




## **Equity by Design:**

**What You Need to Know About School  
Desegregation and Integration and  
Why it Still Matters**

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# What You Need to Know About School Desegregation and Integration and Why it Still Matters



On May 17, 2018, 64 years after the U.S. Supreme Court ruled that “separate is inherently unequal” in the landmark *Brown v. Board of Education* (1954) case, a lawsuit was filed in the state of New Jersey challenging the state’s school system to end segregation. The plaintiffs claim that the current segregated education system violates students’ rights under the state constitution, and are requesting the state devise a comprehensive desegregation plan. The plaintiffs also suggest that students should be able to cross municipal boundary lines to attend schools outside of their neighborhoods, as residential segregation is extremely high across New Jersey. In addition, they argue that magnet schools should be established to create more diverse schools, as well as implementing additional strategies to mitigate segregated schooling environments (Otterman, 2018).

According to a report by the UCLA Civil Rights Project (2017), New Jersey is the sixth most segregated state for Black students and the seventh most for Latino students. Black and Latino students in New Jersey also attend schools with large percentages of low-income students (Orfield, Ee, & Coughlan, 2017). Volumes of research on school segregation show that students attending racially and economically segregated schools are not only negatively impacted in terms of current quality of education, but also experience long-term impacts later in life (see e.g., Linn & Welner, 2007; Mickelson & Nkomo, 2012).

Yet, research continues to show the many benefits of attending racially and economically diverse schools for all students, including positive academic and social outcomes (e.g., reduced gaps in test scores, higher graduation rates, higher educational aspirations, improved intergroup relationships, exposure to diverse experiences and viewpoints) (Wells, Fox, & Cordova-Cobo, 2016; Wells, Holme, Revilla, & Atanda, 2009). As our public schools become more racially diverse, it becomes increasingly

critical that we highlight all of the benefits that come with providing diverse educational experiences.

Just two months after the New Jersey lawsuit was filed, the Minnesota Supreme Court voted to allow a lawsuit that alleges the state is enabling segregation in its schools (*Cruz-Guzman v. Minnesota*, 2018) to move forward in the courts. The class-action lawsuit, initially filed in 2015 by parents of children in Minneapolis and St. Paul public schools, claimed that through school district boundary lines and exempting charter schools from desegregation plans, the state of Minnesota is furthering the racial and socioeconomic segregation existent within its public schools (Forliti, 2018).

Indeed, Minneapolis and St. Paul public schools “are more racially segregated than they have been in a generation” (Matos, Webster, Lonetree, 2015, n.p.). This segregation worsened in the 1990s in part due to the end of a desegregation program that had been in place since Minneapolis was released from court oversight, as well as changing demographics (Finnigan, Holme, Orfield, Luce, Diem, Mattheis, & Hylton, 2015). In its ruling, the Court stated that under the state constitution students must be provided adequate education, which includes ensuring schools are not racially or socioeconomically segregated (Lecker, 2018).

As evident by these recent lawsuits and decades of social science research (see e.g., Boger & Orfield, 2005; Mickelson, Smith, & Nelson, 2015; Orfield, Ee, Frankenberg, & Siegel-Hawley, 2016), school segregation continues to be a major issue within our public schools and students continue to be deprived of equal educational opportunity. Public schools are demographically changing, wealth disparities persist, and opportunity gaps continue to hinder academic attainment for historically underrepresented students. Yet, our schools operate in a current context where

school desegregation seems like an artifact of past discrimination and less tools are available to mandate integrated learning environments. In some cases, the tools that are available are challenging to locate or discern. However, there are a number of teachers, principals, administrators, and state and federal policy actors still very much committed to the promise of *Brown*, and are working in their communities to enact policies and other strategies that address stratification and create diverse schools.

The purpose of this brief is to provide practitioners and state-level education administrators with information regarding school desegregation and integration, a primary charge of the four Equity Assistance Centers funded by the U.S. Department of Education's Office and Elementary Programs, including the Midwest and Plains Equity Center. Specifically, this brief includes definitions of key school desegregation and integration terms, highlights key federal and state school desegregation court cases, details how many school districts are under court-ordered or voluntary desegregation orders, provides a list of school districts implementing voluntary integration plans that seek to address racial and socioeconomic segregation, and shows where local and state officials can access information about desegregation and integration in their communities. The information provided in this brief serves as a critical resource for practitioners and state-level education administrators interested in developing school integration plans.

### Key School Desegregation and Integration Terms

**Consent decrees** are settlement agreements that are included in court orders. In terms of school desegregation, consent decrees outline specific details and plans for school districts to desegregate their schools.

**Desegregation** is the "legal or political process of ending the separation and isolation of different racial and ethnic groups" that is "achieved through court order or voluntary means" (Ayscue & Frankenberg, 2016, n.p.).

**De facto segregation** is said to occur by fact, when people make decisions to discriminate and self-segregate. Scholars (see e.g., Rothstein, 2017) have argued that de facto segregation is a myth, with private, non-governmental discriminatory practices playing a smaller role in



segregation than de jure segregation.

**De jure segregation** is segregation that has resulted due to law; when government policies are intentionally implemented with segregation as the intended result.

**Integration** is "a social process in which members of different racial and ethnic groups experience fair and equal treatment within a desegregated environment" that "requires further action beyond desegregation" (Ayscue & Frankenberg, 2016, n.p.).

**Segregation** refers to the physical separation of different groups by law or fact.

**Strict scrutiny** is a standard of judicial review based on the Equal Protection Clause of the Fourteenth Amendment. It is used by courts to determine whether certain types of government policies are constitutional (Farlex, 2018).

**Unitary status** is achieved when a school district demonstrates it is no longer operating dual segregated school systems, has implemented its school desegregation order in good faith, and eliminated past vestiges of school segregation to the extent possible under the Green factors. In *Green v. County School Board of New Kent County* (1968), six factors—composition of student body, faculty, staff, transportation, facilities, extracurricular

activities—were established to evaluate whether a school district achieved unitary status. When school districts are declared unitary, they are no longer under judicial oversight (see *Oklahoma City Board of Education v. Dowell*, 1991).

**Voluntary integration** refers to school districts implementing plans/policies that seek to racially and socioeconomically diversify their schools without being legally mandated to do so (e.g., through a court order, state law).

### Key Court Cases

***Plessy v. Ferguson*, 163 U.S. 357 (1896)**—The U.S. Supreme Court ruled that the racial segregation of facilities does not constitute discrimination under the Fourteenth Amendment so long as the separate facilities are equal, establishing the “separate but equal” doctrine. The ruling allowed for the legal racial segregation of institutions, including education.

***Westminster v. Mendez*, 161 F.2d 774 (9th Cir. 1947)**—The U.S. Court of Appeals for the Ninth Circuit affirmed a district court ruling that the segregation of Mexican American students violated the Equal Protection Clause of the Fourteenth Amendment. The practice of segregating Mexican American students in Orange County, CA schools was struck down.

***Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)**—The landmark U.S. Supreme Court decision declared state-sanctioned school segregation to be unconstitutional as it violated the Equal Protection Clause of the Fourteenth Amendment. The Court overruled the principle of “separate but equal” and stated the separate educational facilities for Black students are inherently unequal.

***Brown v. Board of Education of Topeka*, 349 U.S. 294 (1955)**—The U.S. Supreme Court, in its attempt to outline how and when school desegregation would be achieved, ruled that desegregation should occur “with all deliberate speed.” The Court’s failure to establish any specific timelines for school desegregation allowed school districts to delay and/or all together avoid desegregation.

***Green v. County School Board of New Kent County*, 391 U.S. 430 (1968)**—The U.S. Supreme Court ruled that freedom-of-choice plans, utilized in the South allowing students the option of transferring from Black to White schools, had not served to dismantle its segregated dual school system. The Court ordered school systems to eliminate racial



discrimination “root and branch” and move toward achieving unitary status. The Court also stated that desegregation must be achieved via a number of factors, known as the “green factors,” including student body, faculty, staff, transportation, extracurricular activities, and facilities.

***Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971)**—This U.S. Supreme Court ruling stated that school districts must seek to achieve desegregation to the extent possible and endorsed cross-district busing as a means to achieve racial balance in schools.

***Keyes v. School District No. 1*, 413 U.S. 189 (1973)**—This case represented the first desegregation case tried in front of the U.S. Supreme Court that included a non-Southern district. It was also the first U.S. Supreme Court ruling that recognized Latino students’ rights to desegregation along with Black students. The ruling stated that once segregation was found to exist part of the district, the entire district was considered segregated and therefore must move toward desegregation.

***Milliken vs. Bradley*, 418 U.S. 717 (1974)**—This ruling struck down an inter-district city-suburban desegregation plan that sought to

achieve racial integration. The U.S. Supreme Court also ruled that unless it could be proven that the suburbs or state intentionally contributed to segregation, metropolitan-wide plans like the one proposed in Detroit, Michigan are prohibited. The ruling effectively made it difficult to achieve racial integration via inter-district measures.

***Riddick v. School Board of the City of Norfolk, Virginia, 784 F.2d 521 (4th Cir. 1986)***—

Although not a U.S. Supreme Court ruling, this was the first federal court case to allow a school district, after declared unitary, to undo its desegregation plan and return to local control.

***Freeman v. Pitts, 503 U.S. 467 (1992)***—This U.S. Supreme Court ruling allowed school districts to be released from their desegregation orders without being in full compliance of them and ever meeting any of the Green factors. The case involved the DeKalb County, Georgia School System, which was under a consent order since 1969 to eliminate the de jure segregation existent in the district. The district claimed it achieved unitary status despite being in compliance with all of the Green factors.

***Missouri v. Jenkins, 515 U.S. 70 (1995)***—The U.S. Supreme Court ruled that remedies used to eliminate vestiges of discrimination and attract White suburban and private school students voluntarily to the city district were invalid and exceeded remedial powers of the district court. The Court also made clear that local control should be the emphasis regardless if the district achieved desegregation.

***Parents Involved in Community Schools vs. School District No. 1, 551 U.S. 701 (2007)***—The most recent ruling on school desegregation saw the U.S. Supreme Court strike down two voluntary integration plans (the case was ruled together with *Meredith v. Jefferson County Board of Education*) that had been using race to assign students and achieve racial diversity in their schools. The Court ruled that the districts violated the Equal Protection Clause of the

Fourteenth Amendment in these assignments and race alone cannot be used in assigning students to schools in order to achieve racial diversity. The Court also ruled that a compelling interest exists for districts to avoid racial isolation and different approaches can be taken to address segregation.

**School Districts Still Under Open Desegregation Orders**

Since *Brown*, a number of school districts have been placed under federal court oversight to increase racial integration. According to a Qiu & Hannah-Jones' Pro Publica Report (2014), the number of districts placed under such orders slowly grew after the ruling, with its peak occurring in 1969 when 73 school districts were ordered by the courts to desegregate. In 1970, 46 school districts were placed under court ordered desegregation plans; the number decreased drastically to only 10 school districts in 1971. Since 1978, there have been no more than two school districts in a given year placed under a court desegregation order. This is not to say that voluntary desegregation orders have not been agreed upon by school districts. According to Qiu & Hannah-Jones (2014) as recently as 2013, 85 school districts were voluntarily placed under desegregation orders.

It is important to note that in recent years the number of districts reported as being under a desegregation order has shifted. According to the Civil Rights Data Collection<sup>1</sup>, in the 2011-12 school year, over 1,200 school districts said they were under a desegregation order or were implementing a desegregation plan (Ujifusa & Harwin, 2018). This number dropped to 171 in the 2013-14 school year, and then increased to 334 in 2015-16, which is the most recent year of available data. A clear reason for these shifts has not been offered, but it is believed by some that between 300-350 school districts are still under court-ordered desegregation (Ujifusa & Harwin, 2018).

<sup>1</sup> The Civil Rights Data Collection, housed under the Office of Civil Rights (OCR) in the U.S. Department of Education, collects survey data biennially from schools and local educational agencies, including enrollment, demographics, preschool, math and science courses, advanced placement, SAT/ACT, discipline, school expenditures, teacher experience, transfers, and attendance. Data has been collected since 1968 as required by the OCR. Information about the CRDC and available data can be found at <https://ocrdata.ed.gov/>.

## School Districts Implementing Voluntary Integration Plans

The Center for Education and Civil Rights (CERC) at Pennsylvania State University has been conducting an ongoing study seeking to identify how many school districts in the U.S. are currently implementing voluntary integration plans. So far, they have identified 60 districts (rural, urban, and suburban) across 25 states and the District of Columbia (see Appendix for list of districts). Other research has identified over 100 school districts implementing voluntary integration plans (see Potter, Quick, & Davies, 2016). The CERC's list does not include charter schools and some of the plans identified are under revision. The CERC was particularly interested in how districts are working toward racial and socioeconomic-based integration. Districts utilize a wide-range of integration methods to achieve racial and socioeconomic integration with the most popular methods being attendance zones and magnet schools (Frankenberg, Anderson, & Taylor, 2017).

## Where You Can Access Information About Desegregation and Integration

There are a number of civil rights groups, advocacy organizations, and research centers that provide a wealth of information when it comes to school desegregation and integration. Below is a list of such organizations that provide resources and legal assistance for school districts and communities.

### **Charles Hamilton Houston Institute for Race and Justice, Harvard Law School**

The Charles Hamilton Houston Institute brings together scholarship, law, policy, and practice to create and implement research-based solutions and remedies that addresses a number of issues, including education, housing, public health, economic stability, safety and healing, infrastructure, coalition building, and technology. <https://charleshamiltonhouston.org/>

### **Civil Rights Project/Proyecto Derechos Civiles, University of California, Los Angeles**

For over 20 years, the Civil Rights Project/Proyecto Derechos Civiles, founded at Harvard

University and now housed at UCLA, has been producing and sharing social science and law research on civil rights issues, including school desegregation, among many others. Their research is accessible to various communities and often referenced in various media outlets. They publish manuals on research and strategies for school districts navigating the current school desegregation context. <https://www.civilrightsproject.ucla.edu/>

### **Haas Institute for a Fair and Inclusive Society, University of California, Berkeley**

The Haas Institute brings together a wide array of stakeholders that work to identify and eliminate barriers to an inclusive, just, and sustainable society. The Institute's resources include research on race, diversity, and educational policy, among many other issues, and they also have a number of programs and initiatives designed to produce meaningful change. <https://haasinstitute.berkeley.edu/>

### **Institute on Metropolitan Opportunity, University of Minnesota**

The Institute on Metropolitan Opportunity examines how laws, policies, and practices impact development patterns across U.S. metropolitan regions, paying particular attention to social and economic disparities in these regions. The research studies conducted at the institute focus on schools, metro areas, and housing and planning. <https://www.law.umn.edu/institute-metropolitan-opportunity>

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

The Kirwan Institute engages in interdisciplinary research that works to connect individuals and communities with resources and opportunities that support equity and inclusion. <http://kirwaninstitute.osu.edu/>

### **Mexican American Legal Defense and Educational Fund**

The Mexican American Legal Defense and Educational Fund (MALDEF) is the nation's leading Latino civil rights organization and has

been integral in achieving a number of legal victories addressing educational opportunity. <http://www.maldef.org/>

**NAACP Legal Defense and Educational Fund, Inc.**

The NAACP Legal Defense and Educational Fund, Inc. fights for racial justice through litigation, advocacy, and public education. They have been integral in the fight to increase equitable educational opportunity for African American students. <http://www.naacpldf.org/about-ldf>

**National Coalition for School Diversity**

The National Coalition for School Diversity is a network of national civil rights organizations, university-based research centers, and state and local coalitions working to promote school diversity. They have a number of resources (e.g., policy and research briefs) on school desegregation and integration, as well as ways to get involved in advocacy efforts. <http://school-diversity.org/>

**National Education Policy Center**

The National Education Policy Center works to produce high-quality, accessible, peer-reviewed research that helps inform policy discussions. <https://nepc.colorado.edu/>

**U.S. Department of Education, U.S. Department of Justice, and the Office of Civil Rights**

These federal agencies have a number of resources and database son schools and districts across states, including the Civil Rights Data Collection (CRDC), the Common Core of Data (CCD), information where discrimination complaints can be filed, and policy guidance letters for school districts.

<https://www.ed.gov/>

<https://www.justice.gov/crt>

<https://www.ocrdata.ed.gov/>

<https://nces.ed.gov/ccd>



## **About the Midwest & Plains Equity Assistance Center**

The mission of the Midwest & Plains Equity Assistance Center is to ensure equity in student access to and participation in high quality, research-based education by expanding states' and school systems' capacity to provide robust, effective opportunities to learn for all students, regardless of and responsive to race, sex, and national origin, and to reduce disparities in educational outcomes among and between groups. The Equity by Design briefs series is intended to provide vital background information and action steps to support educators and other equity advocates as they work to create positive educational environments for all children. For more information, visit <http://www.greatlakesequity.org>.

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## Appendix

### *School Districts Implementing Voluntary Integration Plans by State*

<b>School District</b>	<b>State</b>
Alachua County Public Schools	FL
Beaumont Independent School District	TX
Berkeley Unified School District	CA
Boulder Valley School District	CO
Bryan Independent School District	TX
Burlington Community School District	IA
Burlington School District	VT
Burnsville-Eagan-Savage Independent School District 191	MN
Cambridge Public School District	MA
Champaign Community Unit School District Number 4	IL
Charlotte-Mecklenburg Schools	NC
Chicago Public Schools	IL
Clark County School District	NV
Dallas Independent School District	TX
Davenport Community Schools	IA
Des Moines Public Schools	IA
District of Columbia Public Schools	DC
Ector County Independent School District	TX
Eden Prairie Schools	MN
Eugene School District 4J	OR
Fairfax County Public Schools	VA
Fresno Unified School District	CA
Guilford County Public School District	NC
Hartford Public Schools	CT
Houston Independent School District	TX
Iowa City Community School District	IA
Jefferson County Public Schools	KY
Kalamazoo Public Schools	MI
La Crosse School District	WI
Lafayette Parish School System	LA
Lee County Public Schools	FL
Lee County Schools	NC
Madison Metropolitan School District	WI
Manatee County School District	FL
McKinney Independent School District	TX
Metropolitan Nashville Public Schools	TN
Miami-Dade County Public Schools	FL
Minneapolis Public Schools	MN

## Appendix

### *School Districts Implementing Voluntary Integration Plans by State*

Montclair Public Schools	NJ
Napa Valley Unified School District	CA
New Haven Public Schools	CT
New York City Community School District 1	NY
New York City Community School District 6	NY
New York City Community School District 13	NY
New York City Community School District 17	NY
Omaha Public Schools	NE
Palm Beach County School District	FL
Pasco County Schools	FL
Pittsburgh Public Schools	PA
Polk County Public Schools	FL
Portland Public Schools	OR
Postville Community Schools	IA
Rapides Parish Schools	LA
Rochester City School District	NY
San Francisco Unified School District	CA
San Jose Unified School District	CA
Seminole County Public Schools	FL
St. Landry Parish Schools	LA
St. Lucie County Public School District	FL
Stamford Public Schools	CT
Topeka Public School District	KS
Tucson Unified School District	AZ
Waterloo Community Schools	IA
White Plains Public Schools	NY

Source: Frankenberg, E., Anderson, J. & Taylor, K. (2017). *Voluntary integration in U.S. school districts, 2000-2015*. State College, PA: Center for Education and Civil Rights.

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