
State Support for Local School Construction: Leveraging Equity and Diversity¹

I. Introduction

Government policies and actions have created, promoted, and maintained housing and school segregation, and the ways in which they directly and indirectly have perpetuated and continue to perpetuate segregation have been thoroughly documented.² School construction has historically been one of the policies that drive segregation, and yet today, states and localities continue to invest in school construction without considering its impacts on segregation.

A growing number of states have policies that positively address resource equity in school construction, distributing capital resources based on district wealth³ (although as we will address below, these policies are not always implemented with actual funding), but almost no states require any consideration of diversity or segregation in their school construction decision-making processes, even though this is a major factor affecting educational equity.

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This report/analysis provides an overview of the historical relationship of school construction and school segregation, including evidence of school construction policies in key desegregation court cases. It then describes the state role in local school construction today, highlights key

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- 1 This Policy Brief was authored by Lauren Mittman (PRRAC Law & Policy Intern), Nikhil De (PRRAC Policy Intern), and Philip Tegeler (PRRAC Executive Director). It was conceived as a further exploration of the school construction recommendations in *Model State School Integration Policies* (PRRAC and NCSD, May 2020), <https://prrac.org/ncsd-policy-brief-11>.
 - 2 See e.g., Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (2017).
 - 3 A 2016 report by the 21st Century Schools Fund thoroughly documents state funding for school construction from 1994-2013, and discusses the close connection between school facilities and equity, but does not discuss the state role in perpetuating inequities through school construction. Mary Filardo, *State of Our Schools: America's K-12 Facilities*, 21st Century School Fund, <https://files.eric.ed.gov/fulltext/ED581630.pdf>.



trends and themes of this role,⁴ and provides two case studies that help to showcase examples of state participation in school construction, including successes and challenges. It ends by providing recommendations for states to better leverage their influence over local school construction to avoid perpetuating school segregation, and actively support school diversity.

Historical Context

School construction was historically used to create and maintain school and housing segregation throughout the South. In Raleigh, for example, local officials and elites in the 1920s built new schools in white suburbs to serve newly developing subdivisions protected by racial covenants,⁵ and chose not to build schools for Black children in neighborhoods where middle class Black families had started to move.⁶ These decisions were strategic, intended to have far-reaching effects on both school and housing segregation – it was understood that Black families would be forced to move back to segregated schools in traditionally Black city neighborhoods, and that White families would flock to the new schools being built in racially restricted, white suburbs.⁷ These early decisions had lasting impacts on the city's development,

4 States' roles and the key trends and themes were identified through the creation of a 50-state matrix that includes data on state funding programs, funding sources, criteria for funding construction projects, and more. This matrix is included in the appendix of this report.

5 Karen Benjamin, *Suburbanizing Jim Crow: The Impact of School Policy on Residential Segregation in Raleigh*, 38(2) *J. of Urb. Hist.* 225, 225-226 (2012), https://research.design.ncsu.edu/co-lab/wp-content/uploads/2015/12/Journal-of-Urban-History-2012-Benjamin_segrationschoolinRaleigh.pdf

6 *Id.* at 238.

7 *Id.*

creating segregation and physical separation that continues today.⁸ Even decades later, this vast separation posed a challenge, requiring extensive busing in order to integrate schools in the 1970s.

The role of school construction in segregation has also been recognized by the courts in landmark school desegregation cases. In *Swann v. Charlotte-Mecklenberg Board of Education* (1971), for example, the U.S. Supreme Court noted that the choices surrounding school construction (combined with student assignment decisions) have far-reaching consequences, and may influence patterns of residential development and the composition of inner-city neighborhoods.⁹ Two years later in *Bradley v. Milliken*, the 6th Circuit Court of Appeals discussed the role of school construction in causing and maintaining school segregation in Detroit, Michigan.¹⁰ In reviewing the record, the court said that Detroit Board of Education ignored guidance to consider racial balance in school siting and expansion decisions, and instead constructed schools in a way that “tended to have a segregative effect.” For example, they built schools in either mostly black or mostly white neighborhoods, so that the “new schools operated as one-race schools.”¹¹ In finding that state and local actors acted to create and maintain segregation through school construction and other means, the court found that the state’s oversight of school construction was the clearest example of direct state action supporting school segregation.¹²

Similar evidence was marshalled in Connecticut, as described in the trial court record in *Sheff v. O’Neill*. From the 1950s-1970s, the state was involved in a massive school construction program, approving and funding the construction of over 100 new schools in mostly white suburbs,¹³ at the same time as the city was experiencing white flight and the suburbs were

8 *Id.* at 241.

9 402 U.S. 1, 20-21 (1971) (“The construction of new schools and the closing of old ones are two of the most important functions of local school authorities and also two of the most complex. They must decide questions of location and capacity in light of population growth, finances, land values, site availability, through an almost endless list of factors to be considered. The result of this will be a decision which, when combined with one technique or another of student assignment, will determine the racial composition of the student body in each school in the system. Over the long run, the consequences of the choices will be far-reaching. People gravitate toward school facilities, just as schools are located in response to the needs of people. The location of schools may thus influence the patterns of residential development of a metropolitan area and have important impact on composition of inner-city neighborhoods.”).

10 484 F.2d 215, 242 (6th Cir. 1973) (en banc) (affirming both the finding of de jure segregation and the propriety of an interdistrict remedy). The Supreme Court granted certiorari and reversed in part. See *Milliken v. Bradley*, 418 U.S. 717 (1974) (Milliken I).

11 *Id.* at 235.

12 *Id.* at 241 (“The clearest example of direct State participation in encouraging the segregated condition of Detroit public schools, however, is that of school construction in Detroit and the surrounding suburban areas. Until 1962 the State Board of Education had direct statutory control over site planning for new school construction. During that time, as was pointed out above, the State approved school construction which fostered segregation throughout the Detroit Metropolitan area. (See *supra* pp. 235-239). Since 1962 the State Board has continued to be involved in approval of school construction plans.”).

13 *Post-Trial Brief for Petitioner* at 73-74, *Sheff v. O’Neill*, Superior Court, Judicial District of Hartford/New Britain at Hartford, Docket No. CV89-0360977S (April 12, 1995).

experiencing rapid expansion. The state also helped expand school capacity in the racially isolated Hartford school district.¹⁴

More recently, WBEZ reported in 2016 that Chicago was heavily investing in school construction, but was not making efforts to attract white students to underused schools, mostly attended by low-income and students of color. Instead, the city funded school expansion for the predominantly white schools rather than merging or redrawing boundaries, which would have also addressed under-resourcing issues in minority schools. Gary Orfield, director of the Civil Rights Project at UCLA noted that this Chicago practice looked remarkably like school construction policies in the 1960s that were used as a tool to preserve segregation.¹⁵

The Mechanics of State Involvement in School Construction Today

As the historical context demonstrates (including recent history), the location of new schools has clear implications for segregation, and involves both state and local actors. From this history, it is clear that states are often involved in approving and/or funding school construction. To better understand the modern context, and its implications for continuing school segregation, additional detail on states' involvement in school construction is necessary.

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Data from 1994-2013 indicates that many states have supported local school construction or expansion efforts. Five states pay almost of all of their school districts' local capital costs, while 12 states do not pay for any local capital costs.¹⁶ For the states that do help pay these costs, the form this financial support takes varies greatly by state. States may provide aid to local school districts through grants, reimbursements, debt service aid, loans, or some combination of these. States generally use a formula to allocate construction funding

among districts, and most state formulas contain an equity component, allocating more funding to lower-income/low-wealth school districts than to higher-income districts. These formulas are often a direct result of school finance litigation, such as in New Jersey¹⁷ and California,¹⁸ and they parallel similar equity formulas that govern state per pupil spending.

In addition to financially supporting school construction, states sometimes have an approval process by which they approve short-term and/or long-term local school building plans and decisions.

14 *Id.* at 74.

15 Sarah Karp and Becky Vevea, *How Chicago School Construction Furthers Race and Class Segregation*, WBEZ (July 7, 2016) <https://www.wbez.org/stories/how-chicago-school-construction-furthers-race-and-class-segregation/92305e1d-2888-46e3-9e6c-de3a3a7f01de>.

16 Filardo, *supra* note 3 at 4.

17 John Mooney, *Education Law Center Back in Court Seeking Money for New Abbott Schools*, NJ Spotlight (November 13, 2019) <https://www.njspotlight.com/2019/11/education-law-center-back-in-court-seeking-money-for-new-abbott-schools/>.

18 Paul A. Minorini and Stephen D. Sugarman, *Equity and Adequacy in Education Finance: Issues and*

II. THEMES AND TRENDS

A 50 state review of school construction funding and procedures reveals varying commitments to equity in capital funding (though statutory commitment may not be matched by actual funding), but almost no consideration of the impacts of school construction decisions on racial or economic segregation and diversity.

1) *Equity on paper, but not in practice*

The majority of states have policies that promote equity between wealthier and poorer school districts by using considerations of local wealth or ability to pay in their state aid funding formulas. However, disparities in local school construction spending across higher- and lower-income districts continue,¹⁹ likely because higher-income districts' combination of local funding and state funding (receiving less funding under an "equitable" formula) still exceeds lower-income districts' combination of local funding, and state funding (receiving more funding under an "equitable" formula). In other words, formulas, while "equitable," may not provide *enough* funding to lower-income school districts, as has been suggested in Texas.²⁰ Higher-income school district spending on resource-intensive construction projects such as planetariums and space centers may also contribute to the disparity.²¹



Another likely cause for continued disparity in local school construction spending is the lack of actual state funding available for local construction, despite the existence of equitable state formulae in theory. Some states have even instituted moratoriums on school construction spending, nullifying the effect of generous spending formulas. The lack of state funding is discussed further below.

Perspectives, 49 (1999), <https://www.nap.edu/read/6166/chapter/4#49>; *The History of Abbott v. Burke*, <https://edlawcenter.org/litigation/abbott-v-burke/abbott-history.html> (last visited July 15, 2020).

- 19 Jeffrey M. Vincent and Mary W. Filardo, *Linking School Construction Investments to Equity, Smart Growth, and Healthy Communities*, 3 (June 2008) https://citiesandschools.berkeley.edu/reports/Vincent_Filardo_2008_Linking_School_Construction_Jun2008.pdf; *The Status of School Finance Equity in Texas*, Intercultural Development Research Association, 10 (September 2009) https://www.urban.org/sites/default/files/publication/99706/school_district_funding_in_texas.pdf.
- 20 *The Status of School Finance Equity in Texas*, Intercultural Development Research Association, 10 (September 2009) https://www.urban.org/sites/default/files/publication/99706/school_district_funding_in_texas.pdf (Texas provides "token relief" through two of its grant programs).
- 21 Braley Dodson, *Pleasant Grove Planetarium Project Almost Fully Funded*, Herald Extra (February 4, 2020) https://www.heraldextra.com/news/local/education/precollegiate/pleasant-grove-planetarium-project-almost-fully-funded/article_a2db658d-af0d-5033-9263-06d8be876085.html.



2) Significant state investment and oversight without diversity policies or impact analysis

Although states impose a number of requirements on local school districts seeking to build new schools, and/or to receive state funding, no states consider, or require local districts to consider, whether a particular construction project or plan will increase or maintain racial and economic segregation, despite the significant impacts segregation has on academic achievement, student outcomes,²² and the local economy.²³ By not considering this data, states may be funding projects that exacerbate school segregation, and states are also missing an important opportunity to promote school diversity in the development or expansion of public schools.

There are at least two states that offer incentives to school districts that are proposing school construction with diversity in mind (although as noted above, no states appear to require local districts to consider the segregation or diversity impacts of their general construction proposals). For example, Washington State offers a 10 percent bonus for localities that can demonstrate the construction project they are seeking state funding for will eliminate racial imbalance.²⁴ Connecticut's state construction aid program also contains special reimbursement rates for construction of interdistrict magnet schools to promote diversity.²⁵ To be eligible,

22 For a survey of research on the benefits of school integration, see e.g., Roslyn Arlin Mickelson, *School Integration and K-12 Outcomes: An Updated Quick Synthesis of the Social Science Evidence*, National Coalition on School Diversity (October 2016), <https://school-diversity.org/pdf/DiversityResearchBriefNo5Oct2016Big.pdf>; Richard Rothstein, *The Racial Achievement Gap, Segregated Schools and Segregated Neighborhoods – A Constitutional Insult*, *Race and Soc. Probs.* 6 (4) (December 2014) <https://www.epi.org/publication/the-racial-achievement-gap-segregated-schools-and-segregated-neighborhoods-a-constitutional-insult/>.

23 Emanuela Grinberg, *The Hidden Costs of Segregation*, CNN (March 29, 2017), <https://www.cnn.com/2017/03/28/us/urban-institute-cost-of-segregation-study/index.html>

24 WAC 392-343-115, <https://apps.leg.wa.gov/wac/default.aspx?cite=392-343-115>. "Racial imbalance. Any school district that contains a school facility which is racially imbalanced as defined in WAC 392-342-025 shall receive state funding assistance under this subsection in the amount of an additional ten percentage points above the state funding assistance percentage as calculated pursuant to RCW 28A.525.116 (b) and (c) which will not exceed a total of ninety percent of the total approved cost of construction." However, it is unclear whether this policy provides enough of an incentive to school districts.

25 *Guide to Connecticut's Magnet Schools*, Connecticut School Finance Project, 15 (November 2018) <http://ctschoolfinance.org/assets/uploads/files/Guide-to-CTs-Magnet-Schools.pdf>.

applicants must provide an analysis of the proposed magnet school's impact on reducing racial, ethnic and economic isolation.²⁶

3) Lack of state funding

A slowdown in state school construction funding (and subsequent moratoria in some states) has resulted from recession cutbacks²⁷ and legislative gridlock in some states.²⁸ This challenge comes at the same time as a backlog of school construction needs and serious facility deficiencies in some states.²⁹

As a result, states are often not able to help fund local school construction, and counties, cities, towns, and school districts must secure all or most of the funding they need for school construction projects on their own. However, they often face their own challenges in raising and securing the funds for needed projects. This perpetuates the inequities between low- and high-income school districts, and the disinvestment in low-income district school facilities when those districts cannot afford to maintain or rebuild school facilities themselves.

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III. CASE STUDIES: EQUITY AND DIVERSITY IN SCHOOL CONSTRUCTION FUNDING

New Jersey:

New Jersey has led the country in aggressively seeking to equalize capital expenditures so that children in higher poverty, racially isolated districts have access to buildings that are safe, not a threat to health and well-being of students and teachers, not overcrowded and educationally adequate to deliver the full range of curriculum under state standards. Equalizing of school facilities in poor districts has not yet been linked to school integration goals in New Jersey, but arguably, equitable facilities and funding are a necessary prerequisite to integration efforts – which are now underway.

26 Marybeth Sullivan, *School Construction Grants*, Connecticut General Assembly Office of Legislative Research, 16 <https://www.cga.ct.gov/2016/rpt/pdf/2016-R-0148.pdf>.

27 Kate Masters, *In the Final Days of Session, Funding School Construction Remains a Budget Debate*, Virginia Mercury (March 6, 2020) <https://www.virginiamercury.com/2020/03/06/in-the-final-days-of-session-funding-school-construction-is-still-a-budget-debate/>.

28 T. Keung Hui, *Lack of NC Budget Leaves School Construction Money, Other Education Items in Limbo*, The News and Observer (November 29, 2019) <https://www.newsobserver.com/news/local/education/article237825789.html>.

29 See, e.g., Talia Richman, *Baltimore Schools Face Nearly \$3 Billion Maintenance Backlog*, Washington Post (September 29, 2018) https://www.washingtonpost.com/local/education/baltimore-schools-face-nearly-3-billion-maintenance-backlog/2018/09/29/beb7d9d6-c2ae-11e8-a1f0-a4051b6ad114_story.html.

New Jersey's long history of school finance litigation traces back to 1973, in *Robinson v. Cahill*, where the New Jersey Supreme Court declared that the state's school funding scheme was unconstitutional under the "thorough and efficient" clause of New Jersey's state constitution.³⁰ The court later approved the Public School Education Act of 1975, which provided state aid to poorer districts, but largely maintained the system of funding education using property taxes.³¹ However, in *Abbott v. Burke* (1990), the New Jersey Supreme Court held that the Act violated the state constitution when applied to twenty-eight high-poverty districts, now known as "Abbott" districts.³² Eventually, in 1998, the court imposed nine explicit demands on the state regarding Abbott districts, including initiating "effective managerial responsibility over school construction, including necessary funding measures and fiscal reforms as may be achieved through amendments to the Educational Facilities Act."³³

As a result of this mandate, the state assumed construction responsibilities for all educational facilities in the Abbott districts, which now include thirty-one districts, and significant facilities improvements continued. In 2000, the New Jersey Legislature passed the Educational Facilities Construction and Financing Act, which provided authority to the New Jersey Economic Development Authority (EDA) to oversee construction for the Abbott districts. In 2002, the Schools Construction Corporation (SCC) was created within the SCC to manage construction projects.³⁴ In 2007, the New Jersey School Development Authority (SDA) was created to replace the SCC to oversee facilities construction funding in an expanded list of districts.³⁵

Although New Jersey's investment in equitable school facilities has been impressive, there has not yet been any effort to link this new school construction funding to school integration efforts, and the schools built under the Abbott mandate generally continue to perpetuate the underlying racial and economic segregation (though districts now funded through the New Jersey School Development Authority include some naturally occurring diverse districts).³⁶ Thus, out of the thirty-one Abbott districts, seventeen had more than ninety percent of students who

30 306 A.2d 65 (N.J. 1973); Education Law Center, New Jersey, <https://edlawcenter.org/states/newjersey.html> (last visited July 20, 2020).

31 *Robinson v. Cahill*, 355 A.2d 129 (N.J. 1976).

32 575 A.2d 359 (N.J. 1990).

33 *Abbott v. Burke*, 710 A.2d 450 (N.J. 1998).

34 Joan Ponezza, *Breaking Ground: Rebuilding New Jersey's Urban Schools, The Abbott School Construction Program*, Education Law Center, 7 (April 2004) <https://files.eric.ed.gov/fulltext/ED504892.pdf>.

35 Dunstan McNichol, *NJ Abolishes Schools Construction Corp*, NJ.com, https://www.nj.com/ledgerupdates/2007/08/nj_abolishes_schools_construct.html.

36 We examined enrollment data from the New Jersey Department of Education for the 2018-2019 school year from all thirty-one districts and their schools. *2018-2019 Enrollment District Reported Data*, State of New Jersey Department of Education, https://www.nj.gov/education/data/enr/enr19/stat_doc.htm. In addition, we specifically examined enrollment data for all SDA schools with new construction that have been opened between 2007 and 2018 taken from the biannual reports of the School Development Authority. *Annual and Other Reports*, State of New Jersey Schools Development Authority, <https://www.njsda.gov/NJSDA/Public/AnnualAndOtherReports>. The datasets contain racial demography, as well as the percentage of students receiving free or reduced lunch within these districts.

identified as either African-American or Hispanic, with eleven of the districts having greater than ninety-seven percent African-American or Hispanic students. Twenty-seven of the thirty-one districts are majority-minority with greater than fifty percent African-American and Hispanic enrollment. The districts which are less concentrated are generally located in majority white regions of Southern New Jersey such as Pemberton, or are parts of the New York City metroplex, namely Hoboken and Jersey City. Additionally, all but five of these districts also contain a high percentage of students on free and reduced lunch (FRPL), and fourteen contain over seventy-five percent of students on FRPL. The poorest district, Passaic City, has more than ninety-nine percent of its students on free or reduced lunch.³⁷

New Jersey is a model of a state providing generous amounts of funding to poor and segregated districts, so that children in those districts can go to school in 21st Century school facilities that are equal to the quality of facilities in wealthier districts. However, the underlying inequity of maintaining separate schools for low income children of color is still unresolved in New Jersey. That issue is now being addressed in a statewide school integration case filed in state court in 2018, *Latino Action Network v. State of New Jersey*.³⁸

Connecticut

Connecticut provides an example of one type of explicit diversity incentive that New Jersey lacks. In *Sheff v. O'Neill*, the Connecticut Supreme Court found that Hartford schools were racially, ethnically, and economically isolated, and held that Connecticut had an affirmative constitutional obligation to provide all students with integrated and equal educational opportunities.³⁹ In response, Connecticut established a range of strategies and programs intended to meet its constitutional obligation under *Sheff*.⁴⁰ One strategy involved increasing funding for interdistrict magnet schools both within the Hartford region, and in other parts of the state to help the state meet its desegregation goals, including through school construction.⁴¹

37 A similar pattern of segregation emerges within the schools built by the School Development Authority. Out of fifty-six new construction projects since 2007, over two-thirds of the schools are highly segregated, with thirty-nine schools having seventy-five percent or greater percentages of African-American and Hispanic students. Only six schools have less than fifty percent African-American and Hispanic students. Over half the newly constructed schools serve student populations with more than seventy-five percent of the student population on free or reduced lunch. All but ten of the schools serve populations with more than fifty-percent of the student body receiving FRPL subsidies. These ten schools are generally located in wealthier cities such as New Brunswick, Jersey City, and Pemberton Township.

38 See <http://theinclusionproject.rutgers.edu/our-projects/equity-in-education/latino-action-network-et-al-v-state-of-new-jersey/>

39 *Sheff v. O'Neill*, 678 A.2d 1267, 1267 (Conn. 1996).

40 Justin R. Long, *Enforcing Affirmative State Constitutional Obligations and Sheff v. O'Neill*, 155 U. Pa. L. Rev. 277, 293-94 (2002)
https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3207&context=penn_law_review.

41 *Guide to Connecticut's Magnet Schools*, Connecticut School Finance Project (November 2018)
<http://ctschoolfinance.org/assets/uploads/files/Guide-to-CTs-Magnet-Schools.pdf>.

Because magnet schools help to increase diversity (and were first created in the 1970s for this very purpose⁴²), a policy incentivizing construction of magnet schools is an example of a diversity policy that states are largely failing to implement in their school construction programs.

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Connecticut has both interdistrict and intra-district magnet schools (intra-district magnet schools are also known as “diversity schools”). Interdistrict magnet schools can serve students across district lines, and intra-district magnet schools can only serve students residing in that district. The state has had special reimbursement policies for both types of magnet schools.

In the Hartford region, Sheff interdistrict magnet schools have been eligible for up to 95% reimbursement.⁴³ To be eligible, applicants must provide an analysis of the program’s effects on reducing racial, ethnic and economic isolation.⁴⁴ Non-Sheff interdistrict magnet schools (outside the Hartford region) are technically eligible for 80% of eligible construction costs, but there has been a funding moratorium in effect for over ten years.⁴⁵

From 2012-2019, Connecticut also had a special 80% reimbursement policy for intra-district magnet schools to encourage diversity.⁴⁶ To be eligible, applicants were required to demonstrate minimum minority enrollment, and the school had to be open to students in a way that would correct a minority enrollment disparity.⁴⁷ The state’s special reimbursement for intra-district magnet

42 *Magnet Schools and Issues of Education Quality*, 66 *The Clearing House: A Journal of Educational Strategies and Ideas* 81, 81 (July 29, 2010). <https://www.tandfonline.com/doi/abs/10.1080/00098655.1992.9955936?journalCode=vtch20>.

43 Prior to July 2011, the reimbursement rate was set at 95%, and then reduced to 80% after July 2011. *Connecticut Interdistrict Magnet and Open Choice Funding*, Sheff Movement (November 2013, updated April 2014). https://sheffmovement.org/wp-content/uploads/2014/05/2014_CT_Magnet_and_Open_Choice_Funding_Overview.pdf.

44 Sullivan, *supra* note 26.

45 Due to budget challenges, the state legislature placed a moratorium on interdistrict magnet school construction outside of Hartford in 2009 (technically, only the Greater Hartford region was subject to the court-ordered remedy in the Sheff case). The moratorium extends until the State Department of Education commissioner develops a comprehensive interdistrict magnet school plan. Kimberly Quick, *Hartford Public Schools: Striving for Equity Through Interdistrict Programs*, The Century Foundation (October 14, 2016) <https://tcf.org/content/report/hartford-public-schools/>; Chapter 172, Support of Public Schools, Sec. 10-264h, Grants for capital expenditures for interdistrict magnet school facilities, https://www.cga.ct.gov/current/pub/chap_172.htm#sec_10-264h; Sullivan, *supra* note 26 at 17.

46 Mark Pazniokas and Kathleen Megan, *School Consolidation a Factor to CT Construction Project Funding*, The Middletown Press (July 23, 2019), <https://www.middletownpress.com/middletown/article/School-consolidation-a-factor-to-CT-construction-14115366.php>; Mark Pazniokas and Kathleen Megan, *Bill Ends Reimbursement for “Diversity” Schools Like Charter Oak in West Hartford*, We-Ha (July 22, 2019) <https://we-ha.com/bill-ends-reimbursement-for-diversity-schools-like-charter-oak-in-west-hartford/>; Emilie Munson, *Can Greenwich Learn from West Hartford about Racial Balance?* Greenwich Time (January 28, 2017) <https://www.greenwichtime.com/local/article/Can-Greenwich-learn-from-West-Hartford-about-10890280.php>.

47 Sullivan, *supra* note 26 at 17.

schools was repealed in 2019 because, according to the co-chair of the Education Committee, Senator Doug McCrory, D-Hartford, it did not have the effect the legislature intended.⁴⁸ Rather than properly incentivizing school diversity across communities, it “reimbursed wealthy communities for building schools that moved students around their communities, which could be done by redistricting.”⁴⁹

Connecticut’s continuing commitment to funding interdistrict magnet school construction distinguishes Connecticut from other states. In the *Sheff* region, the policy has led to either new school construction (or substantial renovation of existing non-magnet schools) to create over 40 regional magnet schools serving students from Hartford and 30 surrounding towns. In the nearby city of New Haven, local officials also took advantage of the magnet school construction incentives, even though that city was not technically part of the *Sheff* case. Like Hartford, New Haven is a largely Black and Latinx district with high rates of poverty and low academic achievement. The city’s largest employer, Yale University, enjoys tax-exempt status, contributing to the city’s financial struggles. To help manage its spending on schools, New Haven invested in interdistrict magnet schools,⁵⁰ and there are now sixteen interdistrict magnet schools operating in New Haven. The state also provides transportation funding to help bus participating students from the suburbs.⁵¹

Although the plaintiffs in the *Sheff* case continue to agitate for expansion, Hartford’s interdistrict magnets and other integration programs reach less than half of Hartford’s public school students.

In a few key ways, Connecticut is a model for other states. Its school construction aid program contains a rare diversity incentive for interdistrict magnet schools, and requires an analysis of the program’s effects on reducing racial, ethnic and economic isolation. However, the state’s aid program showcases challenges that many other states face as well. Connecticut does not consider projected impacts on racial isolation or segregation in its general funding and approval process for its school construction aid program, and it has placed a moratorium on its interdistrict magnet school incentive program for many school districts across the state.

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48 Pazniokas and Megan, *supra* note 46.

49 *Id.*

50 *Program Narrative Addressing Need for Assistance; Promoting Science, Technology, Engineering, and Mathematics (STEM) Education; and the MSAP Selection Criteria*, 1 <https://www2.ed.gov/programs/magnet/2013/newhavenapp.pdf>.

51 *Id.* at 1-2.

IV. RECOMMENDATIONS⁵²

States should:

- Conduct or require an impact analysis/equity assessment of any school construction or expansion proposal on school diversity and segregation in the region.⁵³
 - This requirement can be incorporated into construction approval processes, state aid funding applications, and/or state aid funding formulas.
- Offer incentives/bonuses for local school districts that plan to use state funding to support diversity and integration, e.g., special reimbursement rates/bonuses for magnet schools, bonuses/special reimbursement rates for strategic school consolidation or interdistrict cooperation or transfer programs.
 - Ensure that the incentive/bonus is significant enough to induce localities to be more deliberate in considering the impact of its decisions on segregation, and supporting diversity whenever possible.
- Consider district and school race, ethnicity and socioeconomic status data to determine which schools and districts may benefit from diversity incentives or deliberate construction decisions to integrate schools.
- Prioritize limited state aid for school construction/renovation that will promote diversity.
- Coordinate school construction and diversity policies with affordable housing policies.

APPENDIX: 50-STATE SCAN OF STATE SCHOOL CONSTRUCTION POLICIES⁵⁴: prrac.org/pdf/school-construction-matrix-07-31-20.xlsx

52 See also *Model State School Integration Policies*, National Coalition on School Diversity, 27 (May 2020), https://prrac.org/pdf/model_state_school_integration_policies.pdf.

53 See e.g., Philip Tegeler, *Predicting School Diversity Impacts of State and Local Education Policy: The Role of Title VI*, in *School Integration Matters: Research-Based Strategies to Advance Equity*, 145-154 (Erica Frankenberg, Liliana M. Garces, Megan Hopkins, ed., Teachers College Press).

54 This matrix was compiled in June/July 2020. The authors reviewed websites of state government entities involved in school construction funding and approval (e.g., Department of Education, school construction/facilities commissions, etc.), news articles, and various summaries, analyses and reports of school construction funding programs. The authors were limited by the documents and resources available online. The matrix provides a high-level overview of state funding and approval of school construction, and does not constitute a comprehensive collection of all state school construction policies, programs, and contexts.

About the Poverty & Race Research Action Council (PRRAC): Connecting Research to Advocacy

The **Poverty & Race Research Action Council (PRRAC)** is a civil rights law and policy organization based in Washington, D.C. Our mission is to promote research-based advocacy strategies to address structural inequality and disrupt the systems that disadvantage low-income people of color. PRRAC was founded in 1989, through an initiative of major civil rights, civil liberties, and anti-poverty groups seeking to connect advocates with social scientists working at the intersection of race and poverty. Our current work focuses on the areas of housing, education, and environmental justice, with a focus on developing actionable policies to overcome the mechanisms that continue to reproduce historical patterns of racial segregation. In addition to federal-level law and policy research and advocacy, we provide technical assistance and support for local partners working on innovative, inclusive policies. We also engage in a range of public education activities. We believe in strong coalition and partnership models, and our work is informed by an extensive national network of researchers, organizers, attorneys, educators, and public health and housing professionals. PRRAC is a founding member of the National Coalition on School Diversity (NCSA), and helps to staff the coalition's organizing, advocacy, and outreach.

PRRAC

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