

## The Interconnection Between School Finance and Segregation

### Introduction

Nearly 70 years ago, the Supreme Court in *Brown v. Board of Education* framed racial segregation as the cause of educational inequality. But *Brown* and its progeny never seriously examined the ways in which inadequate school funding is intertwined with race and segregation—and places students of color in a double bind. The country has consistently slipped backward on school segregation for the last several decades and never really got started on related problems of how we fund schools. The authors in this issue highlight these interconnections, examine their effects on equal educational opportunities, and chart a path for addressing segregation and school funding in tandem.

—Derek Black, Guest Editor

### School Finance as Racial Subordination

Osamudia James

In September 2021, *The New York Times Magazine* featured a story about school reform. The article, “The Tragedy of America’s Rural Schools,” considered population loss and government disinvestment as central to school reform. Featured in the story was Holmes County Consolidated School District, a rural school district in Mississippi that lacked the tax base to provide its children with an adequate education. The impact of race in creating funding challenges was implied, although not directly engaged. All but 12 of Holmes County’s 3,000 students were Black. A featured student and new superintendent, James Henderson, both attempting to make changes, were Black. White parents seemed to have abandoned the district’s public schools. In detailing the failed school bond initiative that the new superintendent believed would have improved educational outcomes for district students, the article included a series of key observations: a white woman offered to pay a Black person to record a radio advertisement opposing the bond, a white man told a Black woman he wouldn’t support “that bond for a colored school,” and Superintendent Henderson did not spot a single white person voting on election day.

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Inequality in the American school system is increasingly framed as a function of class. In response to education law doctrine hostile to race-conscious remedies, K-12 schools as well as institutions of higher education embrace “race-neutral” policies that consider socioeconomic status rather than racial or ethnic identity. Racial segregation, if acknowledged, is no longer understood as the product of intentional policies that trap and isolate students of color and their families in underserved communities and school districts. Rather, racial concentration and isolation are products of individual “choices.” Against this backdrop of race-neutral education inequality, school finance disparities are presented as simply the unfortunate outcome of the more limited resources of communities of color. When race is addressed, racial disparities in school finance and school finance reform litigation are framed as a reflection—and a sometimes unconscious one, at that—of broader social attitudes regarding race, without interrogating how deeply race is embedded in funding decisions and policy itself. The only way to ensure equal educational opportunity, however, is by reckoning directly with race.

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Addressing educational funding disparities, then, requires a more clear-eyed assessment of the ways in which school finance is informed by a history of racial subordination, and continues to work today as a tool of racial subordination.

Our current school financing system, for example, is anchored in the notion of local control. That is, school districts control the resources they raise for their school system through property taxes. In the South, however, it was only racism that made local school property taxes palatable. Indeed, in some Southern states prior to disenfranchisement, local school taxes were constitutionally limited or prohibited at the discretion of the electorate. While wealthy landowners opposed school taxes believing that they received limited benefits therefrom, middle-class white parents also opposed higher school taxes believing it to be a boon to Black residents who owned less taxable wealth. Disenfranchisement, however, dampened opposition. After decimation of the Black electorate, state constitutions in

Alabama, Louisiana, and North Carolina all amended their state constitutions to permit the levy of school taxes.

As the country approached the late nineteenth century, school finance continued to develop as a tool for upholding racial privilege. States circumvented equal funding by apportioning school funding by the taxes paid by Black and white taxpayers. The proceeds of these taxes were placed under the control of white local officials who were given discretion over the allocation of funds. Other localities used the “cash value” of Black students to fund white schools. Since state funds were allocated to counties on the basis of the total school-age population, white school boards in control of counties in which the Black population was high simply diverted funds from Black schools to white schools, yielding a significant return when using those funds for a considerably lower number of white students. At other times, insufficient funding was deemed a legitimate reason to close Black schools altogether while maintaining schools for white students.

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# The Lynchpin of Educational Inequality— And the Myth Behind It

Derek Black

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Racial segregation and unequal school funding persist at alarming levels. The percentage of intensely segregated schools serving students of color has increased in recent decades, more than tripling since the late 1980s. The gap between what students need and what they receive has, likewise, increased in many states over the last decade and a half. These trends perversely intersect to hit some students with a double disadvantage. School districts serving predominantly low-income students and students of color operate on thousands of dollars less per pupil than their wealthier, white peers, widening existing achievement gaps for these students.

While there is plenty of blame to go around, the Supreme Court has made matters worse. In two seminal cases in the early 1970s, *San Antonio ISD v. Rodriguez* and *Milliken v. Bradley*, the Court gave the ideological lynchpin holding educational inequality together—localism—its seal of approval. Without bothering to seriously engage education history, the Court assumed that local control is the historical foundation of public education. The Court simply proclaimed that, “[n]o single tradition in public education is more deeply rooted than local control over the operation of schools.” Then, with no empirical support, the Court reasoned that locally financed education and autonomous school districts are indispensable to local control. Thus, no matter how vast the racial segregation or funding inequality between districts, the federal constitution was incapable of reaching it. Half a century later, the localism myth is so pervasive that it goes virtually unnoticed.

The Court’s basic holding in 1973 in *San Antonio ISD v. Rodriguez* was that the U.S. Constitution does not protect a fundamental right to equal school funding, but policy, more than doctrine, explained the Court’s holding. The Court found that remedying funding inequality would undermine local control. “Local control,” the Court wrote, “is not only vital to continued public support of the schools, but it is of overriding importance from an educational standpoint as well.” According to the Court, “local control means . . . the freedom to devote more money to the education of one’s children [and] . . . determin[e] how those local tax dollars will be spent.” The Court posited that a larger state role was

problematic: “plac[ing] more of the financial responsibility in the hands of the State” may “result in a comparable lessening of desired local autonomy.”

The Court tried to buttress its logic with a history lesson, simply stating that local education funding in Texas dated back to 1883. That policy, according to the Court, is the longstanding conventional wisdom in Texas, the educational community, and “virtually every other State” too. The practical effect of localism—inequality—was simply an unavoidable, incidental consequence

of pursuing this important goal. It was enough, the Court lamented, that states recognized their “shortcomings and ha[ve] persistently endeavored—not without some success—to” do better.

One year later in *Milliken v. Bradley*, the Court leveraged *Rodriguez*’s premise to do something more aggressive. Whereas the plaintiffs in *Rodriguez* had asked the

Court to recognize a new right to education, the *Milliken* plaintiffs simply asked the Court to enforce an existing desegregation right. The plaintiffs had proven that both local and state officials had intentionally segregated schools in Detroit. The plaintiffs also demonstrated that the only effective remedy for that segregation was integration across school district lines. The inter-district remedy was appropriate, the lower courts explained, because districts are merely agents of the state and the state had also directly participated in segregation itself.

Reversing the lower courts and diverging from existing Supreme Court precedent required the *Milliken* Court to make an enormous leap beyond *Rodriguez*. In *Rodriguez*, the Court simply deferred to Texas’ policy judgment that financing education at the local level was desirable. The state’s judgment did not, in the Court’s opinion, involve any nefarious motive. But in *Milliken*, the lower courts had found that the state had engaged in a constitutional violation. Thus, limiting the desegregation remedy for that violation required the Court to sever local districts from the state and afford local districts their own normative weight and interest independent of those of the state.

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During the mid-20th century, school finance, in the form of tax policy, facilitated white abandonment of Black schools. To be sure, courts have affirmed the right of parents to make private educational decisions for their children. That “right,” however, informed the creation of tax-exempt segregation academies in response to desegregation. It is tempting to think about this link between school finance and racism as a relic, if not a thing of the past. As the argument would go, segregation academies no longer exist, and even if they did, they would surely be denied tax-exempt status today. The segregation academies that opened as a symbol of white resistance to racial equality, however, are still in operation today, enrolling students absent a formal commitment to segregation. Their overwhelmingly white student bodies reflect an ongoing exclusion of non-white students and their families, however informal that exclusion may be. And, increasingly, education savings accounts, tax credits, and voucher programs provide parents with public money to send their children to private institutions that help carry the legacy of white supremacy forward.

In the public realm, the right of white people to avoid people of color in schools is still affirmed through doctrine that prevents states from reaching across school district lines to integrate school systems absent showings of explicit segregation. School finance policies prioritize local control, prohibiting cross-district resource sharing to a particularly racialized effect given the reality of inter-district segregation in the United States. The increasing trend of school district succession fights only further highlights how racial exclusion is anchored in school finance (seceded districts tend to have larger shares of white families and are more affluent than the districts from which they seceded). Finally, research suggests that white taxpayers are more likely to vote for school funding when they believe they can maintain control over how it is spent.

These tendencies work alongside beliefs that higher spending is simply “wasted” on Black school districts because increased expenditures simply don’t work. School finance decisions, then, are used as cover for hostility toward communities of color. And this intentional behavior is driven by white taxpayer and voter consciousness, a mental frame that positions whites as “makers” and non-whites as “takers,” and to which finance and taxing policy cater. As these dynamics illustrate, racial disparities in school finance are not abstract structural problems, nor are they merely an unfortunate reflection of racial isolation and segregation in

schools. Rather, racial disparities in school finance continue to function as a form of resistance to Black freedom.

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This resistance, however, is a bigger problem than just finance. In Holmes County, Mississippi, although white families there abandoned the County’s Black schools, they still retain the power to vote down the bond initiatives that would improve educational outcomes for the students they left behind. With their departure to private schools and former segregation academies legitimated by doctrine, they are further permitted to exercise a veto regarding the

future of the students that doctrine did not protect. Absent explicit racial animus, courts are both unable and unwilling to reach the “private” schooling decisions of individuals in public school systems. School finance, then, is not only a tool of racial exclusion but the manifestation of democratic defects.

In their influential article on school finance published in 1970, authors Coons, Clune, and Sugarman warned against turning school finance into a racial issue: “There will surely be enough upset over [school finance] on social and economic grounds without evoking all the furies of racism.” The authors, however, were wrong. Despite the anxieties that claims about race raise, understanding the ways in which school finance functions as both a reflection of larger patterns of racism and as an explicit tool of racial subordination is exactly how school finance must be engaged. From tax exemptions for schools that formerly functioned as segregation academies, to the legally protected patterns of white flight that deepen segregation while further embedding racially disparate school financing, to bond voting that denies people of color democratic participation and representation, school finance is deeply implicated in contemporary racial subordination. ■

## References

- Coons, J. E., Clune III, W. H., & Sugarman, S. D. (1970). *Private Wealth and Public Education*. Harvard University Press.
- James, O. (2014). Opt-out Education: School Choice as Racial Subordination. *Iowa Law Review*, 99, 1083.
- Parks, C. (2021). “The Tragedy of America’s Rural Schools.” *The New York Times Magazine*.

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# K-12 Schools Remain Free to Pursue Diversity Through Race-Neutral Programs

David G. Hinojosa

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Ahead of the U.S. Supreme Court’s recent decision in *Students for Fair Admissions (SFFA) v. Harvard* and *SFFA v. UNC* (2023), there was great trepidation among the civil rights community and others on how far the ruling could extend beyond race-conscious admissions. SFFA and its amici had pressed the Court for an “extreme colorblind” interpretation of the Equal Protection Clause and Title VI of the Civil Rights Act of 1964 that, essentially, could have barred not only race-conscious admissions but also “race-neutral” programs that help integrate college and K-12 schools. While the majority opinion did not overrule *Grutter v. Bollinger* (2003), its opinion interprets the Equal Protection Clause in such an unjust manner that greatly limits race-conscious admissions. (For purposes of this article, and to avoid any confusion, “race-conscious admissions” refers to those admission policies that consider the race of individual students, while “race-neutral” programs are those that may result in greater diversity, but do not directly consider the race of individual students to achieve those goals.)

This essay briefly discusses the decision but also highlights how perhaps the lone saving grace of the decision was that it was not quite as extreme as some predicted. The ruling does not implicate or prohibit race-neutral measures enacted by universities, much less K-12 schools, that help ensure greater diversity in their classrooms and campuses. But the anti-civil rights opposition will not rest and will attempt to leverage whatever it can from the decision to challenge even race-neutral plans in secondary education. It will be incumbent upon us to ensure the opposition does not further undermine equal educational opportunities for all.

## Brief background on the cases

SFFA filed its lawsuits against Harvard and UNC in 2014, the nation’s oldest private and public universities, respectively. While SFFA claimed that the universities’ admissions programs failed to satisfy strict scrutiny, SFFA’s central claim asked the Court to overturn *Grutter v. Bollinger*. In *Grutter*, the Court’s 5-4 majority opinion—authored by Justice O’Connor in 2003—held that the University of Michigan Law School’s holistic admissions program—where race was considered flexibly and only on

an individual basis for underrepresented groups including African Americans, Hispanics, and Native Americans—was narrowly tailored to achieve the law school’s compelling interest in the educational benefits that flow from a diverse student body. These educational benefits included: increasing cross-racial relationships and understanding, breaking down stereotypes and racial isolation, improving

academic performance, and exposing students to diverse perspectives and viewpoints. The decision essentially affirmed Justice Powell’s opinion in *University of California at Davis v. Bakke* decided twenty-five years earlier.

SFFA now challenged that precedent. *Harvard* was tried in 2018 in a three-week trial. The district court concluded in 2019 that Harvard’s program satisfied strict scrutiny by not engaging in racial balancing, not considering race as more than a plus factor, adequately weighing the availability of race-neutral alternatives, and not intentionally discriminating against Asian American applicants. Because the lower court was required to abide by *Grutter*, the district court dismissed SFFA’s claim to overturn *Grutter*. On appeal, the First Circuit affirmed the decision.

*UNC* was tried over two weeks in 2020. In 2021, the district court held that UNC’s plan passed constitutional muster by not considering race as more than a plus factor and by sufficiently considering race-neutral alternatives. (SFFA did not claim that UNC had engaged in racial balancing nor that the university had intentionally discriminated against Asian American students.) Like *Harvard*, the court dismissed SFFA’s claim seeking to overturn *Grutter*. The Supreme Court granted SFFA’s petition for certiorari over the objections of Harvard, UNC, and the student respondents represented by the Lawyers’ Committee for Civil Rights Under Law in the UNC case. Oral argument was held on October 31, 2022.

## The decision

On June 29, 2023, the Supreme Court issued its decision in the Harvard and UNC cases, combining its ruling into one opinion. Despite the headlines of most news outlets proclaiming the death of affirmative action, the majority opinion did not directly overrule *Grutter*. Instead, in striking

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down the lawfulness of Harvard and UNC's race-conscious programs, the 6-3 majority opinion authored by Chief Justice Roberts severely undermined race-conscious admissions by *tightening* the *Grutter* standards. In doing so, the Court first meandered through a narrow, misguided historical overview of the Fourteenth Amendment, suggesting that the Equal Protection Clause was enacted to ensure color-blindness and authorized racial classifications only under narrow circumstances that could survive strict scrutiny, such as race-based remedial plans and plans that avoid imminent and serious risks to safety in prisons.

The Court then reinterpreted strict scrutiny under *Grutter*, essentially moving the goalposts back and making it more difficult for universities' race-conscious programs to meet the demands. The Court did this by, for example, suggesting that diversity goals such as preparing graduates for a pluralistic society and breaking down stereotypes were too imprecise for measurement under strict scrutiny—despite similar arguments that failed to persuade a majority in *Grutter*. Under its revised analysis, the Court held that neither Harvard nor UNC's admissions programs satisfied strict scrutiny. First, the Court held that both programs lacked sufficiently concrete and measurable objectives in their diversity interests to allow for meaningful judicial review. In addition, despite a robust record of student and expert testimony to the contrary, the Court found that by considering race in admissions, universities seemingly make decisions based on racial stereotypes by suggesting students of the same race share the same viewpoints and such practices harm people based on their race. Finally, the Court criticized Harvard and UNC for failing to present a logical endpoint to their respective race-conscious programs and for intending to consider race well past the 25-year prediction in *Grutter*.

In two stinging dissents, Justices Sotomayor and Jackson chastised the majority for retreating on the Fourteenth Amendment's dual promise of defeating Black subjugation and expanding racial equality, as well as the majority's abandonment of the trial courts' findings in the record. Recounting the history of the Equal Protection Clause and several congressional race-conscious efforts enacted to bring greater equality to African Americans, Justice Sotomayor criticized the majority's "colorblind" framework for "subvert[ing] the constitutional guarantee of equal protection by further entrenching racial inequality in education." And in responding to the Court's far-fetched notion that *Brown v. Board of Education* supports the restriction of race-conscious admissions, Justice Sotomayor noted that "race-conscious college admissions policies. . . have promoted *Brown*'s vision of a Nation with more inclusive schools." Justice Jackson double-downed on the arguments, discussing at length the historical, systematic discrimination against Black Americans and how this horrid legacy of inequality permeates society today. Justice

Jackson wrote that "[p]ermitting (not requiring) colleges like UNC to assess merit fully, without blinders on, plainly advances (not thwarts) the Fourteenth Amendment's core promise."

## Application to K-12 school admissions

For all that is wrong with the majority opinion in protecting white privilege and crushing equal protection jurisprudence, the Court did limit its opinion to only circumscribing universities' race-based admissions programs. Many spectators predicted that the Court would issue a ruling that would ban all considerations of race, including requiring students to censor their race in college applications and even proscribing race-neutral efforts intended to ensure greater racial and economic diversity in secondary and post-secondary schools. But the Court stopped short of such a ruling.

Chief Justice Roberts acknowledged that universities may consider racialized experiences, such as when an applicant discusses "how race affected his or her life, be it through discrimination, inspiration, or otherwise." Justice Kavanaugh noted that narrow tailoring requires courts to determine whether race-neutral alternatives could adequately achieve the governmental interest before pursuing race-conscious policies. Even Justice Thomas, in his lone, radical concurrence expressed his approval of race-neutral policies that "achieve the same benefits of racial harmony and equality without any of the burdens and strife generated by affirmative action policies." SFFA, itself, also argued in its merits brief in support of race-neutral plans including socioeconomic-based and grade point percentage plans.

For K-12 schools, the Supreme Court has previously acknowledged in *Parents Involved* (2007) that public school boards may pursue and "adopt general policies to encourage a diverse student body, one aspect of which is its racial composition." Such measures may include "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 fashion; and tracking enrollments, performance, and other statistics by race."

Despite SFFA's own support for such race-neutral plans, some of its supporting amici – including Parents Defending Education and the Pacific Legal Foundation – attempted in vain to convince the Court to extend its opinion and bar race-neutral plans where the effect would be to increase diversity in secondary education. The amici criticized efforts to eliminate standardized tests for entry into specialized public schools that disparately denied admission to underserved students and Black and Brown

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# Understanding the First, Second, and Third Order Effects on Disparities in K-12 Funding and Outcomes

Bruce D. Baker, Matthew Di Carlo, and Preston Green

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In the spring of 2022, our team released a report that explained the connection between decades of housing discrimination in the United States and deficits in school funding and student outcomes (Baker, Di Carlo, & Green, 2022). That report included deep historical dives and empirical analyses of seven major metropolitan areas (Baltimore, MD; Oakland/Bay Area, CA; Birmingham, AL; Hartford, CT; Kansas City, KS; San Antonio, TX; Twin Cities, MN). In that report, we showed that:

- Across all seven metro areas, 90 percent of majority-Black/Latino districts spend below estimated adequate levels, compared with 12 percent of majority-white districts.
- These spending patterns matter for student outcomes: 85 percent of majority-Black/Latino districts are both inadequately funded and score below the U.S. average on math and reading tests, compared with six percent of majority-white districts.
- Out of the roughly 200 districts throughout all seven metro areas with funding above adequate levels and testing outcomes above the U.S. average, precisely one serves a majority-Black/Latino student population.
- The trends in these seven metro areas are part of a national pattern. For instance, of the over 1,300 majority-Black/Latino public school districts located in U.S. metropolitan areas, roughly 82 percent receive inadequate funding, compared with about 22 percent of majority-white districts. Among the roughly 3,200 metropolitan districts in which funding is adequate and scores are above the U.S. average, only 80 (two percent) are majority Black/Latino.

These findings were astounding, even to us—a team of researchers with decades of experience studying education disparities. Yet, they occurred neither recently nor accidentally. They are, rather, the result of decades of ongoing institutional housing discrimination.

## First and second order effects

We identify first, second, and third order effects to connect these disparities in K-12 funding and outcomes to racial housing discrimination. First order effects include the persistent, measurable differences in the values of residential properties owned in Black, Latino, and white

neighborhoods, as well as their respective incomes. For instance:

- In Baltimore City, Black household income was 70 percent of white household income and housing values 60 percent, while property taxes were 0.15 percent higher.
- In the San Francisco Bay area, Black incomes were only 66 percent of white income and housing values 62 percent, with property taxes 0.09 percent higher.

The above-mentioned “first order” effects of racial segregation—wealth disparities by race and ethnicity—play out predictably in “second order” effects on school funding. That is, less taxable wealth, combined with the reliance on that wealth to fund K-12 education (e.g., via property taxation), means less property tax revenue for schools in Black and Latino communities. This creates pressure on these communities to tax themselves disproportionately to improve local schools. We show, for example, that:

- In five of the seven metropolitan areas studied, the average Black and Latino student’s district receives local property tax revenue that is lower than that of the average white student.
- In the Bay Area, Hartford, Kansas City, and San Antonio, state aid is insufficient to close the local gaps completely, and in some cases (e.g., the Black/white gap in Baltimore and the Latino/white gap in Hartford), the differences in total state and local revenues remain substantial; and
- As a result, in all seven metro areas, the average Black resident pays a higher effective property tax rate than the average white resident, with Latino residents in most cases falling in between.

Once again, we also find these racial/ethnic disparities in home value and effective property taxes nationally.

## Third order effects on equal educational opportunity and adequacy

Far more substantial are the effects of persistent housing discrimination on the costs of providing adequate

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**TABLE 1. RACIAL ISOLATION AND THE COSTS OF EQUAL OPPORTUNITY**

District Name	Enrollment	Census Poverty Rate	% Black	Current Spending	Cost (Race Neutral)	Cost (Race Sensitive)
BALTIMORE	79,297	31%	79%	\$15,888	\$24,327	\$32,214
CENTER 58	2,639	20%	61%	\$14,105	\$12,392	\$17,403
HICKMAN MILLS C-1	5,830	29%	72%	\$12,393	\$15,952	\$22,496
KANSAS CITY 33	15,345	29%	57%	\$14,969	\$18,300	\$23,953

education and equal opportunity, measured in terms of achieving common educational outcomes. Prior research has shown that racially isolated, majority-Black districts face substantially higher per-pupil costs to achieve the same academic outcomes as their majority-white, more affluent neighbors. Majority-Black districts have higher costs than districts with similar rates of child poverty but are not racially isolated (Baker, 2011).

In some metro areas, state aid might bring total revenues in majority-Black/Latino districts to levels close to those of majority-white districts, but this does not account for the fact that the per-pupil costs of achieving any common outcome goal are higher in the former districts. For making comparisons of equal opportunity and adequacy, we use our National Education Cost Model (Baker, Weber, & Srikanth, 2021). That model provides predictions of the per-pupil cost for every district in the country to reach national average outcomes in reading and math.

After showing that majority-Black/Latino districts are extremely likely to receive less adequate funding than their mostly white counterparts in the same metro area, we calculated what adequate funding levels look like with versus without considering district racial composition. That is, what are the additional costs created by racial isolation – notably Black student enrollment – in these districts?

Table 1 below shows the increased costs created by racial isolation in Baltimore City and in three Kansas City area districts. For example, if we ignore racial composition, the predicted per-pupil costs to achieve national average outcomes in reading and math in Baltimore City are just over \$24,000. But, if we consider the share of enrollment that is Black, those costs rise to \$32,214. Similar differentials in cost estimates exist in Kansas City area districts, and other majority-Black districts around the country. Baker (2011) explores causal explanations for these higher costs.

The implication of these findings is that to provide equal educational opportunity to all children, especially

those in racially isolated, majority-Black school districts, we must target additional resources to those districts at least in part based on their racial composition (Green, Baker & Oluwole, 2008). This “reparatory aid” must be part of a comprehensive package for achieving equal educational opportunity for those in communities subjected to over a century of systemic racist housing policies.

## Race was the cause

We illustrate extensively, through historical documentation, how race was the basis – often framed as economic necessity – for creating, exacerbating, and perpetuating racial residential segregation. At no point since the early 20th century has there been a significant gap, pause, or reversal in discriminatory housing policy. Rather, there has been a constant evolution in the discriminatory strategies and practices used to create and reinforce racial/ethnic segregation, for example:

- Municipal ordinances in the 1910s, which dictated where families of color were permitted to live and were declared impermissible by the Supreme Court in 1917.
- Racially restrictive covenants in property deeds, governed by private local homeowners associations, from the 1920s through the late 1960s, despite the Court declaring those restrictions unenforceable in 1948.
- Federally backed home lending policies that effectively codified racially differentiated home values into lending risk metrics (so-called “redlining”), effectively excluding Black homebuyers from the post-WWII homeownership boom.
- “Blockbusting” of middle-class white neighborhoods, tipping them to majority-Black via short sales, while promoting white flight to new suburban safe spaces (1950s to present).
- Continued racial steering of Black and Latino people to Black and Latino neighborhoods, respectively, coupled

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# Separate and Unequal: The Need for a Nuanced Accounting of the Inequities Created by Segregation

Ann Owens

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School segregation contributes to inequalities in educational and later life outcomes. Because of the long legacy of structural racism and income inequality in the United States, children from different backgrounds bring unequal economic, social, and political resources to their schools. Scholars should focus on documenting the specific inequalities that segregation creates, rather than simply positing that separate schools are unequal. To be clear—separate nearly always means unequal in the U.S., but evidence on the resource inequities that segregation creates and the mechanisms through which segregation leads to unequal outcomes is needed to develop specific policy solutions.

Segregation between school *districts* is particularly consequential because districts administer school funding, one key resource for children’s educational success. Racial/ethnic segregation between school districts in the U.S. is so high that in 2021, 90 percent of students of color attended school in just 15 percent of districts (author’s calculations). That is, the vast majority of the nation’s more than 13,000 school districts serve only a trivial number of non-white students. Similarly, about 70 percent of total economic

segregation is due to segregation between districts, rather than between schools in the same districts (Owens et al., 2022). Scholarly and popular narratives about why school segregation matters often focus on inequality in school funding, stating that because public schools are funded in part by local property taxes, high levels of residential segregation mean that white and higher-income children live in wealthier districts with better-funded schools. Local property taxes do play a role in school funding—on average, nearly half of K-12 school district revenues come from local sources, mainly local property taxes (though the share varies considerably across states) (Baker et al., 2023). State and federal funding, however, offset disparities in local property values between districts in most places. State-level school finance reforms and federal programs like Title I have resulted in a convergence in total per-pupil revenues, on average, among high- and low-income districts over the

past few decades (Bischoff & Owens, 2019; Lafortune et al., 2018).

Today, there are not large disparities in total per-pupil expenditures in the schools of students of different racial/ethnic identities (Bischoff & Owens, 2019; Owens, 2020; Sosina & Weathers, 2019). Despite high levels of segregation between districts, public school per-pupil expenditures are near equal between the districts of students from different racial/ethnic or economic backgrounds, or even progressive or compensatory toward historically disadvantaged groups (additional resources available through nonprofits and other privately-funded organizations may be more unequal). These averages, however, mask variation produced by segregation between school

districts. From 1990 to 2007, school spending was increasingly progressive in states with high levels of income segregation between districts—that is, in highly segregated states, expenditures were higher in the average low-income child’s district than in the average high-income child’s district, and increasingly so over time. However, the trend reversed from 2007 to 2014 – perhaps due to state budget crises

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***School finance policies appear to have reduced or eliminated large inequalities in total expenditures by students’ race/ethnicity or income in most states, compensating for unequal property taxes caused by residential segregation. However, equal funding is not sufficient to produce equal outcomes.***

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caused by the 2008 financial crisis that limited their ability to offset local inequalities – school spending became less progressive in highly segregated states (Bischoff & Owens, 2019). With respect to racial/ethnic segregation, per-pupil expenditures became less compensatory toward Black students’ districts in states with rising segregation of Black and white students between districts from 1999 to 2013 (Sosina & Weathers, 2019).

Despite these troubling trends away from progressive spending, school finance policies appear to have reduced or eliminated large inequalities in total expenditures by students’ race/ethnicity or income in most states, compensating for unequal property taxes caused by residential segregation. However, equal funding is not sufficient to produce equal outcomes, given the large racial/ethnic and income inequalities that exist in neighbor-

(Continued on page 10)

hoods and family resources (created, in part, by the multigenerational effects of residential and school segregation). School funding must be *progressive*, and it is in many states, following a second wave of school finance reform over the last 30 years focused on providing the resources necessary for every child to have an adequate education (Baker et al., 2019). A key challenge, though, is to determine *how progressive* funding must be to account for the higher cost of adequately educating a student from a historically disadvantaged background, who may have greater needs. Estimates of the required progressivity levels vary widely. For example, Verstegen (2011) found that, among states that used weights in funding formulas in 2007, weights reflecting how much additional funding was required to educate a low-income student ranged from an additional five percent in Mississippi to an additional 100 percent in Minnesota.

Moreover, the higher costs of adequately educating a single higher-needs student are exacerbated by segregation between school districts and the concentration of many higher-needs students in some districts. Drawing on a national cost model that estimates per-pupil funding levels adequate to achieve test scores at the national average, Bruce Baker and colleagues find that the typical white student's district provides more than adequate funding, while the typical Black and Hispanic student's district provides inadequate funding (Baker et al., 2022). Racial/ethnic gaps in adequate funding are larger in places where segregation between school districts is greater. One additional consideration is what per-pupil expenditures are buying. Administrative, infrastructure, instructional, and social service needs likely vary across schools depending on the number of high-needs students, and certain categories may require more progressive spending than others.

Scholars, journalists, and policymakers should turn away from the simplistic claim that socially advantaged children attend school in districts with higher expenditures than the districts of lower-income and racially-minoritized children. This is not borne out in research. Those concerned

with the (very real) deleterious effects of segregation should document the specific inequalities in opportunities and outcomes that segregation creates via a wide range of mechanisms, including school spending. In terms of funding, this requires a nuanced analysis of the costs of producing educational equity, which requires progressive, not equal, school funding.

## References

- Baker, B. D., Di Carlo, M., & Green III, P. C. (2022). *Segregation and School Funding: How Housing Discrimination Reproduces Unequal Opportunity*. Albert Shanker Institute.
- Baker, B. D., Di Carlo, M., & Oberfield, Z. W. (2023). *The Source Code: Revenue Composition and the Adequacy, Equity, and Stability of K-12 School Spending*. Albert Shanker Institute.
- Baker, B. D., Di Carlo, M., & Weber, M. (2019). *The Adequacy and Fairness of State School Finance Systems*. Albert Shanker Institute.
- Bischoff, K., & Owens, A. (2019). The Segregation of Opportunity: Social and Financial Resources in the Educational Contexts of Lower- and Higher-Income Children, 1990–2014. *Demography*, 56 (5).
- Lafortune, J., Rothstein, J., & Schanzenbach, D. W. (2018). School Finance Reform and the Distribution of Student Achievement. *American Economic Journal: Applied Economics*, 10 (2), 1–26.
- Owens, A. (2020). Unequal Opportunity: School and Neighborhood Segregation in the USA. *Race and Social Problems*, 12 (1), 29–41.
- Owens, A., Reardon, S. F., Kalogrides, D., Jang, H., & Tom, T. (2022). *Trends in Racial/Ethnic and Economic School Segregation, 1991–2020*. The Segregation Index.
- Sosina, V. E., & Weathers, E. S. (2019). Pathways to Inequality: Between-District Segregation and Racial Disparities in School District Expenditures. *AERA Open*, 5 (3).
- Verstegen, D. A. (2011). Public Education Finance Systems in the United States and Funding Policies for Populations with Special Educational Needs. *Education Policy Analysis Archives*, 19, 1–30.

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# Resource Equity, Desegregation, and Fulfilling the Promise of Brown

Saba Bireda and Ary Amerikaner

Policies that allocate resources to schools and policies that assign children to schools are clearly and deeply interconnected. *Brown v. Board of Education*'s decree that separate is inherently unequal was premised on the idea that racial integration is a critical component to providing equal educational opportunities to all students. So long as schools are racially and socioeconomically segregated, the tangible and intangible resources and opportunities provided to historically marginalized populations will lag behind.

As we all know, *Brown* demanded the eradication of school assignment policies that kept children separated by race and kept Black children separated from the resources enjoyed by their white peers. The resulting impact for Black students cannot be overstated. Black students who experienced court-ordered school desegregation for 12 years of public schooling saw roughly a:

- 30 percent increase in likelihood of graduation;
- 30 percent increase in adult wages;
- 22 percent decrease in likelihood of incarceration; and
- 22 percent decrease in likelihood of poverty (Johnson & Nazaryan, 2019).

Mexican American students in California, too, experienced meaningful increases in educational attainment and graduation rates due to court-ordered school desegregation (Antman & Cortez, 2022). These gains only materialized when desegregation led to meaningful increases in school spending for Black and Hispanic students (Johnson & Nazaryan, 2019). Especially in the South, desegregation was one of the most effective school funding reforms in our nation's history (Anstreicher et al., 2022).

The benefits of school desegregation extend beyond the opportunity to attend highly funded schools. Research that looks more broadly at the impact of a school's socioeconomic diversity (or lack thereof) has found students from low-income backgrounds attending more affluent schools outperformed their peers attending high-poverty schools that received targeted funding (Schwartz, 2010). A consistent theory underlying the difference in performance is the

impact of going to school with and forming social connections to peers from high-achieving and affluent families.

Despite the obvious benefits that accrued to Black and Hispanic students as a result of court-ordered desegregation, there has been a steady retreat away from desegregation as a strategy to achieve educational equity. This retreat, combined with white flight and an embrace of hyperlocalism in

education policy, has permitted a rapid resegregation of America's public schools (Black, 2023). This segregation is often most pronounced between districts, allowing school district boundaries to separate students of different backgrounds from each other and students of color and low-income students from the resources available in whiter and

wealthier districts. And federal courts, once the locus of desegregation litigation, have become increasingly hostile to K-12 diversity efforts.

Efforts to achieve funding equity in the post-*Brown* era have been successful in many states leading to (sometimes) dramatic revisions of state school funding formulas to increase states' contributions to poorer districts. These funding reforms have been impactful, especially for students living in poverty (Baker, 2016; Jackson & Mackevicius 2021). The success of school funding reforms, however, has been hampered by entrenched school segregation in many states. Even progressive school funding policies frequently cannot overcome the resource disparities caused by the school district borders that segregate and isolate by race and socioeconomic class.

It is important to recognize that neither increased school funding nor school desegregation are "silver bullets." There are no silver bullets in education; how we teach, what we teach, who teaches, where we teach – every one of these things, and more, also matters (Alliance for Resource Equity, 2022). The country continues to struggle to ensure science-based reading strategies are taught, continues to work toward a more diverse teacher workforce, and continues to build cutting edge career and technical education programs aligned to the jobs of tomorrow. And it's critical that students of color and students from low-income

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with discriminatory mortgage lending, identified in blind audit studies that we report as recently as 2016;

- Secessions of majority-white neighborhoods from otherwise racially mixed school districts, secessions which occurred throughout the 20th century, but picked up after the *Brown v. Board of Education* decision and continue today.

While many people seem to believe that racial housing discrimination is largely a thing of the past, the reality is that discriminatory efforts to create and reinforce racially segregated neighborhoods have only changed in form. Moreover, the legacy of even the oldest strategies is still evident in school funding disparities today. We show, for example, that in our seven metro areas, the districts that were heavily “redlined” during the late 1930s are virtually certain to serve larger shares of students of color, and to be more inadequately funded than their non-redlined counterparts in the same metro area. Contemporary housing discrimination, while less “explicitly” racial than that of the past, has been very effective in maintaining the racial and ethnic separation built throughout the 20th century.

## Remedies must be race-conscious

In related work, we offered a “Reparations Framework” related to school funding, an approach focused primarily on mitigating the accumulation of further damages imposed on racially isolated communities. We recommended that framework include:

1. Directly mitigating the effects of racial differences in housing values by a) targeting additional state aid to offset the racial differences and b) providing rebates to Black homeowners for excess property taxes paid.
2. Auditing state school finance formulas to identify aid programs that reinforce systemic discrimination; and
3. Providing explicit aid in state formulas to close racial achievement gaps that result from racial isolation and the elevated costs of mitigating those gaps.

These steps alone, however, are not enough and are not fully reparatory. While even these steps seem a bit of a pipe dream in public policy, future considerations must be even more comprehensive and more aggressive in their undoing of our long history of racially discriminatory housing policies and their effects on public schooling and equal educational opportunity. The causes of present-day disparities are indisputably based on race. So too must be the solutions. ■

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**To provide equal educational opportunity to all children, especially those in racially isolated, majority-Black school districts, we must target additional resources to those districts at least in part based on their racial composition.**

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**The causes of present-day disparities are indisputably based on race. So too must be the solutions.**

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## References

- Baker, B. D. (2011). Exploring the Sensitivity of Education Costs to Racial Composition of Schools and Race-Neutral Alternative Measures: A Cost Function Application to Missouri. *Peabody Journal of Education*, 86 (1), 58-83.
- Baker, B. D., Di Carlo, M., & Green III, P. C. (2022). *Segregation and School Funding: How Housing Discrimination Reproduces Unequal Opportunity*. Albert Shanker Institute.
- Baker, B. D., Weber, M., & Srikanth, A. (2021). Informing Federal School Finance Policy with Empirical Evidence. *Journal of Education Finance*, 47 (1), 1-25.
- Green III, P. C., Baker, B. D., & Oluwole, J. O. (2008). Achieving Racial Equal Educational Opportunity through School Finance Litigation. *Stanford Journal for Civil Rights and Civil Liberties*, 4, 283.
- Green III, P. C., Baker, B. D., & Oluwole, J. O. (2020). School Finance, Race, and Reparations. *Washington and Lee Journal of Civil Rights and Social Justice*, 27, 483.

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# Equitable and Diverse: Schools for the 21st Century

David Sciarra

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Every state constitution affirmatively mandates its legislature to maintain and support a system of elementary and secondary schools open to all children. This means that the states, not local school boards or the federal government, are legally obligated to effectuate the right to a free public education in the United States. And that public education must, at a minimum, guarantee every child equal educational opportunity.

As we near the quarter mark of the 21st century, two interrelated state policies continue to deprive politically marginalized and vulnerable students of their constitutional right to equal educational opportunity. The first are state policies for funding public education that consign low-income students and students of color to severely underfunded and under-resourced schools. In most states, the money available for schools to spend on teachers, support staff, facilities, and other essential resources is dependent on antiquated policies that tie funding levels to local property taxes. The result is immense resource disparities in schools that mirror the vast differences in wealth – and political clout – from one community to another. The second are state policies for determining local district boundaries that isolate students into racially and socioeconomically segregated schools across the country. These policies typically create hard, fixed boundaries for school attendance that mirror municipal and county borders. States also delegate to districts the power to establish attendance zones among neighborhoods within their borders. These restrictive policies, coupled with dramatic demographic shifts within the states, have resulted in districts and schools that are more deeply segregated by poverty and race today than they were 50 years ago.

School segregation has its roots in entrenched patterns of residential segregation and community disinvestment attributable to racist economic and housing policies at all levels of government. But state education policies have locked in school segregation as a defining feature of the current landscape of contemporary American public education. The harm to generations of children from inequitable school funding and intense student segregation cannot be overstated. It is a profound national tragedy. Black and Latino students and low-income students continue to be deprived of their legal entitlement to education through com-

pulsory attendance in schools lacking the funding and resources required for academic success. And all students – poor, affluent, Black, Latino, Native, Asian, and white – are deprived of the opportunity for an education in diverse learning environments necessary to prepare them for the multiracial and multicultural society they will enter upon graduation.

## The path forward: equity and diversity

For too long, civil and education rights lawyers, scholars, and advocates for equal educational opportunity have fragmented into separate camps: those pressing for

school desegregation and those pressing for equity in segregated schools. In my new report, “Equity and Diversity: Defining the Right to Education for the 21st Century,” I offer a bold path forward to remedy the entrenched school inequity and school segregation that continues to undermine equal

educational opportunity for our nation’s children. This way forward rests upon a “unified and expansive” definition of the right to education enshrined in each state’s constitution that encompasses *both* equitable funding *and* educating children in diverse schools and learning environments. Both are not peripheral, but central to the delivery of a constitutional education.

In this framework, equity and diversity have specific definitions. Equity means low-income students and students of color receive all the funding resources needed to achieve *now*, even though they attend schools segregated by poverty and race. Diversity means *all* students are afforded the opportunity to learn in schools with peers from differing races and socioeconomic backgrounds to prepare them for our rapidly evolving, multiracial, and multicultural society and democracy.

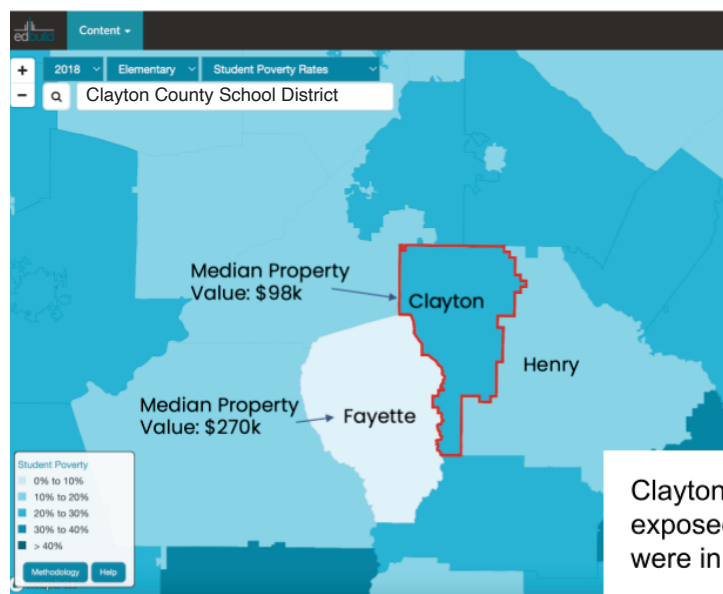
The way forward also embraces the stark political reality that effectuating the right to equitable and diverse schools demands a singular focus on the unit of government legally responsible for education: the states. While Congress and school boards have important roles, state legislatures and governors are affirmatively obligated under their constitu-

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***The harm to generations of children from inequitable school funding and intense student segregation cannot be overstated. It is a profound national tragedy.***

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### Pre-Pandemic Snapshot (Georgia)

Fayette: **6% poverty**; 53.6% nonwhite  
\$13,412/student (state&local)  
2.6% first year teachers

Henry: **12% poverty**; 74% nonwhite  
\$11,675/student (state&local)  
5.7% first year teachers

Clayton: **24% poverty**; 98% nonwhite  
\$10,873/student (state&local)  
14.8% first year teachers

Clayton's nearly 100% Black & Hispanic students are exposed to **5x** the rate of **novice teachers** than if they were in next-door Fayette.

### Brown's Promise

(Map: EdBuild, Dividing Lines website: ([edbuild.org/content/dividing-lines](https://edbuild.org/content/dividing-lines)))

families benefit just as much as their peers from these critical efforts. Desegregated schools are an important safeguard to ensure that we all share in the fruits and costs of innovation collectively.

Today, unfortunately, school segregation is as rampant as it was in the late 1960s, and not surprisingly, schools and districts with high numbers of students of color and students living in poverty are under-funded, over-reliant on novice teachers, and less likely to provide rigorous coursework (McGrew, 2019; Morgan, 2022; Patrick et al., 2020). Across the country, many school district boundaries have been gerrymandered to reinforce patterns of segregation and inequality in resources. If we want to give students of color equal educational opportunity—and if we want to prepare students of every race to thrive in an increasingly diverse, interconnected world—children from all backgrounds need to learn together in excellent, well-resourced, diverse schools led by diverse educators.

We must never stop advocating for more funding and resources in schools serving high concentrations of students living in poverty and students of color, but should also be

tackling the broken borders, boundaries, and policies that create the concentrations of poverty and racial isolation in the first place. We founded Brown's Promise to do just that.

## The link between boundaries and resource inequity

District boundaries and school attendance lines under-

mine attempts to achieve resource equity. Examples of these segregative school boundaries can be found in every state. Let's take Georgia's Clayton County and Fayette County public schools, for example (see map above). These two counties are directly next to one another, just south of Atlanta. Pre-pandemic, Clayton County had a 24 percent poverty rate, and its student population was 98 percent non-white. The dis-

trict's median property value was \$98,000. Meanwhile, neighboring district Fayette County had only a six percent poverty rate, a student population that was significantly less non-white (54 percent), and had a median property value nearly three times that of Clayton at \$270,000. In a place

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# Unintended Consequences of School Finance Reform? An Initial Exploration.

Philip Tegeler

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Funding disparities between school districts are driven by racial and economic segregation, and yet progressive state legislatures have generally bypassed desegregation in favor of compensatory funding for districts with greater student need and lower property wealth. Could these same progressive funding systems sometimes be inadvertently supporting segregation, or penalizing districts that attempt to deconcentrate poverty? If so, how can these unintended consequences be ameliorated, and what would a pro-integration state school funding system look like?

We previously explored these questions in the context of federal Title I funding in a 2019 policy brief for the National Coalition on School Diversity, “Title I Funding and School Integration: The Current Funding Formula’s Disincentives to Deconcentrate Poverty and Potential Ways Forward.” In that brief, we point out that the funding formula in Title I can financially penalize high-poverty districts that participate in interdistrict transfer programs by losing per-pupil funds and can remove funding flexibility for individual schools that drop below a 40 percent poverty rate. This issue even made it into the 2020 presidential campaign platforms of Elizabeth Warren and Bernie Sanders (who pledged to “end funding penalties for schools that attempt to desegregate”).

Since state education funding constitutes a much larger portion of school budgets than federal Title I funds, the potential impact of state funding incentives and penalties could also be more significant. But how serious is this concern? In our preliminary review of educational funding systems in states with relatively progressive funding statutes (Maryland, Massachusetts, North Carolina, Minnesota, New Jersey, New York, Delaware, and Wisconsin), we found two possible areas of concern. First, similar to Title I, since supplemental funding is often based on the *count* of low-income students attending schools in the district, an exodus of low-income students to participate in interdistrict integration programs could have a significant financial impact on the sending (high-need) district, with no compensatory funding following more affluent children coming into the

same district through magnet schools or neighborhood change.

Second, within districts, there may be unintended consequences of state funding systems that give enhanced funding based on high poverty concentration in specific schools. Of course, compensatory funding should increase as school-based poverty increases, but potentially “rewarding” districts for maintaining concentrated poverty in specific schools

(rather than deconcentrating poverty across a district) raises education policy concerns. Funding systems that have a specific funding cut-off “cliff” for supplemental funding may inadvertently create disincentives to intradistrict integration and poverty deconcentration for both district and individual school leaders. One example of this can be found in Minnesota, where districts receive increasingly generous per-pupil payments as individual schools increase in poverty concentration (Strom, 2022). Maryland’s “concentration of poverty grants” operate in much the same way, with additional funds allocated to schools with a minimum of 65 percent school poverty (MD. CODE ANN., EDUC. §5–223).

It also matters how the district distributes compensatory funds calculated on school-based poverty rates. In Minnesota, for example, only 50 percent of the additional funds awarded for high-poverty schools are earmarked for spending at those schools. Does this encourage districts to maintain poverty concentration at the schools generating these funds? (We hope not!) In Maryland, by contrast, extra funds allocated by the state for schools with greater than 65 percent poverty concentration are required to be allocated directly to those schools. In both scenarios, poverty deconcentration can result in a loss of revenue.

## Avoiding integration penalties and affirmatively promoting school diversity

Interdistrict school integration programs – and even traditional open enrollment systems – face potential financial

(Continued on page 18)

tions to maintain and support the state's public schools. It is state law, policy, and enforcement practices that either advance or impede a child's access to equal educational opportunity.

## Building blocks for equitable and diverse schools

State lawmakers, through their finance and assignment policies, perpetuate the persistence of inequitable, segregated schooling. But just as they cause school underfunding and segregation, state elected officials can end it. They can do so by putting in place the “building blocks” essential to support equitable and diverse school systems.

Legislatures must enact three policy reforms for equity in districts and schools segregated by poverty and race:

- Cost-based, weighted student funding;
- Universal, high-quality early education; and
- Needs-based financing for safe and adequate school buildings.

Additionally, four state policy reforms comprise the building blocks for diverse schools for all students:

- Redrawing district boundaries and school attendance zones;
- Implementing or expanding inter-district transfer programs;
- Prohibiting segregative district secession and charter schools; and
- Utilizing multi-district magnet and specialized schools.

We know from three decades of “education reform” that academic and accountability standards alone cannot – and will not – deliver equitable and diverse schools, nor will changes in local school governance. Advancing equity and diversity is entirely dependent on the states fulfilling their obligation to construct the building blocks essential for a constitutional education.

## A new movement for equitable and diverse schools

Students in school today must be prepared for citizenship and participation in a multiracial, multicultural

democracy and society. By 2050, over half of all American citizens will be people of color. This demands the states to educate their children in schools that are both equitable and diverse. It is time to set aside the debates over whether desegregation or equity is the right way to improve public education. We can no longer afford this time-worn either/or.

It is time to build a 21st Century movement to put an end to inequitable school funding and school segregation in the states. This must be a clear-eyed call to action, grounded in the stark reality of the challenge in confronting the fault lines of race and class that have fueled stubborn resistance in the states for decades.

The new movement not only requires breaking down past divides among advocates fighting for equitable funding and integration. It demands holding state lawmakers and governors to account. It also demands that organizers, parents, lawyers, researchers, educators, unions, and taxpayers unite to build multifaceted campaigns for reform, state by state, sustained for a long-haul historical project, not a one-off policy reform or episodic activism. We must start now. Children have only one opportunity for an education. The pursuit of both equity and diversity is essential to make meaningful progress in the historical quest to deliver a “constitutional education” to all students, especially for low-income students and students of color consigned to intensely segregated public schools across the nation. As the New Jersey Supreme Court has observed, “the lessons of the history of the struggle to bring our children a constitutional education render it essential that their interests remain prominent, paramount, and fully protected.” ■

## References

Sciarra, D. (2023). *Equity and Diversity: Defining the Right to Education for the 21st Century*. Education Law Center.

Sciarra, D. & Dingerson, L. (2021). *From Courthouse to Statehouse – And Back Again: The Role of Litigation in School Funding Reform*. Education Law Center.

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# Past, Present, and Future: Making and Unmaking the School-Prison Nexus

Matthew B. Kautz

When I began my teaching career in Detroit, I entered my co-located high school with excitement about all the curricular possibilities. However, within days, it became painfully clear the school's approach to discipline dominated the educational experiences of students and staff. This point was driven home at the end of my second week of teaching when a pep rally turned chaotic after a water bottle was thrown from one row of seats to another.

Unbeknownst to me at the time, my school's administration called the Detroit Police Department (DPD) and then ushered students out through the main entrance. Three DPD cruisers swerved to a stop in front of the school as students exited the doors, and officers began chasing the now frightened youth. Police mercilessly sprayed mace to incapacitate and arrest students. The following Monday, our school's administration suspended students suspected of participating in the chaos for resisting arrest. The horror of powerlessly watching that scene unfold, the issuance of exclusionary punishments seemingly without cause, and the frightening banality of it all in the eyes of my veteran peers left me dumbfounded.

Our school continued to suspend students indiscriminately for the rest of the year, while the DPD periodically entered the building and roamed the hallways. I later learned these "sweep teams" dated to the 1980s, when police began conducting random body searches at schools. The combination of mass suspensions and police presence constricted our school's educational possibilities, creating a repressive culture founded on mistrust. This mistrust combined with an austerity budget produced an unease about job security and students' futures that proved paralytic. With so few resources, we relied on punishment, rather than risk imagining how we might build a safe and supportive community without suspension.

This system of punishment in our segregated school, like many of those throughout the country, rested upon educator discretion which determined what actions rose to a suspendable offense or were labeled a crime. Although the prevailing relationship between schools, police, and prisons has often been framed as an outgrowth of "zero tolerance"

policies passed in the 1990s, which automated suspensions for chargeable offenses (such as possession of drugs or weapons on school grounds or fighting), our current crisis stems from an even longer history of criminalization of young people, particularly low-income youth of color, through vague disciplinary policies predicated on education discretion (Kautz, 2023). Most suspensions, in the past and present, have been for minor behaviors issued at the discretion of teachers and principals (Fabelo et al., 2011).

Schools' reliance on exclusionary punishments took shape in the mid-twentieth century. The number of suspensions issued expanded dramatically following the Supreme Court's decision in *Brown v. Board of Education*. In 1973, the Robert F. Kennedy Memorial Fund and the Southern Regional Council published a study entitled *The Student Pushout: Victim of Continued Resistance to Desegregation*,

which demonstrated how "suspension and expulsion ha[d] been used as weapons of discrimination, especially in resisting increased desegregation and in some instances during protests for more general students' rights." These suspensions, the report found, were largely for ambiguous offenses which hinged on how educators understood and framed student behavior. Local school boards, teachers, and administrators resisted legal challenges by organizations like the Children's Defense Fund that sought to abolish suspension and create new systems of justice and accountability within schools on the premise that teachers and principals needed unlimited authority over school discipline to ensure order. Of course, in the highly contested era of desegregation, "order" operated as a facially race-neutral euphemism for segregation. As one lawyer protesting the discriminatory use of suspension in Boston during court-ordered desegregation put it, "City defendants have done everything in their power to keep black children from attending school with white children. Prevented by this court from locking the door, they have, through the suspension device, created a revolving door that sends black children home almost as fast as they arrive at a 'desegregated' school" (Kautz, 2023).

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***With so few resources, we relied on punishment, rather than risk imagining how we might build a safe and supportive community without suspension.***

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disincentives for both the sending and receiving districts. Ideally, the receiving (low-need) school district should have an incentive for welcoming new low-income students into their system, and the sending (high-need) school district should not bear too heavy a financial penalty for participating. Connecticut has tried to achieve this balance in the Open Choice (city to suburban) school integration program, which gives increasing per-pupil payments to receiving towns based on their percentage of city enrollment, and also permits the sending and receiving districts to split the state Education Cost Sharing allocation for each participating student (decreasing the aggregate resident student count by one half of a student for the sending district and increasing the aggregate resident student count by one half of a student for the receiving district for each Open Choice student). Similarly, in Wisconsin's former Chapter 220 integration program (now phasing out), the receiving suburban district received state educational aid equal to the average net cost per pupil for each pupil accepted, and the sending district (Milwaukee) continued to count each outgoing pupil as 3/4th of a pupil for funding purposes.

Avoiding financial incentives for maintaining high poverty rates in individual schools *within* a district can be achieved by avoiding bright-line thresholds for enhanced funding, and by holding schools harmless for reducing poverty concentration over time. Maryland's concentration of poverty grants includes a specific threshold for enhanced funding (65 percent poverty) but ameliorates that policy somewhat by decreasing the poverty concentration threshold by five percent in each of the next seven years, allowing these schools to continue to benefit from a compensatory poverty concentration "bonus" even as they reduce poverty concentration over time.

Beyond eliminating potential adverse financial incentives, what kinds of positive state funding incentives might actively *encourage* diverse districts to promote racial and economic integration between schools? One state approach could be modeled on the proposed federal Strength in Diversity Act, offering generous planning grants to local districts to plan for integration, followed by substantial implementation grants to move forward with school diversity plans. Other incentive structures could be directly built

into state funding systems so that funding could be provided annually to relatively diverse districts for progress in reducing racial and economic segregation across schools.

The existence of funding structures that encourage and perpetuate segregation are well known to advocates of fair housing, but not generally acknowledged by advocates for educational equity. Further research along the lines sketched out above would be helpful to include in the next generation of school finance reform.

## References

- Black, D. W. (2010). The Congressional Failure to Enforce Equal Protection Through the Elementary and Secondary Education Act. *B.U. Law Review*, 90, 313.
- Knudsen, B. & Tegeler, P. (2021). *Which Districts Might Benefit from the Strength in Diversity Act: A Look into the Most Diverse, But Segregated, Large School Districts in the United States*. National Coalition on School Diversity.
- Strom, T. (2022). *Minnesota School Finance: A Guide for Legislators*. Minnesota House Research Department.
- Tegeler, P. & Hilton, M. (2018). Disrupting the Reciprocal Relationship Between Housing and School Segregation. *A Shared Future: Fostering Communities of Inclusion in an Era of Inequality*. Joint Center for Housing Studies of Harvard University.
- Tegeler, P., & Milwit, L. (2019). *Title I Funding and School Integration: The Current Funding Formula's Disincentives to Deconcentrate Poverty and Potential Ways Forward, Policy Brief No. 9*. National Coalition on School Diversity.
- Wilson, E. (2021). Monopolizing Whiteness. *Harvard Law Review*, 134, 2382.

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# Chester Hartman – In Memoriam

## (1936-2023)

By John Charles Boger, PRRAC Board Member

We at the Poverty & Race Research Council (PRRAC) pause here to remember and lift up the life of Chester Hartman, whose death in San Francisco on May 9, 2023 ended 87 years of remarkable service. PRRAC was especially blessed when Chester agreed to become our first Executive Director (1989-2003) and thereafter stayed on as our Research Director (2003-2015).

PRRAC sprang to life in 1989 thanks to the prompting of Jim Gibson of the Rockefeller Foundation, who had long funded key national civil rights, legal services, and anti-poverty groups. In sparking the birth of PRRAC, Gibson urged greater mutual collaboration among these groups, challenging them to dig deeper to gauge and then confront more profoundly the *interrelated* racial and economic forces that continued to bar millions of poor families and people of color from the American mainstream – a virtual straitjacket woven from racial exclusion and economic exploitation.

In order to articulate this vision, PRRAC needed a leader of immense learning, energy, and passion who could strengthen daily the national network of scholars, activists, litigators, and legislators devoted to these core issues.

Chester Hartman's name soon emerged. All recognized at once his extraordinary qualifications for the task ahead. A Ph.D. graduate of Harvard's preeminent Department of City & Regional Planning, Chester had subsequently taught at half of the Ivies – Harvard, Yale, Cornell, and Columbia – as well as at some of the nation's other great public and private universities: Berkeley, the University of North Carolina, George Washington University, and UMass Boston. His writings were prodigious; in addition to scores of articles, Chester would eventually author seven scholarly volumes and actively edit some 13 more.

What we didn't fully appreciate is just how thoroughly Chester's prior decades of professional life – he was 53 when he joined PRRAC – fit him for his demanding new role. As his old friend and colleague Peter Dreier recently wrote in a wonderful tribute appearing on PRRAC's website and in *Shelterforce* (May 18, 2023):

Trained at Harvard's city planning program but never seduced by the cult of expertise . . . dominant in planning schools, Chester used his professional skills in the service of grassroots movements at both the local and national levels. He also helped build a national movement to link progressive planners and urban activists, most notably by his energetic efforts to create the *Planners Network*, which since 1975 has sponsored a newsletter and organized conferences so planners can shape their political and professional ideas.

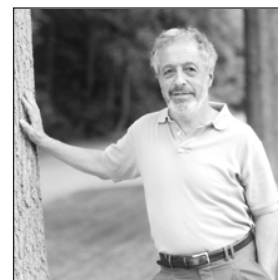
Chester . . . looked at urban renewal from the perspective of its victims, told their story, and then used his professional, organizing, and writing skills to challenge top-down planning. His combination of passion, persistence, political savvy, and professional skills helped change city planning for the better.

Dreier went on to recount Chester's roles as a progressive planner/consultant to groups in Boston and later in San Francisco that were fighting to prevent local highway projects from destroying their communities. Chester later joined the National Housing Law Project, daily advising lawyers who worked with low-income families and communities of color on how best to shape their clients' demands. Later, for several decades, he worked with the Institute of Policy Studies, where he developed a broad domestic portfolio of research and proposed policies in support of progressive housing and racial justice.

I well recall my close working relationship with Chester as PRRAC's Board Chair. Chester had bone-deep knowledge about, and profound practical insights into the inescapable relation between systemic racial discrimination and persistent poverty. He was genial and soft-spoken, often mildly ironic, but always tireless in his commitment to writing, organizing, convening, and speaking about ways to change those powerful, centuries-long patterns. He was a boon to us all.

Chester was also integral to drawing together the remarkable people and organizations who made up, and still make up, its Board, its illustrious Social Science Advisory Board, and its thousands of subscribers and conference participants. No one else, I think, could have assembled such a deeply devoted group while regularly soliciting short articles from the nation's leading social scientists and maintaining PRRAC's remarkable, inside-the-Beltway conversations with scores of Congressional and Executive leaders and their key staffers. All the while, Chester the editor was meticulously overseeing *Poverty & Race*, the very journal you're reading now, while simultaneously authoring and/or editing his own books that emerged from his always active mind and heart, regularly reaching tens of thousands of activists and reformers across the nation.

At a personal level, I felt exceptionally lucky to have shared so many hours of contact with Chester. He was a wise and wonderful colleague and a good friend to all. His talented wife Amy and his children Ben and Jeremy have been generous to PRRAC in their unswerving support of his work. Chester Hartman's lifelong contributions to the 'unfinished business of America' have been immense. We will miss him greatly. ■



Throughout the country, the growing presence of police within schools exacerbated this punitive system. During the 1960s, police started entering schools on a regular basis in response to student activism and to oversee the process of desegregation (Hale, 2018; Kautz, 2023). Police departments, which municipal governments had used to uphold segregation, were now charged with ensuring peaceful desegregation and maintaining order. Rather than addressing massive white resistance, their focus increasingly turned to Black youth. The combination of discretionary suspensions and police in schools turned adolescent behaviors into suspendable offenses and, sometimes, crimes. In places like Boston, school officials invested heavily in police and paramilitary security structures. Between 1979 and 1985, the city's school security budget increased from \$700,000 to more than \$2 million, even as overall educational expenditures decreased by 15 percent (Kautz, 2023).

Over time, this punitive combination metastasized into what is commonly called the “school-to-prison-pipeline” or “school-prison nexus,” and it created ideological justifications for the hyper surveillance of Black youth inside and outside of school, the implementation of strict disciplinary policies, and the (re)segregation of schools. Its corrosive effects have constricted our imagination for building school community and creating spaces for all children to thrive. It has also redirected scarce resources away from students, educators, and guidance counselors to school police, disciplinary aides, and metal detectors.

The intensity of police power and punitive discipline is most severe in the nation's segregated schools serving Black and Latinx students, thus making these institutions key sites of criminalization. Young people attending these schools confront heightened possibilities of arrest and imprisonment (Schept et al., 2014). Statistical analyses of school punishment and incarceration have demonstrated that suspension “is the number-one predictor . . . of whether children will drop out of school, and walk down a road that includes a greater likelihood of unemployment . . . and imprisonment” (Flannery, 2015). Students suspended or expelled for a discretionary violation are three times more likely to be in contact with the juvenile justice system the

following year, and those suspensions increase the likelihood a young person drops out of school (Fabelo et al., 2011). Once a school pushes out a child, they are eight

times more likely to be incarcerated than those who graduate from high school (Schept et al., 2014).

Still more troublesome, policymakers and education reformers have used the suspension and school-based arrest statistics produced by these discriminatory systems of punishment to naturalize and rationalize school segregation, punitive disciplinary policies, and the reallocation of educational resources into surveillance and policing. In

schools like the one where I began my teaching career, the educational possibilities for students, parents, teachers, and administrators have been and remain circumscribed by our punitive orientation and insistence that we as educators, alongside police, could issue punishment at our discretion. Within this prerogative, one that was cemented into policy and practice amidst massive resistance to school desegregation, rests the premise that not all students are entitled to the benefits of schooling, that policymakers and educators need not divest from exclusionary imperatives, only redirect them.

This history of school policing and punishment should destabilize presumptions that suspensions or school-based police increase safety or provide educational value. In fact, researchers have found that the presence of police on a school campus increases the likelihood of arrest five-fold and that suspensions cause significant harm, including pushing students out of school (Henning, 2021). To address our current crisis, we must reconcile with the discretion embedded within prevailing school disciplinary systems and expand how we conceptualize community and accountability. For instance, when the Children's Defense Fund sought to abolish suspension in the 1970s, they turned to educators in New York who collaborated with students to redefine what school could be. In response to students' recommendations, the principal designated a room within the building as “the student lounge”—a space students had requested to cool down and collect themselves—and developed new courses based on student interest (Children's Defense Fund, 1975). As another example, the

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Black Panthers' Oakland Community School encouraged democratic participation and accountability by establishing a "Justice Court," in which students organized and conducted hearings (Robinson, 2020). During court-ordered desegregation in Boston, Puerto Rican students proposed convening a jury to adjudicate disciplinary matters composed of teachers, students, and family members who collectively presided over allegations of misbehavior, including those made against teachers ("Memo and Draft Opinion and Order on Student Discipline," 1976). These examples speak to the various ways educators can dispense punitive imperatives to reimagine justice and accountability in solidarity with their students.

The liberatory potential of education has often made schools the site of struggles for justice and institutions through which new possibilities have taken shape. However, the history of segregation and inequality in our schools has foreshortened these possibilities and continues to do so into the present. Educators, alongside students and families, can curtail the reach of the school-prison nexus by expelling police from schools and hiring social workers, school nurses, and community aides in their place. Similarly, transforming disciplinary systems of punishment into democratic processes of accountability and equality can create the spaces necessary to reimagine what school could be and build it alongside students.

The existence of possible solutions does not mean implementation will be easy, as social and institutional changes never are. As Robin Kelley has observed, social movements are as much about the demonstrations that define them and the structural change they can ignite as they are about "self-transformation" that "chang[es] the way we think, live, love, and handle pain." Unmaking the school-prison nexus will require hope, patience, and love. It will require a willingness to partner with the young people in our care to dream about what school can be and build it together.

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## References

- Children's Defense Fund. (1975). *School Suspensions—Are They Helping Children? A Report*. Washington Research Project.
- Fabelo, T., Thompson, M., Plotkin, M., Carmichael, D., Marchbanks III, M., & Booth, E. (2011). *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*. Council of State Governments Justice Center.
- Flannery, M. (2015). "The School-to-Prison Pipeline: Time to Shut It Down." *neaToday*.
- Hale J. N. (2018). Future Foot Soldiers or Budding Criminals?: The Dynamics of High School Student Activism in the Southern Black Freedom Struggle. *Journal of Southern History*, 84 (3), 64.
- Henning, K. (2021). *The Rage of Innocence: How America Criminalizes Black Youth*. Pantheon Books.
- Kautz, M. (2023). From Segregation to Suspension: The Solidification of the Contemporary School-Prison Nexus in Boston, 1963-1985. *Journal of Urban History*, 49 (5).
- "Memo and Draft Opinion and Order on Student Discipline." *Arthur Garrity, Jr. Chambers Papers on the Boston Schools Desegregation Case*, Joseph P. Healey Library, UMASS-Boston, Series LIII Safety and Security, 1974-1985, Box 41, Folder 10.
- Robert F. Kennedy Memorial Fund & Southern Regional Council (1974). *The Student Pushout: Victim of Continued Resistance to Desegregation*. Southern Regional Council.
- Robinson, R. P. (2020). Until the Revolution: Analyzing the Politics, Pedagogy, and Curriculum of the Oakland Community School. *Espacio, Tiempo y Educacion*, 7 (1), 181.
- Schept, J., Wall, T., & Brisman, A. (2014). Building, Staffing, and Insulating: An Architecture of Criminological Complicity in the School-to-Prison Pipeline. *Social Justice*, 41 (4), 96.

like Georgia, where about 50 percent of education funding comes from local property tax revenue and the state funding is not sufficiently targeted to make up the difference, this means that Clayton spends substantially less per student than Fayette, even though Clayton serves students with four times the poverty. This difference in funding manifests in real differences in the resources offered in these two neighboring districts. To take just one example, Clayton's nearly all Black and Hispanic students are exposed to novice teachers at a rate five times that of their peers in Fayette County.

Could Georgia fix this issue by just better targeting its dollars to Clayton County public schools, without tackling the borders themselves? It is

true that there is significant room for improvement in Georgia's funding formula, which is one of the very few in the country that has no additional funding for students living in poverty. But without addressing these segregating borders directly, leaders in Georgia and around the country will continue to struggle to achieve educational equity, because (1) it is more expensive to

sufficiently fund schools mired by intense and segregated poverty; (2) a system funded largely by local property taxes requires a substantial (and politically unpopular) need to shift money from one district to another to achieve equal, much less equitable, funding; and (3) funding policy changes have not overcome patterns in which deeply segregated districts, schools, and classrooms serving students of color and low-income students are subjected to (e.g., the most teacher churn and fewest advanced courses). Indeed, in 2019, one only had to look a few miles north to Atlanta Public Schools to see that even spending \$22,000 per student in a district with 31 percent poverty and 86 percent students of color often does not overcome the teacher churn problem – more than one in 10 teachers were in their first year in Atlanta, a rate of novice educators that is many times greater than the rates in other, less poverty-ridden, whiter districts carved out of the surrounding areas.

## Strategies to address resource inequity have become siloed

Many litigators, advocates, and experts have dedicated their work to solving the problem of resource inequities in

education in our country. However, those working on resource equity from a fair funding perspective tend to be significantly siloed from those working on resource equity from a school desegregation perspective, and vice versa.

Two Supreme Court cases in the mid-1970s helped to create this divergence in strategy. In 1973 the Supreme Court decided, in *San Antonio ISD v. Rodriguez*, that there was no federal constitutional right to a public education. Fair funding advocates responded by shifting to state court litigation, pursuing cases demanding better and more equitable resources for schools serving high concentrations of students of color and from low-income families based on state constitutional requirements to provide a public

education. The following year, in *Milliken v. Bradley* (1974), the Court ruled that federal courts could not impose multidistrict, regional desegregation plans in the absence of any evidence that individual districts intentionally committed acts causing racial segregation. Integration advocates responded largely by pursuing federal court litigation and remedies focused on within-district desegregation. In the

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These siloed strategies are reinforced by more than Supreme Court jurisprudence and litigation. For example, data availability has reinforced the division between researchers focused on school funding and those focused on integration. Student race and family income information is widely available at the school level, meaning that researchers can study and model levels of integration/segregation between schools within districts fairly easily – and they do. But until recently, there was no widespread data on per-pupil spending at the school level; the only way to assess funding inequities at scale was to analyze intradistrict spending patterns, which reinforced the idea that school funding work is about interdistrict lines. Moreover, integration was about school assignment boundaries within districts, and kept the two fields working in often parallel paths without building relationships, connections, and knowledge

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about the ways that these two issues so deeply impact one another.

For those reasons and more, today's research, policy, legal, and advocacy landscape is striking. There are "school integration" organizations, researchers, and advocates that specifically dedicate time and attention to this issue. Yet the vast number of "education equity" organizations, researchers, advocates, and networks of changemakers who dedicate themselves to all types of resource equity – school funding, access to excellent educators, access to advanced coursework, school discipline inequities, social and emotional learning, STEM, arts, etc. – rarely discuss the role school segregation and integration play in hindering or advancing the work.

## The work ahead

We can't keep letting artificial school district and attendance boundaries separate students from opportunity—and from each other. We also must harness the energy and expertise from the often siloed fields of school finance and school desegregation into an integrated approach to education equity advocacy and litigation. We founded Brown's Promise to catalyze a new wave of litigation, advocacy, and communications dedicated to supporting racially and socioeconomically diverse, well-resourced schools that are safe, affirming, and prepare each student for success. We will do this work in partnership with state and community-based advocates, ensuring that our strategies always seek to center the experiences of the students, families, and communities that have been historically foreclosed from opportunity in this country.

We are unlikely to overcome our country's proclivity towards unequally distributing educational resources to students of color unless there is a significant movement towards school desegregation once again. As Nikole Hannah-Jones said, "Parents demanded integration only after they realized that in a country that does not value black children the same as white ones, black children will never get what white children get unless they sit where white children sit." Past integration efforts were undoubtedly successful at advancing resource equity and the results are borne out in the data showing significant improvements in outcomes for Black and Hispanic students. And yet, today, efforts to advance educational equity (e.g., state court litigation, funding formula policy change, policy advocacy related to access to non-novice teachers, advanced coursework, and school funding) are almost universally silent on the need to tackle segregation and advance meaningful school integration as a step in this jour-

ney. Brown's Promise will help to shine a light on the important intersection of school funding and school segregation, and work to create proof points from which we hope to drive a more national reform strategy to break down barriers between students and education opportunities.

## References

- Anstreicher, G. Fletcher, J. & Thompson, O. (2022). *The Long Run Impacts of Court-Ordered Desegregation, Working Paper No. 29926*. National Bureau of Economic Research.
- Antman, F. & Cortez, K. (2022). *The Long Run Impacts of Mexican-American School Desegregation*, Discussion Paper No. 15019. IZA Institute of Labor Economics.
- Baker, B. (2016). *Does Money Matter in Education? Second Edition*. Albert Shanker Institute.
- Black, D. W. (2023). Localism, Pretext, and the Color of School Dollars. *Minnesota Law Review*, 107, 1415.
- Jackson, C. K. & Mackevicius, C. (2021). *The Distribution of School Spending Impacts Working Paper No. 28517*. National Bureau of Economic Research.
- Patrick, K., Socol, A., & Morgan, I. (2020). *Inequities in Advanced Coursework: What's Driving Them and What Leaders Can Do*. The Education Trust.
- Morgan, I. (2022). *Equal Is Not Good Enough, An Analysis of School Funding Equity Across the US and Within Each State*. The Education Trust.
- Johnson, R., & Nazaryan, A. (2019). *Children of the Dream: Why School Integration Works*. Basic Books and Russell Sage Foundation Press.
- Alliance for Resource Equity. (2022). Dimensions of Equity (<https://educationresourceequity.org/dimensions-of-equity/>).
- Schwartz, H. (2010). *Housing Policy Is School Policy: Economically Integrative Housing Promotes Academic Success in Montgomery County, Maryland*. The Century Foundation.
- McGrew, W. (2019). *U.S. School Segregation in the 21st Century: Causes, Consequences, and Solutions*. Washington Center for Equitable Growth.

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The Court made that shift in three parts. First, the Court in *Milliken* elevated local school districts to a preeminent value. That elevation was obvious when the Court wrote:

[T]he notion that school district lines may be casually ignored or treated as a mere administrative convenience is contrary to the history of public education in our country. No single tradition in public education is more deeply rooted than local control over the operation of schools; local autonomy has long been thought essential both to the maintenance of community concern and support for public schools and to quality of the educational process.

Second, the Court conceptualized the districts as detached from the state and each other. Each district, the Court emphasized, had its own independent corporate body, interests, and student bodies. The only seeming connection between them was geographic proximity. Conspicuously absent was any reference to the state or its creation of a state-wide system of education through school districts.

Third, the Court argued that one district's malfeasance—or the state's for that matter—could not justify intruding into the operations of another district. Each district has its own unique systems and practices, all of which are worthy of respect. The Court worried that a metropolitan-wide remedy that cut across districts would undercut existing local school finance and authority. The Court imagined a litany of unacceptable problems: the displacement of currently elected school boards, jurisdictional lines, taxing authority, long-term bonds, and curricula decisions. The Court afforded these local interests a surprisingly high level of respect, commensurate with the respect it had afforded state interests in *Rodriguez*.

Proceeding from these three points, the Court inverted the question before it from how best to remedy the proven constitutional violation of segregation to whether it was appropriate to impose an education remedy that involves “more than a single district.” The Court's default assumption was that school district boundaries are sacrosanct and beyond judicial reach. Combined with *Rodriguez*, that also meant the freedom to hoard resources within those boundaries.

Yet, the Court reached this result without ever seriously inquiring as to districts' legal status or how they came to be—other than they were adopted 100 years ago under neutral principles. Instead, the Court implicitly and explicitly conveyed the notion that individual districts are an inherent and normatively neutral aspect of education that do not require any justification. Had the Court dug just a little, it

would have recognized that completely independent and autonomous school districts are not part of some original grand scheme for public education.

To the contrary, state constitutions have long contained provisions that assign educational responsibilities to the states, not local districts. The point, now more than two centuries old, was for states to elevate educational opportunity in communities that needed help and to build statewide systems of schools where people from different stations in life would come together for a common experience. The first state education mandate was in Massachusetts' 1780 constitution. Over the next century, all but one state (which already had a strong statutory system) would provide for public education in its state constitution.

Local communities were, of course, vital to providing that state-based education, but local taxes and funding were a means to an end rather than an end in themselves. States authorized and relied on local taxes and funding, not because of some normative value of localism, but because property taxes were new to most citizens. Particularly in the North, state leaders believed that prevalent anti-tax sentiments might initially be best navigated at the local level. Thus, localism arose, contrary to courts' assumptions, as an extension or delegation of states' education duty. It is of little surprise that the modern term “school district” rarely even appears in the text of state constitutions.

The story was more sordid in the South. There, localism came into prevalence as a means to segregate and defund Black education in the late 1800s. During Reconstruction, southern states had constitutionalized states' public education duty to ensure that all persons, including African Americans and poor whites, received an education that prepared them to participate as full citizens. It took state leadership to transition schooling from a randomly occurring phenomenon in individual communities to an expanding system of formal education. But after Reconstruction, those aiming to reduce African Americans to second-class citizenship targeted public education, understanding public education was the gateway to exercising political power. States amended their constitutions and laws to require school segregation. At the same time, they altered how they funded and managed education. Fearing that segregating school taxes and funds at the state level would draw federal intervention, state leaders sought to achieve the same practical result by moving more funding and decision-making to the local level.

While *Brown v. Board* declared school segregation itself unconstitutional, other related aspects of segregated schools—particularly the decentralization of school funding—con-

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students, percentage plans that allowed admission from a greater number of feeder schools, and recognition of language and socioeconomic characteristics to ensure greater diversity. But the majority opinion failed to even mention K-12 schools.

This is not to suggest that the opposition will not try to use the opinion to preserve majority-white schools at all costs. The attack on affirmative action admissions has always been merely a down payment on extremists' broader anti-civil rights agenda. Just hours after the Supreme Court's decision was released, SFFA Board Member Kenny Xu appeared on CNN professing his disapproval of race-neutral socioeconomic plans. And the opposition has filed a handful of cases challenging school districts' race-neutral admissions plans at specialty schools in Fairfax, Virginia; New York City; Boston; and Montgomery County, Maryland. The admissions policies sought to remove or reduce the influence of artificial barriers like entrance exams that were impairing fair access to substantial numbers of underserved students. Although the allegations and claims differ between the cases, the plaintiffs allege that race-neutral plans that merely reflect upon racial demographics among other demographics including language and socioeconomic status are evidence of discriminatory intent against Asian Americans and/or should be subjected to strict scrutiny.

Fortunately, the cases have been wildly unsuccessful. In *Coalition for TJ*, the Fourth Circuit recently held that Fairfax County's race-neutral policy should not be subjected to strict scrutiny since it did not rely on racial classifications, and instead approved the lawfulness of the plan under the less onerous rational basis standard after finding that the plaintiffs failed to prove intentional discrimination. Likewise, in the *Boston Parent Coalition* case, the district

court held that Boston's plan satisfied rational basis and did not intentionally discriminate against the plaintiffs. In *Christa McAuliffe*, the federal district court found the revised New York City specialized admissions plan did not disparately impact Asian American students. And the *Association for Education Fairness* case was similarly dismissed in Maryland.

However, while the battles are won in K-12 thus far, the war against equal opportunity and racial justice will continue. The Pacific Legal Foundation, which is one of the extremist organizations representing the plaintiffs in some of these cases, has announced plans to seek review by the Supreme Court of the Fourth Circuit's decision in *Coalition for TJ*. And appeals are ongoing in the other cases. But rest assured, the civil rights and educational communities will rise together to help ensure the *Harvard/UNC* decision is not used to further limit opportunities for students across different races and economic backgrounds to learn and live together. ■

## References

Hinojosa, D. & Bonadies Torres, G. (2023). The Absurd Reach of a Colorblind Constitution. *American University Law Review*, 72, 1731.

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tinued unchecked after it. The longer those aspects remained, the more the Court accepted them as a neutral aspect of delivering public education, eventually treating them as more important than any other value in education. An important step in remedying entrenched school funding inequalities is to first recognize that they are partially rooted in the history of Jim Crow segregation. Elsewhere, they are the happenstance product of tax aversion. Either way, there is nothing normative or inherent about localized education. In short, localism is a pretext for ignoring inequality rather than a legitimate constitutional justification for it. The time has long come to interrogate and reform it. ■

## References

Black, D. W. (2023). Localism, Pretext, and the Color of School Dollars. *Minnesota Law Review*, 107, 1415.

Black, D. W. (2020). *Schoolhouse Burning: Public Education and the Assault on American Democracy*. Public Affairs.

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# THE 9<sup>TH</sup> NATIONAL CONFERENCE ON HOUSING MOBILITY

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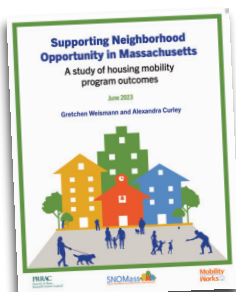
- 8:30 Registration, light breakfast
- 9:15 Welcoming remarks
- 9:30-10:45 PANEL: Latest research on housing mobility and the Housing Choice Voucher program
- 11:00-12:15 PANEL: Innovations in housing mobility practice
- 12:15 LUNCH
- 1:00 Keynote Address by Professor Raj Chetty
- 1:30-3:00 PANEL: Progress report on the Community Choice Demonstration
- 3:15-5:00 PANEL: Developing policy prospects at HUD and in Congress
- 5:00 Closing remarks
- 5:30 Reception (on site)

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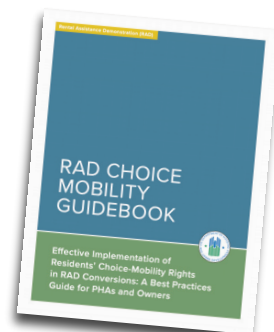
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