 1970s, however, disability activists began fighting against institutionalization and for civil rights for disabled persons.<sup>33</sup> It was at this time that the legal and social treatment of disability started to shift. In a 1966 law review article titled “The Right to Live in the World,” Professor Jacobus tenBroek, a prominent scholar and activist, called upon American policymakers to adopt and implement a policy of “integrationism,” focused on “entitling” disabled persons to full participation in the “life of the community.”<sup>34</sup>

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29. For historical accounts, see Timothy M. Cook, *The Americans With Disabilities Act: The Move to Integration*, 64 *Temp. L. Rev.* 393, 399–407 (1991); Mark C. Weber, *Exile and the Kingdom: Integration, Harassment, and the Americans With Disabilities Act*, 63 *Md. L. Rev.* 162, 165–69 (2004).

30. For an infamous example, see *Buck v. Bell*, 274 U.S. 200, 207 (1927).

31. Weber, *supra* note 29, at 166–69.

32. *Id.* at 167.

33. For an excellent historical account of a leading deinstitutionalization case, see Karen M. Tani, *The Pennhurst Doctrines and the Lost Disability History of the “New Federalism”*, 110 *Calif. L. Rev.* 1157, 1163–81 (2022). For a more general overview of deinstitutionalization litigation, see Samuel R. Bagenstos, *The Past and Future of Deinstitutionalization Litigation*, 34 *Cardozo L. Rev.* 1, 7–29 (2012).

34. Jacobus tenBroek, *The Right to Live in the World: The Disabled in the Law of Torts*, 54 *Calif. L. Rev.* 841, 843 (1966).

Since then, integrationism has become a fundamental principle in the pursuit of disability rights.<sup>35</sup> Indeed, Congress and governmental agencies have adopted an array of disability rights statutes and regulations aimed at integrating disabled persons into mainstream society.<sup>36</sup> The most prominent among these laws is the Americans with Disabilities Act (ADA). The ADA and its related statutes currently require public entities,<sup>37</sup> schools,<sup>38</sup> employers,<sup>39</sup> and places of public accommodation<sup>40</sup> to remove barriers to access and provide reasonable accommodations to disabled individuals.<sup>41</sup>

By integrating disabled persons into mainstream life, the traditional integration model has at least three goals: first, to reduce prejudice and foster more accurate attitudes toward disability by facilitating interactions between disabled and nondisabled persons;<sup>42</sup> second, to develop disabled persons' "human capital" by providing new opportunities for development and contribution, such as educational and work

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35. See Samuel R. Bagenstos, *Abolish the Integration Presumption? Not Yet*, 156 U. Pa. L. Rev. Online 157, 157 (2007), [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1003&context=penn\\_law\\_review\\_online](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1003&context=penn_law_review_online) [<https://perma.cc/6GTX-X5R8>] (" [I]f there is one goal that has achieved near-consensus status among disability rights supporters, the goal of integration is a strong candidate. ").

36. Samuel R. Bagenstos, *From Integrationism to Equal Protection: tenBroek and the Next 25 Years of Disability Rights*, 13 U. St. Thomas L.J. 13, 14–15 (2016) (reviewing a series of federal disability rights laws enacted after tenBroek's article).

37. 29 U.S.C. § 794(a) (2018) (prohibiting recipients of federal funding from excluding disabled individuals from programs or activities on the basis of disability); 28 C.F.R. § 35.130(d) (2024) (requiring public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities"); *id.* at § 35.130(b)(7) (requiring public entities to "make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability").

38. 20 U.S.C. § 1412(a)(5)(A) (2018) (mandating that the removal of disabled children from general educational settings occurs only when "the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily").

39. 42 U.S.C. § 12112(b)(5)(A) (2018) (treating a refusal to make reasonable accommodations for current or prospective employees as discrimination).

40. *Id.* §§ 12182(b), 12183 (establishing provisions aimed at removing accessibility barriers and modifying exclusionary policies that pertain to places of public accommodation).

41. See Weber, *supra* note 29, at 173 (reviewing integrative provisions and describing the ADA as a "thoroughly integrationist statute").

42. The underlying theory is that intergroup contact can reduce prejudice. See Gordon W. Allport, *The Nature of Prejudice* 261–81 (25th Anniversary ed. 1979) ("Prejudice (unless deeply rooted in the character structure of the individual) may be reduced by equal status contact between majority and minority groups in the pursuit of common goals."); Thomas F. Pettigrew & Linda R. Tropp, *When Groups Meet: The Dynamics of Intergroup Contact* 77–90 (2011) (discussing how intergroup contact may enhance intergroup knowledge and empathy). For more on the "contact hypothesis," see *infra* notes 348–356 and accompanying text.

opportunities;<sup>43</sup> and third, to convey the message that disabled persons are “full members of society” by offering “a tangible invitation of admission” to community life.<sup>44</sup>

B. *Inverse Integration: A Working Definition*

While traditional integration focuses on equipping disabled persons with the means to enter mainstream settings, inverse integration does the opposite. In other words, it focuses on integrating *nondisabled* persons into disability-focused settings, frameworks, or activities.<sup>45</sup> By definition, then, the term inverse integration effectively contains the following three necessary elements: *disability*, *focus*, and *integration*, each of which will be examined below.

1. *Disability*. — It is generally accepted that any understanding of “disability” depends on the cultural, geographical, and environmental backdrops attendant to the particular use of the term.<sup>46</sup> As most scholars recognize, disability results from the interaction between a specific impairment and social factors.<sup>47</sup> This concept of disability, also known as the “social model,”<sup>48</sup> is inherent in the ADA’s perception of disability.<sup>49</sup> Indeed, the Act’s definition of disability has always included three prongs that are connected to social factors, only one of which must be satisfied.<sup>50</sup> Thus, someone can be disabled under the ADA if they *presently* have an

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43. Samuel R. Bagenstos, “Rational Discrimination,” *Accommodation, and the Politics of (Disability) Civil Rights*, 89 Va. L. Rev. 825, 844 (2003).

44. *Id.*

45. Cf. Bennett Capers, *The Law School as a White Space*, 106 Minn. L. Rev. 7, 18–19 (2021) (referring to a “plethora of spaces that are associated with different groups,” including “ableist spaces” and “disabled spaces”); *id.* at 20 (“[S]paces can be physical places. . . . But they don’t have to be. . . . ‘[S]pace is also meaning. It is expressive and symbolic [and] it is educative.” (fourth and fifth alterations in original) (quoting Lua Kamál Yuille, Rúhíyyih Nikole Yuille & Justin A. Akbar-Yuille, *Love as Justice*, 26 *Langston Hughes Rev.* 49, 49 (2020))).

46. See Jamelia N. Morgan, *Toward a DisCrit Approach to American Law*, in *DisCrit Expanded* 13, 15–16 (Subini A. Annamma, Beth A. Ferri & David J. Connor eds., 2022) (“[D]isability studies emphasize that disabled people are not defective persons or victims but, rather, are limited by social and environmental barriers.”).

47. *Id.*

48. See Rabia Belt & Doron Dorfman, *Disability, Law, and the Humanities: The Rise of Disability Legal Studies*, in *The Oxford Handbook of Law and Humanities* 145, 147 (Simon Stern, Maksymilian Del Mar & Bernadette Meyler eds., 2020) (“The social model of disability distinguishes between an ‘impairment,’ which is a biological condition, and ‘disability,’ which is the social meaning given to the impairment.”); Adi Goldiner, *Understanding “Disability” as a Cluster of Disability Models*, 2 *J. Phil. Disability* 28, 31 (2022) (describing the social model of disability as attributing the exclusion experienced by disabled persons to the larger social environment).

49. Jamelia N. Morgan, *Policing Under Disability Law*, 73 *Stan. L. Rev.* 1401, 1406 (2021) (arguing that “the ADA embodies a *social model* of disability”).

50. 42 U.S.C. § 12102(1)(A)–(C) (2018).

impairment that substantially limits them in a major life activity;<sup>51</sup> or if they have a *past* record of such an impairment;<sup>52</sup> or if they are *regarded* as having such an impairment.<sup>53</sup>

In 2008, Congress enacted the Americans with Disabilities Act Amendments Act (ADAAA), which reinforced the federal government's commitment to an expansive and evolving definition of disability.<sup>54</sup> While the three-pronged framework remains under the ADAAA, Congress explicitly instructed courts to construe the definition "in favor of broad coverage of individuals."<sup>55</sup>

In defining inverse integration, this Article adopts a similarly expansive understanding of disability. For example, it considers the engagement of nondisabled children in a "peanut-free" classroom (which entails the expectation that these children would avoid peanuts during school time) as an inverse-integration practice, because, after the enactment of the ADAAA, food allergies effectively became a disability under the Act.<sup>56</sup>

2. *Focus*. — Similarly, the second element of inverse integration—namely, whether a setting, framework, or activity is focused on disability—does not depend on one conclusive criterion. Rather, this Article uses Professor Lawrence Lessig's concept of "social meaning," which he describes as "frameworks of understanding within which individuals live."<sup>57</sup> In other words, a disability-focused setting, framework, or activity is one where social meaning is significantly marked by disability culture or participation.<sup>58</sup>

The most obvious way to determine "focus" would be to use quantitative analysis. Thus, an association between disability and a specific activity or framework is most evident when the majority of people inhabiting a certain space are disabled. But this is not necessarily the

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51. Id. § 12102(1)(A).

52. Id. § 12102(1)(B).

53. Id. § 12102(1)(C).

54. ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553 (codified at 42 U.S.C. §§ 12101–12102, 12111–12114, 12201, 12211).

55. 42 U.S.C. § 12102(4)(A).

56. See D'Andra Millsap Shu, Food Allergy Bullying as Disability Harassment: Holding Schools Accountable, 92 U. Colo. L. Rev. 1, 40–60 (2021) (concluding that if the ADA (as amended) "is properly interpreted and used, food allergy should usually be a disability" (cleaned up)). Inverse integration may thus occur either when a student's classmates avoid peanuts during the school day to accommodate the student's peanut allergy (i.e., they engage in a disability-focused activity) or when they join the student's peanut-free table (i.e., they enter a disability-focused space).

57. Lawrence Lessig, The Regulation of Social Meaning, 62 U. Chi. L. Rev. 943, 952 (1995); see also id. at 951 (defining social meaning as "the semiotic content attached to various actions, or inactions, or statuses, within a particular context").

58. Id. at 952 (noting that social meanings are "contingen[t] on a particular society or group or community within which social meanings occur").

case.<sup>59</sup> The focus on disability can also manifest in leadership, design, or culture. For example, a classroom can be “disability-focused” when: (1) the classroom is taught by a “special education” teacher; (2) the classroom is specifically designed to support disabled children;<sup>60</sup> or (3) the classroom instruction is conducted in sign language. And this would be true even if the majority of the students were nondisabled.

The focus element can also be satisfied by a reference to disability culture. The most obvious example is Deaf culture, which perceives sign language as a cultural expression and which manifests in various ways, including theater and cinema.<sup>61</sup> Other cultural manifestations of disability may also be considered “disability culture,” even if they are not widely recognized as such. Consider, for example, the Australian dance company named “Restless,” whose performances include both intellectually disabled and nondisabled dancers.<sup>62</sup> Because this company employs a choreography method that is configured around “the personal styles, nuances and attitudes of dancers with intellectual disability,”<sup>63</sup> its performances reflect “cultures of intellectual disability” and thus satisfy this Article’s focus element.<sup>64</sup>

In contemporary society, disability-focused settings or activities traditionally carry a social stigma. Indeed, society often treats devices typically used by disabled persons, such as wheelchairs, hearing aids, or white canes, as “stigma symbols”<sup>65</sup> (although disabled persons have recently begun to “reclaim” the negative meaning of such devices and turn them into a source of self-pride<sup>66</sup>). However, social meanings—and hence, stigma—can change, even dramatically, over time.<sup>67</sup> The wearing of face

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59. Cf. Capers, *supra* note 45, at 18 (“[A] space can be gendered even when people of different genders are present.”).

60. One example is a physical education space designed for disability sports. See, e.g., Ronald Davis, Yvonne Woolley & Ron French, *Reverse Mainstreaming*, 44 *Physical Educator* 247, 247–49 (1987) (proposing such an approach). A classroom designed to support disabled children is thus different from a classroom that merely includes specific disability accommodations.

61. E.g., Padden & Humphries, *supra* note 11, at 1–2, 4–5, 57–58, 101–02, 150, 155–57.

62. Anna Catherine Hickey-Moody, *Unimaginable Bodies: Intellectual Disability, Performance and Becoming*, at xiii–xv (2009).

63. *Id.* at xiii.

64. *Id.* at xii.

65. Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* 43–44 (1963) (defining stigma symbols as “signs which are especially effective in drawing attention to a debasing identity discrepancy . . . with a consequent reduction in our valuation of the individual”).

66. Alice Sheppard, *So. Not. Broken.*, in *Disability Visibility: First-Person Stories From the Twenty-First Century* 155–57 (Alice Wong ed., 2020); cf. Goffman, *supra* note 65, at 100 (“One method of disclosure is for the individual voluntarily to wear a stigma symbol, a highly visible sign that advertises his failing wherever he goes.”).

67. See Lessig, *supra* note 57, at 964–65, 999. One example concerns walking canes. Between the seventeenth and nineteenth centuries, the use of decorative canes was prevalent in Western Europe and other parts of the world. See Leslie Harris, *Canes and*

masks during the COVID-19 pandemic provides one example. In the early stages of the pandemic, masks were generally viewed as mainstream.<sup>68</sup> But as the pandemic wore on and mask mandates were lifted, masks began to be associated with vulnerability and disability in some places.<sup>69</sup> Now, face masks themselves are perceived by many as stigma symbols.<sup>70</sup> In many respects, then, wearing a mask has become a disability-focused activity.<sup>71</sup>

3. *Integration.* — The third element of inverse integration is whether a nondisabled person actually integrates into a disability-focused activity, framework, or setting. Because defining integration is difficult, as Professor Audrey McFarlane and others have noted,<sup>72</sup> this Article’s use of “integration” is limited to the way this term has been used in disability rights scholarship. In that literature, integration has been described as a policy aimed at promoting interactive goals (i.e., facilitating interaction

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Walking Sticks, in *Encyclopedia of Clothing and Fashion* 219 (Valerie Steele ed., 2005); Peter K. Andersson, The Walking Stick in the Nineteenth-Century City: Conflicting Ideals of Urban Walking, 39 *J. Transp. Hist.* 275, 276 (2018); Duncan Phillips, ‘Canes Were Much More of a Fashion Accessory Than a Walking Aid’: Under the Hammer With Duncan Phillips, *W. Daily Press*, Feb. 4, 2017, at 33.

68. This does not mean, of course, that everyone actually wore masks.

69. See, e.g., Ruth Colker, The Americans with Disabilities Act’s Unreasonable Focus on the Individual, 170 *U. Pa. L. Rev.* 1813, 1847 (2022) [hereinafter Colker, *The Americans with Disabilities Act*] (“Masking is the new ramp.”); Sarah Wildman, Opinion, In the Rush to Return to ‘Normal,’ What Happens to the Vulnerable?, *N.Y. Times* (Apr. 9, 2022), <https://www.nytimes.com/2022/04/09/opinion/covid-mask-risk-society.html> (on file with the *Columbia Law Review*); Joe Biden, President of the U.S., Remarks of President Joe Biden—State of the Union Address as Prepared for Delivery, White House (Mar. 1, 2022), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/03/01/remarks-of-president-joe-biden-state-of-the-union-address-as-delivered/> [https://perma.cc/P5YT-MG2P] (“If you’re immunocompromised or have some other vulnerability, we have treatments and *free high-quality masks.*” (emphasis added)).

70. See, e.g., Kiara Alfonseca, Mask Shaming Ignores COVID-19 Fears of Immunocompromised People, *ABC News* (July 14, 2021), <https://abcnews.go.com/Health/mask-shaming-affects-immunocompromised-people/story?id=78731948> [https://perma.cc/P42Q-CV6K] (“[M]ask shaming has shifted targets—instead of people being shamed for not wearing masks, people who continue to wear a mask are being scrutinized for being cautious.”); cf. Doron Dorfman, Penalizing Prevention: The Paradoxical Legal Treatment of Preventative Medicine, 109 *Cornell L. Rev.* 311, 383 (2024) (describing how “structural stigma stands in the way of successfully implementing preventive interventions through laws, policies, and court decisions”).

71. It might be more accurate to say that, in many respects, prepandemic norms have resurfaced. See Aimi Hamraie (@AimiHamraie), Twitter (Apr. 4, 2020), <https://twitter.com/AimiHamraie/status/1246436950078361600> [https://perma.cc/5NYJ-KKBR] (noting, during the first months of the COVID-19 pandemic, that do-it-yourself quilt fabric masks are in fact “disability fashion”).

72. Audrey G. McFarlane, The Properties of Integration: Mixed-Income Housing as Discrimination Management, 66 *UCLA L. Rev.* 1140, 1176 (2019).

between disabled and nondisabled persons)<sup>73</sup> and institutional goals (i.e., increasing the presence of disabled persons in mainstream spaces).<sup>74</sup>

Thus, this Article defines integration broadly to include practices that fulfill either the interactive or institutional aspect of the term. For example, inverse integration includes nondisabled persons using sign language, wearing face masks, and avoiding certain foods. At first glance, these situations may not appear to be “integration.” However, because these actions often facilitate interactions or allow disabled and nondisabled persons to share a space, they meet the criterion.<sup>75</sup> Admittedly, this definition still leaves some ambiguity as to what constitutes “integration.” Thus, perhaps a more useful way to understand what inverse integration means is to look at what it *is not*.<sup>76</sup>

a. *It Is Not a One-Off Event, but Rather a Sustained Practice.* — Scholars generally recognize that to qualify as “integration,” an interaction must involve a sustained process or practice.<sup>77</sup> Thus, one-off engagements with disability culture do not constitute inverse integration.<sup>78</sup> For this reason,

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73. See generally Harris, *The Aesthetics of Disability*, supra note 13, at 897, 916, 926 (arguing that, in the United States, the disability integration framework was designed to facilitate contact between disabled and nondisabled persons); see also Martha Minow, *In Brown's Wake: Legacies of America's Educational Landmark 76* (2010) (“[L]earning alongside students with disabilities also can benefit nondisabled students by enhancing their understanding and appreciation of the struggles and talents of others . . .”).

74. See Colker, *The Disability Integration Presumption*, supra note 28, at 817, 820, 843, 851–52, 859 (referring to the institutional dimensions of “integration” in the context of disability education); see also Allison F. Gilmour, *Has Inclusion Gone Too Far?*, *Educ. Next*, Fall 2018, at 8 (noting that, in theory, integration involves increasing the numbers of disabled students in the general education classrooms for the purpose of improving disabled students’ academic outcomes).

75. See infra notes 265–268; see also Ariane de Vogue, *Gorsuch Declines to Wear Mask, as Bench-Mate Sotomayor Works From Her Office*, CNN, <https://edition.cnn.com/2022/01/18/politics/neil-gorsuch-mask-sotomayor-supreme-court/index.html> [<https://perma.cc/FA6T-LV2Z>] (last updated Jan. 19, 2022) (noting that Supreme Court Justice Sonia Sotomayor participated in oral arguments remotely—in isolation from her colleagues—because not all of them wore face masks during the COVID-19 pandemic).

76. There are other practices that may come to mind when thinking about engagement of nondisabled persons with disability culture, but they are not relevant to the discussion in this Article. For example, inverse integration does not include situations where nondisabled persons “fake disabilities” to exploit disability rights. See Doron Dorfman, *Suspicious Species*, 2021 U. Ill. L. Rev. 101, 103 n.5. Inverse integration also does not include situations in which a person deliberately changes their body to become “disabled” through elective amputation or paralysis, a process known as “transability.” See Bethany Stevens, *Interrogating Transability: A Catalyst to View Disability as Body Art*, *Disability Stud. Q.*, Fall 2011 (exploring transability and using this concept “to consider disability as body art”).

77. See Elizabeth Anderson, *The Imperative of Integration* 116 (2010) [hereinafter Anderson, *The Imperative of Integration*] (describing integration as involving four stages); Weber, supra note 29, at 173 (explaining that integration requires a process of reshaping attitudes).

78. This part of the definition is tricky, given that many so-called one-off experiences can be repeated. Still, there are activities—such as simulation exercises—that are more likely than others to occur only once, and only for a short period.



inverse integration does not include simulation exercises, whereby non-disabled persons try to understand what living with an impairment looks like by using a wheelchair or wearing a sleepshade.<sup>79</sup> By definition, these exercises are single events (indeed, they are often called “a wheelchair for a day”), which is one reason they drew heavy criticism from the disability community.<sup>80</sup> Similarly, one-off visits of sighted people to “dining in the dark” restaurants—where people ostensibly experience what it is to be blind<sup>81</sup>—do not constitute inverse integration. In fact, as disability activist Simi Linton recounts from an email conversation with her friend, noted disability historian Catherine Kudlick: “The experience is not genuine, nor can it ever be, because the visitor always knows that it’s nothing but a visit.”<sup>82</sup>

b. *It Is Not the Same as Traditional Integration, but Sometimes the Boundaries Are Blurry.* — As suggested above, the focus of any activity, context, or framework exists on a spectrum. At one end are spaces generally associated with disability, such as Gallaudet University, the national university for Deaf people.<sup>83</sup> At the other end are mainstream institutions, such as any other higher education institution where instruction is conducted orally. In between, we can find “hybrid” spaces that involve both disability and mainstream cultures.

Applying the concept of inverse integration to these spaces moves along a similar spectrum. Figure 1 below uses educational practices that involve sign language to illustrate this continuum. Thus, hearing students who attend Gallaudet are considered at the far end of inverse integration.<sup>84</sup>

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79. See Ariella M. Silverman, Jason D. Gwinn & Leaf Van Boven, *Stumbling in Their Shoes: Disability Simulations Reduce Judged Capabilities of Disabled People*, 6 *Soc. Psych. & Personality Sci.* 464, 464 (2014) (explaining that “experience simulations of disability can be misleading because they highlight the initial challenges and failure experiences of *becoming* disabled, rather than the competencies and adaptations of *being* disabled”). Usually, such simulations take place as part of “disability awareness” days. In recent years, however, simulations have also taken the form of virtual practices. See Johanna Smith & John Inazu, *Virtual Access: A New Framework for Disability and Human Flourishing in an Online World*, 2021 *Wis. L. Rev.* 719, 740.

80. See, e.g., Emily Ladau, *I Won’t Pretend that Disability Simulation Works*, *HuffPost* (Mar. 11, 2014), [https://www.huffpost.com/entry/i-wont-disability-simulation\\_b\\_4936801](https://www.huffpost.com/entry/i-wont-disability-simulation_b_4936801) [<https://perma.cc/PJ9A-U3CK>] (last updated Dec. 6, 2017) [hereinafter Ladau, *I Won’t Pretend*] (criticizing simulation exercises).

81. See Siegfried Saerberg, *The Dining in the Dark Phenomenon*, *Disability Stud. Q.*, Summer 2007, <https://dsq-sds.org/index.php/dsq/article/view/24> [<https://perma.cc/GMH4-CBMT>] (analyzing situations in which sighted people dine in completely dark restaurants operated by blind people).

82. Simi Linton, *My Body Politic* 215 (2006) [hereinafter Linton, *My Body Politic*] (quoting Professor Catherine Kudlick).

83. See About, Gallaudet Univ., <https://gallaudet.edu/about/> [<https://perma.cc/7E3Z-5PKQ>] (last visited Oct. 30, 2023).

84. While the vast majority of the students are deaf, Gallaudet admits each year a number of hearing students who know ASL. Specifically, Gallaudet has admitted hearing students to its

Conversely, the presence of a Deaf student at a mainstream university who requires an ASL translator is at the other end. In-between practices, such as co-enrollment<sup>85</sup> and teaching hearing students ASL,<sup>86</sup> exist in the middle, and in many respects satisfy both traditional and inverse integration.

Figure 1. An Illustration of the Continuum of “Integration”



c. *It Is Not Allyship (or at Least Not All the Time)*.<sup>87</sup> — Under certain circumstances, nondisabled persons who enter disabled spaces might be perceived as allies, such as when nondisabled students join a disability rights student organization.<sup>88</sup> But not every act of allyship is inverse integration, nor does every inverse-integration practice reflect allyship. Consider, for example, the participation of nondisabled persons in protests for disability rights. We might think of these nondisabled participants as allies, but we would not refer to such participation as integration into a disability-focused activity, because the act of protesting, in and of itself, is not associated with disability.<sup>89</sup>

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Hearing Undergraduate Program (HUGS) since the early 2000s. Gallaudet Univ., Apply, <https://gallaudet.edu/admissions/undergraduate/uga-apply/#hearing> [<https://perma.cc/3WNJ-W4GR>] (last visited Nov. 19, 2023) (“If you are a hearing student who knows American Sign Language (ASL) that wants to study alongside deaf and hard of hearing individuals and will pursue a career that furthers the education of deaf and hard of hearing people, Gallaudet University has an immersive hearing undergraduate experience designed for you.”); see also Brueggemann, *supra* note 7, at 14 (noting that Gallaudet established the “HUGS” program in 2002 and that the majority of “Gallaudet’s graduate and professional students are hearing students”).

85. “Co-enrollment” classes include hearing children and a “critical mass” of Deaf and hard-of-hearing students. Shirin Antia & Kelly K. Metz, Co-enrollment in the United States: A Critical Analysis of Benefits and Challenges, *in* *Bilingualism and Bilingual Deaf Education* 424, 424 (Marc Marschark, Harry Knoors & Gladys Tang eds., 2014); see also Simi Linton, *Claiming Disability: Knowledge and Identity* 61 (1998) (describing a school in Burbank, California, in which both hearing and Deaf students sign).

86. See *supra* notes 6–8 and accompanying text.

87. In the disability context, author and activist Emily Ladau refers to allyship as “taking meaningful action,” explaining that “[s]imply saying ‘I’m an ally to the XYZ-marginalized community’ isn’t how allyship works. . . . [B]eing an ally is really a more of a ‘show, don’t tell’ kind of thing.” Ladau, *Demystifying Disability*, *supra* note 3, at 141. For a critique of “allyship,” see Ernest Owens, *Opinion, Why I’m Giving Up on “Allies”*, Philadelphia (June 23, 2017), <https://www.phillymag.com/news/2017/06/23/allyship-vs-solidarity/> [<https://perma.cc/HP2J-EX4K>].

88. Cf. Vinay Harpalani, “Safe Spaces” and the Educational Benefits of Diversity, 13 *Duke J. Const. L. & Pub. Pol’y* 117, 147–49 (2017) (referring to the involvement of white students in safe spaces for racial minorities in college campuses as a form of integration).

89. Cf. Ian Ayres & Jennifer Gerarda Brown, *Straightforward: How to Mobilize Heterosexual Support for Gay Rights* 8 (2005) (noting that “[t]hose who speak for gay rights are often assumed to be gay or lesbian themselves”).

Solidarity campaigns such as “F\*\*\* Stairs,” where nondisabled persons “pledge to use only accessible pathways in solidarity with wheelchair users,”<sup>90</sup> are perhaps more complicated. It is unclear, for example, whether such activities satisfy the interactive or institutional components of the integration element.<sup>91</sup> By using only accessible pathways, nondisabled persons do not necessarily integrate into disability-specific settings or spaces. And unlike other disability-focused activities, such as learning ASL or Braille, using accessible pathways is not strongly related to interacting or communicating with disabled individuals.<sup>92</sup> Still, it may be argued that in a society where inaccessibility is pervasive (and in which disabled persons have few choices when it comes to accessible settings), the use of accessible infrastructure by nondisabled persons—either to express solidarity or for another reason—has the potential to foster interactions between disabled and nondisabled individuals.<sup>93</sup>

d. *In Most Instances, It Does Not Reflect “Universal Design.”* — Because inverse integration typically requires active<sup>94</sup> engagement or participation in a disability-focused space or activity, it does not fully overlap with “Universal Design,” a design philosophy that aspires to shape all physical and social environments to fit a wide range of users.<sup>95</sup> Thus, modifications to the physical or digital environment such as curb cuts, ergonomic furniture, closed-captioning, or speech-to-text would not be considered inverse integration under the definition proposed here, even though they serve society at large.<sup>96</sup>

## II. THE LEGAL AND SOCIAL NORMS THAT REGULATE INVERSE INTEGRATION

As section I.A explains, the rise of traditional integration in the 1970s is generally attributed to a shift in legal and social norms regarding the

90. Join the Movement, F\*\*\* Stairs, <https://www.fstairs.com/> [<https://perma.cc/7LLH-FCSX>] (last visited Oct. 31, 2023).

91. See *supra* notes 73–75 and accompanying text.

92. Moreover, because this practice is not the equivalent of using a wheelchair (a disability-focused activity), it may also fail to satisfy the focus element. See *supra* notes 57–71 and accompanying text.

93. Cf. Elizabeth F. Emens, *Disabling Attitudes: U.S. Disability Law and the ADA Amendments Act*, 60 *Am. J. Compar. L.* 205, 230–31 (2012) [hereinafter Emens, *Disabling Attitudes*] (noting that “‘disability houses’ of course occur all the time on campuses and elsewhere, when only one building or part of an institution is accessible”).

94. That said, this Article does consider some behaviors that involve omissions (e.g., avoiding peanut-based products) to be inverse integration because such behaviors usually reflect informed decisions to refrain from acting in a certain way. Thus, for the purpose of this Article, this kind of omission constitutes an active engagement with disability culture. See *supra* note 56 and accompanying text (discussing peanut allergy in the context of inverse integration).

95. See Aimi Hamraie, *Building Access: Universal Design and the Politics of Disability* 5–6 (2017) (explaining that “Universal Design” refers to the notion that “inclusive design benefits everyone, regardless of disability or age”).

96. See Emens, *Integrating Accommodation*, *supra* note 4, at 841.

involvement of disabled persons in civic life. Indeed, while mainstream attitudes toward disability may still reflect prejudice and hence hinder inclusion,<sup>97</sup> contemporary social conventions no longer endorse the exclusion of disabled persons from public life. In fact, such norms have now been codified in legislation: Exclusion and segregation are largely prohibited under federal and state law.<sup>98</sup>

Against this backdrop, one might expect the story of inverse integration to follow a similar pattern. That is, that the emergence of inverse integration would be the result of social and legal norms pushing nondisabled persons into disabled spaces and activities. As this Part shows, however, this is not the case.

A. *Inverse Integration and Social Norms*

Professor Elizabeth Emens's conceptualization of "inside" and "outside" views of disability are critical to understanding the social norms that regulate inverse integration.<sup>99</sup> As she notes, "[t]hose on the inside and the outside of disability often look differently at the experience, the theory, and the law of disability."<sup>100</sup> Notably, what Emens calls the "inside view" does not necessarily reflect the views of *all* disabled individuals, just as the "outside view" does not necessarily represent the perspectives of all nondisabled persons.<sup>101</sup> This Article's goal, however, is to use these "imperfect generalizations" to "demonstrat[e] differences in perspective across lines of subordination."<sup>102</sup>

1. *Applying the Inside View to Inverse Integration.* — According to Emens, the inside view commonly sees disability as "a mundane feature of a no-less-happy life, rendered inconvenient or disabling largely by interactions with the surrounding environment."<sup>103</sup> In a recent essay, disabled author and journalist s.e. smith illustrates this concept by describing the "intense sense of belonging" they experience in spaces created for and by disabled persons, where "disability is celebrated and embraced."<sup>104</sup> Conversely, smith argues that when nondisabled persons

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97. Jasmine E. Harris, Taking Disability Public, 169 U. Pa. L. Rev. 1681, 1688 (2021) (noting that the ADA has had "significantly less success in shifting social norms of disability, such as the association of disability with deficit").

98. See *supra* section I.A.

99. Elizabeth F. Emens, Framing Disability, 2012 U. Ill. L. Rev. 1383, 1389–99 [hereinafter Emens, Framing Disability].

100. *Id.* at 1386.

101. *Id.*

102. *Id.* at 1386 & n.3.

103. *Id.* at 1386.

104. s.e. smith, The Beauty of Spaces Created for and by Disabled People, *in* Disability Visibility: First-Person Stories From the Twenty-First Century, *supra* note 66, at 242–43; see also Adrienne Lu, In Fight Against Ableism, Disabled Students Build Centers of Their Own, Chron. Higher Educ. (July 15, 2022), <https://www.chronicle.com/article/in-fight-against->

enter such settings—that is, when inverse integration actually occurs—they may disrupt the unique dynamics of disability-specific settings.<sup>105</sup>

These observations by smith reflect the broader social norm surrounding an inside view of inverse integration: The norm reflects a suspicion toward the involvement of nondisabled persons in disabled spaces. In fact, disabled persons sometimes wonder whether acts aimed at “supporting” disabled persons are actually designed to help *nondisabled* persons feel better about *themselves*.<sup>106</sup> For example, Emily Ladau, an activist and writer, has criticized the beer commercial referenced in the Introduction.<sup>107</sup> Ladau argues that the idea that nondisabled individuals who play wheelchair basketball are “made of more,” as the commercial suggests, conveys the message that “spending time with a guy in a wheelchair means you’re a good person.”<sup>108</sup>

Other commentators also report feeling “absolute infuriation” towards nondisabled persons “play[ing]” with disability in public “to obtain emotional or psychological satisfaction.”<sup>109</sup> This is sometimes referred to as a form of cultural appropriation<sup>110</sup>—in part because

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ableism-disabled-students-build-centers-of-their-own (on file with the *Columbia Law Review*) (noting that disability cultural centers in colleges and universities help disabled students to “build a sense of community and culture” and “find a sense of self and belonging”). For personal accounts describing how disability-specific summer camps provide opportunities to form friendships, see Girma, *supra* note 20, at 49–60; Judith Heumann with Kristen Joiner, *Being Heumann: An Unrepentant Memoir of a Disability Rights Activist* 25–31 (2020).

105. See smith, *supra* note 104, at 245–46; cf. Harpalani, *supra* note 88, at 162 (“[I]t is possible that the frequent presence of too many White students may prevent students of color from feeling ‘safe’ in these spaces.”).

106. See, e.g., Emily Ladau, *Dear Kylie Jenner, My Wheelchair Isn’t a Prop: Stop Playing Dress-Up Games With My Reality*, Salon (Dec. 3, 2015), [https://www.salon.com/2015/12/03/dear\\_kylie\\_jenner\\_my\\_wheelchair\\_isnt\\_a\\_prop\\_stop\\_playing\\_dress\\_up\\_games\\_with\\_my\\_reality/](https://www.salon.com/2015/12/03/dear_kylie_jenner_my_wheelchair_isnt_a_prop_stop_playing_dress_up_games_with_my_reality/) [<https://perma.cc/PLD2-V4J9>] [hereinafter Ladau, *Dear Kylie Jenner*] (criticizing Kylie Jenner for using a wheelchair in photos for a magazine article); Lady Gaga Rolls Out in a Wheelchair for Sydney Performance, Gets Egged, HuffPost (July 13, 2011), [https://www.huffpost.com/entry/lady-gaga-wheelchair-egged-sydney-concert\\_n\\_897200](https://www.huffpost.com/entry/lady-gaga-wheelchair-egged-sydney-concert_n_897200) (on file with the *Columbia Law Review*) (last updated Dec. 6, 2017) (describing disability activists’ reaction to singer Lady Gaga taking the stage in a wheelchair).

107. Ladau, *Just One of the Guys*, *supra* note 2.

108. *Id.*

109. Stevens, *supra* note 76; see also Ladau, *Dear Kylie Jenner*, *supra* note 106 (“[W]heelchairs are not a costume choice.”); cf. Ben Mattlin, *Opinion, When Wheelchairs Are Cool*, N.Y. Times (July 31, 2014), <https://www.nytimes.com/2014/08/01/opinion/when-wheelchairs-are-cool.html> (on file with the *Columbia Law Review*) (“So go ahead and play disabled. As long as it’s done with joy and respect—not to tease or poke fun—I won’t be offended.”). Members of other marginalized groups also generally disapprove of situations where members of the majority “play[]” with oppressed axes of identity in “trivializing ways,” even if they do not try to gain any tangible benefit from such action. Ayres & Brown, *supra* note 89, at 108.

110. See, e.g., Ladau, *Dear Kylie Jenner*, *supra* note 106 (describing Kylie Jenner’s use of a wheelchair for a magazine cover photo shoot as “appropriat[ion]”); cf. Ashley Fetters,

nondisabled persons have the ability to choose “when to perform able-bodiedness,” a privilege that disabled persons often do not have.<sup>111</sup>

Nondisabled persons’ engagement with disability-focused activities can be viewed negatively from an inside perspective, even when the express purpose of such engagement is to show solidarity. For example, because shaving one’s hair is not the same as losing hair as a result of chemotherapy, some cancer survivors have criticized fundraising initiatives that involve hair shaving for being “offensive” and “facile.”<sup>112</sup> In fact, as some disabled scholars point out, explaining to nondisabled persons why some of their ostensibly well-intentioned actions are actually demeaning can be a frustrating and emotionally taxing task in and of itself.<sup>113</sup>

Another reason for suspicion relates to fairness in accessing limited resources.<sup>114</sup> For example, disability activists often criticize situations where a hearing person is cast to play a deaf role in a movie or play.<sup>115</sup> One of the concerns raised by critics is that deaf and hard-of-hearing people have scarce acting, directing, and performing opportunities in the first

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The Problem With This Year’s Most Comfortable Holiday Fad, *The Atlantic* (Dec. 17, 2018), <https://www.theatlantic.com/health/archive/2018/12/weighted-blanket-history-holiday-gift/578347/> (on file with the *Columbia Law Review*) (critiquing the mass production and mass marketing of weighted blankets as appropriating “calming aids” for profit, at the expense of small businesses that have been dedicated producers and suppliers of weighted blankets for decades). But see Sara Luterman, You Can’t “Culturally Appropriate” a Weighted Blanket, *Slate* (Jan. 10, 2019), <https://slate.com/human-interest/2019/01/weighted-blanket-appropriation-autism-controversy.html> [<https://perma.cc/VA3N-MGK2>] (“There is no way to culturally appropriate from disabled people. . . . [T]he physical objects disabled people use—fidget spinners and cubes, weighted blankets, shower chairs, scooters—are not a culture. . . . If that’s cultural appropriation, please, appropriate away.”).

111. Stevens, *supra* note 76 (“This selective performativity feels disingenuous and even infuriating to some disabled people because many of us do not get the option to take time off from disability.”); see also Carol J. Gill, Questioning Continuum, in *The Ragged Edge: The Disability Experience From the Pages of the First Fifteen Years of the Disability Rag* 44, 49 (Barrett Shaw ed., 1994) (“[Nondisabled persons] are in a position to escape the stigma. They can leave our sides and go out among strangers as ‘normal people,’ if only for a few minutes of peaceful anonymity.”).

112. May Bulman, Cancer Sufferers Label Shaven Head Fundraiser ‘Offensive’ and ‘Facile’, *The Independent* (Sept. 6, 2016), <https://www.independent.co.uk/news/uk/home-news/brave-shave-cancer-sufferers-macmillan-fundraiser-offensive-facile-a7225126.html> [<https://perma.cc/WQ24-AC4X>].

113. I thank Mercy Renci Xie for helping me think through this point. Professor Adrienne Asch, for example, described the indignity she had experienced when “a friend of more than twenty years” explained to her that her irritation and frustration with incidents of ableism were “unreasonable responses to people who were ‘trying to do the right thing’.” Adrienne Asch, *Critical Race Theory, Feminism, and Disability: Reflections on Social Justice and Personal Identity*, 62 *Ohio St. L.J.* 391, 395–96 n.21 (2001).

114. Cf. Mattlin, *supra* note 109 (“So go ahead and play disabled. . . . Just don’t do it for the freebies which are harder and harder to find these days anyway.”).

115. Gelt, *supra* note 11.

place.<sup>116</sup> Another example can be found in schools. Integrating nondisabled children into special education classrooms sometimes allows them to use scarce resources and services otherwise available only to disabled students.<sup>117</sup>

Insiders' suspicion toward the involvement of nondisabled persons in disabled spaces also pertains to questions of who gets to speak on behalf of disabled persons and make decisions regarding disability-related issues.<sup>118</sup> Disabled activists have long protested against the tendency to appoint nondisabled persons to leadership positions in disability-focused organizations.<sup>119</sup> While some of these protests resulted in more disabled persons in positions of management, these were not easy victories.<sup>120</sup> Against this backdrop, disabled activists may be wary of any attempt by nondisabled persons to enter disability-specific organizations.

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116. See, e.g., Amelia Hensley, *Hollywood & Broadway, Stop Overlooking Deaf Actors for Deaf Roles*, OnStage Blog (Nov. 8, 2017), <https://www.onstageblog.com/columns/2017/11/8/hollywood-broadway-stop-overlooking-deaf-actors-for-deaf-roles> [<https://perma.cc/6KH6-NFFZ>].

117. Covo, *supra* note 4, at 621, 656 (“[R]everse mainstreaming may aggravate an already unfair distribution of resources.”).

118. See generally Linton, *My Body Politic*, *supra* note 82, at 138–39 (discussing these questions in the context of the involvement of nondisabled persons in the Society for Disability Studies); Sins Invalid, *Skin, Tooth, and Bone: The Basis of Movement Is Our People: A Disability Justice Primer* 13, 18, 23 (2d ed. 2019) (extending this notion to challenge a leadership that is centered around the experiences of white disabled persons); Katie Eyer, *Claiming Disability*, 101 *B.U. L. Rev.* 547, 602 (2021) (noting that “many organizations that serve people with disabilities or advocate on disability issues are staffed primarily or exclusively by people who do not currently self-identify as disabled”); Michael A. Rembis, *Athlete First: A Note on Passing, Disability, and Sport*, in *Disability and Passing: Blurring the Lines of Identity* 111, 121–22 (Jeffrey A. Brune & Daniel J. Wilson eds., 2013) (referring to the “overwhelmingly male, nondisabled” leadership of the Paralympic movement during the 1980s). Interestingly, even in sign language communities, often celebrated as “utopian” settings, there are disparities between hearing and Deaf individuals when it comes to who holds leadership positions. Annelies Kusters, *Deaf Utopias? Reviewing the Sociocultural Literature on the World’s “Martha’s Vineyard Situations”*, 15 *J. Deaf Stud. & Deaf Educ.* 3, 7 (2010).

119. One example is the 1988 “Deaf President Now” protests in Gallaudet University, where students and faculty demanded to replace the hearing president, previously selected by the Board of Trustees, with a deaf president. The Board of Trustees eventually agreed to the protesters’ demands and appointed the first Deaf president of Gallaudet after more than one hundred years. *About: Deaf President Now*, Gallaudet Univ., <https://www.gallaudet.edu/about/history-and-traditions/deaf-president-now/> [<https://perma.cc/9KJ3-U395>] [hereinafter *Gallaudet University, About: Deaf President Now*] (last visited Oct. 31, 2023). For a recent protest with similar goals, see Amanda Morris, *The Student Body Is Deaf and Diverse. The School’s Leadership Is Neither.*, *N.Y. Times* (Oct. 26, 2021), <https://www.nytimes.com/2021/10/26/us/deaf-students-protests-schools.html> (on file with the *Columbia Law Review*) (last updated Nov. 10, 2021).

120. See sources cited *supra* note 119.

The suspicion towards nondisabled involvement in disabled spaces also stems from the pervasive inaccessibility of the mainstream world.<sup>121</sup> As some disabled persons have consistently (albeit implicitly) asked: If nondisabled individuals were genuinely committed to engaging with disability culture, wouldn't they invest more effort to make *mainstream* spaces accessible?<sup>122</sup> In other words, the failure to provide satisfactory accessibility casts doubt on the motives of nondisabled persons who wish to enter disabled spaces.

Interestingly, insiders' scholarly endeavors to challenge the inaccessibility of mainstream spaces can be read, if unintentionally, as inverse-integration advocacy. For example, in his 1975 essay, Vic Finkelstein imagines a society in which the majority of the residents are wheelchair users and all apartments have low ceilings and doors.<sup>123</sup> As a result, the few nondisabled residents in the society constantly knock their heads on the door lintels and therefore carry stigmatizing bruises on their foreheads.<sup>124</sup> In such an "upside-down" world,<sup>125</sup> nondisabled persons would have no choice but to use wheelchairs.<sup>126</sup> Deaf culture has a similar utopian folk myth.<sup>127</sup> In that narrative, which takes place on a planet called Eyeth, "deaf people communicate freely and live without stigma" because everyone—including hearing people—uses sign language.<sup>128</sup> While these tales invoke inverse integration to make a larger point about inclusion, they both reflect a skepticism as to whether mainstream society would be committed to promoting inverse integration. As the next section shows, this skepticism is not unfounded.

2. *Applying the Outside View to Inverse Integration.* — In contrast to the inside view, the outside view often perceives disability as "an unhappy place

121. Smith, *supra* note 104, at 242–43 ("It is very rare, as a disabled person, that I have an intense sense of belonging, of being not just tolerated or included in a space but actively owning it . . .").

122. See Ladau, *I Won't Pretend*, *supra* note 80 (criticizing simulation exercises and their perceived failure to change participants' attitudes regarding accessibility barriers that wheelchair users face).

123. Vic Finkelstein, *To Deny or Not to Deny Disability*, 26 *Magic Carpet* 31 (1975).

124. *Id.*

125. *Id.*

126. For reasons not fully explored in Finkelstein's story, he did not consider the idea that nondisabled persons would use wheelchairs to be a viable solution. Other scholars, however, were less skeptical. See, e.g., Shakespeare, *supra* note 25, at 43–44 ("No village for wheelchair users would be inaccessible to non-disabled people, for the simple reason that non-disabled people always have the choice to use wheelchairs, just as hearing people have the choice to learn sign language."); Janet Radcliffe Richards, *How Not to End Disability*, 39 *San Diego L. Rev.* 693, 708–09 (2002) (noting that in Finkelstein's imaginary village, "there is nothing to stop [nondisabled persons] from learning to use wheelchairs").

127. Sara Novic, *Opinion, Don't Fear a Deaf Planet*, *N.Y. Times* (Oct. 10, 2021), <https://www.nytimes.com/2021/10/10/opinion/deaf-population-integration.html> (on file with the *Columbia Law Review*).

128. *Id.*



created by an individual medical problem.”<sup>129</sup> Accordingly, the norm surrounding the outsiders’ view of inverse integration is a norm of reluctance.

The conventional account is that, given the choice, nondisabled persons would not choose to engage with disability culture and identity.<sup>130</sup> According to many scholars, such sentiment results from fear, or what Harlan Hahn termed “existential anxiety”—a cognitive and emotional response to disability that triggers “worries about the potential loss of physical or behavioral capabilities.”<sup>131</sup> There is perhaps no better example of this cognitive process than the superstition that if a nondisabled person sits in a wheelchair, they will one day wind up needing a wheelchair.<sup>132</sup> The implication of this superstition for inverse integration seems obvious: It may deter, for example, a nondisabled person from playing wheelchair basketball.<sup>133</sup>

The reluctance to engage with disability culture also stems from the social preference in favor of assimilation of minority groups into mainstream society. This norm has been most apparent in the context of deafness.<sup>134</sup> Beginning in the latter part of the nineteenth century, influential educators and innovators such as Alexander Graham Bell advocated for “oralism”—a methodology aimed at teaching deaf children orally through lip-reading and residual hearing.<sup>135</sup> In fact, in many “oral”

129. Emens, *Framing Disability*, *supra* note 99, at 1386.

130. See Emens, *Disabling Attitudes*, *supra* note 93, at 231 (“[M]ainstream culture has so little sense that . . . nondisabled people could affirmatively seek out a disability-centered context.”); cf. Tobin Siebers, *Disability as Masquerade*, 23 *Literature & Med.* 1, 5 (2004) (“Only rarely do dominant groups try to pass as lesser ones.”).

131. Harlan Hahn, *The Politics of Physical Differences: Disability and Discrimination*, 44 *J. Soc. Issues* 39, 43 (1988).

132. See Connor Wilson, *Beware of Wheelchairs*, USC Digit. Folklore Archives (May 1, 2017), <http://folklore.usc.edu/?p=38593> (on file with the *Columbia Law Review*).

133. See Bernie Carter, Janette Grey, Elizabeth McWilliams, Zoe Clair, Karen Blake & Rachel Byatt, ‘Just Kids Playing Sport (in a Chair)’: Experiences of Children, Families and Stakeholders Attending a Wheelchair Sports Club, 29 *Disability & Soc’y* 938, 946–47 (2014) (“[T]here was a palpable sense that using a wheelchair could in some way blight their health and invoke the need for a chair.”); Amy Merrick, *Designing for Disability*, *New Yorker* (Apr. 16, 2015), <https://www.newyorker.com/business/currency/designing-for-disability> (on file with the *Columbia Law Review*) (noting that retailers have few incentives to design fashionable canes because canes “bear[] a subtle reminder of mortality, a subject that Americans, in particular, tend to want to ignore”).

134. Mainstream society’s response to autism tells a similar story. The “best practice” of educating autistic children in the United States is based on the premise that “inappropriate” behaviors should be replaced with “normative” (read: mainstream) ones. Anne McGuire, *War on Autism: On the Cultural Logic of Normative Violence* 44–46 (2016). Thus, nonverbal autistic students are often coaxed to speak, even though other methods of communication might be more suitable. Covo, *supra* note 4, at 641–42.

135. Douglas C. Baynton, *Deaf History: 1881–1920*, in 1 *The SAGE Deaf Studies Encyclopedia* 197, 198–200 (Genie Gertz & Patrick Boudreault eds., 2016).

schools for deaf children, signing was prohibited.<sup>136</sup> One of the ideological underpinnings of this methodology was assimilation.<sup>137</sup> By encouraging deaf individuals to speak, oralists hoped to make deaf children “as like their hearing counterparts as possible.”<sup>138</sup>

Inverse integration was directly and indirectly affected by the promotion of oralism. For example, the fact that so many resources were devoted to teaching deaf children orally made it highly unlikely that hearing people would decide to learn sign language.<sup>139</sup> In fact, one integrated school punished *hearing* children who signed to deaf peers by forcing them to wear gloves, which was also supposed to signal “stupidity.”<sup>140</sup>

### B. *Inverse Integration and the Law*

Social conventions are not the only norms that influence inverse integration. Statutes, regulations, and court decisions also regulate and impact this practice. This section will identify a new typology of inverse-integration practices and use it to analyze the relationship between the law and inverse integration. The typology distinguishes among three types of inverse integration that are particularly significant from a normative perspective: (1) Affiliation, (2) Inverse Integration Modifications, and (3) Sustained Engagement with Disability-Focused Activities. The analysis shows that, although a number of legal norms indirectly facilitate the formation of *some* inverse-integration practices, the law does not generally contemplate or promote inverse integration.

1. *Affiliation*. — The Affiliation category includes situations in which a nondisabled person is affiliated with a disability-focused organization or framework. Such inverse-integration practices can be found in K–12

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136. E.g., Padden & Humphries, *supra* note 11, at 49 (describing how, during the late 1800s, some schools for the deaf prohibited the use of sign language); John Vickrey Van Cleve, *The Academic Integration of Deaf Children: A Historical Perspective*, in *The Deaf History Reader* 116, 119 (John Vickrey Van Cleve ed., 2007) (describing the same phenomenon in private daily schools).

137. Baynton, *supra* note 135, at 199–200 (describing oralists’ goal for deaf students to “naturally assimilate and marry into the hearing world”).

138. Margret A. Winzer, *The History of Special Education: From Isolation to Integration* 192 (1993).

139. Deaf activists used mostly written language to communicate with hearing people, as they assumed that “it would be difficult if not impossible to communicate to [hearing people] through the language of signs.” Padden & Humphries, *supra* note 11, at 71–72 (“Self-expression to hearing people who did not already know sign language could not be imagined; instead, the written language was used to communicate.”); see also *id.* at 157 (“Deaf people believed there was little interest in the language outside the group. They had been told by others that their language wasn’t worth preserving.”).

140. Van Cleve, *supra* note 136, at 119.

education,<sup>141</sup> higher education,<sup>142</sup> student organizations,<sup>143</sup> theater,<sup>144</sup> dance companies,<sup>145</sup> and summer camps.<sup>146</sup>

There are potentially three areas of the law that regulate such affiliation of nondisabled persons with disability-focused settings: (a) the ADA; (b) the Individuals with Disabilities Education Act (IDEA); and (c) federal regulations pertaining to Medicaid funding for Home and Community-Based Services.

a. *The ADA.* — As previously discussed, the ADA requires that mainstream settings be accessible to disabled persons and that reasonable accommodations be provided.<sup>147</sup> The opposite, however, is not true. When it comes to disability-specific spaces, the ADA does not mandate that such spaces be accessible to *nondisabled* persons. Unlike Title VII of the Civil Rights Act, the ADA is not a “symmetrical” statute; its antidiscrimination provisions protect only individuals who meet the statutory definition of a person with a disability.<sup>148</sup> In fact, Congress included explicit language in the ADA that bars nondisabled individuals from claiming to be subject

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141. See Covo, *supra* note 4, at 604, 615–24 (describing the inclusion of nondisabled children in special education settings).

142. See, e.g., *supra* note 84 and accompanying text (describing Gallaudet’s practice of admitting hearing students).

143. See, e.g., Disabled and Allied Law Student Association, Fordham Univ. Sch. of L., [https://www.fordham.edu/info/24770/student\\_organizations/12030/disabled\\_and\\_allied\\_law\\_student\\_association](https://www.fordham.edu/info/24770/student_organizations/12030/disabled_and_allied_law_student_association) [<https://perma.cc/TK4Y-PHF7>] (last visited Oct. 31, 2023).

144. See *supra* note 11 and accompanying text.

145. Wheelchair ballroom dancing programs sometimes include nondisabled dancers who perform in wheelchairs. See, e.g., Michelle Berg, Eight Wheels, Four Dancers and One Exceptional Teacher, Saskatoon StarPhoenix (June 17, 2021), <https://thestarphoenix.com/news/local-news/eight-wheels-four-dancers-and-one-exceptional-teacher> [<http://perma.cc/4L2Z-JX8G/>] (“The reverse inclusion of the able-bodied dancers dancing in a chair brings a whole awareness to that aspect of the group.” (quoting Laurel Scherr)). Other dance companies offer disability-informed performances involving both disabled and nondisabled participants. See *supra* notes 62–64 and accompanying text (describing the choreographic methodology of Australian dance company “Restless”).

146. See Steve Brannan, Joel Arick, Ann Fullerton & Joyce Harris, Inclusionary Practices: A Nationwide Survey of Mainstream Camps Serving All Youth, 70 *Camping Mag.*, Jan.–Feb. 1997, at 32, 32 (noting that, of seventy-one accredited residential summer camps that responded to a nationwide survey, twenty-four camps primarily serve campers with disabilities but also “reverse mainstream campers without disabilities in their summer residential programs”); Jane E. Brody, Personal Health, *N.Y. Times*, Apr. 3, 1985, at C10 (on file with the *Columbia Law Review*) (noting that some camps for disabled children “offer ‘reverse mainstreaming’ [programs] in which nondisabled children are invited to participate”); Brooke Phillips, Morgan’s Wonderland Announces Plans to Build Ultra-Accessible Camp, *News4SA* (Apr. 4, 2019), <https://news4sanantonio.com/news/local/morgans-wonderland-announces-plans-to-build-ultra-accessible-camp> [<http://perma.cc/HA4Q-9G7D/>] (reporting a plan to build an “ultra-accessible” summer camp for individuals “with and without special needs”).

147. See *supra* notes 37–41 and accompanying text.

148. 42 U.S.C. § 12102(1)(A)–(C) (2018).

to discrimination because of their *lack of disability*.<sup>149</sup> Thus, the National Wheelchair Basketball Association's prerequisite of a physical impairment does not violate the law,<sup>150</sup> and a basketball player without any physical impairments does not have a legal right to participate in the league's competitions.<sup>151</sup>

b. *The IDEA*. — Similar to the ADA, the IDEA does not provide nondisabled children with an affirmative right to access disabled spaces.<sup>152</sup> Nondisabled children (and their parents) cannot join a special education classroom (and receive the services provided in that classroom), unless a school district, using discretionary funds, actively invites them to join.<sup>153</sup> Interestingly, however, the implementation of the IDEA has resulted in promoting a subcategory of inverse integration, sometimes known as “reverse mainstreaming” or “reverse inclusion,”<sup>154</sup> which involves the integration of *nondisabled* children into disability-specific classrooms.<sup>155</sup> This practice has roots in educational experiments from the mid-

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149. *Id.* § 12201(g) (noting that the statute does not cover “an individual without a disability” who “was subject to discrimination because of the individual’s lack of disability”).

150. Player Eligibility Rules, Nat’l Wheelchair Basketball Ass’n, <https://www.nwba.org/playereligibility> [<http://perma.cc/NS6K-TRS4>] (last visited Oct. 31, 2023). For differing views on whether this rule should be modified, see Frank M. Brasile, *Wheelchair Sports: A New Perspective on Integration*, 7 *Adapted Physical Activity Q.* 3 (1990); Armand Thiboutot, Ralph W. Smith & Stan Labanowich, *Examining the Concept of Reverse Integration: A Response to Brasile’s “New Perspective” on Integration*, 9 *Adapted Physical Activity Q.* 283, 289 (1992) (explaining that in 1987, the NWBA opposed a proposal to admit people without impairments); Loeppky, *supra* note 20; John Powers, *No Reinventing the Wheel: BAA Unseats Able Runners*, *Boston.com* (Apr. 15, 2001), [http://archive.boston.com/marathon/stories/2001/the\\_wheel.htm](http://archive.boston.com/marathon/stories/2001/the_wheel.htm) [<https://perma.cc/2ZQZ-9TBK>]; Paul Vallely, *Athletics: What Place for the Able-Bodied in Wheelchair Racing?*, *The Independent* (Mar. 29, 2002), <https://www.independent.co.uk/sport/general/athletics-what-place-for-the-able-bodied-in-wheelchair-racing-9188532.html> [<http://perma.cc/2BM5-66GX>]. Notably, nondisabled athletes are also not allowed to participate in the Paralympic Games’ wheelchair basketball competitions. Rules of Classification, Paralympic Movement, <https://www.paralympic.org/classification> [<http://perma.cc/82WK-7AKN>] (last visited Oct. 31, 2023).

151. *Cf. Apilado v. N. Am. Gay Amateur Athletic All.*, 792 F. Supp. 2d 1151, 1156, 1160–63 (W.D. Wash. 2011) (holding that an amateur athletic organization operating the Gay Softball World Series has a constitutional right under the First Amendment to limit the number of heterosexual athletes participating in the tournament).

152. 20 U.S.C. § 1401(3)(A)(i) (2018) (restricting eligibility under the IDEA to children having one of the impairments enumerated in the statute); see also James E. Ryan, *Poverty as Disability and the Future of Special Education Law*, 101 *Geo. L.J.* 1455, 1461 (2013) (“Eligibility for special education depends, in the first instance, on whether students have one of the enumerated disabilities set forth in IDEA . . .”).

153. See Mark Kelman & Gillian Lester, *Jumping the Queue: An Inquiry Into the Legal Treatment of Students With Learning Disabilities* 86 (1997) (describing how one New York school district allowed all students to use services offered in “resource room[s],” regardless of disability diagnosis).

154. See Covo, *supra* note 4, at 629–30 (discussing terminology surrounding inverse integration in schools).

155. *Id.* at 613 (providing definition and typology of inverse integration in schools).

nineteenth century,<sup>156</sup> but it largely emerged as a response to the IDEA's "integration presumption,"<sup>157</sup> which requires that, "[t]o the maximum extent appropriate," disabled children must be educated with nondisabled peers.<sup>158</sup>

The integration presumption, of course, was designed for exactly the opposite purpose of inverse integration; it was intended to move disabled children from separate schools into mainstream educational settings.<sup>159</sup> Still, school districts and courts have latched onto the language in the integration presumption that requires educating disabled students alongside their nondisabled peers to justify decisions to integrate nondisabled children into special education classrooms—mostly (but not only) in situations where the disabled child does not qualify for education in a general education classroom.<sup>160</sup>

The actual reasons behind such reverse mainstreaming—a surprisingly common phenomenon<sup>161</sup>—are many and complex (and include financial considerations).<sup>162</sup> For example, it is sometimes cheaper for a school district to bring nondisabled children into a special education classroom, at least for part of the day, than to include a disabled child in a general education classroom.<sup>163</sup> And while keeping a disabled child in a disability-specific setting even though they could succeed in the mainstream classroom violates the integration presumption,<sup>164</sup> the practice of reverse mainstreaming may distort the analysis and lead courts to uphold such educational configurations.<sup>165</sup> The upshot is that the IDEA served as the normative basis for some inverse-integration practices in schools, even though it was not intended to promote such practices.

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156. *Id.* at 616–18.

157. *Id.* at 618–21.

158. 20 U.S.C. § 1412(a)(5)(A) (2018). This imperative applies to situations where disabled children study in "public or private institutions or other care facilities," *id.*, which may partly explain why it has served as the normative foundation for reverse mainstreaming. However, this imperative should be read together with another imperative embedded in the "integration presumption," which requires school districts to place disabled students in mainstream classrooms unless such mainstreaming is inappropriate. For more on the relationship between these two imperatives, see *Covo*, *supra* note 4, at 605 n.12, 610–12.

159. 20 U.S.C. § 1412(a)(5)(A) ("To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled . . ."); *Covo*, *supra* note 4, at 610–13.

160. *Covo*, *supra* note 4, at 631–37, 659–60.

161. *Id.* at 618–24 (detailing the rise in popularity of reverse mainstreaming programs in the 1980s and referring to evidence that such programs are still being used across the country).

162. *Id.* at 616–24, 659–61.

163. *Id.* at 659–60.

164. *Id.* at 658–59.

165. *Id.* at 658–59 & n.353 (arguing that educational and legal decisionmakers sometimes conflate traditional and reverse mainstreaming).

c. *Federal Regulations Pertaining to Medicaid Funding for Home and Community-Based Services.* — Similar to the IDEA, federal regulations, as interpreted by the Supreme Court,<sup>166</sup> mandate that states provide disabled individuals with services that allow such individuals to live in the community—that is, in settings that enable them “to interact with nondisabled persons to the fullest extent possible.”<sup>167</sup>

The straightforward way to meet this standard, of course, is to provide services where other nondisabled persons reside. A few organizations, however, have done the opposite: they bring *nondisabled* residents into housing complexes and projects designed to serve disabled persons.<sup>168</sup> Yet

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166. *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 600 (1999) (holding that “unjustified institutional isolation of persons with disabilities is a form of discrimination”).

167. 28 C.F.R. pt. 35 app. B (2024). This requirement is not absolute, however. Most notably, the Supreme Court held that a state could avoid liability if it shows “that, in the allocation of available resources, immediate relief for the plaintiffs would be inequitable, given the responsibility the State has undertaken for the care and treatment of a large and diverse population of persons with mental disabilities.” *Olmstead*, 527 U.S. at 604.

168. In most cases, these are communities in rural areas where the majority of the residents are disabled persons; the nondisabled residents usually serve as volunteers who join the community for limited periods. See Dan McKanan, *Camphill and the Future: Spirituality and Disability in an Evolving Communal Movement 2* (2020) (noting that the nondisabled residents of Camphill accommodate themselves to the community’s lifestyle, which is centered around disabled persons’ “distinctive gifts and needs”); Carrie Griffin Basas, *Olmstead’s Promise and Cohousing’s Potential*, 26 Ga. St. U. L. Rev. 663, 678–79 (2010) (describing “[i]ntentional communities of people with disabilities and non-disabled co-residents”); Identity & Mission, L’Arche Int’l, <https://www.larche.org/about-larche/identity-and-mission/> [<https://perma.cc/3PKN-3S4E>] (last visited Oct. 31, 2023) (describing L’Arche’s communities where “people with and without intellectual disabilities[] shar[e] life in communities”); Katie O’Connor, *Icelandic Community for People With Disabilities Built on Reverse Integration, Sustainability*, Am. Psychiatric Assoc.: Psychiatric News (Dec. 8, 2020), <https://psychnews.psychiatryonline.org/doi/10.1176/appi.pn.2020.12b3> [<https://perma.cc/KV2X-BDMX>] (“Sólheimar is an example of ‘reverse integration,’ meaning the community developed based on the needs of its residents with disabilities, and those without disabilities adapted to their needs.”); Residential Volunteers, Innisfree Village, <https://www.innisfreevillage.org/volunteer/> [<https://perma.cc/A2XS-7G7R>] (last visited Oct. 31, 2023) (“[F]ull-time, residential volunteers . . . liv[e] side-by-side with Innisfree’s residents with intellectual disabilities, known as coworkers.”). Other programs of inverse integration in housing take different forms. See, e.g., Affordable Housing for Social Inclusion, Can. Mortg. & Housing Corp. (Mar. 10, 2021), <https://www.cmhc-schl.gc.ca/en/nhs/nhs-project-profiles/2020-nhs-projects/affordable-housing-social-inclusion> [<https://perma.cc/W6X2-4Z9C>] (discussing a Canadian “reverse inclusion” housing project, which would “bring the wider community into housing for people with developmental disabilities, potentially leading to increased social inclusion”); Frequently Asked Questions, Luna Azul, <https://www.lunaphx.com/faqs/> [<https://perma.cc/HXG4-XGTA>] (last visited Oct. 31, 2023) (“Luna Azul is designed to be suitable for everyone, especially those who may have life challenges, including those with intellectual, developmental, acquired and physical disabilities. We welcome residents of all ages, abilities and disabilities . . . .”); Phoebe Petrovic, *Wisconsin Parents Team Up to Build Housing for Their Adult Children With Disabilities*, Wis. Pub. Radio (Jan. 24, 2019), <https://www.wpr.org/wisconsin-parents-team-build-housing-their-adult-children-disabilities> [<https://perma.cc/3RYG-HFTE>] (“Home of

the Centers for Medicare and Medicaid Services (CMS) recently clarified that, in general, such settings do not qualify as home and community-based services (HCBS)<sup>169</sup> and thus are ineligible for HCBS funding.<sup>170</sup> In other words, bringing nondisabled individuals from the community into a disability-focused setting is not a “sufficient strategy for complying with the community integration requirements.”<sup>171</sup>

2. *Inverse Integration Modifications.* — As noted, several disability rights laws contain mandates that require covered entities to provide reasonable accommodations to disabled persons, as long as the requested accommodation does not impose “undue hardship” or fundamentally alter the nature of the service in question.<sup>172</sup> In most cases, the requested accommodations are being provided directly by employers, schools,

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Our Own dreamed up a specific plan: an integrated community in small-town New Glarus, welcoming residents of all abilities and incomes.”).

169. While Medicaid requires states to provide funding for long-term services and supports in institutional settings and nursing homes, the provision of long-term care in home and community-based settings depends on the existence of state “waiver” programs. See 42 U.S.C. § 1396n(c) (2018) (establishing the state waiver requirements); Mandatory and Optional Benefits, Medicaid & CHIP Payment & Access Comm’n, <https://www.macpac.gov/subtopic/mandatory-and-optional-benefits/> [<https://perma.cc/5EGT-V6ER>] (last visited Oct. 31, 2023) (explaining the application of state waiver program requirements to long-term services and supports). For a detailed analysis of this “institutional bias” in the context of long-term care, see Larisa Antonisse, Note, Strengthening the Right to Medicaid Home and Community-Based Services in the Post-COVID Era, 121 Colum. L. Rev. 1801, 1817–26 (2021).

170. According to CMS’s final rule, to qualify as a home and community-based setting, a setting must be “integrated in and support[] full access of individuals receiving Medicaid HCBS to the greater community” and must provide opportunities to “receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.” 42 C.F.R. § 441.301(c)(4)(i) (2024). Moreover, the setting must not create the “effect of isolating individuals receiving Medicaid HCBS from the broader community.” *Id.* at § 441.301(c)(5)(v). It appears that residential communities that include inverse-integration components do not satisfy the “community-based” requirements under that rule. See McKanan, *supra* note 168, at 201–04 (discussing the rule’s application in the context of a residential community that employs a “reverse inclusion” approach); Barbara Coulter Edwards, Sharon Lewis, Rachel Patterson & Lilly Hummel, Home and Community-Based Services Settings Rule: Community Integration Options and Resident Choice Are Key in Assessment of Co-Located Assisted Living Communities and Inpatient Facilities 2 (n.d.), [https://www.ahcancal.org/Assisted-Living/Policy/Documents/NCALBrief\\_Co-located%20Settings.pdf](https://www.ahcancal.org/Assisted-Living/Policy/Documents/NCALBrief_Co-located%20Settings.pdf) [<https://perma.cc/6FPR-ZD6A>] (last visited Oct. 31, 2023) (noting that CMS has clarified that “reverse integration” strategies “are insufficient to demonstrate community integration”).

171. Letter from Ralph F. Lollar, Div. of Long Term Servs. & Supports Dir., HHS Ctrs. for Medicare & Medicaid Servs., to Matt Wimmer, Div. of Medicaid Adm’r, Idaho Dep’t of Health & Welfare 6 (Sept. 23, 2016), <https://www.aucd.org/docs/policy/HCBS/references/id-initial-approval.pdf> [<https://perma.cc/TQ6E-C9GL>].

172. See, e.g., 42 U.S.C. § 12112(b)(5)(A) (employment); *id.* § 12182(b)(2)(A)(ii) (public accommodations); 28 C.F.R. § 35.130(b)(7)(i) (2024) (public entities).

government agencies, or businesses.<sup>173</sup> Employers, for example, may be required to install accessible toilets in the workplace or provide ergonomic furniture.<sup>174</sup> While the provision of such accommodations may affect nondisabled third parties, such as colleagues or classmates, the impact is usually indirect.<sup>175</sup>

But some requested accommodations require nondisabled third-parties to *directly engage* in a disability-focused activity. Although such accommodations often take place in mainstream settings, some of them constitute inverse-integration practices because they trigger the involvement of nondisabled persons in disability-focused activities. (Recall that inverse and traditional integration practices exist on a spectrum.<sup>176</sup>) Examples of such modifications include: (1) expecting hearing students or employees to use sign language or gestures to accommodate a Deaf classmate<sup>177</sup> or colleague;<sup>178</sup> (2) keeping a certain classroom, playground, or workplace “peanut-free” to accommodate life-threatening allergies of children or employees;<sup>179</sup> and (3) maintaining universal face-mask policies aimed at protecting immunocompromised students or employees from

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173. See generally Emens, Integrating Accommodation, *supra* note 4, at 848–50 (distinguishing between second parties (employers) and third parties (the rest of the population) in the context of disability accommodations).

174. See 42 U.S.C. § 12111(9)(A)–(B) (“[Reasonable accommodations] may include[] making existing facilities used by employees readily accessible to and usable by individuals with disabilities.”).

175. See Emens, Integrating Accommodation, *supra* note 4, at 845–82 (discussing third-party costs and benefits).

176. See *supra* Figure 1 and accompanying text.

177. See, e.g., Redding Elementary Sch. Dist. v. Goyne, No. Civ. S001174WBSGGH, 2001 WL 34098658, at \*6–7, \*6 n.6 (E.D. Cal. Mar. 6, 2001) (describing the ways in which hearing children “learned to communicate comfortably” with Amanda, their Deaf classmate, through voluntary sign language lessons and other class activities that encouraged them to sign (quoting the California Special Education Hearing Officer assigned to the Goyne case)); see also *id.* at \*7 (mentioning that Amanda’s new school will offer a sign language elective for sixth, seventh, and eighth grade students to accommodate Amanda).

178. See, e.g., Keith v. County of Oakland, 703 F.3d 918 (6th Cir. 2013). That case involved a Deaf person who applied for a lifeguard position at a local swimming pool. *Id.* at 918. As an accommodation, it was proposed that the pool would change its Emergency Action Plan (EAP), so that it would not be based solely on sound. *Id.* at 921. According to the proposed revised plan, “To initiate the EAP, lifeguards will be required to signal with a fist in the air, opening and closing it like a siren,” and “[o]nce activated, other lifeguards who are required to maintain their position would put their fist in the air and make the same signal.” *Id.* at 921, 926; see also Murphy v. Mattis, No. 2:14-cv-00400-JAW, 2017 WL 1157086, at \*8 (D. Me. Mar. 27, 2017) (noting that a Deaf employee’s supervisor took six classes offered in basic ASL to better communicate with the employee); Campbell v. Wal-Mart Stores, Inc., 272 F. Supp. 2d 1276, 1290–91 (N.D. Okla. 2003) (noting that a hearing employee “developed several signs used for communicating with” her Deaf colleague, who relied on this communication to perform job assignments, and mentioning that the hearing employee’s requests for ASL training were denied by the employer).

179. See, e.g., Shu, *supra* note 56, at 18 (“[M]any schools regulate peanuts, or all nuts, by implementing policies that ban nuts from certain cafeteria tables, classrooms, or even the entire school.”).



infectious diseases.<sup>180</sup> We may call such practices “inverse-integration modifications.”<sup>181</sup>

In some respects, inverse-integration modifications are the mirror image of inverse-integration affiliation. While inverse-integration affiliation is sometimes the result of a *nondisabled* person’s request to join a disability-focused organization, inverse-integration modifications are sometimes triggered by a disabled person’s request to accommodate their needs in a mainstream setting.<sup>182</sup> And while nondisabled persons generally do not have the legal right to be affiliated with a disability-specific organization, nondisabled persons may be *required* to engage in disability-focused activities under the ADA’s accommodation mandate.

Indeed, while it is rare for inverse-integration modifications to be litigated, recent developments involving COVID-19 accommodations suggest that some courts recognize that the ADA’s accommodation mandate may include requiring *nondisabled* persons to engage in disability-focused activities. For example, several federal courts have upheld universal mask mandates in schools, specifically to accommodate immunocompromised students.<sup>183</sup> The implications of these judgments are limited for a number of reasons, including the fact that most of them were rendered in the

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180. See, e.g., Mical Raz & Doron Dorfman, *Bans on COVID-19 Mask Requirements vs Disability Accommodations*, JAMA Health Forum, Aug. 6, 2021, at 1, 2, <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2782893> [<https://perma.cc/9K8J-SCSM>] (arguing that allowing immunocompromised employees to “require masking of unvaccinated individuals in their presence” is a reasonable disability accommodation); *infra* note 183 and accompanying text.

181. The category of inverse-integration modifications is both narrower and broader than what Professor Doron Dorfman calls “Third-Party Accommodations.” See Doron Dorfman, *Third-Party Accommodations*, 123 Mich. L. Rev. (forthcoming 2025) (manuscript at 3), <https://ssrn.com/abstract=4742287> [<https://perma.cc/X57H-MPZ4>]. Narrower, because Dorfman’s category includes modifications that do not involve inverse integration, such as no-smoking policies. *Id.* at 19. Broader, because Dorfman’s category pertains only to behaviors that “are not job-related,” *id.* at 16, and so requiring nondisabled employees to communicate with a deaf coworker using sign language seems to fall outside Dorfman’s category. For examples of such inverse-integration modifications, see *supra* notes 177–178.

182. See Leslie A. Zukor, *Letter to the Editor: Wear a Mask for People Like Me*, Colum. Spectator (Feb. 24, 2022), <https://www.columbiaspectator.com/opinion/2022/02/24/letter-to-the-editor-wear-a-mask-for-people-like-me/> [<https://perma.cc/4SF6-Q7K9>] (asking the Columbia community to wear face masks indoors to relieve the burden faced by “disabled and immunocompromised Columbians”).

183. Notably, these cases arose primarily in states that prohibited school districts from implementing such mask policies. See, e.g., *Arc of Iowa v. Reynolds*, 24 F.4th 1162, 1179 (8th Cir. 2022), reh’g granted and opinion vacated, No. 21-3268, 2022 WL 898781 (8th Cir. Mar. 28, 2022), and vacated, 33 F.4th 1042 (8th Cir. 2022); *G.S. ex rel. Schwaigert v. Lee*, No. 21-5915, 2021 WL 5411218, at \*3 (6th Cir. Nov. 19, 2021); *Doe 1 v. Perkiomen Valley Sch. Dist.*, 585 F. Supp. 3d 668, 685–99 (E.D. Pa. 2022); *Seaman v. Virginia*, 593 F. Supp. 3d 293, 324–27 (W.D. Va. 2022), appeal dismissed, No. 22-1455, 2022 WL 15798679 (4th Cir. Aug. 24, 2022). But see, e.g., *E.T. v. Paxton*, 19 F.4th 760, 768 (5th Cir. 2021) (“[T]he record before us likely does not support the conclusion that a mask mandate would be both *necessary* and *obvious* under the ADA or the Rehabilitation Act.”).

context of a preliminary proceeding.<sup>184</sup> It therefore remains to be seen whether and to what extent these developments unfold in the masking context or expand to other areas, such as requiring nondisabled persons to learn sign language or avoid allergens—accommodations that have so far been made primarily voluntarily.<sup>185</sup>

In any event, because courts primarily use a cost-benefit analysis to determine the “reasonableness” of an accommodation,<sup>186</sup> judicial analysis of inverse-integration modifications is likely to involve balancing the benefits that accrue to the disabled person (and the public at large) from the requested modification<sup>187</sup> against the costs involved in requiring nondisabled third parties (e.g., classmates, colleagues) to engage in a disability-focused activity.<sup>188</sup> Thus, even if a court is generally inclined to recognize inverse-integration modifications, it may nevertheless refuse to uphold specific accommodations or modifications because of the perceived costs involved in implementing them.<sup>189</sup>

3. *Sustained Engagement With Disability-Focused Activities.* — The third category of inverse integration is a residual one, consisting of situations in which people without impairments engage in disability-focused activities regardless of affiliation or accommodation. For example, some hearing people may learn sign language independently, perhaps to communicate

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184. In one case, *Seaman*, 593 F. Supp. 3d 293, the parties reached a settlement according to which “schools must make accommodations under federal disability law if a child with a disability requires peer and teacher masking.” Media Contact, Parents and State Settle Lawsuit on School Masking Accommodations for Students with Disabilities, ACLU Va. (Dec. 12, 2022), <https://www.acluva.org/en/press-releases/parents-and-state-settle-lawsuit-school-masking-accommodations-students-disabilities> [<https://perma.cc/QAP8-6EBS>].

185. *Supra* notes 177–179 and accompanying text.

186. *Vande Zande v. Wis. Dep’t of Admin.*, 44 F.3d 538, 542–43 (7th Cir. 1995); *Borkowski v. Valley Cent. Sch. Dist.*, 63 F.3d 131, 142 (2d Cir. 1995).

187. For example, in the *Keith* case discussed *supra* note 178, the court discussed how a modification that would require lifeguards to use physical gestures and signs in addition to a siren in a time of emergency “would improve the [Emergency Action Plan] for everyone . . . . It would allow other lifeguards and staff to see the [Emergency Action Plan] visually if they are not in a position to hear it.” *Keith v. County of Oakland*, 703 F.3d 918, 926 (6th Cir. 2013); see also *Doe I*, 585 F. Supp. 3d at 704 (“[P]rotecting public health, and specifically, preventing the spread of COVID-19, is a compelling public interest.”).

188. Compare *Arc of Iowa*, 24 F.4th at 1178 (“Requiring masks also is not an unreasonable infringement on third parties’ rights.”), with *Seaman*, 593 F. Supp. 3d at 329 (“[H]aving to wear a mask can be uncomfortable, especially for extended periods. It is no small thing for schools or health officials to ask (or require) persons to wear masks for substantial periods in order to reduce risk of spread of COVID-19.”).

189. For example, in *U.S. Airways, Inc. v. Barnett*, the Supreme Court held that, “in the run of cases,” the reassignment of a disabled employee to another position would be deemed unreasonable if it conflicted with “the interests of other workers with superior rights to bid for the job under an employer’s seniority system.” 535 U.S. 391, 393–94, 402–03 (2002).

with family members or to enjoy the benefits associated with vision-based communication.<sup>190</sup>

Federal and state laws are largely silent with respect to this category of inverse integration. Legally speaking, a nondisabled person can decide to ride a wheelchair,<sup>191</sup> use a cane as a fashion accessory,<sup>192</sup> wear “adaptive clothing,”<sup>193</sup> or communicate in sign language<sup>194</sup> without first asking for permission. Or they may choose not to do so. In most situations, unless any form of fraud is involved, none of these decisions will result in a legal sanction, although they may ignite social backlash.<sup>195</sup> At the same time, the law generally does not provide nondisabled persons any protection from adverse action by employers or schools for engaging in such disability-focused activities.<sup>196</sup>

In sum, while some legal provisions may inadvertently encourage or require the engagement of nondisabled persons in disability-focused settings or activities, it is clear that disability rights statutes in the United States were not designed to promote inverse integration. In fact, some of these laws and regulations push *against* inverse integration, implicitly conveying the message that the practice is not a desirable outcome, at least as far as the law is concerned. In this respect, the legal norms concerning inverse integration are consistent with the social norms in that they are unlikely to be the primary motivating factor behind inverse integration.

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190. See Supalla et al., *supra* note 20, at 44 n.5, 46 (describing how hearing students may choose to attend “signed language schools,” in part to be “enriched by the signed language and culture”).

191. See Stevens, *supra* note 76 (discussing the use of wheelchairs and other disability-focused instruments by people without impairments).

192. See Blake Lively Uses a CANE in NYC but It Appears to Just Be a Prop to Go With Her Eye-Catching Suit, *Daily Mail* (Sept. 10, 2018), <https://www.dailymail.co.uk/tvshowbiz/article-6152011/Blake-Lively-spotted-walking-cane-New-York-City-wearing-eye-catching-suit.html> [<https://perma.cc/4SZC-SGVY>] (discussing a celebrity’s use of a cane as a fashion accessory); John Jannuzzi, *New York Mag Says Canes Are a Thing. We Say No*, *GQ* (Apr. 9, 2014), <https://www.gq.com/story/new-york-mag-canes> (on file with the *Columbia Law Review*) (discussing canes as a fashion accessory).

193. Abigail Malbon, *Selma Blair Wants to Create an Accessible Fashion Line for Disabled People After MS Diagnosis*, *Cosmopolitan* (Mar. 1, 2019), <https://www.cosmopolitan.com/uk/fashion/celebrity/a26585041/selma-blair-fashion-line-ms/> [<https://perma.cc/9DWE-YVU2>] (reporting actress Selma Blair’s desire to design an adaptive clothing line “for everyone—not just people who necessarily need adaptive clothing, but for those who want comfort, too”).

194. See Supalla et al., *supra* note 20, at 44 n.5, 46 (describing how hearing students may attend “signed language schools”).

195. See Timothy Reagan, *The Politics of L2/Ln Sign Language Pedagogy*, in *The Routledge Handbook of Sign Language Pedagogy* 262, 271 (Russell S. Rosen ed., 2020) (referring to some uses of sign language by hearing people as a “sociolinguistic territorial invasion” (quoting Jerome D. Schein & David A. Stewart, *Language in Motion: Exploring the Nature of Sign* 155 (1995))); sources cited *supra* note 106.

196. See *infra* notes 398–405 and accompanying text.

Thus, the question remains: What are the primary forces driving inverse integration? In other words, why would people find this practice desirable? One possible answer, this Article argues, has to do with interpersonal relationships. The next Part sets out to prove this hypothesis.

### III. INVERSE INTEGRATION: A RELATIONSHIP-BASED MODEL

This Part demonstrates how inverse integration allows disabled and nondisabled persons to develop new relationships and maintain existing ones. It uses research by social scientists<sup>197</sup> and legal scholars,<sup>198</sup> who have identified the building blocks of meaningful interpersonal relationships, to show how these elements are at play in the context of inverse integration. Specifically, this Part examines the following factors: common language<sup>199</sup> and dialogue,<sup>200</sup> shared experiences,<sup>201</sup> and reciprocity.<sup>202</sup>

#### A. *Communication and Dialogue*

Sociologists have long recognized that interpersonal communication is essential for forming, maintaining, and describing our relationships with family members, friends, and intimate partners. Indeed, as social

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197. See *infra* notes 199–201.

198. See, e.g., Hanoch Dagan, *Restitution and Relationships*, 92 B.U. L. Rev. 1035, 1040–41 (2012) (referring to reciprocity, trust, and mutual support as necessary elements of relationships); Elizabeth F. Emens, *On Trust, Law, and Expecting the Worst*, 133 Harv. L. Rev. 1963, 1994 (2020) (reviewing Jill Elaine Hasday, *Intimate Lies and the Law* (2019)) (noting that relationships generally depend on trust and that intimate relationships generally involve interdependency); Ethan J. Leib, *Friendship & the Law*, 54 UCLA L. Rev. 631, 642–46 (2007) (enumerating the following characteristics among the “attributes that friendships may instantiate”: voluntariness, intimacy, reciprocity, warmth, mutual assistance, equality, and duration over time).

199. See Steve Duck, *Human Relationships* 10–13, 34–35 (4th ed. 2007) (“Communication, language, and all that is culturally encoded within it are thus crucial bases for establishing conduct for human relationships and their quality.”).

200. *Id.* at 12 (“Talk composes relationships—whether they are starting, getting better, disintegrating, or just carrying on. Everyday talk creates intimacy, pulls families together, enacts friendship and ‘does’ social support. Talk changes relationships, expresses emotion, handles conflict, and indicates affection . . . . Talk declares love, desires, goals and relational fantasies.” (citations omitted)).

201. See Graham A. Allan, *A Sociology of Friendship and Kinship* 41–42 (Routledge 2022) (1979); Duck, *supra* note 199, at 63 (describing “the importance of shared activity—and in particular exciting shared activity—in the process of developing love”).

202. See Allan, *supra* note 201, at 43–44; Harold H. Kelley, Ellen Berscheid, Andrew Christensen, John H. Harvey, Ted L. Huston, George Levinger, Evie McClintock, Letitia Anna Peplau & Donald R. Peterson, *Close Relationships* 38 (1983) (defining close relationships as involving “strong, frequent, and diverse interdependence that lasts over a considerable period of time” (emphasis omitted)); Shakespeare, *supra* note 25, at 190 (“[R]eciprocity is a necessary feature of friendship—each serves a function for the other, and there is give and take in the relationship.”); Philip Blumstein & Peter Kollock, *Personal Relationships*, 14 Ann. Rev. Socio. 467, 476 (1988) (identifying interdependence as an essential element in relationships).

psychologist Steve Duck has observed, “language is the medium through which many relationship activities are conducted.”<sup>203</sup> Because inverse integration allows nondisabled and disabled persons to share a common language, one can view this practice as satisfying that need.

Consider, for example, a hearing child whose parents and siblings are Deaf. If the child wants to engage in a meaningful conversation with a family member without intermediaries or assistive devices, then the likely method of communication is ASL.<sup>204</sup> Even in the opposite scenario, where only one family member is Deaf, the rest of the family will also likely use ASL to communicate.<sup>205</sup> Similarly, some sighted people learn Braille and use it to write personal letters to their blind family members.<sup>206</sup>

The idea that hearing people’s use of sign language can foster meaningful relationships is illustrated in the work of cultural anthropologist Nora Groce, who studied the history of the Deaf community on Martha’s Vineyard.<sup>207</sup> Groce found that during the seventeenth and eighteenth centuries, Deaf residents on the island accounted for a much larger proportion of the population compared to other geographic locations.<sup>208</sup> She also found that during that time, “the deaf were completely integrated into all aspects of society.”<sup>209</sup> But it wasn’t the ability to read lips<sup>210</sup> or the use of written notes,<sup>211</sup> translators,<sup>212</sup> or hearing aids that facilitated such integration; rather, at least in some parts of the island, all of the hearing residents were bilingual—fluent in both English and sign language.<sup>213</sup> In fact, the use of sign language was so entrenched among the local hearing

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203. Duck, *supra* note 199, at 10.

204. See Supalla et al., *supra* note 20, at 44 n.5, 46; see also Alina Tugend, *How Robots Can Assist Students With Disabilities*, N.Y. Times (Mar. 29, 2022), <https://www.nytimes.com/2022/03/29/technology/ai-robots-students-disabilities.html> (on file with the *Columbia Law Review*) (“When I have to use a smartphone or laptop when talking to someone, I can’t maintain face-to-face contact.” (quoting Roshan Mathew, a Deaf student)).

205. See, e.g., Sonja Sharp, *Deaf Education Vote Is the Latest Parents’ Rights Battleground in L.A.*, L.A. Times (May 10, 2022), <https://www.latimes.com/california/story/2022-05-10/deaf-educators-want-asl-la-unified-bilingual-program> (on file with the *Columbia Law Review*) (describing how the hearing parents of a Deaf child started learning ASL when the child was two years old).

206. Godin, *supra* note 20, at 145.

207. Nora Ellen Groce, *Everyone Here Spoke Sign Language: Hereditary Deafness on Martha’s Vineyard* (1985).

208. *Id.* at 3.

209. *Id.* at 4.

210. *Id.* at 57 (“All communication was in sign language, for it seems that none of the deaf Vineyarders read lips.”).

211. *Id.*

212. *Id.* at 63 (“[T]here was little need for translators on a day-to-day basis.”). During Sunday church sermons and town meetings, however, a hearing person translated the discussions into sign language. *Id.* at 62–63.

213. *Id.* at 53.

population that they would reportedly sign even when Deaf people were not present.<sup>214</sup>

The integration Groce has documented was not limited to formal, transactional contexts.<sup>215</sup> During those years, Deaf and hearing people on Martha's Vineyard "intermingled everywhere—at home, at the general store, at church, at parties."<sup>216</sup> Indeed, close personal friendships on the island were not based on hearing ability. Rather, such friendships were based on where someone grew up or who lived nearby.<sup>217</sup> As a result, Deaf individuals were always part of, and never excluded from, discussions, telling jokes, and social gatherings.<sup>218</sup> Approximately eighty percent of the Deaf people who lived to marriageable age married hearing or Deaf persons<sup>219</sup>—almost double the marriage rate of the general deaf population in the United States during the nineteenth century.<sup>220</sup>

Inverse integration still plays a similar role in intimate relationships. A recent "Modern Love" column in the *New York Times* provides an example.<sup>221</sup> In that essay, Ross, a Deaf person, recounts how touched he was when Will, a hearing man he was dating, sent him a video message in ASL.<sup>222</sup> While many of Ross's previous dates had promised to learn ASL, Will was the first to keep his word.<sup>223</sup> Notably, Will's gesture was more symbolic than practical since Ross could read lips.<sup>224</sup> The anecdote illustrates how the willingness of a nondisabled person to enter the disabled person's world is a precondition for facilitating communication and trust. As Ross notes, "Relationships only move forward once the work of communication begins."<sup>225</sup>

As social scientists have observed, language sometimes fosters and defines relationships by *excluding* others from the conversation. Such is the case, for example, when intimate partners develop private languages,

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214. *Id.* at 63–67.

215. *Id.* at 75 ("There was no language barrier and, by extension, there seems to have been no social barrier.").

216. *Id.* at 87; see also *id.* at 50 (noting that Deaf people "were included in all of the community's work and play situations").

217. *Id.* at 93.

218. *Id.* at 59–61, 90–94.

219. *Id.* at 50, 78–79.

220. *Id.* at 79.

221. Ross Showalter, *A Love Language Spoken With Hands*, *N.Y. Times* (Dec. 17, 2021), <https://www.nytimes.com/2021/12/17/style/modern-love-deaf-sign-language.html> (on file with the *Columbia Law Review*).

222. *Id.* For another instance in which a hearing person learned sign language after entering a romantic relationship with a Deaf person, see *Mullen v. S. Denver Rehab., LLC*, No. 18-cv-01552-MEH, 2020 WL 2557501, at \*2 (D. Colo. May 20, 2020).

223. Showalter, *supra* note 221.

224. *Id.*

225. *Id.* But see Kusters, *supra* note 118, at 7 (noting that even in several shared signing communities, "deaf people typically have more problems than hearing people in finding a marriage partner" (citing numerous disability scholars)).

which “draw boundaries around the relationship,” and help “personalize” the couple’s communication.<sup>226</sup> This role of language in shaping relationships is particularly pertinent to inverse integration. In Martha’s Vineyard, for example, hearing and Deaf people used sign language when they wanted to separate themselves from off-Islanders<sup>227</sup> or when speaking was not allowed, such as in school.<sup>228</sup> The engagement of sighted people with Braille tells a similar, though not identical, story:<sup>229</sup> Some sighted people have used Braille to exchange notes with a blind peer during class.<sup>230</sup>

Educators and scholars, too, have recognized that the acquisition of nonverbal language by nondisabled individuals can be perceived as a tool to improve existing interpersonal relationships. One example is David Bartlett’s “Family School”—a school for Deaf children and their hearing siblings that operated between 1852 and 1861.<sup>231</sup> At the time, this school was deemed “revolutionary,” in part because *all* students—hearing and Deaf—were taught to sign and instruction was conducted in sign language.<sup>232</sup> Bartlett believed that by acquiring sign language skills, a hearing child would serve as an interpreter between a Deaf sibling and other family members.<sup>233</sup> Almost 150 years later, Professor Martha Minow would propose a similar solution.<sup>234</sup> In 1990, she advocated integrating hearing-impaired children into mainstream classrooms where teachers would simultaneously instruct *all* students using both spoken and sign language.<sup>235</sup> In Minow’s view, that solution would address the “problem of difference” by focusing on “the *relationships* among all the students.”<sup>236</sup>

The idea that interpersonal relationships are the organizing principle of at least some inverse-integration practices can also be gleaned from the research regarding ASL courses in U.S. high schools. That research shows that there has been an exponential growth in hearing students’ demand

226. Duck, *supra* note 199, at 34–35.

227. Groce, *supra* note 207, at 66 (“[U]se of [sign] language was a way to delineate who was and who was not a member of the community. Island people frequently maintained social distance from off-Islanders by exchanging comments about them in sign language . . .”).

228. *Id.* at 63–64.

229. Interestingly, one of the early tactile reading systems was invented as a method for conveying messages in the dark. Godin, *supra* note 20, at 134–35. The idea behind that system, which its inventor referred to as “night writing,” was that tactile messages would allow (sighted) soldiers to convey intelligence reports “without alerting the enemy.” *Id.* Although this use of tactile writing was not in furtherance of developing a personal relationship, it still illustrates how this writing system can be used to maintain privacy.

230. See *id.* at 144.

231. Van Cleve, *supra* note 136, at 118.

232. Edward L. Scouten, *Turning Points in the Education of Deaf People* 118 (1984).

233. Van Cleve, *supra* note 136, at 118–19.

234. Minow, *All the Difference*, *supra* note 4, at 84.

235. *Id.*

236. *Id.* (emphasis added).

for such courses and that the reason articulated for that demand is that hearing students wish to maintain relationships with their Deaf classmates.<sup>237</sup> Thus, while school administrators were hoping that the IDEA's "mainstreaming" of deaf and hard-of-hearing students into the general education system would improve the oral communication skills of deaf and hard-of-hearing students,<sup>238</sup> the mainstreaming process has instead led to an inverse outcome: Hearing students now request ASL courses so that they can communicate better with their Deaf classmates.

#### B. *Shared Experiences*

The second building block of interpersonal relationships identified by scholars has to do with shared experiences. The theory is that shared experiences are a necessary component in developing close interpersonal relationships because it is through such activities and shared memories that we maintain rapport and affinity.<sup>239</sup> Scholars have particularly pointed to activities that involve excitement, physical activity, and joy as playing a critical role in the development of close relationships.<sup>240</sup>

When it comes to inverse integration, the involvement of nondisabled persons in disability-focused frameworks has proven successful in allowing people to share a variety of activities, even when traditional integration measures fall short. Wheelchair sports are a prime example of this phenomenon. For instance, Daniel Sadler, who is nondisabled but was "one of the best wheelchair racers in Britain," credits his interest in the sport to his desire to spend time with his father, who was a wheelchair user.<sup>241</sup> As he recalled in an interview, "[B]ecause my dad was a wheelchair racer for 20 years, it seemed the natural thing to me to do."<sup>242</sup> Other inverse-integration practices, particularly those pertaining to sports

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237. See Rosen, *ASL as a Foreign Language*, *supra* note 7, at 12–13, 19 (describing how the integration of deaf and hard-of-hearing students into classrooms caused hearing students and teachers to "increasingly request courses in ASL and the American Deaf community and culture").

238. *Id.* at 13.

239. See sources cited *supra* note 201.

240. Duck, *supra* note 199, at 63; Janet E. Lord & Michael Ashley Stein, *Social Rights and the Relational Value of the Rights to Participate in Sport, Recreation, and Play*, 27 *B.U. Int'l L.J.* 249, 271 (2009) (referring to the "potential for sport, recreation and play to serve as relational vehicles").

241. Tom Fordyce, *Sadler's Sit-Down Protest*, BBC (Apr. 3, 2002), [http://news.bbc.co.uk/sport2/hi/other\\_sports/1909192.stm](http://news.bbc.co.uk/sport2/hi/other_sports/1909192.stm) [<https://perma.cc/M9Q8-JGQQ>].

242. *Id.*



competitions,<sup>243</sup> summer camps,<sup>244</sup> educational programs,<sup>245</sup> and culture and recreation activities,<sup>246</sup> also allow nondisabled family members to share activities with their disabled siblings, parents, and children.

Indeed, when families want to share a leisure activity together, the need to accommodate one family member may drive decisions about what activities to pursue as a family. The ability to accommodate a disabled family member, however, may depend on whether disability-focused leisure activities are available where the family lives.

This point can be illustrated by Professor Elizabeth Emens's work.<sup>247</sup> Using a hypothetical involving two cities—Accessible City (A-City) and Inaccessible City (I-City)—Emens demonstrated that the level of urban accessibility could bolster or hinder the ability of a disabled person to date a nondisabled person (and vice versa). Her hypothetical, which has now become well known,<sup>248</sup> recounted the story of Janet, a young lawyer who used a wheelchair, and John, a nondisabled librarian.<sup>249</sup> In A-City, John and Janet could “go wherever they please[d] together—parks, museums, restaurants, bars.”<sup>250</sup> In I-City, by contrast, “dating proves difficult. . . . Most restaurants have steps up to their entrance” and “[m]ovie theaters and stores are all hit or miss in their accessibility.”<sup>251</sup> According to Emens, this

243. Carter et al., *supra* note 133, at 940–41, 944; Yeshayahu Hutzler, Rachel Barda, Ahuva Mintz & Tali Hayosh, Reverse Integration in Wheelchair Basketball: A Serious Leisure Perspective, 40 *J. Sport & Soc. Issues* 338, 348 (2016) (“I [a nondisabled interviewee] have two disabled parents, both played wheelchair basketball for many years. My mom still plays today, so I grew up in this sport.” (quoting study interviewee)); Joan Medland & Caroline Ellis-Hill, Why Do Able-Bodied People Take Part in Wheelchair Sports?, 23 *Disability & Soc’y* 107, 110 (2008) (“[M]ost able-bodied wheelchair athletes became involved in wheelchair sports due to a disabled member of their family or a friend recruiting them into the sport . . .”); Powers, *supra* note 150 (noting that a nondisabled person first took an interest in wheelchair racing to share the same sport as his brother, a paraplegic person).

244. See, e.g., Frequently Asked Questions, Camp Yakety Yak, <https://www.campyaketyyak.org/faq> [<https://perma.cc/3JVX-UQE3>] (last visited Nov. 1, 2023) (“Typically, our peer models are siblings of campers with special needs and they come to enjoy the camp activities and model strong participation and friendship skills.”).

245. Covo, *supra* note 4, at 622.

246. Hannah Booth, Theatre Shows Autistic Children Can Enjoy, *The Guardian* (May 25, 2013), <https://www.theguardian.com/lifeandstyle/2013/may/25/theatre-shows-autistic-children> [<https://perma.cc/43U6-36DF>] (“Many parents told us how nice it was to do something as a family for once—rather than taking their autistic child off with other autistic kids.”); Vidya Viswanathan, Making Theater Autism-Friendly, *The Atlantic* (Apr. 6, 2015), <https://www.theatlantic.com/health/archive/2015/04/making-theater-autism-friendly/388348/> (on file with the *Columbia Law Review*) (noting that an eight-year-old girl, whose brother is autistic, has seen “all the autism-friendly shows”); see also Booth, *supra* (“Siblings of autistic children often attend relaxed performances.”).

247. Emens, *Intimate Discrimination*, *supra* note 24, at 1316.

248. Elizabeth F. Emens, The Art of Access: Innovative Protests of an Inaccessible City, 47 *Fordham Urb. L.J.* 1359, 1360–61 (2020).

249. Emens, *Intimate Discrimination*, *supra* note 24, at 1370.

250. *Id.*

251. *Id.*

hypothetical shows how access (or lack thereof) can affect intimate relationships.<sup>252</sup>

For our purposes, let us consider a variation of Emens's hypothetical. Imagine that Janet and John continued dating in A-City and got married. Ten years and two children later, they move to a new town, replete with opportunities to engage with disability culture. In this city, which we can call "Inverse Integration City," (I-City) Janet and John join a wheelchair dancing club, where everyone uses a wheelchair, and a wheelchair basketball league, where disabled and nondisabled persons practice. In addition, John and Janet go to supermarkets and zoos only during "quiet hours"<sup>253</sup> because their seven-year-old, Jeremy, who is autistic, finds loud noise and bright lights overwhelming. On weekends, Janet and John take the entire family on "tactile tours" in the local museum, where everyone, not just blind people, is allowed to touch the art.<sup>254</sup> They also go to a Deaf theater, where their hearing children can understand the play without the simultaneous translation because they learned ASL in school.

As this hypothetical suggests, this new I-City offers a much more promising future for Janet and John's family than A-City, because it provides opportunities for each member of the family to integrate into the others' "disabled world," and ultimately into strangers' disabled worlds.

It is important not to paint a too-rosy picture of such family-based inverse-integration practices. One reason is that the involvement of nondisabled family members in disability-focused frameworks raises

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252. *Id.* at 1372.

253. "Quiet hours" are offered by supermarkets, museums, zoos, and shopping malls in the United States and worldwide. See, e.g., Joanne Cleaver, *Combating Sensory Overload: How Zoos and Museums Are Redefining Inclusion*, *N.Y. Times* (Apr. 22, 2022), <https://www.nytimes.com/2022/04/22/travel/sensory-disabilities-travel.html> (on file with the *Columbia Law Review*) (last updated Apr. 25, 2022) (describing how the quiet hours introduced by a North Carolina mall—whereby music was not played to reduce stimuli—allowed a family with an autistic member to "finally have the classic holiday experience" as an entire family); Lauren Del Valle, *Stores Offer Quiet Shopping for Families of Kids With Autism*, *CNN* (Dec. 9, 2016), <https://www.cnn.com/2016/12/09/health/sensory-friendly-shopping/index.html> [<https://perma.cc/KE74-CJGZ>]. Most of these programs are open to both disabled and nondisabled persons. Matt Kempner, *Atlanta Malls Offer Quiet Holiday Shopping Hour for Kids Who Need It*, *Atlanta J.-Const.* (Dec. 6, 2019), <https://www.ajc.com/news/atlanta-malls-offer-quiet-holiday-shopping-hour-for-kids-who-need/MOujCqUhRjbeGEBo68qDOL/> [<https://perma.cc/RQZ9-2DXT>]. And at least some nondisabled persons reported benefitting from these programs. See Eleanor Ainge Roy, *New Zealand Supermarket Launches 'Quiet Hours' for Customers With Autism*, *The Guardian* (Oct. 8, 2019), <https://www.theguardian.com/world/2019/oct/09/new-zealand-supermarket-launches-quiet-hours-for-customers-with-autism> [<https://perma.cc/M87p-WR8C>]. But see Morrison's "Quiet Hour" for Autistic Shopping Introduced, *BBC* (July 19, 2018), <https://www.bbc.com/news/uk-44884183> [<https://perma.cc/3679-TT8X>] (quoting a mother of an autistic child as saying she would like to see "a time zone where disabled children, young adults and so on—not just with autism but other disabilities—should be allowed to shop without the normal public in the shops").

254. See *infra* note 405 and accompanying text (discussing "tactile" tours in museums).

concerns about paternalism.<sup>255</sup> In fact, in some respects, the motivation to design specific programs for disabled persons may be understood as a way to allow participants to thrive without the familiar restrictions and judgments imposed by mainstream society—and even their own families. In such a case, intergroup experiences may be in conflict with the original purpose of creating a disability-focused framework—facilitating *intragroup* conversations in an uninhibited environment.

Another concern is that disability-focused organizations might shift their responsibility to the nondisabled family member to provide support or accommodations. In other words, even if the integration of nondisabled family members into a disability-focused setting stems from good intentions, there may still be an implicit expectation that the nondisabled participant would share in the work of accommodation. For example, a disability-focused summer camp might rely upon a nondisabled camper to assist in communicating with their nonverbal sibling. This is not only unfair to both campers but may also violate the ADA's regulations.<sup>256</sup>

While these are important concerns, they do not change the underlying principle that may make inverse integration desirable for disabled and nondisabled persons alike: It is a way for family members to do things together. In fact, in some respects, inverse integration is sometimes inevitable when it comes to families including both disabled and nondisabled members.<sup>257</sup>

Inverse integration may promote shared experiences not only at the family level, but also at the community level. One example comes from Deaf culture. For years, Café Crema in San Diego served as a gathering place for Deaf and hearing signers.<sup>258</sup> Weekly “Deaf Nights” at that café provided opportunities for “curious” hearing people to practice their sign language while serving as a platform to form friendships and maintain a signing community.<sup>259</sup> More recently, many cities across the United States

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255. Faye Ginsburg & Rayna Rapp, Family, *in* *Keywords for Disability Studies* 81, 81 (Rachel Adams, Benjamin Reiss & David Serlin eds., 2015) (noting that in disability studies, “families are recognized as potential sites of repression, rejection, and infantilization”).

256. 28 C.F.R. § 36.303(c) (2024) (requiring places of public accommodation to provide auxiliary aids and services to ensure “effective communication” with disabled persons and clarifying that such places generally cannot meet the requirement by relying on disabled individuals’ family members).

257. See Groce, *supra* note 207, at 93 (noting that, in Martha’s Vineyard, “[i]f a deaf Islander wanted to entertain only other deaf individuals, he or she probably would have had to exclude spouse, siblings, children, best friends, or immediate neighbors, all of whom would have been hurt”).

258. Carol A. Padden & Jennifer Rayman, The Future of American Sign Language, *in* *The Study of Signed Languages* 247, 252–53 (David F. Armstrong, Michael A. Karchmer & John Vickrey Van Cleve eds., 2002) (“At the [Café Crema in Pacific Beach], both hearing signers and deaf people gather to socialize.”).

259. *Id.* at 253; Tyler Huff, “Deaf Nights” at Cafe Crema Give Students Opportunity to Converse in Sign Language, U.C. San Diego Guardian (Feb. 24, 2003),

have organized annual “DEAFestivals,” which connect deaf and hearing individuals around elements of Deaf culture and history.<sup>260</sup>

Here again, inverse integration at the community level does not come without costs. Two scholars have pointed out, for example, that Deaf people who attend “Deaf Nights” at Café Crema sometimes get irritated when novice hearing signers ask them for help in fulfilling a “homework assignment” for their ASL class.<sup>261</sup> This reflects a broader notion that must be acknowledged: There is no guarantee that shared experiences will actually improve interpersonal relationships. Still, the same scholars go on to recognize that the “forum of the coffeehouse allows for the building of relationship within the community, as a venue for the symbolic work that takes place in conversations about deaf culture and identity.”<sup>262</sup> Such inverse integration is not limited to special occasions or unique circumstances. Rather, it is often a mundane aspect of social life. In Martha’s Vineyard, for example, hearing children needed to learn sign language so that they could communicate with deaf playmates.<sup>263</sup> Likewise, some nondisabled children have asked their parents to provide them with peanut-free sandwiches so that they could join a friend with allergies during lunch.<sup>264</sup>

Because of their universal nature, inverse-integration modifications may also allow disabled and nondisabled persons to inhabit shared spaces in situations where other methods of integration fail to bring members of the two groups together.<sup>265</sup> For example, designating a peanut-free table

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<https://ucsdguardian.org/2003/02/24/deaf-nights-at-cafe-crema-give-students-opportunity-to-converse-in-sign-language/> [https://perma.cc/92HG-X82Y].

260. See, e.g., Lisa Deaderick, San Diego DEAFestival Is a Celebration of Deaf Culture and Community, San Diego Union-Trib. (Oct. 12, 2019), <https://www.sandiegouniontribune.com/lifestyle/people/story/2019-10-12/san-diego-deafestival-is-a-celebration-of-deaf-culture-and-community> (on file with the *Columbia Law Review*) (noting that the San Diego DEAFestival “is an opportunity for members of both Deaf and hearing communities to connect and celebrate different sign languages and elements of deaf culture and history”); Soraya Mattei, DEAFestival Brings Hearing and Deaf Together, El Vaquero (Oct. 7, 2015), <https://elvaq.com/news/2015/10/07/deafestival-brings-hearing-and-deaf-together/> [https://perma.cc/9HD6-GSRJ] (noting that the Los Angeles DEAFestival provides “a communal space for the deaf and hearing communities”).

261. Padden & Rayman, *supra* note 258, at 253.

262. *Id.*

263. Groce, *supra* note 207, at 54.

264. *Student v. Mystic Valley Reg’l Charter Sch.*, BSEA No. 03-3629, slip op. at 23 (Mass. Bureau of Special Educ. Appeals Mar. 19, 2004); see also Roni Caryn Rabin, In a Children’s Theater Program, Drama Over a Peanut Allergy, N.Y. Times (Jan. 16, 2019), <https://www.nytimes.com/2019/01/16/well/eat/peanut-nut-food-allergy-discrimination.html> (on file with the *Columbia Law Review*) (noting that Mason, a child who has a life-threatening nut allergy, is “active in kung fu, where the group often asks him to choose the snacks”).

265. See, e.g., Katherine Macfarlane, Negotiating Masks in the Workplace: When the ADA Does and Does Not Apply, Petrie-Flom Ctr.: Bill of Health (Mar. 8, 2022),

during lunch may protect a student with a life-threatening peanut allergy, but it may isolate the student from the rest of the class.<sup>266</sup> By contrast, keeping the entire classroom peanut-free—an inverse-integration modification—allows the disabled child to be fully included in all class activities.<sup>267</sup> Similarly, during pandemics such as COVID-19, a universal-masking policy can protect immunocompromised students, while still avoiding the segregating effect of alternative accommodations, such as using plastic barriers or allowing disabled students to attend class virtually.<sup>268</sup> And, of course, if everyone shares the same space, there are more opportunities for intergroup friendships to emerge.

Admittedly, nondisabled students who are required to wear masks or avoid peanut-based products might resent the kinds of inverse-integration modifications discussed above. Such resentment, in turn, can be counterproductive when it comes to facilitating intergroup friendships. This is especially problematic given that disabled children are already at risk of bullying and harassment.<sup>269</sup> Thus, while inverse-integration modifications may allow people to share the same space, they do not necessarily facilitate shared experiences and positive interactions.

There is evidence, however, that some forms of inverse integration provide opportunities to meet people and develop new relationships. Qualitative studies provide support to this proposition by showing that the participation of nondisabled persons in wheelchair sports—both at the elite and recreational levels—led to the formation of intergroup friendships.<sup>270</sup> These studies have also found that such inverse integration

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<https://blog.petrieflom.law.harvard.edu/2022/03/08/masks-workplace-ada-reasonable-accomodation/> [<https://perma.cc/24QT-NGWA>] (“The presence of high-risk people with disabilities simply requires others to continue to wear masks for the foreseeable future. . . . Isn’t masking in our presence a small price to pay for keeping us around?”).

266. *Mystic Valley Reg’l Charter Sch.*, slip op. at 22 (determining that assigning a student with a life-threatening peanut allergy to a designated peanut-free table is “stigmatizing and isolating,” especially given that the regular set up of the classroom is “designed to promote closeness”).

267. *Id.* at 23 (“Student is entitled to equal access to a pool of other students during snacks and lunchtime . . .”).

268. *E.g., Doe 1 v. Perkiomen Valley Sch. Dist.*, 585 F. Supp. 3d 668, 695–97 (E.D. Pa. 2022) (discussing the segregating effect of plastic barriers and optional remote learning policies).

269. See Shu, *supra* note 56, at 20–29 (describing the bullying of children with food allergies); Weber, *supra* note 29, at 180–82 (illustrating a story of a teacher ostracizing a student for their visual impairment).

270. Carter et al., *supra* note 133, at 946–48 (noting that “sporting activities can promote the development of new friendships for children with disabilities”); Hutzler et al., *supra* note 243, at 353 (“I have a lot of friends with disabilities that I met in basketball. . . . I have more friends with disabilities than friends without.” (quoting a nondisabled wheelchair basketball player)); Medland & Ellis-Hill, *supra* note 243, at 111 (“[B]oth disabled and able-bodied wheelchair athletes stated that they had developed friendships that had ‘made it worthwhile to stay involved’ [with wheelchair sports].”); Joshua R. Pate, Chris Scroggins & Emeka Anaza, *Reverse Integration Through Wheelchair Basketball:*

equipped the nondisabled participants with a more accurate perception of how inaccessibility and ableism affect disabled persons,<sup>271</sup> which in turn promoted closeness and mutual understanding.<sup>272</sup>

C. *Reciprocity and Interdependence*

Reciprocity and interdependence, which together constitute the third building block of interpersonal relationships, are another element that distinguishes close relationships from other types of interactions.<sup>273</sup> This is particularly true about friendships. Indeed, friendships often require “equality of respect, investment, and commitment” from each of the individuals engaged in the relationship.<sup>274</sup>

As this section will show, reciprocity and interdependence are central to many inverse-integration practices, both practically and expressively. Unlike traditional integration measures, which usually expect disabled persons to adapt to mainstream norms, many inverse-integration practices put both sides of the interaction on equal footing. For example, when a hearing person communicates with a deaf individual using sign language, neither side needs an accommodation—they are communicating in a language that each of them is capable of understanding.

In fact, some inverse-integration practices even provide disabled persons with opportunities to assist and accommodate nondisabled individuals—opportunities that are rare in a society where mainstream norms

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Exploring Participants’ Views of Sport for People With Disabilities, 13 J. Contemp. Athletics 197, 202 (2019); Spencer-Cavaliere & Peers, *supra* note 20, at 302–03 (“[T]he wheelchair basketball environment led to integrated social relationships between people of varying abilities, an integration that according to participants is not common outside of this community.”).

271. See, e.g., Hutzler et al., *supra* note 243, at 346 (“[A]lthough none of the [able-bodied] players directly said so, it would appear that the difficulty and complexity they encountered in trying to play wheelchair basketball gave them a new-found respect for the players with disabilities.”); Cathy McKay, Justin Haegele & Martin Block, Lessons Learned From Paralympic School Day: Reflections from the Students, 25 *European Physical Educ. Rev.* 745, 751–57 (2019) (documenting an attitudinal shift among nondisabled students who participated in Paralympic sports activities); Spencer-Cavaliere & Peers, *supra* note 20, at 302–03 (“An aspect of wheelchair basketball that was apparent in all of the interviews was that reverse integration provided an opportunity for all of the athletes to share knowledge about both sport and disability.”); see also Groce, *supra* note 207, at 98 (describing how the common use of sign language by hearing people in Martha’s Vineyard accompanied more accurate and favorable attitudes toward deafness and deaf people).

272. See Girma, *supra* note 20, at 147.

273. Blumstein & Kollock, *supra* note 202, at 468–69.

274. David Wasserman, Adrienne Asch, Jeffrey Blustein & Daniel Putnam, Disability: Health, Well-Being, and Personal Relationships, *Stan. Encyc. of Phil.* (Edward N. Zalta ed., Feb. 18, 2016), <https://plato.stanford.edu/entries/disability-health/> (on file with the *Columbia Law Review*) (last updated Apr. 21, 2022).

prevail.<sup>275</sup> Indeed, when disability-focused organizations accommodate nondisabled persons for their *lack of* disability (e.g., disabled athletes teaching their nondisabled counterparts how to use a wheelchair<sup>276</sup>), they challenge misconceptions about the one-sidedness of the relationships between disabled and nondisabled individuals.<sup>277</sup>

The inclusion of hearing actors in Deaf theaters, as early as the late 1960s, is also instructive in terms of the ways in which disabled persons can accommodate their nondisabled peers.<sup>278</sup> In those theaters, Deaf actors modified the way they had previously performed by adjusting to the presence on stage of their hearing counterparts, who both spoke and signed.<sup>279</sup> The Deaf audience, too, had to adjust to the new style of performing.<sup>280</sup> This practice continues today, although some Deaf people may find it difficult to understand the signing of hearing actors.<sup>281</sup> Nevertheless, existing research suggests that such accommodations<sup>282</sup> by Deaf actors and audiences recast disabled persons as “helpers” in contrast to the popular narrative—according to which accommodations were in the sole purview of the nondisabled.<sup>283</sup> Indeed, in accommodating nondisabled individuals for their lack of disability, some disabled persons have

275. See, e.g., Godin, *supra* note 20, at 143 (“[J]udging by some of the conversations I have with my blind friends, being useful is something that we often feel our lives sorely lack.”).

276. Carter et al., *supra* note 133, at 949.

277. Cf. Emens, *Disabling Attitudes*, *supra* note 93, at 232 (noting that discussions of disability integration are often based on an implicit assumption that the benefits of integration travel “one way—from nondisabled to disabled”).

278. See *supra* note 11 and accompanying text.

279. Padden & Humphries, *supra* note 11, at 101–02, 110–12.

280. *Id.* at 111 (“Almost immediately, the Deaf audiences complained about the new theater: Too fast! Incomprehensible! Too elite!”).

281. Kayla Epstein & Alex Needham, *Spring Awakening on Broadway: Deaf Viewers Give Their Verdict*, *The Guardian* (Oct. 29, 2015), <https://www.theguardian.com/stage/2015/oct/29/spring-awakening-broadway-deaf-viewers-give-verdict> [<https://perma.cc/T42N-2JVU>] (providing Deaf people’s insights about a Deaf theater production, which included critiques of the hearing actors’ signing).

282. The “accommodation” terminology can be found in the literature describing the inclusion of hearing actors in Deaf theater. *Id.* at 61, 122 (“Where once [Deaf actors] occupied the stage entirely and without compromise, they now have to share the stage with voice actors and accommodate the constraints of voiced performance.”); see also TDF, *Meet the Theatre: New York Deaf Theatre*, YouTube, at 03:00 (May 10, 2018), [https://www.youtube.com/watch?v=am\\_INcwPzFY&t=119s](https://www.youtube.com/watch?v=am_INcwPzFY&t=119s) (on file with the *Columbia Law Review*) (“We want to make sure that our stories are equally accessible for all audiences because we are the ones who typically don’t have that kind of access for other shows.”).

283. See Covo, *supra* note 4, at 649 n.298 (citing sources that describe the stereotype of disabled persons as dependent).

reported feeling a sense of pride<sup>284</sup> and empowerment,<sup>285</sup> even if such accommodations also entail costs. Thus, the power dynamics of the traditional accommodation process are reversed.

Similarly, the affiliation of nondisabled persons in disability-focused settings may allow disabled persons to rise to positions of leadership over nondisabled persons. Of course, this is not the only way for disabled persons to reach leadership positions. But situations like this show how inverse integration can be an important tool to challenge prevailing social conventions and hierarchies.<sup>286</sup> They can also show the potential for altering the meanings of traits when those traits are attached to power. The myth about how King Ferdinand's lisp in the thirteenth century affected Spanish dialects is a good example. As the story goes, Ferdinand's constituents imitated him to show respect, and the modified pronunciation was ultimately incorporated into the popular dialect.<sup>287</sup> Drawing on that story, disability activist and scholar Simi Linton observes that "when personal power gets attached to physical or psychological characteristics, it alters the meaning of those traits."<sup>288</sup>

In sum, inverse integration's organizing principle is its potential to promote relationality—the creation or support of human connection between disabled and nondisabled persons. Specifically, inverse-integration practices allow members of each group to share common language and experiences with family members, friends, and intimate partners. As the next Part will show, this model shines a light on what is currently missing from the traditional integration model.

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284. McKanan, *supra* note 168, at 2 (referring to the disabled residents at Camphill, an intentional community for disabled persons that includes some nondisabled volunteers, as "the most seasoned Camphillers" and noting that the disabled residents take pride in welcoming and offering tours to visitors).

285. See, e.g., Carter et al., *supra* note 133, at 949 ("The children who had disabilities often found that they were in the position of being an expert who was able to teach wheelchair skills to their able-bodied peers. This was something that many of them relished."); Amelia Cavallo & Maria Oshodi, *Staring at Blindness: Pitch Black Theatre and Disability-Led Performance*, in *Theatre in the Dark: Shadow Gloom and Blackout in Contemporary Theatre* 169, 178 (Adam Alston & Martin Welton eds., 2017) ("In most instances, [audio description] reinstates ableist hierarchies in that the blind spectator is dependent on the sighted describer for information. The act of a blind individual having control over visual content and naming where to look yet again presented a sociopolitical role reversal.").

286. This is not necessarily the case in all inverse-integration practices. For example, inverse integration in employment may be a notable exception. See Susan Stefan, *Beyond Residential Segregation: The Application of *Olmstead* to Segregated Employment Settings*, 26 Ga. St. U. L. Rev. 875, 920 (2010) (arguing that sheltered workshops, which congregate disabled persons in close quarters, "limit and minimize their abilities to form friendships with non-disabled people, and reinforce dependence").

287. Gerald Erichsen, *Where Did Spaniards Get Their 'Lisp' From?*, ThoughtCo., <https://www.thoughtco.com/where-did-spaniards-get-their-lisp-3078240> [<https://perma.cc/F7EX-PS36>] (last updated Jan. 11, 2019).

288. Linton, *My Body Politic*, *supra* note 82, at 238.



## IV. RELATIONSHIPS, LAW, AND DISABILITY INTEGRATION

A. *The Relational Deficit of Disability Rights Law*

The relational advantages of inverse integration stand in stark contrast to the failure of disability rights law to protect, facilitate, and reinforce interpersonal relationships in many instances.<sup>289</sup>

Scholars have long documented the deficiencies of disability rights statutes when it comes to disabled persons' personal relationships. For example, some scholars have shown how, notwithstanding the passage of the ADA, disabled persons are still subject to legal restrictions with respect to their right to get married,<sup>290</sup> have<sup>291</sup> and raise children,<sup>292</sup> or otherwise engage in sexual relationships.<sup>293</sup> Other scholars have observed that, as a result of the limited application of accessibility provisions to private buildings,<sup>294</sup> disabled persons are sometimes excluded from the spaces

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289. The relational deficit of U.S. disability rights law becomes clearer when juxtaposed against the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which the United States signed but never ratified. See U.N. Convention on the Rights of Persons With Disabilities, Mar. 30, 2007, 2515 U.N.T.S. 3. For example, article 23 of the CRPD requires state parties to take antidiscrimination measures "in all matters relating to marriage, family, parenthood and relationships." Id. art. 23. Moreover, the CRPD recognizes a robust human rights framework to participate in cultural life, recreation, leisure, and sport. Id. art. 30. In addition, Deaf people are entitled to "recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture." Id. For more on the CRPD's recognition of social rights and the relational value of such rights, see Lord & Stein, *supra* note 240, at 257–74.

290. Rabia Belt, Disability: The Last Marriage Equality Frontier 1–8 (Stan. Pub. L. Working Paper No. 2653117, 2015), <https://ssrn.com/abstract=2653117> [<https://perma.cc/MZF9-HLJU>] (providing examples of how the American legal system disadvantages disabled persons seeking to marry or raise children); see also Emens, *Intimate Discrimination*, *supra* note 24, at 1316 & nn.19–24 (citing sources).

291. See Nat'l Women's L. Ctr., *Forced Sterilization of Disabled People in the United States* 8, 15 (2021), [https://nwlc.org/wp-content/uploads/2022/01/%C6%92.NWLC\\_SterilizationReport\\_2021.pdf](https://nwlc.org/wp-content/uploads/2022/01/%C6%92.NWLC_SterilizationReport_2021.pdf) [<https://perma.cc/LCD9-G4H8>].

292. See, e.g., Sarah H. Lorr, *Unaccommodated: How the ADA Fails Parents*, 110 *Calif. L. Rev.* 1315, 1321 (2022) (noting that "the ADA remains an ineffective tool to preserve and protect the rights of parents with [intellectual disabilities]"); Robyn M. Powell, *Achieving Justice for Disabled Parents and Their Children: An Abolitionist Approach*, 33 *Yale J.L. & Feminism* 37, 79–81 (2022) (reviewing data regarding courts' reluctance to apply the ADA in termination-of-parental-rights decisions and concluding that the law has "not effectively safeguarded the rights of disabled parents and their children").

293. Alexander A. Boni-Saenz, *Sexuality and Incapacity*, 76 *Ohio St. L.J.* 1201, 1223 (2015); Jasmine E. Harris, *Sexual Consent and Disability*, 93 *N.Y.U. L. Rev.* 480, 495 (2018); Matthew S. Smith, Tara Allison & Michael Ashley Stein, *Sexual Agency as a Rights-Based Imperative for Persons With Intellectual Disabilities*, in *Disability, Health, Law, and Bioethics* 171, 173–74 (I. Glenn Cohen, Carmel Shachar, Anita Silvers & Michael Ashley Stein eds., 2020).

294. The accessibility requirements enshrined in Title III of the ADA apply only to "commercial facilities" and do not cover private buildings. 42 U.S.C. §§ 12182(b)(2)(A)(iv), 12183 (2018). As for the Fair Housing Act, it imposes accessibility and accommodation

“where most intimate gatherings occur.”<sup>295</sup> More abstractly, some scholars have noted that disability rights’ focus on the individual, rather than the community, renders it difficult to perceive and discuss “interactions, mutual benefits, relational gains, and interdependence.”<sup>296</sup>

This Article does not reexamine those scholarly works. Instead, it draws upon other theories, sources, and evidence from a variety of disciplines to demonstrate: (1) that the U.S. disability rights regime is lacking in terms of relationship-building opportunities and (2) that this deficit is particularly important as the United States struggles with a sharp rise in loneliness and social isolation.

1. *The Unfulfilled (Relational) Promise of Disability Accommodations.* — In the United States, disability rights law is grounded in the principle of reasonable accommodation,<sup>297</sup> which many scholars believe fosters fruitful interpersonal interactions.<sup>298</sup> Recent scholarship, however, raises doubts about whether the law’s focus on reasonable accommodations actually fosters positive interactions. Specifically, scholars suggest that the “interactive process,” a negotiation mechanism between the employee and the employer that is triggered once the former requests an

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obligations when it comes to “multifamily dwellings.” Id. § 3604(f)(3). These requirements, however, are limited. First, multifamily dwellings constructed before 1988 are not subject to the Act’s accessibility requirements for new buildings. Id. § 3604(f)(3)(c). Second, multifamily dwellings in which the owner and no more than three other families live are exempt from the Act’s antidiscrimination provision altogether. Id. § 3603(b)(2).

295. Siebers, *supra* note 20, at 85–86.

296. Martha Minow, *Accommodating Integration*, 157 U. Pa. L. Rev. Online 1, 3, 6 (2008), <https://heinonline.org/HOL/P?h=hein.journals/pennumbra157&i=1> (on file with the *Columbia Law Review*) [hereinafter Minow, *Accommodating Integration*]; see also Colker, *The Americans with Disabilities Act*, *supra* note 69, at 1816 (“[P]eople who are deaf but not mobility impaired cannot challenge the lack of a wheelchair-accessible entrance at a restaurant even if that problem means the individual could not invite various friends to join them at the restaurant.”).

297. Shirley Lin, *Bargaining for Integration*, 96 N.Y.U. L. Rev. 1826, 1828 (2021).

298. See, e.g., Carlos A. Ball, *Looking for Theory in All the Right Places: Feminist and Communitarian Elements of Disability Discrimination Law*, 66 Ohio St. L.J. 105, 149–50 (2005) (maintaining that the interactive process “links equality with communication and dialogue”); Dallan F. Flake, *Interactive Religious Accommodations*, 71 Ala. L. Rev. 67, 79, 111 & n.288 (2019) (arguing that the “interactive process”—a mandatory negotiation mechanism whereby employees and employers are expected to identify and choose an appropriate accommodation—promotes dialogue between the parties, facilitates “favorable employer–employee relations,” and encourages “a host of ‘pro-social and cooperative workplace behavior[s]’” (first citing Susan Daicoff, *Law as a Healing Profession: The “Comprehensive Law Movement,”* 6 Pepp. Disp. Resol. L.J. 1, 19–20 (2006); then quoting Victor D. Quintanilla, *Taboo Procedural Tradeoffs: Examining How the Public Experiences Tradeoffs Between Procedural Justice and Cost*, 15 Nev. L.J. 882, 891–92 (2015))).

accommodation,<sup>299</sup> may involve tension,<sup>300</sup> suspicion,<sup>301</sup> uncertainty, and fear of stigma.<sup>302</sup> Professor Katherine Macfarlane, for example, argues that the detailed medical documentation an employee is typically required to provide during such an exchange “converts the interactive process into a complicated and adversarial negotiation.”<sup>303</sup> Professor Shirley Lin also notes that the interactive process, as currently applied, can disempower employees, particularly workers from marginalized communities, due to differences in bargaining power and access to information.<sup>304</sup> As a result, some employees might not even ask for accommodation in the first place.<sup>305</sup> To make things more complicated, as Professor Nicole Porter has noted, the focus on accommodation can create resentment among nondisabled colleagues.<sup>306</sup> And this, in turn, can indirectly undercut the ability of the law to promote interpersonal relationships between disabled and nondisabled persons.

More controversially, research shows that some types of accommodations arguably *reduce* opportunities for interaction.<sup>307</sup> For example, allowing a disabled employee to work remotely may result in missed social interactions that a physical workplace might facilitate.<sup>308</sup> Similarly, accommodations for “social impairments,”<sup>309</sup> which may involve room dividers, quiet time, or the option to wear headphones,<sup>310</sup> may also reduce opportunities for interaction. Lastly, although using a sign

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299. 29 C.F.R. § 1630.2(o)(3) (2024).

300. See generally Michael Ashley Stein, Anita Silvers, Bradley A. Areheart & Leslie Pickering Francis, *Accommodating Every Body*, 81 U. Chi. L. Rev. 689, 755 (2014) (suggesting that disabled workers who request accommodations may feel “as if they are advancing a unique adversarial request” or may perceive their identity “as the object of scrutiny”).

301. Katherine A. Macfarlane, *Disability Without Documentation*, 90 Fordham L. Rev. 59, 84 (2021) [hereinafter Macfarlane, *Disability Without Documentation*].

302. Michelle R. Nario-Redmond, *Ableism: The Causes and Consequences of Disability Prejudice* 220 (2019); Stacy A. Hickox & Keenan Case, *Risking Stigmatization to Gain Accommodation*, 22 U. Pa. J. Bus. L. 533, 539 (2020).

303. Macfarlane, *Disability Without Documentation*, supra note 301, at 84.

304. Lin, supra note 297, at 1852, 1866–70.

305. Id. at 1858–59.

306. Nicole Buonocore Porter, *Accommodating Everyone*, 47 Seton Hall L. Rev. 85, 98–106 (2016).

307. E.g., Minow, *Accommodating Integration*, supra note 296, at 4–5 (discussing the example of accommodating blind students in schools by allowing them to use educational materials that are designed in “specialized formats”).

308. See Arlene S. Kanter, *Remote Work and the Future of Disability Accommodations*, 107 Cornell L. Rev. 1927, 1989 (2022) (“Some employees may choose not to work remotely because they will miss the social interaction that an office provides, including those disabled employees who already experience social isolation.”).

309. Susan D. Carle, *Analyzing Social Impairments Under Title I of the Americans With Disabilities Act*, 50 U.C. Davis L. Rev. 1109, 1113 (2017) (defining social impairments as “situations in which an employee’s *social functioning* constitutes an important aspect of her impairment”).

310. Emens, *Integrating Accommodation*, supra note 4, at 851–53.

language interpreter may remove communication barriers and foster relationships,<sup>311</sup> it too may hinder “fluidity and proximity” by injecting a third party into the conversation.<sup>312</sup>

Admittedly, many employees—both disabled and nondisabled—may not desire increased levels of social interaction, particularly during work hours.<sup>313</sup> But the fact remains that the practicalities of implementing reasonable accommodations may conflict with the goal of fostering positive communication and creating opportunities for shared experiences, two of the fundamental building blocks of interpersonal relationships.

2. *The Gap Between Formal Integration and Informal Social Isolation.* — Personal narratives of disabled activists and scholars also demonstrate the law’s limitations when it comes to facilitating connectedness and shared experiences. Consider the example brought by the late scholar Adrienne Asch, who was blind. As Asch explained, while disability rights law would not allow a swimming club to turn her away, it will “do nothing to help [her] persuade a group of new friends that [she] could join them for a carefree afternoon at a lake.”<sup>314</sup>

This gap between formal integration and informal social isolation has been identified by other activists and scholars, including Eric Garcia,<sup>315</sup> Haben Girma,<sup>316</sup> Judith Heumann,<sup>317</sup> Amy Rowley,<sup>318</sup> and Adam Samaha.<sup>319</sup> All of these authors, who were educated in mainstream classrooms, have

311. Emens, *Intimate Discrimination*, supra note 24, at 1393.

312. *Id.*; see also Bonnie Poitras Tucker, *The ADA’s Revolving Door: Inherent Flaws in the Civil Rights Paradigm*, 62 *Ohio St. L.J.* 335, 347 (2001) (“Instead of looking at the speaker, I am forced to watch the interpreter, thus losing valuable eye contact with the person who is speaking. . . . Because I am sitting with the interpreter and watching the interpreter[,], other individuals often feel that they are precluded from speaking with me.”).

313. See David Brooks, *Opinion, The Immortal Awfulness of Open Plan Workplaces*, *N.Y. Times* (Sept. 8, 2022), <https://www.nytimes.com/2022/09/08/opinion/open-plan-office-awful.html> (on file with the *Columbia Law Review*) (noting several studies showing that open floor plans designed to facilitate employee social interaction actually “hurt morale and productivity” among employees).

314. Asch, supra note 113, at 395–96.

315. Eric Garcia, *We’re Not Broken: Changing the Autism Conversation* 153–54 (2021). Garcia, an autistic journalist and author, described how, during high school, he had a small circle of friends and felt isolated. *Id.*

316. Girma, supra note 20, at 13. Girma, the first deafblind person to attend Harvard Law School, shared in her memoir that when she had attended middle school, she had no friends and just felt “tolerated.” *Id.*

317. Heumann, supra note 104, at 30–32 (“[T]he nondisabled kids had a way of interacting in class and telling jokes that felt unfamiliar. It was as if I’d lived my life speaking a different language, in a completely different culture.”).

318. Amy June Rowley, *Rowley Revisited: A Personal Narrative*, 37 *J.L. & Educ.* 311, 327 (2008). Professor Rowley, who is Deaf, described how, after moving from a mainstream classroom to a school for deaf children, she immediately stopped “feel[ing] alone.” *Id.*

319. Samaha, supra note 18. Samaha, a law professor at NYU, recently described how, as his disability became visible at the age of eight, “the social world became more closed.” *Id.*

recounted how, notwithstanding their academic success, they had experienced social isolation and rejection. Girma, for example, recalls in her memoir that, during her K–12 education, her peers never invited her to their cafeteria tables.<sup>320</sup> Similarly, when Heumann attended high school, she was “excluded from dances and dates and kissing boys behind the football stadium” just because she was using a wheelchair.<sup>321</sup>

A number of studies have shown that the same pattern exists at the more structural level:<sup>322</sup> Even though many disabled students currently study in mainstream settings, “social separation continues to exist.”<sup>323</sup> Or, to use Tom Shakespeare’s words, even when disabled persons “are in the community,” many of them are often “not part of the community.”<sup>324</sup>

3. *Problems With the Law Identified by the Disability Justice Movement.* — Community and interpersonal relationships play an important role in the agenda of Disability Justice,<sup>325</sup> a burgeoning social movement that offers a critique of the disability rights framework.<sup>326</sup> Led by disabled persons of

320. Girma, *supra* note 20, at 145.

321. Heumann, *supra* note 104, at 31.

322. E.g., Scott L.J. Jackson, Logan Hart, Jane Thierfeld Brown & Fred R. Volkmar, Self-Reported Academic, Social, and Mental Health Experiences of Post-Secondary Students With Autism Spectrum Disorder, 48 *J. Autism & Developmental Disorders* 643, 646–47 (2018) (finding that while the majority of autistic students who attended post-secondary academic institutions reported high degrees of academic comfort, over seventy-five percent experienced a subjective sense of isolation and lack of companionship); Andrew Weis, Jumping to Conclusions in “Jumping the Queue”, 51 *Stan. L. Rev.* 183, 199–200 (1998) (reviewing Kelman & Lester, *supra* note 153) (citing sources regarding students with learning impairments); see also Yu-Han Xie, Miloň Potměšil & Brenda Peters, Children Who Are Deaf or Hard of Hearing in Inclusive Educational Settings: A Literature Review on Interactions With Peers, 19 *J. Deaf Stud. & Deaf Educ.* 423, 424 (2014) (“[C]hildren who are [deaf or hard of hearing] are more likely to be neglected by their hearing peers in regular schools and less likely to have a friend in the class than their classmates with normal hearing.” (citations omitted)).

323. Virginia Buysse, Barbara Davis Goldman & Martie L. Skinner, Setting Effects on Friendship Formation Among Young Children With and Without Disabilities, 68 *Exceptional Children* 503, 505 (2002); see also Harris, *The Aesthetics of Disability*, *supra* note 13, at 913 (“[T]he physical integration of students with disabilities into neighborhood schools largely resulted in shared physical space rather than inclusion.”).

324. Shakespeare, *supra* note 25, at 197.

325. Sins Invalid, *supra* note 118, at 68 (“[D]isability justice is ultimately about re-imagining and reinventing all of our relationships with one another, as well as with our own bodyminds.”); Lydia X.Z. Brown, Loree Erickson, Rachel da Silva Gorman, Talila A. Lewis, Lateef McLeod & Mia Mingus, *Radical Disability Politics* (A.J. Withers & Liat Ben-Moshe eds.), in *Routledge Handbook of Radical Politics* 178, 179, 181 (Ruth Kinna & Uri Gordon eds., 2019) (describing how the Disability Justice framework values “interdependence and the intrinsic value of disabled people” and calls for “community-based, organic . . . accessibility”).

326. Sins Invalid, *supra* note 118, at 15, 18 (“Rights-based strategies often address the symptoms of inequity but not the root. The root of disability oppression is ableism and we must work to understand it, combat it, and create alternative practices rooted in justice.”); see also Sami Schalk, *Black Disability Politics* 7 (2022) (describing the Disability Justice movement).

color as well as queer and gender-nonconforming activists, the Disability Justice movement emphasizes intersectionality, interdependence, and collective liberation among its overarching principles.<sup>327</sup>

Unlike the individualized focus of the disability rights model, the Disability Justice movement advances community-based notions of accessibility. For example, Disability Justice writer and activist Mia Mingus has argued that while making society more accessible is an important goal, “[a]ccess for the sake of access is not necessarily lib[er]atory.”<sup>328</sup> Mingus has developed the concept of “access intimacy,” which strives to use access to promote connection, community, and love.<sup>329</sup> Mingus emphasizes the significance of reciprocity in crafting access measures. In other words, the concept of access should work both ways, allowing *traditional* and *inverse* access. In Mingus’s words, access intimacy “reorients our approach from one where disabled persons are expected to squeeze into able bodied people’s world, and instead *calls upon able bodied people to inhabit our world.*”<sup>330</sup>

4. *The Loneliness Epidemic.* — In recent decades, researchers have documented a sharp rise in loneliness and social isolation among American individuals.<sup>331</sup> The “loneliness epidemic” has the potential to affect everyone,<sup>332</sup> but research suggests that disabled persons are more prone to experience loneliness and social isolation.<sup>333</sup> For example, a recent study found that disabled persons aged 50–65 were more than twice as likely as nondisabled persons in the same age group to face this problem.<sup>334</sup> Such social isolation creates a potentially vicious cycle, because

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327. Sins Invalid, *supra* note 118, at 22–26 (listing “ten principles” of Disability Justice).

328. Mingus, *supra* note 20.

329. *Id.*

330. *Id.*

331. Shmuel I. Becher & Sarah Dadush, Relationship as Product: Transacting in the Age of Loneliness, 2021 U. Ill. L. Rev. 1547, 1572 (citing Vivek Murthy, Work and the Loneliness Epidemic, Harv. Bus. Rev. (Sept. 26, 2017), <https://hbr.org/cover-story/2017/09/work-and-the-loneliness-epidemic> (on file with the *Columbia Law Review*)).

332. There are many reasons for the increase of loneliness and social isolation, including technological and sociocultural developments, as well as the COVID-19 pandemic, which significantly curtailed in-person interactions. See Murthy, Our Epidemic of Loneliness and Isolation, *supra* note 23, at 4, 12–21.

333. See *id.* at 19 (identifying physical or mental health and disabilities as a risk factor for loneliness and isolation); Stephen J. Macdonald et al., ‘The Invisible Enemy’: Disability, Loneliness and Isolation, 33 *Disability & Soc’y* 1138, 1149–52, 1156 (2018); see also Eric Emerson, Nicola Fortune, Gwynnyth Llewellyn & Roger Stancliffe, Loneliness, Social Support, Social Isolation and Wellbeing Among Working Age Adults With and Without Disability: Cross-Sectional Study, 14 *Disability & Health J.*, Jan. 2021, at 1, 4 tbl.1 (finding, based on a survey among “working age” adults in England, that disabled persons experience loneliness at a rate approximately four times higher than their nondisabled peers).

334. Rsch. & Training Ctr. on Disability in Rural Communities, Research Report: Social Isolation and Loneliness Among Rural and Urban People With Disabilities 3 (2021), [https://scholarworks.umt.edu/cgi/viewcontent.cgi?article=1057&context=ruralinst\\_health\\_wellness](https://scholarworks.umt.edu/cgi/viewcontent.cgi?article=1057&context=ruralinst_health_wellness) [<https://perma.cc/M5GL-2ZT2>].

the initial isolation makes it harder to make friends and meet potential partners.<sup>335</sup> As a result, disabled persons are significantly less likely to get married than nondisabled persons.<sup>336</sup>

Of course, it is dangerous to generalize. Some disabled persons who need daily assistance from caregivers or service providers may actually prefer to have more time alone.<sup>337</sup> Other disabled individuals are happy with their social lives as they are.<sup>338</sup> A key element in any analysis, however, is the question of choice: Did the individual voluntarily choose to avoid social interactions or was there an external influence at play, hindering such interactions? Indeed, there is evidence that, when it comes to disability, social isolation may be involuntary, stemming from stigma,<sup>339</sup> accessibility barriers, and “social neglect.”<sup>340</sup>

In sum, a range of sources and theoretical perspectives demonstrate that the reasonable accommodations and accessibility generated by disability rights law are insufficient to promote social inclusion or interpersonal relationships between disabled and nondisabled persons.

#### B. *Is It the Job of Integration Laws to Promote Relationships?*

The preceding discussion suggests that while inverse integration may promote closeness, the traditional integration model suffers from a relational deficit. Does this mean that the traditional model—which primarily relies on disability antidiscrimination laws—has something to learn from inverse integration? The answer depends on whether one believes that protecting and promoting relationships is among the responsibilities of the legal regime governing integration.

A common argument against invoking the coercive powers of the state to regulate friendships or intimate relationships is the belief that individuals should be allowed to choose with whom they interact and form relationships.<sup>341</sup> This argument, which is closely related to the concept of “freedom of association,” is often invoked to justify the law’s focus on formal commercial transactions, as opposed to deeply personal

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335. Cf. Huntington, *supra* note 24, at 10–11 (referring to research showing that happier people tend to be married, and that married people tend to be happier).

336. See Nario-Redmond, *supra* note 302, at 7 (“The rate for first marriages for people from 18 to 49 years of age is 71.8 per 1000 but only 41.1 per 1000 for people with disabilities . . .”).

337. Pulrang, *supra* note 27.

338. The anthology *Disability Visibility*, for example, includes powerful portrayals of romantic and platonic relationships involving disabled individuals. See generally *Disability Visibility: First-Person Stories From the Twenty-First Century*, *supra* note 66.

339. Shakespeare, *supra* note 25, at 199 (“[T]he effect of stigma is to undermine the possibilities of interaction, at least at the outset.” (citing Goffman, *supra* note 65)).

340. Pulrang, *supra* note 27.

341. See Katharine T. Bartlett & Mitu Gulati, *Discrimination by Customers*, 102 *Iowa L. Rev.* 223, 238–40 (2016) (“[A]ssociational rights include the freedom to engage in discriminatory behavior in private spaces—freedom that is not allowed in more public settings.”).

decisions.<sup>342</sup> Thus, the argument goes, while the legal prohibition of disability discrimination in employment is socially desirable and widely accepted, the idea that individuals' choices about friendships and love should be restricted in the name of disability equality "seems misguided and beyond the realm of appropriate state intervention."<sup>343</sup>

Another argument against the imposition of antidiscrimination duties at the "personal" level is that in some instances, "intimate discrimination" may serve important goals from an anti-subordination perspective.<sup>344</sup> Consider, for example, people with mobility impairments who might desire someone who shares that impairment simply because of the sense of identity that comes from belonging to the same minority group or from "inhabiting unconventional bodies."<sup>345</sup> In these situations, requiring people to be involved in relationships with nondisabled persons would be undesirable from a disability equity perspective. For these and other reasons, most (if not all) scholars oppose a legal norm that would intervene in a person's decision of whether to establish and maintain personal relationships with a member of another social group.<sup>346</sup>

Yet this widely accepted conclusion tells only part of the story. In recent decades, scholars from various disciplines have shown why the law, in general, and integration mandates, in particular, must attend to interpersonal relationships at the *structural* level.<sup>347</sup> That is, although the law should refrain from imposing affirmative duties in connection with personal relationships, lawmakers should still consider how certain legal norms, and the theories underlying these norms, affect interpersonal relationships, and vice versa.

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342. See Sophia Moreau, *Faces of Inequality: A Theory of Wrongful Discrimination* 217, 233, 235–36 (2020) (“[W]e permit people to decide for themselves how to relate to the members of their families and friends . . . .”); Elizabeth Anderson, *Reply to Critics of The Imperative of Integration*, 12 *Pol. Stud. Rev.* 376, 381 (2014) [hereinafter Anderson, *Reply to Critics*] (acknowledging that the “ideal of integration is in tension with principles of freedom of association in private life,” and that “the law has obvious limitations when it comes to promoting integration of friendship circles and marriages”); Bartlett & Gulati, *supra* note 341, at 242–45 (“[I]t is hard to imagine a direct ban on [discrimination] . . . in [certain markets]. This choice . . . carries the potential of harmful discrimination, yet it goes to deeply intimate decisions . . . .”); Leib, *supra* note 198, at 663–65 (arguing that legal regulation of friendship would “undermine its defining characteristic”).

343. Emens, *Intimate Discrimination*, *supra* note 24, at 1366.

344. *Id.* at 1346–47, 1355; see also Moreau, *supra* note 342, at 235 (discussing the justification of exempting “small, artisanal businesses” from employment antidiscrimination laws); Russell K. Robinson, *Structural Dimensions of Romantic Preferences*, 76 *Fordham L. Rev.* 2787, 2799–800 (2008) (“Because not all reasons for racial preferences are problematic, we must consider the identities and the contexts that shape any particular preference.”).

345. Emens, *Intimate Discrimination*, *supra* note 24, at 1349.

346. See, e.g., Moreau, *supra* note 342, at 233–36; Bartlett & Gulati, *supra* note 341, at 242–47; Emens, *Intimate Discrimination*, *supra* note 24, at 1356–57.

347. See, e.g., Anderson, *The Imperative of Integration*, *supra* note 77, at 116 (“Formal desegregation consists in the abolition of laws and policies enforcing racial separation. . . . Social integration requires intergroup cooperation on terms of equality.”).



Consider, for example, the “contact hypothesis,” a social psychology theory that underlies disability rights law in the United States.<sup>348</sup> That theory is based on the idea that intergroup interactions can potentially reduce prejudice and promote social acceptance.<sup>349</sup> It turns out, however, that simply allowing disabled and nondisabled persons to interact does not necessarily reduce prejudice. Ideally, the interactions should involve some forms of meaningful communication and shared experiences. Indeed, Gordon Allport, who developed the contact hypothesis in the 1950s, warned against “casual” intergroup relations.<sup>350</sup> To Allport, it was only through “true acquaintance” that prejudice could be reduced and “accurate social perceptions” could occur.<sup>351</sup> Among other conditions, Allport hypothesized that only “contact that leads people to *do* things together is likely to result in changed attitudes.”<sup>352</sup> Allport used a team-sports analogy, which by definition involves a “cooperative striving” for a goal, to demonstrate his point.<sup>353</sup>

Recent work by social psychologists emphasizes how the desired shift in attitudes may be related to interpersonal relationships.<sup>354</sup> As one scholar has noted, “the more disabled friends people have, the longer these relationships have lasted, or the more people interact with those who experience disabilities, the more positive their attitudes are.”<sup>355</sup> All of this

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348. As noted, some disability rights laws are designed to promote intergroup contact. See, e.g., 20 U.S.C. § 1412(a)(5)(A) (2018) (requiring participating states to educate disabled students alongside their nondisabled peers “[t]o the maximum extent appropriate”); 28 C.F.R. § 35.130(d) (2024) (requiring public entities to administer services in the “most integrated setting appropriate”); *id.* pt. 35 app. B (2024) (defining an appropriate integrated setting as one that “enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible”); Emens, *Disabling Attitudes*, *supra* note 93, at 231 (discussing American disability law as focused on promoting interactions between disabled and nondisabled individuals).

349. See *supra* note 42 and accompanying text.

350. Allport, *supra* note 42, at 264.

351. *Id.* at 264, 272.

352. *Id.* at 276.

353. *Id.*

354. See John Dixon, Kevin Durrheim & Colin Tredoux, *Beyond the Optimal Contact Strategy: A Reality Check for the Contact Hypothesis*, 60 *Am. Psych.* 697, 698–700 (2005) (enumerating various principles found by social psychologists to be prescriptive for “good contact,” including: (1) “[c]ontact should be regular and frequent,” (2) “[c]ontact should have genuine ‘acquaintance potential,’” and (3) “[c]ontact should be personalized and involve genuine friendship formation”). Importantly, while the authors believe that social psychologists should continue to study the ideal conditions under which contact can shift attitudes, they urge researchers to explore more mundane encounters between members of different social groups. *Id.* at 703–07.

355. Nario-Redmond, *supra* note 302, at 275 (citing Megan MacMillan, Mark Tarrant, Charles Abraham & Christopher Morris, *The Association Between Children’s Contact With People With Disabilities and Their Attitudes Towards Disabilities: A Systematic Review*, 56 *Developmental Med. & Child Neurology* 529 (2014); Elizabeth Levy Paluck & Donald P. Green, *Prejudice Reduction: What Works? A Review and Assessment of Research and*

is to say that, insofar as disability rights law relies on the contact hypothesis,<sup>356</sup> it is built, at least in part, on the very idea that reduction of prejudice would be achieved through creating some form of interpersonal relationships, more than mere “casual” interactions.

There are other reasons why interpersonal relationships matter for the law of disability integration, however. These reasons have to do with the complex interface between legal norms and personal choices about informal interactions, as illustrated in the following three points: First, while we tend to think that our decisions regarding whom to have as friends or intimate partners are purely personal, these decisions are in fact shaped by a robust legal infrastructure.<sup>357</sup> Indeed, as Professor Russell Robinson and others have made clear, the law is *already involved* in shaping our relational choices, even if this is not apparent at first glance.<sup>358</sup> In the disability context, for example, the law’s recognition of disability-specific classrooms indirectly shapes the pool of potential friends for a student in

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Practice, 60 Ann. Rev. of Psych. 339 (2009)); see also Cara C. MacInnis & Elizabeth Page-Gould, How Can Intergroup Interaction Be Bad if Intergroup Contact Is Good? Exploring and Reconciling an Apparent Paradox in the Science of Intergroup Relations, 10 Persps. on Psych. Sci. 307, 311 (2015) (“Cross-group friendships, which by definition involve multiple intergroup interactions as a friendship develops, are especially effective in reducing intergroup bias.” (citations omitted)); cf. Emens, Intimate Discrimination, *supra* note 24, at 1378 (“[S]tudies of friendship and race also suggest that interracial friendship positively affects racial attitudes.”).

356. Critics of the contact hypothesis, in the disability context and beyond, have recently questioned the reliance on contact in crafting policies aimed at promoting a more inclusive society. See, e.g., Elizabeth Levy Paluck, Seth A. Green & Donald P. Green, The Contact Hypothesis Re-Evaluated, 3 Behav. Pub. Pol’y 129, 133, 151–54 (2019) (questioning whether existing research on contact can inform policy). Professor Jasmine Harris, for example, has challenged the primary premise that intergroup contact will automatically reduce prejudice against disabled persons. Harris, *The Aesthetics of Disability*, *supra* note 13, at 899, 926–27. She suggests that disability prejudice results from “structural aesthetic and affective distaste for disability” that is triggered when disabled and nondisabled persons interact. *Id.* at 926. Harris speculates that part of the solution has to do with the order of magnitude. *Id.* at 968–70. In other words, exposing nondisabled persons to greater numbers of disabled persons may in fact reduce prejudice and enhance social acceptance. Interestingly, this idea largely aligns with inverse integration. But see *id.* at 971 (“[I]t is possible that further study will show that placing nondisabled students in classrooms with a diverse array of students with disabilities of varying degrees of deviation from the aesthetic ‘norm’ actually *reduces* attitudinal shifts by the nondisabled students.”).

357. See Huntington, *supra* note 24, at xii (“[T]he law profoundly shapes families and family life . . .”); Emens, *Intimate Discrimination*, *supra* note 24, at 1311 (noting that law “controls the infrastructure of our lives—our neighborhoods, schools, workplaces, public spaces, and more—in ways that affect affiliations along the lines of race, disability, and sex”).

358. Emens, *Intimate Discrimination*, *supra* note 24, at 1311 (noting that the state “affects rational calculations in the dating market through social policies that contribute to social hierarchies and wealth distribution”); Robinson, *supra* note 344, at 2788 (noting that legal norms “create structures that channel and limit our interaction with people of various identities”).

such a classroom.<sup>359</sup> In other words, a student in a special education setting is more likely to interact and make connections with other disabled children than with nondisabled children.<sup>360</sup>

Second, the same stereotypes and misconceptions that shape people's preferences in choosing their intimate partners and friends also give rise to discrimination in employment, housing, and public accommodations.<sup>361</sup> And third, the real-world consequences of discrimination at the personal level can be just as harmful as discrimination in commercial transactions,<sup>362</sup> in part because "personal" and "formal" forms of discrimination are not always easily distinguishable.<sup>363</sup>

Against this backdrop, there is growing recognition among scholars that the law can, and indeed should, facilitate and shape, as opposed to coerce, the formation of interpersonal relationships, including relationships between members of different social groups.<sup>364</sup> Such attempts to foster relationships at the structural level may take various forms. It may involve, for example, regulating dating apps or websites in a way that prevents or discourages a user from filtering out other people based on certain identity-based preferences. That strategy, however, is contentious among researchers.<sup>365</sup> Less controversial proposals include the develop-

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359. 34 C.F.R. § 300.115 (2024) (recognizing "special classes," "special schools," and "institutions" among the possible settings that school districts have to offer along the "continuum of alternative placements").

360. See Emens, *Intimate Discrimination*, supra note 24, at 1367–68 (using a hypothetical to make this point).

361. See Robinson, supra note 344, at 2793 (maintaining that "many racial preferences rest on nothing more substantial or legitimate than rank stereotyping"); see also Russell K. Robinson & David M. Frost, *LGBT Equality and Sexual Racism*, 86 *Fordham L. Rev.* 2739, 2746 (2018) (referring to research demonstrating "associations between sexual racism and general measures of multiculturalism and racial discrimination").

362. Moreau, supra note 342, at 227 ("[E]ven the private or personal realm is a realm in which my actions have significant effects on the power, authority, and freedoms enjoyed by others.").

363. *Id.* (noting that "deeply personal decisions" are "never purely 'personal'"); Emens, *Intimate Discrimination*, supra note 24, at 1334 ("The norms from the intimate domain . . . extend beyond the bedroom walls into other domains. For instance, these norms affect the ways that courts understand claims of employment discrimination.").

364. Moreau, supra note 342, at 227 (arguing in favor of noncoercive state intervention to promote interpersonal community); Anderson, *Reply to Critics*, supra note 342, at 381 (calling on "centrally administered organizations," such as colleges, to facilitate social integration); Robinson, supra note 344, at 2819 ("[O]nline dating may provide a productive example of a context in which the law might remove barriers to equality through structural changes without regulating intimacy preferences as comprehensively as it attempts to regulate discrimination in employment and housing.").

365. Compare Karen Levy & Solon Barocas, *Designing Against Discrimination in Online Markets*, 32 *Berkeley Tech. L.J.* 1183, 1210 (2017) (suggesting that platforms should consider refraining from "providing tools that allow users to effectively remove members of entire racial or ethnic groups from the apparent marketplace of potential partners"), with Bartlett & Gulati, supra note 341, at 242–43 (opposing regulation of dating apps). See also

ment of educational programs aimed at fostering a better understanding of different identities and cultures, as well as the creation of public spaces, parks, and community centers, “where people from different backgrounds can come together and share recreational pursuits and gradually learn more about each other.”<sup>366</sup>

The upshot is that taking relationships seriously is not irrelevant to laws governing integration. Quite the contrary: Relationships should be taken into account in designing the structural laws of integration. The challenge, then, is not *whether* to use law to foster and support relationships. Rather, it is *how* to design an integration framework that allows interpersonal relationships to thrive without forcing specific individuals to enter relationships that they do not wish to pursue. The next Part turns to this task.

#### V. POLICY AND LEGAL INTERVENTIONS

In Part III, this Article explored the relational advantages of inverse integration. In Part IV, it demonstrated that the traditional integration model suffers from a relational deficit. This Part connects the dots: It draws upon the concept of inverse integration to imagine how relationality could be incorporated into the current disability integration regime.<sup>367</sup>

This Part begins with a reminder of some of the concerns and guiding principles that need to be considered in any discussion regarding the legal framework governing disability integration. First, the engagement of nondisabled persons in disability-focused activities raises questions of exploitation, co-optation, and access to resources.<sup>368</sup> Second, allowing nondisabled and disabled persons to share the same space does not necessarily guarantee meaningful communication, reciprocity, and shared experiences.<sup>369</sup> And third, disability laws should promote interpersonal relationships at the structural level in order to create an infrastructure in

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Robinson, *supra* note 344, at 2792–800, 2818–19 (presenting arguments on both sides of the debate).

366. Moreau, *supra* note 342, at 239; see also Murthy, *Our Epidemic of Loneliness and Isolation*, *supra* note 23, at 48–49 (arguing that combating social isolation requires the adoption of “pro-connection” policies, with a particular emphasis on equity, inclusion, and accessibility).

367. One interesting question, which is beyond the scope of this Article, is what lessons can be learned from this study with respect to other axes of identity. In any future analysis, it will be important to recognize the differences between disability and other axes of identity in the context of interpersonal relationships. See *supra* note 28 and accompanying text (describing one such difference). Specifically, while various marginalized groups suffer from “intimate discrimination,” mainstream society often treats disability in a unique way, namely by excluding disabled persons “from the sexual realm.” Emens, *Intimate Discrimination*, *supra* note 24, at 1314; see also Ladau, *Demystifying Disability*, *supra* note 3, at 134 (noting that disability, romance, and sexuality are perceived by mainstream society as being “completely at odds”).

368. See *supra* section II.A.1.

369. See *supra* notes 314–324 and accompanying text.

which disabled and nondisabled persons can engage in meaningful dialogues and shared experiences.<sup>370</sup>

Translating these principles into a comprehensive framework extends beyond the scope of this Article, in part because any such framework would need to be tailored to specific impairments (e.g., physical, developmental, psychosocial) or social arenas (e.g., education, housing, theater).<sup>371</sup> Thus, for example, it might be easier to facilitate interpersonal relationships through inclusive team sports, which usually involve cooperation, creativity, and sense of pride, than through integrative housing complexes, which raise a range of issues that pertain to funding, safety, and personal choice. Moreover, any attempt to incorporate relationality into integrative measures should consider not only disability but also the ways in which disability intersects with other axes of identity, such as race and gender.<sup>372</sup> As Professor Jamelia Morgan notes, ignoring intersectionality risks overlooking the ways in which “social and legal constructions of disability are informed by racist ideas and how social and legal constructions of race are informed by ableist ideas.”<sup>373</sup> In lieu of a comprehensive plan, then, this final Part discusses a number of guiding principles and specific interventions to help incorporate relationality into a disability integration regime.

#### A. *Protect Disabled Spaces*

Perhaps counterintuitively, the first conclusion that follows from the understanding of inverse integration as a relationship-based model is that the involvement of nondisabled persons in disabled spaces is not always desirable. After all, we have seen that creating and maintaining safe spaces for disabled individuals is essential for the promotion of *intragroup* relationships within the disabled community,<sup>374</sup> as well as for protecting disabled individuals from exploitation and abuse. Indeed, in some contexts—especially those pertaining to the most private and personal spaces, such as housing—imposing restrictions on the involvement of

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370. See *supra* notes 364–366 and accompanying text.

371. See, e.g., Covo, *supra* note 4, at 661–68 (proposing guidelines for reform in the education arena).

372. For a comprehensive analysis of intersectionality in the context of race and disability, see Morgan, *Relationship Between Race and Disability*, *supra* note 28, at 664–729. For an analysis of the ways in which inverse integration in schools may affect disabled students of color or those who are from low-income families, see Covo, *supra* note 4, at 654–58.

373. Morgan, *Relationship Between Race and Disability*, *supra* note 28, at 680.

374. See *supra* notes 104–105 and accompanying text; see also Anderson, *The Imperative of Integration*, *supra* note 77, at 113 (“[S]ome degree of racial solidarity and affiliation on the part of the racially stigmatized is needed to spur integrative policies and cope with the stresses of integration. Thus, integration should also not be confused with the dissolution of black institutions . . .”).

nondisabled persons in disabled spaces might be necessary for protecting disabled persons' mental and physical integrity.<sup>375</sup>

Against this backdrop, this Article proposes the concept of "integration by invitation,"<sup>376</sup> whereby disabled individuals should, to the maximum extent possible, initiate or influence nondisabled persons' involvement in disability-focused settings. Accordingly, the ADA provision that precludes nondisabled persons from bringing "reverse discrimination" lawsuits makes sense and should remain intact.<sup>377</sup> This provision allows disability-focused organizations to make decisions about whether to invite nondisabled persons to join without having to fear legal liability.

The need to protect the dynamics of disability-focused settings, however, does not end once disability-specific organizations are given the option to decide whether to admit nondisabled persons. Even if such organizations decide to accept everyone, it might be worthwhile to further limit inverse integration in terms of timing, number of participants, or leadership positions. In fact, disability-focused organizations have already employed myriad strategies to guarantee that disability-specific settings remain focused on disabled persons' needs and interests.<sup>378</sup> These strategies include: (1) clarifying, as a substantive principle, that the organization is committed to having disability-based leadership;<sup>379</sup> (2) insisting that the president of an organization be disabled;<sup>380</sup> (3) setting a provision in the organization's bylaws declaring that disabled persons must constitute at least fifty-one percent of the governing board;<sup>381</sup> (4) relying

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375. Cf. Gregory Schmidt, *Inside a Home for L.G.B.T.Q. Seniors: 'I Made Friends Here,'* N.Y. Times (Apr. 22, 2022), <https://www.nytimes.com/interactive/2022/04/22/realestate/lgbtq-senior-housing-new-york.html> (on file with the *Columbia Law Review*) (describing the fears of a resident in an "L.G.B.T.Q.-friendly housing development" in New York regarding encounters with "residents and visitors from the neighborhood who are intolerant and even hostile toward L.G.B.T.Q. people").

376. I thank Professors Danielle Peers and Ruth Colker for helping me think through this notion and terminology.

377. See 42 U.S.C. § 12201(g) (2018).

378. Cf. Harpalani, *supra* note 88, at 163 (discussing similar points in the racial context).

379. Sins Invalid, *supra* note 118, at 18, 23 (including, as part of a ten-principle framework, a principle about leadership that states the leaders of the Disability Justice movement must be disabled persons of color and queer and gender-nonconforming disabled persons).

380. See Gallaudet University, *About: Deaf President Now*, *supra* note 119 (describing the "Deaf President Now" protests at Gallaudet University).

381. See About Centers for Independent Living, Disability Achievement Ctr., <https://www.mydacil.org/about-centers-for-independent-living> [<https://perma.cc/WA6C-395G>] (last visited Oct. 31, 2023) ("Fifty-one percent of the staff and boards of [Centers for Independent Living] are persons with disabilities, which means that they play significant roles in the decision-making responsibilities of the Centers."). The "Deaf President Now" protesters had a similar demand with respect to Gallaudet University. Gallaudet University, *About: Deaf President Now*, *supra* note 119; see also *About: President's Council on Deafness*, Gallaudet Univ.,

on the input of disabled participants in making significant decisions regarding the scope of nondisabled participation,<sup>382</sup> and (5) limiting the number of nondisabled participants by imposing a cap<sup>383</sup> or otherwise guaranteeing that most participants are disabled.<sup>384</sup>

B. *Avoid Integrative Measures Based on Hierarchical Roles*

To promote reciprocity, policymakers should avoid integration measures that assign hierarchical roles, in which nondisabled persons are expected to protect, help, or make decisions for disabled individuals. Instead, integration should be based, to the maximum extent possible, on reciprocity and mutual dependency.

The way that inverse integration has generally been implemented in American schools (in most cases, under the heading of “reverse mainstreaming”) violates this principle and provides a cautionary tale. Reverse mainstreaming was supposed to foster companionship through face-to-face interactions between disabled and nondisabled students.<sup>385</sup>

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<https://www.gallaudet.edu/about/history-and-traditions/presidents-council-on-deafness> [<https://perma.cc/YKZ8-ANBA>] (last visited Oct. 31, 2023) (“We demand that the Board initiate the process of changing its By-Laws to conform with the [Commission on Education of the Deaf]’s recommendations to Congress of a 51 percent deaf member representation on the Board of Trustees.”).

382. See, e.g., Thiboutot et al., *supra* note 150, at 291 (describing a 1987 National Wheelchair Basketball Association meeting in which delegates voted on a proposal to admit nondisabled athletes); Loeppky, *supra* note 20 (describing a similar vote at the 2021 annual meeting).

383. For example, Gallaudet University admits hearing students to the undergraduate program up to eight percent of the student population. See U.S. Dep’t of Educ., Gallaudet University: Fiscal Year 2024 Budget Request 8–9 (n.d.), <https://www2.ed.gov/about/overview/budget/budget24/justifications/m-gallaudet.pdf> [<https://perma.cc/55FS-JSMK>] (last visited Mar. 17, 2024) (“[I]ncoming hearing students on-campus and in the Online Degree Completion Program may not exceed 8 percent of each year’s total number of newly enrolled undergraduate students.”).

384. These rules to guarantee disabled persons’ participation are sometimes complex. For example, wheelchair basketball organizations usually employ a points system based on the functional ability of each player, as well as a cap on the total number of points that can be on the court at any given time. In practical terms, this means that a five-player wheelchair basketball team cannot have more than one nondisabled player on the court. See Loeppky, *supra* note 20. These classification systems not only guarantee that nondisabled players will not take over wheelchair sports but also ensure that athletes with severe impairments are least impacted by nondisabled involvement in the sports.

385. Covo, *supra* note 4, at 648, 653 n.318 (“Educators and parents . . . argue that reverse mainstreaming fosters empathy among the nondisabled participants and gives ‘confidence’ to the disabled students.”); see also Scott K. McCann, Melvyn I. Semmel & Ann Nevin, *Reverse Mainstreaming: Nonhandicapped Students in Special Education Classrooms*, 6 *Remedial & Special Educ.* 13, 18 (1985) (“[R]everse mainstreaming may provide opportunities for handicapped students to establish friendships with nonhandicapped students which may become critical sources of social acceptance . . .”); Kimberly D. Schoger, *Reverse Inclusion: Providing Peer Social Interaction Opportunities to Students Placed in Self-Contained Special Education Classrooms*, 2 *Teaching Exceptional*

Indeed, some reverse mainstreaming practices are called “buddy programs.”<sup>386</sup> But because reverse mainstreaming generally assumes that the benefits of interactions flow in only one direction,<sup>387</sup> it fails to promote close relationships. For example, peer tutoring programs, a common component of reverse mainstreaming practices,<sup>388</sup> tend to be one-sided in that the nondisabled students always take on the role of tutor.<sup>389</sup> Similarly, nondisabled children are often assigned titles and roles such as “helper” or “teacher’s assistant,” which suggests that the relationship has a professional dimension.<sup>390</sup> These distinctions, in turn, keep the two students at arm’s length. In fact, some nondisabled peer-tutors report that they would prefer to interact with their disabled peers without preset responsibilities or titles because they get in the way of friendship formation.<sup>391</sup>

The problem of centering intergroup interactions around hierarchical roles extends beyond the education arena. When disabled individuals work in so-called “sheltered workshops,” the only nondisabled persons with whom they interact are the people running the workshop.<sup>392</sup> From a relational perspective, such integration measures are far from desirable. Most notably, they are not based on “equal status” in the organization and, in turn, do not reflect reciprocity.<sup>393</sup> In fact, Gordon Allport, the social psychologist who formulated the contact hypothesis, found that this kind of contact may actually *exacerbate* negative attitudes,<sup>394</sup> undermining one of the primary goals of integration.

To avoid such undesirable consequences, policymakers should structure integration measures in a way that encourages cooperative work and allows disabled persons to take leadership roles.

### C. Reinforce Friends’ and Family Members’ Rights

A number of disability rights laws extend rights to family members of disabled persons. Thus, for example, parents of disabled children are entitled to participate in the drafting of individualized education programs (IEPs) for their children.<sup>395</sup> These ancillary rights, however, are

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Children Plus, no. 6, 2006, at 1, 4 (“[I]t was hoped that the participants would develop mutually reciprocal friendships.”).

386. Covo, *supra* note 4, at 629, 649 n.299.

387. *Id.* at 649–50, 652.

388. *Id.* at 619, 649 & n.296.

389. *Id.*

390. *Id.* at 649.

391. *Id.*

392. Stefan, *supra* note 286, at 920.

393. Covo, *supra* note 4, at 651–52.

394. Allport, *supra* note 42, at 275–76.

395. 20 U.S.C. § 1414(d)(1)(B)(i) (2018) (stipulating parents’ rights to be part of the “individualized education program team” in the education context).



notoriously limited,<sup>396</sup> and their underlying justifications are based in part on the premise that a family member serves as a caregiver of, or advocate for, a disabled individual.<sup>397</sup> In other words, the concept of relationships in these provisions is perceived as a means to an end (e.g., a better education), rather than an end in itself.

Inverse integration, on the other hand, which often occurs among friends and family members, invites us to imagine an integration system that recognizes the role of friends and family in disabled persons' lives—not solely as caregivers or advocates, but rather, as companions, lovers, and siblings.

One possible way to incorporate this idea into the U.S. legal system might involve providing antidiscrimination protection to nondisabled friends or family members who engage in disability-focused activities or practices.<sup>398</sup> Granted, the idea to extend reasonable accommodations<sup>399</sup> to

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396. For example, the ADA's "association discrimination" provision, 42 U.S.C. § 12112(b)(4) (2018), does not require employers to provide reasonable accommodations to parents or caregivers. *Kelleher v. Fred A. Cook, Inc.*, 939 F.3d 465, 469 (2d Cir. 2019) ("[T]he ADA does not require an employer to *provide* a reasonable accommodation to the nondisabled associate of a disabled person . . .").

397. Julie F. Mead & Mark A. Paige, *Parents as Advocates: Examining the History and Evolution of Parents' Rights to Advocate for Children With Disabilities Under the IDEA*, 34 J. Legis. 123, 147–56 (2008) (reviewing and analyzing parental rights aimed at allowing parents to advocate for their children under the IDEA); Lawrence D. Rosenthal, *Association Discrimination Under the Americans With Disabilities Act: Another Uphill Battle for Potential ADA Plaintiffs*, 22 Hofstra Lab. & Emp. L.J. 132, 137–38 (2004) (describing several situations that the association discrimination provision was intended to address, most of which pertain to caregiving).

398. The ADA's association discrimination provision, which prohibits employers from "excluding or otherwise denying equal jobs or benefits" to individuals because of their association or relationship with a disabled person, is unlikely to apply to at least some of the situations discussed in this section, at least as interpreted by courts. 42 U.S.C. § 12112(b)(4); see also *infra* notes 402–405. First, it is unclear whether, and to what extent, the association discrimination provision applies to non-job-related situations. Cf. *Cortez v. City of Porterville*, 5 F. Supp. 3d 1160, 1164 (E.D. Cal. 2014) (holding that a nondisabled individual can assert an association discrimination claim under ADA's Title II, which covers public entities). Second, courts have been reluctant to apply this provision in cases where the only reason for the alleged discrimination was nondisabled persons' expression of support for disabled individuals. See, e.g., *Sifre v. Dep't of Health*, 38 F. Supp. 2d 91, 101 (D.P.R. 1999), *aff'd sub nom. Oliveras-Sifre v. Puerto Rico Dep't of Health*, 214 F.3d 23, 26 (1st Cir. 2000) (holding that the association discrimination provision does not apply in situations where the adverse action was the result of advocacy on behalf of disabled persons); see also *Larimer v. Int'l Bus. Machs. Corp.*, 370 F.3d 698, 700 (7th Cir. 2004) (identifying three categories of discrimination association: (1) "expense," (2) "disability by association," and (3) "distraction," none of which fits the situations described in this section). And third, as noted above, this provision does not include a reasonable accommodation requirement. See *supra* note 396.

399. Under the ADA, a failure to provide reasonable accommodations constitutes unlawful discrimination. See, e.g., 42 U.S.C. § 12112(b)(5)(A) (requiring reasonable accommodations for disabled individuals who are seeking employment or are already employed); *id.* § 12182(b)(2)(A)(ii) (categorizing the failure to provide "reasonable modifications" in public accommodations as discrimination).

nondisabled persons is not entirely new.<sup>400</sup> Existing proposals, however, have focused on workplace accommodations and addressing the stigma associated with disability accommodations.<sup>401</sup> By contrast, this Article's proposal moves beyond the employment realm and is aimed at allowing nondisabled persons to share experiences with disabled family members or friends.

Thus, for example, a retail establishment that barred customers from wearing face masks could no longer deny entry to a person who wears a mask as an act of solidarity with a disabled partner.<sup>402</sup> This would avoid the situation in which a disabled person would be entitled to wear a mask while their partner could not.<sup>403</sup> Similarly, people who shave their heads in solidarity with relatives or friends with cancer could no longer be fired or banned from school activities for such conduct.<sup>404</sup> In the same vein, this

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400. See, e.g., Porter, *supra* note 306, at 89, 108–09 (“The idea of a universal accommodation mandate is simple: any employee has the right to request a workplace accommodation and the employer cannot refuse the request based on the reason for the request.”); Stein et al., *supra* note 300, at 693–94, 737–44 (proposing a solution that would grant “an ADA-like reasonable-accommodation mandate to all work-capable members of the general population”).

401. See, e.g., Porter, *supra* note 306, at 108–09, 123–24, 128 (“Another benefit of this proposal is that accommodating everyone mostly avoids the stigma of classification.”); Stein et al., *supra* note 300, at 752–53 (“Detaching the right to accommodation from assignment of a special disability identity is consistent with integrating employees with disabilities rather than marking, and perhaps stigmatizing, them as essentially different from most workers.”).

402. See, e.g., Poppy Noor, No Masks Allowed: Stores Turn Customers Away in US Culture War, *The Guardian* (May 22, 2020), <https://www.theguardian.com/us-news/2020/may/22/us-stores-against-face-masks> [<https://perma.cc/A3HV-NREC>]; Gloria Oladipo, Texas Couple Denied Service at Restaurant for Breaking ‘No Mask’ Rule, *The Guardian* (Sept. 20, 2021), <https://www.theguardian.com/us-news/2021/sep/20/texas-couple-restaurant-masks> [<https://perma.cc/PVW8-FT73>].

403. Under Title III of the ADA, retail establishments are obligated to modify their “no-mask” rules to allow a disabled customer who is immunocompromised to visit the establishments. See 42 U.S.C. § 12182(b)(2)(A)(ii) (noting that discrimination includes “a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities . . .”). There is no equivalent provision for nondisabled persons.

404. Melanie Strandberg, for example, shaved her head to express solidarity with her sister, who was diagnosed with cancer. After Strandberg’s employer had required her to wear a wig to work, she decided to quit. Harry Bradford, Melanie Strandberg Shaved Her Head to Support Her Sister, Then Had to Quit Her Hairstyling Job, *HuffPost* (June 18, 2013), [https://www.huffpost.com/entry/hairstylist-quit-for-shaving-head\\_n\\_3460623](https://www.huffpost.com/entry/hairstylist-quit-for-shaving-head_n_3460623) [<https://perma.cc/Z2PM-NBVT>]; see also Keith Coffman, Colorado School Suspends Girl Who Shaved Head to Support Friend With Cancer, *Reuters* (Mar. 25, 2014), <https://www.reuters.com/article/us-usa-colorado-shavedhead-idINBREA2O21C20140325> [<https://perma.cc/7BHP-AC2H>] (reporting on a Colorado school briefly suspending a nine-year-old student after she shaved her head in support of a friend who had cancer); Waitress Fired After Cancer Head-Shave, *Toronto Star* (Jan. 27, 2011), [https://www.thestar.com/news/world/waitress-fired-after-cancer-head-shave/article\\_f97dbf88-9d5a-5759-9cae-cdc10ac9da1e.html](https://www.thestar.com/news/world/waitress-fired-after-cancer-head-shave/article_f97dbf88-9d5a-5759-9cae-cdc10ac9da1e.html) (on file with the *Columbia Law Review*)

new approach would allow sighted people to touch artwork when they accompany their blind friends and family members on museum “tactile tours.”<sup>405</sup>

Providing nondisabled friends and family members with such anti-discrimination protection would thus promote and solidify close interpersonal relationships in three important ways. First, it would allow nondisabled persons to show support for disabled friends and family without having to fear adverse consequences. Second, such legal protection would allow members of the two groups to do (fun) things together. And third, it would convey the desirable social message that promoting and maintaining relationships is a practice worth safeguarding.<sup>406</sup>

#### D. *Cultivate and Support Disability Culture*

As the hypothesis of Inverse Integration City in section III.B has demonstrated, the ability of disabled and nondisabled persons to share experiences often depends on the availability of disability-focused activities in the areas of culture, arts, entertainment, recreation, and sports. What this means is that incorporating disability culture into the legal and social infrastructure is key for facilitating social connection.<sup>407</sup> As long as ableism

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(reporting a similar story in Canada involving employment); Woman Fired After Shaving Head for Cancer Charity, CTV News (June 5, 2008), <https://www.ctvnews.ca/woman-fired-after-shaving-head-for-cancer-charity-1.300399> [<https://perma.cc/M8KE-7QCH>] (same). Granted, cancer patients do not always welcome shaving one’s head as an act of solidarity, especially when done as part of a large-scale fundraising initiative, as noted above. *Supra* note 112 and accompanying text. Thus, to address concerns that such an approach might trivialize disability, this new rule would only extend to close friends and family of disabled persons.

405. This hypothetical is based on an actual event, recounted by disability rights activist and author Simi Linton in her memoir. Linton, *My Body Politic*, *supra* note 82, at 217–22. According to Linton, who is sighted and uses a wheelchair, she was allowed to touch the sculptures when she joined a “special blind people’s tour” at the Museum of Modern Art (MoMA) with her blind friend Gene. *Id.* at 217–18 (“I’d copped a feel before in a museum, a furtive fondle when the guard wasn’t looking. But here I was in full view with authority to touch and to linger.”).

In some museums, tactile tours are still offered primarily to blind people. See, e.g., Visitors Who Are Blind or Have Low Vision, Art Inst. Chi., <https://www.artic.edu/visit/accessibility/visitors-who-are-blind-or-have-low-vision> [<https://perma.cc/4WR8-L42A>] (last visited Nov. 1, 2023). In others, however, such tours are open to the general public. See, e.g., Roxana Azimi, Museums Are Letting Visitors Get to Grips With the Exhibits, *The Guardian* (Oct. 16, 2015), <https://www.theguardian.com/artanddesign/2015/oct/16/museums-visitors-touch-feel-art> [<https://perma.cc/N7V2-NEDJ>] (listing several museums with tactile or multisensory exhibits, including the Louvre and the Tate Britain). Still other museums do not allow visitors to touch the artwork altogether. Linton, *My Body Politic*, *supra* note 82, at 220.

406. On the social meaning that is attached to certain actions or legal measures, see Lessig, *supra* note 57, at 951 & n.20.

407. Cf. Lord & Stein, *supra* note 240, at 264 (“Isolation from socialization opportunities such as sport, recreation and play serves to reinforce internalized oppression and disconnection from others for persons with disabilities.”).

is still prevalent in the cultural world and the dominant culture is centered around nondisabled persons,<sup>408</sup> however, one cannot assume that the market will provide sufficient incentives for private entities to invest in disability culture. Thus, governmental recognition and public funding are necessary to ensure that there are sufficient opportunities for disabled and nondisabled persons to engage in disability-focused activities.<sup>409</sup>

One such set of policies may involve encouraging people to learn and use ASL. For example, the state can be involved in establishing and funding ASL-based academic institutions,<sup>410</sup> recognizing ASL in legislation,<sup>411</sup> and supporting ASL instruction at the preschool and K–12 levels.<sup>412</sup> Other initiatives may involve supporting the development of community-based wheelchair basketball tournaments,<sup>413</sup> disability-based dance companies,<sup>414</sup> “ultra-accessible” theme parks,<sup>415</sup> “relaxed” theater performances,<sup>416</sup> and disability-focused playgrounds.<sup>417</sup>

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408. See Ladau, *Demystifying Disability*, supra note 3, at 120–39 (noting the lack of representation of disabled persons in the media); Linton, *My Body Politic*, supra note 82, at 153, 213 (describing how disabled identities are marginalized in the majority culture).

409. See, e.g., N.Y.C. Dep’t of Cultural Affs., *Proposed 5-Year Accessibility Plan Pursuant to Local Law 12 of 2023 (2024–2028)*, at 5 (Feb. 17, 2023), [https://www.nyc.gov/assets/dcla/downloads/pdf/DCLA-Proposed\\_Five-Year\\_Accessibility\\_Plan-\(2024-2028\).pdf](https://www.nyc.gov/assets/dcla/downloads/pdf/DCLA-Proposed_Five-Year_Accessibility_Plan-(2024-2028).pdf) [<https://perma.cc/8BUM-LYJV>] (describing citywide initiatives “to help make participation in NYC’s cultural life—as artists, cultural workers, or audience members—increasingly accessible, inclusive, and equitable” for disabled persons).

410. For example, Gallaudet University is a federally chartered university for Deaf people. *History & Traditions*, Gallaudet Univ., <https://gallaudet.edu/about/history-traditions/> [<https://perma.cc/K6D4-6NPH>] (last visited Nov. 1, 2023).

411. See, e.g., Maartje De Meulder, *The Legal Recognition of Sign Languages*, 15 *Sign Language Stud.* 498, 505 (2015); Rosen, *American Sign Language*, supra note 6, at 10–11.

412. See, e.g., De Meulder, supra note 411, at 505.

413. See supra note 243 and accompanying text.

414. See supra notes 62–64, 145 and accompanying text.

415. E.g., *About Us: The Story of Morgan’s Wonderland*, Morgan’s Wonderland, <https://www.morganswonderland.com/about-us/> [<https://perma.cc/T4BD-GDKW>] (last visited Nov. 1, 2023). The park offers accessible rides and attractions—all of which are constructed to enable people with various types of impairments to participate, including equipment to keep ventilators dry and radio tracker bracelets to protect children from getting lost. Yet, the park is open for guests “of all different abilities” and, in fact, most of the park’s guests are nondisabled. See Tina Rosenberg, *Opinion, A Place to Play, on Wheels or Feet*, *N.Y. Times* (Dec. 5, 2017), <https://www.nytimes.com/2017/12/05/opinion/morgans-wonderland-waterpark-kids-play.html> (on file with the *Columbia Law Review*).

416. E.g., Booth, supra note 246; Viswanathan, supra note 246.

417. E.g., Janene Holzberg, *Blandair’s Next Phase Has a Focus on Inclusive Play*, *Balt. Sun* (Aug. 16, 2018), <https://www.baltimoresun.com/maryland/howard/bs-md-ho-blandair-groundbreaking-20180816-story.html> (on file with the *Columbia Law Review*) (last updated May 31, 2019). Some “food allergy alert signs” around playgrounds ask parents and children not to bring food into the playgrounds to avoid the risk of contact reactions experienced by children with food allergies. See, e.g., Mariam Matti, *Ohio Mom Helps Food Allergy Alert Signs Spread to Cincinnati Parks*, *Allergic Living* (Nov. 15, 2018),

Admittedly, promoting disability-focused activities that are open to the public at large can raise concerns about co-optation and diversion of resources. For instance, as noted above, integrative measures that allow nondisabled persons to enjoy scarce resources otherwise available only to disabled individuals is generally not desirable.<sup>418</sup> Thus, for each and every activity, it will be necessary to determine the extent to which nondisabled involvement is allowed. While fine-tuning will surely be needed, one thing is clear: Finding a solution need not be an all-or-nothing approach.

Wheelchair basketball is a good example. At the elite level, where the opportunities to participate are limited,<sup>419</sup> the participation of nondisabled athletes may come at the expense of disabled individuals.<sup>420</sup> The picture changes, however, at the recreational level, where the participation of nondisabled persons is not likely to take away resources or opportunities from disabled persons. In fact, the participation of nondisabled players is sometimes *necessary* to form teams in situations in which there are not enough disabled players who want to play.<sup>421</sup> For this reason, it might make sense to restrict the participation of nondisabled persons in elite wheelchair basketball competitions (or to create an additional inverse-integration category at the elite level), while at the same time encouraging nondisabled participation in recreational, community-based wheelchair basketball tournaments.

#### CONCLUSION

This Article has introduced and analyzed the concept of inverse integration, a practice whereby nondisabled persons engage in disability-focused activities, settings, or frameworks. By examining inverse integration across various settings and contexts, this Article has tested the normative underpinnings of conventional integration. It has concluded that inverse integration's potential to foster relationships highlights one of the problems with traditional integration: its lack of attention to interpersonal relationships. This problem is particularly acute in a world where loneliness is prevalent and in-person interactions are becoming less common.

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<https://www.allergicliving.com/2018/11/15/ohio-mom-helps-food-allergy-alert-signs-spread-to-cincinnati-parks/> [https://perma.cc/88GE-NS44]; Town Makes Playgrounds Safer for Children With Food Allergies, Town of Oyster Bay (Sept. 26, 2019), <http://oysterbaytown.com/town-makes-playgrounds-safer-for-children-with-food-allergies/> [https://perma.cc/X6VJ-TS9Z].

418. See *supra* notes 114–117 and accompanying text.

419. See sources cited *supra* note 12.

420. Cf. Spencer-Cavaliere & Peers, *supra* note 20, at 300 (“[D]espite supporting reverse integration in nearly every other context, the majority of participants felt that unclassifiable athletes should continue to not be permitted to compete at the Paralympics.”).

421. See Hutzler et al., *supra* note 243, at 356; Medland & Ellis-Hill, *supra* note 243, at 114.

To address this relational deficit, this Article has proposed a number of legal measures designed to foster relationships between disabled and nondisabled persons at the structural level. Admittedly, these proposals cannot end disability discrimination or solve every issue that inverse integration raises: unfair distribution of resources, perpetuation of stigma, and intrusion into spaces designed by and for disabled persons.

But these measures do help us recognize that if we care about disability integration, we need to take interpersonal relationships seriously and consider how the U.S. disability rights regime can incorporate relationality in a meaningful way.