Still Looking to the Future:

Voluntary K-12 School Integration

A Manual for

Parents, Educators, & Advocates

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introduction

Since the Supreme Court's landmark decision in *Brown v. Board of Education*, parents and community leaders have repeatedly petitioned courts throughout the country, demanding that the judiciary give life and meaning to *Brown* by ordering recalcitrant school districts to dismantle their racially segregated school systems. In the face of great resistance, and sometimes violence, these leaders valiantly insisted that their children's schools act to eliminate the stubborn, persistent vestiges of racial discrimination and that we, as a country, live up to our nation's highest ideals of equality for all.

In more recent years, again urged by parents and activists, many school districts have recognized the value of racial and ethnic diversity and its important influence on educating our future citizens. A number of these school districts, as a result, have voluntarily adopted policies and student assignment methods designed to promote racial integration in their schools. In other words, more and more school districts are working to further racial diversity not out of legal obligation, but of their own accord, as a core part of their educational mission. They do so in recognition of the critical role of schools in fostering racial and ethnic harmony and strengthening our multiracial democracy. This development is without a doubt an encouraging one, as communities across the nation struggle to provide a high quality, inclusive education for all children.

On June 28, 2007, the Supreme Court issued a much anticipated and sharply divided 185-page ruling in two cases challenging the voluntary integration plans in Seattle, Washington and Louisville, Kentucky. A majority of the Justices recognized the importance of diversity and avoiding racial isolation in K-12 public schools, but the Court struck down particular aspects of the Seattle and Louisville student assignment plans because they were not, in its view, sufficiently well designed to achieve those goals. Significantly, while the Court placed limits on the ability of school districts to take account of race, it did not—as some reported—rule out any and all consideration of race in student assignment. In fact, a majority of Justices explicitly left the window open for school districts to take race-conscious measures to promote diversity and avoid racial isolation in schools.

While altering the landscape of school integration, the Seattle/Louisville decision did not provide a clear set of rules and principles for school districts to follow, and created some confusion about what school districts and communities can do to promote integration in their schools.

In 2005, we issued the first edition of this Manual, entitled *Looking to the Future: Voluntary K-12 School Integration*. Since the Seattle/Louisville decision, we have received numerous requests for updated information and guidance. This second edition of the Manual is designed to provide as much information as we now have, following the Court's ruling, on what you—parents, students, community activists, school board members, administrators, and attorneys—can and should do to promote diversity and avoid racial isolation in your schools. The manual will help you navigate the maze of legal, political, and policy issues that surround your efforts.

In the following pages you will find information about the rich, ever-expanding body of research regarding the many benefits of racially and ethnically diverse schools as well as the harms of racially isolated schools.

With the history, statistics, research and trends as context, we then turn to the practical question of what you can do to promote integration in the schools in your own community. We begin by reviewing and discussing the Seattle/Louisville decision in detail and the legal considerations now at work when school districts voluntarily elect to pursue diversity and avoid racial isolation in schools. Second, so that you get a sense of how other school systems have effectively tackled the problem, we briefly describe some common methods of student assignment.

Third, we provide examples of school districts that are trying to promote diversity and avoid racial isolation in schools either by taking account of factors other than race or by taking race into account in a limited manner.

Finally, we conclude with some concrete steps that you can take to make a difference by encouraging the public schools in your community to promote racial integration and implement policies and practices that foster positive, integrated learning environments for all students.

In order to make this Manual reader-friendly, we have deliberately eliminated footnotes, and instead include short "Further Reading" sections at the end of each chapter, to which you can refer if you are interested in finding out more information about the topics contained in the chapter.

CHAPTER 1

a brief history of "court-ordered" school desegregation

In this chapter, we discuss the history of court-ordered school desegregation following the historic *Brown v. Board of Education* decision.

A number of scholars have called *Brown v. Board of Education* the most famous United States Supreme Court case in American history. *Brown* overturned the 1896 *Plessy v. Ferguson* decision that deeply entrenched the doctrine of "separate but equal." *Brown* broke the back of legal apartheid in America's schools. The decision stated for the first time that racially separate schools were "inherently unequal" and did not provide equal educational opportunities to all students, in violation of the Equal Protection guarantees of the Fourteenth Amendment of the U.S. Constitution.

Although an enormous legal and moral victory, the *Brown* decision did not require the immediate elimination of racial segregation in our nation's public schools. In fact, one year later, in a follow-up case popularly known as *Brown II*, the Supreme Court allowed racially segregated school systems to move forward in dismantling their segregative practices "with all deliberate speed"—an infamous phrase that, for many years, meant without any speed or urgency at all. The Court in *Brown II* placed the obligation to supervise school desegregation squarely on local federal district courts, but provided these courts little guidance.

Despite the efforts of countless communities demanding immediate relief in the wake of the *Brown* decision— often at the risk of grave danger and violence, and mostly in the segregated South, where resistance was greatest—a full decade passed with virtually no progress in desegregating schools. By 1963, when President John F. Kennedy asked Congress to pass legislation prohibiting

What's the difference between "court-ordered" school desegregation and "voluntary" school integration?

Court-ordered school desegregation (sometimes just called school desegregation) refers to the desegregation efforts that school districts undertake because they have been ordered or required to do so by courts. Courts have the authority to order desegregation where there has been a history of prior racial segregation or discrimination that the U.S. Constitution or other laws and statutes require school districts to redress. This chapter discusses the history of court-ordered school desegregation.

Voluntary school integration (sometimes also called voluntary school desegregation) usually refers to the efforts that a school district (or region, or state) might undertake to encourage racial and ethnic diversity in its schools absent a court order requiring it to do so. School districts usually adopt voluntary school integration plans or policies because they recognize the educational benefits that flow to their students (and, as a result, to their community) from the opportunity to learn in diverse classrooms, or to avoid the harms associated with racially segregated or isolated learning environments. Subsequent chapters discuss voluntary school integration, and the reasons why school districts pursue it, in greater detail.

What's the difference between *de jure* and *de facto* segregation?

Courts have recognized *de jure* segregation (segregation by law) when there is evidence of intentional acts by states or local school authorities to segregate schools. *De facto* segregation results from other forces such as housing patterns and private discrimination. In this manual, we use the word "resegregation" to describe how students of color in public schools are becoming more racially isolated.

racial discrimination in all programs receiving federal aid (including schools), over 98% of Southern black students were still attending segregated schools.

The mid-1960s and early-1970s were a time of great change, and school desegregation finally began to take hold. Congress enacted President Kennedy's proposed legislation as the Civil Rights Act of 1964, which empowered the Department of Justice to initiate desegregation lawsuits independent of private plaintiffs and authorized the Department of Health, Education, and Welfare to deny federal funds to segregating school districts. Civil rights attorneys, working alongside these new governmental allies, focused the attention of the public and the federal courts on recalcitrant school districts that refused to comply with the law. The courts, in turn, responded by issuing detailed desegregation orders and then monitoring the school districts' progress, or lack thereof, on a regular basis.

During this critical period, the Supreme Court issued a number of important decisions that gave valuable support and legitimacy to these desegregation efforts.

- For instance, in *Green v. County School Board of New Kent County* (1968), the Court defined for the first time what desegregation required: the elimination of all traces of a school system's prior segregation in every facet of school operations—from student, faculty, and staff assignment to extracurricular activities, facilities, and transportation.

- Three years later, the Court ruled in *Swann v. Charlotte-Mecklenburg Board of Education* (1971) that lower courts supervising the desegregation of individual school districts could order the use of transportation, or busing, to achieve desegregated student assignments. In so doing, it rejected the argument that formerly dual school systems had discharged their desegregation duties by assigning students to segregated schools that happened to correspond with segregated neighborhoods.

- Shortly thereafter, the Court decided another notable case, *Keyes v. School District No. 1* (1973), which extended school desegregation obligations to systems outside the South that had employed discriminatory policies. The *Keyes* case was also the first to order desegregation for Latino students.

Federal district courts took guidance from these and other Supreme Court decisions as they ordered desegregation plans unique to the communities for which they were responsible.

The Supreme Court's role as a champion of school desegregation efforts was relatively short-lived. By the mid-1970s, the Court began slowly withdrawing its support for school desegregation. In perhaps the most significant case from this era, *Milliken v. Bradley* (1974), the Court dealt a serious blow to school desegregation efforts by concluding that lower courts could not order "inter-district" desegregation remedies that encompass urban as well as suburban school districts without first showing that the suburban district (or the state) was liable for the segregation across district boundaries. The practical impact of the decision was that a bright line was established between city and suburban school systems, which could not be crossed in designing desegregation plans: whites, who for decades had tried to avoid the desegregation of schools, finally had a place to go where they could successfully do so.

Following a period of aggressive enforcement, support for school desegregation from the executive branch of government began to waver as well. In the 1980s, the Reagan administration adopted a new philosophy that focused on school choice—rather than on the firm insistence of compliance with court orders requiring mandatory student assignments—to accomplish school desegregation. As a result, scores of school districts abandoned busing as a remedy and began more actively employing strategies and tools such as "magnet schools" and "controlled choice plans" as the primary means of advancing desegregation. We define and discuss these strategies, and others, in Chapter 5.

Although the Reagan administration did manage to succeed in winning significant modifications in a number of desegregation orders across the country, public opinion at the time remained supportive of school desegregation in principle, and thus the administration's efforts to change the entire course of desegregation largely stalled.

In the 1990s, the Court stepped in again, and ushered in another significant shift in school desegregation jurisprudence. Between 1991 and 1995, the Supreme Court handed down three important decisions that permitted federal district courts to declare a school system "unitary"—i.e. that the school system would no longer be subject to a court order to desegregate—if the court determined that the system had done all that was feasible to eliminate the effects of past discrimination. So even if severe racial isolation or other racial disparities remained, a school system would be permanently released from court order if it demonstrated a good faith effort to desegregate, along with reasonable compliance with prior desegregation orders for a certain period of time. Many advocates of school desegregation viewed these changes as a significant dilution of the desegregation obligations the Supreme Court had placed on school districts in the previous decades. More importantly, these decisions essentially invited school districts to initiate proceedings to bring their desegregation obligations to an end.

In the twelve years since the last of that trilogy of cases was decided, a large number of school systems have been declared unitary. In some instances, the school district itself sought to end federal court supervision, arguing it had met its constitutional obligations. In others, parents opposed to desegregation led the attack to relieve the school district of any continuing legal duties to desegregate, leaving the district in the awkward position of having to defend the kinds of policies that it had, ironically, resisted implementing in prior decades. Indeed, a handful of federal courts have recently declared districts unitary even when the school district itself argued that its desegregation policies were still necessary to remedy past discrimination.

Once a school district has been declared unitary, it is no longer under a legal duty to continue any of the desegregation efforts that it had undertaken in the decades when it was under court order. The school district remains, of course, under a broad constitutional obligation to avoid taking actions that intentionally create racially segregated and unequal schools. Yet courts presume that the school district's actions are innocent and legal, even if they produce racially disparate results,

unless there is evidence of intentional discrimination. The past history of segregation and desegregation is completely wiped away in the eyes of the law.

As you will see in the coming chapters, these fully discretionary, "innocent and legal" policies in many instances have contributed to a disturbing phenomenon of racial resegregation in our public schools, which are more racially separate now than they have been for decades.

At the same time, a unitary school district's voluntary use of race as a factor (as it had been mandated to use in prior years) for the purpose of stemming resegregation and promoting diversity has come under challenge in Louisville (as one example). Indeed, opponents of integration claim that considering race to bring students together violates the same constitutional provision that outlawed segregated schools 50 years ago in *Brown*. The recent Seattle/Louisville decision from the Supreme Court provides guidance to school districts on these questions. But before we turn to the complex legal landscape of voluntary school integration left after the Seattle/Louisville decision, we first examine the patterns of and changes in public school student enrollment that make up this resegregation phenomenon.

Further Reading

Irons, P. (2002). Jim Crow's Children: The Broken Promise of the *Brown* Decision. New York: Viking.

Kluger, R. (1975, 2004). Simple Justice: The History of *Brown v. Board of Education* and Black America's Struggle for Equality. New York: Vintage.

Kozol, J. (1991). Savage Inequalities: Children in America's Schools. New York: HarperPerennial.

Orfield, G., Eaton, S. E., and the Harvard Project on School Desegregation. (1996). Dismantling Desegregation: The Quiet Reversal of *Brown v. Board of Education*. New York: The New Press.

Wilkinson, J. H. III. (1979). From *Brown* to *Bakke*: The Supreme Court and School Integration: 1954-1978. New York: Oxford University Press.

Some key Supreme Court school desegregation cases:

Brown v. Board of Education (1954): The Court declares segregation in public schools unconstitutional in violation of the Equal Protection Clause of the Fourteenth Amendment.

Brown v. Board of Education II (1955): The Court confers upon local school authorities and district courts the responsibility of eliminating school segregation "with all deliberate speed."

Green v. County School Board of New Kent County (1968): The Court states that remedying school segregation requires the elimination of any traces of the prior racial discrimination "root and branch."

Swann v. Charlotte-Mecklenburg Board of Education (1971): The Court states that federal courts have broad authority to order desegregation remedies upon finding a constitutional violation, and that busing to achieve desegregated schools is permissible.

Keyes v. School District No. 1 (1973): The Court finds for the first time that a school district outside of the South— in this case, Denver, Colorado—effectively operated segregated schools. This is also the first case explicitly ordering desegregation for Latinos.

Milliken v. Bradley (1974): The Court concludes that a district court cannot order an inter-district desegregation remedy without first finding that there was an inter-district constitutional violation.

Oklahoma City Board of Education v. Dowell (1991): The Court states that a school system should be released from court supervision if it has complied in good faith with the desegregation order for a reasonable period of time and if the traces of the prior segregation have been eliminated to the extent practicable.

Freeman v. Pitts (1992): The Court allows incremental release from court supervision over certain aspects of a school system's operations where the system can demonstrate good faith compliance over a reasonable period of time, even if racial isolation or other disparities continue to exist.

Missouri v. Jenkins (1995): The Court rules that some racial disparities, in areas such as academic achievement, are beyond the authority of federal courts to address, reaffirming the Supreme Court's desire to end federal court supervision and return control of schools to local authorities.

Parents Involved in Community Schools v. Seattle School District No. 1 (2007): The Court rules that school districts can continue to take voluntary steps to promote diversity and avoid racial isolation in schools, but places limits on their ability to adopt measures that take account of race to achieve those ends.

Although it never reached the Supreme Court, an important foundation was laid for *Brown* in the case of *Mendez v. Westminster* (1947). In *Mendez*, a district court in California held that the segregation of Latino students was a violation of Equal Protection Clause, based on a finding that segregation in public education causes a permanent badge of inferiority. The appellate court affirmed that judgment.

CHAPTER 2

the resegregation crisis in our schools

In this chapter, we discuss the changes in racial and ethnic composition in U.S. public schools since the Civil Rights Era, highlighting in particular the recent trend of resegregation.

RACIAL TRANSFORMATION OF THE PUBLIC SCHOOLS

Since the late 1960s, the racial composition of our nation's public school students has changed dramatically. At that time, students attending U.S. public schools (and the population of the United States in general) were overwhelmingly White. But that is no longer the case. Today students of color comprise over 40% of all U.S. public school students, more than twice their share of students during the 1960s. In addition, most non-White students during the 1960s were Black; now the population of students of color is much more racially and ethnically diverse.
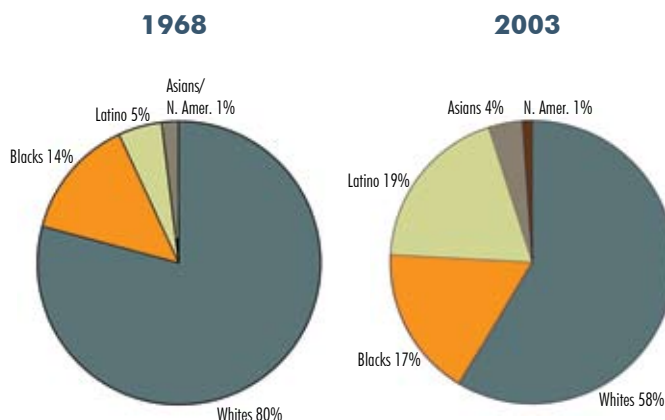
As shown in Figure 1 (*right*), Black and Latino students are now more than a third of all students in public schools. The most rapidly growing racial/ethnic group is Latinos, who have quadrupled in size from 1968 to 2003 to roughly 9 million students. Asian enrollment is similarly increasing. As noted above, the numbers of White students decreased sharply. By 2003, there were seven million fewer White public school students than there were at the end of the 1960s, and White students made up less than 60% of public school enrollment.

THE REALITIES OF RESEGREGATION

Although the Supreme Court declared segregated schools to be unconstitutional in 1954, the schools did not desegregate overnight or even over the course of a few years. The slow, decades-long process set in motion by the *Brown* rulings is now being rapidly undone. U.S. public schools are more than a decade into a period of rapid resegregation. The desegregation of Black

Figure 1: Percentage of Public School Enrollment by Race/ Ethnicity, 1968 and 2003

1968

Asians/ N. Amer. 1%
Latino 5%
Blacks 14%
Whites 80%

2003

Asians 4%   N. Amer. 1%
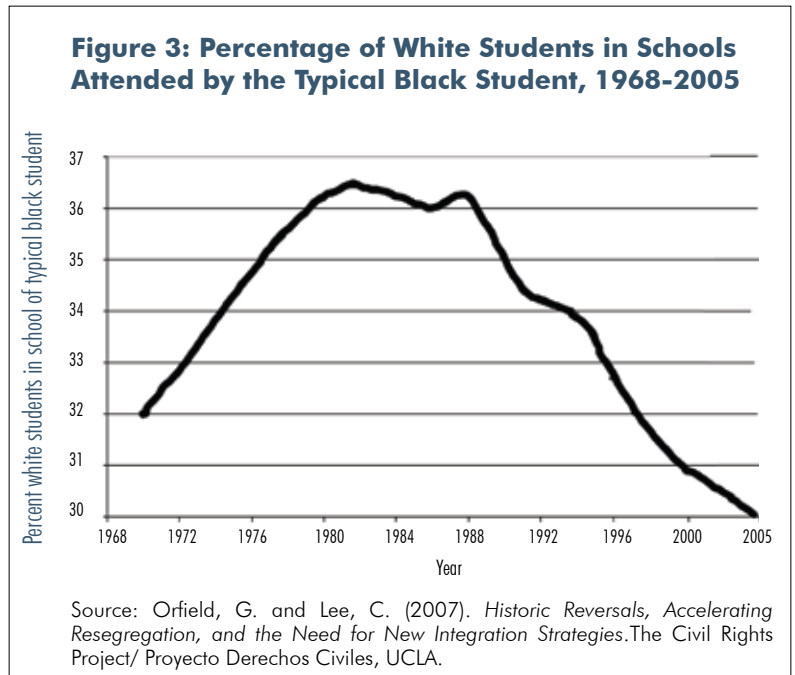Latino 19%
Blacks 17%
Whites 58%

Source: Frankenberg, E., Lee, C., and Orfield, G. (2003). *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Cambridge, MA: The Civil Rights Project. P. 24

students, which increased continuously from the mid-1950s to the late 1980s, has now declined to levels not seen in three decades. Latinos, by contrast, have never experienced a time of increased integration and today are the most segregated group among all students of color in our schools. Resegregation is occurring at the national, regional, and district level, as discussed below.
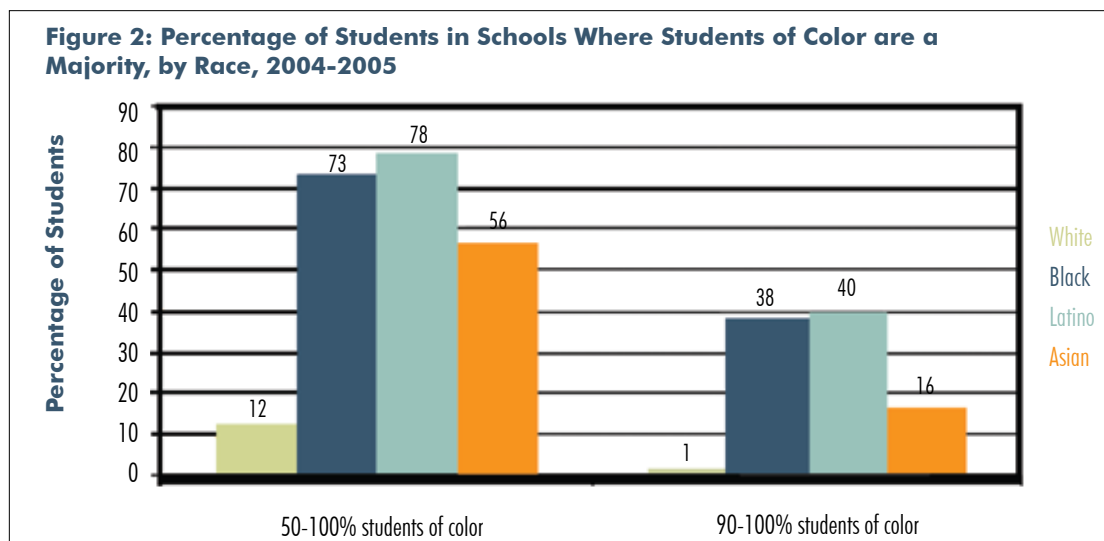
National trends

Remarkably, almost 2.4 million students—including about one in six of both Black and Latino students—attend hypersegregated schools in which the student population is 99-100% of color. Nearly 40% of both Black and Latino students attend intensely segregated schools in which the student population is between 90-100% students of color; conversely, only 1% of White students attend such schools. Additionally, 72% of Black and 77% of Latino students attend schools in which students of color constitute a majority of the students (*See Figure 2*).

Although we often think of segregation in terms of Black or Latino students, Whites are the most isolated group of students in the U.S. The typical White public school student attends a school that is nearly 80% White, which is considerably higher than their share of the overall public school enrollment (less than 60%). In other words, White students, on average, attend schools in which only one in five students are of another race, which conversely reduces the

Figure 3: Percentage of White Students in Schools Attended by the Typical Black Student, 1968-2005

Source: Orfield, G. and Lee, C. (2007). *Historic Reversals, Accelerating Resegregation, and the Need for New Integration Strategies.* The Civil Rights Project/ Proyecto Derechos Civiles, UCLA.

opportunities for students of other races to be in schools with White students. Asians are the most desegregated of all students; three-fourths of students in their schools are from other racial/ethnic groups.

Black and Latino students are also extremely isolated from students of other races, and they are particularly isolated from Whites. Blacks and Latinos attend schools where two-thirds of the students are also Black and Latino, and over half of the students in their schools are students of their same race. Despite earlier progress in

Figure 2: Percentage of Students in Schools Where Students of Color are a Majority, by Race, 2004-2005

Source: Orfield, G. and Lee, C. (2006). *Racial Transformation and the Changing Nature of Segregation.* Cambridge, MA: The Civil Rights Project. P. 11-12

desegregation, the percentage of White students that attend schools with Black students, another measure of student integration, has been declining since 1988. By this measure, the extent of racial isolation in America's schools has not been this high since the 1960s, before widespread busing to promote racial integration began (*See Figure 3*).

Regional trends

The national trend towards increasing racial isolation in schools is evident in every region of the country. More Black students attended segregated schools in 2003 than in 1988, when desegregation plans had been successfully implemented in many districts across the country. Latino segregation has also been increasing in every region since the late 1960s.
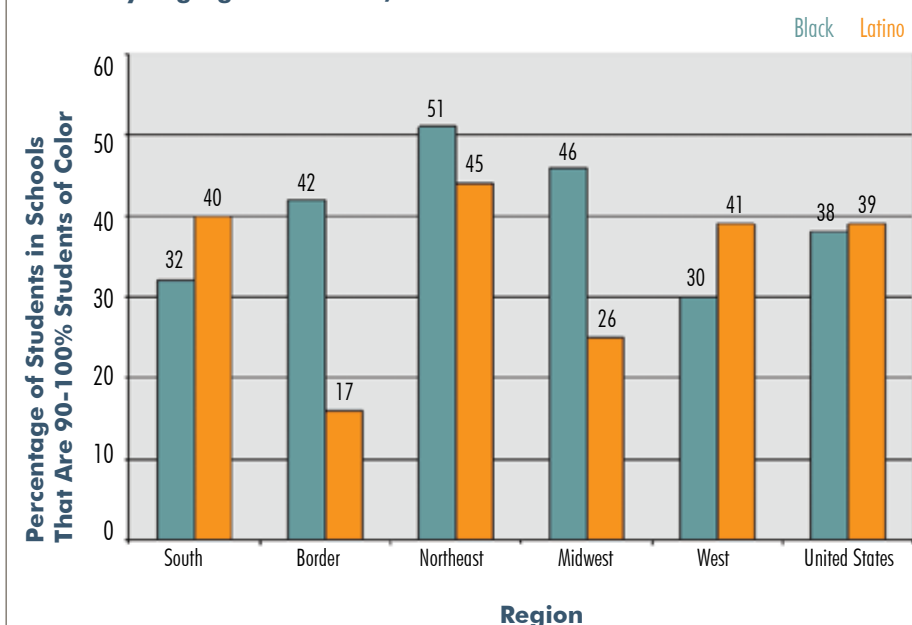
In the Northeast, nearly four out of every five Black students attend schools in which students of color predominate. Similarly, in the Northeast, South, and West—the regions with the most Latino students—almost 80% of Latino students attend such schools. Additionally, roughly half of Black students in the Northeast and Midwest attend intensely segregated schools (*See Figure 4*).

What about segregation of English Language Learner students?

English Language Learner (ELL) students often face segregation by language. English Language Learners (ELLs) who are Latino attend schools where over 60% of the students are Latino, compared to the average Latino student who attends a school where 54% of the students are Latino. By comparison, the isolation is less severe for Asian ELL students; only one-quarter of their schools, on average, are Asian.

Another troubling trend is the consistent reversal of gains in desegregation for Black students in the South, where most Black students attend school. By the late 1960s, the South was most integrated region of the country due to court-ordered desegregation and federal enforcement of desegregation plans. Desegregation of Black students remained stable for several decades; by 1988, 43.5% of southern Black students were in majority White schools. During the 1990s, however, the proportion of Black students in majority White schools in the region steadily declined as desegregation plans were dismantled. In 2004, only 27% of southern Black students were in majority White schools, lower than any year since 1968.

The data in Figure 5 (opposite page) demonstrate two important points about desegregation: 1) when a concerted effort was made to desegregate Black and White students in the South during the mid- to late-1960s, there was major progress demonstrating that desegregation can and has succeeded; and 2) we are experiencing a period of steady increase in segregation since the late 1980s and undoing much of the early success that led to several decades of desegregated schooling for millions of students in the South.

District trends

School resegregation for Blacks and Latinos is a trend seen in almost every large school district since the mid-1980s. One reason is that public school districts in many of our nation's largest cities contain few White students—without whom even the most well-

Figure 4: Percentage of Black and Latino Students in Intensely Segregated Schools, 2003-2004
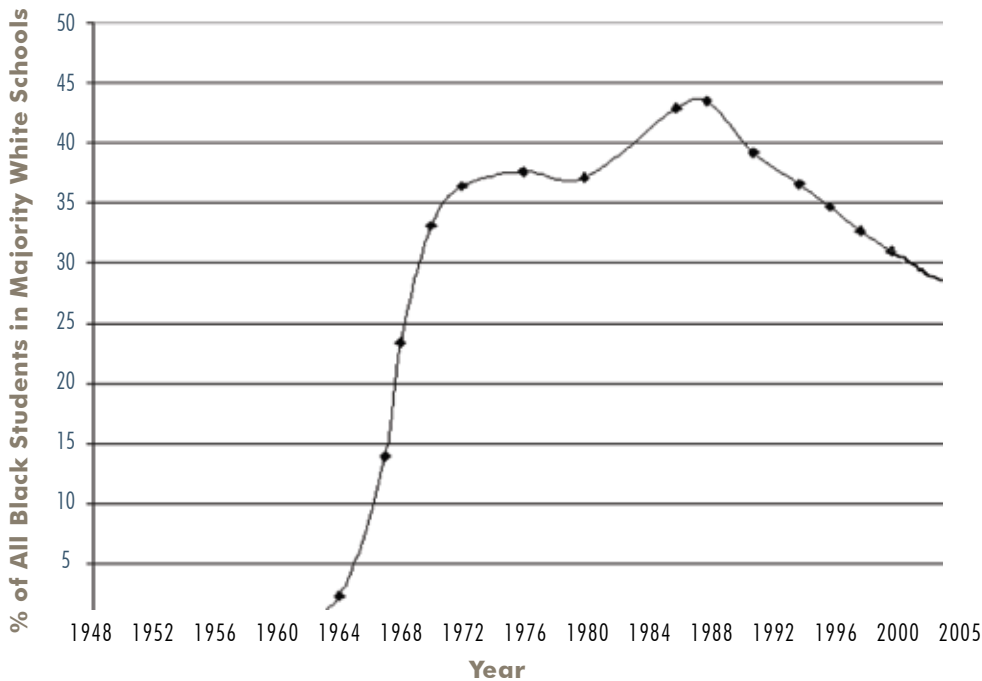

Source: Orfield, G. and Lee, C. (2006). *Racial Transformation and the Changing Nature of Segregation*. Cambridge, MA: The Civil Rights Project. P 11-12.

Figure 5: Changes in Black/White Integration in the South, 1954-2005

Source: Orfield, G. and Lee, C. (2007). *Historic Reversals, Accelerating Resegregation, and the Need for New Integration Strategies*.The Civil Rights Project/ Proyecto Derechos Civiles, UCLA.

students of other racial backgrounds in these districts are also extremely isolated.

In general, students of color in suburban districts are exposed to more White students than their counterparts in central city districts, although there is substantial variation within the largest suburban districts. In over half of the suburban districts with more than 60,000 students, the typical Black and Latino students attend schools that, on average, have a White majority. Yet, Black and Latino students in these districts are more segregated from Whites today than in the mid-1980s. In a short time span, some suburban districts have undergone drastic racial change. These districts are now majority students of color, similar to the urban districts discussed above.

designed desegregation plans cannot create substantial integration. While the twenty-six largest city districts enroll over one-fifth of all Black and Latino students, fewer than one in forty White students attends these urban schools. Latino students are now more numerous than students of any other race or ethnicity in the largest central city districts. These trends are cause for concern because urban students (who are a sizeable proportion of all Black and Latino public school students) are unlikely to be in schools with many White students.

Additionally, White students are isolated from other students even in districts in which White students are a small percentage of the overall enrollment. Not only are Whites not fully exposed to the district's racial diversity,

Rural districts are, in general, less segregated since there are fewer schools available where students can enroll. In some rural areas, however, private schools disproportionately enroll White students while public schools remain overwhelmingly comprised of students of color.

Countywide districts, or those districts that contain both central city and at least some part of its suburbs within

How do we think about racial categories?

We recognize that the term "Asian" obscures important differences among Asian/Asian American groups, including variations in immigrant status, socio-economic status background, and more. While the 2000 census does provide for identification by subgroups, education data has not yet been uniformly collected in that way, and therefore it has been largely unavailable for careful analysis. Multiracial students, including biracial students, are also not included here since school data has not uniformly included such racial classifications. Census data indicate multiracial youth comprise 4% of the under-18 population. The Department of Education recently proposed to adopt some of the Census classifications. Yet, the proposed guidelines, if implemented, would make it difficult to measure how achievement and segregation change because it would not be compatible with the current system of disaggregating data by race/ethnicity.

How do we measure "poverty" in schools?

Generally, most discussions of student poverty in schools use the percentage of students in the school who receive free and/or reduced lunch. Students from families near or below the poverty line are eligible for this program. However, it is only a rough estimate of poverty and likely understates the percentage of students from poor families due to the fact that sometimes eligible students don't apply for the program because of stigma that may be attached (this is particularly likely in high schools) or because a family's immigration status, or other situations, may make them unwilling to apply and risk government scrutiny.

one school district, have traditionally been districts in which there has been a high degree of racial integration. Many of these districts are located in the South and have had stable, thorough integration for several decades. Additionally, because many of these districts contain a majority of the metro's students, they have had steady rates of growth while maintaining a mixture of racial groups within the district.
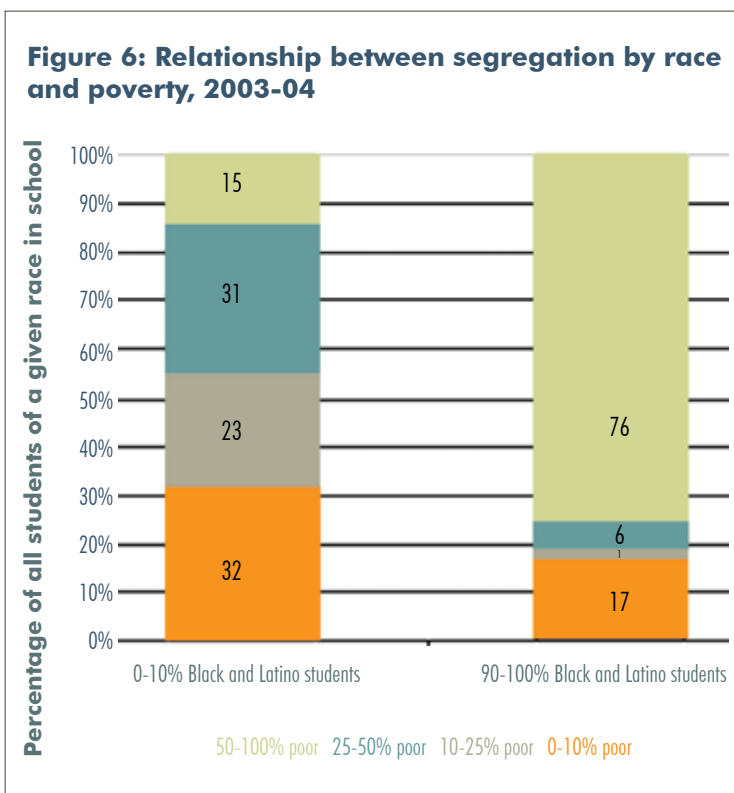
Figure 6: Relationship between segregation by race and poverty, 2003-04

Percentage of all students of a given race in school

0-10% Black and Latino students	90-100% Black and Latino students
15	76
31	6
23	1
32	17

50-100% poor   25-50% poor   10-25% poor   0-10% poor

Source: Orfield, G. and Lee, C. (2006). *Racial Transformation and the Changing Nature of Segregation*. Cambridge, MA: The Civil Rights Project. P 31.

SEGREGATION: POVERTY, RESIDENCE AND RACE

When we talk about schools that are segregated by race, we are also usually talking about schools that are segregated along other dimensions as well, including poverty and English Language Learner status. Racial segregation is inextricably linked to segregation by poverty, and the racial differences in students' exposure to poverty are striking. Nationally, almost twenty percent of children (including those in private schools and too young to attend school) live below the poverty line. About half of all Black and Latino students attend schools in which three-quarters or more students are poor. Only 5% of white students attend such schools. In schools of extreme poverty (where poor students constitute 90-100% of the population), 80% of the students are Black and Latino.

Another way of thinking about the relationship of race and poverty is to examine the overlap between concentrations of students of color with high-poverty schools. More than three quarters of schools where 90-100% of students are Black and Latino are also high-poverty schools (See Figure 6). Only one-fifth of schools with less than 10% of Black and Latino students have similar levels of poverty. Thus, in most cases when we talk about segregated Black and Latino schools, we're also talking about schools with high concentrations of poor students.

There are also striking racial differences in exposure to poverty among students of different races. In 2005-06, over sixty percent of Black and Latino students attended schools in which at least half of the students were considered poor (see Figure 7). In contrast, only 21% of white and 30% of Asian students attended schools with a majority of poor students. Similarly, small percentages of Black and Latino students attended low-poverty schools, where 0-10% of students were poor, while over one-fifth of White and Asian students attended low-poverty schools. In fact, over half of all White students attend schools in which 30% or fewer of students are poor. This is due in part to residential segregation by race, which remains high in metropolitan areas around the country and drives segregation independent of economic status. The fact that the incomes of Black and Latinos are
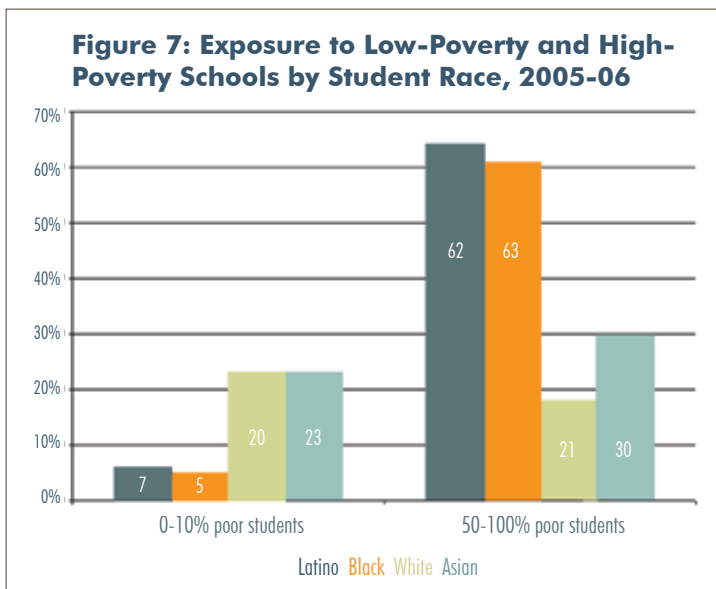
Figure 7: Exposure to Low-Poverty and High-Poverty Schools by Student Race, 2005-06

Source: Orfield, G. and Lee, C. (2007). *Historic Reversals, Accelerating Resegregation, and the Need for New Integration Strategies*.The Civil Rights Project/ Proyecto Derechos Civiles, UCLA.

lower, on average, deepens the problems of residential segregation by concentrating people of color who are also poor.

Note that while race and poverty are certainly connected, they are not perfectly correlated. For example, as compared to White purchasers of similar financial status, Blacks and Latinos buy homes in neighborhoods with higher percentages of people of color, which contributes to continued residential patterns segregated by race,

but not class. Further, it appears that wealthier students choose to attend schools other than their neighborhood school at a higher rate in neighborhoods with a greater percentage of residents of color. Thus, while race and class are often strongly linked, it seems that race is a determining factor in school segregation beyond the influence of class.

The alarming crisis of deepening segregation in U.S. schools today is evident at all levels, for all students. There are also striking racial differences in exposure to poverty among students. The next chapter will explain what the costs of this racial segregation and poverty exposure are.

Further Reading:

Boger, J.C. and Orfield, G., eds. (2005). *School Resegregation: Must the South Turn Back?* Chapel Hill, NC: University of North Carolina Press.

Frankenberg, E. and Lee, C. (2002). *Race in American Public Schools: Rapidly Resegregating School Districts*. Cambridge, MA: The Civil Rights Project. www.civilrightsproject.ucla.edu/research/deseg/reseg_schools02.php

Frankenberg, E., Lee, C., and Orfield, G. (2003). *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Cambridge, MA: The Civil Rights Project. www.civilrightsproject.ucla.edu/research/reseg03/resegregation03.php

Orfield, G. and Lee, C. (2006). *Racial Transformation and the Changing Nature of Segregation*. Cambridge, MA: The Civil Rights Project. http://www.civilrightsproject.ucla.edu/research/deseg/deseg06.php

University of North Carolina Center for Civil Rights. (2005). *The Socioeconomic Composition of The Public Schools: A Crucial Consideration in Student Assignment Policy*, Chapel Hill, NC. www.law.unc.edu/Centers/details.aspx?ID=390&Q=2

CHAPTER 3

the importance of integrated schools and classrooms

In this chapter, we discuss the benefits of integrated schools and classrooms for students of all races, as well as the harms for students in segregated schools.

In 2004, as the nation celebrated the fiftieth anniversary of the *Brown v. Board of Education* decision, many wanted to presume that large-scale racial inequality was an artifact of the past and of little concern to us today. Yet, as seen in the previous chapter, it is clear that segregated or near-segregated schools continue to exist, and that school resegregation has been on the rise since the 1980s. Public school segregation has not increased because the desegregation effort failed or because Americans have turned against it. In fact, there is now more information about the benefits of diversity and integration than ever before, and public support for diverse, inclusive schools remains high. In the Seattle and Louisville cases recently decided by the Supreme Court, Justice Anthony Kennedy recognized that a "compelling interest exists in avoiding racial isolation, an interest that a school district, in its discretion and expertise, may choose to pursue." Further, he noted that diversity was a compelling education goal for school districts.

Similarly, a large group of academic and civic leaders filed *amicus* briefs with the Supreme Court in the voluntary integration cases in fall 2006, and 27 of those briefs used social science evidence. The social science evidence presented in the *amicus* briefs was analyzed by the National Academy of Education, which concluded that research demonstrated a number of important benefits of racially diverse schools.

THE BENEFITS OF INTEGRATION

Aside from the fact that integrated schools help to prevent harms strongly associated with segregated learning environments, we continue to learn a great deal about the benefits of integration for students of color as well as for white students.

While the context and demographics of districts vary, for these benefits of integration to occur it is important to have not only diverse schools, but diverse classrooms within them. We've learned that all students in racially diverse classrooms benefit in several ways: deeper ways of thinking, higher aspirations—both educational and occupational, and positive interactions with students of other races and ethnicities. Further, communities with integrated schools benefit in a number of important ways.

Two points are worth mentioning at the outset: First, integrated education has positive long-term benefits, which actually turn out to be more significant than the short-term benefits, such as higher scores on achievement tests. For example, when children from desegregated environments reach adulthood, they tend to live and work in more integrated settings. Second, although much of the research focuses on the benefits for Black students, new research is suggesting that the benefits of racially diverse schools apply to students of all racial/ethnic backgrounds, particularly if schools are structured to maximize these benefits.

A short-term benefit of desegregated schools that has been the focus of a great deal of research is their effect on academic achievement. Research shows that Black and Latino students perform better in integrated schools than in schools with higher percentages of students of color. One reason is that desegregated schools tend to be schools with middle-class students. Decades of research has shown that student achievement is higher (regardless of students' own class background) when students are in classes where the average socio-economic status is higher—in other words, in classes with large numbers of students from families with middle-class or higher income levels. Higher student aspirations resulting from integrated schools have also been linked to higher expectations of students within these schools.
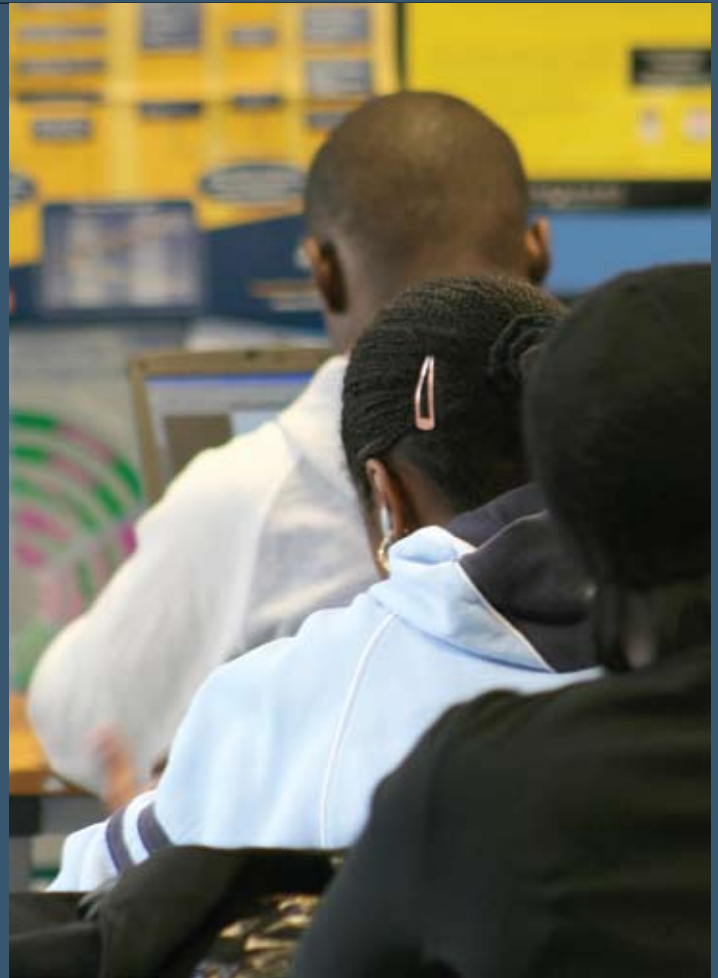
Why integration in the context of education?

More than a half century ago in *Brown*, the Supreme Court stated that "[e]ducation is perhaps the most important function of state and local governments. . . . It is required in the performance of the most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him adjust normally to his environment." The critical role education plays in our democracy was reaffirmed by the *Grutter* decision (2003). There, the Court acknowledged that education was "pivotal to 'sustaining our political and cultural heritage' with a fundamental role in maintaining the fabric of society'" and that "[e]ffective participation by members of all racial and ethnic groups in the civil life of our Nation is essential if the dream of one Nation, indivisible, is to be realized." The Supreme Court's recent decision underscoring the importance of diversity in K-12 education will be discussed in Chapter 4.

Students in these schools also benefit from the schools' informal, integrated networks, which can aid students in attending competitive colleges or attaining a higher-status job, but which are simply not available even to the best students in segregated minority schools.

All students in integrated school environments tend to have more cross-racial friendships, which can reduce prejudice towards the friend's racial group. In fact, new research indicates that racially integrated schools benefit white students: White students in integrated schools exhibit more racial tolerance than their peers in segregated white environments. White students, however, are the most likely students to be isolated—a fact that is surprising to many given the relative lack of attention to segregated white schools. Yet, due to such schools, white students will lack valuable skills in living and working with people of other backgrounds in the increasingly diverse 21st century.

Research suggests that diverse settings can reduce stereotypes and promote cross-racial understanding for students of all racial/ethnic backgrounds, which are important skills in our increasingly racially diverse society. This is more likely to be true when integration occurs at earlier ages as children are still in the process of forming their understanding and attitudes about race, unlike adults or even college-aged students who have spent many years internalizing racial attitudes from our still-segregated society.

What are "networks" and why are they important?

Networks refer to the informal connections that exist between people, for a variety of reasons: where they live, what school they attend(ed), where they attend religious services, involvement in a particular organization, etc. These networks, according to research, have been shown to be very important in several aspects of affecting one's life chances. Many Whites, for example, get their jobs through these informal networks even for jobs that never have a formal search. Other uses of networks include admission to college, particularly selective colleges, finding housing, or knowledge of good schools. Access to integrated, middle-class networks provides access to information and better opportunities compared to those not in these networks. Research has shown that one of the longer-term benefits of attending desegregated schools is the access for minority students to these networks, which offers an ability to overcome segregated housing, educational, and job opportunities.

Students of all races share in the long-term benefits of integration. Students who attend more diverse schools have higher comfort levels with members of racial/ethnic groups different from their own, an increased sense of civic engagement, and a greater desire to live and work in multiracial settings compared to their more segregated peers. Students in racially and ethnically diverse schools are also better able to realize the existence and effect

of discrimination on other students, which helps them to make decisions that are not based on racial stereotypes. Although stereotypes can be difficult to reverse, research has demonstrated that positive interactions with people of different races, where all students are respected equally, help to lessen earlier prejudices.

These long-term benefits are illustrated in integration's so-called "perpetuation effects": integrated experiences persist across time and context. Students who attend diverse schools are more likely to live in integrated neighborhoods and choose integrated colleges and workplaces. In turn, students who attend segregated schools are more likely to live in segregated environments, partially due to the fact that they have not had the opportunity to step across the racial lines in our society and get to know others from different racial and ethnic backgrounds. Attending diverse and inclusive schools can have important implications later in life—and for the future of our society.

Diverse and integrated schools also produce many other social, political and economic benefits to society as a whole. Among other things, integrated schools can help to stem white flight from schools that might otherwise be predominantly students of color. By stabilizing the student population and diminishing white flight, integrated schools can help to curb residential segregation.

Employers benefit when the future workforce has been educated in integrated schools and are experienced in working across racial lines. By reducing the dropout rate, the economy benefits from the production of more workers and fewer teenagers likely to be involved in the criminal justice system.

Additionally, integrated schools serve an important, basic role in a democracy by providing a place where all members of society can come together in one institution. Finally, when members of the community are invested in and attending public schools, there is more support for the public school system.
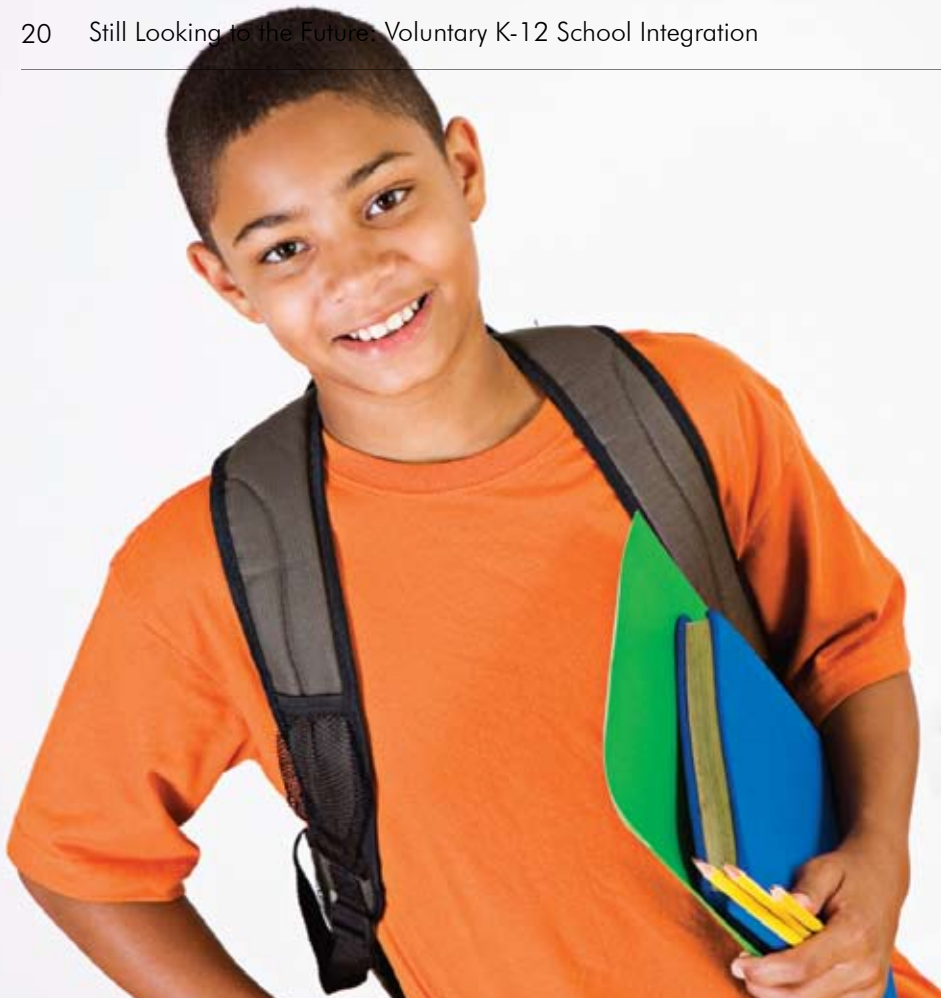
THE HARMS OF SEGREGATION

Why should we care about segregation? The public school segregation described in the previous chapter can have a powerfully negative impact on students, an impact

Table 3: Graduation Rate for the 24 Largest Central City Districts, 2004-2005						
Central City	State	Graduation Rate	Percent on Free or Reduced Lunch	Percent of Racial Groups in 50-100% Minority Schools		
				% White	% Latino	% Black
Arlington ISD	TX	73.3	36.5	44	87	83
Austin ISD	TX	58.2	55.5	39	89	88
Baltimore City Public Schools	MD	34.6	71.3	59	77	98
Boston Public Schools	MA	57	73.4	83	99	99
City of Chicago School Dist 299	IL	51.5	78.9	73	97	100
Cleveland Municipal SD	OH	34.1	79.2	60	83	97
Columbus City SD	OH	40.9	56.9	43	73	89
Dade County School District	FL	49	63.2	99	100	100
Dallas ISD	TX	44.4	78.3	89	100	100
Denver County	CO	46.3	62.4	67	97	93
Detroit City School District	MI	24.9	67.9	88	98	100
District of Columbia	DC	58.2	61.7	62	99	99
El Paso ISD	TX	60.5	67.8	100	100	100
Fort Worth ISD	TX	55.5	69.4	70	97	96
Fresno Unified	CA	57.4	79.1	75	97	94
Houston ISD	TX	54.6	75.3	84	99	99
Los Angeles Unified	CA	45.3	74.8	81	99	98
Milwaukee School District	WI	46.1	72.2	76	95	98
New York City Public Schools	NY	45.2	N/A	62	97	98
Philadelphia City SD	PA	49.6	71.1	66	97	98
San Diego Unified	CA	61.6	50.9	58	91	91
Santa Ana Unified	CA	61.3	77.1	65	100	91
Tucson Unified District	AZ	71.1	64.2	52	89	72

Source: NCES Common Core of Data, Public School Universe, 2003-04;
EPE Research Center, available at http://mapsg.edweek.org/edweekv2/default.jsp.

One of the common misconceptions about desegregation is that it is simply about seating Black students next to white students in a classroom to improve Black students' achievement. In terms of academic achievement, if segregation were not so strongly associated with concentrated poverty and a lack of educational resources, perhaps it would not be of such great concern. But while there are certainly some academically successful segregated minority schools across the nation with stable, committed leadership and faculty, in the vast majority of segregated schools, equal educational opportunity is elusive. Students of color in these segregated schools are isolated not only from white students, but from schools with students from middle-class families; exposure to students with middle-class backgrounds is a predictor of academic success.

Schools where students of color are concentrated tend to offer their students weaker academic preparation as a result of several factors suggested by educational researchers. First, schools with large concentrations of students from poor families tend to have students who have less skills preparation outside of school, beginning at an early age. In schools with few white students, research has shown that teachers tend to be less highly qualified, have fewer years of experience (which tends to make teachers less effective), and are more likely to leave their schools than teachers in other schools. Since teachers are one of the most important influences on students' achievement, these trends have negative consequences for students in these schools.

that was one factor that prompted the Supreme Court to declare segregated schools unconstitutional in 1954. But the legal reasoning of the landmark *Brown* decision was also supported, in part, by social science evidence at that time demonstrating that segregated Black schools caused irreparable psychological harm to the Black children who attended schools that in all other tangible respects might well be equal. Social scientists also found that segregation reinforced feelings of racial superiority among segregated white children.

Today, we continue to learn about the many ways in which white students and students of color are harmed by attending segregated schools. In our increasingly multiracial society, the isolation of white students in particular does not allow them to learn from others of different backgrounds. It also makes it more difficult for them to view people of color as equals, or become comfortable living and working in racially diverse settings as adults.

Further, the isolation of students of color limits their access to integrated networks that broaden opportunities for them, especially against the background of racial residential segregation in the United States. For example, students attending racially isolated schools are often at a disadvantage when seeking jobs or college admission, even if they have been academically successful, because of their school's reputation and lack of alumni or teacher networks that could have helped them to take advantage of post-secondary opportunities.

Second, educational offerings and resources tend to be limited in these schools, such as offering fewer advanced courses. Third, student achievement levels also tend to be lower. Research suggests that all students in such segregated schools are harmed, regardless of individual racial background—and that the effects of segregation can be cumulative for students.

Given the weaker educational opportunities for students in most racially isolated schools, perhaps it is not surprising that the nation's high dropout rate crisis is concentrated in segregated high schools in big cities (*See Table 3*). Sixty percent of schools where 90 or more percent are students of color have low "promoting power," which refers to on-time promotion in high school and is an important indicator of graduation; only 6% of majority white schools have low promoting power.

Nationwide, research, using cumulative cohort promotion data, estimates that only 56% of ninth-grade students graduate four years later in districts that are predominantly students of color (compared to a national graduation rate of 70%); this graduation rate falls to 42% for districts in which 90% or more of the students are of color—and affects students of all racial groups in such school systems.

In 2003-04, Black and Latino graduation rates were substantially lower than whites, with males of all races graduating at lower rates than their female counterparts. Less than half of Black males and only 52% of Latino males graduated within four years.

In chapter 2, we noted that the nation's largest central city school districts are heavily comprised of students of color and that students in these districts are overwhelmingly racially isolated. In almost all of the largest central city districts, four out of every five black and Latino students are in schools where students of color predominate; in seven districts, a similar share of white students are also in schools where students of color are a majority. Additionally, virtually all of these large city districts have more than half of their students coming from families at or below the poverty line.

As Table 3 shows, in all of the 24 largest urban districts except two, one out of every three ninth-grade students do not graduate four years later. In eleven of these districts, the majority of students do not graduate in four years—and in Detroit, only one in four ninth graders graduate four years later.

> *In sum, the documented harms of segregated schools with high percentages of students of color include:*
>
> 1. A tendency to be schools of concentrated poverty, with weaker academic offerings, fewer resources, less experienced teachers, and high teacher turnover.
> 2. Weaker academic preparation for students and higher dropout rates.
> 3. Lack of exposure to and comfort with students from other races (for all students).
> 4. Fewer post-secondary opportunities such as job offers or college admissions because of the school's reputation or lack of teacher and alumni networks.

To be sure, there are numerous examples of high quality successful schools that predominantly, if not exclusively, serve students of color. Yet, decades of experience have shown that separate (segregated) institutions of any kind are rarely equal in quality and opportunity to those attended by the majority, or privileged, segment of our population. Researchers continue to try to understand the psychological and sociological effects of attending schools with high percentages of students of color.
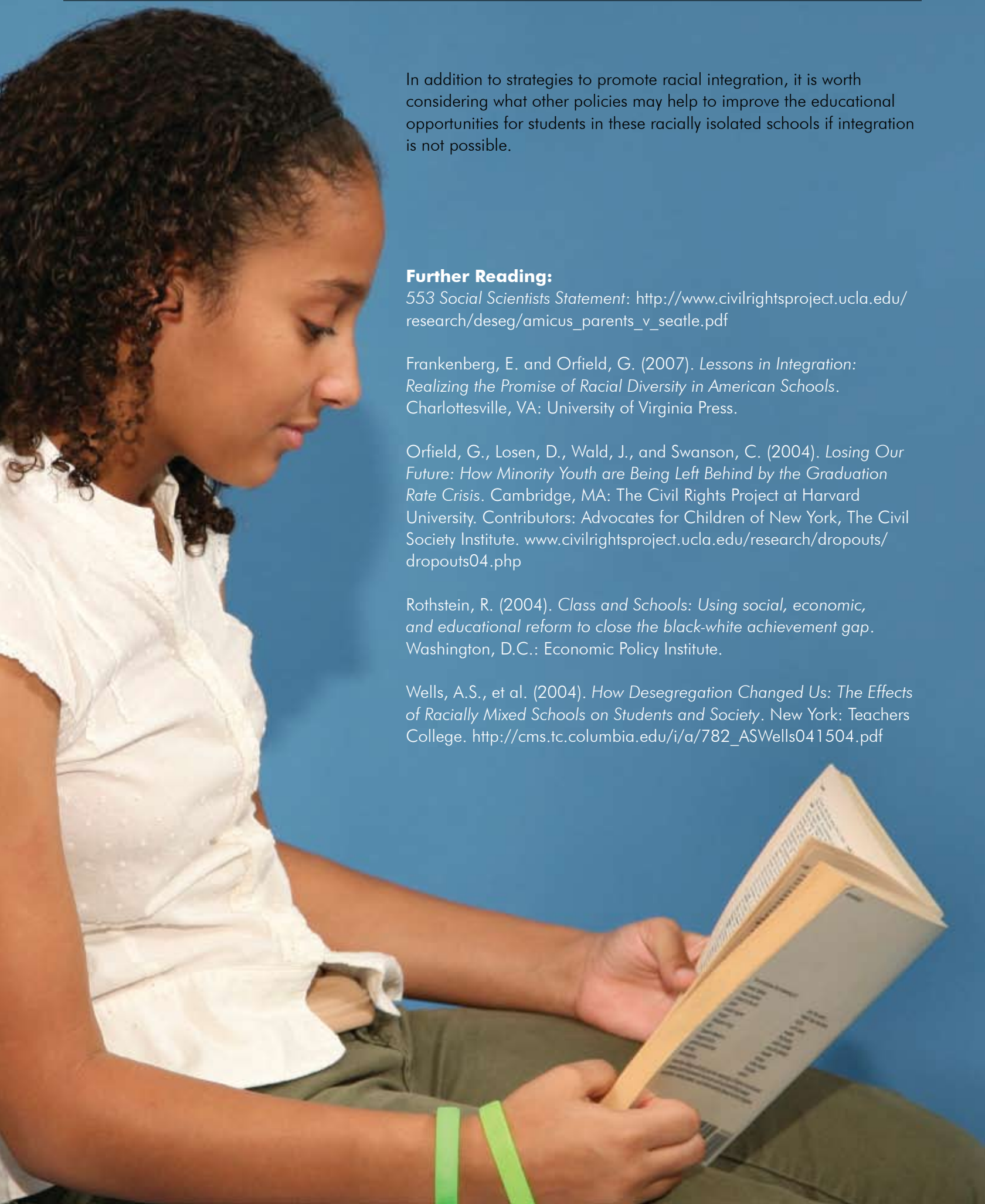
In addition to strategies to promote racial integration, it is worth considering what other policies may help to improve the educational opportunities for students in these racially isolated schools if integration is not possible.

Further Reading:

553 Social Scientists Statement: http://www.civilrightsproject.ucla.edu/research/deseg/amicus_parents_v_seatle.pdf

Frankenberg, E. and Orfield, G. (2007). *Lessons in Integration: Realizing the Promise of Racial Diversity in American Schools*. Charlottesville, VA: University of Virginia Press.

Orfield, G., Losen, D., Wald, J., and Swanson, C. (2004). *Losing Our Future: How Minority Youth are Being Left Behind by the Graduation Rate Crisis*. Cambridge, MA: The Civil Rights Project at Harvard University. Contributors: Advocates for Children of New York, The Civil Society Institute. www.civilrightsproject.ucla.edu/research/dropouts/dropouts04.php

Rothstein, R. (2004). *Class and Schools: Using social, economic, and educational reform to close the black-white achievement gap*. Washington, D.C.: Economic Policy Institute.

Wells, A.S., et al. (2004). *How Desegregation Changed Us: The Effects of Racially Mixed Schools on Students and Society*. New York: Teachers College. http://cms.tc.columbia.edu/i/a/782_ASWells041504.pdf

CHAPTER 4

the legal landscape governing voluntary school integration

The evidence demonstrating the benefits of racial integration and the harms of segregation is substantial (as we saw in chapter 3). While there are a number of possible strategies you can use to promote diversity and avoid racial isolation in your schools (as we will see in chapters 5 and 6), policies involving race have always been extremely volatile ones on which Americans hold deep and passionate views. It is not surprising, then, that over time the courts have established complicated legal standards for evaluating race-conscious policies, regardless of whether they are tainted with discrimination and prejudice or designed to further racial justice and integration.

On June 28, 2007, the Supreme Court issued a long-awaited and complicated decision in two cases—*Parents Involved in Community Schools v. Seattle School District* and *Meredith v. Jefferson County Board of Education* —challenging the voluntary integration plans in Seattle, Washington and Louisville, Kentucky. (From now on, we'll refer to the decision as the "Seattle/Louisville decision").

A majority of the Justices recognized the importance of diversity and avoiding racial isolation in K-12 public schools, but the Court struck down particular aspects of the Seattle and Louisville student assignment plans because, in the Court's view, they were not carefully designed to achieve those goals. While the Court placed limits on the ability of school districts to take account of race, it did not—as has sometimes been reported —rule out any and all consideration of race in student assignment. In fact, a majority of the Justices explicitly left the window open for school districts to take race-conscious measures to promote diversity and avoid racial isolation in schools.

It is important to understand the historical context and legal implications of the decision before beginning to develop or modify the student assignment plan in your district. That is not a simple task; as noted, the Supreme Court issued a deeply divided and complex 185-page ruling that does not provide a clear and certain path about what you and your school district can do to promote diversity and avoid racial isolation in your schools. While the specific plans challenged in Seattle and Louisville were struck down as unconstitutional, many of the policies and strategies that school districts commonly use to promote school diversity were not directly addressed or confronted by the Court. The purpose of this chapter is to provide you with as much guidance as we can offer at this point in time.

An initial note: the Seattle/Louisville decision has been greatly criticized for turning its back on communities around the country, who have fought for decades to promote diversity and avoid the harms of racial segregation in their schools. The Seattle/Louisville decision does not, and should not, however, signal an end to efforts to bring children in communities together across lines of difference or to fight the inequities that children almost inevitably encounter in racially isolated, under-resourced schools. What it does mean is that you and your school district must be careful as you explore the development and adoption of a comprehensive set of integrative school policies. Absent due care, a voluntary school integration plan may be vulnerable to legal challenges by those who are dissatisfied with their child's assignment or who oppose racial integration; indeed, the Seattle/Louisville cases arose out of those very situations. And, while this Manual aims to provide information and

guidance—to the extent available—on the approaches that may be legally viable after the decision, the legal landscape will no doubt change over time, as a result of future challenges and guidance from the courts. The important point is that schools can still take carefully crafted steps to address racial isolation and promote diversity in schools.

CASE BACKGROUND

The Seattle and Louisville Student Assignment Plans

The Seattle and Louisville school districts, along with school districts throughout the country, voluntarily adopted modest measures to achieve racial diversity in their schools. Both school districts sought to preserve educational choice for parents and students and considered race as a factor in student assignment only when schools were racially isolated. The Seattle and Louisville student assignment plans both relied on the choices of students and parents to attend or transfer to integrated schools. They also allowed them to choose to attend their neighborhood schools.

At issue in Seattle was its open choice system for high schools (the elementary and middle school assignment processes were not challenged). Each student in Seattle was given the option to attend high school in any part of the district and asked to rank his or her top three choices. For schools that were oversubscribed, students were assigned based on their geographic proximity to the school and whether they had siblings attending the school. If a school was oversubscribed and racially imbalanced, students were also assigned based on whether the student would exacerbate racial segregation

at the requested high school (the so-called "racial tiebreaker").

In Louisville, students could choose to attend the school assigned to their neighborhood or a school in their neighborhood cluster. Students could also request a transfer to any other school in the district. The school district could deny the transfer because of a lack of available space at the school or if the transfer would further racially segregate the sending or receiving school based on the school district's racial guidelines.

In both districts, the plans provided that the percentage of white/non-white (Seattle) or black/other (Louisville) students attending each school should roughly reflect the proportions of those students in the district as a whole. Seattle considered a school to be racially imbalanced if the racial composition of the school differed by more than 15 percentage points from the racial composition of the district as a whole. Louisville's racial guidelines provided that every school should have between 15% and 50% black enrollment (approximately 34% of Louisville's student population is black).

The Seattle/Louisville Decision

The Justices were deeply divided in their views, and issued five separate opinions. Lawyers have and will continue to spend time analyzing and combing through all five of the opinions, including the inspired, comprehensive 77-page dissent written by Justice Breyer. For our purposes, however, there are two opinions upon which we will focus our attention: (1) those portions of Chief Justice Roberts' opinion that are considered the opinion of the Court; and (2) Justice Kennedy's opinion.

First, our discussion will be directed towards the opinion written by Chief Justice Roberts, which was joined by Justices Alito, Scalia, and Thomas in its entirety, and Justice Kennedy in part. The portions of Chief Justice Roberts opinion where Justice Kennedy's additional vote constitutes the fifth vote for the majority are considered

the opinion of the Court. Significantly, Justice Kennedy declined to join certain portions of the Roberts opinion, which means that those portions do not carry a majority of the Court, and are not the law of the land. For convenience, we'll refer to those portions of the opinion that Justice Kennedy did not join as Roberts opinion.

Second, Justice Kennedy wrote a separate opinion, and much of our discussion about the impact of the Seattle/Louisville decision will draw from that opinion. We look to Justice Kennedy's opinion for guidance for you and your school district because we presume that the programs and strategies that he endorses would be supported by a majority of the Justices (e.g., Justice Kennedy and the dissenters, Justices Ginsburg, Stephens, Souter and Breyer, who would have upheld Seattle and Louisville's plans) and be deemed constitutional.

To begin, Justice Kennedy explicitly recognized that school districts have a compelling interest in promoting diversity and avoiding racial isolation in schools. As we discuss below, that means that your school district can and indeed should continue to take steps to promote diversity and avoid racial isolation in schools. Second, Justice Kennedy left the window open for school districts to continue to use race-conscious measures to achieve

Common Myths About the Decision

1. School districts are prohibited from considering race in assigning students to school.
False. School districts can still take account of race in assigning students to schools. The Court placed limits, however, on when and how school districts can consider the race of individual students.

2. School districts cannot take steps to pursue diversity and address racial isolation in their schools.
False. A majority of Supreme Court justices held that promoting diversity and avoiding racial isolation in schools are compelling national interests that school districts can and should pursue. Indeed, as shown by the evidence discussed in chapter 3, it is critically important that school districts take steps to bring children together across lines of difference.

3. The Seattle/Louisville decision applies to school districts under court order to desegregate.
False. The decision does not apply to school districts under court order. School districts that have yet to achieve unitary status (see Chapter 1) can still take race-conscious steps to promote integration and address the vestiges of segregation and discrimination in their school system.

Why is Justice Kennedy getting all this attention?
On the current Supreme Court, Justice Kennedy often serves as the critical "swing vote" and the bridge between two camps of Justices. In the Seattle/Louisville decision, each camp consisted of four justices: Justices Alito, Scalia and Thomas joined in Chief Justice Robert's opinion and Justices Ginsburg, Stephens and Souter joined in Justice Breyer's opinion. Justice Kennedy split his time between the two camps. Whichever camp Justice Kennedy is in has a majority. With the alignment in these cases, as goes Justice Kennedy, so goes the Supreme Court.

these interests, as long as individual students are not classified solely by their race.

Before we discuss the race-conscious measures given safe harbor by Justice Kennedy, we briefly describe the legal standard courts generally apply when school districts take account of race in student assignment.

THE "STRICT SCRUTINY" STANDARD
Federal courts generally apply a legal standard called "strict scrutiny" whenever a governmental body, such as a public school board, explicitly considers or takes account of race. In the Seattle/Louisville decision, the Court held that school districts must meet the strict scrutiny standard when individual students are classified by their race (when race is considered more broadly, such as in the

drawing of attendance boundaries, a lesser standard might apply—see inset). The application of strict scrutiny, however, does not automatically mean a court will find the use of race illegal. To assume so is a common misinterpretation of the law. But when a school district does take account of the race of individual students and its actions are challenged in court, the district needs to satisfy two distinct requirements under the strict scrutiny test: First, the individual racial classification must serve a compelling interest. And second, the racial classification must be narrowly tailored to further that compelling interest. In short-hand, these two requirements are referred to as the compelling interest prong and the narrowly tailored prong of the strict scrutiny test.

If the school district fails to meet either of these two prongs, a court will find the challenged race-based policy illegal and order the district to stop using it. On the other hand, if the school district has designed its policy or plan to satisfy both of the requirements of strict scrutiny, then the district may continue using it as a method of fostering diversity and avoiding racial isolation in its schools. In general, complying with strict scrutiny is the key to a legally acceptable voluntary school integration plan.

Compelling Interest Prong
A compelling interest is simply legalese for "a really good, legally acceptable reason." When a school district uses or considers race in any way, such as in the assignment of students to schools, the law requires it to state a very good reason why it is conscious of race. Courts demand this justification to make sure that the district is not engaging in unconstitutional racial discrimination.

Promoting diversity and avoiding racial isolation in schools: Since *Brown*, the courts have frequently discussed—and the public is aware of—the importance and value of diverse learning environments in K-12 public schools. As described in chapter 3, integration can result in educational and social benefits, both short- and long-term, to students of all racial backgrounds. Integrated schools can also have a positive impact on the health of and public support for the school system itself, and on the success of our broader community and democratic society. In addition to describing the benefits that flow from integration, chapter 3 also described the

What is "strict scrutiny"?

Strict scrutiny is the name of a legal test that courts apply when a governmental actor, such as a school board, decides to take account of race in its decision making for any reason. Strict scrutiny places upon the governmental actor the burden of proving two things: first, that it has a compelling interest, or a very good reason, for considering race, and second, that the manner in which it considers race is narrowly tailored, or very carefully customized, to accomplish the interest asserted. The Supreme Court established the strict scrutiny test many years ago because it believed that the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution was adopted to affirm the equality among citizens and therefore requires skepticism of any distinctions based on race or ethnicity.

Less than Strict Scrutiny?

In the Seattle/Louisville decision, the Supreme Court only applied strict scrutiny to individual racial classifications, but indicated that when race is considered more broadly—as in the drawing of school attendance boundaries or in the recruitment of certain students or faculty by race —a lesser standard might apply. As an example, taking account of the racial composition of the neighborhood where a student resides, instead of the race of that individual student, may not trigger strict scrutiny. The school district may then only need to demonstrate that the consideration of the neighborhood's racial composition is rationally related to a legitimate interest.

educational harms that are too often associated with racial isolation in our schools.

In the Seattle/Louisville decision, a majority of Justices recognized—for the first time—compelling interests in promoting student diversity and avoiding racial isolation in K-12 public schools (the Supreme Court had already recognized diversity in higher education as a compelling interest in the 2003 *Grutter v. Bollinger* case). As Justice Kennedy noted,

> *This Nation has a moral and ethical obligation to fulfill its historic commitment to creating an integrated society that ensures equal opportunity for all of its children. A compelling interest exists in avoiding racial isolation, an interest that a school district, in its discretion and expertise, may choose to pursue. Likewise, a district may consider it a compelling interest to achieve a diverse student population.*

In sum: you can, and should, continue to take steps to promote diversity and/or avoid racial isolation in your schools.

Other Related Compelling Interests. School systems that adopt voluntary school integration plans do so for a variety of reasons, not all of which may be explained

Compelling Interests Recognized in the Dissent

In his dissenting opinion, Justice Breyer described the three interrelated components of school districts' compelling interest in adopting voluntary integration plans as follows: (1) historical and remedial: "an interest in setting right the consequences of prior conditions of segregation"; (2) educational—"an interest in overcoming the adverse educational effects produced by and associated with highly segregated schools"; and (3) democratic—"an interest in producing an educational environment that reflects that 'pluralistic society' in which our children will live."

by simply saying that there are educational benefits from attending diverse schools or potential harmful effects of attending racially isolated ones. You might very well believe that some of these other reasons—such as increased school safety, improved or equitable community and parental support, addressing segregative residential patterns, or the maintenance of stability within the school system—are as or even more compelling to you or your community. The Court appears to have combined or folded in each of these ancillary reasons

The University of Michigan cases

In 2003, the Supreme Court decided *Grutter v. Bollinger* and *Gratz v. Bollinger*, two companion cases challenging the consideration of race in college and university admissions. In *Grutter*, the Court affirmed the consideration of race as a factor in the individualized, holistic evaluation of applicants to the University of Michigan Law School. In *Gratz*, the Court struck down the admission policy of the University of Michigan's undergraduate school, because a certain number of points were automatically awarded to applicants from underrepresented minority groups.

In *Grutter*, the Court recognized the compelling interest in promoting diversity in higher education. The Court spoke at length about the educational benefits of diversity, noting that, among other things, it: (1) "better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals," (2)"promotes cross-racial understanding, helps to break down racial stereotypes, and enables students to better understand persons of different races," and (3) is justified because of the "unique experience of being a racial minority in a society, like our own, in which race unfortunately still matters."

To be narrowly tailored to achieve the compelling interest in diversity, a race-conscious admissions program must meet the following four requirements: (1) holistic, individualized review of each applicant where race is used in a flexible, non-mechanical way; (2) serious and good faith consideration of race-neutral alternatives; (3) no undue burden on nonminority applicants; and (4) periodic review of the program's continued necessity.

In the Seattle/Louisville decision, a majority of the Justices recognized a different set of compelling interests that school districts can pursue, but still applied some of the narrow tailoring factors from the *Grutter* decision. Indeed, Justice Kennedy noted that school districts that take account of race as a component in student assignment should do so as part of a "nuanced, individual evaluation of school needs and school characteristics" informed by *Grutter*.

with the interests in promoting diversity and avoiding racial isolation in schools, and so for efficiency's sake, we too will not independently address them here.

In the Seattle/Louisville decision, the Court reaffirmed two other compelling interests, but concluded that they did not apply in the context of K-12 voluntary integration efforts. The first of these two interests—in remedying the effects of past discrimination and segregation—is well established in the law. The remedial interest, as it is often called, was commonly recognized in the era of court-ordered desegregation. For the most part, the remedial interest can only be asserted when there has already been a judicial finding of overt racial discrimination, such as the maintenance of segregative student assignment policies. In a unitary school district, however, it is difficult to prove that any present-day racial segregation in schools is caused by intentional discrimination or the lingering effects of prior segregation. Thus, in most of the recent voluntary integration cases, including in the Seattle/Louisville decision, courts have failed to adopt the remediation argument.

The Court also affirmed diversity in higher education as a compelling interest, as recognized in the Court's 2003 decision in the University of Michigan Law School case, *Grutter v. Bollinger* (see inset).

Narrow Tailoring Prong
The second part of the strict scrutiny test insists that individual racial classifications be narrowly tailored to their stated compelling interest. This requirement is little more than a legal means-ends analysis. As it applies to voluntary school integration plans, it demands that a school system use individual racial classifications to achieve its stated goals that are no more or less intrusive than they need to be.

The Seattle and Louisville plans were struck down because the Court concluded that they were not narrowly tailored. The Court identified three major problems with the consideration of race in the respective open choice and transfer provisions of the Seattle and Louisville student assignment plans.

- First, the Court objected to the binary (white/non-white or black/non-black) system of racial classifications, because it drew a crude racial distinction that did not promote diversity along its many racial and ethnic dimensions.
- Second, the Court held that neither Seattle nor Louisville had presented sufficient evidence to demonstrate that they had seriously considered race-neutral alternatives.
- Third, the Court determined that the race-conscious provisions of the Seattle and Louisville plans did not affect enough students to be deemed "necessary" to achieve racial integration.

Is Your Plan Narrowly Tailored?

In practice, given the unique relationship between each school system and its student assignment methods, some uncertainty remains about what would satisfy the narrow tailoring inquiry. But, in light of the Court's decision, below are some of the types of questions that you should expect a court to ask in determining whether a particular plan is sufficiently narrowly tailored.

### Does the plan consider race in a sufficiently nuanced and context-appropriate way?

The Court was expressly concerned about the use of binary racial categories to assign students: white/non-white in Seattle and black/other in Louisville. The Court held that the Seattle school district considered students' race in a manner that was too crude to truly achieve racial diversity or reduce isolation: the classification of students as either "white" or "non-white" was a "blunt distinction" that the Court believed could not advance integration of a student population with significant numbers of African Americans, Asian Americans, Latinos, and Native Americans. Justice Kennedy concluded that that: "[f]ar from being narrowly tailored to its purposes, th[e Seattle] system threatens to defeat its own ends, and the school district has provided no convincing explanation for its design." Louisville was similarly condemned for employing a "limited notion of diversity," by viewing race exclusively in terms of "black/other." Certainly, this reasoning suggests that nuanced and pluralistic considerations of race will be more likely to pass the Court's narrow-tailoring inquiry.

Did you consider "race-neutral" alternatives?

Given the long history of racial discrimination and oppression in America, courts tend to treat race-conscious policies—even for laudable purposes—with caution and skepticism. Therefore, as part of the narrow tailoring analysis, courts look to see if school districts might be able to achieve their compelling interests in ways that rely on racial considerations to a lesser extent, or not at all. In the Seattle and Louisville cases, the Court concluded that the districts did not present sufficient evidence that they had seriously considered race-neutral alternatives: Seattle, because it quickly rejected several race-neutral proposals and Louisville, because it had not presented evidence of its consideration of race-neutral strategies.

Consideration of these alternatives is crucial in implementing a successful and legal plan, even though research and the experience of certain school districts suggests that, depending on a district's geography and demography, race-neutral proposals may only be minimally effective in reducing racial isolation and promoting diversity. Courts do not require that school districts exhaust every possible race-neutral possibility before adopting a race-conscious plan. Rather, they simply need evidence that the school district made a good faith effort to explore other alternatives. Thus, you should consider (and document your consideration of) alternatives that do not take account of race, and whether they would be effective in achieving the
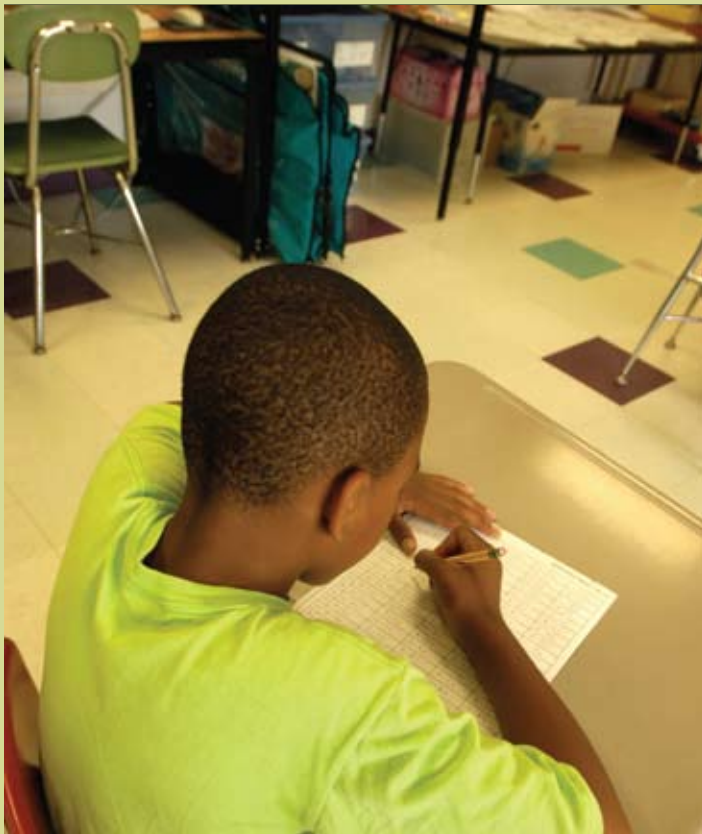
compelling interests in diversity and avoiding racial isolation in schools. In Chapter 6, we briefly outline a number of alternatives that school districts have been using that either do not take account of race, or consider race as one of many factors.

Is the use of race necessary to achieve your stated goals?

The Court noted that the use of race had minimal effects on student assignments in both Seattle and Louisville: in its view, the racial tiebreaker in Seattle had "ultimately affected" only 52 students, and in Louisville, the racial guidelines only impacted 3 percent of assignments. While the Court did not believe that a greater use of race would be preferable, it concluded that "the minimal impact of the [Seattle and Louisville's] racial classifications on school enrollment casts doubt on the necessity of using racial classifications." The bottom line is that if you are able to achieve your stated goals without using race, you should do so. And, if you do use race, you should clearly explain how it is being used and the reasons for doing so.

Is the use of race closely tied to your stated goals?

A key to meeting the strict scrutiny standard is to ensure that the race-conscious method being employed (the means) is closely and narrowly tied to your stated goals (the ends). To determine whether the use of race is

closely tied to your stated goals, you should continually evaluate your student assignment plan and monitor whether the racial components of the plan are in line with and effectively supporting those goals. In addition, your diversity goals should be closely related to and consistent with your educational objectives.

PERMISSIBLE RACE-CONSCIOUS MEASURES

We now turn to how race can be considered in assigning students to schools after the Seattle/Louisville decision. Justice Kennedy explicitly endorsed the following race-conscious methods, providing safe harbor to school districts to use and consider race in employing any and all of these strategies. Each of these methods is described in greater detail in Chapter 5.

- Strategic site selection of new schools
- Drawing attendance zones with general recognition of the racial demographics of neighborhoods
- Allocating resources for special programs
- Recruiting students and faculty in a targeted manner
- Tracking enrollments, performance and other statistics by race

Second, Justice Kennedy noted that race could be a component of other assignment methods as long as they reflect a "more nuanced, individual evaluation of school needs and student characteristics." Justice Kennedy did not provide particular examples, so it is not altogether clear what is included here. We do have some guidance, however: (1) we know that the racial tiebreaker in Seattle and the consideration of race in the evaluation of transfers in Louisville did not meet this "nuanced, individual evaluation" standard; and (2) Justice Kennedy specifically provides that the consideration of race as a component in student assignment should be informed by the Supreme Court's decision in *Grutter v. Bollinger (see page 30)*, with the added adjustment that the "the criteria relevant to student placement" in K-12 schools "would differ based on the age of the students, the needs of parents, and the role of the schools." In general, it appears that race—particularly the race of an individual student—cannot be the sole factor in the assignment of individual students or in your implementation of a particular student assignment method.

Third, while Justice Kennedy clearly disfavored the use of individual racial classifications, he indicated that they could be used as a last resort.

"RACE MATTERS"

One of the sharpest disagreements between the Justices relates to their views on the role race does and should play in American society. Chief Justice Roberts takes the position that "the way to stop discrimination on the basis of race is to stop discriminating on the basis of race," equating Jim Crow-era intentional discrimination with efforts at racial inclusion today. In his view, communities should be colorblind in their efforts to address racial discrimination or inequality in schools. Justice Kennedy plainly rejects the Roberts opinion's "all too unyielding insistence that race cannot be a factor in instances" when, in Justice Kennedy's view, it may, if not must, be taken into account. Moreover, Justice Kennedy finds the Roberts opinion "too dismissive of the legitimate interest government has in ensuring all people have equal opportunity regardless of race."

Second, Justice Kennedy dismisses the Roberts opinion's assertion that the Constitution and the world we now live in are colorblind: "The statement by Justice Harlan that '[o]ur Constitution is color-blind' was most certainly justified in the context of his dissent in *Plessy v. Ferguson*…as an aspiration, Justice Harlan's axiom must command our assent. In the real world, it is regrettable to say, it cannot be a universal constitutional principle." Instead, Justice Kennedy simply concludes that while"[t]he enduring hope is that race should not matter, the reality is that too often it does."

A PARTING WORD: THE PROMISE OF *BROWN*

Brown v. Board of Education broke the back of legal apartheid in America, and opened the hallways and classrooms of the nation's schools to the scores of black students who had long been excluded from and denied the opportunity of a quality education. In the words of the unanimous *Brown* Court:

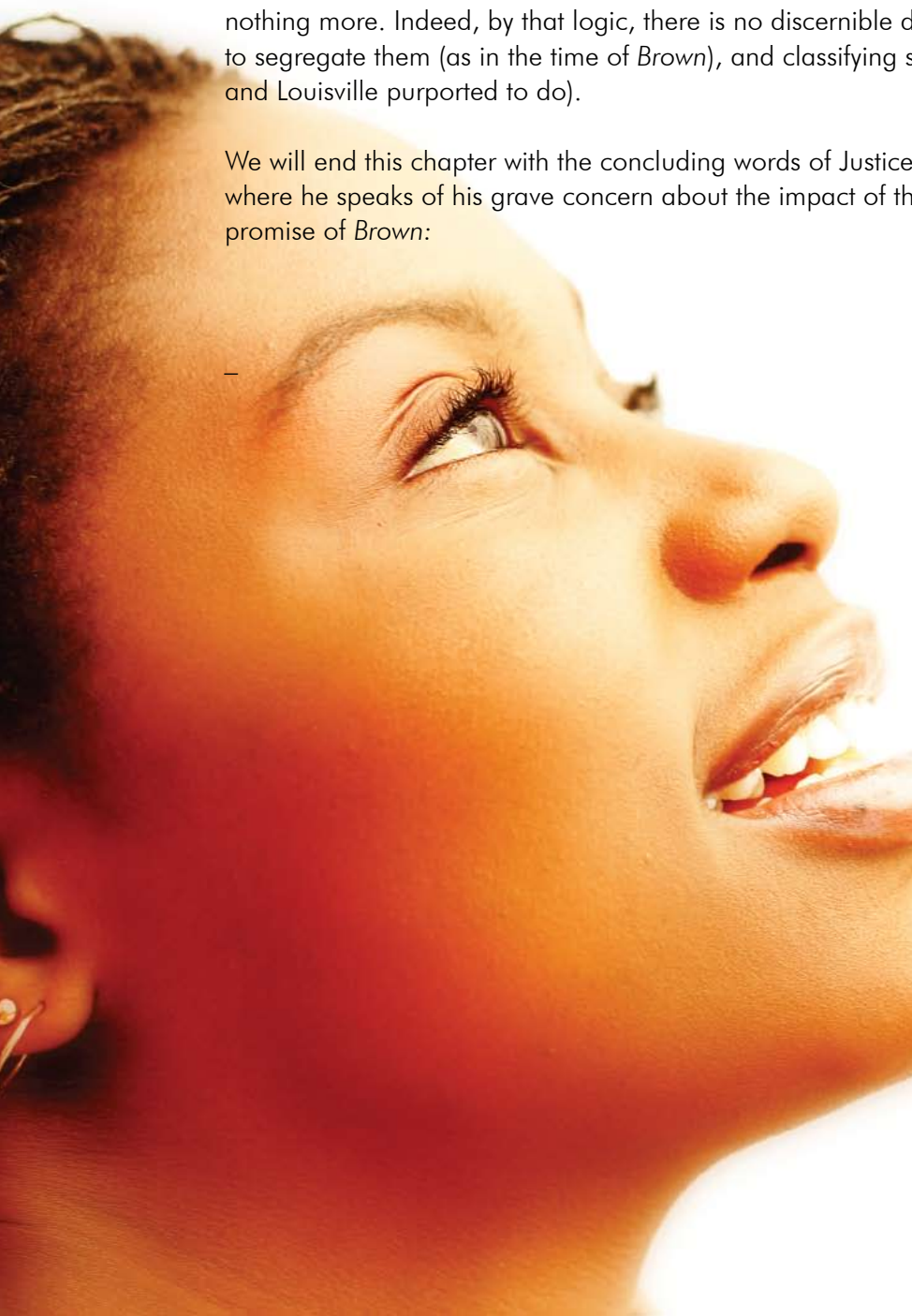> *Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.*

As we discussed in Chapters 2 and 3, too many students of color today attend racially isolated schools where they continue to be denied the opportunity of a high equality, inclusive education. Seattle and Louisville, and like-minded communities around the country such as yours, sought to bring their children together across lines of difference—to include rather than exclude students at the educational table and to foster compassion and respect rather than discomfort and indifference among our future generations—in an effort to expand opportunity and strengthen the quality of education for students of all races.

The Roberts opinion demeans the decades-long efforts of these school districts to bring meaningful integration to their schools, and to fulfill *Brown*'s promise. For the Roberts opinion claims that the harm *Brown* sought to address was simply the racial classification of students,

nothing more. Indeed, by that logic, there is no discernible difference between classifying students in an effort to segregate them (as in the time of *Brown*), and classifying students to bring them closer together (as Seattle and Louisville purported to do).

We will end this chapter with the concluding words of Justice Breyer's impassioned and eloquent dissent, where he speaks of his grave concern about the impact of the Seattle/Louisville decision on the hope and promise of *Brown:*

For what of the hope and promise of Brown? For much of this Nation's history, the races remained divided. It was not long ago that people of different races drank from separate fountains, rode on separate buses, and studied in separate schools. In this Court's finest hour, Brown v. Board of Education challenged this history and helped to change it. For Brown held out a promise. It was a promise embodied in three Amendments designed to make citizens of slaves. It was the promise of true racial equality, not as a matter of fine words on paper, but as a matter of everyday life in the Nation's cities and schools. It was about the nature of a democracy that must work for all Americans. It sought one law, one Nation, one people, not simply as a matter of legal principle but in terms of how we actually live. . . .

The last half-century has witnessed great strides toward racial equality, but we have not yet realized the promise of Brown. To invalidate the plans under review is to threaten the promise of Brown. The plurality's position, I fear, would break that promise. This is a decision that the Court and the Nation will come to regret.

– J. Breyer, Dissenting

FURTHER READING

Supreme Court Opinion in the Seattle/Louisville cases: *Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S.Ct. 2738 (June 28, 2007), available at www.naacpldf.org or www.supremecourtus.gov.

Amicus ("Friend of the Court") Briefs Filed in Support of the School Districts in *Parents Involved in Community Schools v. Seattle School District* and *Meredith v. Jefferson County Board of Education*, available at www.naacpldf.org. A total of 51 *amicus* briefs were filed in support of the school districts, including:

- Brief of the NAACP Legal Defense Fund as *Amicus Curiae* in *Parents Involved in Community Schools v. Seattle School District* and *Meredith v. Jefferson County Board of Education*.
- Brief of 553 Social Scientists as *Amicus Curiae*.

Supreme Court School Integration Blog, located at www.scintegration.blogspot.com

National School Boards Association and the College Board (2007). *Not Black and White: Making Sense of the Supreme Court Decisions Regarding Race-Conscious Student Assignment Plans*. http://www.collegeboard.com/prod_downloads/prof/not-black-white-collegeboard.pdf

common methods to promote school integration

In this chapter, we describe some of the common student assignment methods school districts have used to promote diversity and avoid racial isolation in schools. We categorize these methods to reflect some of the distinctions made in the Seattle/Louisville decision.

In recent years, parents and activists in many communities have joined forces with their local school officials to fight school resegregation through the creation and adoption of what are often described as "voluntary school integration" plans or policies. The term voluntary school integration generally refers to a variety of efforts and strategies that a school system might employ, absent a legal obligation to do so, to encourage racial diversity and avoid racial isolation in schools and to produce the kinds of educational benefits that flow from an integrated learning environment. The common theme among all of these strategies—what makes them legally different from the desegregation orders discussed in the first chapter of this manual—is that they are not necessarily designed with the goal of curing historical, illegal segregation. Rather, they are voluntarily designed by the school district and the local community themselves to help realize *Brown v. Board of Education*'s promise of equal opportunity and high-quality integrated public education for all.

The communities nationwide which have undertaken these voluntary plans include many school districts that have been released from their formal, legal duties to desegregate (like Louisville), as well as some that had never been under any judicial obligation to desegregate in the first place (like Seattle). These communities, with very different histories and student demographics, have each noticed troubling national trends toward resegregation locally, in their own schools. Again, the key word in all of these efforts is "voluntary": school districts work with the communities they serve to foster racial and ethnic integration in their schools because they want to, not because they have to.

In this chapter, we briefly discuss the more common student assignment strategies used by local school districts to promote racial integration in schools. There are three things we should note at the outset.

First, you should not be constrained by the approaches employed prior the Seattle/Louisville decision. Rather, within the bounds of the decision, Justice Kennedy urged school districts to bring in "the creativity of experts, parents, administrators, and other concerned citizens to find a way to achieve the compelling interests" in avoiding racial isolation and promoting diversity in schools.

Second, most of the methods we discuss are designed for school districts large enough to support more than one school at any given level. For a smaller school system that may have, for example, only one high school, improving racial diversity in that school might require involvement of and coordination with other neighboring districts, a possibility which is explored below.

Third, as discussed in Chapter 4, it is not yet certain how the Seattle/Louisville decision will play out with respect to the validity of any particular race-conscious strategy, but plans adopted after careful consideration of alternatives will likely fare better.

Regardless of the size and demographics of your district, as you read through the various approaches to student assignment in this chapter, you should keep in mind that no one approach (or combination of approaches) has been proven to be "better" than others. Rather, the most successful voluntary integration plans are comprehensive and often creative ones that take account of the unique geographic, demographic, historical, and political character of the particular community for which they are designed.

Lastly, the following student assignment methods are separated into three categories to reflect distinctions made in the Seattle/Louisville decision about when and how race can legally be taken into account. Remember, however, that if you are looking at non-racial factors, such as a student's socioeconomic characteristics (e.g. class) or the neighborhood where a student resides, you can use any of the methods described below in whatever manner you choose (several alternative methods that rely on non-racial factors are discussed in Chapter 6). The Seattle/Louisville decision only applies to and places restrictions on the strategies you can use when race is considered in student assignment and the school district is not under court order.

CATEGORY 1 METHODS

In this first section, we start by looking at the methods that received safe harbor from and were explicitly recognized by Justice Kennedy as permissible race-conscious approaches to voluntary integration—together we'll call them Category 1 methods. A majority of the Justices on the Supreme Court indicated that you can consider race when you employ Category 1 methods. These methods are not mutually exclusive and, in fact, may be most effective when used in combination with one another.

Drawing and Adjustment of School Attendance Boundaries

For the greater part of the history of America's K-12 public schools, children were simply assigned to schools based on where they lived within the district. Today many public school systems continue this tradition of mandatory assignment to what are often called 'neighborhood' or 'community' schools. In communities where we find racially segregated housing patterns, however, assigning students based solely on their geographic proximity to schools can result in significant racial isolation.

For school districts that use a system of mandatory assignment, efforts to promote racial diversity involve encouraging school officials to consider how to design attendance zones to
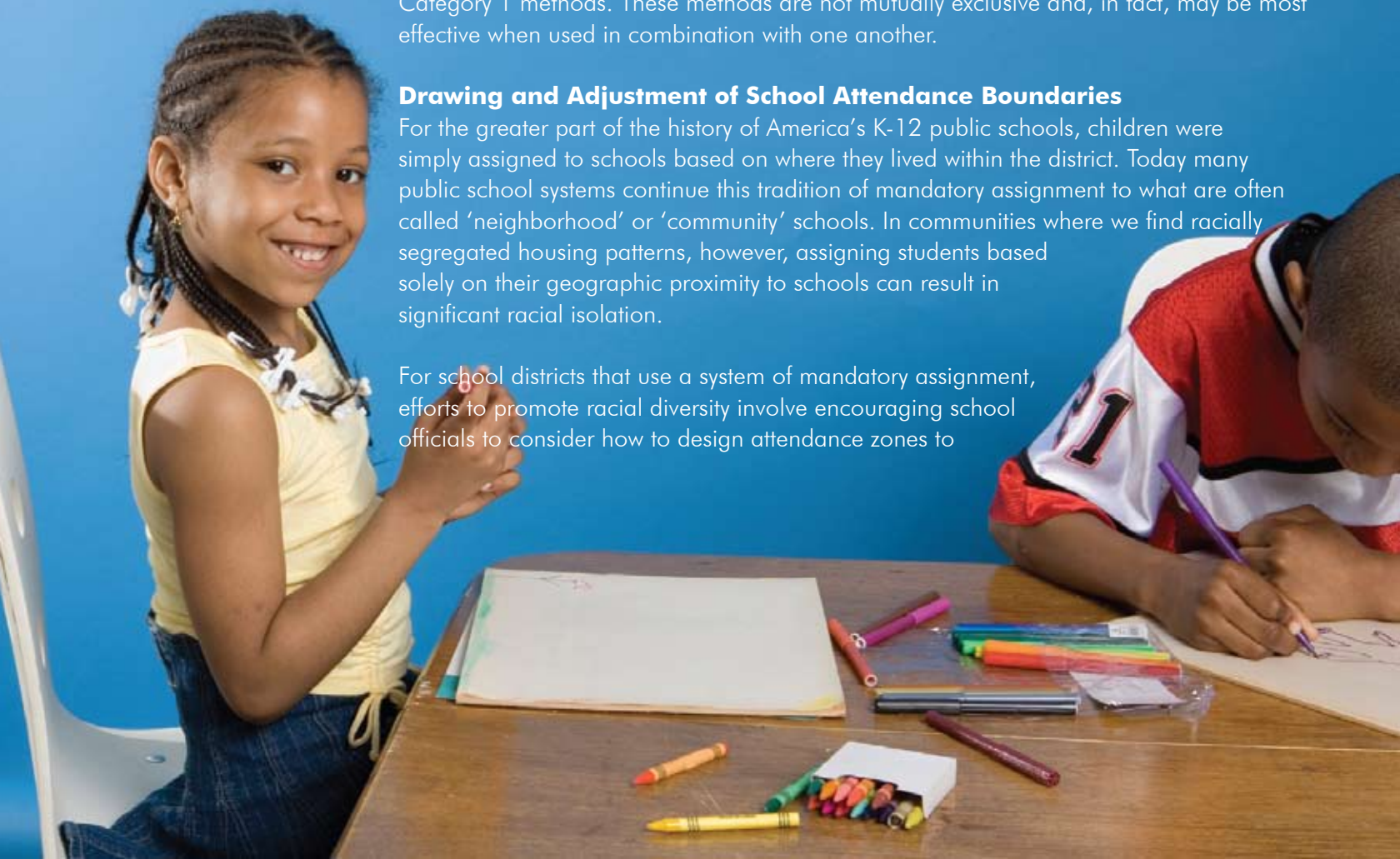
promote or ensure racially integrated student populations.

Since school districts are typically called upon to redraw their attendance boundaries every few years—each time they plan to open, close, or consolidate schools, for instance, or to address significant changes in student enrollment—the opportunity to consider student demographics in the process can, at least in theory, arise fairly regularly.

In practice, decisions about where to assign students and how best to adjust attendance boundaries are often political and sensitive ones, and encouraging racial diversity can be but one of many goals that school officials keep in mind as they balance competing interests. Still, most school systems today have access to fairly sophisticated planning software that can quickly and accurately take account of a district's demographics, including racial and ethnic, socioeconomic, and academic achievement factors. That same software can show the impact of an attendance boundary change on each school's enrollment, and project future population growth and residential development. Thus, taking student demographics—including race—into account in the assignment and planning process today is much more technologically and practically feasible than it was even just a few decades ago, when demographers and school officials drew attendance boundaries by hand, a process that usually involved a bit of guesswork.

Siting of New Schools

School districts can also work with school planning experts to use available demographic tools to choose sites for new schools. School districts can attempt to place new schools in locations that are likely to create a racially diverse school, and also stem the development of the kind of segregated neighborhoods that could otherwise lead to more racially isolated schools in the future. In the best case scenario, the right combination of careful housing and school planning could support long-term community development efforts that encourage substantial racial and socioeconomic integration. Note that the opportunity to site a new school is relatively rare.

Strategic Use of Special Programs

School districts may also allocate resources to create special programs in specific schools which might attract a racially diverse group of students and reduce racial isolation. The best known of the "special programs" is the magnet school; other commonly used programs include International Baccalaureate (IB), Advanced Placement (AP), and dual language or bilingual education programs. Today, more than two million U.S. public school students attend magnet schools, and the popularity of IB, AP and bilingual programs is growing. Since 1972, the federal Magnet School Assistance Program (MSAP) has provided funding to local school authorities for the "elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools." Today, school districts receiving MSAP funding should continue to take effective steps to fulfill this goal.

In the conventional model, a special program is placed in a school with a high percentage of students of color. The program usually draws a portion of participating students from children who live in the immediate geographic vicinity of the school. The remaining students are drawn from other parts of the district. These students voluntarily enroll in a school outside of their neighborhood because of the school's special program, curriculum, or theme. Integration is encouraged because students of color and white students from different neighborhoods choose to attend the same school. When implementing special programs, it is important to be mindful that students are not racially segregated within the school itself, i.e. special programs with predominantly white students when the rest of the school is predominantly students of color.

Targeted Recruitment of Students and Faculty

To attract a diverse group of students and faculty, your school or school district can target recruitment and outreach to particular racial groups. For example, a school could hold information sessions for students in a predominantly Latino neighborhood in an effort to attract Latino students, or provide incentives for African-American or Asian teachers to select a particular school in an effort to diversify the school's faculty. The many

creative race-conscious strategies that schools have used to attract a diverse student population include open houses for students of designated racial groups, mentoring programs, partnerships with community centers or local civic organizations, door-to-door outreach in particular communities, and information and leaflets that aim to attract a broad range of students. Race-targeted recruitment of students could be quite useful in attracting a diverse group of students to apply and to enroll in magnet and the other special programs described above. Making sure that your school community is welcoming to families from all backgrounds is also important to ensure that you retain diverse groups of students and faculty that you recruit.

Tracking Enrollment, Performance and Other Statistics By Race

Schools can continue to collect and use student enrollment and performance data and, among other things, information on student discipline (including suspension, expulsion and push-out), graduation and drop-out rates by race. Under the federal No Child Left Behind Act, elementary and secondary schools are already required to report some of this data for each racial subgroup; that reporting data is then used to identify schools in need of improvement. Information on student enrollment and performance by race will be critically important in your efforts to promote diversity and address the harms of racial isolation in an effective manner.

CATEGORY 2 METHODS

While not explicitly endorsed by Justice Kennedy in his opinion, the following "Category 2" methods are similar to those Category 1 approaches described above, as they also do not take account of the race of individual students. For that and other reasons, these Category 2 methods, even when geared towards addressing racial isolation in schools in a race-conscious way, should not raise legal concerns.

Renovating and Expanding Existing Schools

School districts can apply for or allocate construction funds to renovate and expand existing schools in a manner that would attract or sustain a more diverse student population, akin to placing a special program at an existing school.

School Pairing/Grade Realignment

Two adjacent schools that have different racial compositions of students can be merged and their attendance areas combined, with specific grades from the enlarged attendance area assigned to one school and the remainder to the other. For example, two neighboring K-6 elementary schools with differing racial compositions could be realigned so that one school serves all students in the area in grades K-3 and the other serves grades 4-6.

Multi-District Consolidation

Some regions encompassing several different school systems have consolidated their school districts to create a single, larger district with a more racially diverse student population. For example, districts that have cooperated under a transfer program for many years have sometimes merged to allow the sharing of resources and to ease the administration of transfers. Wherever there are two or more adjacent districts with disparate racial demographics, district consolidation can do more to promote integration than any single district's policy. At the same time, district consolidation can have segregative effects (i.e. if a predominantly white district seeks to annex the white areas of a neighboring district). Thus, needless to say, successful consolidation of two or more school systems demands thoughtful consideration of a new student assignment plan. As one example, the Omaha Public Schools joined with the eleven surrounding school districts to form a metropolitan-wide learning community in 2007.

CATEGORY 3 METHODS

Category 3 methods are those that generally take account of individual student characteristics. Schools or districts using these methods should be careful as to when and how they consider an individual student's race. As discussed in Chapter 4, it is clear that an individual student's race should not be the sole factor considered in whether a transfer is granted or a student is accepted into a special program. Instead, if and when an individual

student's race is considered, it should be—at minimum—as one of many components in a "nuanced, individual evaluation of school needs and student characteristics," to borrow the words of Justice Kennedy.

Student Admissions to Special Programs

Although most K-12 public schools do not have competitive admissions, schools do evaluate students

in determining admission to established selective or competitive magnet schools or special programs. These schools and programs often require applications or administer entrance exams, and they usually have many more students who want to attend them than there are seats available. In addition to doing extensive outreach to attract as diverse a pool of applicants as possible, school districts operating magnet schools and special programs may be able to consider race as one of many factors considered in a holistic, individualized approach to admitting students. As described in Chapter 6, school districts can also consider factors other than race—such as the neighborhood where the student resides, the student's prior academic achievement, the school the student is currently attending, and the parental education or income level of the student's family—with the intent to promote diversity and avoid racial isolation in special programs.

PROMOTING SCHOOL CHOICE

The magnet schools and student transfers described above constitute a form of limited school choice: parents (or their students) can elect to forego attendance at a school to which they are assigned and request to enroll in another school within the district. Some school systems bypass a system of mandatory assignment altogether, assigning students entirely though voluntary choices—both Seattle and Louisville had systems that prioritized voluntary student choice.

School choice is the overall effort by school districts to provide choices to students and parents on where they can attend school. Within that school choice process, many school districts draw upon multiple methods to manage student assignment so that student's choices do not exacerbate patterns of racial isolation.

The Court struck down the choice plans in Seattle and Louisville to the extent they used methods that relied on binary racial classifications of individual students and limited individual student choice on the basis of race alone. School districts that want to provide choices to parents and students can consider how those choices may exacerbate racial isolation at particular schools, and adopt any of the Category 1 and 2 methods (and, as appropriate, Category 3 methods) described above to promote diversity and avoid racial isolation in their schools.

Student Transfers

Some school systems have also established voluntary student transfer programs designed to promote integration and/or reduce racial isolation. A school system that advertises and encourages students to take advantage of such transfers can reduce the level of racial isolation in its most segregated schools while simultaneously increasing the levels of racial diversity in others. An effectively executed transfer can contribute to diversity without having to require any individual student to go to a school that he or she does not want to attend. Many school districts have taken an additional step and refused student transfers when the transfer would exacerbate racial segregation at the school the student would be leaving and/or attending. Such a transfer provision in Louisville was struck down because of its minimal impact on promoting racial diversity in schools and its singular focus on race in the evaluation of transfers without, in the Court's view, sufficient evidence justifying the need for the consideration of race, and race alone.

School districts ordinarily allow transfers for a variety of reasons, to ensure that siblings attend the same school; to accommodate medical hardships; to address safety concerns; or to allow children to attend schools close

to where their parents work. In certain circumstances, school districts will provide transportation for students who transfer to a school far from home. In addition, under the federal No Child Left Behind Act, schools are required to provide students attending designated failing schools the opportunity to transfer. Many school districts have adopted a single comprehensive transfer process that takes these, and potentially other, factors into account. For example, to promote racial diversity and avoid racial isolation, school districts could consider other characteristics in evaluating a transfer request such as the student's neighborhood and whether the student qualifies for free and reduced price lunch. Race too could be a component, again as part of an individualized, nuanced evaluation of school needs and student characteristics, and particularly if considering an individual student's race as a factor is necessary to not exacerbate racial segregation in schools.

Inter-District Transfer Programs

Working to promote racial integration within the limits of a school district's boundaries can be challenging when the student population in the district is overwhelmingly white or students of color.

To address this problem, some school systems have teamed with their neighbors to achieve voluntary integration through inter-district transfer programs. The most common programs of this type pair an urban school district with one or more of its surrounding suburban districts, allowing urban students who might otherwise be assigned to racially isolated schools in their own system to apply for enrollment in suburban schools outside of their district, and vice-versa. In such arrangements, districts accept student transfers when there are seats open, and transportation is sometimes provided for students attending school outside of their district. In areas where these programs have been implemented, they have been very popular, as evidenced by long waiting lists to attend out-of-district schools.

STATEWIDE POLICIES

Open Enrollment Laws

Almost every state in the union has some form of open enrollment laws, which provide students a degree of choice among public schools. Some states require school systems to allow students to choose a school to attend, either within their district (mandatory intra-district open enrollment) or across district boundaries (mandatory

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Quality Schools or Integrated Schools?

The goals of providing a high-quality education and a diverse, inclusive education are not—as some argue—mutually exclusive. Efforts to expand access and opportunity and to raise achievement have long proceeded hand-in-hand with, and even relied upon, efforts to bring together children of different backgrounds. In addition, as we discussed in Chapter 3, the benefits of a diverse education, both short and long-term, are key parts of a quality education in the multiracial, global society in which we now live.

There is no question that many urban and rural areas around the country are racially segregated; and meaningful racial integration is simply not possible. In these communities, it is as, if not more, important to be mindful of the harms that attend racially isolated schools. For *Brown*'s promise did not stop at eradicating segregation in schools; equal educational opportunity demands that children of all backgrounds, no matter where they live, be prepared and able to succeed and participate fully in the civic and democratic life of this nation. That means getting high quality teachers, staff, facilities and other resources to students in need, no matter where they attend school and who their fellow students are. Having the ability to identify and address the harms of racial isolation in these schools is critically important to efforts to provide quality education to all students.

inter-district open enrollment), while others simply permit school systems to choose whether to adopt such choice provisions (voluntary intra or inter district open enrollment). Such programs, so long as they are not limited to students on the basis of race, may still be used to advance school diversity after the Seattle/Louisville decision, though, in general, open enrollment policies have not, without more, had an integrative effect.

State Level Funding to Address Racial Isolation or Promote Diversity in Schools

Many states also require or encourage school districts to take affirmative steps to address racial segregation or racial imbalance in schools. In addition, if your district decides to pursue any of the strategies listed above, it may be eligible for state funds that are designed to help school districts adopt policies that reduce racial isolation and promote school diversity. These extra resources for your district can be an important benefit of pursuing voluntary integration initiatives. If your state does not currently provide funding for school districts to address the harms of racial isolation and promote diversity, you may want to lobby for state support and funding for your efforts.

States have also passed laws that allocate funds to address statewide achievement gaps. Since research shows that integration is associated with reductions in the racial achievement gap, new state funds might be available to your district through these laws. These laws differ by state, however, so you should consult the applicable statutes and regulations in your own jurisdiction to find out if you qualify for additional financial support.

Federal Programs

A number of federal programs also allocate funds to school districts to reduce racial isolation, track student enrollment and performance by race, and address the racial achievement gap. As one prominent example, the federal Magnet Schools Assistance Program (MSAP) specifically "assists in the desegregation of schools" by providing funding to school districts for "the elimination, reduction, or prevention

of minority group isolation in elementary schools and secondary schools." In 2001, when MSAP was reauthorized as part of the No Child Left Behind Act, Congress expressly noted that "it is in the best interests of the United States . . . to continue the Federal Government's support of local educational agencies that are implementing court-ordered desegregation plans and local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds; and . . . to continue to desegregate and diversify schools."

NEW STRATEGIES?

Since *Brown*, communities have demonstrated remarkable creativity in designing strategies to promote diversity and address racial isolation in schools (and, regrettably, in creating and maintaining barriers to school integration). In fact, it is at times like these—when the options available to communities have been limited—that strategies that both promote a high quality diverse education and reflect the changing and complex needs and demographics of these communities have emerged. Now, yet again, communities seeking a high quality, inclusive education for their children are at a critical juncture: the gaps in educational access, opportunity, and achievement between students based on race and class persist and have, in some cases, widened.

As discussed in Chapter 3, schools and neighborhoods are becoming increasingly segregated by race and class, with access, resources and opportunities limited in racially isolated and concentrated poverty areas. Yet, the U.S. Supreme Court just took a number of tools off the table, and limited how many of the remaining tools could be used to address the harms of racially isolated schools and to bring children together across lines of difference. So, in addition to using and building upon the considerable existing strategies, you will need to create new strategies to ensure that your children receive a high quality, diverse education wherever they attend school. There are many possibilities, including working with community and education partners to develop new strategies to attract and retain high quality teachers at racially isolated schools or working with housing officials to address the residential segregation that is so deeply intertwined with racial segregation in our schools.

Remember Justice Kennedy's call to action: we need your creativity, as "experts, parents, administrators, and other concerned citizens to find a way to achieve the compelling interests" in avoiding racial isolation and promoting diversity in schools.

CHAPTER 6

alternative approaches to promote racial integration: case studies

In this chapter, we provide case studies of school districts that are using alternative approaches to promote racial integration that either do not take race into account or only take account of race as one of many factors.

As we discussed in Chapter 4, the Supreme Court's decision in the Seattle/Louisville case limited the ability of school districts to take account of race in assigning students to schools. Following the decision, there has been considerable discussion (and confusion) about what school districts can still do to promote diversity and avoid racial isolation in schools. In this chapter, we examine a range of alternative approaches being implemented by some districts to promote racial integration that do not take race into account or only take account of race as one of many factors.

The plans discussed below do not necessarily represent what research and experience reveal to be the best approaches to combating racial segregation, nor has research demonstrated that any one of these programs will work for all school districts. Rather, they represent options that may be legally viable after the Supreme Court's ruling. By providing accurate and updated information on these plans, we hope to introduce a broader range of strategies that can be used to pursue the compelling interests in promoting diversity and avoiding racial isolation in your schools. The inclusion of demographic data for the highlighted districts can help you determine whether the plans described might be successfully implemented in your schools.

This chapter focuses on two approaches that have been used by school districts to promote diversity and address racial isolation in schools. The first approach is to rely on factors other than race to assign students, and to adopt so-called "race-neutral" measures. The second approach is to take account of race as one factor among many, usually as part of a process that does not classify individual students. Accordingly, both of these approaches are more likely to be considered within the bounds of the Seattle/Louisville decision.

School districts who follow the first approach consider individual family or student characteristics other than race to achieve a racially diverse student body. This approach has been used in determining how, for example, to prioritize school choice, transfers, and selection of students into specialized schools or programs (i.e. the Category 3 Methods described in Chapter 5).

Individual family or student characteristics that could be considered include:

- Socioeconomic Status (usually measured by Free and Reduced Price Lunch Eligibility)
- Parental Income
- Geographic Area/Neighborhood
- Academic Achievement (at prior or current school)
- English-language learner status
- Parental Education Background
- Household Structure (dual parent, single-parent, etc.)
- Housing Status

Under the second approach, school districts could classify neighborhoods by considering one or more diversity criteria to create a diversity score or index. The diversity index can take account of a wide range of neighborhood characteristics, which reflect the average demographics of those residing in a particular neighborhood. Priority is then given to students from neighborhoods whose diversity score or index increases the diversity of the school. School districts can look at

One of the best sources for demographic data on virtually any school district in the country is the **National Center for Education Statistics' Common Core of Data**, which can be accessed at http://nces.ed.gov/ccd/. There, you can search for information about a particular school or district, and can access data files from 1987 onwards if you want to look, for example, at how district demographics might be changing. The data is uniform across states and years to allow for easy comparison. To look at certain characteristics for a single or select group of districts, including student demographics (e.g., race/ethnicity, grade level, free-lunch eligibility, LEP status at the district level), graduation rates, and student achievement data, you must build your own table http://nces.ed.gov/ccd/bat/ . You can also gather similar information at the school level.

a wide range of different neighborhood characteristics using Census tract data. One of the benefits of using Census data is that trying to gather similar information for individual families might be difficult, if not impossible.

Census data can become out of date quickly in changing neighborhoods, but there are sources of data for intra-Census years. The American Community Survey (ACS) currently has 2006 data, for example, for geographical locations with populations greater than 65,000 and in 2008, will have data for areas with populations greater

than 20,000. The ACS and Census 2000 data can be accessed at http://www.census.gov/ and the Census website has the American Factfinder that enables users to build tables to view data from one area or to compare different locations.

Neighborhood characteristics that could be taken into account include:

- Academic Achievement
- Family Income
- Parental Education Level
- Property Values
- Concentrated Poverty
- General geographical location
- Racial Composition

Since the second approach looks to neighborhood characteristics rather than individual student characteristics, school districts are able, after the Seattle/Louisville decision, to consider race, namely the racial composition of a given neighborhood. Given that the Seattle/Louisville decision was especially critical of individual racial classifications, but did preserve the ability to examine racial demographics of neighborhoods as a whole, plans that account for race in this way are less likely to be constitutionally vulnerable and may be more effective at creating diverse schools than plans without any such consideration of race.

As previously noted, it is clear that no one method will work for every school district. Each school district must analyze the decision, evaluate constitutionally permissible options, and determine the assignment plan that will work best to promote racially integrated schools, given the particular history, demographics and relevant political considerations of that district.

As the examples that follow demonstrate, there are many ways to approach the challenge of integrating schools, but programs like that in Charlotte that have removed race as a consideration in assigning students have struggled to achieve the goals of promoting diversity reducing racial isolation in schools.

PROFILES OF SELECT STUDENT ASSIGNMENT PLANS

In our profiles of districts which follow, we rely on publicly available information to examine the following questions:

1. *What is the history of voluntary integration efforts in the district?*

2. *Did the school district establish goals for its student assignment plan? What are they? Is promoting diversity or avoiding racial isolation one of the goals?*

3. *Does the student assignment plan take race into account? How? In what circumstances?*

4. *What factors does the school district take into account in assigning students?*

5. *How does the school district gather that information?*

6. *Does the plan take account of individual family or student characteristics? If so, is race one of those characteristics?*

7. *Does the plan take account of neighborhood demographics? If yes, is neighborhood racial composition one of the factors considered?*

8. *Does the school district provide transportation under the plan? Does it pay transportation costs?*

9. *Has the plan worked to promote racial diversity within the school district?*

10. *Why has the plan worked to promote racial diversity? Why hasn't it worked?*

BERKELEY UNIFIED SCHOOL DISTRICT (BUSD), CALIFORNIA

Total Number of Schools: 16
Total Students (District): 9,088
Annual District Growth Rate: 0.13%
Asian/Pacific Islander Students: 7.6% (686)
Black, Non-Hispanic Students: 29.1% (2,648)
Hispanic Students: 16.9% (1,532)
White, Non-Hispanic Students: 29.6% (2,686)
Free/Reduced Lunch: 40% (3,634)
(Data from 2006-2007 School Year)

History of Integration Efforts: Following the *Brown* decision, a citizens' commission concluded that Berkeley suffered from severe housing segregation that led to racial isolation in its schools. In 1968, BUSD became one of the first school districts in the nation to voluntarily integrate its schools. In 1995, BUSD adopted a comprehensive plan to preserve integration in its schools in light of continued residential segregation in the city. A revised student assignment plan was adopted in February 2004.

Goals of Current Plan (2004): Increased school diversity on a number of levels: socioeconomic status, parental education, and race.

Student Assignment Factors: For elementary schools: student/parent choice; diversity index of student's neighborhood (determined by the racial, socioeconomic, and parental education demographics of all residents); "priority" categories relating largely to proximity to school of choice or siblings attending school of choice. For assignment to the small, specialized schools within Berkeley's one (and only) high school, the factors listed above, in addition to special education and English language learner status. The race of individual students is not considered for students at any level.

Mechanics of Student Assignment Plan: The plan divides the district's 11 elementary schools among three attendance zones. The entire district is further divided into 445 planning areas, of between 4 and 8 city blocks in size. Each planning area is assigned a diversity category designation of 1 to 3. The diversity category number is calculated based upon three factors: the percentage of "students of color"; the level of parental income; and the level of parental education within each planning area. Each factor is weighed equally in calculating the diversity category number. Parents of elementary school children submit a preference form, indicating their top three elementary school choices.

BUSD assigns students based on six priority categories: (1) Students currently attending the school and residing in the school's attendance zone; (2) Students currently attending the school and residing outside the school's attendance zone; (3) Students with sibling(s) currently attending the school; (4) Students not currently attending the school but residing within the school's attendance zone; (5) Students not currently attending the school and residing outside the school's attendance zone; (6) Students seeking inter-district transfers. Within each priority category, a student is assigned to a particular school based upon their preference, as well as the diversity category number assigned to the planning area where the student lives.

The High School Small School Assignment Plan applies to the one high school in the district, Berkeley High. In addition to the regular high school curriculum, Berkeley High offers students the opportunity to pursue a more specialized curriculum either in one of its four "small schools" or in one of its two academic programs. The district selects students for the small schools based upon several diversity characteristics: the diversity/planning area category numbers used in the elementary school assignments; English-language learner status; and special education status.

Individual or Neighborhood Demographics: Individual student/family demographics are not considered; neighborhoods are assigned diversity indices, which account for all residents in the neighborhood.

Demographic data collection: The district determines socioeconomic profiles of neighborhoods by analyzing household income and average parental educational attainment levels as reported by the U.S. Census. The racial component of the diversity index is computed examining the total number of students of color (as recorded by Berkeley school system records over a number of years) and determining a percentage for each neighborhood planning area

Transportation: The district provides transportation for all elementary school students living more than one mile from the school they attend; transportation is also provided to special education students or English language learners on a case-by-case basis. Transportation is not provided for any middle or high school students.

Success of Plan: It is too soon to tell the extent to which Berkeley's use of neighborhood diversity as a student assignment factor has been successful. Their historical use of race as one of several diversity characteristics likely contributes to the relatively high levels of racial integration in the district's elementary schools already; Berkeley's history of community support for desegregation programs is also a contributing factor. In April 2007, the Alameda Superior Court held that neither the Elementary Student Assignment Plan nor the High School Small School Assignment Plan violate Proposition 209 (the California state constitutional amendment that bans discrimination or the granting of preferences based on race) because no assignment decisions are based upon the race of an individual student.

More Info: http://www.berkeley.net/index.php?page=student-assignment-plan

WAKE COUNTY, NORTH CAROLINA

Total Number of Schools: 147
Total Students (District): 128,072
Annual District Growth Rate: 5.3%
Asian/Pacific Islander Students: 5.0% (6,458)
Black, Non-Hispanic Students: 26.8% (34,286)
Hispanic Students: 10.2% (13,080)
White, Non-Hispanic Students: 53.8% (68,933)
Native American Students: 0.3% (331)
Multi-racial Students: 4,984 (3.9%)
Free/Reduced Price Lunch: 28.2% (36,175)
(Data from 2006-2007 School Year)

History of Integration Efforts: In 1976, to expedite the racial integration of the region, the Raleigh City Schools merged with the Wake County School System, combining the city and suburbs into one district. In 1977, Wake County implemented a voluntary integration plan that included the use of magnet schools. Minority student enrollment between 15% and 45% was sought in each school. Wake County's plan was a comparative success: whereas 70% of the nation's black students attended schools that were predominantly black in 1999, only 21% of Wake County's black students attended predominantly black schools. This plan was replaced by the current plan in 2000.

Goals of Current Plan (2000): Increased socioeconomic diversity and overall student achievement. Racial diversity is not an explicit goal. No more than 40% of a school's total enrollment can be comprised of students eligible for free and reduced-price lunch (FRL) and no more than 25% of a school's total enrollment can be comprised of students performing below grade level on state exams.

Student Assignment Factors: Student/parent choice for both magnet and calendar programs; socioeconomic and academic achievement status of schools; proximity to schools; stability; full use of capacity. Race is not considered in any way.

Mechanics of Student Assignment Plan: Students are initially assigned to the "base" school that served the attendance area where the student resides. Students can apply for magnet and calendar-option schools and for transfers outside of their base school. Wake County considers the socioeconomic status (as determined by free and reduced price lunch eligibility) of small geographic units called 'nodes' and academic performance (as determined by grade level scores on standardized tests) in creating school attendance areas. Choice is done by a computerized lottery system—priority is given to those whose selection would positively impact crowding and diversity in schools. Transfers are considered on the basis of need within agreed-upon parameters. The free and reduced price lunch and academic performance data is used to shape creation of new school boundaries, and to guide decisions when boundary adjustments are called for.

Individual or Neighborhood Demographics: Individual student/family demographic characteristics are measured; the demographics of nodes are also considered.

Demographic data collection: Eligibility for the federal Free and Reduced Price lunch program is used to calculate the socioeconomic characteristics of nodes. The district determines academically underperforming students by using standardized test measurements of grade level reading.

Transportation: The district provides transportation for students living more than 1.5 miles from the school they attend. Transportation is also provided for magnet students. Students attending non-magnet schools outside of their "neighborhood school zone," however, are not guaranteed transportation, though they may receive it.

Success of Plan: Wake County schools have experienced a slight decline in racial diversity under the current plan, but remain relatively racially diverse, with the population of most schools falling within the 15% to 45% minority enrollment range required under the former plan.

The particular demographics of Wake County contribute to the plan's success in maintaining racial diversity. While Wake County's overall rate of poverty is the lowest in the state, African-American students are about ten times as likely to be poor as white students. According to Former Superintendent Walt Sherlin, Wake County maintains a relatively high level of racial diversity under the SES Plan because, put simply, Wake County has relatively few white students who come from low-income families and relatively few African-American and Latino students who come from more affluent families. Because of the significant racial disparity between poor and non-poor families, socioeconomic integration in Wake County also promotes racial integration. According to social scientists, these numbers are unique because their convergence in one county is rare.

Additionally, Wake County's experience may not be generalizable because of the unusually strong and cohesive commitment to racial diversity and equality in it schools over the twenty-year period preceding the socioeconomic plan. For example, throughout the 1990s, well-funded anti-busing candidates consistently failed to win a seat on the school board. Wake County was not starting from scratch in 2000; to the contrary, many parents were accustomed to and supportive of integration in the name of educational equity.

More Info: http://www.wcpss.net/growth-management/assignment.html

CHARLOTTE-MECKLENBURG SCHOOLS (CMS), NORTH CAROLINA

Total Number of Schools: 167
Total Students (District): 132,281
Annual Projected Growth Rate: 4%
Asian/Pacific Islander Students: 4%
Black, Non-Hispanic Students: 42%
Hispanic Students: 15%
White, Non-Hispanic Students: 35%
Free/Reduced Price Lunch: 47.2%
(Data from 2007-2008 School Year)

History of Integration Efforts: Charlotte-Mecklenburg was under court order to desegregate from 1969 until it was declared unitary in 2002. The 1970 plan desegregated the system's schools using district-wide busing that paired many opposite-race schools and was unanimously upheld by the Supreme Court in *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971). CMS became the most fully desegregated urban school system in the nation's history. In 1969-70, 14,086 black students attended schools that were 99-100% black, in 1970-71, no black student was assigned to a majority black school, and white students were also less racially isolated. As a result, student achievement, parent involvement, and community investment in CMS schools dramatically increased. In 1992, a new student assignment plan was implemented that changed 58 of the district's 126 schools to magnet schools and eliminated most busing; schools began to resegregate. In 2002, CMS was declared unitary and released from federal court order.

Goals of Current Plan (2002): Maximizing socioeconomic diversity; student stability; proximity from home to school; utilization of specialized programs; maximizing student stability; and overall educational excellence and student success. Racial diversity is not an explicit goal.

Student Assignment Factors: (1) Neighborhood schools; (2) student/parent choice, taking into account the socioeconomic status (determined by free or reduced price lunch eligibility) and academic performance (determined by NCLB standardized test results) of individual students and the overall socioeconomic status and academic performance of students at the school-level; (3) transfer requests similarly weighted by the socioeconomic and academic achievement status of individual students and of the original and target schools. Race is not considered in any way.

Individual or Neighborhood Demographics: Individual student/family demographic characteristics are measured; neighborhood characteristics are not considered in student assignment itself, although they can play a role in the construction and design of new school locations. As noted, the academic achievement and socioeconomic status of each school's student population as a whole is taken into account in the evaluation of transfers and parent/student choice of school.

Demographic data collection: The district determines socioeconomic status of students by identifying free or reduced price lunch recipients. Schools are identified as overly concentrated if they have at least 30% more recipients than the district average. CMS determines individual academically underperforming students by using NCLB measurements of grade level reading. A school is classified as underperforming if the percent of its students reading below grade level is at least 10% more than the district average.

Transportation: The district provides transportation for every student attending her "neighborhood school," as well as for every student attending a school within her larger transportation zone. Students attending school outside their transportation zone do not receive transportation.

Success of Plan: After Charlotte-Mecklenburg abandoned its integration plan that considered race in favor of the new plan in 2002, its schools rapidly resegregated. According to numerous experts, racial isolation in hypersegregated (90-100% students of color) schools roughly doubled, and community and parent investment in the schools has sharply

decreased. One possible cause for this change, other than the elimination of race as a factor, could be the tendency of many students to choose to remain in their "neighborhood schools," which are deeply affected by residential segregation. Another possible cause is the oversubscription of the schools in more affluent, largely white neighborhoods, such that students requesting transfers cannot be balanced by students transferring out. In the first year after the 2002 CMS plan was implemented, the number of schools with minority enrollment of 91% to 100% more than doubled, and the number of racially imbalanced schools (where the racial composition of the school differs from the district-wide average racial composition by more than 15%) jumped from 47 to 81 schools. Two years later, in 2004-05, this number had increased to 87 schools. CMS schools are now more segregated than when the desegregation plan was implemented in 1969.

More Info: http://www.cms.k12.nc.us/studentassignment07-08/Plan/menu.asp

Other Aspects of the Charlotte Plan That Seek to Promote Strong, Diverse Schools

- In choosing sites for future construction of schools, the plan directs the Board to consider, the socioeconomic diversity of nearby housing and the availability of public transit lines to serve the schools (in addition to other criteria, with no prescribed order of priority).
- To reduce socioeconomic segregation and racial isolation in schools, the plan provides that the Board shall work with the Commissioners and Council Members to encourage the implementation of an affordable housing initiative in conjunction with the ten-year Capital Improvement Plan.
- Schools with higher concentrations of low socioeconomic status students are identified as "Equity Plus II schools" and receive additional resources including family support services, teacher and administrator incentives to create and maintain stable balances of experience and qualification, reduced class sizes and curriculum enhancements to elevate and meet expectations of excellence.

CAMBRIDGE PUBLIC SCHOOLS (CPS), MASSACHUSETTS

Total Number of Schools: 13
Total Student Population: 5,599
Annual District Growth Rate: -3.4%
Asian/Pacific Islander Students: 11.1% (621)
Black, Non-Hispanic Students: 36.0% (2,016)
Hispanic Students: 14.7% (823)
White, Non-Hispanic Students: 35.7% (1,999)
Free/Reduced Price Lunch: 42.7%
(Data from 2006-2007 School Year)

History of Integration Efforts: Throughout the 1990s, Cambridge Public Schools operated under a voluntary integration plan that specifically took account of the race of individual students to integrate the Cambridge schools. In 2001, CPS changed its student assignment plan to account for many different diversity factors.

Goals of Current Plan (2001): To provide all students with equitable educational opportunities, improved achievement and the opportunity to attend school with students of diverse backgrounds. Additionally, the district believes "that it is important to have the option to use race or ethnicity as one of the diversity factors in order to avoid the harms of racial/ethnic isolation and to provide students the benefits of learning from students who are of different racial and ethnic backgrounds."

Student Assignment Factors: Socioeconomic status, as well as geographic proximity; sibling attendance; and race. For students in grades K-8, parents rank three choices of schools for each of their children. CPS first looks to whether the particular student assignment would place the requested school outside of the socioeconomic status range, and then looks to a variety of diversity factors in assigning students to schools.

Socioeconomic Status: The goal is for each grade in each school to be within a range of plus or minus 5 percentage points of the District-wide kindergarten through grade 8 percentage of students who are eligible for free and reduced price meals. Currently, board policy aims to have the range plus or minus 10 percentage points of district-wide K-8 socio-economic status (although changed to fifteen percent for entering Kindergarten class in 2007-08). If a student would place the school outside of this range, the student would not be allowed to attend the school.

Siblings and Distance. To the extent that space is available and that the assignment does not negatively affect the socioeconomic diversity at the school being requested and when requested by parents/guardians, CPS assigns (1) siblings to the same school; and (2) students to one of the two schools closest to where they reside.

Race or Ethnicity. If, after consideration of the other student assignment factors, the applicant pool for a grade at a school is not within plus or minus 10 percentage points of the district-wide percentage of White, African-American, Latino, Asian and Native-American students in elementary schools, then race or ethnicity will be used as one of the diversity factors. Note: Race has yet to be used in the assignment of any students.

ELL and Special Education Status. While CPS does not use English Language Learner status or special education status as part of the diversity index, CPS seeks to have the population of both subsets of students at each school reflect the demographics of the district as a whole.

Individual or Neighborhood Demographics: Individual student/family demographics are considered; neighborhood demographics are not.

Demographic data collection: The district determines socioeconomic status according to whether or not a student is eligible for free or reduced price lunch. When parents/guardians complete the application form ranking their choices of schools, they can complete a FRL application form. The district determines student race by self-identification on the application form.

Transportation: Students eligible for transportation include: all K-6 students who must walk one mile or more, and all 7th and 8th grade students who must walk 1.5 miles or more, to their assigned schools. Door to door transportation is provided for special needs children. Transportation is also provided to students who qualify for free or reduced price lunch, attend a school where at least 50 percent of the students who live in the attendance area of the school and attend the school are poverty students, or attend a focus school.

Success of the Plan: Since the 2001 change to the student assignment plan that effectively resulted in the elimination of race as a factor that CPS considers, the number of CPS schools that are racially identifiable (i.e. do not fall within the plus or minus 10% racial diversity range established by the school district) has more than doubled.

More Info: http://www.cpsd.us/Web/PubInfo/ControlledChoice.pdf

OMAHA PUBLIC SCHOOLS, NEBRASKA

Year: 2007-2008
Total Number of Schools: 89
Total Student Population (K-12): 45,223
Annual District Growth Rate: 0.7%
Asian/Pacific Islander Students: 1.8% (870)
Black, Non-Hispanic Students: 31.8% (15,168)
Hispanic Students: 23.9% (11,408)
White, Non-Hispanic Students: 41.4% (18,173)
Free/Reduced Lunch: 60.1% (for 2006-2007)
(Data from 2007-2008 School Year Unless Otherwise Noted)

Note: The information listed here is only for the Omaha Public Schools (OPS). OPS joined with 11 other school districts to form a metropolitan-wide learning community in 2007. Demographic information for the entire learning community does not yet appear to be publicly available.

History of Integration Efforts: On October 6, 1997, the School Board of the Omaha Public Schools authorized the superintendent to establish a "Desegregation Task Force" to "thoroughly examine all aspects of the current desegregation plan" and determine ways to promote racial (and other) diversity in Omaha schools. After reviewing the plan, the Desegregation Task Force identified several areas with room for improvement, and in 1999, a new Student Assignment Plan was authorized by OPS for implementation. The Plan relied on basic neighborhood assignments, combined with some parental choice and a variety of magnet schools designed to integrate neighborhoods.

In 2006, the Omaha legislature passed LB 1024, which would have done two things: (1) it would have divided Omaha into three separate racially identifiable school districts; the districts would each have been almost exclusively white, Latino, and black; (2) eliminated the ability to use all traditional methods to create integrated schools. After two lawsuits were filed challenging the bill, it was repealed.

The current student assignment plan, passed in 2007 as Legislative Bill 641, returned Omaha School District to being one school district. The Omaha School District was then joined into something new called a learning community, which was comprised of the 11 school districts in and around the metropolitan Omaha area. The creation of the learning community is significant for two reasons: first, tax revenues in the learning community are distributed on an equalized basis and second, open enrollment is provided across all districts in the learning community. The plan also accounts for students' free and reduced price lunch status to promote socioeconomic diversity at each school within the learning community.

LB 641 is a state statute and thereby provides for learning communities to be established in other areas of the state outside of metropolitan Omaha as well, and these learning communities are similarly permitted to levy additional funds to increase academic achievement and address the academic achievement gap. In addition, every learning community must design a diversity plan aimed at increasing socioeconomic diversity, as defined by free or reduced price lunch eligibility.

Goals of Current Plan (2007): Increased socioeconomic diversity and decreasing the academic achievement gap.

Student Assignment Factors: Student/parental choice and socioeconomic status. Students can also apply to a focus school where they are selected through a lottery, or to a magnet school where they are selected according to their home attendance area and a lottery. Race is not explicitly considered in any way. Priority in open enrollment within the learning community is given to students who bring a school building's socioeconomic diversity closer to the average socioeconomic diversity of the entire learning community.

Individual or Neighborhood Demographics: Individual student/family demographics are considered; neighborhoods demographics are not.

Demographic data collection: The district determines socioeconomic status according to whether or not a student is eligible for free or reduced price lunch.

Transportation: Transportation is provided to all students attending school within their attendance zones. Transportation is also provided to students who transfer from one school to another within a learning community pursuant to the open enrollment provision if she lives more than one mile from the school to which she transferred AND contributes to the socioeconomic diversity of the school building OR is attending a focus (essentially a magnet school without a home attendance area) or magnet school.

Success of Plan: The success of the Omaha student assignment plan in promoting diversity and avoiding racial isolation in schools is not yet clear, as it is just beginning to be implemented.

More Info: www.ops.org
http://uniweb.legislature.ne.gov/Apps/BillFinder/finder.php?page=view_doc&DocumentID=876

SAN FRANCISCO UNIFIED SCHOOL DISTRICT, CALIFORNIA

Total Number of Schools: 111
Total Students (District): 55,091
Annual District Growth Rate: -1.3%
Asian/Pacific Islander Students: 49.8% (27,317)
Black, Non-Hispanic Students: 12.4% (6,852)
Latino Students: 22.9% (12,635)
White, Non-Hispanic Students: 9.6% (5,312)
Free/Reduced Lunch: 57.0% (for 2006-2007)
(Data from 2007-2008 School Year unless otherwise noted)

History of Integration Efforts: In 1983, San Francisco Unified School District settled a legal case aimed at desegregating the San Francisco schools and entered into a consent decree. Among other things, the consent decree prohibited student enrollment of more than 45 percent of a single racial or ethnic group at any school and required four racial or ethnic groups to be represented at each school. The consent decree also addressed directly the need to close the "achievement gap", which was then called the under-achievement of African-American and Latino students, English Language Learners, and other historically disadvantaged groups. In 2001, the consent decree was modified as a result of litigation, and race was eliminated as a factor in student assignment decisions.

Goals of Current Plan (2001): Increased socioeconomic diversity; equal academic achievement at all district schools. Racial diversity is a goal.

Student Assignment Factors: student/parent choice; geographical proximity; a "diversity index" measuring socioeconomic status, academic achievement, home language, and extreme poverty of individual students. The academic ranking of the student's school from the previous year is also considered. Race is not explicitly considered in any way.

Individual or Neighborhood Demographics: Individual student/family demographics are considered; neighborhoods are not.

Demographic data collection: The district determines socioeconomic status according to student participation in the free and reduced price lunch program. For entering kindergartners, academic achievement is determined based on whether the student attended preschool; for older students, academic achievement is whether the student scored above

the 30th percentile on state standardized tests. Extreme poverty is indicated when a student lives in public housing, participates in CALWORKS, is homeless or in foster care. Home language is determined by answers to a language survey on the application form. Sending school academic rank is based on a ranking conducted by the state.

Transportation: The district provides transportation for some students and is determined in part based on the specific bus routes designed as part of the original consent order.

Success of Plan: Since 2001, San Francisco schools have rapidly resegregated and the racial achievement gap has widened. In 2005, U.S. District Judge William Alsup terminated the consent decree, stating that the involvement of the legal system absent the use of race as a factor may only be increasing segregation. He noted that the district's new system "has not achieved diversity in any meaningful sense" and instead "has allowed, if not caused, resegregation." Indeed, Stuart Biegel, the consent decree monitor, found that the elimination of race as a factor contributed to consistent and unabated racial resegregation from 1999 to 2005. Furthermore, the academic achievement gap has widened. As Biegel concluded, while SFUSD as a whole had the highest percentage of students scoring at proficient or above when compared with seven major urban districts in California, San Francisco's African-American students scored the lowest overall when compared with their African-American counterparts in these same seven districts. Judge Alsup also noted that the academic achievement gap persisted for African American and Latino children.

More Info: http://portal.sfusd.edu/template/default.cfm?page=policy.placement.process

San Francisco Unified School District Student Assignment Factors:
In the wake of the 2001 settlement, SFUSD developed a student assignment plan which combines student choice (families rank up to seven district schools) with a diversity index concept. The diversity index is calculated for each student by considering four factors for entering kindergartners, and an additional factor for students in higher grades:

1. Extreme Poverty: Does the student live in public housing or participate in CALWORKS? Is the student a foster youth? Does the family participate in a homeless program?
2. Socioeconomic Status: Does the student participate in the free/reduced lunch program?
3. Home Language: Is English the student's home language? This is determined by the answers to the Home Language Survey on the student school assignment application form.
4. Academic Achievement Status:
   - Incoming Kindergartners: Did the student attend preschool?
   - Students entering grades 1-12: Did the student score above or below the thirtieth (30th) percentile on the most recent standardized test of record?
5. Academic Performance Rank of Sending School (for non-kindergartners only): Is the Academic Performance Index (API) ranking of the student's current school 4 or above? (The California Department of Education ranks every public school in California by comparing its API to 100 comparable schools; each school is given a rank from 1-10. See http://www.cde.ca.gov/ta/ac/ap/documents/simschl06b.pdf)

The answers to these questions are gathered from information provided on the student's application form and from test score data supplied by the California Department of Education. An individual student's diversity index is compared with those of the students already attending the schools that the student ranked most highly. If her demographic characteristics promote school diversity, the student will be assigned to that school.

ST. LOUIS PUBLIC SCHOOLS, MISSOURI
Total Number of Schools: 93
Total Students (District): 39,554
Annual District Growth Rate: 0.7%
Asian/Pacific Islander Students: 1.7%
Black, Non-Hispanic Students: 81.8%
Hispanic Students: 2.3%
White, Non-Hispanic Students: 14.1%
Free/Reduced Lunch: 81.6%
(Data from 2005-2006 School Year)

History of Integration Efforts: In 1972, litigation to fully desegregate St. Louis public schools was filed. A number of student and teacher assignment measures were put into place shortly after the litigation began, but a final settlement agreement was not reached until 1983, when St. Louis and the neighboring suburban districts were directed by the court to design a voluntary integration plan. The 1983 settlement included several components, including an interdistrict transfer plan which provided for the voluntary transfer of city students into suburban districts and suburban students into magnet schools in the city. In 1999, a second settlement agreement was reached and the highly successful interdistrict transfer plan was continued. The transfer plan is currently administered by the Voluntary Interdistrict Choice Corporation (VICC).

Goals of Current Plan (1999): Increased racial diversity, compliance with 1999 settlement agreement.

Student Assignment Factors: Parent/student choice, residential address, race, behavioral history, special education status. Students seeking city-to-county transfers must be black and seeking to attend a school within their designated attendance area where black students are in the minority. Students seeking county-to-city transfers must reside in a predominantly white school district. Behavioral status (if student has exhibited disruptive behavior at previous school, she may be rejected) and special education status are also taken into account. Students already enrolled in the program but not attending schools assigned to their residential attendance area are given the highest priority to switch to schools/districts within their designated attendance area. The next highest priority is students who are siblings of an existing transfer student and students who applied the previous year and were not enrolled. After these initial priorities, new applications are processed in the order received. Eligible applications will be sent to county districts in the proper attendance area according to grade and space availability based upon the date of VICC's receipt of the application.

Individual or Neighborhood Demographics: Both are considered. Students must live in designated neighborhoods to be eligible for the program. The behavioral history, special education status, and race of individual students are also taken into account.

Interdistrict Transfer Plans
Numerous school districts nationwide have (jointly) implemented interdistrict transfer plans when the demographic profiles of the participants suggest that such plans may have a desegregative effect. Interdistrict transfer plans operate under principles similar to transfer programs within districts, and can be effective in achieving racial diversity if a sufficient number of students take advantage of the transfer opportunities. In addition to taking account of where students reside, interdistrict transfer plans often rely on a number of individual student characteristics, including race, to determine participant eligibility. Some interdistrict transfer plans are paired with interdistrict magnet schools, to encourage students of different backgrounds to attend school across district lines.

Demographic data collection:
The VICC relies on transfer application forms to determine whether students are eligible; if a student is found to have provided erroneous information on an application, the transfer request may be denied.

Transportation: The county has established four attendance areas in the city linked with specific suburban school districts. VICC only provides transportation to city students complying with this attendance area structure. Students applying to attend schools outside of their residential attendance area must provide their own transportation. All county students attending St. Louis magnet schools are provided with transportation.

Success of Plan: About 10,000 city students currently attend suburban schools and about 500 county students attend St. Louis magnet schools. One survey of city-to-county transfer graduates indicate a two or four-year college attendance rate of 77 percent—significantly above the state-wide average of 47 percent for minority students, and exceeding the St. Louis county-wide rate of 73.2 percent for students of all races. An additional 12.6 percent of those graduates indicated plans to attend a vocational or trade school, for a total of 89.7 percent who will be continuing their education. Survey data also indicate that the students who are transferring graduate at rates double those in the city schools they would otherwise attend.

More Info: http://www.choicecorp.org/

SETTING GOALS: AN EXAMPLE FROM LOUISVILLE, KENTUCKY

For any school district or community designing a student assignment plan, the first step is to define the interests and/or principles that will guide the student assignment process. Legal evaluation of a student assignment plan will certainly look to whether the plan furthers the principles specified.

After the Seattle/Louisville decision, the Jefferson County (Louisville), Kentucky school board passed the following set of principles to guide their development of a revised student assignment plan.

Student Assignment Plan: Guiding Principles

The student assignment plan will provide each student with access to a quality educational program that will support enhanced achievement for all students. The plan will be guided by the following principles:

- **Diversity** – The student assignment plan will create schools that reflect the diversity of the community by including students from different ethnic, racial and economic groups and students with disabilities. This diversity will prepare students to participate fully in a democratic society.

- **Quality** – The student assignment plan will result in higher achievement of all students by enhancing the quality of the instructional program.

- **Choice** – The student assignment plan will provide families the opportunity to choose from a variety of facilities and programs that best meet student needs at schools that are strategically placed to enhance diversity and contribute to the attractiveness of the district and the vibrancy of the community.

- **Predictability** – The student assignment plan will office predictability to parents in the assignment of their students at every point in their educational career. Families will be able to understand the choices that are available and the process of assignment.

- **Stability** –The student assignment plan will provide the opportunity for students to have continuity in the schools they attend, and it will provide each student with connectedness to the school staff, peers and the social and academic community of the school.

- **Equity** – The student assignment plan will provide equitable access to programs and resources for all students.

promoting diversity in your schools

In this chapter, we discuss the nuts and bolts of how you can promote diversity in your schools. We offer advice on gathering necessary information, building support for your efforts, and developing strategies to maximize school diversity.

In the Seattle/Louisville decision, Justice Kennedy called upon school officials to "bring to bear the creativity of experts, parents, administrators, and other concerned citizens to find a way to achieve the compelling interests" in student diversity and avoiding racial isolation. This chapter will cover the nuts and bolts of how you can promote school diversity and avoid racially isolated schools in your community. You might choose different methods depending on the specific context and history of your school district and who you are.

The first part of this chapter offers suggestions about the information that you need to gather before taking action. Next, the discussion addresses ways to build support for your efforts. We then suggest things for you to consider as you take action in your community. The final section of the chapter suggests actions that can be taken to maximize diversity in your school and reap the benefits of racial diversity discussed earlier in this Manual.

GATHERING INFORMATION

The first step toward promoting diversity and avoiding racial isolation in the public schools in your community is to become well informed so that you can be a credible and active force for change. By flipping through the pages of this manual, you've already begun to familiarize

yourself with the degree of school resegregation and the continuing racial isolation of students in public schools today. You've also learned about the harms associated with racially isolated schools and the importance of racial diversity to the educational opportunities of students. Next, you will want to learn more about your own school district. The better informed you are, the better you will be able to inform others of the need for diversity in public schools in your community.

School and district policies. You will want to become familiar with current student assignment policies (both school-wide and at the classroom-level) and their racial implications. If significant racial isolation exists in your school district, chances are school and classroom assignment are two root causes. Knowing what policies govern student assignment—and perhaps the history of such policies, too—provides a strong foundation for action. It may also be helpful to collect district and school policies that may be responsible for other racial disparities, too; for instance, those governing where new schools are built or which schools offer advanced courses.

Racial data. Obtaining as much information as possible on the racial demographics in your district is critical and can help you evaluate the impact of particular policies. Although we've provided you with a general overview of trends nationally, you will find that having data specific to your community is necessary to make the case for diversity in your schools. Data about the racial composition of each school and the racial composition of the school district as a whole may be readily available on your school system's website (and for past years, on

the National Center for Education Statistics website). If not, an inquiry to the central or district office should do the trick. School district officials and employees often have easier access to the full range of such data. If you're a parent or advocate who is having difficulty obtaining the information, you can consider filing a Freedom of Information Act (or FOIA) request to your school district for the data. FOIA is a federal law which provides that federal agencies must disclose all records, except those which are specifically excluded by the law, to any individual making a written request for them. Each state has its own disclosure laws that are often similar to FOIA. As a rough guide, comparing the racial makeup of each school to the overall demographics of the student population in the district can help you determine whether racial isolation exists in your district and if so, the degree of its severity.

Governing court orders. It is important to find out whether your school district is under an existing court desegregation order, because it may require or prevent a school district from taking certain actions. For example, a school district may be required by the court order to maintain a student transfer or a faculty diversity program. You can find out about a court order by contacting the school board, school board attorney, or school district attorney. If the school district is under court order, then you should obtain a copy of the order and, if possible, consult with an attorney. You will want to learn what the school district is doing to comply with the order and whether the order provides specific means for you to address continuing racial isolation in your district.

Parents and educators can also provide input about how the order might be modified to address current racial disparities; advocates working on desegregation cases may want to consider holding community meetings periodically to make sure any existing order addresses current concerns in the schools.

Relevant local or state laws. Applicable state and local laws and regulations can significantly affect the strategy for change that you ultimately pursue. For instance, your state may have laws or constitutional provisions that encourage (or even require) public school systems to avoid racial isolation and/or to promote diversity in their schools; on the other hand, you may live in a state in which there are locally imposed limitations on when and how public school systems may consider race in the student assignment process, even if it is used to promote diversity. There may also be existing legal cases in your state that help or hinder your effort.

Political structures. Finally, it is important to be aware of the social and political landscape in your community, region, and state. Finding out who controls the governance and policy decisions within the district —i.e. the school board, mayor, superintendent or chancellor—and the positions of state and local officials on the issue of school diversity can be helpful. As we discuss in the following section, educational advocacy organizations, community groups, and/or the business community can be important allies. You may want to think creatively about how to form a diverse coalition of public education stakeholders, and keep abreast of

Taking into account relevant state laws and constitutional requirements:
As one example, school districts in the state of California must consider two competing legal obligations. For three decades, California state courts have interpreted the California constitution to require that school districts take reasonable steps to alleviate racial and ethnic segregation in their schools, regardless of its cause. Yet, school districts looking to satisfy this constitutional mandate must also avoid violating Proposition 209, a separate constitutional measure ratified by California voters in 1996 that forbids racial preferences in public education, employment and contracting. California courts continue to grapple with the question of what constitutes a racial preference in the context of K-12 public school assignment and how to harmonize these two legal obligations.

meetings of government officials to determine if there are opportunities for public commentary or input that you may want to take advantage of.

BUILDING PUBLIC SUPPORT

First steps. Once you feel comfortable with the information you've collected, it is time to promote awareness about and build public support for racial diversity in the schools in your community. Before moving forward with your efforts, however, there are a series of factors that you may wish to consider.

- Evaluate the situation and the level of commitment you are able to make. Whether you will be involved as a parent, an advocate, a school board member, or a school employee will also determine what course of action you choose to take.
- Gather background information and be aware of the history of school desegregation efforts in your community; however, do not be discouraged by precedent or the climate in your community.
- Find out whether there is an existing citizens' committee that works with school district personnel on designing desegregation plans or providing input to the school system on race relations and diversity needs.
- Give some thought to how you intend to respond to critics by anticipating their arguments and crafting suitable, persuasive responses.
- Consider public messaging and whether there are supportive voices at the local paper or radio. Establishing a coherent communications plan can aid the effort.
- Some questions that you may face—and possible answers to those questions—appear in the FAQs of this Manual.

Achieving Equal Justice: Community Advocates, Researchers and Lawyers—The Dream Team
Many community advocates, lawyers and researchers share the same goals and can join together in the fight for racial justice. A multi-faceted strategy aimed at change should include: research; community organizing; legislative and regulatory advocacy efforts; litigation; and innovative communication strategies. Around the country, there are countless examples of community-based struggles against racial injustice that have been won through the combined efforts of community advocates, researchers and legal advisors.

Finding partners. Generally, it will be useful to have a diverse coalition with representation from racial and ethnic groups in your community, parents, and education, business, and political leaders. In many communities, you might consider efforts to reach out to language minority groups. Resources like local parent-teacher associations (PTAs) can connect you to already established parent groups.

Finally, remember to think broadly; religious leaders, retirees, local university faculty, and others who might fall outside of the traditional school community are often strong potential allies. All of these groups have a vested interest in the future of children. Many local businesses are heavily engaged in school activities and often support school improvement efforts or partner with local schools. Indeed, business leaders have historically been strong partners in desegregation efforts, because their future workforce is drawn from area middle and high schools.

Engaging partners. A few steps will help you to develop, motivate, and retain your coalition of advocates.

1. Make "the ask" personally. The best way to get someone interested in your efforts is to talk to her/him directly and then ask the person to join your cause.

2. Allow others to participate early and often. If advocates feel that they have some say in the decision-making process and an impact on school administrators, they are more likely to sign on to the final plan that is established.

3. Be organized. Create a schedule and have work available for eager volunteers. Provide specific and reasonable projects. At some point, it

may be worthwhile for you to create committees of people to handle different tasks and/ or facets of the issue.

4. Be friendly, accommodating, and proactive. Make certain that you actively encourage and express gratitude for the efforts of others.

5. Ask again. Show your appreciation for the efforts of others by thanking them and keeping them actively involved.

Communication strategies. When deciding how to get the word out and engage future partners in your efforts, you should consider different communications strategies, which may or may not include the media.

1. Write letters or e-mails to your elected officials. Always remember to be courteous and make every word count. Make sure that your purpose in corresponding is stated in the first paragraph. It is also important to express why the issue is important to you and your community. A personalized letter or e-mail will be more notable than a form or sample letter, e-mail or petition with your signature on it.

2. Call upon business or religious leaders in your community as public advocates. Business and religious leaders will often be of great value to your efforts. They can speak to broad sectors of the community and may have other connections that can aid your efforts.

3. Distribute written materials to parents and other potential advocates. Although some advocates may not have internet access or expertise, e-mail and the internet can nonetheless be a powerful tool for engagement. For those who are more web savvy, start your own on-line message board, blog or website where parents and other partners can discuss their efforts while also strategizing for the future. These forms of communication can be utilized to offer status reports, opportunities for engagement, or notification of activities related to your cause.

Working with the media. Occasionally, you may hear concerns that the education of some children will suffer when schools are more integrated by race or class or by a focus on racial diversity. The media can inflame or dampen such concerns, depending upon whether and how they cover such issues. Thus, changing the way that the media portrays school diversity efforts and learning to make the media work for you may be critical to the success of your efforts.

Messages. Messages act as the frame for your communications strategy. They are a set of points that you see as the most important arguments and ideas to convey about the issue. Messages should be brief and compelling. For example, a set of messages could be framed around the benefits of integration, but also highlight disturbing resegregation trends in your district and why the resegregation crisis should be addressed. To

Common ways to get attention from the media:

• Write press releases that you distribute to media and possibly other community members. To increase the chances that your story will be picked up by the media, you should follow the standard format for writing press releases.

• You can write an op-ed and pitch it to op-ed editors. It is best to craft it so that it is around 600 words, but the shorter the better. A good op-ed begins with something that presents a vivid anecdote to describe a situation in your community, then offers some data, in this case about how segregation is damaging in schools and to children, and closes with some recommendations for what you as a community or school board can do to find solutions. The author of the piece is also important; you should consider who would be the most influential author/s.

• Alternatively, you can send a letter to the editorial board(s). After compiling a list of editorial board members at papers in your area, you could write a letter outlining your cause, current conditions, the underlying data, and your recommendations. You could then follow up with them to see if they are interested in pursuing the writing of an editorial piece on this topic.

• If you choose to write a letter to the editor in response to an article, keep it short! Most responses that are published are a maximum of 250 words. You should identify the news story, discuss the problem with the story or the way it was covered, and express your viewpoint and any specific examples to illustrate your position.

have a strong strategy either in your community or with the media, it is critical for everyone in your group to be "on message." Messages are also incorporated in the pitch that you will eventually share with media outlets.

The hook. The most challenging aspect of creating a sound and potentially effective media strategy is finding a good hook. When brainstorming good news hooks, the first thing to consider is your audience. Are you looking to involve a national newspaper or a radio station whose primary listening audience is local stay-at-home parents? You may use different strategies for these audiences, while maintaining the core messages discussed above. For national media outlets like the *New York Times*, you might need a fresh hook with an eye towards national trends; compelling data can be useful in these circumstances as a way of supporting your claims claims. For local or ethnic media outlets, however, you might want to present a story focusing on what is going on in your particular community.

Timing. Finally, remember that reporters have deadlines, so it is important to know when to contact them. Try to avoid contacting them at the end of the day. Be aware of the news and the latest developments in your area, the country, and the world. If it is a busy news day, do not pitch your story that day, unless it is time sensitive.

Fridays are not typically good times to contact newspaper reporters or to hold events. Be mindful that feature shows may have their schedules planned way in advance, so it is important to speak with them very early if you want coverage of something that you are doing. Use a similar strategy for op-eds; news outlets tend to allocate space on their op-ed pages far in advance.

Evaluating success. The success of your work is based on your goals. If you set out to do a non-media communications strategy, no media coverage should not signal failure. Conversely, if you had a very pointed strategy towards Latino media in your community and got picked up by every paper and/or TV and radio station targeted to this audience, this would be a good outcome. Success can also be seen as good leads or even generating interest with the press. It can be building a foundation for a relationship or creating greater awareness around your issue that did not previously exist. Evaluating what went wrong and what went right is important in crafting your next moves. In the end, there are endless possibilities, and with a strong set of strategies, passionate advocacy, and a cause that is important, success is around the corner.

TAKING ACTION

You have a firm understanding of the harms associated with racial isolation and the value of racial diversity in public schools. You have armed yourself with the relevant data, student assignment policies, and other related information about your own school system, region, and state. And you have begun the process of promoting awareness and building public support for the cause in your community by getting others on board who value more racially and ethnically integrated schools. It is now time to take action.

Getting started. Having laid the foundation for broad community support of integrated public schools, you and other like-minded advocates may find it necessary to advance the conversation from the theoretical to the practical. Doing so requires that you figure out what you hope to accomplish specifically, and when and how you think you want to make it happen. The answers to these questions depend on the unique character of your school district and community, but a significant initial goal might well be getting your school board to adopt a mission statement or district policy emphasizing its commitment to racial and ethnic diversity in its schools. Such a statement or policy can be an important guiding principle each time the district is called upon to make changes to its student assignment plan or policies.

Perhaps the research you've conducted regarding your district revealed that it has already approved this kind of statement of commitment to racial diversity, but the school board hasn't quite lived up to its commitment over the years. In that case, your goal might be to hold the school board to the commitments it made and work with others in the school system to translate those commitments to actual results.

You must also identify the right window or windows of opportunity to propose the adoption (or modification) of a student diversity plan to your district. Although a campaign seeking to build support for integrated schools may be effective year round, typically, the most ideal times to propose specific action arise when the school board is independently called upon to make decisions that would affect its student assignment plan. Some examples of such occasions include the site selection and/or construction of a new school; the revisiting of attendance zone boundaries as a result of population growth or change; the opening, closing, or consolidation of schools; or the consideration of a new magnet school or student assignment system. In almost every instance, these kinds of decisions are discussed at public school board meetings and related hearings, where opportunities for community input and involvement in the process often arise.

Seeking external technical and financial support. Let us suppose that, through your advocacy, your school district has expressed some initial interest in exploring the possibility of adopting a plan to avoid racial isolation.

Often, as parents or community activists, or even as school administrators or board members, you may find it overwhelming to work through the actual development of a well-designed, comprehensive and effective plan to achieve racial diversity. Knowing where to find the right resources and technical assistance is critical to starting the process on the right foot.

Many states have agencies or divisions within their departments of education that may be able to provide school districts with guidance, advice, and financial assistance. Similarly, a number of private foundations offer grants for which school districts and community organizations may apply to design, develop, and implement innovative educational programs for diverse schools. As we mentioned in Chapter 5, the U.S. Department of Education has also offered significant technical and financial assistance to hundreds of school districts through its Magnet Schools Assistance Program. In addition, it may be worthwhile to turn to and explore contacts at local colleges and universities, particularly local schools of education. They may have students or faculty with the right expertise who may be willing to help out. Finally, don't forget the list of resources we've provided for you in the back of this manual. You might very well want to begin your research there.

Proposing and debating alternatives. As we indicated at the outset of this manual, as valuable and beneficial as diverse and racially integrated public schools may be for the students who attend them, the law dictates that we proceed carefully when developing strategies or designing policies that take account of race.

In Chapter 4, we outlined the legal framework that applies after the Seattle/Louisville decision to voluntary integration plans. As you begin to develop, debate, and propose alternatives, you (and the school board's lawyers with whom you should work closely) will want to keep in mind the kinds of inquiries that courts traditionally have made in applying the narrow tailoring part of the analysis. In particular, we point you to the areas of Supreme Court focus in the Seattle/Louisville decision.

First, you will want to consider seriously the compelling interest(s) that the district seeks to serve through the adoption of a specific set of policies. A majority of the Supreme Court Justices recognized a compelling interest in avoiding racial isolation in schools and/or achieving a diverse student population. In line with those recognized interests, the school district should articulate with specificity what it believes its overall goals are in adopting or revising its student assignment policy; the goals may very well include both race-conscious objectives as well as ones that have nothing to do with race at all.

The more challenging part of the legal test is demonstrating that the plan is narrowly tailored to achieve your stated interests. As we discussed in Chapter 4, the law requires you to make a good faith effort to explore race-neutral alternatives that seek to accomplish your goals. If you ultimately choose to adopt a plan or policy that takes account of race, you should be ready to demonstrate why the alternatives considered but rejected would not achieve your goals as well as the race-conscious approach chosen.

Second, your policies should be driven by and focused upon achieving your stated interests. You should avoid policies that are not strongly tied to your specified goals. For example, you should refrain from adopting policies that depend on broad racial categories or use race in an inconsistent or ad hoc way.

Third, context matters. You and your school district should give careful consideration to the kind of educational opportunities that the district affords at each school it operates and the way in which race matters, if at all, in assigning students or prioritizing parent/student choices among schools.

Maintaining community and constituent support. A successful, sustainable plan to achieve diversity in schools requires continued maintenance and review. Thus, even after the adoption and implementation of a new student assignment plan, you may want to encourage your school system to collect data regularly to demonstrate continuing support for racially diverse schools—and importantly, that these diverse and integrated schools have a positive impact on the educational experiences and long-term, post-graduation lives of students. Although it can be difficult to assess the degree of broad based support for district-wide school policies, it may be worthwhile to partner with local colleges and universities (their schools or departments of education, especially) to see if there may be faculty or students willing to work with the school district on these issues.

A periodic survey of current students or recent graduates might include, for instance, formal or informal open-ended questions about their classroom experiences and

How tracking can segregate students:
Despite efforts towards school-wide desegregation, many district practices and policies have subverted efforts to provide all students with equitable opportunities to learn. Even in desegregated schools, students' core academic courses have often been organized in ways that tended to enroll Blacks and Latinos into lower-level courses and whites into higher, college-preparatory courses. Such segregation within schools undermines the potential benefits of school-level desegregation.

The extent of in-school segregation: Classrooms within schools differ in racial composition, and classroom-based measures can measure average interracial contact that is more accurate than that based on the school-wide racial composition. A recent North Carolina study showed that in-school segregation is increasing and that while older students attend more integrated schools than younger students, they are in more segregated classrooms due to tracking in their schools.

interactions with other students, attitudes toward issues of race and racial diversity, and long-term educational, career, and life goals and aspirations, all with an eye toward how the opportunities they have had to attend racially diverse and integrated schools have made a difference in their overall educational experience.

The reasons for regular assessments are threefold: (1) they provide your school board with a sense of comfort that its student assignment plan continues to reflect the views of the parents, students, and community it serves; (2) they afford your school board the support that it may need to continue pursuing diversity and avoid racial isolation in schools as it is regularly called upon to revisit and revise its student assignment plan or policies; and (3) they allow your school board to evaluate the

impact of its policies, determine whether the policies are accomplishing their goals, and provide evidence of the positive educational and social impact of its policies to courts, litigants, or constituents if its efforts to achieve racial diversity in schools are questioned.

A comprehensive approach. Whatever strategy you pursue to achieve a diverse student population, it should be a part of a larger, district-, region-, or even state-wide effort to recognize the importance of racial diversity and integration and to provide continued support for efforts to promote student diversity and avoid racial isolation in schools. As student assignment policies are reviewed and debated, you may even find yourself playing a role examining and addressing issues of continuing racial disparities not among, but within schools, in areas such as student discipline, special education, and tracking. In the final section of this chapter, we focus on what specifically can be done to further promote racial diversity within schools and take full advantage of their racially diverse enrollments.

to realize fully the benefits of diversity and avoid the harms of racial isolation. These in-school strategies are the topic of the remainder of this chapter. Parents and advocates can assist in the implementation of these strategies and monitor whether these school policies are fostering diversity and positive outcomes for all students.

SCHOOL PRACTICES THAT REDUCE IN-SCHOOL SEGREGATION

The primary focus of this manual is on promoting racially integrated schools through student assignment, but equally important, of course, is working within schools to foster an inclusive environment and ensure racial diversity at the classroom level. Indeed, a holistic approach to realizing the benefits of integrated K-12 public education is further evidence that a school system is serious in its commitment to racial diversity as a key part of providing positive educational experiences for its students.

A comprehensive plan to achieve diversity in schools, therefore, should include both effective student assignment policies and what we call in-school strategies

School leadership. In order to create an environment supportive of diversity, committed and effective school leaders are essential. School district administrators, from superintendents to principals, are in positions to pursue (or not to pursue) strategies to achieve racial diversity within schools. Thus, their commitment to ending racial disparities and in-school segregation is important.

Generally, school leaders are able to hire other school staff and teachers that share their beliefs—such as the importance of racial diversity. School leadership should then support and encourage faculty efforts towards avoiding racial isolation. The collection, analysis, and dissemination of student- and school-level data can illustrate the results of integration strategies to build support for these policies as well as to provide feedback

for school leaders. Engaging the school community, including parents, guardians, school neighbors, and other community members is a critical strategy that leaders can pursue in their efforts to avoid the harms of racial isolation in schools. Finally, stability of school leadership is important because time is needed to implement diversity strategies.

School Policies. The policies and procedures that schools adopt can exacerbate or reduce racial inequities. Three examples include the tracking of students, special education, and discipline policies.

A significant barrier to classroom diversity and a source of racial inequity is the practice known as tracking, which involves placing students in separate classrooms based on perceived ability or achievement levels. Black and Latino students are disproportionately placed in lower tracks, which are typically characterized by less challenging curricula, lower teacher expectations, and lower student achievement. Blacks and whites with similar ability are often assigned to different tracks, with black students more likely to be assigned to lower-level tracks and whites to higher-level tracks. In fact, research has shown that irrespective of prior achievement, black students are more likely than their white peers of similar ability to be in lower tracks. As discussed in Chapter 3, research has found that both students of color and white students gained academically from being in diverse classrooms and schools. Thus, schoolwide desegregation can positively impact future student placement and achievement.

Detracking, or the creation of heterogeneous classrooms, is a viable alternative to the traditional practice of tracking. Through detracking, schools can desegregate once-segregated classrooms and move towards integrated learning environments, to provide high-quality education for all students. Detracking efforts in several school districts (usually along with changes in instruction/curriculum) have resulted in an increase in achievement levels for Black and Latino students, including an increase in graduation rates, course passing rates, the number of students taking Advanced Placement (AP) classes, and the number of students planning to attend college. Instructional and curricula strategies. Another critical component in ending in-school segregation and taking advantage of diversity is changing teacher instruction and class curriculum. Within classrooms, teachers can incorporate strategies to maximize the benefits of diversity. Administrative support for teachers adapting to the unique demands of multiracial classrooms is likely to improve teachers' effectiveness in educating all students.

A variety of instructional approaches have been successful in diverse classrooms, beginning in the earliest grades possible. Creating opportunities for individuals from different backgrounds to work together toward shared goals has been shown to produce positive

Students Take a Stand for Voluntary School Desegregation

Students can also make a difference in desegregation policies in their communities. In Clayton, Missouri, students rallied in support of the school district's voluntary inter-district desegregation program, where students from St. Louis attend school in Clayton. The program is part of a larger county-wide desegregation program in which more than 9,000 students from St. Louis attend schools in 16 districts in St. Louis County and approximately 400 students from the county attend magnet schools in St. Louis.

When the Clayton School Board considered ending Clayton's participation in 2004, Lily Kurland and other Clayton High School students took action. Kurland, a seventeen year old junior at Clayton, attended School Board meetings on the issue, but was surprised that so few other students were present. She recruited other Clayton High students to help organize a walkout in support of the desegregation program. The students garnered support through fliers and posters and through instant messaging, e-mail, and phone calls among students. Kurland also made presentations on a student TV news program and a local radio show. Another student organized a school board petition with over 600 student signatures in support of continuing the desegregation program.

On May 18, 2004, approximately 700 students participated in the Clayton High walkout, which lasted for just under an hour and ended with students returning peacefully to their classes. Clayton High School principal Dave Skillman was impressed by the students' action and said that he was "proud to be a part of a community that values diversity in a metro area so segregated." The students were able to bring the community's attention to the importance of the desegregation program. In December 2004, the Clayton School Board decided to continue to accept new students in the voluntary desegregation program for at least four more years, through the 2008-09 school year.

outcomes including increased cross-racial friendships, more positive cross-racial attitudes, and reduction of interethnic conflict. Schools that have students who are not native English speakers may need to incorporate specific instruction or redesign school policies to account for the particular needs of these students and their families.

In schools with increased diversity, it is important to implement effective strategies to build understanding and intercultural awareness and to anticipate and resolve conflicts. These strategies may include on-going professional development that supports efforts to end in-school segregation; encouraging observation of effective teachers by their peers; and evaluating teachers based on their ability to maximize the benefits of diversity. Teachers, like administrators, should be aware of their own assumptions about race and ethnicity and its effects on their teaching, and be able to talk about these issues openly with other staff, students, and parents.

Curricula, including texts and other materials, should be culturally relevant to students and incorporate anti-bias education. Multicultural curriculum should encompass a fair and accurate

representation of the voices of different racial/ ethnic groups and the roles they have played in society, in addition to candid accounts of the history and experiences of these different groups.

In sum, creating racially diverse schools through careful design and implementation of student assignment policies is a necessary first step, but does not alone result in integrated school environments. To achieve the benefits of diversity, within-school segregation must also be addressed.

While one chapter, or even an entire manual, cannot comprehensively cover every possible situation that may arise in your community, our hope is that what we've provided here will help you think about the different steps you might take to promote further racial and ethnic diversity in your schools and community.

Further reading:

The Advancement Project and The Civil Rights Project at Harvard University. (2000). *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies.*

Gettleman, J. (April 3, 2005). *The Segregated Classrooms of a Proudly Diverse School*, The *New York Times*.

Losen, D. J. and Orfield, G., eds., (2002). *Racial Inequity in Special Education*. Cambridge, MA: Harvard Education Press.

NAACP Legal Defense Fund, (2006). *Dismantling the School-to-Prison Pipeline*, available at http://www.naacpldf.org/content/pdf/pipeline/Dismantling_the_School_to_Prison_Pipeline.pdf

Oakes, J. (2005). *Keeping Track: How Schools Structure Inequality (2nd ed.)*. New Haven: Yale University Press.
Stephan, W.G. and Vogt, W.P., eds., (2004). Education Programs for Improving Intergroup Relations: Theory, Research, and Practice. New York: Teachers College Press.

Public Education Network. Numerous publications on public engagement in education available at http://www.publiceducation.org/pubs_publicengagement.asp

conclusion

We believe that racial and ethnic diversity in our public schools is an important building block of successful participation in our society. We know from decades of student and teacher experiences, judicial opinions and social science literature that it is good for our children, our schools, our communities, indeed the future and health of our democracy. But for far too many public school students, the opportunity to learn in a racially integrated educational setting is nonexistent. Despite the promise of *Brown* over fifty years ago, persistent residential segregation and the dissolution of school desegregation orders over the years have worked together to relegate millions of children of color to racially isolated classrooms and schools that ill prepare them for the challenges of the twenty-first century. At the same time, white students and students of color alike also lose out on the opportunity to learn and live with others across racial lines.

Recently, funding to help schools effectively educate students of diverse racial backgrounds has been cut and some long-lasting, successful school integration plans have been challenged. In addition, federal agencies have turned their back on efforts to promote diversity and address the harms of racial isolation. In fact, these agencies are making it more, not less, difficult for school districts to pursue creative solutions that stem the tide of racial resegregation that is occurring as courts release communities from mandatory desegregation obligations.

Because the challenges are great, the role parents, students, educators, community advocates, and local school board members must play is that much more important. It falls upon you to ensure that our public schools offer equal educational opportunity to all students and adequately prepare them for post-secondary education and employment. All of us benefit when everyone in our communities is provided the skills and opportunity to participate as a productive citizen. Racially diverse classrooms and schools, as we've discussed, are a critical part of fulfilling those objectives.

Although this manual focuses on K-12 public education, if we hope to eliminate racial segregation and inequality— to the point where voluntary integration policies are no longer needed—schools are but one aspect of the multidimensional solution. Partnering with housing, health, or anti-poverty agencies or programs can help to increase the impact you can have on your community.

Be forewarned: changing the status quo is difficult to do. Whether you are simply looking to encourage your school district to open up additional opportunities for students of color to attend a particular school in your district or ambitiously suggesting that it adopt an entirely new method of student assignment that would affect all the schools in the system, anticipate a long battle. As we noted earlier, student assignment decisions are extremely political and sensitive ones on which many people hold strong views.

Just because advocating for positive change may be challenging does not mean it is an impossible task. Indeed, given the importance of racial and ethnic diversity to the educational and life experiences of young people in their most formative years, and to the future demographics of our country where, as is already the case in ten states, there will be no majority racial or ethnic group, your involvement in trying to promote diversity and address the harms of racial isolation in your schools is vital. We hope that this manual has provided you with basic information and startup tools you'll need to embark on that campaign.

Good luck!

frequently asked questions

Q: Do all students benefit from racially diverse schools?

A: Yes. Studies show that, for all students, racially integrated schools promote cross-racial understanding, reduce racial stereotypes and prejudice, enhance critical thinking skills, and prepare children to live and work in an increasingly diverse world. As discussed in Chapter 3, both white students and students of color share in these benefits, and the effect is greatest when students of different races have opportunities for meaningful interaction in integrated classrooms and extracurricular activities, and when students begin attending integrated schools in the primary grades. There is also evidence that academic achievement improves for students of color in integrated schools, with no negative effect on white student achievement.

Q: Does the community benefit from racially diverse schools?

A: Yes. Students who attend integrated schools tend to have more cross-racial friendships and have higher comfort levels with members of racial and ethnic groups different from their own. Students who attend integrated schools also have an increased sense of civic engagement, which benefits the surrounding community.

Q: Can school districts take account of race when assigning students to school?

A: Yes. As discussed in greater detail in Chapter 4, while the Supreme Court limited the ability of school districts to take account of the race of individual students, school districts can still consider race in designing student assignment plans. As one example, school districts can still consider race when drawing attendance boundaries for schools.

Q: Can school districts take steps to pursue diversity and address racial isolation in their schools?

A. Yes. A majority of Supreme Court justices held that promoting diversity and avoiding racial isolation in schools are compelling national interests that school districts can and should pursue. In other words, it is critically important that school districts take steps to bring children together across lines of difference. For additional information, please review Chapters 3 and 4.

Q: Does the Seattle/Louisville decision apply to school districts that are under court order to desegregate?

A. No. The decision does not apply to school districts under court order. As described in Chapter 1, school districts that have yet to achieve unitary status can still take race-conscious steps to promote integration and address the vestiges of segregation and discrimination in their school system.

Q: Where can I find a copy of the Supreme Court's 2007 decision in the Seattle/Louisville cases, *Parents Involved in Community Schools v. Seattle School District No. 1*?

A: You can obtain a copy of the decision on the NAACP Legal Defense Fund's website at www.naacpldf.org (along with many other resources about the cases and voluntary integration more generally) and the Supreme Court's website at www.supremecourtus.gov.

Q: Can a school district consider factors other than race, such as class or the neighborhood where a student resides, in assigning students to school?

A: Yes. School districts have broad latitude to consider factors other than race, such as socioeconomic status, whether a student lives in a particular neighborhood, or parental education level in assigning students to school. For a longer list of the range of factors that school districts have taken into account in student assignment, see Chapter 6. Note that research and the experience of certain school districts suggests that, depending on a district's geography and demography, taking account of factors other than race may only be minimally effective in reducing racial isolation and promoting racial diversity.

Q: What are the harms typically associated with racially isolated schools?

A: Racially isolated schools with high percentages of students of color—particularly those located in areas of concentrated poverty—tend to have higher teacher turnover, lower teacher quality, fewer educational resources, and a more limited curriculum. Accordingly, the educational outcomes in segregated schools tend to be lower, as measured by scores on achievement tests, high school graduation rates, and student dropout levels.

Q: What kind of information will I need before developing a voluntary integration strategy in my district?

A: First, you should find out whether or not your school district is currently or previously under a court-ordered desegregation order. Second, you should gather as much specific data as possible on the racial composition of your schools and the changing demography of your district. This information can be used both to develop an appropriate voluntary integration strategy and also to convince school and government officials that there is a compelling need for voluntary integration in your district. For additional guidance, see Chapter 7.

Q: How do I find out if my school district is under an existing desegregation order?

A: Contact the administrators of your school district; if they cannot answer this question, ask them to check

with the school district's attorneys. When a district is still subject to court-ordered desegregation, racial disparities are assumed to be vestiges of past segregation and discrimination, and districts are afforded wide latitude in correcting those disparities.

Q: My school district operates a number of racially isolated schools; is that illegal?

A: No. Generally, the mere existence of racially isolated schools is not illegal without evidence that the school district or its officials intended to segregate or discriminate against students. While school districts are not legally obligated to address racial isolation in schools, they do have a responsibility to recognize the educational and social harms of racial isolation and the benefits of an integrated student body. Parents, students, teachers, administrators, and activists can help convince other citizens and school officials that racially isolated schools necessitate implementing a voluntary integration program.

Q: What, if anything, should be included in the school district's mission statement to support the use of a race-conscious school assignment policy?

A: Your mission statement should reflect the interests in promoting diversity and avoiding racial isolation in schools that a majority of the justices of the Supreme Court recognized in the Seattle/Louisville decision. In addition, your mission statement should account for your school district's own unique history, geography, politics and demographics. As one example, the guidelines that the Jefferson County Board of Education in Louisville, Kentucky recently established for its student assignment plan are included in Chapter 6.

Q: Housing in my community is very segregated. Can school integration contribute to addressing residential segregation?

A: Yes. While opponents of school integration have argued that increasing residential segregation makes school integration impossible because of "white flight" into the suburbs, this ignores the close relationship between school policies and housing choices. A comprehensive school integration plan can actually

counter residential segregation. In fact, after decades of court-ordered school integration, residential segregation actually declined across the South in the 1990s. Where residential segregation has been very difficult to overcome, some urban and suburban areas have implemented inter-district transfer programs that work across school district lines. It is important to think broadly and innovatively to find the best integration strategy for your own unique situation.

Q: What else can we do to supplement the voluntary integration program and ensure that it is an educational success? How else can we promote diversity within our school district?

A: Perhaps the best answer to these questions comes from the district court's opinion in *Comfort v. Lynn School Committee* (2003), which said, "The [Lynn] Plan's drafters also recognized that integration involves more than race-conscious school assignment policies, more than simply the mixing of students of different racial backgrounds. Thus, the Plan included substantial curricular innovations designed to ensure positive racial interaction; training and development of staff to address the challenges of teaching children of diverse backgrounds; [and] programs that would create opportunities for positive interaction among students, school personnel, and parents from different racial and ethnic groups.. . . In addition, the Plan's drafters

acknowledged that the improvements it sought could not be sustained in the long term unless all the schools were made attractive to all Lynn parents, whatever their race. Thus, the Plan included an ambitious construction program, largely funded by the state, to ensure sufficient space for out-of-neighborhood transfers. It involved the development and standardization of curriculum so that there would be equal instructional opportunities across Lynn; development of indicators of performance and achievement for individual schools, programs and students; development of measures designed to improve school attendance; and creation of business/college partnerships with the schools to improve the quality of instruction."

Q: Does the No Child Left Behind Act (NCLB) impact voluntary desegregation efforts?

A: There are two aspects of NCLB that are particularly related to voluntary integration efforts. First, through the Magnet Schools Assistance Program (which was last reauthorized as part of the Act), NCLB specifically purports "to assist in the desegregation of schools" by providing funding to local school authorities for "the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools." Indeed, the language updating the provisions of the Magnet Schools Assistance Program in NCLB provides: "It is in the best interests of the United States . . . to continue the Federal Government's support of local educational agencies that are implementing court-ordered desegregation plans and local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds; and . . . to continue to desegregate and diversify schools . . . ." Second, NCLB is itself race-conscious; it calls for the disaggregation of data on student performance by race, and imposes sanctions on schools that do not demonstrate sufficient progress in increasing student achievement

and closing the achievement gap. At the same time, NCLB has raised numerous concerns. For example, research has demonstrated that school districts serving low income, students of color and/or multi-racial schools have been more likely to be sanctioned under NCLB, without sufficient regard for the sufficiency of resources, degree of poverty and racial isolation, and other school features that may make it more difficult to provide a high quality education. Lastly, the NCLB transfer provision may serve to promote racial integration within school districts, and possibly even across district lines, but has not been widely utilized thus far.

Q. What is a Freedom of Information Act (FOIA) request, and how do I make one?
A. FOIA is a federal law that provides that federal agencies must disclose all records, except those which are specifically excluded by the law, to any individual making a written request for them. (Each state has its own disclosure laws that are often very similar to FOIA.) FOIA requests are often used by voluntary school desegregation advocates to obtain information and data from a school district on any number of racial, ethnic, and socioeconomic disparities. You should consult the appropriate federal, state, or local agency (oftentimes, a visit to the agency's website will lead you to detailed directions) in order to tailor your request to their requirements, but generally, your letter should explicitly state at the outset that you are making FOIA request and be as specific as possible in describing the information you are seeking.

Q. How do I obtain additional information and research about voluntary school integration?
A. Please visit the websites of the NAACP Legal Defense Fund (www.naacpldf.org) and the Civil Rights Project/Proyecto Derechos Civiles (http://www.civilrightsproject.ucla.edu/) for more information. The *Additional Resources* section contains contact information and brief descriptions of many organizations that may be helpful to you. Lastly, you should visit your school district's website or offices to learn about school policies and plans in your area.

additional resources

LEGAL RESOURCES

NAACP Legal Defense and Educational Fund, Inc. (LDF)
www.naacpldf.org
The NAACP LDF is America's legal counsel on issues of race. Through advocacy and litigation, LDF focuses on issues of education, voter protection, economic justice, and criminal justice. The Fund also encourages careers in the public interest through scholarship and internship programs.

American Civil Liberties Union (ACLU), Racial Justice Program
www.aclu.org
ACLU advocates for individual rights by litigating, legislating, and educating the public on a broad array of issues affecting individual freedom. The Racial Justice Program aims to preserve and extend constitutionally guaranteed rights to people who have historically been denied their rights on the basis of race.

Anti-Defamation League (ADL)
www.adl.org
ADL fights defamation of and discrimination against Jewish people through advocacy and legal action. The organization also fights hatred, extremism, and terrorism by building ties with law enforcement agencies and developing knowledge about terrorist groups.

Asian American Justice Center
www.advancingequality.org
The Asian American Justice Center, formerly the National Asian Pacific American Legal Consortium, is a nonpartisan organization that works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation.

Asian American Legal Defense and Education Fund (AALDEF)
www.aaldef.org
AALDEF is the first legal rights organization on the East Coast serving Asian Americans. The organization combines litigation, advocacy, education, and organizing in its work with Asian American communities.

Asian Law Caucus (ALC)
www.asianlawcaucus.org
ALC is a legal and civil rights organization serving low-income Asian Pacific American communities. The Caucus strives to defend and empower Asian Pacific Americans through community education and organizing, direct legal services, and strategic impact litigation.

CivilRights.org
www.civilrights.org
CivilRights.org is a collaboration of the Leadership Conference on Civil Rights and the Leadership Conference on Civil Rights Educational Fund. Its mission is to serve as the site of record for relevant and recent civil rights news and information.

Civil Rights Litigation Resource Center (CRLRC)
www.crlrc.org
CRLRC provides support and resources, including interactive news releases, to participating lawyers. The Center also maintains an online library of training manuals, briefs, and practice materials.

Lawyers' Committee for Civil Rights under Law
www.lawyerscomm.org
The Committee's major objective is to use the skills and resources of the bar to obtain equal opportunities for minorities by addressing factors that contribute to racial justice.

Legal Momentum

www.legalmomentum.org

Legal Momentum aims to advance the rights of women and girls through legal advocacy and community outreach. Legal Momentum's work focuses on immigrant women, violence against women, and the prevention of gender discrimination in the courts.

Mexican American Legal Defense and Educational Fund (MALDEF)

www.maldef.org

MALDEF is the leading nonprofit Latino litigation, advocacy, and educational outreach institution in the United States.

National Campaign to Restore Civil Rights

www.rollbackcampaign.org

The National Campaign to Restore Civil Rights is a movement devoted to preserving the legal and constitutional gains of the Civil Rights Movement. The Campaign runs outreach programs, including a blog, and disseminates information to a broad network of people and communities.

National Housing Law Project (NHLP)

www.nhlp.org

NHLP works to preserve and improve the national stock of decent and affordable housing, as well as defend the rights of tenants and homeowners. The Project advocates for public policy change and directs resources and training to attorneys and organizations involved in housing law.

National Women's Law Center

www.nwlc.org

The National Women's Law Center focuses on litigation, advocacy, and public education regarding gender equality. Its practice areas are education, employment, family economic security, and women's health.

Pro Bono Net

www.probono.net

Pro Bono Net is a national organization that provides resources to pro bono and legal aid advocates. Their website serves as a collaboration tool for attorneys. The organization also hosts Law Help (www.lawhelp.org), a Web directory of legal services, and Automated Documents Online (www.npado.org), a collection of tools with which attorneys and self-represented litigants can assemble and file forms online.

Puerto Rican Legal Defense and Education Fund (PRLDEF)

www.prldef.org

PRLDEF works towards an equitable society using legal advocacy and education. It aims to create opportunities for all Latinos to succeed in school and work, fulfill their dreams, and sustain their families and communities.

Southern Poverty Law Center (SPLC)

www.splcenter.org

SPLC is internationally known for its legal victories against white supremacy organizations and its tracking of hate groups, as well as the educational resources it provides.

EDUCATION RESOURCES

Alliance for Excellent Education

www.all4ed.org

The Alliance for Excellent Education works to improve public high school education by assembling and promoting research reports, partnering with relevant institutions, and recommending policy change. The Alliance's work focuses on promoting adolescent literacy, high school teacher quality, small learning communities, and general college preparedness.

American Association of School Administrators (AASA)

www.aasa.org

AASA is a professional organization for public school district superintendents. AASA offers professional development, access to peer networks, and legislative advocacy to members. AASA also hosts the Stand Up for Public Education campaign, which supports outreach programs on the importance of public education.

Annenberg/CPB

www.learner.org

Annenberg/CPB uses media and telecommunications to aid educators. They provide video programs with coordinated Web and print materials for the professional development of K-12 teachers. Annenberg materials are distributed on the organization's digital satellite channel, streamed on demand from the web-site, and distributed for purchase on videocassette and DVD.

Anti-Defamation League (ADL): Curriculum Connections

www.adl.org/education/curriculum_connections
Curriculum Connections is a collection of lesson plans and other resources that can help educators integrate multicultural, anti-bias, and social justice themes into their curricula. A set of resources, each organized around a particular theme, is distributed by e-mail three to four times a year.

Center for Research on Education, Diversity, and Excellence (CREDE)

www.crede.org
Operated from Berkeley's Graduate College of Education, CREDE is a research and development program working to assist America's diverse student population in achieving academic excellence. Research focuses on improving the education of students with limited access to quality education.

Council of the Great City Schools (CGCS)

www.cgcs.org
CGCS is an organization of the nation's 66 largest urban public school districts. The organization's members work on five task forces, which focus on school finance, achievement gaps, bilingual education, district leadership, and professional development. In addition to assembling members, CGCS participates in research and advocacy projects and publishes a newsletter, the Urban Educator.

EdChange

www.edchange.org
EdChange is the organization of a team of teachers and education researchers dedicated to multiculturalism, diversity, and educational equity. EdChange runs workshops on diversity and publishes and shares materials focusing on educational philosophy, multiculturalism, and the history of social justice.

The Education Alliance

www.lab.brown.edu
Hosted by Brown University, the Education Alliance promotes district and school improvement with special attention to underperformance, equity, and diversity. The Alliance partners with schools, districts, and state departments of education to apply research findings towards educational challenges. The organization also designs and delivers expert services around planning, professional development, research, and evaluation.

Education Week on the Web

www.edweek.org
Education Week is a print and online publication. The website offers articles about education news worldwide and has a searchable index.

Eye on Education

www.eyeoneducation.tv
Hosted by WGBH and the Boston Globe, Eye on Education is an informational website about education reform directed at young readers. The website provides additional resources for high school students in Massachusetts, including a directory of area high schools and information about the MCAS.

Facing History and Ourselves

www.facinghistory.org
Facing History engages teachers and students in an examination of racism, prejudice, and anti-Semitism. Facing History produces classroom materials, offers professional development programs, and pursues research on pedagogical strategies.

Gallery of Teaching and Learning

www.commons.carnegiefoundation.org/gtl/
The Gallery of Teaching and Learning, created by the Knowledge Media Laboratory of the Carnegie Foundation for the Advancement of Teaching, is a collection of digital records of lesson plans and classroom practices to be shared by teachers nationwide.

Justice Learning

www.justicelearning.org
Justice Learning, a collaboration of NPR's Justice Talking and The New York Times Learning Network, is an online collection of teaching materials related to law and policy in the United States. The collection is useful for high school teachers and students.

Multicultural Review

www.mcreview.com
Multicultural Review is a quarterly trade journal and book review dedicated to a better understanding of ethnic, racial, and religious diversity. It is intended for educators and librarians at all levels.

National Association for Multicultural Education (NAME)

www.nameorg.org

NAME is a membership organization of individuals interested in multicultural education. Members are educators from preschool to higher education, as well as business and community representatives. NAME publishes a quarterly journal, Multicultural Perspectives, and convenes members in national and local conferences.

National Parent Teacher Association (PTA)

www.pta.org

The National PTA is a membership organization that intends to provide resources and guidance to parents seeking to involve themselves in the education of their children and community. The National PTA consists of members of all local PTAs. The Association offers school and community workshops, runs a parental involvement certification program, hosts a national convention, and publishes a bimonthly magazine, Our Children.

National School Boards Association (NSBA)

www.nsba.org

NSBA is a nationwide organization representing public school governing bodies. Its mission is to foster quality and equity in public education through effective school board leadership. It also hosts the Council of School Attorneys and the Council of Urban Boards of Education (CUBE), a membership organization of urban school board members.

PBS Teacher Source

www.pbs.org/teachersource

PBS Teacher Source provides lesson plans and activities based on PBS's quality programming and educational services. Teacher Source also provides resources and advice about child rearing to parents. PBS Teacher Source is a partner organization of Teachers' Domain.

Public Education Network (PEN)

www.publiceducation.org

PEN is a membership organization seeking to develop equal and effective public education by helping individuals start or join community advocacy organizations, called local education funds, to improve public education in their area. The Network also increases awareness and discussion of education reform issues through a variety of publications.

Rethinking Schools

www.rethinkingschools.org

Rethinking Schools publishes educational materials for teachers and students as well as research reports on educational policy. They seek to use public education to address social inequities.

Safe Schools Coalition

www.safeschoolscoalition.org

With the intention of promoting schools as safe spaces for Gay, Lesbian, Bisexual, and Transgender youth and families, the Safe Schools Coalition provides resources and training to school staff, conducts research on education policy, and raises awareness on sexual minority youth and parents.

Street Law

www.streetlaw.com

Street Law is an organization devoted to providing legal education to high school students across America. Street Law provides seminars for high school teachers and publishes Street Law: A Course in Practical Law, a textbook and teaching manual for high school law classes. Street Law partnerships, in which law students assist in the teaching of high school classes or legal outreach programs, exist at over 70 law schools in America.

Teachers' Domain

www.teachersdomain.org

Produced by WGBH Boston, Teachers' Domain provides multimedia resources, including copies of public television programs like Nova and American Experience, for the classroom and for professional development. Teachers' Domain lesson plans conform to national and state standards. Teachers' Domain is a partner organization of PBS Teacher Source.

Teaching Tolerance

www.teachingtolerance.org

Founded by the Southern Poverty Law Center, Teaching Tolerance provides free classroom materials and educator handbooks for the development of programs focused on respecting differences and appreciating diversity. Teaching Tolerance's website also includes resources for students and parents.

WGBH Teacher Training Tapes

main.wgbh.org/wgbh/learn/teacher-training

WGBH provides videotapes for training teachers. The tapes review teaching styles in various disciplines as well as individual lesson plans. Tapes can be ordered by mail or phone.

COMMUNITY RESOURCES

Center for Social Inclusion

www.centerforsocialinclusion.org

The Center for Social Inclusion provides support to community organizations by performing applied research, disseminating publications, creating business models, and developing networks. The Center's work focuses on race relations and diversity in various regions.

Chinese for Affirmative Action: Center for Asian American Advocacy (CAA)

www.caasf.org

CAA was founded to protect the civil and political rights of Chinese Americans, particularly those with limited proficiency in English. Now CAA engages in community and leadership development while focusing advocacy work on issues of racial justice, immigrant rights, and language rights.

Filipinos for Affirmative Action (FAA)

www.filipinos4action.org

FAA is dedicated to building a strong and empowered Filipino community by organizing constituents, developing leaders, and advocating for policies to the benefit of Filipino Americans.

League of United Latin American Citizens (LULAC)

www.lulac.org

LULAC is the oldest membership organization of Hispanic Americans, and executes its goals of community development and the promotion of civil rights through the provision of scholarships and educational services, the development of corporate alliances, and the execution of outreach and advocacy projects.

National Association for the Advancement of Colored People (NAACP)

www.naacp.org

The NAACP is a membership organization committed to ensuring the political, educational, social, and economic equality of all persons and to eliminating racial hatred and discrimination.

National Council of La Raza (NCLR)

www.nclr.org
NCLR is the largest national constituency-based Hispanic organization. NCLR assists local organizations with research, advocacy, and capacity-building, aiming to reduce poverty and discrimination and to secure opportunities for all Hispanic Americans.

National Fair Housing Alliance (NFHA)

www.nationalfairhousing.org
NFHA is a national organization dedicated to ending discrimination in housing. The Alliance develops local housing organizations through education and training programs, and also works with the U.S. Department of Housing and Urban Development to create national public education campaigns about housing and lending discrimination.

National Urban League

www.nul.org
The Urban League is the nation's oldest and largest community-based association devoted to the economic and social empowerment of African Americans. The Urban League publishes an annual collection of essays, The State of Black America, focusing on racial equality and African-American life.

Poverty and Race Research Action Council (PRRAC)

www.prrac.org
PRRAC is a national organization of major civil rights, civil liberties, and anti-poverty groups. The Council connects advocacy with research by sponsoring studies in social science, convening advocates and researchers, and publishing the bimonthly Poverty & Race newsletter.

South Asian American Leaders of Tomorrow (SAALT)

www.saalt.org
SAALT is a national organization dedicated to insuring the full and equal participation of South Asians in the civic and political life of the United States. SAALT seeks to foster engagement in South Asian communities and to increase public education about issues affecting South Asians.

ACADEMIC RESOURCES

Civil Rights Project/Proyecto Derechos Civiles (CRP)

www.civilrightsproject.ucla.edu
The CRP, now based at UCLA, is devoted to researching social inequities, particularly in the areas of segregation in K-12 schools, Asian and Latino populations, high-stakes testing and Title I reforms. The CRP collaborates with scholars as well as with advocacy organizations, policymakers, and journalists.

American Educational Research Association (AERA)

www.aera.net
AERA is a professional membership organization of researchers, policymakers, and educators. It promotes and correlates scholarship on education by hosting conferences, distributing fellowships, and creating networks among members. AERA also publishes online news releases and a journal, The Educational Researcher.

American Psychological Association (APA)

www.apa.org
APA is the largest association of professional psychologists worldwide. The Association administers an accreditation program, runs a public education campaign and helps members convene and share information. APA also hosts practice groups in law and psychology and educational psychology, among other topics.

Campaign for Educational Equity, Teachers College, Columbia University

www.tc.edu/centers/EquityCampaign
The Campaign executes and disseminates research-based analyses of key education policy issues. The Campaign's research focuses on intervention strategies like early childhood education, children's health, and parental involvement. The Campaign's research work is enhanced by partnerships with the Harlem Children's Zone and New York City public schools.

The Center for Civil Rights at University of North Carolina

www.law.unc.edu/civilrights
The Center for Civil Rights encourages empirical and analytical research, sponsors student inquiry and convenes faculty, visiting scholars, policy advocates, and practicing attorneys to confront legal and social issues of concern to racial and ethnic minorities and the poor. The Center's work focuses on many areas, including housing, community development, and voting rights.

Center on Democracy in a Multiracial Society, University of Illinois at Urbana Champaign

cdms.ds.uiuc.edu

The Center on Democracy in a Multiracial Society is devoted to understanding the impact of changing demographics on the practice of democracy. Research areas include everyday life and popular culture, public education, and the effects of changing media and technology on democracy.

Charles Hamilton Houston Institute for Race and Justice, Harvard University

www.charleshamiltonhouston.org

The Charles Hamilton Houston Institute is a legal research organization devoted to honoring the legacy of civil rights lawyer and educator Charles Hamilton Houston. The legal research of the Institute is focused on a variety of areas, including the school-to-prison pipeline, the crises faced by prisoners upon re-entry, and racial disparities in both education and capital sentencing.

Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, University of California at Berkeley

www.law.berkeley.edu/centers/ewi/

The Chief Justice Earl Warren Institute promotes multidisciplinary research, publishes policy recommendations, and supports curricular innovation. The Institute's work represents the intersection of a variety of fields in the study of race and diversity. It focuses on many research areas, including integration in K-12 education, immigration policy, and voting rights.

Institute on Race and Poverty at the University of Minnesota

www.irpumn.org

The Institute on Race and Poverty is devoted to researching the effects of changing policies on people of color and the poor. The Institute collaborates with research and advocacy organizations to promote equality. The Institute focuses on many issues, including housing and education segregation, urban development, and suburbanization.

Kirwan Institute for the Study of Race and Ethnicity, Ohio State University

www.kirwaninstitute.org

The Kirwan Institute for the Study of Race and Ethnicity is a multidisciplinary research organization that investigates potential causes of and solutions to racial and ethnic inequalities. The Institute hosts the Diversity Advancement Project, which promotes diversity in public and private institutions, and the African American Male project. The Institute also publishes Race/Ethnicity: Multidisciplinary Global Contexts.

National Academy of Education (NAEd)

www.naeducation.org

NAEd is a selective membership organization comprised of scholars of educational policies and methods. In addition to serving on committees and study panels, Academy members are also deeply engaged in NAEd's professional development programs, which aim to prepare of the next generation of scholars of education. NAEd also sponsors fellowship programs.
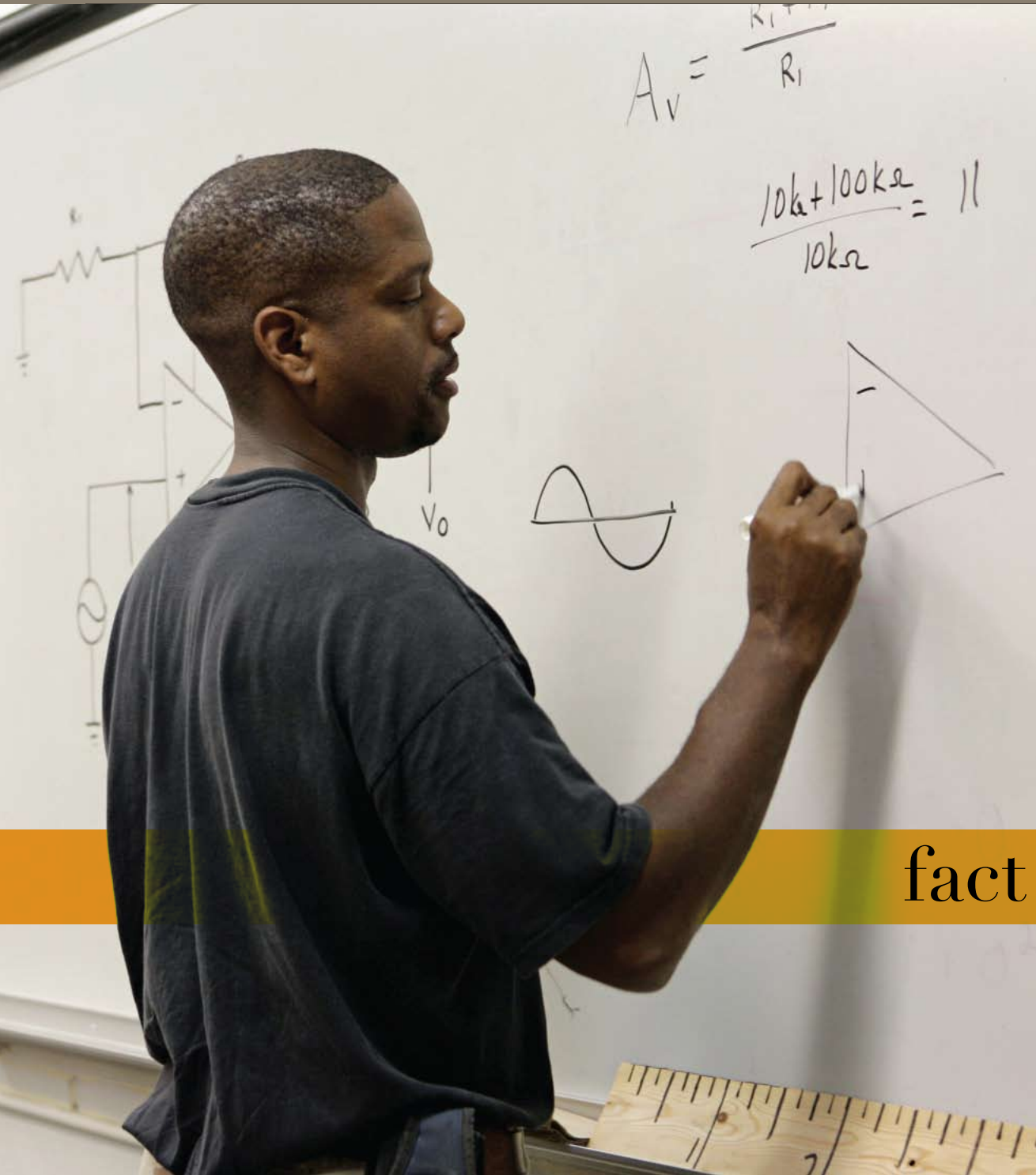
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DECISION SUMMARY
PARENTS INVOLVED IN COMMUNITY SCHOOLS V. SEATTLE SCHOOL DISTRICT ("SEATTLE")
MEREDITH V. JEFFERSON COUNTY BOARD OF EDUCATION ("LOUISVILLE")

OPINION OF THE COURT (PARTS I, II, III-A, III-C)
JUSTICES ROBERTS, SCALIA, THOMAS, and ALITO, JOINED BY JUSTICE KENNEDY

Standard of Review: The appropriate standard of review to evaluate governmental use of individual racial classifications is strict scrutiny. (11-12)

Compelling Interest:
- The compelling interest of remedying the effects of past intentional discrimination is not applicable to these plans. The harm being remedied by mandatory desegregation plans is the harm that is traceable to segregation, and the Constitution is not violated by "racial imbalance in the schools, without more." (12)
- *Grutter* lives, but does not govern these cases. (16-17). The diversity interest in higher education recognized in *Grutter* differs from the "limited notion of racial diversity" asserted by the school districts. Here, race is not considered as part of a broader effort to achieve "exposure to widely diverse people, cultures, ideas, and viewpoints" and for some students is determinative alone. (13-15)

Narrow Tailoring:
- Like the plan struck down in *Gratz*, the plans rely on racial classifications in a "nonindividualized, mechanical" way. (15)
- Race-Neutral Alternatives: "The districts failed to show that they considered methods other than explicit racial classifications to achieve their stated goals." (27)
- "The minimal impact of the districts' racial classifications on school enrollment casts doubt on the necessity of using racial classifications" (not that greater use of race would be preferable). (27)
- The "assignment of schoolchildren according to a binary conception of race… requires more than an amorphous end to justify it." (27)

PLURALITY OPINION (PARTS III-B, IV)
JUSTICES ROBERTS, SCALIA, THOMAS, and ALITO

Racial Balancing:
- "The racial classifications employed by the districts are not narrowly tailored to the goal of achieving the educational and social benefits asserted to flow racial diversity. The plans are directed only to racial balance, pure and simple, an objective this Court has repeatedly condemned as illegitimate." (18)
- "Accepting racial balancing as a compelling state interest would justify the imposition of racial proportionality throughout American society" and "effectively assure that race will always be relevant in American life, and that the ultimate goal of eliminating [race] entirely from governmental decisionmaking… will never be achieved." (22)

Level of Diversity Needed: The plans are not tied to any "pedagogic concept of the level of diversity necessary needed to obtain the asserted educational benefits." (18) The districts present "no evidence that the level of racial diversity necessary to achieve educational benefits" coincided with the district's racial demographics. (19)

Local Control: Deference to local school boards is "fundamentally at odds with our equal protection jurisprudence." (37)

Other Means to Promote Racial Diversity: The plurality expresses no opinion, not even in dicta, on the validity of other means that do not utilize explicit racial classifications of individual students. (38)

Brown v. Board of Education: "It was not inequality of facilities but the legal separation of children on the basis of race that led the Court to find a constitutional violation in *Brown*." (39) The schools' use of race in assigning students is no different than what counsel in *Brown* sought to redress.

Conclusion: "The way to stop discrimination on the basis of race is to stop discriminating on the basis of race." (41)

JUSTICE THOMAS, concurring
Justice Thomas criticizes the dissent's conception of a compelling interest (13-25) and advocates for a colorblind view of the Constitution (26-36).
- Racial imbalance is not segregation; segregation is the intentional separation of students on basis of race. (2)
- The government cannot make distinctions on the basis of race. (34) "What was wrong in 1954 cannot be right today."(33)

JUSTICE KENNEDY, concurring

Compelling Interests: "A compelling interest exists in avoiding racial isolation, an interest that a school district, in its discretion and experience, may choose to pursue. Likewise, a district may consider it a compelling interest to achieve a diverse student population." (17-18)

Narrow Tailoring: Seattle/Louisville plans lack precision and do not articulate adequate justifications for their specific racial classifications; Louisville employs individual racial classifications in "broad and imprecise" terms and Seattle divides students into "blunt" racial categories, i.e. "white" and "non-white." (4-7). "The schools could have achieved their stated ends through different means. (9-10).

De Facto Segregation: Cannot endorse the conclusion that "the Constitution requires school districts to ignore de facto segregation in schooling. (7)" The plurality's suggestion that "the Constitution mandates that state and local school authorities must accept the status quo of racial isolation in schools is… profoundly mistaken." (8)

Race Matters: "The enduring hope is that race should not matter; the reality is that too often it does." (7) The plurality opinion implies "an all-too-unyielding insistence that race cannot be a factor in instances when, in my view, it may be taken into account" and is "too dismissive of the legitimate interest government has in ensuring all people have equal opportunity regardless of their race." (7) In the real world," colorblindness "cannot be a universal constitutional principle." (8)

Permissible Race-Conscious Measures: Provides that race-conscious measures that do not treat students differently "solely on the basis of a systematic individual typing by race" are unlikely to warrant strict scrutiny. Schools can pursue diversity through race-conscious measures such as "strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in targeted fashion; and tracking enrollments, performance, and other statistics by race." (8-9)

Other Permissible Means: School districts can also pursue diversity and/or avoid racial isolation through a "more nuanced, individual evaluation of school needs and student characteristics that might include race as a component." (10)

JUSTICE STEVENS, dissenting

Justice Stevens writes a separate dissenting opinion to emphasizes that the plurality's opinion does not comport with either the logic or spirit of *Brown*, and also asserted, "It is my firm conviction that no Member of the Court that I joined in 1975 would have agreed with today's decision." (6).

JUSTICES BREYER, STEVENS, SOUTER, and GINSBURG, dissenting

Level of Scrutiny: Context should matter in the application of strict scrutiny. The test should be more lenient in cases where race is not being used to distribute scarce resources, stigmatize or exclude, impose unfair burdens, or keep the races apart. (34) The 14th Amendment intended to forbid practices that lead to racial exclusion. (28) In any case, the plans survive strict scrutiny because:

Compelling Interest: A compelling interest exists consisting of three elements: 1) historical and remedial— "an interest in setting right the consequences of prior conditions of segregation"; 2) educational—"an interest in overcoming the adverse educational effects produced by and associated with highly segregated schools"; 3) democratic—"an interest in producing an educational environment that reflects that 'pluralistic society' in which our children will live." (37-40)

Narrow Tailoring: The plans are narrowly tailored because: 1) "the race-conscious criteria at issue only help set the outer bounds of broad ranges," not quotas; 2) these limits on voluntary school choice plans are less burdensome than other race-conscious restrictions previously approved by the Court; 3) the plans represent the much-modified product of two communities' lengthy experiences with desegregation; 4) the use of race-conscious elements is diminished compared with prior plans in those communities; and 5) there are no reasonably evident race-neutral alternatives. (45-55)

De Facto/De Jure Segregation: Courts have long accepted the legal principle that the "government may voluntarily adopt race-conscious measures to improve conditions of race even when it is not under a constitutional obligation to do so" (27)—the distinction between de jure and de facto segregation cannot be rationally drawn. (19-22)

Consequences: Plurality's approach risks serious harm to the law and the Nation by undermining precedent (*What has happened to stare decisis?*), the longstanding respect for local decisionmaking, settled expectations, the Fourteenth Amendment and the Promise of *Brown*. (65-68)

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OPINION OF JUSTICE KENNEDY
PARENTS INVOLVED IN COMMUNITY SCHOOLS V. SEATTLE SCHOOL DISTRICT
MEREDITH V. JEFFERSON COUNTY BOARD OF EDUCATION

■ COMPELLING INTEREST:
- "A compelling interest exists in avoiding racial isolation, an interest that a school district, in its discretion and expertise, may choose to pursue. Likewise, a district may consider it a compelling interest to achieve a diverse student population." (17)
- **Bottom Line:** A majority of the Justices (J. Kennedy along with the four dissenters) conclude that school districts can continue to take steps to pursue diversity and/or avoid racial isolation in schools.

■ NARROW TAILORING:
- Justice Kennedy, joining the plurality opinion, held that the Seattle and Louisville plans were not narrowly tailored.
  - The plans lack precision and do not articulate adequate justifications for their specific racial classifications. (3-7)
  - Seattle fails to demonstrate how, given its diverse student population, the use of "blunt" racial distinctions (white/non-white) furthers its asserted interests. (4-7)
  - Louisville explained its use of individual racial classifications in terms too "broad and imprecise." (4)
  - The schools did not provide sufficient evidence to support the need for "individual racial classifications" to avoid racial isolation in schools. The districts "could have achieved their stated ends through different means" that didn't depend on express racial classifications of individual students. (9-10)
- **Bottom Line:** School districts should avoid using crude racial categories and "individual racial classifications" like those employed in Seattle and Louisville when designing programs to achieve a diverse student population or avoid racial isolation in schools.

■ RACE MATTERS – NATION NOT YET COLORBLIND:
- "The enduring hope is that race should not matter; the reality is that too often it does." (7)
- Plurality opinion implies an "all too unyielding insistence that race cannot be a factor in instances when, in my view, it may be taken into account" and "is too dismissive of the legitimate interest government has in ensuring all people have equal opportunity regardless of race."(7)
- "The statement by Justice Harlan that '[o]ur Constitution is color-blind' was most certainly justified in the context of his dissent in *Plessy v. Ferguson*…as an aspiration, Justice Harlan's axiom must command our assent. In the real world, it is regrettable to say, it cannot be a universal constitutional principle." (8)
- **Bottom Line:** Race Matters. Kennedy rejects the plurality opinion's colorblind view of the Constitution.

■ THE WINDOW LEFT OPEN:
- Permissible Race Conscious Measures: School districts may safely employ the following race conscious methods to pursue diversity and/or avoid racial isolation in schools (9):
  - Strategic site selection of new schools
  - Drawing attendance zones with general recognition of the demographics of neighborhoods
  - Allocating resources for special programs
  - Recruiting students and faculty in a targeted manner
  - Tracking Enrollments, Performance and Other Statistics by Race
- Race as a Factor: School districts can also pursue diversity and/or avoid racial isolation through a "more nuanced, individual evaluation of school needs and student characteristics that might include race as a component." (10) "This approach should be informed by *Grutter*, although "the criteria relevant to student placement" in K-12 schools "would differ based on the age of the students, the needs of parents, and the role of the schools." (10)
- **Bottom Line:** Kennedy left the window open, granting safe harbor to several race-conscious approaches for school districts to use to pursue diversity and/or avoid racial isolation in schools.

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IMPACT OF RACE-NEUTRAL ALTERNATIVES

The Solicitor General and others have advocated for student assignment programs that do not take account of race ("race-neutral alternatives") as solutions for the pervasive racial segregation in America's schools. Popular forms of race-neutral student assignment plans include lottery, socioeconomic status based, geographic proximity and pure choice plans. Yet school districts using race-neutral plans have not achieved the compelling governmental interest in providing educationally effective and racially integrated learning environments for students. In fact, even those school districts touted as successes – Wake County, NC; Charlotte, NC; San Francisco, CA; La Crosse, WI; and Brandywine, DE – have struggled to achieve racial diversity without taking race into account. Indeed, the shift from a race-conscious to a race-neutral student assignment plan has often resulted in significant resegregation and negatively impacted the achievement of African-American students.

◼ Why Race-Neutral Alternatives Do Not Achieve Racial Diversity

• "Income and race cannot stand as proxies for one another in school integration policies,"[1] concludes a recent study of large school districts. "Under practical income-desegregation policies, achieving income desegregation guarantees little to no racial integration."[2] In addition, the only currently available measure of student's socioeconomic status - whether they receive a free or reduced-price lunch - is flawed.[3]

• Residential segregation, closely tied to school segregation, cannot be fully explained by class differences. Race can drive residential segregation much more strongly than class.[4] Because school districts generally rely on proximity when assigning students to schools, "[a]bsent some substantial decline in racial residential segregation, race-neutral assignment policies are unlikely to produce significant racial school desegregation."[5]

• Context Matters: The circumstances and demographics of each school district are different; the relative success of any given race-neutral plan is largely dependent on the particular demographics of the school district. For example, smaller school districts with predominantly white student enrollment have had greater success at maintaining integrated schools using race-neutral plans (e.g., La Crosse, WI and Brandywine, DE).

Select Districts That Have Adopted Race-Neutral Assignment Plans*

District	Percentage of Students in Racially Segregated Schools** (School Year Prior to Policy Change)	Percentage of Students in Racially Segregated Schools in 2004-2005	Percentage of White Students in Year Prior to Policy Change	Total Number of Students in District in Year Prior to Policy Change
Charlotte-Mecklenburg, NC	48.35% (2000-2001)	73.64%	46.57%	103,336
Wake County, NC	25.48% (1999-2000)	32.40%	64.64%	95,248
San Francisco, CA***	7.93% (2000-2001)	6.18%	10.98%	59,979
Brandywine, DE	12.24% (2001-2002)	10.77%	57.87%	10,640
La Crosse, WI	10.89% (1991-1992)	7.64%	85.03%	7,767

*The U.S. Department of Education has highlighted these five school districts as the successful examples of race-neutral plans that have achieved diversity. (U.S. Department of Education, *Achieving Diversity: Race-neutral Alternatives in American Education*, 2004).
**"Segregated" schools are those schools where the percentage of minority students enrolled deviates by more than 15% from the district-wide proportion of minority students.
***The low percentage of students in racially segregated schools in San Francisco belies the fact that the most minority students attend schools with high percentages of minority student enrollment. Indeed, more than 90% of minority students in San Francisco attend schools with greater than 74% minority student enrollment, and more than 60% of minority students in San Francisco attend hypersegregated schools, with greater than 90% minority student enrollment.

■ **Challenges Facing School Districts Using Race-Neutral Alternatives**

Charlotte-Mecklenburg Schools (CMS)
In 2002, CMS stopped taking account of the racial composition of schools in student assignment and implemented a neighborhood-based, limited-choice student assignment plan. Since that time:

• The number of hypersegregated schools (schools with more than 90% minority enrollment) more than doubled.
• The number of segregated schools jumped from 47 to 87 in 2004-2005.
• African-American students effectively lost access to oversubscribed predominantly white schools.
• There has been no overall progress in black student achievement. In 2004 - as in 2002 - 60% of African American high school students failed state accountability tests as compared to 23% of white students.

Wake County, NC
• Wake County's schools have not resegregated at the same rate as some districts using a socioeconomic status ("SES") based plan. Yet, racial diversity has declined since the adoption of the SES plan in 2000.
• In 2003, 39% of African-American students attended a school that had 50% or more minority enrollment, compared to 21% of African-American students in 1999.
• The unique demographics of Wake County account for the relative success of its SES plan, and speak to the difficulty in replicating it. African-American and Latino students are nearly ten times more likely to be eligible for free and reduced lunch than white students, i.e. Wake County has relatively few low-income white students and relatively few high-income African American and Latino students.
• Wake County is one of only six (out of 100) counties in North Carolina that have a family poverty rate less than 10% coupled with a significant racial disparity between poor and non-poor families.

San Francisco Unified School District (SFUSD)
Since 2002, when SFUSD stopped taking race into account in student assignment:

• The number of severely segregated schools - where 60% or more of students at one or more grade levels are of one race/ethnicity - jumped from 30 to 50, by the end of 2005. At that time, the district court concluded that the race-neutral plan "has in fact allowed, if not caused, resegregation of the school district."[6]
• The academic achievement gap between African Americans and other students increased dramatically, as measured by the State's adequate yearly progress reports.
  For example, the gap between African-American and white students scoring proficient or above in English Language Arts skyrocketed from 19.3% to 49.1%. As the district court noted, "academic achievement data indicate a close relationship between resegregation and the disparity in academic achievement"[7] between black and Latino, as compared to white and Chinese-American, students.

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[1]Sean F. Reardon et. al., Implications of Income-Based School Assignment Policies for Racial School Segregation, 28 *Educ. Eval. & Pol'y Analysis* 49, 68 (2006).
[2]Id. at 63.
[3]To get a better measure would require deeply intrusive questions about income & wealth of students' families.
[4]AERA Brief at 25 (citing John Logan, *Separate and Unequal: The Neighborhood Gap for Blacks and Hispanics in Metropolitan America* (2002)), http://mumford.albany.edu/census/SepUneq/SUReport/Separate_and_Unequal.pdf)
[5]Reardon at 68.
[6]*SF NAACP v. SF Unified Sch. Dist*, 413 F. Supp. 2d 1051 (N.D. Cal 2005).
[7]Id. at 1059.

■   The information contained in this fact sheet was drawn in part from the *amicus* briefs filed by the Swann Fellowship ("Charlotte"); Walt Sherlin ("Wake County"); the American Civil Liberties Union; the Council of the Great City Schools; Lawyers' Committee for Civil Rights-SF; 553 Social Scientists; and the American Educational Research Association. For copies of the *amicus* briefs and further information, please visit LDF's website at www.naacpldf.org.

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SOCIAL SCIENCE FINDINGS ABOUT SCHOOL INTEGRATION

■ **Racially integrated student bodies are essential for K-12 schools to further their mission to prepare children to be global citizens in our increasingly diverse society.**

- School districts that adopt voluntary integration plans seek to obtain the numerous benefits of racially integrated schools and avoid the harms associated with racial isolation—all of which further the vital role of schools in our society.

- Race-conscious plans that seek to maintain racially integrated schools benefit all students and do not disadvantage any group because all students would be guaranteed admission to a school. In contrast to institutions of higher education, admission to most K-12 schools is not based on any particular kind of merit.

- Americans of all races and ethnicities substantially support the idea of racially integrated schools. Public opinion polls show widespread support for the ideal of integration. The majority of parents whose children have attended integrated schools believe that integrated schools have improved the quality of their child's education. Teachers also believe that integrated classrooms provide unique educational benefits that cannot be attained in single-race classrooms.

■ **Racially integrated schools promote social cohesion and reduce prejudice.**

- Racially integrated schools promote cross-racial understanding in ways that are not possible in segregated school environments. Students in racially integrated schools are also more likely to have friendships with individuals from other races and are more willing to live and work in integrated settings than those in segregated schools.

- Students in racially diverse schools are less likely to develop racial stereotypes or prejudice than students who are not in daily contact with people of other races. Well-established techniques for structuring racially diverse schools have proven to improve the academic and social outcomes for all students in desegregated settings.

- Metro areas with completely integrated schools have experienced declining residential segregation.

■ **Racially integrated schools enhance students' learning, expand their future opportunities, and benefit society at large.**

- Research suggests that the critical thinking skills of all students improve in racially integrated classrooms. Diverse learning opportunities make all students better problem solvers and communicators.

- The academic achievement of black and Latino students is generally higher in desegregated schools compared with black and Latino students in segregated minority schools.

- Integrated school environments do not harm the test scores of white students. In fact, white students who grow up in racially segregated neighborhoods are likely to benefit from integrated school environments as they gain the opportunity to understand and value multiple perspectives and emerge from school better prepared for living and working in our increasingly diverse American society.

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- Minority students who attend integrated schools are connected to higher-status social networks, which improve their chances of attending more selective colleges and getting higher-status jobs.

- Because students who are products of integrated schools tend to enjoy higher rates of high school graduation and college attendance, racially diverse schools lead to a more educated workforce.

■ **As the Supreme Court recognized in** *Brown v. Board of Education,* **racially segregated minority schools are unequal. The racial segregation of students in schools is increasing and the stakes for our society to provide an equal education to all children are higher than ever in light of the demographic changes in our society.**

- Historically, the vast majority of segregated minority schools have been plagued by a lack of resources that are essential to a learning environment. Segregated minority schools generally have fewer qualified and experienced teachers, higher teacher turnover rates, larger class size, fewer advanced classes, inferior infrastructure, and fewer basic educational supplies.

- Racially integrated schools provide exposure to middle-class, college-going peer groups that minority students may not otherwise obtain in schools of concentrated poverty. For non-native English speakers, integrated schools can also provide important exposure to native English speakers.

- Very few high-poverty, segregated minority high schools have graduation rates of more than half the students they enroll in the ninth grade. Of those students who do graduate, few are prepared for college, diminishing their future opportunities and contributions to society.

■ **Years of experience and social science research show that schools cannot achieve racial integration without making it an explicit goal through policies that consider race. School districts that have not been able to implement race-conscious policies have not achieved the racial integration necessary to obtain the short-term and long-term benefits of integrated education.**

- Colorblind approaches generally work to the disadvantage of minority groups. Because we live in a society with deep residential segregation, choice plans that are not racially conscious have not produced the same racial diversity as plans that consider a child's race. Choice plans that do not have a racial component assume that everyone is equally able to choose any option, and do not consider the constraints, including lack of information, that limit the choices made by those without access to high-quality networks.

- The experience in districts that have abandoned their race-conscious desegregation plans has shown that race-neutral student assignment plans often result in racial resegregation, and in some districts, declining achievement for minority students.

- Although in most circumstances it would not produce nearly as high a level of desegregation as existing racial desegregation plans, socioeconomic integration is educationally valuable in its own right and may offer some opportunities for integrated education. In defining social and economic desegregation policies, primary emphasis should not be on individual free lunch status—special attention should be given to areas of concentrated poverty, areas with concentrations of low-achieving students, areas where linguistic minorities are segregated, and geographic diversity.

THE CIVIL RIGHTS PROJECT STATE OF SEGREGATION

FACT SHEET

■ **Public school enrollment has undergone a dramatic transformation since the Civil Rights Era and is multiracial.**

- Latino students are now the largest group of minority students in the public schools (19%); Latino students comprise over a third of students in the West (36%).

- Black students are 17% of all public school students and are more than a quarter of students in the South.

- The West now has a minority of white students (47%) and the South soon will (50%).

■ **Students in the largest three racial groups typically attend schools in which less than half the students are from other races than themselves.**

- White students are more isolated than students from any other racial/ethnic background. They go to schools, on average, where only one out of five students are from different racial groups. This gives white students very little opportunity to reap the benefits of integrated schools.

- Asian students are the most integrated group of students, although some subgroups of Asian students experience high levels of segregation.

■ **Black students in the South for decades were more integrated than black students in any region of the country, although segregation levels for black students in the South have been rising rapidly since the late 1980s.**

■ **High—and growing—percentages of black and Latino students attend schools with high percentages of minority students.**

- Nearly three-quarters of black & Latino students (73% and 77%, respectively) attend predominantly minority schools, or schools where more than half of students are nonwhite.

- Almost 40% of black and Latino students (38% and 39%, respectively) attended racially isolated minority schools in which less than ten percent of students are white. Research shows that such schools are also very likely to be schools where more than half of students come from low-income families and have difficulty retaining highly qualified teachers.

- The percentage of black and Latino students attending both types of segregated schools has increased in the last fifteen years. Segregation levels are highest in the Northeast.

■ **Why should we care about segregated schools? A great deal of social science evidence regarding the benefits of integrated schools and the harms of segregated schools is summarized in an *amicus* brief filed with the Supreme Court in October 2006; see "Brief of 553 American Social Scientists" at www.civilrightsproject.ucla.edu/research/deseg/amicus_parents_v_seatle.pdf.**

For further information, please visit The Civil Rights Project website at http://www.civilrightsproject.ucla.edu/. Statistics taken from "Racial Transformation and the Changing Nature of Segregation" by Gary Orfield and Chungmei Lee. Data analyzed is from the U.S. Department of Education's Common Core of Data, 2003-04.