

Racial Diversity in Public Schools

Has the Supreme Court dealt a blow to integration?

Fifty years after the Supreme Court outlawed racial segregation in public schools, a new ruling has raised doubts about how far local school boards can go to integrate classrooms. The court's 5-4 ruling in cases from Seattle and Louisville bars school districts from using race as a factor in individual pupil assignments. Like many other school districts, the two school systems used racial classifications to promote diversity in the face of segregated housing patterns. But parents argued the plans improperly denied their children their school of choice because of race. Dissenting justices said the ruling was a setback for racial equality. In a pivotal concurrence, however, Justice Anthony M. Kennedy said schools still have some leeway to pursue racial diversity. Meanwhile, some experts argue that socioeconomic integration — bringing low-income and middle-class students together — is a more effective way to pursue educational equity.



Deborah Stallworth successfully challenged a race-based school integration plan in Louisville that barred her son, Austin, 15, from attending his neighborhood school and sought to bus him across town.

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Racial Diversity in Public Schools

BY KENNETH JOST

THE ISSUES

Hannah MacNeal's parents were glad to learn of an opening at the popular magnet elementary school near their upscale neighborhood in eastern Louisville, Ky. When they applied in mid-August for Hannah to enroll as a fourth-grader at Greathouse/Shryock Elementary, however, school system officials said she could not be admitted.

The reason: Hannah is white.

Only six weeks earlier, the U.S. Supreme Court had ruled that Jefferson County Public Schools (JCPS) — which includes Louisville — was violating the Constitution by assigning students to schools on the basis of their race.

Hannah's stepmother, Dana MacNeal, was surprised and upset when she learned Hannah would have been admitted to the school if she had been black. And she was all the more upset when JCPS Student Placement Director Pat Todd insisted on Aug. 14 that the Supreme Court ruling allowed the school system to continue maintaining separate attendance zones for black and white students for Greathouse/Shryock and two of the system's other three magnet elementary schools.

The school system's lawyers were surprised as well to learn of the policy. After the MacNeals decided to fight the decision keeping Hannah in her regular elementary school, officials agreed to enroll her at Greathouse/Shryock and scrap the racially separate boundary zones beginning in 2008.¹

"Of course, they backed off from the position, knowing they were wrong," says Louisville attorney Ted



White enrollment at Seattle's Ballard High School is above previous guidelines five years after a racial-diversity plan was suspended because of a legal challenge. The Supreme Court's June 28 decision invalidating racial-balance plans in Seattle and Louisville, Ky., bars school districts from using race for student-placement decisions but may permit some race-conscious policies to promote diversity.

AP Photo/Ted S. Warren

Gordon, who represented the MacNeals in the latest round in his long-running battle to overturn Jefferson County's school racial-diversity policies. "They have to follow the law."

The Supreme Court's fractured ruling struck down pupil-assignment policies adopted in 2000 limiting African-American enrollment at any individual school in Jefferson County to between 15 percent and 50 percent of the student body. The ruling also rejected the Seattle school system's use of race as a "tiebreaker" for assigning students to high schools; the plan had been suspended in 2002 because of the litigation.² (See box, p. 748.)

In response to the MacNeals' case, Todd's office drew up new boundary zones for the four magnet elementary schools that were approved by the

school board on Sept. 10. For the longer term, officials are trying to find ways to maintain a measure of racial balance in the 98,000-student school system under the Supreme Court decision, which bars the use of racial classifications in individual pupil assignments but appears to permit some "race-neutral" policies aimed at racial diversity. (See box, p. 749.)

"We are going to do our best to achieve it," says JCPS Superintendent Sheldon Berman. "We are deeply committed to retaining the qualities of an integrated environment."

The court's June 28 decision dealt a blow to hundreds of school systems around the country that have adopted voluntary race-mixing plans after court-ordered desegregation plans lapsed in recent years.

Five of the justices — led by Chief Justice John G. Roberts Jr. — said using racial classifications in pupil assignments violated the Equal Protection Clause of the 14th Amendment. That is the same provision the court cited a half-century earlier in the famous *Brown v. Board of Education* (1954) ruling that found racial segregation in public schools unconstitutional.³

In a strong dissent, the court's four liberal justices — led by Stephen G. Breyer — said the ruling contradicted previous decisions upholding race-based pupil assignments and would hamper local school boards' efforts to prevent "resegregation" in individual schools. But one of the justices in the majority — Anthony M. Kennedy — joined the liberal minority in endorsing racial diversity as a legitimate goal. Kennedy listed several "race-neutral" policies, such as drawing attendance zones or building new schools to

School Racial-Balance Plans in Louisville and Seattle

The Supreme Court's June 28, 2007, ruling on the school racial-diversity plans in Seattle and Jefferson County (Louisville) bars the use of racial classifications in individual pupil assignments but appears to permit some "race-neutral" policies aimed at racial diversity.

Jefferson County (Louisville) (98,000 students; 35 percent African-American)

History: County was racially segregated before *Brown v. Board of Education* ruling; court-ordered desegregation plan in 1975 called for crosstown busing between predominantly African-American West End and mainly white neighborhoods in eastern suburbs; court order dissolved in 2000; school board adopts pupil-assignment plan with use of racial classifications to promote diversity; assignment plan still in effect after Supreme Court decision, pending new plan expected for 2009-2010 academic year.

Details: Plan classifies students as "black" or "white" (including Asians, Hispanics and others); guidelines call for each elementary, middle or high school to have between 15 percent and 50 percent African-American enrollment; residence-based system assigns students to school within residential "cluster"; most West End neighborhoods assigned to schools outside area; student applications for transfer from assigned school evaluated on basis of several factors, including effect on racial makeup; under Supreme Court decision, individual transfer requests will no longer be denied on basis of race.

Seattle (45,000 students; 58 percent "non-white")

History: No history of mandatory segregation, but racially identifiable neighborhoods: predominantly black south of downtown, predominantly white to the north; racial-balance plan with crosstown busing voluntarily adopted in 1978; school choice introduced in 1990s, with race as one "tiebreaker" to distribute students among oversubscribed schools; school board suspended the plan in 2002 because of legal challenge; Supreme Court ruling held plan invalid.

Details: Ninth-graders permitted to apply to up to three of district's 10 high schools; tiebreakers used for applications to oversubscribed schools; sibling preference was most important factor; race second; race used if school's enrollment deviated by specified percentage from overall racial demographics: 40 percent white, 60 percent non-white.

include students from different racial neighborhoods, that schools could adopt to pursue the goal.

The ruling drew sharp criticism from traditional civil rights advocates. "It's preposterous to think the 14th Amendment was designed to permit individual white parents to strike down a plan to help minority students have better access to schools and to prevent school districts from having integrated schools that are supported by a majority of the community," says Gary Orfield, a longtime civil rights

advocate and director of the Civil Rights Project at UCLA's Graduate School of Education and Information Sciences.

Ted Shaw, president of the NAACP Legal Defense Fund, said the ruling blocks school boards from using "one of the few tools that are available" to create racially diverse schools. "The court has taken a significant step away from the promise of *Brown*," says Shaw. "And this comes on top of the reality that many school districts are highly segregated by race already."

Conservative critics of race-based school policies, however, applauded the ruling. "I don't think school districts should be drawing attendance zones or building schools for the purpose of achieving a politically correct racial mix," says Roger Clegg, president of the Center for Equal Opportunity, which joined in a friend-of-the-court brief supporting the white families that challenged the Seattle and Louisville school policies.

"A lot of parents out there don't like it when their students are treated differently because of race or ethnicity," Clegg adds. "After these decisions, the odds favor those parents and those organizations that oppose school boards that practice racial or ethnic discrimination."

School officials in Louisville and Seattle and around the country are generally promising to continue race-mixing policies within the limits of the court's decision. "School boards are going to have to do the hard work to find more tailored ways of approaching diversity in their schools," says Francisco Negrón, general counsel of the National School Boards Association.

The evidence in Louisville and nationally suggests, however, that the goal will be hard to achieve. In Louisville, nine schools are now outside the district's 15/50 guidelines, with several having more than 55 percent African-American enrollment, according to Todd. "If the board wants to continue to maintain diversity, we've already had some significant slippage at some selected schools," he says.⁴

Nationally, a new report by the UCLA Civil Rights Project concludes that African-American and Latino students are increasingly isolated from white students in public schools. Overall, nearly three-fourths of African-American students and slightly over three-fourths of Latino students attend predominantly minority schools. Both figures have been increasing since 1980, the report says.⁵ (See graphs, p. 751.)

Critics of race-based pupil assignments are unfazed by the trends. "We're

past guidelines, we're past quotas and we need to move on," says Gordon of the Louisville statistics. He calls instead for an array of reforms focused on schools with high concentrations of low-income students.

"All other things being equal, I like racially diverse schools," says Abigail Thernstrom, a senior fellow at the conservative Manhattan Institute and a former member of the Massachusetts Board of Education. "But I do not think it works from any angle to have government entities — whether they are federal courts or local school boards — try to engineer diversity."

Supporters of racial-balance plans argue that diversity in the classroom helps boost academic achievement for minority students without adversely affecting achievement for white students. Opponents dispute those claims. (See sidebar, p. 759.)

The debate over diversity also highlights a secondary dispute over the widespread practice of "tracking" — the offering of separate courses for students based on ability or previous achievement. Supporters say the practice matches curriculum to students' needs and abilities, but critics say it results in consigning already disadvantaged students — including a disproportionate number of African-Americans — to poor-quality education. (See sidebar, p. 756.)

Meanwhile, some experts and advocates are calling for shifting the focus away from race and instead trying to promote socioeconomic integration — mixing low-income and middle- and upper-class students. Richard Kahlenberg, a senior fellow with the left-of-center Century Foundation who is most closely associated with the movement, says policies aimed at preventing high concentrations of low-income students will produce academic gains along with likely gains in racial and ethnic diversity.

"Providing all students with the chance to attend mixed-income schools can raise overall levels of achievement," Kahlenberg writes in a report

Racial Classifications Barred But Diversity Backed

The Supreme Court's June 28 decision in Parents Involved in Community Schools v. Seattle School District No. 1 invalidating pupil-assignment plans in Seattle and Louisville bars school systems from assigning individual students to schools based on their race. In a partial concurrence, however, Justice Anthony M. Kennedy joined with the four dissenters in finding racial diversity to be a legitimate government interest and in permitting some race-conscious policies to achieve that goal.

Roberts (plurality opinion)



Scalia Thomas Alito

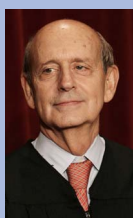
"Racial balancing is not transformed from 'patently unconstitutional' to a compelling state interest simply by relabeling it 'racial diversity.'"

Kennedy (concurring in part)



"... [A] district may consider it a compelling interest to achieve a diverse student body. Race may be one component of that diversity. ... What the government is not permitted to do ... is to classify every student on the basis of race and to assign each of them to schools based on that classification."

Breyer (dissenting)



Stevens Souter Ginsburg

"The plurality ... undermines [*Brown v. Board of Education*]'s promise of integrated primary and secondary education that local communities have sought to make a reality. This cannot be justified in the name of the Equal Protection Clause."

Credits: AFP/Getty Images/Paul J. Richards (Alito, Kennedy, Roberts, Souter, Scalia, Thomas); Getty Images/Mark Wilson (Ginsburg, Stevens); AFP/Getty Images/Brendan Smialowski (Breyer)

released on the day of the Supreme Court decision.⁶

As the debate over diversity in public-school classrooms continues, here are the major questions being considered:

Should school systems promote racial diversity in individual schools?

School officials in Lynn, Mass., a former mill town 10 miles northeast of Boston, take pride in a pupil-assignment

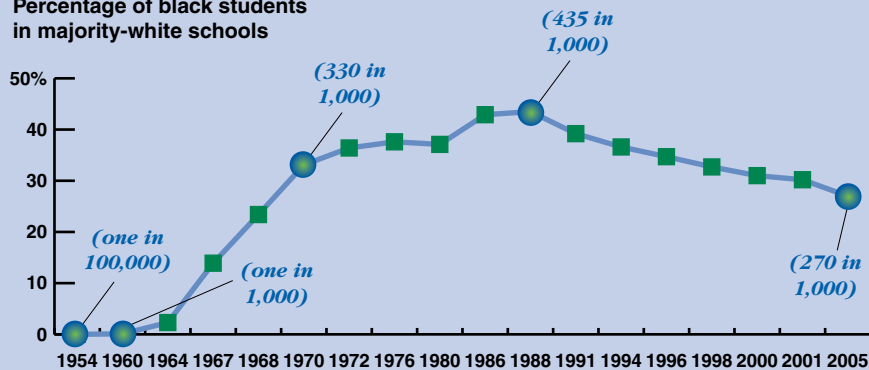
RACIAL DIVERSITY IN PUBLIC SCHOOLS

Southern Schools Least Segregated, But Slipping

Schools in the South were the least segregated in the nation in the 1970s and '80s, a distinction they maintained in the 2005 school year. But Southern schools have been resegregating steadily since 1988.

Change in Black Segregation in Southern Schools, 1954-2005

Percentage of black students in majority-white schools



Source: Gary Orfield and Chungmei Lee, "Historic Reversals, Accelerating Resegregation, and the Need for New Integration Strategies," Civil Rights Project, UCLA, August 2007

system that has helped maintain racial balance in most schools even as the town's Hispanic population has steadily increased over the past decade. "We work very hard to promote integration and cultural diversity so that our children are able to get along with each other," says Jan Birchenough, the administrator in charge of compliance with the state's racial-balance law.

But attorney Chester Darling says Lynn's policy of denying any transfer requests that would increase racial imbalance at an individual school "falls squarely within" the kinds of plans prohibited by the Supreme Court decision in the Louisville and Seattle cases. "It can't be race-neutral if you use the word race," says Darling, who is asking a federal judge in Boston to reopen a previously unsuccessful suit filed by parents challenging the policy.⁷

Critics of race-based assignment plans hope the Supreme Court decision will persuade or force school districts like Lynn's to drop any use of racial classifications in pupil placement. "Most school

districts will look at the decision's bottom line, will consider that the Louisville and Seattle plans were not sloppily done, and yet at the end of the day were declared unconstitutional," says Clegg of the Center for Equal Opportunity. "This cost the school boards a lot of time and money, and they're going to have to pay the other side's lawyer."

But school board officials say the court's fractured ruling leaves room for local systems to consider race in trying to create racial and ethnic mixing in individual schools. "Race is still not out of the question," says Negrón of the school boards' association. "A plurality of the court said certain things that are not the law of the land. What the majority has done is invalidate these particular programs, but certainly left the door wide open to the use of race — which continues to be a compelling government interest."

Apart from the legal issue, supporters and opponents of racial-diversity plans also disagree on their educational and other effects. "There's a consensus in the academic world that there

are clear educational benefits, and the benefits aren't just for minority students," says UCLA Professor Orfield.

Conversely, "racial isolation leads to reduced achievement," says Negrón.

Critics of racial-diversity policies, however, say those benefits are unproven and the logic of the claimed cause-effect relationship unconvincing. "There is very little empirical evidence," says Thernstrom, the Manhattan Institute fellow.

"I don't think how well you learn or what you learn depends on the color of the skin of the person sitting next to you," says Clegg. "Students in overwhelmingly white schoolrooms in Idaho and in overwhelmingly African-American classrooms in Washington, D.C., can each learn."

Critics cite as one concrete disadvantage the time spent on buses when students are transported out of their neighborhoods for the sake of racial balance. "There's no educational benefit there, and it's a waste of their very precious time," says Thernstrom. The travel burdens also hamper student participation in extracurricular activities and parental involvement, the critics say.

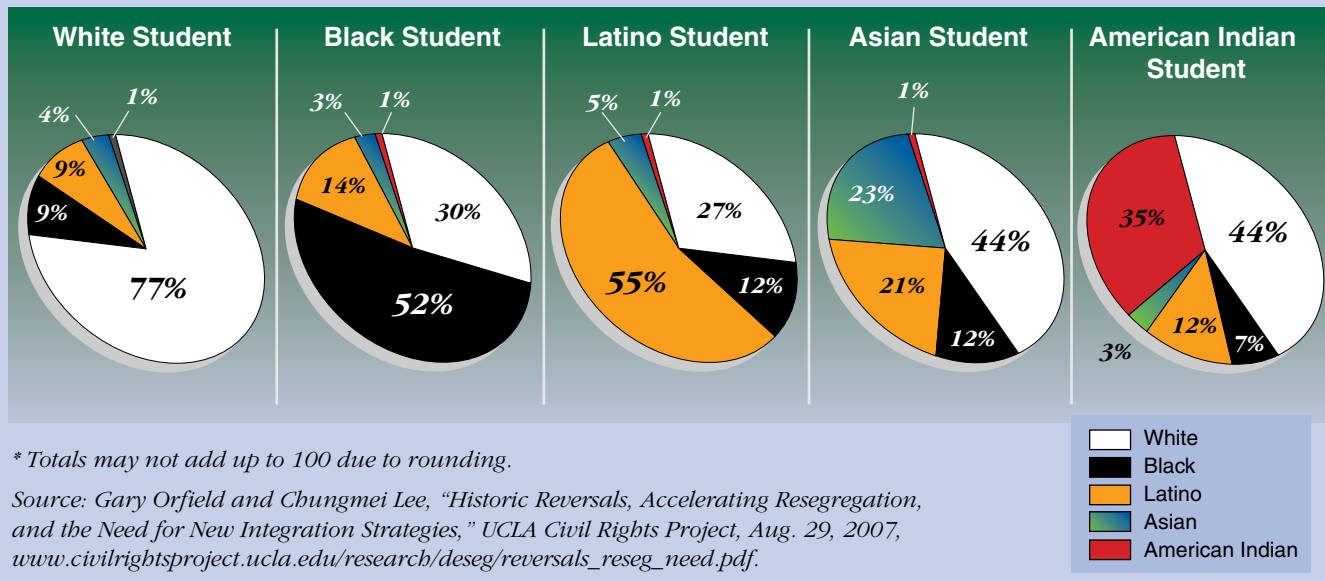
In traditional desegregation plans, those burdens typically fell for the most part on African-American students, who were transported out of their neighborhoods to schools in predominantly white areas. Busing was "usually a one-way street" for African-Americans, says James Anderson, head of the department of educational-policy studies at the University of Illinois, Champaign-Urbana.

In recent years, however, school-choice policies in some communities have meant increased busing for whites as well as minority students. Negrón cites the example of Pinellas County (Clearwater), Fla., which has a universal-choice program allowing students to enroll in any school in the county and providing transportation if requested. "It is a cost," Negrón says. "But school districts are finding that it depends on the facts and circumstances."

White Students Are Racially Isolated

Segregation remained high in 2005-06 for all racial groups except Asians. White students remained the most racially isolated, although they attended schools with slightly more minority students than in the past. The average white student attended schools in which 77 percent of their peers were white. Meanwhile, more than half of black and Latino students' peers were black or Latino, and fewer than one-third of their classmates were white.

Racial Composition of Schools Attended by the Average . . .



Civil rights advocates counter that racial isolation imposes much more serious costs for minority students. "The consequences of segregation of African-American students in public schools — and it is increasingly true for Latino students — have been concentration of poverty, deprivation of resources and a host of other problems that do impact on the quality of education," says the Legal Defense Fund's Shaw.

Like many of the critics, Thernstrom stops short of absolute opposition to any race-conscious school policies. "I don't mind" redrawing attendance zones for racial mixing, she says, "but I don't think we should be starry-eyed about what it's going to achieve."

Michael Rosman, president of the Center for Individual Rights, says schools should try to prevent "racial isolation" in individual schools "if it is shown to have deleterious educational effects."

But Illinois Professor Anderson says school boards should take affirmative steps to "take advantage" of diversity. "We could build wonderful, intellectually rich environments where kids really do have an exchange of ideas and an exchange of cultures and come out of that with a cosmopolitan sense of culture that is unique," he says. "How can you be global," he adds, "yet at the same time so parochial?"

Should school systems seek to promote socioeconomic integration in individual schools?

The consolidated school system in Wake County, N.C. — encompassing the rapidly growing Research Triangle Park area (near Raleigh and Durham) — made nationwide news in 2000 by dropping the use of racial guidelines in favor of socioeconomic-integration policies. The "Healthy School" assignment guidelines

call for limiting individual schools to no more than 40 percent enrollment of students receiving free or reduced-price lunches or 25 percent enrollment of students performing below grade level.

Seven years later, the policies are a bragging point for the school system and exhibit No. 1 for advocates of socioeconomic integration. "Classrooms that are balanced from a diversity point of view are important to maintaining academic performance," says Michael Evans, the school system's communications director, citing the district's declining achievement gap for African-American, Hispanic and low-income students.

Some Wake County parents are not sold, however. Dave Duncan, the one-time president of the now largely inactive advocacy group Assignment by Choice, discounts the claimed academic gains by pointing to the relatively small percentage of students assigned

Non-Racial Approaches to Integration

Some 40 school districts around the country are seeking to diversify enrollment in individual schools through socioeconomic integration — typically, by setting guidelines for the percentage of students eligible for free or reduced-price lunch. Here are some of the districts taking such approaches, as drawn from a report by the Century Foundation's Richard Kahlenberg, a strong advocate of the policies.

School District Enrollment: Percentage of whites (W), African-Americans (B), Hispanics (H), Asian-Americans (A)

Berkeley, Calif. (9,000: 31% W, 29% B, 17% H, 8% A)

Socioeconomic and racial diversity guidelines were adopted in 2004 to replace a voluntary racial-integration plan; plan being phased-in one grade at a time; in 2005-06, eight of 11 elementary schools were within 15% of the districtwide average of 40% of students receiving subsidized lunches; most parents (71%) still receive first choice of schools.

Brandywine, Del. (11,000: 54% W, 39% B, 3% H, 4% A)

The district — comprising parts of Wilmington and surrounding suburbs — was granted an exception in 2001 by state Board of Education to law mandating neighborhood schools; plan limits subsidized-lunch enrollment to between 16% and 73%; plan credited with maintaining racial diversity; some evidence of academic gains in higher grades.

Cambridge, Mass. (6,000: 37% B, 35% W, 15% H, 11% A)

Plan adopted in 2001 to replace race-conscious “controlled choice” system says individual schools should be within 15 percentage points of districtwide percentage of free/reduced lunch students; race remains a potential factor in assignments; racial diversity maintained, socioeconomic diversity increased; limited evidence finds academic gains for low-income students, no negative effect on middle-income students.

Charlotte-Mecklenburg, N.C. (129,000: 42% B, 36% W, 14% H, 4% A)

School board dropped racial-desegregation effort, adopted public school choice plan after school system was declared “unitary” in 2001, or no longer a dual system based on race; plan gives some priority to low-income students in schools with concentrated poverty, but transfers to higher-performing schools are permitted only if seats are available; plan seen as unsuccessful in creating racial or socioeconomic integration.

La Crosse, Wis. (7,000: 20% minority)

Was first district to adopt socioeconomic integration policy in 1991-92 in response to influx of Hmong refugees; plan used redrawn attendance zones and busing to spread low-income students among elementary schools and two high schools; plan largely survived political battle in 1992-93 that included recall of several school board members; plan touted as success, but enrollments at most elementary schools have been and still are outside guidelines.

varied results in districts with such policies. But he strongly argues that the policy of mixing students by socioeconomic background offers educational benefits in its own right and practical advantages for districts trying to promote racial diversity without running afoul of the Supreme Court's new limits on race-based assignments.

“There's a wide body of research that the single, best thing you can do for low-income kids is to give them the opportunity to attend a middle-class school,” says Kahlenberg. Despite some well-publicized exceptions, schools with “concentrated levels of poverty” tend to have more student-discipline problems, lower caliber teachers and principals and less parental involvement than predominantly middle- or upper-class schools, he explains. Socioeconomic integration, he says, results in higher academic achievement for low-income students and no adverse effect on others as long as there is “a strong core of students with middle-class background.”

Kahlenberg says socioeconomic integration is also likely to produce some racial and ethnic mixing since the poverty rate among African-Americans and Latinos is higher than among whites. In educational terms, however, he says socioeconomic diversity is more valuable than racial diversity because the academic gains of mixing by class and income appear to be well established, while the claimed gains of race mixing are in dispute.

Traditional civil rights advocates like the Legal Defense Fund's Shaw do not quarrel with socioeconomic integration but insist that it is “not an adequate substitute for racial integration.”

Orfield agrees that socioeconomic integration is “a good idea” but quickly adds, “You can't achieve racial integration very well by using social and economic integration.”

“If you talk to districts that have relied solely on that, it doesn't reach all of the students that they need to reach,”

under the guidelines and the comparable academic gains statewide. The school system “used the diversity issue as a smoke screen when there is criticism or opposition to the way they

do the student-assignment process,” Duncan says.

As the most prominent advocate of socioeconomic integration, the Century Foundation's Kahlenberg acknowledges

says Negrón at the school boards association.

For their part, conservatives raise fewer objections to mixing students by socioeconomic background than by race, but they worry the practice may merely be a pretext for racial classifications. “It has fewer constitutional problems,” says Thernstrom. “It is less politically controversial.”

“It’s better than race-based student assignments,” says Clegg at the Center for Equal Opportunity. “But if you’re using socioeconomic status simply as a proxy for race, many of the same policy and legal problems remain.”

Thernstrom is unconvinced, however, of the claimed academic benefits. “There are no proven results from it,” she says. She scoffs at what she calls “the notion that if you sit next to somebody, differences [in values] are going to somehow melt away.”

In any event, Clegg says he opposes either racial or socioeconomic mixing if it requires assigning students to schools distant from their homes. “Neighborhood schools are the preferable means of assignment,” he says, “because you’re not having to pay for busing and you’re not having to put children on long bus rides, which keep them from engaging in extracurricular activities.”

Kahlenberg disagrees. “I haven’t heard anyone make a convincing case that from an educational perspective the best way to assign students is the place where their parents can afford to live,” he says. “That’s the way we do it, but there’s no argument that’s the best way to educate kids in our society.”

From opposite perspectives, however, both Orfield and Thernstrom agree that socioeconomic integration engenders some of the same kinds of opposition that racial integration does. “You do have a lot of middle-class flight as a result,” Thernstrom says. “It’s not really more popular than racial integration,” Orfield says.

Despite the resistance, Kahlenberg believes the policy would fulfill a fundamental goal of public education in

School District Enrollment: Percentage of whites (W), African-Americans (B), Hispanics (H), Asian-Americans (A)

Manatee County, Fla. (42,000: 60% W, 20% H, 15% B, 4% other)

District south of Tampa Bay has had limited success with a plan adopted in 2002 admitting students to schools based on maintaining socioeconomic balance: Only 10 elementary schools were within guidelines in 2005-06; among 14 schools with above-average low-income enrollment, only four showed adequate academic gains.

McKinney, Tex. (20,000: 64% W, 21% H, 11% B, 3% other)

Dallas suburb adopted socioeconomic-balance policy in 1995 by redrawing attendance zones; low-income students perform better on statewide tests than low-income students statewide; some opposition to longer bus rides, but plan said to have broad support.

Minneapolis, Minn. (36,000: 41% B, 28% W, 16% H, 10% A)

Desegregation suit settled in state court in 2000 with agreement to adopt four-year experiment to encourage socioeconomic integration; plan provides transportation for low-income students to suburban schools; also requires wealthier magnet schools in Minneapolis to set aside seats for low-income students; 2,000 low-income students attended suburban schools over four-year period; legislature voted to extend program after end of experiment.

Omaha, Neb. (47,000: 44% W, 32% B, 21% H)

School board adopted plan aimed at socioeconomic integration after system was declared unitary in 1999; low-income students given preference in weighted lottery for admission to magnet schools; 2006 proposal to expand plan to recently annexed neighborhoods prompted backlash in state legislature, but education groups won passage of 2007 bill to establish goal of socioeconomic diversity throughout metropolitan area.

Rochester, N.Y. (33,000: 64% B, 22% H, 13% W)

Managed-choice plan adopted in city in 2002 includes socioeconomic-fairness guidelines; vast majority of elementary school students (83%) are economically disadvantaged; plan seen as likely to have limited effect unless interdistrict choice program is established between city and suburbs.

San Francisco (55,000: 32% Asian, 22% H, 13% B, 9% W)

Student-assignment plan adopted in 2001 replaced racial-desegregation scheme with plan aimed at socioeconomic diversity; seven-part definition includes SES (socioeconomic status), academic achievement, language, other factors; plan seen as fairly successful in balancing schools by SES, less so in producing racial diversity; district is consistently top-performing urban district in state.

Wake County (Raleigh), N.C. (136,000: 54% W, 27% B, 10% H, 5% A)

Guidelines adopted in 2000 replacing racial guidelines limit schools to 40% free/reduced lunch, 25% reading below grade level; policies credited with maintaining racial diversity; role in academic gains questioned; school-zone changes due to growth draw criticism from some families.

Sources: Richard D. Kahlenberg, Century Foundation, “Rescuing Brown v. Board of Education: Profiles of Twelve School Districts Pursuing Socioeconomic School Integration,” Century Foundation, June 28, 2007, www.tcf.org; news accounts.

the United States. “Most people believe at least in theory that education is the way for kids of any background

to do well,” he says. “As long as we have economically segregated schools, that promise is broken.”

Is the focus on diversity interfering with efforts to improve education in all schools?

As he wrapped up his legal challenge to the Louisville pupil-assignment plan before the Supreme Court, attorney Gordon depicted the case as a choice between “diversity” and “educational outcome.”

“For me,” Gordon told the justices during the Dec. 4 arguments, “I would use all these millions of dollars. I would reduce teacher-student ratio. I would give incentive pay to the better teachers. I would [build] more magnet schools, more traditional schools.”

“We presuppose that we’re going to have bad schools and good schools in this country,” he continued. “I don’t think we can no [sic] longer accept that.”

Gordon describes himself as a civil rights liberal, but his argument parallels the views of conservatives like Clegg. “School districts should be worrying less about the racial and ethnic mix than about improving the education that’s offered at all schools,” Clegg says.

“If you’re just focusing on racial diversity, as it’s called, for its own sake without trying to assess whether you’re improving the educational outcomes,” says Rosman, “then you’re detracting from the overall goal of achieving educational excellence. In some instances, that’s happened.”

“The solution is to reduce the gap, the racial gap, the ethnic gap, the socioeconomic gap,” says Thernstrom. “Then kids will be looked at as just kids without any kind of assumptions made about, you know, are they like me?”

Traditional civil rights groups and advocates insist that diversity and educational reform complement rather than conflict with each other. In any event, they say, the push for diversity is neither so strong nor so extensive as the critics contend.

“We haven’t had any federal policy of promoting diversity since 1981,” says Orfield, referring to the first year of Ronald Reagan’s presidency. “We haven’t

had any new lawsuits to integrate schools for a long time. Ever since 1980, most desegregation plans have had voluntary choice and magnet schools, and almost all of them are part and parcel of educational reform plans.”

John Trasviña, president and general counsel of the Mexican American Legal Defense and Educational Fund (MALDEF), calls the claimed conflict between diversity and educational quality “a diversion.” Referring to educational reform, he says, “We aren’t doing that either. It’s always easy to say let’s address some other issue. When it comes to do that, it’s not done.”

Diversity advocates dispute critics’ suggestion that racial or economic integration has been pursued solely for its own sake with no attention to improving educational quality. “I don’t think anybody ever thought that school integration by itself was a sufficient policy,” Orfield says.

“The whole reason for economic integration is to promote academic achievement and raise the quality of schooling,” says Kahlenberg. “No one has figured out how to make separate schools for rich and poor work well, certainly not for poor kids.”

Orfield and Kahlenberg also dismiss concerns that the transportation costs entailed in some diversity plans take scarce dollars from other, more promising school-improvement initiatives. “We’ve spent billions and billions of dollars on low-income schools, which hasn’t produced a lot of results,” Kahlenberg says.

Orfield is even blunter about recent efforts to reduce the racial gap. “It’s been a failure,” he says. Desegregation and anti-poverty programs of the 1960s and ’70s did narrow the racial-achievement gap, Orfield writes in the recent UCLA Civil Rights Project report. But he says “most studies” find that President Bush’s No Child Left Behind law — which specifically calls for narrowing the achievement gap between white and minority pupils — has had “no impact” on the disparities so far.⁸

From opposite perspectives, Thernstrom and Trasviña lay out demanding agendas for schools to try to close the racial gap. “I want more learning going on,” says Thernstrom. “You need really good schools. The day should be longer, the teachers should be better, the principals should have more authority.

“Our kids aren’t learning enough in school,” she continues. “That will level the playing field.”

“We clearly need to improve the quality of our schools,” says Trasviña. He calls for steps to reduce the dropout rate and to channel more students into so-called STEM courses (science, technology, engineering and math). But diversity helps, not hurts reform efforts, he says.

“While it is true that simply putting children of different backgrounds in seats in the same classroom does not necessarily improve the classroom experience by itself, [diversity] adds to it,” Trasviña says. “And it adds to the political will to make sure that people understand that these are our schools.” ■

BACKGROUND

The ‘Common School’

The idea of free, universal public education has been espoused in the United States since the Revolutionary Era and still holds a central place in American thought as a tool for personal development and social cohesion. But the ideal of equal educational opportunity for all has never obtained in practice. Even as education became more nearly universal in the 20th century, African-Americans and other racial and ethnic minorities faced blatant discrimination that was only partly alleviated by landmark court rulings outlawing legally mandated segregation.⁹

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Chronology

Before 1950

Free, universal public education is enshrined as American ideal and advances in practice, but African-Americans, Hispanics and Asian-Americans are consigned to separate and unequal schools in much of the country.

1950s-1960s

Racial segregation in public schools is ruled unconstitutional, but desegregation is slow.

1954, 1955

Supreme Court's unanimous decision in *Brown v. Board of Education* (1954) outlaws mandatory racial segregation in public schools; a year later court says school districts must dismantle dual systems "with all deliberate speed" (*Brown II*). "Massive resistance" in South stalls integration.

1964, 1965

Civil Rights Act of 1964 authorizes Justice Department to file school-desegregation suits; Title I of Elementary and Secondary Education Act provides targeted aid to school districts for low-income students.

1968

Supreme Court tells school districts to develop plans to dismantle dual systems "now."

1970s-1980s

Busing upheld as desegregation tool but draws strong protests in North and West as well as South; Supreme Court, Justice Department withdraw from desegregation cases.

1971

Supreme Court unanimously upholds federal courts' power to order crosstown busing to desegregate schools.

1973

Supreme Court rejects federal constitutional right to equal school funding; one month later, New Jersey supreme court is first to sustain funding-equity suit under state constitution.

1974

U.S. Supreme Court, 5-4, bars court-ordered desegregation between inner cities and suburbs; decision is first in series of closely divided rulings that limit desegregation remedies.

1983

U.S. Department of Education report "A Nation at Risk" paints critical picture of rising mediocrity in U.S. schools, shifts agenda away from equity issues.

1990s ***Racial isolation increases for African-Americans, Latinos; "reverse discrimination" suits by white students backed in some federal courts, fail in others.***

1991

LaCrosse, Wis., becomes first school district to aim to balance enrollment by students' income status: "socioeconomic integration."

1995

Supreme Court signals federal courts to wrap up desegregation cases; lower courts respond by generally granting "unitary" status to school systems seeking to be freed from desegregation orders.

1998, 1999

Federal appeals courts in Boston, Richmond, Va., bar racial preferences in public school admission.

2000-Present

Socioeconomic integration advances; Latinos become largest ethnic minority; Supreme Court ruling bars racial classifications in pupil assignments.

2000

Wake County (Raleigh), N.C., becomes largest school district to try socioeconomic integration.

2001

President George W. Bush wins congressional approval of No Child Left Behind Act, requiring school districts to meet achievement benchmarks, including closing racial gap.

2001-2005

White families challenge racial-diversity plans in Seattle and Louisville, Ky; federal courts back school districts, ruling plans are "narrowly tailored" to achieve "compelling" interest in diversity.

2005, 2006

Bush nominates John G. Roberts Jr. and Samuel A. Alito Jr. to Supreme Court; both win Senate confirmation, strengthening conservative majority on court.

2007

Supreme Court ruling in Louisville and Seattle cases limits use of race in pupil assignments, but five justices say race-neutral measures can be used to promote compelling interest in diversity; school boards vow to try to maintain racial diversity; advocates push socioeconomic integration on legal, political grounds.

'Tracking' Leads to Racial Separation in Classes

But grouping students by ability has wide support.

Ballard High School sits on a spacious campus in an overwhelmingly white suburban neighborhood in the eastern end of Jefferson County, Ky. As part of Jefferson County Public Schools' racial balance policies, however, Ballard's attendance zone includes neighborhoods on the opposite side of the county in Louisville's predominantly African-American West End section.

By drawing students from the West End, the school achieved around 25 percent black enrollment in the 2006-07 academic year. But despite the measure of racial balance in overall enrollment, Ballard students say blacks and whites are less than fully integrated inside. "Kids naturally separate," remarks Ben Gravel, a white 12th-grader, as he arrives at school on Aug. 13 for the opening of a new school year.

At Ballard — and in schools around the country — the racial separation is especially pronounced in the classroom itself. African-American students are disproportionately enrolled in less challenging, "low-track" classes and underrepresented in higher-track classes, such as advanced placement (AP) courses and international baccalaureate (IB) programs. In 2006, for example, African-Americans comprised about 13 percent of graduating high school seniors but only 6 percent of the total number of students who took advanced placement exams administered by the College Board.¹

The widespread practice of tracking — or "ability grouping" as supporters prefer to call it — has been a contentious issue

within education circles for more than two decades. "Detracking" advocates have had occasional success in pushing reforms, but the practice has persisted — in part because of strong resistance from parents of students enrolled in higher-track courses.²

Supporters say the practice matches curricular offerings to students' abilities and achievement level. "It doesn't make sense to the average person that you would put a non-reader in the same English classroom as some kid who's reading Proust," says Tom Loveless, director of the Brown Center on Educational Policy at the Brookings Institution in Washington.

Critics say the practice simply keeps already-disadvantaged students on a path to lower academic achievement. "If you have classes that are structured to give kids less of a challenge, those kids tend to fall farther behind," says Kevin Welner, an associate professor at the University of Colorado's School of Education in Boulder.

Civil rights advocates say the enrollment patterns reflect what they call "segregation by tracking." In her critique of the practice, Jeannie Oakes, director of urban schooling at UCLA's Graduate School of Education and Information Studies, cited research evidence indicating that African-American and Latino students were more likely to be assigned to low-track courses than white students even when they had comparable abilities or test scores.³

"I wouldn't use the phrase 'segregation by tracking.' A lot of it is self-tracking," counters Abigail Thernstrom, a senior fellow at the conservative Manhattan Institute and co-author of a

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George Washington and Thomas Jefferson were among the nation's early leaders to call in general terms for mass public education, but the educational "system" of the early 19th century consisted of private academies, rural district schools and a handful of "charity" schools in cities. Horace Mann, the so-called father of American public education, used his appointment as Massachusetts' first commissioner of education in 1837 to advocate the "common school" — publicly supported and open to all. As University of Wisconsin educational historian William Reese explains, Mann saw education as a way to restore social harmony at a time of social tensions between rich and poor and between native-born and immigrants. Others saw the same connec-

tion. His fellow New Englander Alpheus Packard wrote in the 1840s of the "sons of wealth and poverty" gaining mutual respect by sitting side by side in a public school.¹⁰

Abolitionist Mann's vision had no practical meaning, however, for African-American slaves before the Civil War and only limited significance for their descendants for decades after slavery was abolished. Both before and after the Civil War, the vast majority of African-Americans "lived in states that were openly and explicitly opposed to their education," according to the University of Illinois' Anderson.

After emancipation slaves who had learned to read and write became teachers in rudimentary schools, aided by Northern missionaries and philanthropists and some sympathetic white Southern-

ers. With the end of Reconstruction, however, Southern leaders "pushed back the gains that had been made," Anderson says. In a racially segregated system in the early 20th century, per capita spending for black pupils in the South amounted to one-fourth to one-half of the amount spent on whites.¹¹

Education was becoming nearly universal for white Americans, even as racial segregation became entrenched for African-Americans and, in many places, for Mexican- and Asian-Americans.¹² Elementary school attendance was nearly universal by the 1920s. High schools — once viewed as fairly selective institutions — began doubling in enrollment each decade after 1890 thanks to a declining market for child labor and the growing enforcement of new compulsory education laws. Secondary

book on the educational gap between white and minority students. "Is it terrible that we have so few Latino and black students who are prepared to take the most educationally rigorous courses?" she adds. "Of course, it's terrible."

Welner acknowledges minority students often choose low-track courses, but faults school systems instead of the students. Minority parents and students often lack the information needed to understand the different course offerings, he says. And students "sometimes don't want to be the only minority in the high-track class," he says.

Loveless acknowledges the critics' complaints about low-track classes, but says the solution is to reform not to abolish them. "Let's fix the low-track classes," he says. Despite the critics' doubts, he says many private, charter and parochial schools have developed low-track curricula that more effectively challenge students than those often found in public schools.

"If we know how to create a high-track class, why would we then create a separate set of classes that don't have those opportunities?" Welner asks. "Why would we let students opt for a lesser education?"



Sixth-graders study science as part of the international baccalaureate curriculum at Harbour Pointe Middle School in Mukilteo, Wash.

AP Photo/The Herald/Elizabeth Armstrong

Loveless says under a random-assignment system, high-achieving students "would lose quite a bit," middle-range students "would lose a bit" and lowest-achieving students "would probably benefit a little bit" — mainly by reducing the concentration of students with behavioral issues in low-track classes.

Welner disagrees that high-achieving students are necessarily harmed by reforms. "Good detracking doesn't take anything away from these kids," he says. "The high achievers are not only holding their own but are doing better after the reform." Despite the recurrent clashes at the local level, Loveless predicts that tracking will continue to be a widespread practice. "Polls are very clear," he says. "Parents, teachers and students favor ability grouping. Those are three important constituency groups."

¹ College Board, "Advanced Placement: Report to the Nation 2006," p. 11 (www.collegeboard.com). For background, see Marcia Clemmitt, "AP and IB Programs," *CQ Researcher*, March 3, 2006, pp. 193-216.

² For opposing views, see Tom Loveless, *The Tracking Wars: State Reform Meets School Policy* (1999); Jeannie Oakes, *Keeping Track: How Schools Structure Inequality* (2d ed.), 2005.

³ *Ibid.*, pp. 230-231.

school enrollment increased from 50 percent of 14-17-year-olds in 1920 to nearly 95 percent of that age group by the mid-1970s. Meanwhile, the average school year was also increasing — from 144 days in 1900 to 178 days in 1950. And per capita investment in education rose during the same period from 1.2 percent of national income to 2 percent.

The Supreme Court's 1954 decision in *Brown* outlawing racial segregation in public schools capped a half-century-long campaign by the NAACP to gain a measure of equal educational opportunity for African-Americans.¹³ The legal campaign — directed by the future Supreme Court justice, Thurgood Marshall — was waged at a deliberate pace even as many black students and families were

agitating for better schools at the local level. The eventual decision seemed far from inevitable beforehand. Only after 1950 did the NAACP decide to ask the court to abolish segregation rather than try to equalize the separate school systems. And the justices were closely divided after the first round of arguments in 1952; they joined in the unanimous ruling in 1954 only after a second round of arguments and shrewd management of the case by the new chief justice, Earl Warren.*

The high court's "remedial" decision one year later in *Brown II* di-

* California, home to the nation's largest concentration of Asian-Americans and the second-largest concentration of Mexican-Americans after Texas, had abolished racial segregation in schools by law in 1947.

rected school districts to desegregate "with all deliberate speed." Many Southern politicians lent support to a campaign of "massive resistance" to the ruling by diehard segregationists. A decade after *Brown*, fewer than 5 percent of black students in the South were attending majority-white schools; more than three-fourths were attending schools with 90 percent minority enrollment.¹⁴ In 1968, an evidently impatient Supreme Court declared that school districts had to develop plans to dismantle dual systems that promised "realistically" to work — and to work "now." Three years later, a new chief justice, Warren E. Burger, led a unanimous court in upholding the authority of local federal courts to order school districts to use cross-neighborhood busing as part of a desegregation plan.¹⁵

More Blacks and Latinos Attend Poorest Schools

The vast majority (79 percent) of white students attend schools where less than half the student body is poor, compared with 37 percent of black students and 36 percent of Hispanics. For schools where at least 91 percent of the students are poor, whites made up just 1 percent of the student body compared with 13 and 15 percent, respectively, for blacks and Hispanics.

Distribution of Students in Public Schools by Percentage Who Are Poor, 2005-2006

Percent Poor	Percentage of each race				
	White	Black	Latino	Asian	American Indian
0-10%	20	5	7	23	17
11-20%	17	5	5	14	6
21-30%	16	7	7	12	8
31-40%	14	9	8	11	9
41-50%	12	11	9	9	11
51-60%	9	11	10	8	11
61-70%	6	12	11	6	11
71-80%	3	13	12	6	10
81-90%	2	14	14	6	8
91-100%	1	13	15	4	9

** Totals may not add up to 100 due to rounding.*

Source: Gary Orfield and Chungmei Lee, "Historic Reversals, Accelerating Resegregation, and the Need for New Integration Strategies," Civil Rights Project, UCLA, August 2007

Total number of students (in millions)

White	28
Black	8
Latino	10
Asian	2
American Indian	1

portant rulings, the justices in 1974 divided 5-4 in a case from Detroit to bar court-ordered desegregation between predominantly black inner cities and predominantly white suburban districts. Three years later, the court essentially freed school districts from any obligation to prevent resegregation after adopting a racially neutral assignment plan. The decisions coincided with widespread opposition to busing for racial balance among white families in many communities, most dramatically in Boston in the 1970s, where police escorts were needed for buses taking pupils from predominantly black Roxbury to predominantly white South Boston.

African-American students and families, meanwhile, had mixed reactions to desegregation generally and busing in particular, according to Professor Anderson. In many districts, desegregation meant the closing or transformation of historically black schools that had provided a good education for many students. In the South, desegregation also often meant the loss of black principals and teachers. And busing was a "one-way street" for African-Americans: most plans entailed the transportation of black students away from their neighborhoods to a mixed reception at best in predominantly white communities.

From the start, the NAACP and other civil rights groups had viewed desegregation not only as a goal in its own right but also — and perhaps more importantly — as an instrument to equalize educational opportunities for black and white pupils. In the heady days of the civil rights era, Congress had put educational equality on the national agenda in 1965 by passing a law as part of President Lyndon B. Johnson's "war on poverty" to provide federal aid targeted to poor children.¹⁷ By the end of the century, however, Title I of the Elementary and Secondary Education Act was seen as having produced mixed results at best — in part because allocation formulas shaped by the realities of congressional politics directed

'Elusive' Equality

The campaign to desegregate schools stimulated broader efforts in the late 20th century to equalize educational opportunity at national, state and local levels. Initially, desegregation advanced in the South and to a lesser extent in other regions. But integration eventually stalled in the face of white opposition to busing, ambivalence among blacks and Supreme Court decisions easing

pressure on local school districts to take affirmative steps to mix white and black students. School funding reform efforts produced some results, but as the 21st century began educational equality remained — in Professor Reese's word — "elusive."¹⁶

The Supreme Court's unanimity in school race cases broke down in the 1970s, and a continuing succession of closely divided decisions reduced districts' obligations to develop effective integration plans. In one of the most im-

Do Racial Policies Affect Academic Achievement?

Most studies find beneficial effects from integration.

When the Supreme Court outlawed racial segregation in schools in 1954, it relied heavily on research by the African-American psychologist Kenneth Clark purporting to show that attending all-black schools hurt black students' self-esteem. Over time, the court's reliance on Clark's study drew many critics, who questioned both the research and its prominent use in a legal ruling.

A half-century later, as they considered challenges to racial-diversity plans in Seattle and Louisville, Ky., the justices were deluged with sometimes conflicting research studies on the effects of racial policies on educational achievement. Among 64 friend-of-the-court briefs, nearly half — 27 — cited social science research. Most found beneficial effects from racial integration, but a minority questioned those claims.

The National Academy of Education, a select group of education scholars, created a seven-member committee to evaluate the various studies cited in the various briefs. Here are the committee's major conclusions from the research, released on June 29 — one day after the court found the school districts' plans unconstitutional:

Academic achievement. White students are not hurt by desegregation efforts or adjustments in racial composition of schools. African-American student achievement is enhanced by less segregated schooling, although the magnitude of the influence is quite variable. The positive effects for African-American students tend to be larger in the earlier grades.

Near-term intergroup relations. Racially diverse schools and classrooms will not guarantee improved intergroup relations, but are likely to be constructive. The research identifies conditions that need to be present in order for diversity to have a positive effect and suggests steps schools can take to realize the potential for improvement.

Long-term effects of school desegregation. Experience in desegregated schools increases the likelihood over time of greater tolerance and better intergroup relations among adults of different racial groups.

The critical-mass question. Racial diversity can avoid or mitigate harms caused by racial isolation, such as tokenism and stereotyping, particularly when accompanied by an otherwise beneficial school environment. Some briefs suggest a minimum African-American enrollment of 15 percent to 30 percent to avoid these harms, but the research does not support specifying any particular percentage.

Race-neutral alternatives. No race-neutral policy is as effective as race-conscious policies for achieving racial diversity. Socioeconomic integration is likely to marginally reduce racial isolation and may have other benefits. School choice generally and magnet schools in particular have some potential to reduce racial isolation, but could also increase segregation.

Source: Robert L. Linn and Kevin G. Welner (eds.), "Race-Conscious Policies for Assigning Students to Schools: Social Science Research and the Supreme Court Cases," National Academy of Education, June 29, 2007 (www.naeducation.org/Meredith_Report.pdf).

much of the money to relatively well-to-do suburban districts.

Meanwhile, advocates of educational equity had turned to the courts to try to reduce funding disparities between school districts — with mixed results.¹⁸ The Supreme Court ruled in 1973 that funding disparities between districts did not violate the federal Constitution. One month later, however, the New Jersey Supreme Court became the first state tribunal to find differential school funding to run afoul of a state constitutional provision. Over the next three decades, school funding suits resulted in court rulings in at least 19 states finding constitutional violations and ordering reforms. But funding disparities persisted. In a wide-ranging survey in 1998, *Education Week* gave 16 states

a grade of C- or below on educational equity between school districts.¹⁹

At the same time, school policymakers were focusing on clamorous calls to improve educational quality stimulated by the publication in 1983 of a report by the Reagan administration's Department of Education sharply criticizing what was depicted as rising mediocrity in U.S. schools. The debate generated by "A Nation at Risk" brought forth all manner of proposals for imposing educational standards, revising curricula or introducing competition within public school systems or between public and private schools. The debate diverted policymakers' attention to some extent from diversity issues and led many white parents to worry more about their own children's

education than about educational equity or diversity.²⁰

By the end of the 1990s, federal courts were all but out of the desegregation business, and racial isolation — "resegregation" to civil rights advocates — was on the rise. In a trio of cases in 1991, 1993 and 1995, the Supreme Court gave federal courts unmistakable signals to withdraw from superintending desegregation plans. School districts that sought to be declared "unitary" — or no longer dual in nature — and freed from desegregation decrees, like Jefferson County, invariably succeeded. By 2001, at least two-thirds of black students and at least half of Latino students nationwide were enrolled in predominantly minority schools. And after narrowing in

RACIAL DIVERSITY IN PUBLIC SCHOOLS

the 1980s, the educational-testing gaps between white and black students began to widen again in the 1990s. In 2000, the typical black student scored below about 75 percent of white students on most standardized tests.²¹

'Diversity' Challenged

Even as courts reduced the pressure on school districts to desegregate, hundreds of school systems adopted voluntary measures aimed at mixing students of different racial and ethnic backgrounds. Some plans that made explicit use of race in pupil assignments drew legal challenges from white families as "reverse discrimination." Meanwhile, several dozen school systems were adopting — and achieving some success with — diversity plans tied to socioeconomic status instead of race. Support for socioeconomic integration appeared to increase after the Supreme Court's June 28 decision in the Seattle and Louisville cases restricting the use of race in pupil assignments but permitting race-neutral policies to achieve diversity in the classroom.

School boards that voluntarily sought to achieve racial and ethnic mixing claimed that the policies generally improved education for all students while benefiting disadvantaged minorities and promoting broad political support for the schools. Many plans — like those in Seattle and Louisville — explicitly considered race in some pupil assignments, and several drew legal challenges. In November 1998 the federal appeals court in Boston struck

down the use of racial preferences for blacks and Hispanics for admission to the prestigious Boston Latin School. Then in fall 1999, the federal appeals court in Richmond, Va., ruled in favor of white families challenging race-based policies in two districts in the Washington, D.C., suburbs. The rulings struck down a weighted lottery that advantaged blacks and Hispanics in Arlington County, Va., and a transfer policy in Montgomery County, Md., that limited students from changing schools in order to maintain racial balance.²²

The idea of socioeconomic integration first gained national attention when

in favor of an assignment plan tied to free or reduced-lunch status to comply with the rulings by the Richmond-based appeals court in the Arlington and Montgomery County cases. By 2003, Kahlenberg claimed some 500,000 students nationwide were enrolled in school systems that used economic status as a factor in pupil assignments.²³

In the main, however, school districts that had adopted racial balancing plans stuck with them despite legal challenges. Seattle adopted its "open choice" plan in 1998 — some two decades after it had become the largest school district in the nation to voluntarily adopt a racial

busing plan. The ad hoc group Parents Involved in Community Schools filed its suit challenging the use of race as a "tiebreaker" in pupil assignments in July 2000. That same year, Jefferson County Public Schools adopted its controlled choice plan after a federal judge freed the system from a desegregation decree dating to 1975. Parent Crystal Meredith challenged the race-based assignments in April 2003. Federal district judges upheld the plans — in April 2001 in the Seattle case

and in June 2004 in the Jefferson County case. The 4th U.S. Circuit Court of Appeals in Cincinnati then upheld the Jefferson County plan in July 2005. The Seattle case followed a more complicated appellate route. The school district suspended the plan after an initial setback in 2002, but eventually the 9th U.S. Circuit Court of Appeals in San Francisco upheld the plan in October 2005.

The Supreme Court's decision to hear the two cases immediately raised fears among civil rights advocates that the conservative majority fortified by President George W. Bush's appointments of Chief

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Minnijean Brown, 15, one of the Little Rock Nine, arrives at Central High School on Sept. 25, 1957, guarded by soldiers sent by President Dwight D. Eisenhower. Brown and eight other African-American students desegregated the Arkansas school three years after the Supreme Court's landmark Brown v. Board of Education ruling.

Time & Life Pictures/Getty Images

the mid-sized town of La Crosse, Wis., redrew attendance zones in the early 1990s to shift students from an overcrowded, predominantly affluent high school to the town's second high school in the blue-collar section with a growing Hmong population. In Kahlenberg's account, the plan survived concerted political opposition, produced measurable educational progress and now enjoys widespread support. Cambridge, Mass., substituted socioeconomic integration policies for racial busing in 1999 after the federal appeals court ruling in the Boston Latin case. Wake County, N.C., similarly dropped its racial balancing plan in 2000

At Issue:

Is racial diversity in the classroom essential to a good education?



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WRITTEN FOR *CQ RESEARCHER*, SEPTEMBER 2007

Education in a democratic society serves three basic purposes. It provides students with workforce skills, prepares them to function as thoughtful and informed citizens in a cohesive country and enriches their lives by awakening them to new knowledge, perspectives and possibilities. Racial diversity in schools and classrooms enhances the attainment of each of these goals.

The ability to work effectively with individuals from diverse backgrounds is a fundamental workplace skill, as the well-known report “What Work Requires of Schools,” issued by President George H.W. Bush’s administration, points out. Yet, many students never develop this skill because our country’s neighborhoods, social institutions and religious organizations are often highly segregated. Racially diverse schools provide a milieu essential to the development of this crucial skill.

Racially diverse schools also have a vital role to play in developing fair-minded citizens and in promoting social cohesion. Research demonstrates that in-school contact with individuals from different backgrounds typically reduces prejudice, a fundamentally important outcome in our increasingly diverse society. In addition, students who attend diverse schools are more likely than others to choose diverse work and residential settings as adults, thus promoting social cohesion.

Racially diverse schools also enrich students’ understanding and expand their perspectives by placing them in contact with others whose views and life experiences may be very different. Just as visiting a foreign country is a much richer and more powerful experience than reading about it, interacting with students from different backgrounds brings their perspectives and experiences alive in a way not otherwise possible.

Even individuals who discount the arguments above must acknowledge that heavily segregated minority schools disadvantage the very students most in need of an excellent educational environment. Such schools typically have relatively impoverished curricular offerings, great difficulty recruiting experienced teachers and high teacher-turnover rates, all of which may help to explain why research suggests that attending such schools typically undermines students’ achievement relative to similar peers in more diverse schools.

Racial diversity in and of itself does not guarantee a good education, but as a recent report by the National Academy of Education suggests, it creates preconditions conducive to it. In our increasingly diverse democracy, the educational cost of segregated schools is too high for majority and minority students alike.



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Racially diverse classrooms are desirable — of course. But are they essential to a good education? Absolutely not. If they were, big-city school districts would be stuck providing lousy educations for America’s most disadvantaged children into the indefinite future. A large majority of students in 26 out of the 27 central-city districts with a public school population of at least 60,000 are non-white. The white proportion in these districts averages 16 percent. Thus, big-city schools will not be racially “diverse” unless we start flying white kids from Utah into, say, Detroit.

Or rather, they will not be racially “diverse” according to the Seattle school board’s definition in the racial balancing plan the Supreme Court condemned last term. Seattle had divided students into only two racial groups: white and non-white. If schools were half-Asian, half-white, that was fine; if they were 30 percent white with the rest Asian, they weren’t sufficiently “diverse,” and educational quality would be somehow lacking.

What racial stereotyping! Do all non-white students express the same non-white views — with all white students having a “white” outlook? In fact, why is racial diversity the only kind that counts for those concerned about the group clustering in certain schools? What about a social class or religious mix?

And on the subject of racial stereotyping, do we really want to embrace the ugly assumption that black kids are incapable of learning unless they’re hanging around some white magic? Good inner-city schools across the country are teaching the children who walk through the door. In excellent schools, if every one of the students is black — reflecting the demography of the neighborhood — the expectations for educational excellence do not change. And happily, there are no compelling studies showing enormous positive gains for black students when they attend schools with large numbers of whites.

Good education is not confined to academic learning. But there is no evidence that schools engaging in coercive racial mixing build a lifelong desire to “socialize with people of different races,” as Seattle assumed. Visit a school lunchroom! Racial and ethnic clustering will be very much in evidence.

Those who insist school districts should turn themselves inside out to engineer racial diversity haven’t a clue as to the limits of social policy. And they demean the capacity of non-Asian minority kids to learn, whatever the color of the kid in the seat next to them.

Continued from p. 760

Justice Roberts and Justice Samuel A. Alito Jr. would strike down the plans. Questions by Roberts and Alito during arguments on Dec. 4, 2006, left little doubt about their positions. The high-drama announcement of the decision on June 28 lasted nearly 45 minutes with Roberts, Kennedy and Breyer each delivering lengthy summaries of his opinion from the bench.

"The way to stop discrimination on the basis of race," Roberts declared as he neared his conclusion, "is to stop discriminating on the basis of race."

Breyer was equally forceful in his dissent. "This is a decision that the court and this nation will come to regret," he said.

Almost immediately, however, Kennedy's pivotal concurrence began to draw the closest scrutiny as advocates and observers tried to discern what alternatives remained for school boards to use in engineering racial diversity. The National School Boards Association urged local boards to continue seeking diversity through "careful race-conscious policies." Administrators in Seattle and Louisville said they planned to do just that.

But Clegg of the Center for Equal Opportunity said school systems would be better off to drop racial classifications. "At the end of the day, these two plans didn't pass muster," he said. "And the impact will be to persuade other school districts that this is not a good idea."²⁴ ■

CURRENT SITUATION

'Resegregation' Seen

The Louisville and Seattle school systems are in the opening weeks of a new academic year, with few im-

mediate effects from the Supreme Court decision invalidating their previous pupil-assignment plans. Officials in both districts are working on new pupil-assignment plans to put into effect starting in fall 2009, with racial diversity still a goal but race- or ethnic-based placements no longer permitted.

Both school systems, however, are reporting what civil rights advocates call "resegregation" — higher percentages of African-American students in predominantly minority schools. Critics of racial-diversity policies object to the term, arguing that segregation refers only to legally enforced separation of the races. Whatever term is used, a new report documents a national trend of "steadily increasing separation" in public schools between whites and the country's two largest minority groups: Latinos and African-Americans.

The report by the UCLA Civil Rights Project shows, for example, that the percentage of black students in majority-white schools rose from virtually zero in 1954 to a peak of 43.5 percent in 1988 before beginning a steady decline. In 2005 — the most recent year available — 27 percent of black students attended majority-white schools.

Meanwhile, the proportion of African-Americans attending majority-minority schools has been slowly increasing over the past two decades — reversing gains in integration in the 1960s and '70s — while the percentage of Latino students in majority-minority schools has grown steadily since the 1960s. In 2005, 73 percent of black students were in majority-minority schools, and more than one-third — 38 percent — were in "intensely segregated" schools with 90 to 100 percent minority enrollment. For Latinos, 78 percent of students were in majority-minority schools.

By contrast, Asian-Americans are described in the report as "the most integrated" ethnic group in public schools. In 2005, the average Asian student attended a school with 44 percent white enrollment — compared to 30 percent

white enrollment for the average black student and 27 percent white enrollment for the average Latino. The report attributed the higher integration for Asians to greater residential integration and relatively small numbers outside the West.

Seattle was already experiencing increasing racial isolation after suspending its previous placement plan, which included race as one "tiebreaker" in pupil assignments. "There has been a decline in racial diversity since suspension of the plan," says Seattle Public Schools spokeswoman Patti Spencer.

In Louisville, nine schools now have African-American enrollment above the previous guideline limit of 50 percent — most of them in predominantly black neighborhoods in Louisville's West End or the heavily black areas in southwestern Jefferson County. Black enrollment in some schools in the predominantly white East End has declined, though not below the minimum figure of 15 percent in the previous guidelines.

The 15/50 guidelines remain "a goal," according to Student Placement Director Todd. "We're trying to prevent as much slippage as possible."

In Seattle, outgoing Superintendent Raj Manhas told reporters after the Supreme Court ruling that the school district would look at "all options available to us" to try to preserve racial diversity in the schools.²⁵ The new superintendent, Maria Goodloe-Johnson, is an African-American who was sharply critical of racial policies in her previous position as superintendent in Charleston, S.C. Since taking office in Seattle in July, however, Goodloe-Johnson has not addressed racial balance, according to Spencer.²⁶

Opponents of the race-based policies say school districts should refocus their efforts. "Where school districts should focus is on education standards, not creating a specific racial mix of students," says Sharon Browne, a staff attorney with the Pacific Legal Foundation,

the conservative public interest law firm that supported the legal challenges in Louisville and Seattle.

"The guidelines are gone," says attorney Gordon in Louisville. "They're past tense."

In Seattle, Kathleen Brose, the long-time school activist who founded Parents Involved in Community Schools to challenge the use of race for high school placements, says diversity is "important," but parental choice is more important. "The school district has been so focused on race," she adds, "that, frankly, I think they forgot about academics."

Legal Options Eyed

School boards around the country are re-examining their legal options for promoting diversity. At the same time, they are bracing for new legal challenges to their diversity plans that, so far, have not materialized.

The National School Boards Association plans to provide local boards with advisories on what policies can be used under the Supreme Court's decision to promote racial balance. But General Counsel Negrón expects few changes as a result of the ruling.

"School districts are not going to be changing their policies drastically to the extent that they will be abandoning their choices of diversity or integration as their goal, if that's what they've chosen to do," Negrón says. "School districts are going to comply with the law as they understand it. And there's a lot of room in Justice Kennedy's concurrence for school districts to be creative and innovative."

Barring any consideration of race, Negrón adds, "was just not what the decision stood for."

Pacific Legal Foundation attorney Browne, however, worries that school districts are not complying with the ruling. "We are very disappointed

that there are school districts who are ignoring the decision by the U.S. Supreme Court and continuing to use race [in pupil assignments]," she says.

Browne says school districts should have begun developing contingency plans for assigning students on a non-racial basis after the oral arguments in the Seattle and Louisville cases in December indicated the court would find both plans unconstitutional.

The Louisville and Seattle cases themselves are still pending in lower federal courts, with winning lawyers in both cases asking the courts to order the school boards to pay attorneys' fees.

In Seattle, the firm of Davis Wright Tremaine is seeking \$1.8 million in attorneys' fees despite having previously said that it was handling the parents' case pro bono — for free. "Congress specifically and explicitly wrote into the law that if the government is found to have violated citizens' civil rights, then the prevailing party should seek fee recovery," explained Mark Usellis, a spokesman for the firm. The school system reported spending \$434,000 in legal fees on the case.²⁷

Louisville solo practitioner Gordon is asking to be paid \$200 per hour for the "hundreds of hours" he devoted to the case plus a bonus for the national impact of the case. Without specifying a figure, he also wants to be reimbursed for spending his own money on expenses and court costs. Meanwhile, plaintiff Crystal Meredith is asking for \$125,000 in damages, which she attributes to lost wages, invasion of privacy and emotional distress.²⁸

Gordon says he received several complaints from parents whose applications for transfers for their children had been denied on the basis of limited capacity at the school they had chosen. Gordon says he suspected school officials were actually denying the transfers on racial grounds, but the MacNeals' case was the only "smoking gun" he found.

The Pacific Legal Foundation is following up on "many inquiries" received from parents since the Supreme Court ruling, according to Browne, but no new cases have been filed. She declined to say where the complaints originated. The foundation has suits pending in California courts against the Los Angeles and Berkeley school districts over race-based policies.

If any new legal challenges are filed, Negrón expects federal courts will defer to local school boards' decisions, for the most part. The [Supreme Court] didn't tell us exactly what to do," he explains. "School districts will be trying their best to come up with something that meets the requirements of the law and at the same time meets their educational interest in regard to diversity." ■

OUTLOOK

'Minimal Impact'?

In striking down the Seattle and Jefferson County racial-balance plans, Chief Justice Roberts cited figures from the two school districts showing that the policies actually affected relatively few students — only 52 pupils in Seattle and no more than 3 percent of the pupil assignments in Jefferson County. The "minimal impact," he wrote, "casts doubt on the necessity of using racial classifications."

Writing for the dissenters, however, Justice Breyer cast the stakes in broader terms by citing the growing percentage of black students in majority non-white schools nationwide. The Louisville and Seattle school boards, Breyer said, were asking to be able to continue using tools "to rid their schools of racial segregation." The plurality opinion, he concluded, was "wrong" to deny the school boards' "modest request."

RACIAL DIVERSITY IN PUBLIC SCHOOLS

Two months after the ruling, civil rights advocates are continuing to voice grave concerns that the decision will hasten what they call the resegregation of public schools nationwide. “We’re going to have a further increase in segregation of American schools,” says UCLA’s Orfield. “School districts are going to have to jump through a whole series of hoops if they want to have some modest degree of integration.”

Legal Defense Fund President Shaw fears new challenges not only to pupil-assignment plans but also to mentoring and scholarship programs specifically targeting racial minorities. “Our adversaries are not going to go away,” says Shaw. “They’re going to continue to attack race-conscious efforts to address racial inequality.”

Opponents of racial-balance plans either discount the fears of increased racial isolation or minimize the harms of the trend if it materializes.

“I don’t think there will be dramatic consequences from these decisions,” says Rosman of the Center for Individual Rights. School systems with an interest in racial diversity “will find a way to do that legally,” he says. “For schools that use race explicitly, it will still be a contentious matter.”

“There’s going to be less and less focus on achieving politically correct racial and ethnic balance and more focus on improving education,” says the Center for Equal Opportunity’s Clegg. “That’s where the law’s headed, and that’s where policy’s headed. We ought to be worrying less about integration anyhow.”

For his part, the Century Founda-

tion’s Kahlenberg stresses that the number of school districts with race-conscious policies — guesstimated at around 1,000 — is a small fraction of the nationwide total of 15,000 school systems. Many of the districts that have been seeking racial balance will likely shift to socioeconomic integration, he says, “because that’s a clearly legal way to raise academic achievement for kids and create some racial integration indirectly.”

In Louisville, the county school board did vote on Sept. 10 to broaden its diversity criteria to include socioeconomic status. “Race will still be a factor,” Superintendent Berman said, “but it will not be the only factor.”²⁹ Meanwhile, Student Placement Director Todd says Jefferson County’s use of non-contiguous school-attendance zones to mix students from different racially identifiable neighborhoods is likely to be continued.

In his concurring opinion, Justice Kennedy suggested “strategic site selection” as another permissible policy to promote racial diversity — placing new schools so they draw students from different racial neighborhoods. The suggestion may prove impractical in many school districts. Jefferson County opened one new school this fall — in the rapidly growing and predominantly white eastern end, far removed from the African-American neighborhoods in the West End. As Breyer noted in his opinion, many urban school systems are unlikely to be building new schools because they are losing not gaining enrollment.

Changing demographics and changing social attitudes are inevitably bringing about changes in the schools. Within a decade or so, demographers expect white students will no longer comprise a majority of public school enrollment. And, as Abigail Thernstrom notes, young people have different attitudes toward race than their parents or grandparents.

“In terms of racial attitudes, we’re on a fast track,” Thernstrom says. “Young kids are dating across racial and ethnic lines. America is changing in very terrific ways and has been for some time. I expect that change to continue.”

But University of Wisconsin educational historian Reese cautions against expecting racial issues to disappear. “It’s like a never-never land to imagine that racial issues can somehow disappear,” he says. “It’s a nice thing to say that we should live in a kind of perfect world, but we don’t. I can’t imagine that it will disappear. It couldn’t have disappeared in the past, and it won’t disappear in the future.” ■

Notes

¹ For coverage, see Chris Kenning, “Separate attendance zones voided,” *The [Louisville] Courier-Journal*, Aug. 29, 2007, p. 1A.

² The decision is *Parents Involved in Community Schools v. Seattle School District No. 1*, 552 U.S. — (2007); the companion case was *Meredith v. Jefferson County Public Schools*. For a detailed chronicle of the cases, see Kenneth Jost, “Court Limits Use of Race in Pupil Assignments,” in *The Supreme Court Yearbook 2006-2007*, <http://library.cqpress.com/scyb/>.

³ For background, see Kenneth Jost, “School Desegregation,” *CQ Researcher*, April 23, 2004, pp. 345-372.

⁴ See Chris Kenning, “JCPS sees change in racial makeup,” *The [Louisville] Courier-Journal*, Sept. 2, 2007, p. 1A.

⁵ Gary Orfield and Chungmei Lee, “Historic Reversals, Accelerating Resegregation, and the Need for New Integration Strategies,” UCLA Civil Rights Project (formerly

About the Author



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⁶ Richard D. Kahlenberg, "Rescuing *Brown v. Board of Education*: Profiles of Twelve School Districts Pursuing Socioeconomic School Integration," June 28, 2007, p. 3.

⁷ For coverage, see Peter Schworm, "AG Urges Court to Uphold Lynn Plan," *The Boston Globe*, July 18, 2005, p. B4.

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⁹ Background drawn in part from William J. Reese, *America's Public Schools: From the Common School to "No Child Left Behind"* (2005); R. Freeman Butts, *Public Education in the United States: From Revolution to Reform* (1978).

¹⁰ Reese, *op. cit.*, pp. 10-11, 25-26.

¹¹ For background, see James Anderson, *The Education of Blacks in the South, 1860-1935* (1988). See also Heather Andrea Williams, *Self-Taught: African American Education in Slavery and Freedom* (2003).

¹² For background, see "School Desegregation," *op. cit.*, p. 350 (Latinos), pp. 356-357 (Asian-Americans), and sources cited therein.

¹³ Some background drawn from James T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy* (2001).

¹⁴ For data, see *ibid.*, pp. 228-230.

¹⁵ The decisions are *Green v. County School Board of New Kent County*, 391 U.S. 430 (1968), and *Swann v. Charlotte-Mecklenburg County Board of Education*, 402 U.S. 1 (1971).

¹⁶ Reese, *op. cit.*, p. 246. For background on later school desegregation cases, see Patterson, *op. cit.*

¹⁷ For background, see H. B. Shaffer, "Status of the War on Poverty," in *Editorial Research Reports*, Jan. 25, 1967, available at *CQ Researcher Plus Archive*, <http://library.cqpress.com>.

¹⁸ Background drawn from Kathy Koch, "Reforming School Funding," *CQ Researcher*, Dec. 10, 1999, pp. 1041-1064.

¹⁹ The decisions are *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973), and *Robinson v. Cabell*, 62 A.2d 273 (N.J. 1973).

²⁰ For background, see Charles S. Clark, "Attack on Public Schools," *CQ Researcher*, July 26, 1996, pp. 649-672.

²¹ See Patterson, *op. cit.*, p. 214 n.19, p. 234.

²² The decisions are *Wessmann v. Gittens*, 160 F.3d 790 (1st Cir. 1998); *Tuttle v. Arlington County School Board*, 195 F.3d 698 (4th

FOR MORE INFORMATION

American Educational Research Association, 1430 K St., N.W., Suite 1200, Washington, DC 20005; (202) 238-3200; www.aera.net. National research society encouraging scholarly research in efforts to improve education.

Center for Individual Rights, 1233 20th St., N.W., Suite 300, Washington, DC 20036; (202) 833-8400; www.cir-usa.org. Nonprofit public-interest law firm opposed to racial preferences.

Center for Equal Opportunity, 7700 Leesburg Pike, Suite 231, Falls Church, VA 22043; (703) 442-0066; www.ceousa.org. Think tank devoted to equal opportunity and racial harmony.

Century Foundation, 41 E. 70th St., New York, NY 10021; (212) 535-4441; www.tcf.org. Public-policy institution promoting methods for socioeconomic integration in education.

Mexican American Legal Defense and Educational Fund, 634 S. Spring St., Los Angeles, CA 90014; (213) 629-2512; www.maldef.org. Protects and promotes the civil rights of Latinos living in the United States.

NAACP Legal Defense and Educational Fund, 99 Hudson St., Suite 1600, New York, NY 10013; (212) 965-2200; www.naacpldf.org. Serves as legal counsel on issues of race, with emphasis on education, voter protection, economic justice and criminal justice.

National School Boards Association, 1680 Duke St., Alexandria, VA 22314; (703) 838-6722; www.nsba.org. Seeks to foster excellence and equity in public education by working with school board leadership.

Here is contact information for the school districts involved in the Supreme Court decision, Parents Involved in Community Schools v. Seattle School District No. 1:

Jefferson County Public Schools, VanHoose Education Center, 3332 Newburg Rd., P.O. Box 34020, Louisville, KY 40232-4020; (502) 485-3949; www.jefferson.k12.ky.us.

Seattle School District No. 1, 2445 Third Ave. South, Seattle, WA 98134; (206) 252-0000; www.seattleschools.org.

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²³ See Richard D. Kahlenberg, *All Together Now* (2003 ed.), p. xiii.

²⁴ Quoted in Andrew Wolfson, "Desegregation Decision: Some Find 'Sunshine' Amid Rain," *The [Louisville] Courier-Journal*, June 29, 2007, p. 6K.

²⁵ Quoted in Jessica Blanchard and Christine Frey, "District Vows to Seek Out Diversity Answers," *Seattle Post-Intelligencer*, June 29, 2007, p. A1.

²⁶ See Emily Heffter, "First Day of School for Chief," *Seattle Times*, July 10, 2007, p. B1.

²⁷ See Emily Heffter, "Law firm wants school district to pay \$1.8M," *Seattle Times*, Sept. 6, 2007, p. B5.

²⁸ Chris Kenning and Andrew Wolfson, "Lawyer in schools case seeks fees, bonus," *The [Louisville] Courier-Journal*, July 29, 2007, p. 1A.

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The authors decry the persistent achievement gap between white and black students but discount the importance of racial isolation in schools as a cause. Includes extensive statistical information, notes. Both authors are senior fellows with the Manhattan Institute; Abigail Thernstrom is vice chair of the U.S. Civil Rights Commission, Stephan Thernstrom a professor of history at Harvard.

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On the Web

The *Courier-Journal* has an extensive compilation of articles, photographs and information on the course of school desegregation in Louisville and Jefferson County (www.courier-journal.com/desegregation). Current coverage can be found on the Web sites of Seattle’s two newspapers, the *Seattle Times* (<http://seattletimes.nwsources.com/html/education/>) and the *Seattle Post-Intelligencer* (<http://seattlepi.nwsources.com/>).

The Next Step:

Additional Articles from Current Periodicals

Achievement Gap

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Many apparently successful California public schools are failing to close the achievement gap, according to the state's Department of Education.

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Evidence suggests the achievement gaps between Asian and white students and between black and Hispanic students not only remain wide but also increase with age.

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The achievement gap is closing — albeit slightly — between minority students and white students, according to the president of the Center on Education Policy.

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CITING CQ RESEARCHER

Sample formats for citing these reports in a bibliography include the ones listed below. Preferred styles and formats vary, so please check with your instructor or professor.

MLA STYLE

Jost, Kenneth. "Rethinking the Death Penalty." *CQ Researcher* 16 Nov. 2001: 945-68.

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Research Update

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Racial Diversity in Public Schools

Here are key events, legislation and court rulings since publication of the CQ Researcher report by Kenneth Jost, "Racial Diversity in Public Schools," Sept. 14, 2007.

“Hey, hey, ho, ho, resegregation has got to go.” So echoed the 1960s-style chant of protesters at a July 20, 2010, meeting of the school board in North Carolina’s Wake County (Raleigh). Police arrested 19 for disrupting discussion of a new neighborhood school-busing plan that dismantles existing school assignments intended to achieve racial diversity. A rally earlier in the day in Raleigh drew 1,000 people. They heard speakers invoke memories of separate water fountains for blacks and whites and compare the Wake controversy to the early 1950s school-desegregation battle that culminated in the Supreme Court’s landmark ruling in *Brown v. Board of Education*.³⁰

Such fear of public school “resegregation” has haunted some American communities ever since the Supreme Court’s June 28, 2007, decision in *Parents Involved in Community Schools v. Seattle School District No. 1* invalidating race-conscious pupil-assignment plans in Seattle and metropolitan

Louisville, Ky. And despite active national school-reform efforts by the nation’s first African-American president, many families and policy advocates who wish to preserve racial diversity in schools express disappointment in the Obama administration’s priorities in this area.

“Obama is emphasizing charter schools, which are racially isolating, and firing teachers at high-poverty schools,” says Richard Kahlenberg, a senior fellow at the Century Foundation and longtime student of the racial make-up of schools. “As far as I can tell, he’s been silent on the Wake County situation.”

Scholars at the University of California at Los Angeles Civil Rights Project also scolded the Obama team for failing to deliver on promised guidance on how voluntary integration of schools should proceed in the wake of the 2007 high-court ruling. The complex, 5-2 decision “confused many educators, and it was somewhat unclear what did remain legal,” they wrote in



A protester objects to a new neighborhood school-busing plan in North Carolina’s Wake County (Raleigh) that dismantles school assignments aimed at achieving racial diversity.

AP Photo/Jim R. Bounds

a recent report reviewing the response to the ruling.³¹ “In 2008, the Bush administration sent a letter to school districts misguidedly interpreting the *Parents Involved* decision in a way that suggested only race-neutral means of pursuing integration would be legal. This was an inaccurate description of [Justice Anthony] Kennedy’s controlling opinion and suggested that school authorities should abandon all efforts to intentionally pursue integration.”

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The UCLA researchers were also responsible for recent research stating that the increasingly popular movement to create more parental choices in charter schools continues “to stratify students by race, class, and possibly language, and [charter schools] are more racially isolated than traditional public schools in virtually every state and large metropolitan area in the country.” Nationally,

regate,” which he says calls to mind the period in history when schools were deliberately segregated by law. “We’re talking [now] about racial imbalances due to student choice and residential living patterns,” he says. “Reasonable people can disagree about the best way to achieve balance. But those who believe that competition and choice are essential have the better argument. The

Yet Duncan also suggested that modern times call for a more individualistic approach. “The civil rights struggle has grown more complex since the days of Selma,” he said. “Freedom, it turns out, is not only the right to sit in the front of the bus, or cast a ballot. It’s not even just the opportunity to purchase a home without fear of discrimination, as essential as that is. . . . No, freedom is also the ability to think on your own and to pursue your own path as far as your gifts can take you — and only education can give you that freedom, can open those doors.”³³

Specifically, Duncan’s department has pursued school integration with two competitive-grant programs. One provides technical assistance to districts preparing pupil-placement policies that don’t run afoul of the Supreme Court ruling, one of which is being used by Kentucky’s Jefferson County (Louisville), a party to the *Parents Involved* suit. Another is new funding for the Magnet Schools Assistance Program (MSAP), a long-standing effort that encourages creation of attractive voluntary programs that draw students from many neighborhoods. The department’s description mentions reducing racial isolation as a priority.

The overall trend since the *Parents Involved* ruling, says Kahlenberg, is to assign school zones with an eye on minimizing concentrations of children of low socioeconomic status. “There’s no legal problem with it, and it accomplishes a fair amount of racial integration,” he says. Back in 2000, only two or three school districts were using such methods, he adds, while in the year the Supreme Court ruled there were 40, and now there are more than 70. “A lot of school districts after the ruling could have walked away and said, ‘Our hands are tied,’ ” Kahlenberg says. “Instead, some said, ‘we value racial integration, so let’s come up with a legally permissible way to integrate.’ ” Research confirms that low-income children achieve more



AP Photo/Montgomery Advertiser/David Bundy

U.S. Secretary of Education Arne Duncan listens to students, teachers and former students describe their educational experience as he visits Robert E. Lee High School in Montgomery, Ala., during brief stops at schools in Montgomery and Selma, Ala., in March.

70 percent of black charter students attend schools where at least 90 percent of students are minorities, double the figure for traditional public schools, the researchers found.³²

Others, however, found clarity in the Supreme Court ruling. “Any fair reading of the decision is that any kind of race consciousness by school boards in assignment of students is legally very dangerous,” says Roger Clegg, president and general counsel of the Center for Equal Opportunity, a Falls Church, Va., think tank opposed to racial preferences. “And it wouldn’t be politically wise for Obama to mount any kind of counter-crusade.”

Clegg discourages the term “reseg-

overwhelming majority of parents and students of all racial groups would prefer to have better schools and more choices rather than some politically correct racial and ethnic mix.”

Education Secretary Arne Duncan in March 2010 made a much-publicized visit to Selma, Ala., to speak on the state of minorities in education at the Edmund Pettus Bridge, site of a dramatic confrontation between billy club-wielding police and civil rights marchers in 1965. Duncan promised to reinvigorate his department’s Office of Civil Rights, reduce resource disparities among schools and confront continuing barriers to achieving the Rev. Martin Luther King Jr.’s vision of a colorblind society.

Chronology

2008

Feb. 23 — Federal judge lifts 1974 desegregation order for Mark Twain Intermediate School in Brooklyn, N.Y., effectively eliminating racial quotas.

Nov. 4 — Nebraska votes to ban affirmative action; Colorado rejects a proposed ban.

2009

June 11 — California Supreme Court rejects challenge to the Berkeley Unified School District's policy of considering the racial

composition of students' neighborhoods in deciding where pupils will enroll.

2010

March 8 — Education Secretary Arne Duncan speaks on the state of minorities in education in Selma, Ala.

March 26 — Department of Justice signs consent agreement with Monroe School District in Louisiana to level offerings of advanced-placement and gifted-and-talented courses with predominantly white and predominantly black schools.

March 29 — Delaware and Tennessee named first winners of Department of Education's Race to the Top competition, designed to spur reforms in state and local K-12 education.

June 20 — Boston College launches \$20 million program to improve urban education and better prepare low-income students from the area for college.

July 20 — Nineteen arrested in protest of Wake County (Raleigh, N.C.) School Board's decision to dismantle a decade-old policy of busing students to achieve diversity.

when they're in school with middle-class children, he says.

The main arena for diversity issues, of course, is in school districts around the country. In Seattle, where the Supreme Court case originated, a new school boundary set to take effect this fall is based on neighborhood proximity and does not mention race as a factor in a decision-making process that included public hearings. A Seattle secondary school, Cleveland High, is set to open as a citywide magnet school focusing on math, science, engineering and technology, though, as in many districts reeling from the recession, funding is shaky.

And in Jefferson County (the second party to the suit), school officials are considering the percentage of minority students in the greater Louisville area as well as the education and in-

come of adults in the area when weighing admissions, said Pat Todd, director of student assignment for Jefferson County schools. "This gives us more racial, ethnic and economic diversity," she said.³⁴ Louisville school officials are using an analytical tool called "opportunity mapping," which was developed at Ohio State University's Kirwan Institute for the Study of Race and Ethnicity.³⁵

In Chicago, a city with neighborhoods long divided along racial lines whose school system was previously run by Secretary Duncan, a recent plan to use students' social and economic profiles instead of race to increase classroom diversity is raising fears that it will set back the modest progress toward integration achieved in recent decades. Amanda Orellano, whose daughter is the third generation in her

family to attend a prominent Chicago magnet school that is moving away from a race-based enrollment policy, said, "Somebody's going to feel that they're the only one here that's this way or that way, and feel isolated."³⁶

The Justice Department, as it has since the birth of the civil rights movement in the 1950s, continues to monitor racial discrimination in more than 200 mostly Southern school districts on their compliance with decades-old court desegregation orders. Recently, the department sued the school board in Walthall, Miss., for a policy that permitted white students to transfer out of a predominantly black high school to a majority-white school. In April, a federal judge ruled that the policy created "racially identifiable" schools in violation of a 1970 desegregation order.³⁷

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In some cases, the department focuses not just on school demographics or attendance zones but on equal availability of quality academic programs and clean, modern physical plants. In March 2010, Justice announced it had signed a consent agreement with the Monroe City School District in Louisiana to equalize the offering of advanced placement and gifted-and-talented courses between the predominantly black and white high schools. Subject to court approval, the settlement was based on agreement that the unequal offerings under the existing system violated the equal protection provisions of the 1964 Civil Rights Act.

The new focus on pursuing diversity using socioeconomic status has not prevented one of the oldest civil rights organizations, the NAACP Legal Defense Fund, from continuing to emphasize race-based disparities even in what some had hoped would be President Obama's "post-racial America." In its recommendations for the still-in-progress reauthorization of the No Child Left Behind law, the group proposed that par-

ents receive progress reports from the Education Department's Office of Civil Rights and that schools designate a point-of-contact to receive parental complaints about racial discrimination.

"Some have articulated a belief that our nation is unable to garner the resources to provide a high-quality education for all students, and therefore we should just save those we can," the group wrote. "But as civil rights advocates, our objective is not to support prescriptions that only have the capacity to change a few schools for a few students. . . . Securing equal access to high-quality education is the civil rights battle of this generation." ³⁸

— **Charles S. Clark**

Notes

³⁰ Mike Baker, "Racial Tensions Roil NC School Board; 19 arrests," *The Associated Press*, July 20, 2010.

³¹ Adai Tefera, Genevieve Siegel-Hawley and

Erica Frankenberg, "School Integration Efforts Three Years After 'Parents Involved,'" *The Civil Rights Project/Proyecto Derechos Civiles*, University of California, Los Angeles, June 28, 2010.

³² Howard Blume, "Charter Schools' Growth Promoting Segregation, Studies Say," *Los Angeles Times*, Feb. 4, 2010.

³³ Sam Dillon, "Officials Step Up Enforcement of Rights Laws in Education," *The New York Times*, March 7, 2010, p. A11.

³⁴ Tefera, *et al.*, UCLA Civil Rights Project, *op. cit.*

³⁵ See Susan Eaton and Steven Rivkin, "Is Desegregation Dead?" *Education Next*, fall 2010. See also <http://kirwaninstitute.org/research/gis/mapping/opportunity-mapping/>.

³⁶ Crystal Yednak and Darnell Little, "City Schools' New Criteria for Diversity Raise Fears," *Chicago News Cooperative*, Dec. 20, 2009.

³⁷ Stephanie McCrummen, "Ruling on Racial Isolation in Miss. Schools Reflects Troubling Broader Trend," *The Washington Post*, April 20, 2010.

³⁸ "Framework for Providing All Students an Opportunity to Learn through Reauthorization of the Elementary and Secondary Education Act," NAACP Legal Defense Fund, July 26, 2010. www.naacpldf.org.

Update