LOOKING TO THE FUTURE:
Voluntary K-12 School Integration

A MANUAL FOR
PARENTS, EDUCATORS, AND ADVOCATES

table of contents

ANOTHER RECENT RULING IN SUPPORT OF A SCHOOL DISTRICT'S ABILITY TO PROMOTE INTEGRATION

On October 20, 2005, a full panel of the United States Court of Appeals for the Ninth Circuit issued an important decision upholding the use of race as a tie-breaking factor in the assignment of high school students. In so doing, the Ninth Circuit became the third federal appellate court since the U.S. Supreme Court decided its 2003 University of Michigan affirmative action cases to issue a favorable ruling on the use of race-conscious student assignment strategies for the purposes of avoiding racially isolated schools and promoting racial diversity in the context of K-12 public schools.

The Ninth Circuit case, *Parents Involved in Community Schools vs. Seattle School District No. 1*, involved a challenge to a limited choice policy that allows students to rank their preferences among the high schools in the system. School administrators then consider a number of factors, one of which is the degree of racial diversity of the school, to determine where to assign them.

The court's majority found that the school district's interest in creating racially diverse schools was compelling because of the educational and social benefits that flow from racially diverse schools and because of their desire to avoid the harms that would result from racially isolated schools if the plan were not in place. The majority also found that the school system's use of race was narrowly tailored to achieve these compelling interests. Importantly, it flatly rejected the notion that in order to promote racial diversity, K-12 school districts were required to provide individualized consideration to each school choice request, as if it were an application to a selective college or university.

As with the recent, related voluntary school integration decisions of the First and Sixth Circuits discussed in chapter 5 of the manual, there is a possibility that this ruling will be reviewed by the U.S. Supreme Court. For now, however, there is continued support—and consensus—on the value, importance, and legality of promoting racial and ethnic integration in our nation's public primary and secondary schools.

ACKNOWLEDGEMENTS

To obtain a copy, please contact:
     LDF Communications Department
     99 Hudson Street, Suite 1600
     New York, NY 10013

To download a PDF, please visit:
     www.naacpldf.org
     www.civilrightsproject.harvard.edu
     www.law.virginia.edu/race

introduction

Having just celebrated the fiftieth anniversary of the landmark *Brown v. Board of Education* decision, our nation finds itself at a critical crossroad. For much of the past fifty years, parents of minority children and community leaders have repeatedly petitioned courts throughout the country, demanding that the judiciary give life and meaning to *Brown* by ordering recalcitrant school districts to dismantle their racially segregated school systems. In the face of great resistance, and sometimes even violence, these leaders valiantly insisted that their children's schools act to eliminate the stubborn, persistent vestiges of racial discrimination and that we, as a country, live up to our nation's highest ideals of equality for all.

In more recent years, however, a somewhat unexpected shift has occurred. Urged by parents and activists, many school districts have come to realize the value of racial and ethnic diversity and its important influence on educating our future citizens. A number of these school districts, as a result, have *voluntarily* enacted policies and student assignment methods designed to promote racial integration in their schools. In other words, more and more school districts are trying to further racial diversity not out of legal obligation, but on their own accord, as a core part of their educational mission. They do so in recognition of the critical role schools play in fostering racial and ethnic

harmony in our increasingly heterogeneous society, and of the significance of an integrated school experience in shaping students' worldviews. While this development is without a doubt an encouraging one, even as we struggle to achieve equity and integration in education, the law dictates that we proceed with caution.

Although in 2003 the United States Supreme Court affirmed the importance of diversity in higher education specifically, it remains somewhat unclear what this means for the almost 50 million students in our nation's public elementary and secondary schools. In the absence of explicit guidance from the Supreme Court on what kinds of actions K-12 public schools may take to promote racial integration, school districts and their constituents have been working largely under a cloud of legal uncertainty.

Just months prior to this manual's printing, however, a Boston-based federal appellate court issued a decision in a closely-watched case upholding a school district's ability to consider race to reduce racial isolation and foster racial diversity in its schools. Shortly thereafter, another

federal appellate court unanimously affirmed the ability of the metropolitan school system of Louisville, Kentucky to do the same. Pending litigation in other courts across the country will continue to affect our understanding of what the law requires and what it allows, but these rulings (read alongside other recent decisions) are very promising for those of us who believe that racially integrated schools provide the best educational environments for our children.

Therein lies the purpose of this manual. It is designed to help you—parents, students, community activists, and school board members, administrators, and attorneys—navigate through the maze of legal, political, and policy issues related to the promotion of racial and ethnic diversity in public schools. In the following pages, you will find a brief legal history of what has often been called "court-ordered" school desegregation cases, from *Brown* through the present. Next, you will learn about the disturbing and perhaps surprising trend toward school resegregation, as well as its causes, patterns, and staggering impact, particularly on urban school systems and the students who attend them. You will also find information about the rich, ever-expanding body of research regarding the many benefits of racially and ethnically diverse schools as well as the harms of racially isolated schools. In order to make this manual reader-friendly, we have deliberately eliminated footnotes, and instead include short "Further Reading" sections at the end of each chapter, to which you can refer if you are interested in finding out more information about the topics contained in the chapter.

With the history, statistics, and research as context, we then turn to the practical question of what you can do to promote integration in the schools in your own community. To give you a sense of how other school systems have effectively tackled the problem, we begin this part of the manual with short descriptions of various hypothetical integrative student assignment strategies. We then review and discuss the legal considerations at work when school districts elect to pursue these kinds of voluntary methods of achieving racial and ethnic diversity. Finally, we conclude with some suggestions for concrete steps that you can take to make a difference by encouraging the public schools in your community to promote racial integration and implement policies and practices that foster positive, integrated learning environments for all students.

Theodore M. Shaw
Director-Counsel
and President
NAACP Legal Defense &
Educational Fund, Inc.

Gary Orfield
Director, Civil Rights Project
Harvard University

James E. Ryan
Academic Associate Dean
University of Virginia
School of Law

Kim Forde-Mazrui
Director, Center for the Study
of Race and Law
University of Virginia
School of Law

CHAPTER 1

a brief history of "court-ordered" school desegregation

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

A number of scholars have called *Brown v. Board of Education* the most famous United States Supreme Court case in American history. That landmark 1954 decision overturned *Plessy v. Ferguson*'s (1896) longstanding, deeply entrenched doctrine of "separate but equal," stating for the first time that racially segregated schools violated the Equal Protection guarantees of the Fourteenth Amendment of the U.S. Constitution.

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

Despite the efforts of countless black communities demanding immediate relief in the wake of the *Brown* decision—often at the risk of grave danger and violence, and mostly in the segregated South, where resistance was greatest—a full decade passed with virtually no progress

in desegregating schools. By 1963, when President John F. Kennedy asked Congress to pass legislation prohibiting racial discrimination in all programs receiving federal aid (including schools), over 98% of Southern black students were still attending segregated schools.

The mid-1960s and early-1970s were a time of great change, however, and soon school desegregation finally began to take hold. Congress enacted Kennedy's proposed legislation as the Civil Rights Act of 1964, which empowered the Department of Justice to initiate desegregation lawsuits independent of private plaintiffs and authorized the Department of Health, Education, and Welfare to deny federal funds to segregating school districts. Civil rights attorneys, working alongside these new governmental allies, focused the attention of the public

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

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

Voluntary school integration (sometimes also called *voluntary school desegregation*) usually refers to the kind of efforts that school districts (or regions, or states) might undertake to encourage racial and ethnic integration in their schools absent a court order requiring it to do so. School districts usually adopt voluntary school integration plans or policies out of a recognition of the educational benefits that flow to their students from the opportunity to learn in integrated classrooms, or to avoid the harms associated with segregated or isolated learning environments. Subsequent chapters discuss voluntary school integration, and the reasons why school districts pursue it, in greater detail.

and the federal courts on recalcitrant, typically Southern, school districts that refused to comply with the law. The courts, in turn, responded by issuing detailed desegregation orders and then monitoring the school districts' progress, or lack thereof, on a regular basis.

Which federal court is which?

One might think of the federal judicial system as a pyramid. The base of the pyramid consists of trial courts, known as federal district courts. These courts are located throughout the United States, and in the context of school desegregation, they are the ones that most actively supervise the regular operations of the school districts subject to desegregation orders to make sure they are in compliance. In the middle of the pyramid are thirteen appellate courts, known as the United States Courts of Appeals. As their name suggests, these courts hear appeals from the district courts. Finally, at the top of the pyramid is the United States Supreme Court. It is the highest court in the land, and most of the cases it chooses to review come from the courts of appeals. The Supreme Court's rulings are binding on all of the other federal courts.

During this critical period, the Supreme Court issued a number of important decisions that lent valuable support and legitimacy to these desegregation efforts. For instance, in *Green v. County School Board of New Kent County* (1968), the Court defined for the first time what desegregation required: the elimination of all traces of a school system's prior segregation in every facet of school operations—from student, faculty, and staff assignment to extracurricular activities, facilities, and transportation. Three years later, the Court ruled in *Swann v. Charlotte-Mecklenburg Board of Education* (1971) that lower courts supervising the desegregation of individual school districts could order the use of transportation, or busing, to achieve desegregated student assignments. In so doing, it rejected the argument that formerly dual school systems had discharged their desegregation duties by assigning students to segregated schools that happened to correspond with segregated neighborhoods. Shortly thereafter, the Court decided another notable case, *Keyes v. School District No. 1* (1973), which extended school desegregation obligations to systems outside the South that had employed discriminatory policies. The *Keyes* case was also the first to order desegregation for Latino students. Federal district courts took guidance

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

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

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

What is the difference between an "intra-district" and an "inter-district" desegregation plan?

An *intra-district* desegregation plan is one that involves only one school district. Students are assigned to schools within that district to achieve desegregated student bodies in each of the schools. An *inter-district* desegregation plan can encompass two or more districts, typically allowing students to attend a school outside of their own district in order to provide greater levels of desegregation than could ordinarily be accomplished in any one of the school systems.

tion. We define and discuss these strategies, and others, in chapter 4.

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

The 1990s ushered in another significant shift in school desegregation. Between 1991 and 1995, the Supreme Court handed down three important decisions which, taken together, essentially invited school districts to initiate proceedings that would bring their desegregation obligations to an end. Those cases permitted federal district courts overseeing desegregation plans to declare a school system "unitary" if they determined that the system had done all that was feasible to eliminate the effects of past discrimination.

According to the Supreme Court, a good faith effort to desegregate along with reasonable compliance with prior desegregation orders for a decent period of time were considered sufficient for a school district to achieve unitary status, and thus have its desegregation orders permanently dissolved—even if severe racial isolation or other racial disparities remained. Many advocates of school desegregation viewed these changes as a significant dilution of the desegregation obligations the Supreme Court had placed on school districts in the previous decades.

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

argued that its desegregation policies were still necessary to remedy past discrimination.

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

Yet, as you will see in the coming chapters, these fully discretionary, "innocent and legal" policies in many instances have contributed to a disturbing phenomenon of racial resegregation in our public schools, which are more racially separate now than at any point in the past decade and a half.

Moreover, odd as it may seem, a unitary school district's voluntary use of race as a factor (as it had been mandated to use in prior years) for the purpose of stemming resegregation and promoting integration may itself be illegal—in violation of the same constitutional provision that outlawed segregated schools 50 years ago in *Brown*. Before we turn to the complex legal landscape of voluntary school integration, we first examine the patterns of and changes in public school student enrollment that make up this resegregation phenomenon.

Further Reading:

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

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

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

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

Rhode, D. L. and Ogletree, C. J., Jr., eds. (2004). Brown *at 50: The Unfinished Legacy*. Chicago: American Bar Association.

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

CHAPTER 2

the resegregation crisis
in our schools

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

RACIAL TRANSFORMATION OF THE PUBLIC SCHOOLS

Since the end of the Civil Rights Era in the late 1960s, the racial composition of our nation's public school students has changed dramatically. The U.S. was overwhelmingly white, even during the Civil Rights Era, but that is no longer the case. Today minority students comprise over 40% of all U.S. public school students, nearly twice their share of students during the 1960s. Not only are there more minority students than ever before, but the minority population is also more diverse than it was during the Civil Rights Era, when most non-white students were black.

As shown in Figure 1 (right), black and Latino students are now more than a third of all students in public schools. The most rapidly growing racial/ethnic group is Latinos, who have quadrupled in size from 1968 to 2003 to roughly 9 million students. Asian enrollment, like Latinos, is also increasing. Meanwhile, by 2003, whites comprised under 60% of public school enrollment. There were seven million fewer white public school students at the beginning of the 21st century than there were at the end of the 1960s.

How do we define "minority student"?

For our purposes here, we define minority as black, Latino, and Asian students. Native American students, approximately 1% of all public school students, largely attend schools run by the Bureau of Indian Affairs and, therefore, are not discussed in this chapter. Multiracial students, including biracial students, are not included since school data has not included such racial classifications. Census data indicate multiracial youth comprise 4% of the under-18 population.

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

1968

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

2003

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

Source: Frankenberg, E., Lee, C., and Orfield, G. (2003). *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Cambridge, MA: The Civil Rights Project. P. 24
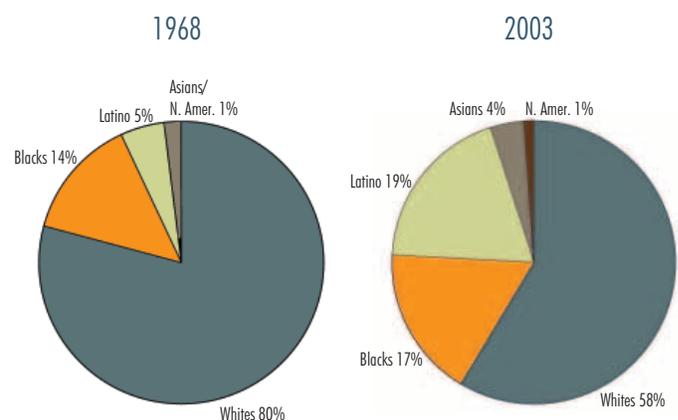
A positive result of the growing student diversity is that substantial shares of students now attend what we call *multiracial schools*. (We define multiracial schools as schools in which at least three races each represent 10% or more of the total student population.) During the 1990s, the percentage of students from every racial/ethnic background in multiracial schools increased. Despite this increase, however, whites remain the least likely to encounter this diversity in their schools: in 2000 only 14% of white students attended multiracial schools (See Table 1). At the other end of the spectrum, the percentage of Asian students in multiracial schools was substantially higher than any other racial/ethnic group at 75%. Although the majority of students still do not attend multiracial schools, the growing percentages of schools with multiracial enrollments suggests the importance of understanding how to make integration work in schools with three or more racial groups.

Table 1: Percentage of Students in Multiracial Schools by Race, 1992 and 2000				
	White	Black	Hispanic	Asian
1992-93	7.8	16.3	26.6	41.0
2000-01	14.3	28.9	38.8	75.0

Source: Frankenberg, E., Lee, C., and Orfield, G. (2003). *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Cambridge, MA: The Civil Rights Project. P. 29

THE REALITIES OF RESEGREGATION

Although the Supreme Court declared segregated schools to be unconstitutional in 1954, this did not mean that schools were desegregated overnight or even over the course of the next year or two. Instead, it was a process that took decades to achieve gradual progress, which is now being rapidly undone. At the beginning of the 21st century, U.S. public schools are more than a decade into a period of rapid resegregation. The desegregation of black students, which increased continuously from the mid-1950s to the late 1980s, has now declined to levels not seen in three decades. Latinos, by contrast, have never experienced a time of increased integration and today are the most segregated minority group in our schools. We see this resegregation occurring in national, regional, and district trends discussed below.

National trends

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

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

> ### What do we mean by "resegregation"?
>
> In the past, many people have used the word "segregation" to describe the kinds of legally enforced policies that separated individuals on the basis of race, also known as "*de jure segregation.*" In this manual, we use the word "resegregation" not to describe the return of *de jure segregation* in the public schools, but to describe the steady trend of schools that are again becoming racially identifiable—a phenomenon also called "*de facto segregation.*"
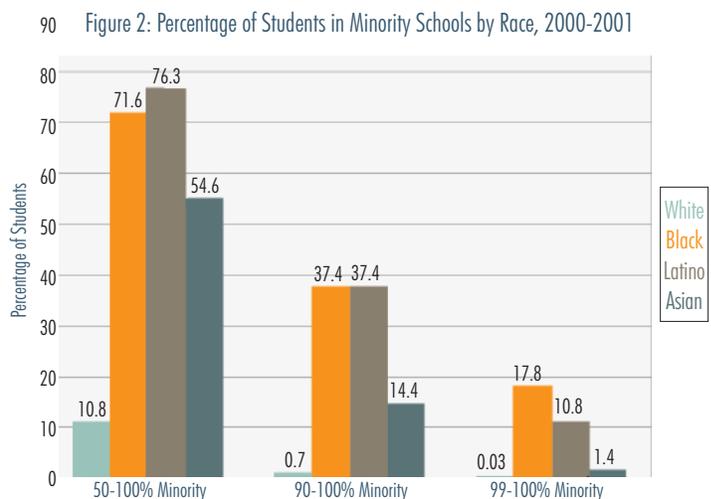
Figure 2: Percentage of Students in Minority Schools by Race, 2000-2001

Source: Frankenberg, E., Lee, C., and Orfield, G. (2003). *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Cambridge, MA: The Civil Rights Project. P. 28

What about differences among Asians?

We recognize that the term "Asian" obscures important differences among Asian/ Asian American groups, including variations in immigrant status, socio-economic-status background, and more. While the 2000 census does provide for identification by subgroups, education data has not yet been uniformly collected in that way, and therefore it has been largely unavailable for careful analysis.

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

Black and Latino students are also extremely isolated from students of other races, and they are particularly isolated from whites. Blacks and Latinos attend schools where two-thirds of the students are also black and Latino, and over half of the students in their schools are students of their same race. Despite earlier progress in desegregation, the percentage of white students that attend schools with black students, another measure of school desegregation, has been declining since 1988. By this measure, the extent of desegregation has not been this low since the 1960s, before widespread busing for racial balance began (See Figure 3).

What about segregation of English Language Learner students?

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

Figure 3: Percentage of White Students in Schools Attended by the Typical Black Student, 1968-2000
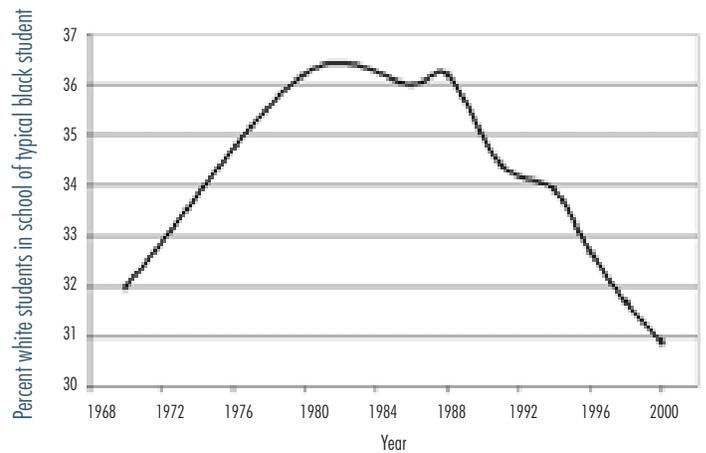
Source: Frankenberg, E., Lee, C., and Orfield, G. (2003). *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Cambridge, MA: The Civil Rights Project. P. 30.

Regional trends

The national trend of increasing segregation is evident in every region of the country. More black students attended segregated schools in 2000 than in 1988, when desegregation plans had been successfully implemented in many districts across the country. Latino segregation has also been increasing in every region since the late 1960s.

In the Northeast, nearly four out of every five black students attend predominantly minority schools. Similarly, in the Northeast, South, and West—the regions with the most Latino students—almost 80% of Latino students attend predominantly minority schools. Additionally, roughly half of black students in the Northeast and Midwest attend intensely segregated schools (See Figure 4).

Another troubling trend is the consistent reversal of gains in desegregation for black students in the South, a region with the most black students and the most integrated region of the country by the late 1960s due to court-ordered desegregation and federal enforcement of desegregation plans (discussed in the previous chapter). Desegregation of black students remained stable for several decades; by 1988, 43.5% of southern black students were in majority white schools. During the 1990s, however, the propor-

Figure 4: Percentage of Black and Latino Students in 90-100% Minority Schools by Region, 2000-01
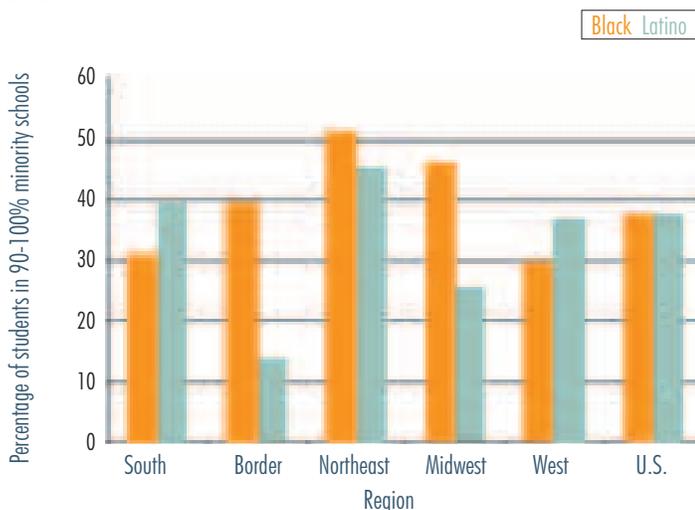
Source: Frankenberg, E., Lee, C., and Orfield, G. (2003). *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Cambridge, MA: The Civil Rights Project. P. 46.

tion of black students in majority white schools in the region steadily declined as desegregation plans were dismantled. In 2000, only 31% of southern black students were in majority white schools, lower than any year since 1968.

Figure 5: Change in Black/White Integration in the South

Source: Frankenberg, E., Lee, C., and Orfield, G. (2003). *A Multiracial Society with Segregated Schools: Are We Losing the Dream?* Cambridge, MA: The Civil Rights Project. P. 38.
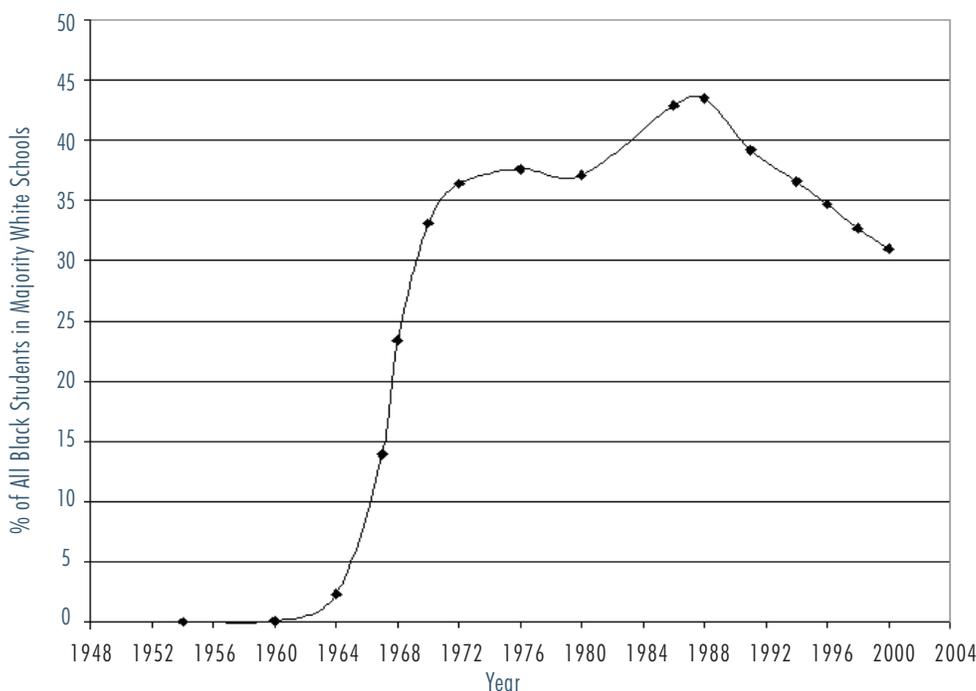
The data in Figure 5 (below) demonstrate two important points about desegregation: 1) when there was a concerted effort to desegregate black and white students in the South during the mid- to late-1960s, there was major progress proving that desegregation can and has succeeded; and 2) we are experiencing a period of steady decline in desegregation since the late 1980s and undoing much of the success that led to several decades of desegregated schooling for millions of students in the South.

District trends

School district resegregation for blacks and Latinos is a trend seen in almost every large school district since the mid-1980s. One reason this is occurring is that the public school districts in many of our nation's largest cities contain few white students—without whom even the most well-designed desegregation plans cannot create substantial desegregation. While the twenty-six largest city districts enroll over one-fifth of all black and Latino students, less than one in forty white students attend these urban schools. Latino students are now more numerous than students of any race/ethnicity in the largest central city districts. These trends are of concern because urban students (which are a sizeable proportion of *all* black and Latino public school students) are unlikely to be in schools with many white students.

Additionally, white students are isolated from other students even in districts in which white students are a small minority of the overall enrollment. Not only are whites not fully exposed to the district's racial diversity, there is extreme isolation for other students in these districts as well.

Minority students in suburban districts are generally exposed to

more white students than their counterparts in central city districts, although there is substantial variation within the largest suburban districts. In over half of the suburban districts with more than 60,000 students, the typical black and Latino students attend schools that, on average, have a white majority. However, black and Latino students in these districts are more segregated from whites today than in the mid-1980s. In some suburban districts there has been drastic racial change in a short time span, and these districts are now predominantly minority, similar to the urban districts discussed above.

In rural districts there is generally less segregation since there are fewer school options for students to enroll in, although in some rural areas private schools disproportionately enroll white students while public schools remain overwhelmingly minority.

Countywide districts, or those districts that contain both central city and at least some part of its suburbs within one school district, have traditionally been districts in which there has been a high degree of racial integration. Many of these districts are located in the South and have had stable, thorough integration for several decades. Additionally, many of these districts, because they contain a majority of the metro's students, have had steady rates of growth while maintaining a mixture of racial groups within the district.
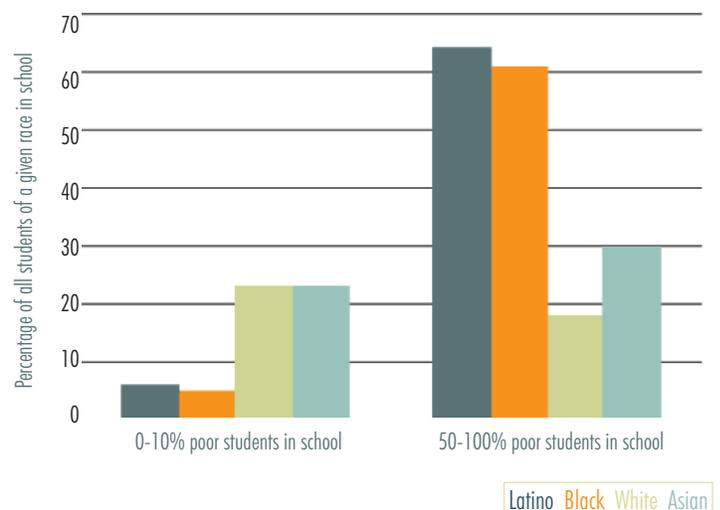
POVERTY AND RACIAL SEGREGATION

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

This means that statistically, black and Latino students are more than *three times* as likely as whites to be in high poverty schools and *twelve times* as likely to be in schools where nearly all students are poor (90-100%) (See Figure 6). Moreover, black and Latino students, on average, at-

Schools, Race, and Poverty

Another way of thinking about the relationship of race and poverty is to examine where concentrations of students of color overlap with high-poverty schools. Nearly four-fifths (77.8%) of schools that are predominantly minority are high-poverty schools. This percentage of high-poverty schools increases to 86% when schools are 90-100% black and Latino.

Figure 6: Relationship between segregation by race and poverty, 2002-03

How do we measure "poverty" in schools?

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

Latino Black White Asian

Orfield, G. and Lee, C. (2005). *Why Segregation Matters: Poverty and Educational Inequality.* Cambridge, MA: The Civil Rights Project.

tended schools in 2002-03 in which almost half of the students were considered poor. In contrast, the typical white and Asian students attend schools with the lowest percentages of poor students. Roughly one-quarter of students in the schools of white (23%) and Asian students (27%), on average, are considered poor. In fact, over half of all white students attend schools in which 25% or fewer of students are poor.

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

Further Reading:

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

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

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

Orfield, G. and Lee, C. (2005). *Why Segregation Matters: Poverty and Educational Inequality.* Cambridge, MA: The Civil Rights Project. www.civilrightsproject.harvard.edu/research/deseg/deseg05.php

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

This chapter discusses why segregated schools are harmful for the students who attend them, and the benefits that extend to all students in integrated schools and classrooms.

CHAPTER 3

the importance of integrated schools and classrooms

For all too many, the fiftieth anniversary of *Brown* in 2004 provided an opportunity to celebrate it as a victory for racial equality, and presume that large scale racial inequality was an artifact of the past, of little concern to us today. Yet, as seen in the previous chapter, it is clear that segregated or near segregated schools continue to exist, and that school resegregation has been on the rise since the 1980s. Public school segregation has not increased because we have learned that desegregation failed or because Americans have turned against it. In fact, there is now more information about the benefits of integration than ever before, and public support for the idea of integrated education remains high.

A recent endorsement of the importance of *Brown* and its ideals came in the 2003 Supreme Court decision that supported affirmative action in higher education, *Grutter v. Bollinger*. Justice Sandra Day O'Connor's majority opinion noted "numerous studies show that student body diversity promotes learning outcomes, and 'better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals.'" The benefits discussed by the Court are likely to be considered even more compelling in our nation's elementary and secondary schools, which educate more students and could influence the formation of racial attitudes at earlier ages.

THE HARMS OF SEGREGATION

Why should we care about segregation? The public school segregation described in the previous chapter can have a powerfully negative impact on students, an impact that prompted the Supreme Court to declare segregated schools unconstitutional in 1954. One of the common misconceptions about desegregation is that it is simply about seating black students next to white students in a classroom. If segregation were not so strongly associated with concentrated poverty and a lack of educational resources, perhaps it would not be of such great concern. While there are certainly some academically successful segregated minority schools across the nation with stable, committed leadership and faculty, in the vast majority of segregated minority schools, equal educational opportunity is often elusive. Minority students in these segregated

schools are isolated not only from white students, but from schools with students from middle-class families, and exposure to students with middle-class backgrounds is a predictor of academic success.

The legal reasoning of the landmark *Brown* decision was supported, in part, by social science evidence demonstrating that segregated minority schools cause irreparable psychological harm to the minority children who attended schools that in all other tangible respects might well be equal. Social scientists also found that segregation reinforced feelings of racial superiority among segregated white children.

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

Further, minority student isolation causes a lack of access to integrated networks that broaden opportunities for minority students. For example, students attending segregated minority schools are often at a disadvantage when seeking jobs or college admission, even if they have been academically successful, because of their school's reputation and lack of alumni or teacher networks that help students gain post-secondary opportunities.

Segregated minority schools tend to offer their students weaker academic preparation as a result of several factors. First, schools with large concentrations of students from poor families tend to have students who have less skills preparation outside of school, beginning at an early age. In overwhelmingly minority schools, research has shown that teachers tend to be less highly qualified, have fewer years of experience (which tends to make teachers less effective), and are more likely to leave their schools than teachers in other schools. Since teachers are one of the most important influences on students' achievement,

these trends have negative consequences for students in minority schools. Second, educational offerings and resources tend to be limited in these schools, such as offering fewer advanced courses; student achievement levels also tend to be lower.

In sum, the harms of segregated schools that have been documented include:

1. Segregated minority schools tend to be schools of concentrated poverty; the schools are likely to have weaker academic offerings, fewer resources, and less experienced teachers who are likely to leave the school rapidly.

2. Weaker academic preparation for students in minority schools; related, segregated minority schools tend to have higher dropout rates.

3. Lack of exposure to and comfort with students from other races (for all students).

4. Fewer post-secondary opportunities such as job offers or college admissions because of the school's reputation or lack of teacher and alumni networks.

Given the weaker educational opportunities for students in segregated minority schools, perhaps it is not surprising that the nation's high dropout rate crisis is concentrated in segregated high schools in big cities (See Table 3). Nationwide, only 56% of ninth grade students graduate four years later in districts that are predominantly minority; this graduation rate falls to 42% for districts in which 90% or more of the students are minority. In 2001, only a little more than half of black and Latino students graduated after four years of high school. Black and Hispanic graduation rates are substantially lower than whites, with males of all races graduating at lower rates than their female counterparts.

In chapter 2, we noted that the nation's largest central city school districts are heavily minority and that students in these districts are overwhelmingly racially isolated. Additionally, virtually all of these large city districts have more than half of their students coming from families at or below the poverty line. As Table 3 shows, in all of the 24 largest urban districts except two, one out of every three ninth-grade students do not graduate four years later. In seven of these districts, more students do not graduate than those who do get their diplomas in four years.

To be sure, there are examples of high quality, predominantly minority schools across the country, and we do not mean to suggest that such success stories are impossible. Yet, decades of experience have shown that separate (segregated) institutions of any kind are rarely equal in quality and opportunity to those attended by the majority, or privileged, segment of our population. Researchers continue to try to understand the psychological and sociological effects of attending minority schools, like researchers over 50 years ago whose findings were used to demonstrate how unequal segregated schooling was for the students in those schools. Despite the increase—once again—of segregated schools, evidence points to the negative consequences these schools have for their students and for our broader society. In addition to strategies to promote racial integration, it is worth considering what other policies may help to improve the educational opportunities for students in these isolated minority schools if integration is not possible.

Table 3: Graduation Rate for the 24 Largest Central City Districts, 2002-03						
Central City	State	Graduation Rate	Percent on Free or Reduced Lunch	Percent of Racial Groups in 50-100% Minority Schools		
				% White	% Latino	% Black
Arlington ISD	TX	60	43	43	87	81
Austin ISD	TX	60	53	36	88	88
Baltimore City Public Schools	MD	77	69	60	79	99
Boston	MA	60	74	84	99	99
City of Chicago School Dist 299	IL	51	78	75	98	100
Cleveland Municipal SD	OH	67	80	47	76	94
Columbus City SD	OH	44	62	42	72	89
Dade County School District	FL	50	62	91	99	99
Dallas ISD	TX	45	76	92	100	100
Denver County	CO	56	62	66	97	92
Detroit City School District	MI	--	58	87	98	100
District of Columbia	DC	65	61	60	98	99
El Paso ISD	TX	64	67	99	100	99
Fort Worth ISD	TX	50	64	63	96	93
Fresno Unified	CA	59	76	73	96	94
Houston ISD	TX	48	73	81	99	99
Los Angeles Unified	CA	45	74	80	99	98
Milwaukee School District	WI	43	75	70	92	97
New York City Public Schools	NY	40	73	61	97	98
Orleans Parish School Board	LA	65	78	79	97	100
Philadelphia City SD	PA	43	71	67	95	98
San Diego Unified	CA	64	57	61	92	93
Santa Ana Unified	CA	72	75	68	100	92
Tucson Unified District	AZ	66	71	43	84	60

Source: Orfield, G. and Lee, C. (2005). *Why Segregation Matters: Poverty and Educational Inequality,* Cambridge, MA: The Civil Rights Project. P. 38.

THE BENEFITS OF INTEGRATION

Aside from the fact that integrated schools help to prevent harms strongly associated with segregated learning environments, we continue to learn a great deal about the benefits of integration for minority and white students. While the context and demographics of districts vary, in order for these benefits of integration to occur it is important to have not only diverse schools, but also to have diverse classrooms within them. We've learned that all students in racially diverse classrooms benefit in several ways: deeper ways of thinking, higher aspirations—both educational and occupational, and positive interactions with students of other races/ethnicities. Integrated education also has positive long-term benefits, which actually turn out to be more significant than the short-term benefits, such as higher scores on achievement tests, that are often discussed. For example, when children from desegregated environments reach adulthood, they tend to live and work in more integrated settings.

A short-term benefit of desegregated schools that has been the focus of a

great deal of research is their effect on academic achievement. Research shows that black and Latino students perform better in integrated schools than predominantly minority schools. One reason is that desegregated schools tend to be schools with middle-class students and decades worth of research has shown that student achievement is higher (regardless of students' individual class background) when students are in classes where the students' average socio-economic status is higher. Higher student aspirations resulting from integrated schools have also been linked to higher expectations of students within these schools. Students in these schools also benefit from the schools' informal, integrated networks, which are simply not available even to the best students in segregated minority schools.

While black and Latino students show clear gains when schools are integrated, research also shows that when schools remain majority white, white students are, at the very least, not harmed academically by integrating schools. In fact, new research indicates that racially integrated schools benefit white students. White students in integrated schools exhibit more racial tolerance than their peers in segregated environments. Whites and minorities in integrated school environments also tend to have more cross-racial friendships.

This suggests that diverse settings can reduce stereotypes and promote cross-racial understanding, which are im-

portant skills in our increasingly racially diverse society. This is more likely to be true when integration occurs at earlier ages as children are still in the process of forming their understanding and attitudes about race, unlike adults or even college-aged students who have spent many years internalizing racial attitudes from our still-segregated society.

Students of all races share in the long-term benefits of integration. Students who attend more diverse schools have higher comfort levels with members of racial/ethnic groups different from their own, an increased sense of civic engagement, and a greater desire to live and work in multiracial settings compared to their more segregated peers. Students in racially and ethnically diverse schools are also better able to realize the existence and effect of discrimination on other students, which helps them to make decisions that are not based on racial stereotypes. Although stereotypes can be difficult to reverse, research has demonstrated that positive interactions with people of different races, where all students are respected equally, helps to lessen earlier prejudices.

A large and prominent group of academic, business, and military leaders provided similar evidence about and support for the importance of diversity in higher education, which was cited in the Supreme Court's *Grutter v. Bollinger* decision. The benefits of educational diversity the Supreme Court mentioned as critical included: educational benefits for all students, such as cross-racial understanding

and deeper, more complex classroom discussions; better workforce preparation; reducing racial stereotypes; and preparing a racially diverse, representative group of future leaders. With little question, these benefits are just as important, if not more so, in K-12 education.

In addition, there are important externalities for our society that result from integrated schools. To name just a few, integrated schools can help stem white flight from what might otherwise be minority schools, a phenomenon which serves to perpetuate residential segregation. Employers benefit from schools that educate a future workforce that is experienced in working across racial lines. By reducing the drop-out rate, the economy benefits from the production of more workers and fewer teenagers likely to be involved in the criminal justice system. Additionally, integrated schools serve an important, basic role in a democracy by providing a place where all members of society can come together in one institution. When all members of the community are invested in—and attending—public schools, there is more support for the public school system.

How to ensure that students have access to integrated schools under the law, for their and society's benefit, is the subject of the next chapter.

Isn't a school assignment plan based on socio-economic status (SES) as good as a race-conscious one?

Not necessarily. Economic diversity within schools also has its advantages, but there are proven particular benefits derived only from racial diversity. A few school districts have devised school assignment plans based on students' SES, with mixed results in terms of racial diversity benefits. Race and poverty are very strongly correlated, but to achieve the full benefits of racial diversity, there is no better, more accurate method than a race-conscious policy. Some districts have used SES to avoid strict judicial scrutiny, but courts can find that such plans use SES as a "proxy" for race and invalidate them anyway.

Further Reading:

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

Ma, J.S. and Kurlaender, M. (2005). *The Future of Race-Conscious Policies in K-12 Public Schools: Support from Recent Legal Opinions and Social Science Research,* in School Resegregation: Must the South Turn Back?, J.C. Boger and Gary Orfield, eds. Chapel Hill, NC: University of North Carolina Press.

Orfield, G. and Lee, C. (2005). *Why Segregation Matters: Poverty and Educational Inequality,* Cambridge, MA: The Civil Rights Project. www.civilrightsproject.harvard.edu/research/deseg/deseg05.php

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

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

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

CHAPTER 4

from court-ordered desegregation
to voluntary integration
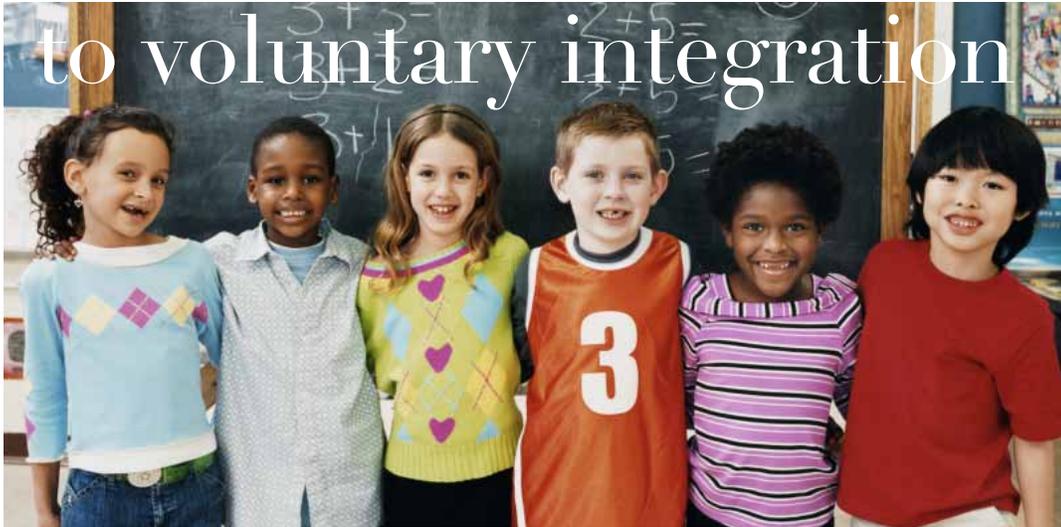
This chapter is intended to give you a sense of the kinds of student assignment strategies that school districts can adopt to reduce racial and ethnic isolation and promote racial integration in their schools.

I n recent years, many school districts that have been released from their formal, legal duties to desegregate, as well as some that had never been under any judicial obligation to desegregate in the first place, have observed the national trends of resegregation locally, in their own schools. Sometimes, this resegregation can occur quite literally from one academic year to the next, invited by policies that districts implement immediately upon release from court supervision. Concerned about squandering the gains made during the years their systems were required to maintain desegregated schools, however, parents and activists in a handful of these communities are joining forces with their local school officials to fight the disconcerting resegregation trend through the creation and adoption of what are often described as "voluntary school integration" plans or policies.

The term *voluntary school integration* generally refers to a variety of efforts and strategies that a school system might employ, *absent a legal obligation to do so*, designed to encourage racial integration and to produce the kinds of educational benefits that flow from integrated learning. The common theme among all these strategies—what makes them different from the desegregation orders discussed in the first chapter of this manual—is that they are *non-remedial*. In other words, they are not designed by courts and imposed on school districts with the goal of curing historical, illegal segregation. Rather, they are *future-oriented*, designed by the school district itself to realize *Brown v. Board of Education*'s promise of equal opportunity and high quality integrated public education for all.

The key word is "voluntary": school districts work with the communities they serve to foster racial and ethnic integration in their schools because they *want* to, not because they *have* to.

Voluntary school integration plans are not without their potential legal pitfalls, however, and school districts that have tried to implement them are quickly learning that they should pursue the task with caution and careful deliberation. The ever-changing legal framework for analyzing ra-

cial integration policies is the topic of the next chapter. Before we engage in that discussion, however, we first visit some of the most common student assignment strategies that have actually been used, in order to provide you with a better sense of the many different ways school districts have gone about trying to promote racial integration in their schools.

There are two things we should note at the outset. First, most of the methods we discuss are designed for school districts large enough to support more than one school at any given level—elementary, middle, or high. For a smaller school system that may have, for example, only one high school, improving the racial diversity in that school might require involvement of and coordination with other neighboring districts, a possibility we also consider below. And second, as you read through the various approaches to student assignment in this chapter, you should keep in mind that no one approach (or combination of approaches) has proven to be demonstrably "better" than others. Rather, the most successful voluntary integration plans are comprehensive and often creative ones that take account of the unique geographic, demographic, historical, and political character of the particular school districts for which they are designed.

ATTENDANCE ZONES

For the greater part of the history of America's K-12 public schools, children were simply assigned to schools based on where they lived within the district (and before *Brown*, of course, based on their race as well, to the extent that students of color—or girls, for that matter—were permitted to go to school at all). Today, the vast majority of public school systems continue this tradition of mandatory assignment to what are often called "neighborhood" or "community" schools. In communities where we find racially segregated housing patterns, however, assigning students based solely on their geographic proximity to schools can result in significant racial isolation.

For school districts that use a system of mandatory assignment, therefore, a first step in advancing the goal of racial

diversity involves encouraging school officials to think about ways of designing attendance zones that promote or ensure integrated student populations. Since school districts are typically called upon to redraw their attendance lines every few years—each time they plan for opening, closing, or consolidating schools, for instance, or to address significant changes in pupil enrollment—the opportunity to consider race in this process can, at least in theory, arise fairly regularly.

In practice, decisions about where to assign students and how best to adjust attendance lines are often very political and emotional ones, and it is important to recognize that encouraging racial integration is but one of many goals that school officials must keep in mind as they balance competing interests. Still, most school systems today have access to fairly sophisticated planning software that can quickly and accurately take account of a district's racial demographics, show the impact of an attendance line change on each school's enrollment, and even project population growth and residential development over a number of years. Thus, taking race into account in the assignment and planning process today is much more within the realm of possibility in terms of technological and practical feasibility than it was even just a few decades ago, when demographers and school officials drew attendance lines by hand, a process that usually involved a bit of guesswork.

In fact, using the right tools and given the right context, school planning experts may be able to do more than tweak attendance lines every few years to maintain racial diversity in their schools. As school districts plan and project growth into the future, for instance, experts can work

Mandatory assignment and integration

Under a mandatory assignment system, an attendance zone is established for every school at each school level, and all of the students who live within that zone are automatically assigned to the school. Whether racial integration can be achieved through the thoughtful design of attendance zone boundaries depends greatly on a community's residential patterns; some lend themselves better to attendance zones that result in significant integration, while others may not.

One of the first Supreme Court cases to recognize the interaction between residential segregation and school segregation was *Swann v. Charlotte-Mecklenburg Board of Education* (1971).

There, the Court stated:

The construction of new schools and the closing of old ones . . . when combined with one technique or another of student assignment, will determine the racial composition of the student body in each school in the system. Over the long run, the consequences of the choices will be far reaching. People gravitate toward school facilities, just as schools are located in response to the needs of people. The location of schools may thus influence the pattern of residential development of a metropolitan area and have important impact on composition of inner-city neighborhoods.

with parents and community leaders and take a multitude of factors into consideration to propose siting new schools in neighborhoods that would stem the development of the kind of racially segregated neighborhoods which, in turn, could otherwise lead to more racially isolated schools in the future. In the best-case scenario, the right combination of careful housing and school planning could even support long-term community development efforts that encourage sustainable racial and socioeconomic integration.

STUDENT TRANSFERS

In addition to making racial diversity a priority in attendance line drawing, some school systems have also established race-conscious voluntary student transfer programs designed to promote integration and/or reduce racial isolation. Sometimes called *majority-to-minority transfers*, the typical program of this sort allows students to transfer within the district if their transfer would improve the racial

What is a Majority-to-Minority transfer?

A school district might determine that one of the circumstances under which a transfer would be granted is if that transfer furthers racial integration (in the receiving school) or reduces racial isolation (in the sending school). Such transfers are often called majority-to-minority, or M-to-M transfers, for short. For example, in a district that is 60% white and 40% non-white, a white student at a 75% white school, where that student is in the majority, would be allowed to transfer to a school that is 55% white, where that student would be considered to be in the minority since it has a lower white percentage than the district-wide average. The student's transfer would have the effect of bringing both schools closer to the system's overall racial composition.

balance of the school they would be leaving and/or the school they would be attending. In some districts, students are also permitted to transfer freely, without regard to race, among schools where the racial composition reflects, within a range, the system's overall demographics. A school system that advertises and encourages students to take advantage of such transfers can reduce the level of racial isolation in its most segregated schools while simultaneously increasing the levels of racial diversity in others without having to require any individual student to go to a school that she or he does not want to attend.

Since most school districts ordinarily have transfer allowances for a variety of reasons—when there are medical hardships at issue, for instance, or for the children of school employees to attend the schools in which their parent(s) work—some school systems elect to combine their individual transfer policies into a single comprehensive process that takes into account multiple factors, of which race is one. School districts that have race-conscious student transfer policies also often find it prudent to create appeals processes that can hear challenges to the denial of transfer requests on a case-by-case basis.

MAGNET SCHOOLS

Perhaps the most well-known tool used to promote voluntary school integration is the *magnet school*. Today, more than two million U.S. public school students attend magnet schools, many of which are funded at least in part by the federal *Magnet Schools Assistance Program* or MSAP. MSAP is a discretionary grant program administered by the U.S. Department of Education that provides funds to local educational agencies to assist in "the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students." The very purpose of MSAP, and its predecessor, the Emergency School Aid Act, was to promote voluntary school integration. Over the past thirty-five years, the federal government has awarded hundreds of millions of dollars in federal funds to encourage the creation of these magnet schools for this purpose.

Magnet schools became a popular tool to promote racial integration primarily because they relied on parental (and student) choice, rather than mandatory assignments, to accomplish their goal. In other words, like the race-conscious student transfers described above, what made magnet schools an attractive integration tool was that they did not require any student to accept a school assignment that she or he did not choose; students either attended the school to which they were assigned, or they requested attendance at the magnet school.

In practice, magnet schools take many forms, but the basic idea behind them, as the name suggests, is to draw a racially diverse group of students to a particular school. Under the conventional model, a magnet school is placed in a predominantly minority neighborhood. A portion of its student population for that school is drawn from the children who live in the immediate geographic vicinity of its location; the remaining portion—typically white, middle-class students whose parents voluntarily enroll them in the magnet school because of its unique programming, curriculum, or theme—is drawn from other parts of the district. The level of racial integration in this conventional model is usually guaranteed by the ratio of students who live within the attendance zone of the school versus those drawn from other parts of the district.

Although most magnet schools do not have official "admission" requirements, some school districts have established *selective* or *competitive* magnet schools that may. These schools often require applications or administer entrance exams and usually have many more students who want to attend them than there are seats available. In addition to doing extensive outreach to attract as racially diverse a pool of applicants as possible, school districts operating such magnet schools that are committed to promoting racial integration often consider race as one factor in assigning students to these schools in order to ensure that their student body is reflective of the districts' overall racial demographics.

How do magnet schools draw students?

Magnet schools manage to draw students by offering specialized curricula or particular learning environments. Magnet curricula may include anything from math, science, and technology, to media, music, medicine, or Greek philosophy. Learning environments may include traditional schools, language immersion, Montessori, International Baccalaureate, and vocational schools. Some magnets simply provide attractive themes, while others are elite academies that attract the highest-achieving students in a district. Magnet schools and programs may be implemented anywhere from the elementary to high school levels.

In addition to magnet schools, a number of school districts operate what are sometimes called *magnet programs* within a school. Whereas every student in a magnet school participates in the magnet curriculum, usually only the students enrolled in a magnet program within a school would participate in its magnet curriculum; the other students in the school do not. Some school districts also offer *part-time programs* that allow students to participate in integrated activities or other educational opportunities for a portion of the school day or week.

SCHOOL CHOICE

The magnet schools and voluntary transfers described above constitute two forms of limited school choice: parents (or their students) can elect to forego attendance at a school to which they are assigned and request to enroll in another school within the district. Some school systems bypass a system of mandatory assignment altogether, assigning students entirely through voluntary choices. In order for such school choice plans to be effective tools of integration, however, it is essential that school districts accept responsibility for monitoring and ensuring that the final student assignment decisions made do not reflect or exacerbate patterns of racial isolation. Just as critical to the ability of school choice plans to promote integration are civil rights provisions that make schools more accessible and equitable, such as free transportation, the wide dissemination of information (in a variety of languages, if applicable) to parents and students about the options available to them, and a welcoming environment in all of the schools to students of all backgrounds. In fact, for decades, these kinds of provisions have been an indispensable part of the formula of success for magnet schools.

In a typical school choice plan designed to promote racial integration, all students and their parents are asked to play an active role by ranking their preferences of schools to attend from a list of options. School administrators then

manage these preferences using predetermined criteria, with an overall goal of trying to have the student body of each school representative of the district-wide racial diversity. Among the factors that might be considered in this kind of choice system, in addition to race, might be the student's ranked preference, geographic proximity, the presence of a sibling at the desired school, a parent's child care needs, the student's prior enrollment in a feeder program or school, or the student's socioeconomic status.

In particularly large school systems, the number of schools from which students and their parents may choose could be limited, especially at the elementary and middle school level. Offering district-wide choice in geographically large school districts may not be practical where transportation distances and times are prohibitively expensive or onerous on students. In that instance, school officials may design assignment policies that permit students to rank from among one of several clusters of schools, which are combined such that the voluntary choices are statistically likely to provide a fair amount of racial diversity in the schools with little or no need on the part of policy administrators.

INTER-DISTRICT TRANSFER PROGRAMS

Working to promote racial integration within the limitations of a school district's boundaries can be challenging when the student population in the district is overwhelmingly white or minority. To address this problem, some school systems have teamed with their neighbors to achieve voluntary integration through *inter-district transfer programs*. The most common programs of this type pair an urban school district with one or more of its surrounding suburban districts, allowing urban minority students who might otherwise be assigned to predominantly minority schools

School districts in a number of major metropolitan communities across the country—from Hartford, Connecticut and Rochester, New York to St. Louis, Missouri and Milwaukee, Wisconsin—have forged successful relationships that encourage the voluntary, desegregative inter-district movement of students. While some of these inter-district programs were borne out of prior litigation and have continued long after the lawsuits have ended, others were created out of a mutual desire among neighboring districts to combat persistent racial and ethnic school segregation.

in their own system to apply for enrollment in suburban schools outside of their district, and vice versa. In areas where these programs have been implemented, they have been very popular, particularly among minority students and families, as evidenced by long waiting lists to attend out-of-district schools. White students also benefit from these programs because of the opportunity afforded to them to learn in more integrated settings than they would otherwise experience.

Some regions encompassing several different school systems have taken inter-district transfers a step further by consolidating their school districts to create a single, larger district with a more racially diverse student population. Districts that have cooperated under a transfer program for many years have sometimes merged to allow the sharing of resources and to ease the administration of transfers. Wherever there are two adjacent districts with disparate racial demographics, *district consolidation* can do more to promote integration than any single district's policy. Needless to say, however, successful consolidation of two or more school systems demands thoughtful consideration of a new student assignment plan, which may very well include one or more of the strategies to promote racial integration described above.

Open Enrollment Laws:

Almost every state in the union has some form of open enrollment laws, which provide students a degree of choice among public schools. Some states require school systems to allow students to choose a school to attend, either within their district (mandatory intra-district open enrollment) or across district boundaries (mandatory inter-district open enrollment), while others simply permit school systems to choose whether to adopt such choice provisions (voluntary intra- or inter-district open enrollment). While a handful of these state open enrollment laws contain explicit provisions for the elimination of racial isolation, even in states where they do not, some school districts have found ways to use these laws to advance school integration.

STATE SUPPORT FOR VOLUNTARY SCHOOL INTEGRATION

Just as the federal government helps fund magnet schools through the Department of Education's MSAP, many states have recognized the importance of racial integration in schools and have allocated funds to support voluntary integration efforts. Some of these funds are available under state laws specifically designed to help school districts adopt policies to reduce racial isolation and to promote school integration. More recently, a number of states have passed laws seeking to identify achievement gaps between students of different races. Since research has shown that school integration is associated with reductions in the racial achievement gap, funding may be available for integration programs under such laws. The laws of each state are different however, so in order to learn more, you should consult the applicable statutes of your own jurisdiction.

Further Reading:

Currie, T. (August 7, 2005). *The Quest,* The Washington *Post*.

Magnet Schools Assistance Program. (2005). U.S. Department of Education. www.ed.gov/programs/magnet/index.html.

Pugmire, T. (September 21, 2005). *New Magnet Schools Are Key to Suburban Desegregation Plan,* Minnesota Public Radio.
news.minnesota.publicradio.org/features/2005/08/09_pugmiret_deseg.

the legal landscape governing voluntary school integration

This chapter contains a primer on the developing area of law related to "voluntary school integration" policies—the design, adoption, implementation, and maintenance of which will be the primary topic in the rest of this manual.

The evidence demonstrating the benefits of racial integration and the harms of segregation is substantial (as we saw in chapter 3), and creative student assignment possibilities to promote integration are abundant (as we saw in chapter 4). Yet, issues involving race have always been extremely volatile ones on which Americans hold deep and passionate views. It is not surprising, then, that over time the courts have established complicated legal standards for dealing with race-conscious policies, regardless of whether they are tainted with discrimination and prejudice or designed to further racial justice and integration.

What this means is that you and your school district must be very deliberate should you wish to explore the development and adoption of a comprehensive set of integrative school policies. Absent due care, a voluntary school desegregation plan may be vulnerable to legal challenge by those who are simply dissatisfied with their children's assignment or who oppose racial integration on principle. Indeed, in recent years, a number of school districts have faced lawsuits challenging the strategies they have chosen to adopt. These lawsuits allege that certain methods of promoting integration and avoiding segregation are just as improper as the methods used a half-century before to segregate students.

While there have been analogous lawsuits filed on related issues, in many respects, these cases have led courts into unchartered waters. Because some of the issues they present are novel questions that the Supreme Court has not yet directly addressed or confronted, this area of law is rather unsettled, and with each new lower court decision, under continual change. The purpose of this chapter is to provide you with as much guidance as we can offer at this point in time.

"STRICT SCRUTINY"

Federal courts generally apply a legal standard called "strict scrutiny" whenever a governmental body, such as a public school board, explicitly considers or takes account

of race in its policies. Use of such a race-conscious policy, however, does not automatically mean a court will find it illegal. To assume so is a common misinterpretation of the law. But when a school district does take account of race and its actions are challenged in court, the district needs to satisfy two distinct requirements under the strict scrutiny test: First, the race-based classification must serve a *compelling interest*. And second, the actions must be *narrowly tailored* to further that compelling interest.

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

COMPELLING INTERESTS

A compelling interest is simply legalese for "a really good, legally acceptable reason." When a school district uses or considers race in any way, such as in the assignment of students to schools, the law requires it to state a very good reason why it is conscious of race. Courts demand this justification to make sure that the district is not engaging in unconstitutional racial discrimination or simply pandering to racial politics. To date, the list of legally acceptable compelling interests is surprisingly short. We describe below the main interests that have been asserted (and recognized) in the context of public primary and secondary education:

Remedying past discrimination. The most well-established of these interests is a desire to remedy the effects of past segregation, which was the justification used during the earlier era of court-ordered desegregation. For the most part, "remedying past discrimination," as this interest is often called, can only be asserted when there has already been a judicial finding of overt racial discrimination, such as the maintenance of segregative student assignment policies. However, in a unitary school district, it is very difficult to prove that any present-day racial imbalance in schools is caused by intentional discrimination or the lingering effects of prior segregation, rather than by non-racial factors (such as private housing choices). Thus, in most voluntary integration cases, school districts rarely use the remediation argument—and we will not spend a lot of time discussing it any further. Instead, such cases usually involve compelling interests that deal specifically with the educational goals and benefits of promoting racial and ethnic integration and reducing racial isolation in K-12 public schools.

Promoting racial and ethnic integration and reducing racial and ethnic isolation. In a landmark 2003 case approving the affirmative action policy at the University of Michigan Law School, the Supreme Court explicitly recognized a compelling interest in promoting "diversity" in higher education. In doing so, it recognized several specific educational benefits that make student body diversity compelling. The Supreme Court noted, for instance, that: (1) diversity "better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals," (2) diversity "promotes cross-racial understanding, helps to break down racial stereotypes, and enables students to better understand persons of different races," and (3) racial diversity is justified because of the "unique experience of being a racial minority in a society, like our own, in which race unfortunately still matters."

Although the interest in promoting diversity in higher education is in many ways different, K-12 public school districts that have adopted voluntary integration plans have argued that they have a similar and perhaps even more compelling interest in promoting racial and ethnic integration in their schools. Since *Brown*, the courts have frequently discussed—and the public is aware of—the importance and value of integrated learning environments in K-12 public schools. As we discussed in chapter 2, integration can result in educational and social benefits, both short- and long-term, to students of all racial backgrounds. Integrated schools can also have a positive impact on the health of and public support for the school system itself, and on the success of our broader community and denmocratic society. In addition to describing the benefits that flow from integration, chapter 2 also described the educational harms that are often associated with severe racial isolation in our schools. Accordingly, some federal courts have concluded that school districts have an equally compelling interest in reducing racial isolation as they do in promoting integration.

It is worthwhile to pause for a moment to note that the difference between the "diversity" interest from the University of Michigan cases and what we will call, for short, the "racial integration" interest in K-12 public schools is not trivial. To be sure, both seek to promote cross-racial understandings, help break down stereotypes, and prepare students for life in our increasingly diverse society. But beyond those similarities, there are distinct purposes that racially integrated K-12 public schools serve, which diverse colleges and universities do not. For instance, for minority students, ra-

cially integrated K-12 schools are often associated with enhanced academic achievement and heightened career or academic aspirations. They are also defended as a way of promoting equal educational opportunity and eliminating the appearance (and often the reality) of two separate school systems within a single district: one for minority and poor students, and another for white and affluent ones. These are not necessarily goals that selective institutions of higher education purport to achieve, nor does it always make sense that they would.

Other Related Compelling Interests. School systems that adopt voluntary school integration plans do so for a variety of reasons, not all of which may be explained by simply saying that there are educational benefits from attending integrated schools or potential harmful effects of attending racially isolated ones. You might very well believe that some of these other reasons—such as increased school safety, improved or equitable community and parental support, the countering segregative residential patterns, or the stemming of that phenomenon known as "white flight" from the school system—are compelling to you or your community, separate and apart from the interest in promoting racial integration or avoiding racial isolation. Courts, however, have tended to combine each of these other, ancillary reasons with one or both of the interests discussed above, and so for efficiency's sake, we too will deal with them in this way here.

NARROW TAILORING

The second part of the strict scrutiny test insists that any use or consideration of race be narrowly tailored to its stated compelling interest. This requirement is little more than a legal means-ends analysis. As it applies to voluntary school integration plans, it demands that a school system use methods to achieve its stated goals that are no more or less intrusive than they need to be. In practice, given the fairly undeveloped nature of the law on voluntary school integration and the unique relationship between each school system and its student assignment methods, a lot of uncertainties remain in what would satisfy the narrow tailoring inquiry. But, with guidance from related cases,

The University of Michigan cases

In 2003, the Supreme Court decided two cases involving race-conscious affirmative action in admission to selective colleges and graduate schools. In the first case, *Grutter v. Bollinger*, the Court affirmed the admission policy of the University of Michigan Law School, permitting the use of race as one factor in holistic evaluation of each applicant. In the second case, *Gratz v. Bollinger*, the Court rejected the admission policy of the University of Michigan's undergraduate school, which awarded a certain number of points to applicants from underrepresented minority groups. Although the cases resulted in different outcomes, both recognized diversity as a compelling interest, resolving a question that was unsettled for many years.

below are some of the kinds of questions that courts tend to ask in trying to determine whether a particular plan is sufficiently narrowly tailored.

Does the plan use quotas or specific set-asides? In cases involving affirmative action in admission to selective colleges and universities, the Supreme Court has stated that "quotas" are impermissible. A quota in that context was defined as a system that "insulate[s] each category of applicants with certain desired qualifications from competition with all other applicants." Federal courts that have reviewed voluntary integration plans in the K-12 context have also been somewhat skeptical of the legality of assignment methods that set aside a specific number of spaces for students of a certain race or ethnic background. However, because K-12 public school student assignment processes are typically not competitive and are necessarily constrained to the overall student enrollment in a particular district (rather than open, in theory, to interested applicants from anywhere, as is typically the case in college admissions), the stakes and considerations are different than those at issue in selective admissions to institutions of higher education. In other words, the fact that a voluntary integration plan may be race-conscious and pays some attention to numbers does not necessarily mean that it uses "quotas" or involves explicit "set-asides."

While opponents of voluntary school integration often try to expand the law's prohibition against explicit quotas to forbid any attention to numbers or goals or ranges for permissible enrollments, courts have tended to reject this interpretation. Indeed, some advocates and experts have wondered whether framing the issue or describing the question as one about quotas and set-asides makes sense in the context of student assignment in public primary and secondary schools.

Is the plan flexible? In the affirmative action context, the Supreme Court has also required college and university admissions policies to be flexible, offering individualized assessments, rather than applying a mechanical or rigid formula. Opponents of voluntary school integration suggest that K-12 public school systems must also use flexible

methods of assigning students that do not rely too heavily on racial considerations. The legal paradigm for affirmative action in higher education, however, has limited value in the context of K-12 voluntary integration policies. You might recall, for example, that the stated goal in the higher education cases was enrolling a class of students that is diverse, broadly speaking. With "diversity" as the stated compelling interest, it makes sense that the Supreme Court required an applicant's race be but one factor of many in assessing his or her application for admission.

But in K-12 public schools, not only is the stated goal different (racial and ethnic integration, not diversity), but so is the very educational context itself. Assigning first grade students to one of several public elementary schools operated by the same school system has traditionally not been about weighing the qualifications of six-year old "applicants," but about arriving at an administrative decision about what were usually mandatory student assignments. To require school districts to weigh multiple factors in that process in order to advance its goal of integration may not make a lot of practical sense, and some courts have recognized that. They have indicated that if racial integration is a legitimate compelling interest, then narrowly tailoring a way to satisfy that interest would mean that race—and not other "diversity" factors—should be a primary determinant for decisionmaking.

At the same time, courts have not altogether abandoned the flexibility requirement in this context. What they tend to do is look and see if the race-conscious assignment plans establish broad ranges of acceptable enrollments (rather

than rigid, fixed racial targets), are flexible enough to take account of unique circumstances, and provide appropriate exceptions where necessary.

Although it is rare that any one fact is dispositive in cases challenging voluntary school integration plans, school districts that adopt student assignment methods which avoid strict or narrow racial enrollment guidelines and allow for appeals and exceptions have been viewed more favorably by courts.

Are there race-neutral alternatives? Given the long history of racial discrimination and oppression in America, courts tend to think of using race-conscious policies—even for laudable purposes—as a last resort. Therefore, as part of the narrow tailoring analysis, they often look to see if school districts might be able to achieve their compelling interests in ways that rely on racial considerations to a lesser extent, or not at all. In a district with a choice plan, for instance, courts might ask whether the same results could have been realized by taking into account factors other than race, such as a student's socioeconomic status or geographic location within the district. We should note, however, that not all courts require school districts to use circuitous means to promote racial integration and reduce racial isolation. Nor do courts require that school districts exhaust every possible race-neutral possibility before adopting a race-conscious plan. Rather, they simply need assurance that the school district made a good faith effort to explore other alternatives.

Does the plan place burdens on third parties? Another aspect of the narrow tailoring inquiry looks to the impact of the race-conscious policy or plan on what are called "third parties." In the higher education admissions context, these might be the applicants who were not accepted to their favored college or university; in the K-12 context, they might be the students who received schools assignments that were not the ones they wanted. Courts require that a school district must make an effort to minimize the adverse impact of its policies on these individuals. In general, complying with the other aspects of the narrow tailoring requirement by avoiding quotas, retaining flexibility, and

considering race-neutral alternatives should minimize effects on third parties. But courts may also look to see how unique or specialized a particular school is to determine if a student suffers a significantly negative educational harm by not being able to attend it. Thus, for instance, the impact of not "getting into" a selective public magnet school might be greater than the impact of not being assigned to a school that is—for all intents and purposes—very similar to others in the same school system, even if a student might prefer that particular school for his or her own subjective reasons.

Is there a process for periodic review of the plan? For the same reason that courts tend to look to see if a school system considered race-neutral alternatives, they also tend to disfavor voluntary integration plans that appear to continue indefinitely. This requirement may be satisfied by a simple statement that the school district would regularly revisit and modify its student assignment plan as necessary, eliminating the consideration of race when it is no longer needed to achieve integration. Sometimes, though, an explicit statement is not necessary, as courts understand that school districts are often called upon to assess and update their assignment methods as the community's demographics shift and new schools are opened or older schools are consolidated and closed.

Further Reading:

Darden, E.C., Coleman, A.L., and Palmer, S.R. (2002). *From Desegregation to Diversity: A School District's Self-Assessment Guide on Race, Student Assignment, and the Law.* National School Boards Association.

Ryan, J.E. (forthcoming, February 2006). *Voluntary Integration: Asking the Right Questions,* Vol. 67 Ohio State Law Journal, Iss. 1.

Selected recent federal appellate court decisions affirming race-conscious voluntary school integration policies:

The legal framework described in this chapter is derived in large part from a number of recent decisions involving lawsuits challenging various voluntary school integration policies. Although there have been a few cases in which courts have invalidated such student assignment plans, thus far, the decisions that post-date the Supreme Court's *Grutter* decision have affirmed the ability of school districts to consider race to avoid racial isolation and promote racial integration. So that you can get a sense of what has satisfied constitutional muster, we provide below brief descriptions of a handful of the most recent of these federal appellate courts decisions to which you can refer as you are thinking about the possibilities for your own school system.

McFarland v. Jefferson County Board of Education[+] *(6th Circuit, 2005)*: Upheld in this case was a system-wide race-conscious school choice policy in metropolitan Louisville, Kentucky. Students at different school levels have the opportunity to rank their school preferences among several options (including various magnet schools and programs). A student assignment office then manages these choices and determines which schools the students will attend while ensuring that each school remains reflective of the overall racial demographics of the district.

Comfort v. Lynn School Committee[*][+] *(1st Circuit, 2005)*: Upheld in this case was a race-conscious student transfer policy in a relatively small school district outside of Boston, Massachusetts. The student assignment plan permitted all students to attend their "neighborhood" school, but also provided students with the opportunity to attend another school within the system if doing so either reduced racial isolation in the sending school or improved the racial diversity of the receiving school.

Anderson v. Boston (1st Circuit, 2004): Upheld in this case was a student assignment plan of the Boston Public Schools that did not explicitly consider race in the assignment of students, but that was designed with racial diversity as one of several goals considered. The plan allowed students to rank their choice of schools; students were then assigned to schools based on their ranked choices and a random lottery, with a percentage of seats set aside for students who were located within the school's "walk zone." Importantly, it did not apply strict scrutiny to evaluate the constitutionality of the plan, stating that although the school board identified racial diversity as one of several goals for the new student assignment system, the actual method of assignment did not use explicit racial classifications to achieve those ends. Instead, it applied "rational basis" scrutiny, which requires that the assignment plan be rationally related to a legitimate interest.

Brewer v. West Irondequoit Central School District (2nd Circuit, 2000): Denied in this case was the motion of parents to prevent the operation of a race-conscious inter-district student transfer policy, which included a number of suburban school districts and the urban school district of Rochester, New York. The policy allowed students to apply for a voluntary transfer to another school in a district participating in the program so long as the transfer helped to reduce the racial isolation.

Hunter v. Regents of the University of California (9th Circuit, 1999): Upheld in this case was a race-conscious "admission" policy for a laboratory elementary school associated with the University of California, Los Angeles' graduate school of education. In order to advance the program's research goals for operating the school, in selecting students it considered gender, race/ethnicity, family income, and other factors such as a student's dominant language, permanence of residence, and parents' willingness to comply with the school's mandatory involvement requirement.

As of the date of this manual's printing, a full panel of the 9th Circuit had heard arguments in, but not yet decided, a case called *Parents Involved in Community Schools v. Seattle School District.*[*][+] At issue in this case is what has sometimes been called a racial tie-breaker in the student assignment process of the public school system in Seattle, Washington. In an effort to promote integration, the district allows students to rank their preferences among the high schools in the system; school administrators then consider a number of factors—one of which is the level of racial diversity of the school—to determine where to assign them.

* Usually, decisions in the federal courts of appeals come from a panel of three judges. On occasion, at the request of one or both parties, a full panel of the court, the size of which varies depending on the total number of judges in each circuit, may review the decisions of a three-judge panel. These two cases have been argued before the full panel.

+ These recent decisions may be subject to review by the United States Supreme Court, which has the discretion to accept cases decided by the courts of appeals when one or both parties petition the Supreme Court to hear arguments in the case.

CHAPTER 6

promoting school integration in your community and schools

The obvious question you might have after reading the first five chapters is, what next? We try to provide you with some answers here.

This chapter will cover the nuts and bolts of how you might go about trying to promote racial integration in your community's schools. What you might choose to do depends on the specific context of your system, its history with integration, and who you are. The first part of this chapter offers suggestions for the information you need to gather before taking action. Next, we discuss ways to build support for your efforts. We then suggest things for you to consider as you take action in your community. The final section of the chapter is about a subset of actions that can be taken, specifically what can be done in schools to maximize integration in the school and reap the benefits of racial diversity discussed earlier in this manual

GATHERING INFORMATION

The first step towards promoting public school integration in your own community is to become informed so that you can be a credible and active force for change. Just by having flipped through the pages of this manual, you've al-ready begun to familiarize yourself with the overall state of racial and ethnic integration, or the lack thereof, in American public schools today. As well, you know about the harms associated with segregation and the importance of integration on the educational opportunities of students. Next, you will want to learn more about your own school district. The better informed you are, the better you will be able to inform others of the need for school integration in your community.

School and district policies. You will want to become familiar with current student assignment policies (both school-wide and at the classroom-level) and their racial implications. To the extent that significant racial imbalance exists in your school system, where students are assigned to school and the classes in which they are enrolled within those schools are two root causes. Knowing what policies govern student assignment, therefore—and perhaps the history of such policies, too—is a prerequisite to any action. Additionally, it may be helpful to collect district and school policies that

will find that having data specific to your community is necessary to make the case for school integration where you live. Data about the racial composition of each school as well as the overall racial composition of the school system may be readily available on your school system's website (and for past years, on the National Center for Education Statistics website), and if not, an inquiry into the central or district office should do the trick. Data may be quantitative as well as qualitative—interviews or surveys of students may provide further support for the need for school integration. School system officials and employees may have easier access to the full range of such data, but parents or advocates who have difficulty obtaining the information they are interested in might consider filing a Freedom of Information Act (or FOIA) request. As a rough guide, comparing the racial makeup of each school to the overall system demographics can help you determine whether racial isolation exists in your system and if so, the degree of its severity.

Governing court orders. Legally, it is important to find out whether your school district is under an existing court desegregation order as it may require or prevent a district

may be responsible for other racial disparities, too; for instance, those governing where new schools are built or which schools offer advanced courses.

Racial data. Obtaining as much data as possible on the racial demographics in your district is also critical, and can help you evaluate the impact of the district or school policies. Although we've provided you with a general overview of trends nationally, you

from certain actions. For example, a court order may require the maintenance of certain student assignment policies or levels of desegregation. You can find out about a court order by contacting the school board, school board attorney, or school district attorney. If the school district is under court order, then you should obtain a copy of the order and, if possible, consult with an attorney. You will want to learn what the school district is doing to comply, and this may provide an opening for addressing any racial imbalances you may find. Additionally, parents and educators can give input as to how the order might be modified to address current racial disparities; advocates in such cases may want to consider holding community meetings periodically to make sure any existing order addresses current concerns in the schools.

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

Political structures. Finally, it is important to be aware of the social and political landscape in your community, region, and state. Finding out who controls the governance and policy decisions of the district and schools—for example, it might be a school board, mayor, superintendent or chancellor—and also knowing the positions of state and local officials on the issue of school integration can be helpful. As we discuss in the following section, educational advocacy or other community groups, or the business community can also be important allies. Think creatively about ways to form a coalition of various stakeholders in public education, ensuring a racially diverse group. Monitor meetings of government officials to determine if there are opportunities for public commentary or input that you may want to take advantage of.

BUILDING PUBLIC SUPPORT

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

• Evaluate the situation and the level of commitment you are able to make. Whether you will be involved as a parent, an advocate, a school board member, or a school employee will also determine what course of action you choose to take.

• Gather background information and be aware of the history of school desegregation efforts in your community; however, do not be discouraged by precedent or the climate in your community.

• Find out whether there is an existing citizens' committee that works with school district personnel on designing desegregation plans or providing input to the school system on race relations and integration needs.

• Give some thought to how you intend to respond to critics by anticipating their arguments and crafting suitable, persuasive responses. Some questions that you may face—and answers to those questions—appear in the FAQs of this manual.

Finding partners. Generally, it will be useful to have a diverse coalition with representation from racial and ethnic groups in your community as well as parents and education, business, and political leaders. In many communities, you might consider efforts to reach out to language minority groups. Resources, like local parent-teacher associations (PTAs), can connect you to already established parent groups. Finally, remember to think broadly; religious leaders, retirees, local university faculty, and others who might fall outside of the traditional school community are often strong potential allies. All of these groups have a vested interest in the future of children. Many local businesses are heavily engaged in school activities and often support school improvement efforts or partner with local schools. Indeed, business leaders have historically been strong partners in desegregation efforts, because their future workforce is drawn from area middle and high schools.

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

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

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

3. Be organized. Create a schedule and have work available for eager volunteers. Provide specific and reasonable projects. At some point, it may be worthwhile for you to create committees of people to handle different tasks and/or facets of the issue.

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

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

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

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

2. Use business or religious leaders in your community as communicators. As we mentioned, business and religious leaders can be of great value to your efforts. They can be unlikely messengers for your cause, speak to broad sectors of the community, and may have other connections that can aid your efforts.

3. Distribute written materials to parents and other potential advocates. Although some advocates may not have Internet access or expertise, the World Wide Web can nonetheless be a powerful tool for engagement. For those who are more Web savvy, starting your own on-line message board or website where parents and other partners can keep a conversation going on about your efforts while also strategizing for the future. These forms of communication can be utilized to offer status reports, opportunities for engagement, or notification of activities related to your cause.

Working with the media. Occasionally, you may find expressions of concern—often in predominantly white areas—that the education of some children will suffer when their schools are desegregated or if there is a focus on racial diversity. The media can be linked to such fears depending on whether and how they have covered these issues. Thus, changing the way that the media portrays school integration and learning to make the media work for you may be critical to the success of your efforts.

Messages. Messages act as the frame for your communications strategy. They are a set of points that you see as the most important arguments/messages/thoughts. Messages should be brief and compelling. For example, they could consist of some disturbing trends in your district that you see as a central problem that needs to be addressed or it

could concern integration and its benefits that you don't want people to forget. To have a strong strategy either in your community or with the media, it is critical for everyone in your group to be "on message." Messages are also incorporated in the pitch that you will eventually share with media outlets.

The hook. The most challenging aspect of creating a sound and potentially effective media strategy is finding a good hook. When brainstorming good news hooks, the first thing to consider is your audience. Are you looking to involve a national newspaper or a local radio station whose primary listening audience is non-native English speaking Latinos? The strategy employed for these two media outlets may be the same, but more likely than not would differ, maintaining in some way form your core messages discussed above. For national media outlets like the *New York Times*, you might need a very fresh hook with an eye towards national trends; compelling data can be useful in these circumstances as a way of substantiating claims. For the local or

Common ways to get attention from the media:

• Write press releases that you distribute to media and possibly other community members. To increase the chances that your story will be picked up by the media, you should follow the standard format for writing press releases. The format is very easy to learn, and simple steps for writing a press release, including a sample press release that you can modify and use, are included on the website of The Civil Rights Project at Harvard University.

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

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

• If you choose to write a letter to the editor, when responding to an article, keep it short! Most of the letters that are published are a maximum of 250 words and identify the news story, the problem with the story, or the way it was covered, and then express your viewpoint and any specific examples to illustrate your position. Good letters reflect recent articles or opinion pieces that have appeared in the paper.

ethnic group-oriented media outlets, however, you might want to present a story focusing on what is going on in local Latino communities.

Timing. Finally, remember that reporters have deadlines, so it is important to know when to contact them. Try to avoid contacting them at the end of the day. Be aware of the news and the latest developments in your area, the country, and the world. If it is a busy news day, do not pitch your story that day, unless it is time sensitive. Fridays are not typically good times to contact newspaper reporters or to hold events. Be mindful that feature shows may have their schedules planned way in advance, so it is important to speak with them very early if you want coverage of something that you are doing. Use a similar strategy for op-eds; news outlets tend to allocate space on their op-ed pages far in advance.

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

TAKING ACTION

You have a firm understanding of the harms associated with racial isolation and the value of racial diversity in public schools. You have armed yourself with the relevant data, student assignment policies, and other related information about your own school system, region, and state. And you have begun the process of promoting awareness and building public support for the cause in your com-

munity: getting others on board who join you in wanting more racially and ethnically integrated schools. It is now time to take action.

Getting started. Having laid the foundation of broad community support for the notion of integrated public schools, you and other like-minded advocates may find it necessary at some point to advance the conversation from the theoretical to the practical. Doing so requires you to figure out what it is, specifically, that you hope to accomplish, and when and how you think you want to make it happen.

The answers to these questions depend on the unique character of your school system and community, but a significant initial goal might very well be getting your school board to adopt a mission statement or district policy emphasizing its commitment to racial and ethnic diversity in its schools. Such a statement or policy can be an important guiding principle each time the district is called upon to make changes to its student assignment plan or policies. Perhaps, however, the research you've conducted into your district revealed that it has already approved this kind of statement of commitment to racial integration, but that the school board hasn't quite lived up to its commitment over the years. In that case, your goal might be to hold the school board to the promises it made and work with others in the school system to translate its abstract commitments to actual results.

Excerpts from a sample mission statement:

The school board of the Jefferson County Public Schools (JCPS)—which is located in Kentucky and among the nation's largest metropolitan school systems—voted in 1998 to adopt four overarching "goals" for its schools, the first two of which explicitly state its belief in the importance of racial integration:

All JCPS students will become crucial thinkers and lifelong learners who are academically prepared in a racially integrated environment to be successful in the post secondary education programs or careers of their choice.

All JCPS students will be safe, supported, respected, and confident in racially integrated schools, classrooms, and student activities.

These goals, and the student assignment plan designed to provide racial integration in all of the district's schools, was lauded by a federal district court in 2004 in the case of *McFarland v. Jefferson County Public Schools.*

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

Seeking external technical and financial support. Let us suppose that, through your advocacy, your school district has expressed some initial interest in exploring the possibility of adopting a voluntary school integration plan. Often times, as parents or community activists, or even as school administrators or board members, you may find it an overwhelming task to work through the actual development of a well-designed, comprehensive and effective voluntary school integration plan. Knowing where to turn to find the right resources and technical assistance, therefore, is critical to starting the process off on the right foot.

Many states have agencies or divisions within their boards or departments of education that may be able to provide you with guidance, advice, and financial assistance. Similarly, a number of private foundations offer grants for which you may apply to design, develop, and implement innovative educational programs for integrated schools. As we mentioned in chapter 4, for decades, the U.S. Department of Education has also offered significant technical and financial assistance to hundreds of school districts through its Magnet Schools Assistance Program. In addition, it may be worthwhile to turn to and explore contacts at local colleges and universities, particularly local schools

of education. They may have students or faculty with the right expertise who may be willing to help out. Finally, don't forget the list of resources we've provided for you in the back of this manual. You might very well want to begin your research there.

Proposing and debating alternatives. As we indicated at the outset of this manual, as valuable and beneficial as integrated public schools may be for the students who attend them, the law dictates that we proceed with caution in developing strategies or designing policies that deal with issues of race. In the previous chapter, we outlined the legal test that courts apply to any voluntary school integration plan that a public school system might adopt. As you begin to work together with others in developing, debating, and proposing alternatives, you (and the school board's lawyers with whom you will no doubt work closely) will want to keep in mind the kinds of inquiries that courts traditionally have made in applying the narrow tailoring part of the analysis.

In particular, we point you to three considerations to which courts evaluating voluntary school integration plans seem to pay special attention. First, you will want to make sure serious thought is given to what the compelling interest(s) is/are that the district seeks to serve through the adoption of a specific set of policies. How is/are the compelling interest(s) the same or different from the broader "diversity" interest that the Supreme Court recognized in the University of Michigan cases we discussed earlier? Regardless of how you resolve that issue, it may be helpful for the school board to articulate with specificity what it believes its overall goals are in adopting its voluntary school integration policy; the goals may very well include both race-

conscious objectives as well as ones that have nothing to do with race at all.

Second, assuming that a court will accept the validity of these compelling interest(s) should the plan face legal challenge, the more challenging part of the test is questioning whether the plan is narrowly tailored to achieve that goal. On that score, remember that the law requires you and others working through possible plans or policies to make a good faith effort to explore race-neutral alternatives that seek to accomplish that same goal. If the district ultimately chooses not to implement one of these race-neutral alternatives, and instead adopts a plan or policy that includes one or more race-conscious elements, decisionmakers should be sure that they can demonstrate why the alternatives they considered would not achieve the compelling interests as well as the race-conscious approach that they did choose.

Third, remember that one thing we know for sure about the legality of any consideration of race whatsoever is that *context matters*. As such, you and your school district should give careful consideration to the kind of educational opportunities that the district affords at each school it operates and the way in which race matters, if at all, in assigning students or prioritizing parent/student choices among schools. Depending on the context and circumstances, a court that is called upon to review a voluntary school integration plan or policy will most certainly apply different legal principles, for instance, when the schools at issue are unique, selective magnet high schools as opposed to non-selective, themed schools.

Maintaining community and constituent support. A successful, sustainable voluntary school integration plan requires continued maintenance and review. Thus, even after the adoption and implementation of a new student assignment plan, you may want to encourage your school system to continue collecting data on a regular basis to demonstrate that its constituents remain supportive of racially integrated schools—and importantly, that these integrated schools have a positive impact on the educational experiences and long-term, post-graduation lives of students.

> *The five narrow tailoring points discussed in chapter 5*
>
> · Does the plan use quotas or specific set-asides?
> · Is the plan flexible?
> · Was adequate consideration given to race-neutral alternatives?
> · Does the plan place undue burdens on third parties?
> · Is there a process for periodic review of the plan?

Although it can be difficult to assess the degree of broad-based support for district-wide school policies, it may be worthwhile to partner with local colleges and universities (their schools of education, especially) to see if there may be faculty or students willing to work with the school district on these issues.

A periodic survey of current high school students or recent graduates might include, for instance, formal or informal open-ended questions about their classroom experiences and interactions with other students, attitudes toward issues of race and racial diversity, and long-term educational, career, and life goals and aspirations—all with an eye toward how the opportunities they have had to attend racially integrated schools have made a difference in their overall educational experience.

The reasons for regular assessments are threefold: (1) such assessments provide your school board with a sense of comfort that its student assignment plan continues to reflect the views of the parents, students, and community it serves; (2) they afford your school board the support that it may need to continue pursuing integration as it is regularly called upon to tweak and revisit its student assignment plan or policies; and (3) they allow your school board to evaluate the impact of its policies, see whether they are accomplishing their goals, and provide it with something that it can offer as evidence of the positive educational and social impact of its policies to courts, litigants, or constituents if its voluntary school integration efforts are questioned.

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

Students Take a Stand for Voluntary School Desegregation

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

When the Clayton School Board considered ending Clayton's participation in 2004, Lily Kurland and other Clayton High School students took action. Kurland, 17 and a junior from Clayton, attended School Board meetings on the issue, but was surprised to find few other students. She recruited other Clayton High students, and together they decided to organize a walkout to show their support of the desegregation program. The students garnered support through fliers and posters and through instant messaging, e-mail, and phone calls among students. Kurland also made presentations on a student TV news program and a local radio show. Another student organized a petition drive with over 600 student signatures in support of continuing the desegregation program to present to the school board.

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

promote racial integration within schools and take full advantage of their racially diverse enrollments.

SCHOOL PRACTICES THAT REDUCE IN-SCHOOL SEGREGATION

The primary focus of this manual is on promoting racially integrated schools through student assignment, but equally important, of course, is working within schools to foster the right environment and ensure racial diversity at the classroom level. Indeed, a holistic approach to realizing the benefits of integrated K-12 public education is further evidence that a school system is serious in its commitment to racial integration as a key part of providing positive educational experiences for its students. A comprehensive school integration plan, therefore, should include both effective student assignment policies and what we call in-school strategies in order to realize fully the benefits of

own beliefs and understandings of race and ethnicity and how these relate to their decision-making.

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

integration and avoid the harms of segregation. These strategies are the topic of the remainder of this chapter. Parents and students can assist educators to take action to implement these strategies and monitor a variety of outcomes to ensure that school policies are fostering diversity and positive outcomes for all students.

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

Generally, school leaders are able to hire other school staff and teachers that share their beliefs—such as the importance of racial integration. School leadership should then support and encourage faculty efforts towards integration. The collection, analysis, and dissemination of student- and school-level data can illustrate the results of integration strategies to build support for these policies as well as to provide feedback for school leaders. Engaging the school community, including parents, guardians, school neighbors, and other community members is a critical strategy that leaders can pursue in their integration efforts. Moreover, stability of school leadership is important because time is needed to fully implement integration strategies. Finally, vigilant leaders will be constantly examining their

One of the most significant barriers to classroom integration and sources of racial inequity is the practice known as *tracking,* which involves placing students in separate classrooms based on perceived ability or achievement levels. Black and Latino students are disproportionately found in lower tracks, in which typically there are less challenging curricula, lower teacher expectations, and lower student achievement. Blacks and whites with similar ability are often assigned to different tracks, with black students more likely to be assigned to lower-level tracks and whites to higher-level tracks. In fact, research has shown that irrespective of their prior achievement, black students are more likely than their white peers of similar ability to be in lower tracks. As discussed in chapter 3, research has found that both minority and white students gained academically from being in desegregated classrooms and schools. Thus, school-wide desegregation can positively impact future student placement and achievement.

How tracking can segregate students:

Despite efforts towards school-wide desegregation, many district practices and policies have worked to subvert providing all students with equitable opportunities to learn. Even in desegregated schools, students' core academic courses were commonly organized in ways that tended to enroll blacks and Latinos into lower-level courses and whites into higher, college-preparatory ones. Resegregation by tracking within schools undermined the potential benefits of school-level desegregation.

Detracking, or the creation of heterogeneous classrooms, is a viable alternative to the traditional practice of tracking. Through detracking, schools can desegregate once-segregated classrooms and move towards integrated learning environments, to provide high-quality education for all students, white and minority alike. Results in several districts that have detracked (usually along with changes in instruction/curriculum) have shown an increase in achievement levels for black and Latino students, including an increase in graduation rates, course passing rates, the number of students taking Advanced Placement (AP) classes, and the number of students planning to attend college.

Special education and student discipline policies in K-12 education also often reflect racial inequities and contribute to in-school segregation. Minority students—especially black students—are far more likely than whites to be designated mentally retarded or emotionally disturbed. Even when appropriately placed in special education classes, minority children often receive poorer services than disabled white children. Children labeled "mentally retarded" are the most likely to be segregated from regular education classrooms and their regular education peers. Some desegregation cases have tried to address these disparities as a part of a comprehensive desegregation policy, but administrators and educators, irrespective of court-ordered plans, need to also think about appropriate ways to address this stratification.

Moreover, black and Latino students are heavily overrepresented among those most harshly sanctioned in schools and are too often part of a school-to-prison pipeline that is directing certain high-risk, minority children directly from school into the criminal justice system. This pipeline includes both educational practices—such as high-stakes testing, inadequate special education placements, resource and curriculum inequities, and harsh disciplinary codes—and recent law enforcement trends that treat juveniles, particularly minorities, with increasing harshness for both major and minor offenses. School administrators today are using zero-tolerance policies to suspend and expel children based on relatively minor, non-violent offenses. Research shows that the failure to provide appropriate behavioral

interventions may be contributing to delinquency among students with disabilities, and that following removal from school many students experience enormous difficulty later in re-entering schools.

Instructional and curricula strategies. Another necessary component to ending in-school segregation and taking advantage of integration is changing teacher instruction and class curriculum. Within classrooms, teachers can incorporate strategies to maximize the benefits of diversity. The support of administrators to assist teachers in adapting to the unique demands of multiracial classrooms is likely to improve teachers' effectiveness in educating all students.

There are a variety of specific approaches to instruction that have been found to be successful in diverse classrooms, beginning in the earliest grades possible. Creating opportunities for individuals from different backgrounds to work together toward shared goals has been shown to produce positive outcomes including increased cross-racial friendships, more positive cross-racial attitudes, and reduction of interethnic conflict. Schools that have students who are not native English speakers may need to incorporate specific instruction or redesign school policies to take the particular needs of these students and their families into account.

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

Curricula, including texts and other materials, should be culturally relevant to students and incorporate anti-bias education. Multicultural curriculum should encompass a fair and accurate representation of the voices of different racial/ethnic groups and the roles they have played in society or candid accounts of the history of discrimination experienced by different groups.

In sum, a first step towards ending segregation is creating racially diverse schools through carefully implementing student assignment policies as discussed above, but this alone does not result in integrated school environments. To achieve the benefits of integration, many strategies within schools must be challenged and changed.

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

Further reading:

Advancement Project
www.advancementproject.org/reports/cjrcflyer.pdf

The Children's Defense Fund
www.childrensdefense.org/earlychildhood/cc_hs_toolkit.pdf

Deakin, M. B. (June 8, 2003). *Course Correction,* The Boston *Globe.*

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

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

Stephan, W.G. and Vogt, W.P., eds., (2004). *Education Programs for Improving Intergroup Relations: Theory, Research, and Practice.* New York: Teachers College Press.

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

Public Education Network. (2000). *Quality Now! Results of National Conversations on Education and Race.*
www.publiceducation.org/pdf/Publications/Public_Engagement/qualitynow.pdf.

conclusion

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

To make matters worse, under the Bush administration, the U.S. Department of Education and its Office of Civil Rights have all but abandoned integration as a worthwhile pedagogical goal. Their actions represent a continuation of the policy reversal first begun during President Ronald Reagan's administration, when funding to help schools ef-fectively educate students of diverse racial backgrounds was cut and legal challenges against many long-lasting, successful school desegregation plans were mounted. In fact, by watering down the desegregative purpose of the Magnet Schools Assistance Program and intimidating local school boards that have adopted voluntary integration plans into jettisoning them, these federal agencies are making it more, not less, difficult for school districts to pursue creative solutions that stem the tide of racial resegregation that is occurring as courts release more of them from mandatory desegregation obligations.

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

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

Be forewarned: changing the *status quo* is difficult to do. Whether you are simply looking to encourage your school district to open up additional opportunities for racial minorities to attend a selective magnet school in your district or ambitiously suggesting that it adopt an entirely new method of student assignment that would affect all the schools in the system, anticipate a long battle. As we noted earlier, student assignment decisions are extremely political and emotional ones on which many people hold strong views. That the law related to race and public schools is still not settled only adds to the challenge. Yet, integrating K-12 schools would help make the race-conscious university policies approved in the *Grutter* decision less urgent, by establishing a well-educated, integrated pipeline to higher education.

Just because advocating for positive change may be challenging does not mean it is an impossible task. Indeed, given the importance of racial and ethnic diversity to the educational and life experiences of young people in their most formative years, and to the future demographics of our country where there will soon be no majority racial/ethnic group, your involvement in trying to promote integration in your school district is vital. We hope that this manual has provided you with basic information and start-up tools you'll need to embark on that campaign.

Good luck!

frequently asked questions

Q: Do all students benefit from racially diverse schools?

A: Yes. Studies show that attending racially integrated schools reduces stereotypes and promotes cross-racial understanding, preparing students to live and work in an increasingly diverse world. As discussed in Chapter 3, both white and minority students share in these benefits, and the effect is greatest when students of different races have opportunities for meaningful interaction in integrated classrooms and extracurricular activities, and when students begin attending integrated schools in the primary grades. There is also evidence that academic achievement improves for minority students in integrated schools, while there is, at least, no negative effect on white student achievement.

Q: Does the community benefit from racially diverse schools?

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

Q: Does the American public support integrated schools?

A: Yes. The most recent Gallup Poll in 1999 found that 60% of Americans believe that more should be done towards desegregation in education. Both blacks and whites are increasingly positive about the educational benefits of school integration. In 1988, 55% of Americans believed that integration had "improved the quality of education for blacks," and 35% believed it had improved education for whites. By 1999, 68% of Americans believed that integration improved education for blacks and 50% found that it improved education for whites.

Q: What does the Supreme Court's 2003 ruling in Grutter v. Bollinger *mean for voluntary integration in K-12 schools?*

A: Since *Grutter* dealt with a law school admissions program, the case does not provide easy answers for school districts seeking to pursue voluntary integration. The Court did however specifically endorse the goal of achieving diversity in higher education, and the decision stands broadly for the principle that race-conscious policies can be legal without an explicit remedial purpose. This leaves school districts with flexibility to design voluntary integration programs within the boundaries of the law.

Q: My school district's integration policies are unable to provide the kind of "individualized review" mentioned in Grutter. *Does that mean we can't consider race?*

A: Not necessarily. Courts have struggled with the question of individualized review in K-12 integration policies. One federal Circuit Court upheld race-specific transfer policies in *Brewer v.*

West Irondequoit and such policies have met approval in several federal District Courts. Although the Supreme Court rejected a university admissions procedure because it failed to provide individualized review, elementary and secondary schools are subject to different legal analyses than are universities and graduate schools. Nonetheless, the more individualized review you are able to conduct, the more likely your program will withstand legal scrutiny, especially in policies that are similar to higher education, such as competitive magnet school admissions.

Q: Does our school district's race-conscious assignment program need a formal end date?

A: Probably not. The policy does need to have specific objectives, and some courts look for a proposed end date as one sign that the program is narrowly tailored to fulfill its goals. However, an annual review will generally satisfy this requirement. A school district may also consider a statistical trigger, such as a target percentage range for minority enrollment that defines the goal of the integration strategy. Under this scheme, an assignment program would only go into effect when the trigger was "released," thus there might be years, perhaps even many years, when the race-conscious assignment program would not be needed. Then Supreme Court Justice Sandra Day O'Connor sparked much controversy when she wrote in *Grutter v. Bollinger* that within 25 years, it was her hope that race-conscious affirmative action at the college level would no longer be necessary. However, this portion of her opinion was not legally binding, and the truth of her statement is even more questionable in the context of K-12 education.

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

A: First, you should find out whether or not your school district is currently or previously under a court-ordered desegregation order. Second, you should gather as much specific data as possible on the racial composition of your schools and the changing demography of your district. This information can be used not only to develop an appropriate voluntary integration strategy but also to convince school and government officials that there is a compelling need for voluntary integration in your district. For additional guidance, see chapter 6.

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

A: Contact the administrators of your school district; if they cannot answer this question, ask them to check with the school district's attorneys. When a district is still subject to court-ordered desegregation, racial disparities are assumed to be vestiges of past segregation and discrimination, and districts are afforded wide latitude in correcting those disparities.

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

A: No. Generally, the mere existence of racially identifiable schools is not illegal without evidence of an intent to segregate or discriminate. While authorities do not have a legal obligation to act in these cases, school districts have a responsibility to recognize the educational and social harms of racial isolation and benefits of an integrated student body. Parents, students, teachers, administrators, and activists can help convince other citizens and school officials that racially identifiable schools necessitate implementing a voluntary integration program.

Q: What should my school district's mission statement say to support the use of a race-conscious school assignment policy?

A: You may wish to mention in your mission statement the ideals courts have recognized as "compelling interests" justifying race-conscious programs. These include maximizing educational benefits for all children, as well as preparing students to live, work, and lead in integrated communities once they reach adulthood. Every district has its own unique history, geography, and demographics, so your mission statement should recognize those characteristics to set specific goals.

Q: Housing in my community is very segregated. Can school integration realistically overcome this residential segregation?

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

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

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

A: Perhaps the best answer to these questions comes from the district court's opinion in *Comfort v. Lynn School Committee (2003)*, which said,

"The [Lynn] Plan's drafters also recognized that integration involves more than race-conscious school assignment policies, more than simply the mixing of students of different racial backgrounds. Thus, the Plan included substantial curricular innovations designed to ensure positive racial interaction; training and development of staff to address the challenges of teaching children of diverse backgrounds; [and] programs that would create opportunities for positive interaction among students, school personnel, and parents from different racial and ethnic groups. . . . In addition, the Plan's drafters acknowledged that the improvements it sought could not be sustained in the long term unless all the schools were made attractive to all Lynn parents, whatever their race. Thus, the Plan included an ambitious construction program, largely funded by the state, to ensure sufficient space for out-of-neighborhood transfers. It involved the development and standardization of curriculum so that there would be equal instructional opportunities across Lynn; development of indicators of performance and achievement for individual schools, programs and students; development of measures designed to improve school attendance; and creation of business/college partnerships with the schools to improve the quality of instruction."

Q. How does the No Child Left Behind Act (NCLB) affect any voluntary desegregation efforts?

A. NCLB does not directly address voluntary desegregation efforts. Research has shown that some NCLB requirements (such as the need to meet annual benchmarks) have a disparate impact on large urban districts that educate many of our nation's minority and low-income students. A centerpiece of NCLB is its policy of subgroup accountability that sanctions schools for not making enough progress in closing the achievement gap(s) regardless of the schools' degree of racial or poverty isolation, level of funding, or other school-level features that make it more difficult to provide a high-quality education. Analysis of its implementation in some states has shown that schools that are multiracial, or that have more subgroups, are more likely to be sanctioned under in NCLB. Some advocates believe that NCLB transfers may also be used to promote racial integration, but thus far, there has been no evidence of their use for that purpose.

Q. What is a Freedom of Information Act (FOIA) request, and how do I make one?

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

additional resources

LEGAL RESOURCES

NAACP Legal Defense and Educational Fund, Inc. (LDF), www.naacpldf.org
NAACP LDF was founded under the leadership of Thurgood Marshall. Although LDF's primary purpose was to provide legal assistance to poor African Americans, its work over the years has brought greater justice to all Americans.

Puerto Rican Legal Defense and Education Fund (PRLDEF), www.prldef.org
PRLDEF works towards an equitable society using the law with advocacy and education. It aims to create opportunities for all Latinos to succeed in school and work, fulfill their dreams, and sustain their families and communities.

Mexican American Legal Defense and Educational Fund (MALDEF), www.maldef.org
MALDEF is the leading nonprofit Latino litigation, advocacy, and educational outreach institution in the United States.

Asian American Legal Defense and Education Fund, www.aaldef.org
Founded in 1974, AALDEF is the first legal rights organization on the East Coast serving Asian Americans.

Asian Law Caucus (ALC), www.asianlawcaucus.org
ALC is a legal and civil rights organization serving low-income Asian Pacific American communities. The Caucus strives to defend and empower the Asian Pacific American community through a three-pronged strategy of (1) community education and organizing, (2) provision of direct legal services, and (3) strategic impact litigation.

National Asian Pacific American Legal Consortium (NAPALC), www.napalc.org
NAPALC is a nonprofit, nonpartisan organization that works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education, and litigation.

Southern Poverty Law Center (SPLC), www.splcenter.org
SPLC is internationally known for its tolerance education programs, its legal victories against white supremacists, and its tracking of hate groups.

American Civil Liberties Union (ACLU), www.aclu.org
ACLU advocates individual rights by litigating, legislating, and educating the public on a broad array of issues affecting individual freedom.

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

The Civil Rights Litigation Resource Center (CRLRC), www.crlrc.org
CRLRC provides online support and resources to its participating lawyers including interactive news pages. The focus of CRLRC is the online library of training manuals, briefs, and practice materials.

Pro Bono Net, www.probononet.org
Probono.net is a nonprofit organization headquartered in New York City.   Its mission is to increase access to justice through innovative uses of technology and increased volunteer lawyer participation.

EDUCATION RESOURCES

Annenberg/CPB www.learner.org
Annenberg/CPB uses media and telecommunications in an effort to advance excellent teaching. The site provides educational video programs with coordinated Web and print materials for the professional development of K-12 teachers. Many programs are also intended for students in the classroom and viewers at home.

Teachers' Domain, www.teachersdomain.org
Produced by WGBH Boston, Teachers' Domain provides multimedia resources for the classroom and teacher professional development, including lesson plans conforming to national and state standards.

Teaching Tolerance, www.teachingtolerance.org
Founded by the Southern Poverty Law Center, Teaching Tolerance provides educators with free educational materials that promote respect for differences and appreciation of diversity in the classroom and beyond.

Facing History and Ourselves, www.facinghistory.org
Facing History engages teachers and students of diverse backgrounds in an examination of racism, prejudice, and antisemitism in order to promote the development of a more humane and informed citizenry. By studying the historical development of the Holocaust and other examples of collective violence, students make the essential connection between history and the moral choices they confront in their own lives.

The Education Alliance at Brown University, www.lab.brown.edu
The Education Alliance provides resources on a range of topics including equity and diversity, curriculum and instruction, urban schools, and more.

Center for Research on Education, Diversity, and Excellence, www.crede.org
CREDE is a federally funded research and development program working to assist America's diverse student populations in achieving academic excellence. Research focuses on improving the education of students whose ability to reach their potential is challenged by language or cultural barriers, race, geographic location, or poverty; currently that research is being synthesized for publication and tested and refined in school settings.

PBS Teacher Source, www.pbs.org/teachersource
Lesson plans and activities based on PBS's quality programming and educational services.

Teaching Teachers Video Library, www.wgbh.org/resources/teachers
The WGBH Library site has videos and guides for improving teaching practices and employing new curriculum standards.

Eye on Education, www.eyeoneducation.tv
WGBH and The Boston Globe team up with other community partners to look at the impact of high-stakes testing and educational reform on Boston's public schools and their teachers and students.

Safe Schools Coalition, www.safeschoolscoalition.org
The mission of The Safe Schools Coalition: A Public-Private Partnership in Support of Gay, Lesbian, Bisexual and Transgender Youth is to help schools become safe places where every family can belong, where every educator can teach, and where every child can learn, regardless of gender identity or sexual orientation.

Anti Defamation League (ADL), Curriculum Connections, www.adl.org/education/curriculum_connections/
Curriculum Connections is a collection of original lesson plans and resources that help K-12 educators integrate multicultural, anti-bias, and social justice themes into their curricula. Each issue is organized around a particular topic or theme and is distributed via e-mail three to four times per school year.

Rethinking Schools, www.rethinkingschools.org
Rethinking Schools began as a local effort to address problems such as basal readers, standardized testing, and textbook-dominated curriculum. Since its founding, it has grown into a nationally prominent publisher of educational materials.

Council of Great City Schools, www.cgcs.org
The Council serves as the national voice for urban educators, providing ways to share promising practices and address common concerns.

Education Week on the web, www.edweek.org
Education Week is a comprehensive guide to education news nationwide and includes a searchable index to past issues.

National Association for Multicultural Education (NAME), www.nameorg.org
NAME seeks to bring together individuals and groups with an interest in multicultural education from all levels of education, different academic disciplines and from diverse educational institutions and occupations.

Scholastic, "Teaching Diversity: A Place to Begin," http://teacher.scholastic.com/products/ect/placetobegin.htm
An article on teaching strategies to teach children to respect and value people regardless of the color of their skin, their physical abilities, or the language they speak.

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

National School Boards Association, www.nsba.org
NSBA is a nationwide organization representing public school governance. Its mission is to foster excellence and equity in public education through school board leadership.

The Gallery of Teaching and Learning, www.gallery.carnegiefoundation.org/index.htm
The Gallery examples are created by The Knowledge Media Laboratory (KML) of The Carnegie Foundation for the Advancement of Teaching and individual faculty associated with Carnegie programs. This gallery provides examples of ways that teachers can make ideas, insights, and new understandings generated in the course of teaching available so that others can build upon them.

Justice Learning, www.justicelearning.org
Justice Learning is a collaboration of NPR's *Justice Talking* and The New York *Times* Learning Network to engage high school students in informed political discourse.

COMMUNITY RESOURCES

Urban League, www.nul.org
The Urban League is the nation's oldest and largest community-based movement devoted to empowering African Americans to enter the economic and social mainstream.

National Association for the Advancement of Colored People (NAACP), www.naacp.org
The mission of the NAACP is to ensure the political, educational, social and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination.

Anti-Defamation League (ADL), www.adl.org
ADL fights hatred, extremism, and terrorism. Its three priorities are to: 1) gather, analyze, and disseminate intelligence on extremism and hate activity; 2) enhance law enforcement's ability to combat serious threats; and 3) provide assistance, support, and resources on security to the Jewish community.

Poverty and Race Research Action Council (PRRAC), www.prrac.org
PRRAC is a non-partisan, national, not-for-profit organization convened by major civil rights, civil liberties and anti-poverty groups. Its purpose is to link social science research to advocacy work in order to address problems at the intersection of race and poverty.

National Council of La Raza (NCLR), www.nclr.org
NCLR is the largest national constituency-based Hispanic organization established to reduce poverty and discrimination and improve life opportunities for Hispanic Americans.

CivilRights.org, www.civilrights.org
Civilrights.org is a collaboration of the Leadership Conference on Civil Rights and the Leadership Conference on Civil Rights Education Fund. Its mission is to serve as the site of record for relevant and up-to-the minute civil rights news and information.

The Civil Rights Project (CRP), www.civilrightsproject.harvard.edu
CRP seeks to help renew the civil rights movement by bridging the worlds of ideas and action, and by becoming a preeminent source of intellectual capital and a forum for building consensus within that movement.

Citizens' Commission on Civil Rights (CCCR), www.cccr.org
CCCR is a bipartisan organization established in 1982 to monitor the civil rights policies and practices of the federal government and to seek ways to accelerate progress in the area of race relations and on other civil rights issues. It is committed to the revitalization of a progressive civil rights agenda at the national level.

UNC Center for Civil Rights, www.law.unc.edu/Centers/details.aspx?ID=128&Q=2
The UNC Center for Civil Rights is committed to the advancement of civil rights and social justice, especially in the American South. It fosters empirical and analytical research, sponsors student inquiry and activities and convenes faculty, visiting scholars, policy advocates and practicing attorneys to confront legal and social issues of greatest concern to racial and ethnic minorities, to the poor and to other potential beneficiaries of civil rights advances.

about our organizations

THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. (LDF) was founded in 1940 under the leadership of Thurgood Marshall. LDF was originally affiliated with the National Association for the Advancement of Colored People (NAACP), but it has been an entirely separate organization since 1957. Although LDF's primary purpose was to provide legal assistance to poor African Americans, its work over the years has brought greater justice to all Americans. LDF has been involved in more cases before the U.S. Supreme Court than any organization except the U.S. Department of Justice. Its main program areas are education, political participation, economic justice, and criminal justice. Although LDF works primarily through the courts, its strategies include advocacy, educational outreach, legislation monitoring, coalition building and policy research. Additionally, it provides scholarships for exceptional African-American students.

THE CIVIL RIGHTS PROJECT AT HARVARD UNIVERSITY (CRP), founded in 1996, is a leading, national organization devoted to research and policy analysis about critical civil rights issues facing the nation. Its mission is to bridge the worlds of ideas and action by becoming a preeminent source of intellectual capital and a forum for building consensus within the civil rights movement. We achieve this by interweaving strategies of research and policy analysis, and by building strong collaborations between researchers, community organizations, lawyers and policy makers. Our dual objectives are to: (1) raise the visibility of, and attention to, racial justice national policy debates; and (2) arm local and national civil rights and educational organizations with credible research to inform their legal, political and public education efforts.

THE UNIVERSITY OF VIRGINIA LAW SCHOOL founded the **CENTER FOR THE STUDY OF RACE AND LAW** in 2003. Its mission is to provide opportunities for students, scholars, practitioners, and community members to examine and exchange ideas related to race and law. The Center coordinates and promotes the substantial array of existing law school programs on race and law, including courses, public lectures, scholarly workshops, symposia, and informal discussions, and enhances these offerings by sponsoring additional programs, often in partnership with interested student organizations. The Center also offers a concentration of courses on race and law, including 10 core courses and more than 20 related offerings, and serves as a resource for faculty whose teaching or scholarship addresses race-related subjects.